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VOLUME IV

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Chapter 273**(Senate Bill 460)**

AN ACT concerning

Health Occupations – Physician Assistants – Authority to Practice

FOR the purpose of authorizing a physician assistant to complete a certain certificate that an individual of a certain age is pregnant or has given birth to a child; authorizing a physician assistant to provide certain information on a certificate of birth under certain circumstances; authorizing a physician assistant to fill out and sign a certificate of death under certain circumstances; requiring certain individuals to notify the medical examiner under certain circumstances if a deceased was not under treatment by a physician assistant during a terminal illness; authorizing a physician assistant to file a replacement death certificate under certain circumstances; authorizing a physician assistant to complete a “do not resuscitate order”; authorizing a physician assistant to serve as a witness to an advance directive; requiring that certain documentation of an oral advance directive be dated and signed by a physician assistant under certain circumstances; authorizing a physician assistant to provide an oral emergency medical services “do not resuscitate order”; requiring a certain form to be suitable for containing a physician assistant’s medical orders relating to a patient’s medical condition; requiring a health care facility on request of a patient to offer a physician assistant the opportunity to participate in updating or completing a “Medical Orders for Life–Sustaining Treatment” form; requiring a health care facility to comply with certain medical orders regardless of whether the physician assistant who signed the form has admitting privileges or is otherwise credentialed at the health care facility; providing that certain provisions of law may not be construed to require a physician assistant to prescribe or render medical treatment that is ethically inappropriate or medically ineffective; ~~authorizing a physician assistant to make a certain petition for an emergency evaluation of an individual; requiring a physician assistant to give a certain petition to a peace officer; requiring a peace officer to take an emergency evaluate to a certain emergency facility if the peace officer has a certain petition that is signed and submitted by a physician assistant;~~ authorizing a physician assistant to certify certain medical conditions of an applicant for a special disability registration number and plates for a certain vehicle; requiring a certain health occupation board to be responsible for the development and maintenance of certain database systems; authorizing a physician assistant to certify the existence of certain permanent disabilities for applicants for a certain parking placard; authorizing a physician assistant to certify the existence of a temporary disability of an applicant for a temporary parking placard; altering a certain definition; defining certain terms; making certain stylistic and conforming changes; and generally relating to the authority to practice as a physician assistant.

BY repealing and reenacting, with amendments,

Article – Family Law
Section 2–301
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Health – General
Section 4–201(a), 4–208(a)(1), 4–212(a), and 5–601(a), ~~10–620(a), and 10–622(a)~~
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – Health – General
Section 4–201(m) and 5–601(s)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General
Section 4–201(m), (n), and (o), 4–208(a)(2), 4–212(b), (c), (e), and (h), 5–601(i),
(s), and (t), 5–602(c) and (d), 5–608(c), 5–608.1(b), (c), and (f), ~~5–611(a)~~
~~and (b), 10–620(c), 10–622(b) and (d), 10–623, 10–624(a), and 10–628~~ and
5–611(a) and (b)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation
Section 13–616(a), (b)(1) and (2), and (m), 13–616.1(a) and (k), and 13–616.2(a),
(b), (c), and (i)
Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Family Law

2–301.

(a) An individual 16 or 17 years old may not marry unless:

(1) the individual has the consent of a parent or guardian and the parent or guardian swears that the individual is at least 16 years old; or

(2) if the individual does not have the consent of a parent or guardian, either party to be married gives the clerk a certificate from a licensed physician, **LICENSED PHYSICIAN ASSISTANT**, or certified nurse practitioner stating that the physician, **PHYSICIAN ASSISTANT**, or nurse practitioner has examined the woman to be married and has found that she is pregnant or has given birth to a child.

(b) An individual 15 years old may not marry unless:

(1) the individual has the consent of a parent or guardian; and

(2) either party to be married gives the clerk a certificate from a licensed physician, **LICENSED PHYSICIAN ASSISTANT**, or certified nurse practitioner stating that the physician, **PHYSICIAN ASSISTANT**, or nurse practitioner has examined the woman to be married and has found that she is pregnant or has given birth to a child.

(c) An individual under the age of 15 may not marry.

Article – Health – General

4–201.

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

(M) “PHYSICIAN ASSISTANT” MEANS AN INDIVIDUAL WHO IS LICENSED UNDER TITLE 15 OF THE HEALTH OCCUPATIONS ARTICLE TO PRACTICE MEDICINE WITH PHYSICIAN SUPERVISION.

[(m)] (N) “Registration” means acceptance by the Secretary and incorporation in the records of the Department of any certificate, report, or other record of birth, death, fetal death, adoption, marriage, divorce, or dissolution or annulment of marriage for which this subtitle provides.

[(n)] (O) “Vital record” means a certificate or report of birth, death, fetal death, marriage, divorce, dissolution or annulment of marriage, adoption, or adjudication of paternity that is required by law to be filed with the Secretary.

[(o)] (P) “Vital statistics” means the data derived from certificates and reports of birth, death, fetal death, marriage, divorce, dissolution or annulment of marriage, and reports related to any of these certificates and reports.

4–208.

(a) (1) Within 72 hours after a birth occurs in an institution, or en route to the institution, the administrative head of the institution or a designee of the administrative head shall:

- (i) Prepare, on the form that the Secretary provides, a certificate of birth;
- (ii) Secure each signature that is required on the certificate; and
- (iii) File the certificate.

(2) The attending physician, **PHYSICIAN ASSISTANT**, nurse practitioner, or nurse midwife shall provide the date of birth and medical information that are required on the certificate within 72 hours after the birth.

4–212.

(a) This section does not apply to a fetal death.

(b) (1) A certificate of death regardless of age of decedent shall be filled out and signed by:

(i) The medical examiner, if the medical examiner takes charge of the body; or

(ii) If the medical examiner does not take charge of the body, the physician, **PHYSICIAN ASSISTANT**, or nurse practitioner who last attended the deceased.

(2) The medical examiner, physician, **PHYSICIAN ASSISTANT**, or nurse practitioner shall fill in only the following information on the certificate of death:

(i) The name of the deceased[.];

(ii) The cause of death and medical certification[.];

(iii) The date and hour of death[.]; **AND**

(iv) The place where death occurred.

(3) Any other information that is required on the certificate of death regardless of age of decedent shall be filled in:

(i) By the person who has charge of the body; or

(ii) If the State Anatomy Board has charge of the body, by the person who last had charge of the body before it was sent to the State Anatomy Board.

(4) The medical certification shall be completed within 24 hours after receipt of the death certificate by the physician, **PHYSICIAN ASSISTANT**, or nurse practitioner in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by the medical examiner.

(5) In the absence or inability of the attending physician, **PHYSICIAN ASSISTANT**, or nurse practitioner or with the attending physician's, **PHYSICIAN ASSISTANT'S**, or nurse practitioner's approval, the certificate may be completed by:

(i) The attending physician's associate;

(ii) The chief medical officer or designee of the institution in which death occurred; or

(iii) The physician who performed an autopsy upon the decedent, provided the individual has access to the medical history of the case and death is due to natural causes.

(6) The person completing the cause of death and medical certification shall attest to the accuracy by signature or by an approved electronic process.

(7) The funeral director or person acting as the funeral director shall in all cases obtain the medical certification from the person responsible for its completion or obtain assurance that the medical certification has been provided to the Secretary by an approved electronic process.

(c) Each individual concerned with carrying out this subtitle promptly shall notify the medical examiner if:

(1) The deceased was not under treatment by a physician, **PHYSICIAN ASSISTANT**, or nurse practitioner during the terminal illness;

(2) The cause of death is unknown; or

(3) The individual considers any of the following conditions to be the cause of death or to have contributed to the death:

(i) An accident, including a fall with a fracture or other injury[.];

(ii) Homicide[.];

(iii) Suicide[.];

(iv) Other external manner of death[.];

- (v) Alcoholism[.]; OR
- (vi) Criminal or suspected criminal abortion.

(e) (1) A physician, **PHYSICIAN ASSISTANT**, or nurse practitioner who fills out a certificate of death shall give it or transmit it by approved electronic media, including facsimile, to the mortician within 24 hours after the death occurred.

(2) A medical examiner who fills out a certificate of death shall give it or transmit it by approved electronic media, including facsimile, to the mortician within 24 hours after the medical examiner took charge of the body.

(h) (1) Except as authorized under this subtitle, an individual who has a duty to fill out and sign a certificate of death may not execute more than one certificate for a death.

(2) The attending physician, **THE PHYSICIAN ASSISTANT**, the nurse practitioner, or a medical examiner who takes charge of a body may file a replacement death certificate if a correction that the physician, **THE PHYSICIAN ASSISTANT**, the nurse practitioner, or medical examiner authorizes cannot be entered legibly on the original certificate.

5–601.

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

(i) “Emergency medical services ‘do not resuscitate order’” means a physician’s, **PHYSICIAN ASSISTANT’S**, or nurse practitioner’s written order in a form established by protocol issued by the Maryland Institute for Emergency Medical Services in conjunction with the State Board of Physicians which, in the event of a cardiac or respiratory arrest of a particular patient, authorizes certified or licensed emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation including cardiac compression, endotracheal intubation, other advanced airway management techniques, artificial ventilation, defibrillation, and other related life–sustaining procedures.

(S) “PHYSICIAN ASSISTANT” MEANS AN INDIVIDUAL WHO IS LICENSED UNDER TITLE 15 OF THE HEALTH OCCUPATIONS ARTICLE TO PRACTICE MEDICINE WITH PHYSICIAN SUPERVISION.

[(s)] (T) “Signed” means bearing a manual or electronic signature.

[(t)] (U) “Terminal condition” means an incurable condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, makes death imminent and from which, despite the application of life–sustaining procedures, there can be no recovery.

5-602.

(c) (1) A written or electronic advance directive shall be dated, signed by or at the express direction of the declarant, and subscribed by two witnesses.

(2) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, any competent individual may serve as a witness to an advance directive, including an employee of a health care facility, nurse practitioner, **PHYSICIAN ASSISTANT**, or physician caring for the declarant if acting in good faith.

(ii) The health care agent of the declarant may not serve as a witness.

(iii) At least one of the witnesses must be an individual who is not knowingly entitled to any portion of the estate of the declarant or knowingly entitled to any financial benefit by reason of the death of the declarant.

(d) (1) Any competent individual may make an oral advance directive to authorize the providing, withholding, or withdrawing of any life-sustaining procedure or to appoint an agent to make health care decisions for the individual.

(2) An oral advance directive shall have the same effect as a written or electronic advance directive if made in the presence of the attending physician, **PHYSICIAN ASSISTANT**, or nurse practitioner and one witness and if the substance of the oral advance directive is documented as part of the individual's medical record. The documentation shall be dated and signed by the attending physician, **PHYSICIAN ASSISTANT**, or nurse practitioner and the witness.

5-608.

(c) This section does not authorize emergency medical services personnel in the outpatient setting to follow an emergency medical services "do not resuscitate order" that is in any form other than:

(1) An emergency medical services "do not resuscitate order" described in subsection (a) of this section;

(2) An oral emergency medical services "do not resuscitate order" provided by an online, emergency medical services medical command and control physician;

(3) An oral emergency medical services "do not resuscitate order" provided by a physician, [as defined in § 5-601 of this subtitle,] **A PHYSICIAN ASSISTANT**, or a nurse practitioner[, as defined in § 5-601 of this subtitle,] who is

physically present on the scene with the patient and the emergency medical services personnel in the outpatient setting; or

(4) An order contained in a “Medical Orders for Life–Sustaining Treatment” form.

5–608.1.

(b) (1) (i) The Department, in conjunction with the Maryland Institute for Emergency Medical Services Systems and the State Board of Physicians, shall develop and revise periodically a “Medical Orders for Life–Sustaining Treatment” form and instructions for completing and using the form.

(ii) The “Medical Orders for Life–Sustaining Treatment” form and the instructions for its completion and use shall be developed in consultation with:

1. The Office of the Attorney General;
2. The State Board of Nursing;
3. The State Advisory Council on Quality Care at the End of Life; and
4. Any other individual or group the Department determines is appropriate.

(2) The “Medical Orders for Life–Sustaining Treatment” form developed under paragraph (1) of this subsection shall be suitable for containing a physician’s, **PHYSICIAN ASSISTANT’S**, or nurse practitioner’s written medical orders relating to a patient’s medical condition, including:

- (i) The use of life–sustaining procedures;
- (ii) The use of medical tests;
- (iii) Transfer of the patient to a hospital from a nonhospital setting; and
- (iv) Any other matter considered appropriate by the Department to implement treatment preferences and orders regarding life–sustaining treatments across health care settings.

(3) The “Medical Orders for Life–Sustaining Treatment” form is not an advance directive.

(c) (1) A health care facility shall:

(i) 1. Accept a completed “Medical Orders for Life–Sustaining Treatment” form during the admission process for each patient being admitted to the health care facility; and

2. Update the form as indicated in the instructions for the completion and use of the form; or

(ii) Complete a “Medical Orders for Life–Sustaining Treatment” form:

1. For a health care facility that is not a hospital, during the admission process for each patient being admitted to the health care facility; or

2. For a hospital, during an inpatient hospital stay for patients who are being discharged to another health care facility.

(2) When a health care facility updates or completes a “Medical Orders for Life–Sustaining Treatment” form under paragraph (1) of this subsection, the health care facility shall:

(i) Offer the patient, health care agent, or surrogate decision maker the opportunity to participate in updating or completing the form;

(ii) Note in the medical record when a patient, health care agent, or surrogate decision maker declines to participate in updating or completing the form, indicating the date and with whom the form was discussed;

(iii) On request of the patient, offer any physician, **PHYSICIAN ASSISTANT**, or nurse practitioner selected by the patient the opportunity to participate in updating or completing the form; and

(iv) Inform the patient, health care agent, or surrogate decision maker that the form will become a part of the patient’s medical record and can be accessed through the procedures used to access a medical record.

(3) Except as provided for a treatment that has been certified as medically ineffective in accordance with § 5–611 of this subtitle, the “Medical Orders for Life–Sustaining Treatment” form shall be consistent with:

(i) The known decisions of:

1. The patient if the patient is a competent individual; or

2. A health care agent or surrogate decision maker as authorized by this subtitle; and

(ii) Any known advance directive of the patient if the patient is incapable of making an informed decision.

(f) Except as provided in § 5–611 or § 5–613 of this subtitle, a health care facility shall comply with all medical orders contained in a “Medical Orders for Life–Sustaining Treatment” form regardless of whether the physician, **PHYSICIAN ASSISTANT**, or nurse practitioner who signed the form has admitting privileges or is otherwise credentialed at the health care facility.

5–611.

(a) Except as provided in § 5–613(a)(3) of this subtitle, nothing in this subtitle may be construed to require a physician **OR PHYSICIAN ASSISTANT** to prescribe or render medical treatment to a patient that the physician **OR PHYSICIAN ASSISTANT** determines to be ethically inappropriate.

(b) (1) Except as provided in § 5–613(a)(3) of this subtitle, nothing in this subtitle may be construed to require a physician **OR PHYSICIAN ASSISTANT** to prescribe or render medically ineffective treatment.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a patient’s attending physician may withhold or withdraw as medically ineffective a treatment that under generally accepted medical practices is life–sustaining in nature only if the patient’s attending physician and a second physician certify in writing that the treatment is medically ineffective and the attending physician informs the patient or the patient’s agent or surrogate of the physician’s decision.

(ii) If the patient is being treated in the emergency department of a hospital and only one physician is available, the certification of a second physician is not required.

~~10–620.~~

~~(a) In Part IV of this subtitle the following words have the meanings indicated:~~

~~(e) (1) “Mental disorder” means the behavioral or other symptoms that indicate:~~

~~(i) To a lay petitioner who is submitting an emergency petition, a clear disturbance in the mental functioning of another individual; and~~

~~(ii) To the following health professionals doing an examination, at least one mental disorder that is described in the version of the American Psychiatric Association’s “Diagnostic and Statistical Manual – Mental Disorders” that is current at the time of the examination;~~

~~1. Physician;~~

~~2. **PHYSICIAN ASSISTANT;**~~

~~{2.}3. Psychologist;~~

~~{3.}4. Clinical social worker;~~

~~{4.}5. Licensed clinical professional counselor;~~

~~{5.}6. Clinical nurse specialist in psychiatric and mental health nursing (APRN/PMH);~~

~~{6.}7. Psychiatric nurse practitioner (CRNP-PMH);~~

or

~~{7.}8. Licensed clinical marriage and family therapist.~~

~~(2) "Mental disorder" does not include intellectual disability.~~

~~10-622.~~

~~(a) A petition for emergency evaluation of an individual may be made under this section only if the petitioner has reason to believe that the individual:~~

~~(1) Has a mental disorder; and~~

~~(2) The individual presents a danger to the life or safety of the individual or of others.~~

~~(b) (1) The petition for emergency evaluation of an individual may be made by:~~

~~(i) A physician, **PHYSICIAN ASSISTANT**, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage and family therapist, or health officer or designee of a health officer who has examined the individual;~~

~~(ii) A peace officer who personally has observed the individual or the individual's behavior; or~~

~~(iii) Any other interested person.~~

~~(2) An individual who makes a petition for emergency evaluation under paragraph (1)(i) or (ii) of this subsection may base the petition on:~~

~~(i) The examination or observation; or~~

~~(ii) Other information obtained that is pertinent to the factors giving rise to the petition.~~

~~(d) (1) A petitioner who is a physician, **PHYSICIAN ASSISTANT**, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage and family therapist, health officer, or designee of a health officer shall give the petition to a peace officer.~~

~~(2) The peace officer shall explain to the petitioner:~~

~~(i) The serious nature of the petition; and~~

~~(ii) The meaning and content of the petition.~~

~~10-623.~~

~~(a) If the petitioner under Part IV of this subtitle is not a physician, **PHYSICIAN ASSISTANT**, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage and family therapist, health officer or designee of a health officer, or peace officer, the petitioner shall present the petition to the court for immediate review.~~

~~(b) After review of the petition, the court shall endorse the petition if the court finds probable cause to believe that the emergency evaluatee has shown the symptoms of a mental disorder and that the individual presents a danger to the life or safety of the individual or of others.~~

~~(c) If the court does not find probable cause, the court shall indicate that fact on the petition, and no further action may be taken under the petition.~~

~~10-624.~~

~~(a) (1) A peace officer shall take an emergency evaluatee to the nearest emergency facility if the peace officer has a petition under Part IV of this subtitle that:~~

~~(i) Has been endorsed by a court within the last 5 days; or~~

~~(ii) Is signed and submitted by a physician, **PHYSICIAN ASSISTANT**, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing,~~

~~psychiatric nurse practitioner, licensed clinical marriage and family therapist, health officer or designee of a health officer, or peace officer.~~

~~(2) After a peace officer takes the emergency evaluate to an emergency facility, the peace officer need not stay unless, because the emergency evaluate is violent, a physician asks the supervisor of the peace officer to have the peace officer stay.~~

~~(3) A peace officer shall stay until the supervisor responds to the request for assistance. If the emergency evaluate is violent, the supervisor shall allow the peace officer to stay.~~

~~(4) If a physician asks that a peace officer stay, a physician shall examine the emergency evaluate as promptly as possible.~~

~~10-628.~~

~~(a) (1) If an emergency evaluate cannot pay or does not have insurance that covers the charges for emergency services, an initial consultant examination by a physician, PHYSICIAN ASSISTANT, or nurse practitioner, and transportation to an emergency facility and, for an involuntary admission of the emergency evaluate, to the admitting facility, the Department shall pay the appropriate party the actual cost or a reasonable rate for this service, whichever is lower, except that hospitals shall be paid at rates approved by the Health Services Cost Review Commission.~~

~~(2) The reasonable rate for the services provided under an emergency petition shall be calculated by using a methodology established by regulation and reasonably related to the actual cost.~~

~~(b) With respect to emergency admissions, the Department shall be subrogated against any insurance coverage available to the patient for charges relating to emergency service, initial consultant examination by a physician, PHYSICIAN ASSISTANT, or nurse practitioner, and transportation to an emergency facility under Part IV of this subtitle.~~

Article – Transportation

~~13-616.~~

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

~~(2) “Certified nurse practitioner” means an individual who is licensed by the State Board of Nursing to practice registered nursing as described in § 8-101 of the Health Occupations Article and who is certified as a nurse practitioner by the State Board of Nursing.~~

(3) “Licensed chiropractor” means a chiropractor who is licensed by the State Board of Chiropractic and Massage Therapy Examiners to practice chiropractic or chiropractic with the right to practice physical therapy as described in § 3–301 of the Health Occupations Article.

(4) “Licensed optometrist” means an optometrist who is licensed by the State Board of Examiners in Optometry to practice optometry as described in § 11–101 of the Health Occupations Article.

(5) “Licensed physician” means a physician, including a doctor of osteopathy, who is licensed by the State Board of Physicians to practice medicine as described in § 14–101 of the Health Occupations Article.

(6) “LICENSED PHYSICIAN ASSISTANT” MEANS AN INDIVIDUAL WHO IS LICENSED UNDER TITLE 15 OF THE HEALTH OCCUPATIONS ARTICLE TO PRACTICE MEDICINE WITH PHYSICIAN SUPERVISION.

[(6)] (7) “Licensed podiatrist” means a podiatrist who is licensed by the State Board of Podiatric Medical Examiners to practice podiatry as described in § 16–101 of the Health Occupations Article.

(b) (1) The owner of any vehicle described in paragraph (3) of this subsection may apply to the Administration for the assignment to that vehicle of a special disability registration number and special disability registration plates, if a certified nurse practitioner, licensed physician, **LICENSED PHYSICIAN ASSISTANT**, licensed chiropractor, licensed optometrist, or licensed podiatrist certifies, in accordance with paragraph (2) of this subsection, that the applicant:

(i) Has lung disease to such an extent that forced (respiratory) expiratory volume for one second when measured by spirometry is less than one liter, or arterial oxygen tension (PO₂) is less than 60 mm/hg on room air at rest;

(ii) Has cardiovascular disease limitations classified in severity as Class III or Class IV according to standards accepted by the American Heart Association;

(iii) Is unable to walk 200 feet without stopping to rest;

(iv) Is unable to walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, or other assistive device;

(v) Requires a wheelchair for mobility;

(vi) Has lost a foot, leg, hand, or arm;

(vii) Has lost the use of a foot, leg, hand, or arm;

(viii) Has a permanent impairment of both eyes so that:

1. The central visual acuity is 20/200 or less in the better eye, with corrective glasses; or

2. There is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye; or

(ix) Has a permanent disability that adversely impacts the ambulatory ability of the applicant and which is so severe that the person would endure a hardship or be subject to a risk of injury if the privileges accorded a person for whom a vehicle is specially registered under this section were denied.

(2) For the purposes of this section, the qualifying disabilities specified in paragraph (1) of this subsection shall be certified as follows:

(i) A licensed physician, **LICENSED PHYSICIAN ASSISTANT**, or certified nurse practitioner may certify conditions specified in paragraph (1)(i) through (ix) of this subsection;

(ii) A licensed chiropractor or a licensed podiatrist may certify conditions specified in paragraph (1)(iii) through (vii) and (ix) of this subsection;

(iii) A licensed optometrist may certify the condition specified in paragraph (1)(viii) of this subsection; and

(iv) Notwithstanding any provision of paragraph (1) of this subsection, the applicant may self-certify conditions specified in paragraph (1)(vi) of this subsection by appearing in person with proper identification at a full-service Motor Vehicle Administration office during normal business hours.

(m) In accordance with the provisions of this section, by July 1, 2001, each board for licensed physicians, **LICENSED PHYSICIAN ASSISTANTS**, licensed chiropractors, licensed optometrists, or licensed podiatrists shall be responsible for the development and maintenance of a database system with which the Administration can interface and verify licensure.

13-616.1.

(a) A person may apply to the Administration for a parking placard on a form provided by the Administration if the applicant:

(1) Is a resident of the State; and

(2) (i) Has a permanent disability as described in § 13–616(b)(1) of this subtitle and as certified by a licensed physician, **LICENSED PHYSICIAN ASSISTANT**, licensed chiropractor, licensed optometrist, or licensed podiatrist, as defined in § 13–616(a) of this subtitle; or

(ii) Has a permanent disability as described in § 13–616(b)(1)(vi) of this subtitle and as self-certified as provided by § 13–616(b)(2)(iv) of this subtitle.

(k) In accordance with the provisions of this section, by July 1, 2001, each board for licensed physicians, **LICENSED PHYSICIAN ASSISTANTS**, licensed chiropractors, licensed optometrists, or licensed podiatrists shall be responsible for the development and maintenance of a database system, with which the Administration can interface and verify licensure.

13–616.2.

(a) A person may apply to the Administration for a temporary parking placard on a form provided by the Administration if:

(1) The applicant, a dependent of the applicant, or any individual who depends on the applicant for transportation has a disability, as described in § 13–616(b)(1) of this subtitle; and

(2) A licensed physician, **LICENSED PHYSICIAN ASSISTANT**, licensed chiropractor, licensed optometrist, or licensed podiatrist, as defined in § 13–616(a) of this subtitle, certifies that the disability is not permanent but would substantially impair the applicant's mobility or limit or impair the applicant's ability to walk for at least 3 weeks, and is so severe that the applicant would endure a hardship or be subject to risk of injury if the temporary parking placard were denied.

(b) An application under subsection (a) of this section shall be accompanied by:

(1) Proof satisfactory to the Administration that the applicant, the dependent of the applicant, or the individual who depends on the applicant for transportation is a person with a disability under subsection (a) of this section; and

(2) The certification of a licensed physician, **LICENSED PHYSICIAN ASSISTANT**, licensed chiropractor, licensed optometrist, or licensed podiatrist that the applicant, the dependent of the applicant, or the individual who depends on the applicant for transportation is disabled, including an estimate of the length of time the disability will continue.

(c) (1) A temporary parking placard for a person with a disability issued under this section shall be valid for a period of time the licensed physician, **LICENSED PHYSICIAN ASSISTANT**, licensed chiropractor, licensed optometrist, or licensed

podiatrist has determined that the applicant, the dependent of the applicant, or the individual who depends on the applicant for transportation is likely to have the disability, not to exceed 6 months.

(2) The person to whom a temporary parking placard was issued under this section shall return the placard to the Administration within 5 calendar days of the placard's expiration.

(i) In accordance with the provisions of this section, by July 1, 2001, each board for licensed physicians, **LICENSED PHYSICIAN ASSISTANTS**, licensed chiropractors, licensed optometrists, or licensed podiatrists shall be responsible for the development and maintenance of a database system with which the Administration can interface and verify licensure.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 274

(House Bill 723)

AN ACT concerning

Health Occupations – Physician Assistants – Authority to Practice

FOR the purpose of authorizing a physician assistant to complete a certain certificate that an individual of a certain age is pregnant or has given birth to a child; authorizing a physician assistant to provide certain information on a certificate of birth under certain circumstances; authorizing a physician assistant to fill out and sign a certificate of death under certain circumstances; requiring certain individuals to notify the medical examiner under certain circumstances if a deceased was not under treatment by a physician assistant during a terminal illness; authorizing a physician assistant to file a replacement death certificate under certain circumstances; authorizing a physician assistant to complete a “do not resuscitate order”; authorizing a physician assistant to serve as a witness to an advance directive; requiring that certain documentation of an oral advance directive be dated and signed by a physician assistant under certain circumstances; authorizing a physician assistant to provide an oral emergency medical services “do not resuscitate order”; requiring a certain form to be suitable for containing a physician assistant's medical orders relating to a patient's medical condition; requiring a health care facility on request of a patient to offer a physician assistant the opportunity to participate in updating or completing a “Medical Orders for Life-Sustaining Treatment” form; requiring

a health care facility to comply with certain medical orders regardless of whether the physician assistant who signed the form has admitting privileges or is otherwise credentialed at the health care facility; providing that certain provisions of law may not be construed to require a physician assistant to prescribe or render medical treatment that is ethically inappropriate or medically ineffective; ~~authorizing a physician assistant to make a certain petition for an emergency evaluation of an individual; requiring a physician assistant to give a certain petition to a peace officer; requiring a peace officer to take an emergency evaluate to a certain emergency facility if the peace officer has a certain petition that is signed and submitted by a physician assistant;~~ authorizing a physician assistant to certify certain medical conditions of an applicant for a special disability registration number and plates for a certain vehicle; requiring a certain health occupation board to be responsible for the development and maintenance of certain database systems; authorizing a physician assistant to certify the existence of certain permanent disabilities for applicants for a certain parking placard; authorizing a physician assistant to certify the existence of a temporary disability of an applicant for a temporary parking placard; altering a certain definition; defining certain terms; making certain stylistic and conforming changes; and generally relating to the authority to practice as a physician assistant.

BY repealing and reenacting, with amendments,

Article – Family Law
Section 2–301
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Health – General
Section 4–201(a), 4–208(a)(1), 4–212(a), and 5–601(a), ~~10–620(a), and 10–622(a)~~
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – Health – General
Section 4–201(m) and 5–601(s)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General
Section 4–201(m), (n), and (o), 4–208(a)(2), 4–212(b), (c), (e), and (h), 5–601(i), (s), and (t), 5–602(c) and (d), 5–608(c), 5–608.1(b), (c), and (f), and 5–611(a) and (b), ~~10–620(e), 10–622(b) and (d), 10–623, 10–624(a), and 10–628~~
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation

Section 13–616(a), (b)(1) and (2), and (m), 13–616.1(a) and (k), and 13–616.2(a),
(b), (c), and (i)

Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Family Law

2–301.

(a) An individual 16 or 17 years old may not marry unless:

(1) the individual has the consent of a parent or guardian and the parent or guardian swears that the individual is at least 16 years old; or

(2) if the individual does not have the consent of a parent or guardian, either party to be married gives the clerk a certificate from a licensed physician, **LICENSED PHYSICIAN ASSISTANT**, or certified nurse practitioner stating that the physician, **PHYSICIAN ASSISTANT**, or nurse practitioner has examined the woman to be married and has found that she is pregnant or has given birth to a child.

(b) An individual 15 years old may not marry unless:

(1) the individual has the consent of a parent or guardian; and

(2) either party to be married gives the clerk a certificate from a licensed physician, **LICENSED PHYSICIAN ASSISTANT**, or certified nurse practitioner stating that the physician, **PHYSICIAN ASSISTANT**, or nurse practitioner has examined the woman to be married and has found that she is pregnant or has given birth to a child.

(c) An individual under the age of 15 may not marry.

Article – Health – General

4–201.

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

(M) “PHYSICIAN ASSISTANT” MEANS AN INDIVIDUAL WHO IS LICENSED UNDER TITLE 15 OF THE HEALTH OCCUPATIONS ARTICLE TO PRACTICE MEDICINE WITH PHYSICIAN SUPERVISION.

[(m)] (N) “Registration” means acceptance by the Secretary and incorporation in the records of the Department of any certificate, report, or other record of birth, death, fetal death, adoption, marriage, divorce, or dissolution or annulment of marriage for which this subtitle provides.

[(n)] (O) “Vital record” means a certificate or report of birth, death, fetal death, marriage, divorce, dissolution or annulment of marriage, adoption, or adjudication of paternity that is required by law to be filed with the Secretary.

[(o)] (P) “Vital statistics” means the data derived from certificates and reports of birth, death, fetal death, marriage, divorce, dissolution or annulment of marriage, and reports related to any of these certificates and reports.

4–208.

(a) (1) Within 72 hours after a birth occurs in an institution, or en route to the institution, the administrative head of the institution or a designee of the administrative head shall:

- (i) Prepare, on the form that the Secretary provides, a certificate of birth;
- (ii) Secure each signature that is required on the certificate; and
- (iii) File the certificate.

(2) The attending physician, **PHYSICIAN ASSISTANT**, nurse practitioner, or nurse midwife shall provide the date of birth and medical information that are required on the certificate within 72 hours after the birth.

4–212.

(a) This section does not apply to a fetal death.

(b) (1) A certificate of death regardless of age of decedent shall be filled out and signed by:

- (i) The medical examiner, if the medical examiner takes charge of the body; or

(ii) If the medical examiner does not take charge of the body, the physician, **PHYSICIAN ASSISTANT**, or nurse practitioner who last attended the deceased.

(2) The medical examiner, physician, **PHYSICIAN ASSISTANT**, or nurse practitioner shall fill in only the following information on the certificate of death:

- (i) The name of the deceased[.];
- (ii) The cause of death and medical certification[.];
- (iii) The date and hour of death[.]; **AND**
- (iv) The place where death occurred.

(3) Any other information that is required on the certificate of death regardless of age of decedent shall be filled in:

- (i) By the person who has charge of the body; or

(ii) If the State Anatomy Board has charge of the body, by the person who last had charge of the body before it was sent to the State Anatomy Board.

(4) The medical certification shall be completed within 24 hours after receipt of the death certificate by the physician, **PHYSICIAN ASSISTANT**, or nurse practitioner in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by the medical examiner.

(5) In the absence or inability of the attending physician, **PHYSICIAN ASSISTANT**, or nurse practitioner or with the attending physician's, **PHYSICIAN ASSISTANT'S**, or nurse practitioner's approval, the certificate may be completed by:

- (i) The attending physician's associate;

(ii) The chief medical officer or designee of the institution in which death occurred; or

(iii) The physician who performed an autopsy upon the decedent, provided the individual has access to the medical history of the case and death is due to natural causes.

(6) The person completing the cause of death and medical certification shall attest to the accuracy by signature or by an approved electronic process.

(7) The funeral director or person acting as the funeral director shall in all cases obtain the medical certification from the person responsible for its completion or obtain assurance that the medical certification has been provided to the Secretary by an approved electronic process.

(c) Each individual concerned with carrying out this subtitle promptly shall notify the medical examiner if:

(1) The deceased was not under treatment by a physician, **PHYSICIAN ASSISTANT**, or nurse practitioner during the terminal illness;

(2) The cause of death is unknown; or

(3) The individual considers any of the following conditions to be the cause of death or to have contributed to the death:

(i) An accident, including a fall with a fracture or other injury[.];

(ii) Homicide[.];

(iii) Suicide[.];

(iv) Other external manner of death[.];

(v) Alcoholism[.]; **OR**

(vi) Criminal or suspected criminal abortion.

(e) (1) A physician, **PHYSICIAN ASSISTANT**, or nurse practitioner who fills out a certificate of death shall give it or transmit it by approved electronic media, including facsimile, to the mortician within 24 hours after the death occurred.

(2) A medical examiner who fills out a certificate of death shall give it or transmit it by approved electronic media, including facsimile, to the mortician within 24 hours after the medical examiner took charge of the body.

(h) (1) Except as authorized under this subtitle, an individual who has a duty to fill out and sign a certificate of death may not execute more than one certificate for a death.

(2) The attending physician, **THE PHYSICIAN ASSISTANT**, the nurse practitioner, or a medical examiner who takes charge of a body may file a replacement death certificate if a correction that the physician, **THE PHYSICIAN ASSISTANT**, the nurse practitioner, or medical examiner authorizes cannot be entered legibly on the original certificate.

5-601.

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

(i) “Emergency medical services ‘do not resuscitate order’” means a physician’s, **PHYSICIAN ASSISTANT’S**, or nurse practitioner’s written order in a form established by protocol issued by the Maryland Institute for Emergency Medical Services in conjunction with the State Board of Physicians which, in the event of a cardiac or respiratory arrest of a particular patient, authorizes certified or licensed emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation including cardiac compression, endotracheal intubation, other advanced airway management techniques, artificial ventilation, defibrillation, and other related life-sustaining procedures.

(S) “PHYSICIAN ASSISTANT” MEANS AN INDIVIDUAL WHO IS LICENSED UNDER TITLE 15 OF THE HEALTH OCCUPATIONS ARTICLE TO PRACTICE MEDICINE WITH PHYSICIAN SUPERVISION.

[(s)] **(T)** “Signed” means bearing a manual or electronic signature.

[(t)] **(U)** “Terminal condition” means an incurable condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, makes death imminent and from which, despite the application of life-sustaining procedures, there can be no recovery.

5-602.

(c) (1) A written or electronic advance directive shall be dated, signed by or at the express direction of the declarant, and subscribed by two witnesses.

(2) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, any competent individual may serve as a witness to an advance directive, including an employee of a health care facility, nurse practitioner, **PHYSICIAN ASSISTANT**, or physician caring for the declarant if acting in good faith.

(ii) The health care agent of the declarant may not serve as a witness.

(iii) At least one of the witnesses must be an individual who is not knowingly entitled to any portion of the estate of the declarant or knowingly entitled to any financial benefit by reason of the death of the declarant.

(d) (1) Any competent individual may make an oral advance directive to authorize the providing, withholding, or withdrawing of any life-sustaining procedure or to appoint an agent to make health care decisions for the individual.

(2) An oral advance directive shall have the same effect as a written or electronic advance directive if made in the presence of the attending physician, **PHYSICIAN ASSISTANT**, or nurse practitioner and one witness and if the substance of the oral advance directive is documented as part of the individual's medical record. The documentation shall be dated and signed by the attending physician, **PHYSICIAN ASSISTANT**, or nurse practitioner and the witness.

5–608.

(c) This section does not authorize emergency medical services personnel in the outpatient setting to follow an emergency medical services “do not resuscitate order” that is in any form other than:

(1) An emergency medical services “do not resuscitate order” described in subsection (a) of this section;

(2) An oral emergency medical services “do not resuscitate order” provided by an online, emergency medical services medical command and control physician;

(3) An oral emergency medical services “do not resuscitate order” provided by a physician, [as defined in § 5–601 of this subtitle,] **A PHYSICIAN ASSISTANT**, or a nurse practitioner[, as defined in § 5–601 of this subtitle,] who is physically present on the scene with the patient and the emergency medical services personnel in the outpatient setting; or

(4) An order contained in a “Medical Orders for Life–Sustaining Treatment” form.

5–608.1.

(b) (1) (i) The Department, in conjunction with the Maryland Institute for Emergency Medical Services Systems and the State Board of Physicians, shall develop and revise periodically a “Medical Orders for Life–Sustaining Treatment” form and instructions for completing and using the form.

(ii) The “Medical Orders for Life–Sustaining Treatment” form and the instructions for its completion and use shall be developed in consultation with:

1. The Office of the Attorney General;
2. The State Board of Nursing;
3. The State Advisory Council on Quality Care at the

End of Life; and

4. Any other individual or group the Department determines is appropriate.

(2) The “Medical Orders for Life–Sustaining Treatment” form developed under paragraph (1) of this subsection shall be suitable for containing a physician’s, **PHYSICIAN ASSISTANT’S**, or nurse practitioner’s written medical orders relating to a patient’s medical condition, including:

- (i) The use of life–sustaining procedures;
- (ii) The use of medical tests;
- (iii) Transfer of the patient to a hospital from a nonhospital setting; and
- (iv) Any other matter considered appropriate by the Department to implement treatment preferences and orders regarding life–sustaining treatments across health care settings.

(3) The “Medical Orders for Life–Sustaining Treatment” form is not an advance directive.

(c) (1) A health care facility shall:

(i) 1. Accept a completed “Medical Orders for Life–Sustaining Treatment” form during the admission process for each patient being admitted to the health care facility; and

2. Update the form as indicated in the instructions for the completion and use of the form; or

(ii) Complete a “Medical Orders for Life–Sustaining Treatment” form:

1. For a health care facility that is not a hospital, during the admission process for each patient being admitted to the health care facility; or

2. For a hospital, during an inpatient hospital stay for patients who are being discharged to another health care facility.

(2) When a health care facility updates or completes a “Medical Orders for Life–Sustaining Treatment” form under paragraph (1) of this subsection, the health care facility shall:

(i) Offer the patient, health care agent, or surrogate decision maker the opportunity to participate in updating or completing the form;

(ii) Note in the medical record when a patient, health care agent, or surrogate decision maker declines to participate in updating or completing the form, indicating the date and with whom the form was discussed;

(iii) On request of the patient, offer any physician, **PHYSICIAN ASSISTANT**, or nurse practitioner selected by the patient the opportunity to participate in updating or completing the form; and

(iv) Inform the patient, health care agent, or surrogate decision maker that the form will become a part of the patient's medical record and can be accessed through the procedures used to access a medical record.

(3) Except as provided for a treatment that has been certified as medically ineffective in accordance with § 5–611 of this subtitle, the “Medical Orders for Life–Sustaining Treatment” form shall be consistent with:

(i) The known decisions of:

1. The patient if the patient is a competent individual; or
2. A health care agent or surrogate decision maker as authorized by this subtitle; and

(ii) Any known advance directive of the patient if the patient is incapable of making an informed decision.

(f) Except as provided in § 5–611 or § 5–613 of this subtitle, a health care facility shall comply with all medical orders contained in a “Medical Orders for Life–Sustaining Treatment” form regardless of whether the physician, **PHYSICIAN ASSISTANT**, or nurse practitioner who signed the form has admitting privileges or is otherwise credentialed at the health care facility.

5–611.

(a) Except as provided in § 5–613(a)(3) of this subtitle, nothing in this subtitle may be construed to require a physician **OR PHYSICIAN ASSISTANT** to prescribe or render medical treatment to a patient that the physician **OR PHYSICIAN ASSISTANT** determines to be ethically inappropriate.

(b) (1) Except as provided in § 5–613(a)(3) of this subtitle, nothing in this subtitle may be construed to require a physician **OR PHYSICIAN ASSISTANT** to prescribe or render medically ineffective treatment.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a patient's attending physician may withhold or withdraw as medically ineffective a

treatment that under generally accepted medical practices is life-sustaining in nature only if the patient's attending physician and a second physician certify in writing that the treatment is medically ineffective and the attending physician informs the patient or the patient's agent or surrogate of the physician's decision.

(ii) If the patient is being treated in the emergency department of a hospital and only one physician is available, the certification of a second physician is not required.

~~10-620.~~

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

~~(e) (1) "Mental disorder" means the behavioral or other symptoms that indicate:~~

~~(i) To a lay petitioner who is submitting an emergency petition, a clear disturbance in the mental functioning of another individual; and~~

~~(ii) To the following health professionals doing an examination, at least one mental disorder that is described in the version of the American Psychiatric Association's "Diagnostic and Statistical Manual—Mental Disorders" that is current at the time of the examination:~~

~~1. Physician;~~

~~2. **PHYSICIAN ASSISTANT;**~~

~~[2.] 3. Psychologist;~~

~~[3.] 4. Clinical social worker;~~

~~[4.] 5. Licensed clinical professional counselor;~~

~~[5.] 6. Clinical nurse specialist in psychiatric and mental health nursing (APRN/PMH);~~

~~[6.] 7. Psychiatric nurse practitioner (CRNP-PMH);~~

~~or~~

~~[7.] 8. Licensed clinical marriage and family therapist.~~

~~(2) "Mental disorder" does not include intellectual disability.~~

~~10-622.~~

~~(a) A petition for emergency evaluation of an individual may be made under this section only if the petitioner has reason to believe that the individual:~~

~~(1) Has a mental disorder; and~~

~~(2) The individual presents a danger to the life or safety of the individual or of others.~~

~~(b) (1) The petition for emergency evaluation of an individual may be made by:~~

~~(i) A physician, **PHYSICIAN ASSISTANT**, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage and family therapist, or health officer or designee of a health officer who has examined the individual;~~

~~(ii) A peace officer who personally has observed the individual or the individual's behavior; or~~

~~(iii) Any other interested person.~~

~~(2) An individual who makes a petition for emergency evaluation under paragraph (1)(i) or (ii) of this subsection may base the petition on:~~

~~(i) The examination or observation; or~~

~~(ii) Other information obtained that is pertinent to the factors giving rise to the petition.~~

~~(d) (1) A petitioner who is a physician, **PHYSICIAN ASSISTANT**, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage and family therapist, health officer, or designee of a health officer shall give the petition to a peace officer.~~

~~(2) The peace officer shall explain to the petitioner:~~

~~(i) The serious nature of the petition; and~~

~~(ii) The meaning and content of the petition.~~

~~10-623.~~

~~(a) If the petitioner under Part IV of this subtitle is not a physician, PHYSICIAN ASSISTANT, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage and family therapist, health officer or designee of a health officer, or peace officer, the petitioner shall present the petition to the court for immediate review.~~

~~(b) After review of the petition, the court shall endorse the petition if the court finds probable cause to believe that the emergency evaluate has shown the symptoms of a mental disorder and that the individual presents a danger to the life or safety of the individual or of others.~~

~~(c) If the court does not find probable cause, the court shall indicate that fact on the petition, and no further action may be taken under the petition.~~

~~10-624.~~

~~(a) (1) A peace officer shall take an emergency evaluate to the nearest emergency facility if the peace officer has a petition under Part IV of this subtitle that:~~

~~(i) Has been endorsed by a court within the last 5 days; or~~

~~(ii) Is signed and submitted by a physician, PHYSICIAN ASSISTANT, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage and family therapist, health officer or designee of a health officer, or peace officer.~~

~~(2) After a peace officer takes the emergency evaluate to an emergency facility, the peace officer need not stay unless, because the emergency evaluate is violent, a physician asks the supervisor of the peace officer to have the peace officer stay.~~

~~(3) A peace officer shall stay until the supervisor responds to the request for assistance. If the emergency evaluate is violent, the supervisor shall allow the peace officer to stay.~~

~~(4) If a physician asks that a peace officer stay, a physician shall examine the emergency evaluate as promptly as possible.~~

~~10-628.~~

~~(a) (1) If an emergency evaluate cannot pay or does not have insurance that covers the charges for emergency services, an initial consultant examination by a physician, PHYSICIAN ASSISTANT, or nurse practitioner, and transportation to an emergency facility and, for an involuntary admission of the emergency evaluate, to the admitting facility, the Department shall pay the appropriate party the actual cost or a~~

~~reasonable rate for this service, whichever is lower, except that hospitals shall be paid at rates approved by the Health Services Cost Review Commission.~~

~~(2) The reasonable rate for the services provided under an emergency petition shall be calculated by using a methodology established by regulation and reasonably related to the actual cost.~~

~~(b) With respect to emergency admissions, the Department shall be subrogated against any insurance coverage available to the patient for charges relating to emergency service, initial consultant examination by a physician, **PHYSICIAN ASSISTANT**, or nurse practitioner, and transportation to an emergency facility under Part IV of this subtitle.~~

Article – Transportation

13-616.

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

(2) “Certified nurse practitioner” means an individual who is licensed by the State Board of Nursing to practice registered nursing as described in § 8-101 of the Health Occupations Article and who is certified as a nurse practitioner by the State Board of Nursing.

(3) “Licensed chiropractor” means a chiropractor who is licensed by the State Board of Chiropractic and Massage Therapy Examiners to practice chiropractic or chiropractic with the right to practice physical therapy as described in § 3-301 of the Health Occupations Article.

(4) “Licensed optometrist” means an optometrist who is licensed by the State Board of Examiners in Optometry to practice optometry as described in § 11-101 of the Health Occupations Article.

(5) “Licensed physician” means a physician, including a doctor of osteopathy, who is licensed by the State Board of Physicians to practice medicine as described in § 14-101 of the Health Occupations Article.

(6) “LICENSED PHYSICIAN ASSISTANT” MEANS AN INDIVIDUAL WHO IS LICENSED UNDER TITLE 15 OF THE HEALTH OCCUPATIONS ARTICLE TO PRACTICE MEDICINE WITH PHYSICIAN SUPERVISION.

~~[(6)]~~ **(7)** “Licensed podiatrist” means a podiatrist who is licensed by the State Board of Podiatric Medical Examiners to practice podiatry as described in § 16-101 of the Health Occupations Article.

(b) (1) The owner of any vehicle described in paragraph (3) of this subsection may apply to the Administration for the assignment to that vehicle of a special disability registration number and special disability registration plates, if a certified nurse practitioner, licensed physician, **LICENSED PHYSICIAN ASSISTANT**, licensed chiropractor, licensed optometrist, or licensed podiatrist certifies, in accordance with paragraph (2) of this subsection, that the applicant:

(i) Has lung disease to such an extent that forced (respiratory) expiratory volume for one second when measured by spirometry is less than one liter, or arterial oxygen tension (PO₂) is less than 60 mm/hg on room air at rest;

(ii) Has cardiovascular disease limitations classified in severity as Class III or Class IV according to standards accepted by the American Heart Association;

(iii) Is unable to walk 200 feet without stopping to rest;

(iv) Is unable to walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, or other assistive device;

(v) Requires a wheelchair for mobility;

(vi) Has lost a foot, leg, hand, or arm;

(vii) Has lost the use of a foot, leg, hand, or arm;

(viii) Has a permanent impairment of both eyes so that:

1. The central visual acuity is 20/200 or less in the better eye, with corrective glasses; or

2. There is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye; or

(ix) Has a permanent disability that adversely impacts the ambulatory ability of the applicant and which is so severe that the person would endure a hardship or be subject to a risk of injury if the privileges accorded a person for whom a vehicle is specially registered under this section were denied.

(2) For the purposes of this section, the qualifying disabilities specified in paragraph (1) of this subsection shall be certified as follows:

(i) A licensed physician, **LICENSED PHYSICIAN ASSISTANT**, or certified nurse practitioner may certify conditions specified in paragraph (1)(i) through (ix) of this subsection;

(ii) A licensed chiropractor or a licensed podiatrist may certify conditions specified in paragraph (1)(iii) through (vii) and (ix) of this subsection;

(iii) A licensed optometrist may certify the condition specified in paragraph (1)(viii) of this subsection; and

(iv) Notwithstanding any provision of paragraph (1) of this subsection, the applicant may self-certify conditions specified in paragraph (1)(vi) of this subsection by appearing in person with proper identification at a full-service Motor Vehicle Administration office during normal business hours.

(m) In accordance with the provisions of this section, by July 1, 2001, each board for licensed physicians, **LICENSED PHYSICIAN ASSISTANTS**, licensed chiropractors, licensed optometrists, or licensed podiatrists shall be responsible for the development and maintenance of a database system with which the Administration can interface and verify licensure.

13-616.1.

(a) A person may apply to the Administration for a parking placard on a form provided by the Administration if the applicant:

(1) Is a resident of the State; and

(2) (i) Has a permanent disability as described in § 13-616(b)(1) of this subtitle and as certified by a licensed physician, **LICENSED PHYSICIAN ASSISTANT**, licensed chiropractor, licensed optometrist, or licensed podiatrist, as defined in § 13-616(a) of this subtitle; or

(ii) Has a permanent disability as described in § 13-616(b)(1)(vi) of this subtitle and as self-certified as provided by § 13-616(b)(2)(iv) of this subtitle.

(k) In accordance with the provisions of this section, by July 1, 2001, each board for licensed physicians, **LICENSED PHYSICIAN ASSISTANTS**, licensed chiropractors, licensed optometrists, or licensed podiatrists shall be responsible for the development and maintenance of a database system, with which the Administration can interface and verify licensure.

13-616.2.

(a) A person may apply to the Administration for a temporary parking placard on a form provided by the Administration if:

(1) The applicant, a dependent of the applicant, or any individual who depends on the applicant for transportation has a disability, as described in § 13-616(b)(1) of this subtitle; and

(2) A licensed physician, **LICENSED PHYSICIAN ASSISTANT**, licensed chiropractor, licensed optometrist, or licensed podiatrist, as defined in § 13-616(a) of this subtitle, certifies that the disability is not permanent but would substantially impair the applicant's mobility or limit or impair the applicant's ability to walk for at least 3 weeks, and is so severe that the applicant would endure a hardship or be subject to risk of injury if the temporary parking placard were denied.

(b) An application under subsection (a) of this section shall be accompanied by:

(1) Proof satisfactory to the Administration that the applicant, the dependent of the applicant, or the individual who depends on the applicant for transportation is a person with a disability under subsection (a) of this section; and

(2) The certification of a licensed physician, **LICENSED PHYSICIAN ASSISTANT**, licensed chiropractor, licensed optometrist, or licensed podiatrist that the applicant, the dependent of the applicant, or the individual who depends on the applicant for transportation is disabled, including an estimate of the length of time the disability will continue.

(c) (1) A temporary parking placard for a person with a disability issued under this section shall be valid for a period of time the licensed physician, **LICENSED PHYSICIAN ASSISTANT**, licensed chiropractor, licensed optometrist, or licensed podiatrist has determined that the applicant, the dependent of the applicant, or the individual who depends on the applicant for transportation is likely to have the disability, not to exceed 6 months.

(2) The person to whom a temporary parking placard was issued under this section shall return the placard to the Administration within 5 calendar days of the placard's expiration.

(i) In accordance with the provisions of this section, by July 1, 2001, each board for licensed physicians, **LICENSED PHYSICIAN ASSISTANTS**, licensed chiropractors, licensed optometrists, or licensed podiatrists shall be responsible for the development and maintenance of a database system with which the Administration can interface and verify licensure.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 275**(Senate Bill 462)**

AN ACT concerning

**Environment – Wetlands and Waterways Authorizations – Installation of
Personal Watercraft Lifts**

FOR the purpose of authorizing a person to install a certain number of personal watercraft lifts in addition to a certain number of boat lifts or hoists under a minor wetlands and waterways project authorization from the Department of the Environment; establishing a certain application fee for an authorization to install a personal watercraft lift; and generally relating to wetlands and waterways authorizations.

BY repealing and reenacting, without amendments,
Article – Environment
Section 5–203.1(a)(8)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 5–203.1(b)(4) and (5)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

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

Article – Environment

5–203.1.

- (a) (8) “Minor project” means a project that:
- (i) Proposes to permanently impact less than 5,000 square feet of wetlands or waterways, including the 100–year floodplain; and
 - (ii) Does not meet the definition of a major project.
- (b) (4) Subject to paragraph (5) of this subsection, an application for the following minor projects shall be accompanied by the following application fees:

(i) Installation of: ~~one boat [lift, hoist, or personal watercraft lift] LIFT OR HOIST~~ at each authorized slip, not exceeding four slips, lifts, or hoists per pier..... \$300;

~~(ii) INSTALLATION OF ONE PERSONAL WATERCRAFT LIFT AT EACH AUTHORIZED SLIP, NOT EXCEEDING TWO SLIPS OR PERSONAL WATERCRAFT LIFTS PER PIER \$300;~~

1. ONE BOAT LIFT OR HOIST, NOT EXCEEDING FOUR BOAT LIFTS OR HOISTS PER PIER;

2. ONE PERSONAL WATERCRAFT LIFT OR HOIST, NOT EXCEEDING SIX PERSONAL WATERCRAFT LIFTS OR HOISTS PER PIER; OR

3. A COMBINATION OF BOAT LIFTS OR HOISTS AND PERSONAL WATERCRAFT LIFTS OR HOISTS, NOT EXCEEDING SIX LIFTS OR HOISTS PER PIER, OF WHICH NOT MORE THAN FOUR LIFTS OR HOISTS ARE BOAT LIFTS OR HOISTS \$300;

~~{(ii)} (iii)~~ Installation of a maximum of six mooring pilings..... \$300;

~~{(iii)} (iv)~~ In-kind repair and replacement of structures..... \$300;

~~{(iv)} (v)~~ Installation of a fixed or floating platform on an existing pier where the total platform area does not exceed 200 square feet..... \$300;

~~{(v)} (vi)~~ Construction of a nonhabitable structure that permanently impacts less than 1,000 square feet, such as a driveway, deck, pool, shed, or fence..... \$300;

~~{(vi)} (vii)~~ Replacement of an existing bulkhead where the replacement bulkhead does not exceed more than 18 inches channelward of the existing structure..... \$500; and

~~{(vii)} (viii)~~ In-kind repair and replacement of existing infrastructure..... \$500.

(5) The Department may not require an application fee for:

(i) The installation of a [boatlift] **BOAT LIFT**, hoist, or personal watercraft lift on existing pilings; or

(ii) If the existing structure is functional and there is no increase in the original length, width, height, or channelward encroachment authorized under § 16–202, § 16–302, or § 16–307 of this article, the routine maintenance, repair, or replacement of:

1. A highway structure;
2. A pier;
3. A boathouse;
4. A structure on a pier;
5. A bulkhead;
6. A revetment;
7. A tidal impoundment dike;
8. A water control structure;
9. An aboveground transmission facility;
10. An agricultural drainage ditch; or
11. A highway drainage ditch.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 276

(House Bill 994)

AN ACT concerning

Environment – Wetlands and Waterways Authorizations – Installation of Personal Watercraft Lifts

FOR the purpose of authorizing a person to install a certain number of personal watercraft lifts in addition to a certain number of boat lifts or hoists under a minor wetlands and waterways project authorization from the Department of the Environment; establishing a certain application fee for an authorization to

install a personal watercraft lift; and generally relating to wetlands and waterways authorizations.

BY repealing and reenacting, without amendments,
Article – Environment
Section 5–203.1(a)(8)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 5–203.1(b)(4) and (5)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

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

Article – Environment

5–203.1.

(a) (8) “Minor project” means a project that:

(i) Proposes to permanently impact less than 5,000 square feet of wetlands or waterways, including the 100–year floodplain; and

(ii) Does not meet the definition of a major project.

(b) (4) Subject to paragraph (5) of this subsection, an application for the following minor projects shall be accompanied by the following application fees:

(i) Installation of: ~~one boat [lift, hoist, or personal watercraft lift] LIFT OR HOIST at each authorized slip, not exceeding four slips, lifts, or hoists per pier.....~~ ~~\$300;~~

~~(ii) INSTALLATION OF ONE PERSONAL WATERCRAFT LIFT AT EACH AUTHORIZED SLIP, NOT EXCEEDING TWO SLIPS OR PERSONAL WATERCRAFT LIFTS PER PIER..... \$300;~~

1. ONE BOAT LIFT OR HOIST, NOT EXCEEDING FOUR BOAT LIFTS OR HOISTS PER PIER;

2. ONE PERSONAL WATERCRAFT LIFT OR HOIST, NOT EXCEEDING SIX PERSONAL WATERCRAFT LIFTS OR HOISTS PER PIER; OR

3. A COMBINATION OF BOAT LIFTS OR HOISTS AND PERSONAL WATERCRAFT LIFTS OR HOISTS, NOT EXCEEDING SIX LIFTS OR HOISTS PER PIER, OF WHICH NOT MORE THAN FOUR LIFTS OR HOISTS ARE BOAT LIFTS OR HOISTS..... \$300;

~~[(ii)]~~ ~~(III)~~ Installation of a maximum of six mooring pilings..... \$300;

~~[(iii)]~~ ~~(IV)~~ In-kind repair and replacement of structures..... \$300;

~~[(iv)]~~ ~~(V)~~ Installation of a fixed or floating platform on an existing pier where the total platform area does not exceed 200 square feet..... \$300;

~~[(v)]~~ ~~(VI)~~ Construction of a nonhabitable structure that permanently impacts less than 1,000 square feet, such as a driveway, deck, pool, shed, or fence..... \$300;

~~[(vi)]~~ ~~(VII)~~ Replacement of an existing bulkhead where the replacement bulkhead does not exceed more than 18 inches channelward of the existing structure..... \$500; and

~~[(vii)]~~ ~~(VIII)~~ In-kind repair and replacement of existing infrastructure..... \$500.

(5) The Department may not require an application fee for:

(i) The installation of a [boatlift] **BOAT LIFT**, hoist, or personal watercraft lift on existing pilings; or

(ii) If the existing structure is functional and there is no increase in the original length, width, height, or channelward encroachment authorized under § 16–202, § 16–302, or § 16–307 of this article, the routine maintenance, repair, or replacement of:

1. A highway structure;
2. A pier;
3. A boathouse;
4. A structure on a pier;
5. A bulkhead;
6. A revetment;

7. A tidal impoundment dike;
8. A water control structure;
9. An aboveground transmission facility;
10. An agricultural drainage ditch; or
11. A highway drainage ditch.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 277

(Senate Bill 471)

AN ACT concerning

Somerset County – Alcoholic Beverages – ~~Location Restrictions~~ *Selling Near Schools, Places of Worship, Public Libraries, and Youth Centers*

FOR the purpose of ~~creating an exception~~ *making certain exceptions* to the prohibition ~~in~~ *against the* Somerset County *Board of License Commissioners* ~~against~~ approving a license to sell alcoholic beverages ~~at an establishment~~ *for certain establishments* located within ~~a certain distance~~ *300 feet* of a school, church or other place of worship, public library, or youth center; and generally relating to *the issuance of a license to sell* alcoholic beverages in Somerset County.

BY repealing and reenacting, with amendments,
 Article 2B – Alcoholic Beverages
 Section 9–220
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

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

Article 2B – Alcoholic Beverages

9–220.

(A) ~~(1) IN EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN~~ Somerset County, the Board of License Commissioners may not approve any license to sell alcoholic beverages within a 300 foot measurement from the nearest point of the building that is the proposed establishment for which the license is requested to the nearest point of the property line of a school, church or other place of worship, public library, or youth center ~~UNLESS:~~

~~(1) THE OWNER OF THE PROPOSED ESTABLISHMENT FOR WHICH THE LICENSE IS REQUESTED HOLDS A CURRENT LICENSE TO SELL ALCOHOLIC BEVERAGES AT THE ESTABLISHMENT; OR~~

~~(2) A PREVIOUS OWNER OF THE PROPOSED ESTABLISHMENT FOR WHICH THE LICENSE IS REQUESTED HELD A LICENSE TO SELL ALCOHOLIC BEVERAGES AT THE SAME LOCATION OF THE PROPOSED ESTABLISHMENT~~

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO:

(I) A LICENSED ESTABLISHMENT THAT EXISTED BEFORE THE SCHOOL, CHURCH OR OTHER PLACE OF WORSHIP, PUBLIC LIBRARY, OR YOUTH CENTER WAS BUILT WITHIN 300 FEET OF THE LICENSED ESTABLISHMENT; AND

(II) AN ESTABLISHMENT WHOSE PREVIOUS OWNER WAS THE HOLDER OF A LICENSE TO SELL ALCOHOLIC BEVERAGES.

(B) This section may not apply to the issuance of special or temporary licenses.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 278

(Senate Bill 484)

AN ACT concerning

Income Tax Credit – Oyster Shell Recycling

FOR the purpose of allowing an individual or corporation a credit against the State income tax for each bushel of oyster shells recycled during the taxable year;

requiring an individual or corporation that claims the credit to provide verification of the amount of oyster shells recycled; providing that the credit may not exceed a certain amount; providing that the credit may not be carried forward to another taxable year; requiring the Department of Natural Resources and the Comptroller jointly to adopt certain regulations; providing for the application of this Act; providing for the termination of this Act; and generally relating to an income tax credit for oyster shell recycling.

BY adding to

Article – Tax – General

Section 10–724.1

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

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

Article – Tax – General

10–724.1.

(A) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO \$1 FOR EACH BUSHEL OF OYSTER SHELLS RECYCLED DURING THE TAXABLE YEAR.

(2) AN INDIVIDUAL OR A CORPORATION THAT CLAIMS THE CREDIT UNDER THIS SECTION SHALL PROVIDE VERIFICATION OF THE AMOUNT OF OYSTER SHELLS RECYCLED DURING THE TAXABLE YEAR WITH THE INDIVIDUAL OR CORPORATION TAX RETURN.

(B) (1) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED THE LESSER OF:

(I) ~~1.~~ \$750 ~~FOR A BUSINESS; AND~~

~~2.~~ \$100 ~~FOR AN INDIVIDUAL; OR~~

(II) THE STATE INCOME TAX CALCULATED BEFORE APPLICATION OF THE CREDIT ALLOWED UNDER THIS SECTION AND §§ 10–701 AND 10–701.1 OF THIS SUBTITLE.

(2) THE UNUSED AMOUNT OF THE CREDIT MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

(C) (1) THE DEPARTMENT OF NATURAL RESOURCES AND THE COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

(2) THE REGULATIONS SHALL ESTABLISH ELIGIBILITY CRITERIA AND PROVIDE FOR THE CERTIFICATION OF BUSINESSES, LANDFILLS, AND NONPROFIT ORGANIZATIONS TO VERIFY THE AMOUNT OF OYSTER SHELLS RECYCLED BY EACH INDIVIDUAL OR CORPORATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2012. It shall remain effective for a period of 5 years and, at the end of June 30, 2018, 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 2, 2013.

Chapter 279

(House Bill 184)

AN ACT concerning

Income Tax Credit – Oyster Shell Recycling

FOR the purpose of allowing an individual or corporation a credit against the State income tax for each bushel of oyster shells recycled during the taxable year; requiring an individual or corporation that claims the credit to provide verification of the amount of oyster shells recycled; providing that the credit may not exceed a certain amount; providing that the credit may not be carried forward to another taxable year; requiring the Department of Natural Resources and the Comptroller jointly to adopt certain regulations; ~~providing that the credit allowed under this Act is subject to the Tax Credit Evaluation Act~~ providing for the application of this Act; providing for the termination of this Act; and generally relating to an income tax credit for oyster shell recycling.

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

~~Article – Tax – General~~

~~Section 1-303(e)~~

~~Annotated Code of Maryland~~

~~(2010 Replacement Volume and 2012 Supplement)~~

BY adding to

Article – Tax – General

Section 10-724.1
 Annotated Code of Maryland
 (2010 Replacement Volume and 2012 Supplement)

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

Article – Tax – General

~~1-303.~~

~~(e) On or before July 1, 2017, an evaluation shall be made of the tax credits under:~~

~~(1) § 9-230 of the Tax – Property Article, § 6-116 of the Insurance Article, and § 10-704.8 of this article (new job creating businesses); [and]~~

~~(2) § 10-726 of this article (biotechnology investment incentive); AND~~

~~(3) § 10-724.1 OF THIS ARTICLE (OYSTER SHELL RECYCLING).~~

10-724.1.

(A) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO \$1 FOR EACH BUSHEL OF OYSTER SHELLS RECYCLED DURING THE TAXABLE YEAR.

(2) AN INDIVIDUAL OR A CORPORATION THAT CLAIMS THE CREDIT UNDER THIS SECTION SHALL PROVIDE VERIFICATION OF THE AMOUNT OF OYSTER SHELLS RECYCLED DURING THE TAXABLE YEAR WITH THE INDIVIDUAL OR CORPORATION TAX RETURN.

(B) (1) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED THE LESSER OF:

(I) \$750; OR

(II) THE STATE INCOME TAX CALCULATED BEFORE APPLICATION OF THE CREDIT ALLOWED UNDER THIS SECTION AND §§ 10-701 AND 10-701.1 OF THIS SUBTITLE.

(2) THE UNUSED AMOUNT OF THE CREDIT MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

(C) (1) THE DEPARTMENT OF NATURAL RESOURCES AND THE COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

(2) THE REGULATIONS SHALL ESTABLISH ELIGIBILITY CRITERIA AND PROVIDE FOR THE CERTIFICATION OF BUSINESSES, LANDFILLS, AND NONPROFIT ORGANIZATIONS TO VERIFY THE AMOUNT OF OYSTER SHELLS RECYCLED BY EACH INDIVIDUAL OR CORPORATION.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2012.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2012. It shall remain effective for a period of 5 years and, at the end of June 30, 2018, 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 2, 2013.

Chapter 280

(Senate Bill 496)

AN ACT concerning

Maryland Medical Assistance Program – Telemedicine

FOR the purpose of requiring the Maryland Medical Assistance Program to provide certain reimbursement for certain services delivered by telemedicine *under certain circumstances; requiring the Department of Health and Mental Hygiene to adopt regulations for a certain purpose*; and generally relating to the Maryland Medical Assistance Program and telemedicine.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–105.2
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Insurance
Section 15–139(a)

Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

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) ~~(1) UNLESS SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION~~ AND 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 TELEMEDICINE, 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.

(2) REIMBURSEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION IS REQUIRED ONLY FOR A HEALTH CARE SERVICE THAT:

(I) IS MEDICALLY NECESSARY; AND

(II) IS PROVIDED:

1. FOR THE TREATMENT OF CARDIOVASCULAR DISEASE OR STROKE;

2. IN AN EMERGENCY DEPARTMENT SETTING; AND

3. WHEN AN APPROPRIATE SPECIALIST IS NOT AVAILABLE.

(3) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

Article – Insurance

15–139.

(a) (1) In this section, “telemedicine” 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” 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 281

(Senate Bill 501)

AN ACT concerning

State Board of Nursing – Licensure by Endorsement – Clinical Experience

FOR the purpose of clarifying that certain applicants for license by endorsement are required to have a certain active unencumbered license; requiring certain applicants to submit certain applications and certain evidence of active nursing practice to the State Board of Nursing and submit to certain criminal history records checks; authorizing the Board to waive certain clinical experience requirements under certain circumstances; authorizing the Board to deny certain licenses to certain applicants; requiring the Board to adopt certain regulations; requiring the Board to report to certain committees of the General Assembly on or before certain dates; providing for the termination of certain provisions of this Act; and generally relating to the authority of the State Board of Nursing, licensure by endorsement, and clinical experience.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 8–307

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

8–307.

(a) Subject to the provisions of this section, the Board may issue a license by endorsement and waive any appropriate examination requirement of this title for an applicant who [is licensed or registered] **HAS AN ACTIVE UNENCUMBERED LICENSE** to practice registered nursing or licensed practical nursing in any other state or country.

(b) The Board may issue a license by endorsement under this section only if the applicant:

(1) SUBMITS TO THE BOARD AN APPLICATION ON THE FORM THAT THE BOARD REQUIRES;

(2) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8–303 OF THIS SUBTITLE;

[(1)] (3) Pays the application fee set by the Board under § 8–304 of this subtitle; and

[(2)] (4) Provides adequate evidence that:

(i) At the time the applicant graduated from a nursing education program approved in the other state or country, the applicant met the educational qualifications then required by the laws of this State;

(ii) At the time the applicant became licensed or registered in the other state or country, the applicant passed in that or any other state or country an examination that was similar to the examination that then was given in this State; and

(iii) The applicant meets the qualifications otherwise required by this title.

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

Article – Health Occupations

8–307.

(C) (1) THE BOARD MAY WAIVE THE CLINICAL EXPERIENCE REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE FOR AN APPLICANT WHO HAS AN ACTIVE UNENCUMBERED LICENSE TO PRACTICE REGISTERED NURSING OR LICENSED PRACTICAL NURSING IN ANY OTHER STATE OR COUNTRY BUT DOES NOT SATISFY THE REQUIREMENT UNDER SUBSECTION (B)(4)(I) OF THIS SECTION, IF THE APPLICANT:

~~(1)~~ (I) GRADUATED FROM A PROGRAM ACCREDITED BY A NURSING ACCREDITATION AGENCY RECOGNIZED BY THE BOARD;

~~(2)~~ ~~HAS NEVER BEEN DISCIPLINED IN ANOTHER STATE OR COUNTRY;~~

~~(3)~~ (II) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF COMPLETING ~~1,000 HOURS OF~~ ACTIVE NURSING PRACTICE ~~WITHIN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION~~ AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION; AND

~~(4)~~ ~~MEETS THE REQUIREMENTS OTHERWISE REQUIRED BY THIS TITLE.~~

(III) OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION.

(2) (I) AN APPLICANT APPLYING FOR A REGISTERED NURSE LICENSE UNDER THIS SUBSECTION SHALL SUBMIT EVIDENCE OF COMPLETING 1,000 HOURS OF ACTIVE PRACTICE AS A REGISTERED NURSE WITHIN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION.

(II) AN APPLICANT APPLYING FOR A LICENSED PRACTICAL NURSE LICENSE UNDER THIS SUBSECTION SHALL SUBMIT EVIDENCE OF COMPLETING 1,000 HOURS OF ACTIVE PRACTICE AS A LICENSED PRACTICAL NURSE WITHIN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION.

(3) IF AN APPLICANT APPLYING FOR A LICENSE UNDER THIS SUBSECTION HAS BEEN DISCIPLINED IN ANOTHER STATE OR COUNTRY FOR AN ACT THAT WOULD BE A VIOLATION UNDER § 8-316(A) OF THIS SUBTITLE, THE BOARD MAY DENY A LICENSE TO THE APPLICANT.

~~(D)~~ (4) THE BOARD SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION ~~(C)~~ OF THIS SECTION.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That, on or before December 1, 2016, and December 1, 2018, 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 number of registered nurses who have applied for licensure by endorsement under the provisions of ~~§ 8-307~~ § 8-307(c) of the Health Occupations Article, as enacted by Section ~~2~~ 2 of this Act, between October 1, 2013, and October 1, 2016, and between October 1, 2016, and October 1, 2018, respectively.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. ~~§~~ Section 2 of this Act shall remain effective for a period of 5 years and, at the end of September 30, 2018, 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 2, 2013.

Chapter 282

(House Bill 624)

AN ACT concerning

State Board of Nursing – Licensure by Endorsement – Clinical Experience

FOR the purpose of clarifying that certain applicants for license by endorsement are required to have a certain active unencumbered license; requiring certain applicants to submit certain applications and certain evidence of active nursing practice to the State Board of Nursing and submit to certain criminal history records checks; authorizing the Board to waive certain clinical experience requirements under certain circumstances; authorizing the Board to deny certain licenses to certain applicants; requiring the Board to adopt certain regulations; requiring the Board to report to certain committees of the General Assembly on or before certain dates; providing for the termination of certain provisions of this Act; and generally relating to the authority of the State Board of Nursing, licensure by endorsement, and clinical experience.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 8-307

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

8–307.

(a) Subject to the provisions of this section, the Board may issue a license by endorsement and waive any appropriate examination requirement of this title for an applicant who [is licensed or registered] **HAS AN ACTIVE UNENCUMBERED LICENSE** to practice registered nursing or licensed practical nursing in any other state or country.

(b) The Board may issue a license by endorsement under this section only if the applicant:

(1) SUBMITS TO THE BOARD AN APPLICATION ON THE FORM THAT THE BOARD REQUIRES;

(2) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8–303 OF THIS SUBTITLE;

[(1)] (3) Pays the application fee set by the Board under § 8–304 of this subtitle; and

[(2)] (4) Provides adequate evidence that:

(i) At the time the applicant graduated from a nursing education program approved in the other state or country, the applicant met the educational qualifications then required by the laws of this State;

(ii) At the time the applicant became licensed or registered in the other state or country, the applicant passed in that or any other state or country an examination that was similar to the examination that then was given in this State; and

(iii) The applicant meets the qualifications otherwise required by this title.

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

Article – Health Occupations8–307.

(C) (1) THE BOARD MAY WAIVE THE CLINICAL EXPERIENCE REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE FOR AN APPLICANT WHO

HAS AN ACTIVE UNENCUMBERED LICENSE TO PRACTICE REGISTERED NURSING OR LICENSED PRACTICAL NURSING IN ANY OTHER STATE OR COUNTRY BUT DOES NOT SATISFY THE REQUIREMENT UNDER SUBSECTION (B)(4)(I) OF THIS SECTION, IF THE APPLICANT:

~~(1)~~ (I) GRADUATED FROM A PROGRAM ACCREDITED BY A NURSING ACCREDITATION AGENCY RECOGNIZED BY THE BOARD;

~~(2)~~ HAS NEVER BEEN DISCIPLINED IN ANOTHER STATE OR COUNTRY;

~~(3)~~ (II) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF COMPLETING 1,000 HOURS OF ACTIVE NURSING PRACTICE WITHIN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION; AND

~~(4)~~ MEETS THE REQUIREMENTS OTHERWISE REQUIRED BY THIS TITLE.

(III) OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION.

(2) (I) AN APPLICANT APPLYING FOR A REGISTERED NURSE LICENSE UNDER THIS SUBSECTION SHALL SUBMIT EVIDENCE OF COMPLETING 1,000 HOURS OF ACTIVE PRACTICE AS A REGISTERED NURSE WITHIN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION.

(II) AN APPLICANT APPLYING FOR A LICENSED PRACTICAL NURSE LICENSE UNDER THIS SUBSECTION SHALL SUBMIT EVIDENCE OF COMPLETING 1,000 HOURS OF ACTIVE PRACTICE AS A LICENSED PRACTICAL NURSE WITHIN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION.

(3) IF AN APPLICANT APPLYING FOR A LICENSE UNDER THIS SUBSECTION HAS BEEN DISCIPLINED IN ANOTHER STATE OR COUNTRY FOR AN ACT THAT WOULD BE A VIOLATION UNDER § 8-316(A) OF THIS SUBTITLE, THE BOARD MAY DENY A LICENSE TO THE APPLICANT.

~~(D)~~ (4) THE BOARD SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION (C) OF THIS SECTION.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That, on or before December 1, 2016, and December 1, 2018, 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 number of registered nurses who have applied for licensure by endorsement under the provisions of ~~§ 8–307~~ § 8–307(c) of the Health Occupations Article, as enacted by Section ~~2~~ 2 of this Act, between October 1, 2013, and October 1, 2016, and between October 1, 2016, and October 1, 2018, respectively.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. ~~§ Section 2 of this Act~~ shall remain effective for a period of 5 years and, at the end of September 30, 2018, 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 2, 2013.

Chapter 283

(Senate Bill 516)

AN ACT concerning

Economic Development – Baltimore Convention Facility – Operating Deficits

FOR the purpose of extending the period during which the Maryland Stadium Authority and Baltimore City are obligated under a certain agreement to contribute a certain amount to the annual operating deficits of the Baltimore Convention facility and to pay a certain amount to a certain capital improvement reserve fund; extending the date after which Baltimore City is to be solely responsible for all operating deficits and capital improvements for the Baltimore Convention facility; and generally relating to the financing and payment of certain costs associated with the Baltimore Convention facility.

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 10–640(f)
Annotated Code of Maryland
(2008 Volume and 2012 Supplement)

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

Article – Economic Development

10–640.

(f) The Authority shall secure a written agreement with Baltimore City, as approved by the Board of Public Works:

(1) in which Baltimore City agrees to:

(i) operate the Baltimore Convention facility in a manner that maximizes the facility's economic return; and

(ii) maintain and repair the facility so as to keep it in first class operating condition; and

(2) that includes provisions that:

(i) protect the respective investment of the Authority, the State, and Baltimore City in the Baltimore Convention facility;

(ii) require:

1. for the period beginning on the completion of the expanded and renovated Baltimore Convention facility and ending on December 31, [2014] ~~2024~~ 2019:

A. the Authority to contribute two-thirds and Baltimore City to contribute one-third to annual operating deficits; and

B. the Authority and Baltimore City each to contribute \$200,000 each year to a capital improvement reserve fund; and

2. Baltimore City to be solely responsible for all operating deficits and capital improvements:

A. before the completion of the expanded and renovated Baltimore Convention facility; and

B. after December 31, [2014] ~~2024~~ 2019; and

(iii) provide for remedies on default, including the right of the Authority or the State, if a material default by Baltimore City is not corrected after a reasonable notice and cure period, to:

1. immediately assume responsibility for maintenance and repairs of the Baltimore Convention facility; and

2. offset the costs of the maintenance and repairs against other amounts owed by the Authority or the State to Baltimore City, whether under the operating agreement with Baltimore City or otherwise.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 284

(Senate Bill 547)

AN ACT concerning

Natural Resources – Nuisance Organisms – Penalties

FOR the purpose of creating a separate criminal offense for each nuisance organism imported or possessed in violation of certain provisions of law or regulation; establishing a certain total maximum fine for offenses arising out of the same enforcement action; ~~authorizing a judge to award a certain monetary reward to a person who provides information leading to a certain conviction, under certain circumstances;~~ and generally relating to nuisance organisms.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4–205.1(a)(8)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–205.1(i)
Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Natural Resources

4–205.1.

(a) (8) “Nuisance organism” means a nonnative aquatic organism that will foreseeably alter and threaten to harm the ecosystem or the abundance and diversity of native or naturalized fish and other organisms.

(i) (1) In addition to any other penalty provided under law, a person who violates a provision of this section **OR A REGULATION ADOPTED UNDER THIS**

SECTION is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding \$2,500 or both FOR EACH OFFENSE, BUT NOT EXCEEDING A TOTAL OF \$25,000 FOR OFFENSES ARISING OUT OF THE SAME ENFORCEMENT ACTION.

(2) EACH NUISANCE ORGANISM IMPORTED OR POSSESSED IN VIOLATION OF THIS SECTION OR A REGULATION ADOPTED UNDER THIS SECTION CONSTITUTES A SEPARATE OFFENSE.

~~(3) (i) SUBJECT TO SUBPARAGRAPHS (ii) AND (iii) OF THIS PARAGRAPH, ON ENTERING A CONVICTION FOR A VIOLATION UNDER THIS SECTION, A JUDGE MAY AWARD A PORTION OF ANY FINES COLLECTED UNDER THIS SECTION TO A PERSON WHO PROVIDED INFORMATION LEADING TO THE CONVICTION.~~

~~(ii) AN AWARD THAT IS GRANTED UNDER THIS PARAGRAPH MAY NOT EXCEED ONE HALF OF THE TOTAL FINES COLLECTED UNDER THIS SECTION.~~

~~(iii) AN AWARD UNDER THIS PARAGRAPH MAY NOT BE MADE TO A LAW ENFORCEMENT OFFICER OR TO AN EMPLOYEE OF THE DEPARTMENT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 285

(House Bill 708)

AN ACT concerning

Natural Resources – Nuisance Organisms – Penalties

FOR the purpose of creating a separate criminal offense for each nuisance organism imported or possessed in violation of certain provisions of law or regulation; establishing a certain total maximum fine for offenses arising out of the same enforcement action; ~~authorizing a judge to award a certain monetary reward to a person who provides information leading to a certain conviction, under certain circumstances;~~ and generally relating to nuisance organisms.

BY repealing and reenacting, without amendments,

Article – Natural Resources
Section 4–205.1(a)(8)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–205.1(i)
Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Natural Resources

4–205.1.

(a) (8) “Nuisance organism” means a nonnative aquatic organism that will foreseeably alter and threaten to harm the ecosystem or the abundance and diversity of native or naturalized fish and other organisms.

(i) **(1)** In addition to any other penalty provided under law, a person who violates a provision of this section **OR A REGULATION ADOPTED UNDER THIS SECTION** is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding \$2,500 or both **FOR EACH OFFENSE, BUT NOT EXCEEDING A TOTAL OF \$25,000 FOR OFFENSES ARISING OUT OF THE SAME ENFORCEMENT ACTION.**

(2) EACH NUISANCE ORGANISM IMPORTED OR POSSESSED IN VIOLATION OF THIS SECTION OR A REGULATION ADOPTED UNDER THIS SECTION CONSTITUTES A SEPARATE OFFENSE.

~~**(3) (i) SUBJECT TO SUBPARAGRAPHS (ii) AND (iii) OF THIS PARAGRAPH, ON ENTERING A CONVICTION FOR A VIOLATION UNDER THIS SECTION, A JUDGE MAY AWARD A PORTION OF ANY FINES COLLECTED UNDER THIS SECTION TO A PERSON WHO PROVIDED INFORMATION LEADING TO THE CONVICTION.**~~

~~**(ii) AN AWARD THAT IS GRANTED UNDER THIS PARAGRAPH MAY NOT EXCEED ONE HALF OF THE TOTAL FINES COLLECTED UNDER THIS SECTION.**~~

~~**(iii) AN AWARD UNDER THIS PARAGRAPH MAY NOT BE MADE TO A LAW ENFORCEMENT OFFICER OR TO AN EMPLOYEE OF THE DEPARTMENT.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 286

(Senate Bill 548)

AN ACT concerning

~~State Department of Education~~ – **Minority Teacher Recruitment – Study and Report**

FOR the purpose of requiring the State Department of Education, the Maryland Higher Education Commission, and the University System of Maryland to study and make recommendations on certain strategies to increase and improve minority teacher recruitment, preparation, development, and retention in elementary and secondary education in the State; requiring the Department, Commission, and System to submit a certain report to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to minority teacher recruitment ~~and the State Department of Education.~~

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

(a) The State Department of Education, the Maryland Higher Education Commission, and the University System of Maryland jointly shall study and make recommendations on strategies to increase and improve the recruitment, preparation, development, and retention of high-quality minority teachers in elementary and secondary education in the State.

(b) On or before December 1, 2013, the State Department of Education, the Maryland Higher Education Commission, and the University System of Maryland jointly shall report on ~~its~~ their recommendations under subsection (a) of this section 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 July 1, 2013. It shall remain effective for a period of 1 year 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 2, 2013.

Chapter 287

(Senate Bill 557)

AN ACT concerning

Medical Records – Disclosure in Response to Compulsory Process – Requirements

FOR the purpose of ~~requiring a person who discloses a medical record in response to compulsory process to make a certain certification within a certain time period to the judicial officer who issued the compulsory process; requiring the person, under certain circumstances, to include certain information in the certification; requiring, except under certain circumstances, the person to mail a copy of the certification to certain persons; requiring a judicial officer, under certain circumstances, to issue an order prohibiting the person from mailing a copy of the certification to a certain person;~~ altering the circumstances under which a health care provider is required to disclose a medical record without the authorization of a person in interest; altering a certain notice that must be sent to certain parties in order to require a health care provider to disclose a medical record under certain circumstances; ~~defining a certain term;~~ making a technical change; and generally relating to the disclosure of medical records in response to compulsory process.

~~BY adding to~~

~~Article – Courts and Judicial Proceedings~~

~~Section 9-125~~

~~Annotated Code of Maryland~~

~~(2006 Replacement Volume and 2012 Supplement)~~

BY repealing and reenacting, without amendments,

Article – Health – General

Section 4-301(l) and 4-306(a) and (b)(6)(i)1.B.

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 4-306(b)(6)(iii)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 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~~

~~9-125.~~

~~(A) IN THIS SECTION, "PERSON IN INTEREST" HAS THE MEANING STATED IN § 4-301 OF THE HEALTH GENERAL ARTICLE.~~

~~(B) WITHIN 5 BUSINESS DAYS AFTER A PERSON DISCLOSES A MEDICAL RECORD IN RESPONSE TO COMPULSORY PROCESS, THE PERSON SHALL:~~

~~(1) CERTIFY TO THE JUDICIAL OFFICER WHO ISSUED THE COMPULSORY PROCESS THAT THE DISCLOSURE:~~

~~(i) WAS MADE IN COMPLIANCE WITH THE APPLICABLE PROVISIONS OF:~~

~~1. THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 AND ANY REGULATIONS ADOPTED UNDER THE ACT; AND~~

~~2. TITLE 4, SUBTITLE 3 OF THE HEALTH GENERAL ARTICLE; AND~~

~~(ii) DID NOT VIOLATE THE APPLICABLE PROVISIONS OF § 9-109, § 9-109.1, OR § 9-121 OF THIS SUBTITLE;~~

~~(2) IF ANY OTHER PROVISION OF FEDERAL OR STATE LAW GOVERNS THE DISCLOSURE OF THE MEDICAL RECORD, INCLUDE IN THE CERTIFICATION MADE UNDER ITEM (1) OF THIS SUBSECTION THE PROVISION OF LAW THAT AUTHORIZES THE DISCLOSURE OF THE MEDICAL RECORD; AND~~

~~(3) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, MAIL A COPY OF THE CERTIFICATION MADE UNDER ITEM (1) OF THIS SUBSECTION TO:~~

~~(i) THE PERSON IN INTEREST; AND~~

~~(ii) IF APPLICABLE, THE PARTIES TO A CRIMINAL OR JUVENILE DELINQUENCY CASE IN WHICH THE COMPULSORY PROCESS WAS ISSUED TO DISCLOSE A MEDICAL RECORD.~~

~~(C) IF A STATE'S ATTORNEY OR A DESIGNATED ASSISTANT STATE'S ATTORNEY FILES A DECLARATION TO THE COURT THAT MAILING OF A COPY OF THE CERTIFICATION MADE UNDER SUBSECTION (B)(1) OF THIS SECTION TO THE PERSON IN INTEREST WOULD MATERIALLY IMPAIR THE INVESTIGATION OF A CRIMINAL MATTER, THE JUDICIAL OFFICER ISSUING THE COMPULSORY PROCESS SHALL ISSUE, AS PART OF THE COMPULSORY PROCESS, AN ORDER THAT THE PERSON DISCLOSING THE MEDICAL RECORD MAY NOT SEND A COPY OF THE CERTIFICATION TO THE PERSON IN INTEREST.~~

Article – Health – General

4–301.

(1) “Person in interest” means:

(1) An adult on whom a health care provider maintains a medical record;

(2) A person authorized to consent to health care for an adult consistent with the authority granted;

(3) A duly appointed personal representative of a deceased person;

(4) (i) A minor, if the medical record concerns treatment to which the minor has the right to consent and has consented under Title 20, Subtitle 1 of this article; or

(ii) A parent, guardian, custodian, or a representative of the minor designated by a court, in the discretion of the attending physician who provided the treatment to the minor, as provided in § 20–102 or § 20–104 of this article;

(5) If item (4) of this subsection does not apply to a minor:

(i) A parent of the minor, except if the parent's authority to consent to health care for the minor has been specifically limited by a court order or a valid separation agreement entered into by the parents of the minor; or

(ii) A person authorized to consent to health care for the minor consistent with the authority granted; or

(6) An attorney appointed in writing by a person listed in item (1), (2), (3), (4), or (5) of this subsection.

4–306.

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

(b) A health care provider shall disclose a medical record without the authorization of a person in interest:

(6) Subject to the additional limitations for a medical record developed primarily in connection with the provision of mental health services in § 4-307 of this subtitle and except as otherwise provided in items (2), (7), and (8) of this subsection, in accordance with compulsory process, if the health care provider receives:

(i) 1. A written assurance from the party or the attorney representing the party seeking the medical records that:

B. In all other proceedings, a person in interest has not objected to the disclosure of the designated medical records within 30 days after the notice was sent; or

(iii) For disclosures made under item (i)1B of this paragraph, copies of the following items that were mailed by certified mail **AND BY MAIL SENT FIRST-CLASS POSTAGE PREPAID** to the person in interest **AND, IF APPLICABLE, BY MAIL SENT FIRST-CLASS POSTAGE PREPAID TO THE COURT AND PARTIES IN A CRIMINAL OR JUVENILE DELINQUENCY CASE** by the person requesting the disclosure at least 30 days before the records are to be disclosed:

1. The subpoena, summons, warrant, or court order seeking the disclosure or production of the records;

2. This section; and

3. A notice in the following form or a substantially similar form:

		In the
Plaintiffs		
v.		For
Defendants		
		Case No.: _____

NOTICE TO (Patient Name)
IN COMPLIANCE WITH § 4-306 OF THE HEALTH – GENERAL ARTICLE,
ANNOTATED CODE OF MARYLAND

TAKE NOTE that medical records regarding (Patient Name), have been subpoenaed from the (Name and address of Health Care Provider) pursuant to the attached subpoena and § 4–306 of the Health – General Article, Annotated Code of Maryland. This subpoena ____ does ____ does not (mark one) seek production of mental health records.

Please examine these papers carefully. IF YOU HAVE ANY OBJECTION TO THE PRODUCTION OF THESE DOCUMENTS, YOU MUST FILE A MOTION FOR A PROTECTIVE ORDER OR A MOTION TO QUASH THE SUBPOENA ISSUED FOR THESE DOCUMENTS UNDER MARYLAND RULES 2–403 [AND], 2–510, OR 4–266 NO LATER THAN THIRTY (30) DAYS FROM THE DATE THIS NOTICE IS MAILED. For example, a protective order may be granted if the records are not relevant to the issues in this case, the request unduly invades your privacy, or causes you specific harm.

Also attached to this form is a copy of the subpoena duces tecum issued for these records.

If you believe you need further legal advice about this matter, you should consult your attorney.

 Attorney
 (Firm Name
 Attorney address
 Attorney phone number)

Attorneys for (Name
 of Party Represented)

Certificate of Service

I hereby certify that a copy of the foregoing notice was mailed, first-class postage prepaid, this ____ day of _____, [200_] 20__ to

 Patient

 Each Counsel in Case

 Attorney

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 288

(Senate Bill 581)

AN ACT concerning

Health Insurance – Federal Mental Health Parity and Addiction Equity Act – ~~Consumer Bill of Rights~~ Notice and Authorization Forms

~~FOR the purpose of requiring certain carriers that offer a certain health insurance policy or contract to provide, in the mental health and substance use disorder benefits sections of the health insurance policy or contract documents, certain notices and other information relating to the federal Mental Health Parity and Addiction Equity Act; requiring a carrier to provide certain policy or contract information or documents to a member within a certain period of time; requiring a carrier to post on its Web site and provide by certain means within a certain period of time a release of information authorization form; defining certain terms; making the provisions of this Act applicable to health maintenance organizations; and generally relating to information in health insurance documents relating to compliance with the federal Mental Health Parity and Addiction Equity Act.~~

FOR the purpose of requiring health maintenance organizations and entities that issue or deliver certain health insurance policies or contracts to provide, on their Web sites and in print, notice about certain benefits for mental illness, emotional disorders, drug abuse, or alcohol abuse required under State law and under the federal Mental Health Parity and Addiction Equity Act and notice that members and insureds may contact the Maryland Insurance Administration for further information; requiring the health maintenance organizations and entities to post a release of information authorization on the their Web sites and to provide by standard mail to a member or insured a release of information authorization form within a certain period of time; requiring the Administration to provide on its Web site certain notice relating to filing complaints, obtaining copies of insurance policies and contracts, and requesting referrals; and generally relating to notice about certain benefits for mental illness, emotional disorders, drug abuse, or alcohol abuse and release of information authorization forms under health insurance.

BY adding to

Article – Health – General

Section ~~19-706(oooo)~~ 19-703.1(f) and (g)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – Insurance

Section ~~15-128~~ 15-802(h) and (i)

Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article – Health – General

~~19-706.~~

~~(0000) THE PROVISIONS OF § 15-128 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.~~

19-703.1.

(F) A HEALTH MAINTENANCE ORGANIZATION SHALL PROVIDE ON ITS WEB SITE AND ANNUALLY IN PRINT TO ITS MEMBERS:

(1) NOTICE ABOUT THE BENEFITS REQUIRED UNDER THIS SECTION AND, IF APPLICABLE TO THE CONTRACT OF THE MEMBER, THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT; AND

(2) NOTICE THAT THE MEMBER MAY CONTACT THE MARYLAND INSURANCE ADMINISTRATION FOR FURTHER INFORMATION ABOUT THE BENEFITS.

(G) A HEALTH MAINTENANCE ORGANIZATION SHALL:

(1) POST A RELEASE OF INFORMATION AUTHORIZATION FORM ON ITS WEB SITE; AND

(2) PROVIDE A RELEASE OF INFORMATION AUTHORIZATION FORM BY STANDARD MAIL WITHIN 10 BUSINESS DAYS AFTER A REQUEST FOR THE FORM IS RECEIVED.

Article – Insurance

~~15-128.~~

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

~~(2) “ACT” MEANS THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT.~~

~~(3) "CARRIER" MEANS:~~

~~(I) AN INSURER;~~

~~(II) A NONPROFIT HEALTH SERVICE PLAN; OR~~

~~(III) A HEALTH MAINTENANCE ORGANIZATION.~~

~~(B) THIS SECTION APPLIES TO EACH HEALTH INSURANCE POLICY OR CONTRACT THAT:~~

~~(1) IS DELIVERED OR ISSUED FOR DELIVERY IN THE STATE TO AN EMPLOYER OR INDIVIDUAL ON A GROUP OR AN INDIVIDUAL BASIS;~~

~~(2) PROVIDES COVERAGE ON AN EXPENSE INCURRED BASIS; AND~~

~~(3) IS SUBJECT TO THE ACT.~~

~~(C) A CARRIER THAT OFFERS A HEALTH INSURANCE POLICY OR CONTRACT SUBJECT TO THIS SECTION SHALL PROVIDE, IN THE MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS SECTIONS OF THE HEALTH INSURANCE POLICY OR CONTRACT DOCUMENTS, INCLUDING CERTIFICATES OF COVERAGE, MEMBER CONTRACTS, AND MEMBER BOOKLETS, AND ON THE CARRIER'S WEB SITE:~~

~~(1) NOTICE THAT THE POLICY OR CONTRACT IS SUBJECT TO THE ACT, WHICH REQUIRES THAT THE FINANCIAL REQUIREMENTS AND QUANTITATIVE AND NONQUANTITATIVE TREATMENT LIMITATIONS APPLIED TO MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES BE COMPARABLE TO AND NO MORE RESTRICTIVE THAN THE FINANCIAL REQUIREMENTS AND QUANTITATIVE AND NONQUANTITATIVE TREATMENT LIMITATIONS APPLIED TO MEDICAL AND SURGICAL SERVICES;~~

~~(2) A TELEPHONE NUMBER A MEMBER MAY CALL WITH QUESTIONS ABOUT COMPLIANCE OF THE MEMBER'S POLICY OR CONTRACT WITH THE ACT;~~

~~(3) NOTICE THAT:~~

~~(I) COMPLAINTS REGARDING FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS THAT MAY BE NONCOMPLIANT WITH THE ACT CAN BE FILED WITH THE COMMISSIONER; AND~~

~~(H) HELP IN FILING A COMPLAINT MAY BE OBTAINED FROM THE HEALTH EDUCATION AND ADVOCACY UNIT OF THE ATTORNEY GENERAL'S OFFICE;~~

~~(4) (I) NOTICE THAT A MEMBER, WITHIN 10 BUSINESS DAYS AFTER A REQUEST IS RECEIVED BY THE CARRIER, IS ENTITLED TO ALL POLICY OR CONTRACT DOCUMENTS NECESSARY TO DETERMINE WHETHER THE POLICY OR CONTRACT IS IMPLEMENTING COMPLIANT FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS, INCLUDING MEDICAL NECESSITY CRITERIA AND OTHER POLICIES AND PROCEDURES, FOR BOTH MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS AND MEDICAL AND SURGICAL BENEFITS; AND~~

~~(H) INSTRUCTIONS ON HOW TO OBTAIN THE DOCUMENTS; AND~~

~~(5) NOTICE OF THE PROPER PROCEDURES, INCLUDING THE PROCEDURES FOR FILING A COMPLAINT WITH THE COMMISSIONER, TO BE FOLLOWED IF A MEMBER IS UNABLE TO SECURE AN APPOINTMENT WITH AN IN-NETWORK MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICE PROVIDER WITHOUT UNREASONABLE DELAY.~~

~~(D) A CARRIER SHALL PROVIDE ANY REQUESTED POLICY OR CONTRACT INFORMATION OR DOCUMENTS TO WHICH A MEMBER IS ENTITLED UNDER SUBSECTION (C) OF THIS SECTION TO A MEMBER WITHIN 10 BUSINESS DAYS AFTER THE REQUEST IS RECEIVED.~~

~~(E) A CARRIER SHALL:~~

~~(1) POST A RELEASE OF INFORMATION AUTHORIZATION FORM ON ITS WEB SITE; AND~~

~~(2) PROVIDE A RELEASE OF INFORMATION AUTHORIZATION FORM BY STANDARD MAIL WITHIN 10 BUSINESS DAYS AFTER A REQUEST FOR THE FORM IS RECEIVED.~~

15-802.

(H) AN ENTITY THAT ISSUES OR DELIVERS A POLICY OR CONTRACT SUBJECT TO THIS SECTION SHALL PROVIDE ON ITS WEB SITE AND ANNUALLY IN PRINT TO ITS INSUREDS:

(1) NOTICE ABOUT THE BENEFITS REQUIRED UNDER THIS SECTION AND, IF APPLICABLE TO THE POLICY OR CONTRACT OF THE INSURED, THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT; AND

(2) NOTICE THAT THE INSURED MAY CONTACT THE ADMINISTRATION FOR FURTHER INFORMATION ABOUT THE BENEFITS.

(I) AN ENTITY THAT ISSUES OR DELIVERS A POLICY OR CONTRACT SUBJECT TO THIS SECTION SHALL:

(1) POST A RELEASE OF INFORMATION AUTHORIZATION FORM ON ITS WEB SITE; AND

(2) PROVIDE A RELEASE OF INFORMATION AUTHORIZATION FORM BY STANDARD MAIL WITHIN 10 BUSINESS DAYS AFTER A REQUEST FOR THE FORM IS RECEIVED.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Insurance Administration shall provide on its Web site notice that:

(1) complaints regarding noncompliance with the federal Mental Health Parity and Addiction Equity Act may be filed with the Commissioner;

(2) an insured may obtain assistance in filing a complaint with a carrier or the Administration from the Health Education and Advocacy Unit in the Office of the Attorney General;

(3) an insured may obtain a copy of the health insurance policy or contract of the insured and should contact the carrier for the copy; and

(4) an insured may request a referral to a specialist or nonphysician specialist who is not part of the carrier's provider panel if:

(i) the insured requires specialized health care services or medical care; and

(ii) 1. the carrier does not have a specialist or nonphysician specialist with the professional training and expertise to treat or provide health care services for the condition or disease of the insured; or

2. the carrier cannot provide reasonable access to a specialist or nonphysician specialist to treat or provide health care services for the condition or disease of the insured without unreasonable delay or travel.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 289

(House Bill 1216)

AN ACT concerning

Health Insurance – Federal Mental Health Parity and Addiction Equity Act – ~~Consumer Bill of Rights~~ Notice and Authorization Forms

~~FOR the purpose of requiring certain carriers that offer a certain health insurance policy or contract to provide, in the mental health and substance use disorder benefits sections of the health insurance policy or contract documents, certain notices and other information relating to the federal Mental Health Parity and Addiction Equity Act; requiring a carrier to provide certain policy or contract information or documents to a member within a certain period of time; requiring a carrier to post on its Web site and provide by certain means within a certain period of time a release of information authorization form; defining certain terms; making the provisions of this Act applicable to health maintenance organizations; and generally relating to information in health insurance documents relating to compliance with the federal Mental Health Parity and Addiction Equity Act.~~

FOR the purpose of requiring health maintenance organizations and entities that issue or deliver certain health insurance policies or contracts to provide, on their Web sites and in print, notice about certain benefits for mental illness, emotional disorders, drug abuse, or alcohol abuse required under State law and under the federal Mental Health Parity and Addiction Equity Act and notice that members and insureds may contact the Maryland Insurance Administration for further information; requiring the health maintenance organizations and entities to post a release of information authorization on the their Web sites and to provide by standard mail to a member or insured a release of information authorization form within a certain period of time; requiring the Administration to provide on its Web site certain notice relating to filing complaints, obtaining copies of insurance policies and contracts, and requesting referrals; and generally relating to notice about certain benefits for mental illness, emotional disorders, drug abuse, or alcohol abuse and release of information authorization forms under health insurance.

BY adding to

Article – Health – General

Section ~~19-706(c)(c)(c)(c)~~ 19-703.1(f) and (g)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – Insurance

Section ~~15-128~~ 15-802(h) and (i)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

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

Article – Health – General

~~19-706.~~

~~(0000) THE PROVISIONS OF § 15-128 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.~~

19-703.1.

(F) A HEALTH MAINTENANCE ORGANIZATION SHALL PROVIDE ON ITS WEB SITE AND ANNUALLY IN PRINT TO ITS MEMBERS:

(1) NOTICE ABOUT THE BENEFITS REQUIRED UNDER THIS SECTION AND, IF APPLICABLE TO THE CONTRACT OF THE MEMBER, THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT; AND

(2) NOTICE THAT THE MEMBER MAY CONTACT THE MARYLAND INSURANCE ADMINISTRATION FOR FURTHER INFORMATION ABOUT THE BENEFITS.

(G) A HEALTH MAINTENANCE ORGANIZATION SHALL:

(1) POST A RELEASE OF INFORMATION AUTHORIZATION FORM ON ITS WEB SITE; AND

(2) PROVIDE A RELEASE OF INFORMATION AUTHORIZATION FORM BY STANDARD MAIL WITHIN 10 BUSINESS DAYS AFTER A REQUEST FOR THE FORM IS RECEIVED.

Article – Insurance

~~15-128.~~

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

~~(2) "ACT" MEANS THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT.~~

~~(3) "CARRIER" MEANS:~~

~~(I) AN INSURER;~~

~~(II) A NONPROFIT HEALTH SERVICE PLAN; OR~~

~~(III) A HEALTH MAINTENANCE ORGANIZATION.~~

~~(B) THIS SECTION APPLIES TO EACH HEALTH INSURANCE POLICY OR CONTRACT THAT:~~

~~(1) IS DELIVERED OR ISSUED FOR DELIVERY IN THE STATE TO AN EMPLOYER OR INDIVIDUAL ON A GROUP OR AN INDIVIDUAL BASIS;~~

~~(2) PROVIDES COVERAGE ON AN EXPENSE INCURRED BASIS; AND~~

~~(3) IS SUBJECT TO THE ACT.~~

~~(C) A CARRIER THAT OFFERS A HEALTH INSURANCE POLICY OR CONTRACT SUBJECT TO THIS SECTION SHALL PROVIDE, IN THE MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS SECTIONS OF THE HEALTH INSURANCE POLICY OR CONTRACT DOCUMENTS, INCLUDING CERTIFICATES OF COVERAGE, MEMBER CONTRACTS, AND MEMBER BOOKLETS, AND ON THE CARRIER'S WEB SITE:~~

~~(1) NOTICE THAT THE POLICY OR CONTRACT IS SUBJECT TO THE ACT, WHICH REQUIRES THAT THE FINANCIAL REQUIREMENTS AND QUANTITATIVE AND NONQUANTITATIVE TREATMENT LIMITATIONS APPLIED TO MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES BE COMPARABLE TO AND NO MORE RESTRICTIVE THAN THE FINANCIAL REQUIREMENTS AND QUANTITATIVE AND NONQUANTITATIVE TREATMENT LIMITATIONS APPLIED TO MEDICAL AND SURGICAL SERVICES;~~

~~(2) A TELEPHONE NUMBER A MEMBER MAY CALL WITH QUESTIONS ABOUT COMPLIANCE OF THE MEMBER'S POLICY OR CONTRACT WITH THE ACT;~~

~~(3) NOTICE THAT:~~

~~(I) COMPLAINTS REGARDING FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS THAT MAY BE NONCOMPLIANT WITH THE ACT CAN BE FILED WITH THE COMMISSIONER; AND~~

~~(II) HELP IN FILING A COMPLAINT MAY BE OBTAINED FROM THE HEALTH EDUCATION AND ADVOCACY UNIT OF THE ATTORNEY GENERAL'S OFFICE;~~

~~(4) (I) NOTICE THAT A MEMBER, WITHIN 10 BUSINESS DAYS AFTER A REQUEST IS RECEIVED BY THE CARRIER, IS ENTITLED TO ALL POLICY OR CONTRACT DOCUMENTS NECESSARY TO DETERMINE WHETHER THE POLICY OR CONTRACT IS IMPLEMENTING COMPLIANT FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS, INCLUDING MEDICAL NECESSITY CRITERIA AND OTHER POLICIES AND PROCEDURES, FOR BOTH MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS AND MEDICAL AND SURGICAL BENEFITS; AND~~

~~(II) INSTRUCTIONS ON HOW TO OBTAIN THE DOCUMENTS; AND~~

~~(5) NOTICE OF THE PROPER PROCEDURES, INCLUDING THE PROCEDURES FOR FILING A COMPLAINT WITH THE COMMISSIONER, TO BE FOLLOWED IF A MEMBER IS UNABLE TO SECURE AN APPOINTMENT WITH AN IN-NETWORK MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICE PROVIDER WITHOUT UNREASONABLE DELAY.~~

~~(D) A CARRIER SHALL PROVIDE ANY REQUESTED POLICY OR CONTRACT INFORMATION OR DOCUMENTS TO WHICH A MEMBER IS ENTITLED UNDER SUBSECTION (C) OF THIS SECTION TO A MEMBER WITHIN 10 BUSINESS DAYS AFTER THE REQUEST IS RECEIVED.~~

~~(E) A CARRIER SHALL:~~

~~(1) POST A RELEASE OF INFORMATION AUTHORIZATION FORM ON ITS WEB SITE; AND~~

~~(2) PROVIDE A RELEASE OF INFORMATION AUTHORIZATION FORM BY STANDARD MAIL WITHIN 10 BUSINESS DAYS AFTER A REQUEST FOR THE FORM IS RECEIVED.~~

(H) AN ENTITY THAT ISSUES OR DELIVERS A POLICY OR CONTRACT SUBJECT TO THIS SECTION SHALL PROVIDE ON ITS WEB SITE AND ANNUALLY IN PRINT TO ITS INSUREDS:

(1) NOTICE ABOUT THE BENEFITS REQUIRED UNDER THIS SECTION AND, IF APPLICABLE TO THE POLICY OR CONTRACT OF THE INSURED, THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT; AND

(2) NOTICE THAT THE INSURED MAY CONTACT THE ADMINISTRATION FOR FURTHER INFORMATION ABOUT THE BENEFITS.

(I) AN ENTITY THAT ISSUES OR DELIVERS A POLICY OR CONTRACT SUBJECT TO THIS SECTION SHALL:

(1) POST A RELEASE OF INFORMATION AUTHORIZATION FORM ON ITS WEB SITE; AND

(2) PROVIDE A RELEASE OF INFORMATION AUTHORIZATION FORM BY STANDARD MAIL WITHIN 10 BUSINESS DAYS AFTER A REQUEST FOR THE FORM IS RECEIVED.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Insurance Administration shall provide on its Web site notice that:

(1) complaints regarding noncompliance with the federal Mental Health Parity and Addiction Equity Act may be filed with the Commissioner;

(2) an insured may obtain assistance in filing a complaint with a carrier or the Administration from the Health Education and Advocacy Unit in the Office of the Attorney General;

(3) an insured may obtain a copy of the health insurance policy or contract of the insured and should contact the carrier for the copy; and

(4) an insured may request a referral to a specialist or nonphysician specialist who is not part of the carrier's provider panel if:

(i) the insured requires specialized health care services or medical care; and

(ii) 1. the carrier does not have a specialist or nonphysician specialist with the professional training and expertise to treat or provide health care services for the condition or disease of the insured; or

2. the carrier cannot provide reasonable access to a specialist or nonphysician specialist to treat or provide health care services for the condition or disease of the insured without unreasonable delay or travel.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 290

(Senate Bill 582)

AN ACT concerning

Health Insurance – Federal Mental Health Parity and Addiction Equity Act – Utilization Review Criteria and Standards

FOR the purpose of requiring ~~the information that a private review agent submits to the Maryland Insurance Commissioner in conjunction with a certain application to include certification by the private review agent that the criteria and standards to be used in conducting utilization review are, for review of mental health and substance use disorder benefits, in compliance with the federal Mental Health Parity and Addiction Equity Act; prohibiting a private review agent from using criteria and standards to conduct utilization review unless the criteria and standards used by the private review agent are, for review of mental health and substance use disorder benefits, in compliance with the federal Mental Health Parity and Addiction Equity Act; making a stylistic change~~ entities that propose to issue or deliver certain insurance policies or contracts in the State or to administer health benefit programs that provide certain coverage to ensure that, when conducting utilization review for mental health and substance use benefits, the criteria and standards used are in compliance with the federal Mental Health Parity and Addiction Equity Act; and generally relating to utilization review criteria and standards used by private review agents for review of mental health and substance use disorder benefits under health insurance and compliance with the federal Mental Health Parity and Addiction Equity Act.

BY repealing and reenacting, with amendments,
 Article – Insurance
 Section ~~15-10B-05(a)(11) and 15-10B-11(8)~~ 15-1001(b)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

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

~~Article – Insurance~~~~Section 15-10B-11(9)~~~~Annotated Code of Maryland~~~~(2011 Replacement Volume and 2012 Supplement)~~

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

Article – Insurance

~~15-10B-05.~~

~~(a) In conjunction with the application, the private review agent shall submit information that the Commissioner requires including:~~

~~(11) certification by the private review agent that the criteria and standards to be used in conducting utilization review are:~~

~~(i) objective;~~

~~(ii) clinically valid;~~

~~(iii) compatible with established principles of health care; [and]~~

~~(iv) flexible enough to allow deviations from norms when justified on a case by case basis; AND~~

~~(v) FOR REVIEW OF MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS, IN COMPLIANCE WITH THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT.~~

~~15-10B-11.~~

~~A private review agent may not:~~

~~(8) use criteria and standards to conduct utilization review unless the criteria and standards used by the private review agent are:~~

~~(i) objective;~~

~~(ii) clinically valid;~~

~~(iii) compatible with established principles of health care; [or]~~

~~(iv) flexible enough to allow deviations from norms when justified on a case by case basis; [or] AND~~

~~(v) FOR REVIEW OF MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS, IN COMPLIANCE WITH THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT; OR~~

~~(9) act as a private review agent without holding a certificate issued under this subtitle.~~

15-1001.

(b) (1) Subject to paragraph (2) of this subsection, each entity subject to this section shall:

(i) 1. have a certificate issued under Subtitle 10B of this title; or

[(ii)] 2. contract with a private review agent that has a certificate issued under Subtitle 10B of this title; AND

(II) WHEN CONDUCTING UTILIZATION REVIEW FOR MENTAL HEALTH AND SUBSTANCE USE BENEFITS, ENSURE THAT THE CRITERIA AND STANDARDS USED ARE IN COMPLIANCE WITH THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT.

(2) For hospital services, each entity subject to this section may contract with or delegate utilization review to a hospital utilization review program approved under § 19-319(d) of the Health – General Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 291

(House Bill 1252)

AN ACT concerning

Health Insurance – Federal Mental Health Parity and Addiction Equity Act – Utilization Review Criteria and Standards

FOR the purpose of requiring ~~the information that a private review agent submits to the Maryland Insurance Commissioner in conjunction with a certain application~~

~~to include certification by the private review agent that the criteria and standards to be used in conducting utilization review are, for review of mental health and substance use disorder benefits, in compliance with the federal Mental Health Parity and Addiction Equity Act; prohibiting a private review agent from using criteria and standards to conduct utilization review unless the criteria and standards used by the private review agent are, for review of mental health and substance use disorder benefits, in compliance with the federal Mental Health Parity and Addiction Equity Act; making a stylistic change~~ entities that propose to issue or deliver certain insurance policies or contracts in the State or to administer health benefit programs that provide certain coverage to ensure that, when conducting utilization review for mental health and substance use benefits, the criteria and standards used are in compliance with the federal Mental Health Parity and Addiction Equity Act; and generally relating to utilization review criteria and standards used by private review agents for review of mental health and substance use disorder benefits under health insurance and compliance with the federal Mental Health Parity and Addiction Equity Act.

BY repealing and reenacting, with amendments,

Article – Insurance

Section ~~15-10B-05(a)(11) and 15-10B-11(8)~~ 15-1001(b)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

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

~~Article – Insurance~~

~~Section 15-10B-11(9)~~

~~Annotated Code of Maryland~~

~~(2011 Replacement Volume and 2012 Supplement)~~

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

Article – Insurance

~~15-10B-05.~~

~~(a) In conjunction with the application, the private review agent shall submit information that the Commissioner requires including:~~

~~(11) certification by the private review agent that the criteria and standards to be used in conducting utilization review are:~~

~~(i) objective;~~

~~(ii) clinically valid;~~

~~(iii) compatible with established principles of health care; [and]~~

~~(iv) flexible enough to allow deviations from norms when justified on a case by case basis; AND~~

~~(V) FOR REVIEW OF MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS, IN COMPLIANCE WITH THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT;~~

~~15-10B-11.~~

~~A private review agent may not:~~

~~(8) use criteria and standards to conduct utilization review unless the criteria and standards used by the private review agent are:~~

~~(i) objective;~~

~~(ii) clinically valid;~~

~~(iii) compatible with established principles of health care; [or]~~

~~(iv) flexible enough to allow deviations from norms when justified on a case by case basis; [or] AND~~

~~(V) FOR REVIEW OF MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS, IN COMPLIANCE WITH THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT; OR~~

~~(9) act as a private review agent without holding a certificate issued under this subtitle.~~

~~15-1001.~~

~~(b) (1) Subject to paragraph (2) of this subsection, each entity subject to this section shall:~~

~~(i) 1. have a certificate issued under Subtitle 10B of this title; or~~

~~[(ii)] 2. contract with a private review agent that has a certificate issued under Subtitle 10B of this title; AND~~

~~(II) WHEN CONDUCTING UTILIZATION REVIEW FOR MENTAL HEALTH AND SUBSTANCE USE BENEFITS, ENSURE THAT THE CRITERIA AND~~

STANDARDS USED ARE IN COMPLIANCE WITH THE FEDERAL MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT.

(2) For hospital services, each entity subject to this section may contract with or delegate utilization review to a hospital utilization review program approved under § 19–319(d) of the Health – General Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 292

(Senate Bill 586)

AN ACT concerning

Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region

FOR the purpose of establishing the Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Secretary of Agriculture 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 the Implementation of a Hub and Spoke Program in the Southern Maryland Region.

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

(a) There is a Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region, including Charles County, Calvert County, and St. Mary's County, to provide the low-income, working poor, and unemployed populations of that region with fresh farm products.

(b) The Task Force consists of the following members:

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

- the House;
- (2) one member of the House of Delegates, appointed by the Speaker of the House;
 - (3) the Secretary of Agriculture, or the Secretary's designee;
 - (4) the Comptroller, or the Comptroller's designee; and
 - (5) the following members, appointed by the Governor:
 - (i) a representative of the Southern Maryland Agricultural Development Commission;
 - (ii) a representative of the Southern Maryland Ministers Alliance; and
 - (iii) a representative of Farming 4 Hunger.
- (c) The Governor shall designate the chair of the Task Force.
- (d) The Southern Maryland Agricultural Development Commission shall provide staff for the Task Force.
- (e) A member of the Task Force may not receive compensation as a member of the Task Force.
- (f) The Task Force shall:
- (1) assess the *nutritional* needs of the low-income, working poor, and unemployed populations of the Southern Maryland region;
 - (2) study the infrastructure and equipment required to best serve those needs;
 - (3) make recommendations regarding the locations of collection and distribution sites throughout the region;
 - (4) make recommendations regarding the operation and management of a hub and spoke program, including human resources, the collaboration among members of the agricultural community and anti-hunger organizations, and processes for collecting and distributing locally-grown farm food;
 - (5) make recommendations regarding education and outreach efforts throughout the region regarding the hub and spoke program; and
 - (6) study and make recommendations regarding options for granting State and local tax incentives to individuals who donate locally-grown farm food to the hub and spoke program and how to verify the activities of those individuals.

(g) On or before December 1, 2013, the Task Force shall report its findings and recommendations to the Secretary of Agriculture 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, 2013. It shall remain effective for a period of 1 year and 1 month 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 2, 2013.

Chapter 293

(House Bill 1019)

AN ACT concerning

Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region

FOR the purpose of establishing the Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Secretary of Agriculture 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 the Implementation of a Hub and Spoke Program in the Southern Maryland Region.

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

(a) There is a Task Force to Study the Implementation of a Hub and Spoke Program in the Southern Maryland Region, including Charles County, Calvert County, and St. Mary's County, to provide the low-income, working poor, and unemployed populations of that region with fresh farm products.

(b) The Task Force consists of the following members:

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

- (2) one member of the House of Delegates, appointed by the Speaker of the House;
- (3) the Secretary of Agriculture, or the Secretary's designee;
- (4) the Comptroller, or the Comptroller's designee; and
- (5) the following members, appointed by the Governor:
- (i) a representative of the Southern Maryland Agricultural Development Commission;
 - (ii) a representative of the Southern Maryland Ministers Alliance; and
 - (iii) a representative of Farming 4 Hunger.
- (c) The Governor shall designate the chair of the Task Force.
- (d) The Southern Maryland Agricultural Development Commission shall provide staff for the Task Force.
- (e) A member of the Task Force may not receive compensation as a member of the Task Force.
- (f) The Task Force shall:
- (1) assess the nutritional needs of the low-income, working poor, and unemployed populations of the Southern Maryland region;
 - (2) study the infrastructure and equipment required to best serve those needs;
 - (3) make recommendations regarding the locations of collection and distribution sites throughout the region;
 - (4) make recommendations regarding the operation and management of a hub and spoke program, including human resources, the collaboration among members of the agricultural community and anti-hunger organizations, and processes for collecting and distributing locally-grown farm food;
 - (5) make recommendations regarding education and outreach efforts throughout the region regarding the hub and spoke program; and
 - (6) study and make recommendations regarding options for granting State and local tax incentives to individuals who donate locally-grown farm food to the hub and spoke program and how to verify the activities of those individuals.

(g) On or before December 1, 2013, the Task Force shall report its findings and recommendations to the Secretary of Agriculture 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, 2013. It shall remain effective for a period of 1 year and 1 month 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 2, 2013.

Chapter 294

(Senate Bill 589)

AN ACT concerning

Commercial Law – Consumer Protection – Rental–Purchase Transactions

FOR the purpose of requiring a lessor to disclose to a consumer in each rental–purchase agreement the cost of lease services of certain items of rental property; altering a certain form that must be used to satisfy certain disclosure requirements; establishing a certain form that must be used to satisfy certain disclosure requirements; requiring the Attorney General’s Web site to include certain forms; defining a certain term; and generally relating to rental–purchase transactions.

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 12–1101(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2012 Supplement)

BY adding to
Article – Commercial Law
Section 12–1101(i)
Annotated Code of Maryland
(2005 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–1103, 12–1104, 12–1111, and 12–1111.1
Annotated Code of Maryland
(2005 Replacement Volume and 2012 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.

(1) “COST OF LEASE SERVICES” MEANS THE DIFFERENCE BETWEEN THE FINAL PURCHASE PRICE OF RENTAL PROPERTY AND THE CASH PRICE OF RENTAL PROPERTY.

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 IN ENGLISH OR IN ANY OTHER LANGUAGE USED BY THE LESSOR IN ADVERTISEMENTS RELATED TO THE RENTAL–PURCHASE TRANSACTION;

[(2)] (3) Make the disclosures required under this subtitle on the face of the rental–purchase agreement AND SUMMARY OF COSTS CHART above the consumer’s signature [line] LINES; and

[(3)] (4) Deliver a copy of the rental–purchase agreement AND THE SUMMARY OF COSTS CHART 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 COST OF LEASE SERVICES OF THE RENTAL PROPERTY;

[(5)] (6) 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)] (7) A statement that the total of rental payments does not include other charges, such as reinstatement fees, damage fees, or pickup fees;

[(7)] (8) 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)] (9) 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)] (10) (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)] (11) The date of consummation and the identities of the lessor and consumer;

[(11)] (12) 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)] (13) Notice of the consumer's right to reinstate an agreement as provided in § 12-1106 of this subtitle; and

[(13)] (14) Any other charges, including reinstatement fees, damage fees, and pickup fees.

(B) THE LESSOR SHALL DISCLOSE IN EACH SUMMARY OF COSTS CHART, AS APPLICABLE:

(1) THE CASH PRICE OF THE RENTAL PROPERTY;

(2) THE TIMING OF THE PAYMENTS FOR THE RENTAL PROPERTY;

(3) THE TOTAL PURCHASE PRICE IF THE PAYMENT SCHEDULE UNDER ITEM (2) OF THIS SUBSECTION IS COMPLETED ACCORDING TO THE SCHEDULE; AND

(4) THE COST OF LEASE SERVICES OF THE RENTAL PROPERTY.

[(b)] (C) 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.

12-1111.

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

“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 Payment:	_____	(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.

7. **COST OF LEASE SERVICES:**

THE COST OF LEASE SERVICES IS THE DIFFERENCE BETWEEN THE FINAL PURCHASE PRICE OF THE RENTAL PROPERTY AND THE CASH PRICE OF THE RENTAL PROPERTY. THE COST OF LEASE SERVICES FOR THE RENTAL PROPERTY IS \$_____.

[7.] 8. 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.] 9. Early Purchase Option:

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

(Describe formula or method here)

[9.] 10. 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.] 11. 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.] 12. 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.] 13. 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.] 14. 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 days (weekly renters) or 5 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: _____
 _____.”

(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(B) OF THIS SUBTITLE:

SUMMARY OF COSTS OF YOUR RENTAL–PURCHASE AGREEMENT			
CASH PRICE	SCHEDULED PAYMENTS	FINAL PURCHASE PRICE	COST OF LEASE SERVICES
THE PRICE OF THE RENTAL PROPERTY IF PURCHASED IN–STORE AT THE TIME OF CONSUMMATION.	THE AMOUNT YOU PAY PER WEEK/MONTH.	THE AMOUNT YOU WILL HAVE PAID AFTER YOU HAVE MADE ALL PAYMENTS AS SCHEDULED.	THE COST OF YOUR RENTAL–PURCHASE TRANSACTION.
\$ _____	\$ _____	\$ _____	$\frac{\text{_____}}{\text{_____}}\%$ OR
TIMING OF PAYMENTS: PAYMENT IN THE AMOUNT OF \$ _____ IS DUE ON A (WEEKLY/BI–WEEKLY/SEMI–MONTHLY/MONTHLY) BASIS.			
EARLY PAYMENT OPTION: YOU HAVE THE RIGHT TO PURCHASE THE RENTAL PROPERTY PRIOR TO THE DATE LISTED ABOVE FOR (ENTER FORMULA).			
TERMINATION: YOU HAVE THE RIGHT TO TERMINATE THIS RENTAL–PURCHASE AGREEMENT AT THE END OF ANY TERM BY SURRENDERING THE RENTAL PROPERTY TO THE LESSOR.			
THE DISCLOSURES ABOVE ARE PART OF THE TERMS AND CONDITIONS OF YOUR RENTAL–PURCHASE AGREEMENT WITH (COMPANY NAME).			
LESSEE(S): _____		DATE: _____	

12–1111.1.

The Attorney General’s Web site shall include the sample [rental–purchase agreement] **FORMS** in § 12–1111 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 295

(House Bill 334)

AN ACT concerning

Commercial Law – Consumer Protection – Rental–Purchase Transactions

FOR the purpose of requiring a lessor to disclose to a consumer in each rental–purchase agreement the cost of lease services of certain items of rental property; altering a certain form that must be used to satisfy certain disclosure requirements; establishing a certain form that must be used to satisfy certain disclosure requirements; requiring the Attorney General's Web site to include certain forms; defining a certain term; and generally relating to rental–purchase transactions.

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 12–1101(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2012 Supplement)

BY adding to
Article – Commercial Law
Section 12–1101(i)
Annotated Code of Maryland
(2005 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–1103, 12–1104, 12–1111, and 12–1111.1
Annotated Code of Maryland
(2005 Replacement Volume and 2012 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.

(I) “COST OF LEASE SERVICES” MEANS THE DIFFERENCE BETWEEN THE FINAL PURCHASE PRICE OF RENTAL PROPERTY AND THE CASH PRICE OF RENTAL PROPERTY.

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 IN ENGLISH OR IN ANY OTHER LANGUAGE USED BY THE LESSOR IN ADVERTISEMENTS RELATED TO THE RENTAL–PURCHASE TRANSACTION;

[(2)] (3) Make the disclosures required under this subtitle on the face of the rental–purchase agreement **AND SUMMARY OF COSTS CHART** above the consumer’s signature **[line] LINES**; and

[(3)] (4) Deliver a copy of the rental–purchase agreement **AND THE SUMMARY OF COSTS CHART** 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 COST OF LEASE SERVICES OF THE RENTAL PROPERTY;

[(5) (6)] 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) (7)] A statement that the total of rental payments does not include other charges, such as reinstatement fees, damage fees, or pickup fees;

[(7) (8)] 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) (9)] 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) (10)] (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) (11)] The date of consummation and the identities of the lessor and consumer;

[(11)] **(12)** 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)] **(13)** Notice of the consumer’s right to reinstate an agreement as provided in § 12–1106 of this subtitle; and

[(13)] **(14)** Any other charges, including reinstatement fees, damage fees, and pickup fees.

(B) THE LESSOR SHALL DISCLOSE IN EACH SUMMARY OF COSTS CHART, AS APPLICABLE:

(1) THE CASH PRICE OF THE RENTAL PROPERTY;

(2) THE TIMING OF THE PAYMENTS FOR THE RENTAL PROPERTY;

(3) THE TOTAL PURCHASE PRICE IF THE PAYMENT SCHEDULE UNDER ITEM (2) OF THIS SUBSECTION IS COMPLETED ACCORDING TO THE SCHEDULE; AND

(4) THE COST OF LEASE SERVICES OF THE RENTAL PROPERTY.

[(b)] **(C)** 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.

12–1111.

(A) The following is an example of a form which shall be used to satisfy the disclosure requirements of §§ 12–1103(c) and [12–1104] **12–1104(A)** of this subtitle:

“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 Payment: _____ (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.

7. COST OF LEASE SERVICES:

THE COST OF LEASE SERVICES IS THE DIFFERENCE BETWEEN THE FINAL PURCHASE PRICE OF THE RENTAL PROPERTY AND THE CASH PRICE OF THE RENTAL PROPERTY. THE COST OF LEASE SERVICES FOR THE RENTAL PROPERTY IS \$_____.

[7.] 8. 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.] 9. Early Purchase Option:

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

(Describe formula or method here)

[9.] 10. 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.] 11. 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.] 12. 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.] 13. 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.] 14. 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 days (weekly renters) or 5 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: _____

(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(B) OF THIS SUBTITLE:

SUMMARY OF COSTS OF YOUR RENTAL-PURCHASE AGREEMENT			
CASH PRICE	SCHEDULED PAYMENTS	FINAL PURCHASE PRICE	COST OF LEASE SERVICES
THE PRICE OF THE RENTAL PROPERTY IF PURCHASED IN-STORE AT THE TIME OF CONSUMMATION. \$ _____	THE AMOUNT YOU PAY PER WEEK/MONTH. \$ _____	THE AMOUNT YOU WILL HAVE PAID AFTER YOU HAVE MADE ALL PAYMENTS AS SCHEDULED. \$ _____	THE COST OF YOUR RENTAL-PURCHASE TRANSACTION. _____% OR \$ _____
TIMING OF PAYMENTS: PAYMENT IN THE AMOUNT OF \$ _____ IS DUE ON A (WEEKLY/BI-WEEKLY/SEMI-MONTHLY/MONTHLY) BASIS.			
EARLY PAYMENT OPTION: YOU HAVE THE RIGHT TO PURCHASE THE RENTAL PROPERTY PRIOR TO THE DATE LISTED ABOVE FOR (ENTER FORMULA).			
TERMINATION: YOU HAVE THE RIGHT TO TERMINATE THIS RENTAL-PURCHASE AGREEMENT AT THE END OF ANY TERM BY SURRENDERING THE RENTAL PROPERTY TO THE LESSOR.			
THE DISCLOSURES ABOVE ARE PART OF THE TERMS AND CONDITIONS OF YOUR RENTAL-PURCHASE AGREEMENT WITH (COMPANY NAME).			
LESSEE(S): _____		DATE: _____	

12-1111.1.

The Attorney General's Web site shall include the sample [rental-purchase agreement] FORMS in § 12-1111 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 296**(Senate Bill 592)**

AN ACT concerning

Natural Resources – Shark Fins – Restriction on Possession or Distribution

FOR the purpose of prohibiting a person from possessing, selling, offering for sale, trading, or distributing a shark fin; exempting a certain person, museum, college, or university from the prohibition against possessing a shark fin under certain circumstances; requiring the Department of Natural Resources to adopt regulations to implement this Act; defining certain terms; and generally relating to a restriction on the possession or distribution of a shark fin.

BY adding to

Article – Natural Resources

Section 4–747

Annotated Code of Maryland

(2012 Replacement Volume)

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

Article – Natural Resources**4–747.**

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

(2) (I) “SHARK” MEANS ANY SPECIES OF THE SUBCLASS ELASMOBRANCHII.

(II) “SHARK” DOES NOT INCLUDE SMOOTH–HOUNDS, SPINY DOGFISH, OR SPECIES IN THE SUPERORDER BATOIDEA.

(3) “SHARK FIN” MEANS THE RAW, DRIED, OR OTHERWISE PROCESSED DETACHED FIN OR TAIL OF A SHARK.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A PERSON MAY NOT POSSESS, SELL, OFFER FOR SALE, TRADE, OR DISTRIBUTE A SHARK FIN.

(2) A PERSON MAY POSSESS A SHARK FIN IF:

(I) THE PERSON HOLDS THE APPROPRIATE STATE OR FEDERAL LICENSE OR PERMIT AUTHORIZING THE TAKING OR LANDING OF A SHARK FOR RECREATIONAL OR COMMERCIAL PURPOSES;

(II) THE SHARK FIN IS TAKEN FROM A SHARK THAT THE PERSON HAS TAKEN OR LANDED; AND

(III) THE SHARK FIN IS TAKEN IN A MANNER CONSISTENT WITH THE PERSON'S LICENSE.

(3) A MUSEUM, COLLEGE, OR UNIVERSITY MAY POSSESS A SHARK FIN IF THE SHARK FIN IS USED SOLELY FOR DISPLAY OR RESEARCH PURPOSES.

(C) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 297

(House Bill 1148)

AN ACT concerning

Natural Resources – Shark Fins – Restriction on Possession or Distribution

FOR the purpose of prohibiting a person from possessing, selling, offering for sale, trading, or distributing a shark fin; exempting a certain person, museum, college, or university from the prohibition against possessing a shark fin under certain circumstances; requiring the Department of Natural Resources to adopt regulations to implement this Act; defining certain terms; and generally relating to a restriction on the possession or distribution of a shark fin.

BY adding to

Article – Natural Resources

Section 4-747

Annotated Code of Maryland

(2012 Replacement Volume)

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

Article – Natural Resources

4-747.

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

(2) (I) “SHARK” MEANS ANY SPECIES OF THE SUBCLASS ELASMOBRANCHII.

(II) “SHARK” DOES NOT INCLUDE SMOOTH-HOUNDS, SPINY DOGFISH, OR SPECIES IN THE SUPERORDER BATOIDEA.

(3) “SHARK FIN” MEANS THE RAW, DRIED, OR OTHERWISE PROCESSED DETACHED FIN OR TAIL OF A SHARK.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A PERSON MAY NOT POSSESS, SELL, OFFER FOR SALE, TRADE, OR DISTRIBUTE A SHARK FIN.

(2) A PERSON MAY POSSESS A SHARK FIN IF:

(I) THE PERSON HOLDS THE APPROPRIATE STATE OR FEDERAL LICENSE OR PERMIT AUTHORIZING THE TAKING OR LANDING OF A SHARK FOR RECREATIONAL OR COMMERCIAL PURPOSES;

(II) THE SHARK FIN IS TAKEN FROM A SHARK THAT THE PERSON HAS TAKEN OR LANDED; AND

(III) THE SHARK FIN IS TAKEN IN A MANNER CONSISTENT WITH THE PERSON’S LICENSE.

(3) A MUSEUM, COLLEGE, OR UNIVERSITY MAY POSSESS A SHARK FIN IF THE SHARK FIN IS USED SOLELY FOR DISPLAY OR RESEARCH PURPOSES.

(C) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 298

(Senate Bill 595)

AN ACT concerning

State Board of Pharmacy – Wholesale Distribution – Pharmacies

FOR the purpose of authorizing certain pharmacy permit holders to conduct wholesale distribution under certain circumstances; limiting the authority of a pharmacy permit holder ~~certain pharmacy permit holders~~ to engage in wholesale distribution; ~~altering certain definitions~~ altering the definition of “intracompany sales” to exclude from the definition a transaction or transfer of prescription drugs from a pharmacy to a wholesale distributor; altering the definition of “wholesale distribution” to exempt from the requirement to obtain a wholesale distribution permit the sale or transfer from a pharmacy or pharmacy warehouse of certain prescription drugs to the original wholesale distributor; conforming the definition of “wholesale distributor” to certain provisions of this Act; and generally relating to wholesale distribution and pharmacies.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 12-406 and ~~12-6C-01(i) and (v)~~ 12-6C-01(i), (u), and (v)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

12-406.

(A) A pharmacy permit authorizes the pharmacy permit holder to establish and operate the pharmacy while the pharmacy permit is effective.

~~(B) A PHARMACY PERMIT HOLDER MAY ENGAGE IN WHOLESALE DISTRIBUTION ONLY WITH ANOTHER PHARMACY PERMIT HOLDER.~~

(B) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A PHARMACY PERMIT HOLDER MAY CONDUCT WHOLESALE DISTRIBUTION, IF:

(I) THE WHOLESALE DISTRIBUTION BUSINESS DOES NOT EXCEED 5% OF THE PHARMACY PERMIT HOLDER’S ANNUAL SALES; AND

(II) THE PHARMACY PERMIT HOLDER:

1. MAINTAINS RECORDS OF WHOLESALE DISTRIBUTION SEPARATELY FROM ITS OTHER RECORDS; AND

2. MAKES THE RECORDS OF WHOLESALE DISTRIBUTION AVAILABLE FOR INSPECTION BY THE BOARD.

(2) A PHARMACY PERMIT HOLDER THAT OBTAINS A WAIVER FROM THE BOARD UNDER § 12-403(C) OF THIS SUBTITLE MAY CONDUCT WHOLESALE DISTRIBUTION ONLY WITH ANOTHER PHARMACY PERMIT HOLDER.

(3) A RETAIL PHARMACY THAT HOLDS A PHARMACY PERMIT MAY CONDUCT WHOLESALE DISTRIBUTION ONLY WITH:

(I) ANOTHER PHARMACY PERMIT HOLDER; AND

(II) A WHOLESALE DISTRIBUTOR IF THE RETAIL PHARMACY:

1. REPORTS TO THE BOARD THAT THE RETAIL PHARMACY IS CONDUCTING WHOLESALE DISTRIBUTION WITH A WHOLESALE DISTRIBUTOR; AND

2. A. MAINTAINS RECORDS OF WHOLESALE DISTRIBUTION WITH WHOLESALE DISTRIBUTORS SEPARATELY FROM ITS RECORDS OF WHOLESALE DISTRIBUTION WITH PHARMACY PERMIT HOLDERS; AND

B. MAKES THE RECORDS OF WHOLESALE DISTRIBUTION AVAILABLE FOR INSPECTION BY THE BOARD.

12-6C-01.

(i) “Intracompany sales” means a:

(1) Transaction or transfer of prescription drugs between a division, subsidiary, parent, or affiliated or related company under common ownership and control of a corporate entity, **OTHER THAN A TRANSACTION OR TRANSFER OF PRESCRIPTION DRUGS FROM A PHARMACY TO A WHOLESALE DISTRIBUTOR;** or

(2) Transaction or transfer of a co-licensed product between co-licensed partners.

(u) (1) **“Wholesale distribution” means the distribution of prescription drugs or prescription devices to persons other than a consumer or patient.**

(2) “Wholesale distribution” does not include:

(i) Intracompany sales;

(ii) The sale, purchase, distribution, trade, or transfer of a prescription drug or an offer to sell, purchase, distribute, trade, or transfer a prescription drug for emergency medical reasons;

(iii) The sale, purchase, distribution, trade, or transfer of a prescription drug or prescription device by the Department for public health purposes;

(iv) The distribution of samples of a prescription drug by a manufacturer’s representative;

(v) Prescription drug returns conducted by a hospital, health care entity, or charitable institution in accordance with 21 C.F.R. § 203.23;

(vi) The sale of minimal quantities of prescription drugs by retail pharmacies to licensed health care practitioners for office use;

(vii) The sale, purchase, or trade of a prescription drug, an offer to sell, purchase, or trade a prescription drug, or the dispensing of a prescription drug in accordance with a prescription;

(viii) The sale, transfer, merger, or consolidation of all or part of the business of a pharmacy to or with another pharmacy, whether accomplished as a purchase and sale of stock or business assets;

(ix) The sale, purchase, distribution, trade, or transfer of a prescription drug from one authorized distributor of record to one additional authorized distributor of record if:

1. The manufacturer has stated in writing to the receiving authorized distributor of record that the manufacturer is unable to supply the prescription drug; and

2. The supplying authorized distributor of record states in writing that the prescription drug being supplied had until that time been exclusively in the normal distribution channel;

(x) The delivery of, or offer to deliver, a prescription drug by a common carrier solely in the common carrier’s usual course of business of transporting prescription drugs, if the common carrier does not store, warehouse, or take legal ownership of the prescription drug; or

(xi) The sale or transfer from a [retail] pharmacy or pharmacy warehouse of expired, damaged, returned, or recalled prescription drugs to:

1. THE ORIGINAL WHOLESALE DISTRIBUTOR;
2. [the] THE original manufacturer; or
3. [to a] A third party returns processor.

(v) (1) “Wholesale distributor” means a person that is engaged in the wholesale distribution of prescription drugs or prescription devices.

(2) “Wholesale distributor” includes:

- (i) A manufacturer;
- (ii) A repackager;
- (iii) An own-label distributor;
- (iv) A private-label distributor;
- (v) A jobber;
- (vi) A broker;
- (vii) A warehouse, including a manufacturer’s or distributor’s warehouse;
- (viii) A manufacturer’s exclusive distributor or an authorized distributor of record;
- (ix) A drug wholesaler or distributor;
- (x) An independent wholesale drug trader;
- (xi) A third party logistics provider;
- (xii) A [retail] pharmacy that conducts wholesale distribution, if the wholesale distribution business accounts for more than 5% of the [retail] pharmacy’s annual sales; and
- (xiii) A pharmacy warehouse that conducts wholesale distribution.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 299

(Senate Bill 610)

AN ACT concerning

Health – Overdose Response Program – Establishment

FOR the purpose of providing for an Overdose Response Program overseen by the Department of Health and Mental Hygiene; stating the purpose of the Program; ~~authorizing~~ requiring the Department to adopt certain regulations and ~~authorizing the Department to~~ take certain other action regarding the Program; specifying the requirements an individual must meet to qualify for a certain certificate; requiring that a certain educational training program be conducted by a physician or nurse practitioner or certain other individuals and include certain training; requiring an applicant for a certificate to submit a certain application; requiring a certain public or private entity to issue a certificate to an applicant under certain circumstances; requiring that a certificate contain certain information; providing that a replacement certificate may be issued under certain circumstances; providing for the term and renewal of a certain certificate; authorizing an individual who is certified to receive from a certain individual a prescription for naloxone and certain supplies, possess prescribed naloxone and certain paraphernalia, and administer naloxone, under certain circumstances, to certain individuals; authorizing a physician or nurse practitioner to prescribe and dispense naloxone to a certificate holder; ~~prohibiting a certain cause of action from arising against a certificate holder, physician, or nurse practitioner under certain circumstances; prohibiting a certificate holder, physician, and nurse practitioner from being held civilly or criminally liable for certain actions;~~ providing that a certificate holder, under certain circumstances, may not be considered to be practicing medicine for the purposes of a certain provision of law; ~~providing that a certain provision of this Act does not affect certain immunities or defenses; prohibiting an individual from being held civilly liable in certain actions under certain circumstances~~ providing that a physician who prescribes or dispenses naloxone may not be subject to certain disciplinary or other action under certain circumstances; providing for the construction of this Act; defining certain terms; and generally relating to the Overdose Response Program.

BY adding to
Article – Health – General

Section 13-3101 through ~~13-3110~~ 13-3109 to be under the new subtitle
“Subtitle 31. Overdose Response Program”
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health – General

SUBTITLE 31. OVERDOSE RESPONSE PROGRAM.

13-3101.

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

(B) “CERTIFICATE” MEANS A CERTIFICATE ISSUED BY A PRIVATE OR PUBLIC ENTITY TO ADMINISTER NALOXONE.

(C) “PRIVATE OR PUBLIC ENTITY” MEANS A HEALTH CARE PROVIDER, LOCAL HEALTH DEPARTMENT, COMMUNITY-BASED ORGANIZATION, SUBSTANCE ABUSE TREATMENT ORGANIZATION, OR OTHER PERSON THAT ADDRESSES MEDICAL OR SOCIAL ISSUES RELATED TO DRUG ADDICTION.

(D) “PROGRAM” MEANS AN OVERDOSE RESPONSE PROGRAM.

13-3102.

AN OVERDOSE RESPONSE PROGRAM IS A PROGRAM OVERSEEN BY THE DEPARTMENT FOR THE PURPOSE OF PROVIDING A MEANS OF AUTHORIZING CERTAIN INDIVIDUALS TO ADMINISTER NALOXONE TO AN INDIVIDUAL EXPERIENCING, OR BELIEVED TO BE EXPERIENCING, OPIOID OVERDOSE TO HELP PREVENT A FATALITY WHEN MEDICAL SERVICES ARE NOT IMMEDIATELY AVAILABLE.

13-3103.

(A) THE DEPARTMENT ~~MAY:~~

(1) ~~ADOPT~~ SHALL ADOPT REGULATIONS NECESSARY FOR THE ADMINISTRATION OF THE PROGRAM~~;~~.

(B) THE DEPARTMENT MAY:

~~(2)~~ (1) COLLECT FEES NECESSARY FOR THE ADMINISTRATION OF THE PROGRAM;

~~(3)~~ (2) AUTHORIZE PRIVATE OR PUBLIC ENTITIES TO ISSUE AND RENEW CERTIFICATES TO PERSONS MEETING THE REQUIREMENTS OF THIS SUBTITLE;

~~(4)~~ (3) (I) AUTHORIZE PRIVATE OR PUBLIC ENTITIES TO CONDUCT EDUCATIONAL TRAINING PROGRAMS DESCRIBED IN § 13-3104 OF THIS SUBTITLE; AND

(II) DEVELOP GUIDANCE REGARDING THE CONTENT OF EDUCATIONAL TRAINING PROGRAMS CONDUCTED BY PRIVATE OR PUBLIC ENTITIES; AND

~~(5)~~ (4) COLLECT AND REPORT DATA ON THE OPERATION AND RESULTS OF THE PROGRAMS.

13-3104.

(A) TO QUALIFY FOR A CERTIFICATE, AN INDIVIDUAL SHALL MEET THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL BE AT LEAST 18 YEARS OLD.

(C) THE APPLICANT SHALL HAVE, OR REASONABLY EXPECT TO HAVE, AS A RESULT OF THE INDIVIDUAL'S OCCUPATION OR VOLUNTEER, FAMILY, OR SOCIAL STATUS, THE ABILITY TO ASSIST AN INDIVIDUAL WHO IS EXPERIENCING AN OPIOID OVERDOSE.

(D) (1) THE APPLICANT SHALL SUCCESSFULLY COMPLETE AN EDUCATIONAL TRAINING PROGRAM ~~APPROVED~~ OFFERED BY A PRIVATE OR PUBLIC ENTITY AUTHORIZED BY THE DEPARTMENT.

(2) AN EDUCATIONAL TRAINING PROGRAM REQUIRED UNDER THIS SUBSECTION SHALL:

(I) BE CONDUCTED BY:

1. A PHYSICIAN LICENSED TO PRACTICE MEDICINE UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE;

2. A NURSE PRACTITIONER LICENSED TO PRACTICE REGISTERED NURSING UNDER TITLE 8 OF THE HEALTH OCCUPATIONS

ARTICLE AND CERTIFIED AS A NURSE PRACTITIONER BY THE STATE BOARD OF NURSING; OR

3. AN EMPLOYEE OR A VOLUNTEER OF A PRIVATE OR PUBLIC ENTITY THAT MAINTAINS A WRITTEN AGREEMENT WITH A SUPERVISORY PHYSICIAN OR NURSE PRACTITIONER THAT INCLUDES:

A. PROCEDURES FOR PROVIDING PATIENT OVERDOSE INFORMATION;

B. INFORMATION AS TO HOW THE EMPLOYEE OR VOLUNTEER PROVIDING THE INFORMATION WILL BE TRAINED; AND

C. STANDARDS FOR DOCUMENTING THE PROVISION OF PATIENT OVERDOSE INFORMATION TO PATIENTS; AND

(II) INCLUDE TRAINING IN:

1. THE RECOGNITION OF THE SYMPTOMS OF OPIOID OVERDOSE;

2. THE PROPER ADMINISTRATION OF NALOXONE;

3. THE IMPORTANCE OF CONTACTING EMERGENCY MEDICAL SERVICES;

4. THE CARE OF AN INDIVIDUAL AFTER THE ADMINISTRATION OF NALOXONE; AND

5. ANY OTHER TOPICS REQUIRED BY THE DEPARTMENT.

13-3105.

AN APPLICANT FOR A CERTIFICATE SHALL SUBMIT AN APPLICATION TO A PRIVATE OR PUBLIC ENTITY AUTHORIZED BY THE DEPARTMENT ON THE FORM THAT THE DEPARTMENT REQUIRES.

13-3106.

(A) A PRIVATE OR PUBLIC ENTITY AUTHORIZED BY THE DEPARTMENT SHALL ISSUE A CERTIFICATE TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(B) EACH CERTIFICATE SHALL INCLUDE:

(1) A STATEMENT THAT THE HOLDER IS AUTHORIZED TO ADMINISTER NALOXONE IN ACCORDANCE WITH THIS SUBTITLE;

(2) THE FULL NAME OF THE CERTIFICATE HOLDER; AND

(3) A SERIAL NUMBER.

(C) A REPLACEMENT CERTIFICATE MAY BE ISSUED TO REPLACE A LOST, DESTROYED, OR MUTILATED CERTIFICATE.

(D) (1) THE CERTIFICATE SHALL BE VALID FOR 2 YEARS AND MAY BE RENEWED.

(2) IN ORDER TO RENEW A CERTIFICATE, THE CERTIFICATE HOLDER SHALL:

(i) SUCCESSFULLY COMPLETE A REFRESHER TRAINING PROGRAM CONDUCTED BY AN AUTHORIZED PRIVATE OR PUBLIC ENTITY; OR

(ii) DEMONSTRATE PROFICIENCY TO THE PRIVATE OR PUBLIC ENTITY ISSUING CERTIFICATES UNDER THIS SUBTITLE.

13-3107.

AN INDIVIDUAL WHO IS CERTIFIED MAY:

(1) ON PRESENTMENT OF A CERTIFICATE, RECEIVE FROM ANY PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE, OR ANY NURSE PRACTITIONER LICENSED TO PRACTICE NURSING IN THE STATE, A PRESCRIPTION FOR NALOXONE AND THE NECESSARY SUPPLIES FOR THE ADMINISTRATION OF NALOXONE;

(2) POSSESS PRESCRIBED NALOXONE AND THE NECESSARY SUPPLIES FOR THE ADMINISTRATION OF NALOXONE; AND

(3) IN AN EMERGENCY SITUATION WHEN MEDICAL SERVICES ARE NOT IMMEDIATELY AVAILABLE, ADMINISTER NALOXONE TO AN INDIVIDUAL EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING AN OPIOID OVERDOSE.

13-3108.

A PHYSICIAN OR NURSE PRACTITIONER MAY PRESCRIBE AND DISPENSE NALOXONE TO A CERTIFICATE HOLDER.

~~13-3109.~~

~~(A) (1) A CAUSE OF ACTION MAY NOT ARISE AGAINST A CERTIFICATE HOLDER AUTHORIZED UNDER THIS SUBTITLE FOR ANY ACT OR OMISSION WHEN THE CERTIFICATE HOLDER IS ACTING IN GOOD FAITH WHILE RENDERING EMERGENCY TREATMENT TO AN INDIVIDUAL EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING AN OPIOID OVERDOSE, UNLESS THE CONDUCT OF THE CERTIFICATE HOLDER AMOUNTS TO GROSS NEGLIGENCE, WILLFUL OR WANTON MISCONDUCT, OR INTENTIONALLY TORTIOUS CONDUCT.~~

~~(2) A CERTIFICATE HOLDER WHO IS IN POSSESSION OF OR IS ADMINISTERING NALOXONE TO AN INDIVIDUAL EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING AN OPIOID OVERDOSE MAY NOT BE HELD CIVILLY OR CRIMINALLY LIABLE FOR ACTIONS AUTHORIZED BY THIS SUBTITLE.~~

~~(3) A CERTIFICATE HOLDER WHO, IN ACCORDANCE WITH THIS SUBTITLE, IS ADMINISTERING NALOXONE TO AN INDIVIDUAL EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING AN OPIOID OVERDOSE MAY NOT BE CONSIDERED TO BE PRACTICING MEDICINE FOR THE PURPOSES OF TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE.~~

~~(B) (1) A CAUSE OF ACTION MAY NOT ARISE AGAINST ANY PHYSICIAN OR NURSE PRACTITIONER FOR ANY ACT OR OMISSION WHEN THE PHYSICIAN OR NURSE PRACTITIONER IN GOOD FAITH PRESCRIBES, TO AN INDIVIDUAL CERTIFIED UNDER § 13-3106 OF THIS SUBTITLE, NALOXONE AND THE NECESSARY SUPPLIES FOR THE ADMINISTRATION OF NALOXONE.~~

~~(2) A PHYSICIAN OR NURSE PRACTITIONER MAY NOT BE HELD CIVILLY OR CRIMINALLY LIABLE FOR ACTIONS AUTHORIZED BY THIS SUBTITLE.~~

~~(C) THIS SECTION DOES NOT AFFECT, AND MAY NOT BE CONSTRUED TO AFFECT, ANY IMMUNITIES FROM CIVIL LIABILITY OR DEFENSES ESTABLISHED BY ANY OTHER PROVISION OF STATE LAW OR BY COMMON LAW TO WHICH A VOLUNTEER, PHYSICIAN, OR NURSE PRACTITIONER MAY BE ENTITLED.~~

~~13-3110.~~

~~(A) THIS SUBTITLE MAY NOT BE CONSTRUED TO:~~

~~(1) CREATE A DUTY ON ANY INDIVIDUAL TO OBTAIN A CERTIFICATE UNDER THIS SUBTITLE, AND AN INDIVIDUAL MAY NOT BE HELD CIVILLY LIABLE FOR FAILING TO OBTAIN A CERTIFICATE UNDER THIS SUBTITLE; OR~~

~~(2) CREATE A DUTY ON A CERTIFICATE HOLDER TO ADMINISTER NALOXONE TO AN INDIVIDUAL EXPERIENCING, OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING, AN OPIOID OVERDOSE.~~

~~(B) AN INDIVIDUAL MAY NOT BE HELD CIVILLY LIABLE IN ANY ACTION ARISING FROM OR IN CONNECTION WITH THE ADMINISTRATION OF NALOXONE BY THE INDIVIDUAL SOLELY BECAUSE THE INDIVIDUAL DID NOT POSSESS A CERTIFICATE ISSUED UNDER THIS SUBTITLE~~ A PHYSICIAN WHO PRESCRIBES OR DISPENSES NALOXONE TO A CERTIFICATE HOLDER IN A MANNER CONSISTENT WITH THE PROTOCOL ESTABLISHED BY THE AUTHORIZED PRIVATE OR PUBLIC ENTITY MAY NOT BE SUBJECT TO ANY DISCIPLINARY OR OTHER ACTION UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE SOLELY FOR THE ACT OF PRESCRIBING OR DISPENSING NALOXONE TO THE CERTIFICATE HOLDER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 300

(Senate Bill 624)

AN ACT concerning

Identity Fraud – ~~Medical~~ Health Information and Health Care Records

FOR the purpose of prohibiting a person from knowingly, willfully, and with fraudulent intent, possessing, obtaining, or helping another to possess or obtain personal identifying information to access ~~medical~~ health information or ~~services~~ health care; prohibiting a person from knowingly and willfully assuming the identity of a natural or a fictitious person with fraudulent intent to access ~~medical~~ health information or ~~services~~ health care; prohibiting a person from using a certain device knowingly, willfully, and with fraudulent intent to access ~~medical~~ health information or ~~services~~ health care; providing penalties for a violation of this Act; authorizing a court to order a certain person to make restitution for clearing the ~~medical history or records~~ record or history related to health information or health care of a victim; defining certain terms; altering a certain definition; and generally relating to identity fraud.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 8–301(a) through (d), (g), and (i)
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 8–301(e), (f), (h), and (j)
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

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

Article – Criminal Law

8–301.

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

(2) “HEALTH CARE” MEANS CARE, SERVICES, OR SUPPLIES RELATED TO THE HEALTH OF AN INDIVIDUAL THAT INCLUDES THE FOLLOWING:

(I) PREVENTATIVE, DIAGNOSTIC, THERAPEUTIC, REHABILITATIVE, MAINTENANCE CARE, PALLIATIVE CARE AND COUNSELING, SERVICE ASSESSMENT, OR PROCEDURE:

1. WITH RESPECT TO THE PHYSICAL OR MENTAL CONDITION OR FUNCTIONAL STATUS OF AN INDIVIDUAL; OR

2. THAT AFFECTS THE STRUCTURE OR FUNCTION OF THE BODY; AND

(II) THE SALE OR DISPENSING OF A DRUG, DEVICE, EQUIPMENT, OR OTHER ITEM IN ACCORDANCE WITH A PRESCRIPTION.

(3) “HEALTH INFORMATION” MEANS ANY INFORMATION, WHETHER ORAL OR RECORDED IN ANY FORM OR MEDIUM, THAT:

(I) IS CREATED OR RECEIVED BY:

1. A HEALTH CARE PROVIDER;

2. A HEALTH CARE CARRIER;

3. A PUBLIC HEALTH AUTHORITY;

4. AN EMPLOYER;

5. A LIFE INSURER;

6. A SCHOOL OR UNIVERSITY; OR

7. A HEALTH CARE CLEARINGHOUSE; AND

(II) RELATES TO THE:

1. PAST, PRESENT, OR FUTURE PHYSICAL OR MENTAL HEALTH OR CONDITION OF AN INDIVIDUAL;

2. PROVISION OF HEALTH CARE TO AN INDIVIDUAL;
OR

3. PAST, PRESENT, OR FUTURE PAYMENT FOR THE PROVISION OF HEALTH CARE TO AN INDIVIDUAL.

~~(2)~~ **(4)** “Payment device number” has the meaning stated in § 8–213 of this title.

~~(3)~~ **(5)** **(I)** “Personal identifying information” includes a name, address, telephone number, driver’s license number, Social Security number, place of employment, employee identification number, **HEALTH INSURANCE IDENTIFICATION NUMBER, MEDICAL IDENTIFICATION NUMBER**, mother’s maiden name, bank or other financial institution account number, date of birth, personal identification number, **UNIQUE BIOMETRIC DATA, INCLUDING FINGERPRINT, VOICE PRINT, RETINA OR IRIS IMAGE OR OTHER UNIQUE PHYSICAL REPRESENTATION, DIGITAL SIGNATURE**, credit card number, or other payment device number.

(II) “PERSONAL IDENTIFYING INFORMATION” MAY BE DERIVED FROM ANY ELEMENT IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, ALONE OR IN CONJUNCTION WITH ANY OTHER INFORMATION TO IDENTIFY A SPECIFIC NATURAL OR FICTITIOUS INDIVIDUAL.

~~(4)~~ **(6)** “Re–encoder” means an electronic device that places encoded personal identifying information or a payment device number from the magnetic strip or stripe of a credit card onto the magnetic strip or stripe of a different credit card or any electronic medium that allows such a transaction to occur.

~~(5)~~ **(7)** “Skimming device” means a scanner, skimmer, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, personal identifying information or a payment device number encoded on the magnetic strip or stripe of a credit card.

(b) A person may not knowingly, willfully, and with fraudulent intent possess, obtain, or help another to possess or obtain any personal identifying information of an individual, without the consent of the individual, in order to use, sell, or transfer the information to get a benefit, credit, good, service, or other thing of value **OR TO ACCESS ~~MEDICAL~~ HEALTH INFORMATION OR ~~SERVICES~~ HEALTH CARE** in the name of the individual.

(c) A person may not knowingly and willfully assume the identity of another, including a fictitious person:

- (1) to avoid identification, apprehension, or prosecution for a crime; or
- (2) with fraudulent intent to:

(i) get a benefit, credit, good, service, or other thing of value;
[or]

(ii) **ACCESS ~~MEDICAL~~ HEALTH INFORMATION OR ~~SERVICES~~ HEALTH CARE; OR**

(III) avoid the payment of debt or other legal obligation.

(d) A person may not knowingly, willfully, and with fraudulent intent to obtain a benefit, credit, good, service, or other thing of value **OR TO ACCESS ~~MEDICAL~~ HEALTH INFORMATION OR ~~SERVICES~~ HEALTH CARE**, use:

(1) a re–encoder to place information encoded on the magnetic strip or stripe of a credit card onto the magnetic strip or stripe of a different credit card or use any other electronic medium that allows such a transaction to occur without the consent of the individual authorized to use the credit card from which the personal identifying information or payment device number is being re–encoded; or

(2) a skimming device to access, read, scan, obtain, memorize, or store personal identifying information or a payment device number on the magnetic strip or stripe of a credit card without the consent of the individual authorized to use the credit card.

(e) A person may not knowingly, willfully, and with fraudulent intent possess, obtain, or help another possess or obtain a re–encoder device or a skimming device for the unauthorized use, sale, or transfer of personal identifying information or a payment device number.

(f) A person may not knowingly and willfully claim to represent another person without the knowledge and consent of that person, with the intent to solicit, request, or take any other action to otherwise induce another person to provide personal identifying information or a payment device number.

(g) (1) A person who violates this section where the benefit, credit, good, service, ~~MEDICAL HEALTH INFORMATION OR SERVICES HEALTH CARE~~, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of \$500 or greater is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years or a fine not exceeding \$25,000 or both.

(2) A person who violates this section where the benefit, credit, good, service, ~~MEDICAL HEALTH INFORMATION OR SERVICES HEALTH CARE~~, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of less than \$500 is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or both.

(3) A person who violates this section under circumstances that reasonably indicate that the person's intent was to manufacture, distribute, or dispense another individual's personal identifying information without that individual's consent is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years or a fine not exceeding \$25,000 or both.

(4) A person who violates subsection (c)(1), (e), or (f) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or both.

(5) When the violation of this section is pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one violation and the value of the benefit, credit, good, service, or other thing of value may be aggregated in determining whether the violation is a felony or misdemeanor.

(h) A person described in subsection (g)(2) or (4) of this section is subject to § 5-106(b) of the Courts Article.

(i) In addition to restitution under Title 11, Subtitle 6 of the Criminal Procedure Article, a court may order a person who pleads guilty or nolo contendere or who is found guilty under this section to make restitution to the victim for reasonable costs, including reasonable attorney's fees, incurred:

(1) for clearing the victim's credit history or credit rating; [and]

(2) **FOR CLEARING THE VICTIM'S ~~MEDICAL RECORD OR HISTORY OR RECORDS~~ RELATED TO HEALTH INFORMATION OR HEALTH CARE; AND**

(3) in connection with a civil or administrative proceeding to satisfy a debt, lien, judgment, or other obligation of the victim that arose because of the violation.

(j) A sentence under this section may be imposed separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing the violation of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 301

(House Bill 942)

AN ACT concerning

Identity Fraud – ~~Medical~~ Health Information and Health Care Records

FOR the purpose of prohibiting a person from knowingly, willfully, and with fraudulent intent, possessing, obtaining, or helping another to possess or obtain personal identifying information to access ~~medical~~ health information or ~~services~~ health care; prohibiting a person from knowingly and willfully assuming the identity of a natural or a fictitious person with fraudulent intent to access ~~medical~~ health information or ~~services~~ health care; prohibiting a person from using a certain device knowingly, willfully, and with fraudulent intent to access ~~medical~~ health information or ~~services~~ health care; providing penalties for a violation of this Act; authorizing a court to order a certain person to make restitution for clearing the ~~medical history or records~~ record or history related to health information or health care of a victim; defining certain terms; altering a certain definition; and generally relating to identity fraud.

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 8–301(a) through (d), (g), and (i)

Annotated Code of Maryland

(2012 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Criminal Law

Section 8–301(e), (f), (h), and (j)

Annotated Code of Maryland

(2012 Replacement Volume and 2012 Supplement)

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

Article – Criminal Law

8–301.

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

(2) “HEALTH CARE” MEANS CARE, SERVICES, OR SUPPLIES RELATED TO THE HEALTH OF AN INDIVIDUAL THAT INCLUDES THE FOLLOWING:

(I) PREVENTATIVE, DIAGNOSTIC, THERAPEUTIC, REHABILITATIVE, MAINTENANCE CARE, PALLIATIVE CARE AND COUNSELING, SERVICE ASSESSMENT, OR PROCEDURE:

1. WITH RESPECT TO THE PHYSICAL OR MENTAL CONDITION OR FUNCTIONAL STATUS OF AN INDIVIDUAL; OR

2. THAT AFFECTS THE STRUCTURE OR FUNCTION OF THE BODY; AND

(II) THE SALE OR DISPENSING OF A DRUG, DEVICE, EQUIPMENT, OR OTHER ITEM IN ACCORDANCE WITH A PRESCRIPTION.

(3) “HEALTH INFORMATION” MEANS ANY INFORMATION, WHETHER ORAL OR RECORDED IN ANY FORM OR MEDIUM, THAT:

(I) IS CREATED OR RECEIVED BY:

1. A HEALTH CARE PROVIDER;

2. A HEALTH CARE CARRIER;

3. A PUBLIC HEALTH AUTHORITY;

4. AN EMPLOYER;

5. A LIFE INSURER;

6. A SCHOOL OR UNIVERSITY; OR

7. A HEALTH CARE CLEARINGHOUSE; AND

(II) RELATES TO THE:

1. PAST, PRESENT, OR FUTURE PHYSICAL OR MENTAL HEALTH OR CONDITION OF AN INDIVIDUAL;

2. PROVISION OF HEALTH CARE TO AN INDIVIDUAL;
OR

3. PAST, PRESENT, OR FUTURE PAYMENT FOR THE PROVISION OF HEALTH CARE TO AN INDIVIDUAL.

~~(2)~~ **(4)** “Payment device number” has the meaning stated in § 8-213 of this title.

~~(3)~~ **(5) (I)** “Personal identifying information” includes a name, address, telephone number, driver’s license number, Social Security number, place of employment, employee identification number, **HEALTH INSURANCE IDENTIFICATION NUMBER, MEDICAL IDENTIFICATION NUMBER,** mother’s maiden name, bank or other financial institution account number, date of birth, personal identification number, **UNIQUE BIOMETRIC DATA, INCLUDING FINGERPRINT, VOICE PRINT, RETINA OR IRIS IMAGE OR OTHER UNIQUE PHYSICAL REPRESENTATION, DIGITAL SIGNATURE,** credit card number, or other payment device number.

(II) “PERSONAL IDENTIFYING INFORMATION” MAY BE DERIVED FROM ANY ELEMENT IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, ALONE OR IN CONJUNCTION WITH ANY OTHER INFORMATION TO IDENTIFY A SPECIFIC NATURAL OR FICTITIOUS INDIVIDUAL.

~~(4)~~ **(6)** “Re-encoder” means an electronic device that places encoded personal identifying information or a payment device number from the magnetic strip or stripe of a credit card onto the magnetic strip or stripe of a different credit card or any electronic medium that allows such a transaction to occur.

~~(5)~~ **(7)** “Skimming device” means a scanner, skimmer, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, personal identifying information or a payment device number encoded on the magnetic strip or stripe of a credit card.

(b) A person may not knowingly, willfully, and with fraudulent intent possess, obtain, or help another to possess or obtain any personal identifying information of an individual, without the consent of the individual, in order to use, sell, or transfer the information to get a benefit, credit, good, service, or other thing of

value **OR TO ACCESS ~~MEDICAL~~ HEALTH INFORMATION OR ~~SERVICES~~ HEALTH CARE** in the name of the individual.

(c) A person may not knowingly and willfully assume the identity of another, including a fictitious person:

- (1) to avoid identification, apprehension, or prosecution for a crime; or
- (2) with fraudulent intent to:
 - (i) get a benefit, credit, good, service, or other thing of value;

[or]

(ii) **ACCESS ~~MEDICAL~~ HEALTH INFORMATION OR ~~SERVICES~~ HEALTH CARE; OR**

(iii) avoid the payment of debt or other legal obligation.

(d) A person may not knowingly, willfully, and with fraudulent intent to obtain a benefit, credit, good, service, or other thing of value **OR TO ACCESS ~~MEDICAL~~ HEALTH INFORMATION OR ~~SERVICES~~ HEALTH CARE**, use:

(1) a re-encoder to place information encoded on the magnetic strip or stripe of a credit card onto the magnetic strip or stripe of a different credit card or use any other electronic medium that allows such a transaction to occur without the consent of the individual authorized to use the credit card from which the personal identifying information or payment device number is being re-encoded; or

(2) a skimming device to access, read, scan, obtain, memorize, or store personal identifying information or a payment device number on the magnetic strip or stripe of a credit card without the consent of the individual authorized to use the credit card.

(e) A person may not knowingly, willfully, and with fraudulent intent possess, obtain, or help another possess or obtain a re-encoder device or a skimming device for the unauthorized use, sale, or transfer of personal identifying information or a payment device number.

(f) A person may not knowingly and willfully claim to represent another person without the knowledge and consent of that person, with the intent to solicit, request, or take any other action to otherwise induce another person to provide personal identifying information or a payment device number.

(g) (1) A person who violates this section where the benefit, credit, good, service, **~~MEDICAL~~ HEALTH INFORMATION OR ~~SERVICES~~ HEALTH CARE**, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value

of \$500 or greater is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years or a fine not exceeding \$25,000 or both.

(2) A person who violates this section where the benefit, credit, good, service, ~~MEDICAL~~ HEALTH INFORMATION OR SERVICES HEALTH CARE, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of less than \$500 is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or both.

(3) A person who violates this section under circumstances that reasonably indicate that the person's intent was to manufacture, distribute, or dispense another individual's personal identifying information without that individual's consent is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years or a fine not exceeding \$25,000 or both.

(4) A person who violates subsection (c)(1), (e), or (f) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or both.

(5) When the violation of this section is pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one violation and the value of the benefit, credit, good, service, or other thing of value may be aggregated in determining whether the violation is a felony or misdemeanor.

(h) A person described in subsection (g)(2) or (4) of this section is subject to § 5–106(b) of the Courts Article.

(i) In addition to restitution under Title 11, Subtitle 6 of the Criminal Procedure Article, a court may order a person who pleads guilty or nolo contendere or who is found guilty under this section to make restitution to the victim for reasonable costs, including reasonable attorney's fees, incurred:

(1) for clearing the victim's credit history or credit rating; [and]

(2) **FOR CLEARING THE VICTIM'S ~~MEDICAL~~ RECORD OR HISTORY OR RECORDS RELATED TO HEALTH INFORMATION OR HEALTH CARE; AND**

(3) in connection with a civil or administrative proceeding to satisfy a debt, lien, judgment, or other obligation of the victim that arose because of the violation.

(j) A sentence under this section may be imposed separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing the violation of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 302

(Senate Bill 634)

AN ACT concerning

Commercial Law – Self-Service Storage Facilities

FOR the purpose of altering certain notice procedures required to enforce a lien on certain property stored in a leased space at a self-service storage facility; ~~altering certain requirements relating to the advertisement of a sale to enforce a certain lien;~~ providing that a certain sale held on an online auction Web site shall be deemed to be held at a certain location; altering the required means of delivery of certain notices; altering the circumstances under which certain notices shall be deemed to be delivered to certain persons; authorizing an operator of a self-service storage facility to have certain property towed or removed from the self-service storage facility under certain circumstances; providing that an operator of a self-service storage facility is immune from civil liability under certain circumstances; providing that a certain limit on the value of certain property specified in a rental agreement shall be deemed to be the maximum value of the property; authorizing an operator of a self-service storage facility to charge certain late fees under certain circumstances; requiring a rental agreement to contain a certain statement; providing for the application of this Act; defining a certain ~~terms~~ term; altering certain definitions; making stylistic and clarifying changes; and generally relating to self-service storage facilities.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 18-501, 18-503(b), and 18-504
Annotated Code of Maryland
(2005 Replacement Volume and 2012 Supplement)

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

Article – Commercial Law

18-501.

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

(b) “Default” means the failure to perform on time any obligation or duty set forth in the rental agreement.

~~(c) “INDEPENDENT BIDDER” MEANS A PERSON THAT:~~

~~(1) BIDS IN A LIEN SALE ON PERSONAL PROPERTY STORED IN A LEASED SPACE;~~

~~(2) IS NOT RELATED TO THE OCCUPANT; AND~~

~~(3) HAS NO CONTROLLING INTEREST IN, OR COMMON FINANCIAL INTEREST WITH, THE OCCUPANT OR ANY OTHER BIDDER.~~

~~(c)~~ ~~(d)~~ “Last known address” means that address **OR ELECTRONIC MAIL ADDRESS** provided by the occupant in the rental agreement or the address **OR ELECTRONIC MAIL ADDRESS** provided by the occupant in a subsequent written notice of a change of address.

~~(d)~~ ~~(e)~~ “Leased space” means the individual storage space at the self-service facility which is rented to an occupant pursuant to a rental agreement.

~~(e)~~ ~~(f)~~ “Occupant” means a person, a sublessee, successor, or assign, entitled to the use of a leased space at a self-service storage facility under a rental agreement.

~~(f)~~ ~~(g)~~ (1) “Operator” means the owner, operator, lessor, or sublessor of a self-service storage facility, an agent, or any other person authorized to manage the facility.

(2) “Operator” does not [mean] **INCLUDE** a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored.

~~(g)~~ ~~(h)~~ (1) “Personal property” means movable property, not affixed to land.

(2) “Personal property” includes[, but is not limited to,] goods, wares, merchandise, motor vehicles, watercraft, and household items and furnishings.

~~(h)~~ ~~(i)~~ “Rental agreement” means any written agreement that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a self-service storage facility.

~~[(i)]~~ ~~(j)~~ “Self-service storage facility” means any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a “self-service” basis.

~~(k)~~ **(j)** “**VERIFIED MAIL**” MEANS ANY METHOD OF MAILING THAT IS OFFERED BY THE UNITED STATES POSTAL SERVICE OR PRIVATE DELIVERY SERVICE THAT PROVIDES EVIDENCE OF MAILING.

18-503.

(b) The rental agreement shall contain a statement, in bold type, advising the occupant:

(1) Of the existence of the lien; [and]

(2) That **PERSONAL** property stored in the leased space may be sold to satisfy the lien if the occupant is in default; **AND**

(3) THAT PERSONAL PROPERTY STORED IN THE LEASED SPACE MAY BE TOWED OR REMOVED FROM THE SELF-SERVICE STORAGE FACILITY IF:

(I) THE PERSONAL PROPERTY IS A MOTOR VEHICLE OR WATERCRAFT; AND

(II) THE OCCUPANT IS IN DEFAULT FOR MORE THAN 60 DAYS.

18-504.

(a) (1) If the occupant is in default for a period of more than 60 days, the operator may enforce the lien by selling the **PERSONAL** property stored in the leased space at a public sale, for cash.

(2) Proceeds from the sale shall be applied to satisfy the lien, and any surplus shall be disbursed as provided in subsection (e) of this section.

(b) **(1)** Before conducting a sale under subsection (a) **OF THIS SECTION**, the operator shall[:

(1) Notify], **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, NOTIFY** the occupant of the default by [regular mail] **HAND DELIVERY, VERIFIED MAIL, OR ELECTRONIC MAIL** at the occupant’s last known address[;].

(2) **(I)** [Send a second notice of default by certified mail, return receipt requested, to the occupant at the occupant’s last known address which

includes] **THE OPERATOR MAY NOT NOTIFY THE OCCUPANT OF THE DEFAULT BY ELECTRONIC MAIL UNLESS THE RENTAL AGREEMENT, OR A WRITTEN CHANGE TO THE RENTAL AGREEMENT, SPECIFIES THAT NOTICE MAY BE GIVEN BY ELECTRONIC MAIL.**

(II) IF THE OPERATOR NOTIFIES THE OCCUPANT OF THE DEFAULT BY ELECTRONIC MAIL AT THE OCCUPANT'S LAST KNOWN ADDRESS AND DOES NOT RECEIVE A RESPONSE OR A CONFIRMATION OF DELIVERY SENT FROM THE OCCUPANT'S ELECTRONIC MAIL ADDRESS, THE OPERATOR SHALL SEND A SECOND NOTICE OF DEFAULT TO THE OCCUPANT BY VERIFIED MAIL TO THE OCCUPANT'S LAST KNOWN POSTAL ADDRESS.

(3) THE NOTICE SHALL INCLUDE:

(i) A statement that the contents of the occupant's leased space are subject to the operator's lien;

(ii) A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of sale, and the date those additional charges shall become due;

(iii) A demand for payment of the charges due within a specified time, not less than 14 days after the date that the notice was mailed;

(iv) A statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold at a specified time and place; and

(v) The name, street address, and telephone number of the operator, or his designated agent, whom the occupant may contact to respond to the notice[; and].

~~[(3)] (4) (H) At least 3 days before [the] CONDUCTING A sale UNDER THIS SECTION, THE OPERATOR SHALL advertise the time, place, and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held OR IN ANY OTHER COMMERCIALY REASONABLE MANNER.~~

~~(H) THE MANNER OF ADVERTISEMENT SHALL BE DEEMED COMMERCIALY REASONABLE IF AT LEAST THREE INDEPENDENT BIDDERS ATTEND THE SALE.~~

(c) At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

(d) (1) [The] A sale under this section shall be held at the self-service storage facility where the personal property is stored.

(2) A SALE UNDER THIS SECTION SHALL BE DEEMED TO BE HELD AT THE SELF-SERVICE STORAGE FACILITY WHERE THE PERSONAL PROPERTY IS STORED IF THE SALE IS HELD ON AN ONLINE AUCTION WEB SITE.

(e) If a sale is held under this section, the operator shall:

(1) Satisfy the lien from the proceeds of the sale; and

(2) Hold the balance, if any, for delivery on demand to the occupant or any other recorded lienholders.

(f) A purchaser in good faith of any personal property sold under this subtitle takes the property free and clear of any rights of:

(1) Persons against whom the lien was valid; and

(2) Other lienholders.

(g) If the operator complies with the provisions of this subtitle, the operator's liability:

(1) To the occupant shall be limited to the net proceeds received from the sale of the personal property; and

(2) To other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by that other lien.

(h) If an occupant is in default, the operator may deny the occupant access to the leased space.

(i) (1) [Unless otherwise specifically provided, all notices required by this subtitle shall be sent by certified mail, return receipt requested.

(2)] (i) Notices sent to the operator shall be sent to the self-service storage facility where the occupant's PERSONAL property is stored **BY HAND DELIVERY OR VERIFIED MAIL.**

(ii) Notices to the occupant shall be sent to the occupant at the occupant's last known address.

[(3)] (2) Notices shall be deemed delivered when [deposited]:

(I) DEPOSITED with the United States Postal Service OR A PRIVATE DELIVERY SERVICE, properly addressed as provided in subsection (b) OF THIS SECTION, with postage prepaid; OR

(II) SENT BY ELECTRONIC MAIL TO THE OCCUPANT'S LAST KNOWN ADDRESS.

[(j) The operator shall retain a copy of the second notice of default and the return receipt as provided in subsection (b)(2) of this section for 6 months following the date of the lien sale.]

(J) (1) IF THE OCCUPANT IS IN DEFAULT FOR MORE THAN 60 DAYS AND THE PERSONAL PROPERTY STORED IN THE LEASED SPACE IS A MOTOR VEHICLE OR WATERCRAFT, THE OPERATOR MAY HAVE THE PERSONAL PROPERTY TOWED OR REMOVED FROM THE SELF-SERVICE STORAGE FACILITY IN LIEU OF A SALE AUTHORIZED UNDER SUBSECTION (A) OF THIS SECTION.

(2) THE OPERATOR SHALL BE IMMUNE FROM CIVIL LIABILITY FOR ANY DAMAGE TO THE PERSONAL PROPERTY TOWED OR REMOVED FROM THE SELF-SERVICE STORAGE FACILITY UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT OCCURS AFTER THE PERSON THAT UNDERTAKES THE TOWING OR REMOVAL OF THE PERSONAL PROPERTY TAKES POSSESSION OF THE PERSONAL PROPERTY.

(K) IF A RENTAL AGREEMENT SPECIFIES A LIMIT ON THE VALUE OF PERSONAL PROPERTY THAT MAY BE STORED IN THE OCCUPANT'S LEASED SPACE, THE LIMIT SHALL BE DEEMED TO BE THE MAXIMUM VALUE OF THE STORED PERSONAL PROPERTY.

(L) (1) THE OPERATOR MAY CHARGE THE OCCUPANT A REASONABLE LATE FEE FOR EACH MONTH THE OCCUPANT DOES NOT PAY RENT WHEN DUE.

(2) A FEE UNDER THIS SUBSECTION MAY NOT BE MORE THAN THE GREATER OF:

(I) \$20 A MONTH; OR

(II) 20% OF THE MONTHLY RENT FOR THE LEASED SPACE.

(3) THE OPERATOR MAY NOT CHARGE A FEE UNDER THIS SUBSECTION UNLESS THE OPERATOR DISCLOSES IN THE RENTAL AGREEMENT:

(I) THE AMOUNT OF THE FEE; AND

(II) THE TIMING FOR CHARGING THE FEE.

(4) A FEE UNDER THIS SUBSECTION MAY BE CHARGED IN ADDITION TO ANY OTHER REMEDY PROVIDED BY LAW OR CONTRACT.

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 rental agreements or contracts executed or renewed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 303

(House Bill 1127)

AN ACT concerning

Commercial Law – Self-Service Storage Facilities

FOR the purpose of altering certain notice procedures required to enforce a lien on certain property stored in a leased space at a self-service storage facility; ~~altering certain requirements relating to the advertisement of a sale to enforce a certain lien;~~ providing that a certain sale held on an online auction Web site shall be deemed to be held at a certain location; altering the required means of delivery of certain notices; altering the circumstances under which certain notices shall be deemed to be delivered to certain persons; authorizing an operator of a self-service storage facility to have certain property towed or removed from the self-service storage facility under certain circumstances; providing that an operator of a self-service storage facility is immune from civil liability under certain circumstances; providing that a certain limit on the value of certain property specified in a rental agreement shall be deemed to be the maximum value of the property; authorizing an operator of a self-service storage facility to charge certain late fees under certain circumstances; requiring a rental agreement to contain a certain statement; providing for the application of this Act; defining a certain term; ~~terms~~ term; altering certain definitions; making stylistic and clarifying changes; and generally relating to self-service storage facilities.

BY repealing and reenacting, with amendments,
 Article – Commercial Law
 Section 18-501, 18-503(b), and 18-504

Annotated Code of Maryland
(2005 Replacement Volume and 2012 Supplement)

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

Article – Commercial Law

18–501.

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

(b) “Default” means the failure to perform on time any obligation or duty set forth in the rental agreement.

~~(c) “INDEPENDENT BIDDER” MEANS A PERSON THAT:~~

~~(1) BIDS IN A LIEN SALE ON PERSONAL PROPERTY STORED IN A LEASED SPACE;~~

~~(2) IS NOT RELATED TO THE OCCUPANT; AND~~

~~(3) HAS NO CONTROLLING INTEREST IN, OR COMMON FINANCIAL INTEREST WITH, THE OCCUPANT OR ANY OTHER BIDDER.~~

~~(c)~~ ~~(d)~~ “Last known address” means that address **OR ELECTRONIC MAIL ADDRESS** provided by the occupant in the rental agreement or the address **OR ELECTRONIC MAIL ADDRESS** provided by the occupant in a subsequent written notice of a change of address.

~~(d)~~ ~~(e)~~ “Leased space” means the individual storage space at the self–service facility which is rented to an occupant pursuant to a rental agreement.

~~(e)~~ ~~(f)~~ “Occupant” means a person, a sublessee, successor, or assign, entitled to the use of a leased space at a self–service storage facility under a rental agreement.

~~(f)~~ ~~(g)~~ (1) “Operator” means the owner, operator, lessor, or sublessor of a self–service storage facility, an agent, or any other person authorized to manage the facility.

(2) “Operator” does not [mean] **INCLUDE** a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored.

~~[(g)]~~ ~~(H)~~ (1) “Personal property” means movable property, not affixed to land.

(2) “Personal property” includes[, but is not limited to,] goods, wares, merchandise, motor vehicles, watercraft, and household items and furnishings.

~~[(h)]~~ ~~(I)~~ “Rental agreement” means any written agreement that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a self-service storage facility.

~~[(i)]~~ ~~(J)~~ “Self-service storage facility” means any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a “self-service” basis.

~~(K)~~ **(J) “VERIFIED MAIL” MEANS ANY METHOD OF MAILING THAT IS OFFERED BY THE UNITED STATES POSTAL SERVICE OR PRIVATE DELIVERY SERVICE THAT PROVIDES EVIDENCE OF MAILING.**

18-503.

(b) The rental agreement shall contain a statement, in bold type, advising the occupant:

(1) Of the existence of the lien; **[and]**

(2) That **PERSONAL** property stored in the leased space may be sold to satisfy the lien if the occupant is in default; **AND**

(3) THAT PERSONAL PROPERTY STORED IN THE LEASED SPACE MAY BE TOWED OR REMOVED FROM THE SELF-SERVICE STORAGE FACILITY IF:

(I) THE PERSONAL PROPERTY IS A MOTOR VEHICLE OR WATERCRAFT; AND

(II) THE OCCUPANT IS IN DEFAULT FOR MORE THAN 60 DAYS.

18-504.

(a) (1) If the occupant is in default for a period of more than 60 days, the operator may enforce the lien by selling the **PERSONAL** property stored in the leased space at a public sale, for cash.

(2) Proceeds from the sale shall be applied to satisfy the lien, and any surplus shall be disbursed as provided in subsection (e) of this section.

(b) (1) Before conducting a sale under subsection (a) OF THIS SECTION, the operator shall[:

(1) Notify], SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, NOTIFY the occupant of the default by [regular mail] HAND DELIVERY, VERIFIED MAIL, OR ELECTRONIC MAIL at the occupant's last known address[;].

(2) (I) [Send a second notice of default by certified mail, return receipt requested, to the occupant at the occupant's last known address which includes] THE OPERATOR MAY NOT NOTIFY THE OCCUPANT OF THE DEFAULT BY ELECTRONIC MAIL UNLESS THE RENTAL AGREEMENT, OR A WRITTEN CHANGE TO THE RENTAL AGREEMENT, SPECIFIES THAT NOTICE MAY BE GIVEN BY ELECTRONIC MAIL.

(II) IF THE OPERATOR NOTIFIES THE OCCUPANT OF THE DEFAULT BY ELECTRONIC MAIL AT THE OCCUPANT'S LAST KNOWN ADDRESS AND DOES NOT RECEIVE A RESPONSE OR A CONFIRMATION OF DELIVERY SENT FROM THE OCCUPANT'S ELECTRONIC MAIL ADDRESS, THE OPERATOR SHALL SEND A SECOND NOTICE OF DEFAULT TO THE OCCUPANT BY VERIFIED MAIL TO THE OCCUPANT'S LAST KNOWN POSTAL ADDRESS.

(3) THE NOTICE SHALL INCLUDE:

(i) A statement that the contents of the occupant's leased space are subject to the operator's lien;

(ii) A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of sale, and the date those additional charges shall become due;

(iii) A demand for payment of the charges due within a specified time, not less than 14 days after the date that the notice was mailed;

(iv) A statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold at a specified time and place; and

(v) The name, street address, and telephone number of the operator, or his designated agent, whom the occupant may contact to respond to the notice[; and].

~~[(3)]~~ (4) ~~(I)~~ At least 3 days before [the] CONDUCTING A sale UNDER THIS SECTION, THE OPERATOR SHALL advertise the time, place, and terms

of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held ~~OR IN ANY OTHER COMMERCIALY REASONABLE MANNER.~~

~~(H) THE MANNER OF ADVERTISEMENT SHALL BE DEEMED COMMERCIALY REASONABLE IF AT LEAST THREE INDEPENDENT BIDDERS ATTEND THE SALE.~~

(c) At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

(d) (1) [The] A sale under this section shall be held at the self-service storage facility where the personal property is stored.

(2) A SALE UNDER THIS SECTION SHALL BE DEEMED TO BE HELD AT THE SELF-SERVICE STORAGE FACILITY WHERE THE PERSONAL PROPERTY IS STORED IF THE SALE IS HELD ON AN ONLINE AUCTION WEB SITE.

(e) If a sale is held under this section, the operator shall:

(1) Satisfy the lien from the proceeds of the sale; and

(2) Hold the balance, if any, for delivery on demand to the occupant or any other recorded lienholders.

(f) A purchaser in good faith of any personal property sold under this subtitle takes the property free and clear of any rights of:

(1) Persons against whom the lien was valid; and

(2) Other lienholders.

(g) If the operator complies with the provisions of this subtitle, the operator's liability:

(1) To the occupant shall be limited to the net proceeds received from the sale of the personal property; and

(2) To other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by that other lien.

(h) If an occupant is in default, the operator may deny the occupant access to the leased space.

(i) (1) [Unless otherwise specifically provided, all notices required by this subtitle shall be sent by certified mail, return receipt requested.

(2)] (i) Notices sent to the operator shall be sent to the self-service storage facility where the occupant's **PERSONAL** property is stored **BY HAND DELIVERY OR VERIFIED MAIL**.

(ii) Notices to the occupant shall be sent to the occupant at the occupant's last known address.

[(3)] (2) Notices shall be deemed delivered when **[deposited]**:

(I) DEPOSITED with the United States Postal Service **OR A PRIVATE DELIVERY SERVICE**, properly addressed as provided in subsection (b) **OF THIS SECTION**, with postage prepaid; **OR**

(II) SENT BY ELECTRONIC MAIL TO THE OCCUPANT'S LAST KNOWN ADDRESS.

[(j)] The operator shall retain a copy of the second notice of default and the return receipt as provided in subsection (b)(2) of this section for 6 months following the date of the lien sale.]

(J) (1) IF THE OCCUPANT IS IN DEFAULT FOR MORE THAN 60 DAYS AND THE PERSONAL PROPERTY STORED IN THE LEASED SPACE IS A MOTOR VEHICLE OR WATERCRAFT, THE OPERATOR MAY HAVE THE PERSONAL PROPERTY TOWED OR REMOVED FROM THE SELF-SERVICE STORAGE FACILITY IN LIEU OF A SALE AUTHORIZED UNDER SUBSECTION (A) OF THIS SECTION.

(2) THE OPERATOR SHALL BE IMMUNE FROM CIVIL LIABILITY FOR ANY DAMAGE TO THE PERSONAL PROPERTY TOWED OR REMOVED FROM THE SELF-SERVICE STORAGE FACILITY UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT OCCURS AFTER THE PERSON THAT UNDERTAKES THE TOWING OR REMOVAL OF THE PERSONAL PROPERTY TAKES POSSESSION OF THE PERSONAL PROPERTY.

(K) IF A RENTAL AGREEMENT SPECIFIES A LIMIT ON THE VALUE OF PERSONAL PROPERTY THAT MAY BE STORED IN THE OCCUPANT'S LEASED SPACE, THE LIMIT SHALL BE DEEMED TO BE THE MAXIMUM VALUE OF THE STORED PERSONAL PROPERTY.

(L) (1) THE OPERATOR MAY CHARGE THE OCCUPANT A REASONABLE LATE FEE FOR EACH MONTH THE OCCUPANT DOES NOT PAY RENT WHEN DUE.

(2) A FEE UNDER THIS SUBSECTION MAY NOT BE MORE THAN THE GREATER OF:

(I) \$20 A MONTH; OR

(II) 20% OF THE MONTHLY RENT FOR THE LEASED SPACE.

(3) THE OPERATOR MAY NOT CHARGE A FEE UNDER THIS SUBSECTION UNLESS THE OPERATOR DISCLOSES IN THE RENTAL AGREEMENT:

(I) THE AMOUNT OF THE FEE; AND

(II) THE TIMING FOR CHARGING THE FEE.

(4) A FEE UNDER THIS SUBSECTION MAY BE CHARGED IN ADDITION TO ANY OTHER REMEDY PROVIDED BY LAW OR CONTRACT.

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 rental agreements or contracts executed or renewed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 304

(Senate Bill 676)

AN ACT concerning

Governmental Procedures – Security and Protection of Information

FOR the purpose of requiring a certain unit, when destroying ~~a resident's~~ an individual's records that contain certain personal ~~or private~~ information of the ~~resident~~ individual, to take certain steps to protect against the unauthorized acquisition or use of the personal ~~or private~~ information under certain circumstances; requiring certain units that collect certain personal ~~or private~~ information of ~~a resident~~ an individual to implement and maintain certain security procedures and practices under certain circumstances; requiring certain units that collect or maintain computerized data that include certain personal ~~or private~~ information of ~~a resident~~ an individual to conduct a certain investigation under certain circumstances ~~and~~; requiring, except under certain circumstances, a unit or, under certain circumstances, a nonaffiliated third party to notify certain persons of a breach of the security of a system under

certain circumstances; specifying the time at which notification must be given; specifying the contents of the notification; authorizing notification to be given in a certain manner; requiring certain units to retain certain records for a certain period of time under certain circumstances; providing that a waiver of certain provisions of this Act is contrary to public policy and is void and unenforceable; providing that compliance with certain provisions of this Act does not relieve a certain unit from a duty to comply with certain other requirements of federal law; providing that the provisions of this Act are exclusive and shall preempt any provision of local law; requiring a unit to report to certain consumer reporting agencies on the breach of the security of a system under certain circumstances; requiring a unit to provide notice of a breach of the security of a system to the Office of Attorney General and the Department of Information Technology under certain circumstances; ~~establishing a private right of action for a resident affected by a violation of this Act; requiring the Department, in consultation with the Office of the Attorney General and the Department of Budget and Management, to adopt certain rules and regulations; providing that a unit or nonaffiliated third party that complies with certain provisions of federal law is deemed to be in compliance with this Act;~~ defining certain terms; providing for the ~~applicability~~ application of ~~a certain provision~~ of this Act; providing for a delayed effective date; and generally relating to the protection of information collected by units or included in computerized data that is collected and maintained by units.

BY adding to

Article – State Government

Section 10–1301 through ~~10–1309~~ 10–1308 to be under the new subtitle
“Subtitle 13. Protection of Information by Government Agencies”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – State Government

SUBTITLE 13. PROTECTION OF INFORMATION BY GOVERNMENT AGENCIES.

10–1301.

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

(B) ~~“ENCRYPTED ENCRYPTION”~~ “ENCRYPTED ENCRYPTION” MEANS THE PROTECTION OF DATA IN ELECTRONIC OR OPTICAL FORM, IN STORAGE OR IN TRANSIT, USING ~~AN ENCRYPTION~~ A TECHNOLOGY THAT HAS BEEN ADOPTED BY AN ESTABLISHED STANDARDS-SETTING BODY OF THE FEDERAL GOVERNMENT, INCLUDING:

(1) IS CERTIFIED TO MEET OR EXCEED THE LEVEL THAT HAS BEEN ADOPTED BY THE FEDERAL INFORMATION PROCESSING STANDARDS ISSUED BY THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY, WHICH; AND

(2) RENDERS SUCH DATA INDECIPHERABLE WITHOUT AN ASSOCIATED CRYPTOGRAPHIC KEY NECESSARY TO ENABLE DECRYPTION OF SUCH DATA.

(C) ~~(1) "PERSONAL INFORMATION" MEANS ANY INFORMATION CONCERNING A NATURAL PERSON THAT, BECAUSE OF NAME, NUMBER, PERSONAL MARK, UNIQUE BIOMETRIC OR GENERIC PRINT, IMAGE OR DATA, OR OTHER IDENTIFIER, CAN BE USED TO IDENTIFY SUCH A NATURAL PERSON.~~

~~(2) "PERSONAL INFORMATION" DOES NOT INCLUDE:~~

~~(I) PUBLICLY AVAILABLE INFORMATION THAT IS LAWFULLY MADE AVAILABLE TO THE GENERAL PUBLIC FROM FEDERAL, STATE, OR LOCAL GOVERNMENT RECORDS;~~

~~(II) INFORMATION THAT AN INDIVIDUAL HAS CONSENTED TO HAVE PUBLICLY DISSEMINATED OR LISTED; OR~~

~~(III) INFORMATION THAT IS DISSEMINATED OR LISTED IN ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT~~ AN INDIVIDUAL'S FIRST NAME OR FIRST INITIAL AND LAST NAME, PERSONAL MARK, OR UNIQUE BIOMETRIC OR GENETIC PRINT OR IMAGE, IN COMBINATION WITH ONE OR MORE OF THE FOLLOWING DATA ELEMENTS:

(1) A SOCIAL SECURITY NUMBER;

(2) A DRIVER'S LICENSE NUMBER, STATE IDENTIFICATION CARD NUMBER, OR OTHER INDIVIDUAL IDENTIFICATION NUMBER ISSUED BY A UNIT;

(3) A PASSPORT NUMBER OR OTHER IDENTIFICATION NUMBER ISSUED BY THE UNITED STATES GOVERNMENT;

(4) AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER; OR

(5) A FINANCIAL OR OTHER ACCOUNT NUMBER, A CREDIT CARD NUMBER, OR A DEBIT CARD NUMBER THAT, IN COMBINATION WITH ANY

REQUIRED SECURITY CODE, ACCESS CODE, OR PASSWORD, WOULD PERMIT ACCESS TO AN INDIVIDUAL'S ACCOUNT.

~~(D) "PRIVATE INFORMATION" MEANS PERSONAL INFORMATION IN COMBINATION WITH ANY ONE OR MORE OF THE FOLLOWING DATA ELEMENTS, WHETHER OR NOT ANY OF THE ELEMENTS ARE ENCRYPTED:~~

- ~~(1) SOCIAL SECURITY NUMBER;~~
- ~~(2) DRIVER'S LICENSE OR STATE IDENTIFICATION CARD NUMBER;~~
- ~~(3) PASSPORT NUMBER OR OTHER UNITED STATES ISSUED IDENTIFICATION NUMBER; OR~~
- ~~(4) ACCOUNT NUMBER, CREDIT OR DEBIT CARD NUMBER, IN COMBINATION WITH ANY REQUIRED SECURITY CODE, ACCESS CODE, OR PASSWORD THAT WOULD PERMIT ACCESS TO THE FINANCIAL ACCOUNT OF AN INDIVIDUAL.~~

~~(E) (D) "REASONABLE SECURITY PROCEDURES AND PRACTICES" MEANS DATA SECURITY PROCEDURES AND PRACTICES DEVELOPED, IN GOOD FAITH, AND SET FORTH IN A WRITTEN INFORMATION SECURITY POLICY THAT CLEARLY DEMONSTRATES THAT THE PROCEDURES AND PRACTICES:~~

- ~~(1) COORDINATE AN INFORMATION SECURITY PROGRAM;~~
- ~~(2) REQUIRE A RISK ASSESSMENT TO IDENTIFY REASONABLY FORESEEABLE INTERNAL AND EXTERNAL RISKS TO THE SECURITY, CONFIDENTIALITY, AND INTEGRITY OF CUSTOMER INFORMATION AND TO ASSESS THE SUFFICIENCY OF ANY SAFEGUARDS IN PLACE TO CONTROL THESE RISKS;~~
- ~~(3) ONCE A RISK ASSESSMENT IS COMPLETED, INCLUDE DESIGN SAFEGUARDS TO CONTROL THE IDENTIFIED RISKS AND TO MONITOR REGULARLY THE EFFECTIVENESS OF THE CONTROLS;~~
- ~~(4) CONTRACTUALLY ENSURE THAT SPECIFIED SERVICE PROVIDERS ARE CAPABLE OF PROVIDING APPROPRIATE SAFEGUARDS FOR THE PERSONAL AND PRIVATE INFORMATION OF CUSTOMERS; AND~~
- ~~(5) EVALUATE AND ADJUST THE INFORMATION SECURITY PROGRAM BASED ON THE FOLLOWING:~~

~~(I) THE FINDINGS OF THE REGULAR MONITORING AND TESTING OF INFORMATION SAFEGUARDS;~~

~~(H) MATERIAL CHANGES TO OPERATIONS OR BUSINESS ARRANGEMENTS; OR~~

~~(HH) CIRCUMSTANCES THAT THE BUSINESS KNOWS OR HAS REASON TO KNOW MAY HAVE A MATERIAL IMPACT ON THE INFORMATION SECURITY PROGRAM OF THE BUSINESS.~~

~~(F)~~ (E) "RECORDS" 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.

~~(G) "RESIDENT" MEANS AN INDIVIDUAL RESIDING IN THE STATE WHO PROVIDES PERSONAL OR PRIVATE INFORMATION TO A UNIT FOR THE PURPOSE OF OBTAINING A SERVICE, PRODUCT, OR DOCUMENT FROM THE GOVERNMENT AGENCY.~~

~~(H)~~ (F) "UNIT" MEANS:

(1) AN EXECUTIVE, ~~LEGISLATIVE, OR JUDICIAL~~ AGENCY, OR A DEPARTMENT, A BOARD, A COMMISSION, AN AUTHORITY, ~~AN~~ A PUBLIC INSTITUTION OF HIGHER EDUCATION, A UNIT OR AN INSTRUMENTALITY OF THE STATE; OR

(2) A COUNTY, MUNICIPALITY, BI-COUNTY, REGIONAL, OR MULTICOUNTY AGENCY, COUNTY BOARD OF EDUCATION, PUBLIC CORPORATION OR AUTHORITY, OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE.

10-1302.

(A) THIS SUBTITLE DOES NOT APPLY TO PERSONAL INFORMATION THAT:

(1) IS PUBLICLY AVAILABLE INFORMATION THAT IS LAWFULLY MADE AVAILABLE TO THE GENERAL PUBLIC FROM FEDERAL, STATE, OR LOCAL GOVERNMENT RECORDS;

(2) AN INDIVIDUAL HAS CONSENTED TO HAVE PUBLICLY DISSEMINATED OR LISTED;

(3) EXCEPT FOR A MEDICAL RECORD THAT A PERSON IS PROHIBITED FROM REDISCLOSING UNDER § 4-302(D) OF THE HEALTH -

GENERAL ARTICLE, IS DISCLOSED IN ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT; OR

(4) IS DISCLOSED IN ACCORDANCE WITH THE FEDERAL FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT.

(B) THIS SUBTITLE DOES NOT APPLY TO THE LEGISLATIVE OR JUDICIAL BRANCH OF STATE GOVERNMENT.

~~10-1302.~~ 10-1303.

WHEN A UNIT IS DESTROYING RECORDS OF ~~A RESIDENT~~ AN INDIVIDUAL THAT CONTAIN PERSONAL ~~OR PRIVATE~~ INFORMATION OF THE ~~RESIDENT~~ INDIVIDUAL, THE UNIT SHALL TAKE REASONABLE STEPS TO PROTECT AGAINST UNAUTHORIZED ACCESS TO OR USE OF THE PERSONAL ~~OR PRIVATE~~ INFORMATION, TAKING INTO ACCOUNT:

- (1) THE SENSITIVITY OF THE RECORDS;
- (2) THE NATURE ~~AND SIZE~~ OF THE UNIT AND ITS OPERATIONS;
- (3) THE COSTS AND BENEFITS OF DIFFERENT DESTRUCTION METHODS; AND
- (4) AVAILABLE TECHNOLOGY.

~~10-1303.~~ 10-1304.

(A) TO PROTECT ~~PRIVATE~~ PERSONAL INFORMATION FROM UNAUTHORIZED ACCESS, USE, MODIFICATION, OR DISCLOSURE, A UNIT THAT COLLECTS PERSONAL INFORMATION OF ~~A RESIDENT~~ AN INDIVIDUAL SHALL IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES THAT ARE APPROPRIATE TO THE NATURE OF THE PERSONAL ~~OR PRIVATE~~ INFORMATION COLLECTED AND THE NATURE ~~AND SIZE~~ OF THE UNIT AND ITS OPERATIONS.

(B) (1) THIS SUBSECTION SHALL APPLY TO A WRITTEN CONTRACT OR AGREEMENT THAT IS ENTERED INTO ON OR AFTER ~~JANUARY~~ JULY 1, 2014.

(2) A UNIT THAT USES A NONAFFILIATED THIRD PARTY AS A SERVICE PROVIDER TO PERFORM SERVICES FOR THE UNIT AND DISCLOSES PERSONAL ~~OR PRIVATE~~ INFORMATION ABOUT ~~A RESIDENT~~ AN INDIVIDUAL UNDER A WRITTEN CONTRACT OR AGREEMENT WITH THE THIRD PARTY SHALL REQUIRE BY WRITTEN CONTRACT OR AGREEMENT THAT THE THIRD PARTY

IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES THAT:

(I) ARE APPROPRIATE TO THE NATURE OF THE PERSONAL ~~OR PRIVATE~~ INFORMATION DISCLOSED TO THE NONAFFILIATED THIRD PARTY; AND

(II) ARE REASONABLY DESIGNED TO HELP PROTECT THE PERSONAL ~~OR PRIVATE~~ INFORMATION FROM UNAUTHORIZED ACCESS, USE, MODIFICATION, DISCLOSURE, OR DESTRUCTION.

~~10-1304.~~ 10-1305.

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

~~(2)~~ ~~(1)~~ “(BREACH, “BREACH OF THE SECURITY OF A SYSTEM” MEANS THE UNAUTHORIZED ACQUISITION OF COMPUTERIZED DATA THAT COMPROMISES THE SECURITY, CONFIDENTIALITY, OR INTEGRITY OF THE PERSONAL ~~OR PRIVATE~~ INFORMATION MAINTAINED BY A UNIT.

~~(1)~~ (2) “BREACH OF THE SECURITY OF A SYSTEM” DOES NOT INCLUDE THE GOOD FAITH ACQUISITION OF PERSONAL INFORMATION BY AN EMPLOYEE OR AGENT OF A UNIT FOR THE PURPOSES OF THE UNIT, PROVIDED THAT THE PERSONAL ~~OR PRIVATE~~ INFORMATION IS NOT USED OR SUBJECT TO FURTHER UNAUTHORIZED DISCLOSURE.

~~(3) “IDENTITY FRAUD” HAS THE MEANING STATED IN § 8-301(B) OR (C) OF THE CRIMINAL LAW ARTICLE.~~

(B) (1) IF A UNIT THAT COLLECTS COMPUTERIZED DATA THAT INCLUDES PRIVATE PERSONAL INFORMATION OF A RESIDENT AN INDIVIDUAL DISCOVERS OR IS NOTIFIED OF A BREACH OF THE SECURITY OF A SYSTEM, THE UNIT SHALL CONDUCT IN GOOD FAITH A REASONABLE AND PROMPT INVESTIGATION TO DETERMINE WHETHER THE UNAUTHORIZED ACQUISITION OF PRIVATE PERSONAL INFORMATION OF THE RESIDENT HAS CREATED OR IS REASONABLY LIKELY TO CREATE A MATERIAL RISK OF IDENTITY FRAUD INDIVIDUAL HAS RESULTED IN OR IS LIKELY TO RESULT IN THE MISUSE OF THE INFORMATION.

(2) (I) IF EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF AFTER THE INVESTIGATION IS CONCLUDED, THE UNIT DETERMINES THAT THE UNAUTHORIZED ACQUISITION MISUSE OF THE RESIDENT'S INDIVIDUAL'S PERSONAL ~~OR PRIVATE~~ INFORMATION HAS CREATED

~~OCCURRED OR IS REASONABLY LIKELY TO CREATE A MATERIAL RISK OF IDENTITY FRAUD~~ OCCUR, THE UNIT OR THE NONAFFILIATED THIRD PARTY, IF AUTHORIZED UNDER A WRITTEN CONTRACT OR AGREEMENT WITH THE UNIT, SHALL NOTIFY THE ~~RESIDENT~~ INDIVIDUAL OF THE BREACH.

(II) UNLESS THE UNIT OR NONAFFILIATED THIRD PARTY KNOWS THAT THE ENCRYPTION KEY HAS BEEN BROKEN, A UNIT OR THE NONAFFILIATED THIRD PARTY IS NOT REQUIRED TO NOTIFY AN INDIVIDUAL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF:

1. THE PERSONAL INFORMATION OF THE INDIVIDUAL WAS SECURED BY ENCRYPTION OR REDACTED; AND

2. THE ENCRYPTION KEY HAS NOT BEEN COMPROMISED OR DISCLOSED.

(3) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE NOTIFICATION REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE GIVEN AS SOON AS REASONABLY PRACTICABLE, ~~BUT NOT LATER THAN 45 DAYS~~ AFTER THE UNIT CONDUCTS THE INVESTIGATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(4) IF, AFTER THE INVESTIGATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS CONCLUDED, THE UNIT DETERMINES THAT NOTIFICATION UNDER PARAGRAPH (2) OF THIS SUBSECTION IS NOT REQUIRED, THE UNIT SHALL MAINTAIN RECORDS THAT REFLECT ITS DETERMINATION FOR 3 YEARS AFTER THE DETERMINATION IS MADE.

(C) (1) A NONAFFILIATED THIRD PARTY THAT MAINTAINS COMPUTERIZED DATA THAT INCLUDES ~~PRIVATE~~ PERSONAL INFORMATION PROVIDED BY A UNIT SHALL NOTIFY THE UNIT OF A BREACH OF THE SECURITY OF A SYSTEM IF THE UNAUTHORIZED ACQUISITION OF THE ~~RESIDENT'S PRIVATE~~ INDIVIDUAL'S PERSONAL INFORMATION HAS ~~CREATED~~ OCCURRED OR IS ~~REASONABLY LIKELY TO CREATE A MATERIAL RISK OF IDENTITY FRAUD~~ OCCUR.

(2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE GIVEN AS SOON AS REASONABLY PRACTICABLE, ~~BUT NOT LATER THAN 45 DAYS~~ AFTER THE ~~UNIT~~ NONAFFILIATED THIRD PARTY DISCOVERS OR IS NOTIFIED OF THE BREACH OF THE SECURITY OF A SYSTEM.

(3) A NONAFFILIATED THIRD PARTY THAT IS REQUIRED TO NOTIFY A UNIT OF A BREACH OF THE SECURITY OF A SYSTEM UNDER

PARAGRAPH (1) OF THIS SUBSECTION SHALL SHARE WITH THE UNIT INFORMATION RELATING TO THE BREACH.

(D) (1) THE NOTIFICATION REQUIRED UNDER ~~SUBSECTIONS~~ SUBSECTION (B) ~~AND (C)~~ OF THIS SECTION MAY BE DELAYED:

(I) IF A LAW ENFORCEMENT AGENCY DETERMINES THAT THE NOTIFICATION WILL IMPEDE A CRIMINAL INVESTIGATION OR JEOPARDIZE HOMELAND OR NATIONAL SECURITY; OR

(II) TO DETERMINE THE SCOPE OF THE BREACH OF THE SECURITY OF A SYSTEM, IDENTIFY THE INDIVIDUALS AFFECTED, OR RESTORE THE INTEGRITY OF THE SYSTEM.

(2) IF NOTIFICATION IS DELAYED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, NOTIFICATION SHALL BE GIVEN AS SOON AS REASONABLY PRACTICABLE, ~~BUT NOT LATER THAN 45 DAYS~~ AFTER THE LAW ENFORCEMENT AGENCY DETERMINES THAT THE NOTIFICATION WILL NOT IMPEDE A CRIMINAL INVESTIGATION AND WILL NOT JEOPARDIZE HOMELAND OR NATIONAL SECURITY.

(E) THE NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION MAY BE GIVEN:

(1) BY WRITTEN NOTICE SENT TO THE MOST RECENT ADDRESS OF THE INDIVIDUAL IN THE RECORDS OF THE UNIT;

(2) BY ELECTRONIC MAIL TO THE MOST RECENT ELECTRONIC MAIL ADDRESS OF THE ~~RESIDENT~~ INDIVIDUAL IN THE RECORDS OF THE UNIT IF:

(I) THE ~~RESIDENT~~ INDIVIDUAL HAS EXPRESSLY CONSENTED TO RECEIVE ELECTRONIC NOTICE; OR

(II) THE UNIT CONDUCTS ITS DUTIES PRIMARILY THROUGH INTERNET ACCOUNT TRANSACTIONS OR THE INTERNET;

(3) BY TELEPHONIC NOTICE, TO THE MOST RECENT TELEPHONE NUMBER OF THE ~~RESIDENT~~ INDIVIDUAL IN THE RECORDS OF THE UNIT; OR

(4) BY SUBSTITUTE NOTICE AS PROVIDED IN SUBSECTION (F) OF THIS SECTION IF:

(I) THE UNIT DEMONSTRATES THAT THE COST OF PROVIDING NOTICE WOULD EXCEED \$100,000 OR THAT THE AFFECTED CLASS OF INDIVIDUALS TO BE NOTIFIED EXCEEDS 175,000; OR

(II) THE UNIT DOES NOT HAVE SUFFICIENT CONTACT INFORMATION TO GIVE NOTICE IN ACCORDANCE WITH ITEM (1), (2), OR (3) OF THIS SUBSECTION.

(F) SUBSTITUTE NOTICE UNDER SUBSECTION (E)(4) OF THIS SECTION SHALL CONSIST OF:

(1) ELECTRONICALLY MAILING THE NOTICE TO ~~A RESIDENT AN~~ INDIVIDUAL ENTITLED TO NOTIFICATION UNDER SUBSECTION (B) OF THIS SECTION IF THE UNIT HAS AN ELECTRONIC MAIL ADDRESS FOR THE ~~RESIDENT~~ INDIVIDUAL TO BE NOTIFIED;

(2) CONSPICUOUS POSTING OF THE NOTICE ON THE WEB SITE OF THE UNIT IF THE UNIT MAINTAINS A WEB SITE; AND

(3) NOTIFICATION TO ~~STATEWIDE~~ APPROPRIATE MEDIA.

(G) THE NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(1) TO THE EXTENT POSSIBLE, A DESCRIPTION OF THE CATEGORIES OF INFORMATION THAT WERE, OR ARE REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED BY AN UNAUTHORIZED PERSON, INCLUDING WHICH OF THE ELEMENTS OF PERSONAL ~~OR PRIVATE~~ INFORMATION WERE, OR ARE REASONABLY BELIEVED TO HAVE BEEN, ACQUIRED;

(2) CONTACT INFORMATION FOR THE UNIT MAKING THE NOTIFICATION, INCLUDING THE UNIT'S ADDRESS, TELEPHONE NUMBER, AND TOLL-FREE TELEPHONE NUMBER IF ONE IS MAINTAINED;

(3) THE TOLL-FREE TELEPHONE NUMBERS AND ADDRESSES FOR THE MAJOR CONSUMER REPORTING AGENCIES; AND

(4) (I) THE TOLL-FREE TELEPHONE NUMBERS, ADDRESSES, AND WEB SITE ADDRESSES FOR:

1. THE FEDERAL TRADE COMMISSION; AND

2. THE OFFICE OF THE ATTORNEY GENERAL; AND

(II) A STATEMENT THAT ~~A RESIDENT~~ AN INDIVIDUAL CAN OBTAIN INFORMATION FROM THESE SOURCES ABOUT STEPS THE ~~RESIDENT INDIVIDUAL~~ CAN TAKE TO AVOID IDENTITY THEFT.

(H) (1) BEFORE GIVING THE NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION ~~AND SUBJECT TO SUBSECTION (D) OF THIS SECTION,~~ A UNIT SHALL PROVIDE NOTICE OF A BREACH OF THE SECURITY OF A SYSTEM TO THE OFFICE OF THE ATTORNEY GENERAL.

(2) IN ADDITION TO THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A UNIT, AS DEFINED IN ~~§ 10-1301(H)(1)~~ § 10-1301(F)(1) OF THIS SUBTITLE, SHALL PROVIDE NOTICE OF A BREACH OF SECURITY TO THE DEPARTMENT OF INFORMATION TECHNOLOGY.

(I) A WAIVER OF ANY PROVISION OF THIS SECTION IS CONTRARY TO PUBLIC POLICY AND IS VOID AND UNENFORCEABLE.

(J) COMPLIANCE WITH THIS SECTION DOES NOT RELIEVE A UNIT FROM A DUTY TO COMPLY WITH ANY OTHER REQUIREMENTS OF FEDERAL LAW RELATING TO THE PROTECTION AND PRIVACY OF PERSONAL ~~OR PRIVATE~~ INFORMATION.

~~10-1305.~~ 10-1306.

THE PROVISIONS OF THIS SUBTITLE ARE EXCLUSIVE AND SHALL PREEMPT ANY PROVISION OF LOCAL LAW.

~~10-1306.~~ 10-1307.

(A) IF A UNIT IS REQUIRED UNDER ~~§ 10-1304~~ § 10-1305 OF THIS SUBTITLE TO GIVE NOTICE OF A BREACH OF THE SECURITY OF A SYSTEM TO 1,000 OR MORE INDIVIDUALS, THE UNIT ALSO SHALL NOTIFY, WITHOUT UNREASONABLE DELAY, EACH CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE BASIS, AS DEFINED BY 15 U.S.C. § 1681A(P), OF THE TIMING, DISTRIBUTION, AND CONTENT OF THE NOTICES.

(B) THIS SECTION DOES NOT REQUIRE THE INCLUSION OF THE NAMES OR OTHER PERSONAL IDENTIFYING INFORMATION OF RECIPIENTS OF NOTICES OF THE BREACH OF THE SECURITY OF A SYSTEM.

~~10-1307.~~ 10-1308.

~~(A) IN THIS SECTION, “AFFILIATE” MEANS AN ENTITY THAT CONTRACTS WITH A UNIT IN SUBSECTION (C) OF THIS SECTION.~~

~~(B) A UNIT THAT COMPLIES WITH THE REQUIREMENTS FOR NOTIFICATION PROCEDURES, THE PROTECTION OR SECURITY OF PERSONAL OR PRIVATE INFORMATION, OR THE DESTRUCTION OF PERSONAL OR PRIVATE INFORMATION UNDER THE RULES, REGULATIONS, PROCEDURES, OR GUIDELINES ESTABLISHED BY THE PRIMARY OR FUNCTIONAL FEDERAL OR STATE REGULATOR OF THE UNIT SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBTITLE.~~

~~(C) AN AFFILIATE A UNIT OR NONAFFILIATED THIRD PARTY THAT COMPLIES WITH § 501(B) OF THE FEDERAL GRAMM–LEACH–BLILEY ACT; 15 U.S.C. § 6801, § 216 OF THE FEDERAL FAIR AND ACCURATE CREDIT TRANSACTIONS ACT; 15 U.S.C. § 1681W DISPOSAL OF RECORDS; THE FEDERAL INTERAGENCY GUIDELINES ESTABLISHING INFORMATION SECURITY STANDARDS; AND THE FEDERAL INTERAGENCY GUIDANCE ON RESPONSE PROGRAMS FOR UNAUTHORIZED ACCESS TO CUSTOMER INFORMATION AND CUSTOMER NOTICE; AND ANY REVISIONS, ADDITIONS, OR SUBSTITUTIONS OF THOSE ENACTMENTS, SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBTITLE.~~

~~10-1308.~~

~~(A) IF A UNIT VIOLATES THE PROVISIONS OF THIS SUBTITLE, A RESIDENT MAY FILE A CIVIL ACTION FOR DAMAGES UNDER THE APPLICABLE PROVISIONS OF:~~

~~(1) THE MARYLAND TORT CLAIMS ACT, AS SET FORTH IN TITLE 12 OF THIS ARTICLE; OR~~

~~(2) THE LOCAL GOVERNMENT TORT CLAIMS ACT, AS SET FORTH IN TITLE 5, SUBTITLE 3 OF THE COURTS ARTICLE.~~

~~(B) A CIVIL ACTION UNDER THIS SECTION SHALL BE FILED IN THE COUNTY IN WHICH THE RESIDENT RESIDES.~~

~~10-1309.~~

~~THE SECRETARY OF INFORMATION TECHNOLOGY, IN CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE OF THE ATTORNEY GENERAL, SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE FOR THE GOVERNMENT AGENCIES SPECIFIED IN § 10-1301(H)(1) OF THIS SUBTITLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2013~~ July 1, 2014.

Approved by the Governor, May 2, 2013.

Chapter 305

(Senate Bill 679)

AN ACT concerning

Virginia I. Jones Alzheimer's Disease and Related Disorders Council

FOR the purpose of establishing the Virginia I. Jones Alzheimer's Disease and Related Disorders Council; providing for the membership of the Council; requiring the Governor to consider the geographic and demographic diversity of the State in appointing individuals to the Council; requiring the Secretary of Health and Mental Hygiene and the Secretary of Aging, or their designees, to cochair the Council; requiring the Department of Health and Mental Hygiene, with assistance from the Department of Aging, to provide staff support for the Council; authorizing the Department to request certain staffing assistance; providing that a member of the Council may not receive certain compensation but is entitled to certain reimbursement; providing for the duties of the Council; defining a certain term; providing for the termination of this Act; and generally relating to the Virginia I. Jones Alzheimer's Disease and Related Disorders Council.

BY adding to

Article – Health – General

Section 13–3101 through 13–3106 to be under the new subtitle “Subtitle 31.

Virginia I. Jones Alzheimer's Disease and Related Disorders Council”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

Preamble

WHEREAS, There are more than 5.4 million Americans living with Alzheimer's disease and someone new is added to that number approximately every 68 seconds; and

WHEREAS, There are an estimated 86,000 individuals in Maryland with Alzheimer's disease, and this number is expected to increase with the general aging of the population; and

WHEREAS, Alzheimer's disease and related disorders are also associated with a number of seriously disabling illnesses, including high blood pressure, high cholesterol, and other cardiovascular diseases; and

WHEREAS, Individuals with Alzheimer's disease and related disorders live many years after diagnosis and are at increased risk for high health care costs, social isolation, and institutionalization; and

WHEREAS, Family members and caregivers of individuals with Alzheimer's disease and related disorders commonly do not have access to services or knowledge of the resources and information needed to provide effective and efficient care and treatment of the disease; and

WHEREAS, The lack of access to and utilization of information results in less effective treatment of Alzheimer's disease and related disorders and increases the burden of care, leading to poorer outcomes for individuals living with the disease or related disorders and their caregivers; and

WHEREAS, There is a need for more successful collaborative efforts in Maryland, such as the annual Pythias A. and Virginia I. Jones African American Community Forum on Memory Loss, created in the memory of Virginia I. Jones, a Marylander committed to public service, who lived with the devastation of Alzheimer's disease for approximately 10 years prior to diagnosis and for 17 years after diagnosis, and her husband, who was also an Alzheimer's victim and her primary caregiver for all of those 17 years; and

WHEREAS, The Forum brings together a public, private, and community collaboration to inform the community and others about Alzheimer's disease and related disorders, to support caregivers, to share information on services available, and to bring the promise of research and opportunities to network with others who share similar concerns; and

WHEREAS, Many Maryland agencies, associations, and institutions have Alzheimer's disease and related disorders expertise but gaps remain in the coordination of services and information relating to these chronic diseases; and

WHEREAS, The Governor established by Executive Order the Maryland Alzheimer's Disease and Related Disorders Commission; and

WHEREAS, The Maryland Alzheimer's Disease and Related Disorders Commission released its 2012 Maryland State Plan on Alzheimer's Disease and Related Disorders which recommended the establishment of a permanent Alzheimer's Disease and Related Disorders Council; now, therefore,

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

Article – Health – General

SUBTITLE 31. VIRGINIA I. JONES ALZHEIMER'S DISEASE AND RELATED DISORDERS COUNCIL.

13-3101.

IN THIS SUBTITLE, "COUNCIL" MEANS THE VIRGINIA I. JONES ALZHEIMER'S DISEASE AND RELATED DISORDERS COUNCIL.

13-3102.

THERE IS A VIRGINIA I. JONES ALZHEIMER'S DISEASE AND RELATED DISORDERS COUNCIL.

13-3103.

(A) THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(4) THE SECRETARY OF AGING, OR THE SECRETARY'S DESIGNEE;

(5) THE SECRETARY OF DISABILITIES, OR THE SECRETARY'S DESIGNEE;

(6) THE MARYLAND INSURANCE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE; AND

(7) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

(I) A REPRESENTATIVE OF THE U.S. DEPARTMENT OF VETERANS AFFAIRS WITH EXPERTISE IN ALZHEIMER'S DISEASE AND RELATED DISORDERS;

(II) AN ATTORNEY WHO WORKS DIRECTLY WITH DISABLED OR ELDERLY INDIVIDUALS;

(III) A REPRESENTATIVE OF THE ALZHEIMER'S ASSOCIATION, GREATER MARYLAND CHAPTER;

(IV) A PHYSICIAN WHO CONDUCTS RESEARCH IN ALZHEIMER'S DISEASE AND RELATED DISORDERS;

(V) A HEALTH PROFESSIONAL WITH EXPERTISE IN ADDRESSING RACIAL AND ETHNIC HEALTH DISPARITIES;

(VI) A SOCIAL WORKER WITH EXPERIENCE WORKING WITH INDIVIDUALS AND FAMILIES AFFECTED BY ALZHEIMER'S DISEASE AND RELATED DISORDERS;

(VII) A PSYCHOLOGIST ~~OR PSYCHIATRIST~~ WITH EXPERTISE IN ALZHEIMER'S DISEASE AND RELATED DISORDERS;

(VIII) A PSYCHIATRIST WITH EXPERTISE IN ALZHEIMER'S DISEASE AND RELATED DISORDERS;

~~(VIII)~~ (IX) A PHYSICIAN WITH EXPERIENCE IN END-OF-LIFE CARE AND PAIN MANAGEMENT;

~~(IX)~~ (X) A REGISTERED NURSE WITH EXPERTISE IN ALZHEIMER'S DISEASE AND RELATED DISORDERS;

~~(X)~~ (XI) A LICENSED NURSE PRACTITIONER WITH EXPERTISE IN END-OF-LIFE CARE AND PAIN MANAGEMENT;

~~(XI)~~ (XII) A REPRESENTATIVE OF THE NURSING HOME ~~AND ASSISTED-LIVING~~ INDUSTRY;

~~(XII)~~ (XIII) AN INDIVIDUAL WITH EARLY-ONSET ALZHEIMER'S DISEASE OR A RELATED DISORDER; ~~AND~~

~~(XIII)~~ (XIV) TWO FAMILY CAREGIVERS, ONE OF WHOM IS A FAMILY MEMBER OF AN INDIVIDUAL WITH ALZHEIMER'S DISEASE OR A RELATED DISORDER;

(XV) A REPRESENTATIVE OF THE ASSISTED LIVING INDUSTRY; AND

(XVI) A REPRESENTATIVE OF THE MEDICAL ADULT DAY CARE INDUSTRY.

(B) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE COUNCIL SHALL REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.

13-3104.

(A) THE SECRETARY OF HEALTH AND MENTAL HYGIENE AND THE SECRETARY OF AGING, OR THEIR DESIGNEES, SHALL COCHAIR THE COUNCIL.

(B) A MEMBER OF THE COUNCIL:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

13-3105.

(A) THE DEPARTMENT, WITH ASSISTANCE FROM THE DEPARTMENT OF AGING, SHALL PROVIDE STAFF SUPPORT FOR THE COUNCIL.

(B) THE DEPARTMENT MAY REQUEST STAFFING ASSISTANCE FROM PUBLIC HEALTH ENTITIES WITH AN INTEREST IN THE DUTIES OF THE COUNCIL.

13-3106.

THE COUNCIL SHALL:

(1) CONTINUE THE WORK INITIATED BY THE MARYLAND ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION, INCLUDING THE DEVELOPMENT AND MONITORING OF THE 2012 MARYLAND STATE PLAN ON ALZHEIMER'S DISEASE AND RELATED DISORDERS;

(2) INCLUDE IN THE STATE PLAN STRATEGIES AND ACTIONS THAT:

(I) SUPPORT PREVENTION AND EARLY DETECTION OF ALZHEIMER'S DISEASE AND RELATED DISORDERS, INCLUDING EARLY STAGE IDENTIFICATION;

(II) ADDRESS CHRONIC DISEASE FACTORS CONTRIBUTING TO DISPARITIES IN ALZHEIMER'S DISEASE; ~~AND~~

(III) ENHANCE THE QUALITY OF CARE THROUGH:

1. BUILDING A WORKFORCE TRAINED TO CARE FOR AND TREAT ALZHEIMER'S DISEASE AND RELATED DISORDERS;
2. EDUCATING PRIMARY CARE PROVIDERS ON BEST PRACTICES; AND
3. PROMOTING ALZHEIMER'S DISEASE AND RELATED DISORDERS CARE GUIDELINES AND PATIENT-CENTERED APPROACHES IN ALL CARE SETTINGS; AND

(IV) IMPROVE ACCESS TO AND COORDINATION OF SERVICES AND KNOWLEDGE OF THE RESOURCES AND INFORMATION AVAILABLE TO INDIVIDUALS WITH ALZHEIMER'S DISEASE, THEIR FAMILY MEMBERS, AND THEIR CAREGIVERS;

(3) REVIEW STATE STATUTES, POLICIES, AND PROGRAMS TO IMPROVE AND ENHANCE QUALITY OF LIFE AND SUPPORT AND SERVICES FOR INDIVIDUALS LIVING WITH ALZHEIMER'S DISEASE AND RELATED DISORDERS AND THEIR FAMILIES BY PROMOTING AND EXPANDING THE AVAILABILITY AND ACCESSIBILITY OF HOME- AND COMMUNITY-BASED SUPPORT AND SERVICE PROGRAMS;

(4) ~~CONDUCT~~ DEVELOP A PUBLIC EDUCATION CAMPAIGN ON:

- (I) THE RISK FACTORS FOR DEMENTIA;
- (II) THE IMPORTANCE OF SCREENING FOR DEMENTIA;
- (III) THE AVAILABLE SUPPORT SERVICES AND RESOURCES;
- (IV) THE NEED FOR ADVANCE PLANNING AND DECISION MAKING; AND
- (V) THE MARYLAND ACCESS POINT; AND

(5) IMPROVE DATA COLLECTION CAPACITY ON ALZHEIMER'S DISEASE AND RELATED DISORDERS IN THE STATE TO BETTER TARGET SUPPORT, SERVICES, AND NEEDS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of 3 years and, at the end of

September 30, 2016, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 306

(House Bill 690)

AN ACT concerning

Virginia I. Jones Alzheimer's Disease and Related Disorders Council

FOR the purpose of establishing the Virginia I. Jones Alzheimer's Disease and Related Disorders Council; providing for the membership of the Council; requiring the Governor to consider the geographic and demographic diversity of the State in appointing individuals to the Council; requiring the Secretary of Health and Mental Hygiene and the Secretary of Aging, or their designees, to cochair the Council; requiring the Department of Health and Mental Hygiene, with assistance from the Department of Aging, to provide staff support for the Council; authorizing the Department to request certain staffing assistance; providing that a member of the Council may not receive certain compensation but is entitled to certain reimbursement; providing for the duties of the Council; defining a certain term; providing for the termination of this Act; and generally relating to the Virginia I. Jones Alzheimer's Disease and Related Disorders Council.

BY adding to

Article – Health – General

Section 13–3101 through 13–3106 to be under the new subtitle “Subtitle 31.

Virginia I. Jones Alzheimer's Disease and Related Disorders Council”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

Preamble

WHEREAS, There are more than 5.4 million Americans living with Alzheimer's disease and someone new is added to that number approximately every 68 seconds; and

WHEREAS, There are an estimated 86,000 individuals in Maryland with Alzheimer's disease, and this number is expected to increase with the general aging of the population; and

WHEREAS, Alzheimer's disease and related disorders are also associated with a number of seriously disabling illnesses, including high blood pressure, high cholesterol, and other cardiovascular diseases; and

WHEREAS, Individuals with Alzheimer's disease and related disorders live many years after diagnosis and are at increased risk for high health care costs, social isolation, and institutionalization; and

WHEREAS, Family members and caregivers of individuals with Alzheimer's disease and related disorders commonly do not have access to services or knowledge of the resources and information needed to provide effective and efficient care and treatment of the disease; and

WHEREAS, The lack of access to and utilization of information results in less effective treatment of Alzheimer's disease and related disorders and increases the burden of care, leading to poorer outcomes for individuals living with the disease or related disorders and their caregivers; and

WHEREAS, There is a need for more successful collaborative efforts in Maryland, such as the annual Pythias A. and Virginia I. Jones African American Community Forum on Memory Loss, created in the memory of Virginia I. Jones, a Marylander committed to public service, who lived with the devastation of Alzheimer's disease for approximately 10 years prior to diagnosis and for 17 years after diagnosis, and her husband, who was also an Alzheimer's victim and her primary caregiver for all of those 17 years; and

WHEREAS, The Forum brings together a public, private, and community collaboration to inform the community and others about Alzheimer's disease and related disorders, to support caregivers, to share information on services available, and to bring the promise of research and opportunities to network with others who share similar concerns; and

WHEREAS, Many Maryland agencies, associations, and institutions have Alzheimer's disease and related disorders expertise but gaps remain in the coordination of services and information relating to these chronic diseases; and

WHEREAS, The Governor established by Executive Order the Maryland Alzheimer's Disease and Related Disorders Commission; and

WHEREAS, The Maryland Alzheimer's Disease and Related Disorders Commission released its 2012 Maryland State Plan on Alzheimer's Disease and Related Disorders which recommended the establishment of a permanent Alzheimer's Disease and Related Disorders Council; now, therefore,

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

Article – Health – General

SUBTITLE 31. VIRGINIA I. JONES ALZHEIMER'S DISEASE AND RELATED DISORDERS COUNCIL.

13-3101.

IN THIS SUBTITLE, "COUNCIL" MEANS THE VIRGINIA I. JONES ALZHEIMER'S DISEASE AND RELATED DISORDERS COUNCIL.

13-3102.

THERE IS A VIRGINIA I. JONES ALZHEIMER'S DISEASE AND RELATED DISORDERS COUNCIL.

13-3103.

(A) THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(4) THE SECRETARY OF AGING, OR THE SECRETARY'S DESIGNEE;

(5) THE SECRETARY OF DISABILITIES, OR THE SECRETARY'S DESIGNEE;

(6) THE MARYLAND INSURANCE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE; AND

(7) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

(I) A REPRESENTATIVE OF THE U.S. DEPARTMENT OF VETERANS AFFAIRS WITH EXPERTISE IN ALZHEIMER'S DISEASE AND RELATED DISORDERS;

(II) AN ATTORNEY WHO WORKS DIRECTLY WITH DISABLED OR ELDERLY INDIVIDUALS;

(III) A REPRESENTATIVE OF THE ALZHEIMER'S ASSOCIATION, GREATER MARYLAND CHAPTER;

(IV) A PHYSICIAN WHO CONDUCTS RESEARCH IN ALZHEIMER'S DISEASE AND RELATED DISORDERS;

(V) A HEALTH PROFESSIONAL WITH EXPERTISE IN ADDRESSING RACIAL AND ETHNIC HEALTH DISPARITIES;

(VI) A SOCIAL WORKER WITH EXPERIENCE WORKING WITH INDIVIDUALS AND FAMILIES AFFECTED BY ALZHEIMER'S DISEASE AND RELATED DISORDERS;

(VII) A PSYCHOLOGIST ~~OR PSYCHIATRIST~~ WITH EXPERTISE IN ALZHEIMER'S DISEASE AND RELATED DISORDERS;

(VIII) A PSYCHIATRIST WITH EXPERTISE IN ALZHEIMER'S DISEASE AND RELATED DISORDERS;

~~(VIII)~~ (IX) A PHYSICIAN WITH EXPERIENCE IN END-OF-LIFE CARE AND PAIN MANAGEMENT;

~~(IX)~~ (X) A REGISTERED NURSE WITH EXPERTISE IN ALZHEIMER'S DISEASE AND RELATED DISORDERS;

~~(X)~~ (XI) A LICENSED NURSE PRACTITIONER WITH EXPERTISE IN END-OF-LIFE CARE AND PAIN MANAGEMENT;

~~(XI)~~ (XII) A REPRESENTATIVE OF THE NURSING HOME ~~AND ASSISTED-LIVING~~ INDUSTRY;

~~(XII)~~ (XIII) AN INDIVIDUAL WITH EARLY-ONSET ALZHEIMER'S DISEASE OR A RELATED DISORDER; ~~AND~~

~~(XIII)~~ (XIV) TWO FAMILY CAREGIVERS, ONE OF WHOM IS A FAMILY MEMBER OF AN INDIVIDUAL WITH ALZHEIMER'S DISEASE OR A RELATED DISORDER;

(XV) A REPRESENTATIVE OF THE ASSISTED LIVING INDUSTRY; AND

(XVI) A REPRESENTATIVE OF THE MEDICAL ADULT DAY CARE INDUSTRY.

(B) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE COUNCIL SHALL REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.

13-3104.

(A) THE SECRETARY OF HEALTH AND MENTAL HYGIENE AND THE SECRETARY OF AGING, OR THEIR DESIGNEES, SHALL COCHAIR THE COUNCIL.

(B) A MEMBER OF THE COUNCIL:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

13-3105.

(A) THE DEPARTMENT, WITH ASSISTANCE FROM THE DEPARTMENT OF AGING, SHALL PROVIDE STAFF SUPPORT FOR THE COUNCIL.

(B) THE DEPARTMENT MAY REQUEST STAFFING ASSISTANCE FROM PUBLIC HEALTH ENTITIES WITH AN INTEREST IN THE DUTIES OF THE COUNCIL.

13-3106.

THE COUNCIL SHALL:

(1) CONTINUE THE WORK INITIATED BY THE MARYLAND ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION, INCLUDING THE DEVELOPMENT AND MONITORING OF THE 2012 MARYLAND STATE PLAN ON ALZHEIMER'S DISEASE AND RELATED DISORDERS;

(2) INCLUDE IN THE STATE PLAN STRATEGIES AND ACTIONS THAT:

(I) SUPPORT PREVENTION AND EARLY DETECTION OF ALZHEIMER'S DISEASE AND RELATED DISORDERS, INCLUDING EARLY STAGE IDENTIFICATION;

(II) ADDRESS CHRONIC DISEASE FACTORS CONTRIBUTING TO DISPARITIES IN ALZHEIMER'S DISEASE; ~~AND~~

(III) ENHANCE THE QUALITY OF CARE THROUGH:

1. BUILDING A WORKFORCE TRAINED TO CARE FOR AND TREAT ALZHEIMER'S DISEASE AND RELATED DISORDERS;
2. EDUCATING PRIMARY CARE PROVIDERS ON BEST PRACTICES; AND
3. PROMOTING ALZHEIMER'S DISEASE AND RELATED DISORDERS CARE GUIDELINES AND PATIENT-CENTERED APPROACHES IN ALL CARE SETTINGS; AND

(IV) IMPROVE ACCESS TO AND COORDINATION OF SERVICES AND KNOWLEDGE OF THE RESOURCES AND INFORMATION AVAILABLE TO INDIVIDUALS WITH ALZHEIMER'S DISEASE, THEIR FAMILY MEMBERS, AND THEIR CAREGIVERS;

(3) REVIEW STATE STATUTES, POLICIES, AND PROGRAMS TO IMPROVE AND ENHANCE QUALITY OF LIFE AND SUPPORT AND SERVICES FOR INDIVIDUALS LIVING WITH ALZHEIMER'S DISEASE AND RELATED DISORDERS AND THEIR FAMILIES BY PROMOTING AND EXPANDING THE AVAILABILITY AND ACCESSIBILITY OF HOME- AND COMMUNITY-BASED SUPPORT AND SERVICE PROGRAMS;

(4) ~~CONDUCT~~ DEVELOP A PUBLIC EDUCATION CAMPAIGN ON:

- (I) THE RISK FACTORS FOR DEMENTIA;
- (II) THE IMPORTANCE OF SCREENING FOR DEMENTIA;
- (III) THE AVAILABLE SUPPORT SERVICES AND RESOURCES;
- (IV) THE NEED FOR ADVANCE PLANNING AND DECISION MAKING; AND
- (V) THE MARYLAND ACCESS POINT; AND

(5) IMPROVE DATA COLLECTION CAPACITY ON ALZHEIMER'S DISEASE AND RELATED DISORDERS IN THE STATE TO BETTER TARGET SUPPORT, SERVICES, AND NEEDS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of 3 years and, at the end of

September 30, 2016, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 307

(Senate Bill 690)

AN ACT concerning

Maryland Board of Physicians – Failure to Renew a License or Misrepresentation as a Licensed Person – Penalties

FOR the purpose of altering the penalties to which a person is subject if the person fails to renew a license to practice medicine or misrepresents to the public that the person is authorized to practice medicine in the State; and generally relating to penalties for violations of laws governing the practice of medicine in the State.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14–601, 14–602, and 14–606(a)(1)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–606(a)(4) and (5)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

14–601.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice medicine in this State unless licensed by the Board.

14–602.

(a) Unless authorized to practice medicine under this title, a person may not represent to the public, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice medicine in this State.

(b) Except as otherwise provided in this article, a person may not use the words or terms “Dr.,” “doctor,” “physician,” “D.O.,” or “M.D.” with the intent to represent that the person practices medicine, unless the person is:

(1) Licensed to practice medicine under this title;

(2) A physician licensed by and residing in another jurisdiction, while engaging in consultation with a physician licensed in this State;

(3) A physician employed by the federal government while performing duties incident to that employment;

(4) A physician who resides in and is licensed to practice medicine by any state adjoining this State and whose practice extends into this State; or

(5) An individual in a postgraduate medical program that is approved by the Board.

(c) An unlicensed individual who acts under § 14–302 or § 14–306 of this title may use the word “physician” together with another word to describe the occupation of the individual as in phrases such as “physician’s assistant” or “physician’s aide”.

14–606.

(a) (1) Except as provided in paragraph (4) of this subsection, a person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 5 years or both.

(4) Except as provided in paragraph (5) of this subsection, a person who violates § 14–601 **OR § 14–602** of this subtitle is:

(i) Guilty of a felony and on conviction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 5 years or both; and

(ii) Subject to a civil fine of not more than \$50,000 to be levied by the Board.

(5) The provisions of paragraph ~~[(4)]~~ ~~(4)(i)~~ of this subsection do not apply to a licensee who has failed to renew a license under § 14–316 of this title **IF**:

(I) LESS THAN 60 DAYS HAVE ELAPSED SINCE THE EXPIRATION OF THE LICENSE; AND

(II) THE LICENSEE HAS APPLIED FOR LICENSE RENEWAL, INCLUDING PAYMENT OF THE RENEWAL FEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 308

(House Bill 900)

AN ACT concerning

**Maryland Board of Physicians – Failure to Renew a License or
Misrepresentation as a Licensed Person – Penalties**

FOR the purpose of altering the penalties to which a person is subject if the person fails to renew a license to practice medicine or misrepresents to the public that the person is authorized to practice medicine in the State; and generally relating to penalties for violations of laws governing the practice of medicine in the State.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14–601, 14–602, and 14–606(a)(1)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–606(a)(4) and (5)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

14–601.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice medicine in this State unless licensed by the Board.

14–602.

(a) Unless authorized to practice medicine under this title, a person may not represent to the public, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice medicine in this State.

(b) Except as otherwise provided in this article, a person may not use the words or terms “Dr.,” “doctor,” “physician,” “D.O.,” or “M.D.” with the intent to represent that the person practices medicine, unless the person is:

(1) Licensed to practice medicine under this title;

(2) A physician licensed by and residing in another jurisdiction, while engaging in consultation with a physician licensed in this State;

(3) A physician employed by the federal government while performing duties incident to that employment;

(4) A physician who resides in and is licensed to practice medicine by any state adjoining this State and whose practice extends into this State; or

(5) An individual in a postgraduate medical program that is approved by the Board.

(c) An unlicensed individual who acts under § 14–302 or § 14–306 of this title may use the word “physician” together with another word to describe the occupation of the individual as in phrases such as “physician’s assistant” or “physician’s aide”.

14–606.

(a) (1) Except as provided in paragraph (4) of this subsection, a person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 5 years or both.

(4) Except as provided in paragraph (5) of this subsection, a person who violates § 14–601 **OR § 14–602** of this subtitle is:

(i) Guilty of a felony and on conviction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 5 years or both; and

(ii) Subject to a civil fine of not more than \$50,000 to be levied by the Board.

(5) The provisions of paragraph ~~[(4)]~~ ~~(4)(i)~~ of this subsection do not apply to a licensee who has failed to renew a license under § 14-316 of this title **IF:**

(I) LESS THAN 60 DAYS HAVE ELAPSED SINCE THE EXPIRATION OF THE LICENSE; AND

(II) THE LICENSEE HAS APPLIED FOR LICENSE RENEWAL, INCLUDING PAYMENT OF THE RENEWAL FEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 309

(Senate Bill 715)

AN ACT concerning

Maryland Highway Safety Act of 2013

FOR the purpose of authorizing the issuance, to new applicants, of identification cards, moped operators' permits, and drivers' licenses that are not acceptable by federal agencies for certain official purposes; requiring a certain applicant for an identification card, a moped operator's permit, or a driver's license to provide certain evidence that the applicant has filed certain Maryland income tax returns or has resided in Maryland for a certain period of time and been claimed as a dependent on certain Maryland income tax returns; repealing a provision of law that prohibits, after a certain date, the issuance or renewal of identification cards, moped operators' permits, and drivers' licenses that are not acceptable by federal agencies for certain official purposes; requiring that certain identification cards, moped operators' permits, and drivers' licenses include a certain statement; repealing a requirement that certain identification cards, moped operators' permits, and drivers' licenses that are not acceptable by federal agencies for certain official purposes expire by a certain date; providing for a delayed effective date; and generally relating to the issuance of identification cards, moped operators' permits, and drivers' licenses that are not acceptable by federal agencies for certain official purposes.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 16-122

Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Transportation

16–122.

(a) (1) Notwithstanding any other provision of this article, the Administration shall, subject to the provisions of this section, issue or renew an identification card, a moped operator's permit, or a license to drive that is not acceptable by federal agencies for official purposes determined by the Secretary of the United States Department of Homeland Security if an applicant:

(i) 1. Has an unresolved non-match described under § 16–121 of this subtitle;

2. Meets the requirements concerning the non-match contained in regulations adopted by the Administration that are consistent with regulations adopted by the Secretary of the United States Department of Homeland Security; and

3. Would be otherwise eligible under this article for the issuance or renewal of an identification card under § 12–301 of this article, a moped operator's permit under § 16–104.2 of this subtitle, or a license to drive under this title, but for the unresolved non-match; or

(ii) 1. [Was the holder of an identification card under § 12–301 of this article, a moped operator's permit under § 16–104.2 of this subtitle, or a license to drive under this subtitle issued or renewed by the Administration before April 19, 2009;

2.] Does not provide satisfactory documentary evidence that the applicant has lawful status or a valid Social Security number;

[3.] 2. Certifies that the applicant does not have a Social Security number; ~~and~~

[4.] 3. IN THE CASE OF AN APPLICANT WHO IS NOT A CURRENT HOLDER OF AN IDENTIFICATION CARD UNDER § 12–301 OF THIS ARTICLE, A MOPED OPERATOR'S PERMIT UNDER § 16–104.2 OF THIS SUBTITLE, OR A LICENSE TO DRIVE ISSUED UNDER THIS SUBTITLE, PROVIDES DOCUMENTARY EVIDENCE THAT THE APPLICANT, FOR EACH OF THE PRECEDING 2 YEARS, HAS:

A. FILED A MARYLAND INCOME TAX RETURN; OR

B. RESIDED IN MARYLAND AND BEEN CLAIMED AS A DEPENDENT BY AN INDIVIDUAL WHO HAS FILED A MARYLAND INCOME TAX RETURN; AND

4. Would be otherwise eligible for issuance or renewal of an identification card under § 12–301 of this article, a moped operator's permit under § 16–104.2 of this subtitle, or a license to drive issued under this subtitle, but for the absence of documentary evidence described in item **[2] 1** of this item.

(2) [The Administration may not issue or renew an identification card, moped operator's permit, or license to drive under paragraph (1)(ii) of this subsection on or after July 1, 2015.

(3) An identification card, moped operator's permit, or license to drive issued or renewed under paragraph (1)(ii) of this subsection on or after July 1, 2010, shall expire on July 1, 2015.

(4)] This subsection does not apply to any provision of law applicable to the issuance or renewal of a commercial driver's license under this title.

(3) AN IDENTIFICATION CARD, A MOPEL OPERATOR'S PERMIT, OR A LICENSE TO DRIVE THAT IS ISSUED UNDER THIS SUBSECTION SHALL INCLUDE A STATEMENT THAT THE DOCUMENT MAY NOT BE USED TO PURCHASE A FIREARM.

(b) The Administration may require that an application for issuance or renewal of an identification card, a moped operator's permit, or a license to drive under this section be made in person.

(c) A person may not be a holder of an identification card, a moped operator's permit, or a license to drive issued or renewed under this section if the person is the holder of any other identification card, moped operator's permit, or license to drive issued or renewed under this section or any other section of this article.

(d) Each identification card, moped operator's permit, and license to drive issued or renewed in accordance with this section shall:

(1) Clearly state on its face and in its machine-readable zone that it is not acceptable by federal agencies for official purposes;

(2) Have a unique design or color indicator that clearly distinguishes it from the design or color of an identification card under § 12–301 of this article, a

moped operator's permit under § 16–115 of this subtitle, or any license to drive under any other section of this subtitle; and

(3) Be of the size and design that the Administration requires, tamperproof, to the extent possible, and contain:

- (i) The name and address of the applicant;
- (ii) The birth date of the applicant;
- (iii) The gender of the applicant;
- (iv) A description of the applicant;
- (v) A color photograph of the applicant taken by the procedure that the Administration requires;
- (vi) The expiration date of the identification card, moped operator's permit, or license to drive;
- (vii) The signature of the applicant; and
- (viii) The signature and seal of the issuing agent.

(e) An identification card, a moped operator's permit, or a license to drive issued or renewed under this section shall expire at the end of a period that is equivalent to the expiration period applicable for an identification card under § 12–301 of this article, a moped operator's permit under § 16–115 of this subtitle, or a license to drive under this subtitle.

(f) Except as otherwise expressly provided by law, an identification card, a moped operator's permit, or a license to drive issued under this section may be used for any purpose as legal identification of the holder to whom the identification card, moped operator's permit, or license to drive is issued.

(g) The Administration may establish a fee for the issuance or renewal of an identification card, a moped operator's permit, or a license to drive issued or renewed under this section.

(h) Except as expressly provided in this section, this section does not limit the application of any other provision of this article to an identification card, a moped operator's permit, or a license to drive issued under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2013~~ January 1, 2014.

Approved by the Governor, May 2, 2013.

Chapter 310

(Senate Bill 729)

AN ACT concerning

Calvert County – County Commissioners – Method of Election

FOR the purpose of altering the manner in which the County Commissioners of Calvert County are elected beginning with a certain general election; requiring that certain county commissioners be residents of and represent certain election districts; requiring that certain other county commissioners be residents of the county and represent the county at large; requiring that each candidate for the office of county commissioner specify when filing a certificate of candidacy certain information; making stylistic changes; and generally relating to the method of electing the County Commissioners of Calvert County.

BY repealing and reenacting, with amendments,
 The Public Local Laws of Calvert County
 Section 2–102
 Article 5 – Public Local Laws of Maryland
 (2002 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 5 – Calvert County

2–102.

(A) Beginning with the general election to be held in Calvert County in November, 1978, five County Commissioners shall be elected by countywide vote.

(B) [One] **BEGINNING WITH THE GENERAL ELECTION TO BE HELD IN CALVERT COUNTY IN NOVEMBER 2014:**

(1) **ONE COUNTY COMMISSIONER** shall be a resident of **AND SHALL REPRESENT** the first election district[,] **OF THE COUNTY;**

(2) [one] **ONE COUNTY COMMISSIONER SHALL BE** a resident of **AND SHALL REPRESENT** the second election district[,] **OF THE COUNTY;**

(3) [and one] **ONE COUNTY COMMISSIONER SHALL BE** a resident of **AND SHALL REPRESENT** the third election district of the county[. Of the remaining candidates, the two receiving the highest number of votes shall be selected]; **AND**

(4) TWO COUNTY COMMISSIONERS SHALL BE RESIDENTS OF THE COUNTY AND SHALL REPRESENT THE COUNTY AT LARGE.

(C) EACH CANDIDATE FOR THE OFFICE OF COUNTY COMMISSIONER SHALL SPECIFY AT THE TIME OF FILING A CERTIFICATE OF CANDIDACY WHETHER THE CANDIDATE IS SEEKING TO REPRESENT THE DISTRICT IN WHICH THE CANDIDATE RESIDES OR TO REPRESENT THE COUNTY AT LARGE.

(D) Commissioners who are elected and qualify shall take office the third Tuesday of December following election.

(E) Each commissioner shall hold office for four years or until a successor is elected and qualified.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 311

(Senate Bill 736)

AN ACT concerning

Insurance – Fraudulent Insurance Acts – Compensation for Deductible

FOR the purpose of providing that it is a fraudulent insurance act for ~~a person~~ certain persons offering certain services for certain damages to pay or otherwise compensate, or offer or promise to pay or compensate, with a certain intent, an insured for all or part of a certain insurance deductible ~~as an inducement to enter into a contract to furnish goods or services~~; providing certain penalties for a violation of certain provisions of this Act; and generally relating to fraudulent insurance acts.

BY adding to

Article – Insurance

Section 27-407.2

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 27-408(a)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
 Article – Insurance
 Section 27-408(b)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

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

Article – Insurance

27-407.2.

~~IT IS A FRAUDULENT INSURANCE ACT FOR A PERSON TO PAY OR OTHERWISE COMPENSATE, DIRECTLY OR INDIRECTLY, OR OFFER OR PROMISE TO PAY OR COMPENSATE, AN INSURED FOR ALL OR PART OF AN INSURANCE DEDUCTIBLE PROVIDED UNDER THE POLICY AS AN INDUCEMENT TO ENTER INTO A CONTRACT TO FURNISH GOODS OR SERVICES~~ CONTRACTOR OFFERING HOME REPAIR OR REMODELING SERVICES FOR DAMAGES TO A PRIVATE RESIDENCE CAUSED BY WEATHER, TO DIRECTLY OR INDIRECTLY PAY OR OTHERWISE COMPENSATE AN INSURED, OR OFFER OR PROMISE TO PAY OR COMPENSATE AN INSURED, WITH THE INTENT TO DEFRAUD AN INSURER, FOR ANY PART OF THE INSURED'S DEDUCTIBLE UNDER THE INSURED'S PROPERTY OR CASUALTY INSURANCE POLICY, IF PAYMENT FOR THE SERVICES WILL BE MADE FROM THE PROCEEDS OF THE POLICY.

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, § 27–406.1, § 27–407, [or] § 27–407.1, **OR § 27–407.2** 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, § 27–406.1, § 27–407, [or] § 27–407.1, **OR § 27–407.2** 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 subsection (a) of this section is mandatory and not subject to suspension.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 312

(Senate Bill 742)

AN ACT concerning

Vehicle Laws – Residential Parking in Baltimore City

FOR the purpose of establishing that certain provisions of law granting a person who is issued certain special registration plates for individuals with disabilities the

authority to park for unlimited periods of time in certain restricted parking zones do not supersede local ordinances in Baltimore City that restrict parking for vehicles that do not display specified residential parking permits; and generally relating to special registration plates for individuals with disabilities and residential parking in Baltimore City.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–616(f)
Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Transportation

13–616.

- (f) (1) In this subsection, “special types of vehicles” means:
- (i) Emergency vehicles defined under § 11–118 of this article;
 - (ii) Service vehicles defined under § 22–201 of this article;
 - (iii) Class B (for hire) vehicles;
 - (iv) Class C (funeral and ambulance) vehicles;
 - (v) Class H (school) vehicles;
 - (vi) Class I (charter bus) vehicles;
 - (vii) Class J (vanpool) vehicles;
 - (viii) Class P (passenger bus) vehicles;
 - (ix) Class Q (limousine) vehicles; and
 - (x) State or local government vehicles.

(2) The person for whom special registration plates are issued under this section or under a similar provision of any other state or country:

(i) 1. Except as provided in items (ii) and (iii) of this paragraph, may park for unlimited periods in parking zones restricted as to the length of parking time permitted; and

2. Is not required to pay any parking meter fees of this State or of any political subdivision of this State where parking meters do not meet the requirements of the Americans with Disabilities Act;

(ii) May park in a parking space equipped with a parking meter only for:

1. Except as provided in item (ii)2 of this paragraph, twice the maximum time period permitted on the parking meter but not to exceed a maximum of 4 hours; and

2. If the parking meter permits parking for more than 4 hours, the period permitted on the parking meter; and

(iii) Subject to the posted time restriction specified for this parking zone, may park in a designated zone for the handicapped established at any State-owned airport.

(3) The provisions of this subsection supersede any local ordinance, except that they do not apply:

(i) To zones where stopping, standing, or parking is prohibited to all vehicles;

(ii) To zones that are reserved for special types of vehicles; [or]

(iii) Where there is a local ordinance that prohibits parking during heavy traffic periods in morning, afternoon, or evening rush hours, or where parking clearly would present a traffic hazard; **OR**

(IV) IN BALTIMORE CITY, WHERE THERE IS A LOCAL ORDINANCE THAT RESTRICTS PARKING FOR VEHICLES THAT DO NOT DISPLAY A SPECIFIED RESIDENTIAL PARKING PERMIT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 313

(Senate Bill 745)

AN ACT concerning

**Public Safety – 9–1–1 Emergency Telephone Systems – Prepaid Service –
Collection of Surcharge**

FOR the purpose of establishing that the surcharge on wireless telecommunication services applies to prepaid service; establishing the amount of the prepaid wireless E 9–1–1 fee; allowing for the collection of the fee for the purpose of contributing to the 9–1–1 Trust Fund; authorizing certain percentages of the money collected from the fee to be used for certain purposes; providing that the fee shall be collected for certain transactions; providing that the fee is not subject to the sales and use tax; authorizing a seller to deduct and retain certain percentages of the fee under certain circumstances; establishing certain procedures for the collection of the fee; authorizing a seller to demonstrate a certain exemption from the fee in a certain manner; authorizing the Comptroller to adopt certain regulations; establishing certain immunity provisions; establishing that certain procedures apply to this Act; prohibiting certain charges from being imposed; defining certain terms; making technical changes; and generally relating to 9–1–1 emergency telephone systems and the collection of fees to support the systems.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 1–301 through 1–303 and 1–308 through 1–311
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Public Safety
Section 1–313
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article – Public Safety

1–301.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Additional charge” means the charge imposed by a county in accordance with § 1–311 of this subtitle.
- (c) “Board” means the Emergency Number Systems Board.

(d) “Commercial mobile radio service” or “CMRS” means mobile telecommunications service that is:

- (1) provided for profit with the intent of receiving compensation or monetary gain;
- (2) an interconnected, two-way voice service; and
- (3) available to the public.

(e) “Commercial mobile radio service provider” or “CMRS provider” means a person authorized by the Federal Communications Commission to provide CMRS in the State.

(f) “County plan” means a plan for a 9–1–1 system or enhanced 9–1–1 system, or an amendment to the plan, developed by a county or several counties together under this subtitle.

(g) (1) “Customer” means:

- (i) the person that contracts with a home service provider for CMRS; or
- (ii) the end user of the CMRS if the end user of the CMRS is not the contracting party.

(2) “Customer” does not include:

- (i) a reseller of CMRS; or
- (ii) a serving carrier under an arrangement to serve the customer outside the home service provider’s licensed service area.

(h) “Enhanced 9–1–1 system” means a 9–1–1 system that provides:

- (1) automatic number identification;
- (2) automatic location identification; and
- (3) any other technological advancements that the Board requires.

(i) “FCC order” means an order issued by the Federal Communications Commission under proceedings regarding the compatibility of enhanced 9–1–1 systems and delivery of wireless enhanced 9–1–1 service.

(j) “Home service provider” means the facilities-based carrier or reseller that contracts with a customer to provide CMRS.

(k) “Next generation 9–1–1 services” means an Internet Protocol (IP)–based system, comprised of hardware, software, data, and operational policies and procedures, that:

(1) provides standardized interfaces from emergency call and message services to support emergency communications;

(2) processes all types of emergency calls, including voice, text, data, and multimedia information;

(3) acquires and integrates additional emergency call data useful to call routing and handling;

(4) delivers the emergency calls, messages, and data to the appropriate public safety answering point and other appropriate emergency entities;

(5) supports data or video communications needs for coordinated incident response and management; and

(6) provides broadband service to public safety answering points or other first responder entities.

(l) “9–1–1–accessible service” means telephone service or another communications service that connects an individual dialing the digits 9–1–1 to an established public safety answering point.

(m) “9–1–1 fee” means the fee imposed in accordance with § 1–310 of this subtitle.

(n) (1) “9–1–1 service carrier” means a provider of CMRS or other 9–1–1–accessible service.

(2) “9–1–1 service carrier” does not include a telephone company.

(o) (1) “9–1–1 system” means telephone service that:

(i) meets the planning guidelines established under this subtitle; and

(ii) automatically connects an individual dialing the digits 9–1–1 to an established public safety answering point.

(2) “9–1–1 system” includes:

(i) equipment for connecting and outswitching 9–1–1 calls within a telephone central office;

(ii) trunking facilities from a telephone central office to a public safety answering point; and

(iii) equipment to connect 9–1–1 calls to the appropriate public safety agency.

(p) “9–1–1 Trust Fund” means the fund established under § 1–308 of this subtitle.

(Q) “PREPAID WIRELESS E 9–1–1 FEE” MEANS THE FEE THAT IS REQUIRED TO BE COLLECTED BY A SELLER FROM A CONSUMER IN THE AMOUNT ESTABLISHED UNDER § 1–313 OF THIS SUBTITLE.

(R) “PREPAID WIRELESS TELECOMMUNICATIONS SERVICE” MEANS A COMMERCIAL MOBILE RADIO SERVICE THAT:

(1) ALLOWS A CONSUMER TO DIAL 9–1–1 TO ACCESS THE 9–1–1 SYSTEM;

(2) MUST BE PAID FOR IN ADVANCE; AND

(3) IS SOLD IN PREDETERMINED UNITS THAT DECLINE WITH USE IN A KNOWN AMOUNT.

[(q)] (S) “Public safety agency” means:

(1) a functional division of a public agency that provides fire fighting, police, medical, or other emergency services; or

(2) a private entity that provides fire fighting, police, medical, or other emergency services on a voluntary basis.

[(r)] (T) “Public safety answering point” means a communications facility that:

(1) is operated on a 24–hour basis;

(2) first receives 9–1–1 calls in a 9–1–1 service area; and

(3) as appropriate, dispatches public safety services directly, or transfers 9–1–1 calls to appropriate public safety agencies.

[(s)] (U) “Secretary” means the Secretary of Public Safety and Correctional Services.

(v) **“SELLER” MEANS A PERSON THAT SELLS PREPAID WIRELESS TELECOMMUNICATIONS SERVICE TO ANOTHER PERSON.**

[(t)] (w) “Wireless enhanced 9–1–1 service” means enhanced 9–1–1 service under an FCC order.

1–302.

(a) The General Assembly:

(1) recognizes the paramount importance of the safety and well-being of the public;

(2) recognizes that timely and appropriate assistance must be provided when the lives or property of the public [is] **ARE** in imminent danger;

(3) recognizes that emergency assistance usually is summoned by telephone, and that a multiplicity of emergency telephone numbers existed throughout the State and within each county;

(4) was concerned that avoidable delays in reaching appropriate emergency assistance were occurring to the jeopardy of life and property; [and]

(5) acknowledges that the three digit number, 9–1–1, is a nationally recognized and applied telephone number that may be used to summon emergency assistance and to eliminate delays caused by lack of familiarity with emergency numbers and by confusion in circumstances of crisis; **AND**

(6) RECOGNIZES THAT ALL END USER CUSTOMERS OF 9–1–1–ACCESSIBLE SERVICES, INCLUDING CONSUMERS OF PREPAID WIRELESS TELECOMMUNICATIONS SERVICE, SHOULD CONTRIBUTE IN A FAIR AND EQUITABLE MANNER TO THE 9–1–1 TRUST FUND.

(b) The purposes of this subtitle are to:

(1) establish the three digit number, 9–1–1, as the primary emergency telephone number for the State; and

(2) provide for the orderly installation, maintenance, and operation of 9–1–1 systems in the State.

1–303.

(a) (1) This subtitle does not require a public service company to provide any equipment or service other than in accordance with tariffs approved by the Public Service Commission.

(2) The provision of services, the rates, and the extent of liability of a public service company are governed by the tariffs approved by the Public Service Commission.

(b) (1) This subtitle does not require a 9–1–1 service carrier to provide any equipment or service other than the equivalent of the equipment and service required of a telephone company under subsection (a) of this section.

(2) This subtitle does not extend any liability to a 9–1–1 service carrier **OR SELLER OF PREPAID WIRELESS TELECOMMUNICATIONS SERVICE.**

1–308.

(a) There is a 9–1–1 Trust Fund.

(b) The purposes of the 9–1–1 Trust Fund are to:

(1) reimburse counties for the cost of enhancing a 9–1–1 system;

(2) pay contractors in accordance with § 1–306(b)(12) of this subtitle;

and

(3) fund the coordinator position and staff to handle the increased duties related to wireless enhanced 9–1–1 service under § 1–305 of this subtitle, as an administrative cost.

(c) The 9–1–1 Trust Fund consists of:

(1) money from the 9–1–1 fee collected and remitted to the Comptroller under § 1–310 of this subtitle;

(2) money from the additional charge collected and remitted to the Comptroller under § 1–311 of this subtitle; [and]

(3) MONEY FROM THE PREPAID WIRELESS E 9–1–1 FEE COLLECTED AND REMITTED TO THE COMPTROLLER UNDER § 1–313 OF THIS SUBTITLE; AND

[(3)] (4) investment earnings of the 9–1–1 Trust Fund.

(d) Money in the 9–1–1 Trust Fund shall be held in the State Treasury.

(e) The Secretary shall administer the 9–1–1 Trust Fund, subject to the guidelines for financial management and budgeting established by the Department of Budget and Management.

(f) The Secretary shall direct the Comptroller to establish separate accounts in the 9-1-1 Trust Fund for the payment of administrative expenses and for each county.

(g) (1) Any investment earnings shall be credited to the 9-1-1 Trust Fund.

(2) The Comptroller shall allocate the investment income among the accounts in the 9-1-1 Trust Fund, prorated on the basis of the total fees collected in each county.

1-309.

(a) On recommendation of the Board, each year the Secretary shall request an appropriation from the 9-1-1 Trust Fund in an amount sufficient to:

(1) carry out the purposes of this subtitle;

(2) pay the administrative costs chargeable to the 9-1-1 Trust Fund;

and

(3) reimburse counties for the cost of enhancing a 9-1-1 system.

(b) (1) Subject to the limitations under subsection (e) of this section, the Comptroller shall disburse the money in the 9-1-1 Trust Fund as provided in this subsection.

(2) Each July 1, the Comptroller shall allocate sufficient money from the 9-1-1 fee to pay the costs of administering the 9-1-1 Trust Fund.

(3) As directed by the Secretary and in accordance with the State budget, the Comptroller, from the appropriate account, shall:

(i) reimburse counties for the cost of enhancing a 9-1-1 system;

and

(ii) pay contractors in accordance with § 1-306(b)(12) of this subtitle.

(4) (i) The Comptroller shall pay to each county from its account the money requested by the county to pay the maintenance and operation costs of the county's 9-1-1 system in accordance with the State budget.

(ii) The Comptroller shall pay the money for maintenance and operation costs on September 30, December 31, March 31, and June 30 of each year.

(c) (1) Money accruing to the 9–1–1 Trust Fund may be used as provided in this subsection.

(2) Money collected from the 9–1–1 fee may be used to:

(i) reimburse counties for the cost of enhancing a 9–1–1 system;
and
(ii) pay contractors in accordance with § 1–306(b)(12) of this subtitle.

(3) Money collected from the additional charge may be used by the counties for the maintenance and operation costs of the 9–1–1 system.

(4) MONEY COLLECTED FROM THE PREPAID WIRELESS E 9–1–1 FEE MAY BE USED AS FOLLOWS:

(I) 25% FOR THE SAME PURPOSE AS THE 9–1–1 FEE UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

(II) 75% FOR THE SAME PURPOSE AS THE ADDITIONAL CHARGE UNDER PARAGRAPH (3) OF THIS SUBSECTION, PRORATED ON THE BASIS OF THE TOTAL FEES COLLECTED IN EACH COUNTY.

(d) (1) Reimbursement may be made only to the extent that county money was used to enhance the 9–1–1 system.

(2) Reimbursement for the enhancement of 9–1–1 systems shall include the installation of equipment for automatic number identification, automatic location identification, and other technological advancements that the Board requires.

(3) Reimbursement from money collected from the 9–1–1 fee may be used only for 9–1–1 system enhancements approved by the Board.

(e) (1) The Board may direct the Comptroller to withhold from a county money for 9–1–1 system expenditures if the county violates this subtitle or a regulation of the Board.

(2) (i) The Board shall state publicly in writing its reason for withholding money from a county and shall record its reason in the minutes of the Board.

(ii) On reaching its decision to withhold money, the Board shall notify the county.

(iii) The county has 30 days after the date of notification to respond in writing to the Board.

(3) (i) On notification by the Board, the Comptroller shall hold money for the county in the county's account in the 9-1-1 Trust Fund.

(ii) Money held by the Comptroller under subparagraph (i) of this paragraph does not accrue interest for the county.

(iii) Interest income earned on money held by the Comptroller under subparagraph (i) of this paragraph accrues to the 9-1-1 Trust Fund.

(4) County money withheld by the Comptroller shall be withheld until the Board directs the Comptroller to release the money.

(f) (1) The Legislative Auditor shall conduct fiscal/compliance audits of the 9-1-1 Trust Fund and of the appropriations and disbursements made for purposes of this subtitle.

(2) The cost of the fiscal portion of the audits shall be paid from the 9-1-1 Trust Fund as an administrative cost.

1-310.

(A) THIS SECTION DOES NOT APPLY TO PREPAID WIRELESS TELECOMMUNICATIONS SERVICE.

[(a)] (B) Each subscriber to [switched] SWITCH local exchange access service or CMRS or other 9-1-1-accessible service shall pay a 9-1-1 fee.

[(b)] (C) The 9-1-1 fee is 25 cents per month, payable when the bill for the telephone service or CMRS or other 9-1-1-accessible service is due.

[(c)] (D) (1) The Public Service Commission shall direct each telephone company to add the 9-1-1 fee to all current bills rendered for switched local exchange access service in the State.

(2) Each telephone company:

(i) shall act as a collection agent for the 9-1-1 Trust Fund with respect to the 9-1-1 fees;

(ii) shall remit all money collected to the Comptroller on a monthly basis; and

(iii) is entitled to credit, against the money from the 9–1–1 fees to be remitted to the Comptroller, an amount equal to 0.75% of the 9–1–1 fees to cover the expenses of billing, collecting, and remitting the 9–1–1 fees and any additional charges.

(3) The Comptroller shall deposit the money remitted in the 9–1–1 Trust Fund.

[(d)] (E) (1) Each 9–1–1 service carrier shall add the 9–1–1 fee to all current bills rendered for CMRS or other 9–1–1-accessible service in the State.

(2) Each 9–1–1 service carrier:

(i) shall act as a collection agent for the 9–1–1 Trust Fund with respect to the 9–1–1 fees;

(ii) shall remit all money collected to the Comptroller on a monthly basis; and

(iii) is entitled to credit, against the money from the 9–1–1 fees to be remitted to the Comptroller, an amount equal to 0.75% of the 9–1–1 fees to cover the expenses of billing, collecting, and remitting the 9–1–1 fees and any additional charges.

(3) The Comptroller shall deposit the money remitted in the 9–1–1 Trust Fund.

(4) The Board shall adopt procedures for auditing surcharge collection and remittance by CMRS providers.

(5) On request of a CMRS provider, and except as otherwise required by law, the information that the CMRS provider reports to the Board shall be confidential, privileged, and proprietary and may not be disclosed to any person other than the CMRS provider.

[(e)] (F) Notwithstanding any other provision of this subtitle, the 9–1–1 fee does not apply to an intermediate service line used exclusively to connect a CMRS or other 9–1–1-accessible service, other than a switched local access service, to another telephone system or switching device.

[(f)] (G) A CMRS provider that pays or collects 9–1–1 fees under this section has the same immunity from liability for transmission failures as that approved by the Public Service Commission for local exchange telephone companies that are subject to regulation by the Commission under the Public Utilities Article.

(A) THIS SECTION DOES NOT APPLY TO PREPAID WIRELESS TELECOMMUNICATIONS SERVICE.

[(a)] (B) In addition to the 9-1-1 fee, the governing body of each county, by ordinance or resolution enacted or adopted after a public hearing, may impose an additional charge to be added to all current bills rendered for switched local exchange access service or CMRS or other 9-1-1-accessible service in the county.

[(b)] (C) (1) The additional charge imposed by a county may not exceed 75 cents per month per bill.

(2) The amount of the additional charges may not exceed a level necessary to cover the total eligible maintenance and operation costs of the county.

[(c)] (D) The additional charge continues in effect until repealed or modified by a subsequent county ordinance or resolution.

[(d)] (E) After imposing, repealing, or modifying an additional charge, the county shall certify the amount of the additional charge to the Public Service Commission.

[(e)] (F) The Public Service Commission shall direct each telephone company that provides service in a county that imposed an additional charge to add, within 60 days, the full amount of the additional charge to all current bills rendered for switched local exchange access service in the county.

[(f)] (G) Within 60 days after a county enacts or adopts an ordinance or resolution that imposes, repeals, or modifies an additional charge, each 9-1-1 service carrier that provides service in the county shall add the full amount of the additional charge to all current bills rendered for CMRS or other 9-1-1-accessible service in the county.

[(g)] (H) (1) Each telephone company and each 9-1-1 service carrier shall:

(i) act as a collection agent for the 9-1-1 Trust Fund with respect to the additional charge imposed by each county;

(ii) collect the money from the additional charge on a county basis; and

(iii) remit all money collected to the Comptroller on a monthly basis.

(2) The Comptroller shall deposit the money remitted in the 9-1-1 Trust Fund account maintained for the county that imposed the additional charge.

1-313.

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

(2) “CONSUMER” MEANS A PERSON THAT PURCHASES PREPAID WIRELESS TELECOMMUNICATIONS SERVICE IN A RETAIL TRANSACTION.

(3) “PROVIDER” MEANS A PERSON THAT PROVIDES PREPAID WIRELESS TELECOMMUNICATIONS SERVICE UNDER A LICENSE ISSUED BY THE FEDERAL COMMUNICATIONS COMMISSION.

(4) “RETAIL TRANSACTION” MEANS THE PURCHASE OF PREPAID WIRELESS TELECOMMUNICATIONS SERVICE FROM A SELLER FOR ANY PURPOSE OTHER THAN RESALE.

(B) THERE IS A PREPAID WIRELESS E 9-1-1 FEE OF 60 CENTS PER RETAIL TRANSACTION.

(C) (1) (I) THE PREPAID WIRELESS E 9-1-1 FEE SHALL BE COLLECTED BY THE SELLER FROM THE CONSUMER FOR EACH RETAIL TRANSACTION IN THE STATE.

(II) THE PREPAID WIRELESS E 9-1-1 FEE COLLECTED BY THE SELLER UNDER THIS SECTION IS NOT SUBJECT TO THE SALES AND USE TAX UNDER THE TAX – GENERAL ARTICLE.

(2) A RETAIL TRANSACTION OCCURS IN THE STATE IF:

(I) THE SALE OR RECHARGE TAKES PLACE AT THE SELLER’S PLACE OF BUSINESS LOCATED IN THE STATE;

(II) THE CONSUMER’S SHIPPING ADDRESS IS IN THE STATE;

OR

(III) NO ITEM IS SHIPPED, BUT THE CONSUMER’S BILLING ADDRESS OR THE LOCATION ASSOCIATED WITH THE CONSUMER’S MOBILE TELEPHONE NUMBER IS IN THE STATE.

(D) THE AMOUNT OF THE PREPAID WIRELESS E 9-1-1 FEE SHALL BE DISCLOSED TO THE CONSUMER AT THE TIME OF THE RETAIL TRANSACTION.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE PREPAID WIRELESS E 9-1-1 FEE IS THE LIABILITY OF THE CONSUMER AND NOT OF THE SELLER OR OF ANY PROVIDER.

(2) THE SELLER IS LIABLE FOR REMITTING ALL PREPAID WIRELESS E 9-1-1 FEES THAT THE SELLER COLLECTS FROM CONSUMERS AS PROVIDED IN THIS SECTION.

(F) (1) BEFORE DECEMBER 28, 2013, A SELLER MAY DEDUCT AND RETAIN 50% OF PREPAID WIRELESS E 9-1-1 FEES COLLECTED FROM CONSUMERS FOR DIRECT START-UP COSTS.

(2) ON OR AFTER DECEMBER 28, 2013, A SELLER MAY DEDUCT AND RETAIN 3% OF PREPAID WIRELESS E 9-1-1 FEES COLLECTED FROM CONSUMERS.

(G) A SELLER SHALL REPORT AND REMIT TO THE COMPTROLLER ALL PREPAID WIRELESS E 9-1-1 FEES COLLECTED BY THE SELLER IN THE MANNER PROVIDED FOR THE REMITTING OF THE SALES AND USE TAX UNDER TITLES 11 AND 13 OF THE TAX - GENERAL ARTICLE.

(H) THE COMPTROLLER SHALL DEPOSIT ALL REPORTED AND REMITTED PREPAID WIRELESS E 9-1-1 FEES INTO THE 9-1-1 TRUST FUND WITHIN 30 DAYS OF RECEIPT.

(I) A SELLER MAY DEMONSTRATE THAT A SALE IS NOT A RETAIL TRANSACTION IN A MANNER ESTABLISHED BY THE COMPTROLLER THAT IS SUBSTANTIALLY SIMILAR TO THE PROCEDURES FOR DEMONSTRATING A RESALE FOR EXEMPTION FROM THE SALES AND USE TAX UNDER TITLES 11 AND 13 OF THE TAX - GENERAL ARTICLE.

(J) FOR THE PURPOSE OF THIS SECTION, THE AUDIT AND APPEAL PROCEDURES ESTABLISHED FOR THE SALES AND USE TAX UNDER TITLES 11 AND 13 OF THE TAX - GENERAL ARTICLE APPLY.

(K) A SELLER THAT IS NOT A PROVIDER OF PREPAID WIRELESS TELECOMMUNICATIONS SERVICE IS NOT LIABLE FOR DAMAGES IN CONNECTION WITH:

(1) THE PROVISION OF, OR FAILURE OF, 9-1-1 OR E 9-1-1 SERVICE;

(2) IDENTIFYING, OR FAILING TO IDENTIFY, THE TELEPHONE NUMBER, ADDRESS, LOCATION, OR NAME ASSOCIATED WITH ANY PERSON OR

DEVICE THAT IS ACCESSING OR ATTEMPTING TO ACCESS 9-1-1 OR E 9-1-1 SERVICE; OR

(3) THE PROVISION OF ANY LAWFUL ASSISTANCE TO ANY INVESTIGATIVE OR LAW ENFORCEMENT OFFICER.

(L) PROVIDERS AND SELLERS OF PREPAID WIRELESS TELECOMMUNICATIONS SERVICE HAVE THE SAME IMMUNITY FROM LIABILITY FOR TRANSMISSION FAILURES AS THAT APPROVED BY THE PUBLIC SERVICE COMMISSION FOR LOCAL EXCHANGE TELEPHONE COMPANIES THAT ARE SUBJECT TO REGULATION BY THE COMMISSION UNDER THE PUBLIC UTILITIES ARTICLE.

(M) A TAX, A FEE, A SURCHARGE, OR ANY OTHER CHARGE MAY NOT BE IMPOSED BY THE STATE, ANY POLITICAL SUBDIVISION OF THE STATE, OR ANY INTERGOVERNMENTAL AGENCY, FOR E 9-1-1 FUNDING PURPOSES, ON ANY PROVIDER, SELLER, OR CONSUMER WITH RESPECT TO THE SALE, PURCHASE, USE, OR PROVISION OF PREPAID WIRELESS TELECOMMUNICATIONS SERVICE.

(N) THE COMPTROLLER SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 314

(Senate Bill 748)

AN ACT concerning

Agriculture – Nutrient Management – ~~Waters of the State~~ Limiting Applicability

FOR the purpose of ~~altering the definition of “waters of the State” as it relates to the~~ specifying that certain requirements of the nutrient management program administered by the Department of Agriculture apply to certain surface waters, the Chesapeake Bay and its tributaries, and other certain bodies of water; and generally relating to nutrient management.

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

~~Article – Agriculture~~~~Section 8–801(a), 8–803.6(a), and 8–803.7(e)~~~~Annotated Code of Maryland~~~~(2007 Replacement Volume and 2012 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Agriculture

Section ~~8–801(n)~~ 8–803.4(e) and 8–803.5(d)

Annotated Code of Maryland

(2007 Replacement Volume and 2012 Supplement)

(As enacted by Chapters 484 and 485 of the Acts of the General Assembly of 2011)

BY repealing and reenacting, without amendments,

Article – Agriculture

Section 8–803.4~~(e)~~ and (i) and 8–803.5(b) ~~and (d)~~

Annotated Code of Maryland

(2007 Replacement Volume and 2012 Supplement)

(As enacted by Chapters 484 and 485 of the Acts of the General Assembly of 2011)

BY repealing and reenacting, with amendments,Article – AgricultureSection 8–803.6(a)Annotated Code of Maryland(2007 Replacement Volume and 2012 Supplement)

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

Article – Agriculture~~§ 801.~~~~(a) In this subtitle the following words have the meanings indicated.~~~~(n) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, “WATERS OF THE STATE” has the meaning stated in § 5–101 of the Environment Article.~~~~(2) “Waters of the State” DOES NOT INCLUDE:~~~~(i) UNDERGROUND WATERS WITHIN THE BOUNDARIES OF THE STATE THAT ARE SUBJECT TO ITS JURISDICTION; OR~~

~~(II) A FLOODPLAIN OF FREE FLOWING WATERS AS DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT ON THE BASIS OF THE 100 YEAR FLOOD FREQUENCY.~~

8-803.4.

(e) (1) Except as provided in paragraph (2) of this subsection, a professional fertilizer applicator may not apply fertilizer containing phosphorus or nitrogen to turf that is within 15 feet of ~~waters of the State~~:

(I) SURFACE WATER SUBJECT TO THE JURISDICTION OF THE STATE;

(II) THE CHESAPEAKE BAY AND ITS TRIBUTARIES;

(III) A POND WITHIN THE STATE;

(IV) A LAKE WITHIN THE STATE;

(V) A RIVER WITHIN THE STATE;

(VI) A STREAM WITHIN THE STATE;

(VII) A PUBLIC DITCH WITHIN THE STATE;

(VIII) A TAX DITCH WITHIN THE STATE; OR

(IX) A PUBLIC DRAINAGE SYSTEM WITHIN THE STATE, OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE OF SANITARY SEWAGE.

(2) When a drop spreader, rotary spreader with a deflector, or targeted spray liquid is used for fertilizer application, the setback required under paragraph (1) of this subsection may be reduced to 10 feet.

(3) The establishment of setbacks for fertilizer application under this subsection does not preclude the establishment or applicability of, or compliance with, any other environmental standards established under any other State or federal law, rule, or regulation.

(i) The penalty imposed on a person under this section shall be assessed with consideration given to:

(1) The willfulness of the violation, the extent to which the existence of the violation was known to the violator but uncorrected by the violator, and the extent to which the violator exercised reasonable care;

(2) Any actual harm to human health or to the environment including injury to or impairment of the use of the waters of the State or the natural resources of the State;

(3) The cost of control;

(4) The nature and degree of injury to or interference with general welfare, health, and property;

(5) The extent to which the location of the violation, including location near areas of human population, creates the potential for harm to the environment or to human health or safety; and

(6) The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator.

8-803.5.

(b) (1) This section applies to a person who applies fertilizer to:

(i) Property that is not used for agricultural purposes; or

(ii) State property that is not used for agricultural purposes.

(2) This section does not apply to the application of fertilizer on commercial farms.

(d) (1) Except as provided in paragraph (2) of this subsection, a person may not apply fertilizer containing phosphorus or nitrogen to turf that is within 15 feet of ~~waters of the State;~~

(I) SURFACE WATER SUBJECT TO THE JURISDICTION OF THE STATE;

(II) THE CHESAPEAKE BAY AND ITS TRIBUTARIES;

(III) A POND WITHIN THE STATE;

(IV) A LAKE WITHIN THE STATE;

(V) A RIVER WITHIN THE STATE;

(VI) A STREAM WITHIN THE STATE;

(VII) A PUBLIC DITCH WITHIN THE STATE;

(VIII) A TAX DITCH WITHIN THE STATE; OR**(IX) A PUBLIC DRAINAGE SYSTEM WITHIN THE STATE, OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE OF SANITARY SEWAGE.**

(2) When a drop spreader, rotary spreader with a deflector, or targeted spray liquid is used for fertilizer application, the setback required under paragraph (1) of this subsection may be reduced to 10 feet.

(3) The establishment of setbacks for fertilizer application under this subsection does not preclude the establishment or applicability of, or compliance with, any other environmental standards established under any other State or federal law, rule, or regulation.

8–803.6.

(a) (1) The Department shall, in consultation with the University of Maryland, establish a program to certify professional fertilizer applicators.

(2) The certification program shall provide professional fertilizer applicators with training and education in the following subject areas:

(i) The proper use and calibration of fertilizer application equipment;

(ii) The hazards involved in, and the environmental impact of, applying fertilizer, including nutrient pollution to ~~the waters of the State;~~

1. SURFACE WATER SUBJECT TO THE JURISDICTION OF THE STATE;

2. THE CHESAPEAKE BAY AND ITS TRIBUTARIES;

3. A POND WITHIN THE STATE;

4. A LAKE WITHIN THE STATE;

5. A RIVER WITHIN THE STATE;

6. A STREAM WITHIN THE STATE;

7. A PUBLIC DITCH WITHIN THE STATE;

8. A TAX DITCH WITHIN THE STATE; AND

9. A PUBLIC DRAINAGE SYSTEM WITHIN THE STATE, OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE OF SANITARY SEWAGE;

- (iii) All applicable State and federal laws, rules, and regulations;
 - (iv) The correct interpretation of fertilizer labeling information;
- and
- (v) The recommendations developed by the University of Maryland for nutrient management on turf, including the appropriate time to:
 1. Apply fertilizer when rain is forecast; and
 2. Apply fertilizer when soils are wet and the potential for fertilizer movement off-site exists.

~~§ 803.7.~~

~~(e) The University of Maryland shall review its fertilizer turf guidelines every 3 years and revise the guidelines as necessary, with consideration of plant nutrient requirements and established State goals to protect water quality in the waters of the State.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013, the effective date of Sections 4 and 5 of Chapters 484 and 485 of the Acts of the General Assembly of 2011. If the effective dates of Sections 4 and 5 of Chapters 484 and 485 are amended, this Act shall take effect on the taking effect of Sections 4 and 5 of Chapters 484 and 485.

Approved by the Governor, May 2, 2013.

Chapter 315

(House Bill 561)

AN ACT concerning

Agriculture – Nutrient Management – ~~Waters of the State~~ Limiting Applicability

FOR the purpose of ~~altering the definition of “waters of the State” as it relates to the~~ specifying that certain requirements of the nutrient management program administered by the Department of Agriculture apply to certain surface waters,

the Chesapeake Bay and its tributaries, and other certain bodies of water; and generally relating to nutrient management.

~~BY repealing and reenacting, without amendments,
Article – Agriculture
Section ~~8–801(a), 8–803.6(a), and 8–803.7(e)~~
Annotated Code of Maryland
(~~2007 Replacement Volume and 2012 Supplement~~)~~

BY repealing and reenacting, with amendments,
Article – Agriculture
Section ~~8–801(n)~~ 8–803.4(e) and 8–803.5(d)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)
(As enacted by Chapters 484 and 485 of the Acts of the General Assembly of 2011)

BY repealing and reenacting, without amendments,
Article – Agriculture
Section ~~8–803.4(e) and (i) and 8–803.5(b) and (d)~~
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)
(As enacted by Chapters 484 and 485 of the Acts of the General Assembly of 2011)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 8–803.6(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

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

Article – Agriculture

~~§ 801.~~

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

~~(n) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, “WATERS OF THE STATE” has the meaning stated in § 5–101 of the Environment Article.~~

~~(2) “Waters of the State” DOES NOT INCLUDE:~~

~~(I) UNDERGROUND WATERS WITHIN THE BOUNDARIES OF THE STATE THAT ARE SUBJECT TO ITS JURISDICTION; OR~~

~~(II) A FLOODPLAIN OF FREE-FLOWING WATERS AS DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT ON THE BASIS OF THE 100-YEAR FLOOD FREQUENCY.~~

8-803.4.

(e) (1) Except as provided in paragraph (2) of this subsection, a professional fertilizer applicator may not apply fertilizer containing phosphorus or nitrogen to turf that is within 15 feet of ~~waters of the State~~:

(I) SURFACE WATER SUBJECT TO THE JURISDICTION OF THE STATE;

(II) THE CHESAPEAKE BAY AND ITS TRIBUTARIES;

(III) A POND WITHIN THE STATE;

(IV) A LAKE WITHIN THE STATE;

(V) A RIVER WITHIN THE STATE;

(VI) A STREAM WITHIN THE STATE;

(VII) A PUBLIC DITCH WITHIN THE STATE;

(VIII) A TAX DITCH WITHIN THE STATE; OR

(IX) A PUBLIC DRAINAGE SYSTEM WITHIN THE STATE, OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE OF SANITARY SEWAGE.

(2) When a drop spreader, rotary spreader with a deflector, or targeted spray liquid is used for fertilizer application, the setback required under paragraph (1) of this subsection may be reduced to 10 feet.

(3) The establishment of setbacks for fertilizer application under this subsection does not preclude the establishment or applicability of, or compliance with, any other environmental standards established under any other State or federal law, rule, or regulation.

(i) The penalty imposed on a person under this section shall be assessed with consideration given to:

(1) The willfulness of the violation, the extent to which the existence of the violation was known to the violator but uncorrected by the violator, and the extent to which the violator exercised reasonable care;

(2) Any actual harm to human health or to the environment including injury to or impairment of the use of the waters of the State or the natural resources of the State;

(3) The cost of control;

(4) The nature and degree of injury to or interference with general welfare, health, and property;

(5) The extent to which the location of the violation, including location near areas of human population, creates the potential for harm to the environment or to human health or safety; and

(6) The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator.

8-803.5.

(b) (1) This section applies to a person who applies fertilizer to:

(i) Property that is not used for agricultural purposes; or

(ii) State property that is not used for agricultural purposes.

(2) This section does not apply to the application of fertilizer on commercial farms.

(d) (1) Except as provided in paragraph (2) of this subsection, a person may not apply fertilizer containing phosphorus or nitrogen to turf that is within 15 feet of ~~waters of the State~~;

(I) SURFACE WATER SUBJECT TO THE JURISDICTION OF THE STATE;

(II) THE CHESAPEAKE BAY AND ITS TRIBUTARIES;

(III) A POND WITHIN THE STATE;

(IV) A LAKE WITHIN THE STATE;

(V) A RIVER WITHIN THE STATE;

(VI) A STREAM WITHIN THE STATE;

(VII) A PUBLIC DITCH WITHIN THE STATE;

(VIII) A TAX DITCH WITHIN THE STATE; OR

(IX) A PUBLIC DRAINAGE SYSTEM WITHIN THE STATE, OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE OF SANITARY SEWAGE.

(2) When a drop spreader, rotary spreader with a deflector, or targeted spray liquid is used for fertilizer application, the setback required under paragraph (1) of this subsection may be reduced to 10 feet.

(3) The establishment of setbacks for fertilizer application under this subsection does not preclude the establishment or applicability of, or compliance with, any other environmental standards established under any other State or federal law, rule, or regulation.

8-803.6.

(a) (1) The Department shall, in consultation with the University of Maryland, establish a program to certify professional fertilizer applicators.

(2) The certification program shall provide professional fertilizer applicators with training and education in the following subject areas:

(i) The proper use and calibration of fertilizer application equipment;

(ii) The hazards involved in, and the environmental impact of, applying fertilizer, including nutrient pollution to ~~the waters of the State;~~

1. SURFACE WATER SUBJECT TO THE JURISDICTION OF THE STATE;

2. THE CHESAPEAKE BAY AND ITS TRIBUTARIES;

3. A POND WITHIN THE STATE;

4. A LAKE WITHIN THE STATE;

5. A RIVER WITHIN THE STATE;

6. A STREAM WITHIN THE STATE;

7. A PUBLIC DITCH WITHIN THE STATE;**8. A TAX DITCH WITHIN THE STATE; AND****9. A PUBLIC DRAINAGE SYSTEM WITHIN THE STATE, OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE OF SANITARY SEWAGE;**

(iii) All applicable State and federal laws, rules, and regulations;

(iv) The correct interpretation of fertilizer labeling information;

and

(v) The recommendations developed by the University of Maryland for nutrient management on turf, including the appropriate time to:

1. Apply fertilizer when rain is forecast; and

2. Apply fertilizer when soils are wet and the potential for fertilizer movement off-site exists.

~~§ 803.7.~~

~~(e) The University of Maryland shall review its fertilizer turf guidelines every 3 years and revise the guidelines as necessary, with consideration of plant nutrient requirements and established State goals to protect water quality in the waters of the State.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013, the effective date of Sections 4 and 5 of Chapters 484 and 485 of the Acts of the General Assembly of 2011. If the effective dates of Sections 4 and 5 of Chapters 484 and 485 are amended, this Act shall take effect on the taking effect of Sections 4 and 5 of Chapters 484 and 485.

Approved by the Governor, May 2, 2013.

Chapter 316

(Senate Bill 752)

AN ACT concerning

**Department of Budget and Management – Foster Youth Summer Internship
Pilot Program**

FOR the purpose of requiring the Secretary of Budget and Management, with the assistance of the Secretary of Human Resources and in consultation with certain persons, to develop and implement the Foster Youth Summer Internship Pilot Program; specifying the purposes of the Program; specifying that an internship under the Program ~~is may be paid or unpaid and shall continue for a certain period;~~ requiring the Program to be established in ~~at least three counties in~~ multiple regions of the State, ~~including one in a certain area of the State;~~ requiring the Secretary of Budget and Management to coordinate with certain State agencies on establishing certain internships; authorizing agencies participating in the Program to take certain actions; establishing certain eligibility requirements for individuals participating in an internship under the Program; requiring the Secretary of Budget and Management, in consultation with the Secretary of Human Resources, to issue ~~a certain reports~~ report to the Senate Budget and Taxation Committee, the Senate Finance Committee, and the House Appropriations Committee of the General Assembly ~~by~~ on or before a certain date ~~date;~~ specifying the contents of the ~~reports~~ report; providing for a delayed effective date; providing for the termination of this Act; defining certain terms; and generally relating to internship opportunities for certain foster youth.

~~BY adding to~~

~~Article – Human Services
Section 5-318.1
Annotated Code of Maryland
(2007 Volume and 2012 Supplement)~~

BY adding to

Article – State Finance and Procurement
Section 3-207
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

~~Article – Human Services~~

~~5-318.1.~~

Article – State Finance and Procurement

3-207.

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

(2) “FOSTER YOUTH” MEANS AN INDIVIDUAL WHO:

(I) IS IN OUT-OF-HOME CARE UNDER THE RESPONSIBILITY OF THE STATE; OR

(II) 1. IS AN ADULT UNDER THE AGE OF 26 YEARS; AND

2. WAS IN OUT-OF-HOME CARE UNDER THE RESPONSIBILITY OF THE STATE ON THE INDIVIDUAL’S 18TH BIRTHDAY.

(3) “PROGRAM” MEANS THE FOSTER YOUTH SUMMER INTERNSHIP PILOT PROGRAM ESTABLISHED UNDER THIS SECTION.

(B) ~~THE SECRETARY OF BUDGET AND MANAGEMENT~~ SHALL:

(1) DEVELOP AND IMPLEMENT A FOSTER YOUTH SUMMER INTERNSHIP PILOT PROGRAM WITH THE ASSISTANCE OF THE SECRETARY OF HUMAN RESOURCES AND IN CONSULTATION WITH ~~THE LOCAL SOCIAL SERVICES DIRECTORS~~ LOCAL DIRECTORS OF LOCAL DEPARTMENTS OF SOCIAL SERVICES; AND

(2) COORDINATE WITH STATE AGENCIES TO ESTABLISH INTERNSHIPS IN STATE AGENCIES THAT ARE OPEN ~~EXCLUSIVELY~~ TO PARTICIPANTS IN THE PROGRAM.

(C) THE PURPOSE OF THE PROGRAM IS TO PROVIDE FOSTER YOUTH WITH TRAINING AND EXPERIENCE THROUGH INTERNSHIPS IN AGENCIES WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

(D) THE PROGRAM SHALL BE ESTABLISHED IN ~~AT LEAST THREE COUNTIES, ONE OF WHICH SHALL BE LOCATED IN WESTERN MARYLAND, SOUTHERN MARYLAND, OR THE EASTERN SHORE~~ MULTIPLE REGIONS OF THE STATE.

(E) INTERNSHIPS UNDER THE PROGRAM ~~SHALL BE~~ MAY BE PAID OR UNPAID AND SHALL BEGIN IN JUNE EACH YEAR AND CONTINUE FOR A PERIOD OF AT LEAST 3 MONTHS.

(F) A STATE AGENCY PARTICIPATING IN THE PROGRAM MAY:

(1) SPECIFY REQUIREMENTS FOR INTERNSHIP APPLICANTS; AND

(2) SELECT ITS INTERNS FROM AMONG THE AVAILABLE APPLICANTS.

(G) TO BE ELIGIBLE TO PARTICIPATE IN AN INTERNSHIP UNDER THE PROGRAM, AN INDIVIDUAL MUST BE A FOSTER YOUTH AT LEAST ~~17~~ 15 YEARS OLD.

(H) ON OR BEFORE ~~OCTOBER 31 OF EACH YEAR~~ OCTOBER 31, 2015, THE SECRETARY ~~OF BUDGET AND MANAGEMENT~~, IN CONSULTATION WITH THE SECRETARY OF HUMAN RESOURCES, SHALL REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE FINANCE COMMITTEE, AND THE HOUSE APPROPRIATIONS COMMITTEE OF THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:

(1) THE NUMBER OF FOSTER YOUTH PARTICIPATING IN THE PROGRAM;

(2) THE LOCATION AND TYPE OF INTERNSHIPS IN THE PROGRAM;

(3) EFFORTS TO RECRUIT ELIGIBLE INDIVIDUALS TO PARTICIPATE IN THE PROGRAM; AND

(4) FACTORS THAT AFFECT PROGRAM PARTICIPATION.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before March 1, 2014, the Secretary of Budget and Management, in consultation with the Secretary of Human Resources, shall report to the Senate Finance Committee and the House Appropriations Committee, in accordance with § 2-1246 of the State Government Article, on plans for implementing the Foster Youth Summer Internship Pilot Program established under this Act.~~

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014. It shall remain effective for a period of 2 years and, at the end of December 31, 2016, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 317

(House Bill 1119)

AN ACT concerning

**Department of Budget and Management – Foster Youth Summer Internship
Pilot Program**

FOR the purpose of requiring the Secretary of Budget and Management, with the assistance of the Secretary of Human Resources and in consultation with certain persons, to develop and implement the Foster Youth Summer Internship Pilot Program; specifying the purposes of the Program; specifying that an internship under the Program may be paid or unpaid ~~and shall continue for a certain period~~; requiring the Program to be established in at least three counties in multiple regions of the State; requiring the Secretary of Budget and Management to coordinate with certain State agencies on establishing certain internships; authorizing agencies participating in the Program to take certain actions; establishing certain eligibility requirements for individuals participating in an internship under the Program; requiring the Secretary of Budget and Management, in consultation with the Secretary of Human Resources, to issue a certain reports report ~~reports~~ to the Senate Budget and Taxation Committee, the Senate Finance Committee, and the House Appropriations Committee of the General Assembly by on or before a certain date ~~date~~; specifying the contents of the reports report; providing for a delayed effective date; providing for the termination of this Act; defining certain terms; and generally relating to internship opportunities for certain foster youth.

~~BY adding to~~

~~Article – Human Services~~

~~Section 5-318.1~~

~~Annotated Code of Maryland~~

~~(2007 Volume and 2012 Supplement)~~

BY adding to

Article – State Finance and Procurement

Section 3-207

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

~~Article – Human Services~~

~~5-318.1.~~

Article – State Finance and Procurement

3-207.

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

(2) "FOSTER YOUTH" MEANS AN INDIVIDUAL WHO:

(I) IS IN OUT-OF-HOME CARE UNDER THE RESPONSIBILITY OF THE STATE; OR

(II) 1. IS AN ADULT UNDER THE AGE OF 26 YEARS; AND

2. WAS IN OUT-OF-HOME CARE UNDER THE RESPONSIBILITY OF THE STATE ON THE INDIVIDUAL'S 18TH BIRTHDAY.

(3) "PROGRAM" MEANS THE FOSTER YOUTH SUMMER INTERNSHIP PILOT PROGRAM ESTABLISHED UNDER THIS SECTION.

(B) THE SECRETARY ~~OF BUDGET AND MANAGEMENT~~ SHALL:

(1) DEVELOP AND IMPLEMENT A FOSTER YOUTH SUMMER INTERNSHIP PILOT PROGRAM WITH THE ASSISTANCE OF THE SECRETARY OF HUMAN RESOURCES AND IN CONSULTATION WITH THE ~~LOCAL SOCIAL SERVICES DIRECTORS~~ LOCAL DIRECTORS OF LOCAL DEPARTMENTS OF SOCIAL SERVICES; AND

(2) COORDINATE WITH STATE AGENCIES TO ESTABLISH INTERNSHIPS IN STATE AGENCIES THAT ARE OPEN TO PARTICIPANTS IN THE PROGRAM.

(C) THE PURPOSE OF THE PROGRAM IS TO PROVIDE FOSTER YOUTH WITH TRAINING AND EXPERIENCE THROUGH INTERNSHIPS IN AGENCIES WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

(D) THE PROGRAM SHALL BE ESTABLISHED IN ~~AT LEAST THREE COUNTIES~~ MULTIPLE REGIONS OF THE STATE.

(E) INTERNSHIPS UNDER THE PROGRAM MAY BE PAID OR UNPAID ~~AND SHALL BEGIN IN JUNE EACH YEAR AND CONTINUE FOR A PERIOD OF AT LEAST 3 MONTHS.~~

(F) A STATE AGENCY PARTICIPATING IN THE PROGRAM MAY:

(1) SPECIFY REQUIREMENTS FOR INTERNSHIP APPLICANTS; AND

(2) SELECT ITS INTERNS FROM AMONG THE AVAILABLE APPLICANTS.

(G) TO BE ELIGIBLE TO PARTICIPATE IN AN INTERNSHIP UNDER THE PROGRAM, AN INDIVIDUAL MUST BE A FOSTER YOUTH AT LEAST 15 YEARS OLD.

(H) ON OR BEFORE ~~OCTOBER 31 OF EACH YEAR, THE SECRETARY OF BUDGET AND MANAGEMENT,~~ OCTOBER 31, 2015, THE SECRETARY, IN CONSULTATION WITH THE SECRETARY OF HUMAN RESOURCES, SHALL REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE FINANCE COMMITTEE, AND THE HOUSE APPROPRIATIONS COMMITTEE OF THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:

(1) THE NUMBER OF FOSTER YOUTH PARTICIPATING IN THE PROGRAM;

(2) THE LOCATION AND TYPE OF INTERNSHIPS IN THE PROGRAM;

(3) EFFORTS TO RECRUIT ELIGIBLE INDIVIDUALS TO PARTICIPATE IN THE PROGRAM; AND

(4) FACTORS THAT AFFECT PROGRAM PARTICIPATION.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before March 1, 2014, the Secretary of Budget and Management, in consultation with the Secretary of Human Resources, shall report to the Senate Budget and Taxation Committee and the House Appropriations Committee, in accordance with § 2-1246 of the State Government Article, on plans for implementing the Foster Youth Summer Internship Pilot Program established under this Act.~~

SECTION ~~2.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014. It shall remain effective for a period of 2 years and, at the end of December 31, 2016, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 318

(Senate Bill 769)

AN ACT concerning

Health Benefit Plans – Proposed Rate Increases – Notice to Insureds

FOR the purpose of requiring health insurance carriers ~~that file a proposed rate increase for a health benefit plan with the Maryland Insurance Commissioner to send certain notice in a certain manner to insureds affected by the proposed rate increase; authorizing the notice to be sent by electronic mail under certain circumstances; authorizing the Commissioner to adopt certain regulations; defining a certain term to provide a certain notice to insureds and enrollees, and post a certain notice on the carrier's Web site, that an insured or enrollee may access certain information and submit certain comments relating to proposed rate increases on the Maryland Insurance Administration's Web site; and generally relating to notice of proposed rate increases for health benefit plans.~~

~~BY adding to~~

~~Article – Health – General~~

~~Section 19-706(oooo)~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2012 Supplement)~~

BY adding to

Article – Insurance

Section ~~15-140~~ 11-604

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

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

~~Article – Health – General~~

~~19-706.~~

~~(oooo) THE PROVISIONS OF § 15-140 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.~~

Article – Insurance

~~15-140.~~

~~(A) IN THIS SECTION, “CARRIER” MEANS:~~

~~(1) AN INSURER;~~

~~(2) A NONPROFIT HEALTH SERVICE PLAN;~~

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

~~(4) A DENTAL PLAN ORGANIZATION; OR~~

~~(5) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS SUBJECT TO REGULATION BY THE STATE.~~

~~(B) AT THE TIME OF FILING A PROPOSED RATE INCREASE FOR A HEALTH BENEFIT PLAN WITH THE COMMISSIONER, A CARRIER SHALL SEND WRITTEN NOTICE TO EACH INSURED AFFECTED BY THE PROPOSED RATE INCREASE THAT:~~

~~(1) THE CARRIER HAS FILED A PROPOSED RATE INCREASE FOR THE INSURED'S HEALTH BENEFIT PLAN WITH THE COMMISSIONER; AND~~

~~(2) THE INSURED MAY COMMENT ON THE PROPOSED RATE INCREASE BY SUBMITTING COMMENTS TO THE COMMISSIONER;~~

~~(I) DURING THE 30-DAY PUBLIC COMMENT PERIOD AFTER THE RATE INCREASE IS FILED; AND~~

~~(H) IN THE MANNER PROVIDED FOR ON THE ADMINISTRATION'S WEB SITE.~~

~~(C) IF A CARRIER HAS AN ELECTRONIC MAIL ADDRESS FOR AN INSURED AFFECTED BY A PROPOSED RATE INCREASE FOR A HEALTH BENEFIT PLAN, THE CARRIER MAY PROVIDE THE NOTICE REQUIRED BY SUBSECTION (B) OF THIS SECTION TO THE INSURED BY ELECTRONIC MAIL.~~

~~(D) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

11-604.

A CARRIER SHALL PROVIDE NOTICE ANNUALLY TO ITS INSUREDS AND ENROLLEES, AND POST A NOTICE ON THE CARRIER'S WEB SITE, THAT AN INSURED OR ENROLLEE MAY ACCESS INFORMATION ABOUT PROPOSED RATE INCREASES AND SUBMIT COMMENTS REGARDING PROPOSED RATE INCREASES ON THE ADMINISTRATION'S WEB SITE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 319

(Senate Bill 776)

AN ACT concerning

~~**Task Force on the Use of Telehealth to Improve Maryland Health Care**~~
Telemedicine Task Force – Maryland Health Care Commission

FOR the purpose of ~~establishing the Task Force on the Use of Telehealth to Improve Maryland Health Care; providing for the membership, co-chairs, and staffing of the Task Force; providing for the duties of the Task Force; providing that a member of the Task Force may not receive certain compensation but is entitled to certain reimbursement; requiring the Task Force to provide certain reports to the Governor and the General Assembly on or before certain dates; providing for the termination of this Act; and generally relating to the Task Force on the Use of Telehealth to Improve Maryland Health Care~~ declaring the intent of the General Assembly that the Maryland Health Care Commission, in conjunction with the Maryland Health Quality and Cost Council, continue to study the use of telehealth throughout the State through the Telemedicine Task Force; requiring the Task Force to consist of certain advisory groups and undertake certain activities; and requiring the Commission, on or before certain dates, to submit certain reports of the Task Force to the Governor and certain legislative committees.

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

~~(a) There is a Task Force on the Use of Telehealth to Improve Maryland Health Care.~~

~~(b) The Task Force consists of the following members:~~

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

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

~~(3) the Secretary of Health and Mental Hygiene, or the Secretary's designee;~~

~~(4) the Director of the Department of Health and Mental Hygiene's Office of Rural Health, or the Director's designee;~~

~~(5) the Director of Program Development for the Maryland Critical Care Network Vice President of Telemedicine – University of Maryland Medical System, or the Director's Vice President's designee;~~

~~(6) the Executive Director of the Maryland Health Care Commission, or the Executive Director's designee;~~

~~(7) the Executive Director of the Rural Health Association, or the Executive Director's designee;~~

~~(8) the Executive Director of the Rural Maryland Council, or the Executive Director's designee;~~

~~(9) the Executive Director of the Maryland Institute for Emergency Medical Services Systems, or the Executive Director's designee; and~~

~~(10) the following members, appointed by the Governor:~~

~~(i) two representatives from the medical communities organizations that serve medically underserved populations in the State or are located in provider shortage underserved areas across the State that include both rural and urban areas;~~

~~(ii) two consumers or representatives of consumer advocate organizations;~~

~~(iii) one representative from the State health information exchange;~~

~~(iv) two representatives of the health insurance industry;~~

~~(v) two representatives from roundtables established in the State to study telehealth;~~

~~(vi) one representative from the State's Telemedicine Task Force of 2011;~~

~~(vii) one individual who provides home health care through telemedicine;~~

~~(viii) one individual who provides care through a patient centered medical home;~~

~~(ix) one individual who provides acute care through telemedicine;~~

~~(x) one licensed psychiatrist;~~

- ~~(xi) one licensed provider of behavioral health services;~~
- ~~(xii) one representative of a hospital that is participating in telemedicine; and~~
- ~~(xiii) one representative of the Governor's Workforce Investment Board;~~
- ~~(xiv) two representatives of Federally Qualified Health Centers, including one from a center in a rural area and one from a center in an urban area;~~
- ~~(xv) one representative of the Maryland Chamber of Commerce; and~~
- ~~(xvi) one representative of the Arc of Maryland.~~

~~(e) The members appointed by the Presiding Officers of the General Assembly shall co-chair the Task Force.~~

~~(d) The Maryland Health Care Commission shall provide staff for the Task Force.~~

~~(c) 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) identify opportunities to use telehealth to improve health status and health care delivery in the State, including an analysis of:~~

~~(i) underserved populations and areas;~~

~~(ii) applications for cost-effective telehealth;~~

~~(iii) innovative service models for diverse care settings to include chronic and acute care; and~~

~~(iv) innovative payment models; and~~

~~(v) the types of telehealth services that are resulting, or would result, in cost-effective care and improved outcomes for patients in the Medicaid program;~~

- ~~(2) assess factors related to telehealth, including an analysis of:~~
- ~~(i) supportive uses of electronic health records and the health information exchange;~~
 - ~~(ii) multimedia uses of products and services for patient engagement, education, and outcomes;~~
 - ~~(iii) health professional productivity, resources, and shortages;~~
 - ~~(iv) emerging technology and standards for security; and~~
 - ~~(v) public and private grant funding; and~~
 - ~~(vi) whether the term “telemedicine”, as defined in § 15-130 of the Insurance Article, should be amended to include a reference to a service, known as an “electronic visit” or “e-visit”, that:~~
 - ~~1. includes an online medical evaluation and management service;~~
 - ~~2. is completed using a HIPAA-compliant online connection and a secured Web site or secured electronic mail address for each patient encounter; and~~
 - ~~3. creates a permanent record of each visit;~~
- ~~(3) collaborate with:~~
- ~~(i) roundtables established to study telehealth uses in the State;~~
 - ~~(ii) the Rural Maryland Council; and~~
 - ~~(iii) any other organization that the co-chairs of the Task Force consider appropriate;~~
- ~~(4) review and consider any studies, reports, or other work completed by the roundtables;~~
- ~~(5) study any other topic that the Task Force finds necessary to make recommendations regarding the use of telehealth in the State; and~~
- ~~(6) make recommendations regarding the use of telehealth in the State, including recommendations for:~~

- ~~(i) improving health care affordability, accessibility, and quality;~~
- ~~(ii) developing a model for statewide telehealth infrastructure, service, and access;~~
- ~~(iii) utilizing public and private grant funding;~~
- ~~(iv) providing workforce training; and~~
- ~~(v) improving public health.~~

~~(g) (1) On or before May 1, 2014 ~~December 1, 2013~~, the Task Force shall provide an interim report on the status of the activities of the Task Force to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.~~

~~(2) On or before December 1, 2014 ~~2015~~, the Task Force shall provide a final report on its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.~~

(a) It is the intent of the General Assembly that the Maryland Health Care Commission, in conjunction with the Maryland Health Quality and Cost Council, continue to study the use of telehealth throughout the State through the Telemedicine Task Force.

(b) The Task Force shall:

(1) consist of three existing advisory groups:

(i) the clinical advisory group;

(ii) the technology solutions and standards advisory group; and

(iii) the financial and business model advisory group;

(2) identify opportunities to use telehealth to improve health status and care delivery in the State that includes an analysis of:

(i) underserved population areas;

(ii) applications for cost-effective telehealth;

(iii) innovative service models for diverse care settings to include chronic and acute care; and

(iv) innovative payment models;

- (3) assess factors related to telehealth that includes an analysis of:
- (i) supportive uses of electronic health records and health information exchange;
 - (ii) multimedia uses of products and services for patient engagement, education, and outcomes;
 - (iii) health professional productivity, resources, and shortages;
 - (iv) emerging technology and standards for security; and
 - (v) public and private grant funding;
- (4) identify strategies for telehealth deployment in rural areas of the State to increase access to health care and meet any increased demand for health care due to the implementation of the Patient Protection and Affordable Care Act; and
- (5) study any other topic the Maryland Health Care Commission finds necessary to make recommendations regarding the use of telehealth in the State.
- (c) The Maryland Health Care Commission shall submit to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee:
- (1) on or before January 1, 2014, an interim report of the Task Force findings and recommendations; and
 - (2) on or before December 1, 2014, a final report of the Task Force findings and recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ ~~June~~ July 1, 2013. It shall remain effective for a period of ~~1 year and 8 months~~ 2 years and, at the end of ~~May 31~~ June 30, 2015 ~~2016~~ 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 2, 2013.

Chapter 320

(House Bill 934)

AN ACT concerning

~~**Task Force on the Use of Telehealth to Improve Maryland Health Care
Telemedicine Task Force – Maryland Health Care Commission**~~

FOR the purpose of ~~establishing the Task Force on the Use of Telehealth to Improve Maryland Health Care; providing for the membership, co-chairs, and staffing of the Task Force; providing for the duties of the Task Force; providing that a member of the Task Force may not receive certain compensation but is entitled to certain reimbursement; requiring the Task Force to provide certain reports to the Governor and the General Assembly on or before certain dates; providing for the termination of this Act; and generally relating to the Task Force on the Use of Telehealth to Improve Maryland Health Care~~ declaring the intent of the General Assembly that the Maryland Health Care Commission, in conjunction with the Maryland Health Quality and Cost Council, continue to study the use of telehealth throughout the State through the Telemedicine Task Force; requiring the Task Force to consist of certain advisory groups and undertake certain activities; and requiring the Commission, on or before certain dates, to submit certain reports of the Task Force to the Governor and certain legislative committees.

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

(a) ~~There is a Task Force on the Use of Telehealth to Improve Maryland Health Care.~~

(b) ~~The Task Force consists of the following members:~~

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

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

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

(4) ~~the Director of the Department of Health and Mental Hygiene's Office of Rural Health, or the Director's designee;~~

(5) ~~the Director of Program Development for the Maryland Critical Care Network – University of Maryland Medical System, or the Director's designee;~~

(6) ~~the Executive Director of the Maryland Health Care Commission, or the Executive Director's designee;~~

~~(7) the Executive Director of the Rural Health Association, or the Executive Director's designee;~~

~~(8) the Executive Director of the Rural Maryland Council, or the Executive Director's designee;~~

~~(9) the Executive Director of the Maryland Institute for Emergency Medical Services Systems, or the Executive Director's designee; and~~

~~(10) the following members, appointed by the Governor:~~

~~(i) two representatives from the medical communities that serve medically underserved populations in the State or are located in provider shortage underserved areas across the State that include both rural and urban areas;~~

~~(ii) two consumers or representatives of consumer advocate organizations;~~

~~(iii) one representative from the State health information exchange;~~

~~(iv) two representatives of the health insurance industry;~~

~~(v) two representatives from roundtables established in the State to study telehealth;~~

~~(vi) one representative from the State's Telemedicine Task Force of 2011;~~

~~(vii) one individual who provides home health care through telemedicine;~~

~~(viii) one individual who provides care through a patient-centered medical home;~~

~~(ix) one individual who provides acute care through telemedicine;~~

~~(x) one licensed psychiatrist;~~

~~(xi) one licensed provider of behavioral health services;~~

~~(xii) one representative of a hospital that is participating in telemedicine; and~~

~~(xiii) one representative of the Governor's Workforce Investment Board.~~

~~(e) The members appointed by the Presiding Officers of the General Assembly shall co-chair the Task Force.~~

~~(d) The Maryland Health Care 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 Task Force shall:~~

~~(1) identify opportunities to use telehealth to improve health status and health care delivery in the State, including an analysis of:~~

~~(i) underserved populations and areas;~~

~~(ii) applications for cost-effective telehealth;~~

~~(iii) innovative service models for diverse care settings to include chronic and acute care; and~~

~~(iv) innovative payment models;~~

~~(2) assess factors related to telehealth, including an analysis of:~~

~~(i) supportive uses of electronic health records and the health information exchange;~~

~~(ii) multimedia uses of products and services for patient engagement, education, and outcomes;~~

~~(iii) health professional productivity, resources, and shortages;~~

~~(iv) emerging technology and standards for security; and~~

~~(v) public and private grant funding;~~

~~(3) collaborate with:~~

~~(i) roundtables established to study telehealth uses in the State;~~

- ~~(ii) the Rural Maryland Council; and~~
- ~~(iii) any other organization that the co-chairs of the Task Force consider appropriate;~~
- ~~(4) review and consider any studies, reports, or other work completed by the roundtables;~~
- ~~(5) study any other topic that the Task Force finds necessary to make recommendations regarding the use of telehealth in the State; and~~
- ~~(6) make recommendations regarding the use of telehealth in the State, including recommendations for:
 - ~~(i) improving health care affordability, accessibility, and quality;~~
 - ~~(ii) developing a model for statewide telehealth infrastructure, service, and access;~~
 - ~~(iii) utilizing public and private grant funding;~~
 - ~~(iv) providing workforce training; and~~
 - ~~(v) improving public health.~~~~
- ~~(g) (1) On or before May 1, 2014, the Task Force shall provide an interim report on the status of the activities of the Task Force to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.~~
- ~~(2) On or before December 1, 2014, the Task Force shall provide a final report on its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.~~
- (a) It is the intent of the General Assembly that the Maryland Health Care Commission, in conjunction with the Maryland Health Quality and Cost Council, continue to study the use of telehealth throughout the State through the Telemedicine Task Force.
- (b) The Task Force shall:
 - (1) consist of three existing advisory groups:
 - (i) the clinical advisory group;
 - (ii) the technology solutions and standards advisory group; and

- (iii) the financial and business model advisory group;
 - (2) identify opportunities to use telehealth to improve health status and care delivery in the State that includes an analysis of:
 - (i) underserved population areas;
 - (ii) applications for cost-effective telehealth;
 - (iii) innovative service models for diverse care settings to include chronic and acute care; and
 - (iv) innovative payment models;
 - (3) assess factors related to telehealth that includes an analysis of:
 - (i) supportive uses of electronic health records and health information exchange;
 - (ii) multimedia uses of products and services for patient engagement, education, and outcomes;
 - (iii) health professional productivity, resources, and shortages;
 - (iv) emerging technology and standards for security; and
 - (v) public and private grant funding; ~~and~~
 - (4) *identify strategies for telehealth deployment in rural areas of the State to increase access to health care and meet any increased demand for health care due to the implementation of the Patient Protection and Affordable Care Act; and*
 - (5) study any other topic the Maryland Health Care Commission finds necessary to make recommendations regarding the use of telehealth in the State.
- (c) The Maryland Health Care Commission shall submit to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Finance Committee and the House Health and Government Operations Committee:
- (1) on or before January 1, 2014, an interim report of the Task Force findings and recommendations; and
 - (2) on or before December 1, 2014, a final report of the Task Force findings and recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2013. It shall remain effective for a period of ~~1 year and 8 months~~ 2

years and, at the end of ~~May 31~~ June 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 2, 2013.

Chapter 321

(Senate Bill 777)

AN ACT concerning

Insurance – Ceding Insurers and Reinsurance

FOR the purpose of requiring that a domestic ceding insurer be allowed credit for reinsurance in certain manners under certain circumstances; providing for certain credit for reinsurance to be allowed under certain circumstances depending on the licensure or authorization status and accreditation status of the assuming insurer; establishing certain requirements and procedures for an assuming reinsurer to be accredited by the Maryland Insurance Commissioner; providing that an assuming reinsurer is deemed to be qualified under certain circumstances; requiring an assuming reinsurer to report certain information each year to the Commissioner for certain purposes and to submit to examination in a certain manner; prohibiting credit for reinsurance to be granted unless a certain trust has been approved by a certain official; establishing certain requirements for certain trusts; providing for the duration of a certain trust; requiring the trustee of a certain trust to report and certify certain information to the Commissioner; establishing certain requirements for certain trusts used by certain insurers; providing for the certification of certain insurers as reinsurers in this State in accordance with certain requirements and procedures; requiring the Commissioner to maintain a certain list of qualified jurisdictions in which an assuming insurer may be domiciled and considered for certification; providing certain criteria for the Commissioner to consider in recognizing certain qualified jurisdictions; requiring the Commissioner to consider a certain list of jurisdictions published through a certain association for certain purposes; requiring the Commissioner to assign certain ratings to certain certified reinsurers in a certain manner and to publish a list of the reinsurers and their ratings; authorizing the Commissioner to ~~defer~~ ~~to~~ use information on the certification and rating assigned by certain jurisdictions under certain circumstances for certain purposes; providing for the maintenance of certification in an inactive status under certain circumstances; requiring a certified reinsurer to secure certain obligations in certain manners and forms and at certain levels; requiring the Commissioner to reduce certain allowable credit under certain circumstances; authorizing the Commissioner to suspend or revoke the accreditation or certification of a reinsurer in a certain manner under certain circumstances; limiting the qualification for credit of

certain reinsurance contracts under certain circumstances; prohibiting certain credit if the assuming insurer is not licensed, accredited, or certified except under certain circumstances and in a certain manner; providing for the construction of a certain provision of this Act; providing for certain assets or reductions from liability for certain reinsurance in a certain manner under certain circumstances; requiring certain security to be in certain forms and held in certain places and certain institutions; requiring a ceding insurer to take certain steps to manage certain reinsurance recoverables and to notify the Commissioner in certain manners; requiring a ceding insurer to diversify its ~~portfolio~~ reinsurance program and notify the Commissioner in certain manners; authorizing the Commissioner to adopt certain regulations; repealing certain obsolete provisions; defining certain terms; providing that certain laws of the State inconsistent with this Act are superseded to the extent of the inconsistency; providing that credit for reinsurance ceded to a reinsurer under this Act may be allowed only for certain contracts entered into or renewed on or after a certain date; providing that existing obligations or contract rights may not be impaired by this Act; and generally relating to insurance and reinsurance.

BY repealing and reenacting, with amendments,
 Article – Insurance
 Section 5–901 through 5–904
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

~~BY repealing and reenacting, without amendments,
 Article – Insurance
 Section 5–902
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)~~

BY adding to
 Article – Insurance
 Section ~~5–902.1 and 5–903~~ and 5–906 through ~~5–914~~ 5–916
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

BY repealing
 Article – Insurance
 Section ~~5–903, 5–904, and 5–905~~
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

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

Article – Insurance

5-901.

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

(b) “Ceding insurer” means an insurer that procures insurance for itself from another insurer for all or part of an insurance risk.

(C) “PRIMARY CERTIFYING STATE” MEANS A STATE OTHER THAN MARYLAND:

(1) IN WHICH THE INSURANCE REGULATORY AGENCY OR ITS EQUIVALENT HAS DESIGNATED AND ASSIGNED A RATING TO AN ASSUMING INSURER AS A CERTIFIED REINSURER; AND

(2) THE DESIGNATION OR RATING FROM WHICH THE COMMISSIONER HAS USED TO DESIGNATE OR ASSIGN A RATING TO THE ASSUMING INSURER IN THIS STATE UNDER § 5-910(B) OF THIS SUBTITLE.

(D) “QUALIFIED JURISDICTION” MEANS A JURISDICTION THAT THE COMMISSIONER DETERMINES MEETS THE REQUIREMENTS OF § 5-909 OF THIS SUBTITLE.

~~(E)~~ (E) “QUALIFIED UNITED STATES FINANCIAL INSTITUTION” MEANS:

(1) FOR PURPOSES OF ISSUANCE OR CONFIRMATION OF A LETTER OF CREDIT UNDER ~~§ 5-912(C)(3)~~ § 5-914(C)(3) OF THIS SUBTITLE, AN INSTITUTION THAT:

(I) IS ORGANIZED OR, IN THE CASE OF A UNITED STATES OFFICE OF A FOREIGN BANKING ORGANIZATION, LICENSED UNDER THE LAWS OF THE UNITED STATES OR ANY STATE;

(II) IS REGULATED, SUPERVISED, AND EXAMINED BY FEDERAL OR STATE AUTHORITIES HAVING REGULATORY AUTHORITY OVER BANKS AND TRUST COMPANIES; AND

(III) HAS BEEN DETERMINED BY EITHER THE COMMISSIONER OR THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS TO MEET THE STANDARDS OF FINANCIAL CONDITION AND STANDING THAT ARE CONSIDERED NECESSARY AND APPROPRIATE TO REGULATE THE QUALITY OF FINANCIAL INSTITUTIONS WHOSE LETTERS OF CREDIT WILL BE ACCEPTABLE TO THE COMMISSIONER; OR

(2) FOR PURPOSES OF ELIGIBILITY TO ACT AS A FIDUCIARY OF A TRUST UNDER THIS SUBTITLE, AN INSTITUTION THAT:

(I) IS ORGANIZED OR, IN THE CASE OF A UNITED STATES BRANCH OR AGENCY OFFICE OF A FOREIGN BANKING ORGANIZATION, LICENSED UNDER THE LAWS OF THE UNITED STATES OR ANY STATE AND HAS BEEN GRANTED AUTHORITY TO OPERATE WITH FIDUCIARY POWERS; AND

(II) IS REGULATED, SUPERVISED, AND EXAMINED BY FEDERAL OR STATE AUTHORITIES HAVING REGULATORY AUTHORITY OVER BANKS AND TRUST COMPANIES.

[(c)] ~~(D)~~ (F) "Reinsurer" means an insurer from which a ceding insurer procures insurance for itself for all or part of an insurance risk.

(G) "TRUSTEED SURPLUS" MEANS FUNDS HELD IN A TRUST ACCOUNT IN EXCESS OF THE REINSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED TO THE REINSURER BY UNITED STATES CEDING INSURERS IN ACCORDANCE WITH THIS SUBTITLE.

5-902.

(A) This subtitle does not apply to wet marine and transportation insurance.

(B) ALL LAWS OR PARTS OF LAWS OF THE STATE THAT ARE INCONSISTENT WITH THIS SUBTITLE ARE SUPERSEDED TO THE EXTENT OF THE INCONSISTENCY.

~~5-902.1.~~ 5-903.

CREDIT FOR REINSURANCE SHALL BE ALLOWED A DOMESTIC CEDING INSURER AS EITHER AN ASSET OR A REDUCTION FROM LIABILITY ON ACCOUNT OF REINSURANCE CEDED IF THE REINSURER MEETS THE REQUIREMENTS OF THIS SUBTITLE.

~~[5-903.~~ 5-904.

(a) Except as provided in §§ 3-124 and 3-125 of this article for bulk reinsurance, an insurer may reinsure all or part of a particular risk.

~~(b) An insurer may accept reinsurance only of those risks, and retain risk on reinsurance only within those limits, as the insurer is otherwise authorized to insure.]~~

~~5-903.~~

~~(A)~~ (B) (1) CREDIT SHALL BE ALLOWED UNDER SUBSECTION ~~(B)~~, (C), (D), OR ~~(D)~~ (E) OF THIS SECTION WITH RESPECT TO CESSIONS OF THOSE KINDS OR CLASSES OF BUSINESS THAT THE ASSUMING INSURER IS LICENSED OR OTHERWISE ALLOWED TO WRITE OR ASSUME IN ITS STATE OF DOMICILE OR, IN THE CASE OF A UNITED STATES BRANCH OF AN ALIEN ASSUMING INSURER, IN THE STATE THROUGH WHICH IT IS ENTERED AND LICENSED TO TRANSACT INSURANCE OR REINSURANCE.

(2) CREDIT SHALL BE ALLOWED UNDER SUBSECTION ~~(D)~~ OR (E) OR (F) OF THIS SECTION ONLY IF THE APPLICABLE REQUIREMENTS OF ~~§ 5-911~~ § 5-913 OF THIS SUBTITLE HAVE BEEN SATISFIED.

~~(B)~~ (C) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN ASSUMING INSURER THAT IS LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN THIS STATE.

~~(C)~~ (D) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN ASSUMING INSURER THAT IS ACCREDITED BY THE COMMISSIONER AS A REINSURER IN THIS STATE IN ACCORDANCE WITH ~~§ 5-904~~ § 5-906 OF THIS SUBTITLE.

~~(D)~~ (E) SUBJECT TO THE REQUIREMENTS OF ~~§ 5-911~~ § 5-913 OF THIS SUBTITLE, CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN ASSUMING INSURER THAT MAINTAINS A TRUST FUND MEETING THE REQUIREMENTS OF ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE IN A QUALIFIED UNITED STATES FINANCIAL INSTITUTION FOR THE PAYMENT OF THE VALID CLAIMS OF ITS UNITED STATES CEDING INSURERS AND THEIR ASSIGNS AND SUCCESSORS IN INTEREST.

~~(E)~~ (F) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN ASSUMING INSURER THAT HAS BEEN CERTIFIED BY THE COMMISSIONER AS A REINSURER IN THIS STATE IN ACCORDANCE WITH §§ 5-908 AND 5-909 OF THIS SUBTITLE AND SECURES ITS OBLIGATIONS IN ACCORDANCE WITH THE REQUIREMENTS OF ~~§ 5-909~~ § 5-911 OF THIS SUBTITLE.

~~(F)~~ (G) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN ASSUMING INSURER NOT MEETING THE REQUIREMENTS OF SUBSECTION ~~(B)~~, (C), (D), (E), OR ~~(E)~~ (F) OF THIS SECTION, BUT ONLY AS TO THE INSURANCE OF RISKS LOCATED IN JURISDICTIONS WHERE THE REINSURANCE IS REQUIRED BY THE APPLICABLE LAW OR REGULATION OF THAT JURISDICTION.

~~§ 5-904, 5-905.~~

(a) (1) Credit may not be allowed, as an asset or deduction from liability, to a ceding insurer for reinsurance unless:

~~(i) the reinsurer is authorized to transact insurance business in the State or is a solvent insurer approved or accepted by the Commissioner for the purpose of reinsurance; and~~

(ii) the reinsurance contract provides, in substance, that in the event of the insolvency of the ceding insurer, the reinsurance shall be payable under the terms of a contract reinsured by the reinsurer on the basis of reported claims allowed by the court in a liquidation proceeding, without diminution because of the insolvency of the ceding insurer.

(2) Payments made by a reinsurer under paragraph (1)(ii) of this subsection shall be made directly to the ceding insurer or its domiciliary receiver unless:

(i) the reinsurance contract or other written agreement specifically provides another payee of the reinsurance in the event of the insolvency of the ceding insurer; or

(ii) subject to any contractual or statutory requirement of consent by the policyholder, the reinsurer has assumed the policy obligations of the ceding insurer as direct obligations of the reinsurer to the payees under the policies and in substitution for the ceding insurer's obligations to the payees.

(3) (i) Notwithstanding paragraph (2) of this subsection, if a life and health insurance guaranty association has elected to succeed to the rights and obligations of an insolvent insurer under a reinsurance contract, the reinsurer's liability to pay covered reinsured claims shall continue under the reinsurance contract, subject to the payment of premiums to the reinsurer for the reinsurance coverage.

(ii) Payment for a covered reinsured claim under subparagraph (i) of this paragraph shall be made by the reinsurer only at the direction of the life and health insurance guaranty association or its designated successor.

(iii) Payment for a covered reinsured claim made by the reinsurer at the direction of the life and health insurance guaranty association or its designated successor discharges the reinsurer's liability to any other person for payment of the covered reinsured claim.

(b) (1) A reinsurance ~~agreement~~ **CONTRACT** may provide that the domiciliary receiver of an insolvent ceding insurer shall give written notice to the reinsurer of the pendency of a claim made against the insolvent ceding insurer under the contract reinsured within a reasonable time after the claim is filed in the liquidation proceeding.

(2) During the pendency of the claim, the reinsurer, at its own expense, may investigate the claim and interpose, in the liquidation proceeding, any defense that it determines is available to the insolvent ceding insurer or its receiver.

(3) (i) The reinsurer may file a claim against the insolvent ceding insurer for any expense incurred by the reinsurer under paragraph (2) of this subsection.

(ii) The claim may not exceed an amount equal to the proportionate share of the benefit accruing to the insolvent ceding insurer solely as a result of the defense undertaken by the reinsurer.

(iii) If two or more reinsurers are involved in a claim and a majority in interest elect to interpose a defense to the claim, the expense shall be apportioned in accordance with the terms of the reinsurance ~~agreement~~ CONTRACT as though the expense had been incurred by the insolvent ceding insurer.

(c) On request of the Commissioner, a ceding insurer shall inform the Commissioner promptly in writing of the cancellation or any other material change of any of its reinsurance ~~treaties~~ CONTRACTS or arrangements.†

~~5-904.~~ 5-906.

(A) IN ORDER FOR AN ASSUMING REINSURER TO BE ELIGIBLE FOR ACCREDITATION BY THE COMMISSIONER, THE REINSURER SHALL:

(1) FILE WITH THE COMMISSIONER EVIDENCE OF ITS SUBMISSION TO THIS STATE'S JURISDICTION;

(2) SUBMIT TO ~~THIS STATE'S~~ THE COMMISSIONER'S AUTHORITY TO EXAMINE ITS BOOKS AND RECORDS;

(3) BE LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT LEAST ONE STATE OR, IN THE CASE OF A UNITED STATES BRANCH OF AN ALIEN ASSUMING INSURER, BE ENTERED THROUGH AND LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT LEAST ONE STATE;

(4) FILE EACH YEAR WITH THE COMMISSIONER A COPY OF ITS ANNUAL STATEMENT FILED WITH THE INSURANCE DEPARTMENT OF ITS STATE OF DOMICILE AND A COPY OF ITS MOST RECENT AUDITED FINANCIAL STATEMENT; AND

(5) DEMONSTRATE TO THE SATISFACTION OF THE COMMISSIONER THAT THE REINSURER HAS ADEQUATE FINANCIAL CAPACITY TO

MEET ITS REINSURANCE OBLIGATIONS AND IS OTHERWISE QUALIFIED TO ASSUME REINSURANCE FROM DOMESTIC INSURERS.

(B) AN ASSUMING INSURER IS DEEMED TO MEET THE REQUIREMENT OF SUBSECTION (A)(5) OF THIS SECTION AS OF THE TIME OF ITS APPLICATION IF:

(1) THE ASSUMING INSURER MAINTAINS A SURPLUS AS REGARDS POLICYHOLDERS IN AN AMOUNT NOT LESS THAN \$20,000,000; AND

(2) THE COMMISSIONER HAS NOT DENIED THE ASSUMING INSURER'S ACCREDITATION WITHIN 90 DAYS AFTER SUBMISSION OF ITS APPLICATION.

[5-905.

Each unauthorized insurer that applies for approval or renewal of approval as an accepted reinsurer shall file annually with the Commissioner:

- (1) an annual statement on convention form;
- (2) a certificate evidencing a deposit; and
- (3) a certificate of compliance.]

~~5-905.~~ 5-907.

(A) TO ENABLE THE COMMISSIONER TO DETERMINE THE SUFFICIENCY OF THE TRUST FUND PROVIDED FOR IN ~~§ 5-903(D)~~ § 5-904(E) OF THIS SUBTITLE, THE ASSUMING INSURER SHALL REPORT EACH YEAR TO THE COMMISSIONER INFORMATION SUBSTANTIALLY THE SAME AS THAT REQUIRED TO BE REPORTED ON THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS ANNUAL STATEMENT FORM BY ~~LICENSED~~ AUTHORIZED INSURERS.

(B) THE ASSUMING INSURER SHALL SUBMIT TO EXAMINATION OF ITS BOOKS AND RECORDS BY THE COMMISSIONER AND BEAR THE EXPENSE OF EXAMINATION.

(C) CREDIT FOR REINSURANCE MAY NOT BE GRANTED UNDER THIS SECTION UNLESS THE FORM OF THE TRUST AND ANY AMENDMENTS TO THE TRUST HAVE BEEN APPROVED BY:

(1) ~~THE COMMISSIONER~~ INSURANCE REGULATORY AGENCY OF THE STATE WHERE THE TRUST IS DOMICILED; OR

(2) ~~THE COMMISSIONER~~ INSURANCE REGULATORY AGENCY OF ANOTHER STATE WHO, UNDER THE TERMS OF THE TRUST INSTRUMENT, HAS ACCEPTED PRINCIPAL REGULATORY OVERSIGHT OF THE TRUST.

(D) THE FORM OF THE TRUST AND ANY TRUST AMENDMENTS SHALL BE FILED WITH THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY OF EACH STATE IN WHICH THE CEDING INSURER BENEFICIARIES OF THE TRUST ARE DOMICILED.

(E) THE TRUST INSTRUMENT SHALL PROVIDE THAT CONTESTED CLAIMS SHALL BE VALID AND ENFORCEABLE ON THE FINAL ORDER OF ANY COURT OF COMPETENT JURISDICTION IN THE UNITED STATES.

(F) THE TRUST SHALL VEST LEGAL TITLE TO ITS ASSETS IN ITS TRUSTEES FOR THE BENEFIT OF THE ASSUMING INSURER'S UNITED STATES CEDING INSURERS AND THEIR ASSIGNS AND SUCCESSORS IN INTEREST.

(G) THE TRUST AND THE ASSUMING INSURER SHALL BE SUBJECT TO EXAMINATION AS DETERMINED BY THE COMMISSIONER ~~DETERMINES~~.

(H) THE TRUST SHALL REMAIN IN EFFECT FOR AS LONG AS THE ASSUMING INSURER HAS OUTSTANDING OBLIGATIONS DUE UNDER THE REINSURANCE ~~AGREEMENTS~~ CONTRACTS SUBJECT TO THE TRUST.

(I) NOT LATER THAN FEBRUARY 28 OF EACH YEAR, THE TRUSTEE OF THE TRUST SHALL:

(1) REPORT TO THE COMMISSIONER IN WRITING THE BALANCE OF THE TRUST AND LIST THE TRUST'S INVESTMENTS AT THE PRECEDING YEAR-END; AND

(2) CERTIFY THE DATE OF TERMINATION OF THE TRUST, IF SO PLANNED, OR CERTIFY THAT THE TRUST WILL NOT EXPIRE BEFORE THE FOLLOWING DECEMBER 31.

(J) (1) ~~IN THE CASE OF~~ THIS SUBSECTION APPLIES TO CEDING TO A SINGLE ASSUMING INSURER.

~~(1)~~ (2) ~~THE~~ THE TRUST FUND SHALL CONSIST OF FUNDS IN TRUST IN AN AMOUNT NOT LESS THAN THE ASSUMING INSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED STATES CEDING INSURERS; ~~AND.~~

~~(H)~~ (3) ~~EXCEPT~~ EXCEPT AS PROVIDED IN PARAGRAPH ~~(2)~~ (4) OF THIS SUBSECTION, THE ASSUMING INSURER SHALL MAINTAIN A TRUSTEED SURPLUS OF NOT LESS THAN \$20,000,000.

~~(2)~~ (4) (I) SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, AT ANY TIME AFTER THE ASSUMING INSURER HAS PERMANENTLY DISCONTINUED UNDERWRITING NEW BUSINESS SECURED BY THE TRUST FOR AT LEAST 3 FULL YEARS, THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH PRINCIPAL REGULATORY OVERSIGHT OF THE TRUST MAY AUTHORIZE A REDUCTION IN THE REQUIRED TRUSTEED SURPLUS, BUT ONLY AFTER A FINDING, BASED ON AN ASSESSMENT OF THE RISK, THAT THE NEW REQUIRED SURPLUS LEVEL IS ADEQUATE FOR THE PROTECTION OF UNITED STATES CEDING INSURERS, POLICYHOLDERS, AND CLAIMANTS IN LIGHT OF REASONABLY FORESEEABLE ADVERSE LOSS DEVELOPMENT.

(II) THE RISK ASSESSMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. MAY INVOLVE AN ACTUARIAL REVIEW, INCLUDING AN INDEPENDENT ANALYSIS OF RESERVES AND CASH FLOWS; AND

2. SHALL CONSIDER ALL MATERIAL RISK FACTORS, INCLUDING, WHEN APPLICABLE, THE LINES OF BUSINESS INVOLVED, THE STABILITY OF THE INCURRED LOSS ESTIMATES, AND THE EFFECT OF THE SURPLUS REQUIREMENTS ON THE ASSUMING INSURER'S LIQUIDITY OR SOLVENCY.

(III) THE MINIMUM REQUIRED TRUSTEED SURPLUS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE REDUCED TO AN AMOUNT LESS THAN 30% OF THE ASSUMING INSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED STATES CEDING INSURERS COVERED BY THE TRUST.

~~(3)~~ ~~(I)~~ (K) (1) ~~IN THE CASE OF~~ THIS SUBSECTION APPLIES TO CEDING TO A GROUP INCLUDING THAT INCLUDES INCORPORATED AND INDIVIDUAL UNINCORPORATED UNDERWRITERS~~;~~.

~~1.~~ (2) ~~FOR~~ FOR REINSURANCE CEDED UNDER REINSURANCE ~~AGREEMENTS~~ CONTRACTS WITH AN INCEPTION, AMENDMENT, OR RENEWAL DATE ON OR AFTER JANUARY 1, 1993, THE TRUST SHALL CONSIST OF A TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS THAN THE RESPECTIVE UNDERWRITERS' SEVERAL LIABILITIES ATTRIBUTABLE TO BUSINESS CEDED BY UNITED STATES DOMICILED CEDING INSURERS TO ANY UNDERWRITER OF THE GROUP~~;~~.

~~2. (3) FOR~~ FOR REINSURANCE CEDED UNDER REINSURANCE ~~AGREEMENTS~~ CONTRACTS WITH AN INCEPTION DATE ON OR BEFORE DECEMBER 31, 1992, AND NOT AMENDED OR RENEWED AFTER THAT DATE, NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THE TRUST SHALL CONSIST OF A TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS THAN THE RESPECTIVE UNDERWRITERS' SEVERAL INSURANCE AND REINSURANCE LIABILITIES ATTRIBUTABLE TO BUSINESS WRITTEN IN THE UNITED STATES; ~~AND.~~

~~3. (4)~~ (4) IN ADDITION TO THESE TRUSTS, THE GROUP SHALL MAINTAIN IN TRUST A TRUSTEED SURPLUS OF WHICH \$100,000,000 SHALL BE HELD JOINTLY FOR THE BENEFIT OF THE UNITED STATES DOMICILED CEDING INSURERS OF ANY MEMBER OF THE GROUP FOR ALL YEARS OF ACCOUNT.

~~(H)~~ (5) THE INCORPORATED MEMBERS OF THE GROUP:

~~1. (I)~~ (I) MAY NOT BE ENGAGED IN ANY BUSINESS OTHER THAN UNDERWRITING AS A MEMBER OF THE GROUP; AND

~~2. (II)~~ (II) SHALL BE SUBJECT TO THE SAME LEVEL OF REGULATION AND SOLVENCY CONTROL BY THE GROUP'S DOMICILIARY REGULATOR AS ARE THE UNINCORPORATED MEMBERS.

~~(H)~~ (6) WITHIN 90 DAYS AFTER ITS FINANCIAL STATEMENTS ARE DUE TO BE FILED WITH THE GROUP'S DOMICILIARY REGULATOR, THE GROUP SHALL PROVIDE TO THE COMMISSIONER:

~~1. (I)~~ (I) AN ANNUAL CERTIFICATION BY THE GROUP'S DOMICILIARY REGULATOR OF THE SOLVENCY OF EACH UNDERWRITER MEMBER; OR

~~2. (II)~~ (II) IF A CERTIFICATION IS UNAVAILABLE, FINANCIAL STATEMENTS, PREPARED BY INDEPENDENT PUBLIC ACCOUNTANTS, OF EACH UNDERWRITER MEMBER OF THE GROUP.

~~(4) IN THE CASE OF A GROUP OF INCORPORATED UNDERWRITERS UNDER COMMON ADMINISTRATION, THE GROUP SHALL:~~

~~(I) HAVE CONTINUOUSLY TRANSACTED AN INSURANCE BUSINESS OUTSIDE THE UNITED STATES FOR AT LEAST 3 YEARS IMMEDIATELY PRIOR TO MAKING APPLICATION FOR ACCREDITATION;~~

~~(II) MAINTAIN AGGREGATE POLICYHOLDERS' SURPLUS OF AT LEAST \$10,000,000,000;~~

~~(III) MAINTAIN A TRUST FUND IN AN AMOUNT NOT LESS THAN THE GROUP'S SEVERAL LIABILITIES ATTRIBUTABLE TO BUSINESS CEDED BY UNITED STATES DOMICILED CEDING INSURERS TO ANY MEMBER OF THE GROUP UNDER REINSURANCE CONTRACTS ISSUED IN THE NAME OF THE GROUP;~~

~~(IV) MAINTAIN A JOINT TRUSTED SURPLUS OF WHICH \$100,000,000 SHALL BE HELD JOINTLY FOR THE BENEFIT OF UNITED STATES DOMICILED CEDING INSURERS OF ANY MEMBER OF THE GROUP AS ADDITIONAL SECURITY FOR THESE LIABILITIES; AND~~

~~(V) WITHIN 90 DAYS AFTER ITS FINANCIAL STATEMENTS ARE DUE TO BE FILED WITH THE GROUP'S DOMICILIARY REGULATOR, MAKE AVAILABLE TO THE COMMISSIONER AN ANNUAL CERTIFICATION OF EACH UNDERWRITER MEMBER'S SOLVENCY BY THE MEMBER'S DOMICILIARY REGULATOR AND FINANCIAL STATEMENTS OF EACH UNDERWRITER MEMBER OF THE GROUP PREPARED BY ITS INDEPENDENT PUBLIC ACCOUNTANT.~~

~~5-906. 5-908.~~

(A) IN ORDER TO BE ELIGIBLE FOR CERTIFICATION IN ACCORDANCE WITH ~~§ 5-903(E)~~ § 5-904(F) OF THIS SUBTITLE, THE ASSUMING INSURER SHALL:

(1) BE DOMICILED AND LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN A QUALIFIED JURISDICTION, AS DETERMINED UNDER ~~§ 5-907~~ § 5-909 OF THIS SUBTITLE;

(2) MAINTAIN MINIMUM CAPITAL AND SURPLUS, OR ITS EQUIVALENT, IN AN AMOUNT THE COMMISSIONER DETERMINES IN ACCORDANCE WITH REGULATIONS THE COMMISSIONER ADOPTS;

(3) MAINTAIN FINANCIAL STRENGTH RATINGS FROM TWO OR MORE RATING AGENCIES THAT THE COMMISSIONER CONSIDERS ACCEPTABLE IN ACCORDANCE WITH REGULATIONS THE COMMISSIONER ADOPTS;

(4) AGREE TO SUBMIT TO THE JURISDICTION OF THIS STATE;

(5) APPOINT THE COMMISSIONER AS ITS AGENT FOR SERVICE OF PROCESS IN THIS STATE;

(6) AGREE TO PROVIDE SECURITY FOR ALL OF THE ASSUMING INSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED

STATES CEDING INSURERS IF IT RESISTS ENFORCEMENT OF A FINAL UNITED STATES JUDGMENT;

(7) AGREE TO MEET APPLICABLE INFORMATION FILING REQUIREMENTS AS THE COMMISSIONER DETERMINES BOTH FOR THE INITIAL APPLICATION FOR CERTIFICATION AND ON AN ONGOING BASIS; AND

(8) SATISFY ANY OTHER REQUIREMENTS FOR CERTIFICATION THAT THE COMMISSIONER CONSIDERS RELEVANT.

(B) (1) ~~AN ASSOCIATION~~ A GROUP, INCLUDING INCORPORATED AND INDIVIDUAL UNINCORPORATED UNDERWRITERS, MAY BE A CERTIFIED REINSURER IF THE ~~ASSOCIATION~~ GROUP, INCLUDING INCORPORATED AND INDIVIDUAL UNINCORPORATED UNDERWRITERS, MEETS ALL THE REQUIREMENTS OF THIS ~~SUBSECTION AND SUBSECTION (A)~~ OF THIS SECTION.

(2) THE ~~ASSOCIATION~~ GROUP SHALL SATISFY ITS MINIMUM CAPITAL AND SURPLUS EQUIVALENTS, NET OF LIABILITIES, OF THE ~~ASSOCIATION~~ GROUP AND ITS MEMBERS, WHICH SHALL INCLUDE A JOINT CENTRAL FUND THAT MAY BE APPLIED TO ANY UNSATISFIED OBLIGATION OF THE ~~ASSOCIATION~~ GROUP OR ANY OF ITS MEMBERS, IN AN AMOUNT THAT THE COMMISSIONER DETERMINES WILL PROVIDE ADEQUATE PROTECTION.

(3) THE INCORPORATED MEMBERS OF THE ~~ASSOCIATION~~ GROUP MAY NOT BE ENGAGED IN ANY BUSINESS OTHER THAN UNDERWRITING AS A MEMBER OF THE ~~ASSOCIATION~~ GROUP.

(4) THE INCORPORATED MEMBERS OF THE ~~ASSOCIATION~~ GROUP SHALL BE SUBJECT TO THE SAME LEVEL OF REGULATION AND SOLVENCY CONTROL BY THE ~~ASSOCIATION'S~~ GROUP'S DOMICILIARY REGULATOR AS ARE THE UNINCORPORATED MEMBERS.

(5) WITHIN 90 DAYS AFTER ITS FINANCIAL STATEMENTS ARE DUE TO BE FILED WITH THE ~~ASSOCIATION'S~~ GROUP'S DOMICILIARY REGULATOR, THE ~~ASSOCIATION~~ GROUP SHALL PROVIDE TO THE COMMISSIONER:

(I) AN ANNUAL CERTIFICATION BY THE ~~ASSOCIATION'S~~ GROUP'S DOMICILIARY REGULATOR OF THE SOLVENCY OF EACH UNDERWRITER MEMBER; OR

(II) IF A CERTIFICATION IS UNAVAILABLE, FINANCIAL STATEMENTS, PREPARED BY INDEPENDENT PUBLIC ACCOUNTANTS, OF EACH UNDERWRITER MEMBER OF THE ~~ASSOCIATION~~ GROUP.

~~5-907.~~ 5-909.

(A) (1) THE COMMISSIONER SHALL MAINTAIN AND PUBLISH A LIST OF QUALIFIED JURISDICTIONS UNDER WHICH AN ASSUMING INSURER, LICENSED AND DOMICILED IN THAT JURISDICTION, IS ELIGIBLE TO BE CONSIDERED FOR CERTIFICATION BY THE COMMISSIONER AS A CERTIFIED REINSURER.

(2) IN ORDER TO DETERMINE WHETHER THE DOMICILIARY JURISDICTION OF A NON-UNITED STATES ASSUMING INSURER IS ELIGIBLE TO BE RECOGNIZED AS A QUALIFIED JURISDICTION, THE COMMISSIONER SHALL:

(I) EVALUATE THE APPROPRIATENESS AND EFFECTIVENESS OF THE REINSURANCE SUPERVISORY SYSTEM OF THE JURISDICTION, INITIALLY AND ON AN ONGOING BASIS; AND

(II) CONSIDER THE RIGHTS, BENEFITS, AND EXTENT OF RECIPROCAL RECOGNITION AFFORDED BY THE NON-UNITED STATES JURISDICTION TO REINSURERS LICENSED AND DOMICILED IN THE UNITED STATES.

(3) A QUALIFIED JURISDICTION SHALL AGREE IN WRITING TO SHARE INFORMATION AND COOPERATE WITH THE COMMISSIONER WITH RESPECT TO ALL CERTIFIED REINSURERS DOMICILED IN THAT JURISDICTION.

(4) THE COMMISSIONER MAY NOT RECOGNIZE A JURISDICTION AS A QUALIFIED JURISDICTION ~~A JURISDICTION THAT~~ UNLESS THE COMMISSIONER ~~DETERMINES DOES~~ HAS DETERMINED THAT THE JURISDICTION ~~NOT ADEQUATELY AND PROMPTLY ENFORCE~~ ENFORCES FINAL UNITED STATES JUDGMENTS AND ARBITRATION AWARDS.

(5) THE COMMISSIONER MAY CONSIDER OTHER FACTORS IN DETERMINING THE JURISDICTION'S ELIGIBILITY TO BE RECOGNIZED AS A QUALIFIED JURISDICTION.

(B) (1) ~~THERE IS A~~ THE COMMISSIONER SHALL CONSIDER THE LIST OF QUALIFIED JURISDICTIONS PUBLISHED THROUGH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS COMMITTEE PROCESS IN DETERMINING THE QUALIFIED JURISDICTIONS IN THIS STATE.

(2) ~~THE~~ IN DETERMINING WHETHER A JURISDICTION IS A QUALIFIED JURISDICTION, THE COMMISSIONER SHALL CONSIDER THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS LIST ~~IN DETERMINING QUALIFIED JURISDICTIONS:~~

(I) WHEN THE JURISDICTION HAS BEEN EVALUATED FOR INCLUSION ON THE LIST; AND

(II) WHENEVER THE LIST IS AMENDED.

(3) IF THE COMMISSIONER APPROVES A JURISDICTION AS QUALIFIED THAT DOES NOT APPEAR ON THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS LIST OF QUALIFIED JURISDICTIONS, THE COMMISSIONER SHALL PROVIDE ~~THOROUGHLY DOCUMENTED JUSTIFICATION IN ACCORDANCE WITH CRITERIA TO BE DEVELOPED UNDER~~ INFORMATION RELATED TO THE APPROVAL TO THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AS PROVIDED IN REGULATIONS THE COMMISSIONER ADOPTS.

(4) ~~UNITED STATES JURISDICTIONS~~ THE COMMISSIONER SHALL RECOGNIZE AS A QUALIFIED JURISDICTION IN THIS STATE ANY STATE THAT MEET MEETS THE REQUIREMENT FOR ACCREDITATION UNDER THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS FINANCIAL STANDARDS AND ACCREDITATION PROGRAM ~~SHALL BE RECOGNIZED AS QUALIFIED JURISDICTIONS IN THIS STATE.~~

(5) IF A CERTIFIED REINSURER'S DOMICILIARY JURISDICTION CEASES TO BE A QUALIFIED JURISDICTION, THE COMMISSIONER MAY INDEFINITELY SUSPEND OR REVOKE THE REINSURER'S CERTIFICATION.

~~5-908.~~ 5-910.

(A) (1) THE COMMISSIONER SHALL ASSIGN A RATING TO EACH CERTIFIED REINSURER BASED ON FACTORS THE COMMISSIONER CONSIDERS RELEVANT, GIVING DUE CONSIDERATION TO THE FINANCIAL STRENGTH RATINGS THAT HAVE BEEN ASSIGNED BY RATING AGENCIES ~~THAT THE COMMISSIONER CONSIDERS ACCEPTABLE~~ IN ACCORDANCE WITH REGULATIONS THE COMMISSIONER ADOPTS.

(2) THE COMMISSIONER SHALL PUBLISH A LIST OF ALL CERTIFIED REINSURERS AND THEIR RATINGS.

(B) IF AN APPLICANT FOR CERTIFICATION HAS BEEN CERTIFIED AS A REINSURER ~~IN A JURISDICTION~~ BY THE INSURANCE REGULATORY AGENCY OF A STATE ACCREDITED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS;

~~(1). THE COMMISSIONER MAY DEFER TO THAT JURISDICTION'S CERTIFICATION AND TO THE RATING ASSIGNED BY THAT JURISDICTION; AND~~

~~(2) THE ASSUMING INSURER SHALL BE CONSIDERED TO BE A CERTIFIED REINSURER IN THIS STATE~~ USE INFORMATION PROVIDED BY THAT INSURANCE REGULATORY AGENCY TO:

(1) DESIGNATE THE ASSUMING INSURER AS A CERTIFIED REINSURER IN THIS STATE;

(2) ASSIGN A RATING TO THE ASSUMING INSURER; OR

(3) BOTH.

(c) (1) A CERTIFIED REINSURER THAT CEASES TO ASSUME NEW BUSINESS IN THIS STATE MAY REQUEST TO MAINTAIN ITS CERTIFICATION IN INACTIVE STATUS IN ORDER TO CONTINUE TO QUALIFY FOR A REDUCTION IN SECURITY FOR ITS IN-FORCE BUSINESS.

(2) AN INACTIVE CERTIFIED REINSURER SHALL CONTINUE TO COMPLY WITH ALL APPLICABLE REQUIREMENTS OF ~~§ 5-909~~ § 5-911 OF THIS SUBTITLE.

(3) THE COMMISSIONER SHALL ASSIGN A RATING THAT TAKES INTO ACCOUNT, IF RELEVANT, THE REASONS WHY THE REINSURER IS NOT ASSUMING NEW BUSINESS.

~~5-909.~~ 5-911.

(A) A CERTIFIED REINSURER SHALL SECURE OBLIGATIONS ASSUMED FROM UNITED STATES CEDING INSURERS UNDER THIS SUBTITLE AT A LEVEL CONSISTENT WITH ITS RATING, AS SPECIFIED IN REGULATIONS THE COMMISSIONER ADOPTS.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN ORDER FOR A DOMESTIC CEDING INSURER TO QUALIFY FOR FULL FINANCIAL STATEMENT CREDIT FOR REINSURANCE CEDED TO A CERTIFIED REINSURER, THE CERTIFIED REINSURER SHALL MAINTAIN SECURITY IN A FORM THE COMMISSIONER CONSIDERS ACCEPTABLE AND CONSISTENT WITH ~~THE PROVISIONS OF § 5-912~~ § 5-914 OF THIS SUBTITLE, OR IN A MULTIBENEFICIARY TRUST IN ACCORDANCE WITH ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE.

(c) (1) IF A CERTIFIED REINSURER MAINTAINS A TRUST TO FULLY SECURE ITS OBLIGATIONS CONSISTENT WITH ~~THE PROVISIONS OF § 5-905~~ § 5-907 OF THIS SUBTITLE AND CHOOSES TO SECURE ITS OBLIGATIONS INCURRED AS A CERTIFIED REINSURER IN THE FORM OF A MULTIBENEFICIARY

TRUST, THE CERTIFIED REINSURER SHALL MAINTAIN SEPARATE TRUST ACCOUNTS FOR ITS OBLIGATIONS INCURRED UNDER REINSURANCE ~~AGREEMENTS~~ CONTRACTS ISSUED OR RENEWED AS A CERTIFIED REINSURER WITH REDUCED SECURITY AS ALLOWED BY THIS SECTION OR COMPARABLE LAWS OF OTHER UNITED STATES JURISDICTIONS AND FOR ITS OBLIGATIONS SUBJECT TO ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE.

(2) AS A CONDITION OF CERTIFICATION UNDER ~~§ 5-906~~ § 5-908 OF THIS SUBTITLE, THE CERTIFIED REINSURER SHALL BIND ITSELF, BY THE LANGUAGE OF THE TRUST AND AGREEMENT WITH THE COMMISSIONER WITH PRINCIPAL REGULATORY OVERSIGHT OF EACH TRUST ACCOUNT, TO FUND, ON TERMINATION OF THE TRUST ACCOUNT, OUT OF THE REMAINING SURPLUS OF THE TRUST, ANY DEFICIENCY OF ANY OTHER TRUST ACCOUNT.

(D) THE MINIMUM TRUSTEED SURPLUS REQUIREMENTS PROVIDED IN ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE DO NOT APPLY WITH RESPECT TO A MULTIBENEFICIARY TRUST MAINTAINED BY A CERTIFIED REINSURER FOR THE PURPOSE OF SECURING OBLIGATIONS INCURRED UNDER THIS SECTION, EXCEPT THAT THE TRUST SHALL MAINTAIN A MINIMUM TRUSTEED SURPLUS OF \$10,000,000.

(E) WITH RESPECT TO OBLIGATIONS INCURRED BY A CERTIFIED REINSURER UNDER THIS SECTION, IF THE SECURITY IS INSUFFICIENT, THE COMMISSIONER:

(1) SHALL REDUCE THE ALLOWABLE CREDIT BY AN AMOUNT PROPORTIONATE TO THE DEFICIENCY; AND

(2) MAY IMPOSE FURTHER REDUCTIONS IN ALLOWABLE CREDIT ON FINDING THAT THERE IS A MATERIAL RISK THAT THE CERTIFIED REINSURER'S OBLIGATIONS WILL NOT BE PAID IN FULL WHEN DUE.

(F) (1) FOR PURPOSES OF THIS SECTION, A CERTIFIED REINSURER WHOSE CERTIFICATION THE COMMISSIONER HAS BEEN ~~BEEN~~ REVOKED, SUSPENDED, ~~VOLUNTARILY SURRENDERED~~, OR PLACED ON INACTIVE STATUS, OR HAS BEEN VOLUNTARILY SURRENDERED, FOR ANY REASON SHALL BE TREATED AS A CERTIFIED REINSURER REQUIRED TO SECURE ~~100%~~ ALL OF ITS OBLIGATIONS.

(2) IF THE COMMISSIONER CONTINUES TO ASSIGN A HIGHER RATING AS ALLOWED BY OTHER PROVISIONS OF THIS SECTION, THE REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A CERTIFIED REINSURER IN INACTIVE STATUS OR TO A REINSURER WHOSE CERTIFICATION HAS BEEN SUSPENDED.

~~5-910.~~ 5-912.

(A) AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR HEARING TO THE REINSURER, THE COMMISSIONER MAY SUSPEND OR REVOKE A REINSURER'S ACCREDITATION OR CERTIFICATION IF THE REINSURER CEASES TO MEET THE REQUIREMENTS FOR ACCREDITATION OR CERTIFICATION.

(B) THE REVOCATION OR SUSPENSION MAY NOT TAKE EFFECT UNTIL AFTER THE COMMISSIONER'S ORDER ON HEARING UNLESS:

(1) THE REINSURER WAIVES ITS RIGHT TO A HEARING;

(2) THE COMMISSIONER'S ORDER IS BASED ON A REGULATORY ACTION BY THE REINSURER'S DOMICILIARY JURISDICTION OR PRIMARY CERTIFYING STATE ~~TERMINATING~~ SUSPENDING OR REVOKING THE REINSURER'S ELIGIBILITY TO TRANSACT INSURANCE OR REINSURANCE;

(3) THE REINSURER VOLUNTARILY SURRENDERS ITS LICENSE OR CERTIFICATION TO TRANSACT INSURANCE OR REINSURANCE BUSINESS IN ITS DOMICILIARY JURISDICTION OR PRIMARY CERTIFYING STATE; OR

(4) (I) THE COMMISSIONER FINDS THAT AN EMERGENCY REQUIRES IMMEDIATE ACTION BY THE COMMISSIONER; AND

(II) A COURT OF COMPETENT JURISDICTION HAS NOT STAYED THE COMMISSIONER'S ACTION.

(C) (1) WHILE A REINSURER'S ACCREDITATION OR CERTIFICATION IS SUSPENDED, A REINSURANCE CONTRACT ISSUED OR RENEWED AFTER THE EFFECTIVE DATE OF THE SUSPENSION DOES NOT QUALIFY FOR CREDIT EXCEPT TO THE EXTENT THE REINSURER'S OBLIGATIONS UNDER THE CONTRACT ARE SECURED IN ACCORDANCE WITH ~~§ 5-912~~ § 5-914 OF THIS SUBTITLE.

(2) IF A REINSURER'S ACCREDITATION OR CERTIFICATION IS REVOKED, CREDIT FOR REINSURANCE MAY NOT BE GRANTED AFTER THE EFFECTIVE DATE OF THE REVOCATION EXCEPT TO THE EXTENT THAT THE REINSURER'S OBLIGATIONS UNDER THE CONTRACT ARE SECURED IN ACCORDANCE WITH ~~§ 5-909 OR § 5-912~~ § 5-911 OR § 5-914 OF THIS SUBTITLE.

~~5-911.~~ 5-913.

(A) IF THE ASSUMING INSURER IS NOT LICENSED, ACCREDITED, OR CERTIFIED TO TRANSACT INSURANCE OR REINSURANCE IN THIS STATE, THE CREDIT ALLOWED BY ~~§ 5-903(D)~~ § 5-904(E) OF THIS SUBTITLE MAY NOT BE

ALLOWED UNLESS THE ASSUMING INSURER AGREES IN THE REINSURANCE ~~AGREEMENTS~~ CONTRACTS:

(1) THAT IN THE EVENT OF THE FAILURE OF THE ASSUMING INSURER TO PERFORM ITS OBLIGATIONS UNDER THE TERMS OF THE REINSURANCE ~~AGREEMENT~~ CONTRACT, THE ASSUMING INSURER, AT THE REQUEST OF THE ~~OF THE~~ CEDING INSURER, SHALL:

(I) SUBMIT TO THE JURISDICTION OF ANY COURT OF COMPETENT JURISDICTION IN ANY STATE;

(II) COMPLY WITH ALL REQUIREMENTS NECESSARY TO GIVE THE COURT JURISDICTION; AND

(III) ABIDE BY THE FINAL DECISION OF THE COURT OR OF ANY APPELLATE COURT IN CASE OF AN APPEAL; AND

(2) TO DESIGNATE THE COMMISSIONER AS ITS RESIDENT AGENT ON WHOM ANY LAWFUL PROCESS MAY BE SERVED IN ANY ACTION, SUIT, OR PROCEEDING INSTITUTED BY OR ON BEHALF OF THE CEDING INSURER.

(B) SUBSECTION (A) OF THIS SECTION IS NOT INTENDED TO CONFLICT WITH OR OVERRIDE THE OBLIGATION OF THE PARTIES TO A REINSURANCE ~~AGREEMENT~~ CONTRACT TO ARBITRATE THEIR DISPUTES, IF THIS OBLIGATION IS CREATED IN THE REINSURANCE ~~AGREEMENT~~ CONTRACT.

(C) IF THE ASSUMING INSURER DOES NOT MEET THE REQUIREMENTS OF ~~§ 5-903(D)~~ § 5-904(C) OR ~~(E)~~ (D) OF THIS SUBTITLE, THE CREDIT ALLOWED BY ~~§ 5-903(D)~~ § 5-904(E) AND ~~(E)~~ (F) OF THIS SUBTITLE MAY NOT BE ALLOWED UNLESS THE ASSUMING INSURER AGREES IN THE TRUST AGREEMENTS TO THE FOLLOWING CONDITIONS:

(1) NOTWITHSTANDING ANY OTHER PROVISION IN THE TRUST INSTRUMENT, IF THE TRUST FUND IS INADEQUATE BECAUSE IT CONTAINS AN AMOUNT LESS THAN THE AMOUNT REQUIRED BY ~~§ 5-905(J)~~ § 5-907(J) OF THIS SUBTITLE, OR IF THE GRANTOR OF THE TRUST HAS BEEN DECLARED INSOLVENT OR PLACED INTO RECEIVERSHIP, REHABILITATION, LIQUIDATION, OR SIMILAR PROCEEDINGS UNDER THE LAWS OF ITS STATE OR COUNTRY OF DOMICILE, THE TRUSTEE SHALL COMPLY WITH AN ORDER OF THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH REGULATORY OVERSIGHT OVER THE TRUST OR WITH AN ORDER OF A COURT OF COMPETENT JURISDICTION DIRECTING THE TRUSTEE TO TRANSFER TO THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH REGULATORY OVERSIGHT ALL OF THE ASSETS OF THE TRUST FUND;

(2) THE ASSETS SHALL BE DISTRIBUTED BY AND CLAIMS SHALL BE FILED WITH AND VALUED BY THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH REGULATORY OVERSIGHT OVER THE TRUST IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH THE TRUST IS DOMICILED THAT ARE APPLICABLE TO THE LIQUIDATION OF DOMESTIC INSURERS;

(3) IF THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH REGULATORY OVERSIGHT OVER THE TRUST DETERMINES THAT THE ASSETS OF THE TRUST FUND OR ANY PART OF THE ASSETS ARE NOT NECESSARY TO SATISFY THE CLAIMS OF THE UNITED STATES CEDING INSURERS OF THE GRANTOR OF THE TRUST, THE ASSETS OR PART SHALL BE RETURNED BY THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH REGULATORY OVERSIGHT TO THE TRUSTEE FOR DISTRIBUTION IN ACCORDANCE WITH THE TRUST AGREEMENT; AND

(4) THE GRANTOR SHALL WAIVE ANY RIGHT OTHERWISE AVAILABLE TO IT UNDER UNITED STATES LAW THAT IS INCONSISTENT WITH THIS SUBSECTION.

~~5-912.~~ 5-914.

(A) AN ASSET OR A REDUCTION FROM LIABILITY FOR THE REINSURANCE CEDED BY A DOMESTIC INSURER TO AN ASSUMING INSURER NOT MEETING THE REQUIREMENTS OF ~~§ 9-503~~ § 5-904 OF THIS SUBTITLE SHALL BE ALLOWED IN AN AMOUNT NOT EXCEEDING THE LIABILITIES CARRIED BY THE CEDING INSURER.

(B) THE REDUCTION SHALL BE IN THE AMOUNT OF FUNDS HELD BY OR ON BEHALF OF THE CEDING INSURER, INCLUDING FUNDS HELD IN TRUST FOR THE CEDING INSURER, UNDER A REINSURANCE CONTRACT WITH THE ASSUMING INSURER AS SECURITY FOR THE PAYMENT OF OBLIGATIONS UNDER THE CONTRACT, IF THE SECURITY IS HELD:

(1) IN THE UNITED STATES SUBJECT TO WITHDRAWAL SOLELY BY, AND UNDER THE EXCLUSIVE CONTROL OF, THE CEDING INSURER; OR

(2) IN THE CASE OF A TRUST, HELD IN A QUALIFIED UNITED STATES FINANCIAL INSTITUTION.

(C) THE SECURITY MAY BE IN THE FORM OF:

(1) CASH;

(2) SECURITIES LISTED BY THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, INCLUDING THOSE DEEMED EXEMPT FROM FILING AS DEFINED BY THE PURPOSES AND PROCEDURES MANUAL OF THE SECURITIES VALUATION OFFICE, AND QUALIFYING AS ADMITTED ASSETS;

(3) SUBJECT TO SUBSECTION (D) OF THIS SECTION, CLEAN, IRREVOCABLE, UNCONDITIONAL LETTERS OF CREDIT, ISSUED OR CONFIRMED BY A QUALIFIED UNITED STATES FINANCIAL INSTITUTION, EFFECTIVE NO LATER THAN DECEMBER 31 OF THE YEAR FOR WHICH THE FILING IS BEING MADE, AND IN THE POSSESSION OF, OR IN TRUST FOR, THE CEDING INSURER ON OR BEFORE THE FILING DATE OF THE CEDING INSURER'S ANNUAL STATEMENT; OR

(4) ANY OTHER FORM OF SECURITY ACCEPTABLE TO THE COMMISSIONER.

(D) NOTWITHSTANDING THE SUBSEQUENT FAILURE OF THE ISSUING OR CONFIRMING INSTITUTION TO MEET APPLICABLE STANDARDS OF ISSUER ACCEPTABILITY, A LETTER OF CREDIT MEETING APPLICABLE STANDARDS OF ISSUER ACCEPTABILITY AS OF THE DATE OF ITS ISSUANCE OR CONFIRMATION UNDER SUBSECTION (C)(3) OF THIS SECTION SHALL CONTINUE TO BE ACCEPTABLE AS SECURITY UNTIL THE LETTER OF CREDIT EXPIRES OR IS EXTENDED, RENEWED, MODIFIED, OR AMENDED, WHICHEVER OCCURS FIRST.

~~5-913.~~ 5-915.

(A) (1) A CEDING INSURER SHALL TAKE STEPS TO MANAGE ITS REINSURANCE RECOVERABLES PROPORTIONATE TO ITS OWN BOOK OF BUSINESS.

(2) (I) A DOMESTIC CEDING INSURER SHALL NOTIFY THE COMMISSIONER WITHIN 30 DAYS AFTER REINSURANCE RECOVERABLES FROM ANY SINGLE ASSUMING INSURER, OR GROUP OF AFFILIATED ASSUMING INSURERS, EXCEEDS OR IS LIKELY TO EXCEED 50% OF THE DOMESTIC CEDING INSURER'S LAST REPORTED SURPLUS TO POLICYHOLDERS.

(II) THE NOTIFICATION REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL DEMONSTRATE THAT THE DOMESTIC CEDING INSURER IS SAFELY MANAGING THE EXPOSURE.

(B) (1) A CEDING INSURER SHALL TAKE STEPS TO DIVERSIFY ITS REINSURANCE PROGRAM.

(2) (I) A DOMESTIC CEDING INSURER SHALL NOTIFY THE COMMISSIONER WITHIN 30 DAYS AFTER CEDING OR BEING LIKELY TO CEDE TO ANY SINGLE ASSUMING INSURER, OR GROUP OF AFFILIATED ASSUMING INSURERS, MORE THAN 20% OF THE CEDING INSURER'S GROSS WRITTEN PREMIUM IN THE PRIOR CALENDAR YEAR.

(II) THE NOTIFICATION REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL DEMONSTRATE THAT THE DOMESTIC CEDING INSURER IS SAFELY MANAGING THE EXPOSURE.

~~5-914.~~ 5-916.

THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That credit for reinsurance ceded to a reinsurer under this Act may be allowed only for reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer by the Maryland Insurance Commissioner under this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That a presently existing obligation or contract right may not be impaired in any way by this Act.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 322

(Senate Bill 797)

AN ACT concerning

~~Renewable Energy Portfolio Standard – Wood and Plant Derived Biomass
Systems~~
Thermal Energy – Task Force and Regulations

FOR the purpose of ~~providing that energy from a certain wood and plant derived biomass system is eligible for inclusion in meeting the renewable energy portfolio standard; providing that a person that owns a wood and plant derived biomass system shall receive a certain renewable energy credit calculated in a certain manner; requiring the Public Service Commission to adopt certain regulations for the metering, verification, and reporting of energy~~

~~output from wood and plant derived biomass systems; providing that energy produced by a wood and plant derived biomass system shall be eligible for inclusion in meeting the renewable energy portfolio standard for certain compliance years; defining certain terms; altering certain definitions; providing for the effective date of this Act; and generally relating to the renewable energy portfolio standard and wood and plant derived biomass systems~~ establishing the Maryland Thermal Renewable Energy Credit Task Force; providing for the composition, chair, and staffing 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 analyze how to restructure the renewable energy portfolio standard to incorporate certain thermal energy sources; requiring the Task Force to make certain determinations and consider the impact of certain changes; 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 the Task Force; requiring the Department of the Environment to publish certain regulations to facilitate the commissioning of certain solid fuel boilers in the State under certain circumstances; and generally relating to the establishment of the Maryland Thermal Renewable Energy Credit Task Force and the regulation of thermal energy.

~~BY repealing and reenacting, with amendments,
Article — Public Utilities
Section 7-701
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)~~

~~BY adding to
Article — Public Utilities
Section 7-704(j)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)~~

Preamble

~~WHEREAS, The General Assembly recognizes the importance of supporting Maryland's efforts to produce energy, to the extent practicable, from in State resources in order to help meet the State's clean, renewable energy goals; and~~

~~WHEREAS, The General Assembly is committed to the promotion of the creation of green energy jobs in Maryland; and~~

~~WHEREAS, The General Assembly also encourages the Department of General Services to consider the use of renewable energy, including the use of biomass systems using wood and plant derived biomass sources, when developing procurement guidelines; now, therefore;~~

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

- (a) There is a Maryland Thermal Renewable Energy Credit Task Force.
- (b) The Task Force consists of the following 14 members:
- (1) one member of the Senate of Maryland, appointed by the President of the Senate;
 - (2) one member of the House of Delegates, appointed by the Speaker of the House;
 - (3) the Director of the Maryland Energy Administration;
 - (4) the Secretary of Natural Resources, or the Secretary's designee;
 - (5) the Secretary of the Environment, or the Secretary's designee;
 - (6) the Secretary of Agriculture, or the Secretary's designee;
 - (7) the Executive Director of the Technical Staff of the Maryland Public Service Commission, or the Executive Director's designee; and
 - (8) the following seven members, appointed by the Governor:
 - (i) one representative of the solar industry;
 - (ii) one representative of the animal-waste bioenergy industry;
 - (iii) one representative of the geothermal industry;
 - (iv) one representative of the forest products industry;
 - (v) one representative from the Sustainable Forestry Council;
 - (vi) one representative of the biomass thermal energy industry;
 - (vii) one representative of the environmental community.
- and
- (c) The Director of the Maryland Energy Administration shall be the chair of the Task Force.
- (d) The Maryland Energy Administration 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) In accordance with subsection (g) of this section, the Task Force shall:
- (1) analyze how to restructure the renewable energy portfolio standard under Title 7, Subtitle 7 of the Public Utilities Article to incorporate thermal energy sources, including energy derived from wood-derived biomass;
 - (2) determine whether it is appropriate to create a separate compliance tier for thermal energy sources;
 - (3) determine an appropriate method of awarding renewable energy credits for thermal energy sources, including energy derived from wood-derived biomass; and
 - (4) determine any other changes to State law that the Task Force deems appropriate to incorporate thermal energy sources in the renewable energy portfolio standard.
- (g) In conducting the analysis and determinations required under subsection (f) of this section, the Task Force shall consider the impact of any proposed changes on:
- (1) the State's ability to:
 - (i) meet the greenhouse gas reduction goal under § 2-1204 of the Environment Article;
 - (ii) achieve the goals set forth in the State's renewable energy portfolio standards under § 7-703 of the Public Utilities Article; and
 - (iii) utilize wood-derived biomass to help meet the State's renewable energy goals, consistent with § 5-102 of the Natural Resources Article; and
 - (2) any other factor the Task Force deems appropriate.
- (h) On or before December 31, 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 the Department of the Environment shall publish by October 1, 2013, a proposed regulation revising COMAR 26.11.09.04 to facilitate the commissioning of small- to medium-scale solid fuel boilers

in the State that meet environmental standards that the Department of the Environment deems appropriate.

~~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.~~
- ~~(b) “Administration” means the Maryland Energy Administration.~~
- ~~(c) “Fund” means the Maryland Strategic Energy Investment Fund established under § 9-20B-05 of the State Government Article.~~
- ~~(e-1) “Geothermal heating and cooling system” means a system that:~~
- ~~(1) exchanges thermal energy from groundwater or a shallow ground source to generate thermal energy through a geothermal heat pump or a system of geothermal heat pumps interconnected with any geothermal extraction facility that is:

 - ~~(i) a closed loop or a series of closed loop systems in which fluid is permanently confined within a pipe or tubing and does not come in contact with the outside environment; or~~
 - ~~(ii) an open loop system in which ground or surface water is circulated in an environmentally safe manner directly into the facility and returned to the same aquifer or surface water source;~~~~
 - ~~(2) meets or exceeds the current federal Energy Star product specification standards;~~
 - ~~(3) replaces or displaces inefficient space or water heating systems whose primary fuel is electricity or a nonnatural gas fuel source;~~
 - ~~(4) replaces or displaces inefficient space cooling systems that do not meet federal Energy Star product specification standards;~~
 - ~~(5) is manufactured, installed, and operated in accordance with applicable government and industry standards; and~~
 - ~~(6) does not feed electricity back to the grid.~~

~~(d) “Industrial process load” means the consumption of electricity by a manufacturing process at an establishment classified in the manufacturing sector under the North American Industry Classification System, Codes 31 through 33.~~

~~(e) “Old growth timber” means timber from a forest:~~

~~(1) at least 5 acres in size with a preponderance of old trees, of which the oldest exceed at least half the projected maximum attainable age for the species; and~~

~~(2) that exhibits several of the following characteristics:~~

~~(i) shade-tolerant species are present in all age and size classes;~~

~~(ii) randomly distributed canopy gaps are present;~~

~~(iii) a high degree of structural diversity characterized by multiple growth layers reflecting a broad spectrum of ages is present;~~

~~(iv) an accumulation of dead wood of varying sizes and stages of decomposition accompanied by decadence in live dominant trees is present; and~~

~~(v) pit and mound topography can be observed.~~

~~(f) “PJM region” means the control area administered by the PJM Interconnection, Inc., as the area may change from time to time.~~

~~(g) “Poultry litter” means the fecal and urinary excretions of poultry, including wood shavings, sawdust, straw, rice hulls, and other bedding material for the disposition of manure.~~

~~(h) (1) “Qualifying biomass” means a nonhazardous, organic material that is available on a renewable or recurring basis, and is:~~

~~(i) waste material that is segregated from inorganic waste material and is derived from sources including:~~

~~1. except for old growth timber, any of the following forest-related resources:~~

~~A. mill residue, except sawdust and wood shavings;~~

~~B. precommercial soft wood thinning;~~

~~C. slash;~~

- ~~D. brush; or~~
 - ~~E. yard waste;~~
 - ~~2. a pallet, crate, or dunnage;~~
 - ~~3. agricultural and silvicultural sources, including tree crops, vineyard materials, grain, legumes, sugar, and other crop by-products or residues; or~~
 - ~~4. gas produced from the anaerobic decomposition of animal waste or poultry waste; or~~
 - ~~(ii) a plant that is cultivated exclusively for purposes of being used at a Tier 1 renewable source or a Tier 2 renewable source to produce electricity.~~
- ~~(2) "Qualifying biomass" includes biomass listed in paragraph (1) of this subsection that is used for co-firing, subject to § 7-704(d) of this subtitle.~~
- ~~(3) "Qualifying biomass" does not include:~~
- ~~(i) unsegregated solid waste or postconsumer wastepaper; or~~
 - ~~(ii) an invasive exotic plant species.~~
- ~~(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.~~
- ~~(i) "Renewable energy credit" or "credit" means a credit equal to the generation attributes of 1 megawatt-hour of electricity OR RENEWABLE THERMAL ENERGY EQUIVALENT that is derived from a Tier 1 renewable source or a Tier 2 renewable source that is located:~~
- ~~(1) in the PJM region; or~~

~~(2) outside the area described in item (1) of this subsection but in a control area that is adjacent to the PJM region, if the electricity is delivered into the PJM region.~~

~~(j) “Renewable energy portfolio standard” or “standard” means the percentage of electricity sales at retail in the State that is to be derived from Tier 1 renewable sources and Tier 2 renewable sources in accordance with § 7-703(b) of this subtitle.~~

~~(k) “Renewable on-site generator” means a person who generates electricity on-site from a Tier 1 renewable source or a Tier 2 renewable source for the person’s own use.~~

~~(k-1) “RENEWABLE THERMAL ENERGY EQUIVALENT” MEANS THE ELECTRICAL EQUIVALENT IN MEGAWATT HOURS OF RENEWABLE THERMAL ENERGY CALCULATED BY DIVIDING THE HEAT CONTENT, MEASURED IN BTUS, OF THE RENEWABLE THERMAL ENERGY AT THE POINT OF TRANSFER TO A HEAT-DEPENDENT PROCESS BY THE STANDARD CONVERSION FACTOR OF 3.412 MILLION BTUS PER MEGAWATT HOUR.~~

~~(k-2) (1) “Solar water heating system” means a system that:~~

~~(i) is comprised of glazed liquid-type flat-plate or tubular solar collectors as defined and certified to the OG-100 standard of the Solar Ratings and Certification Corporation;~~

~~(ii) generates energy using solar radiation for the purpose of heating water; and~~

~~(iii) does not feed electricity back to the electric grid.~~

~~(2) “Solar water heating system” does not include a system that generates energy using solar radiation for the sole purpose of heating a hot tub or swimming pool.~~

~~(4) “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;~~

~~(4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;~~

~~(5) geothermal, including energy generated through geothermal exchange from or thermal energy avoided by, groundwater or a shallow ground source;~~

~~(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;~~

~~(11) refuse derived fuel; [and]~~

~~(12) thermal energy from a thermal biomass system; AND~~

~~(13) ENERGY FROM A WOOD AND PLANT DERIVED BIOMASS SYSTEM.~~

~~(m) "Tier 2 renewable source" means hydroelectric power other than pump storage generation.~~

~~(n) (1) "WOOD AND PLANT DERIVED BIOMASS SYSTEM" MEANS A SYSTEM THAT:~~

~~(i) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, USES QUALIFYING BIOMASS; AND~~

~~(ii) PROVIDES ENERGY USED FOR:~~

~~1. SPACE OR WATER HEATING OR COOLING;~~

~~2. COMBINED HEAT AND POWER;~~

~~3. HUMIDITY CONTROL; OR~~

~~4. THERMAL END USE FOR WHICH FUEL OR ELECTRICITY OTHERWISE WOULD BE CONSUMED.~~

~~(2) “WOOD AND PLANT DERIVED BIOMASS SYSTEM” DOES NOT INCLUDE A SYSTEM THAT USES GAS PRODUCED FROM THE ANAEROBIC DECOMPOSITION OF ANIMAL WASTE OR POULTRY WASTE.~~

~~7-704.~~

~~(J) (1) ENERGY FROM A WOOD AND PLANT DERIVED BIOMASS SYSTEM COMMISSIONED ON OR AFTER JULY 1, 2013 IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD.~~

~~(2) A PERSON THAT OWNS A WOOD AND PLANT DERIVED BIOMASS SYSTEM SHALL RECEIVE A RENEWABLE ENERGY CREDIT FOR THE RENEWABLE THERMAL ENERGY EQUIVALENT PRODUCED BY THE WOOD AND PLANT DERIVED BIOMASS SYSTEM.~~

~~(3) THE COMMISSION SHALL ADOPT REGULATIONS FOR THE METERING, VERIFICATION, AND REPORTING OF THE ENERGY OUTPUT OF WOOD AND PLANT DERIVED BIOMASS SYSTEMS.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That energy produced by a wood and plant derived biomass system shall be eligible for inclusion in meeting the renewable energy portfolio standard for compliance years starting with 2014.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014 June 1, 2013.~~

Approved by the Governor, May 2, 2013.

Chapter 323

(House Bill 1084)

AN ACT concerning

~~Renewable Energy Portfolio Standard – Wood and Plant Derived Biomass
Systems~~

Thermal Energy – Task Force and Regulations

FOR the purpose of ~~providing that energy from a certain wood and plant derived biomass system is eligible for inclusion in meeting the renewable energy portfolio standard; providing that a person that owns a wood and plant derived biomass system shall receive a certain renewable energy credit~~

~~calculated in a certain manner; requiring the Public Service Commission to adopt certain regulations for the metering, verification, and reporting of energy output from wood and plant derived biomass systems; providing that energy produced by a wood and plant derived biomass system shall be eligible for inclusion in meeting the renewable energy portfolio standard for certain compliance years; defining certain terms; altering certain definitions; providing for the effective date of this Act; and generally relating to the renewable energy portfolio standard and wood and plant derived biomass systems establishing the Maryland Thermal Renewable Energy Credit Task Force; providing for the composition, chair, and staffing 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 analyze how to restructure the renewable energy portfolio standard to incorporate certain thermal energy sources; requiring the Task Force to make certain determinations and consider the impact of certain changes; 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 the Task Force; requiring the Department of the Environment to publish certain regulations to facilitate the commissioning of certain solid fuel boilers in the State under certain circumstances; and generally relating to the establishment of the Maryland Thermal Renewable Energy Credit Task Force and the regulation of thermal energy.~~

~~BY repealing and reenacting, with amendments,
Article — Public Utilities
Section 7-701
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)~~

~~BY adding to
Article — Public Utilities
Section 7-704(j)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)~~

~~Preamble~~

~~WHEREAS, The General Assembly recognizes the importance of supporting Maryland's efforts to produce energy, to the extent practicable, from in-State resources in order to help meet the State's clean, renewable energy goals; and~~

~~WHEREAS, The General Assembly is committed to the promotion of the creation of green energy jobs in Maryland; and~~

~~WHEREAS, The General Assembly also encourages the Department of General Services to consider the use of renewable energy, including the use of biomass systems~~

~~using wood and plant-derived biomass sources, when developing procurement guidelines; now, therefore,~~

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

- (a) There is a Maryland Thermal Renewable Energy Credit Task Force.
- (b) The Task Force consists of the following 14 members:
- (1) one member of the Senate of Maryland, appointed by the President of the Senate;
 - (2) one member of the House of Delegates, appointed by the Speaker of the House;
 - (3) the Director of the Maryland Energy Administration;
 - (4) the Secretary of Natural Resources, or the Secretary's designee;
 - (5) the Secretary of the Environment, or the Secretary's designee;
 - (6) the Secretary of Agriculture, or the Secretary's designee;
 - (7) the Executive Director of the Technical Staff of the Maryland Public Service Commission, or the Executive Director's designee; and
 - (8) the following seven members, appointed by the Governor:
 - (i) one representative of the solar industry;
 - (ii) one representative of the animal-waste bioenergy industry;
 - (iii) one representative of the geothermal industry;
 - (iv) one representative of the forest products industry;
 - (v) one representative from the Sustainable Forestry Council;
 - (vi) one representative of the biomass thermal energy industry;
 - (vii) one representative of the environmental community.
- and
- (c) The Director of the Maryland Energy Administration shall be the chair of the Task Force.

(d) The Maryland Energy Administration 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) In accordance with subsection (g) of this section, the Task Force shall:

(1) analyze how to restructure the renewable energy portfolio standard under Title 7, Subtitle 7 of the Public Utilities Article to incorporate thermal energy sources, including energy derived from wood-derived biomass;

(2) determine whether it is appropriate to create a separate compliance tier for thermal energy sources;

(3) determine an appropriate method of awarding renewable energy credits for thermal energy sources, including energy derived from wood-derived biomass; and

(4) determine any other changes to State law that the Task Force deems appropriate to incorporate thermal energy sources in the renewable energy portfolio standard.

(g) In conducting the analysis and determinations required under subsection (f) of this section, the Task Force shall consider the impact of any proposed changes on:

(1) the State's ability to:

(i) meet the greenhouse gas reduction goal under § 2-1204 of the Environment Article;

(ii) achieve the goals set forth in the State's renewable energy portfolio standards under § 7-703 of the Public Utilities Article; and

(iii) utilize wood-derived biomass to help meet the State's renewable energy goals, consistent with § 5-102 of the Natural Resources Article; and

(2) any other factor the Task Force deems appropriate.

(h) On or before December 31, 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 the Department of the Environment shall publish by October 1, 2013, a proposed regulation revising COMAR 26.11.09.04 to facilitate the commissioning of small- to medium-scale solid fuel boilers in the State that meet environmental standards that the Department of the Environment deems appropriate.

~~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.~~
- ~~(b) “Administration” means the Maryland Energy Administration.~~
- ~~(c) “Fund” means the Maryland Strategic Energy Investment Fund established under § 9-20B-05 of the State Government Article.~~
- ~~(c-1) “Geothermal heating and cooling system” means a system that:~~
- ~~(1) exchanges thermal energy from groundwater or a shallow ground source to generate thermal energy through a geothermal heat pump or a system of geothermal heat pumps interconnected with any geothermal extraction facility that is:
 - ~~(i) a closed loop or a series of closed loop systems in which fluid is permanently confined within a pipe or tubing and does not come in contact with the outside environment; or~~
 - ~~(ii) an open loop system in which ground or surface water is circulated in an environmentally safe manner directly into the facility and returned to the same aquifer or surface water source;~~~~
 - ~~(2) meets or exceeds the current federal Energy Star product specification standards;~~
 - ~~(3) replaces or displaces inefficient space or water heating systems whose primary fuel is electricity or a nonnatural gas fuel source;~~
 - ~~(4) replaces or displaces inefficient space cooling systems that do not meet federal Energy Star product specification standards;~~
 - ~~(5) is manufactured, installed, and operated in accordance with applicable government and industry standards; and~~
 - ~~(6) does not feed electricity back to the grid.~~

~~(d) "Industrial process load" means the consumption of electricity by a manufacturing process at an establishment classified in the manufacturing sector under the North American Industry Classification System, Codes 31 through 33.~~

~~(e) "Old growth timber" means timber from a forest:~~

~~(1) at least 5 acres in size with a preponderance of old trees, of which the oldest exceed at least half the projected maximum attainable age for the species; and~~

~~(2) that exhibits several of the following characteristics:~~

~~(i) shade tolerant species are present in all age and size classes;~~

~~(ii) randomly distributed canopy gaps are present;~~

~~(iii) a high degree of structural diversity characterized by multiple growth layers reflecting a broad spectrum of ages is present;~~

~~(iv) an accumulation of dead wood of varying sizes and stages of decomposition accompanied by decadence in live dominant trees is present; and~~

~~(v) pit and mound topography can be observed.~~

~~(f) "PJM region" means the control area administered by the PJM Interconnection, Inc., as the area may change from time to time.~~

~~(g) "Poultry litter" means the fecal and urinary excretions of poultry, including wood shavings, sawdust, straw, rice hulls, and other bedding material for the disposition of manure.~~

~~(h) (1) "Qualifying biomass" means a nonhazardous, organic material that is available on a renewable or recurring basis, and is:~~

~~(i) waste material that is segregated from inorganic waste material and is derived from sources including:~~

~~1. except for old growth timber, any of the following forest related resources:~~

~~A. mill residue, except sawdust and wood shavings;~~

~~B. precommercial soft wood thinning;~~

~~C. slash;~~

- ~~D. brush; or~~
 - ~~E. yard waste;~~
 - ~~2. a pallet, crate, or dunnage;~~
 - ~~3. agricultural and silvicultural sources, including tree crops, vineyard materials, grain, legumes, sugar, and other crop by-products or residues; or~~
 - ~~4. gas produced from the anaerobic decomposition of animal waste or poultry waste; or~~
- ~~(ii) a plant that is cultivated exclusively for purposes of being used at a Tier 1 renewable source or a Tier 2 renewable source to produce electricity.~~
- ~~(2) “Qualifying biomass” includes biomass listed in paragraph (1) of this subsection that is used for co-firing, subject to § 7-704(d) of this subtitle.~~
- ~~(3) “Qualifying biomass” does not include:~~
- ~~(i) unsegregated solid waste or postconsumer wastepaper; or~~
 - ~~(ii) an invasive exotic plant species.~~
- ~~(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.~~
- ~~(i) “Renewable energy credit” or “credit” means a credit equal to the generation attributes of 1 megawatt-hour of electricity **OR RENEWABLE THERMAL ENERGY EQUIVALENT** that is derived from a Tier 1 renewable source or a Tier 2 renewable source that is located:~~
 - ~~(1) in the PJM region; or~~

~~(2) outside the area described in item (1) of this subsection but in a control area that is adjacent to the PJM region, if the electricity is delivered into the PJM region.~~

~~(j) "Renewable energy portfolio standard" or "standard" means the percentage of electricity sales at retail in the State that is to be derived from Tier 1 renewable sources and Tier 2 renewable sources in accordance with § 7-703(b) of this subtitle.~~

~~(k) "Renewable on-site generator" means a person who generates electricity on-site from a Tier 1 renewable source or a Tier 2 renewable source for the person's own use.~~

~~(k-1) "RENEWABLE THERMAL ENERGY EQUIVALENT" MEANS THE ELECTRICAL EQUIVALENT IN MEGAWATT HOURS OF RENEWABLE THERMAL ENERGY CALCULATED BY DIVIDING THE HEAT CONTENT, MEASURED IN BTUS, OF THE RENEWABLE THERMAL ENERGY AT THE POINT OF TRANSFER TO A HEAT DEPENDENT PROCESS BY THE STANDARD CONVERSION FACTOR OF 3.412 MILLION BTUS PER MEGAWATT HOUR.~~

~~(K-2) (1) "Solar water heating system" means a system that:~~

~~(i) is comprised of glazed liquid-type flat-plate or tubular solar collectors as defined and certified to the OG-100 standard of the Solar Ratings and Certification Corporation;~~

~~(ii) generates energy using solar radiation for the purpose of heating water; and~~

~~(iii) does not feed electricity back to the electric grid.~~

~~(2) "Solar water heating system" does not include a system that generates energy using solar radiation for the sole purpose of heating a hot tub or swimming pool.~~

~~(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;~~

~~(4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;~~

~~(5) geothermal, including energy generated through geothermal exchange from or thermal energy avoided by, groundwater or a shallow ground source;~~

~~(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;~~

~~(11) refuse derived fuel; [and]~~

~~(12) thermal energy from a thermal biomass system; AND~~

~~(13) ENERGY FROM A WOOD AND PLANT DERIVED BIOMASS SYSTEM.~~

~~(m) “Tier 2 renewable source” means hydroelectric power other than pump storage generation.~~

~~(n) (1) “WOOD AND PLANT DERIVED BIOMASS SYSTEM” MEANS A SYSTEM THAT:~~

~~(i) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, USES QUALIFYING BIOMASS; AND~~

~~(ii) PROVIDES ENERGY USED FOR:~~

~~1. SPACE OR WATER HEATING OR COOLING;~~

~~2. COMBINED HEAT AND POWER;~~

~~3. HUMIDITY CONTROL; OR~~

~~4. THERMAL END USE FOR WHICH FUEL OR ELECTRICITY OTHERWISE WOULD BE CONSUMED.~~

~~(2) "WOOD AND PLANT DERIVED BIOMASS SYSTEM" DOES NOT INCLUDE A SYSTEM THAT USES GAS PRODUCED FROM THE ANAEROBIC DECOMPOSITION OF ANIMAL WASTE OR POULTRY WASTE.~~

~~7-704.~~

~~(J) (1) ENERGY FROM A WOOD AND PLANT DERIVED BIOMASS SYSTEM COMMISSIONED ON OR AFTER JULY 1, 2013 IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD.~~

~~(2) A PERSON THAT OWNS A WOOD AND PLANT DERIVED BIOMASS SYSTEM SHALL RECEIVE A RENEWABLE ENERGY CREDIT FOR THE RENEWABLE THERMAL ENERGY EQUIVALENT PRODUCED BY THE WOOD AND PLANT DERIVED BIOMASS SYSTEM.~~

~~(3) THE COMMISSION SHALL ADOPT REGULATIONS FOR THE METERING, VERIFICATION, AND REPORTING OF THE ENERGY OUTPUT OF WOOD AND PLANT DERIVED BIOMASS SYSTEMS.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That energy produced by a wood and plant derived biomass system shall be eligible for inclusion in meeting the renewable energy portfolio standard for compliance years starting with 2014.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014 June 1, 2013.~~

Approved by the Governor, May 2, 2013.

Chapter 324

(Senate Bill 798)

AN ACT concerning

Hospitals – Credentialing and Privileging Process – Telemedicine

FOR the purpose of authorizing a hospital, in its credentialing and privileging process for a physician who provides medical services to patients at the hospital only through telemedicine from certain locations, to rely on certain credentialing and privileging decisions under certain circumstances; defining a certain term; and generally relating to hospital credentialing and privileging processes for physicians providing services through telemedicine.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–319(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health – General

19–319.

(e) (1) **(I)** In this subsection[, “uniform”] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(II) 1. “TELEMEDICINE” MEANS THE USE OF INTERACTIVE AUDIO, VIDEO, OR OTHER TELECOMMUNICATIONS OR ELECTRONIC TECHNOLOGY BY A PHYSICIAN IN THE PRACTICE OF MEDICINE OUTSIDE THE PHYSICAL PRESENCE OF THE PATIENT.

2. “TELEMEDICINE” DOES NOT INCLUDE:

A. AN AUDIO–ONLY TELEPHONE CONVERSATION BETWEEN A PHYSICIAN AND A PATIENT;

B. AN ELECTRONIC MAIL MESSAGE BETWEEN A PHYSICIAN AND A PATIENT; OR

C. A FACSIMILE TRANSMISSION BETWEEN A PHYSICIAN AND A PATIENT.

(III) “UNIFORM standard credentialing form” means:

[(i)] 1. The form designated by the Secretary through regulation for credentialing physicians who seek to be employed by or have staff privileges at a hospital; or

[(ii)] 2. The uniform credentialing form that the Insurance Commissioner designates under § 15–112.1 of the Insurance Article.

(2) As a condition of licensure, each hospital shall:

(i) Establish a credentialing process for the physicians who are employed by or who have staff privileges at the hospital; and

(ii) Use the uniform standard credentialing form as the initial application of a physician seeking to be credentialed.

(3) Use of the uniform standard credentialing form does not preclude a hospital from requiring supplemental or additional information as part of the hospital's credentialing process.

(4) The Secretary shall, by regulation and in consultation with hospitals, physicians, interested community and advocacy groups, and representatives of the Maryland Defense Bar and Plaintiffs' Bar, establish minimum standards for a credentialing process which shall include:

(i) A formal written appointment process documenting the physician's education, clinical expertise, licensure history, insurance history, medical history, claims history, and professional experience.

(ii) A requirement that an initial appointment to staff not be complete until the physician has successfully completed a probationary period.

(iii) A formal, written reappointment process to be conducted at least every 2 years. The reappointment process shall document the physician's pattern of performance by analyzing:

1. Claims filed against the physician;
2. Data dealing with utilization, quality, and risk;
3. Clinical skills;
4. Adherence to hospital bylaws, policies, and procedures;
5. Compliance with continuing education requirements;
6. Mental and physical status; and
7. The results of the practitioner performance evaluation process under subsection (i) of this section.

(5) If requested by the Department, a hospital shall provide documentation that, prior to employing or granting privileges to a physician, the hospital has complied with the requirements of this subsection and that, prior to renewing employment or privileges, the hospital has complied with the requirements of this subsection.

(6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, IN ITS CREDENTIALING AND PRIVILEGING PROCESS FOR A

PHYSICIAN WHO PROVIDES MEDICAL SERVICES TO PATIENTS AT THE HOSPITAL ONLY THROUGH TELEMEDICINE FROM A DISTANT-SITE HOSPITAL OR DISTANT-SITE TELEMEDICINE ENTITY, A HOSPITAL MAY RELY ON THE CREDENTIALING AND PRIVILEGING DECISIONS MADE FOR THE PHYSICIAN BY THE DISTANT-SITE HOSPITAL OR DISTANT-SITE TELEMEDICINE ENTITY, AS AUTHORIZED UNDER 42 C.F.R. PART 482, IF:

(I) THE PHYSICIAN WHO PROVIDES MEDICAL SERVICES THROUGH TELEMEDICINE HOLDS A LICENSE TO PRACTICE MEDICINE IN THE STATE ISSUED UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE; AND

(II) THE CREDENTIALING AND PRIVILEGING DECISIONS WITH RESPECT TO THE PHYSICIAN WHO PROVIDES MEDICAL SERVICES THROUGH TELEMEDICINE ARE:

1. APPROVED BY THE MEDICAL STAFF OF THE HOSPITAL; AND

2. RECOMMENDED BY THE MEDICAL STAFF OF THE HOSPITAL TO THE HOSPITAL'S GOVERNING BODY.

[(6)] (7) If a hospital fails to establish or maintain a credentialing process required under this subsection, the Secretary may impose the following penalties:

- (i) Delicensure of the hospital; or
- (ii) \$500 per day for each day the violation continues.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 325

(Senate Bill 846)

AN ACT concerning

Courts – Baltimore City Sheriff and Fees for Filing and Service of Process

FOR the purpose of altering the type of positions and the number of certain positions to which the Baltimore City Sheriff may appoint employees; increasing a certain annual expense allowance for certain deputy sheriffs; altering certain surcharges on filing fees in the District Court in Baltimore City; requiring certain revenue to be remitted quarterly to the Baltimore City Director of Finance and used to fund the enhancement of sheriff benefits and the increase in sheriff personnel for a certain purpose; authorizing the Sheriff to collect certain surcharges on fees for certain types of service; requiring certain revenue to be used to fund the enhancement of sheriff benefits and the increase in sheriff personnel for a certain purpose; and generally relating to the Baltimore City Sheriff and certain filing and service of process fees in Baltimore City.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 2–309(a) and (a–1) and 7–402(b) and (e)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–309(d)(1), 7–301(c), and 7–402(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 7–402(f)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

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

Article – Courts and Judicial Proceedings

2–309.

(a) The sheriff of a county and his deputies shall receive the annual salaries provided by this section for performing the duties required of them by the Constitution and the laws of this State. They shall be reimbursed for expenses as provided by law.

(a–1) The government of each county shall furnish an office for the sheriff and pay the necessary expenses for telephones, stationery and for other purposes, and unless otherwise provided by law, shall provide for the necessary traveling expenses of the sheriff for conveying prisoners to any penal institution in the State and other necessary traveling expenses.

(d) (1) (i) In Baltimore City, the Sheriff shall receive an expense allowance of \$750 two times per year and a salary of:

1. \$79,300 in calendar year 2007;
2. \$84,600 in calendar year 2008;
3. \$89,900 in calendar year 2009;
4. \$95,200 in calendar year 2010; and

5. In calendar year 2011 and thereafter, no less than the salary of a Command Staff 2 in the Baltimore City Police Department at the midpoint in the pay scale.

(ii) The Sheriff:

1. Shall appoint an undersheriff or chief deputy sheriff, one assistant sheriff, [two] **THREE** deputy sheriff majors, [two] **THREE** deputy sheriff captains, [four] **SIX** deputy sheriff lieutenants, one secretary sheriff, and one fiscal clerk sheriff; and

2. May appoint up to a maximum of:
 - A. [7] **9** deputy sheriff sergeants; [and]
 - B. [90] **103** deputy sheriffs;
 - C. **2 DOMESTIC VIOLENCE CLERKS; AND**
 - D. **2 DOMESTIC VIOLENCE ADVOCATES.**

(iii) 1. Except for deputy sheriffs, deputy sheriff sergeants, and deputy sheriff lieutenants, salaries for these employees shall be set by the Secretary of Budget and Management.

2. Salaries for deputy sheriffs shall be set at a rate not less than the salary equivalent to grade 14 of the State pay scale.

3. Salaries for deputy sheriff sergeants shall be set at a rate not less than the salary equivalent to grade 16 of the State pay scale.

4. Salaries for deputy sheriff lieutenants shall be set at a rate not less than the salary equivalent to grade 18 of the State pay scale.

~~5. EMPLOYEES IN A DEPUTY SHERIFF CLASSIFICATION SHALL RECEIVE STEP INCREASES FOR EACH YEAR OF SERVICE IN THE SHERIFF'S OFFICE.~~

(iv) In addition to any other compensation received, each deputy sheriff shall receive an expense allowance of ~~[\$200] \$500~~ \$400 annually for:

1. Ammunition for practice sessions at the range;
2. Clothing allowance to defray the cost of dry cleaning and maintaining the clothing worn while on duty; and
3. The purchase and maintenance of other items necessary to fulfill duties that currently are not furnished by the Baltimore City Sheriff's Department.

(v) A deputy sheriff who uses a personal automobile is entitled to a monthly automobile allowance at the same rate paid to other State employees. Any Sheriff who is assigned a city-owned automobile may not receive the monthly automobile expense allowance.

(vi) The Sheriff's Office shall also have assistants at the compensation provided for in the annual ordinance of estimates of Baltimore City. Provisions shall also be made in the ordinance for the expenses of the Office of the Sheriff, including the purchase and maintenance of motor vehicles.

(vii) The Mayor and City Council of Baltimore have the same power with respect to the salaries of the Office of the Sheriff as they have under the city charter with respect to the salaries of all municipal departments.

(viii) Employees of the Sheriff's Office, except the Sheriff, shall be selected according to the provisions of the State Personnel and Pensions Article.

7-301.

(c) (1) The filing fees and costs in a civil case are those prescribed by law subject to modification by law, rule, or administrative regulation.

(2) The Chief Judge of the District Court shall assess a surcharge that:

(i) May not be more than:

1. \$8 per summary ejectment case; and
2. \$18 per case for all other civil cases; and

(ii) Shall be deposited into the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

(3) (I) IN ADDITION TO THE SURCHARGE ASSESSED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE CHIEF JUDGE OF THE DISTRICT COURT SHALL ASSESS A SURCHARGE THAT MAY NOT BE MORE THAN \$10 PER CASE FOR THE FOLLOWING CASES FILED IN BALTIMORE CITY:

- 1. SUMMARY EJECTMENT;**
- 2. TENANT HOLDING OVER;**
- 3. BREACH OF LEASE; AND**
- 4. WARRANT OF RESTITUTION.**

(II) THE REVENUE GENERATED FROM THE SURCHARGE ON FILING FEES COLLECTED BY THE DISTRICT COURT IN BALTIMORE CITY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE:

- 1. REMITTED QUARTERLY TO THE BALTIMORE CITY DIRECTOR OF FINANCE; AND**
- 2. USED TO FUND THE ENHANCEMENT OF SHERIFF BENEFITS AND THE INCREASE IN SHERIFF PERSONNEL TO ENHANCE THE SERVICE OF DOMESTIC VIOLENCE ORDERS.**

(4) The Court of Appeals may provide by rule for waiver of prepayment of filing fees and other costs in cases of indigency.

7–402.

(a) Except as provided in subsections (b), [and] (e), **AND (F)** of this section, a sheriff shall collect the following fees:

- (1) \$5 for service of summary ejectment papers.
- (2) \$40 for service of a paper not including an execution or attachment.
- (3) \$40 for service including an execution or attachment by taking into custody a person or seizing real or personal property.

(4) \$40 for service of process papers arising out of administrative agency proceedings where the party requesting the service is a nongovernmental entity.

(5) For the sale following the execution or attachment of personal property: Three percent of the first \$5,000; two percent of the second \$5,000; and one percent of any amount in excess of \$10,000. The sheriff shall collect a minimum of \$15 and a maximum of \$500 under the provisions of this paragraph.

(6) For the sale following the execution or attachment of real property: One and one-half percent of the first \$5,000; one percent of the second \$5,000; and one-half of one percent of any amount in excess of \$10,000. The sheriff shall collect a minimum of \$1.50 and a maximum of \$250 under the provisions of this paragraph.

(7) \$60 for service of a paper originating from a foreign court.

(b) (1) For service including an execution or attachment by taking into custody a person or seizing real or personal property, a sheriff may collect the amount specified in a cooperative agreement with the Child Support Enforcement Administration under § 10-111 of the Family Law Article.

(2) As part of the costs awarded to a party under § 12-103 of the Family Law Article, a court may not award an amount greater than the amount specified in subsection (a) of this section for the cost of service including an execution or attachment by taking into custody a person or seizing real or personal property.

(e) A sheriff may not collect a fee for the service of:

(1) A paper from a housing authority created under Division II of the Housing and Community Development Article; or

(2) A summons for a law enforcement officer to appear as a witness in a criminal case.

(F) (1) IN ADDITION TO THE FEES SPECIFIED IN SUBSECTION (A) OF THIS SECTION AND EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (E) OF THIS SECTION, THE BALTIMORE CITY SHERIFF SHALL COLLECT A SURCHARGE THAT MAY NOT BE MORE THAN:

(I) \$60 FOR SERVICE OF A WRIT OF EXECUTION; AND

(II) \$40 FOR SERVICE OF A PAPER ORIGINATING FROM A FOREIGN COURT.

(2) THE REVENUE GENERATED FROM THE SURCHARGE ON FILING FEES FOR THE SHERIFF SERVICES UNDER PARAGRAPH (1) OF THIS SUBSECTION

SHALL FUND THE ENHANCEMENT OF SHERIFF BENEFITS AND THE INCREASE IN SHERIFF PERSONNEL TO ENHANCE THE SERVICE OF DOMESTIC VIOLENCE ORDERS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 326

(Senate Bill 849)

AN ACT concerning

Public Utilities – Consumer Relations – Tenant Payment of Landlord Utility Bills

FOR the purpose of authorizing a certain tenant to prevent the termination of certain utility service by opening applying for a new utility service account; ~~authorizing a certain tenant to have certain utility service restored by opening a new utility service account under certain circumstances;~~ specifying that a certain tenant may not incur liability for certain charges ~~by taking certain action;~~ requiring a certain utility service provider to establish a new utility service account for a certain tenant under certain circumstances; authorizing a certain utility service provider to require a certain tenant to pay a deposit and past due balances from certain accounts before establishing a new utility service account for the tenant; prohibiting a certain utility service provider from refusing or limiting ~~certain rights~~ a certain tenant's ability to establish a new utility service account, under certain circumstances; ~~authorizing a certain tenant to deduct certain payments from rent due to a landlord, 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 certain utility service provider to provide certain notice to a certain tenant within a certain period of time before terminating service; requiring a certain utility service provider to send a certain notice to a certain tenant in addition to notices sent to a landlord; ~~authorizing a certain utility service provider to include certain information relating to a landlord's past due account in a notice to a certain tenant;~~ ~~authorizing a certain utility service provider to charge a landlord a certain fee for the cost of sending certain notices;~~ requiring a certain utility service provider to include certain information on a certain notice; requiring the Public Service Commission to authorize certain cost recovery of a utility service provider's costs under this Act; authorizing a certain tenant to deduct certain payments from rent due to a landlord, under certain circumstances; prohibiting the waiver of certain rights; requiring a certain complaint for failure to pay rent

to include payments made by a certain tenant on a utility bill under certain circumstances; requiring a request for a certain judgment to be reduced by payments made by a certain tenant; requiring the determination of a certain judgment to include certain payments made by a certain tenant; providing for a delayed effective date; defining certain terms; and generally relating to payment of a utility bill by a tenant.

BY adding to

Article – Public Utilities
Section 7–309
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to

Article – Real Property
Section 8–212.3
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Real Property
Section 8–401(b)(1)(iii) and (iv) and (c)(2)(ii) and (iii)2.D.
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Real Property
Section 8–401(c)(2)(iii)1.
Annotated Code of Maryland
(2010 Replacement Volume and 2012 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) THIS SECTION DOES NOT APPLY TO ELECTRIC COOPERATIVES.

(B) (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 ~~IS~~:

~~(I) THE SUBJECT OF THREATENED OR ACTUAL TERMINATION IS IN THE LANDLORD'S NAME; AND~~

(II) IS DELIVERED THROUGH A ~~SEPARATE~~ SINGLE METER TO THE A SINGLE DWELLING UNIT; AND

(III) DOES NOT USE A MASTER METER.

(3) “CO-OCCUPANT” MEANS TWO OR MORE ADULTS WHO OCCUPY THE SAME DWELLING UNIT AS THEIR PRIMARY DOMICILE OR LEGAL RESIDENCE WITHIN THE STATE.

(4) “LANDLORD” MEANS AN OWNER OF AN AFFECTED DWELLING UNIT WHO:

~~(I) IS THE CUSTOMER OF A UTILITY SERVICE PROVIDER;~~
~~AND~~

~~(II) RENTS LEASES~~ THE AFFECTED DWELLING UNIT TO A TENANT.

~~(4) (5) “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;~~

~~(I) HAS A VALID ORAL OR WRITTEN LEASE TO RESIDE IN THE AFFECTED DWELLING UNIT; AND~~

~~(II) IS NOT A CO-OCCUPANT WITH THE LANDLORD IN THE AFFECTED DWELLING UNIT.~~

~~(5) (6) “UTILITY SERVICE” MEANS GAS, OR ELECTRIC, OR WATER SERVICE PROVIDED BY A PUBLIC SERVICE COMPANY TO AN AFFECTED DWELLING UNIT BY A PUBLIC SERVICE COMPANY THAT IS REGULATED BY THE COMMISSION.~~

~~(6) (7) “UTILITY SERVICE PROVIDER” MEANS A PUBLIC SERVICE COMPANY THAT:~~

~~(I) PROVIDES GAS, OR ELECTRIC, OR WATER SERVICE; AND~~

~~(II) IS REGULATED BY THE COMMISSION.~~

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

(C) IF UTILITY SERVICE AT AN AFFECTED DWELLING UNIT IS SUBJECT TO THE THREAT OF TERMINATION OR ACTUAL TERMINATION, A TENANT RESIDING IN THE AFFECTED DWELLING UNIT:

~~(1) PREVENT THE TERMINATION OF UTILITY SERVICE AT THE AFFECTED DWELLING UNIT IN WHICH THE UTILITY SERVICE HAS BEEN BILLED TO AN ACCOUNT IN THE NAME OF THE LANDLORD BY OPENING A NEW UTILITY SERVICE ACCOUNT IN THE NAME OF THE TENANT MAY APPLY FOR A NEW UTILITY SERVICE ACCOUNT IN THE TENANT'S NAME; OR AND~~

~~(H) IF THE UTILITY SERVICE HAS BEEN TERMINATED, HAVE THE UTILITY SERVICE RESTORED TO THE AFFECTED DWELLING UNIT BY OPENING A NEW UTILITY SERVICE ACCOUNT IN THE NAME OF THE TENANT.~~

~~(2) IF A TENANT TAKES ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE TENANT MAY NOT INCUR LIABILITY FOR PREVIOUS UTILITY CHARGES OR TERMINATION OR RECONNECTION CHARGES DUE ON THE LANDLORD'S ACCOUNT.~~

~~(C) (1) IF A TENANT TAKES ACTION~~

(D) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, WHEN A TENANT APPLIES FOR A NEW UTILITY SERVICE ACCOUNT UNDER SUBSECTION ~~(B)~~ (C)(1) OF THIS SECTION, A UTILITY SERVICE PROVIDER SHALL ESTABLISH A NEW UTILITY SERVICE ACCOUNT FOR THE AFFECTED DWELLING UNIT IN THE NAME OF THE TENANT IF THE TENANT MEETS THE REQUIREMENTS OF ALL APPLICABLE LAWS, REGULATIONS, AND TARIFFS.

(2) A UTILITY SERVICE PROVIDER MAY, IN ACCORDANCE WITH APPLICABLE LAWS, REGULATIONS, AND TARIFFS, REQUIRE A TENANT TO PAY A DEPOSIT AND PAST DUE BALANCES FROM PREVIOUS ACCOUNTS IN THE TENANT'S NAME BEFORE ESTABLISHING A NEW UTILITY SERVICE ACCOUNT IN THE TENANT'S NAME.

(3) A UTILITY SERVICE PROVIDER MAY NOT REFUSE OR OTHERWISE LIMIT CONDITION A TENANT'S RIGHT TO PREVENT THE TERMINATION OF UTILITY SERVICE OR TO SEEK THE RECONNECTION OF UTILITY SERVICE BASED ON A ABILITY TO ESTABLISH A NEW UTILITY SERVICE ACCOUNT IN THE TENANT'S NAME BECAUSE OF ARREARAGES ON THE LANDLORD'S PAST DUE ACCOUNT OR ON ANY OTHER ACT OR OMISSION BY THE LANDLORD.

~~(D) A TENANT MAY DEDUCT FROM RENT DUE TO A LANDLORD THE AMOUNT OF PAYMENTS MADE TO A UTILITY SERVICE PROVIDER IF:~~

~~(1) AN ORAL OR A WRITTEN LEASE FOR AN AFFECTED DWELLING UNIT REQUIRES THE LANDLORD TO PAY THE UTILITY BILL; AND~~

~~(2) (I) THE TENANT PAYS ALL OR PART OF THE UTILITY BILL, INCLUDING PAYMENTS MADE ON A NEW UTILITY SERVICE ACCOUNT; OR~~

~~(II) THE TENANT PAYS ANY SECURITY DEPOSIT REQUIRED TO OBTAIN A NEW UTILITY SERVICE ACCOUNT.~~

~~(E) IF A TENANT FAILS TO MAKE A FUTURE PAYMENT ON A NEW UTILITY SERVICE ACCOUNT WHEN PAYMENT IS DUE, THE UTILITY SERVICE PROVIDER MAY TERMINATE SERVICE.~~

~~(F) (1) AT LEAST 14 DAYS BEFORE TERMINATING UTILITY SERVICE TO AN AFFECTED DWELLING UNIT, A UTILITY SERVICE PROVIDER SHALL~~

~~(E) NOTWITHSTANDING ANY OTHER LAW GOVERNING THE PROTECTION OF CUSTOMER INFORMATION, IF THE BILLING ADDRESS FOR A UTILITY SERVICE ACCOUNT IS DIFFERENT FROM THE SERVICE ADDRESS FOR THE SAME UTILITY SERVICE ACCOUNT AND A UTILITY SERVICE PROVIDER SENDS A TERMINATION NOTICE TO THE BILLING ADDRESS, THE UTILITY SERVICE PROVIDER SHALL:~~

~~(1) SEND A TERMINATION NOTICE TO THE SERVICE ADDRESS BY FIRST-CLASS MAIL OR POST A TERMINATION NOTICE IN A CONSPICUOUS LOCATION AT THE SERVICE ADDRESS AT LEAST 14 DAYS BEFORE TERMINATING UTILITY SERVICE TO THE AFFECTED DWELLING UNIT IF:~~

~~(I) THE MAILING ADDRESS OF THE AFFECTED DWELLING UNIT IS DIFFERENT FROM THE BILLING ADDRESS; OR~~

~~(II) THE UTILITY SERVICE PROVIDER HAS REASON TO KNOW THAT A TENANT OCCUPIES THE PROPERTY.;~~

~~(2) THE UTILITY SERVICE PROVIDER SHALL SEND THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ADDITION TO ANY NOTICES SENT TO THE BILLING ADDRESS. ENSURE THAT THE NOTICE CONTAINS:~~

~~(I) THE EARLIEST DATE THAT SERVICE WILL BE TERMINATED; AND~~

(II) THE TELEPHONE NUMBER THE TENANT MAY CALL TO OBTAIN FURTHER INFORMATION;

~~(3) 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; AND~~

~~(4) THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN NOTICE SHALL STATE, ENCLOSE THE NOTICE IN AN ENVELOPE THAT STATES ON THE ADDRESS SIDE, IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12-POINT TYPE, THE FOLLOWING: "IMPORTANT NOTICE TO ALL OCCUPANTS: UTILITY ~~SHUT OFF~~ TERMINATION PENDING".~~

~~(5) THE NOTICE SHALL STATE:~~

~~(I) THE NAME OF THE CUSTOMER WHOSE SERVICE IS TO BE TERMINATED;~~

~~(II) THE EARLIEST DATE THAT SERVICE WILL BE TERMINATED;~~

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

~~(IV) THE RIGHTS AND RESPONSIBILITIES OF A TENANT UNDER SUBSECTIONS (B) THROUGH (E) OF THIS SECTION.~~

~~(6) THE NOTICE MAY INCLUDE THE AMOUNT OWED ON AND OTHER INFORMATION RELATING TO A LANDLORD'S PAST DUE ACCOUNT FOR THE AFFECTED DWELLING UNIT.~~

~~(7) THE UTILITY SERVICE PROVIDER MAY CHARGE A LANDLORD A REASONABLE FEE NOT EXCEEDING \$2 FOR EACH NOTICE SENT TO AN AFFECTED DWELLING UNIT UNDER THIS SUBSECTION.~~

~~(G) (F) IF THE MAILING BILLING ADDRESS OF THE AFFECTED DWELLING UNIT FOR A UTILITY SERVICE ACCOUNT IS THE SAME AS THE BILLING SERVICE ADDRESS FOR THE SAME UTILITY SERVICE ACCOUNT AND THE UTILITY SERVICE PROVIDER HAS NO REASON TO KNOW THAT A TENANT OCCUPIES THE PROPERTY SENDS A TERMINATION NOTICE, THE NOTICE OF TERMINATION SHALL BE:~~

~~(1) ADDRESSED TO A CUSTOMER OF RECORD “AND/OR OCCUPANTS”; AND~~

~~(2)~~ ENCLOSED IN AN ENVELOPE, THE ADDRESS SIDE OF WHICH SHALL HAVE A WRITTEN NOTICE STATING IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12-POINT TYPE, THE FOLLOWING: “IMPORTANT NOTICE TO ALL OCCUPANTS: UTILITY SHUT-OFF TERMINATION PENDING”.

~~(H) (G)~~ A TENANT’S RIGHTS UNDER THIS SECTION MAY NOT BE WAIVED IN ANY LEASE TENANT MAY DEDUCT FROM RENT DUE TO A LANDLORD THE AMOUNT OF PAYMENTS MADE TO A UTILITY SERVICE PROVIDER IN ACCORDANCE WITH § 8-212.3 OF THE REAL PROPERTY ARTICLE.

(H) IN A RATE PROCEEDING FILED UNDER TITLE 4, SUBTITLE 2 OF THIS ARTICLE, THE COMMISSION SHALL AUTHORIZE THE FULL AND TIMELY COST RECOVERY OF A UTILITY SERVICE PROVIDER’S PRUDENTLY INCURRED COSTS ARISING FROM ITS OBLIGATIONS UNDER THIS SECTION.

Article – Real Property

8-212.3.

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

(2) “AFFECTED DWELLING UNIT” HAS THE MEANING STATED IN § 7-309 OF THE PUBLIC UTILITIES ARTICLE.

(3) “LANDLORD” HAS THE MEANING STATED IN § 7-309 OF THE PUBLIC UTILITIES ARTICLE.

(4) “TENANT” HAS THE MEANING STATED IN § 7-309 OF THE PUBLIC UTILITIES ARTICLE.

(5) “UTILITY SERVICE” HAS THE MEANING STATED IN § 7-309 OF THE PUBLIC UTILITIES ARTICLE.

(6) “UTILITY SERVICE PROVIDER” HAS THE MEANING STATED IN § 7-309 OF THE PUBLIC UTILITIES ARTICLE.

(B) A TENANT MAY DEDUCT FROM RENT DUE TO A LANDLORD THE AMOUNT OF PAYMENTS MADE TO A UTILITY SERVICE PROVIDER FOR UTILITY SERVICE IF:

(1) AN ORAL OR WRITTEN LEASE FOR AN AFFECTED DWELLING UNIT REQUIRES THE LANDLORD TO PAY THE UTILITY BILL; AND

(2) (I) THE TENANT PAYS ALL OR PART OF THE UTILITY BILL, INCLUDING PAYMENTS MADE ON A NEW UTILITY SERVICE ACCOUNT; OR

(II) THE TENANT PAYS ANY SECURITY DEPOSIT REQUIRED TO OBTAIN A NEW UTILITY SERVICE ACCOUNT.

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

8-401.

(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, FEES, OR SECURITY DEPOSITS PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE;**

(iv) Requesting to repossess the premises and, if requested by the landlord, a judgment for the amount of rent due, costs, and any late fees, **LESS THE AMOUNT OF ANY UTILITY BILLS, FEES, OR SECURITY DEPOSITS PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE;**

(c) (2) (ii) If, when the trial occurs, it appears to the satisfaction of the court, that the rent, or any part of the rent and late fees are actually due and unpaid, the court shall determine the amount of rent and late fees due as of the date the complaint was filed **LESS THE AMOUNT OF ANY UTILITY BILLS, FEES, OR SECURITY DEPOSITS PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE**, if the trial occurs within the time specified by subsection (b)(3) of this section.

(iii) 1. If the trial does not occur within the time specified in subsection (b)(3)(i) of this section and the tenant has not become current since the filing of the complaint, the court, if the complaint so requests, shall enter a judgment in favor of the landlord for possession of the premises and determine the rent and late fees due as of the trial date.

2. The determination of rent and late fees shall include the following:

D. Credit for payments of rent and late fees [made by the tenant] AND OTHER FEES, UTILITY BILLS, OR SECURITY DEPOSITS PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE after the complaint was filed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2013~~ January 1, 2014.

Approved by the Governor, May 2, 2013.

Chapter 327

(House Bill 1090)

AN ACT concerning

Public Utilities – Consumer Relations – Tenant Payment of Landlord Utility Bills

FOR the purpose of authorizing a certain tenant to prevent the termination of certain utility service by opening applying for a new utility service account; authorizing a certain tenant to have certain utility service restored by opening a new utility service account under certain circumstances; specifying that a certain tenant may not incur liability for certain charges by taking certain action; requiring a certain utility service provider to establish a new utility service account for a certain tenant under certain circumstances; authorizing a certain utility service provider to require a certain tenant to pay a deposit and past due balances from certain accounts before establishing a new utility service account for the tenant; prohibiting a certain utility service provider from refusing or limiting certain rights a certain tenant's ability to establish a new utility service account, under certain circumstances; authorizing a certain tenant to deduct certain payments from rent due to a landlord, 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 certain utility service provider to provide certain notice to a certain tenant within a certain period of time before terminating service; requiring a certain utility service provider to send a certain notice to a certain tenant in addition to notices sent to a landlord; authorizing a certain utility service provider to include certain information relating to a landlord's past due account in a notice to a certain tenant; authorizing a certain utility service provider to charge a landlord a certain fee for the cost of sending certain notices; requiring a certain utility service provider to include certain information on a certain notice; requiring the Public Service Commission to authorize certain cost recovery of a utility service provider's costs under this Act; authorizing a certain tenant to deduct certain payments from rent due to a landlord, under certain circumstances; prohibiting

the waiver of certain rights; requiring a certain complaint for failure to pay rent to include payments made by a certain tenant on a utility bill under certain circumstances; requiring a request for a certain judgment to be reduced by payments made by a certain tenant; requiring the determination of a certain judgment to include certain payments made by a certain tenant; providing for a delayed effective date; defining certain terms; and generally relating to payment of a utility bill by a tenant.

BY adding to

Article – Public Utilities
Section 7–309
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to

Article – Real Property
Section 8–212.3
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Real Property
Section 8–401(b)(1)(iii) and (iv) and (c)(2)(ii) and (iii)2.D.
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Real Property
Section 8–401(c)(2)(iii)1.
Annotated Code of Maryland
(2010 Replacement Volume and 2012 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) THIS SECTION DOES NOT APPLY TO ELECTRIC COOPERATIVES.

(B) (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 ~~IS~~:

(I) ~~THE SUBJECT OF THREATENED OR ACTUAL TERMINATION IS IN THE LANDLORD’S NAME; AND~~

(II) ~~IS DELIVERED THROUGH A SEPARATE SINGLE METER TO THE A SINGLE DWELLING UNIT; AND~~

(III) DOES NOT USE A MASTER METER.

(3) “~~CO-OCCUPANT~~” MEANS TWO OR MORE ADULTS WHO OCCUPY THE SAME DWELLING UNIT AS THEIR PRIMARY DOMICILE OR LEGAL RESIDENCE WITHIN THE STATE.

(4) “LANDLORD” MEANS AN OWNER OF AN AFFECTED DWELLING UNIT WHO~~;~~

~~(I) IS THE CUSTOMER OF A UTILITY SERVICE PROVIDER; AND~~

~~(II) RENTS LEASES THE AFFECTED DWELLING UNIT TO A TENANT.~~

~~(4) (5) “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;~~

(I) HAS A VALID ORAL OR WRITTEN LEASE TO RESIDE IN THE AFFECTED DWELLING UNIT; AND

(II) IS NOT A CO-OCCUPANT WITH THE LANDLORD IN THE AFFECTED DWELLING UNIT.

~~(5) (6) “UTILITY SERVICE” MEANS GAS, OR ELECTRIC, OR WATER SERVICE PROVIDED BY A PUBLIC SERVICE COMPANY TO AN AFFECTED DWELLING UNIT BY A PUBLIC SERVICE COMPANY THAT IS REGULATED BY THE COMMISSION.~~

~~(6) (7) “UTILITY SERVICE PROVIDER” MEANS A PUBLIC SERVICE COMPANY THAT:~~

(I) PROVIDES GAS, OR ELECTRIC, OR WATER SERVICE; AND

(II) IS REGULATED BY THE COMMISSION.

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

(C) IF UTILITY SERVICE AT AN AFFECTED DWELLING UNIT IS SUBJECT TO THE THREAT OF TERMINATION OR ACTUAL TERMINATION, A TENANT RESIDING IN THE AFFECTED DWELLING UNIT:

~~(1) (1) PREVENT THE TERMINATION OF UTILITY SERVICE AT THE AFFECTED DWELLING UNIT IN WHICH THE UTILITY SERVICE HAS BEEN BILLED TO AN ACCOUNT IN THE NAME OF THE LANDLORD BY OPENING A NEW UTILITY SERVICE ACCOUNT IN THE NAME OF THE TENANT MAY APPLY FOR A NEW UTILITY SERVICE ACCOUNT IN THE TENANT'S NAME; OR AND~~

~~(H) IF THE UTILITY SERVICE HAS BEEN TERMINATED, HAVE THE UTILITY SERVICE RESTORED TO THE AFFECTED DWELLING UNIT BY OPENING A NEW UTILITY SERVICE ACCOUNT IN THE NAME OF THE TENANT.~~

~~(2) IF A TENANT TAKES ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE TENANT MAY NOT INCUR LIABILITY FOR PREVIOUS UTILITY CHARGES OR TERMINATION OR RECONNECTION CHARGES DUE ON THE LANDLORD'S ACCOUNT.~~

~~(C) (1) IF A TENANT TAKES ACTION~~

(D) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, WHEN A TENANT APPLIES FOR A NEW UTILITY SERVICE ACCOUNT UNDER SUBSECTION ~~(B)~~ (C)(1) OF THIS SECTION, A UTILITY SERVICE PROVIDER SHALL ESTABLISH A NEW UTILITY SERVICE ACCOUNT FOR THE AFFECTED DWELLING UNIT IN THE NAME OF THE TENANT IF THE TENANT MEETS THE REQUIREMENTS OF ALL APPLICABLE LAWS, REGULATIONS, AND TARIFFS.

(2) A UTILITY SERVICE PROVIDER MAY, IN ACCORDANCE WITH APPLICABLE LAWS, REGULATIONS, AND TARIFFS, REQUIRE A TENANT TO PAY A DEPOSIT AND PAST DUE BALANCES FROM PREVIOUS ACCOUNTS IN THE TENANT'S NAME BEFORE ESTABLISHING A NEW UTILITY SERVICE ACCOUNT IN THE TENANT'S NAME.

(3) A UTILITY SERVICE PROVIDER MAY NOT REFUSE OR OTHERWISE LIMIT CONDITION A TENANT'S RIGHT TO PREVENT THE TERMINATION OF UTILITY SERVICE OR TO SEEK THE RECONNECTION OF

~~UTILITY SERVICE BASED ON A ABILITY TO ESTABLISH A NEW UTILITY SERVICE ACCOUNT IN THE TENANT'S NAME BECAUSE OF ARREARAGES ON THE LANDLORD'S PAST DUE ACCOUNT OR ON ANY OTHER ACT OR OMISSION BY THE LANDLORD.~~

~~(D) A TENANT MAY DEDUCT FROM RENT DUE TO A LANDLORD THE AMOUNT OF PAYMENTS MADE TO A UTILITY SERVICE PROVIDER IF:~~

~~(1) AN ORAL OR A WRITTEN LEASE FOR AN AFFECTED DWELLING UNIT REQUIRES THE LANDLORD TO PAY THE UTILITY BILL; AND~~

~~(2) (I) THE TENANT PAYS ALL OR PART OF THE UTILITY BILL, INCLUDING PAYMENTS MADE ON A NEW UTILITY SERVICE ACCOUNT; OR~~

~~(II) THE TENANT PAYS ANY SECURITY DEPOSIT REQUIRED TO OBTAIN A NEW UTILITY SERVICE ACCOUNT.~~

~~(E) IF A TENANT FAILS TO MAKE A FUTURE PAYMENT ON A NEW UTILITY SERVICE ACCOUNT WHEN PAYMENT IS DUE, THE UTILITY SERVICE PROVIDER MAY TERMINATE SERVICE.~~

~~(F) (1) AT LEAST 14 DAYS BEFORE TERMINATING UTILITY SERVICE TO AN AFFECTED DWELLING UNIT, A UTILITY SERVICE PROVIDER SHALL~~

~~(E) NOTWITHSTANDING ANY OTHER LAW GOVERNING THE PROTECTION OF CUSTOMER INFORMATION, IF THE BILLING ADDRESS FOR A UTILITY SERVICE ACCOUNT IS DIFFERENT FROM THE SERVICE ADDRESS FOR THE SAME UTILITY SERVICE ACCOUNT AND A UTILITY SERVICE PROVIDER SENDS A TERMINATION NOTICE TO THE BILLING ADDRESS, THE UTILITY SERVICE PROVIDER SHALL:~~

~~(1) SEND A TERMINATION NOTICE TO THE SERVICE ADDRESS BY FIRST-CLASS MAIL OR POST A TERMINATION NOTICE IN A CONSPICUOUS LOCATION AT THE SERVICE ADDRESS AT LEAST 14 DAYS BEFORE TERMINATING UTILITY SERVICE TO THE AFFECTED DWELLING UNIT IF:~~

~~(I) THE MAILING ADDRESS OF THE AFFECTED DWELLING UNIT IS DIFFERENT FROM THE BILLING ADDRESS; OR~~

~~(II) THE UTILITY SERVICE PROVIDER HAS REASON TO KNOW THAT A TENANT OCCUPIES THE PROPERTY.;~~

~~(2) THE UTILITY SERVICE PROVIDER SHALL SEND THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ADDITION TO ANY NOTICES SENT TO THE BILLING ADDRESS. ENSURE THAT THE NOTICE CONTAINS:~~

~~(I) THE EARLIEST DATE THAT SERVICE WILL BE TERMINATED; AND~~

~~(II) THE TELEPHONE NUMBER THE TENANT MAY CALL TO OBTAIN FURTHER INFORMATION;~~

~~(3) 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.; AND~~

~~(4) THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN NOTICE SHALL STATE, ENCLOSE THE NOTICE IN AN ENVELOPE THAT STATES ON THE ADDRESS SIDE, IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12-POINT TYPE, THE FOLLOWING: "IMPORTANT NOTICE TO ALL OCCUPANTS: UTILITY SHUT-OFF TERMINATION PENDING".~~

~~(5) THE NOTICE SHALL STATE:~~

~~(I) THE NAME OF THE CUSTOMER WHOSE SERVICE IS TO BE TERMINATED;~~

~~(II) THE EARLIEST DATE THAT SERVICE WILL BE TERMINATED;~~

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

~~(IV) THE RIGHTS AND RESPONSIBILITIES OF A TENANT UNDER SUBSECTIONS (B) THROUGH (E) OF THIS SECTION.~~

~~(6) THE NOTICE MAY INCLUDE THE AMOUNT OWED ON AND OTHER INFORMATION RELATING TO A LANDLORD'S PAST DUE ACCOUNT FOR THE AFFECTED DWELLING UNIT.~~

~~(7) THE UTILITY SERVICE PROVIDER MAY CHARGE A LANDLORD A REASONABLE FEE NOT EXCEEDING \$2 FOR EACH NOTICE SENT TO AN AFFECTED DWELLING UNIT UNDER THIS SUBSECTION.~~

~~(G)~~ (F) IF THE ~~MAILING~~ BILLING ADDRESS ~~OF THE AFFECTED DWELLING UNIT~~ FOR A UTILITY SERVICE ACCOUNT IS THE SAME AS THE BILLING SERVICE ADDRESS FOR THE SAME UTILITY SERVICE ACCOUNT AND THE UTILITY SERVICE PROVIDER ~~HAS NO REASON TO KNOW THAT A TENANT OCCUPIES THE PROPERTY~~ SENDS A TERMINATION NOTICE, THE NOTICE ~~OF TERMINATION~~ SHALL BE:

~~(1)~~ ADDRESSED TO A CUSTOMER OF RECORD “AND/OR OCCUPANTS”; AND

~~(2)~~ ENCLOSED IN AN ENVELOPE, THE ADDRESS SIDE OF WHICH SHALL HAVE A WRITTEN NOTICE STATING IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12-POINT TYPE, THE FOLLOWING: “IMPORTANT NOTICE TO ALL OCCUPANTS: UTILITY ~~SHUT-OFF~~ TERMINATION PENDING”.

~~(H)~~ (G) A ~~TENANT’S RIGHTS UNDER THIS SECTION MAY NOT BE WAIVED IN ANY LEASE~~ TENANT MAY DEDUCT FROM RENT DUE TO A LANDLORD THE AMOUNT OF PAYMENTS MADE TO A UTILITY SERVICE PROVIDER IN ACCORDANCE WITH § 8-212.3 OF THE REAL PROPERTY ARTICLE.

(H) IN A RATE PROCEEDING FILED UNDER TITLE 4, SUBTITLE 2 OF THIS ARTICLE, THE COMMISSION SHALL AUTHORIZE THE FULL AND TIMELY COST RECOVERY OF A UTILITY SERVICE PROVIDER’S PRUDENTLY INCURRED COSTS ARISING FROM ITS OBLIGATIONS UNDER THIS SECTION.

Article – Real Property

8-212.3.

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

(2) “AFFECTED DWELLING UNIT” HAS THE MEANING STATED IN § 7-309 OF THE PUBLIC UTILITIES ARTICLE.

(3) “LANDLORD” HAS THE MEANING STATED IN § 7-309 OF THE PUBLIC UTILITIES ARTICLE.

(4) “TENANT” HAS THE MEANING STATED IN § 7-309 OF THE PUBLIC UTILITIES ARTICLE.

(5) "UTILITY SERVICE" HAS THE MEANING STATED IN § 7-309 OF THE PUBLIC UTILITIES ARTICLE.

(6) "UTILITY SERVICE PROVIDER" HAS THE MEANING STATED IN § 7-309 OF THE PUBLIC UTILITIES ARTICLE.

(B) A TENANT MAY DEDUCT FROM RENT DUE TO A LANDLORD THE AMOUNT OF PAYMENTS MADE TO A UTILITY SERVICE PROVIDER FOR UTILITY SERVICE IF:

(1) AN ORAL OR WRITTEN LEASE FOR AN AFFECTED DWELLING UNIT REQUIRES THE LANDLORD TO PAY THE UTILITY BILL; AND

(2) (I) THE TENANT PAYS ALL OR PART OF THE UTILITY BILL, INCLUDING PAYMENTS MADE ON A NEW UTILITY SERVICE ACCOUNT; OR

(II) THE TENANT PAYS ANY SECURITY DEPOSIT REQUIRED TO OBTAIN A NEW UTILITY SERVICE ACCOUNT.

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

8-401.

(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, FEES, OR SECURITY DEPOSITS PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE;**

(iv) Requesting to repossess the premises and, if requested by the landlord, a judgment for the amount of rent due, costs, and any late fees, **LESS THE AMOUNT OF ANY UTILITY BILLS, FEES, OR SECURITY DEPOSITS PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE;**

(c) (2) (ii) If, when the trial occurs, it appears to the satisfaction of the court, that the rent, or any part of the rent and late fees are actually due and unpaid, the court shall determine the amount of rent and late fees due as of the date the complaint was filed **LESS THE AMOUNT OF ANY UTILITY BILLS, FEES, OR SECURITY DEPOSITS PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC**

UTILITIES ARTICLE, if the trial occurs within the time specified by subsection (b)(3) of this section.

(iii) 1. If the trial does not occur within the time specified in subsection (b)(3)(i) of this section and the tenant has not become current since the filing of the complaint, the court, if the complaint so requests, shall enter a judgment in favor of the landlord for possession of the premises and determine the rent and late fees due as of the trial date.

2. The determination of rent and late fees shall include the following:

D. Credit for payments of rent and late fees [made by the tenant] **AND OTHER FEES, UTILITY BILLS, OR SECURITY DEPOSITS PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE** after the complaint was filed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2013~~ January 1, 2014.

Approved by the Governor, May 2, 2013.

Chapter 328

(Senate Bill 881)

AN ACT concerning

Community Health Resources Commission – Revisions

FOR the purpose of authorizing the Community Health Resources Commission to contract with a certain third party for certain services; prohibiting a certain third party from releasing, publishing, or similarly using certain information; providing that the power of the Secretary of Health and Mental Hygiene over a certain procurement procedure does not apply to the Commission; providing that, when procuring services or supplies, the Commission is subject to certain provisions of law; altering the purposes for which the Community Health Resources Commission Fund may be used, subject to certain conditions; and generally relating to the Community Health Resources Commission.

BY repealing and reenacting, without amendments,

Article – Health – General

Section 19-2101(c) and 19-2201(a)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–2107 and ~~19–2201(e)(1)~~ 19–2201(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY adding to
Article – Health – General
Section 19–2108(c)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health – General

19–2101.

(c) “Commission” means the Maryland Community Health Resources Commission.

19–2107.

(a) In addition to the powers set forth elsewhere in this subtitle, the Commission may:

- (1) Adopt regulations to carry out the provisions of this subtitle;
- (2) Create committees from among its members;
- (3) Appoint advisory committees, which may include individuals and representatives of interested public or private organizations;
- (4) Apply for and accept any funds, property, or services from any person or government agency;
- (5) Make agreements with a grantor or payor of funds, property, or services, including an agreement to make any study, plan, demonstration, or project;
- (6) Publish and give out any information that relates to expanding access to health care through community health resources that is considered desirable in the public interest;
- (7) Subject to the limitations of this subtitle, exercise any other power that is reasonably necessary to carry out the purposes of this subtitle; and

(8) Assist community health resources in preparing to implement the Affordable Care Act.

(b) In addition to the duties set forth elsewhere in this subtitle, the Commission shall:

(1) Adopt rules and regulations that relate to its meetings, minutes, and transactions;

(2) Keep minutes of each meeting;

(3) Prepare annually a budget proposal that includes the estimated income of the Commission and proposed expenses for its administration and operation; and

(4) On or before October 1 of each year, submit to the Governor, to the Secretary, and, in accordance with § 2–1246 of the State Government Article, to the General Assembly an annual report on the operations and activities of the Commission during the preceding fiscal year.

(C) (1) THE COMMISSION MAY CONTRACT WITH A QUALIFIED, INDEPENDENT THIRD PARTY FOR ANY SERVICE THAT IS NECESSARY TO CARRY OUT THE POWERS AND DUTIES OF THE COMMISSION.

(2) UNLESS PERMISSION IS GRANTED SPECIFICALLY BY THE COMMISSION, A THIRD PARTY WITH WHOM THE COMMISSION CONTRACTS UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT RELEASE, PUBLISH, OR USE IN A MANNER NOT AUTHORIZED BY THE CONTRACT ANY INFORMATION TO WHICH THE THIRD PARTY HAS ACCESS UNDER THE CONTRACT.

19–2108.

(C) (1) THE POWER OF THE SECRETARY OVER THE PROCUREMENT PROCEDURE FOR UNITS IN THE DEPARTMENT DOES NOT APPLY TO THE PROCUREMENT PROCEDURE OF THE COMMISSION.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, WHEN PROCURING SERVICES OR SUPPLIES, THE COMMISSION IS SUBJECT TO THE PROVISIONS OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

19–2201.

(a) In this section, “Fund” means the Community Health Resources Commission Fund.

(e) (1) ~~The~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE Fund may be used only to:

- (i) Cover the administrative costs of the Commission;
- (ii) Cover the actual documented direct costs of fulfilling the statutory and regulatory duties of the Commission in accordance with the provisions of this subtitle;
- (iii) Provide operating grants to qualifying community health resources; ~~and~~
- (iv) Provide funding for the development, support, and monitoring of a unified data information system among primary and specialty care providers, hospitals, and other providers of services to community health resource members; ~~AND~~

~~(v) PROVIDE FUNDING FOR ANY OTHER PROJECT OR INITIATIVE APPROVED BY THE COMMISSION THAT INCREASES ACCESS TO HEALTH CARE OR REDUCES HEALTH DISPARITIES IN THE STATE.~~

(2) (I) FOR FISCAL YEARS 2014, 2015, AND 2016, THE FUND MAY BE USED FOR ANY PROJECT OR INITIATIVE AUTHORIZED UNDER TITLE 20, SUBTITLE 14 OF THIS ARTICLE AND APPROVED BY THE COMMISSION IF NO LESS THAN \$4,000,000 OF THE SUBSIDY REQUIRED UNDER § 14-106(D)(2)(II)2 OF THE INSURANCE ARTICLE IS USED IN EACH FISCAL YEAR FOR THE PURPOSES UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(II) FOR FISCAL YEAR 2017 AND EACH FISCAL YEAR THEREAFTER, THE FUND MAY BE USED FOR ANY PROJECT OR INITIATIVE AUTHORIZED UNDER TITLE 20, SUBTITLE 14 OF THIS ARTICLE AND APPROVED BY THE COMMISSION IF NO LESS THAN \$8,000,000 OF THE SUBSIDY REQUIRED UNDER § 14-106(D)(2)(II)2 OF THE INSURANCE ARTICLE IS USED IN EACH FISCAL YEAR FOR THE PURPOSES UNDER PARAGRAPH (1) OF THIS SUBSECTION.

[(2)] (3) The funding for a unified data information system under paragraph (1)(iv) of this subsection shall be limited to:

- (i) \$500,000 in fiscal year 2006; and
- (ii) \$1,700,000 in fiscal year 2007 and annually thereafter.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 329

(Senate Bill 897)

AN ACT concerning

Consumer Protection – Security Freezes – Children in Foster Care Settings

FOR the purpose of requiring the ~~Social Services Administration of the Maryland~~ Department of Human Resources to request a security freeze on the consumer report or a certain record of certain protected consumers who are minor children in the custody of a local department of social services who have been placed in a foster care setting in accordance with certain application procedures; requiring a consumer reporting agency to place a security freeze for a protected consumer under certain circumstances and within a certain period of time; requiring a consumer reporting agency to create a certain record under certain circumstances; requiring a local department of social services to act as a protected consumer's representative under certain circumstances; prohibiting a consumer agency from releasing certain information while a security freeze is in place; providing that a security freeze remains in effect until a certain request is made or the security freeze is removed in accordance with a certain provision of this Act; providing that a certain protected consumer or the ~~Social Services Administration~~ Department may request the removal of a certain security freeze by submitting a certain request in a certain manner under certain circumstances; requiring a consumer reporting agency to remove a certain security freeze within a certain period of time; ~~prohibiting~~ authorizing a consumer reporting agency ~~from charging to charge~~ a certain fee; requiring the ~~Social Services Administration to send each month~~ Department to send at least annually to each consumer reporting agency by electronic transmission a certain list of children and a request for a security freeze for each child on the list; authorizing the ~~Social Services Administration~~ Department to enter into a certain agreement with a consumer reporting agency concerning the transmission of certain information; allowing a consumer reporting agency to remove a security freeze or delete a certain record under certain circumstances; providing that the exclusive remedy for a certain violation shall be a certain complaint filed with the Commissioner of Financial Regulation; requiring the ~~Social Services Administration~~ Department, on the entry of a certain order for adoption, to provide certain notice to the adoptive parent of certain provisions of law; requiring the ~~Social Services Administration~~ Department to notify a protected consumer who becomes an adult of certain provisions of law; requiring the ~~Social Services Administration~~ Department to send to each consumer reporting agency by electronic means a certain list on the effective date of this Act; requiring a consumer agency that receives a certain list to delete certain

information from a certain file and place a security freeze for the consumer record of the protected consumer; requiring the Department of Juvenile Services to review certain provisions of law, make a certain determination, and report certain information to certain committees of the General Assembly on or before a certain date; defining certain terms; and generally relating to consumer reports and security freezes.

BY adding to

Article – Commercial Law

Section 14–1212.3

Annotated Code of Maryland

(2005 Replacement Volume and 2012 Supplement)

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

Article – Commercial Law

14–1212.3.

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

(2) ~~“ADMINISTRATION~~ **DEPARTMENT**” MEANS THE ~~SOCIAL SERVICES ADMINISTRATION OF THE~~ **DEPARTMENT OF HUMAN RESOURCES.**

(3) **“FOSTER CARE” HAS THE MEANING STATED IN § 5–501(F) OF THE FAMILY LAW ARTICLE.**

(4) **“LOCAL DEPARTMENT” MEANS:**

(I) **A LOCAL DEPARTMENT OF SOCIAL SERVICES CREATED OR CONTINUED IN A COUNTY OF THE STATE OR IN BALTIMORE CITY UNDER § 3–201 OF THE HUMAN SERVICES ARTICLE; OR**

(II) **IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY ~~GOVERNMENT~~ DEPARTMENT OF HEALTH AND HUMAN SERVICES.**

(5) **“PROTECTED CONSUMER” MEANS AN INDIVIDUAL WHO:**

~~(I) IS UNDER THE AGE OF 16 YEARS AT THE TIME A REQUEST FOR THE PLACEMENT OF A SECURITY FREEZE IS MADE;~~

~~(H)~~ **(I) IS IN THE CUSTODY OF A LOCAL DEPARTMENT;**

AND

~~(H)~~ **(II)** HAS BEEN PLACED IN A FOSTER CARE SETTING.

(6) “RECORD” MEANS A COMPILATION OF INFORMATION THAT:

(I) IDENTIFIES A PROTECTED CONSUMER;

(II) IS CREATED BY A CONSUMER REPORTING AGENCY SOLELY FOR THE PURPOSE OF COMPLYING WITH THIS SECTION; AND

(III) MAY NOT BE CREATED OR USED TO CONSIDER THE PROTECTED CONSUMER’S CREDITWORTHINESS, CREDIT STANDING, CREDIT CAPACITY, CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTICS, OR MODE OF LIVING FOR ANY PURPOSE LISTED IN § 14-1201(D)(1) OF THIS SUBTITLE.

(7) **(I)** “REPRESENTATIVE” MEANS A PERSON WHO PROVIDES TO A CONSUMER REPORTING AGENCY SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF A PROTECTED CONSUMER.

(II) “REPRESENTATIVE” INCLUDES A LOCAL DEPARTMENT.

~~(7)~~ **(8)** “SECURITY FREEZE” MEANS:

(I) IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A FILE PERTAINING TO A PROTECTED CONSUMER, A RESTRICTION THAT:

1. IS PLACED ON THE PROTECTED CONSUMER’S RECORD IN ACCORDANCE WITH THIS SECTION; AND

2. PROHIBITS THE CONSUMER REPORTING AGENCY FROM RELEASING THE PROTECTED CONSUMER’S RECORD EXCEPT AS PROVIDED IN THIS SECTION; OR

(II) IF A CONSUMER REPORTING AGENCY HAS A FILE PERTAINING TO THE PROTECTED CONSUMER, A RESTRICTION THAT:

1. IS PLACED ON THE PROTECTED CONSUMER’S CONSUMER REPORT IN ACCORDANCE WITH THIS SECTION; AND

2. PROHIBITS THE CONSUMER REPORTING AGENCY FROM RELEASING THE PROTECTED CONSUMER’S CONSUMER REPORT OR ANY INFORMATION DERIVED FROM THE PROTECTED CONSUMER’S CONSUMER REPORT EXCEPT AS PROVIDED IN THIS SECTION.

~~(8)~~ (9) (I) "SUFFICIENT PROOF OF IDENTIFICATION" MEANS INFORMATION OR DOCUMENTATION THAT IDENTIFIES A PROTECTED CONSUMER OR A REPRESENTATIVE OF A PROTECTED CONSUMER.

(II) "SUFFICIENT PROOF OF IDENTIFICATION" INCLUDES:

1. A SOCIAL SECURITY NUMBER OR A COPY OF A SOCIAL SECURITY CARD ISSUED BY THE SOCIAL SECURITY ADMINISTRATION;

2. A CERTIFIED OR OFFICIAL COPY OF A BIRTH CERTIFICATE ISSUED BY THE ENTITY AUTHORIZED TO ISSUE THE BIRTH CERTIFICATE;

3. A COPY OF A DRIVER'S LICENSE, AN IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION, OR ANY OTHER GOVERNMENT-ISSUED IDENTIFICATION; OR

4. A COPY OF A BILL, INCLUDING A BILL FOR TELEPHONE, SEWER, SEPTIC TANK, WATER, ELECTRIC, OIL, OR NATURAL GAS SERVICES, THAT SHOWS A NAME AND HOME ADDRESS.

(B) THIS SECTION DOES NOT APPLY TO THE USE OF A PROTECTED CONSUMER'S CONSUMER REPORT OR RECORD BY:

(1) A PERSON ADMINISTERING A CREDIT FILE MONITORING SUBSCRIPTION SERVICE TO WHICH:

(I) THE PROTECTED CONSUMER HAS SUBSCRIBED; OR

(II) THE REPRESENTATIVE OF THE PROTECTED CONSUMER HAS SUBSCRIBED ON BEHALF OF THE PROTECTED CONSUMER;

(2) A PERSON PROVIDING THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE A COPY OF THE PROTECTED CONSUMER'S CONSUMER REPORT ON REQUEST OF THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE; OR

(3) AN ENTITY LISTED IN § 14-1212.1(B)(2)(I) OR (II) OR (C)(5) OF THIS SUBTITLE.

(C) (1) A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY FREEZE FOR A PROTECTED CONSUMER IF THE CONSUMER REPORTING AGENCY RECEIVES A REQUEST FROM THE ~~SOCIAL SERVICES ADMINISTRATION~~

DEPARTMENT FOR THE PLACEMENT OF THE SECURITY FREEZE AS PROVIDED IN SUBSECTION (J) OF THIS SECTION.

(2) THE ~~SOCIAL SERVICES ADMINISTRATION~~ **DEPARTMENT** SHALL SUBMIT THE REQUEST TO THE CONSUMER REPORTING AGENCY BY ELECTRONIC TRANSMISSION TO THE ELECTRONIC MAIL ADDRESS OR OTHER POINT OF CONTACT IN THE MANNER SPECIFIED BY THE CONSUMER REPORTING AGENCY.

(3) IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A FILE PERTAINING TO A PROTECTED CONSUMER WHEN THE CONSUMER REPORTING AGENCY RECEIVES A REQUEST UNDER SUBSECTION (J) OF THIS SUBSECTION, THE CONSUMER REPORTING AGENCY SHALL CREATE A RECORD FOR THE PROTECTED CONSUMER.

(4) IF A CONSUMER REPORTING AGENCY HAS A FILE PERTAINING TO A PROTECTED CONSUMER, THE LOCAL DEPARTMENT SHALL ACT AS THE PROTECTED CONSUMER'S REPRESENTATIVE TO RESOLVE ANY ISSUES WITH THE FILE.

(D) WITHIN 30 DAYS AFTER RECEIVING A REQUEST THAT MEETS THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION, A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY FREEZE FOR THE PROTECTED CONSUMER.

(E) UNLESS A SECURITY FREEZE FOR A PROTECTED CONSUMER IS REMOVED IN ACCORDANCE WITH SUBSECTION (G) OR (K) OF THIS SECTION, A CONSUMER REPORTING AGENCY MAY NOT RELEASE THE PROTECTED CONSUMER'S CONSUMER REPORT, ANY INFORMATION DERIVED FROM THE PROTECTED CONSUMER'S CONSUMER REPORT, OR ANY RECORD CREATED FOR THE PROTECTED CONSUMER.

(F) A SECURITY FREEZE FOR A PROTECTED CONSUMER PLACED UNDER SUBSECTION (D) OF THIS SECTION SHALL REMAIN IN EFFECT UNTIL:

(1) THE PROTECTED CONSUMER OR THE ~~SOCIAL SERVICES ADMINISTRATION~~ **DEPARTMENT** REQUESTS THE CONSUMER REPORTING AGENCY TO REMOVE THE SECURITY FREEZE IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION; OR

(2) THE SECURITY FREEZE IS REMOVED IN ACCORDANCE WITH SUBSECTION (K) OF THIS SECTION.

(G) IF A PROTECTED CONSUMER OR THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT WISHES TO REMOVE A SECURITY FREEZE FOR THE PROTECTED CONSUMER, THE PROTECTED CONSUMER OR THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT SHALL:

(1) SUBMIT A REQUEST FOR THE REMOVAL OF THE SECURITY FREEZE TO THE CONSUMER REPORTING AGENCY AT THE ADDRESS OR OTHER POINT OF CONTACT IN THE MANNER SPECIFIED BY THE CONSUMER REPORTING AGENCY; AND

(2) PROVIDE TO THE CONSUMER REPORTING AGENCY:

(I) IN THE CASE OF A REQUEST BY THE PROTECTED CONSUMER:

1. PROOF THAT THE AUTHORITY OF THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT TO ACT ON BEHALF OF THE PROTECTED CONSUMER IS NO LONGER VALID; AND

2. SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED CONSUMER; OR

(II) IN THE CASE OF A REQUEST BY THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT, SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED CONSUMER.

(H) WITHIN 30 DAYS AFTER RECEIVING A REQUEST THAT MEETS THE REQUIREMENTS OF SUBSECTION (G) OF THIS SECTION, THE CONSUMER REPORTING AGENCY SHALL REMOVE THE SECURITY FREEZE FOR THE PROTECTED CONSUMER.

(I) A CONSUMER REPORTING AGENCY MAY ~~NOT~~ CHARGE A REASONABLE FEE, NOT EXCEEDING \$5, FOR ~~ANY SERVICE PERFORMED~~ EACH PLACEMENT OR REMOVAL OF A SECURITY FREEZE FOR A PROTECTED CONSUMER UNDER THIS SECTION.

(J) (1) ~~EACH MONTH AT LEAST ANNUALLY~~, THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT SHALL SEND TO EACH CONSUMER REPORTING AGENCY BY ELECTRONIC TRANSMISSION A LIST OF CHILDREN ~~UNDER THE AGE OF 16~~ WHO ARE IN THE CUSTODY OF A LOCAL DEPARTMENT AND HAVE BEEN PLACED IN A FOSTER CARE SETTING FOR THE FIRST TIME.

(2) ~~THE SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT SHALL REQUEST A SECURITY FREEZE FOR EACH CHILD ON THE LIST SPECIFIED

UNDER PARAGRAPH (1) OF THIS SUBSECTION ON BEHALF OF THE PROTECTED CONSUMER.

(3) ~~THE SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT MAY ENTER INTO AN AGREEMENT WITH A CONSUMER REPORTING AGENCY CONCERNING THE TRANSMISSION OF INFORMATION BETWEEN THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT AND A CONSUMER REPORTING AGENCY TO FACILITATE THE IMPLEMENTATION OF THIS SUBSECTION.

(K) A CONSUMER REPORTING AGENCY MAY REMOVE A SECURITY FREEZE FOR A PROTECTED CONSUMER OR DELETE A RECORD OF A PROTECTED CONSUMER IF THE SECURITY FREEZE WAS PLACED OR THE RECORD WAS CREATED BASED ON A MATERIAL MISREPRESENTATION OF FACT BY THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE.

(L) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE EXCLUSIVE REMEDY FOR A VIOLATION OF THIS SECTION SHALL BE A COMPLAINT FILED WITH THE COMMISSIONER UNDER § 14-1217 OF THIS SUBTITLE.

(M) (1) ON THE ENTRY OF AN ORDER FOR THE ADOPTION OF A CHILD WHO WAS IN THE CUSTODY OF A LOCAL DEPARTMENT UNDER TITLE 5 OF THE FAMILY LAW ARTICLE, THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT SHALL PROVIDE NOTICE TO THE ADOPTIVE PARENT OF THE PROVISIONS OF § 14-1212.2 OF THIS TITLE RELATING TO THE AUTHORITY OF THE ADOPTIVE PARENT TO REQUEST A SECURITY FREEZE BY CONSUMER AGENCIES.

(2) ~~THE SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT SHALL NOTIFY A PROTECTED CONSUMER WHO BECOMES AN ADULT OF THE PROVISIONS OF § 14-1212.2 OF THIS SUBTITLE, INCLUDING PROVIDING CONTACT INFORMATION OF ORGANIZATIONS THAT MAY PROVIDE ASSISTANCE TO THE PROTECTED CONSUMER IN REMOVING A SECURITY FREEZE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On the effective date of this Act, the ~~Social Services Administration~~ *Department of Human Resources* shall send to each consumer reporting agency by electronic transmission:

(1) a list containing the names of the children who are in the custody of a local department of social services and the Montgomery County ~~government~~ *Department of Health and Human Services* who have been placed in a foster care setting; and

(2) a request for a security freeze for the consumer record of each child on the list; and

(b) If a consumer agency has a file pertaining to a protected consumer when the consumer reporting agency receives a list under subsection (a) of this section, each consumer reporting agency shall:

(1) delete any information from the file; and

(2) place a security freeze on the consumer record of the protected consumer.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1, 2013, the Department of Juvenile Services shall:

(1) review Title 14, Subtitle 12 of the Commercial Law Article, including § 14-1212.3, as enacted by Section 1 of this Act;

(2) determine whether it is practicable, appropriate, and necessary for the protection of the consumer records of children who are in custody of the Department to allow the Department to make a request to a consumer reporting agency for a security freeze for the consumer record of each child who is in custody of the Department; and

(3) report its findings and recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 330

(House Bill 1297)

AN ACT concerning

Consumer Protection – Security Freezes – Children in Foster Care Settings

FOR the purpose of requiring the ~~Social Services Administration of the Maryland~~ Department of Human Resources to request a security freeze on the consumer report or a certain record of certain protected consumers who are minor children in the custody of a local department of social services who have been placed in a

foster care setting in accordance with certain application procedures; requiring a consumer reporting agency to place a security freeze for a protected consumer under certain circumstances and within a certain period of time; requiring a consumer reporting agency to create a certain record under certain circumstances; requiring a local department of social services to act as a protected consumer's representative under certain circumstances; prohibiting a consumer agency from releasing certain information while a security freeze is in place; providing that a security freeze remains in effect until a certain request is made or the security freeze is removed in accordance with a certain provision of this Act; providing that a certain protected consumer or the ~~Social Services Administration~~ Department may request the removal of a certain security freeze by submitting a certain request in a certain manner under certain circumstances; requiring a consumer reporting agency to remove a certain security freeze within a certain period of time; ~~prohibiting~~ authorizing a consumer reporting agency ~~from charging~~ to charge a certain fee; requiring the ~~Social Services Administration~~ Department ~~to send each month~~ to send at least annually to each consumer reporting agency by electronic transmission a certain list of children and a request for a security freeze for each child on the list; authorizing the ~~Social Services Administration~~ Department to enter into a certain agreement with a consumer reporting agency concerning the transmission of certain information; allowing a consumer reporting agency to remove a security freeze or delete a certain record under certain circumstances; providing that the exclusive remedy for a certain violation shall be a certain complaint filed with the Commissioner of Financial Regulation; requiring the ~~Social Services Administration~~ Department, on the entry of a certain order for adoption, to provide certain notice to the adoptive parent of certain provisions of law; requiring the ~~Social Services Administration~~ Department to notify a protected consumer who becomes an adult of certain provisions of law; requiring the ~~Social Services Administration~~ Department to send to each consumer reporting agency by electronic means a certain list on the effective date of this Act; requiring a consumer agency that receives a certain list to delete certain information from a certain file and place a security freeze for the consumer record of the protected consumer; requiring the Department of Juvenile Services to review certain provisions of law, make a certain determination, and report certain information to certain committees of the General Assembly on or before a certain date; defining certain terms; and generally relating to consumer reports and security freezes.

BY adding to

Article – Commercial Law

Section 14-1212.3

Annotated Code of Maryland

(2005 Replacement Volume and 2012 Supplement)

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

Article – Commercial Law

14-1212.3.

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

(2) ~~“ADMINISTRATION~~ DEPARTMENT” MEANS THE ~~SOCIAL SERVICES ADMINISTRATION OF THE~~ DEPARTMENT OF HUMAN RESOURCES.

(3) “FOSTER CARE” HAS THE MEANING STATED IN § 5-501(F) OF THE FAMILY LAW ARTICLE.

(4) “LOCAL DEPARTMENT” MEANS:

(I) A LOCAL DEPARTMENT OF SOCIAL SERVICES CREATED OR CONTINUED IN A COUNTY OF THE STATE OR IN BALTIMORE CITY UNDER § 3-201 OF THE HUMAN SERVICES ARTICLE; OR

(II) IN MONTGOMERY COUNTY, THE MONTGOMERY COUNTY ~~GOVERNMENT~~ DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(5) “PROTECTED CONSUMER” MEANS AN INDIVIDUAL WHO:

~~(I) IS UNDER THE AGE OF 16 YEARS AT THE TIME A REQUEST FOR THE PLACEMENT OF A SECURITY FREEZE IS MADE;~~

~~(II)~~ (I) IS IN THE CUSTODY OF A LOCAL DEPARTMENT;

AND

~~(III)~~ (II) HAS BEEN PLACED IN A FOSTER CARE SETTING.

(6) “RECORD” MEANS A COMPILATION OF INFORMATION THAT:

(I) IDENTIFIES A PROTECTED CONSUMER;

(II) IS CREATED BY A CONSUMER REPORTING AGENCY SOLELY FOR THE PURPOSE OF COMPLYING WITH THIS SECTION; AND

(III) MAY NOT BE CREATED OR USED TO CONSIDER THE PROTECTED CONSUMER’S CREDITWORTHINESS, CREDIT STANDING, CREDIT CAPACITY, CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTICS, OR MODE OF LIVING FOR ANY PURPOSE LISTED IN § 14-1201(D)(1) OF THIS SUBTITLE.

(7) (I) “REPRESENTATIVE” MEANS A PERSON WHO PROVIDES TO A CONSUMER REPORTING AGENCY SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF A PROTECTED CONSUMER.

(II) “REPRESENTATIVE” INCLUDES A LOCAL DEPARTMENT.

(7) (8) “SECURITY FREEZE” MEANS:

(I) IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A FILE PERTAINING TO A PROTECTED CONSUMER, A RESTRICTION THAT:

1. IS PLACED ON THE PROTECTED CONSUMER’S RECORD IN ACCORDANCE WITH THIS SECTION; AND

2. PROHIBITS THE CONSUMER REPORTING AGENCY FROM RELEASING THE PROTECTED CONSUMER’S RECORD EXCEPT AS PROVIDED IN THIS SECTION; OR

(II) IF A CONSUMER REPORTING AGENCY HAS A FILE PERTAINING TO THE PROTECTED CONSUMER, A RESTRICTION THAT:

1. IS PLACED ON THE PROTECTED CONSUMER’S CONSUMER REPORT IN ACCORDANCE WITH THIS SECTION; AND

2. PROHIBITS THE CONSUMER REPORTING AGENCY FROM RELEASING THE PROTECTED CONSUMER’S CONSUMER REPORT OR ANY INFORMATION DERIVED FROM THE PROTECTED CONSUMER’S CONSUMER REPORT EXCEPT AS PROVIDED IN THIS SECTION.

(8) (9) (I) “SUFFICIENT PROOF OF IDENTIFICATION” MEANS INFORMATION OR DOCUMENTATION THAT IDENTIFIES A PROTECTED CONSUMER OR A REPRESENTATIVE OF A PROTECTED CONSUMER.

(II) “SUFFICIENT PROOF OF IDENTIFICATION” INCLUDES:

1. A SOCIAL SECURITY NUMBER OR A COPY OF A SOCIAL SECURITY CARD ISSUED BY THE SOCIAL SECURITY ADMINISTRATION;

2. A CERTIFIED OR OFFICIAL COPY OF A BIRTH CERTIFICATE ISSUED BY THE ENTITY AUTHORIZED TO ISSUE THE BIRTH CERTIFICATE;

3. A COPY OF A DRIVER'S LICENSE, AN IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION, OR ANY OTHER GOVERNMENT-ISSUED IDENTIFICATION; OR

4. A COPY OF A BILL, INCLUDING A BILL FOR TELEPHONE, SEWER, SEPTIC TANK, WATER, ELECTRIC, OIL, OR NATURAL GAS SERVICES, THAT SHOWS A NAME AND HOME ADDRESS.

(B) THIS SECTION DOES NOT APPLY TO THE USE OF A PROTECTED CONSUMER'S CONSUMER REPORT OR RECORD BY:

(1) A PERSON ADMINISTERING A CREDIT FILE MONITORING SUBSCRIPTION SERVICE TO WHICH:

(i) THE PROTECTED CONSUMER HAS SUBSCRIBED; OR

(ii) THE REPRESENTATIVE OF THE PROTECTED CONSUMER HAS SUBSCRIBED ON BEHALF OF THE PROTECTED CONSUMER;

(2) A PERSON PROVIDING THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE A COPY OF THE PROTECTED CONSUMER'S CONSUMER REPORT ON REQUEST OF THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE; OR

(3) AN ENTITY LISTED IN § 14-1212.1(B)(2)(I) OR (II) OR (C)(5) OF THIS SUBTITLE.

(C) (1) A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY FREEZE FOR A PROTECTED CONSUMER IF THE CONSUMER REPORTING AGENCY RECEIVES A REQUEST FROM THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT FOR THE PLACEMENT OF THE SECURITY FREEZE AS PROVIDED IN SUBSECTION (J) OF THIS SECTION.

(2) THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT SHALL SUBMIT THE REQUEST TO THE CONSUMER REPORTING AGENCY BY ELECTRONIC TRANSMISSION TO THE ELECTRONIC MAIL ADDRESS OR OTHER POINT OF CONTACT IN THE MANNER SPECIFIED BY THE CONSUMER REPORTING AGENCY.

(3) IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A FILE PERTAINING TO A PROTECTED CONSUMER WHEN THE CONSUMER REPORTING AGENCY RECEIVES A REQUEST UNDER SUBSECTION (J) OF THIS SUBSECTION, THE CONSUMER REPORTING AGENCY SHALL CREATE A RECORD FOR THE PROTECTED CONSUMER.

(4) IF A CONSUMER REPORTING AGENCY HAS A FILE PERTAINING TO A PROTECTED CONSUMER, THE LOCAL DEPARTMENT SHALL ACT AS THE PROTECTED CONSUMER'S REPRESENTATIVE TO RESOLVE ANY ISSUES WITH THE FILE.

(D) WITHIN 30 DAYS AFTER RECEIVING A REQUEST THAT MEETS THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION, A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY FREEZE FOR THE PROTECTED CONSUMER.

(E) UNLESS A SECURITY FREEZE FOR A PROTECTED CONSUMER IS REMOVED IN ACCORDANCE WITH SUBSECTION (G) OR (K) OF THIS SECTION, A CONSUMER REPORTING AGENCY MAY NOT RELEASE THE PROTECTED CONSUMER'S CONSUMER REPORT, ANY INFORMATION DERIVED FROM THE PROTECTED CONSUMER'S CONSUMER REPORT, OR ANY RECORD CREATED FOR THE PROTECTED CONSUMER.

(F) A SECURITY FREEZE FOR A PROTECTED CONSUMER PLACED UNDER SUBSECTION (D) OF THIS SECTION SHALL REMAIN IN EFFECT UNTIL:

(1) THE PROTECTED CONSUMER OR THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT REQUESTS THE CONSUMER REPORTING AGENCY TO REMOVE THE SECURITY FREEZE IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION; OR

(2) THE SECURITY FREEZE IS REMOVED IN ACCORDANCE WITH SUBSECTION (K) OF THIS SECTION.

(G) IF A PROTECTED CONSUMER OR THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT WISHES TO REMOVE A SECURITY FREEZE FOR THE PROTECTED CONSUMER, THE PROTECTED CONSUMER OR THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT SHALL:

(1) SUBMIT A REQUEST FOR THE REMOVAL OF THE SECURITY FREEZE TO THE CONSUMER REPORTING AGENCY AT THE ADDRESS OR OTHER POINT OF CONTACT IN THE MANNER SPECIFIED BY THE CONSUMER REPORTING AGENCY; AND

(2) PROVIDE TO THE CONSUMER REPORTING AGENCY:

(I) IN THE CASE OF A REQUEST BY THE PROTECTED CONSUMER:

1. ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT TO ACT ON BEHALF OF THE PROTECTED CONSUMER IS NO LONGER VALID; AND

2. SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED CONSUMER; OR

(II) IN THE CASE OF A REQUEST BY THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT, SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED CONSUMER.

(H) WITHIN 30 DAYS AFTER RECEIVING A REQUEST THAT MEETS THE REQUIREMENTS OF SUBSECTION (G) OF THIS SECTION, THE CONSUMER REPORTING AGENCY SHALL REMOVE THE SECURITY FREEZE FOR THE PROTECTED CONSUMER.

(I) A CONSUMER REPORTING AGENCY MAY ~~NOT~~ CHARGE A REASONABLE FEE, NOT EXCEEDING \$5, FOR ANY SERVICE PERFORMED EACH PLACEMENT OR REMOVAL OF A SECURITY FREEZE FOR A PROTECTED CONSUMER UNDER THIS SECTION.

(J) (1) ~~EACH MONTH AT LEAST ANNUALLY, THE SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT SHALL SEND TO EACH CONSUMER REPORTING AGENCY BY ELECTRONIC TRANSMISSION A LIST OF CHILDREN ~~UNDER THE AGE OF 16~~ WHO ARE IN THE CUSTODY OF A LOCAL DEPARTMENT AND HAVE BEEN PLACED IN A FOSTER CARE SETTING FOR THE FIRST TIME.

(2) ~~THE SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT SHALL REQUEST A SECURITY FREEZE FOR EACH CHILD ON THE LIST SPECIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION ON BEHALF OF THE PROTECTED CONSUMER.

(3) ~~THE SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT MAY ENTER INTO AN AGREEMENT WITH A CONSUMER REPORTING AGENCY CONCERNING THE TRANSMISSION OF INFORMATION BETWEEN THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT AND A CONSUMER REPORTING AGENCY TO FACILITATE THE IMPLEMENTATION OF THIS SUBSECTION.

(K) A CONSUMER REPORTING AGENCY MAY REMOVE A SECURITY FREEZE FOR A PROTECTED CONSUMER OR DELETE A RECORD OF A PROTECTED CONSUMER IF THE SECURITY FREEZE WAS PLACED OR THE RECORD WAS CREATED BASED ON A MATERIAL MISREPRESENTATION OF FACT BY THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE.

(L) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE EXCLUSIVE REMEDY FOR A VIOLATION OF THIS SECTION SHALL BE A COMPLAINT FILED WITH THE COMMISSIONER UNDER § 14-1217 OF THIS SUBTITLE.

(M) (1) ON THE ENTRY OF AN ORDER FOR THE ADOPTION OF A CHILD WHO WAS IN THE CUSTODY OF A LOCAL DEPARTMENT UNDER TITLE 5 OF THE FAMILY LAW ARTICLE, THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT SHALL PROVIDE NOTICE TO THE ADOPTIVE PARENT OF THE PROVISIONS OF § 14-1212.2 OF THIS TITLE RELATING TO THE AUTHORITY OF THE ADOPTIVE PARENT TO REQUEST A SECURITY FREEZE BY CONSUMER AGENCIES.

(2) THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT SHALL NOTIFY A PROTECTED CONSUMER WHO BECOMES AN ADULT OF THE PROVISIONS OF § 14-1212.2 OF THIS SUBTITLE, INCLUDING PROVIDING CONTACT INFORMATION OF ORGANIZATIONS THAT MAY PROVIDE ASSISTANCE TO THE PROTECTED CONSUMER IN REMOVING A SECURITY FREEZE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On the effective date of this Act, the ~~Social Services Administration~~ Department of Human Resources shall send to each consumer reporting agency by electronic transmission:

(1) a list containing the names of the children who are in the custody of a local department of social services and the Montgomery County ~~government~~ Department of Health and Human Services who have been placed in a foster care setting; and

(2) a request for a security freeze for the consumer record of each child on the list; and

(b) If a consumer agency has a file pertaining to a protected consumer when the consumer reporting agency receives a list under subsection (a) of this section, each consumer reporting agency shall:

(1) delete any information from the file; and

(2) place a security freeze on the consumer record of the protected consumer.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1, 2013, the Department of Juvenile Services shall:

(1) review Title 14, Subtitle 12 of the Commercial Law Article, including § 14-1212.3, as enacted by Section 1 of this Act;

(2) determine whether it is practicable, appropriate, and necessary for the protection of the consumer records of children who are in custody of the Department to allow the Department to make a request to a consumer reporting agency for a security freeze for the consumer record of each child who is in custody of the Department; and

(3) report its findings and recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 331

(Senate Bill 899)

AN ACT concerning

**Local Government – Fire, Rescue, and Ambulance Funds – Distribution of
~~Money to Volunteer Companies~~**

FOR the purpose of requiring that each county distribute a certain minimum percentage of funds that the county receives from the Senator William H. Amoss Fire, Rescue, and Ambulance Fund to volunteer fire, rescue, and ambulance companies; providing a formula by which the amount of the money required to be distributed under this Act shall be calculated; requiring the Director of the Maryland Emergency Management Agency to submit an annual report to the General Assembly on the amount of money distributed by each county to volunteer companies; requiring each county to include certain information in a certain report; establishing a Workgroup to Study the Laws and Policies Related to the Distribution of Money to Volunteer and Career Companies; providing for the membership and duties of the Workgroup; providing for the designation of a chair of the Workgroup; prohibiting members of the Workgroup from receiving compensation; authorizing members to receive certain reimbursement; requiring the Workgroup to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the application of this Act; providing for the termination of certain provisions of this Act; and generally relating to the distribution of money from the Senator William H. Amoss Fire, Rescue, and Ambulance Fund.

BY repealing and reenacting, without amendments,

Article – Public Safety
Section 8–102(a), (b), (d), and (f)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 8–103, 8–104, and 8–105
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article – Public Safety

8–102.

- (a) There is a Senator William H. Amoss Fire, Rescue, and Ambulance Fund.
- (b) The purposes of the Fund are to promote:
 - (1) the delivery of effective and high quality fire protection, rescue, and ambulance services in the State;
 - (2) increased financial support for fire, rescue, and ambulance companies by counties; and
 - (3) the continued financial viability of volunteer fire, rescue, and ambulance companies given the greatly increased costs of equipment.
- (d) The Fund consists of:
 - (1) money appropriated in the State budget to the Fund; and
 - (2) revenue distributed to the Fund under § 16–609 of the Business Regulation Article.
- (f) (1) State money provided under this section may only be used to:
 - (i) acquire or rehabilitate fire or rescue equipment, including ambulances;
 - (ii) acquire or rehabilitate capital equipment used in connection with fire or rescue equipment; and

(iii) rehabilitate facilities used primarily to house fire fighting equipment, ambulances, and rescue vehicles.

(2) State money provided under this section may not be used:

(i) for administrative costs;

(ii) for compensation or fringe benefits to employees or members of county governments, or fire, rescue, or ambulance companies;

(iii) for travel or meal expenses;

(iv) for fuel, utility, or routine maintenance costs of facilities or equipment;

(v) to acquire new or replacement fire hydrants, water mains, or emergency alarm systems not installed at a fire, rescue, or ambulance facility;

(vi) for insurance;

(vii) for fund-raising activities;

(viii) to refinance debt or another obligation incurred before July 1, 1985;

(ix) to replace or repair eligible items to the extent that insurance proceeds are available;

(x) for costs associated with the "9-1-1" emergency telephone system; or

(xi) for land or interests in land.

8-103.

(a) Subject to subsection **[(b)] (C)** of this section, each county shall receive an initial allocation of money based on a percentage to be determined in the following manner:

(1) the Director of Assessments and Taxation shall certify to the Director each county's total percentage of land use property tax accounts, including vacant unimproved properties, relative to the statewide total of all land use property tax accounts for the first completed fiscal year immediately preceding the fiscal year for which money is to be allocated;

(2) except as provided in item (3) of this subsection, the percentage determined in item (1) of this subsection shall then be applied for each county to any amount included in the State budget for the purposes of this subtitle; and

(3) each county shall receive an allocation of at least 2% of the total Fund as appropriated in the State budget, in addition to the amount that is distributed to fire, rescue, and ambulance companies, departments, or stations located in qualified municipal corporations in accordance with subsection [(b)] (C) of this section.

(B) (1) IN ACCORDANCE WITH THE FORMULA PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH COUNTY SHALL DISTRIBUTE A MINIMUM PERCENTAGE OF FUNDS THAT THE COUNTY RECEIVES FROM THE FUND TO VOLUNTEER FIRE, RESCUE, AND AMBULANCE COMPANIES.

(2) THE PERCENTAGE OF FUNDS REQUIRED TO BE DISTRIBUTED BY EACH COUNTY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE EQUAL TO THE SAME TOTAL PERCENTAGE OF FUNDS DISTRIBUTED BY EACH COUNTY TO VOLUNTEER FIRE, RESCUE, AND AMBULANCE COMPANIES FROM THE FUND IN FISCAL YEAR 2011 OR AT LEAST 51% OF THE ALLOCATION RECEIVED BY EACH COUNTY UNDER SUBSECTION (A) OF THIS SECTION, WHICHEVER IS GREATER.

(3) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE DIRECTOR SHALL REPORT BY DECEMBER 31 OF EACH YEAR TO THE GENERAL ASSEMBLY ON THE FUNDS DISTRIBUTED BY EACH COUNTY UNDER PARAGRAPH (2) OF THIS SUBSECTION TO VOLUNTEER FIRE, RESCUE, AND AMBULANCE COMPANIES.

(4) THIS SUBSECTION DOES NOT APPLY TO:

(I) BALTIMORE CITY; OR

(II) DISTRIBUTIONS MADE TO FIRE, RESCUE, AND AMBULANCE COMPANIES, DEPARTMENTS, OR STATIONS LOCATED IN QUALIFIED MUNICIPAL CORPORATIONS IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

[(b)] (C) (1) Subject to paragraph (6) of this subsection, each county shall distribute the money provided under this subtitle on the basis of need to fire, rescue, and ambulance companies, departments, or stations in the county, including companies, departments, or stations:

(i) located in municipal corporations; or

(ii) located outside the State if the company, department, or station:

1. has been a member of the Maryland State Firemen's Association for at least the past 10 years; and

2. has a first due response area in the State.

(2) Each county shall determine need in accordance with procedures that the county uses to adopt its budget.

(3) In determining need under this subsection, the county shall consider:

(i) the failure to meet minimum standards established by the county or the Maryland State Firemen's Association;

(ii) the existence or potential existence of an emergency situation as described in § 8-203 of this title;

(iii) the age and condition of existing facilities and equipment;

(iv) the lack of availability of mutual aid;

(v) any service problems associated with demographic conditions; and

(vi) any other relevant factors.

(4) In addition to consideration of the factors in paragraph (3) of this subsection, for a volunteer company the county shall consider the company's inability to raise money to pay for the item.

(5) Notwithstanding paragraphs (3) and (4) of this subsection, each county shall give the highest funding priority to the failure to meet minimum standards or the existence of an emergency situation as described in § 8-203 of this title.

(6) Distribution of money to fire, rescue, and ambulance companies, departments, or stations located in qualified municipal corporations in a county in the aggregate may not be less than 50% of the proportion that the expenditures of the qualified municipal corporation bear to total aggregate expenditures for fire protection in that county.

(7) To receive money under this subsection, each county shall participate in the Maryland Fire Incident Reporting System and Ambulance Information System.

8–104.

(a) (1) (i) The money distributed under this subtitle shall be used by each county for the purposes listed in § 8–102(f)(1) of this subtitle as an addition to and may not be substituted for any money appropriated from sources other than the Fund.

(ii) In each fiscal year, each county shall make expenditures for fire protection from sources other than the Fund in an amount that is at least equal to the average amount of the expenditures for fire protection during the 3 preceding fiscal years.

(iii) Except as provided in paragraph (2) of this subsection, a county that fails to satisfy the requirements of this subsection may not receive money under this subtitle for that fiscal year.

(2) For each fiscal year, each county that fails to satisfy the requirements of paragraph (1) of this subsection may receive money under this subtitle subject to a penalty equal to the percentage by which the county fails to meet the county's maintenance of effort for that fiscal year.

(b) (1) Each county shall make expenditures for fire protection from its own sources that are at least equal to the amount of State money to be received.

(2) A county may receive less than the amount initially allocated.

(3) In determining the amount of expenditures for fire protection made by a county, before certification, the Director shall review the financial information of the county for the first completed fiscal year before the fiscal year for which State money is appropriated.

(4) Money received from the Emergency Assistance Trust Fund under § 8–203 of this title or other State money may not be used as the match required under this subsection.

(c) (1) Money not distributed to a county because the requirements of subsections (a) and (b) of this section are not satisfied shall be distributed to the counties that meet the requirements of subsections (a) and (b) of this section in accordance with this subsection.

(2) (i) Subject to subparagraph (ii) of this paragraph, each county that meets the requirements of subsections (a) and (b) of this section shall receive an allocation of the money distributed under paragraph (1) of this subsection based on a percentage to be determined in accordance with § 8–103(a) of this subtitle.

(ii) For purposes of determining the percentage allocated to each county under this subsection, the property tax accounts of each county that fails to satisfy the requirements of subsection (a) or (b) of this section shall be excluded from the statewide total.

(3) Each county shall distribute money provided under this subsection in accordance with § [8-103(b)] **8-103(C)** of this subtitle.

(d) (1) The money distributed under this subtitle and allocated to a county shall be accounted for and audited in accordance with the procedures for accounting and auditing of other governmental revenues.

(2) Money not expended by the county by the end of a fiscal year shall be placed in a special fund for expenditure in the next succeeding fiscal year.

(3) (i) Money distributed under this subtitle that remains unencumbered or unexpended by the county after the second fiscal year shall be repaid to the Director for deposit in the General Fund.

(ii) The Comptroller may set off any shared revenues due to a county instead of repayment under this subsection.

(4) (i) Money distributed under this subtitle to be expended by a volunteer or municipal fire, rescue, or ambulance company shall be maintained in a separate account and shall be audited in the same manner as other money of the volunteer or municipal company is audited.

(ii) Copies of the audit of the separate account shall be submitted to the respective county government and to the Maryland Emergency Management Agency.

8-105.

(a) (1) On or before December 31 of each year, each county shall submit to the Director a report for the preceding fiscal year that states:

(i) the amount of money distributed to each recipient and the purpose of expenditure of this money categorized as provided in § 8-102(f)(1) of this subtitle;

(ii) the amount and disposition of any unencumbered or unexpended money; [and]

(iii) the amount of expenditures for fire protection by the county, **INCLUDING THE AMOUNT OF MONEY DISTRIBUTED TO VOLUNTEER FIRE,**

RESCUE, AND AMBULANCE COMPANIES FROM SOURCES OTHER THAN THE FUND; AND**(IV) THE NATURE AND ESTIMATED DOLLAR AMOUNT OF ANY IN-KIND CONTRIBUTIONS MADE BY THE COUNTY TO VOLUNTEER FIRE, RESCUE, AND AMBULANCE COMPANIES.**

(2) Each county shall provide a copy of the report required under paragraph (1) of this subsection, subject to § 2–1246 of the State Government Article, to the Department of Legislative Services.

(b) Each year the Director shall report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly on the information provided by the counties on the distribution of money provided under this subtitle, including an assessment of the extent to which the purposes of this subtitle are being achieved.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) There is a Workgroup to Study the Laws and Policies Related to the Distribution of Money to Volunteer and Career Companies.

(b) The Workgroup consists of the following members:

(1) two members from the Senate of Maryland, appointed by the President of the Senate on or before July 1, 2013;

(2) two members of the House of Delegates, appointed by the Speaker of the House on or before July 1, 2013;

(3) a representative of the Maryland State Firemen’s Association;

(4) a representative of the Maryland Fire Chiefs Association;

(5) a representative of the Metropolitan Fire Chiefs Council of the State of Maryland; and

(6) a representative of the Professional Firefighters of Maryland.

(c) On or before July 1, 2013, the Governor shall appoint a chair of the Workgroup from among its members.

(d) A member of the Workgroup:

(1) may not receive compensation for serving as a member of the Workgroup; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) The Workgroup shall:

(1) study the adequacy of State laws and policies related to the distribution of money to volunteer and career fire companies; and

(2) consider and make recommendations regarding options for the distribution of State funds to volunteer and career fire companies.

(f) On or before December 1, 2013, the Workgroup shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Budget and Taxation Committee and the House Appropriations Committee.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. Section 2 of this Act shall remain effective for a period of 5 months and, at the end of November 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.

Approved by the Governor, May 2, 2013.

Chapter 332

(House Bill 778)

AN ACT concerning

**Local Government – Fire, Rescue, and Ambulance Funds – Distribution of
~~Money to Volunteer Companies~~**

FOR the purpose of requiring that each county distribute a certain minimum percentage of funds that the county receives from the Senator William H. Amoss Fire, Rescue, and Ambulance Fund to volunteer fire, rescue, and ambulance companies; providing a formula by which the amount of the money required to be distributed under this Act shall be calculated; requiring the Director of the Maryland Emergency Management Agency to submit an annual report to the General Assembly on the amount of money distributed by each county to volunteer companies; requiring each county to include certain information in a certain report; establishing a Workgroup to Study the Laws and Policies Related to the Distribution of Money to Volunteer and Career Companies; providing for the membership and duties of the Workgroup; providing for the designation of a chair of the Workgroup; prohibiting members of the Workgroup

from receiving compensation; authorizing members to receive certain reimbursement; requiring the Workgroup to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the application of this Act; providing for the termination of certain provisions of this Act; and generally relating to the distribution of money from the Senator William H. Amoss Fire, Rescue, and Ambulance Fund.

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 8–102(a), (b), (d), and (f)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 8–103, 8–104, and 8–105
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article – Public Safety

8–102.

- (a) There is a Senator William H. Amoss Fire, Rescue, and Ambulance Fund.
- (b) The purposes of the Fund are to promote:
 - (1) the delivery of effective and high quality fire protection, rescue, and ambulance services in the State;
 - (2) increased financial support for fire, rescue, and ambulance companies by counties; and
 - (3) the continued financial viability of volunteer fire, rescue, and ambulance companies given the greatly increased costs of equipment.
- (d) The Fund consists of:
 - (1) money appropriated in the State budget to the Fund; and
 - (2) revenue distributed to the Fund under § 16–609 of the Business Regulation Article.

- (f) (1) State money provided under this section may only be used to:
- (i) acquire or rehabilitate fire or rescue equipment, including ambulances;
 - (ii) acquire or rehabilitate capital equipment used in connection with fire or rescue equipment; and
 - (iii) rehabilitate facilities used primarily to house fire fighting equipment, ambulances, and rescue vehicles.
- (2) State money provided under this section may not be used:
- (i) for administrative costs;
 - (ii) for compensation or fringe benefits to employees or members of county governments, or fire, rescue, or ambulance companies;
 - (iii) for travel or meal expenses;
 - (iv) for fuel, utility, or routine maintenance costs of facilities or equipment;
 - (v) to acquire new or replacement fire hydrants, water mains, or emergency alarm systems not installed at a fire, rescue, or ambulance facility;
 - (vi) for insurance;
 - (vii) for fund-raising activities;
 - (viii) to refinance debt or another obligation incurred before July 1, 1985;
 - (ix) to replace or repair eligible items to the extent that insurance proceeds are available;
 - (x) for costs associated with the “9-1-1” emergency telephone system; or
 - (xi) for land or interests in land.

8-103.

(a) Subject to subsection [(b)] (C) of this section, each county shall receive an initial allocation of money based on a percentage to be determined in the following manner:

(1) the Director of Assessments and Taxation shall certify to the Director each county's total percentage of land use property tax accounts, including vacant unimproved properties, relative to the statewide total of all land use property tax accounts for the first completed fiscal year immediately preceding the fiscal year for which money is to be allocated;

(2) except as provided in item (3) of this subsection, the percentage determined in item (1) of this subsection shall then be applied for each county to any amount included in the State budget for the purposes of this subtitle; and

(3) each county shall receive an allocation of at least 2% of the total Fund as appropriated in the State budget, in addition to the amount that is distributed to fire, rescue, and ambulance companies, departments, or stations located in qualified municipal corporations in accordance with subsection [(b)] (C) of this section.

(B) (1) IN ACCORDANCE WITH THE FORMULA PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH COUNTY SHALL DISTRIBUTE A MINIMUM PERCENTAGE OF FUNDS THAT THE COUNTY RECEIVES FROM THE FUND TO VOLUNTEER FIRE, RESCUE, AND AMBULANCE COMPANIES.

(2) THE PERCENTAGE OF FUNDS REQUIRED TO BE DISTRIBUTED BY EACH COUNTY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE EQUAL TO THE SAME TOTAL PERCENTAGE OF FUNDS DISTRIBUTED BY EACH COUNTY TO VOLUNTEER FIRE, RESCUE, AND AMBULANCE COMPANIES FROM THE FUND IN FISCAL YEAR 2011 OR AT LEAST 51% OF THE ALLOCATION RECEIVED BY EACH COUNTY UNDER SUBSECTION (A) OF THIS SECTION, WHICHEVER IS GREATER.

(3) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE DIRECTOR SHALL REPORT BY DECEMBER 31 OF EACH YEAR TO THE GENERAL ASSEMBLY ON THE FUNDS DISTRIBUTED BY EACH COUNTY UNDER PARAGRAPH (2) OF THIS SUBSECTION TO VOLUNTEER FIRE, RESCUE, AND AMBULANCE COMPANIES.

(4) THIS SUBSECTION DOES NOT APPLY TO:

(I) BALTIMORE CITY; OR

(II) DISTRIBUTIONS MADE TO FIRE, RESCUE, AND AMBULANCE COMPANIES, DEPARTMENTS, OR STATIONS LOCATED IN QUALIFIED MUNICIPAL CORPORATIONS IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

[(b)] (C) (1) Subject to paragraph (6) of this subsection, each county shall distribute the money provided under this subtitle on the basis of need to fire, rescue, and ambulance companies, departments, or stations in the county, including companies, departments, or stations:

(i) located in municipal corporations; or

(ii) located outside the State if the company, department, or station:

1. has been a member of the Maryland State Firemen's Association for at least the past 10 years; and

2. has a first due response area in the State.

(2) Each county shall determine need in accordance with procedures that the county uses to adopt its budget.

(3) In determining need under this subsection, the county shall consider:

(i) the failure to meet minimum standards established by the county or the Maryland State Firemen's Association;

(ii) the existence or potential existence of an emergency situation as described in § 8-203 of this title;

(iii) the age and condition of existing facilities and equipment;

(iv) the lack of availability of mutual aid;

(v) any service problems associated with demographic conditions; and

(vi) any other relevant factors.

(4) In addition to consideration of the factors in paragraph (3) of this subsection, for a volunteer company the county shall consider the company's inability to raise money to pay for the item.

(5) Notwithstanding paragraphs (3) and (4) of this subsection, each county shall give the highest funding priority to the failure to meet minimum standards or the existence of an emergency situation as described in § 8-203 of this title.

(6) Distribution of money to fire, rescue, and ambulance companies, departments, or stations located in qualified municipal corporations in a county in the

aggregate may not be less than 50% of the proportion that the expenditures of the qualified municipal corporation bear to total aggregate expenditures for fire protection in that county.

(7) To receive money under this subsection, each county shall participate in the Maryland Fire Incident Reporting System and Ambulance Information System.

8–104.

(a) (1) (i) The money distributed under this subtitle shall be used by each county for the purposes listed in § 8–102(f)(1) of this subtitle as an addition to and may not be substituted for any money appropriated from sources other than the Fund.

(ii) In each fiscal year, each county shall make expenditures for fire protection from sources other than the Fund in an amount that is at least equal to the average amount of the expenditures for fire protection during the 3 preceding fiscal years.

(iii) Except as provided in paragraph (2) of this subsection, a county that fails to satisfy the requirements of this subsection may not receive money under this subtitle for that fiscal year.

(2) For each fiscal year, each county that fails to satisfy the requirements of paragraph (1) of this subsection may receive money under this subtitle subject to a penalty equal to the percentage by which the county fails to meet the county's maintenance of effort for that fiscal year.

(b) (1) Each county shall make expenditures for fire protection from its own sources that are at least equal to the amount of State money to be received.

(2) A county may receive less than the amount initially allocated.

(3) In determining the amount of expenditures for fire protection made by a county, before certification, the Director shall review the financial information of the county for the first completed fiscal year before the fiscal year for which State money is appropriated.

(4) Money received from the Emergency Assistance Trust Fund under § 8–203 of this title or other State money may not be used as the match required under this subsection.

(c) (1) Money not distributed to a county because the requirements of subsections (a) and (b) of this section are not satisfied shall be distributed to the counties that meet the requirements of subsections (a) and (b) of this section in accordance with this subsection.

(2) (i) Subject to subparagraph (ii) of this paragraph, each county that meets the requirements of subsections (a) and (b) of this section shall receive an allocation of the money distributed under paragraph (1) of this subsection based on a percentage to be determined in accordance with § 8–103(a) of this subtitle.

(ii) For purposes of determining the percentage allocated to each county under this subsection, the property tax accounts of each county that fails to satisfy the requirements of subsection (a) or (b) of this section shall be excluded from the statewide total.

(3) Each county shall distribute money provided under this subsection in accordance with § [8–103(b)] **8–103(C)** of this subtitle.

(d) (1) The money distributed under this subtitle and allocated to a county shall be accounted for and audited in accordance with the procedures for accounting and auditing of other governmental revenues.

(2) Money not expended by the county by the end of a fiscal year shall be placed in a special fund for expenditure in the next succeeding fiscal year.

(3) (i) Money distributed under this subtitle that remains unencumbered or unexpended by the county after the second fiscal year shall be repaid to the Director for deposit in the General Fund.

(ii) The Comptroller may set off any shared revenues due to a county instead of repayment under this subsection.

(4) (i) Money distributed under this subtitle to be expended by a volunteer or municipal fire, rescue, or ambulance company shall be maintained in a separate account and shall be audited in the same manner as other money of the volunteer or municipal company is audited.

(ii) Copies of the audit of the separate account shall be submitted to the respective county government and to the Maryland Emergency Management Agency.

8–105.

(a) (1) On or before December 31 of each year, each county shall submit to the Director a report for the preceding fiscal year that states:

(i) the amount of money distributed to each recipient and the purpose of expenditure of this money categorized as provided in § 8–102(f)(1) of this subtitle;

(ii) the amount and disposition of any unencumbered or unexpended money; [and]

(iii) the amount of expenditures for fire protection by the county, **INCLUDING THE AMOUNT OF MONEY DISTRIBUTED TO VOLUNTEER FIRE, RESCUE, AND AMBULANCE COMPANIES FROM SOURCES OTHER THAN THE FUND; AND**

(IV) THE NATURE AND ESTIMATED DOLLAR AMOUNT OF ANY IN-KIND CONTRIBUTIONS MADE BY THE COUNTY TO VOLUNTEER FIRE, RESCUE, AND AMBULANCE COMPANIES.

(2) Each county shall provide a copy of the report required under paragraph (1) of this subsection, subject to § 2-1246 of the State Government Article, to the Department of Legislative Services.

(b) Each year the Director shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the information provided by the counties on the distribution of money provided under this subtitle, including an assessment of the extent to which the purposes of this subtitle are being achieved.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) There is a Workgroup to Study the Laws and Policies Related to the Distribution of Money to Volunteer and Career Companies.

(b) The Workgroup consists of the following members:

(1) two members from the Senate of Maryland, appointed by the President of the Senate on or before July 1, 2013;

(2) two members of the House of Delegates, appointed by the Speaker of the House on or before July 1, 2013;

(3) a representative of the Maryland State Firemen's Association;

(4) a representative of the Maryland Fire Chiefs Association;

(5) a representative of the Metropolitan Fire Chiefs Council of the State of Maryland; and

(6) a representative of the Professional Firefighters of Maryland.

(c) On or before July 1, 2013, the Governor shall appoint a chair of the Workgroup from among its members.

(d) A member of the Workgroup:

(1) may not receive compensation for serving as a member of the Workgroup; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) The Workgroup shall:

(1) study the adequacy of State laws and policies related to the distribution of money to volunteer and career fire companies; and

(2) consider and make recommendations regarding options for the distribution of State funds to volunteer and career fire companies.

(f) On or before December 1, 2013, the Workgroup shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Budget and Taxation Committee and the House Appropriations Committee.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. Section 2 of this Act shall remain effective for a period of 5 months and, at the end of November 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.

Approved by the Governor, May 2, 2013.

Chapter 333

(Senate Bill 920)

AN ACT concerning

~~Chesapeake Bay~~ **Natural Resources – Submerged Land and Water Column Leases – Riparian Owners Herring Creek**

FOR the purpose of exempting certain ~~Chesapeake Bay~~ submerged land leases and water column leases from a certain setback requirement; authorizing a submerged land lease or a water column lease of a riparian owner or a lawful occupant of the riparian property to be located ~~a certain minimum distance from a shallow draft federal navigational channel~~ in Herring Creek in St. Mary's County; making this Act an emergency measure; and generally relating to

submerged land leases and water column leases in ~~the Chesapeake Bay~~ Herring Creek in St. Mary's County.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–11A–06 and 4–11A–08
Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Natural Resources

4–11A–06.

(a) This section applies to a submerged land lease in the Chesapeake Bay that is not in an Aquaculture Enterprise Zone.

(b) (1) (i) Subject to subparagraph (ii) of this paragraph, the Department may issue to a person a submerged land lease in waters of the Chesapeake Bay after the Department of the Environment classifies the waters as:

1. Approved, conditionally approved, or restricted for harvest; or

2. Prohibited, provided that the lease is used exclusively for the planting and gathering of seed for aquaculture and the leaseholder complies with the requirements of the National Shellfish Sanitation Program as implemented by the Department.

(ii) The Department may issue a submerged land lease in the waters of the Chesapeake Bay to a corporation only if:

1. The corporation is organized under the laws of the State; and

2. More than 50% of the stock in the corporation is owned by residents of the State.

(2) A submerged land lease may not be located:

(i) Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of initial application for the lease;

- (ii) Within 150 feet of the public shellfish fishery or a registered pound net site;
- (iii) Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;
- (iv) **[Within] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, WITHIN** 150 feet of a federal navigational channel;
- (v) Subject to paragraph (3) of this subsection, in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide; or
- (vi) In an SAV Protection Zone.

(3) Paragraph (2)(v) of this subsection does not apply to a riparian owner or a lawful occupant of the riparian property.

(4) A SUBMERGED LAND LEASE OF A RIPARIAN OWNER OR A LAWFUL OCCUPANT OF THE RIPARIAN PROPERTY MAY BE LOCATED ~~50 FEET OR MORE FROM A SHALLOW DRAFT FEDERAL NAVIGATIONAL CHANNEL~~ IN HERRING CREEK IN ST. MARY'S COUNTY.

(c) A person with a submerged land lease in the Chesapeake Bay may cultivate shellfish on the submerged land, in temporary protective enclosures approved by the Department on the surface of the submerged land, or in any other manner authorized by the Department.

(d) Notwithstanding any other provision of this subtitle, a lease of submerged land located within a sanctuary must be compatible with oyster restoration and must satisfy the criteria for permissible leasing within a sanctuary as provided in regulations adopted under this subtitle.

4-11A-08.

- (a) This section applies to a water column lease in the waters of the State.
- (b) The Department may issue to a person a water column lease in waters of the State after the Department of the Environment classifies the waters as:
 - (1) Approved, conditionally approved, or restricted for harvest; or
 - (2) Prohibited, provided that the lease is used exclusively for the planting and gathering of seed for aquaculture and the leaseholder complies with the requirements of the National Shellfish Sanitation Program as implemented by the Department.
- (c) (1) A water column lease may not be located:

- (i) Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of initial application for the lease;
- (ii) Within 150 feet of the public shellfish fishery or a registered pound net site;
- (iii) Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;
- (iv) [Within] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, WITHIN** 150 feet of a federal navigational channel;
- (v) Subject to paragraph (2) of this subsection, in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;
- (vi) In an SAV Protection Zone; or
- (vii) In a setback or buffer from the Assateague Island National Seashore established by the Department.

(2) The provisions of paragraph (1)(v) of this subsection do not apply to the riparian owner or a lawful occupant of the riparian property.

(3) A WATER COLUMN LEASE OF A RIPARIAN OWNER OR A LAWFUL OCCUPANT OF THE RIPARIAN PROPERTY MAY BE LOCATED ~~50 FEET OR MORE FROM A SHALLOW DRAFT FEDERAL NAVIGATIONAL CHANNEL~~ IN HERRING CREEK IN ST. MARY'S COUNTY.

(d) A person with a water column lease in the waters of the State may cultivate shellfish:

- (1) Subject to approval by the United States Army Corps of Engineers, on or under the surface of the water in a floating structure; or
- (2) In any other manner authorized by the Department.

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

Approved by the Governor, May 2, 2013.

Chapter 334

(Senate Bill 930)

AN ACT concerning

Maryland Automobile Insurance Fund Property and Casualty Insurance – Premium Payments – Acceptance of Premiums on Installment Payment Basis and Premium Finance Agreements

FOR the purpose of authorizing the Maryland Automobile Insurance Fund to accept premiums on an installment payment basis under certain circumstances; requiring the Maryland Insurance Commissioner to ensure certain provisions of an installment payment plan; prohibiting the Fund from discriminating among insureds in a certain manner; prohibiting the Fund from ~~paying a higher commission to certain fund producers~~ considering, in determining certain commissions, whether a fund producer placed an insured in an installment payment plan; requiring certain written and electronic communications to include a certain statement under certain circumstances; ~~requiring the Executive Director of the Fund, in consultation with the Commissioner and certain State agencies, to develop certain criteria for evaluating the impact and effectiveness of the Fund's installment payment plan; requiring the Fund to submit a certain report each year to the Commissioner; requiring the Commissioner to make a certain determination; requiring the Commissioner to submit a certain report each year to certain committees of the General Assembly;~~ requiring a premium finance agreement to contain a certain statement; authorizing a premium finance agreement to include certain provisions with respect to certain commercial insurance; authorizing a premium finance agreement to include monthly payments for the purchase price of a motor club service contract; altering the computation of a certain finance charge; requiring an insured to receive a certain refund calculated in a certain manner under certain circumstances; specifying when a finance charge is earned; prohibiting a premium finance company from retaining more of a finance charge than is earned; authorizing, with respect to certain commercial insurance, the imposition of a finance charge on any unpaid principal balance of a certain loan; prohibiting a premium finance company from using a certain rule in computing a certain finance charge; altering the calculation of a certain cancellation fee; authorizing a premium finance company to require the payment of a certain reinstatement charge under certain circumstances; specifying when a premium finance company may impose a certain cancellation charge; altering the delivery method for certain notices; authorizing a premium finance company to send certain notices by electronic means under certain circumstances; altering the period of time within which certain gross unearned premiums must be returned; prohibiting a premium finance company from imposing certain charges on certain payments for the purchase price of a motor club service contract; prohibiting a premium finance company from canceling an

insurance contract under certain circumstances; requiring an ~~independent~~ insurance producer to provide a certain disclosure; authorizing, with respect to certain personal insurance, a premium finance company to assign certain rights and obligations under certain circumstances; authorizing, with respect to certain commercial insurance, a premium finance company to assign certain rights and obligations under certain circumstances; requiring certain notices to be given to certain insureds under certain circumstances; requiring the Executive Director of the Fund, in consultation with the Commissioner and certain State agencies, to develop certain criteria for evaluating the effectiveness and impact of the Fund's installment payment plan; requiring the Fund to submit a certain report to the Commissioner on or before a certain date; requiring the Commissioner to make a certain determination and submit a certain report to certain committees of the General Assembly on or before a certain date; defining certain terms; altering certain definitions; providing for the termination of certain provisions of this Act; providing for the application of this Act; and generally relating to accepting premiums on an installment payment basis on policies issued by the Maryland Automobile Insurance Fund and premium finance agreements.

BY repealing and reenacting, without amendments,

Article – Insurance

Section 20–101(a) and (g)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 20–504, 20–507, 23–101, 23–301, 23–304, 23–307, 23–307.1, 23–401.1, 23–405, and 23–505.2

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY adding to

Article – Insurance

Section 23–301.2 and 23–501.1

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

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

Article – Insurance

20–101.

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

(g) "Fund" means the Maryland Automobile Insurance Fund.

20-504.

(a) (1) In this section, "add-on coverage" means coverages or services sold in connection with a policy issued by the Fund, other than coverages authorized to be offered by the Fund under this subtitle.

(2) "Add-on coverage" includes:

(i) rental reimbursement coverage;

(ii) personal effects theft coverage;

(iii) collision and comprehensive deductible waiver coverage, other than collision and comprehensive coverages provided by the Fund or other authorized insurers;

(iv) supplemental hospital benefit coverage;

(v) emergency living expense coverage;

(vi) vehicle towing coverage; [and]

(vii) emergency vehicle repair service coverage; AND

(VIII) MOTOR CLUB SERVICES.

(3) "Add-on coverage" does not include fire, life, and health insurance coverages that are not directly related to the underlying motor vehicle insurance coverage and are written by an authorized insurer.

(b) (1) At the time coverage provided by the Fund is bound and before any add-on coverage is sold, a fund producer shall provide a clear and conspicuous written disclosure, in the form approved by the Commissioner, that:

(i) states that the cost of add-on coverage is not part of the premium for the related policy issued by the Fund;

(ii) includes an itemized list of any add-on coverages to be sold to the insured;

(iii) states the nature and cost of each add-on coverage to be sold; and

(iv) states that add-on coverage is optional and is not required under § 17-103 of the Transportation Article.

(2) Before an insured may purchase add-on coverage, the insured shall expressly consent to the purchase by signing the disclosure form.

(c) On continuation of a policy that includes add-on coverage, an insured need not sign a disclosure form if:

(1) the number and type of add-on coverages under the continuation do not change from the preceding policy; and

(2) the insured has signed the original disclosure form.

(d) (1) A fund producer may not:

(i) require an insured or prospective insured to purchase an add-on coverage as a condition to purchasing the related policy issued by the Fund; or

(ii) sell add-on coverage or any combination of add-on coverages in an amount that exceeds \$200 per covered vehicle in connection with a private passenger auto insurance policy.

(2) A pattern or practice of violations of this section by a fund producer is subject to the same penalties as a violation of § 20-513 of this subtitle.

20-507.

(a) Subject to the approval of the Commissioner, the Executive Director shall determine the premiums to be charged on policies issued by the Fund.

(b) (1) Except as provided in subsection (c) of this section, the provisions of Title 11, Subtitle 2 of this article apply to the determination of premiums by the Executive Director.

(2) Notwithstanding Title 11, Subtitle 2 of this article or any other provision of this title, the Executive Director may base premiums on one or both of the following items:

(i) the number of points accumulated by an insured or applicant for insurance under the point system provided for in Title 16, Subtitle 4 of the Transportation Article; or

(ii) the prior claims experience of an insured or applicant for insurance.

(c) (1) Premiums for all commercial coverage shall be determined in accordance with this section and § 20-508 of this subtitle.

(2) Notwithstanding paragraph (1) of this subsection, the rating principles under subsection (d) of this section may not be used to determine the premium for commercial coverage.

(d) In reviewing rates filed by the Fund, the Commissioner shall consider not only the rating principles under Title 11, Subtitle 2 of this article but also the statutory purpose of the Fund under § 20–301 of this title.

(e) (1) The Motor Vehicle Administration and Executive Director may arrange for the Motor Vehicle Administration to collect premiums on policies issued by the Fund when the Motor Vehicle Administration issues a driver's license or certificate of registration.

(2) A premium collected under this subsection shall be paid to the State Treasurer for the account of the Fund.

(f) (1) The Fund may not:

(i) provide directly or indirectly for the financing of premiums;

or

(ii) **EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION,** accept premiums on an installment basis.

(2) A premium may be financed only by a premium finance company registered with the Commissioner in accordance with § 23–201 of this article.

(3) If a prospective insured's initial payment to the Fund, a fund producer, or premium finance company is not honored, a policy or endorsement issued in reliance on that payment is void.

(G) (1) (I) SUBJECT TO THE APPROVAL OF THE COMMISSIONER AND IN ACCORDANCE WITH THIS SUBSECTION, THE FUND MAY ACCEPT PREMIUMS ON AN INSTALLMENT PAYMENT BASIS ONLY ON 12-MONTH PERSONAL LINES POLICIES.

(II) IN APPROVING THE FUND'S PLAN FOR ACCEPTING PREMIUMS ON AN INSTALLMENT PAYMENT BASIS, THE COMMISSIONER SHALL ENSURE THAT THE FUND'S INSTALLMENT PAYMENT PLAN:

1. REQUIRES AN INSURED'S INITIAL PREMIUM PAYMENT TO BE NO LESS THAN:

A. FOR A TOTAL ANNUAL PREMIUM OF LESS THAN \$3,000, 25% OF THE TOTAL ANNUAL PREMIUM; AND

B. FOR A TOTAL ANNUAL PREMIUM OF \$3,000 OR MORE, 20% OF THE TOTAL ANNUAL PREMIUM;

2. ADJUSTS THE AMOUNT OF THE TOTAL ANNUAL PREMIUM USED TO DETERMINE THE INITIAL PREMIUM PAYMENT UNDER ITEM 1 OF THIS SUBPARAGRAPH ON OCTOBER 1 OF EACH YEAR USING DATA FROM THE U.S. GOVERNMENT BUREAU OF LABOR STATISTICS MOTOR VEHICLE INSURANCE EXPENDITURE CATEGORY OF THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS;

~~2.~~ 3. IS STRUCTURED AND ADMINISTERED TO ENSURE THAT THE FUND AT NO TIME PROVIDES INSURANCE COVERAGE TO AN INSURED FOR A PERIOD DURING WHICH THE FUND HAS NOT RECEIVED THE ACTUARIALLY JUSTIFIED PREMIUM PAYMENT;

~~3.~~ 4. OFFERS NO MORE THAN:

A. FOR A POLICY UNDER ITEM 1A OF THIS SUBPARAGRAPH, SIX INSTALLMENT PAYMENTS ON THE 12-MONTH POLICY; AND

B. FOR A POLICY UNDER ITEM 1B OF THIS SUBPARAGRAPH, EIGHT INSTALLMENT PAYMENTS ON THE 12-MONTH POLICY;

~~4.~~ 5. ALLOWS INSUREDS TO MAKE AN INITIAL PREMIUM PAYMENT AND INSTALLMENT PAYMENTS IN ANY COMMERCIALY ACCEPTABLE FORM, WHICH SHALL INCLUDE PAYMENT BY CHECK, CREDIT CARD, OR ELECTRONIC TRANSFER; AND

~~5.~~ 6. ALLOWS THE FUND TO IMPOSE AN ADMINISTRATIVE PROCESSING FEE ON INSUREDS PARTICIPATING IN THE INSTALLMENT PLAN OF NO MORE THAN \$8 PER INSTALLMENT PAYMENT.

(2) ~~THE FUND MAY NOT DISCRIMINATE AMONG INSUREDS BY CHARGING DIFFERENT WRITTEN OR EARNED PREMIUM BASED ON THE PAYMENT OPTION SELECTED BY AN INSURED OR ON WHETHER THE FUND PRODUCER IS EMPLOYED BY A PUBLIC ENTITY OR PRIVATE ENTITY.~~

(3) ~~THE FUND MAY NOT PAY A HIGHER COMMISSION TO A FUND PRODUCER WHO PLACES AN INSURED IN AN INSTALLMENT PAYMENT PLAN OVER ANY OTHER PAYMENT OPTION, INCLUDING A PREMIUM FINANCE AGREEMENT~~ IN DETERMINING COMMISSIONS PAID TO A FUND PRODUCER, THE FUND MAY NOT CONSIDER WHETHER THE FUND PRODUCER PLACED AN INSURED IN AN INSTALLMENT PAYMENT PLAN.

(4) (I) IN ACCORDANCE WITH THIS PARAGRAPH, WRITTEN AND ELECTRONIC COMMUNICATIONS, INCLUDING THE FUND'S WEB SITE, AFFECTING THE PLACEMENT OF COVERAGE BY THE FUND OR A FUND PRODUCER SHALL INCLUDE A STATEMENT, ON A FORM APPROVED BY THE COMMISSIONER, ADVISING AN APPLICANT OR AN INSURED OF THE PAYMENT OPTIONS AVAILABLE TO THE APPLICANT OR INSURED.

(II) THE STATEMENT SHALL STATE THAT THE APPLICANT OR INSURED HAS THE FOLLOWING PAYMENT OPTIONS:

1. THE FUND'S INSTALLMENT PAYMENT PLAN;
2. A PREMIUM FINANCE AGREEMENT; OR
3. PAYMENT OF THE POLICY IN FULL.

(III) THE STATEMENT SHALL BE INCLUDED ON WRITTEN OR ELECTRONIC COMMUNICATIONS AT THE TIME THE APPLICANT OR INSURED:

1. IS ISSUED A NEW POLICY; OR
2. IS ISSUED A REISSUANCE, REWRITE, OR RENEWAL OF AN EXISTING POLICY; ~~OR~~
- ~~3. INCURS ADDITIONAL PREMIUMS UNDER AN EXISTING POLICY.~~

(IV) THE STATEMENT SHALL STATE THAT THE APPLICANT OR INSURED SHOULD CONSULT A FUND PRODUCER WHO WILL FULLY DESCRIBE THE TERMS OF EACH PAYMENT OPTION.

~~(5) (I) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE COMMISSIONER AND STATE AGENCIES AS APPROPRIATE, SHALL DEVELOP CRITERIA FOR EVALUATING THE IMPACT AND EFFECTIVENESS OF THE FUND'S INSTALLMENT PAYMENT PLAN.~~

~~(II) THE EVALUATION SHALL INCLUDE THE IMPACT OF THE FUND'S INSTALLMENT PAYMENT PLAN ON:~~

- ~~1. THE COST OF AUTOMOBILE INSURANCE FOR FUND INSUREDS;~~
- ~~2. THE NUMBER OF INSURED AND UNINSURED MOTORISTS IN THE STATE;~~

~~3. THE NUMBER OF FUND POLICIES IN FORCE BY GEOGRAPHIC AREA;~~

~~4. THE DURATION OF FUND POLICIES IN FORCE; AND~~

~~5. THE FREQUENCY OF PAYMENT METHODS USED BY FUND INSUREDS, INCLUDING THE FUND'S INSTALLMENT PAYMENT PLAN, PREMIUM FINANCE AGREEMENTS, AND CASH AND CREDIT CARD PAYMENTS.~~

~~(III) ON OR BEFORE MARCH 31 OF EACH YEAR, THE FUND SHALL SUBMIT A REPORT TO THE COMMISSIONER BASED ON THE FUND'S DETERMINATION OF THE IMPACT AND EFFECTIVENESS OF THE FUND'S INSTALLMENT PAYMENT PLAN FOR THE PRIOR YEAR BASED ON:~~

~~1. THE EVALUATION CRITERIA DEVELOPED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND~~

~~2. THE LIMITATIONS OF THE TERMS OF THE INSTALLMENT PAYMENT PLAN UNDER PARAGRAPH (1)(II)1 AND 3 OF THIS SUBSECTION.~~

~~(6) (I) ON RECEIPT OF THE REPORT UNDER PARAGRAPH (5)(III) OF THIS SUBSECTION, THE COMMISSIONER SHALL MAKE A DETERMINATION OF THE IMPACT AND EFFECTIVENESS OF THE FUND'S INSTALLMENT PAYMENT PLAN, INCLUDING A REVIEW OF COMPLAINTS RECEIVED BY THE COMMISSIONER RELATING TO THE FUND'S INSTALLMENT PAYMENT PLAN AND PREMIUM FINANCE AGREEMENTS.~~

~~(II) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMISSIONER SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE ON THE COMMISSIONER'S DETERMINATION OF THE IMPACT AND EFFECTIVENESS OF THE FUND'S INSTALLMENT PAYMENT PLAN.~~

23-101.

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

(b) “ACTUARIAL METHOD” HAS THE MEANING STATED IN § 12-1009 OF THE COMMERCIAL LAW ARTICLE.

(c) (1) “Premium finance agreement” means an agreement:

(i) by which an insured or prospective insured promises to pay a premium finance company the amount advanced or to be advanced under the agreement, together with interest and a service fee, to an insurer or an insurance producer in payment of premiums; and

(ii) that contains an assignment of or is otherwise secured by the unearned premium or refund obtainable from the insurer on cancellation of the insurance contract.

(2) "Premium finance agreement" does not include a premium financed in connection with a time sale of goods or services or an extension of credit without charge by an insurance producer.

[(c)] (D) "Premium finance company" means a person that engages in the business of entering into or accepting premium finance agreements.

23-301.

(a) (1) A premium finance agreement shall be dated and signed by or on behalf of the insured.

(2) [The] EXCEPT AS PROVIDED UNDER SUBSECTION (B)(5)(VIII) OF THIS SECTION, THE printed part of the premium finance agreement shall be in approximately 8-point type and be easily readable by an average individual.

(b) A premium finance agreement shall contain:

(1) the name and place of business of the insurance producer negotiating the related insurance contract;

(2) the name and residence or place of business of the insured as specified by the insured;

(3) the name and place of business of the premium finance company to which payments may be made;

(4) an itemized list for each insurance contract or coverage financed under the premium finance agreement that includes:

(i) the applicable application number, binder number, or policy number;

(ii) the effective date of the insurance contract or coverage;

(iii) the name of the company issuing the insurance contract or coverage; and

- (iv) the premium for the insurance contract or coverage; and
- (5) if applicable, the following items:
 - (i) the total amount of the premiums;
 - (ii) the amount of the down payment;
 - (iii) the principal balance (the difference between items (i) and (ii) of this item);
 - (iv) the amount of the finance charge;
 - (v) the balance payable by the insured (the sum of items (iii) and (iv) of this item);
 - (vi) the number of installments required, the amount of each installment expressed in dollars, and the due date or period of each installment; [and]
 - (vii) the electronic payment fee[.]; AND

(VIII) IN AT LEAST 12-POINT TYPE, THE FOLLOWING STATEMENT: “IF THIS AGREEMENT IS CANCELED OR THE LOAN IS PREPAID IN FULL BEFORE THE END OF ITS TERM, THE ACTUARIAL METHOD WILL BE USED TO CALCULATE THE EARNED FINANCE CHARGE. UNDER THIS METHOD, MOST OF THE FINANCE CHARGE IS EARNED IN THE EARLY MONTHS OF THE LOAN TERM RATHER THAN EQUALLY IN EACH MONTH. YOU MAY REQUEST A SAMPLE ILLUSTRATION OF HOW THE FINANCE CHARGE IS EARNED.”.

(c) (1) The items set out in subsection (b)(5) of this section need not be stated in the sequence in which they appear.

(2) Additional items may be included to explain the computations made in determining the amount to be paid by the insured.

(3) WITH RESPECT TO COMMERCIAL AUTOMOBILE, FIRE, OR LIABILITY INSURANCE, A PREMIUM FINANCE AGREEMENT MAY INCLUDE SEPARATE PROVISIONS REQUIRING REPRESENTATIONS, WARRANTIES, OR OTHER OBLIGATIONS OF THE INSURANCE PRODUCER WHO SELLS, SOLICITS, OR NEGOTIATES THE INSURANCE POLICY, THE PREMIUMS FOR WHICH ARE FINANCED UNDER THE PREMIUM FINANCE AGREEMENT.

(d) A premium finance agreement may provide for additional insurance premiums to be financed and added to the initial premium finance agreement.

(E) SUBJECT TO §§ 23-501.1 AND 23-505.2 OF THIS TITLE, A PREMIUM FINANCE AGREEMENT MAY INCLUDE MONTHLY PAYMENTS FOR THE PURCHASE PRICE OF A MOTOR CLUB SERVICE CONTRACT.

23-304.

(A) The finance charge shall be computed:

(1) on the amount of the entire premium loan advanced, including any taxes or fees that are financed under § 23-301.1 of this subtitle, after subtracting any down payment on the premium loan made by the insured;

(2) from the inception date of the insurance contract or from the due date of the premium, disregarding any grace period or credit allowed for payment of the premium, through the date when the final installment under the premium finance agreement is payable; and

(3) [at a rate] IN AN AMOUNT not exceeding THE SUM OF 1.15% for each 30 days[, charged] OF THE LOAN, COMPUTED in advance.

(B) (1) AN INSURED SHALL RECEIVE A REFUND OF A FINANCE CHARGE THAT EXCEEDS ANY AMOUNT DUE UNDER THE PREMIUM FINANCE AGREEMENT IF:

(I) THE INSURANCE CONTRACT IS CANCELED; OR

(II) THE INSURED PREPAYS THE LOAN IN FULL AT ANY TIME.

(2) THE AMOUNT OF THE REFUND UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE CALCULATED BY THE ACTUARIAL METHOD.

(3) (I) A FINANCE CHARGE:

1. IS EARNED IN 30-DAY INCREMENTS; AND

2. IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH, MAY BE EARNED ON THE FIRST DAY OF EACH 30-DAY PERIOD.

(II) IF A FINANCE CHARGE IS EARNED ON THE FIRST DAY OF EACH 30-DAY PERIOD, THE PREMIUM FINANCE AGREEMENT SHALL CONTAIN A NOTIFICATION THAT THE FINANCE CHARGE IS EARNED ON THE FIRST DAY OF EACH 30-DAY PERIOD.

(4) A PREMIUM FINANCE COMPANY MAY NOT RETAIN MORE OF THE FINANCE CHARGE THAN IS EARNED UNDER THIS SECTION.

(C) WITH RESPECT TO COMMERCIAL AUTOMOBILE, FIRE, OR LIABILITY INSURANCE ONLY, A FINANCE CHARGE MAY BE IMPOSED ON ANY UNPAID PRINCIPAL BALANCE OF THE LOAN REMAINING AFTER ALL UNEARNED PREMIUMS HAVE BEEN RETURNED IF THE UNEARNED PREMIUMS ARE LESS THAN THE UNPAID PRINCIPAL BALANCE DUE TO:

(1) AN AUDIT BY THE INSURER RESULTING IN ADDITIONAL PREMIUM;

(2) THE APPLICATION OF A MINIMUM PREMIUM ON A POLICY;

(3) AN ENDORSEMENT THAT IS MADE AFTER A POLICY IS ISSUED AND RESULTS IN ADDITIONAL PREMIUM; OR

(4) A LAWFUL DELAY IN CANCELING AN INSURANCE POLICY THAT IS BEYOND THE CONTROL OF THE PREMIUM FINANCE COMPANY.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PREMIUM FINANCE COMPANY MAY NOT USE THE RULE OF 78S IN COMPUTING A FINANCE CHARGE UNDER THIS SECTION.

23-307.

(a) [A] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A premium finance agreement may require the insured to pay a cancellation charge if a default in paying an installment results in the cancellation of an insurance contract listed in the premium finance agreement.

(b) A cancellation charge shall be:

(1) with respect to private passenger automobile or personal fire or liability insurance, equal to the difference between a delinquency and collection charge imposed under § 23-306 of this subtitle with respect to the installment in default and:

(I) \$15 FOR A DEFAULT BEFORE OR DURING CALENDAR YEAR 2014;

(II) \$16 FOR A DEFAULT DURING CALENDAR YEAR 2015;

(III) \$17 FOR A DEFAULT DURING CALENDAR YEAR 2016;

(IV) \$18 FOR A DEFAULT DURING CALENDAR YEAR 2017;

(V) \$19 FOR A DEFAULT DURING CALENDAR YEAR 2018;
AND

(VI) \$20 FOR A DEFAULT DURING OR AFTER CALENDAR
YEAR 2019; and

(2) with respect to commercial automobile, fire, or liability insurance, 5% of the installment, not to exceed an amount equal to the difference between a delinquency and collection charge imposed under § 23–306 of this subtitle with respect to the installment in default and \$100.

(c) [If a notice of cancellation is withdrawn and the insurance coverage is reinstated, the premium finance agreement may require the insured to pay a reinstatement charge in the same amount as the cancellation charge that would have been paid if the cancellation had actually taken effect.] A PREMIUM FINANCE COMPANY MAY REQUIRE THE PAYMENT OF A REINSTATEMENT CHARGE THAT IS IN PLACE OF AND IN THE SAME AMOUNT AS THE CANCELLATION CHARGE IF, AFTER A CANCELLATION CHARGE IS IMPOSED IN ACCORDANCE WITH THE REQUIREMENTS OF SUBSECTION (D) OF THIS SECTION, THE INSURED PAYS THE DEFAULTED INSTALLMENT.

(D) A PREMIUM FINANCE AGREEMENT MAY IMPOSE A CANCELLATION CHARGE:

(1) ON OR AFTER THE EFFECTIVE DATE STATED IN THE NOTICE OF CANCELLATION ISSUED TO THE INSURER UNDER § 23–403 OF THIS TITLE; OR

(2) ON OR AFTER THE CANCELLATION EFFECTIVE DATE STATED IN THE NOTICE OF INTENT TO CANCEL DELIVERED OR MAILED TO THE INSURED UNDER § 23–402 OF THIS TITLE, IF:

(I) THE PREMIUM FINANCE COMPANY HAS NOTIFIED THE INSURED IN THE NOTICE OF INTENT TO CANCEL THAT A CANCELLATION FEE WILL BE IMPOSED ON THE CANCELLATION EFFECTIVE DATE STATED IN THE NOTICE OF INTENT TO CANCEL; AND

(II) THE NOTICE OF INTENT TO CANCEL INCLUDES THE FOLLOWING STATEMENT IN 12-POINT OR LARGER TYPE: “IF YOU DO NOT PAY THE DELINQUENT AMOUNT BEFORE THE CANCELLATION EFFECTIVE DATE STATED IN THIS NOTICE, AT ANY TIME WITHIN 30 DAYS OF THE CANCELLATION EFFECTIVE DATE, YOUR INSURANCE POLICY IS SUBJECT TO CANCELLATION ON THE CANCELLATION EFFECTIVE DATE. THIS MEANS THAT IF YOU HAVE A LOSS ON OR AFTER THE CANCELLATION EFFECTIVE DATE STATED IN THIS NOTICE, YOU MAY NOT HAVE COVERAGE FOR THE LOSS.”.

23-307.1.

(a) (1) In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “ELECTRONIC CHECK” MEANS A FORM OF PAYMENT IN WHICH A FUND TRANSFER IS MADE ELECTRONICALLY FROM A PAYER’S BANK ACCOUNT TO A PREMIUM FINANCE COMPANY’S BANK ACCOUNT.

(II) “ELECTRONIC CHECK” DOES NOT INCLUDE A WRITTEN CHECK THAT IS DELIVERED TO A PREMIUM FINANCE COMPANY OR AN AGENT BY HAND DELIVERY, REGULAR MAIL, OR OTHER FORM OF PERSONAL DELIVERY.

(3) [“electronic” “ELECTRONIC payment” includes payment by credit card [or], debit card, OR ELECTRONIC CHECK.

(b) A premium finance agreement may require the insured to pay an electronic payment fee if the insured elects to pay a premium finance company by means of an electronic payment.

(c) A premium finance company may charge an electronic payment fee, which may not exceed \$8, for actual expenses incurred by the premium finance company for the electronic payment.

23-401.1.

(a) Subject to subsection (b) of this section, at the option of the insured a premium finance company may send any notice required under this subtitle by personal delivery, first-class mail, commercial delivery service, electronic mail, or facsimile transmission.

(b) [A notice delivery method other than personal delivery, first-class mail, or commercial delivery service may be used only with the written consent of the insured] A PREMIUM FINANCE COMPANY MAY SEND ANY NOTICE REQUIRED UNDER THIS SUBTITLE BY ELECTRONIC MEANS ONLY IF THE PREMIUM FINANCE COMPANY MEETS THE REQUIREMENTS FOR DELIVERING A NOTICE UNDER § 27-601.2 OF THIS ARTICLE.

23-405.

(a) (1) Notwithstanding any other provision of this article, when an insurance contract is canceled, whether by a premium finance company, an insurer, or an insured, the insurer shall return any gross unearned premiums that are due under the insurance contract, computed pro rata, and excluding any expense constant, administrative fee, or any nonrefundable charge filed with and approved by the

Commissioner, to the premium finance company for the account of the insured within a reasonable time not exceeding 45 days after:

(i) receipt by the insurer of a notice of cancellation from the premium finance company or the insured;

(ii) the date the insurer cancels the insurance contract; or

(iii) **WITH RESPECT TO COMMERCIAL AUTOMOBILE, FIRE, OR LIABILITY INSURANCE**, completion of any [payroll] audit necessary to determine the amount of premium earned while the insurance contract was in force.

(2) An audit under paragraph (1)(iii) of this subsection shall be performed within 45 days after the insurer receives the notice of cancellation.

(b) (1) After the insurer returns to the premium finance company any gross unearned premiums that are due under the insurance contract, the premium finance company shall refund to the insured the amount of unearned premium that exceeds any amount due under the premium finance agreement.

(2) A premium finance company need not make a refund to the insured if the amount of the refund would be less than \$5.

(c) Whenever an insurer, after receiving notice of the existence of a premium finance agreement, returns any unearned premiums to a person other than the premium finance company named in the premium finance agreement, the insurer shall be directly responsible to the premium finance company for all unearned premiums arising from the cancellation of the premium finance agreement.

(d) (1) An insurer that fails to return any premium required under this section shall pay interest of 1% per month on the unearned premium that has not been returned until the unearned premium is returned.

(2) Any payment under this subsection to the premium finance company shall be credited to the account of the insured.

(e) An insurer may not deduct from any return premium any amount owed to the insurer by the insured under any other insurance contract.

(f) An insurance producer shall return any gross unearned commissions, calculated as provided in subsection (a)(1) of this section, to an insurer within a reasonable period of time as required by the insurer.

23-501.1.

(A) A PREMIUM FINANCE COMPANY MAY NOT IMPOSE ANY FINANCE CHARGE OR OTHER CHARGE ON ANY PAYMENT FOR THE PURCHASE PRICE OF A MOTOR CLUB SERVICE CONTRACT.

(B) A PREMIUM FINANCE COMPANY MAY NOT CANCEL AN INSURANCE CONTRACT IF ANY PAYMENT UNDER THE PREMIUM FINANCE AGREEMENT:

(1) IS SUFFICIENT TO PAY THE INSTALLMENT DUE UNDER THE PREMIUM FINANCE AGREEMENT THAT IS RELATED TO THE INSURANCE CONTRACT OBLIGATION; BUT

(2) IS NOT SUFFICIENT TO COVER THE AMOUNT OF THE MONTHLY PAYMENT FOR THE MOTOR CLUB SERVICE CONTRACT.

23-505.2.

(a) An insurer that markets through independent insurance producers as defined in this article may not discriminate, intimidate, or retaliate against an insurance producer or insured that uses premium financing by denying the insurance producer or insured the same rights accorded to insurance producers or insureds who pay premiums in a different manner.

(b) ~~(1)~~ With respect to personal lines automobile insurance ~~OTHER THAN INSURANCE WRITTEN THROUGH THE MARYLAND AUTOMOBILE INSURANCE FUND~~, an ~~independent~~ insurance producer, who directly or indirectly has an ownership interest in a premium finance company, shall provide a disclosure to be signed by the insured comparing the costs and terms of premium financing with the insurer's alternative payment plan.

~~(2) WITH RESPECT TO PERSONAL LINES AUTOMOBILE INSURANCE WRITTEN THROUGH THE MARYLAND AUTOMOBILE INSURANCE FUND, AN INDEPENDENT INSURANCE PRODUCER SHALL PROVIDE A DISCLOSURE TO BE SIGNED BY THE INSURED COMPARING THE COSTS AND TERMS OF PREMIUM FINANCING WITH THE FUND'S ALTERNATIVE PAYMENT PLAN.~~

(c) The disclosure required by subsection (b) of this section shall:

(1) state the total amount to be paid by the insured under the premium finance agreement during the policy term, including premium, any down payment, and all interest, fees, and charges incident to the premium finance agreement and resulting extension of credit; and

(2) state the total amount to be paid by the insured under the insurer's alternative payment plan during the policy term, including premium, any down payment, and all fees and charges incident to the alternative payment plan.

(D) AN INSURANCE PRODUCER, OR AN EMPLOYEE OR AGENT OF THE INSURANCE PRODUCER, WHO DIRECTLY OR INDIRECTLY HAS AN OWNERSHIP INTEREST IN A MOTOR CLUB SHALL PROVIDE A DISCLOSURE TO BE SIGNED BY THE INSURED INFORMING THE INSURED OF THE INSURANCE PRODUCER'S OR THE INSURANCE PRODUCER'S EMPLOYEE'S OR AGENT'S INTEREST IN THE MOTOR CLUB.

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

Article – Insurance

23-301.2.

(A) (1) WITH RESPECT TO PRIVATE PASSENGER MOTOR VEHICLE INSURANCE AND PERSONAL INSURANCE, A PREMIUM FINANCE COMPANY MAY:

(I) ASSIGN ALL RIGHTS AND OBLIGATIONS UNDER A PREMIUM FINANCE AGREEMENT TO ANOTHER PREMIUM FINANCE COMPANY THAT IS REGISTERED IN THE STATE UNDER THIS TITLE; OR

(II) PLEDGE A PREMIUM FINANCE AGREEMENT AS COLLATERAL FOR A LOAN.

(2) IF A PREMIUM FINANCE COMPANY ASSIGNS THE OBLIGATION TO SERVICE A PREMIUM FINANCE AGREEMENT TO ANOTHER PREMIUM FINANCE COMPANY UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE ASSIGNING PREMIUM FINANCE COMPANY SHALL NOTIFY THE INSURED IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION:

(I) THAT THE OBLIGATION TO SERVICE THE PREMIUM FINANCE AGREEMENT HAS BEEN ASSIGNED TO ANOTHER PREMIUM FINANCE COMPANY THAT IS REGISTERED IN THE STATE UNDER THIS TITLE; AND

(II) OF THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PREMIUM FINANCE COMPANY TO WHICH THE OBLIGATION HAS BEEN ASSIGNED.

(B) (1) WITH RESPECT TO COMMERCIAL AUTOMOBILE, FIRE, OR LIABILITY INSURANCE, A PREMIUM FINANCE COMPANY:

(I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, MAY ASSIGN ALL RIGHTS AND OBLIGATIONS UNDER A PREMIUM FINANCE AGREEMENT TO ANOTHER PERSON IF THE PREMIUM FINANCE AGREEMENT EXPRESSLY CONFERS THE RIGHT TO ASSIGN ALL RIGHTS AND OBLIGATIONS UNDER THE PREMIUM FINANCE AGREEMENT; OR

(II) MAY PLEDGE A PREMIUM FINANCE AGREEMENT AS COLLATERAL FOR A LOAN.

(2) A PREMIUM FINANCE COMPANY THAT ASSIGNS RIGHTS AND OBLIGATIONS UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL:

(I) RETAIN THE OBLIGATION TO SERVICE THE PREMIUM FINANCE AGREEMENT; OR

(II) ASSIGN THE OBLIGATION TO SERVICE THE PREMIUM FINANCE AGREEMENT TO ANOTHER PREMIUM FINANCE COMPANY THAT IS REGISTERED IN THE STATE UNDER THIS TITLE.

(3) IF A PREMIUM FINANCE COMPANY ASSIGNS THE OBLIGATION TO SERVICE A PREMIUM FINANCE AGREEMENT TO ANOTHER PREMIUM FINANCE COMPANY UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION, THE ASSIGNING PREMIUM FINANCE COMPANY SHALL NOTIFY THE INSURED IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION:

(I) THAT THE OBLIGATION TO SERVICE THE PREMIUM FINANCE AGREEMENT HAS BEEN ASSIGNED TO ANOTHER PREMIUM FINANCE COMPANY THAT IS REGISTERED IN THE STATE UNDER THIS TITLE; AND

(II) OF THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PREMIUM FINANCE COMPANY TO WHICH THE OBLIGATION HAS BEEN ASSIGNED.

(C) A NOTICE REQUIRED UNDER SUBSECTION (A)(2) OR (B)(3) OF THIS SUBSECTION SHALL BE BY:

(1) FIRST-CLASS MAIL; OR

(2) IF THE PREMIUM FINANCE COMPANY MEETS THE REQUIREMENTS FOR DELIVERING A NOTICE UNDER § 27-601.2 OF THIS ARTICLE, ELECTRONIC MEANS.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) (1) The Executive Director of the Maryland Automobile Insurance Fund, in consultation with the Maryland Insurance Commissioner and State agencies as appropriate, shall develop criteria for evaluating the effectiveness and impact of the Fund's installment payment plan.

(2) The evaluation shall include the impact of the Fund's installment payment plan on:

- (i) the cost of automobile insurance for Fund insureds;
- (ii) the number of insured and uninsured motorists in the State;
- (iii) the number of Fund policies in force by geographic area;
- (iv) the duration of Fund policies in force; and

(v) the frequency of payment methods used by Fund insureds, including the Fund's installment payment plan, premium finance agreements, and cash and credit card payments.

(3) On or before October 1, 2015, the Fund shall submit a report to the Commissioner based on the Fund's determination of the effectiveness and impact of the Fund's installment payment plan for the prior year based on:

(i) the evaluation criteria developed under paragraph (2) of this subsection; and

(ii) the limitations of the terms of the installment payment plan under § 20-507(g)(1)(ii)1 and 4 of the Insurance Article, as enacted under Section 1 of this Act.

(b) (1) On receipt of the report under subsection (a)(3) of this section, the Commissioner shall make a determination of the effectiveness and impact of the Fund's installment payment plan, including a review of complaints received by the Commissioner relating to the Fund's installment payment plan and premium finance agreements.

(2) On or before December 31, 2015, the Commissioner shall submit a report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee on the Commissioner's determination of the effectiveness of the Fund's installment payment plan and its impact on:

- (i) the Fund;
- (ii) the private passenger automobile industry;

- (iii) the premium finance company industry; and
- (iv) Maryland consumers.

SECTION 4. AND BE IT FURTHER ENACTED, That the Maryland Insurance Administration shall:

(1) keep track of complaints received from consumers who have had all rights and obligations under premium finance agreements for commercial automobile, fire, or liability insurance assigned under § 23–301.2(b) of the Insurance Article, as enacted by Section 2 of this Act; and

(2) on or before December 31, 2014, report any findings and recommendations, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

~~SECTION 5.~~ AND BE IT FURTHER ENACTED, That this Act shall apply to all policies issued and ~~contracts issued by the Maryland Automobile Insurance Fund~~ premium finance agreements entered into on or after the effective date of this Act.

~~SECTION 6.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2013. Section 2 of this Act shall remain effective for a period of 2 years and, at the end of June 30, 2015, 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 2, 2013.

Chapter 335

(Senate Bill 931)

AN ACT concerning

Baltimore County – Orphans’ Court Judges – Salary

FOR the purpose of increasing the salary of the Chief Judge and each associate judge of the Orphans’ Court for Baltimore County; providing that this Act does not apply to the salary or compensation of the judges of the Orphans’ Court for Baltimore County during a certain term of office; and generally relating to the Orphans’ Court for Baltimore County.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 2–108(e)
Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

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

Article – Estates and Trusts

2–108.

(e) **(1)** Each [of the judges] ASSOCIATE JUDGE of the Court for Baltimore County shall receive an annual compensation of [\$39,000 beginning July 1, 2003] ~~\$50,000~~ **\$43,000 BEGINNING JULY 1, 2014.**

(2) The Chief Judge shall receive an [additional \$500 annually] ANNUAL COMPENSATION OF ~~\$52,500~~ **\$45,000 BEGINNING JULY 1, 2014.**

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the judges of the Orphans' Court for Baltimore County during a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the judges of the Orphans' Court for Baltimore County shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 336

(Senate Bill 963)

AN ACT concerning

Task Force to Study a Post–Labor Day Start Date for Maryland Public Schools

FOR the purpose of establishing the Task Force to Study a Post–Labor Day Start Date for Maryland Public Schools; providing for the membership, chair, and staff for the Task Force; prohibiting a member of the Task Force from receiving certain compensation; authorizing a member of the Task Force to receive reimbursement for certain expenses; requiring the Task Force to study issues relating to a post–Labor Day start date for Maryland public schools; requiring

the Task Force to report 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 a Post–Labor Day Start Date for Maryland Public Schools.

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

(a) There is a Task Force to Study a Post–Labor Day Start Date for Maryland Public Schools.

(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) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the State Superintendent of Schools, or the State Superintendent's designee; and

(4) the following members, appointed by the Governor:

(i) four representatives of local school systems in the State, two of whom are teachers;

(ii) one representative of the Maryland State Education Association;

(iii) four representatives of businesses impacted by summer tourism;

(iv) one representative of the Maryland Tourism Development Board;

(v) one student who attends a Maryland public high school;

(vi) one parent of a student enrolled in a Maryland public elementary school;

(vii) one parent of a student enrolled in a Maryland public middle school; and

(viii) one parent of a student enrolled in a Maryland public high school.

- (c) The Governor shall designate the chair of the Task Force.
- (d) The State Department of Education 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 study the impact of moving the start date of the public school year in the State to after Labor Day on the following areas:
 - (1) the education system, including the academic calendar, planning, administration, and facilities use;
 - (2) the economy; and
 - (3) summer tourism.
- (g) On or before June 30, 2014, 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 July 1, 2013. It shall remain effective for a period of 1 year 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 2, 2013.

Chapter 337

(Senate Bill 1004)

AN ACT concerning

Calvert County – Alcoholic Beverages – Sunday Sales

FOR the purpose of making inapplicable in Calvert County the prohibition against a holder of a Class B or Class C license from selling alcoholic beverages at a bar or counter on Sunday; *making this Act an emergency measure*; and generally relating to alcoholic beverages sales in Calvert County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–403(a)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article 2B – Alcoholic Beverages

11–403.

(a) (1) **(I) THIS PARAGRAPH DOES NOT APPLY IN CALVERT COUNTY.**

(II) A retail dealer holding a Class B or C license may not sell any alcoholic beverage at a bar or counter on Sunday.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect July 1, 2013~~ 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 2, 2013.

Chapter 338

(House Bill 1448)

AN ACT concerning

Calvert County – Alcoholic Beverages – Sunday Sales

FOR the purpose of making inapplicable in Calvert County the prohibition against a holder of a Class B or Class C license from selling alcoholic beverages at a bar or counter on Sunday; making this Act an emergency measure; and generally relating to alcoholic beverages sales in Calvert County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–403(a)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article 2B – Alcoholic Beverages

11-403.

(a) (1) (I) **THIS PARAGRAPH DOES NOT APPLY IN CALVERT COUNTY.**

(II) A retail dealer holding a Class B or C license may not sell any alcoholic beverage at a bar or counter on Sunday.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect July 1, 2013~~ 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 2, 2013.

Chapter 339

(Senate Bill 1029)

AN ACT concerning

Maryland Agricultural Certainty Program

FOR the purpose of establishing the Maryland Agricultural Certainty Program; stating the intent of the General Assembly; establishing the purpose of the Program; requiring the Department of Agriculture to develop the Program in coordination with the Department of the Environment; requiring that the Program be self-sustaining and revenue neutral; requiring the Department of Agriculture to administer the Program; authorizing the Department of Agriculture to establish by regulation reasonable fees to cover operation of the Program; requiring a person applying for certification to submit a certain application to the Department of Agriculture; establishing certain requirements for certification and recertification; authorizing the Department of Agriculture to certify an agricultural operation after certain requirements are met; requiring the Department of Agriculture to, on request, make certain records and information available to the Department of the Environment; requiring that a certified agricultural operation be in compliance with certain laws, regulations, rules, and permit conditions at the end of the certification period;

exempting an agricultural operation certified under the Program from certain nitrogen, phosphorus, and sediment reduction requirements; prohibiting a local government entity from ~~adopting or~~ enforcing certain laws, regulations, rules, ordinances, or standards for a certified agricultural operation for a certain period of time; stating that, if the Program is terminated, an agricultural operation certified at the time of termination shall remain certified for the duration of the certification period; requiring a person that manages a certified agricultural operation to submit annually certain documentation to the Department of Agriculture; requiring a person that manages a certified agricultural operation to report certain changes to the Department of Agriculture within a certain amount of time; requiring the Department of Agriculture to make certain information available to the Department of the Environment; requiring ~~the Department of Agriculture~~ a certified verifier to conduct an on-site inspection of each certified agricultural operation with a certain frequency; requiring the Department of the Environment to, if applicable, assure compliance with certain requirements administered by the Department of the Environment with a certain frequency; requiring a certified verifier conducting an on-site inspection to provide the certified agricultural operation with certain information during the on-site inspection; requiring a certified verifier who conducts an on-site inspection to submit a certain report and information to the Department of Agriculture, the Department of the Environment if applicable, and the certified agricultural operation; requiring the Department of Agriculture, in coordination with the Department of the Environment, to establish a program to certify a person to verify whether an agricultural operation meets certain requirements; requiring the Department of Agriculture to maintain and publish on the Department of Agriculture's Web site a list of all certified verifiers; requiring the certification program to provide verifiers with certain training and education; prohibiting a certified verifier from verifying an agricultural operation in which the certified verifier holds an interest or that the certified verifier initially determined met certain requirements; authorizing the Department of Agriculture to charge a reasonable fee to administer the verifier certification program; authorizing the Department of Agriculture to require continuing education or training for verifiers; authorizing the Department of Agriculture to designate an entity to train, certify, and recertify verifiers; authorizing the Department of Agriculture to recognize the training program of an entity employing verifiers if the program meets certain requirements; requiring the Department of Agriculture to maintain certain information and make the information available for public review in a manner that protects the identity of a certain person; requiring a certified verifier to maintain certain information in a manner that protects the identity of a certain person; requiring the Department of the Environment and a certified verifier to maintain certain records and information in a manner that protects the identity of a certain person; prohibiting the ~~Department of Agriculture from disclosing~~ disclosure of certain records and information before an agricultural operation is certified; requiring the Department of Agriculture to submit a certain annual report to the Governor and relevant committees of the General Assembly; authorizing the Department of Agriculture to suspend or

permanently revoke a certification under certain circumstances; requiring the Department of Agriculture, with approval from the Department of the Environment, to adopt certain regulations; requiring the Department of Agriculture, ~~with approval from the Department of the Environment,~~ to establish a certain committee to monitor and provide oversight on certain policies and standards, to assist with the development of the regulations, and to make certain recommendations related to the Program; requiring the committee to meet with a certain frequency; defining certain terms; and generally relating to the Maryland Agricultural Certainty Program.

BY adding to

Article – Agriculture

Section 8–1001 through 8–1013 to be under the new subtitle “Subtitle 10. Maryland Agricultural Certainty Program”

Annotated Code of Maryland

(2007 Replacement Volume and 2012 Supplement)

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

Article – Agriculture

SUBTITLE 10. MARYLAND AGRICULTURAL CERTAINTY PROGRAM.

8–1001.

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

(B) (1) “AGRICULTURAL SOURCES OF NITROGEN, PHOSPHORUS, OR SEDIMENT” MEANS SOURCES OF NITROGEN, PHOSPHORUS, OR SEDIMENT THAT ORIGINATE FROM AN AGRICULTURAL OPERATION’S ~~CROPS~~ CROPS LAND OR ANIMALS.

(2) “AGRICULTURAL SOURCES OF NITROGEN, PHOSPHORUS, OR SEDIMENT” DOES NOT INCLUDE SOURCES OF NITROGEN, PHOSPHORUS, OR SEDIMENT THAT ORIGINATE FROM A RESIDENTIAL, MUNICIPAL, INDUSTRIAL, OR COMMERCIAL ACTIVITY.

(C) “PROGRAM” MEANS THE MARYLAND AGRICULTURAL CERTAINTY PROGRAM.

8–1002.

IT IS THE INTENT OF THE GENERAL ASSEMBLY TO CREATE A VOLUNTARY PROGRAM TO RECOGNIZE THE ENVIRONMENTAL STEWARDSHIP AND

CONTRIBUTION OF MARYLAND FARMERS WHO IMPLEMENT AND MAINTAIN BEST MANAGEMENT PRACTICES CONSISTENT WITH THE STATE'S GOALS TO REDUCE THE AMOUNT OF NUTRIENTS AND SEDIMENT ENTERING THE CHESAPEAKE BAY, ITS TRIBUTARIES, AND OTHER WATERS OF THE STATE.

8-1003.

(A) THERE IS A VOLUNTARY MARYLAND AGRICULTURAL CERTAINTY PROGRAM.

(B) THE PURPOSE OF THE PROGRAM IS TO ~~CERTIFY AN AGRICULTURAL OPERATION THAT MEETS~~ ACCELERATE THE IMPLEMENTATION OF AGRICULTURAL BEST MANAGEMENT PRACTICES TO MEET STATE AGRICULTURAL NITROGEN, PHOSPHORUS, AND SEDIMENT REDUCTION GOALS.

(C) (1) THE DEPARTMENT SHALL DEVELOP THE PROGRAM IN COORDINATION WITH THE DEPARTMENT OF THE ENVIRONMENT.

(2) THE PROGRAM SHALL BE SELF-SUSTAINING AND REVENUE NEUTRAL.

(D) THE DEPARTMENT:

(1) SHALL ADMINISTER THE PROGRAM; AND

(2) MAY ESTABLISH BY REGULATION REASONABLE FEES SUFFICIENT TO COVER ANY COSTS INCURRED IN OPERATING THE PROGRAM.

8-1004.

(A) (1) A PERSON THAT MANAGES AN AGRICULTURAL OPERATION MAY APPLY FOR CERTIFICATION UNDER THE PROGRAM.

(2) TO APPLY FOR CERTIFICATION, A PERSON SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT ON THE FORM THE DEPARTMENT REQUIRES.

(B) AN AGRICULTURAL OPERATION MAY BE CERTIFIED AS MEETING THE REQUIREMENTS OF THE PROGRAM IF THE AGRICULTURAL OPERATION IS DETERMINED BY THE DEPARTMENT TO MEET:

(1) A FULLY IMPLEMENTED SOIL CONSERVATION AND WATER QUALITY PLAN THAT ADDRESSES ALL SOIL CONSERVATION AND WATER QUALITY ISSUES ON THE AGRICULTURAL OPERATION;

(2) A FULLY IMPLEMENTED NUTRIENT MANAGEMENT PLAN FOR THE AGRICULTURAL OPERATION IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT UNDER SUBTITLE 8 OF THIS TITLE;

(3) ~~THE MINIMUM~~ AGRICULTURAL NITROGEN, PHOSPHORUS, AND SEDIMENT ~~ALLOCATION LOADS~~ LOAD REDUCTIONS NECESSARY FOR THE AGRICULTURAL OPERATION TO MEET:

(I) THE FULL IMPLEMENTATION OF THE MOST RECENT CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOAD AS APPROVED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY;

(II) THE APPLICABLE WATERSHED IMPLEMENTATION PLAN;

(III) ~~THE~~ ALL APPLICABLE LOCAL TOTAL MAXIMUM DAILY LOAD REQUIREMENTS; AND

(IV) ANY OTHER WATER QUALITY REQUIREMENTS FOR AGRICULTURAL SOURCES OF NITROGEN, PHOSPHORUS, OR SEDIMENT; AND

(4) STATE AND FEDERAL LAWS, REGULATIONS, AND PERMIT CONDITIONS RELATING TO AGRICULTURAL SOURCES OF NITROGEN, PHOSPHORUS, OR SEDIMENT REDUCTION APPLICABLE TO THE AGRICULTURAL OPERATION.

(C) (1) THE DEPARTMENT MAY CERTIFY AN AGRICULTURAL OPERATION AFTER:

(I) NOTIFICATION TO THE DEPARTMENT OF THE ENVIRONMENT;

(II) ~~CONDUCTING AN~~ AN ON-SITE INSPECTION IS CONDUCTED BY A CERTIFIED VERIFIER, WITH THE ASSISTANCE OF THE DEPARTMENT OF THE ENVIRONMENT, AS APPROPRIATE;

(III) APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT IF THE AGRICULTURAL OPERATION IS PERMITTED OR HAS AN APPLICATION SUBMITTED TO BE PERMITTED UNDER THE ENVIRONMENT ARTICLE; AND

(IV) A CERTAINTY AGREEMENT HAS BEEN ENTERED INTO BETWEEN THE DEPARTMENT AND THE PERSON MANAGING THE AGRICULTURAL

OPERATION THAT OUTLINES THE TERMS AND CONDITIONS OF CERTAINTY APPLICABLE TO THE AGRICULTURAL OPERATION, INCLUDING:

1. MAINTENANCE OF BEST MANAGEMENT PRACTICES REQUIRED FOR CERTIFICATION;

2. REQUIREMENTS FOR VERIFICATION TO ASSURE CERTAINTY REQUIREMENTS ARE MAINTAINED;

3. RECORDS THAT THE DEPARTMENT REQUIRES THE AGRICULTURAL OPERATION TO MAINTAIN; AND

4. ANY OTHER ITEM THE DEPARTMENT DETERMINES TO BE NECESSARY FOR THE ADMINISTRATION OF THE PROGRAM.

(2) ON REQUEST, THE DEPARTMENT SHALL MAKE AVAILABLE TO THE DEPARTMENT OF THE ENVIRONMENT RECORDS AND INFORMATION ACQUIRED BY THE DEPARTMENT UNDER SUBSECTIONS (A), (B), OR (C) OF THIS SECTION RELATED TO COMPLIANCE WITH LAWS, REGULATIONS, PERMITS, OR OTHER REQUIREMENTS ENFORCED BY THE DEPARTMENT OF THE ENVIRONMENT.

(D) A CERTIFICATION ISSUED UNDER THIS SECTION IS VALID FOR 10 YEARS IF:

(1) THE AGRICULTURAL OPERATION REMAINS IN COMPLIANCE WITH THE REQUIREMENTS UNDER THIS SUBTITLE; AND

(2) EXCEPT AS AUTHORIZED BY REGULATION, THERE ARE NO MATERIAL CHANGES TO THE OPERATION, INCLUDING CHANGE OF OWNERSHIP OF THE OPERATION.

(E) AT THE END OF THE 10-YEAR CERTIFICATION PERIOD, AN AGRICULTURAL OPERATION CERTIFIED UNDER THIS SECTION SHALL ENSURE THAT THE AGRICULTURAL OPERATION IS IN COMPLIANCE WITH ALL APPLICABLE LAWS, REGULATIONS, RULES, AND PERMIT CONDITIONS THAT WENT INTO EFFECT AFTER THE DATE OF CERTIFICATION.

8-1005.

AN AGRICULTURAL OPERATION CERTIFIED UNDER § 8-1004 OF THIS SUBTITLE MAY BE RECERTIFIED FOR 10 YEARS IF THE AGRICULTURAL OPERATION:

- (1) MEETS THE REQUIREMENTS UNDER THIS SUBTITLE;
- (2) MEETS THE LAWS, REGULATIONS, RULES, AND PERMIT CONDITIONS APPLICABLE TO THE AGRICULTURAL OPERATION AT THE TIME OF RECERTIFICATION; AND
- (3) RECEIVES APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT IF THE AGRICULTURAL OPERATION IS PERMITTED OR HAS AN APPLICATION SUBMITTED TO BE PERMITTED UNDER THE ENVIRONMENT ARTICLE.

8-1006.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN AGRICULTURAL OPERATION THAT IS IN COMPLIANCE AND CERTIFIED UNDER THIS SUBTITLE IS NOT SUBJECT TO:

(1) STATE OR LOCAL LAWS OR REGULATIONS ENACTED OR ADOPTED AFTER THE DATE OF CERTIFICATION THAT REQUIRE THE REDUCTION OF AGRICULTURAL SOURCES OF NITROGEN, PHOSPHORUS, OR SEDIMENT TO MEET:

(I) CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOADS, INCLUDING THE REQUIREMENTS IN A WATERSHED IMPLEMENTATION PLAN;

(II) LOCAL TOTAL MAXIMUM DAILY LOADS; OR

(III) OTHER WATER QUALITY REQUIREMENTS FOR MANAGING AGRICULTURAL SOURCES OF NITROGEN, PHOSPHORUS, OR SEDIMENT; OR

(2) ~~REQUIREMENTS~~ STATE OR LOCAL LAWS AND REGULATIONS ENACTED OR ADOPTED AFTER THE DATE OF CERTIFICATION RELATED TO MEETING A REALLOCATION OF NITROGEN, PHOSPHORUS, OR SEDIMENT ~~LOADS~~ LOAD REDUCTIONS NECESSARY TO MEET:

(I) CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOADS, INCLUDING THE REQUIREMENTS IN A WATERSHED IMPLEMENTATION PLAN;

(II) LOCAL TOTAL MAXIMUM DAILY LOADS; OR

(III) OTHER WATER QUALITY REQUIREMENTS FOR MANAGING NITROGEN, PHOSPHORUS, OR SEDIMENT.

(B) SUBSECTION (A) OF THIS SECTION MAY NOT PREVENT THE APPLICATION OR ENFORCEMENT OF ANY OTHER LAWS, REGULATIONS, OR PERMITS, INCLUDING:

(1) ORDERS SEEKING A CORRECTIVE ACTION FOR A VIOLATION OF TITLE 4, SUBTITLE 4 OF THE ENVIRONMENT ARTICLE;

(2) TITLES 5 AND 16 OF THE ENVIRONMENT ARTICLE;

(3) TITLE 9, SUBTITLES 2 AND 3 OF THE ENVIRONMENT ARTICLE;

(4) TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE;

(5) THE ADOPTION OF A GROWTH TIER MAP BY A LOCAL JURISDICTION UNDER TITLE 1, SUBTITLE 5 OF THE LAND USE ARTICLE;

(6) ANY STATE OR LOCAL LAW OR REGULATION THAT REGULATES THE DEVELOPMENT OF LAND;

(7) THE FEDERAL CLEAN WATER ACT;

(8) ANY REGULATION GOVERNING THE MANAGEMENT OF AGRICULTURAL SOURCES OF NITROGEN, PHOSPHORUS, OR SEDIMENT INITIATED BY THE DEPARTMENT BEFORE THE ENACTMENT OF THIS SUBTITLE; OR

(9) ANY APPLICABLE LAWS OR REGULATIONS THAT HAVE BEEN ENACTED, BUT ARE SUBJECT TO A DELAYED IMPLEMENTATION PERIOD.

(C) A LOCAL GOVERNMENT ENTITY MAY NOT ENFORCE STATE OR LOCAL LAWS, REGULATIONS, RULES, ORDINANCES, OR STANDARDS ADOPTED AFTER THE DATE OF CERTIFICATION RELATING TO AGRICULTURAL SOURCES OF NITROGEN, PHOSPHORUS, OR SEDIMENT FOR AN AGRICULTURAL OPERATION CERTIFIED UNDER THIS SUBTITLE UNTIL THE END OF THE CERTIFICATION PERIOD.

(D) IF THE PROGRAM ESTABLISHED UNDER THIS SUBTITLE IS TERMINATED, AN AGRICULTURAL OPERATION CERTIFIED UNDER THE PROGRAM SHALL:

(1) REMAIN CERTIFIED FOR THE REMAINDER OF THE CERTIFICATION PERIOD FOR THE AGRICULTURAL OPERATION; AND

(2) BE SUBJECT TO STATE AND LOCAL LAWS OR REGULATIONS APPLICABLE AT THE TIME OF CERTIFICATION, INCLUDING THIS SUBTITLE AND THE TERMS AND CONDITIONS OF THE CERTAINTY AGREEMENT ENTERED INTO UNDER THIS SUBTITLE.

8-1007.

(A) A PERSON THAT MANAGES AN AGRICULTURAL OPERATION CERTIFIED UNDER THIS SUBTITLE SHALL:

(1) SUBMIT ANNUALLY TO THE DEPARTMENT:

(I) NUTRIENT MANAGEMENT PLAN RECORDS, INCLUDING:

1. INFORMATION IDENTIFYING THE PERSON WHO MANAGES THE AGRICULTURAL OPERATION;

2. SOIL ANALYSIS DATA FOR THE LAND RECEIVING NUTRIENTS;

3. FERTILITY RECOMMENDATIONS FOR CROPS PRODUCED; ~~AND~~

4. A SUMMARY OF NUTRIENTS APPLIED BY SOURCE AND CROP TYPE; AND

~~4~~ 5. MAPS IDENTIFYING THE LOCATION AND BOUNDARIES OF THE AGRICULTURAL OPERATION;

(II) SOIL CONSERVATION AND WATER QUALITY PLAN RECORDS;

(III) A CERTIFICATION SIGNED BY THE PERSON MANAGING THE AGRICULTURAL OPERATION THAT STATES THAT THE REQUIREMENTS OF THE PROGRAM WILL BE MAINTAINED FOR THE UPCOMING YEAR; AND

(IV) ANY ADDITIONAL DOCUMENTATION THE DEPARTMENT DETERMINES TO BE NECESSARY TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; AND

(2) REPORT TO THE DEPARTMENT WITHIN 60 DAYS ANY CHANGE IN THE AGRICULTURAL OPERATION THAT AFFECTS CERTIFICATION UNDER THIS SUBTITLE.

(B) THE DEPARTMENT SHALL MAKE AVAILABLE TO THE DEPARTMENT OF THE ENVIRONMENT RECORDS AND INFORMATION PROVIDED UNDER SUBSECTION (A) OF THIS SECTION RELATED TO COMPLIANCE WITH LAWS, REGULATIONS, PERMITS, OR OTHER REQUIREMENTS ENFORCED BY THE DEPARTMENT OF THE ENVIRONMENT.

8-1008.

(A) (1) AT LEAST ONCE EVERY 3 YEARS WITHIN THE 10-YEAR CERTIFICATION PERIOD:

~~(1)~~ (I) THE DEPARTMENT SHALL REQUIRE AN ON-SITE INSPECTION, AS DEFINED BY REGULATIONS ADOPTED UNDER THIS SUBTITLE, OF EACH AGRICULTURAL OPERATION CERTIFIED UNDER THIS SUBTITLE TO ASSURE THE AGRICULTURAL OPERATION CONTINUES TO MEET THE REQUIREMENTS OF THIS SUBTITLE; AND

~~(2)~~ (II) THE DEPARTMENT OF THE ENVIRONMENT SHALL, IF APPLICABLE, ASSURE COMPLIANCE WITH LAWS, REGULATIONS, PERMITS, OR OTHER REQUIREMENTS ADMINISTERED BY THE DEPARTMENT OF THE ENVIRONMENT.

(2) THE INSPECTIONS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONDUCTED BY A CERTIFIED VERIFIER DETERMINED BY THE DEPARTMENT.

(B) THE CERTIFIED VERIFIER CONDUCTING THE ON-SITE INSPECTION SHALL PROVIDE ~~A~~:

(1) A REPORT TO THE DEPARTMENT DETAILING THE AGRICULTURAL OPERATION'S COMPLIANCE WITH PROGRAM REQUIREMENTS, INCLUDING:

(I) EFFORTS TO MANAGE SOIL CONSERVATION AND WATER QUALITY; AND

(II) NUTRIENT APPLICATION, INCLUDING LOCATION, RATE, SOURCE, AND TIMING, BY CROP; AND

(2) NOTICE TO THE CERTIFIED AGRICULTURAL OPERATION AT THE TIME OF THE ON-SITE INSPECTION OF ALL NEW STATE AND LOCAL LAWS AND REGULATIONS ENACTED OR ADOPTED SINCE THE DATE OF CERTIFICATION.

(C) FOLLOWING THE THIRD ON-SITE INSPECTION IN THE 10 YEAR CERTIFICATION PERIOD, THE CERTIFIED VERIFIER WHO CONDUCTED THE MOST RECENT ON-SITE INSPECTION SHALL PROVIDE INFORMATION TO THE DEPARTMENT, THE DEPARTMENT OF THE ENVIRONMENT AS APPLICABLE, AND THE CERTIFIED AGRICULTURAL OPERATION ON BEST MANAGEMENT PRACTICES APPLICABLE TO THE OPERATION AND NECESSARY FOR THE AGRICULTURAL OPERATION TO COMPLY WITH NEW LAWS, REGULATIONS, OR RULES ~~THAT WENT INTO EFFECT~~ ADOPTED OR ENACTED AFTER THE DATE OF CERTIFICATION AND NECESSARY FOR RECERTIFICATION.

8-1009.

(A) THE DEPARTMENT, IN COORDINATION WITH THE DEPARTMENT OF THE ENVIRONMENT, SHALL:

(1) ESTABLISH A PROGRAM TO CERTIFY A PERSON TO VERIFY WHETHER AN AGRICULTURAL OPERATION MEETS AND IS IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE;

(2) MAINTAIN A LIST OF ALL CERTIFIED VERIFIERS; AND

(3) PUBLISH THE LIST OF ALL CERTIFIED VERIFIERS ON THE DEPARTMENT'S WEB SITE.

(B) (1) THE CERTIFICATION PROGRAM SHALL PROVIDE VERIFIERS WITH THE TRAINING AND EDUCATION NECESSARY TO DETERMINE WHETHER AN AGRICULTURAL OPERATION IS IN COMPLIANCE WITH THE PROGRAM.

(2) A CERTIFIED VERIFIER MAY NOT VERIFY AN AGRICULTURAL OPERATION:

(I) IN WHICH THE CERTIFIED VERIFIER HOLDS AN INTEREST, AS DEFINED BY REGULATION; OR

(II) THAT THE CERTIFIED VERIFIER INITIALLY DETERMINED HAD MET THE REQUIREMENTS UNDER ~~§ 8-1004(B)(1) AND (2)~~ § 8-1004(B)(1) OF THIS SUBTITLE.

(C) IN ESTABLISHING THE CERTIFICATION PROGRAM, THE DEPARTMENT MAY:

(1) CHARGE REASONABLE FEES, INCLUDING AN ANNUAL CERTIFICATION FEE, TO COVER THE COSTS ASSOCIATED WITH THE CERTIFICATION PROGRAM;

(2) REQUIRE CONTINUING EDUCATION OR TRAINING FOR VERIFIERS;

(3) DESIGNATE AN ENTITY TO TRAIN, CERTIFY, AND RECERTIFY VERIFIERS; AND

(4) RECOGNIZE THE TRAINING PROGRAM OF AN ENTITY EMPLOYING VERIFIERS IF THE PROGRAM MEETS THE CERTIFICATION AND RECERTIFICATION TRAINING AND EDUCATION STANDARDS ESTABLISHED BY THE DEPARTMENT.

8-1010.

(A) EXCEPT AS PROVIDED IN § 8-1007(B) OF THIS SUBTITLE, ALL RECORDS AND INFORMATION CONCERNING ANY AGRICULTURAL OPERATION CERTIFIED BY THE DEPARTMENT UNDER ~~§ 8-1004~~ OF THIS SUBTITLE SHALL BE MAINTAINED BY THE DEPARTMENT AND MADE AVAILABLE FOR PUBLIC REVIEW IN A MANNER THAT ~~PROTECTS~~ PROVIDES THE GREATEST PUBLIC DISCLOSURE OF RECORDS AND INFORMATION WHILE PROTECTING THE IDENTITY OF THE PERSON FOR WHOM THE RECORDS OR INFORMATION RELATES.

(B) EXCEPT AS PROVIDED IN § 8-1008(B) OF THIS SUBTITLE, A CERTIFIED VERIFIER SHALL MAINTAIN ALL RECORDS AND INFORMATION CONCERNING A CERTIFIED AGRICULTURAL OPERATION IN A MANNER THAT PROTECTS THE IDENTITY OF THE PERSON FOR WHOM THE RECORDS OR INFORMATION RELATES.

(C) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE DEPARTMENT OF THE ENVIRONMENT SHALL MAINTAIN ALL RECORDS AND INFORMATION RECEIVED FROM THE DEPARTMENT UNDER §§ 8-1004(C)(2) AND 8-1007(B) OF THIS SUBTITLE IN A MANNER THAT PROTECTS THE IDENTITY OF THE PERSON FOR WHOM THE RECORDS OR INFORMATION RELATES.

(2) THIS SUBSECTION DOES NOT AFFECT THE MAINTENANCE AND DISCLOSURE OF RECORDS AND INFORMATION OBTAINED FROM ANY OTHER SOURCE BY THE DEPARTMENT OF THE ENVIRONMENT, EVEN IF THE RECORDS AND INFORMATION ARE DUPLICATIVE OF INFORMATION PROVIDED TO THE DEPARTMENT OF THE ENVIRONMENT BY THE DEPARTMENT UNDER THIS SUBTITLE.

(D) ~~THE DEPARTMENT MAY NOT DISCLOSE ANY~~ EXCEPT AS PROVIDED IN § 8-1007(B) OF THIS SUBTITLE, RECORDS AND INFORMATION RELATING TO AN AGRICULTURAL OPERATION OPERATION THAT ARE GENERATED OR

OBTAINED SOLELY FOR THE PURPOSE OF OBTAINING CERTIFICATION MAY NOT BE DISCLOSED BY ANY STATE AGENCY, DEPARTMENT, OR CERTIFIED VERIFIER BEFORE THE AGRICULTURAL OPERATION IS CERTIFIED UNDER THIS SUBTITLE.

(E) ~~THE~~ ON OR BEFORE DECEMBER 31, 2014, AND EACH DECEMBER 31 THEREAFTER, THE DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ENVIRONMENTAL MATTERS COMMITTEE ON:

(1) PARTICIPATION IN THE PROGRAM; AND

(2) RECOMMENDATIONS OF THE ~~STAKEHOLDER~~ OVERSIGHT COMMITTEE ESTABLISHED IN § 8-1013 OF THIS SUBTITLE.

8-1011.

(A) IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT, ON NOTICE AND OPPORTUNITY TO BE HEARD, THE DEPARTMENT MAY SUSPEND OR PERMANENTLY REVOKE THE CERTIFICATION OF:

(1) AN AGRICULTURAL OPERATION CERTIFIED UNDER THIS SUBTITLE; AND

(2) A PERSON CERTIFIED ~~TO EVALUATE AND CERTIFY AN AGRICULTURAL OPERATION~~ AS A VERIFIER UNDER THIS SUBTITLE.

(B) A CERTIFICATION FOR AN AGRICULTURAL OPERATION OR A VERIFIER ISSUED UNDER THIS SUBTITLE MAY BE SUSPENDED OR PERMANENTLY REVOKED ACCORDING TO PROCEDURES ESTABLISHED BY REGULATION IF THE CERTIFICATION HOLDER VIOLATES:

(1) THIS SUBTITLE; OR

(2) A REGULATION ADOPTED BY THE DEPARTMENT UNDER THIS SUBTITLE, INCLUDING A REGULATION ESTABLISHING OTHER GOOD CAUSE FOR SUSPENSION OR REVOCATION.

8-1012.

THE DEPARTMENT, WITH APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT, SHALL ADOPT REGULATIONS NECESSARY TO IMPLEMENT THE PROGRAM.

8-1013.

(A) (1) THE DEPARTMENT SHALL ESTABLISH ~~A~~ AN STAKEHOLDER OVERSIGHT COMMITTEE.

(2) THE ~~STAKEHOLDER~~ OVERSIGHT COMMITTEE SHALL INCLUDE REPRESENTATIVES OF DIVERSE INTERESTS.

(B) THE ~~STAKEHOLDER~~ OVERSIGHT COMMITTEE SHALL:

(1) MONITOR AND PROVIDE OVERSIGHT ON THE DEVELOPMENT AND IMPLEMENTATION OF POLICIES AND STANDARDS RELATING TO THE PROGRAM;

~~(1)~~ (2) ASSIST IN THE DEVELOPMENT OF REGULATIONS ADOPTED TO IMPLEMENT THIS SUBTITLE; AND

~~(2)~~ (3) MEET AT LEAST ONCE EVERY ~~4 YEARS~~ YEAR TO EVALUATE THE PERFORMANCE OF THE PROGRAM AND MAKE RECOMMENDATIONS FOR IMPROVEMENTS TO OR TERMINATION OF THE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that soil conservation districts shall provide services related to certification and verification under Title 8, Subtitle 10 of the Agriculture Article, as enacted by Section 1 of this Act, without cost or fee until existing resources are inadequate to provide these services without cost or fee.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 340

(Senate Bill 1057)

AN ACT concerning

Department of Health and Mental Hygiene – Health Care Staff Agencies – Regulation

FOR the purpose of altering certain provisions of law that apply to nursing staff agencies and nursing personnel to apply more broadly to health care staff

agencies and *certain* health care practitioners licensed or certified by certain health occupation boards; requiring a health care staff agency to be licensed by the Office of Health Care Quality in the Department of Health and Mental Hygiene before referring *certain* health care practitioners to a health care facility to render temporary health care services at a health care facility in this State; making provisions of law that apply to deemed status of accredited health care facilities for purposes of State licensure also apply to health care staff agencies; defining certain terms; altering certain definitions; repealing a certain definition; making conforming and stylistic changes; ~~making this Act an emergency measure~~; and generally relating to licensure and accreditation of health care staff agencies.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–2001 and 19–2002 to be under the amended subtitle “Subtitle 20. Health Care Staff Agencies”; and 19–2301 and 19–2302 to be under the amended subtitle “Subtitle 23. Accreditation of Health Care Facilities and Health Care Staff Agencies”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – Health – General

Subtitle 20. [Nursing] **HEALTH CARE** Staff Agencies.

19–2001.

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

(2) “Client facility” means a health care facility that contracts with a [nursing] **HEALTH CARE** staff agency for the referral of [nursing personnel] **HEALTH CARE PRACTITIONERS**.

(3) “Health care facility” means a hospital or related institution as defined in § 19–301 of this title.

[(4) “Initially providing or referring” means the first time a nursing staff agency provides or refers a particular licensed practical nurse, registered nurse, or certified nursing assistant to a health care facility.

(5) “Nursing personnel” means:

(i) Any individual licensed by the State Board of Nursing as a:

1. Licensed practical nurse; or
 2. Registered nurse; or
- (ii) A certified nursing assistant.]

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, “HEALTH CARE PRACTITIONER” MEANS ANY INDIVIDUAL LICENSED OR CERTIFIED UNDER THE HEALTH OCCUPATIONS ARTICLE WHO:

1. IS A LICENSED PRACTICAL NURSE, REGISTERED NURSE, OR CERTIFIED NURSING ASSISTANT; OR

2. PRACTICES IN AN ALLIED HEALTH CARE FIELD, AS DEFINED BY THE OFFICE IN REGULATION.

(II) “HEALTH CARE PRACTITIONER” DOES NOT INCLUDE:

1. AN ACUPUNCTURIST;

2. A DENTIST;

3. A NURSE ANESTHETIST;

4. A NURSE MIDWIFE;

5. A NURSE PRACTITIONER;

6. A PHARMACIST;

7. A PHYSICIAN; OR

8. A PODIATRIST.

[(6) (5) (i) [“Nursing] “HEALTH CARE staff agency” means any person, firm, corporation, partnership, or other business entity engaged in the business of referring [nursing personnel] HEALTH CARE PRACTITIONERS as employees or independent contractors to render temporary [nursing] HEALTH CARE services at a health care facility in the State.

(ii) [“Nursing] “HEALTH CARE staff agency” does not include:

1. A [nursing] HEALTH CARE staff agency operated by a health care facility OR ITS AFFILIATES solely for the purpose of procuring, furnishing,

or referring temporary or permanent [nursing] HEALTH CARE personnel for employment at that health care facility OR ITS AFFILIATES;

2. A home health agency regulated under Subtitle 4 of this title; or

3. Any [nursing personnel] HEALTH CARE PRACTITIONERS procuring, furnishing, or referring their own services to a health care facility without the direct or indirect assistance of a [nursing] HEALTH CARE staff agency.

(6) “INITIALLY PROVIDING OR REFERRING” MEANS THE FIRST TIME A HEALTH CARE STAFF AGENCY PROVIDES OR REFERS A PARTICULAR HEALTH CARE PRACTITIONER TO A HEALTH CARE FACILITY.

(7) “Office” means the Office of Health Care Quality in the Department.

(8) “Responsible party” means the individual at a [nursing] HEALTH CARE staff agency who controls the day to day operation of the [nursing] HEALTH CARE staff agency.

(b) (1) A [nursing] HEALTH CARE staff agency shall be licensed by the Office before referring [nursing personnel] HEALTH CARE PRACTITIONERS to a health care facility to render temporary [nursing] HEALTH CARE services at a health care facility in this State.

(2) All [nursing] HEALTH CARE staff agencies shall submit to the Office:

(i) The [nursing] HEALTH CARE staff agency’s:

1. Business name;
2. Business address;
3. Business telephone number; and
4. Responsible party; and

(ii) Any other information the Office requires by regulation to ensure compliance with the provisions of this subtitle.

(c) (1) A [nursing] **HEALTH CARE** staff agency license expires on the 28th day of the month in which the agency was originally licensed unless the license is renewed for a 1-year term as provided in this section.

(2) At least 1 month before the license expires, the Office shall send to the [nursing] **HEALTH CARE** staff agency, by first-class mail to the last known address of the [nursing] **HEALTH CARE** staff agency, a renewal notice that states:

(i) The date on which the current license expires;

(ii) The date by which the renewal application must be received by the Office for the renewal to be issued and mailed before the license expires; and

(iii) The amount of the renewal fee.

(3) Before a license expires, the [nursing] **HEALTH CARE** staff agency periodically may renew it for an additional term, if the [nursing] **HEALTH CARE** staff agency:

(i) Otherwise is entitled to be licensed; and

(ii) Pays to the Office the renewal fee set by the Office.

(d) If a [nursing] **HEALTH CARE** staff agency fails to renew, the [nursing] **HEALTH CARE** staff agency must immediately stop referring [personnel] **HEALTH CARE PRACTITIONERS** to health care facilities.

(e) (1) A [nursing] **HEALTH CARE** staff agency shall notify the Office of any change in ownership, agency name, or address within 30 days of the change.

(2) Notwithstanding the provisions of subsection (i)(1) of this section, if a [nursing] **HEALTH CARE** staff agency fails to notify the Office within the time required under this subsection, the Office may impose a fine of \$100.

(f) (1) Before initially providing or referring a [licensed practical nurse, registered nurse, or certified nursing assistant] **HEALTH CARE PRACTITIONER** to health care facilities to render temporary [nursing] **HEALTH CARE** services, the [nursing] **HEALTH CARE** staff agency shall verify the licensure **OR CERTIFICATION** status of the [licensed practical nurse, registered nurse, or certified nursing assistant] **HEALTH CARE PRACTITIONER**.

(2) At the time a [licensed practical nurse, registered nurse, or certified nursing assistant] **HEALTH CARE PRACTITIONER** who is being referred to health care facilities by a [nursing] **HEALTH CARE** staff agency must renew [their license to practice licensed practical nursing, registered nursing, or certified nursing

assistance] **THE HEALTH CARE PRACTITIONER'S LICENSE OR CERTIFICATE**, the [nursing] **HEALTH CARE** staff agency shall:

(i) Submit the name and license **OR CERTIFICATE** number of the [licensed practical nurse, registered nurse, or certified nursing assistant] **HEALTH CARE PRACTITIONER** to the Office; and

(ii) Verify the licensure **OR CERTIFICATION** status of the [licensed practical nurse, registered nurse, or certified nursing assistant] **HEALTH CARE PRACTITIONER**.

(g) [(1)] A [nursing] **HEALTH CARE** staff agency may not knowingly provide or refer [a licensed practical nurse who is not authorized to practice licensed practical nursing under Title 8 of the Health Occupations Article to a health care facility to render temporary nursing services.

(2) A nursing staff agency may not knowingly provide or refer a registered nurse who is not authorized to practice registered nursing under Title 8 of the Health Occupations Article to a health care facility to render temporary nursing services.

(3) A nursing staff agency may not knowingly provide or refer a certified nursing assistant who is not authorized to practice as a certified nursing assistant under Title 8, Subtitle 6A of] **AN INDIVIDUAL WHO IS NOT LICENSED OR CERTIFIED UNDER** the Health Occupations Article to a health care facility to render [delegated nursing] **HEALTH CARE** services.

(h) (1) Except as provided in paragraph (2) of this subsection:

(i) If a [nursing] **HEALTH CARE** staff agency knows of an action or condition performed by a [licensed practical nurse, registered nurse, or certified nursing assistant] **HEALTH CARE PRACTITIONER** provided or referred by that [nursing] **HEALTH CARE** staff agency that might be grounds for action **RELATING TO A LICENSE OR CERTIFICATE ISSUED** under [§ 8–316 of] the Health Occupations Article, the [nursing] **HEALTH CARE** staff agency shall report the action or condition to the [Board] **APPROPRIATE HEALTH OCCUPATION BOARD**; and

(ii) An individual shall have immunity from liability described under § 5–709 of the Courts and Judicial Proceedings Article for making a report as required under this paragraph.

(2) A [nursing] **HEALTH CARE** staff agency is not required under this subsection to make any report that would be in violation of any federal or State law, rule, or regulation concerning the confidentiality of alcohol and drug abuse patient records.

(i) (1) Subject to the provisions of Title 10, Subtitle 2 of the State Government Article, the Office may impose a penalty for a violation of any provision of this section:

(i) For a first offense, up to \$2,500 per violation or up to \$2,500 per day until the [nursing] **HEALTH CARE** staff agency complies with the requirements of this subtitle;

(ii) For a second offense, up to \$5,000 per violation or up to \$5,000 per day until the [nursing] **HEALTH CARE** staff agency complies with the requirements of this subtitle; and

(iii) For a third or subsequent offense, up to \$10,000 per violation or up to \$10,000 per day until the [nursing] **HEALTH CARE** staff agency complies with the requirements of this subtitle.

(2) Each day a violation continues is a separate violation.

(j) A [nursing] **HEALTH CARE** staff agency is not a health care provider.

19–2002.

(a) In this section, “Office” means the Office of Health Care Quality in the Department [of Health and Mental Hygiene].

(b) The Office may inspect a [nursing] **HEALTH CARE** staff agency to verify compliance with this subtitle.

(c) When the Office conducts an inspection, the Office shall verify that the [nursing personnel] **HEALTH CARE PRACTITIONERS** referred by the [nursing] **HEALTH CARE** staff agency[:

(1) If registered nurses or licensed practical nurses, are licensed by the Board; or

(2) If certified nursing assistants, are certified by the Board] **ARE LICENSED OR CERTIFIED BY THE APPROPRIATE HEALTH OCCUPATION BOARD.**

(d) When the Office conducts an inspection, the Office shall verify that the [nursing] **HEALTH CARE** staff agency has developed, documented, and implemented procedures for:

(1) Selecting and verifying the credentials of [nursing personnel] **HEALTH CARE PRACTITIONERS** referred by the **HEALTH CARE STAFF** agency;

(2) Validating experience of [nursing personnel] **HEALTH CARE PRACTITIONERS** prior to referral by the **HEALTH CARE STAFF** agency;

(3) Tracking and acting on serious or life-threatening complaints received by a client facility or the client facility's agent;

(4) Reporting of an action or condition under § 19-2001(h) of this subtitle;

(5) Verifying that [nursing personnel] **HEALTH CARE PRACTITIONERS** referred by the **HEALTH CARE STAFF** agency are of satisfactory health status and have received the necessary testing and immunization as required or requested by the client facility;

(6) Verifying I-9 status;

(7) Verifying, prior to initial referral of [nursing personnel] **HEALTH CARE PRACTITIONERS** to a client facility by the **HEALTH CARE STAFF** agency, drug screening of [nursing personnel] **HEALTH CARE PRACTITIONERS** referred by the **HEALTH CARE STAFF** agency if the client facility requires drug screening for facility employees;

(8) Verifying, when there is probable cause to perform a drug test or when a client facility requests a drug test, drug testing of [nursing personnel] **HEALTH CARE PRACTITIONERS** referred by the **HEALTH CARE STAFF** agency;

(9) Verifying, prior to initial referral of [nursing personnel] **HEALTH CARE PRACTITIONERS** to a client facility by the **HEALTH CARE STAFF** agency, criminal background checks of [nursing personnel] **HEALTH CARE PRACTITIONERS** referred by the **HEALTH CARE STAFF** agency if the client facility requires criminal background checks for facility employees; and

(10) Verifying the references of [nursing personnel] **HEALTH CARE PRACTITIONERS** referred by the **HEALTH CARE STAFF** agency.

(e) A [nursing] **HEALTH CARE** staff agency shall attest that the [nursing] **HEALTH CARE** staff agency is in compliance with the:

(1) Civil Rights Act of 1964;

(2) Rehabilitation Act of 1973;

(3) Americans with Disabilities Act of 1990; and

(4) Drug Free Workplace Act of 1988, if applicable.

(f) The Office may inspect a [nursing] **HEALTH CARE** staff agency upon receiving a complaint, and may give notice of the inspection to the [nursing] **HEALTH CARE** staff agency.

Subtitle 23. Accreditation of Health Care Facilities **AND HEALTH CARE STAFF AGENCIES.**

19–2301.

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

(b) “Accreditation organization” means a private entity that conducts inspections and surveys of health care facilities **OR HEALTH CARE STAFF AGENCIES** based on nationally recognized and developed standards.

(c) “Deemed status” means a status under which a health care facility **OR A HEALTH CARE STAFF AGENCY** may be exempt from routine surveys conducted by the Department.

(d) “Health care facility” means:

- (1) A hospital as defined in § 19–301 of this title;
- (2) A health maintenance organization as defined in § 19–701(g) of this title;
- (3) A freestanding ambulatory care facility as defined in § 19–3B–01 of this title;
- (4) An assisted living facility as defined in § 19–1801 of this title;
- (5) A laboratory as defined in § 17–201 of this article;
- (6) A home health agency as defined in § 19–401 of this title;
- (7) A residential treatment center as defined in § 19–301 of this title;
- (8) A comprehensive rehabilitation facility as defined in § 19–1201 of this title; and
- (9) A forensic laboratory as defined in § 17–2A–01 of this article.

(E) “HEALTH CARE STAFF AGENCY” HAS THE MEANING STATED IN § 19–2001 OF THIS TITLE.

19-2302.

- (a) An accreditation organization shall apply to the Secretary for approval.
- (b) Prior to approval of an accreditation organization, the Secretary shall:
 - (1) Determine that the standards of the accreditation organization are equal to or more stringent than existing State requirements;
 - (2) Evaluate the survey or inspection process of the accreditation organization to ensure the integrity of the survey or inspection process; and
 - (3) Enter into a formal written agreement with the accreditation organization that includes requirements for:
 - (i) Notice of all surveys and inspections;
 - (ii) Sharing of complaints and other relevant information;
 - (iii) Participation of the Department in accreditation organization activities; and
 - (iv) Any other provision necessary to ensure the integrity of the accreditation and licensure process.
- (c)
 - (1) When an approved accreditation organization has issued a final report finding a health care facility **OR A HEALTH CARE STAFF AGENCY** to be in substantial compliance with the accreditation organization's standards, the Department shall accept the report as evidence that the health care facility **OR HEALTH CARE STAFF AGENCY** has met State licensure requirements and shall grant the health care facility **OR HEALTH CARE STAFF AGENCY** deemed status.
 - (2) A health care facility **OR A HEALTH CARE STAFF AGENCY** that fails to achieve substantial compliance with the standards of an approved accreditation organization may be subject to the provisions of § 19-360 of this title.
- (d)
 - (1) An approved accreditation organization shall send the Department any preliminary and final report of each inspection and survey at the time it is sent to the health care facility **OR HEALTH CARE STAFF AGENCY**.
 - (2) A final report of an approved accreditation organization shall be made immediately available to the public on request.
 - (3) A preliminary or final report of an approved accreditation organization is not admissible in evidence in any civil action or proceeding.

(e) The Department may inspect an accredited health care facility **OR A HEALTH CARE STAFF AGENCY** to:

- (1) Determine compliance with any quality requirement;
- (2) Follow up on any serious problem identified by an approved accreditation organization;
- (3) Investigate a complaint; or
- (4) Validate the findings of an approved accreditation organization.

(f) The Department may participate in or observe a survey or inspection of a health care facility **OR A HEALTH CARE STAFF AGENCY** conducted by an approved accreditation organization.

(g) On a determination by the Secretary that an approved accreditation organization has failed to meet its obligations under this section, the Secretary may withdraw:

- (1) The approval from the accreditation organization; and
- (2) The deemed status given to a health care facility **OR A HEALTH CARE STAFF AGENCY** by the accreditation organization.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013 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 shall take effect October 1, 2013.~~

Approved by the Governor, May 2, 2013.

Chapter 341

(Senate Bill 1064)

AN ACT concerning

Renewable Energy Portfolio Standard – Solar Water Heating Systems

FOR the purpose of altering the definition of “solar water heating system” for purposes of the renewable energy portfolio standard to include systems that consist of

certain concentrating solar thermal collectors under certain circumstances; making a stylistic change; making this Act an emergency measure; and generally relating to 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 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7–701(k–1)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 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.

(k–1) (1) “Solar water heating system” means a system that:

(i) [is comprised] **CONSISTS** of glazed liquid–type flat–plate or tubular solar collectors **OR CONCENTRATING SOLAR THERMAL COLLECTORS** as defined and certified to the OG–100 standard of the Solar Ratings and Certification Corporation;

(ii) generates energy using solar radiation for the purpose of heating water; and

(iii) does not feed electricity back to the electric grid.

(2) “Solar water heating system” does not include a system that generates energy using solar radiation for the sole purpose of heating a hot tub or swimming pool.

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

Approved by the Governor, May 2, 2013.

Chapter 342

(House Bill 1534)

AN ACT concerning

Renewable Energy Portfolio Standard – Solar Water Heating Systems

FOR the purpose of altering the definition of “solar water heating system” for purposes of the renewable energy portfolio standard to include systems that consist of certain concentrating solar thermal collectors under certain circumstances; making a stylistic change; making this Act an emergency measure; and generally relating to 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 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7–701(k–1)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 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.

(k–1) (1) “Solar water heating system” means a system that:

(i) [is comprised] **CONSISTS** of glazed liquid–type flat–plate or tubular solar collectors **OR CONCENTRATING SOLAR THERMAL COLLECTORS** as defined and certified to the OG–100 standard of the Solar Ratings and Certification Corporation;

(ii) generates energy using solar radiation for the purpose of heating water; and

(iii) does not feed electricity back to the electric grid.

(2) "Solar water heating system" does not include a system that generates energy using solar radiation for the sole purpose of heating a hot tub or swimming pool.

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

Approved by the Governor, May 2, 2013.

Chapter 343

(Senate Bill 1066)

AN ACT concerning

Minority Business Enterprises – Not-for-Profit Entities

FOR the purpose of requiring certain entities to include in certain contracts a certain requirement for procuring janitorial products; excluding a not-for-profit entity organized to promote the interests of physically or mentally disabled individuals from a certain definition of minority business enterprise; prohibiting certain contracts from being counted as part of a unit of State government's total dollar value of procurement contracts; authorizing a certain not-for-profit entity participating as a minority business enterprise on a certain procurement contract awarded by a unit before a certain date to continue to participate in that contract until the contract terminates; providing that the not-for-profit entity's participation may not be counted toward achieving certain minority business enterprise participation goals and the unit may not require that a certified minority business enterprise be substituted for the not-for-profit entity in order to meet certain minority business enterprise goals; requiring certain State or State aided or controlled entities, the University System of Maryland, St. Mary's College of Maryland, and Morgan State University to submit certain forecasts and reports to the Department of General Services on or before certain dates; requiring certain preferred providers to report to the Department of General Services on or before a certain date; requiring the Department of General Services to report to the Board of Public Works and certain committees of the General Assembly on or before a certain date;

requiring the Department of General Services, on or before a certain date, to identify certain State or State aided or controlled entities required to submit certain reports; requiring the Department of Disabilities, in consultation with certain entities, to undertake certain ~~studies~~ evaluations and submit certain reports to the Legislative Policy Committee a final report on the studies certain committees on or before a certain ~~date~~ dates; providing for the application of this Act; defining a certain ~~term~~, terms; providing for a delayed effective date for certain provisions of this Act; and generally relating to minority business enterprise participation in State procurement.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–101 through 14–103, 14–301 and 14–302(a)(1) and (11)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY adding to
Article – State Finance and Procurement
Section 14–110 and 14–302(a)(12)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 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

14–101.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Community service provider” means an entity that:
- (1) is organized under the laws of the United States or this State;
 - (2) is accredited by the Division of Rehabilitation Services of the State Department of Education for participation in the Employment Works Program;
 - (3) is operated in the interest of individuals who have a mental or physical disability, including blindness, that:
 - (i) constitutes a substantial barrier to employment; and
 - (ii) prevents the individual from engaging in competitive employment; and

(4) does not inure net income wholly or partly to the benefit of any shareholder or other individual.

(c) "Individual with disability owned business" means a business:

(1) that is organized under the laws of the United States or the State;

(2) that is majority owned by an individual or individuals determined by the Division of Rehabilitation Services in the State Department of Education to have a disability, as defined by Title 21, Subtitle 3 of the Education Article;

(3) whose majority owner or owners are directly and significantly engaged in the daily operation of the business;

(4) whose workforce includes individuals with disabilities comprising a percentage of the workforce that is at or above the minimum required under the policies or guidelines established by the Pricing and Selection Committee for the Employment Works Program;

(5) whose total gross revenues for contracts assigned under the Program at the time of assignment do not exceed the maximum allowed under policies or guidelines established by the Pricing and Selection Committee for the Employment Works Program; and

(6) that continues to meet all other eligibility criteria established by the Pricing and Selection Committee for the Employment Works Program.

(D) "PREFERRED PROVIDER" MEANS A PROVIDER OF SUPPLIES OR SERVICES GIVEN PREFERENCE IN § 14-103 OF THIS SUBTITLE.

[(d)] (E) "State aided or controlled entity" means any public or quasi-public institution that receives aid from the State or that is owned, controlled, or managed by the State.

14-102.

(a) Notwithstanding any other provision of this Division II, [the] A State OR STATE AIDED OR CONTROLLED ENTITY shall buy supplies and services in accordance with § 14-103 OF this subtitle.

(b) The procurement of services from a sheltered workshop is not subject to the cost savings requirements of § 13-405 of the State Personnel and Pensions Article.

14-103.

(a) [The] A State or [a] State aided or controlled entity shall buy supplies and services from:

(1) Maryland Correctional Enterprises, as provided in Title 3, Subtitle 5 of the Correctional Services Article, if State Use Industries provides the supplies or services;

(2) Blind Industries and Services of Maryland, if:

(i) Blind Industries and Services of Maryland provides the supplies or services; and

(ii) Maryland Correctional Enterprises does not provide the supplies or services;

(3) the Employment Works Program established under § 14–108 of this subtitle, if:

(i) a community service provider provides the supplies or services;

(ii) neither Maryland Correctional Enterprises nor Blind Industries and Services of Maryland provides the supplies or services; and

(iii) the State or a State aided or controlled entity is not required by law to buy the supplies or services from any other unit of the State government; or

(4) individual with disability owned businesses if:

(i) an individual with disability owned business provides the supplies or services;

(ii) neither Maryland Correctional Enterprises, Blind Industries and Services of Maryland, nor a community service provider provides the supplies or services; and

(iii) [the] A State or [a] State aided or controlled entity is not required by law to buy the supplies or services from any other unit of the State government.

(b) [The] A State or [a] State aided or controlled entity shall give preference to the [entities] PROVIDERS listed under subsection (a) of this section in the order that the [entities] PROVIDERS are listed.

(C) TO THE EXTENT PRACTICABLE, A STATE OR STATE AIDED OR CONTROLLED ENTITY SHALL INCLUDE IN A MAINTENANCE CONTRACT THAT HAS

A COMPONENT FOR HOUSEKEEPING OR JANITORIAL SERVICES, A REQUIREMENT THAT A PRIME CONTRACTOR PROCURE JANITORIAL PRODUCTS FROM BLIND INDUSTRIES AND SERVICES OF MARYLAND WHEN THE SPECIFIED PRODUCTS ARE AVAILABLE.

14-110.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SUBSECTIONS (B) AND (C) OF THIS SECTION APPLY TO:

(1) A STATE OR STATE AIDED OR CONTROLLED ENTITY THAT IS:

(I) SUBJECT TO THE REQUIREMENTS OF § 14-103 OF THIS SUBTITLE AND § 14-305 OF THIS TITLE; OR

(II) IDENTIFIED BY THE DEPARTMENT OF GENERAL SERVICES; AND

(2) THE UNIVERSITY SYSTEM OF MARYLAND, ST. MARY'S COLLEGE OF MARYLAND, AND MORGAN STATE UNIVERSITY.

(B) (1) WITHIN 60 DAYS AFTER THE ENACTMENT OF THE BUDGET BILL BY THE GENERAL ASSEMBLY, EACH STATE OR STATE AIDED OR CONTROLLED ENTITY SHALL PREPARE AND SUBMIT TO THE DEPARTMENT OF GENERAL SERVICES A FISCAL YEAR PROCUREMENT EXPENDITURE FORECAST THAT DETAILS THE EXPECTED EXPENDITURES AND CONTRACTS TO BE AWARDED UNDER § 14-103 OF THIS SUBTITLE IN THE NEXT FISCAL YEAR.

(2) THE FORECAST REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE ACTIVITIES PLANNED TO INCREASE THE NUMBER OF CONTRACTS AWARDED UNDER § 14-103 OF THIS SUBTITLE.

(C) (1) WITHIN 90 DAYS AFTER THE END OF EACH FISCAL YEAR, A STATE OR STATE AIDED OR CONTROLLED ENTITY SHALL SUBMIT A REPORT TO THE DEPARTMENT OF GENERAL SERVICES THAT COMPLIES WITH THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION.

(2) FOR THE PRECEDING FISCAL YEAR, THE REPORT SHALL INCLUDE:

(I) THE TOTAL NUMBER AND THE DOLLAR VALUE OF CONTRACTS AWARDED BY THE STATE OR STATE AIDED OR CONTROLLED ENTITY TO A PREFERRED PROVIDER;

(II) THE TOTAL NUMBER AND THE DOLLAR VALUE OF PAYMENTS MADE BY A STATE OR STATE AIDED OR CONTROLLED ENTITY TO A PREFERRED PROVIDER, INCLUDING PURCHASE CARD PROCUREMENTS;

(III) THE TOTAL NUMBER AND THE DOLLAR VALUE OF CONTRACTS AWARDED BY THE STATE OR STATE AIDED OR CONTROLLED ENTITY TO A PROVIDER OTHER THAN A PREFERRED PROVIDER;

(IV) THE TOTAL NUMBER AND THE DOLLAR VALUE OF PAYMENTS MADE BY THE STATE OR STATE AIDED OR CONTROLLED ENTITY TO A PROVIDER OTHER THAN A PREFERRED PROVIDER, INCLUDING PURCHASE CARD PROCUREMENTS;

(V) THE PERCENTAGE THAT THE CONTRACTS TO PREFERRED PROVIDERS REPRESENT OF THE TOTAL NUMBER OF PROCUREMENT CONTRACTS;

(VI) THE PERCENTAGE THAT THE PAYMENTS TO PREFERRED PROVIDERS REPRESENT OF THE TOTAL VALUE OF PAYMENTS; AND

(VII) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT OF GENERAL SERVICES.

(D) (1) WITHIN 90 DAYS AFTER THE END OF EACH FISCAL YEAR, A PREFERRED PROVIDER AWARDED A CONTRACT IN ACCORDANCE WITH § 14-103 OF THIS SUBTITLE SHALL REPORT TO THE DEPARTMENT OF GENERAL SERVICES IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

(2) FOR THE PRECEDING FISCAL YEAR, THE REPORT SHALL STATE THE TOTAL NUMBER OF FULL-TIME EQUIVALENTS FOR INDIVIDUALS WITH DISABILITIES WHO CONTRIBUTED TO THE WORK OF THE CONTRACTS.

(E) WITHIN 60 DAYS AFTER RECEIPT OF ALL OF THE REPORTS REQUIRED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION, THE DEPARTMENT OF GENERAL SERVICES SHALL SUBMIT A SUMMARY OF THE INFORMATION TO:

(1) THE BOARD OF PUBLIC WORKS; AND

(2) IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE LEGISLATIVE POLICY COMMITTEE.

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

Article – State Finance and Procurement

14–301.

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

(b) “Certification” means the determination that a legal entity is a minority business enterprise for the purposes of this subtitle.

(c) “Certification agency” means the agency designated by the Board of Public Works under § 14–303(b) of this subtitle to certify and decertify minority business enterprises.

(d) “Certified minority business enterprise” means a minority business enterprise that holds a certification.

(e) “Economically disadvantaged individual” means a socially disadvantaged individual whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged.

(f) [(1)] “Minority business enterprise” means any legal entity, except a joint venture, that is:

[(i)] (1) organized to engage in commercial transactions;

[(ii)] (2) at least 51% owned and controlled by 1 or more individuals who are socially and economically disadvantaged; and

[(iii)] (3) managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

[(2)] “Minority business enterprise” includes a not for profit entity organized to promote the interests of physically or mentally disabled individuals.]

(g) “Minority business enterprise participation schedule” means a schedule included in the submission of a bid or offer that identifies:

(1) the certified minority business enterprises that a bidder or offeror agrees to use in the performance of the contract; and

(2) the percentage of contract value attributed to each certified minority business enterprise.

(H) “NOT-FOR-PROFIT ENTITY” MEANS ~~A LEGAL ENTITY ORGANIZED TO PROMOTE THE INTERESTS OF PHYSICALLY OR MENTALLY DISABLED INDIVIDUALS~~ A CORPORATION THAT:

(1) IS INCORPORATED IN THE STATE OR OTHERWISE QUALIFIED TO DO BUSINESS IN THE STATE;

(2) HAS BEEN DETERMINED BY THE INTERNAL REVENUE SERVICE TO BE EXEMPT FROM TAXATION UNDER § 501(C)(3), (4), OR (6) OF THE INTERNAL REVENUE CODE; AND

(3) IS ORGANIZED TO PROMOTE THE INTERESTS OF PHYSICALLY OR MENTALLY DISABLED INDIVIDUALS.

[(h)] (I) (1) Subject to paragraphs (2) and (3) of this subsection, “personal net worth” means the net value of the assets of an individual remaining after total liabilities are deducted.

(2) “Personal net worth” includes the individual’s share of assets held jointly or as community property with the individual’s spouse.

(3) “Personal net worth” does not include:

(i) the individual’s ownership interest in the applicant or a certified minority business enterprise;

(ii) the individual’s equity in his or her primary place of residence; or

(iii) up to \$500,000 of the cash value of any qualified retirement savings plans or individual retirement accounts.

[(i)] (J) “Race-neutral measure” means a method that is or can be used to assist all small businesses.

[(j)] (K) (1) Subject to paragraphs (2) and (3) of this subsection, and in accordance with the State’s most recent disparity study, “socially and economically disadvantaged individual” means a citizen or lawfully admitted permanent resident of the United States who is:

(i) in any of the following minority groups:

1. African American – an individual having origins in any of the black racial groups of Africa;

2. American Indian/Native American – an individual having origins in any of the original peoples of North America and who is a documented member of a North American tribe, band, or otherwise has a special relationship with the United States or a state through treaty, agreement, or some other form of recognition. This includes an individual who claims to be an American Indian/Native American and who is regarded as such by the American Indian/Native American community of which the individual claims to be a part, but does not include an individual of Eskimo or Aleutian origin;

3. Asian – an individual having origins in the Far East, Southeast Asia, or the Indian subcontinent, and who is regarded as such by the community of which the person claims to be a part;

4. Hispanic – an individual of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race, and who is regarded as such by the community of which the person claims to be a part;

5. physically or mentally disabled – notwithstanding the State's most recent disparity study, an individual who has an impairment that substantially limits one or more major life activities, who is regarded generally by the community as having such a disability, and whose disability has substantially limited his or her ability to engage in competitive business; or

6. women – a woman, regardless of race or ethnicity; or

(ii) otherwise found by the certification agency to be a socially and economically disadvantaged individual.

(2) There is a rebuttable presumption that an individual who is a member of a minority group under paragraph (1)(i) of this subsection is socially and economically disadvantaged.

(3) An individual whose personal net worth exceeds \$1,500,000, as adjusted annually for inflation according to the Consumer Price Index, may not be found to be economically disadvantaged.

[(k)] (L) “Socially disadvantaged individual” means an individual who has been subjected to racial or ethnic prejudice or cultural bias within American society because of membership in a group and without regard to individual qualities. Social disadvantage must stem from circumstances beyond the control of the individual.

(a) (1) (i) 1. Except for leases of real property, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve an overall percentage goal of the unit's total dollar value of procurement contracts being made directly or indirectly to certified minority business enterprises.

2. NOTWITHSTANDING SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE FOLLOWING CONTRACTS MAY NOT BE COUNTED AS PART OF A UNIT'S TOTAL DOLLAR VALUE OF PROCUREMENT CONTRACTS:

A. A PROCUREMENT CONTRACT AWARDED IN ACCORDANCE WITH SUBTITLE 1 OF THIS TITLE; ~~AND~~

B. A PROCUREMENT CONTRACT AWARDED TO A NOT-FOR-PROFIT ENTITY IN ACCORDANCE WITH REQUIREMENTS MANDATED BY STATE OR FEDERAL LAW; AND

C. A PROCUREMENT BY THE MARYLAND DEVELOPMENTAL DISABILITIES ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR FAMILY AND INDIVIDUAL SUPPORT SERVICES, COMMUNITY RESIDENTIAL SERVICES, RESOURCE COORDINATION SERVICES, BEHAVIORAL SUPPORT SERVICES, VOCATIONAL AND DAY SERVICES, AND RESPITE SERVICES, AS THOSE TERMS ARE DEFINED IN REGULATIONS ADOPTED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

(ii) 1. The overall percentage goal shall be established on a biennial basis by the Special Secretary of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General.

2. During any year in which there is a delay in establishing the overall goal, the previous year's goal will apply.

(iii) 1. In consultation with the Secretary of Transportation and the Attorney General, the Special Secretary of Minority Affairs shall establish guidelines on a biennial basis for each unit to consider while determining whether to set subgoals for the minority groups listed in § [14-301(j)(1)(i)1, 2, 3, 4, and 6] **14-301(K)(1)(I)1, 2, 3, 4, AND 6** of this subtitle.

2. During any year in which there is a delay in establishing the subgoal guidelines, the previous year's subgoal guidelines will apply.

(iv) 1. The Special Secretary of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General, shall establish goals and subgoal guidelines that, to the maximum extent feasible, approximate the level of minority business enterprise participation that would be expected in the absence of discrimination.

2. In establishing overall goals and subgoal guidelines, the Special Secretary of Minority Affairs shall provide for public participation by consulting with minority, women's, and general contractor groups, community organizations, and other officials or organizations that could be expected to have information concerning:

A. the availability of minority- and women-owned businesses;

B. the effects of discrimination on opportunities for minority- and women-owned businesses; and

C. the State's operation of the Minority Business Enterprise Program.

(v) In establishing overall goals, the factors to be considered shall include:

1. the relative availability of minority- and women-owned businesses to participate in State procurement as demonstrated by the State's most recent disparity study;

2. past participation of minority business enterprises in State procurement, except for procurement related to leases of real property; and

3. other factors that contribute to constitutional goal setting.

(vi) Notwithstanding § 12-101 of this article, the Special Secretary of Minority Affairs shall adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article setting forth the State's overall goal.

(11) If, during the performance of a contract, a certified minority business enterprise contractor or subcontractor becomes ineligible to participate in the Minority Business Enterprise Program because one or more of its owners has a personal net worth that exceeds the amount specified in § [14-301(j)(3)] **14-301(K)(3)** of this subtitle:

(i) that ineligibility alone may not cause the termination of the certified minority business enterprise's contractual relationship for the remainder of the term of the contract; and

(ii) the certified minority business enterprise's participation under the contract shall continue to be counted toward the program and contract goals.

(12) (I) ~~A~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A NOT-FOR-PROFIT ENTITY PARTICIPATING AS A MINORITY BUSINESS ENTERPRISE ON A PROCUREMENT CONTRACT AWARDED BY A UNIT BEFORE JULY 1, ~~2013~~ 2015, MAY CONTINUE TO PARTICIPATE IN THE CONTRACT UNTIL THE CONTRACT EXPIRES OR OTHERWISE TERMINATES, ~~HOWEVER,~~ INCLUDING ALL OPTIONS, RENEWALS, AND OTHER EXTENSIONS.

~~(II)~~ (II) 1. ~~THE~~ THE NOT-FOR-PROFIT ENTITY'S PARTICIPATION MAY NOT BE COUNTED TOWARD ACHIEVING THE MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS IN THIS SUBSECTION; ~~AND.~~

~~(II)~~ 2. ~~THE~~ THE UNIT MAY NOT REQUIRE THAT A CERTIFIED MINORITY BUSINESS ENTERPRISE BE SUBSTITUTED FOR THE NOT-FOR-PROFIT ENTITY IN ORDER TO MEET THE MINORITY BUSINESS ENTERPRISE GOALS FOR THE PROCUREMENT CONTRACT.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before July 1, 2015, the Department of General Services shall identify the State or State aided or controlled entities required to submit reports under § 14-110 of the State Finance and Procurement Article, as enacted by Section 1 of this Act.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That:

(a) The Department of Disabilities, in consultation with the Governor's Office of Minority Affairs and the ~~Office of the Attorney General~~ Department of General Services, shall evaluate the impact of ~~Section 1~~ Sections 1 and 2 of this Act on the participation of not-for-profit entities organized to promote the interests of individuals with physical or mental disabilities ~~on in~~ State procurement and, to the extent practicable, related activities. ~~and on employment and business opportunities for persons with disabilities by collecting the following data:~~

~~(1) the dollar amount awarded to each not-for-profit entity;~~

~~(2) the contract number and type of procurement or contracting activity through which the unit awarded such dollars to that entity; and~~

~~(3) any other data the Department of Disabilities considers relevant to its evaluation.~~

~~(b) In preparing for the evaluation required under subsection (a) of this section, the Department of Disabilities may issue a directive requiring units of State government to collect and submit the necessary information~~

(b) On or before December 1, 2015, the Department of Disabilities shall submit an interim report on the evaluation to the Senate Education, Health, and Environmental Affairs Committee, the House Health and Government Operations

Committee, and the Legislative Policy Committee of the General Assembly in accordance with § 2-1246 of the State Government Article.

(c) On or before December 1, ~~2013~~ 2016, the Department of Disabilities shall submit a final report on the evaluation to the Senate Education, Health, and Environmental Affairs Committee, the House Health and Government Operations Committee, and the Legislative Policy Committee of the General Assembly in accordance with § 2-1246 of the State Government Article.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contract awarded before the effective date of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That Sections 2 and 4 of this Act shall take effect July 1, 2015.

SECTION ~~4~~ 7. AND BE IT FURTHER ENACTED, That, except as provided in Section 6 of this Act, this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 344

(Senate Bill 1068)

AN ACT concerning

Commission to Study the Regulation of Payroll Services

FOR the purpose of establishing the Commission to Study the Regulation of Payroll Services; providing for the composition, chair, and staffing of the Commission; prohibiting a member of the Commission from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Commission to study and make recommendations regarding certain matters; requiring the Commission to report its findings and recommendations to certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Commission to Study the Regulation of Payroll Services.

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

(a) There is a Commission to Study the Regulation of Payroll Services.

- (b) The Commission consists of the following members:
- (1) one member of the Senate of Maryland, appointed by the President of the Senate;
 - (2) one member of the House of Delegates, appointed by the Speaker of the House;
 - (3) the Comptroller, or the Comptroller's designee;
 - (4) the Attorney General, or the Attorney General's designee;
 - (5) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee;
 - (6) one representative of the Maryland Chamber of Commerce, designated by the Maryland Chamber of Commerce;
 - (7) the Director of Assessments and Taxation, or the Director's designee; ~~and~~
 - (8) one representative of the federal Internal Revenue Service or a taxpayer advocate, appointed by the Governor; and
 - ~~(8)~~ (9) one member of the public with experience in financial services, appointed by the Governor.
- (c) The Comptroller or the Comptroller's designee shall serve as chair of the Commission.
- (d) The Office of the Comptroller shall provide staff for the Commission.
- (e) A member of the Commission:
- (1) may not receive compensation as a member of the Commission; but
 - (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (f) The Commission shall:
- ~~(1) study the regulation of payroll service companies in other jurisdictions, including:~~
 - ~~(i) any licensing or permitting requirements; and~~

~~(ii) whether payroll service companies are required to be bonded or licensed; and~~

~~(2) make recommendations regarding best practices for regulating payroll service companies in Maryland.~~

(1) study:

(i) the function, size, and structure of the payroll services industry operating in the State;

(ii) the role of the payroll services industry in the tax payment system at the State and federal levels; and

(iii) the nature, oversight, and regulation of payroll service companies in other jurisdictions, including any licensing, permitting, and bonding requirements; and

(2) make recommendations for regulating payroll service companies in the State, including:

(i) the best practices for preventing fraud by payroll service companies in the collection and payment of taxes; and

(ii) the feasibility and cost of establishing State licensure or registration of payroll service companies, including requiring qualifying examinations and the potential benefits of licensure or registration.

(g) On or before December 15, 2013, the Commission shall report its findings and recommendations to the Senate ~~Education, Health, and Environmental Affairs~~ 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 ~~July~~ June 1, 2013. It shall remain effective for a period of 1 year and 1 month 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 2, 2013.

Chapter 345

(Senate Bill 1072)

AN ACT concerning

Linked Deposit Programs for Small Businesses and Minority Business Enterprises

FOR the purpose of altering the minimum interest rate that a loan may have in order to qualify under certain linked deposit programs; altering the interest rate that the State Treasurer may accept in making certain interest bearing deposits; authorizing the State Treasurer to make certain interest bearing deposits in any financial institution without certain security under certain circumstances; providing for the termination of certain provisions of this Act; and generally relating to the Linked Deposit Programs for Small Businesses and Minority Business Enterprises.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–211 and 6–212
Annotated Code of Maryland
(2009 Replacement Volume and 2012 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

6–211.

(a) (1) There is a Linked Deposit Program in the Department of Housing and Community Development.

(2) The purpose of the Linked Deposit Program is to stimulate opportunities for minority business enterprises 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 if the loan:

(1) satisfies the financial institution's lending criteria;

(2) has a term not exceeding 10 years;

(3) is made to a minority business enterprise certified under Title 14, Subtitle 3 of this article;

(4) has an interest rate that [is 2 percentage points below the interest rate] the financial institution [would charge for] **CHARGES ON** a loan for a similar purpose and a similar term **THAT IS REDUCED BY AT LEAST THE LESSER OF:**

(I) 2 PERCENTAGE POINTS; OR

(II) THE DIFFERENCE BETWEEN THE FINANCIAL INSTITUTION'S RATE ON A 60-MONTH CERTIFICATE OF DEPOSIT AND THE INTEREST RATE ACCEPTABLE TO THE TREASURER FOR ITS DEPOSITS; 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 certification agency designated under Title 14, Subtitle 3 of this article that each loan under the Linked Deposit Program is made to a business that is certified as a minority business enterprise;

(2) establish procedures for notification by the certification agency designated under Title 14, Subtitle 3 of this article if a business that has an outstanding balance of a loan under the Linked Deposit Program is no longer certified;

(3) require minority business enterprises and lenders to notify the Department 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.

(d) The Treasurer may establish the Linked Deposit Program 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 **UP TO** 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 certified minority business enterprises.

(4) NOTWITHSTANDING THE PROVISIONS OF § 6-202 OF THIS SUBTITLE, THE TREASURER MAY MAKE AN INTEREST BEARING DEPOSIT UNDER THIS SUBSECTION IN ANY FINANCIAL INSTITUTION WITHOUT THE SECURITY REQUIRED IN § 6-202 OF THIS SUBTITLE IF:

(I) THE FUNDS ARE INITIALLY PLACED FOR DEPOSIT WITH A FINANCIAL INSTITUTION SELECTED BY THE TREASURER;

(II) THE FINANCIAL INSTITUTION SELECTED BY THE TREASURER ARRANGES FOR THE FURTHER DEPOSIT OF THE MONEY INTO ONE OR MORE CERTIFICATES OF DEPOSIT, EACH IN AN AMOUNT OF NOT MORE THAN THE APPLICABLE FEDERAL DEPOSIT INSURANCE CORPORATION MAXIMUM INSURANCE COVERAGE LIMIT, IN ONE OR MORE FINANCIAL INSTITUTIONS FOR THE ACCOUNT OF THE TREASURER;

(III) AT THE SAME TIME THE MONEY IS DEPOSITED AND THE CERTIFICATES OF DEPOSIT ARE ISSUED FOR THE BENEFIT OF THE TREASURER BY OTHER FINANCIAL INSTITUTIONS, THE FINANCIAL INSTITUTION SELECTED BY THE TREASURER RECEIVES AN AMOUNT OF DEPOSITS FROM CUSTOMERS OF OTHER BANKS OR SAVINGS AND LOAN ASSOCIATIONS EQUAL TO THE AMOUNT OF MONEY INITIALLY DEPOSITED BY THE TREASURER;

(IV) EACH CERTIFICATE OF DEPOSIT ISSUED FOR THE TREASURER'S ACCOUNT IS INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR 100% OF THE PRINCIPAL AND ACCRUED INTEREST OF THE CERTIFICATE OF DEPOSIT; AND

(V) THE FINANCIAL INSTITUTION SELECTED BY THE TREASURER ACTS AS CUSTODIAN FOR THE DEPOSITOR WITH RESPECT TO THE CERTIFICATES OF DEPOSIT ISSUED FOR THE TREASURER'S ACCOUNT.

(f) (1) Subject to paragraph (2) of this subsection, on notification by the Department of Housing and Community Development that a minority business enterprise participating in the Linked Deposit Program is no longer certified under Title 14, Subtitle 3 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 decertified minority business enterprise.

(2) A minority business enterprise that loses its certification due to revenue or employee growth may not be considered decertified 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 the Laws of Maryland read as follows:

Article – State Finance and Procurement

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] **CHARGES ON** a loan for a similar purpose and a similar term **THAT IS REDUCED BY AT LEAST THE LESSER OF:**

(1) 2 PERCENTAGE POINTS; OR

(II) THE DIFFERENCE BETWEEN THE FINANCIAL INSTITUTION'S RATE ON A 60-MONTH CERTIFICATE OF DEPOSIT AND THE INTEREST RATE ACCEPTABLE TO THE TREASURER FOR ITS DEPOSITS; 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 UP TO 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.

(4) NOTWITHSTANDING THE PROVISIONS OF § 6-202 OF THIS SUBTITLE, THE TREASURER MAY MAKE AN INTEREST BEARING DEPOSIT UNDER THIS SUBSECTION IN ANY FINANCIAL INSTITUTION WITHOUT THE SECURITY REQUIRED IN § 6-202 OF THIS SUBTITLE IF:

(I) THE FUNDS ARE INITIALLY PLACED FOR DEPOSIT WITH A FINANCIAL INSTITUTION SELECTED BY THE TREASURER;

(II) THE FINANCIAL INSTITUTION SELECTED BY THE TREASURER ARRANGES FOR THE FURTHER DEPOSIT OF THE MONEY INTO ONE OR MORE CERTIFICATES OF DEPOSIT, EACH IN AN AMOUNT OF NOT MORE THAN THE APPLICABLE FEDERAL DEPOSIT INSURANCE CORPORATION MAXIMUM INSURANCE COVERAGE LIMIT, IN ONE OR MORE FINANCIAL INSTITUTIONS FOR THE ACCOUNT OF THE TREASURER;

(III) AT THE SAME TIME THE MONEY IS DEPOSITED AND THE CERTIFICATES OF DEPOSIT ARE ISSUED FOR THE BENEFIT OF THE TREASURER BY OTHER FINANCIAL INSTITUTIONS, THE FINANCIAL INSTITUTION SELECTED BY THE TREASURER RECEIVES AN AMOUNT OF DEPOSITS FROM CUSTOMERS OF OTHER BANKS OR SAVINGS AND LOAN ASSOCIATIONS EQUAL TO THE AMOUNT OF MONEY INITIALLY DEPOSITED BY THE TREASURER;

(IV) EACH CERTIFICATE OF DEPOSIT ISSUED FOR THE TREASURER'S ACCOUNT IS INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR 100% OF THE PRINCIPAL AND ACCRUED INTEREST OF THE CERTIFICATE OF DEPOSIT; AND

(V) THE FINANCIAL INSTITUTION SELECTED BY THE TREASURER ACTS AS CUSTODIAN FOR THE DEPOSITOR WITH RESPECT TO THE CERTIFICATES OF DEPOSIT ISSUED FOR THE TREASURER'S ACCOUNT.

(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 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. Section 1 of this Act shall remain effective until the taking effect of the termination provision specified in Section 3 of Chapter 396 of the Acts of the General Assembly of 2006 and Section 2 of Chapter 740 of the Acts of the General Assembly of 2009. If those termination provisions take effect, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 346

(House Bill 7)

AN ACT concerning

Southern Maryland Higher Education Council – Modifications

FOR the purpose of altering the number of members on the Southern Maryland Higher Education Council; requiring the Maryland Higher Education Commission to provide staff for the Council; altering the deadline for the Council to submit a certain final report; extending the termination provisions relating to the Council; and generally relating to the Southern Maryland Higher Education Council.

BY repealing and reenacting, with amendments,
Chapter 622 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:

Chapter 622 of the Acts of 2011

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

- (a) There is a Southern Maryland Higher Education Council.
- (b) The Council consists of the following **[12] 13** members:
 - (1) the Secretary of Higher Education, or the Secretary's designee;
 - (2) the Chancellor of the University System of Maryland, or the Chancellor's designee;
 - (3) the President of St. Mary's College of Maryland, or the President's designee;
 - (4) the President of the College of Southern Maryland, or the President's designee;
 - (5) the President of the Maryland Independent College and University Association, or the President's designee;
 - (6) the Chair of the Board of Governors of the Southern Maryland Higher Education Center, or the Chair's designee;
 - (7) the Assistant Secretary of the Navy for Manpower and Reserve Affairs, or the Assistant Secretary's designee;
 - (8) the Chair of the Governor's Southern Maryland Workforce Investment Board, or the Chair's designee;
 - (9) the President of the Board of Directors of the Patuxent Partnership, or the President's designee;
 - (10) the President of the Board of County Commissioners of Calvert County, or the President's designee;
 - (11) the President of the Board of County Commissioners of Charles County, or the President's designee; **[and]**
 - (12) the President of the Board of County Commissioners of St. Mary's County, or the President's designee; **AND**
 - (13) A MEMBER OF THE PUBLIC WITH EXTENSIVE KNOWLEDGE OF HIGHER EDUCATION IN MARYLAND, APPOINTED BY THE GOVERNOR.**
- (c)
 - (1) The Governor shall appoint a chair from among the members of the Council.

(2) The members may elect other officers and establish committees, including advisory committees, as needed.

(d) A member of the Council:

(1) may not receive compensation as a member of the Council; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) (1) The Council shall develop a strategy for improving access to higher education for the residents of Southern Maryland.

(2) In developing a strategy for improving access to higher education for the residents of Southern Maryland, the Council shall:

(i) examine the need for higher education in Southern Maryland;

(ii) examine whether or not the current higher education institutions and centers in Southern Maryland, including the Southern Maryland Higher Education Center, are meeting the higher education needs of the region;

(iii) if a determination is made that additional higher education needs exist in Southern Maryland, recommend the best way to meet the additional educational needs; and

(iv) develop plans that include short-term and long-term strategies for improving access to higher education in Southern Maryland.

(f) On or before December 1, 2011, the Council shall present an interim report of its findings and recommendations, including a short-term strategy for improving access to higher education in Southern Maryland, to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(g) On or before December 1, [2012] **2013**, the Council shall present a final report of its findings and recommendations, including a long-term strategy for improving access to higher education in Southern Maryland, to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(H) THE MARYLAND HIGHER EDUCATION COMMISSION SHALL PROVIDE STAFF FOR THE COUNCIL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011. It shall remain effective for a period [2] of **3** years and, at the end of June 30, [2013] **2014**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 347

(House Bill 34)

AN ACT concerning

State Government – Commemorative ~~Day~~ Month– German–American Heritage ~~Day~~ Month

FOR the purpose of requiring the Governor annually to proclaim a certain ~~day~~ month as German–American Heritage ~~Day~~ Month; requiring the proclamation to urge certain organizations to observe the ~~day~~ month with certain activities; and generally relating to German–American Heritage ~~Day~~ Month.

BY adding to

Article – State Government

Section 13–411

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – State Government

13–411.

(A) IN RECOGNITION OF THE CONTRIBUTIONS THAT GERMAN AMERICANS HAVE MADE TO THE STATE, THE GOVERNOR ANNUALLY SHALL PROCLAIM OCTOBER ~~3~~ AS GERMAN–AMERICAN HERITAGE ~~DAY~~ MONTH.

(B) THE PROCLAMATION SHALL URGE EDUCATIONAL AND CULTURAL ORGANIZATIONS TO OBSERVE GERMAN–AMERICAN HERITAGE ~~DAY~~ MONTH PROPERLY WITH APPROPRIATE PROGRAMS, CEREMONIES, AND ACTIVITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 348

(House Bill 56)

AN ACT concerning

~~Professional Counselors and Therapists – Qualifications, Surrender of
Licenses and Certificates, and Disciplinary Actions~~
State Board of Professional Counselors and Therapists – Criminal History
Records Checks

FOR the purpose of requiring applicants ~~who intend to practice as a clinical alcohol and drug counselor, clinical marriage and family therapist, clinical professional art therapist, clinical professional counselor, certified professional counselor, or certified professional counselor marriage and family therapist~~ for a license or certificate from the State Board of Professional Counselors and Therapists to submit to a certain criminal history records check; requiring certain applicants to submit certain fingerprints and certain fees to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services under certain circumstances; requiring the Central Repository to forward certain information to the ~~State Board of Professional Counselors and Therapists~~ Board and to certain applicants; providing that certain information is confidential and may be used only for certain purposes; authorizing the subject of a certain criminal history records check to contest the contents of a certain statement; altering certain application requirements; requiring the Board to consider certain facts, circumstances, and evidence in determining whether to ~~grant~~ issue or renew certain licenses or certificates; requiring the Board, beginning with a certain renewal cycle, to begin a process of requiring criminal history records checks on selected renewal applicants and former licensees who file for reinstatement after failing to renew a license after a certain period of time; requiring an additional criminal history records check to be performed with a certain frequency; prohibiting the Board from issuing or renewing certain licenses or certificates if certain criminal history record information has not been received; ~~requiring the Board to report certain admissions of guilt to local law enforcement agencies under certain circumstances;~~ altering certain requirements for the renewal of certain licenses and certificates; authorizing the Board to deny certain applicants a license or certificate, to place certain license and certificate holders on probation, to reprimand certain license and certificate holders, or to suspend or revoke certain licenses or certificates of certain license or certificate holders for failure to submit to a certain criminal history records check ~~or for engaging in certain behavior with certain patients during certain periods of time;~~ and generally relating to the ~~regulation of professional counselors and therapists~~ criminal

history records checks for individuals regulated by the State Board of Professional Counselors and Therapists.

BY adding to

Article – Health Occupations

Section ~~17-301.1, 17-301.2, 17-401.1, and 17-503(d)~~ 17-501.1, 17-503(d), and 17-504(f)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section ~~17-501, 17-504(d) and (e), 17-508(e)~~, and 17-509

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

~~Article – Health Occupations~~

~~Section 17-508(b)~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2012 Supplement)~~

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

Article – Health Occupations

~~17-301.1.~~

~~IN ADDITION TO OTHER QUALIFICATIONS REQUIRED UNDER THIS SUBTITLE TO PRACTICE AS A CLINICAL ALCOHOL AND DRUG COUNSELOR, CLINICAL MARRIAGE AND FAMILY THERAPIST, CLINICAL PROFESSIONAL ART THERAPIST, OR CLINICAL PROFESSIONAL COUNSELOR IN THE STATE, AN APPLICANT SHALL SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 17-301.2 OF THIS SUBTITLE.~~

~~17-301.2.~~

~~(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

~~(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY:~~

~~(1) TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;~~

~~(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND~~

~~(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.~~

~~(C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE BOARD AND THE APPLICANT THE CRIMINAL HISTORY RECORD INFORMATION OF THE APPLICANT.~~

~~(D) IF AN APPLICANT HAS MADE THREE OR MORE UNSUCCESSFUL ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK AS ALLOWED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.~~

~~(E) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:~~

~~(1) SHALL BE CONFIDENTIAL;~~

~~(2) MAY NOT BE REDISSEMINATED; AND~~

~~(3) SHALL BE USED ONLY FOR THE LICENSING OR CERTIFICATION PURPOSE AUTHORIZED BY THIS TITLE.~~

~~(F) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~17-401.1.~~

~~IN ADDITION TO OTHER QUALIFICATIONS REQUIRED UNDER THIS SUBTITLE TO PRACTICE AS A CERTIFIED PROFESSIONAL COUNSELOR OR CERTIFIED PROFESSIONAL COUNSELOR MARRIAGE AND FAMILY THERAPIST, AN APPLICANT SHALL SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 17-301.2 OF THIS TITLE.~~

17-501.

To apply for a license or certificate, an applicant shall:

- (1) Submit an application on the form that the Board requires; [and]
- (2) Pay to the Board the application fee set by the Board; AND
- (3) ~~IF REQUIRED UNDER § 17-301.1 OR § 17-401.1 OF THIS TITLE, SUBMIT~~ SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 17-301.2 OF THIS TITLE § 17-501.1 OF THIS SUBTITLE.

17-501.1.

(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(1) A COMPLETE SET OF LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND

(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE BOARD AND THE APPLICANT THE CRIMINAL HISTORY RECORD INFORMATION OF THE APPLICANT.

(D) IF AN APPLICANT HAS MADE THREE OR MORE UNSUCCESSFUL ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN ALTERNATE METHOD OF A CRIMINAL HISTORY RECORDS CHECK AS ALLOWED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(E) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

- (1) SHALL BE CONFIDENTIAL;**
- (2) MAY NOT BE REDISSEMINATED; AND**
- (3) SHALL BE USED ONLY FOR THE LICENSING OR CERTIFICATION PURPOSE AUTHORIZED BY THIS TITLE.**

(F) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.

17-503.

(D) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF AN APPLICANT FOR LICENSURE OR CERTIFICATION FORWARDED TO THE BOARD IN ACCORDANCE WITH ~~§ 17-301.2 OF THIS TITLE~~ § 17-501.1 OF THIS SUBTITLE, IN DETERMINING WHETHER TO GRANT A LICENSE OR CERTIFICATE, THE BOARD SHALL CONSIDER:

- (I) THE AGE AT WHICH THE CRIME WAS COMMITTED;**
- (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;**
- (III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;**
- (IV) SUBSEQUENT WORK HISTORY;**
- (V) EMPLOYMENT AND CHARACTER REFERENCES; AND**
- (VI) OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.**

(2) THE BOARD MAY NOT ISSUE A LICENSE OR CERTIFICATE IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER ~~§ 17-301.2 OF THIS TITLE~~ § 17-501.1 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.

17-504.

~~(d) Before the license or certificate expires, the licensee or certificate holder periodically may renew it for an additional 2-year term, if the licensee or certificate holder:~~

~~(1) Otherwise is entitled to be licensed or certified;~~

~~(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 satisfactory evidence of compliance with any continuing education requirements as required by the Board for license or certificate renewal; AND~~

~~(5) FOR A LICENSEE WHO WAS LICENSED UNDER SUBTITLE 3 OF THIS TITLE, OR A CERTIFICATE HOLDER WHO WAS CERTIFIED UNDER SUBTITLE 4 OF THIS TITLE, BEFORE OCTOBER 1, 2013, SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 17-301.2 OF THIS TITLE.~~

~~(e) (1) The Board shall renew the license or certificate of and issue a renewal license or certificate to each licensee or certificate holder who meets the requirements of this section.~~

~~(2) The Board shall include the term of the renewal on each renewal license or certificate that the Board issues.~~

(F) (1) (I) BEGINNING WITH THE RENEWAL CYCLE IN 2015, THE BOARD SHALL BEGIN A PROCESS OF REQUIRING CRIMINAL HISTORY RECORDS CHECKS IN ACCORDANCE WITH § 17-501.1 OF THIS SUBTITLE ON:

1. SELECTED RENEWAL APPLICANTS AS DETERMINED BY REGULATIONS ADOPTED BY THE BOARD; AND

2. EACH FORMER LICENSEE WHO FILES FOR REINSTATEMENT UNDER § 17-505 OF THIS SUBTITLE AFTER FAILING TO RENEW THE LICENSE FOR A PERIOD OF 1 YEAR OR MORE.

(II) AN ADDITIONAL CRIMINAL HISTORY RECORDS CHECK SHALL BE PERFORMED EVERY 6 YEARS AFTER THE INITIAL RECORDS CHECK REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

~~(3) (2) (I) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF AN APPLICANT FOR LICENSE OR CERTIFICATE RENEWAL FORWARDED TO THE BOARD IN ACCORDANCE WITH § 17-301.2 OF THIS TITLE §~~

17-501.1 OF THIS SUBTITLE, IN DETERMINING WHETHER TO RENEW A LICENSE OR CERTIFICATE, THE BOARD SHALL CONSIDER:

1. THE AGE AT WHICH THE CRIME WAS COMMITTED;
 2. THE CIRCUMSTANCES SURROUNDING THE CRIME;
 3. THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;
 4. SUBSEQUENT WORK HISTORY;
 5. EMPLOYMENT AND CHARACTER REFERENCES;
- AND
6. OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.

(II) THE BOARD MAY NOT RENEW A LICENSE OR CERTIFICATE IF THE CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER ~~§ 17-301.2 OF THIS TITLE~~ § 17-501.1 OF THIS SUBTITLE HAS NOT BEEN RECEIVED.

~~17-508.~~

~~(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.~~

~~(e) (1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, 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.~~

~~(2) IF THE REGULATED COUNSELOR OR THERAPIST UNDER INVESTIGATION OR AGAINST WHOM CHARGES ARE PENDING PROVIDES THE BOARD WITH AN ADMISSION OF GUILT ACCOMPANYING THE SURRENDER OF THE LICENSE OR CERTIFICATE, THE BOARD SHALL REPORT THE ADMISSION OF GUILT TO THE LOCAL LAW ENFORCEMENT AGENCY.~~

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, 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; OR

~~(19) IF REQUIRED UNDER § 17-301.1 OR § 17-401.1 OF THIS TITLE, FAILS TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 17-301.2 OF THIS TITLE § 17-501.1 OF THIS SUBTITLE; OR~~

~~(20) ENGAGES IN SEXUAL BEHAVIOR WITH A PATIENT DURING THE PROFESSIONAL RELATIONSHIP OR DURING THE 2-YEAR PERIOD FOLLOWING TERMINATION OF THE PROFESSIONAL RELATIONSHIP.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 349

(House Bill 99)

AN ACT concerning

Public Health – Child Care Products Containing Flame-Retardant Chemicals
~~(TRIS)~~ (TCEP) – Prohibition

FOR the purpose of prohibiting a person from importing, selling, or offering for sale certain child care products containing certain flame-retardant chemicals (~~TRIS~~) (TCEP) on or after a certain date; providing that this Act does not apply to the sale or distribution of a child care product that is resold, offered for resale, or distributed by a consumer for consumer use; providing for certain penalties; authorizing a court to enjoin certain actions; authorizing the Secretary of Health and Mental Hygiene to suspend implementation of certain provisions of this Act if the Secretary makes a certain determination; requiring the Department of Health and Mental Hygiene to adopt certain regulations on or before a certain date; defining certain terms; and generally relating to child care products containing ~~TRIS~~ TCEP.

BY adding to

Article – Health – General

Section 24–306

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – Health – General

24–306.

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

(2) “CHILD CARE PRODUCT” MEANS A CONSUMER PRODUCT INTENDED FOR USE BY A CHILD UNDER THE AGE OF ~~4~~ 3 YEARS, INCLUDING A BABY PRODUCT, TOY, CAR SEAT, NURSING PILLOW, CRIB MATTRESS, AND STROLLER.

(3) “~~TRIS~~ TCEP” MEANS ~~TCEP~~ (TRIS (2-CHLOROETHYL) PHOSPHATE).

(B) THIS SECTION DOES NOT APPLY TO THE SALE OR DISTRIBUTION OF A CHILD CARE PRODUCT THAT IS RESOLD, OFFERED FOR RESALE, OR DISTRIBUTED BY A CONSUMER FOR CONSUMER USE.

(C) A PERSON MAY NOT IMPORT, SELL, OR OFFER FOR SALE ANY CHILD CARE PRODUCT THAT:

(1) CONTAINS ~~TRIS~~ MORE THAN ONE-TENTH OF 1% OF TCEP BY MASS; AND

(2) IS INTENDED FOR USE BY A CHILD UNDER THE AGE OF 4 3 YEARS.

(D) (1) A PERSON THAT VIOLATES THIS SECTION IS SUBJECT TO:

(I) FOR A FIRST VIOLATION, A CIVIL PENALTY NOT EXCEEDING \$1,000; AND

(II) FOR ANY SUBSEQUENT VIOLATION, A CIVIL PENALTY NOT EXCEEDING \$2,500 FOR EACH VIOLATION.

(2) IN ADDITION TO THE CIVIL PENALTIES PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, A COURT MAY ENJOIN AN ACTION PROHIBITED BY THIS SECTION.

(E) THE SECRETARY MAY SUSPEND IMPLEMENTATION OF SUBSECTION (C) OF THIS SECTION IF THE SECRETARY DETERMINES THAT THE FIRE SAFETY BENEFITS OF TCEP ARE GREATER THAN THE HEALTH RISKS ASSOCIATED WITH TCEP.

~~(E)~~ (F) ON OR BEFORE JANUARY 1, 2014, THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 350

(House Bill 126)

AN ACT concerning

Consumer Protection – Maryland Consumer Protection Act – Scope ~~and~~ ~~Penalties~~

FOR the purpose of expanding the definition of “consumer” under the Maryland Consumer Protection Act to include a certain organization that purchases, rents, or leases goods or services for the benefit of the members of the organization; expanding the definition of “consumer goods” and “consumer services” under the Maryland Consumer Protection Act to include certain goods and services purchased, rented, or leased by a certain organization for the benefit

~~of members of the organization establishing that an unfair or deceptive trade practice includes an act or omission relating to the purchase, rental, or lease by a certain organization of certain goods or services; altering certain criminal penalties for a violation of the Maryland Consumer Protection Act making this Act subject to a certain contingency; requiring the Division of Consumer Protection of the Office of the Attorney General to give a certain notice to the Department of Legislative Services under certain circumstances; providing that this Act shall be null and void and of no force and effect under certain circumstances; and generally relating to the scope of the Maryland Consumer Protection Act and penalties for violations of that Act.~~

BY repealing and reenacting, without amendments,
 Article – Commercial Law
 Section 13–101(a)
 Annotated Code of Maryland
 (2005 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
 Article – Commercial Law
 Section 13–101(c) ~~and (d), 13–301(14)(xxix) and (15), and 13–411~~
 Annotated Code of Maryland
 (2005 Replacement Volume and 2012 Supplement)

~~BY adding to~~
~~Article – Commercial Law~~
~~Section 13–301(16)~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2012 Supplement)~~

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

Article – Commercial Law

13–101.

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

(c) (1) “Consumer” means an actual or prospective purchaser, lessee, or recipient of consumer goods, consumer services, consumer realty, or consumer credit.

(2) “Consumer” includes:

(i) A co-obligor or surety for a consumer;

(ii) A licensee or recipient of computer information or computer programs under a consumer contract as defined in § 22–102 of this article; [or]

(iii) An individual who sells or offers for sale to a merchant consumer goods or consumer realty that the individual acquired primarily for personal, household, family, or agricultural purposes; OR

(IV) A FRATERNAL, RELIGIOUS, CIVIC, PATRIOTIC, EDUCATIONAL, OR CHARITABLE ORGANIZATION THAT PURCHASES, RENTS, OR LEASES GOODS OR SERVICES FOR THE BENEFIT OF THE MEMBERS OF THE ORGANIZATION.

(d) (1) “Consumer credit”, “consumer debts”, “consumer goods”, “consumer realty”, and “consumer services” mean, respectively, credit, debts or obligations, goods, real property, and services which are primarily for personal, household, family, or agricultural purposes.

(2) “CONSUMER GOODS” AND “CONSUMER SERVICES” INCLUDE, RESPECTIVELY, GOODS AND SERVICES WHICH ARE PURCHASED, RENTED, OR LEASED BY A FRATERNAL, RELIGIOUS, CIVIC, PATRIOTIC, EDUCATIONAL, OR CHARITABLE ORGANIZATION FOR THE BENEFIT OF THE MEMBERS OF THE ORGANIZATION.

~~13-301.~~

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

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

~~(xxix) Title 10, Subtitle 7 of the Business Regulation Article; [or]~~

~~(15) Act or omission that relates to a residential building and that is chargeable as a misdemeanor under or otherwise violates a provision of the Energy Conservation Building Standards Act, Title 7, Subtitle 4 of the Public Utilities Article; OR~~

~~**(16) ACT OR OMISSION THAT RELATES TO THE PURCHASE, RENTAL, OR LEASE BY A FRATERNAL, RELIGIOUS, CIVIC, PATRIOTIC, EDUCATIONAL, OR CHARITABLE ORGANIZATION OF GOODS OR SERVICES FOR THE BENEFIT OF THE MEMBERS OF THE ORGANIZATION.**~~

~~13-411.~~

~~(a) Except as provided in subsection (b) of this section, any person who violates any provision of this title is guilty of a misdemeanor and, unless another criminal penalty is specifically provided elsewhere, on conviction is subject to a fine~~

~~not exceeding [\$1,000] \$3,000 or imprisonment not exceeding [one year] 3 YEARS or both, in addition to any civil penalties.~~

~~(b) A person may not be imprisoned for violation of any provision of an order of the Attorney General or an agreement of a party relating to unit pricing under Title 14, Subtitle 1 of this article.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 351

(House Bill 139)

AN ACT concerning

~~Training for Public Open Meetings Act~~ – Training for Public Bodies

FOR the purpose of ~~requiring the State Open Meetings Law Compliance Board to develop and offer an online training program on the requirements of the open meetings law to employees, officers, or members of a public body;~~ requiring a public body to designate certain individuals to receive certain ~~online~~ training; requiring the public body to submit a list of the individuals designated to receive certain ~~online~~ training to the State Open Meetings Law Compliance Board; requiring certain individuals designated to receive certain ~~online~~ training to complete the training within a certain time period; ~~requiring certain individuals to complete certain annual online training;~~ and generally relating to ~~online training on the requirements of the Open Meetings Act~~ and training for public bodies.

BY repealing and reenacting, ~~with~~ without amendments,
 Article – State Government
 Section 10–502.4(d)
 Annotated Code of Maryland
 (2009 Replacement Volume and 2012 Supplement)

BY adding to
 Article – State Government
 Section 10–502.7
 Annotated Code of Maryland
 (2009 Replacement Volume and 2012 Supplement)

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

Article – State Government

10-502.4.

(d) The Board, in conjunction with the Office of the Attorney General and other interested organizations or persons, shall:

~~(1)~~ develop and conduct educational programs on the requirements of the open meetings law for the staffs and attorneys of:

~~{(1)}~~ ~~(I)~~ public bodies;

~~{(2)}~~ ~~(II)~~ the Maryland Municipal League; and

~~{(3)}~~ ~~(III)~~ the Maryland Association of Counties; ~~AND~~

~~(2) DEVELOP AND OFFER AN ONLINE TRAINING PROGRAM ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW TO EMPLOYEES, OFFICERS, OR MEMBERS OF A PUBLIC BODY.~~

10-502.7.

(A) EACH PUBLIC BODY SHALL:

(1) ~~DESIGNATE INDIVIDUALS WHO ARE EMPLOYEES, OFFICERS, OR MEMBERS~~ AT LEAST ONE INDIVIDUAL WHO IS AN EMPLOYEE, AN OFFICER, OR A MEMBER OF THE PUBLIC BODY TO RECEIVE ONLINE TRAINING ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW; AND

(2) FORWARD A LIST OF THE INDIVIDUALS DESIGNATED UNDER ITEM (1) OF THIS SUBSECTION TO THE BOARD.

~~(B) (1) EACH INDIVIDUAL DESIGNATED UNDER SUBSECTION (A) OF THIS SECTION SHALL COMPLETE THE ONLINE TRAINING ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW WITHIN 30 DAYS AFTER BEING DESIGNATED.~~

~~(2) AFTER THE INITIAL TRAINING COMPLETED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INDIVIDUAL SHALL COMPLETE ANNUAL ONLINE TRAINING THAT INCLUDES INFORMATION REGARDING:~~

~~(I) AMENDMENTS TO THE OPEN MEETINGS LAW;~~

~~(H) WRITTEN OPINIONS OF THE BOARD; AND~~

~~(HH) HOW THE PUBLIC BODY CAN COMPLY WITH THE OPEN MEETINGS LAW WITH REGARD TO CHANGING TECHNOLOGY.~~

(B) WITHIN 90 DAYS AFTER BEING DESIGNATED UNDER SUBSECTION (A)(1) OF THIS SECTION, AN INDIVIDUAL SHALL COMPLETE:

(1) AN ONLINE CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE OFFICE OF THE ATTORNEY GENERAL AND THE UNIVERSITY OF MARYLAND'S INSTITUTE FOR GOVERNMENTAL SERVICE AND RESEARCH; OR

(2) A CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE MARYLAND ASSOCIATION OF COUNTIES OR THE MARYLAND MUNICIPAL LEAGUE THROUGH THE ACADEMY FOR EXCELLENCE IN LOCAL GOVERNANCE.

SECTION 2. AND BE IT FURTHER ENACTED, That the initial individuals designated under § 10-502.7(a)(1) of the State Government Article, as enacted by Section 1 of this Act, shall complete the ~~online~~ training on the requirements of the open meetings law within 6 months after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 352

(House Bill 167)

AN ACT concerning

State Government – Commemorative Days – Maryland Emancipation Day

FOR the purpose of requiring the Governor annually to proclaim a certain day as Maryland Emancipation Day; and generally relating to commemorative days.

BY adding to

Article – State Government

Section 13-411

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – State Government

13–411.

IN RECOGNITION OF THE EMANCIPATION OF THE SLAVES IN THE STATE, THE GOVERNOR ANNUALLY SHALL PROCLAIM NOVEMBER 1 AS MARYLAND EMANCIPATION DAY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 353

(House Bill 199)

AN ACT concerning

Queen Anne’s County – Beer, Wine and Liquor Tasting License

FOR the purpose of creating in Queen Anne’s County a beer, wine and liquor tasting license; specifying to whom the license may be issued; setting maximum limits on the amounts of certain individual servings; specifying that the license may be issued for tasting purposes only; establishing a license fee; and generally relating to alcoholic beverages licenses in Queen Anne’s County.

BY renumbering

Article 2B – Alcoholic Beverages

Section 8–410.2 and 8–410.3, respectively

to be Section 8–410.3 and 8–410.4, respectively

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY adding to

Article 2B – Alcoholic Beverages

Section 8–410.2

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8-410.2 and 8-410.3, respectively, of Article 2B – Alcoholic Beverages of the Annotated Code of Maryland be renumbered to be Section(s) 8-410.3 and 8-410.4, respectively.

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

Article 2B – Alcoholic Beverages

8-410.2.

- (A) THIS SECTION APPLIES ONLY IN QUEEN ANNE'S COUNTY.
- (B) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A BEER, WINE AND LIQUOR TASTING (BWLTT) LICENSE.
- (C) A BWLTT LICENSE MAY BE ISSUED ONLY TO A HOLDER OF A CLASS A BEER, WINE AND LIQUOR LICENSE.
- (D) (1) A BWLTT LICENSE AUTHORIZES THE CONSUMPTION FOR TASTING PURPOSES ONLY OF:
- (i) NOT MORE THAN 1 OUNCE OF BEER FROM EACH GIVEN BRAND AND 4 OUNCES FROM ALL BRANDS;
 - (ii) NOT MORE THAN 2 OUNCES OF WINE FROM EACH GIVEN BRAND AND 4 OUNCES FROM ALL BRANDS; AND
 - (iii) NOT MORE THAN ONE-HALF OUNCE OF LIQUOR FROM EACH GIVEN BRAND AND 1.5 OUNCES FROM ALL BRANDS.
- (2) THE LIMITS ON CONSUMPTION SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION APPLY TO ONE INDIVIDUAL IN A SINGLE DAY.
- (E) THE ANNUAL LICENSE FEE FOR THE BWLTT LICENSE IS \$100 IN ADDITION TO THE FEE FOR ANY OTHER ALCOHOLIC BEVERAGES LICENSE HELD BY THE LICENSE HOLDER.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 354**(House Bill 201)**

AN ACT concerning

**Queen Anne's County – Property Tax Credit – Commercial Investment and
Economic Development**

FOR the purpose of altering the minimum number of new employees that a certain business must employ in order to qualify for a certain property tax credit against the Queen Anne's County property tax imposed on certain property; and generally relating to county property tax credits for certain businesses in Queen Anne's County.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–319(d)(1)
Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Tax – Property

9–319.

(d) (1) The governing body of Queen Anne's County may grant, by law, a property tax credit under this section against the county property tax imposed on real property owned by a business that:

(i) makes significant real property improvements in the county, including construction, reconstruction, rehabilitation, or expansion of a nonresidential structure; and

(ii) employs at least [25] 12 new additional full-time employees.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, and shall be applicable to all taxable years beginning after June 30, 2013.

Approved by the Governor, May 2, 2013.

Chapter 355

(House Bill 207)

AN ACT concerning

Education – ~~Chronically Absent~~ Truant Students

FOR the purpose of requiring county boards of education to develop a system of intervention for ~~chronically absent~~ truant students; defining ~~certain terms~~ a certain term; providing that this Act does not prohibit a county board from taking certain actions; and generally relating to ~~chronically absent~~ truant students.

BY adding to

Article – Education

Section 7–302.2

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

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

Article – Education

7–302.2.

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

~~(2) “CHRONICALLY, “CHRONICALLY ABSENT TRUANT STUDENT” MEANS A STUDENT WHO:~~

~~(1) WHO IS UNLAWFULLY UNLAWFULLY ABSENT FROM SCHOOL FOR MORE THAN 10% OF THE SCHOOL DAYS IN ANY GIVEN QUARTER, SEMESTER, OR ACADEMIC YEAR.~~

~~(3) “UNLAWFUL ABSENCE” HAS THE MEANING SET FORTH IN MORE THAN:~~

~~(I) 8 DAYS IN ANY QUARTER;~~

~~(II) 15 DAYS IN ANY SEMESTER; OR~~

~~(III) 20 DAYS IN A SCHOOL YEAR; AND~~

~~(2) WHOSE ABSENCES FOR PURPOSES OF ITEM (1) OF THIS SUBSECTION ARE UNLAWFUL ABSENCES WITHIN THE MEANING OF COMAR 13A.08.01.03 AND 13A.08.01.04 AS DEFINED BY REGULATION.~~

~~(B) EACH COUNTY BOARD SHALL DEVELOP A SYSTEM OF ACTIVE INTERVENTION FOR STUDENTS WHO ARE CHRONICALLY ABSENT TRUANT FROM SCHOOL STUDENTS.~~

~~(C) EACH COUNTY BOARD'S SYSTEM OF INTERVENTION FOR CHRONICALLY ABSENT STUDENTS SHALL INCLUDE:~~

~~(1) A ROOT CAUSE ANALYSIS BY QUALIFIED SCHOOL SYSTEM PERSONNEL TO IDENTIFY WHAT FACTORS ARE LEADING TO A STUDENT'S ABSENCES AND TO DEVELOP A PLAN TO ADDRESS THOSE FACTORS; AND~~

~~(2) IF DEEMED APPROPRIATE BY SCHOOL SYSTEM PERSONNEL, REFERRALS TO SOCIAL SERVICE OR HEALTH CARE PROVIDERS WHO MIGHT BE ABLE TO ADDRESS THE ROOT CAUSES OF A STUDENT'S ABSENCES.~~

~~(D) (1) EACH COUNTY BOARD'S SYSTEM OF INTERVENTION FOR CHRONICALLY ABSENT STUDENTS SHALL REQUIRE INTERACTION BETWEEN SCHOOL SYSTEM PERSONNEL, THE STUDENT, AND THE STUDENT'S PARENTS OR GUARDIAN TO EMPHASIZE THE IMPORTANCE OF REGULAR ATTENDANCE AND STRATEGIES FOR ENSURING REGULAR ATTENDANCE.~~

~~(2) THIS INTERACTION MAY INCLUDE COUNSELING OR PARENT EDUCATION CLASSES.~~

~~(E) (C) (1) ANY EACH CHRONICALLY ABSENT TRUANT STUDENT ATTENDING KINDERGARTEN THROUGH 12TH GRADE WHO IS UNLAWFULLY ABSENT MORE THAN 10% OF THE SCHOOL DAYS IN ANY GIVEN QUARTER, SEMESTER, OR ACADEMIC YEAR SHALL IMMEDIATELY BE REFERRED TO THE COUNTY BOARD'S SYSTEM OF ACTIVE INTERVENTION FOR STUDENTS WHO ARE CHRONICALLY ABSENT FROM SCHOOL DEVELOPED UNDER THIS SECTION.~~

~~(2) THE COUNTY BOARD MAY INTERVENE AT A LOWER LEVEL OF ABSENCES.~~

~~(2) THIS SECTION DOES NOT PROHIBIT A COUNTY BOARD FROM INTERVENING IN THE CASE OF A STUDENT WHO IS FREQUENTLY ABSENT FROM SCHOOL BUT WHO IS NOT A CHRONICALLY ABSENT STUDENT FOR BOTH LAWFUL AND UNLAWFUL PURPOSES, BUT IS NOT A TRUANT STUDENT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 356

(House Bill 212)

AN ACT concerning

Alcoholic Beverages – Cecil and Queen Anne's County Counties – Beer and Wine Festivals

FOR the purpose of increasing the number of special wine festival licenses that the Cecil County Liquor Board may issue; authorizing the Queen Anne's County Board of License Commissioners to issue a certain number of Beer and Wine Festival (BWF) licenses in the county each year; authorizing the Board to select a certain number of weekends each year for a certain festival; requiring the Board to choose a certain location for a certain festival and to ensure that the primary focus of a certain festival is the promotion of certain beer and wine; altering a certain definition; making ~~a certain technical correction~~ corrections; and generally relating to wine festivals in Cecil County and beer and wine festivals in Queen Anne's County.

BY repealing and reenacting, with amendments,
 Article 2B – Alcoholic Beverages
 Section ~~8–306.1~~ and 8–311
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

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

Article 2B – Alcoholic Beverages

8–306.1.

- (a) In this section, “Board” means the Cecil County Liquor Board.
- (b) This section applies only in Cecil County.
- (c) The Board may issue [a] NOT MORE THAN THREE special wine festival (WF) [license] LICENSES.

(d) An applicant for a special WF license shall be a holder of a State retail alcoholic beverages license, State Class 3 winery license, or State Class 4 winery license.

(e) (1) The Board shall assure that the primary focus of [the] EACH festival is the promotion of Maryland wine.

(2) The holder of a special WF license shall display and sell wine that is:

(i) Price filed in accordance with regulations adopted by the Comptroller; and

(ii) Distributed in the State.

(f) A special WF license entitles the holder to display and sell at retail wine for consumption on or off the licensed premises on the days and for the hours designated for the wine festival in the county.

(g) The license fee is \$20.

(h) This section does not prohibit the license holder from holding another alcoholic beverages license of a different class or nature.

(i) The Board:

(1) May choose one weekend annually during the months of June, July, August, or September for [the] EACH wine festival that does not conflict with the Anne Arundel County Beer and Wine Festival, the Cumberland and Shenandoah Valley Wine Festival, or the Maryland Wine Festival; and

(2) Shall choose a location in the county for [the] EACH festival that is not licensed under this article.

(j) The Board shall adopt regulations to carry out this section.

8–311.

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

(2) “Board” means the Queen Anne’s County Board of License Commissioners.

(3) “Festival” means [the Queen Anne’s County Beer and Wine Festival (QABWF)] **A BEER AND WINE FESTIVAL (BWF) IN QUEEN ANNE’S COUNTY.**

(b) This section applies only in Queen Anne's County.

(c) The Board may issue a special festival license.

(d) Notwithstanding any other provision of this article, an applicant for a special festival license shall be a holder of an existing State retail alcoholic beverages license, State Class 3 winery license, or State Class 4 limited winery license issued under this article.

(e) A special festival licensee shall:

(1) Only display and sell:

(i) Wine that is:

1. Manufactured and processed in any state;
2. Price filed in accordance with regulations adopted by the Comptroller; and
3. Distributed in the State at the time the application is filed; and

(ii) Beer that is brewed by a brewer:

1. Who brews less than 60,000 barrels of beer annually; and
2. Whose product is distributed in the State at the time the application is filed;

(2) Display and sell beer and wine at retail for consumption on or off the licensed premises on the days and for the hours designated for the Festival; and

(3) Display and sell wine that is manufactured and processed in any state at retail for consumption off the licensed premises on the days and for the hours designated for the Festival.

(f) This section does not prohibit the holder of a special festival license from holding another alcoholic beverages license of a different class or nature.

(g) The Board:

(1) May establish the license fee;

(2) May select [one weekend] **A MAXIMUM OF 4 WEEKENDS EACH YEAR**, Friday through Sunday inclusive, [annually] for [the] A Festival provided that the weekend that is selected does not occur within 14 days on either side of the Maryland Wine Festival;

(3) Shall choose a location in the county for [this] A Festival which is not licensed under this article; and

(4) Shall [assure] **ENSURE** that the primary focus of [the] A Festival is the promotion of Maryland beer and wine.

(h) (1) Products displayed and sold shall be:

(i) Invoiced to the festival license holder by a licensed State wholesaler, winery, or limited winery; and

(ii) Delivered to the Festival from the licensed premises of the wholesaler, winery, or limited winery.

(2) Whenever a festival license is issued pursuant to this subsection, holders of wholesale, winery, or limited winery licenses may enter into an agreement with the holder of a festival license to deliver beer and wine 2 days prior to the effective date, and to accept returns 2 days after the expiration date of the festival license.

(i) The Board shall adopt regulations for implementing this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 357

(House Bill 214)

AN ACT concerning

Queen Anne's County – Deer Hunting on Private Property – Sundays

FOR the purpose of authorizing a person ~~in Queen Anne's County to hunt deer on certain Sundays on private property using certain hunting equipment during certain months~~ to hunt deer on private property in Queen Anne's County using certain hunting equipment on certain Sundays during certain hunting seasons;

and generally relating to *deer* hunting on private property on Sundays ~~in Queen Anne's County~~.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10–410(a)
Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Natural Resources

10–410.

(a) (1) Except as provided in paragraphs (2), (3), (4), and (6) of this subsection, a person may not hunt any game bird or mammal on Sundays.

(2) The following persons may hunt the specified game birds and mammals on Sundays:

(i) A person using State certified raptors to hunt game birds or mammals during open season;

(ii) An unarmed person participating in an organized fox chase to chase foxes;

(iii) Provided that the provisions of § 10–906(b)(3) of this title are met, a person:

1. Using a regulated shooting ground under § 10–906 of this title to hunt the following pen-reared game birds:

A. Pheasants;

B. Bobwhite quail;

C. Chukar partridge;

D. Hungarian partridge;

E. Tower released flighted mallard ducks; and

F. Turkey on a regulated shooting ground that was permitted to release turkey before September 1, 1992; and

2. Having the written permission of the owner of the land or other person designated by the owner of the land, if the land is owned or leased by a person other than the person hunting on Sundays;

(iv) Subject to the provisions of § 10–411 of this subtitle, in Allegany, Calvert, Caroline, Carroll, Charles, Dorchester, Frederick, Garrett, Harford, **QUEEN ANNE’S**, St. Mary’s, Somerset, Talbot, Washington, Wicomico, and Worcester counties, a person hunting deer on private property with a bow and arrow or crossbow during open season on the last three Sundays in October and the second Sunday in November;

(v) Except on Easter Sunday, in Allegany County and Garrett County, a person hunting turkey on the last Sunday in April and the first Sunday in May; and

(vi) In Calvert County, Caroline County, Charles County, Dorchester County, and St. Mary’s County, a person hunting turkey on private property on any Sunday during the spring turkey hunting season.

(3) Subject to the provisions of § 10–415 of this subtitle, in Calvert County, Caroline County, Charles County, Harford County, **QUEEN ANNE’S COUNTY**, St. Mary’s County, Somerset County, and Worcester County, a person may hunt deer on private property on:

(i) The first Sunday of the bow hunting season in November; and

(ii) Each Sunday in the deer firearms season.

(4) Provided that the provisions of § 10–415 of this subtitle are met and subject to paragraph (5) of this subsection, the Department may allow a person to hunt deer on private property on the first Sunday of:

(i) The bow hunting season in November; and

(ii) The deer firearms season.

(5) The Sunday deer hunting provisions under paragraph (4) of this subsection do not apply:

(i) In Baltimore, Howard, and Prince George’s counties; and

(ii) In Baltimore City.

(6) A person who is 16 years of age or younger may hunt deer with a firearm on a Sunday through participation in the junior deer hunt established under § 10–405(a) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 358

(House Bill 216)

AN ACT concerning

**Queen Anne's County *and St. Mary's County* – Alcoholic Beverages –
Micro-Brewery Licenses**

FOR the purpose of adding Queen Anne's County *and St. Mary's County* to the list of counties in which a Class 7 micro-brewery license may be issued; adding Queen Anne's County *and St. Mary's County* to the list of counties in which the beer brewed by the license holder for consumption off the licensed premises may be sold in refillable containers; and generally relating to alcoholic beverages in Queen Anne's County *and St. Mary's County*.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–208
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article 2B – Alcoholic Beverages

2–208.

- (a) There is a Class 7 micro-brewery (on- and off-sale) license.
- (b) The license shall be issued:
 - (1) By the State Comptroller;
 - (2) Only in the following jurisdictions:
 - (i) Allegany County;

- (ii) Baltimore City;
- (iii) Baltimore County;
- (iv) The City of Annapolis;
- (v) Anne Arundel County;
- (vi) Calvert County;
- (vii) Carroll County;
- (viii) Charles County;
- (ix) Dorchester County;
- (x) Frederick County;
- (xi) Garrett County;
- (xii) Harford County;
- (xiii) Howard County;
- (xiv) Kent County;
- (xv) Montgomery County;
- (xvi) Prince George’s County;
- (xvii) **QUEEN ANNE’S COUNTY;**
- (XVIII) ST. MARY’S COUNTY;**
- ~~(XVIII)~~ **(XIX)** Talbot County;
- [(xviii)] ~~(XIX)~~ **(XX)** Washington County;
- [(xix)] ~~(XX)~~ **(XXI)** Wicomico County; and
- [(xx)] ~~(XXI)~~ **(XXII)** Worcester County;

(3) (i) Only to a holder of a Class B beer, wine and liquor (on-sale) license that is issued for use on the premises of a restaurant located in a jurisdiction listed in paragraph (2) of this subsection;

(ii) To a holder of a Class D beer (off-sale) license that is issued for use on the premises of the existing Class D license if the premises are located in Kent County or the Town of Berlin in Worcester County; or

(iii) To a holder of a Class D alcoholic beverages license that is issued for use on the premises of the existing Class D license if the premises are located in:

1. The 22nd Alcoholic Beverages District of Prince George's County; or

2. Washington County; and

(4) In addition to item (3) of this subsection, in Montgomery County only to a holder of a Class H beer and light wine license that is issued for use on the premises of a restaurant located in the County.

(c) (1) A holder of a Class 7 micro-brewery license:

(i) May brew and bottle malt beverages at the license location;

(ii) May obtain a Class 2 rectifying license for a premises located within 1 mile of the existing Class 7 micro-brewery location to bottle malt beverages brewed at the micro-brewery location only;

(iii) May contract with the holder of a Class 5 brewery license, a Class 7 micro-brewery license, or a Class 2 rectifying license held under § 2-203 of this subtitle or the holder of a nonresident dealer's permit to brew and bottle malt beverages on their behalf;

(iv) May store the finished product under an individual storage permit or at a licensed public storage facility for subsequent sale and delivery to a licensed wholesaler, an authorized person outside this State, and for shipment back to the micro-brewery location for sale on the retail premises;

(v) May not collectively brew, bottle, or contract for more than 22,500 barrels of malt beverages each calendar year; and

(vi) May enter into a temporary delivery agreement with a distributor only for delivery of beer to a beer festival or wine and beer festival and the return of any unused beer if:

1. The beer festival or wine and beer festival is in a sales territory for which the holder does not have a franchise with a distributor under the Beer Franchise Fair Dealing Act; and

2. The temporary delivery agreement is in writing.

(2) A Class 7 licensee who wishes to produce more than the barrelage authorized under paragraph (1)(v) of this subsection shall divest of any Class B, D, or any other retail license and obtain a Class 5 manufacturer's license.

(3) For the purposes of determining the barrelage limitation under paragraph (1)(v) of this subsection, any salable beer produced under contractual arrangements accrues only to the Class 7 micro-brewery licensee who is the brand owner.

(4) In Allegany County only, the holder of a Class 7 license:

(i) May brew in one location and may contract for the bottling of the malt beverage in another location; and

(ii) Need not meet the hotel/motel requirements for a Class B beer, wine and liquor licensee but shall meet the requirements for those Class B restaurants.

(d) (1) The on-sale privilege authorizes the holder, each calendar year, to sell at retail up to 4,000 barrels of beer brewed under this license to customers for consumption on the licensed premises.

(2) The off-sale privilege authorizes the holder to sell and deliver beer brewed under this license to:

(i) Any wholesaler licensed under this article to sell beer in this State; or

(ii) Any person who is located in a state other than Maryland who is authorized under the laws of that state to receive brewed beverages.

(3) (i) This paragraph applies only in:

1. Allegany County;
2. The City of Annapolis;
3. Anne Arundel County;
4. Baltimore City;
5. Baltimore County;
6. Calvert County;
7. Carroll County;

8. Charles County;
9. Dorchester County;
10. Frederick County;
11. Garrett County;
12. Harford County;
13. Howard County;
14. Kent County;
15. Montgomery County;
16. Prince George's County;
17. **QUEEN ANNE'S COUNTY;**
- 18. ST. MARY'S COUNTY;**
- ~~18.~~ **19.** Talbot County;
- [18.] ~~19.~~ **20.** Washington County;
- [19.] ~~20.~~ **21.** Wicomico County; and
- [20.] ~~21.~~ **22.** Worcester County.

(ii) The holder may sell at retail beer brewed under this license to customers for consumption off the licensed premises in refillable containers that are sealed by the micro-brewery licensee at the time of each refill.

(e) A holder of a Class 7 micro-brewery license:

(1) May not own, operate or be affiliated with any other manufacturer of beer except for a Class 2 rectifying license authorized by subsection (c)(1)(ii) of this section; and

(2) Notwithstanding § 2-201(b) of this subtitle, may not be granted a wholesale alcoholic beverages license.

(f) (1) Except as provided in paragraph (2) of this subsection, the hours and days for consumer sales under a Class 7 micro–brewery license are as established for:

(i) A Class B license in the respective jurisdictions listed in subsection (b)(2) of this section, for a holder of a Class B beer, wine and liquor license;

(ii) A Class D beer license in Worcester County, for a holder of a Class D beer license in the Town of Berlin in Worcester County; or

(iii) A Class D license in Kent County.

(2) For Class D licensees in the 22nd Alcoholic Beverages District in Prince George’s County only, the hours and days for consumer sales under this license are as established for a Class D license in Prince George’s County.

(3) For Class D licensees in Washington County, the hours and days for consumer sales under this license are as established for a Class D license in Washington County.

(g) In Montgomery County, a holder of a Class 7 micro–brewery license shall enter into a written agreement with the Department of Liquor Control for Montgomery County for the sale and resale of malt beverages brewed under this license in accordance with this article.

(h) For Talbot County, the Office of the Comptroller of Maryland shall specify which local license is the equivalent of the Class B beer, wine and liquor license specified in subsection (b)(3) of this section.

(i) In Carroll County, the distance restriction requirement for micro–breweries is found in § 9–207 of this article.

(j) (1) This subsection applies only in Washington County.

(2) The Comptroller may not issue a Class 7 micro–brewery license for a premises on property that has been leased unless the landlord of the property presents to the Comptroller a receipt or certificate showing that there are no unpaid taxes due to the State, a county, or any local government from the landlord or any entity in which the landlord has a direct or indirect interest that:

(i) Is proprietary; or

(ii) Has been obtained by a loan, mortgage, or lien, or in any other manner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 359

(House Bill 218)

AN ACT concerning

Physician Assistants – Performance of X-Ray Duties

FOR the purpose of providing for the circumstances under which a licensed physician assistant may perform certain X-ray duties; requiring a primary supervising physician to obtain certain approval from the Board of Physicians before a certain physician assistant performs certain X-ray procedures; and generally relating to the performance of X-ray duties by physician assistants.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–306(e) and 15–302(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

14–306.

(e) **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN [An]** individual may perform X-ray duties without a license only if the duties:

- (1) Do not include:
 - (i) Computerized or noncomputerized tomography;
 - (ii) Fluoroscopy;
 - (iii) Invasive radiology;
 - (iv) Mammography;
 - (v) Nuclear medicine;

- (vi) Radiation therapy; or
 - (vii) Xerography[.];
- (2) Are limited to X-ray procedures of the:
- (i) Chest, anterior–posterior and lateral;
 - (ii) Spine, anterior–posterior and lateral; or
 - (iii) Extremities, anterior–posterior and lateral, not including the head[.]; AND
- (3) Are performed:
- (i) By an individual who is not employed primarily to perform X-ray duties;
 - (ii) In the medical office of the physician who delegates the duties; and
 - (iii) **1.** By an individual who, before October 1, 2002, has:

[1.] **A.** Taken a course consisting of at least 30 hours of training in performing X-ray procedures approved by the Maryland Radiological Society in consultation with the Maryland Society of Radiologic Technologists; and

[2.] **B.** Successfully passed an examination based on that course that has been approved by the Maryland Radiological Society in consultation with the Maryland Society of Radiologic Technologists; **OR**

2. BY A LICENSED PHYSICIAN ASSISTANT WHO HAS COMPLETED A COURSE THAT INCLUDES ANTERIOR–POSTERIOR AND LATERAL RADIOGRAPHIC STUDIES OF EXTREMITIES ON AT LEAST 20 SEPARATE PATIENTS UNDER THE DIRECT SUPERVISION OF THE DELEGATING PHYSICIAN OR RADIOLOGIST USING A MINI C–ARM OR SIMILAR LOW–LEVEL RADIATION MACHINE TO PERFORM NONFLUOROSCOPIC X–RAY PROCEDURES, IF THE DUTIES:

A. INCLUDE ONLY THE X–RAY PROCEDURES DESCRIBED IN PARAGRAPH (2)(III) OF THIS SUBSECTION; AND

B. ARE PERFORMED PURSUANT TO A BOARD–APPROVED DELEGATION AGREEMENT THAT INCLUDES A REQUEST TO PERFORM ADVANCED DUTIES UNDER § 15–302(C)(2) OF THIS ARTICLE.

15-302.

(c) (1) The Board may not require prior approval of a delegation agreement that includes advanced duties, if an advanced duty will be performed in a hospital or ambulatory surgical facility, provided that:

(i) A physician, with credentials that have been reviewed by the hospital or ambulatory surgical facility as a condition of employment, as an independent contractor, or as a member of the medical staff, supervises the physician assistant;

(ii) The physician assistant has credentials that have been reviewed by the hospital or ambulatory surgical facility as a condition of employment, as an independent contractor, or as a member of the medical staff; and

(iii) Each advanced duty to be delegated to the physician assistant is reviewed and approved within a process approved by the governing body of the health care facility before the physician assistant performs the advanced duties.

(2) (I) In any setting that does not meet the requirements of paragraph (1) of this subsection, a primary supervising physician shall obtain the Board's approval of a delegation agreement that includes advanced duties, before the physician assistant performs the advanced duties.

(II) 1. BEFORE A PHYSICIAN ASSISTANT MAY PERFORM X-RAY DUTIES AUTHORIZED UNDER § 14-306(E) OF THIS ARTICLE IN THE MEDICAL OFFICE OF THE PHYSICIAN DELEGATING THE DUTIES, A PRIMARY SUPERVISING PHYSICIAN SHALL OBTAIN THE BOARD'S APPROVAL OF A DELEGATION AGREEMENT THAT INCLUDES ADVANCED DUTIES IN ACCORDANCE WITH SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH.

2. THE ADVANCED DUTIES SET FORTH IN A DELEGATION AGREEMENT UNDER THIS SUBPARAGRAPH SHALL BE LIMITED TO NONFLUOROSCOPIC X-RAY PROCEDURES OF THE EXTREMITIES, ANTERIOR-POSTERIOR AND LATERAL, NOT INCLUDING THE HEAD.

(3) Notwithstanding paragraph (1) of this subsection, a primary supervising physician shall obtain the Board's approval of a delegation agreement before the physician assistant may administer, monitor, or maintain general anesthesia or neuroaxial anesthesia, including spinal and epidural techniques, under the agreement.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 360

(House Bill 234)

AN ACT concerning

Transportation – Baltimore Corridor Red Line Transit Study

FOR the purpose of ~~updating the~~ repealing a reference to certain fiscal years included in the Maryland Consolidated Transportation Program referencing the transit project known as the “Baltimore Corridor Transit Study – Red Line” to continue to apply indefinitely certain provisions of law that specify certain factors that the Maryland ~~Transportation~~ Transit Administration, in conducting the transit project, must consider and that prohibit the Administration from acquiring certain real property under certain circumstances; requiring that certain considerations and prohibited acts related to the transit project be applied by the Administration in conjunction with Baltimore City; and generally relating to the Baltimore Corridor Transit Study.

BY repealing and reenacting, with amendments,
Chapter 2 of the Acts of the General Assembly of the 2006 Special Session, as amended by Chapter 570 of the Acts of the General Assembly of 2009
Section 1

BY repealing and reenacting, with amendments,
Chapter 3 of the Acts of the General Assembly of the 2006 Special Session, as amended by Chapter 570 of the Acts of the General Assembly of 2009
Section 1

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

Chapter 2 of the Acts of the 2006 Special Session, as amended by Chapter 570 of the Acts of 2009

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, in conducting the transit project referred to in the Maryland Consolidated Transportation Program ~~for fiscal years [2008 through 2013]~~ ~~2014 THROUGH 2019~~ as the Baltimore Corridor Transit Study – Red Line, the Maryland Transit Administration, IN CONJUNCTION WITH BALTIMORE CITY:

(1) Shall consider the establishment of a dedicated fund within the construction budget of the Red Line transit project to compensate property owners whose property is damaged during the construction of any Red Line project;

(2) Shall consider the redevelopment of the commercial areas surrounding the Baltimore Corridor Transit Study – Red Line area, in consultation with:

(i) The Department of Business and Economic Development;

(ii) The Department of General Services;

(iii) The University of Maryland Medical System;

(iv) The University of Maryland, Baltimore;

(v) The City of Baltimore;

(vi) Baltimore County;

(vii) The surrounding communities; and

(viii) The property owners and business owners of the area comprising the Baltimore Corridor Transit Study – Red Line; and

(3) Shall consider methods for providing preference in hiring for construction jobs for the construction of any Red Line transit project to:

(i) residents of legislative districts in which the Red Line transit project will be constructed; or

(ii) residents of legislative districts adjacent to those in which the Red Line transit project will be constructed; and

(4) May not acquire any real property for construction of the Red Line transit project, if the acquisition would result in involuntary residential displacement.

**Chapter 3 of the Acts of the 2006 Special Session, as amended by Chapter 570
of the Acts of 2009**

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, in conducting the transit project referred to in the Maryland Consolidated Transportation Program for fiscal years ~~[2008 through 2013]~~ ~~2014~~ ~~THROUGH 2019~~ as the Baltimore Corridor Transit Study – Red Line, the Maryland Transit Administration, IN CONJUNCTION WITH BALTIMORE CITY:

(1) Shall consider the establishment of a dedicated fund within the construction budget of the Red Line transit project to compensate property owners whose property is damaged during the construction of any Red Line project;

(2) Shall consider the redevelopment of the commercial areas surrounding the Baltimore Corridor Transit Study – Red Line area, in consultation with:

(i) The Department of Business and Economic Development;

(ii) The Department of General Services;

(iii) The University of Maryland Medical System;

(iv) The University of Maryland, Baltimore;

(v) The City of Baltimore;

(vi) Baltimore County;

(vii) The surrounding communities; and

(viii) The property owners and business owners of the area comprising the Baltimore Corridor Transit Study – Red Line; and

(3) Shall consider methods for providing preference in hiring for construction jobs for the construction of any Red Line transit project to:

(i) residents of legislative districts in which the Red Line transit project will be constructed; or

(ii) residents of legislative districts adjacent to those in which the Red Line transit project will be constructed; and

(4) May not acquire any real property for construction of the Red Line transit project, if the acquisition would result in involuntary residential displacement.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

AN ACT concerning

Property Tax – ~~Assessment Worksheets – Internet Access~~ Valuation of Residential Real Property – Database

FOR the purpose of requiring the State Department of Assessments and Taxation to maintain a database, available to the public on the Department's Web site, ~~of assessment worksheets and cards that relate~~ relates to the valuation of certain real property in the State and includes certain information; providing that assessment worksheets and cards may not include certain statements; and generally relating to a database, accessible to the public, of real property ~~assessment worksheets and cards~~ valuation information.

BY adding to

Article – Tax – Property
Section 14-201~~(e)~~ (b)(4)
Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Tax – Property

14-201.

~~(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT SHALL MAINTAIN A DATABASE, AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEB SITE AND SEARCHABLE BY INDIVIDUAL PROPERTY, OF ASSESSMENT WORKSHEETS AND CARDS THAT RELATE TO THE VALUATION OF REAL PROPERTY IN THE STATE.~~

~~(2) THE ASSESSMENT WORKSHEETS AND CARDS MADE ACCESSIBLE UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT INCLUDE INCOME AND EXPENSE STATEMENTS.~~

(B) (4) THE DEPARTMENT SHALL MAINTAIN A DATABASE, AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEB SITE AND SEARCHABLE BY INDIVIDUAL PROPERTY, THAT RELATES TO THE VALUATION OF SINGLE-FAMILY RESIDENTIAL REAL PROPERTY IN THE STATE AND INCLUDES FOR EACH PROPERTY:

(I) THE SQUARE FOOTAGE OF THE ENCLOSED IMPROVEMENTS ABOVE GROUND;

(II) THE SQUARE FOOTAGE OF THE COMPLETED IMPROVEMENTS BELOW GROUND;

(III) THE NUMBER OF BATHROOMS;

(IV) THE NUMBER OF GARAGES; AND

(V) THE DATE OF THE INITIAL ASSESSMENT OF THE MOST RECENTLY COMPLETED IMPROVEMENTS ASSESSED AFTER JULY 1, 2000 UNDER § 8-104(C)(1)(III) OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 362

(House Bill 238)

AN ACT concerning

Morgan State University – Board of Regents – Length and Limitation of Terms and Residency Requirement

FOR the purpose of altering the length of time of the term of office of a member of the Board of Regents of Morgan State University; setting a limit on the number of terms that ~~a member~~ ~~certain members~~ a member may serve; limiting the number of certain members who are not residents of Maryland; and generally relating to the terms and residency of members of the Board of Regents of Morgan State University.

BY repealing and reenacting, with amendments,
Article – Education
Section 14-102
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

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

Article – Education

14-102.

- (a) The government of the University is vested in the Board of Regents.
- (b) The Board of Regents consists of 15 members appointed by the Governor with the advice and consent of the Senate.
- (c) (1) One member of the Board of Regents shall be a student in good academic standing at the University who:
- (i) Is at least 18 years old; and
 - (ii) Has the qualifications required to be student body president.
- (2) The student member serves for a term of 1 year and until a successor is appointed and qualifies.
- (3) The student may be a resident of a state other than Maryland, but the residency status of the student may not be considered in determining the number of resident or nonresident regents as provided for in subsection (d)(2) of this section.
- (d) (1) **(I)** Except for the student member, each member serves for a term of [6] 5 years and until a successor is appointed and qualifies. The terms are staggered as required by the terms of the members serving on [July 1, 1978] **DECEMBER 31, 2012.**
- (II) ~~1. A EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, A~~ A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS OF 5 YEARS.**
- ~~2. THIS SUBPARAGRAPH DOES NOT APPLY TO A MEMBER WHO IS AN ELECTED OFFICIAL.~~**
- (2) Except for the student member, ~~at least 8 members of the Board of Regents shall be residents of the State~~ **NO MORE THAN 4 3 MEMBERS OF THE BOARD OF REGENTS WHO ARE NOT ALUMNI OF MORGAN STATE UNIVERSITY MAY BE RESIDENTS OF OTHER STATES.**
- (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.
- (e) Each member of the Board of Regents:
- (1) Serves without compensation; and
 - (2) Is entitled to reimbursement for expenses in accordance with the Standard State Travel Regulations.

SECTION 2. AND BE IT FURTHER ENACTED, That, ~~except for~~ a member of the Board of Regents of Morgan State University ~~who is an elected official, a member~~ who was appointed to the Board of Regents on or before December 31, 2012, may not serve, on completion of that term of office, more than one additional term of 5 years.

SECTION 3. AND BE IT FURTHER ENACTED, That the residency requirement in § 14–102(d)(2) of the Education Article, as enacted by this Act, does not apply to a member of the Board of Regents of Morgan State University who was appointed on or before December 31, 2012.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 363

(House Bill 250)

AN ACT concerning

Criminal Procedure – Victims’ Rights – Remedy and Priority of Restitution

FOR the purpose of expanding the applicability of certain appeal rights from a victim of a violent crime to a victim of a nonviolent crime; authorizing a certain victim to appeal to the Court of Special Appeals from a certain final order; ~~authorizing the court to stay certain other proceedings and actions upon motion of a certain victim or victim’s representative if all parties consent or the court finds that the accused’s right to a speedy trial or adjudication will not be violated;~~ providing that if the court finds that a victim’s right under a certain provision of law was not considered or was improperly denied, the court may grant the victim relief provided the remedy does not violate a certain constitutional right of a defendant or child respondent; prohibiting a court from providing a remedy that modifies a certain sentence or commitment unless the victim requests relief from a violation of the victim’s right within a certain number of days of the alleged violation; altering a provision of law so as to provide that payment of restitution to a victim has priority over any payments to any other person or governmental unit, subject to certain exceptions; providing for the application of this Act; and generally relating to enforcement of victims’ rights and priority of restitution.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–103 and 11–606

Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 11–617(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

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

Article – Criminal Procedure

11–103.

(a) (1) In this section, [“violent crime”] **“CRIME”** means:

- (i) a crime [of violence];
- (ii) a delinquent act that would be a crime [of violence] if committed by an adult; or
- (iii) except as provided in paragraph (2) of this subsection, a crime or delinquent act involving, causing, or resulting in death or serious bodily injury.

(2) [“Violent crime”] **“CRIME”** does not include an offense under the Maryland Vehicle Law or under Title 8, Subtitle 7 of the Natural Resources Article unless the offense is punishable by imprisonment.

(b) Although not a party to a criminal or juvenile proceeding, a victim of a [violent] crime for which the defendant or child respondent is charged may file an application for leave to appeal to the Court of Special Appeals from an interlocutory **ORDER** or **APPEAL TO THE COURT OF SPECIAL APPEALS FROM A** final order that denies or fails to consider a right secured to the victim by § 4–202 of this article, § 11–102, § 11–104, § 11–302, § 11–402, § 11–403, § 11–404, or § 11–603 of this title, § 3–8A–06, § 3–8A–13, or § 3–8A–19 of the Courts Article, or § 6–112 of the Correctional Services Article.

(c) ~~¶The filing of an application for leave to appeal under this section does not stay other proceedings in a criminal or juvenile case unless~~ ~~**IN THE INTEREST OF JUSTICE, A TRIAL OR APPELLATE COURT MAY STAY PROCEEDINGS AND ACTIONS IN A CRIMINAL OR JUVENILE CASE ON MOTION OF A VICTIM OR VICTIM’S REPRESENTATIVE IF:**~~

~~(1)~~ all parties consent; ~~OR~~

~~(2) THE COURT FINDS THAT THE ACCUSED'S RIGHTS TO A SPEEDY TRIAL OR ADJUDICATION WILL NOT BE VIOLATED.~~

(d) (1) For purposes of this section, a victim's representative, including the victim's spouse or surviving spouse, parent or legal guardian, child, or sibling, may represent a victim of a [violent] crime who dies or is disabled.

(2) If there is a dispute over who shall be the victim's representative, the court shall designate the victim's representative.

(e) (1) In any court proceeding involving a crime against a victim, the court shall ensure that the victim is in fact afforded the rights provided to victims by law.

(2) IF A COURT FINDS THAT A VICTIM'S RIGHT WAS NOT CONSIDERED OR WAS DENIED, THE COURT MAY GRANT THE VICTIM RELIEF PROVIDED THE REMEDY DOES NOT VIOLATE THE CONSTITUTIONAL RIGHT OF A DEFENDANT OR CHILD RESPONDENT TO BE FREE FROM DOUBLE JEOPARDY.

(3) A COURT MAY NOT PROVIDE A REMEDY THAT MODIFIES A SENTENCE OF INCARCERATION OF A DEFENDANT OR A COMMITMENT OF A CHILD RESPONDENT UNLESS THE VICTIM REQUESTS RELIEF FROM A VIOLATION OF THE VICTIM'S RIGHT WITHIN 30 DAYS OF THE ALLEGED VIOLATION.

~~[(2)]~~ (4) (i) A victim who alleges that the victim's right to restitution under § 11-603 of this title was not considered or was improperly denied may file a motion requesting relief within 30 days of the denial or alleged failure to consider.

(ii) If the court finds that the victim's right to restitution under § 11-603 of this title was not considered or was improperly denied, the court may enter a judgment of restitution.

11-606.

(a) The court may order that restitution be paid to:

(1) the victim;

(2) the Department of Health and Mental Hygiene, the Criminal Injuries Compensation Board, or any other governmental unit;

(3) a third-party payor, including:

- (i) an insurer; or
- (ii) any other person that has, under Part I of this subtitle:
 - 1. compensated the victim for a property or pecuniary loss; or
 - 2. paid an expense on behalf of a victim;
- (4) any person for whom restitution is authorized by law; or
- (5) a person who has provided to or for a victim goods, property, or services for which restitution is authorized under § 11-603 of this subtitle.

(b) (1) Subject to paragraph (2) of this subsection **AND § 11-617(B) OF THIS SUBTITLE**, payment of restitution to the victim has priority over [payment of restitution] **ANY PAYMENTS** to any other person or governmental unit.

(2) If the victim has been fully compensated for the victim's loss by a third-party payor, the court may issue a judgment of restitution that directs the restitution obligor to pay restitution to the third-party payor.

11-617.

(b) Subject to federal law, the order of priority of execution of an earnings withholding order is:

- (1) first, an earnings withholding order issued under § 10-128 of the Family Law Article;
- (2) second, an earnings withholding order issued under this section; and
- (3) lastly, any other lien or legal process.

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 an appeal pending or filed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 364**(House Bill 301)**

AN ACT concerning

St. Mary's County – Alcoholic Beverages – Class 6 Pub–Brewery License

FOR the purpose of authorizing the State Comptroller to issue a Class 6 pub–brewery license to a holder of a certain alcoholic beverages license that is issued for use on the premises of a restaurant located in St. Mary's County; and generally relating to the issuance of a Class 6 pub–brewery license in St. Mary's County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–207(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 2–207(b), (c), (d), (e), and (f)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article 2B – Alcoholic Beverages

2–207.

- (a) A Class 6 pub–brewery license shall be issued:
- (1) By the State Comptroller;
 - (2) Only to a holder of a Class B beer, wine and liquor (on–sale) license that is issued for use on the premises of a restaurant located in the jurisdictions permitted by this subsection;
 - (3) In the City of Annapolis; and
 - (4) Throughout the State, but not in the following subdivisions:
 - (i) Allegany County;
 - (ii) Caroline County;

- (iii) Howard County; AND
 - (iv) [St. Mary's County; and
 - (v)] Somerset County.
- (b) A holder of a Class 6 pub–brewery license:
- (1) May brew malt beverages at a single location for consumption on the restaurant premises; and
 - (2) Is limited to the brewing of 2,000 barrels of malt beverage each calendar year.
- (c) The pub–brewery premises shall be located immediately adjacent to the restaurant where the brewed beverage is to be sold to the public.
- (d) The Class 6 pub–brewery license is void if:
- (1) The restaurant ceases to be operated as a restaurant; or
 - (2) The holder's Class B beer, wine and liquor (on–sale) license is revoked or transferred to a different location.
- (e) If the holder's Class B beer, wine and liquor (on–sale) license is suspended, the Class 6 pub–brewery license shall be suspended for the same period of time.
- (f) Except for a license transferred to a new location, a Class 6 pub–brewery license may be transferred under § 10–503 of this article if an application for transfer is filed with the local licensing board and simultaneously filed with the Office of the Comptroller.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 365

(House Bill 303)

AN ACT concerning

Task Force to Study Point-of-Care Testing for Lead Poisoning

FOR the purpose of establishing the Task Force to Study Point-of-Care Testing for Lead Poisoning; providing for the composition, chair, and staffing 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 study and make recommendations regarding the use of and reimbursement for point-of-care testing to screen and identify children with elevated blood-lead levels; requiring the Task Force to report its findings and recommendations to the Governor and certain legislative committees on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to Study Point-of-Care Testing for Lead Poisoning.

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

- (a) There is a Task Force to Study Point-of-Care Testing for Lead Poisoning.
- (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) two members of the House of Delegates, appointed by the Speaker of the House;
 - (3) one representative of the Laboratories Administration and one representative of the Maryland Medical Assistance Program of the Department of Health and Mental Hygiene, appointed by the Secretary of Health and Mental Hygiene; and
 - (4) the following members, appointed by the Governor:
 - (i) one representative of the Maryland Chapter of the American Academy of Pediatrics;
 - (ii) one representative of the Laboratory Advisory Committee;
 - (iii) one representative of a Medicaid managed care organization;
 - (iv) two public health experts; and
 - (v) one representative of the Coalition to End Childhood Lead Poisoning.
- (c) The Governor shall designate the chair of the Task Force.

(d) The Department of Health and Mental Hygiene 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 and make recommendations regarding the use of and reimbursement for point-of-care testing to screen and identify children with elevated blood-lead levels; and

(2) include in its study:

(i) the benefits of point-of-care testing waived under the federal Clinical Laboratory Improvement Amendments;

(ii) the use of point-of-care testing in other states;

(iii) barriers to point-of-care testing, including regulatory barriers related to licensing of medical laboratories;

(iv) appropriate reimbursement for point-of-care testing and reporting; and

(v) any other items the Task Force considers important *relating to point-of-care testing*.

(g) On or before January 1, 2014, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Finance Committee and House Health and Government Operations Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. It shall remain effective for a period of 1 year 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 2, 2013.

Chapter 366**(House Bill 311)**

AN ACT concerning

**Crimes – Requirement to Report Death or Disappearance of Minor –
Penalties**

FOR the purpose of requiring, under certain circumstances, a parent or other person who has permanent care or custody or responsibility for the supervision of a minor under a certain age to notify, within a certain period of time, the appropriate law enforcement agency that the minor is a missing child; requiring, under certain circumstances, a parent or other person who has permanent care or custody or responsibility for the supervision of a minor to notify, within a certain period of time, the appropriate law enforcement agency or medical authority that the minor has died; establishing certain penalties; defining a certain term; and generally relating to a requirement to report the death or disappearance of a minor.

BY adding to

Article – Criminal Law

Section 3–608 and 3–609

Annotated Code of Maryland

(2012 Replacement Volume and 2012 Supplement)

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

Article – Criminal Law

3–608.

(A) IN THIS SECTION, “MISSING CHILD” MEANS A MINOR WHOSE WHEREABOUTS ARE UNKNOWN TO A PARENT OR OTHER PERSON WHO HAS PERMANENT CARE AND CUSTODY OR RESPONSIBILITY FOR THE SUPERVISION OF THE MINOR.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PARENT OR OTHER PERSON WHO HAS PERMANENT CARE OR CUSTODY OR RESPONSIBILITY FOR THE SUPERVISION OF A MINOR UNDER THE AGE OF 13 YEARS MAY NOT RECKLESSLY OR WILLFULLY FAIL TO NOTIFY THE APPROPRIATE LAW ENFORCEMENT AGENCY THAT THE MINOR IS A MISSING CHILD WITHIN 24 HOURS OF THE TIME AT WHICH THE PARENT OR OTHER PERSON KNEW OR SHOULD HAVE KNOWN THAT THE MINOR IS A MISSING CHILD.

(C) THIS SECTION DOES NOT APPLY IF THE FACT THAT THE MINOR IS A MISSING CHILD HAS ALREADY BEEN REPORTED TO THE APPROPRIATE LAW ENFORCEMENT AGENCY.

(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS.

3-609.

(A) UNLESS THE DEATH OF A MINOR HAS ALREADY BEEN REPORTED TO THE APPROPRIATE LAW ENFORCEMENT AGENCY OR MEDICAL AUTHORITY, A PARENT OR OTHER PERSON WHO HAS PERMANENT CARE OR CUSTODY OR RESPONSIBILITY FOR THE SUPERVISION OF A MINOR SHALL REPORT THE DEATH OF THE MINOR TO THE APPROPRIATE LAW ENFORCEMENT AGENCY OR MEDICAL AUTHORITY WITHIN 5 HOURS OF BECOMING AWARE OF THE DEATH.

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 367

(House Bill 333)

AN ACT concerning

Family Investment Program – Couples Advancing Together Pilot Program

FOR the purpose of requiring the Secretary of Human Resources to establish the Couples Advancing Together Pilot Program in the Department of Human Resources; requiring the Program to be established for a certain number of couples in at least a certain number of counties in the State in order to assist the participating couples to move toward stable relationships and family friendly employment; requiring the Secretary to cooperate with certain local directors of social services and to consult with the Commission on Responsible Fatherhood regarding the establishment of the Program; establishing the intent of the Program; providing for the components of the Program including the implementation of certain policies and procedures in certain local departments,

the development of a certain referral process or certain integrated partnerships for certain couples, and the implementation of certain program requirements; establishing certain age requirements for eligibility to participate in the Program; requiring the Secretary to attempt to access certain federal grants and funds; requiring the Secretary to submit a certain annual report to the Senate Finance Committee and the House Appropriations Committee; providing for the contents of the annual report; requiring the Secretary to submit a certain report to the Senate Finance Committee and the House Appropriations Committee on the Department's efforts to secure certain federal grants and funds; defining a certain term; providing for the termination of this Act; and generally relating to the Couples Advancing Together Pilot Program and the Family Investment Program.

BY adding to

Article – Human Services

Section 5–318.1

Annotated Code of Maryland

(2007 Volume and 2011 Supplement)

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

Article – Human Services

5–318.1.

(A) IN THIS SECTION, “PROGRAM” MEANS THE COUPLES ADVANCING TOGETHER PILOT PROGRAM IN THE DEPARTMENT.

(B) (1) IN COOPERATION WITH THE LOCAL DIRECTORS AND IN CONSULTATION WITH THE COMMISSION ON RESPONSIBLE FATHERHOOD, THE SECRETARY SHALL ESTABLISH A COUPLES ADVANCING TOGETHER PILOT PROGRAM.

(2) THE PURPOSE OF THE PROGRAM IS TO ASSIST 100 COUPLES THAT QUALIFY AS A FAMILY ELIGIBLE FOR THE FIP TO MOVE TOWARD STABLE RELATIONSHIPS AND FAMILY FRIENDLY EMPLOYMENT, FOR ONE OR BOTH ~~PARTNERS~~ PARENTS OF A CHILD WHO RESIDES WITH THE FAMILY, IN ORDER TO IMPROVE THEIR ECONOMIC CIRCUMSTANCES AND PROVIDE SUPPORT FOR LASTING FAMILY UNITS.

(3) THE PROGRAM SHALL BE ESTABLISHED IN AT LEAST THREE COUNTIES.

(C) THE PROGRAM SHALL INCLUDE, IN ADDITION TO THE FIP REQUIREMENTS FOR RECIPIENTS UNDER § 5-309(B) OF THIS SUBTITLE:

(1) IMPLEMENTATION OF POLICIES AND PROCEDURES IN THE LOCAL DEPARTMENT THAT ENCOURAGE INCREASED PARTICIPATION OF FATHERS AT THE BEGINNING OF THE PROCESS FOR DETERMINING THE ELIGIBILITY OF A FAMILY OR CUSTODIAL PARENT FOR FIP BENEFITS, INCLUDING TEMPORARY CASH ASSISTANCE, UNLESS THE DEPARTMENT HAS REASON TO BELIEVE THE FATHER HAS A HISTORY OF DOMESTIC VIOLENCE;

(2) DEVELOPMENT OF A LOCAL DEPARTMENT REFERRAL PROCESS OR INTEGRATED PARTNERSHIPS WITH OTHER LOCAL OR STATE AGENCIES THROUGH WHICH COUPLES MAY JOINTLY ACCESS PROGRAMS AND SERVICES THAT TARGET ECONOMIC STABILITY, HEALTHY RELATIONSHIPS, AND PARENTING; AND

(3) IMPLEMENTATION OF THE PROGRAM REQUIREMENTS UNDER SUBSECTION (D) OF THIS SECTION.

(D) (1) THE PROGRAM SHALL INCLUDE A 6-WEEK PARTICIPATION PERIOD DURING WHICH COUPLES RECEIVE EDUCATION ON, AND ARE PROVIDED WITH THE TOOLS NEEDED FOR, ACHIEVING SUCCESS AT HOME, IN THE WORKPLACE, AND IN SOCIETY.

(2) WITH THE ASSISTANCE OF SUBJECT MATTER EXPERTS IDENTIFIED BY THE SECRETARY AND LOCAL DIRECTORS, COUPLES SHALL:

(I) DEVELOP A WRITTEN FAMILY-FOCUSED CAREER PLAN;

(II) LEARN SKILLS THAT ARE REQUIRED TO COMPETE IN THE JOB MARKET; AND

(III) ATTEND COUPLES-FOCUSED GROUP SESSIONS THAT:

1. TEACH SKILLS IN EMPLOYMENT AND FINANCIAL LITERACY;

2. AID COUPLES IN ACHIEVING ECONOMIC STABILITY; AND

3. BUILD HEALTHY RELATIONSHIPS.

(E) TO BE ELIGIBLE TO PARTICIPATE IN THE PROGRAM, AN INDIVIDUAL MUST BE AN ADULT UNDER THE AGE OF 36 YEARS.

(F) IN ADDITION TO ANY OTHER FUNDS AVAILABLE TO FUND THE PROGRAM, THE SECRETARY SHALL ATTEMPT TO ACCESS FUNDS FROM:

(1) DISCRETIONARY GRANTS AVAILABLE FROM THE FEDERAL OFFICE OF CHILD SUPPORT ENFORCEMENT;

(2) RESPONSIBLE FATHERHOOD AND HEALTHY MARRIAGE GRANTS AVAILABLE FROM THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF FAMILY ASSISTANCE; AND

(3) ANY OTHER FUNDS AVAILABLE IN THE FEDERAL BUDGET CONCERNING FATHERHOOD OR HEALTHY MARRIAGE INITIATIVES.

(G) THE SECRETARY SHALL REPORT ANNUALLY TO THE SENATE FINANCE COMMITTEE AND THE HOUSE APPROPRIATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE EFFECTIVENESS OF THE PROGRAM, INCLUDING:

(1) THE NUMBER OF COUPLES PARTICIPATING IN THE PROGRAM;

(2) THE NUMBER OF COUPLES SUCCESSFULLY COMPLETING THE PROGRAM; ~~AND~~

(3) FACTORS THAT AFFECT PROGRAM PARTICIPATION;

(4) THE NUMBER OF PARTICIPANTS WHO OBTAIN EMPLOYMENT;

AND

(5) FOR EACH PARTICIPANT WHO OBTAINS EMPLOYMENT:

(I) THE TYPE OF EMPLOYMENT OBTAINED;

(II) THE NUMBER OF HOURS IN THE PARTICIPANT'S WORKWEEK;

(III) THE PARTICIPANT'S HOURLY RATE OF PAY; AND

(IV) ANY BENEFITS RECEIVED BY THE PARTICIPANT.

SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of Human Resources shall report on or before October 1, 2013, to the Senate Finance Committee and the House Appropriations Committee, in accordance with § 2-1246 of the State Government Article, on the Department of Human Resources efforts to secure funding

for the Couples Advancing Together Pilot Program from federal grants or other funds available in the federal budget under Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013. It shall remain effective for a period of 2 years and 1 month and, at the end of June 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 2, 2013.

Chapter 368

(House Bill 361)

AN ACT concerning

Health Insurance – Conformity with and Implementation of Federal Patient Protection and Affordable Care Act

FOR the purpose of establishing certain fees for an initial SHOP Exchange navigator license, a license renewal, and a license reinstatement; providing that certain provisions of the federal Patient Protection and Affordable Care Act relating to annual limitations on cost sharing and deductibles ~~and to~~ child-only plan offerings, minimum benefit requirements for catastrophic plans, health insurance premium rates, coverage for individuals participating in approved clinical trials, and contract requirements for certain dental plans apply to certain coverage in certain insurance markets; altering the definition of “child dependent” for purposes of certain provisions of law that require certain policies and contracts to provide certain health insurance coverage and benefits to child dependents; providing that certain provisions of law relating to preexisting condition provisions apply to certain carriers for health benefit plan years that begin before a certain date; providing that certain provisions of law relating to exclusionary riders apply to individual health benefit plans issued or delivered in the State before a certain date; altering the limits on incentives for certain wellness programs; repealing a requirement that the Maryland Insurance Commissioner transmit certain information to the Maryland Health Care Commission on or before a certain date each year; providing for a certain exception from the requirement that an insurer, a nonprofit health service plan, or a health maintenance organization take certain action in relation to a certain claim within a certain number of days; repealing certain ~~disclosure requirements for~~ provisions of law regarding certain out-of-state association contracts; conforming the definition of “small employer” for purposes of provisions of law governing the small group insurance market to the definition used in provisions of law governing the Maryland Health Benefit Exchange; prohibiting certain carriers from imposing a minimum participation

requirement for a qualified employer or a small employer group under certain circumstances; providing that certain provisions of law relating to the Comprehensive Standard Health Benefit Plan offered in the small group insurance market apply only to certain plans beginning on a certain date; providing that certain special enrollment periods apply to certain eligible employees; ~~altering the circumstances under which a carrier must allow a certain employee or dependent to enroll for coverage under a certain health benefit plan; altering the minimum number of days in a certain special enrollment period; altering the time at which certain coverage becomes effective;~~ requiring certain carriers to establish a standardized annual open enrollment period for each small employer in the small group insurance market; specifying the minimum number of days in the annual open enrollment period and when it must occur; specifying the actions an eligible employee of the small employer must be permitted to take during the annual open enrollment period; requiring certain carriers to provide a certain open enrollment period for an employee who becomes an eligible employee outside the initial or annual open enrollment period; requiring certain carriers to provide certain open enrollment periods for individuals who experience certain triggering events; altering the requirements a small employer must meet to be covered under a health benefit plan offered by a carrier in the small group insurance market; providing that certain provisions of law relating to increasing access to care choices or lowering the cost-sharing arrangement in the Standard Health Benefit Plan apply only to certain grandfathered health plans beginning on a certain date; altering the scope of certain provisions of law governing carriers that offer health benefit plans to individuals in the State; repealing a certain provision of law that authorizes a carrier to cancel health insurance coverage made available in the individual market only through certain associations under certain circumstances; adding an exception to the prohibition on canceling or refusing to renew an individual health benefit plan where a carrier discontinues offering a particular type of health insurance coverage, under certain circumstances; requiring certain qualified health plans issued on or after a certain date by certain carriers to include a certain grace period provision; requiring and authorizing the carriers to take certain actions during the grace period; requiring certain carriers that sell certain health benefit plans to individuals in the State to establish a certain annual enrollment period; specifying the actions an individual must be permitted to take during the annual open enrollment period; specifying the effective date of coverage for an individual who enrolls in a health benefit plan during the annual open enrollment period; authorizing certain individuals to enroll in a health benefit plan or change from one health benefit plan in the Individual Exchange to another health benefit plan in the Individual Exchange a certain number of times per month; requiring a carrier to provide a limited open enrollment period for certain individuals; requiring coverage for certain individuals to be effective in accordance with certain federal requirements; authorizing a health maintenance organization to establish a certain limit and to deny coverage to individuals under certain circumstances; prohibiting a health maintenance organization that denies coverage under certain circumstances from offering coverage in the individual market within a

certain area for a certain period of time; authorizing a carrier to deny a health benefit plan to an individual under certain circumstances; prohibiting a carrier that denies a health benefit plan to an individual from offering coverage in the individual market for a certain period of time; providing that the prohibition on health maintenance organizations and carriers offering coverage in the individual market does not limit the ability to renew certain coverage or relieve certain responsibility; providing that the guaranteed issuance of coverage provision of the Affordable Care Act applies to each health benefit plan with a plan year that begins on or after a certain date; authorizing the Commissioner to deny a SHOP Exchange navigator license under certain circumstances; requiring carriers in the small group insurance market to set premium rates for the entire plan year for each small employer; requiring a carrier that sells health benefit plans to individuals in the State to establish a certain initial open enrollment period; requiring the carrier to accept all applicants who apply during the initial open enrollment period; specifying when coverage for an applicant must begin; repealing the termination date of certain provisions of law relating to health insurance policies for certain self-employed individuals in the small group insurance market; altering certain definitions; defining certain terms; making conforming changes; providing for the effective dates of this Act; and generally relating to health insurance and implementation of the federal Patient Protection and Affordable Care Act.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 2–112(a)(6), 15–137.1, 15–418, 15–508, 15–508.1, 15–509(b), 15–605(f) and (g), 15–1005(c), ~~15–1105~~, 15–1201, 15–1206, 15–1208.1, 15–1209, 15–1213, 15–1301, 15–1302, ~~15–1309(b)(5) and (6)~~ 15–1309(b)(6), 31–101(z), and 31–112(e)(1)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY repealing

Article – Insurance

Section 15–605(e) ~~and 15–1203~~, 15–1105, and 15–1203

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY adding to

Article – Insurance

Section 15–1207(h), 15–1208.2, ~~15–1309(b)(7)~~, 15–1315, 15–1316, 15–1317, ~~and~~ 15–1410, and 31–101(e–1)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY adding to

Article – Insurance

Section 15–1205(h)

Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)
(As enacted by Chapter 152 of the Acts of the General Assembly of 2012)

BY repealing and reenacting, without amendments,
Chapter 347 of the Acts of the General Assembly of 2005, as amended by
Chapter 59 of the Acts of the General Assembly of 2007
Section 2

BY repealing and reenacting, with amendments,
Chapter 347 of the Acts of the General Assembly of 2005, as amended by
Chapter 76 of the Acts of the General Assembly of 2008 and Chapter 104
of the Acts of the General Assembly of 2011
Section 4

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

Article – Insurance

2–112.

(a) Fees for the following certificates, licenses, and services shall be collected
in advance by the Commissioner, and shall be paid by the appropriate persons to the
Commissioner:

(6) fees for licenses:

(i) public adjuster license:

- 1. fee for initial license within 1 year of renewal..... \$25
- 2. fee for initial license over 1 year from renewal..... \$50
- 3. biennial renewal fee \$50

(ii) adviser license:

- 1. fee for initial license within 1 year of renewal..... \$100
- 2. fee for initial license over 1 year from renewal..... \$200
- 3. biennial renewal fee \$200

(iii) insurance producer license:

- 1. fee for initial license \$54

2. biennial renewal fee \$54

(IV) SHOP EXCHANGE NAVIGATOR LICENSE:

1. FEE FOR INITIAL LICENSE \$54

2. BIENNIAL RENEWAL FEE..... \$54

3. FEE FOR REINSTATEMENT OF LICENSE \$100

[(iv)] (V) application fee \$25

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

Article – Insurance

15–137.1.

(a) Notwithstanding any other provisions of law, the following provisions of Title I, Subtitles A [and], C, AND D of the Affordable Care Act apply to individual health insurance coverage and health insurance coverage offered in the small group and large group markets, as those terms are defined in the federal Public Health Service Act, issued or delivered in the State by an authorized insurer, nonprofit health service plan, or health maintenance organization:

- (1) coverage of children up to the age of 26 years;
- (2) preexisting condition exclusions;
- (3) policy rescissions;
- (4) bona fide wellness programs;
- (5) lifetime limits;
- (6) annual limits for essential benefits;
- (7) waiting periods;
- (8) designation of primary care providers;
- (9) access to obstetrical and gynecological services;
- (10) emergency services;

- (11) summary of benefits and coverage explanation;
- (12) minimum loss ratio requirements and premium rebates; [and]
- (13) disclosure of information;
- (14) ANNUAL LIMITATIONS ON COST SHARING; ~~AND~~
- (15) CHILD-ONLY PLAN OFFERINGS IN THE INDIVIDUAL MARKET;
- (16) MINIMUM BENEFIT REQUIREMENTS FOR CATASTROPHIC PLANS;
- (17) HEALTH INSURANCE PREMIUM RATES;
- (18) COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS; AND
- (19) CONTRACT REQUIREMENTS FOR STAND-ALONE DENTAL PLANS SOLD ON THE MARYLAND HEALTH BENEFIT EXCHANGE.

(B) THE ANNUAL LIMITATION ON DEDUCTIBLES FOR THE EMPLOYER-SPONSORED PLANS PROVISION OF TITLE I, SUBTITLE D OF THE AFFORDABLE CARE ACT APPLIES TO HEALTH INSURANCE COVERAGE OFFERED IN THE SMALL GROUP MARKET, AS DEFINED IN THE FEDERAL PUBLIC HEALTH SERVICE ACT, ISSUED OR DELIVERED IN THE STATE BY AN AUTHORIZED INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION.

[(b)] (C) The provisions of [subsection] SUBSECTIONS (a) AND (B) of this section do not apply to coverage for excepted benefits, as defined in 45 C.F.R. § 146.145(c).

[(c)] (D) The Commissioner may enforce this section under any applicable provisions of this article.

15-418.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Carrier” means:
 - (i) an insurer;

- (ii) a nonprofit health service plan; or
 - (iii) a health maintenance organization.
- (3) “Child dependent” means an individual who:
- (i) is:
 - 1. the [natural child, stepchild, adopted child, or] grandchild of the insured; **OR**
 - 2. [a child placed with the insured for legal adoption; or
 - 3.] a child who is entitled to dependent coverage under § 15–403.1 of this subtitle;
 - (ii) [is a dependent of the insured as that term is used in 26 U.S.C. §§ 104, 105, and 106, and any regulations adopted under those sections;
 - (iii)] is unmarried; and
 - [(iv)] **(III)** is under the age of 25 years.
- (b) (1) This section applies to:
- (i) each policy of individual or group health insurance that is issued in the State;
 - (ii) each contract that is issued in the State by a nonprofit health service plan; and
 - (iii) each contract that is issued in the State by a health maintenance organization.
- (2) Notwithstanding paragraph (1) of this subsection, this section does not apply to:
- (i) a contract covering one or more, or any combination of the following:
 - 1. coverage only for loss caused by an accident;
 - 2. disability coverage;
 - 3. credit-only insurance; or

4. long-term care coverage; or
- (ii) the following benefits if they are provided under a separate contract:
1. dental coverage;
 2. vision coverage;
 3. Medicare supplement insurance;
 4. coverage limited to benefits for a specified disease or diseases;
 5. travel accident or sickness coverage; and
 6. fixed indemnity limited benefit insurance that does not provide benefits on an expense incurred basis.

(c) Each policy or contract subject to this section that provides coverage for dependents shall:

- (1) include coverage for a child dependent;
- (2) provide the same health insurance benefits to a child dependent that are available to any other covered dependent; and
- (3) provide health insurance benefits to a child dependent at the same rate or premium applicable to any other covered dependent.

(d) This section does not limit or alter any right to dependent coverage or to the continuation of coverage that is otherwise provided for in this article.

15-508.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Carrier” has the meaning stated in § 15-1301 of this title.
 - (3) “Enrollment date” has the meaning stated in § 15-1301 of this title.

(4) **“PLAN YEAR” MEANS A CALENDAR YEAR OR OTHER CONSECUTIVE 12-MONTH PERIOD DURING WHICH A HEALTH BENEFIT PLAN PROVIDES COVERAGE FOR HEALTH BENEFITS.**

[(4)] (5) “Policy or certificate” means any group or blanket health insurance contract or policy that is issued or delivered in the State by an insurer or nonprofit health service plan that provides hospital, medical, or surgical benefits on an expense-incurred basis.

[(5)] (6) “Preexisting condition provision” has the meaning stated in § 15–1301 of this title.

[(6)] (7) “Late enrollee” has the meaning stated in § 15–1401 of this title.

(b) **(1)** This section does not apply to a policy or certificate issued to an individual in accordance with Subtitle 13 of this title.

(2) THIS SECTION APPLIES TO CARRIERS FOR PLAN YEARS THAT BEGIN BEFORE JANUARY 1, 2014.

(c) Except as otherwise provided in subsection (d) of this section, a carrier may impose a preexisting condition provision only if it:

(1) relates to a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the enrollment date;

(2) extends for a period of not more than 12 months after the enrollment date or 18 months in the case of a late enrollee; and

(3) is reduced by the aggregate of the periods of creditable coverage, as defined in Subtitle 14 of this title.

(d) **(1)** Subject to paragraph (4) of this subsection, a carrier may not impose any preexisting condition provision on an individual who, as of the last day of the 30-day period beginning with the date of birth, is covered under creditable coverage.

(2) Subject to paragraph (4) of this subsection, a carrier may not impose any preexisting condition provisions on a child who:

(i) is adopted or placed for adoption before attaining 18 years of age; and

(ii) as of the last day of the 30-day period beginning on the date of adoption or placement for adoption, is covered under creditable coverage.

(3) A carrier may not impose any preexisting condition provisions relating to pregnancy.

(4) Paragraphs (1) and (2) of this subsection do not apply to an individual after the end of the first 63-day period during all of which the individual was not covered under any creditable coverage.

15-508.1.

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

(2) “Carrier” means an insurer or a nonprofit health service plan.

(3) “Creditable coverage” has the meaning stated in § 15-1301 of this title.

(4) “Exclusionary rider” means an endorsement to an individual health benefit plan that excludes benefits for one or more named conditions that are discovered by a carrier during the underwriting process.

(5) “Health benefit plan” has the meaning stated in § 15-1301 of this title.

(6) “Individual health benefit plan” means a health benefit plan issued by a carrier that insures:

(i) only one individual; or

(ii) one individual and one or more family members of the individual.

(B) THIS SECTION APPLIES TO INDIVIDUAL HEALTH BENEFIT PLANS THAT ARE ISSUED OR DELIVERED IN THE STATE BEFORE JANUARY 1, 2014.

[(b)] (C) A carrier may not attach an exclusionary rider to an individual health benefit plan unless the carrier obtains the prior written consent of the policyholder.

[(c)] (D) Except as provided in subsection **[(d)] (E)** of this section, a carrier may impose a preexisting condition exclusion or limitation on an individual for a condition that was not discovered during the underwriting process for an individual health benefit plan only if the exclusion or limitation:

(1) relates to a condition of the individual, regardless of its cause, for which medical advice, diagnosis, care, or treatment was recommended or received within the 12-month period immediately preceding the effective date of the individual’s coverage;

(2) extends for a period of not more than 12 months after the effective date of the individual's coverage; and

(3) is reduced by the aggregate of any applicable periods of creditable coverage.

[(d)] (E) (1) Subject to paragraph (2) of this subsection, a carrier may not impose a preexisting condition exclusion or limitation on an individual who, as of the last day of the 30-day period beginning with the date of the individual's birth, is covered under any creditable coverage.

(2) The limitation on the imposition of a preexisting condition exclusion or limitation under paragraph (1) of this subsection does not apply after the end of the first 63-day period during all of which the individual was not covered under any creditable coverage.

15-509.

(b) (1) A carrier may provide reasonable incentives to an individual who is an insured, a subscriber, or a member for participation in a bona fide wellness program offered by the carrier if:

(i) the carrier does not make participation in the bona fide wellness program a condition of coverage under a policy or contract;

(ii) participation in the bona fide wellness program is voluntary and a penalty is not imposed on an insured, subscriber, or member for nonparticipation;

(iii) the carrier does not market the bona fide wellness program in a manner that reasonably could be construed to have as its primary purpose the provision of an incentive or inducement to purchase coverage from the carrier; and

(iv) the bona fide wellness program does not condition an incentive on an individual satisfying a standard that is related to a health factor.

(2) Notwithstanding paragraph (1)(iv) of this subsection, a carrier may condition an incentive for a bona fide wellness program on an individual satisfying a standard that is related to a health factor if:

(i) 1. all incentives for participation in the bona fide wellness program do not exceed [20%] **30%** of the cost of employee-only coverage under the plan, **EXCEPT THAT THE APPLICABLE PERCENTAGE IS INCREASED BY AN ADDITIONAL 20 PERCENTAGE POINTS TO THE EXTENT THAT THE ADDITIONAL PERCENTAGE IS IN CONNECTION WITH A PROGRAM DESIGNED TO PREVENT OR REDUCE TOBACCO USE;** or

2. when the plan provides coverage for family members, all incentives for participation in the bona fide wellness program do not exceed [20%] 30% of the cost of the coverage in which the family members are enrolled, EXCEPT THAT THE APPLICABLE PERCENTAGE IS INCREASED BY AN ADDITIONAL 20 PERCENTAGE POINTS TO THE EXTENT THAT THE ADDITIONAL PERCENTAGE IS IN CONNECTION WITH A PROGRAM DESIGNED TO PREVENT OR REDUCE TOBACCO USE;

(ii) the bona fide wellness program is reasonably designed to promote health or prevent disease, as provided under subsection (c) of this section;

(iii) the bona fide wellness program gives individuals eligible for the bona fide wellness program the opportunity to qualify for the incentive under the bona fide wellness program at least once a year;

(iv) the bona fide wellness program is available to all similarly situated individuals; and

(v) individuals are provided a reasonable alternative standard or a waiver of the standard as required under subsection (d)(1) of this section.

15-605.

[(e) (1) On or before May 1 of each year, the Commissioner shall transmit to the Maryland Health Care Commission any information it needs to evaluate the Comprehensive Standard Health Benefit Plan as required under § 15-1207 of this title.

(2) The information provided by the Commissioner shall be specified in regulations adopted by the Commissioner in consultation with the Maryland Health Care Commission.]

[(f) (E) (1) (i) On or before March 1 of each year, unless, for good cause shown, the Commissioner extends the time for a reasonable period, each managed care organization shall file with the Commissioner a report that shows the financial condition of the managed care organization on the last day of the preceding calendar year and any other information that the Commissioner requires by bulletin or regulation.

(ii) At any time, the Commissioner may require a managed care organization to file an interim statement containing the information that the Commissioner considers necessary.

(iii) The annual and interim reports shall be filed in a form required by the Commissioner.

(2) (i) Except as provided in paragraph (3) of this subsection on or before June 1 of each year, each managed care organization shall file with the Commissioner an audited financial report for the preceding calendar year.

(ii) The audited financial report shall:

1. be filed in a form required by the Commissioner; and
2. be certified by an audit of an independent certified public accountant.

(3) With 90 days' advance notice, the Commissioner may require a managed care organization to file an audited financial report earlier than the date specified in paragraph (2) of this subsection.

[(g)] (F) Each financial report filed under this section is a public record.

15-1005.

(c) EXCEPT AS PROVIDED IN § 15-1315 OF THIS TITLE, [Within] WITHIN 30 days after receipt of a claim for reimbursement from a person entitled to reimbursement under § 15-701(a) of this title or from a hospital or related institution, as those terms are defined in § 19-301 of the Health – General Article, an insurer, nonprofit health service plan, or health maintenance organization shall:

(1) mail or otherwise transmit payment for the claim in accordance with this section; or

(2) send a notice of receipt and status of the claim that states:

(i) that the insurer, nonprofit health service plan, or health maintenance organization refuses to reimburse all or part of the claim and the reason for the refusal;

(ii) that, in accordance with § 15-1003(d)(1)(ii) of this subtitle, the legitimacy of the claim or the appropriate amount of reimbursement is in dispute and additional information is necessary to determine if all or part of the claim will be reimbursed and what specific additional information is necessary; or

(iii) that the claim is not clean and the specific additional information necessary for the claim to be considered a clean claim.

~~15-1105.~~

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

~~(2) “Carrier” means:~~

~~(i) an insurer; or~~

~~(ii) a nonprofit health service plan.~~

~~(3) “Eligible individual” means a Maryland resident who has membership in an association.~~

~~(4) “Evidence of individual insurability” means medical or other information that indicates health status, used to determine whether coverage of an individual is to be:~~

~~(i) issued or denied; or~~

~~(ii) issued with or without an exclusionary rider.~~

~~(5) “Health benefit plan” has the meaning stated in § 15-1301 of this title.~~

~~(6) “Health status related factor” has the meaning stated in § 15-1201 of this title.~~

~~(7) “Individual health insurance contract” means a health benefit plan that is issued or delivered in the State to an individual.~~

~~(8) “Member” means an eligible individual who purchases coverage under an out of state association contract.~~

~~(9) “Out of state association contract” means a health benefit plan that is issued or delivered to an association outside the State.~~

~~(b) This section applies to a carrier that requires evidence of individual insurability for coverage under an out of state association contract.~~

~~(c) A carrier shall disclose to a Maryland resident applying for coverage under an out of state association contract:~~

~~(1) that coverage is conditioned on membership in the association that holds the out of state association contract;~~

~~(2) all costs related to joining and maintaining membership in the association;~~

~~(3) that membership fees or dues are in addition to the premium for coverage under the out of state association contract;~~

~~(4) that the terms and conditions of coverage under the out of state association contract are determined by the association and the carrier; AND~~

~~(5) [the mandated benefits required under Subtitle 8 of this title that are not included in the out of state association contract;~~

~~(6) that the Maryland resident may purchase an individual health benefit plan that includes the mandated benefits under Subtitle 8 of this title that are not included in the out of state association contract from a carrier licensed and authorized to do business in the State;~~

~~(7) that benefits offered under the out of state association contract are not regulated by the Commissioner; and~~

~~(8)] that the terms and conditions of coverage under the out of state association contract may be changed by agreement of the association and the carrier without the consent of a member.~~

~~(d) (1) The Commissioner may require a carrier that offers coverage under an out of state association contract to report, on or before March 1 of each year, the number of Maryland residents covered in the preceding calendar year under the out of state association contract.~~

~~(2) The data required under paragraph (1) of this subsection shall be reported in a manner determined by the Commissioner.~~

~~(e) If a carrier collects membership fees or dues on behalf of an association, the carrier shall disclose on the enrollment application for an out of state association contract that the carrier bills and collects membership fees and dues on behalf of the association.~~

15-1201.

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

(b) "Board" means the Board of Directors of the Pool established under § 15-1216 of this subtitle.

(c) "Carrier" means a person that:

(1) offers health benefit plans in the State covering eligible employees of small employers; and

(2) is:

(i) an authorized insurer that provides health insurance in the State;

(ii) a nonprofit health service plan that is licensed to operate in the State;

(iii) a health maintenance organization that is licensed to operate in the State; or

(iv) any other person or organization that provides health benefit plans subject to State insurance regulation.

(d) “Commission” means the Maryland Health Care Commission established under Title 19, Subtitle 1 of the Health – General Article.

[(e) (1) “Eligible employee” means:

(i) an individual who:

1. is an employee, partner of a partnership, or independent contractor who is included as an employee under a health benefit plan; and

2. works on a full-time basis and has a normal workweek of at least 30 hours; or

(ii) a sole employee of a nonprofit organization that has been determined by the Internal Revenue Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code who:

1. has a normal workweek of at least 20 hours; and

2. is not covered under a public or private plan for health insurance or other health benefit arrangement.

(2) “Eligible employee” does not include an individual who works:

(i) on a temporary or substitute basis; or

(ii) except for an individual described in paragraph (1)(ii) of this subsection, for less than 30 hours in a normal workweek.]

(E) “COVERAGE LEVEL” HAS THE MEANING STATED IN § 31-101 OF THIS ARTICLE.

(F) (1) “ELIGIBLE EMPLOYEE” MEANS AN EMPLOYEE WHO IS OFFERED COVERAGE UNDER A HEALTH BENEFIT PLAN BY A SMALL EMPLOYER.

(2) “ELIGIBLE EMPLOYEE”, AT THE OPTION OF THE SMALL EMPLOYER, MAY INCLUDE:

(I) ONLY FULL-TIME EMPLOYEES; OR

(II) FULL-TIME EMPLOYEES AND PART-TIME EMPLOYEES.

(G) “EMPLOYEE” MEANS AN INDIVIDUAL WHO IS EMPLOYED BY A SMALL EMPLOYER.

(H) “FULL-TIME EMPLOYEE” MEANS AN EMPLOYEE OF A SMALL EMPLOYER WHO ~~HAS A NORMAL WORKWEEK OF~~ WORKS, ON AVERAGE, AT LEAST 30 HOURS PER WEEK.

[f] (I) (1) “Health benefit plan” means:

(i) a policy or certificate for hospital or medical benefits;

(ii) a nonprofit health service plan; or

(iii) a health maintenance organization subscriber or group master contract.

(2) “Health benefit plan” includes a policy or certificate for hospital or medical benefits that covers residents of this State who are eligible employees and that is issued through:

(i) a multiple employer trust or association located in this State or another state; or

(ii) a professional employer organization, coemployer, or other organization located in this State or another state that engages in employee leasing.

(3) “Health benefit plan” does not include:

(i) accident-only insurance;

(ii) fixed indemnity insurance;

(iii) credit health insurance;

(iv) Medicare supplement policies;

(v) Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplement policies;

- (vi) long-term care insurance;
- (vii) disability income insurance;
- (viii) coverage issued as a supplement to liability insurance;
- (ix) workers' compensation or similar insurance;
- (x) disease-specific insurance;
- (xi) automobile medical payment insurance;
- (xii) dental insurance; or
- (xiii) vision insurance.

[(g)] (J) “Health status-related factor” means a factor related to:

- (1) health status;
- (2) medical condition;
- (3) claims experience;
- (4) receipt of health care;
- (5) medical history;
- (6) genetic information;
- (7) evidence of insurability including conditions arising out of acts of domestic violence; or
- (8) disability.

[(h)] (K) “Late enrollee” means an eligible employee or dependent who requests enrollment in a health benefit plan after the initial enrollment period provided under the health benefit plan.

(L) “MINIMUM ESSENTIAL COVERAGE” HAS THE MEANING STATED IN 45 C.F.R. § 155.20.

(M) “PART-TIME EMPLOYEE” MEANS AN EMPLOYEE OF A SMALL EMPLOYER WHO:

- (1) HAS A NORMAL WORKWEEK OF AT LEAST 17.5 HOURS; AND**

(2) IS NOT A FULL-TIME EMPLOYEE.

(N) “PLAN YEAR” MEANS A CALENDAR YEAR OR OTHER CONSECUTIVE 12-MONTH PERIOD DURING WHICH A HEALTH BENEFIT PLAN PROVIDES COVERAGE FOR HEALTH CARE SERVICES.

[(i)] (O) “Pool” means the Maryland Small Employer Health Reinsurance Pool established under this subtitle.

[(j)] (P) “Preexisting condition” means:

(1) a condition existing during a specified period immediately preceding the effective date of coverage, that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment; or

(2) a condition for which medical advice, diagnosis, care, or treatment was recommended or received during a specified period immediately preceding the effective date of coverage.

[(k)] (Q) “Preexisting condition provision” means a provision in a health benefit plan that denies, excludes, or limits benefits for an enrollee for expenses or services related to a preexisting condition.

(R) “QUALIFIED EMPLOYER” HAS THE MEANING STATED IN § 31-101 OF THIS ARTICLE.

(S) “QUALIFIED HEALTH PLAN” HAS THE MEANING STATED IN § 31-101 OF THIS ARTICLE.

[(l)] (T) “Reinsuring carrier” means a carrier that participates in the Pool.

[(m)] (U) “Risk-assuming carrier” means a carrier that does not participate in the Pool.

(V) “SHOP EXCHANGE” HAS THE MEANING STATED IN § 31-101 OF THIS ARTICLE.

[(n)] (W) “Small employer” [means:

(1) an employer described in § 15-1203 of this subtitle; or

(2) an entity that leases employees from a professional employer organization, coemployer, or other organization engaged in employee leasing and that

otherwise meets the description of § 15–1203 of this subtitle] **HAS THE MEANING STATED IN § 31–101 OF THIS ARTICLE.**

[(o)] (X) “Special enrollment period” means a period during which a group health plan shall permit certain individuals who are eligible for coverage, but not enrolled, to enroll for coverage under the terms of the group health benefit plan.

[(p)] (Y) “Standard Plan” means the Comprehensive Standard Health Benefit Plan adopted by the Commission in accordance with § 15–1207 of this subtitle and Title 19, Subtitle 1 of the Health – General Article.

[(q)] (Z)

(1) “Wellness program” means a program or activity that:

(i) is designed to improve health status and reduce health care costs; and

(ii) complies with guidelines developed by the Commission.

(2) “Wellness program” includes programs and activities for:

(i) smoking cessation;

(ii) reduction of alcohol misuse;

(iii) weight reduction;

(iv) nutrition education; and

(v) automobile and motorcycle safety.

[(r)] (AA) “Wellness benefit” means a benefit that:

(1) includes a bona fide wellness program as defined in § 15–509 of this title; and

(2) complies with regulations adopted by the Commission.

[15–1203.

(a) A small employer under this subtitle is a person that meets the criteria specified in any subsection of this section.

(b) (1) A person is considered a small employer under this subtitle if the person:

(i) is an employer that on at least 50% of its working days during the preceding calendar quarter, employed at least two but not more than 50 eligible employees, the majority of whom are employed in the State; and

(ii) is a person actively engaged in business or is the governing body of:

1. a charter home-rule county established under Article XI-A of the Maryland Constitution;

2. a code home-rule county established under Article XI-F of the Maryland Constitution;

3. a commission county established or operating under Article 25 of the Code; or

4. a municipal corporation established or operating under Article XI-E of the Maryland Constitution.

(2) Notwithstanding paragraph (1)(i) of this subsection:

(i) a person is considered a small employer under this subtitle if the employer did not exist during the preceding calendar year but on at least 50% of the working days during its first year the employer employs at least two but not more than 50 eligible employees and otherwise satisfies the conditions of paragraph (1)(i) of this subsection; and

(ii) if the federal Employee Retirement Income Security Act (ERISA) is amended to exclude employee groups under a specific size, this subtitle shall apply to any employee group size that is excluded from that Act.

(3) In determining the group size specified under paragraph (1)(i) of this subsection:

(i) companies that are affiliated companies or that are eligible to file a consolidated federal income tax return shall be considered one employer; and

(ii) an employee may not be counted who is a part-time employee as described in § 15-1210(a)(2) of this subtitle.

(4) A carrier may request documentation to verify that a person meets the criteria under this subsection to be considered a small employer under this subtitle.

(5) Notwithstanding paragraph (1)(i) of this subsection, a person is considered to continue to be a small employer under this subtitle if the person met the

conditions of paragraph (1)(i) of this subsection and purchased a health benefit plan in accordance with this subtitle, and subsequently eliminated all but one employee.

(c) A person is considered a small employer under this subtitle if the person is a nonprofit organization that has been determined by the Internal Revenue Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code and has at least one eligible employee.]

15–1206.

(a) (1) A carrier may not arbitrarily transfer a small employer involuntarily into or out of a health benefit plan.

(2) A carrier may not offer to transfer a small employer into or out of a health benefit plan unless the offer to transfer is made to all small employers with similar risk adjustment factors.

(b) A carrier shall make a reasonable disclosure in its solicitation and sales materials of:

(1) the provisions that relate to the carrier's right to change premium rates, including any factors that may affect the changes in premium rates;

(2) the provisions that relate to renewability of policies and contracts;

(3) the provisions that relate to preexisting conditions; and

(4) the provisions of § 15–1209 of this subtitle that require an employer to make dependent coverage available to eligible employees but do not require the employer to make a contribution to the premium payments for that dependent coverage.

(c) (1) Subject to the approval of the Commissioner and as provided under this subsection and § 15–1209(d) of this subtitle, a carrier may impose reasonable minimum participation requirements.

(2) A carrier may not impose a requirement for minimum participation by the eligible employees of a small employer that is greater than 75%.

(3) In applying a minimum participation requirement to determine whether the applicable percentage of participation is met, a carrier may not consider as eligible employees:

(i) those who have group spousal coverage under a public or private plan of health insurance or another employer's health benefit arrangement, including Medicare, Medicaid, and CHAMPUS, that provides benefits similar to or exceeding the benefits provided under the Standard Plan; or

(ii) employees who are under the age of 26 years who are covered under their parent's health benefit plan.

(4) A carrier may not impose a minimum participation requirement for a small employer group if any member of the group participates in a medical savings account.

(5) A CARRIER MAY NOT IMPOSE A MINIMUM PARTICIPATION REQUIREMENT FOR A QUALIFIED EMPLOYER IF THE QUALIFIED EMPLOYER DESIGNATES A COVERAGE LEVEL WITHIN WHICH ITS EMPLOYEES MAY CHOOSE ANY QUALIFIED HEALTH PLAN IN THE SHOP EXCHANGE, AS PROVIDED FOR IN § 31-111(C)(1) OF THIS ARTICLE.

(6) A CARRIER MAY NOT IMPOSE A MINIMUM PARTICIPATION REQUIREMENT FOR A SMALL EMPLOYER GROUP IF THE SMALL EMPLOYER GROUP APPLIES FOR COVERAGE DURING THE PERIOD THAT BEGINS ON NOVEMBER 15 AND EXTENDS THROUGH DECEMBER 15 OF ANY YEAR.

(d) (1) On or before March 15 of each year, each carrier shall file an actuarial certification with the Commissioner.

(2) The actuarial certification shall be written in a form that the Commissioner approves, by a member of the American Academy of Actuaries or another person acceptable to the Commissioner and shall state that the carrier is in compliance with this subtitle and has followed the rating practices imposed under § 15-1205 of this subtitle.

(3) The actuarial certification shall be based on an examination that includes a review of appropriate records and actuarial assumptions and methods used by the carrier.

(e) (1) To indicate compliance with subsections (b) and (c)(1) of this section and § 15-1205(e) of this subtitle, a carrier shall maintain information and documentation that is satisfactory to the Commissioner.

(2) A carrier shall:

(i) retain all information and documentation required under this subtitle at its principal place of business for a period of 5 years; and

(ii) make the information and documentation available to the Commissioner on request.

(f) A carrier may not implement a producer commission schedule that varies the amount of a commission based on the size of a small employer group unless the variation:

(1) is inversely related to the size of the small employer group;

(2) applies to the cumulative premium paid over a specific period of time, is uniformly applied, and is inversely related to the cumulative premium paid during the period of time; or

(3) is established by a contract between the carrier and each outside producer, and the carrier:

(i) specifies in the contract the group size to which the variation applies;

(ii) directs the outside producer to refer small employers of the specified size to an employee of the carrier who is a licensed producer or to a company affiliated with the carrier through common ownership within an insurance holding company; and

(iii) pays a commission to the employee producer described in item (ii) of this item.

(g) (1) A licensed insurance producer, in connection with the sale, solicitation, or negotiation of a health benefit plan to a small employer, shall:

(i) provide information to the small employer about wellness benefits; and

(ii) advise the small employer to consult a tax advisor about the tax advantages of a payroll deduction plan under § 125 of the Internal Revenue Code.

(2) The information shall be provided:

(i) whenever the employer purchases or renews a health benefit plan; and

(ii) on request.

(h) (1) In accordance with regulations adopted by the Commissioner, a licensed insurance producer may provide to a small employer information about the Maryland Medical Assistance Program and the Maryland Children's Health Program for the small employer to distribute to its employees during the enrollment period.

(2) The information provided under paragraph (1) of this subsection shall be restricted to general information about the Maryland Medical Assistance Program and the Maryland Children's Health Program, including:

- (i) income eligibility thresholds; and
- (ii) application instructions.

15-1207.

(H) BEGINNING JANUARY 1, 2014, THIS SECTION APPLIES ONLY TO GRANDFATHERED HEALTH PLANS AS DEFINED IN § 1251 OF THE AFFORDABLE CARE ACT.

15-1208.1.

(a) A carrier shall provide the special enrollment periods described in this section in each small employer health benefit plan.

(b) If the small employer elects under § 15-1210(a)(3) of this subtitle to offer coverage to all of its **ELIGIBLE** employees who are covered under another public or private plan of health insurance or another health benefit arrangement, a carrier shall allow an **ELIGIBLE** employee or dependent who is eligible, but not enrolled, for coverage under the terms of the employer's health benefit plan to enroll for coverage under the terms of the plan if:

(1) the **ELIGIBLE** employee or dependent was covered under an employer-sponsored plan or group health benefit plan at the time coverage was previously offered to the employee or dependent;

(2) the **ELIGIBLE** employee states in writing, at the time coverage was previously offered, that coverage under an employer-sponsored plan or group health benefit plan was the reason for declining enrollment, but only if the plan sponsor or carrier requires the statement and provides the employee with notice of the requirement;

(3) the **ELIGIBLE** employee's or dependent's coverage described in item (1) of this subsection:

(i) was under a COBRA continuation provision, and the coverage under that provision was exhausted; or

(ii) was not under a COBRA continuation provision, and either the coverage was terminated as a result of loss of eligibility for the coverage, including loss of eligibility as a result of legal separation, divorce, death, termination of

employment, or reduction in the number of hours of employment, or employer contributions towards the coverage were terminated; and

(4) under the terms of the plan, the **ELIGIBLE** employee requests enrollment not later than ~~30~~ **60** days after:

(i) the date of exhaustion of coverage described in item (3)(i) of this subsection; or

(ii) termination of coverage or termination of employer contributions described in item (3)(ii) of this subsection.

(c) All small employer health benefit plans shall provide a special enrollment period during which the following individuals may be enrolled under the health benefit plan:

(1) an individual who becomes a dependent of the eligible employee through marriage, birth, adoption, or placement for adoption;

(2) an eligible employee who acquires a new dependent through marriage, birth, adoption, or placement for adoption; and

(3) the spouse of an eligible employee at the birth or adoption of a child, provided the spouse is otherwise eligible for coverage.

(d) An eligible employee may not enroll a dependent during a special enrollment period unless the eligible employee:

(1) is enrolled under the health benefit plan; or

(2) applies for coverage for the eligible employee during the same special enrollment period.

(e) The special enrollment period under subsection (c) of this section shall be a period of not less than ~~31~~ **60** days and shall begin on the later of:

(1) the date dependent coverage is made available; or

(2) the date of the marriage, birth, adoption, or placement for adoption, whichever is applicable.

(f) If an eligible employee enrolls any of the individuals described in subsection (c) of this section during the first ~~31~~ **60** days of the special enrollment period, the coverage shall become effective as follows:

(1) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

(2) in the case of a dependent's birth, as of the date of the dependent's birth; and

(3) in the case of a dependent's adoption or placement for adoption, the date of adoption or placement for adoption, whichever occurs first.

15-1208.2.

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

(2) "DEPENDENT" MEANS AN INDIVIDUAL WHO IS OR WHO MAY BECOME ELIGIBLE FOR COVERAGE UNDER THE TERMS OF A HEALTH BENEFIT PLAN BECAUSE OF A RELATIONSHIP WITH AN ELIGIBLE EMPLOYEE.

(3) "QUALIFYING COVERAGE IN AN ELIGIBLE EMPLOYER-SPONSORED PLAN" HAS THE MEANING STATED IN 45 C.F.R. § 155.300.

~~(A)~~ **(B) (1) A CARRIER SHALL ESTABLISH A STANDARDIZED ANNUAL OPEN ENROLLMENT PERIOD OF AT LEAST 30 DAYS FOR EACH SMALL EMPLOYER.**

(2) THE ANNUAL OPEN ENROLLMENT PERIOD SHALL OCCUR BEFORE THE END OF THE SMALL EMPLOYER'S PLAN YEAR.

(3) DURING THE ANNUAL OPEN ENROLLMENT PERIOD, EACH ELIGIBLE EMPLOYEE OF THE SMALL EMPLOYER SHALL BE PERMITTED TO:

(I) ENROLL IN A HEALTH BENEFIT PLAN OFFERED BY THE SMALL EMPLOYER;

(II) DISCONTINUE ENROLLMENT IN A HEALTH BENEFIT PLAN OFFERED BY THE SMALL EMPLOYER; OR

(III) CHANGE ENROLLMENT FROM ONE HEALTH BENEFIT PLAN OFFERED BY THE SMALL EMPLOYER TO A DIFFERENT HEALTH BENEFIT PLAN OFFERED BY THE SMALL EMPLOYER.

~~(B)~~ **(C) A CARRIER SHALL PROVIDE AN OPEN ENROLLMENT PERIOD OF AT LEAST 30 DAYS FOR EACH EMPLOYEE WHO BECOMES AN ELIGIBLE EMPLOYEE OUTSIDE THE INITIAL OR ANNUAL OPEN ENROLLMENT PERIOD.**

~~(e)~~ (d) (1) A CARRIER SHALL PROVIDE AN OPEN ENROLLMENT PERIOD FOR EACH INDIVIDUAL WHO EXPERIENCES A TRIGGERING EVENT DESCRIBED IN PARAGRAPH (4) OF THIS SUBSECTION.

(2) THE OPEN ENROLLMENT PERIOD SHALL BE FOR AT LEAST ~~60~~ 30 DAYS, BEGINNING ON THE DATE OF THE TRIGGERING EVENT.

(3) DURING THE OPEN ENROLLMENT PERIOD FOR AN INDIVIDUAL WHO EXPERIENCES A TRIGGERING EVENT, A CARRIER SHALL PERMIT THE INDIVIDUAL TO ENROLL IN OR CHANGE FROM ONE HEALTH BENEFIT PLAN OFFERED BY THE SMALL EMPLOYER TO ANOTHER HEALTH BENEFIT PLAN OFFERED BY THE SMALL EMPLOYER.

(4) A TRIGGERING EVENT OCCURS WHEN:

(i) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, AN ELIGIBLE EMPLOYEE OR DEPENDENT LOSES MINIMUM ESSENTIAL COVERAGE;
~~OR~~

(ii) AN ELIGIBLE EMPLOYEE OR A DEPENDENT WHO IS ENROLLED IN A QUALIFIED HEALTH PLAN IN THE SHOP EXCHANGE:

1. ADEQUATELY DEMONSTRATES TO THE SHOP EXCHANGE THAT THE QUALIFIED HEALTH PLAN IN WHICH THE ELIGIBLE EMPLOYEE OR A DEPENDENT IS ENROLLED SUBSTANTIALLY VIOLATED A MATERIAL PROVISION OF THE QUALIFIED HEALTH PLAN'S CONTRACT IN RELATION TO THE ELIGIBLE EMPLOYEE OR A DEPENDENT;

2. GAINS ACCESS TO NEW QUALIFIED HEALTH PLANS AS A RESULT OF A PERMANENT MOVE; OR

3. DEMONSTRATES TO THE SHOP EXCHANGE, IN ACCORDANCE WITH GUIDELINES ISSUED BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES, THAT THE ELIGIBLE EMPLOYEE OR A DEPENDENT MEETS OTHER EXCEPTIONAL CIRCUMSTANCES AS THE SHOP EXCHANGE MAY PROVIDE;

(iii) AN ELIGIBLE EMPLOYEE OR A DEPENDENT IS ENROLLED IN AN EMPLOYER-SPONSORED HEALTH BENEFIT PLAN THAT IS NOT QUALIFYING COVERAGE IN AN ELIGIBLE EMPLOYER-SPONSORED PLAN AND IS ALLOWED TO TERMINATE EXISTING COVERAGE; OR

(iv) AN ELIGIBLE EMPLOYEE OR DEPENDENT:

1. LOSES ELIGIBILITY FOR COVERAGE UNDER A MEDICAID PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT OR A STATE CHILD HEALTH PLAN UNDER TITLE XXI OF THE SOCIAL SECURITY ACT; OR

2. BECOMES ELIGIBLE FOR ASSISTANCE, WITH RESPECT TO COVERAGE UNDER THE SHOP EXCHANGE, UNDER A MEDICAID PLAN OR STATE CHILD HEALTH PLAN, INCLUDING ANY WAIVER OR DEMONSTRATION PROJECT CONDUCTED UNDER OR IN RELATION TO A MEDICAID PLAN OR A STATE CHILD HEALTH PLAN.

(5) LOSS OF MINIMUM ESSENTIAL COVERAGE UNDER PARAGRAPH (4)(I) OF THIS SUBSECTION DOES NOT INCLUDE LOSS OF COVERAGE DUE TO:

(I) FAILURE TO PAY PREMIUMS ON A TIMELY BASIS, INCLUDING COBRA PREMIUMS PRIOR TO EXPIRATION OF COBRA COVERAGE; OR

(II) A RESCISSION AUTHORIZED UNDER 45 C.F.R. § 147.128.

(6) IF AN ELIGIBLE EMPLOYEE OR A DEPENDENT MEETS THE REQUIREMENTS FOR THE TRIGGERING EVENT DESCRIBED IN PARAGRAPH (4)(III) OF THIS SUBSECTION, THE OPEN ENROLLMENT PERIOD SHALL:

(I) APPLY ONLY TO HEALTH BENEFIT PLANS OFFERED BY THE CARRIER IN THE SHOP EXCHANGE; AND

(II) BEGIN AT LEAST 60 DAYS BEFORE THE END OF THE ELIGIBLE EMPLOYEE'S OR DEPENDENT'S COVERAGE UNDER THE EMPLOYER-SPONSORED PLAN.

(7) AN ELIGIBLE EMPLOYEE OR A DEPENDENT WHO MEETS THE REQUIREMENTS FOR THE TRIGGERING EVENT DESCRIBED IN PARAGRAPH (4)(IV) OF THIS SUBSECTION SHALL HAVE 60 DAYS FROM THE TRIGGERING EVENT TO SELECT A QUALIFIED HEALTH PLAN THROUGH THE SHOP EXCHANGE.

(E) IF AN INDIVIDUAL ENROLLS FOR COVERAGE DURING ONE OF THE OPEN ENROLLMENT PERIODS DESCRIBED IN THIS SECTION, COVERAGE SHALL BE EFFECTIVE IN ACCORDANCE WITH THE REQUIREMENTS IN 45 C.F.R. § 155.420.

(a) This section does not apply to any insurance enumerated in [§ 15–1201(f)(3)(i) through (xiii)] **§ 15–1201(I)(3)(I) THROUGH (XIII)** of this subtitle.

(b) A carrier shall issue its health benefit plans to each small employer that meets the requirements of this section.

(c) (1) Nothing in this subsection requires a small employer to contribute to the premium payments for coverage of a dependent of an eligible employee.

(2) To be covered under a health benefit plan offered by a carrier, a small employer shall:

(i) elect to be covered;

(ii) agree to pay the premiums;

(iii) agree to offer coverage to any dependent of an eligible employee when coverage is sought by the eligible employee, in accordance with provisions governing late enrollees and any other provisions of this subtitle that apply to coverage;

(iv) agree to collect payments for premiums through payroll deductions for coverage of eligible employees and dependents and transmit those payments to the carrier **OR THE SHOP EXCHANGE, AS APPLICABLE**; and

(v) satisfy other reasonable provisions of the health benefit plan as approved by the Commissioner.

(d) (1) In determining whether a small employer satisfies the requirements of this section, a carrier shall apply its requirements uniformly among all small employers with the same number of eligible employees who apply for or receive coverage from the carrier, including a requirement that a minimum percentage of eligible employees of the small employer participate in the health benefit plan.

(2) A carrier may vary application of minimum participation of eligible employees only by the size of the group of the small employer.

(e) A carrier may not require a small employer to contribute to payment of premiums for a health benefit plan.

15–1213.

(a) This section does not apply to any insurance enumerated in [§ 15–1201(f)(3)(i) through (xiii)] **§ 15–1201(I)(3)(I) THROUGH (XIII)** of this subtitle.

(b) Each benefit offered in addition to the Standard Plan that increases access to care choices or lowers the cost-sharing arrangement in the Standard Plan is subject to all of the provisions of this subtitle applicable to the Standard Plan, including:

- (1) guaranteed issuance;
- (2) guaranteed renewal; and
- (3) adjusted community rating.

(c) (1) Each benefit offered in addition to the Standard Plan that increases the type of services available or the frequency of services is not subject to guaranteed issuance but is subject to all other provisions of this subtitle applicable to the Standard Plan, including:

- (i) guaranteed renewal; and
- (ii) adjusted community rating.

(2) For each additional benefit offered under this subsection, a carrier shall accept or reject the application of the entire group.

(3) The Commissioner may prohibit a carrier from offering an additional benefit under this subsection if the Commissioner finds that the additional benefit will be sold in conjunction with the Standard Plan in a manner designed to promote risk selection or underwriting practices otherwise prohibited by this subtitle.

(d) (1) A benefit offered in addition to the Standard Plan to lower the cost-sharing arrangement in the Standard Plan in accordance with § 15-301.1 of the Health – General Article is subject to:

- (i) guaranteed issuance;
- (ii) guaranteed renewal; and
- (iii) adjusted community rating.

(2) A carrier that offers a benefit under this subsection shall be required to guarantee issuance and guarantee renewal of the additional benefit only to employers who are participating in the MCHP private option plan established under § 15-301.1 of the Health – General Article.

(E) BEGINNING JANUARY 1, 2014, THIS SECTION APPLIES ONLY TO GRANDFATHERED HEALTH PLANS AS DEFINED IN § 1251 OF THE AFFORDABLE CARE ACT.

15–1301.

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

(b) “Affiliation period” means a period of time beginning on the date of enrollment and not to exceed 2 months, or 3 months in the case of a late enrollee, during which a health maintenance organization does not collect premium, and coverage issued does not become effective.

(c) “Association” or “bona fide association” means an association that:

(1) has been actively in existence for at least 5 years;

(2) has been formed and maintained in good faith for purposes other than obtaining insurance and does not condition membership on the purchase of association–sponsored insurance;

(3) does not condition membership in the association on any health status–related factor relating to an individual, and states so clearly in all membership and application materials;

(4) makes health insurance coverage offered through the association available to all members regardless of any health status–related factor relating to the members or individuals eligible for coverage and states so clearly in all membership and application materials;

(5) does not make health insurance coverage offered through the association available other than in connection with membership in the association, and states so clearly in all marketing and application materials; and

(6) provides and annually updates information necessary for the Commissioner to determine whether or not the association meets the definition of bona fide association before qualifying as an association under this subtitle.

(D) “BENEFIT YEAR” MEANS A CALENDAR YEAR IN WHICH A HEALTH BENEFIT PLAN PROVIDES COVERAGE FOR HEALTH BENEFITS.

[(d)] **(E)** “Carrier” means a person that is:

(1) an insurer that holds a certificate of authority in the State and provides health insurance in the State;

(2) a health maintenance organization that is licensed to operate in the State;

(3) a nonprofit health service plan that is licensed to operate in the State; or

(4) any other person or organization that provides health benefit plans subject to State insurance regulation.

[(e)] (F) “Church plan” means a plan as defined under § 3(33) of the Employee Retirement Income Security Act of 1974.

[(f)] (G) (1) “Creditable coverage” means coverage of an individual under:

- (i) an employer sponsored plan;
- (ii) a health benefit plan;
- (iii) Part A or Part B of Title XVIII of the Social Security Act;
- (iv) Title XIX or Title XXI of the Social Security Act, other than coverage consisting solely of benefits under § 1928 of that Act;
- (v) Chapter 55 of Title 10 of the United States Code;
- (vi) a medical care program of the Indian Health Service or of a tribal organization;
- (vii) a State health benefits risk pool;
- (viii) a health plan offered under the Federal Employees Health Benefits Program (FEHBP), Title 5, Chapter 89 of the United States Code;
- (ix) a public health plan as defined by federal regulations authorized by the Public Health Service Act, § 2701(c)(1)(i), as amended by P.L. 104–191; or
- (x) a health benefit plan under § 5(e) of the Peace Corps Act, 22 U.S.C. 2504(e).

(2) A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a health benefit plan or an employer sponsored plan, if, after such period and before the enrollment date, there was a 63–day period during all of which the individual was not covered under any creditable coverage.

[(g)] (H) “Eligible individual” means an individual:

- (1) (i) for whom, as of the date on which the individual seeks coverage under this subtitle, the aggregate of the periods of creditable coverage is 18 or more months; and

(ii) whose most recent prior creditable coverage was under an employer sponsored plan, governmental plan, church plan, or health benefit plan offered in connection with any of these plans;

(2) who is not eligible for coverage under:

(i) an employer sponsored plan;

(ii) Part A or Part B of Title XVIII of the Social Security Act; or

(iii) a State plan under Title XIX of the Social Security Act;

(3) who does not have coverage under a health benefit plan;

(4) who has not had the most recent prior creditable coverage described in paragraph (1)(ii) of this subsection terminated for nonpayment of premiums or fraud by the individual; and

(5) who, if the individual has been offered the option of continuation coverage under a State or federal continuation provision:

(i) has elected that coverage; and

(ii) has exhausted that coverage.

[(h)] (I) “Employer sponsored plan” means an employee welfare benefit plan that provides medical care to employees or their dependents, and is not subject to State regulation in accordance with the federal Employee Retirement Income Security Act of 1974.

[(i)] (J) “Enrollment date” means the date on which:

(1) an individual enrolls in a health benefit plan; or

(2) the first day of the waiting period before which the individual may enroll.

[(j)] (K) “Governmental plan” means a plan as defined in § 3(32) of the Employee Retirement Income Security Act of 1974 and any federal governmental plan.

[(k)] (L) (1) “Health benefit plan” means a:

(i) hospital or medical policy or certificate, including those issued under multiple employer trusts or associations located in Maryland or any other state covering Maryland residents;

(ii) policy, contract, or certificate issued by a nonprofit health service plan that covers Maryland residents; or

(iii) health maintenance organization subscriber or group master contract.

(2) "Health benefit plan" does not include:

(i) one or more, or any combination of the following:

1. coverage only for accident or disability income insurance;

2. coverage issued as a supplement to liability insurance;

3. liability insurance, including general liability insurance and automobile liability insurance;

4. workers' compensation or similar insurance;

5. automobile medical payment insurance;

6. credit-only insurance;

7. coverage for on-site medical clinics; and

8. other similar insurance coverage, specified in federal regulations issued pursuant to P.L. 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits;

(ii) the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of a plan:

1. limited scope dental or vision benefits;

2. benefits for long-term care, nursing home care, home health care, community-based care, or any combination of these benefits; and

3. such other similar, limited benefits as are specified in federal regulations issued pursuant to P.L. 104-191;

(iii) the following benefits if offered as independent, noncoordinated benefits:

1. coverage only for a specified disease or illness; and

2. hospital indemnity or other fixed indemnity insurance; or

(iv) the following benefits if offered as a separate insurance policy:

1. Medicare supplemental health insurance (as defined under § 1882(g)(1) of the Social Security Act);

2. coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

3. similar supplemental coverage provided to coverage under an employer sponsored plan.

[(l)] (M) “Health status–related factor” means a factor related to:

(1) health status;

(2) medical condition;

(3) claims experience;

(4) receipt of health care;

(5) medical history;

(6) genetic information;

(7) evidence of insurability including conditions arising out of acts of domestic violence; or

(8) disability.

[(m)] (N) “High level policy form” means a policy or plan under which the actuarial value of the benefit under the coverage is:

(1) at least 15% greater than the actuarial value of the low level policy form coverage offered by the carrier in this State; and

(2) at least 100% but not greater than 120% of the weighted average.

(O) “INDIVIDUAL EXCHANGE” HAS THE MEANING STATED IN § 31–101 OF THIS ARTICLE.

[(n)] (P) (1) “Individual health benefit plan” means:

(i) a health benefit plan other than a converted policy or a professional association plan for eligible individuals and their dependents; and

(ii) a certificate issued to an eligible individual that evidences coverage under a policy or contract issued to a trust or association or other similar group of individuals, regardless of the situs of delivery of the policy or contract, if the eligible individual pays the premium and is not being covered under the policy or contract under either federal or State continuation of benefits provisions.

(2) “Individual health benefit plan” does not include short-term limited duration insurance.

[(o)] (Q) “Low level policy form” means a policy or plan under which the actuarial value of the benefit under the coverage is at least 85% but not greater than 100% of the weighted average.

(R) “MINIMUM ESSENTIAL COVERAGE” HAS THE MEANING STATED IN 45 C.F.R. § 155.20.

[(p)] (S) “Preexisting condition” means a condition that was present before the date of enrollment for coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that date.

(T) “QUALIFIED HEALTH PLAN” HAS THE MEANING STATED IN § 31-101 OF THIS ARTICLE.

[(q)] (U) “Waiting period” means the period of time that must pass before an individual is eligible to be covered for benefits under the terms of a group health benefit plan.

[(r)] (V) (1) “Weighted average” means the average actuarial value of the benefits provided by:

(i) all the health insurance coverages issued by the carrier in this State in the individual market during the previous calendar year, weighted by enrollment for the different coverages; or

(ii) all the health insurance coverages issued by all carriers in this State in the individual market, if the data are available, during the previous calendar year, weighted by enrollment for the different coverages.

(2) “Weighted average” does not include coverages issued under this subtitle.

15-1302.

(a) This subtitle applies to all carriers that offer health benefit plans to individuals in the State.

(b) This subtitle does not apply to a carrier that offers only conversion policies as required by law.

(c) This subtitle does not apply to a carrier that offers health insurance coverage only in connection with group health plans [or through one or more bona fide associations, or both].

15-1309.

(b) A carrier may not cancel or refuse to renew an individual health benefit plan except:

~~(5) where the individual no longer resides, lives, or works in the service area, provided that the coverage is terminated under this provision uniformly without regard to any health status related factor of covered individuals; [or]~~

~~(6) where, in the case of health insurance coverage that is made available in the individual market only through one or more bona fide associations, the membership of the individual in the association ceases but only if such coverage is terminated under this paragraph uniformly without regard to any health status related factor of covered individuals; OR~~

~~(7) FOR INDIVIDUAL HEALTH BENEFIT PLANS THAT ARE NOT GRANDFATHERED HEALTH PLANS, AS DEFINED IN 45 C.F.R. § 147.140, WHERE A CARRIER DISCONTINUES OFFERING A PARTICULAR TYPE OF HEALTH BENEFIT PLAN COVERAGE IN THE INDIVIDUAL MARKET, IF THE CARRIER:~~

~~(I) AT LEAST 90 DAYS BEFORE DISCONTINUATION OF THE COVERAGE, PROVIDES NOTICE OF THE DISCONTINUATION TO EACH INDIVIDUAL PROVIDED COVERAGE OF THIS TYPE;~~

~~(II) OFFERS EACH INDIVIDUAL PROVIDED COVERAGE OF THIS TYPE THE OPTION TO PURCHASE ANY OTHER INDIVIDUAL HEALTH BENEFIT PLAN COVERAGE OFFERED BY THE CARRIER FOR INDIVIDUALS IN THE STATE; AND~~

~~(III) ACTS UNIFORMLY WITHOUT REGARD TO ANY HEALTH STATUS-RELATED FACTOR OF ENROLLED INDIVIDUALS OR INDIVIDUALS WHO MAY BECOME ELIGIBLE FOR THE COVERAGE.~~

15-1315.

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

(2) "INDIVIDUAL EXCHANGE" HAS THE MEANING STATED IN § 31-101 OF THIS ARTICLE.

(3) "QUALIFIED HEALTH PLAN" HAS THE MEANING STATED IN § 31-101 OF THIS ARTICLE.

(4) "QUALIFIED INDIVIDUAL" HAS THE MEANING STATED IN § 31-101 OF THIS ARTICLE.

(B) THIS SECTION APPLIES TO A QUALIFIED HEALTH PLAN THAT IS ISSUED ON OR AFTER JANUARY 1, 2014, BY A CARRIER THROUGH THE INDIVIDUAL EXCHANGE.

(C) A QUALIFIED HEALTH PLAN SUBJECT TO THIS SECTION SHALL INCLUDE A GRACE PERIOD PROVISION APPLICABLE TO A QUALIFIED INDIVIDUAL WHO:

(1) IS RECEIVING ADVANCE PAYMENTS OF FEDERAL PREMIUM TAX CREDITS; AND

(2) HAS PAID AT LEAST 1 FULL MONTH'S PREMIUM DURING THE BENEFIT YEAR.

(D) THE GRACE PERIOD PROVISION SHALL:

(1) PROVIDE A GRACE PERIOD OF 3 CONSECUTIVE MONTHS; AND

(2) BE IN ADDITION TO ANY OTHER GRACE PERIOD PROVISION REQUIRED BY ANY OTHER APPLICABLE STATE LAW.

(E) DURING THE GRACE PERIOD, A CARRIER THAT ISSUES A QUALIFIED HEALTH PLAN SUBJECT TO THIS SECTION:

(1) SHALL PAY ALL APPROPRIATE CLAIMS FOR SERVICES RENDERED TO THE QUALIFIED INDIVIDUAL DURING THE FIRST MONTH OF THE GRACE PERIOD;

(2) MAY PEND CLAIMS FOR SERVICES RENDERED TO THE QUALIFIED INDIVIDUAL IN THE SECOND AND THIRD MONTHS OF THE GRACE PERIOD;

(3) SHALL NOTIFY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES THAT THE QUALIFIED INDIVIDUAL IS IN THE GRACE PERIOD; AND

(4) SHALL NOTIFY PROVIDERS OF THE POSSIBILITY THAT CLAIMS MAY BE DENIED WHEN A QUALIFIED INDIVIDUAL IS IN THE SECOND AND THIRD MONTHS OF THE GRACE PERIOD.

15-1316.

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

(2) “DEPENDENT” MEANS AN INDIVIDUAL WHO IS OR WHO MAY BECOME ELIGIBLE FOR COVERAGE UNDER THE TERMS OF A HEALTH BENEFIT PLAN BECAUSE OF A RELATIONSHIP WITH ANOTHER INDIVIDUAL.

(3) “QUALIFYING COVERAGE IN AN ELIGIBLE EMPLOYER-SPONSORED PLAN” HAS THE MEANING STATED IN 45 C.F.R. § 155.300.

~~(A)~~ (B) (1) BEGINNING OCTOBER 15, 2014, A CARRIER THAT SELLS HEALTH BENEFIT PLANS TO INDIVIDUALS IN THE STATE SHALL ESTABLISH AN ANNUAL OPEN ENROLLMENT PERIOD.

(2) THE ANNUAL OPEN ENROLLMENT PERIOD SHALL BEGIN ON OCTOBER 15 AND EXTEND THROUGH DECEMBER 7 EACH YEAR.

(3) DURING THE ANNUAL OPEN ENROLLMENT PERIOD, AN INDIVIDUAL SHALL BE PERMITTED TO:

(I) ENROLL IN A HEALTH BENEFIT PLAN OFFERED BY THE CARRIER;

(II) DISCONTINUE ENROLLMENT IN A HEALTH BENEFIT PLAN OFFERED BY THE CARRIER; OR

(III) CHANGE ENROLLMENT IN A HEALTH BENEFIT PLAN OFFERED BY THE CARRIER TO A DIFFERENT HEALTH BENEFIT PLAN OFFERED BY THE CARRIER.

(4) IF AN INDIVIDUAL ENROLLS IN A HEALTH BENEFIT PLAN OFFERED BY THE CARRIER DURING THE ANNUAL OPEN ENROLLMENT PERIOD, THE EFFECTIVE DATE OF COVERAGE SHALL BE JANUARY 1 OF THE FOLLOWING CALENDAR YEAR.

~~(B)~~ (C) (1) A CARRIER SHALL PROVIDE A SPECIAL OPEN ENROLLMENT PERIOD FOR EACH INDIVIDUAL WHO EXPERIENCES A TRIGGERING EVENT.

(2) THE SPECIAL OPEN ENROLLMENT PERIOD SHALL BE FOR AT LEAST 60 DAYS, BEGINNING ON THE DATE OF THE TRIGGERING EVENT.

(3) DURING THE SPECIAL OPEN ENROLLMENT PERIOD, A CARRIER SHALL PERMIT AN INDIVIDUAL WHO EXPERIENCES A TRIGGERING EVENT TO ENROLL IN OR CHANGE FROM ONE HEALTH BENEFIT PLAN OFFERED BY THE CARRIER TO ANOTHER HEALTH BENEFIT PLAN OFFERED BY THE CARRIER.

(4) A TRIGGERING EVENT OCCURS WHEN:

(I) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, AN INDIVIDUAL OR DEPENDENT LOSES MINIMUM ESSENTIAL COVERAGE;

(II) AN INDIVIDUAL GAINS A DEPENDENT OR BECOMES A DEPENDENT THROUGH MARRIAGE, BIRTH, ADOPTION, OR PLACEMENT FOR ADOPTION; ~~OR~~

(III) AN INDIVIDUAL'S OR A DEPENDENT'S ENROLLMENT OR NONENROLLMENT IN A QUALIFIED HEALTH PLAN IS, AS EVALUATED AND DETERMINED BY THE INDIVIDUAL EXCHANGE:

1. UNINTENTIONAL, INADVERTENT, OR ERRONEOUS;
AND

2. THE RESULT OF THE ERROR, MISREPRESENTATION, OR INACTION OF AN OFFICER, EMPLOYEE, OR AGENT OF THE INDIVIDUAL EXCHANGE OR THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OR ITS INSTRUMENTALITIES;

(IV) AN INDIVIDUAL OR A DEPENDENT WHO IS ENROLLED IN A QUALIFIED HEALTH PLAN IN THE INDIVIDUAL EXCHANGE ADEQUATELY DEMONSTRATES TO THE INDIVIDUAL EXCHANGE THAT THE QUALIFIED HEALTH PLAN IN WHICH THE INDIVIDUAL OR DEPENDENT IS ENROLLED SUBSTANTIALLY

VIOLATED A MATERIAL PROVISION OF THE QUALIFIED HEALTH PLAN'S CONTRACT IN RELATION TO THE INDIVIDUAL OR DEPENDENT;

(V) AN INDIVIDUAL OR A DEPENDENT ENROLLED IN THE SAME HEALTH BENEFIT PLAN IS DETERMINED NEWLY ELIGIBLE OR NEWLY INELIGIBLE FOR ADVANCE PAYMENTS OF FEDERAL PREMIUM TAX CREDITS OR HAS A CHANGE IN ELIGIBILITY FOR FEDERAL COST-SHARING REDUCTIONS;

(VI) AN INDIVIDUAL OR A DEPENDENT GAINS ACCESS TO A NEW HEALTH BENEFIT PLAN AS A RESULT OF A PERMANENT MOVE;

(VII) THE INDIVIDUAL OR DEPENDENT IS ENROLLED IN AN EMPLOYER-SPONSORED HEALTH BENEFIT PLAN THAT IS NOT QUALIFYING COVERAGE IN AN ELIGIBLE EMPLOYER-SPONSORED PLAN AND IS ALLOWED TO TERMINATE EXISTING COVERAGE; OR

~~(III)~~ (VIII) FOR A HEALTH BENEFIT PLAN OFFERED THROUGH THE INDIVIDUAL EXCHANGE:

1. AN INDIVIDUAL WHO WAS NOT PREVIOUSLY A CITIZEN, NATIONAL, OR LAWFULLY PRESENT INDIVIDUAL BECOMES A CITIZEN, NATIONAL, OR LAWFULLY PRESENT INDIVIDUAL; OR

~~2. AN INDIVIDUAL'S ENROLLMENT OR NONENROLLMENT IN A QUALIFIED HEALTH PLAN IS, AS EVALUATED AND DETERMINED BY THE INDIVIDUAL EXCHANGE:~~

~~A. UNINTENTIONAL, INADVERTENT, OR ERRONEOUS;~~
AND

~~B. THE RESULT OF THE ERROR, MISREPRESENTATION, OR INACTION OF AN OFFICER, EMPLOYEE, OR AGENT OF THE INDIVIDUAL EXCHANGE OR THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES OR ITS INSTRUMENTALITIES;~~

~~3. AN INDIVIDUAL WHO IS ENROLLED IN A QUALIFIED HEALTH PLAN IN THE INDIVIDUAL EXCHANGE ADEQUATELY DEMONSTRATES TO THE INDIVIDUAL EXCHANGE THAT THE QUALIFIED HEALTH PLAN IN WHICH THE INDIVIDUAL IS ENROLLED SUBSTANTIALLY VIOLATED A MATERIAL PROVISION OF THE QUALIFIED HEALTH PLAN'S CONTRACT IN RELATION TO THE INDIVIDUAL;~~

~~4. AN INDIVIDUAL IS DETERMINED NEWLY ELIGIBLE OR NEWLY INELIGIBLE FOR ADVANCE PAYMENTS OF FEDERAL PREMIUM TAX~~

~~CREDITS OR HAS A CHANGE IN ELIGIBILITY FOR FEDERAL COST SHARING REDUCTIONS, REGARDLESS OF WHETHER THE INDIVIDUAL IS ALREADY ENROLLED IN A QUALIFIED HEALTH PLAN;~~

~~5. AN INDIVIDUAL GAINS ACCESS TO NEW QUALIFIED HEALTH PLANS AS A RESULT OF A PERMANENT MOVE; OR~~

~~6. 2. AN INDIVIDUAL OR A DEPENDENT DEMONSTRATES TO THE INDIVIDUAL EXCHANGE, IN ACCORDANCE WITH GUIDELINES ISSUED BY THE FEDERAL U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, THAT THE INDIVIDUAL OR DEPENDENT MEETS OTHER EXCEPTIONAL CIRCUMSTANCES AS THE INDIVIDUAL EXCHANGE MAY PROVIDE.~~

(5) LOSS OF MINIMUM ESSENTIAL COVERAGE UNDER PARAGRAPH (4)(I) OF THIS SUBSECTION DOES NOT INCLUDE LOSS OF COVERAGE DUE TO:

(I) FAILURE TO PAY PREMIUMS ON A TIMELY BASIS, INCLUDING COBRA PREMIUMS PRIOR TO EXPIRATION OF COBRA COVERAGE; OR

(II) A RESCISSION AUTHORIZED UNDER 45 C.F.R. § 147.128.

(6) IF A TRIGGERING EVENT DESCRIBED IN PARAGRAPH ~~(4)(III)2~~ (4)(III) OF THIS SUBSECTION OCCURS, THE INDIVIDUAL EXCHANGE MAY TAKE ACTION AS MAY BE NECESSARY TO CORRECT OR ELIMINATE THE EFFECTS OF THE ERROR, MISREPRESENTATION, OR INACTION.

(7) IF A TRIGGERING EVENT DESCRIBED IN PARAGRAPH ~~(4)(III)4~~ (4)(V) OF THIS SUBSECTION OCCURS, A CARRIER SHALL PERMIT AN INDIVIDUAL OR A DEPENDENT, WHOSE EXISTING COVERAGE THROUGH AN EMPLOYER-SPONSORED PLAN WILL NO LONGER BE AFFORDABLE OR PROVIDE MINIMUM VALUE FOR THE UPCOMING PLAN YEAR OF THE INDIVIDUAL'S EMPLOYER, TO ACCESS THE SPECIAL OPEN ENROLLMENT PERIOD BEFORE THE END OF THE INDIVIDUAL'S COVERAGE THROUGH THE EMPLOYER-SPONSORED PLAN.

(8) IF AN INDIVIDUAL OR A DEPENDENT MEETS THE REQUIREMENTS FOR THE TRIGGERING EVENT DESCRIBED IN PARAGRAPH (4)(VII) OF THIS SUBSECTION, THE SPECIAL OPEN ENROLLMENT PERIOD SHALL BEGIN AT LEAST 60 DAYS BEFORE THE END OF THE INDIVIDUAL'S OR DEPENDENT'S COVERAGE UNDER THE EMPLOYER-SPONSORED PLAN.

~~(C)~~ (D) AN INDIVIDUAL WHO IS AN INDIAN, AS DEFINED IN § 4 OF THE FEDERAL INDIAN HEALTH CARE IMPROVEMENT ACT, MAY ENROLL IN A HEALTH BENEFIT PLAN IN THE INDIVIDUAL EXCHANGE OR CHANGE FROM ONE HEALTH BENEFIT PLAN IN THE INDIVIDUAL EXCHANGE TO ANOTHER HEALTH BENEFIT PLAN IN THE INDIVIDUAL EXCHANGE ONE TIME PER MONTH.

(E) (1) A CARRIER SHALL PROVIDE A LIMITED OPEN ENROLLMENT PERIOD FOR AN INDIVIDUAL WHO IS ENROLLED IN A NONCALENDAR YEAR INDIVIDUAL HEALTH BENEFIT PLAN TO ENROLL IN A HEALTH BENEFIT PLAN ISSUED BY THE CARRIER.

(2) THE LIMITED ENROLLMENT PERIOD REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) BEGIN ON THE DATE THAT IS AT LEAST 30 CALENDAR DAYS BEFORE THE DATE THE NONCALENDAR YEAR HEALTH BENEFIT PLAN'S POLICY YEAR ENDS IN 2014; AND

(II) LAST AT LEAST 60 DAYS.

(F) IF AN INDIVIDUAL ENROLLS FOR COVERAGE DURING ONE OF THE OPEN ENROLLMENT OR SPECIAL OPEN ENROLLMENT PERIODS DESCRIBED IN THIS SECTION, COVERAGE SHALL BE EFFECTIVE IN ACCORDANCE WITH THE REQUIREMENTS IN 45 C.F.R. § 155.420.

(G) (1) A HEALTH MAINTENANCE ORGANIZATION MAY:

(I) LIMIT THE INDIVIDUALS WHO MAY APPLY FOR COVERAGE TO THOSE WHO LIVE OR RESIDE IN THE HEALTH MAINTENANCE ORGANIZATION'S SERVICE AREA; AND

(II) DENY COVERAGE TO INDIVIDUALS IF THE HEALTH MAINTENANCE ORGANIZATION HAS DEMONSTRATED TO THE COMMISSIONER THAT:

1. IT WILL NOT HAVE THE CAPACITY TO DELIVER SERVICES ADEQUATELY TO ANY ADDITIONAL INDIVIDUALS BECAUSE OF ITS OBLIGATIONS TO EXISTING ENROLLEES; AND

2. IT IS APPLYING THE PROVISIONS OF THIS PARAGRAPH UNIFORMLY TO ALL INDIVIDUALS WITHOUT REGARD TO THE CLAIMS EXPERIENCE OF THOSE INDIVIDUALS AND THEIR DEPENDENTS OR ANY HEALTH STATUS-RELATED FACTOR RELATING TO THE INDIVIDUALS AND THEIR DEPENDENTS.

(2) A HEALTH MAINTENANCE ORGANIZATION THAT DENIES COVERAGE TO AN INDIVIDUAL IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION MAY NOT OFFER COVERAGE IN THE INDIVIDUAL MARKET WITHIN THE SERVICE AREA TO ANY INDIVIDUAL FOR A PERIOD OF 180 DAYS AFTER THE DATE THE COVERAGE IS DENIED.

(3) PARAGRAPH (2) OF THIS SUBSECTION DOES NOT:

(I) LIMIT THE HEALTH MAINTENANCE ORGANIZATION'S ABILITY TO RENEW COVERAGE ALREADY IN FORCE; OR

(II) RELIEVE THE HEALTH MAINTENANCE ORGANIZATION OF THE RESPONSIBILITY TO RENEW COVERAGE ALREADY IN FORCE.

(H) (1) A CARRIER MAY DENY A HEALTH BENEFIT PLAN TO AN INDIVIDUAL IF THE CARRIER HAS DEMONSTRATED TO THE COMMISSIONER THAT:

(I) IT DOES NOT HAVE THE FINANCIAL RESERVES NECESSARY TO OFFER ADDITIONAL COVERAGE; AND

(II) IT IS APPLYING THE PROVISIONS OF THIS PARAGRAPH UNIFORMLY TO ALL INDIVIDUALS IN THE INDIVIDUAL MARKET IN THE STATE WITHOUT REGARD TO THE CLAIMS EXPERIENCE OF THOSE INDIVIDUALS AND THEIR DEPENDENTS OR ANY HEALTH STATUS-RELATED FACTOR RELATING TO THE INDIVIDUALS AND THEIR DEPENDENTS.

(2) A CARRIER THAT DENIES A HEALTH BENEFIT PLAN TO AN INDIVIDUAL IN THE STATE UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT OFFER COVERAGE IN THE INDIVIDUAL MARKET BEFORE THE LATER OF:

(I) THE 181ST DAY AFTER THE DATE THE CARRIER DENIES COVERAGE; AND

(II) THE DATE THE CARRIER DEMONSTRATES TO THE COMMISSIONER THAT THE CARRIER HAS SUFFICIENT FINANCIAL RESERVES TO UNDERWRITE ADDITIONAL COVERAGE.

(3) PARAGRAPH (2) OF THIS SUBSECTION DOES NOT:

(I) LIMIT THE CARRIER'S ABILITY TO RENEW COVERAGE ALREADY IN FORCE; OR

(II) RELIEVE THE CARRIER OF THE RESPONSIBILITY TO RENEW COVERAGE ALREADY IN FORCE.

(4) HEALTH BENEFIT PLANS OFFERED AFTER THE TIME PERIOD DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION ARE SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

15-1410.

(A) IN THIS SECTION, “PLAN YEAR” HAS THE MEANING STATED IN § 15-1201 OF THIS TITLE.

(B) THE GUARANTEED ISSUANCE OF COVERAGE PROVISION IN TITLE I, SUBTITLE C OF THE AFFORDABLE CARE ACT APPLIES TO EACH HEALTH BENEFIT PLAN WITH A PLAN YEAR THAT BEGINS ON OR AFTER JANUARY 1, 2014.

31-101.

(E-1) “FULL-TIME EMPLOYEE” MEANS AN EMPLOYEE WHO WORKS, ON AVERAGE, AT LEAST 30 HOURS PER WEEK.

(z) (1) “Small employer” means an employer that, during the preceding calendar year, employed an average of not more than:

(i) 50 employees if the preceding calendar year ended on or before January 1, 2016; and

(ii) 100 employees if the preceding calendar year ended after January 1, 2016.

(2) For purposes of this subsection:

(i) all persons treated as a single employer under § 414(b), (c), (m), or (o) of the Internal Revenue Code shall be treated as a single employer;

(ii) an employer and any predecessor employer shall be treated as a single employer;

(iii) [all employees shall be counted, including part-time employees and employees who are not eligible for coverage through the employer] THE NUMBER OF EMPLOYEES OF AN EMPLOYER SHALL BE DETERMINED BY ADDING:

1. THE NUMBER OF FULL-TIME EMPLOYEES; AND

2. THE NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES, WHICH SHALL BE CALCULATED FOR A PARTICULAR MONTH BY DIVIDING THE AGGREGATE NUMBER OF HOURS OF SERVICE OF EMPLOYEES WHO ARE NOT FULL-TIME EMPLOYEES FOR THE MONTH BY 120;

(iv) if an employer was not in existence throughout the preceding calendar year, the determination of whether the employer is a small employer shall be based on the average number of employees that the employer is reasonably expected to employ on business days in the current calendar year; and

(v) an employer that makes enrollment in qualified health plans available to its employees through the SHOP Exchange, and would cease to be a small employer by reason of an increase in the number of its employees, shall continue to be treated as a small employer for purposes of this title as long as it continuously makes enrollment through the SHOP Exchange available to its employees.

31-112.

(e) (1) The Commissioner may DENY, suspend, revoke, or refuse to renew or reinstate a SHOP Exchange navigator license after notice and opportunity for a hearing under §§ 2-210 through 2-214 of this article, if the licensee:

(i) has willfully violated this article or any regulation adopted under this article;

(ii) has intentionally misrepresented or concealed a material fact in the application for the license;

(iii) has obtained the license by misrepresentation, concealment, or other fraud;

(iv) has engaged in fraudulent or dishonest practices in conducting activities under the license;

(v) has misappropriated, converted, or unlawfully withheld money in conducting activities under the license;

(vi) has failed or refused to pay over on demand money that belongs to a person entitled to the money;

(vii) has willfully and materially misrepresented the provisions of a qualified plan;

(viii) has been convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust;

(ix) has failed an examination required by this article or regulations adopted under this article;

(x) has forged another's name on an application for a qualified plan or on any other document in conducting activities under the license;

(xi) has otherwise shown a lack of trustworthiness or competence to act as a SHOP Exchange navigator; or

(xii) has willfully failed to comply with or violated a proper order or subpoena of the Commissioner.

~~Chapter 347 of the Acts of 2005, as amended by Chapter 59 of the Acts of 2007~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That each individual enrolled on September 30, 2005 in a health benefit plan offered by a carrier under Title 15, Subtitle 12 of the Insurance Article may at the option of the enrollee remain covered under any policy issued by the carrier to small employers and selected by the enrollee at renewal, subject to the termination provisions under § 15-1212(b) of the Insurance Article, provided the enrollee continues to:~~

~~(1) work and reside in the State; and~~

~~(2) is a self-employed individual organized as a sole proprietorship or in any other legally recognized manner that a self-employed individual may organize:~~

~~(i) a substantial part of whose income derives from a trade or business through which the individual has attempted to earn taxable income;~~

~~(ii) who has filed the appropriate Internal Revenue form or forms and schedule for the previous taxable year; and~~

~~(iii) for whom a copy of the appropriate Internal Revenue form or forms and schedule has been filed with the carrier.~~

~~Chapter 347 of the Acts of 2005, as amended by Chapter 76 of the Acts of 2008 and Chapter 104 of the Acts of 2011~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005. [Sections 1 and 2 of this Act shall remain effective for a period of 8 years and 3 months and, at the end of December 31, 2013, with no further action required by the General Assembly, Sections 1 and 2 of this Act shall be abrogated and of no further force and effect.]~~

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

15–1205.

(H) A CARRIER SHALL SET PREMIUM RATES FOR THE ENTIRE PLAN YEAR FOR EACH SMALL EMPLOYER.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

15–1317.

(A) A CARRIER THAT SELLS HEALTH BENEFIT PLANS TO INDIVIDUALS IN THE STATE SHALL ESTABLISH AN INITIAL OPEN ENROLLMENT PERIOD THAT BEGINS OCTOBER 1, 2013, AND EXTENDS THROUGH MARCH 31, 2014.

(B) A CARRIER SHALL ACCEPT ALL APPLICANTS WHO APPLY FOR COVERAGE DURING THE INITIAL OPEN ENROLLMENT PERIOD.

(C) IF AN APPLICATION IS RECEIVED BY A CARRIER DURING THE INITIAL OPEN ENROLLMENT PERIOD, COVERAGE FOR THE APPLICANT SHALL BEGIN NO LATER THAN:

(1) JANUARY 1, 2014, IF THE APPLICATION IS RECEIVED ON OR BEFORE DECEMBER 15, 2013;

(2) THE FIRST DAY OF THE FOLLOWING MONTH, IF THE APPLICATION IS RECEIVED BETWEEN THE FIRST AND FIFTEENTH DAY, INCLUSIVE, OF JANUARY, FEBRUARY, OR MARCH; AND

(3) THE FIRST DAY OF THE SECOND FOLLOWING MONTH, IF THE APPLICATION IS RECEIVED BETWEEN THE SIXTEENTH DAY AND THE LAST DAY, INCLUSIVE, OF DECEMBER, JANUARY, FEBRUARY, OR MARCH.

Chapter 347 of the Acts of 2005, as amended by Chapter 59 of the Acts of 2007

SECTION 2. AND BE IT FURTHER ENACTED, That each individual enrolled on September 30, 2005 in a health benefit plan offered by a carrier under Title 15, Subtitle 12 of the Insurance Article may at the option of the enrollee remain covered under any policy issued by the carrier to small employers and selected by the enrollee at renewal, subject to the termination provisions under § 15–1212(b) of the Insurance Article, provided the enrollee continues to:

- (1) work and reside in the State; and
- (2) is a self-employed individual organized as a sole proprietorship or in any other legally recognized manner that a self-employed individual may organize:
 - (i) a substantial part of whose income derives from a trade or business through which the individual has attempted to earn taxable income;
 - (ii) who has filed the appropriate Internal Revenue form or forms and schedule for the previous taxable year; and
 - (iii) for whom a copy of the appropriate Internal Revenue form or forms and schedule has been filed with the carrier.

**Chapter 347 of the Acts of 2005, as amended by Chapter 76 of the Acts of 2008
and Chapter 104 of the Acts of 2011**

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005. [Sections 1 and 2 of this Act shall remain effective for a period of 8 years and 3 months and, at the end of December 31, 2013, with no further action required by the General Assembly, Sections 1 and 2 of this Act shall be abrogated and of no further force and effect.]

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That Section ~~1~~ 2 of this Act shall take effect January 1, 2014.

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That Section ~~2~~ 3 of this Act shall take effect January 1, 2014, the effective date of Section 2 of Chapter 152 of the Acts of the General Assembly of 2012. If the effective date of Section 2 of Chapter 152 is amended, Section ~~2~~ 3 of this Act shall take effect on the taking effect of Section 2 of Chapter 152.

SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That, except as provided in Sections ~~4 and 5~~ 5 and 6 of this Act, this Act shall take effect ~~October~~ June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 369

(House Bill 396)

AN ACT concerning

**Criminal Law – ~~Electronic Harassment of a Minor~~ Misuse of Interactive
Computer Service**

(Grace's Law)

FOR the purpose of prohibiting a person from using ~~a computer or computer network to cause a minor or another person to reasonably fear for the safety of the minor under certain circumstances; prohibiting a person from using a computer or computer network to engage in conduct which would constitute sexual harassment of a minor; prohibiting a person from using a computer or computer network to disseminate certain data with the malicious intent to psychologically torment or harass a minor; prohibiting a person from using a computer or computer network to make any statement intended to provoke or likely to provoke a third party to stalk or harass a minor~~ an interactive computer service to maliciously engage in a certain course of conduct that inflicts serious emotional distress on a minor or places a minor in reasonable fear of death or serious bodily injury under certain circumstances; defining a certain term term; establishing a certain penalty for a violation of this Act; and generally relating to electronic harassment.

~~BY renumbering~~~~Article – Criminal Law~~~~Section 3-805.1~~~~to be Section 3-805.2~~~~Annotated Code of Maryland~~~~(2012 Replacement Volume and 2012 Supplement)~~BY ~~adding to~~ repealing and reenacting, with amendments,

Article – Criminal Law

Section ~~3-805.1~~ 3-805

Annotated Code of Maryland

(2012 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, ~~That Section(s) 3-805.1 of Article – Criminal Law of the Annotated Code of Maryland be renumbered to be Section(s) 3-805.2.~~

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

Article – Criminal Law

~~3-805.1.~~

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

~~(2) “ELECTRONIC CHAT ROOM” MEANS A COMPUTER SERVICE ALLOWING TWO OR MORE USERS TO COMMUNICATE WITH EACH OTHER IN REAL TIME.~~

~~(3) “PROFILE” MEANS:~~

~~(I) A CONFIGURATION OF USER DATA REQUIRED TO BE ENTERED INTO A COMPUTER SO THAT THE USER MAY ACCESS PROGRAMS OR SERVICES AND HAVE THE DESIRED FUNCTIONALITY ON THAT COMPUTER; OR~~

~~(II) A WEB SITE USER’S PERSONAL PAGE OR SECTION OF A PAGE MADE UP OF DATA, IN TEXT OR GRAPHICAL FORM, WHICH DISPLAYS SIGNIFICANT, UNIQUE, OR IDENTIFYING INFORMATION, INCLUDING LISTING ACQUAINTANCES, INTERESTS, ASSOCIATIONS, ACTIVITIES, OR PERSONAL STATEMENTS.~~

~~(B) A PERSON MAY NOT USE A COMPUTER OR COMPUTER NETWORK TO:~~

~~(1) CAUSE A MINOR OR ANOTHER PERSON TO REASONABLY FEAR FOR THE SAFETY OF THE MINOR BY:~~

~~(I) BUILDING A FAKE PROFILE OR WEB SITE;~~

~~(II) POSING AS THE MINOR IN:~~

~~1. AN ELECTRONIC CHAT ROOM;~~

~~2. AN ELECTRONIC MAIL MESSAGE; OR~~

~~3. AN INSTANT MESSAGE; OR~~

~~(III) REPEATEDLY FOLLOWING THE MINOR ONLINE OR INTO AN ELECTRONIC CHAT ROOM;~~

~~(2) ENGAGE IN CONDUCT WHICH WOULD CONSTITUTE SEXUAL HARASSMENT OF A MINOR, INCLUDING:~~

~~(I) POSTING OR ENCOURAGING OTHERS TO POST PRIVATE, PERSONAL, OR SEXUAL INFORMATION PERTAINING TO THE MINOR ON THE INTERNET;~~

~~(II) POSTING A REAL OR DOCTORED IMAGE OF THE MINOR ON THE INTERNET; OR~~

~~(H) SIGNING UP THE MINOR FOR A PORNOGRAPHIC INTERNET SITE;~~

~~(3) DISSEMINATE UNAUTHORIZED DATA PERTAINING TO THE MINOR WITH THE MALICIOUS INTENT TO PSYCHOLOGICALLY TORMENT OR HARASS THE MINOR; OR~~

~~(4) MAKE ANY STATEMENT, WHETHER TRUE OR FALSE, INTENDING TO IMMEDIATELY PROVOKE, AND THAT IS LIKELY TO PROVOKE, ANY THIRD PARTY TO STALK OR HARASS A MINOR.~~

~~(C) THIS SECTION DOES NOT APPLY TO A PEACEABLE ACTIVITY INTENDED TO EXPRESS A POLITICAL VIEW OR PROVIDE INFORMATION TO OTHERS.~~

~~(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$500 OR BOTH.~~

3-805.

(a) (1) In this section[, “electronic] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “ELECTRONIC communication” means the transmission of information, data, or a communication by the use of a computer or any other electronic means that is sent to a person and that is received by the person.

(3) “INTERACTIVE COMPUTER SERVICE” MEANS AN INFORMATION SERVICE, SYSTEM, OR ACCESS SOFTWARE PROVIDER THAT PROVIDES OR ENABLES COMPUTER ACCESS BY MULTIPLE USERS TO A COMPUTER SERVER, INCLUDING A SYSTEM THAT PROVIDES ACCESS TO THE INTERNET AND CELLULAR PHONES.

(b) (1) A person may not maliciously engage in a course of conduct, through the use of electronic communication, that alarms or seriously annoys another:

[1] (I) with the intent to harass, alarm, or annoy the other;

[2] (II) after receiving a reasonable warning or request to stop by or on behalf of the other; and

[3] (III) without a legal purpose.

(2) A PERSON MAY NOT USE AN INTERACTIVE COMPUTER SERVICE TO MALICIOUSLY ENGAGE IN A COURSE OF CONDUCT THAT INFLICTS SERIOUS EMOTIONAL DISTRESS ON A MINOR OR PLACES A MINOR IN REASONABLE FEAR OF DEATH OR SERIOUS BODILY INJURY WITH THE INTENT:

(I) TO KILL, INJURE, HARASS, OR CAUSE SERIOUS EMOTIONAL DISTRESS TO THE MINOR; OR

(II) TO PLACE THE MINOR IN REASONABLE FEAR OF DEATH OR SERIOUS BODILY INJURY.

(c) It is not a violation of this section for any of the following persons to provide information, facilities, or technical assistance to another who is authorized by federal or State law to intercept or provide electronic communication or to conduct surveillance of electronic communication, if a court order directs the person to provide the information, facilities, or technical assistance:

(1) a provider of electronic communication;

(2) an officer, employee, agent, landlord, or custodian of a provider of electronic communication; or

(3) a person specified in a court order directing the provision of information, facilities, or technical assistance to another who is authorized by federal or State law to intercept or provide electronic communication or to conduct surveillance of electronic communication.

(d) [This] SUBSECTION (B)(1) OF THIS section does not apply to a peaceable activity intended to express a political view or provide information to others.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$500 or both.

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 370

(House Bill 419)

AN ACT concerning

Personal Property Tax – Liens for Unpaid Tax

FOR the purpose of ~~requiring liens for unpaid tax on personal property to be recorded and indexed in the office of the clerk of the circuit court of a county where the tax is owed; providing that a lien for unpaid tax on personal property is subordinate to a certain security interest in personal property; providing that a certain secured party may elect to satisfy a tax lien on secured property under certain circumstances; providing that a certain statutory lien shall be released under certain circumstances; requiring the secured party to send certain written notice under certain circumstances; requiring the secured party to pay a certain share~~ portion of personal property taxes owed, including a certain share of certain penalties and interest, in a certain manner; requiring a certain county or municipality to provide a certain response and make certain attempts to resolve disputes concerning a certain amount owed under certain circumstances; providing that if the secured party fails to provide certain notice and payment, the secured party may not satisfy the personal property tax lien in a certain manner; providing that a certain secured party has a certain burden of proof under certain circumstances; providing a secured party a certain right of contribution; providing for the construction of this Act; and generally relating to liens for unpaid tax on personal property.

BY repealing and reenacting, with amendments,
 Article – Tax – Property
 Section ~~14-804~~ and 14-805
 Annotated Code of Maryland
 (2012 Replacement Volume)

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

Article – Tax – Property

~~14-804.~~

(a) ~~All unpaid taxes on real property shall be, until paid, liens on the real property in respect to which they are imposed from the date they became or become payable.~~

(b) ~~(1) [All] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ALL unpaid tax on personal property is a lien on the personal property and on the real property of the owner of the personal property in the same manner in which taxes on real property are now liens on the real property with respect to which they are imposed in all subdivisions of the STATE.~~

~~(2) [State; provided that the] A lien FOR UNPAID TAX ON PERSONAL PROPERTY will attach to the real property OF THE OWNER OF THE PERSONAL~~

~~PROPERTY only after the notice has been recorded and indexed among the judgment records in the office of the clerk of the circuit court in the county where the land lies, or is recorded and indexed on the tax rolls of the subdivision.~~

~~(3) Any subdivision, in lieu of recording in the appropriate court, may use a lien reporting system, and any subdivision so doing shall provide, on request, a lien report or memorandum with respect to any particular person.~~

~~(e) The county property tax deferred under § 10-201 of this article is a lien on the property for which the deferral was granted.~~

~~(d) The unpaid balance of a deferral granted under § 10-202 of this article is a lien on the property for which the deferral was granted.~~

~~(E) A LIEN FOR UNPAID TAX ON PERSONAL PROPERTY SHALL BE RECORDED AND INDEXED BY EACH COUNTY AMONG THE JUDGMENT RECORDS IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN THE COUNTY WHERE THE TAX IS OWED.~~

14-805.

(a) From the date property tax on real property is due, liability for the tax and a 1st lien attaches to the real property in the amount of the property tax due on the real property.

(b) [From] **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,** FROM the date property tax on personal property is due, liability for the tax and a 1st lien attaches to the personal property in the amount of the property tax due on the personal property.

~~(C) A LIEN ATTACHED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION SHALL BE SUBORDINATE TO A PURCHASE MONEY SECURITY INTEREST ON PERSONAL PROPERTY IF, PRIOR TO THE LIEN ATTACHMENT, THE PURCHASE MONEY SECURITY INTEREST WAS PERFECTED AND FILED IN ACCORDANCE WITH TITLE 9 OF THE COMMERCIAL LAW ARTICLE.~~

(C) (1) (I) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A SECURED PARTY WITH A SECURITY INTEREST IN PERSONAL PROPERTY OF A BUSINESS MAY ELECT TO SATISFY A TAX LIEN ON THE SECURED PROPERTY BY PROVIDING THE REQUIRED NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND PAYING THE REQUIRED PRO RATA PORTION OF THE PERSONAL PROPERTY TAXES DUE AND OWING, INCLUDING A PRO RATA SHARE OF ACCRUED PENALTY AND INTEREST AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION.

(II) IF THE SECURED PARTY PAYS THE REQUIRED PRO RATA PORTION OF THE PERSONAL PROPERTY TAXES DUE AND OWING, INCLUDING A PRO RATA SHARE OF THE ACCRUED PENALTY AND INTEREST AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE STATUTORY LIEN ON THE SECURED PROPERTY IDENTIFIED IN THE NOTICE REQUIRED BY PARAGRAPH (2) OF THIS SUBSECTION SHALL BE RELEASED.

(2) (I) ~~WITHIN~~ NOT LATER THAN 60 DAYS AFTER A SECURED PARTY TAKES REPOSSESSION IN ACCORDANCE WITH TITLE 9 OF THE COMMERCIAL LAW ARTICLE OF THE PERSONAL PROPERTY OF A BUSINESS AFTER A DEFAULT BY THE BUSINESS THAT OWES PERSONAL PROPERTY TAXES, THE SECURED PARTY SHALL SEND WRITTEN NOTICE TO EACH COUNTY AND MUNICIPALITY THAT HAS A CERTIFIED ASSESSMENT BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION FOR THE BUSINESS IN AN AMOUNT EQUAL TO OR GREATER THAN THE COST BASIS OF THE PERSONAL PROPERTY ~~REPOSSESSED~~ SUBJECT TO REPOSSESSION BY THE SECURED PARTY, LESS THE DEPRECIATION THAT WOULD BE APPLICABLE TO THE COST BASIS UNDER THE STATE'S DEPRECIATION SCHEDULES.

(II) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE:

1. THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IDENTIFICATION NUMBER *OF THE BUSINESS THAT OWES PERSONAL PROPERTY TAXES*;

2. THE IDENTITY OF THE BUSINESS OWNER;

3. THE LOCATION ~~WHERE~~ *OF THE PERSONAL PROPERTY WAS REPOSSESSED* SUBJECT TO REPOSSESSION;

4. A REASONABLE DESCRIPTION OF THE PERSONAL PROPERTY ~~REPOSSESSED~~ *SUBJECT TO REPOSSESSION*, INCLUDING, IF ~~AVAILABLE~~ *KNOWN*, THE NAME OF THE MANUFACTURER, MODEL, YEAR OF MANUFACTURE, SERIAL NUMBER, REGISTRATION NUMBER, AND VEHICLE IDENTIFICATION NUMBER;

5. THE DATE OF PURCHASE IF KNOWN;

6. THE PURCHASE PRICE OF THE PROPERTY IF KNOWN;

7. A COPY OF ANY SALES DOCUMENTS IN THE POSSESSION OF THE SECURED PARTY;

8. WHEN THE DATE OF PURCHASE AND PURCHASE PRICE OF THE PROPERTY ARE NOT KNOWN, THE SECURED PARTY'S ESTIMATE OF THE FAIR MARKET VALUE OF THE PROPERTY AS OF THE DATE ~~OF THE SECURED PARTY'S LOAN OR ADVANCE~~ THE SECURED PARTY ESTABLISHED A SECURITY INTEREST IN THE PERSONAL PROPERTY;

9. THE SECURED PARTY'S ESTIMATE AS TO THE VALUE OF THE PROPERTY BASED ON THE STATE'S DEPRECIATION SCHEDULES; AND

10. THE SECURED PARTY'S ESTIMATE AS TO THE PRO RATA ~~SHARE~~ PORTION OF PERSONAL PROPERTY TAXES OWED, INCLUDING A PRO RATA SHARE OF ACCRUED PENALTY AND INTEREST.

(3) (I) ~~EXCEPT~~ UNLESS A COUNTY OR MUNICIPALITY DISPUTES THE SECURED PARTY'S ESTIMATE AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ~~WITHIN A REASONABLE PERIOD OF TIME~~ AFTER PROVIDING NOTICE AS REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE SECURED PARTY SHALL PAY THE PRO RATA ~~SHARE~~ PORTION OF PERSONAL PROPERTY TAXES OWED, INCLUDING A PRO RATA SHARE OF ACCRUED PENALTY AND INTEREST, AS SPECIFIED IN PARAGRAPH (4) OF THIS SUBSECTION, AND THE STATUTORY LIEN ON THE SECURED PROPERTY IDENTIFIED IN THE NOTICE UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE RELEASED.

(II) ~~IF A~~ A COUNTY OR MUNICIPALITY ~~DISPUTES~~ MAY DISPUTE THE SECURED PARTY'S ESTIMATE OF THE PRO RATA ~~SHARE~~ PORTION OF PERSONAL PROPERTY TAXES OWED, INCLUDING A PRO RATA SHARE OF ACCRUED PENALTY AND INTEREST, ~~IF~~ THE COUNTY OR MUNICIPALITY ~~SHALL~~:

1. ~~RESPOND~~ RESPONDS IN WRITING TO THE SECURED PARTY NOT LATER THAN 45 DAYS AFTER THE SECURED PARTY PROVIDED NOTICE AS REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION INDICATING THE PRO RATA AMOUNT OF PERSONAL PROPERTY TAXES AND PENALTIES AND INTEREST DUE ON THE SPECIFIED PERSONAL PROPERTY AS CALCULATED BY THE COUNTY OR MUNICIPALITY; AND

2. ~~MAKE~~ MAKES REASONABLE ATTEMPTS TO RESOLVE THE DISPUTE WITH THE SECURED PARTY.

(4) (I) IF THE STATE HAS CERTIFIED AN ASSESSMENT ON A BUSINESS FOR 1 OR MORE YEARS AND THE ASSESSMENT CERTIFICATIONS ARE TO A SINGLE COUNTY, A SINGLE MUNICIPALITY, OR ONE OR MORE MUNICIPALITIES WITHIN A SINGLE COUNTY, TO OBTAIN A STATUTORY RELEASE

UNDER THIS SECTION, THE SECURED PARTY SHALL PAY TO THE COUNTY AND MUNICIPALITIES THE PRO RATA PORTION OF THE PERSONAL PROPERTY TAXES DUE BY THE BUSINESS FOR EACH OUTSTANDING TAX LEVY, INCLUDING THE PRO RATA SHARE OF ACCRUED PENALTY AND INTEREST, CORRESPONDING TO THE PRO RATA PORTION OF THE ASSESSMENT CERTIFIED BY THE STATE FOR EACH TAX LEVY AT ISSUE.

(ii) IF THE STATE HAS CERTIFIED AN ASSESSMENT ON A BUSINESS FOR 1 OR MORE YEARS TO MORE THAN ONE COUNTY OR, IF APPLICABLE, ONE OR MORE MUNICIPALITIES WITHIN ONE OR MORE COUNTIES, TO OBTAIN A STATUTORY RELEASE UNDER THIS SUBSECTION, THE SECURED PARTY SHALL PAY THE PRO RATA PORTION OF THE TAX DUE, INCLUDING THE PRO RATA SHARE OF ACCRUED PENALTY AND INTEREST TO THE APPROPRIATE COUNTY OR MUNICIPALITY IN THE FOLLOWING PRIORITY:

1. TO THE COUNTY, AND THE MUNICIPALITY WITHIN THE COUNTY IF APPLICABLE, WHERE THE PRINCIPAL OFFICE OF THE BUSINESS IS LOCATED ACCORDING TO THE INFORMATION ON FILE WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION, IF THAT COUNTY OR MUNICIPALITY HAS AN ASSESSMENT CERTIFICATION BY THE STATE ON THE BUSINESS PERSONAL PROPERTY OF THE BUSINESS IN AN AMOUNT EQUAL TO OR GREATER THAN THE COST BASIS OF THE PROPERTY ~~REPOSSESSED~~ SUBJECT TO REPOSSESSION BY THE SECURED PARTY, LESS DEPRECIATION;

2. TO THE COUNTY AND MUNICIPALITY WHERE THE SECURED PARTY REPOSSESSED THE PERSONAL PROPERTY OF THE BUSINESS, IF THAT COUNTY OR MUNICIPALITY HAS AN ASSESSMENT CERTIFICATION BY THE STATE ON THE BUSINESS PERSONAL PROPERTY OF THE BUSINESS IN AN AMOUNT EQUAL TO OR GREATER THAN THE COST BASIS OF THE PROPERTY REPOSSESSED BY THE SECURED PARTY, LESS DEPRECIATION;

3. TO ANY COUNTY AND MUNICIPALITY WHERE THE ASSESSMENT CERTIFICATION BY THE STATE ON THE BUSINESS PERSONAL PROPERTY IS IN AN AMOUNT EQUAL TO OR GREATER THAN THE COST BASIS OF THE PROPERTY ~~REPOSSESSED~~ SUBJECT TO REPOSSESSION BY THE SECURED PARTY, LESS STATUTORY DEPRECIATION; OR

4. IF TWO OR MORE COUNTIES OR MUNICIPALITIES HAVE AN ASSESSMENT CERTIFICATION BY THE STATE ON THE BUSINESS PERSONAL PROPERTY OF THE BUSINESS THAT IS IN AN AMOUNT EQUAL TO OR GREATER THAN THE COST BASIS OF THE PROPERTY ~~REPOSSESSED~~ SUBJECT TO REPOSSESSION BY THE SECURED PARTY, LESS DEPRECIATION, AND THE CONDITIONS IN ITEMS 1 AND 2 HAVE NOT BEEN MET, TO EACH COUNTY AND MUNICIPALITY, IF APPLICABLE, THE PRO RATA PORTION OF THE TAX THAT

CORRESPONDS TO THE PRO RATA PORTION OF THE CUMULATIVE ASSESSMENT CERTIFIED BY THE STATE FOR EACH TAX YEAR LEVY AT ISSUE IN PROPORTION TO THE ASSESSMENT IN EACH JURISDICTION WHERE THE ASSESSMENT CERTIFICATIONS ARE IN AN AMOUNT EQUAL TO OR GREATER THAN THE COST BASIS OF THE PERSONAL PROPERTY ~~REPOSSESSED~~ SUBJECT TO REPOSSESSION BY THE SECURED PARTY, LESS DEPRECIATION.

(5) IF THE SECURED PARTY FAILS TO PROVIDE THE NOTICE AND PAYMENT REQUIRED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE SECURED PARTY MAY NOT SATISFY THE PERSONAL PROPERTY TAX LIEN ON PERSONAL PROPERTY BY ONLY PAYING THE PRO RATA ~~SHARE~~ PORTION OF PERSONAL PROPERTY TAXES DUE AND OWING, INCLUDING ACCRUED PENALTIES AND INTEREST, ON THE ~~REPOSSESSED~~ PERSONAL PROPERTY SUBJECT TO REPOSSESSION.

(6) IF THE SECURED PARTY SEEKS TO LIMIT THE LIABILITY OF THE COUNTY'S OR MUNICIPALITY'S STATUTORY FIRST LIEN FOR TAXES OWED TO THE VALUE OF THE PROPERTY ~~REPOSSESSED~~ SUBJECT TO REPOSSESSION, THE SECURED PARTY HAS THE BURDEN OF PROVING, WITH REASONABLE CERTAINTY, THE VALUE OF THE PROPERTY ~~REPOSSESSED~~ SUBJECT TO REPOSSESSION.

(7) THIS SUBSECTION MAY NOT BE CONSTRUED TO CONSTITUTE A RELEASE OF LIABILITY OR RELEASE OF THE TAX LIEN OF THE DEBTOR BUSINESS, WITH RESPECT TO ITS PRINCIPALS, OFFICERS, MEMBERS, OR DIRECTORS, OR ANY TRANSFEREES OF PROPERTY THAT IS ENCUMBERED BY A TAX LIEN AND IS OWNED, USED, OR LEASED BY THE BUSINESS.

(8) (I) THIS SUBSECTION MAY NOT BE CONSTRUED TO CONSTITUTE A REPRIEVE OR EXEMPTION FROM THE ANNUAL PERSONAL PROPERTY REPORTING DUTIES AND RESPONSIBILITIES OF A BUSINESS.

(II) THIS SUBSECTION MAY NOT BE CONSTRUED TO CONSTITUTE A RELEASE OF LIABILITY FOR TAXES LEVIED AS A RESULT OF SUBSEQUENT ASSESSMENTS FROM THE STATE AS TO ANY OF THE PROPERTY REPOSSESSED BY THE SECURED PARTY.

(9) THE SECURED PARTY SHALL HAVE A RIGHT OF CONTRIBUTION FROM THE BUSINESS FOR ANY TAXES, PENALTIES, AND INTEREST PAID BY THE SECURED PARTY UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 371

(House Bill 430)

AN ACT concerning

Criminal Law – Alcoholic Beverages – Consumption and Possession in Motor Vehicles

FOR the purpose of altering a certain definition to expand the types of vehicles for which an occupant is prohibited from consuming or possessing an alcoholic beverage in the passenger area while on a highway; and generally relating to alcoholic beverage consumption or possession in motor vehicles.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 10–123
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

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

Article – Criminal Law

10–123.

- (a) In this part the following words have the meanings indicated.
- (b) “Alcoholic beverage” has the meaning stated in § 21–903 of the Transportation Article.
- (c) “Bus” has the meaning stated in § 11–105 of the Transportation Article.
- (d) “Highway” has the meaning stated in § 11–127 of the Transportation Article.
- (e) “Limousine” has the meaning stated in § 11–129.1 of the Transportation Article.
- (f) “Motor home” has the meaning stated in § 11–134.3 of the Transportation Article.

(g) (1) “Motor vehicle” [has the meaning stated in § 11–135 of the Transportation Article.] MEANS A VEHICLE THAT:

(I) IS SELF-PROPELLED OR PROPELLED BY ELECTRIC POWER OBTAINED FROM OVERHEAD ELECTRICAL WIRES; AND

(II) IS NOT OPERATED ON RAILS.

(2) “MOTOR VEHICLE” INCLUDES:

(I) A LOW SPEED VEHICLE, AS DEFINED IN § 11–130.1 OF THE TRANSPORTATION ARTICLE;

(II) A MOPED, AS DEFINED IN § 11–134.1 OF THE TRANSPORTATION ARTICLE; AND

(III) A MOTOR SCOOTER, AS DEFINED IN § 11–134.5 OF THE TRANSPORTATION ARTICLE.

(h) “Moving violation” has the meaning stated in § 11–136.1 of the Transportation Article.

(i) “Open container” means a bottle, can, or other receptacle:

(1) that is open;

(2) that has a broken seal; or

(3) from which the contents are partially removed.

(j) “Passenger area” has the meaning stated in § 21–903 of the Transportation Article.

(k) “Taxicab” has the meaning stated in § 11–165 of the Transportation Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 372**(House Bill 453)**

AN ACT concerning

Education – Maryland Center for School Safety

FOR the purpose of establishing the Maryland Center for School Safety as an independent unit of State government; establishing the location and staffing of the Center; authorizing the Center to establish satellite offices in certain locations; specifying the function and duties of the Center; establishing the Governing Board of the Maryland Center for School Safety; providing for the membership of the Governing Board; providing for the appointment and terms for certain members of the Governing Board; providing for the duties of the Governing Board; requiring the Governor to provide a certain amount in the annual State budget to carry out certain provisions of law; specifying certain funds to be used to support the operation of the Center; requiring the Governing Board to distribute a certain percentage of each grant received by the Center in a certain manner; requiring the Governing Board to make a certain report to the Governor and the General Assembly on or before a certain date each year; defining certain terms; and generally relating to the establishment of the Maryland Center for School Safety.

BY adding to

Article – Education

Section 7–1501 through 7–1505 to be under the new subtitle “Subtitle 15.

Maryland Center for School Safety”

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

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

Article – Education**SUBTITLE 15. MARYLAND CENTER FOR SCHOOL SAFETY.****7–1501.**

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

(B) “CENTER” MEANS THE MARYLAND CENTER FOR SCHOOL SAFETY.

(C) “GOVERNING BOARD” MEANS THE GOVERNING BOARD OF THE MARYLAND CENTER FOR SCHOOL SAFETY.

7-1502.

(A) THERE IS A MARYLAND CENTER FOR SCHOOL SAFETY.

(B) THE CENTER IS AN INDEPENDENT UNIT WITHIN STATE GOVERNMENT.

(C) THE CENTER SHALL BE BASED AT BOWIE STATE UNIVERSITY.

(D) THE HEAD OF THE CENTER IS THE EXECUTIVE DIRECTOR, WHO SHALL BE APPOINTED BY THE GOVERNING BOARD.

(E) THE CENTER MAY EMPLOY THE ADDITIONAL STAFF NECESSARY TO CARRY OUT THE CENTER’S FUNCTIONS AS PROVIDED IN THE STATE BUDGET.

(F) THE CENTER MAY ESTABLISH A SATELLITE OFFICE AT AN INSTITUTION OF HIGHER EDUCATION LOCATED IN EACH OF THE FOLLOWING REGIONS:

- (1) THE EASTERN SHORE;
- (2) WESTERN MARYLAND; AND
- (3) THE BALTIMORE REGION.

~~(F)~~ (G) THE CENTER SHALL PERFORM THE FOLLOWING FUNCTIONS AND DUTIES:

(1) COLLABORATE WITH LOCAL SCHOOL SYSTEMS IN THE STATE, LAW ENFORCEMENT AGENCIES, STATE AND LOCAL GOVERNMENT, COMMUNITY ORGANIZATIONS, PARENTS, AND OTHER STAKEHOLDERS TO PROVIDE A COMPREHENSIVE, COORDINATED APPROACH TO SCHOOL SAFETY;

(2) IN PARTNERSHIP WITH STAKEHOLDERS:

(I) DISSEMINATE INFORMATION ON BEST PRACTICES, PROGRAMS, AND RESOURCES;

(II) PROVIDE TECHNICAL ASSISTANCE AND TRAINING;

(III) COLLABORATE ON COLLECTION, ANALYSIS, AND INTEGRATION OF STATEWIDE DATA; AND

(IV) PROMOTE INTERAGENCY EFFORTS THAT SUPPORT SAFE SCHOOLS FOR ALL STUDENTS, SCHOOL STAFF, PARENTS, AND COMMUNITY MEMBERS;

(3) ESTABLISH A SAFE SCHOOL INFORMATION AND BEST PRACTICES CLEARINGHOUSE OF UP-TO-DATE, RESEARCH-BASED, AND DATA-DRIVEN INFORMATION ON EFFECTIVE STRATEGIES FOR CREATING AND MAINTAINING SAFE SCHOOLS;

(4) IDENTIFY SAFE SCHOOL PROFESSIONAL STAFF DEVELOPMENT BEST PRACTICES;

(5) INITIATE COLLABORATIVE PARTNERSHIPS AND FACILITATE COORDINATION AMONG LOCAL SCHOOL SYSTEMS, LAW ENFORCEMENT AGENCIES, STATE AND LOCAL GOVERNMENT, AND COMMUNITY ORGANIZATIONS TO LEVERAGE EXISTING RESOURCES TO DELIVER SCHOOL SAFETY SERVICES UNIFORMLY TO LOCAL SCHOOL SYSTEMS;

(6) PROVIDE TECHNICAL ASSISTANCE AND CONSULTATION TO LOCAL SCHOOL SYSTEMS, STATE AND LOCAL GOVERNMENT, AND COMMUNITY ORGANIZATIONS ON BEST PRACTICES FOR SAFE SCHOOLS AND VIOLENCE PREVENTION;

(7) DEVELOP A WEB SITE CONTAINING A SEARCHABLE DATABASE OF DEFINITIVE RESEARCH, BOOKS, VIDEOS, WHITE PAPERS, SPEAKERS, WEB SITES, AND OTHER SCHOOL SAFETY RESOURCES;

(8) DEVELOP CRITERIA THAT MAY BE APPLIED CONSISTENTLY AND UNIFORMLY IN LOCAL SCHOOL SYSTEMS FOR CODING UNSAFE INCIDENTS AND SERIOUS OR VIOLENT OFFENSES;

(9) RESEARCH AND RECOMMEND THE USE OF COMMON ASSESSMENT TOOLS TO BE USED TO IDENTIFY SPECIFIC PROBLEMS AND NEEDS OF SCHOOLS AND NEIGHBORHOODS TO FACILITATE INTERVENTION BEFORE ASSESSED FINDINGS BECOME PROBLEMATIC;

(10) ASSIST LOCAL SCHOOL SYSTEMS TO CONDUCT A THOROUGH ASSESSMENT OF THEIR SCHOOL SAFETY DATA, SCHOOL BUILDING LAYOUTS, AND USE OF HUMAN RESOURCES FOR MONITORING PURPOSES TO DETERMINE THE NEED FOR:

(I) SURVEILLANCE AND OTHER SECURITY TECHNOLOGY;
AND

(II) INNOVATIONS TO MAXIMIZE THE USE OF HUMAN RESOURCES TO MONITOR ACTIVITY AND INFLUENCE POSITIVE RELATIONSHIP BUILDING;

(11) MAINTAIN AND MAXIMIZE RELATIONSHIPS WITH EMERGENCY RESPONDERS, LAW ENFORCEMENT PERSONNEL, PARENTS, AND OTHER EMERGENCY PREPAREDNESS STAKEHOLDERS TO ENSURE SEAMLESS EXECUTION IN AN EMERGENCY EVENT, INCLUDING:

(I) CONSOLIDATE RESOURCES AMONG STAKEHOLDERS TO MAXIMIZE SUPPORT AND SECURE NECESSARY SKILLS TO ENSURE EMERGENCY PLAN IMPLEMENTATION;

(II) CONDUCT COLLABORATIVE TRAINING AND PREPARATION EXERCISES; AND

(III) IDENTIFY IMPROVEMENTS AND ENSURE NONDUPLICATION OF EFFORT IN EMERGENCY RESPONSE PROCEDURES;

(12) PROVIDE SAFETY INFORMATION ON TRAVELING TO AND FROM SCHOOL TO PARENTS AND STUDENTS TWICE A YEAR THAT INCLUDES DATA RELATED TO BUS AND PEDESTRIAN SAFETY, STRATEGIES FOR ENSURING PERSONAL SAFETY, EFFORTS OF THE LOCAL SCHOOL SYSTEM OR SCHOOL TO IMPROVE SAFETY, AND INFORMATION ON THE AVAILABLE OPTIONS FOR REPORTING INCIDENTS OR CONCERNS;

(13) UTILIZE AND UPDATE AN EXISTING CLEARINGHOUSE OF LAW ENFORCEMENT RESOURCES THAT ARE AVAILABLE TO SUPPORT SCHOOL SAFETY TO ENSURE THAT IT INCLUDES INFORMATION REGARDING THE PURPOSE AND PROCESS FOR ACCESSING AVAILABLE FUNDING;

(14) ASSIST LOCAL SCHOOL SYSTEMS TO IMPROVE AND MONITOR TRAFFIC CONTROL MEASURES IN THE IMMEDIATE VICINITY OF SCHOOLS TO REDUCE THE POTENTIAL FOR PEDESTRIAN AND VEHICLE ACCIDENTS;

(15) ASSIST THE DEPARTMENT TO EVALUATE AND UPDATE CURRENT DATA SYSTEMS TO ENSURE THEY ARE BEST SUITED FOR PROVIDING USEFUL INFORMATION ON SCHOOL SAFETY ISSUES;

(16) ASSIST LOCAL SCHOOL SYSTEMS TO MONITOR LOCAL SCHOOL SYSTEM AND INDIVIDUAL SCHOOL BEHAVIOR DATA TO ENSURE FAIRNESS IN THE APPLICATION OF CONSEQUENCES FOR STUDENT MISBEHAVIOR;

(17) ASSIST THE DEPARTMENT AND LOCAL SCHOOL SYSTEMS:

(I) TO PREPARE AN ANNUAL REPORT THAT COMBINES MULTIPLE SCHOOL SAFETY DATA SYSTEMS INTO ONE FORMAT FOR PUBLIC REVIEW; AND

(II) TO INCORPORATE NEW DATA POINTS INTO EXISTING DATA COLLECTION SYSTEMS;

(18) ASSIST IN THE DEVELOPMENT OF SAFETY AND SECURITY CRITERIA FOR THE DESIGN AND OPERATION OF SCHOOL FACILITIES;

(19) PROVIDE TECHNICAL ASSISTANCE TO LOCAL SCHOOL SYSTEMS IN THE REVIEW OF SAFETY AND SECURITY AUDITS AND THE IMPLEMENTATION OF IMPROVEMENTS IN SCHOOL FACILITIES; AND

(20) FOSTER COORDINATION AMONG ALL ENTITIES RESPONSIBLE FOR ENSURING THE SAFETY AND SECURITY OF SCHOOL FACILITIES IN THE STATE.

7-1503.

(A) THERE IS A GOVERNING BOARD OF THE CENTER.

(B) THE GOVERNING BOARD SHALL INCLUDE THE FOLLOWING MEMBERS:

(1) THE STATE SUPERINTENDENT, OR THE STATE SUPERINTENDENT'S DESIGNEE;

(2) THE SECRETARY OF STATE POLICE, OR THE SECRETARY'S DESIGNEE;

(3) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;

(4) THE SECRETARY OF THE DEPARTMENT OF DISABILITIES, OR THE SECRETARY'S DESIGNEE;

(5) A REPRESENTATIVE OF LOCAL SUPERINTENDENTS OF SCHOOLS, APPOINTED BY THE PUBLIC SCHOOL SUPERINTENDENTS' ASSOCIATION OF MARYLAND;

(6) A REPRESENTATIVE OF THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION, APPOINTED BY THE ASSOCIATION;

(7) A SCHOOL PSYCHOLOGIST OR SOCIOLOGIST, APPOINTED BY THE STATE SUPERINTENDENT OF SCHOOLS; AND

(8) FOUR MEMBERS OF THE PUBLIC, INCLUDING AT LEAST A PARENT OF A PUBLIC SCHOOL STUDENT, A REPRESENTATIVE OF A NONPUBLIC SCHOOL, AND A REPRESENTATIVE OF SCHOOL BUS DRIVERS, APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(C) THE GOVERNOR SHALL APPOINT A CHAIR OF THE GOVERNING BOARD FROM AMONG ITS MEMBERS.

(D) A MEMBER APPOINTED BY THE GOVERNOR:

(1) SERVES AT THE PLEASURE OF THE GOVERNOR;

(2) SERVES FOR A TERM OF 3 YEARS AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES; AND

(3) MAY BE REAPPOINTED BUT MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

(E) A MEMBER OF THE GOVERNING BOARD:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE GOVERNING BOARD; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) THE GOVERNING BOARD SHALL:

(1) DEVELOP AN IMPLEMENTATION PLAN TO PHASE IN THE ESTABLISHMENT AND OPERATION OF THE CENTER;

(2) PROVIDE GENERAL OVERSIGHT AND DIRECTION TO THE CENTER; AND

- (3) APPROVE THE ANNUAL BUDGET FOR THE CENTER.

7-1504.

(A) THE GOVERNOR SHALL PROVIDE ~~\$3,000,000~~ \$500,000 IN THE ANNUAL STATE BUDGET TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

(B) ~~THE~~ SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE OPERATION OF THE CENTER SHALL BE SUPPORTED BY FUNDS:

(1) AS PROVIDED BY THE GOVERNOR IN THE ANNUAL STATE BUDGET;

(2) GRANTS OR OTHER ASSISTANCE FROM LOCAL EDUCATION AGENCIES;

(3) FEDERAL GRANTS; AND

(4) ANY OTHER GRANTS OR CONTRIBUTIONS FROM PUBLIC OR PRIVATE ENTITIES RECEIVED BY THE CENTER.

(C) THE GOVERNING BOARD SHALL DISTRIBUTE 10% OF EACH GRANT RECEIVED BY THE CENTER AS FOLLOWS:

(1) IF THE GRANT IS DESIGNATED FOR THE CENTER, IN EQUAL AMOUNTS TO BOWIE STATE UNIVERSITY AND, IF SATELLITE OFFICES ARE ESTABLISHED UNDER § 7-1502(F) OF THIS SUBTITLE, THE INSTITUTIONS OF HIGHER EDUCATION WHERE SATELLITE OFFICES ARE LOCATED;

(2) IF THE GRANT IS DESIGNATED FOR THE CENTER OFFICE AT BOWIE STATE UNIVERSITY OR FOR A SATELLITE OFFICE, TO THE INSTITUTION OF HIGHER EDUCATION WHERE THE DESIGNATED OFFICE IS LOCATED; OR

(3) IF THE GRANT IS DESIGNATED FOR A COMBINATION OF CENTER OFFICES, TO THE INSTITUTIONS OF HIGHER EDUCATION WHERE THE DESIGNATED OFFICES ARE LOCATED.

7-1505.

(A) THE GOVERNING BOARD SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 15 OF EACH YEAR.

(B) THE REPORT SHALL INCLUDE:

- (1) A LIST OF ALL THE ACTIVITIES OF THE CENTER; AND
- (2) AN UPDATE ON THE CURRENT STATUS AND EFFECTIVENESS OF THE CENTER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 373

(House Bill 489)

AN ACT concerning

**Criminal Law – Threat Against State or Local Official – ~~Definitions~~
Expansion**

FOR the purpose of making it a misdemeanor to knowingly and willfully make a threat to take the life of, kidnap, or cause physical injury to a deputy State's Attorney ~~or~~, an assistant State's Attorney, or an Assistant Public Defender; imposing certain penalties; and generally relating to the making of threats against deputy State's Attorneys ~~and~~, assistant State's Attorneys, and Assistant Public Defenders.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–708
Annotated Code of Maryland
(2012 Replacement Volume and 2012 Supplement)

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

Article – Criminal Law

3–708.

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

(2) “Local official” means an individual serving in a publicly elected office of a local government unit, as defined in § 10–101 of the State Government Article.

(3) (i) “State official” has the meaning stated in § 15–102 of the State Government Article.

(ii) “State official” includes the Governor, Governor–elect, Lieutenant Governor, and Lieutenant Governor–elect.

(4) “Threat” includes:

(i) an oral threat; or

(ii) a threat in any written form, whether or not the writing is signed, or if the writing is signed, whether or not it is signed with a fictitious name or any other mark.

(b) A person may not knowingly and willfully make a threat to take the life of, kidnap, or cause physical injury to a State official [or], A local official, A **DEPUTY STATE’S ATTORNEY, ~~OR~~ AN ASSISTANT STATE’S ATTORNEY, OR AN ASSISTANT PUBLIC DEFENDER.**

(c) A person may not knowingly send, deliver, part with, or make for the purpose of sending or delivering a threat prohibited under subsection (b) of this section.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$2,500 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 374

(House Bill 526)

AN ACT concerning

Higher Education – Maryland First Scholarship – Creation and Funding

FOR the purpose of establishing the Maryland First Scholarship; establishing certain eligibility requirements for the scholarship; requiring certain information to be provided in an application for the scholarship; authorizing the use of the scholarship for certain educational expenses; authorizing the scholarship awarded to be in an annual amount up to a certain percentage of certain tuition and fees at certain institutions of higher education; requiring the scholarship recipient to maintain a certain grade point average to be determined at a certain time; providing for the duration of the scholarship; requiring scholarship applicants and recipients to file for certain federal and State financial aid by a certain date; establishing ~~a certain fund~~; the Maryland First Scholarship Fund; specifying the purpose of the Fund; requiring the Maryland Higher Education Commission to administer ~~a certain fund~~ the Fund; providing that the ~~fund~~ Fund is a certain special, nonlapsing fund that is not subject to a certain section of the State Finance and Procurement Article; requiring the State Treasurer to hold the ~~fund~~ Fund separately and to make certain investments; requiring certain earnings to accrue to ~~a certain fund~~ the Fund; requiring the Comptroller to account for the ~~fund~~ Fund; directing the Commission to use certain gifts and grants for the ~~fund~~ Fund in a certain manner; specifying the contents of the Fund; specifying the purposes for which the Fund may be used; requiring certain ~~funds~~ money not awarded to remain in ~~a certain fund~~ the Fund; requiring the Commission to prepare a certain annual report regarding the ~~fund~~ Fund; requiring the Governor to make ~~a certain~~ an appropriation in the State budget ~~from a certain fund~~ for a certain purpose; ~~authorizing funds from the Education Trust Fund to be used for a certain purpose~~; exempting the Fund from a certain provision of law requiring interest on State money in special funds to accrue to the General Fund of the State; defining certain terms; and generally relating to the establishment of the Maryland First Scholarship.

BY repealing and reenacting, without amendments,
Article – Education
Section 18–101
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding to
Article – Education
Section 18–2901 to be under the new subtitle “Subtitle 29. Maryland First Scholarship”
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

~~BY repealing and reenacting, with amendments,
Article – State Government
Section 9–1A–30
Annotated Code of Maryland
(2009 Replacement Volume and 2012 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 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(ii)69. and 70.

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – State Finance and Procurement

Section 6–226(a)(2)(ii)71.

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – Education

18–101.

- (a) In this title the following words have the meanings indicated.
- (b) “Commission” means the Maryland Higher Education Commission.
- (c) “Office” means the Office of Student Financial Assistance.
- (d) “Secretary” means the Secretary of Higher Education.

SUBTITLE 29. MARYLAND FIRST SCHOLARSHIP.

18–2901.

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

(2) “ELIGIBLE INSTITUTION” MEANS A PUBLIC OR PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION IN THE STATE THAT POSSESSES A CERTIFICATE OF APPROVAL FROM THE COMMISSION.

(3) “FIRST-GENERATION STUDENT” MEANS A STUDENT WHOSE PARENTS HAVE NOT EARNED A DEGREE FROM AN INSTITUTION OF HIGHER EDUCATION.

(4) “FUND” MEANS THE MARYLAND FIRST SCHOLARSHIP FUND.

(5) “SCHOLARSHIP” MEANS THE MARYLAND FIRST SCHOLARSHIP.

(B) THERE IS A MARYLAND FIRST SCHOLARSHIP.

(C) AN INDIVIDUAL MAY APPLY TO THE OFFICE FOR THE SCHOLARSHIP IF THE INDIVIDUAL:

(1) IS A RESIDENT OF THE STATE;

(2) (I) IS ACCEPTED FOR ADMISSION OR ENROLLED IN THE REGULAR UNDERGRADUATE PROGRAM AT AN ELIGIBLE INSTITUTION; OR

(II) IS ACCEPTED FOR ADMISSION OR ENROLLED IN A 2-YEAR TERMINAL CERTIFICATE PROGRAM IN WHICH THE COURSE WORK IS ACCEPTABLE FOR TRANSFER CREDIT FOR AN ACCREDITED BACCALAUREATE PROGRAM IN AN ELIGIBLE INSTITUTION;

(3) (I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH, ATTAINED A CUMULATIVE GRADE POINT AVERAGE OF AT LEAST 3.0 ON A 4.0 SCALE OR ITS EQUIVALENT AT THE END OF THE FIRST SEMESTER OF THE SENIOR YEAR OF HIGH SCHOOL; OR

(II) HAS COMPLETED 40 HOURS OF VERIFIABLE COMMUNITY SERVICE IN THE YEAR BEFORE APPLYING FOR THE SCHOLARSHIP IF THE INDIVIDUAL GRADUATED FROM HIGH SCHOOL MORE THAN 4 YEARS PRIOR TO ENROLLING IN AN ELIGIBLE INSTITUTION;

(4) DEMONSTRATES FINANCIAL NEED; ~~AND~~

(5) IS A FIRST-GENERATION STUDENT; AND

(6) MEETS ANY OTHER CRITERIA ESTABLISHED BY THE OFFICE.

(D) IN ADDITION TO PROVIDING ANY OTHER INFORMATION THE OFFICE REQUIRES, EACH APPLICANT SHALL DESCRIBE THE TYPES OF COMMUNITY SERVICE COMPLETED DURING HIGH SCHOOL OR IN THE YEAR BEFORE APPLYING FOR THE SCHOLARSHIP.

(E) A SCHOLARSHIP AWARDED UNDER THIS SECTION:

(1) MAY BE USED FOR THE TUITION AND MANDATORY FEES AND ROOM AND BOARD FOR ON-CAMPUS HOUSING AT ANY ELIGIBLE INSTITUTION; AND

(2) MAY BE IN AN ANNUAL AMOUNT UP TO:

(I) 50% OF THE TUITION AND MANDATORY FEES CHARGED TO THE RECIPIENT IF THE RECIPIENT IS ENROLLED AS AN UNDERGRADUATE STUDENT AT A 4-YEAR PUBLIC ELIGIBLE INSTITUTION;

(II) 75% OF THE TUITION AND MANDATORY FEES CHARGED TO THE RECIPIENT IF THE RECIPIENT IS ENROLLED AT A 2-YEAR PUBLIC ELIGIBLE INSTITUTION;

(III) 50% OF THE ANNUAL AVERAGE TUITION AND MANDATORY FEES OF A RESIDENT UNDERGRADUATE STUDENT AT THE 4-YEAR PUBLIC INSTITUTIONS OF HIGHER EDUCATION WITHIN THE UNIVERSITY SYSTEM OF MARYLAND, OTHER THAN THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE AND UNIVERSITY OF MARYLAND, BALTIMORE, IF THE RECIPIENT IS ENROLLED AT A 4-YEAR PRIVATE NONPROFIT ELIGIBLE INSTITUTION; OR

(VI) 75% OF THE ANNUAL AVERAGE OUT-OF-COUNTY TUITION AND MANDATORY FEES OF A STUDENT AT THE 2-YEAR PUBLIC INSTITUTIONS IF THE RECIPIENT IS ENROLLED IN A 2-YEAR TERMINAL CERTIFICATE PROGRAM UNDER SUBSECTION (C)(2)(II) OF THIS SECTION.

(F) EACH SCHOLARSHIP RECIPIENT SHALL MAINTAIN A GRADE POINT AVERAGE OF AT LEAST 3.0 ON A 4.0 SCALE TO BE DETERMINED AT THE END OF THE ACADEMIC YEAR DURING WHICH THE RECIPIENT HELD THE AWARD AND BEFORE THE RECIPIENT'S REENROLLMENT FOR THE NEXT ACADEMIC YEAR.

(G) ~~EACH~~ SUBJECT TO SUBSECTION (F) OF THIS SECTION, EACH SCHOLARSHIP RECIPIENT MAY HOLD THE AWARD FOR:

(1) 5 YEARS OF FULL-TIME STUDY OR 8 YEARS OF PART-TIME STUDY AT A 4-YEAR ELIGIBLE INSTITUTION; OR

(2) 3 YEARS OF FULL-TIME STUDY OR 4 YEARS OF PART-TIME STUDY AT A 2-YEAR ELIGIBLE INSTITUTION.

(H) A SCHOLARSHIP APPLICANT OR RECIPIENT SHALL FILE FOR FEDERAL AND STATE FINANCIAL AID BY MARCH 1 OF EACH YEAR.

(I) (1) THERE IS A MARYLAND FIRST SCHOLARSHIP FUND IN THE COMMISSION.

~~(2) ALL PROCEEDS APPROPRIATED TO THE FUND UNDER THIS SECTION SHALL BE CREDITED TO THE FUND.~~

(2) THE PURPOSE OF THE FUND IS TO PROVIDE MONEY FOR SCHOLARSHIP AWARDS UNDER THIS SECTION AND FOR ADMINISTRATIVE EXPENSES INCURRED BY THE COMMISSION IN MAKING SCHOLARSHIP AWARDS UNDER THIS SECTION.

(3) THE COMMISSION SHALL ADMINISTER THE FUND.

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

(5) (I) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY AND SHALL INVEST THE MONEY IN THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

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

(6) THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(7) THE COMMISSION:

(I) MAY ACCEPT ANY GIFT OR GRANT FROM ANY PERSON FOR THE FUND;

(II) SHALL USE ANY GIFT OR GRANT THAT IT RECEIVES FOR A SCHOLARSHIP FROM THE FUND; AND

(III) SHALL DEPOSIT ANY GIFT OR GRANT THAT IT RECEIVES FOR THE FUND WITH THE STATE TREASURER.

(8) THE FUND CONSISTS OF:

(I) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(II) GIFTS OR GRANTS RECEIVED BY THE COMMISSION FOR THE FUND;

(III) INVESTMENT EARNINGS OF THE FUND; AND

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

(9) THE FUND MAY BE USED ONLY FOR:

(I) MAKING SCHOLARSHIP AWARDS UNDER THIS SECTION;
AND

(II) ADMINISTRATIVE EXPENSES INCURRED BY THE COMMISSION IN MAKING SCHOLARSHIP AWARDS UNDER THIS SECTION.

~~(8)~~ (10) MONEY PROVIDED TO THE FUND THAT IS NOT AWARDED BY THE END OF THE FISCAL YEAR SHALL REMAIN IN THE FUND.

~~(9)~~ (11) (I) AT THE END OF THE FISCAL YEAR, THE COMMISSION SHALL PREPARE AN ANNUAL REPORT OF THE FUND THAT INCLUDES AN ACCOUNTING OF ALL FINANCIAL RECEIPTS AND EXPENDITURES TO AND FROM THE FUND.

(II) THE COMMISSION SHALL SUBMIT A COPY OF THE REPORT TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.

(J) THE GOVERNOR ANNUALLY SHALL INCLUDE FUNDS IN THE STATE BUDGET FOR EACH FISCAL YEAR AN APPROPRIATION OF \$10,000,000 FROM THE EDUCATION TRUST FUND ESTABLISHED UNDER § 9-1A-30 OF THE STATE GOVERNMENT ARTICLE TO THE MARYLAND FIRST SCHOLARSHIP FUND TO BE USED TO IMPLEMENT THIS SECTION.

~~Article State Government~~

~~9-1A-30.~~

~~(a) There is an Education Trust Fund which is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.~~

~~(b) (1) There shall be credited to the Education Trust Fund all proceeds allocated to the Fund under § 9-1A-27 of this subtitle.~~

~~(2) Money in the Education Trust Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall accrue to the Fund.~~

~~(e) Money in the Education Trust Fund shall be used to:~~

~~(1) provide funding for public elementary and secondary education, through continuation of the funding and formulas established under the programs commonly known as the Bridge to Excellence in Public Schools Act, first enacted by Chapter 288 of the Acts of the General Assembly of 2002, including the funding for regional differences in the cost of education under § 5-202(f) of the Education Article;~~

~~(2) provide funds to construct public school buildings and provide public school capital improvements in accordance with §§ 5-301 through 5-303 of the Education Article;~~

~~(3) provide funds for capital projects at community colleges and public senior higher education institutions; [and]~~

~~(4) provide funds to expand public early childhood education programs in the State; AND~~

~~(5) PROVIDE FUNDS FOR STUDENT FINANCIAL ASSISTANCE TO ATTEND INSTITUTIONS OF HIGHER EDUCATION IN THE STATE.~~

~~(d) Expenditures from the Education Trust Fund shall be made each fiscal year in accordance with the State budget.~~

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:

69. the Maryland Legal Services Corporation Fund; [and]

70. Mortgage Loan Servicing Practices Settlement Fund;

AND

71. THE MARYLAND FIRST SCHOLARSHIP FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 375

(House Bill 527)

AN ACT concerning

Frederick Regional Higher Education Advisory Board

FOR the purpose of establishing the Frederick Regional Higher Education Advisory Board; providing for the composition, appointment, and terms of the Board members; providing for the election of 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 Frederick County Chamber of Commerce Major Employers Group to take a certain action on or before a certain date; requiring the Board to conduct a certain assessment; defining certain terms; and generally relating to the establishment of the Frederick Regional Higher Education Advisory Board.

BY adding to

Article – Education

Section 24–1001 through 24–1004 to be under the new subtitle “Subtitle 10.

Frederick Regional 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 10. FREDERICK REGIONAL HIGHER EDUCATION ADVISORY BOARD.

24–1001.

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

(B) “BOARD” MEANS THE FREDERICK REGIONAL HIGHER EDUCATION ADVISORY BOARD.

(C) “CENTER” MEANS THE FREDERICK REGIONAL HIGHER EDUCATION CENTER.

(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 AT THE CENTER.

24-1002.

THERE IS A FREDERICK REGIONAL HIGHER EDUCATION ADVISORY BOARD.

24-1003.

(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 TEN REPRESENTATIVES, APPOINTED IN ACCORDANCE WITH THE BYLAWS OF THE BOARD:

(i) FIVE MEMBERS OF THE FREDERICK COUNTY BUSINESS ROUNDTABLE FOR EDUCATION EXECUTIVE COMMITTEE WHO ARE APPOINTED AS REPRESENTATIVES FROM THE FOLLOWING GROUPS:

1. THE FREDERICK COUNTY CHAMBER OF COMMERCE;
2. FREDERICK COMMUNITY COLLEGE;
3. FREDERICK COUNTY PUBLIC SCHOOLS;

4. FREDERICK COUNTY OFFICE OF ECONOMIC DEVELOPMENT; AND

5. FREDERICK NATIONAL LABORATORY FOR CANCER RESEARCH (OPERATING CONTRACTOR);

(II) TWO REPRESENTATIVES OF REGIONAL BUSINESSES, INDUSTRIES, OR CORPORATIONS; AND

(III) TWO REPRESENTATIVES CHOSEN FROM THE COMMUNITY AT-LARGE;

(3) THE PRESIDENT OF HOOD COLLEGE; AND

(4) THE PRESIDENT OF MOUNT ST. MARY'S UNIVERSITY.

(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) 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 FORT DETRICK;

(2) THE REPRESENTATIVE FROM FORT DETRICK ON THE FREDERICK COUNTY BUSINESS ROUNDTABLE FOR EDUCATION EXECUTIVE COMMITTEE;

(3) THE NATIONAL CANCER INSTITUTE'S SENIOR MISSION LEADER FOR THE FREDERICK NATIONAL LABORATORY FOR CANCER RESEARCH, OR THE LEADER'S DESIGNEE; AND

(4) 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.

24-1004.

(A) IN ADDITION TO THE OTHER POWERS EXPRESSLY GRANTED AND DUTIES IMPOSED BY THIS SUBTITLE, 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 THE FREDERICK REGION;

(2) ASSIST IN SETTING THE MISSIONS OF AND ACCOMPLISHING THE GOALS AND OBJECTIVES OF THE SITES IN FREDERICK COUNTY;

(3) ASSIST IN ESTABLISHING A FREDERICK REGIONAL HIGHER EDUCATION CENTER;

(4) PROVIDE GUIDANCE AND SUPPORT IN IDENTIFYING INSTITUTIONS AND PROGRAMS TO SERVE HIGHER EDUCATION AND WORKFORCE NEEDS IN FREDERICK COUNTY;

(5) ASSIST WITH THE MARKETING AND PROMOTION OF PROGRAMS OFFERED AT THE CENTER AND SITES;

(6) FACILITATE INTERACTIONS AMONG THE BUSINESS, NONPROFIT, EDUCATION, MILITARY, AND FREDERICK NATIONAL LABORATORY 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, THE STATE, OR A COUNTY GOVERNMENT OR ANY OTHER PERSON IF THE BOARD 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 THAT USE 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 Frederick County Chamber of Commerce Major Employers Group shall appoint the initial members of the Frederick Regional Higher Education Advisory Board established under the provisions of this Act on or before November 1, 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That the Frederick Regional Higher Education Advisory Board shall conduct a quantitative assessment of unmet higher education needs within the Frederick region.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 376

(House Bill 529)

AN ACT concerning

State Board of Morticians and Funeral Directors – Apprentice Sponsors, Funeral Establishment Licenses, and Supervising Morticians

FOR the purpose of ~~requiring that a licensed mortician or licensed funeral director have certain approval by the State Board of Morticians and Funeral Directors before an apprenticeship begins;~~ clarifying the requirements for certain apprentice sponsors and a certain process for seeking approval by the State Board of Morticians and Funeral Directors for an apprentice license; requiring certain evidence and death certificates to be submitted to the Board as proof of the completion of certain apprentice requirements; altering certain practical experience requirements for an apprentice; altering the qualifications that must be met for issuance of a funeral establishment license; requiring certain licensed funeral establishments to have a supervising mortician; providing for the qualifications, ~~approval process~~ registration, responsibilities, and scope of supervising authority for certain supervising morticians; altering a certain definition; and generally relating to the State Board of Morticians and Funeral Directors, apprentice sponsors, funeral establishments, and supervising morticians.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 7–101(a), (b), (d), (j), (k), and (m) through (u)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 7–101(c), 7–306, and 7–310
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

7–101.

- (a) In this title the following words have the meanings indicated.
- (b) “Apprentice” means an individual licensed by the Board who assists a licensed mortician or funeral director in the practice of mortuary science or funeral direction, under direct supervision of a licensed mortician or funeral director.
- (c) “Apprentice sponsor” means [a person] **AN INDIVIDUAL** who:
- (1) Is a licensed mortician or funeral director [practicing] **WHOSE LICENSE IS IN GOOD STANDING WITH THE BOARD;**
 - (2) HAS PRACTICED** mortuary science as a licensed mortician or funeral director in Maryland at least 1 year immediately prior to accepting the applicant as an apprentice; ~~and~~
 - ~~**(3) THE BOARD HAS APPROVED IN ACCORDANCE WITH § 7-306 OF THIS SUBTITLE; AND**~~
- [(2)] ~~(4)~~ **(3)** Provides direct supervision to an apprentice.
- (d) “Board” means the Maryland State Board of Morticians and Funeral Directors.
- (j) “Funeral director” means an individual who is licensed by the Board to practice all aspects of mortuary science except for embalming.
- (k) “Funeral establishment” means any building, structure, or premises from which the business of practicing mortuary science is conducted.
- (m) (1) “License” means, unless the context requires otherwise, a license issued by the Board.
- (2) “License” includes, unless otherwise indicated:
- (i) A mortician license;
 - (ii) An apprentice license;
 - (iii) A funeral director license;
 - (iv) A surviving spouse license;
 - (v) A corporation license;
 - (vi) A funeral establishment license; and

(vii) A courtesy card.

(n) “Licensed apprentice” means, unless the context requires otherwise, an apprentice who is licensed by the Board to assist a licensed mortician or funeral director in the practice of mortuary science or funeral direction.

(o) “Licensed funeral director” means, unless the context requires otherwise, a funeral director who is licensed by the Board to practice funeral direction.

(p) “Licensed funeral establishment” means, unless the context requires otherwise, a funeral establishment that is licensed by the Board.

(q) “Licensed mortician” means, unless the context requires otherwise, a mortician who is licensed by the Board under this title to practice mortuary science.

(r) “Licensee” means an individual or entity licensed by the Board to practice mortuary science to the extent determined by the Board.

(s) “Mortician” means an individual who practices mortuary science.

(t) (1) “Practice funeral direction” means:

(i) To operate a funeral establishment;

(ii) For compensation, to prepare a dead human body for disposition; or

(iii) For compensation, to arrange for or make final disposition of a dead human body.

(2) “Practice funeral direction” does not include:

(i) For compensation, disinfecting or preserving a dead human body or any of its parts by arterial or cavity injection or any other type of preservation; or

(ii) The business of operating a crematory.

(u) (1) “Practice mortuary science” means:

(i) To operate a funeral establishment;

(ii) For compensation, to prepare a dead human body for disposition; or

(iii) For compensation, to arrange for or make final disposition of a dead human body.

(2) "Practice mortuary science" includes:

(i) The practice of funeral direction; and

(ii) Disinfecting or preserving a dead human body or any of its parts by arterial or cavity injection.

(3) "Practice mortuary science" does not include:

(i) The pickup, removal, or transportation of a dead human body, if the unlicensed individual is acting under the direction of a licensed mortician or funeral director; or

(ii) The business of operating a crematory.

7-306.

(a) An individual shall obtain an apprentice license from the Board ~~AND A LICENSED MORTICIAN OR LICENSED FUNERAL DIRECTOR SHALL BE APPROVED BY THE BOARD AS AN APPRENTICE SPONSOR FOR THE INDIVIDUAL~~ before ~~beginning~~ an apprenticeship ~~BEGINS~~ in this State.

(b) (1) [An applicant for a] A mortician apprentice [license] shall have [a] AN APPRENTICE sponsor [with] WHO:

(I) ~~WITH a current mortician license THAT IS A LICENSED MORTICIAN WHOSE LICENSE IS IN GOOD STANDING WITH THE BOARD; AND~~

(II) ~~WHO HAS BEEN APPROVED BY THE BOARD IS EMPLOYED BY THE SAME FUNERAL ESTABLISHMENT THAT EMPLOYS THE APPRENTICE.~~

(2) [An applicant for a] A funeral director [license] APPRENTICE shall have [a] AN APPRENTICE sponsor [with a] ~~HAS~~:

(I) ~~A current mortician or funeral director license THAT IS A LICENSED MORTICIAN OR FUNERAL DIRECTOR WHOSE LICENSE IS IN GOOD STANDING WITH THE BOARD; AND~~

(II) ~~BEEN APPROVED BY THE BOARD IS EMPLOYED BY THE SAME FUNERAL ESTABLISHMENT THAT EMPLOYS THE APPRENTICE.~~

(3) AN APPRENTICE MAY HAVE MORE THAN ONE APPRENTICE SPONSOR.

(c) An applicant for an apprentice license shall pay to the Board a fee set by the Board.

(d) (1) Prior to an individual appearing before the Board for approval of an apprentice license, the individual must complete two-thirds of the academic credits for a mortuary science program at a school accredited by the American Board of Funeral Service or approved by the Board, with a 2.0 grade point average or higher that is verified with a certified copy of the college transcript.

(2) The applicant ~~AND A LICENSED MORTICIAN OR LICENSED FUNERAL DIRECTOR~~ shall appear before the Board [with the applicant's sponsor] ~~TO SEEK THE BOARD'S APPROVAL FOR:~~

~~(I) AN AN APPRENTICE LICENSE FOR THE APPLICANT; AND~~

~~(II) THE LICENSED MORTICIAN OR LICENSED FUNERAL DIRECTOR TO BECOME THE APPRENTICE SPONSOR FOR THE APPLICANT.~~

~~(3) [The] TO BE APPROVED AS AN APPRENTICE sponsor, A LICENSED MORTICIAN OR LICENSED FUNERAL DIRECTOR shall [hold]:~~

~~(I) HOLD a current valid mortician OR FUNERAL DIRECTOR license in Maryland THAT IS IN GOOD STANDING WITH THE BOARD; and~~

~~(II) [shall be] BE employed by the same funeral [home] ESTABLISHMENT that employs the apprentice.~~

~~(4)~~ (3) ON TERMINATION OF THE SPONSOR-APPRENTICE RELATIONSHIP, BOTH THE SPONSOR AND THE APPRENTICE SHALL INDEPENDENTLY NOTIFY THE BOARD IN WRITING OF:

(I) THE DATE OF TERMINATION;

(II) THE NAME, DATE OF DEATH, DATE OF SERVICE, AND EVIDENCE OF THE SERVICE FOR EACH DECEDENT FOR WHOM A FUNERAL SERVICE WAS CONDUCTED UNDER SUBSECTION (E)(1)(I) OF THIS SECTION IN WHICH THE APPRENTICE PARTICIPATED; AND

(III) THE NAME, DATE OF DEATH, DATE OF THE PREPARATION FOR DISPOSITION, AND A COPY OF THE DECEDENT'S FILED DEATH CERTIFICATE FOR EACH DECEDENT FOR WHOM THE APPRENTICE ASSISTED IN ACCORDANCE WITH SUBSECTION (E)(1)(II) OF THIS SECTION.

~~(5)~~ **(4) PRIOR APPROVAL MUST BE GRANTED BY THE BOARD BEFORE A CHANGE OF SPONSORSHIP OCCURS.**

~~[(3)]~~ **(E) (1)** The practical experience of an apprentice shall include:

(i) Participation in at least 20 funerals;

(ii) Except as provided in paragraph ~~[(4)]~~ **(2)** of this subsection, assistance in the preparation **AND EMBALMING** of at least 20 dead human bodies for final disposition; and

(iii) Completion of 1,000 working hours in a licensed funeral establishment under the direct supervision of ~~[a licensed mortician or funeral director. Supervision may include instruction by other licensed morticians or funeral directors employed or supervised by the sponsor]~~ **THE APPRENTICE SPONSOR.**

~~[(4)]~~ **(2)** For an apprentice funeral director, the practical experience under paragraph ~~[(3)(ii)]~~ **(1)(II)** of this subsection may not include embalming.

(3) FOR PURPOSES OF PARAGRAPH (1)(III) OF THIS SUBSECTION, DIRECT SUPERVISION MAY INCLUDE INSTRUCTION BY A LICENSED MORTICIAN OR FUNERAL DIRECTOR EMPLOYED OR SUPERVISED BY THE APPRENTICE SPONSOR THAT IS OBSERVED IN PERSON BY THE APPRENTICE SPONSOR.

~~[(5)]~~ On termination of the sponsor–apprentice relationship, both the sponsor and the apprentice shall independently notify the Board in writing of:

(i) The date of termination;

(ii) The name, date of death, and date of service for each decedent for whom a funeral service was conducted under paragraph (3)(i) of this subsection in which the apprentice participated; and

(iii) The name, date of death, and date of the preparation for disposition of each decedent for whom the apprentice assisted in accordance with paragraph (3)(ii) of this subsection.

(6) Prior approval must be granted by the Board before a change of sponsorship occurs.]

~~[(e)]~~ **(F)** While the license is effective, an apprentice license authorizes the licensee to assist a licensed mortician or funeral director in the practice of mortuary science or funeral direction only as part of a training program to become a licensed mortician or funeral director.

7-310.

(a) (1) A funeral establishment shall be licensed by the Board before the establishment may be used for the preparation of the remains, viewing, [and] **OR** conducting of services.

(2) The licensee may be restricted to operations as determined by the Board.

(b) (1) To apply for a funeral establishment license, an applicant shall:

(i) Submit an application to the Board on the form that the Board requires; and

(ii) Pay to the Board:

1. An application fee set by the Board; and

2. The fee established under § 7-4A-05(a) of this title.

(2) An application for a funeral establishment license shall be signed by a licensed individual who is not an apprentice but is the owner or co-owner of the establishment to be licensed.

(c) The Board shall issue a funeral establishment license to a funeral establishment that:

(1) Has complied with all applicable State and local laws; **AND**

(2) Will be owned and operated in accordance with this title by at least one [licensed]:

(I) LICENSED mortician [or one licensed];

(II) LICENSED funeral director[, or a holder];

(III) HOLDER of a surviving spouse **LICENSE**; ~~or~~

(IV) HOLDER OF A corporation license[; and]; **OR**

(V) HOLDER OF AN EXECUTOR LICENSE.

[(3) Will be held responsible for any and all activities performed on the premises.]

(d) Signs and advertisements of a funeral establishment shall display the name that appears on the establishment license.

(E) (1) EACH LICENSED FUNERAL ESTABLISHMENT SHALL HAVE A SUPERVISING MORTICIAN.

(2) A LICENSED FUNERAL ESTABLISHMENT SHALL DESIGNATE A LICENSED MORTICIAN WHOSE LICENSE IS IN GOOD STANDING WITH THE BOARD TO BE THE SUPERVISING MORTICIAN FOR THE FUNERAL ESTABLISHMENT.
~~SHALL BE A LICENSED MORTICIAN WHO:~~

~~(I) HAS A LICENSE IN GOOD STANDING WITH THE BOARD;~~
AND

~~(II) HAS BEEN APPROVED BY THE BOARD TO BE A SUPERVISING MORTICIAN.~~

(3) ~~TO BECOME APPROVED AS A SUPERVISING MORTICIAN, A~~ A LICENSED MORTICIAN:

~~(I) SHALL~~ DESIGNATED TO BE THE SUPERVISING MORTICIAN FOR A FUNERAL ESTABLISHMENT SHALL COMPLETE THE APPLICATION REGISTRATION REQUIRED BY THE BOARD; AND

~~(II) MAY BE REQUIRED TO APPEAR BEFORE THE BOARD.~~

(4) ~~THE BOARD MAY NOT APPROVE AS A SUPERVISING MORTICIAN A LICENSED~~ A MORTICIAN:

~~(I) WHOSE~~ WHOSE LICENSE IS NOT IN GOOD STANDING IN THE STATE OR ANY OTHER JURISDICTION MAY NOT BE A SUPERVISING MORTICIAN; OR

~~(II) WHOM THE BOARD HAD PREVIOUSLY DISCIPLINED AND WHO CONTINUES TO POSE A RISK TO PUBLIC WELFARE IN THE STATE.~~

(5) THE SUPERVISING MORTICIAN FOR A FUNERAL ESTABLISHMENT SHALL BE:

(I) HELD RESPONSIBLE FOR ALL ACTIVITIES PERFORMED ON BEHALF OF THE FUNERAL ESTABLISHMENT WITH THE KNOWLEDGE OR AT THE DIRECTION OF THE SUPERVISING MORTICIAN; AND

(II) ~~LIMITED~~ EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION, LIMITED TO SUPERVISING:

1. ONE FUNERAL ESTABLISHMENT WITH AN EMBALMING FACILITY; ~~OR~~ AND

2. ~~Two~~ NO MORE THAN THREE FUNERAL ESTABLISHMENTS TOTAL THAT ARE WITHIN CLOSE ENOUGH PROXIMITY TO EACH OTHER TO ALLOW FOR OVERSIGHT OF EACH FUNERAL ESTABLISHMENT.

(6) THE LIMITS ON THE NUMBER OF FUNERAL ESTABLISHMENTS A SUPERVISING MORTICIAN MAY SUPERVISE AS PROVIDED FOR IN PARAGRAPH (5)(II) OF THIS SUBSECTION DO NOT APPLY IF A FUNERAL ESTABLISHMENT PREPARES FOR THE DISPOSITION OF LESS THAN 75 BODIES IN A CALENDAR YEAR.

~~(6)~~ (7) IF A SUPERVISING MORTICIAN FOR A FUNERAL ESTABLISHMENT RELINQUISHES THE SUPERVISING MORTICIAN'S RESPONSIBILITY UNDER PARAGRAPH (5)(I) OF THIS SUBSECTION FOR ANY REASON:

(i) ~~THE~~, THE FUNERAL ESTABLISHMENT SHALL NAME AN INTERIM SUPERVISING MORTICIAN WHO SHALL BE HELD RESPONSIBLE FOR ALL ACTIVITIES PERFORMED ON BEHALF OF THE FUNERAL ESTABLISHMENT, WITH THE KNOWLEDGE OR AT THE DIRECTION OF THE INTERIM SUPERVISING MORTICIAN, UNTIL A NEW SUPERVISING MORTICIAN FOR THE FUNERAL ESTABLISHMENT ~~IS APPROVED BY~~ REGISTERS WITH THE BOARD; ~~AND~~

~~(ii) THE INTERIM SUPERVISING MORTICIAN OR ANOTHER LICENSED MORTICIAN IMMEDIATELY SHALL APPLY TO THE BOARD TO BECOME THE NEW SUPERVISING MORTICIAN FOR THE FUNERAL ESTABLISHMENT.~~

~~(7) THE BOARD SHALL EXPEDITE THE APPLICATION OF A NEW SUPERVISING MORTICIAN WHO APPLIES IN ACCORDANCE WITH PARAGRAPH (6)(I) OF THIS SUBSECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 377**(House Bill 537)**

AN ACT concerning

Insurance Producers – Continuing Education – Online Courses

FOR the purpose of prohibiting the Maryland Insurance Commissioner from disapproving a continuing education course for insurance producers solely on a certain basis; authorizing insurance producers to obtain all or part of the credit hours of continuing education required for license renewal from correspondence courses or online courses approved by the Commissioner; providing for the application of certain provisions of this Act; and generally relating to continuing education for insurance producers.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 10–116(d)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Insurance
Section 10–116(d–1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article – Insurance

10–116.

(d) **(1)** The Commissioner may review all continuing education courses submitted and approve or disapprove courses.

(2) THE COMMISSIONER MAY NOT DISAPPROVE A CONTINUING EDUCATION COURSE SOLELY ON THE BASIS OF THE METHODOLOGY OR TECHNOLOGY USED TO DELIVER INSTRUCTION TO INDIVIDUALS TAKING THE COURSE.

(D–1) (1) AN INSURANCE PRODUCER MAY OBTAIN ALL OR PART OF THE CREDIT HOURS OF CONTINUING EDUCATION REQUIRED FOR RENEWAL OF A

LICENSE UNDER THIS SECTION FROM CORRESPONDENCE COURSES OR ONLINE COURSES APPROVED BY THE COMMISSIONER.

(2) THIS SUBSECTION APPLIES TO ALL INSURANCE PRODUCERS WHO ARE REQUIRED TO RECEIVE CONTINUING EDUCATION AS A CONDITION OF LICENSE RENEWAL UNDER THIS SECTION, REGARDLESS OF THE KIND OR SUBDIVISION OF INSURANCE FOR WHICH THE INSURANCE PRODUCER HAS RECEIVED A LICENSE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 378

(House Bill 555)

AN ACT concerning

St. Mary's County – Building Impact Fees – Deferrals

FOR the purpose of authorizing the County Commissioners of St. Mary's County to defer the building impact fee imposed on certain newly constructed living units for a certain period of time; and generally relating to the authority of the County Commissioners of St. Mary's County to defer building impact fees.

~~BY repealing and reenacting, with amendments,
Article 25 – County Commissioners
Section 10D-1
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Local Government
Section 20-706
Annotated Code of Maryland
(As enacted by Chapter (H.B. 472) of the Acts of the General Assembly of
2013)

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

~~Article 25 – County Commissioners~~

~~10D-1.~~

~~(a) The County Commissioners of St. Mary's County may raise the building permit fees up to two percent of the cost of any new construction of any living units built in St. Mary's County, or prebuilt and brought into St. Mary's County; the building permit fees shall be set by the County Commissioners in December of each year.~~

~~(b) (1) Subject to paragraphs [(2) and (3)] (2), (3), AND (4) of this subsection, the County Commissioners of St. Mary's County may require every person, firm, partnership, corporation, or other legal entity which submits its property plans for approval to the planning commission of St. Mary's County (or the appropriate approving authority) to pay a fixed sum as set by the County Commissioners to defray the additional cost for additional public facilities as required by local ordinance or resolution.~~

~~(2) By ordinance, the County Commissioners of St. Mary's County may enact an exemption to the building impact fee imposed under paragraph (1) of this subsection for the first 3 lots, in a minor subdivision, that:~~

~~(i) Were recorded after June 1, 2000 and created from a parcel of record or a lot of record; and~~

~~(ii) Transferred to a natural, direct lineal descendant, or a legally adopted son, daughter, grandson, or granddaughter.~~

~~(3) (i) Subject to subparagraphs (ii) and (iii) of this paragraph for each fiscal year, the County Commissioners of St. Mary's County may:~~

~~1. Waive the building impact fee imposed under paragraph (1) of this subsection for up to 60 newly constructed living units, excluding mobile homes; and~~

~~2. Defer or provide for the amortization of the building impact fee for up to 70 newly constructed living units, excluding mobile homes.~~

~~(ii) The County Commissioners may waive, defer, or amortize the building impact fee only for newly constructed living units that are deemed to be affordable for individuals whose family income in the previous fiscal year was less than 60 percent of the county median family income as reported by the U.S. Department of Housing and Urban Development.~~

~~(iii) A waiver, deferral, or amortization shall be limited to new construction of living units not exceeding a certain square footage as determined by the County Commissioners of St. Mary's County.~~

~~(iv) The total amount of building impact fees waived, deferred, or amortized shall be reflected in the St. Mary's County annual capital budget for the fiscal year in which the waiver, deferral, or amortization is granted.~~

~~(4) THE COUNTY COMMISSIONERS MAY DEFER THE BUILDING IMPACT FEE IMPOSED ON A NEWLY CONSTRUCTED LIVING UNIT CONSTRUCTED IN ACCORDANCE WITH A BUILDING TRADES PROGRAM APPROVED BY THE ST. MARY'S COUNTY BOARD OF EDUCATION UNTIL THE EARLIER OF:~~

~~(i) ONE YEAR FROM THE TIME THE FEE WOULD OTHERWISE HAVE BEEN PAYABLE; OR~~

~~(ii) THE TIME THE LIVING UNIT IS SOLD AND CONVEYED.~~

~~(e) The income derived from subsections (a) and (b) of this section shall be used to defray the additional cost to St. Mary's County for additional educational, water, sewerage, road, sanitation, solid waste, park, or similar facilities.~~

Article – Local Government

20-706.

(a) (1) The County Commissioners of St. Mary's County may impose building permit fees in an amount up to 2% of the cost of any new construction of any living units:

(i) built in St. Mary's County; or

(ii) prebuilt and brought into St. Mary's County.

(2) The county commissioners shall set the building permit fees in December of each year.

(b) (1) Subject to paragraphs [(2) and (3)] (2), (3), AND (4) of this subsection, by ordinance or resolution, the County Commissioners of St. Mary's County may impose a development impact fee to finance any of the costs for facilities described in subsection (c) of this section required to accommodate new construction or development.

(2) By ordinance, the county commissioners may enact an exemption to the development impact fee imposed under paragraph (1) of this subsection for the first three lots in a minor subdivision that are:

(i) recorded after June 1, 2000, and created from a parcel of record or a lot of record; and

(ii) transferred to a natural, direct lineal descendant or a legally adopted child or grandchild.

(3) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, for each fiscal year, the county commissioners may:

1. waive the development impact fee imposed under paragraph (1) of this subsection for up to 60 newly constructed living units, excluding mobile homes; and

2. defer or provide for the amortization of the development impact fee for up to 70 newly constructed living units, excluding mobile homes.

(ii) The county commissioners may waive, defer, or amortize the development impact fee only for newly constructed living units that:

1. are considered affordable for individuals whose family income in the previous fiscal year was less than 60% of the county median family income as reported by the U.S. Department of Housing and Urban Development; and

2. do not exceed a specified square footage determined by the county commissioners.

(iii) The total amount of development impact fees waived, deferred, or amortized shall be reflected in the St. Mary's County annual capital budget for the fiscal year in which the waiver, deferral, or amortization is granted.

(4) THE COUNTY COMMISSIONERS MAY DEFER THE BUILDING IMPACT FEE IMPOSED ON A NEWLY CONSTRUCTED LIVING UNIT CONSTRUCTED IN ACCORDANCE WITH A BUILDING TRADES PROGRAM APPROVED BY THE ST. MARY'S COUNTY BOARD OF EDUCATION UNTIL THE EARLIER OF:

(I) 1 YEAR FROM THE TIME THE FEE WOULD OTHERWISE HAVE BEEN PAYABLE; OR

(II) THE TIME THE LIVING UNIT IS SOLD AND CONVEYED.

(c) The revenue derived from this section shall be used to defray the cost to St. Mary's County for additional educational, water, sewerage, road, sanitation, solid waste, park, or similar facilities.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 379**(House Bill 581)**

AN ACT concerning

Hospitals – Establishment of Palliative Care Pilot Programs – ~~Required~~

FOR the purpose of ~~requiring certain hospitals to implement a certain palliative care program on or before a certain date;~~ providing for the establishment of a certain number of palliative care pilot programs in certain hospitals in the State; requiring the Maryland Health Care Commission to select the pilot programs in a certain manner; requiring certain palliative care pilot programs to collaborate with certain providers to deliver care, gather certain data, and report certain information to the Maryland Health Care Commission; requiring the Maryland Health Care Commission to consult with certain palliative care pilot programs and certain stakeholders to develop certain core data measures and certain reporting standards; requiring ~~the palliative care program~~ certain palliative care pilot programs to include certain policies and procedures; requiring certain counseling about palliative care to include certain information regarding certain rights of patients; requiring the Department of Health and Mental Hygiene to adopt certain regulations on or before a certain date; prohibiting certain regulations from requiring a palliative care program to be led by a certain physician; requiring the Department to conduct a certain survey of certain palliative care programs at certain intervals; requiring the Maryland Hospital Association to provide a certain report to the General Assembly on or before a certain date; requiring the Maryland Health Care Commission, on or before a certain date, in consultation with the Office of Health Care Quality and the Maryland Hospital Association, to report certain findings to certain committees of the General Assembly; requiring the report to include certain recommendations; requiring the report to be used to develop certain standards; providing for the termination of this Act; defining certain terms; and generally relating to palliative care pilot programs in hospitals in the State.

BY adding to

Article – Health – General

Section 19–308.9

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – Health – General**19–308.9.**

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

(2) "AUTHORIZED DECISION MAKER" MEANS THE HEALTH CARE AGENT OR SURROGATE DECISION MAKER WHO IS MAKING HEALTH CARE DECISIONS ON BEHALF OF A PATIENT IN ACCORDANCE WITH §§ 5-601 THROUGH 5-618 OF THIS ARTICLE.

(3) "PALLIATIVE CARE" MEANS SPECIALIZED MEDICAL CARE FOR INDIVIDUALS WITH SERIOUS ILLNESSES OR CONDITIONS THAT:

(I) IS FOCUSED ON PROVIDING PATIENTS WITH RELIEF FROM THE SYMPTOMS, PAIN, AND STRESS OF A SERIOUS ILLNESS OR CONDITION, WHATEVER THE DIAGNOSIS;

(II) HAS THE GOAL OF IMPROVING QUALITY OF LIFE FOR THE PATIENT, THE PATIENT'S FAMILY, AND OTHER CAREGIVERS;

(III) IS PROVIDED AT ANY AGE AND AT ANY STAGE IN A SERIOUS ILLNESS OR CONDITION; AND

(IV) MAY BE PROVIDED ALONG WITH CURATIVE TREATMENT.

~~(B) ON OR BEFORE JULY 1, 2016, EACH GENERAL HOSPITAL WITH 50 OR MORE BEDS THAT DOES NOT HAVE A PALLIATIVE CARE PROGRAM ACCREDITED BY AN ACCREDITATION ORGANIZATION APPROVED BY THE DEPARTMENT SHALL IMPLEMENT A PALLIATIVE CARE PROGRAM THAT:~~

~~(1) MEETS THE REQUIREMENTS OF THIS SECTION; AND~~

~~(2) COMPLIES WITH REGULATIONS ADOPTED BY THE DEPARTMENT UNDER SUBSECTION (E) OF THIS SECTION.~~

(B) (1) (I) AT LEAST FIVE PALLIATIVE CARE PILOT PROGRAMS SHALL BE ESTABLISHED IN THE STATE IN HOSPITALS WITH 50 OR MORE BEDS.

(II) THE FIVE PILOT PROGRAMS SHALL BE SELECTED BY THE MARYLAND HEALTH CARE COMMISSION IN A MANNER THAT ENSURES GEOGRAPHIC BALANCE IN THE STATE.

(III) THE PILOT PROGRAMS ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. COLLABORATE WITH PALLIATIVE CARE OR COMMUNITY PROVIDERS TO DELIVER CARE;

2. GATHER DATA ON COSTS AND SAVINGS TO HOSPITALS AND PROVIDERS, ACCESS TO CARE, AND PATIENT CHOICE; AND

3. REPORT TO THE MARYLAND HEALTH CARE COMMISSION ON BEST PRACTICES THAT CAN BE USED IN THE DEVELOPMENT OF STATEWIDE PALLIATIVE CARE STANDARDS.

(2) THE MARYLAND HEALTH CARE COMMISSION SHALL, IN CONSULTATION WITH THE PILOT PROGRAMS ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND STAKEHOLDERS SELECTED BY THE COMMISSION, IDENTIFY CORE DATA MEASURES FOR THE DATA COLLECTED UNDER PARAGRAPH (1)(III)2 OF THIS SUBSECTION AND DEVELOP STANDARDS FOR THE REPORTING REQUIREMENTS OF PARAGRAPH (1)(III)3 OF THIS SUBSECTION.

~~(C) A HOSPITAL'S NONACCREDITED PALLIATIVE CARE PROGRAM~~ THE PILOT PROGRAMS ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE POLICIES AND PROCEDURES ESTABLISHED BY THE HOSPITAL THAT:

(1) PROVIDE ACCESS TO INFORMATION AND COUNSELING REGARDING PALLIATIVE CARE SERVICES APPROPRIATE TO A PATIENT WITH A SERIOUS ILLNESS OR CONDITION;

(2) IDENTIFY THE AUTHORIZED DECISION MAKER OF AN INDIVIDUAL WHO LACKS CAPACITY TO MAKE HEALTH CARE DECISIONS IN ORDER TO PROVIDE THE AUTHORIZED DECISION MAKER ACCESS TO INFORMATION AND COUNSELING REGARDING OPTIONS FOR PALLIATIVE CARE FOR THE PATIENT;

(3) REQUIRE PROVIDERS TO ENGAGE IN A DISCUSSION OF THE BENEFITS AND RISKS OF TREATMENT OPTIONS IN A MANNER THAT CAN BE UNDERSTOOD EASILY BY THE PATIENT OR AUTHORIZED DECISION MAKER;

(4) ENCOURAGE THE PATIENT OR AUTHORIZED DECISION MAKER TO INCLUDE THE PATIENT'S RELATIVES AND FRIENDS IN COUNSELING REGARDING PALLIATIVE CARE; AND

(5) FACILITATE ACCESS TO APPROPRIATE PALLIATIVE CARE CONSULTATIONS AND SERVICES, INCLUDING ASSOCIATED PAIN MANAGEMENT

CONSULTATIONS AND SERVICES CONSISTENT WITH A PATIENT'S NEEDS AND PREFERENCES.

(D) IF A PATIENT OR AUTHORIZED DECISION MAKER DECIDES TO RECEIVE COUNSELING ABOUT PALLIATIVE CARE, THE COUNSELING SHALL INCLUDE INFORMATION REGARDING THE RIGHT OF THE PATIENT TO:

(1) CONTINUE TO PURSUE DISEASE-TARGETED TREATMENT WITH OR WITHOUT CONCURRENT PALLIATIVE CARE; AND

(2) RECEIVE COMPREHENSIVE PAIN AND SYMPTOM MANAGEMENT, INCLUDING PAIN MEDICATIONS.

~~(E) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:~~

~~(I) SET THE STANDARDS FOR THE OPERATION OF A HOSPITAL'S NONACCREDITED PALLIATIVE CARE PROGRAM; AND~~

~~(II) IMPLEMENT THE PROVISIONS OF THIS SECTION.~~

~~(2) THE STANDARDS ADOPTED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL BE COMPARABLE TO THE STANDARDS SET BY THE JOINT COMMISSION FOR PALLIATIVE CARE PROGRAMS.~~

~~(3) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT REQUIRE THAT A PALLIATIVE CARE PROGRAM BE LED BY A PHYSICIAN WHO IS BOARD CERTIFIED IN PALLIATIVE CARE.~~

~~(F) (1) EACH YEAR THE DEPARTMENT SHALL SURVEY AT LEAST 25% OF THE NONACCREDITED PALLIATIVE CARE PROGRAMS IN THE STATE TO REVIEW COMPLIANCE WITH THIS SECTION AND THE REGULATIONS ADOPTED BY THE DEPARTMENT UNDER THIS SECTION.~~

~~(2) AT LEAST ONCE EVERY 4 YEARS, THE DEPARTMENT SHALL SURVEY EACH NONACCREDITED PALLIATIVE CARE PROGRAM TO REVIEW COMPLIANCE WITH THIS SECTION AND THE REGULATIONS ADOPTED BY THE DEPARTMENT UNDER THIS SECTION.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 31, 2016, the Department of Health and Mental Hygiene shall adopt the regulations required under § 19-308.9(e) of the Health - General Article, as enacted by Section 1 of this Act.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That, on or before January 1, 2015, the Maryland Hospital Association shall report to the General Assembly, in~~

~~accordance with § 2-1246 of the State Government Article, on the palliative care programs in operation in hospitals in the State.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before December 1, 2015, the Maryland Health Care Commission, in consultation with the Office of Health Care Quality and the Maryland Hospital Association, shall 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 the pilot programs established under Section 1 of this Act, including best practices and data outcomes experienced during the pilot period.

(b) The report required under subsection (a) of this section shall:

(1) include recommendations, based on the findings of the pilot programs established under Section 1 of this Act, to be used to develop minimum standards for palliative care programs with the goal of expanding access to palliative care services statewide at hospitals with 50 beds or more by July 1, 2016, in a manner that ensures geographic balance and promotes racial and ethnic diversity; and

(2) be used by the Department of Health and Mental Hygiene, in consultation with experts in hospital palliative care and other interested stakeholders, to assist in the development of regulations related to standards for palliative care programs.

SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of 3 years and 2 months and, at the end of November 30, 2016, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.

Chapter 380

(House Bill 631)

AN ACT concerning

Family Law – Preventing or Interfering with Report of Suspected Child Abuse or Neglect

FOR the purpose of prohibiting an individual from preventing or interfering with the making of a certain report of suspected child abuse or neglect; specifying a

penalty for a violation of this Act; and generally relating to the reporting of suspected child abuse or neglect.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 5–704(a) and 5–705.1(c)(1) and (2)
Annotated Code of Maryland
(2012 Replacement Volume)

BY adding to
Article – Family Law
Section 5–705.2
Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Family Law

5–704.

(a) Notwithstanding any other provision of law, including any law on privileged communications, each health practitioner, police officer, educator, or human service worker, acting in a professional capacity in this State:

(1) who has reason to believe that a child has been subjected to abuse or neglect, shall notify the local department or the appropriate law enforcement agency; and

(2) if acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, shall immediately notify and give all information required by this section to the head of the institution or the designee of the head.

5–705.1.

(c) (1) If suspected abuse or neglect is alleged to have occurred outside of this State and the victim is currently a child who lives outside of this State, a person who would be required to report suspected abuse or neglect under the provisions of § 5–704 or § 5–705 of this subtitle shall report the suspected abuse or neglect to any local department in accordance with paragraph (2) of this subsection.

(2) A person described in § 5–704 of this subtitle shall make:

(i) an oral report, by telephone or direct communication, as soon as possible; and

(ii) a written report not later than 48 hours after the contact, examination, attention, or treatment that caused the person to believe that the child had been subjected to abuse or neglect.

5-705.2.

(A) AN INDIVIDUAL MAY NOT INTENTIONALLY PREVENT OR INTERFERE WITH THE MAKING OF A REPORT OF SUSPECTED ABUSE OR NEGLECT REQUIRED BY § 5-704 OR § 5-705.1(C)(2) OF THIS ~~ARTICLE~~ SUBTITLE.

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 381

(House Bill 669)

AN ACT concerning

**Business Regulation – Introduction of Additives into Gasoline –
Authorization**

FOR the purpose of authorizing the Comptroller to authorize any person who holds a certain dealer license to introduce an additive into gasoline for resale under certain circumstances; ~~declaring the intent of the General Assembly regarding certain regulations;~~ providing for the content of certain regulations; and generally relating to authorization to introduce additives into gasoline.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 10-308
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

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

Article – Business Regulation

10–308.

(a) Before making the first sale in the State of gasoline imported into the State, the seller shall register with the Comptroller each additive introduced into the gasoline after it was received in the State.

(b) The registration shall:

(1) include the amount of additive blended into each gallon of gasoline;
and

(2) describe the additive by including:

(i) its trade name, trademark, and manufacturer;

(ii) its quantitative analysis; and

(iii) the manufacturer's trade name or other identification.

(c) **(1)** An additive may [only] be introduced into gasoline for resale or distribution by a person who holds a Class "A" dealer license issued in accordance with § 9–322 of the Tax – General Article.

(2) THE COMPTROLLER MAY AUTHORIZE ANY PERSON WHO HOLDS A DEALER LICENSE OTHER THAN A CLASS "A" DEALER LICENSE ISSUED IN ACCORDANCE WITH § 9–322 OF THE TAX – GENERAL ARTICLE TO INTRODUCE AN ADDITIVE INTO GASOLINE FOR RESALE OR DISTRIBUTION IF THE PERSON COMPLIES WITH:

(I) THE REQUIREMENTS OF THIS SUBTITLE; AND

(II) ~~ANY OTHER~~ REGULATIONS ADOPTED BY THE COMPTROLLER, INCLUDING ~~REGULATIONS~~ REGULATIONS:

1. ~~GOVERNING THAT SPECIFY THE METHOD OF~~ FOR INTRODUCING AN ADDITIVE INTO GASOLINE, SUCH AS IN-LINE BLENDING OR ANY METHOD EQUAL TO OR SUPERIOR TO IN-LINE BLENDING, AS DETERMINED BY THE COMPTROLLER; AND

2. THAT PROVIDE FOR THE PAYMENT OF THE MOTOR FUEL EXCISE TAX UNDER § 9–305 OF THE TAX – GENERAL ARTICLE BY A LICENSED DEALER.

~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that any regulations adopted by the Comptroller governing the introduction of additives into gasoline by a person who holds a dealer license other than a Class "A" dealer license be the same as the requirements for Class "A" dealers, including requirements relating to the additive used and the method of introducing an additive into gasoline.~~

SECTION ~~2.~~ ~~2.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 382

(House Bill 674)

AN ACT concerning

Montgomery County – Board of Education – Compensation

MC 8-13

FOR the purpose of altering the compensation received by the president and elected members of the Montgomery County Board of Education; providing that this Act does not apply to the salary or compensation of the president and members of the board during a certain term of office; and generally relating to the Montgomery County Board of Education.

BY repealing and reenacting, with amendments,
Article – Education
Section 3-902
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

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

Article – Education

3-902.

(a) An elected member of the county board is entitled to reimbursement for travel and other expenses as provided by the Montgomery County Council.

(b) (1) An elected member of the county board is entitled to receive ~~[\$18,500]~~ **\$25,000** annually as compensation and the president of the county board is entitled to an additional \$4,000 annually as compensation.

(2) An elected member is entitled to health insurance and to other fringe benefits regularly provided to employees of the board of education under the same terms and conditions extended to other employees of the board of education.

(c) (1) The student member may not receive compensation but, after submitting expense vouchers, may be reimbursed for out-of-pocket expenses incurred in connection with official duties.

(2) A student member who completes a full term on the board shall be granted a scholarship of \$5,000 to be applied toward the student's higher education costs.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the president and members of the Montgomery County Board of Education during a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the president and members of the Montgomery County Board of Education shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 383

(House Bill 695)

AN ACT concerning

**Homeowner's Insurance – Anti-Concurrent Causation Clause – ~~Prohibited~~
Notice and Study**

FOR the purpose of ~~prohibiting~~ requiring an insurer ~~from issuing~~ that issues a policy of homeowner's insurance in the State that contains a certain anti-concurrent causation clause to provide a policyholder with a certain notice; providing that the notice is not part of the policy or contract of insurance and does not create a private right of action; authorizing the Maryland Insurance Commissioner to adopt certain regulations; requiring a certain ~~committee~~ committees of the General Assembly to conduct a certain study and issue a final report on or

before a certain date; requiring the Maryland Insurance Administration to provide certain data for the study; providing for the application of this Act; and generally relating to policies of homeowner's insurance.

BY adding to

Article – Insurance

Section 19–215

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

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

Article – Insurance

19–215.

(A) AN INSURER ~~MAY NOT ISSUE~~ THAT ISSUES A POLICY OF HOMEOWNER'S INSURANCE IN THE STATE THAT CONTAINS AN ANTI-CONCURRENT CAUSATION (ACC) CLAUSE ~~THAT:~~

~~(1) EXCLUDES CLAIMS THAT ARISE OUT OF CONCURRENT CAUSATION; OR~~

~~(2) CONTAINS ANY ANTI-CONCURRENT CAUSATION EXCLUSIONARY LANGUAGE.~~ SHALL PROVIDE A POLICYHOLDER EACH YEAR WITH A NOTICE THAT:

(1) IS CLEAR AND SPECIFIC;

(2) DESCRIBES THE ACC CLAUSE;

~~(3) DESCRIBES THE MANNER IN WHICH THE ACC CLAUSE MAY BE APPLIED BY PROVIDING AT LEAST ONE EXAMPLE;~~

~~(4) INFORMS THE INSURED TO READ THE POLICY FOR COMPLETE INFORMATION ON THE EXCLUSIONS; AND~~

~~(5)~~ (4) STATES THAT THE INSURED SHOULD COMMUNICATE WITH THE INSURANCE PRODUCER OR THE INSURER FOR ADDITIONAL INFORMATION REGARDING THE SCOPE OF THE EXCLUSIONS.

(B) THE NOTICE UNDER SUBSECTION (A) OF THIS SECTION:

(1) IS NOT PART OF THE POLICY OR CONTRACT OF INSURANCE;
AND

(2) DOES NOT CREATE A PRIVATE RIGHT OF ACTION.

~~(B)~~ (C) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The House Economic Matters Committee and the Senate Finance Committee shall study the handling by insurers and the National Flood Insurance Program of property insurance claims in cases where there are two or more factors that could affect or cause the loss.

(b) As part of the study, the ~~Committee~~ Committees shall review:

(1) the history, nature, scope, and general effect of the anti-concurrent causation ~~clause (ACC)~~ (ACC) clause;

(2) the number of states that allow or do not allow the use of the ACC clause, whether or not this is done through statute or judicial decision, and the rationale given by states for allowing or disallowing use of the ACC clause;

(3) the number of complaints involving the ACC clause filed with the Maryland Insurance Administration in each of the past ~~5~~ 3 years and their resolution;

(4) the interaction between the use of the ACC clause by the insurance industry and the claims practices of the National Flood Insurance Program;

(5) the impact of disallowing the ACC clause in Maryland, including the impact on premium levels, underwriting practices, and competition; ~~and~~

(6) the cost, fairness, and effectiveness of mediation processes, including the processes set up in the wake of Tropical Storm Sandy, and the likelihood that mediation could lead to regulatory action or class action and bad faith claims; ~~and~~

(7) the adequacy of the notice required under § 19-215 of the Insurance Article, as enacted by Section 1 of this Act, in informing insureds about exclusions and the ACC clause and whether the notice should:

(i) provide an explanation of how the ACC clause may be applied; or

(ii) state that, if the insured would like an explanation of how the ACC clause may be applied, the insured should communicate with the insurer or the

insurance producer, if the insurer has provided the information to the insurance producer.

(c) The study shall be staffed by staff of the House Economic Matters Committee and staff of the Senate Finance Committee.

(d) The Maryland Insurance Administration shall provide all data requested by the Committee the Committees request the Maryland Insurance Administration to provide.

(e) The Committee Committees shall issue a final report on the study on or before December 31, 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply to all policies of homeowner's insurance issued, delivered, or renewed in the State on or after ~~October 1, 2013~~ January 1, 2014.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 384

(House Bill 706)

AN ACT concerning

Natural Resources – Forest Preservation Act of 2013

FOR the purpose of requiring the Department of Natural Resources to provide a statewide forest resource inventory to local jurisdictions at certain intervals; declaring certain policies of the State with respect to forests; altering the defined term “construction activity” as it applies to reforestation requirements to include associated mitigation requirements; expanding the purpose and authorized uses of the Reforestation Fund to include financing tree planting on private land and financing the prevention of and response to forest health emergencies; extending the time frame within which the Department must accomplish certain reforestation requirements and for which certain funds are required to remain in the Reforestation Fund; repealing the requirements that the Department determine the meaning of “no net loss of forest”, develop related policies, and submit a certain report describing certain findings; defining the term “no net loss of forest”; altering the defined term “timber stand improvement” to include certain activities that improve forest health; altering the range of acres of land that a person is required to own or lease to be eligible

for certification for a certain income tax subtraction or modification; altering certain prohibitions against setting certain fires; altering a certain minimum penalty for violating a certain prohibition against setting certain fires; exempting certain stream restoration projects and certain maintenance or retrofitting of a stormwater management structure from the requirements of the Forest Conservation Act; authorizing a local jurisdiction to waive the requirements of the Forest Conservation Act for certain previously developed areas; authorizing the Department to take certain action against a local jurisdiction for failure to comply with the Forest Conservation Act; requiring the Department of Planning, in consultation with the Department and the Sustainable Forestry Council, to provide certain technical assistance to local jurisdictions by a certain date; clarifying the intent of this Act with respect to the authority of the Department of Agriculture to establish forest policy; declaring a certain intent of the General Assembly; requiring the Department to convene a certain stakeholder group after a certain time to perform a certain review and make certain recommendations; making certain stylistic changes; defining certain terms; and generally relating to forest conservation and sustainability.

BY renumbering

Article – Natural Resources
Section 5–101(i), (j), (k), (l), and (m), respectively
to be Section 5–101(j), (k), (l), (m), and (n), respectively
Annotated Code of Maryland
(2012 Replacement Volume)

BY renumbering

Article – Natural Resources
Section 5–1601(ff), (gg), (hh), (ii), (jj), (kk), (ll), (mm), and (nn), respectively
to be Section 5–1601(gg), (hh), (ii), (jj), (kk), (mm), (nn), (oo), and (pp),
respectively
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Land Use
Section 1–101(o)
Annotated Code of Maryland
(2012 Volume)

BY repealing and reenacting, with amendments,

Article – Land Use
Section 1–408 and 3–104
Annotated Code of Maryland
(2012 Volume)

BY repealing and reenacting, without amendments,

Article – Natural Resources

Section 5–101(e), 5–103(a)(1) and (3), 5–1601(a), and 5–1602(a)

Annotated Code of Maryland

(2012 Replacement Volume)

BY adding to

Article – Natural Resources

Section 5–101(i), 5–103(j), 5–1601(ff) and (ll), and 5–1602(b)(12) and (13)

Annotated Code of Maryland

(2012 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 5–102, 5–103(a)(2) and (e), 5–219, 5–704, 5–1602(b)(10) and (11), and
5–1603(c)(3)(ii) and (e)

Annotated Code of Maryland

(2012 Replacement Volume)

BY repealing

Article – Natural Resources

Section 5–104

Annotated Code of Maryland

(2012 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 10–208(a)

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10–208(i)

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 5–101(i), (j), (k), (l), and (m), respectively, of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 5–101(j), (k), (l), (m), and (n), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5–1601(ff), (gg), (hh), (ii), (jj), (kk), (ll), (mm), and (nn), respectively, of Article – Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s) 5–1601(gg), (hh), (ii), (jj), (kk), (mm), (nn), (oo), and (pp), respectively.

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

Article – Land Use

1–101.

- (o) “Sensitive area” includes:
- (1) a stream or wetland, and its buffers;
 - (2) a 100–year flood plain;
 - (3) a habitat of a threatened or endangered species;
 - (4) a steep slope;
 - (5) agricultural or forest land intended for resource protection or conservation; and
 - (6) any other area in need of special protection, as determined in a plan.

1–408.

(a) A sensitive areas element shall include the goals, objectives, principles, policies, and standards designed to protect sensitive areas from the adverse effects of development.

(b) BEGINNING OCTOBER 1, 2013, THE DEPARTMENT OF NATURAL RESOURCES SHALL PROVIDE A STATEWIDE FOREST RESOURCE INVENTORY TO LOCAL JURISDICTIONS AT LEAST EVERY 5 YEARS, TO BE AVAILABLE FOR THE ~~6-YEAR~~ LOCAL COMPREHENSIVE PLAN REVIEW BY LOCAL JURISDICTIONS REQUIRED UNDER §§ 1–416(A) AND 3–301(A) OF THIS ARTICLE.

(c) Before the plan is adopted, the Department of the Environment and the Department of Natural Resources shall review the sensitive areas element to determine whether the proposed plan is consistent with the programs and goals of the departments.

3–104.

(a) A sensitive areas element shall include the goals, objectives, principles, policies, and standards designed to protect sensitive areas from the adverse effects of development.

(b) **BEGINNING OCTOBER 1, 2013, THE DEPARTMENT OF NATURAL RESOURCES SHALL PROVIDE A STATEWIDE FOREST RESOURCE INVENTORY TO LOCAL JURISDICTIONS AT LEAST EVERY 5 YEARS, TO BE AVAILABLE FOR THE ~~6-YEAR~~ LOCAL COMPREHENSIVE PLAN REVIEW BY LOCAL JURISDICTIONS REQUIRED UNDER §§ 1-416(A) AND 3-301(A) OF THIS ARTICLE.**

(c) Before the plan is adopted, the Department of the Environment and the Department of Natural Resources shall review the sensitive areas element to determine whether the proposed plan is consistent with the programs and goals of the departments.

Article – Natural Resources

5-101.

(e) (1) “Forest land” means a biological community dominated by trees and other woody plants that are capable of producing timber or other wood products with a stocking of at least 100 trees per acre with at least 50% of those trees having a 2-inch or greater diameter at 4.5 feet above the ground.

(2) “Forest land” includes forested areas that have been cut but not converted to other land uses.

(i) “NO NET LOSS OF FOREST” MEANS 40% OF ALL LAND IN MARYLAND IS COVERED BY TREE CANOPY.

5-102.

(a) The General Assembly finds that:

(1) Forests, streams, valleys, wetlands, parks, and scenic, historic, and recreation areas of the State are basic assets and their proper use, development, and preservation are necessary to protect and promote the health, safety, economy, and general welfare of the people of the State;

(2) Enhancing the extent and condition of tree and forest cover in the Chesapeake Bay watershed is critical to the success in restoring the Chesapeake Bay because forests are the most beneficial use of protecting water quality due to their ability to capture, filter, and retain water, as well as absorb pollution from the air;

(3) Forests and trees are key indicators of climate change and can mitigate greenhouse gas emissions by carbon sequestration;

(4) Forests provide habitat for hundreds of wildlife species, including habitat needed for rare, threatened, and endangered species;

(5) Forests are susceptible to environmental degradation caused by natural threats;

(6) Forests, like other open space areas, are under intense development-related pressures for residential, commercial, and industrial conversion due to the demands of a growing population;

(7) Trees and forests in urban areas provide multiple benefits, including:

(i) Mitigation of urban stormwater runoff into the Chesapeake Bay;

(ii) Sequestration of carbon;

(iii) Avoidance of energy-related emissions;

(iv) Mitigation of air pollutants, such as ozone and particulate matter;

(v) Reduction of the urban heat island effect; and

(vi) Contributions to community livability;

(8) Forest land owners, including local government officials responsible for overseeing the management of publicly owned forest lands, could benefit from research-based education outreach programs in order to help facilitate an understanding of sustainable forestry management that is consistent with forest stewardship principles;

(9) Forests are a renewable resource that help the State meet its renewable energy goals that are consistent with the State's:

(i) Green power goal for State facilities;

(ii) Renewable Energy Portfolio Standard;

(iii) Healthy Air Act; and

(iv) Maryland Clean Energy Incentive Act of 2006; and

(10) This title sets forth Maryland's vision for sustaining Maryland's coveted forest lands into the 21st century that is consistent with the Chesapeake 2000 Agreement and the 2007 Forestry Conservation Initiative.

(b) It is the policy of the State to encourage the retention and sustainable management of [the State's privately owned] forest lands by:

(1) ACHIEVING NO NET LOSS OF FOREST ~~BY 2020~~;

[(1)] (2) Affording due consideration to the protection and retention of forests in the State through existing land conservation programs where they have the highest value in terms of promoting the State's compliance with its clean water goals under the Chesapeake 2000 Agreement and the 2007 Forest Conservation Initiative;

[(2)] (3) Enhancing the retention of privately owned forest lands through research-based educational outreach efforts to landowners by the State's forest conservancy district boards;

[(3)] (4) Developing financial incentives to encourage landowners to retain and manage their forests sustainably and in a manner that is consistent with a forest stewardship plan;

[(4)] (5) Promoting renewable energy policies and markets with increased emphasis on the use of in-State produced woody biomass;

(6) ENSURING DUAL CERTIFICATION OF THE STATE'S FORESTS BY THE FOREST STEWARDSHIP COUNCIL AND THE SUSTAINABLE FORESTRY INITIATIVE;

[(5)] (7) Recognizing the importance of:

(i) A viable forest products industry to the economies of rural Maryland;

(ii) Continued development of fiber products; and

(iii) Maryland's green infrastructure; and

[(6)] (8) Developing and enhancing programs with a sustainable forestry component, including a forest mitigation banking system, a carbon credit or carbon sequestration program, a clean water credit trading system, an environmental services credit trading program, and a renewable energy credit trading system.

5-103.

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

(2) "Construction activity" means [construction of a highway by a constructing agency] **WORK BY A CONSTRUCTING AGENCY RELATED TO:**

(I) CONSTRUCTION OF OR IMPROVEMENTS TO A HIGHWAY;
OR

(II) OFF-SITE ENVIRONMENTAL MITIGATION RELATED TO HIGHWAY CONSTRUCTION.

(3) "Constructing agency" means:

(i) A unit of State or local government; or

(ii) Any other person who uses State funding and performs any construction activity with the State funding.

(e) (1) In this subsection, "Fund" means the Reforestation Fund.

(2) There is a Reforestation Fund in the Department.

(3) The purpose of the Fund is to **[finance]**:

(I) FINANCE the planting of trees on:

[(i)] 1. **[State or other publicly owned lands] LAND** located in the county and watershed in which construction projects giving rise to Fund contributions are located; and

[(ii)] 2. Private property on which trees were destroyed by a treatment to destroy plant pests that was applied by the Department of Agriculture; **AND**

(II) FINANCE THE PREVENTION OF AND RESPONSE TO FOREST HEALTH EMERGENCIES.

(4) The Department shall administer the Fund.

(5) (i) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(ii) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(6) The Fund consists of any money received from contributions by a constructing agency under subsection (d) of this section.

(7) (i) Subject to subparagraph (ii) of this paragraph, the Fund may be used only to:

1. Plant trees on [State or other publicly owned lands] LAND located in the county and watershed in which construction projects giving rise to Fund contributions are located;

2. If reforestation cannot be reasonably accomplished in the county and watershed in which the construction activity is located:

A. Plant trees on State or other publicly owned lands located in the county or in the watershed in the State in which the construction activity is located; or

B. Purchase credits in, establish, or maintain a forest mitigation bank in the county or watershed in which the construction activity is located in accordance with Department regulations; [or]

3. Replace trees, except nursery stock that has not been replanted, that were destroyed by the application of a treatment applied to destroy plant pests under a quarantine imposed by the Secretary of Agriculture, whether or not the quarantine is in effect in the county or watershed where the construction activity occurred; **OR**

4. FINANCE THE PREVENTION OF AND RESPONSE TO FOREST HEALTH EMERGENCIES BY:

A. MAINTAINING THE HEALTH AND VITALITY OF FOREST LAND AND URBAN TREE CANOPY; AND

B. PREVENTING OR CONTROLLING SIGNIFICANT FOREST LAND AND URBAN TREE CANOPY DEGRADATION CAUSED BY ACTS OF NATURE.

(ii) 1. Except as provided in subparagraph 2 of this subparagraph, moneys in the Fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.

2. The Fund may not be used to finance administrative activities associated with a mitigation bank.

3. Any credits created by the Fund may not be sold to compensate for additional forest impacts.

(iii) 1. The Department shall accomplish the reforestation for which money is deposited in the Fund within [1 year or two] **2 YEARS OR THREE** growing seasons after project completion, as appropriate.

2. Money deposited in the Fund under subsection (d) of this section shall remain in the Fund for a period of [1 year or two] **2 YEARS OR THREE** growing seasons, and at the end of that time period, any portion that is not used to meet the reforestation requirements shall be returned to the constructing agency.

(8) (i) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(9) Expenditures from the Fund may be made only in accordance with the State budget.

[(10) The Department may adopt regulations to implement this subsection.]

(J) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

[5–104.

(a) The Department shall cooperate with forestry–related stakeholder groups to:

(1) Determine the meaning of no net loss of forest for the purposes of any State policy; and

(2) Develop proposals for the creation of a policy of no net loss of forest in the State.

(b) On or before December 1, 2011, the Department, in consultation with the forestry–related stakeholder groups, shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee, in accordance with § 2–1246 of the State Government Article, on proposals for the development of statutory, budgetary, and regulatory policies to achieve no net loss of forest in the State.]

5–219.

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

(2) (i) “Reforestation” means the stocking or restocking of an area with forest tree species.

(ii) “Reforestation” includes:

1. Site preparation by mechanical operation, application of herbicides, or prescribed burning;
2. Tree planting;
3. Release of seedlings from competing vegetation;
4. Animal damage control of seedlings; and
5. Other activities that the Secretary requires.

(iii) “Reforestation” does not include the growing of Christmas or ornamental trees.

(3) (i) “Timber stand improvement” means any [precommercial] cultural operation made to improve the composition, constitution, condition, [and] **OR** increment of a timber stand **THAT DOES NOT RESULT IN IMMEDIATELY SALABLE FOREST PRODUCTS.**

(ii) “Timber stand improvement” includes [tree]:

1. **TREE** removal, girdling, poisoning, and pruning activities; **AND** [that:

1. Are not done only to help regeneration; and
2. Do not result in immediately salable forest products.]
2. **ACTIVITIES THAT IMPROVE FOREST HEALTH,**

INCLUDING:

- A. **EFFORTS TO CONTROL INVASIVE SPECIES;**
- B. **CREATION OR MAINTENANCE OF FORESTED RIPARIAN BUFFERS;**
- C. **INSTALLATION OF WATER QUALITY PROTECTION DEVICES;**
- D. **REDUCTION, REMOVAL, OR OTHER MANAGEMENT OF THE RESIDUAL MATERIALS GENERATED DURING TIMBER HARVEST;**

E. RESTORATION OF FOREST HABITAT AFFECTED BY LOGGING ACCESS ROADS AND TRAILS; AND

F. OTHER HABITAT IMPROVEMENT OR BEST MANAGEMENT PRACTICES AS DETERMINED BY THE DEPARTMENT.

(b) A person who owns or leases [10 to 500] **3 TO 1,000** acres of land may apply for reforestation or timber stand improvement certification under this section if the land is:

(1) Capable of growing more than 20 cubic feet of wood per acre per year; and

(2) Available for the application of scientific forest management practices for the primary purpose of growing and harvesting forest tree species.

(c) The Department shall issue an initial certification of reforestation or timber stand improvement to an applicant who owns or leases [10 to 500] **3 TO 1,000** acres of land that is used as commercial forest land or that is being restored and is capable of growing a commercial forest, if there is:

(1) A successful planting of the required minimum number of seedlings with acceptable species; or

(2) Timber stand improvement activities in accordance with a forest management plan developed by a licensed forester.

(d) (1) Within 2 years after the date of initial certification, the Department shall issue a final certification of reforestation or timber stand improvement to an applicant who received an initial certification if:

(i) Seedlings are living without other vegetation growing around or over the seedling; or

(ii) Successful timber stand improvements have been made in accordance with regulations of the Secretary.

(2) If the reforestation or timber stand improvement activities do not meet the requirements for final certification when the application is made, the applicant may replant or conduct additional timber stand improvement activities.

(e) If an application for final certification is not filed within 2 years after the date of initial certification, the applicant shall submit a plan to continue the reforestation or timber stand improvement project to the Department.

(f) The Department shall decertify land if:

(1) Reforestation or timber stand improvement activity on the land is discontinued before issuance of a final certificate;

(2) A final certificate application or a plan of continuation is not filed within 2 years after the date on which the initial certificate is issued; or

(3) The land does not continue to be used as commercial forest land for 15 years after final certification is issued.

(g) The Secretary shall:

(1) Adopt regulations to carry out this section;

(2) Provide to a certified person notice of initial and final certification that the person may file with the Comptroller as evidence of the eligibility of the person for the income tax subtraction modification for reforestation and timberland expense allowed under §§ 10–208 and 10–308 of the Tax – General Article; and

(3) Send a copy of a decertification notice to the Comptroller for purposes of the income tax addition modification for reforestation and timberland expense required under §§ 10–205 and 10–306 of the Tax – General Article.

5–704.

(a) Any individual or corporation that willfully, maliciously, or with intent, sets on fire, or causes to be set on fire, any woods, brush, grass, grain, or stubble[, on land not his own,] is guilty of a misdemeanor and upon conviction is subject to a fine not less than ~~[\$25]~~ **\$250** nor exceeding \$2,000, or imprisonment for not less than 30 days nor exceeding five years, or both with costs imposed in the discretion of the court.

(b) An individual or corporation may not carelessly or negligently set on fire, or cause to be set on fire any woods, brush, grass, grain, or stubble [resulting in damage to the property of another]. Setting a fire contrary to the provisions of this subsection[, or allowing it to escape to the injury of adjoining lands,] is prima facie proof of carelessness or neglect within the meaning of this subsection. The landowner from whose land the fire originated also is liable in a civil action for damages for injury resulting from the fire, and for the cost of fighting and extinguishing the fire, unless [he] **THE LANDOWNER** can prove to the satisfaction of the court before which the case is tried that the injury complained of was suffered without any negligence on the part of the owner or [his] **THE OWNER’S** agents.

(c) Any person who discovers a forest or brush fire not under the control of some person shall extinguish it or report it to the local fire warden.

(d) The provisions of this section do not contravene other provisions of law relating to the liability for fires of railroad companies.

5-1601.

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

(FF) "PRIORITY FUNDING AREA" MEANS AN AREA DESIGNATED AS A PRIORITY FUNDING AREA UNDER § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(LL) "STREAM RESTORATION PROJECT" MEANS AN ACTIVITY THAT:

(1) IS DESIGNED TO STABILIZE STREAM BANKS OR ENHANCE STREAM FUNCTION OR HABITAT LOCATED WITHIN AN EXISTING STREAM, WATERWAY, OR FLOODPLAIN;

(2) AVOIDS AND MINIMIZES IMPACTS TO FORESTS AND PROVIDES FOR REPLANTING ON-SITE AN EQUIVALENT NUMBER OF TREES TO THE NUMBER REMOVED BY THE PROJECT;

(3) MAY BE PERFORMED UNDER A MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT, A WATERSHED IMPLEMENTATION PLAN GROWTH OFFSET, OR ANOTHER PLAN ADMINISTERED BY THE STATE OR LOCAL GOVERNMENT TO ACHIEVE OR MAINTAIN WATER QUALITY STANDARDS; AND

(4) IS NOT PERFORMED TO SATISFY STORMWATER MANAGEMENT, WETLANDS MITIGATION, OR ANY OTHER REGULATORY REQUIREMENT ASSOCIATED WITH PROPOSED DEVELOPMENT ACTIVITY.

5-1602.

(a) Except as provided in subsection (b) of this section, this subtitle shall apply to any public or private subdivision plan or application for a grading or sediment control permit by any person, including a unit of State or local government on areas 40,000 square feet or greater.

(b) The provisions of this subtitle do not apply to:

(10) A county that has and maintains 200,000 acres or more of its land area in forest cover; [and]

(11) The cutting or clearing of trees to comply with the requirements of 14 C.F.R. § 77.25 relating to objects affecting navigable airspace, provided that the

Federal Aviation Administration has determined that the trees are a hazard to aviation;

(12) ANY STREAM RESTORATION PROJECT FOR WHICH THE APPLICANT FOR A GRADING OR SEDIMENT CONTROL PERMIT HAS EXECUTED A BINDING MAINTENANCE AGREEMENT OF AT LEAST 5 YEARS WITH THE AFFECTED PROPERTY OWNER; AND

(13) MAINTENANCE OR RETROFITTING OF A STORMWATER MANAGEMENT STRUCTURE THAT MAY INCLUDE CLEARING OF VEGETATION OR REMOVAL AND TRIMMING OF TREES, SO LONG AS THE MAINTENANCE OR RETROFITTING IS WITHIN THE ORIGINAL LIMITS OF DISTURBANCE FOR CONSTRUCTION OF THE EXISTING STRUCTURE, OR WITHIN ANY MAINTENANCE EASEMENT FOR ACCESS TO THE STRUCTURE.

5-1603.

(c) (3) (ii) A local forest conservation program, when approved by the Department, may [allow]:

1. **ALLOW** clustering and other innovative land use techniques that protect and establish forests where open space is preserved, sensitive areas are protected, and development is physically concentrated; **AND**

2. **WAIVE THE REQUIREMENTS OF THIS SUBTITLE FOR PREVIOUSLY DEVELOPED AREAS COVERED BY IMPERVIOUS SURFACE AND LOCATED IN PRIORITY FUNDING AREAS AT THE TIME OF THE APPLICATION FOR SUBDIVISION PLAN, GRADING, OR SEDIMENT CONTROL PERMIT APPROVAL.**

(e) (1) (i) The Department shall conduct a review of each local authority's program at least once every 2 years from the date of initial departmental approval.

(ii) In its biennial review, the Department shall evaluate the level of compliance with the performance standards and required forest conservation.

(2) **(I)** If a local authority's program is found to be deficient by the Department, then the Department shall give notice and allow the local authority 90 days for compliance[, after which].

(II) IF, AFTER 90 DAYS, A LOCAL AUTHORITY HAS FAILED TO COMPLY WITH THE TERMS OF A NOTICE GIVEN BY THE DEPARTMENT, the Department may DO ONE OR MORE OF THE FOLLOWING:

1. [assume] ASSUME review and approval of all forest conservation plans within the jurisdiction of the local authority until the deficiencies are corrected;

2. ~~REQUIRE~~ ON A FINDING BY AN AUDITOR MADE IN CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL THAT A LOCAL AUTHORITY HAS MISAPPROPRIATED LOCAL FOREST CONSERVATION FUNDS, THE DEPARTMENT MAY REQUIRE THE LOCAL AUTHORITY TO SUBMIT PAYMENT TO THE STATE CONSERVATION FUND FOR THE AMOUNT OF ANY MISAPPROPRIATED LOCAL CONSERVATION FUNDS; AND

3. REQUEST THAT THE ATTORNEY GENERAL INVESTIGATE PAYMENTS AND EXPENDITURES OF FUNDS COLLECTED BY THE LOCAL AUTHORITY UNDER THIS SUBTITLE.

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.

(i) (1) The subtraction under subsection (a) of this section includes twice the amount of expenses for reforestation or timber stand improvement activity on [10 to 100] **3 TO 1,000** acres of commercial forest land, exclusive of federal funds.

(2) Of the amount under paragraph (1) of this subsection:

(i) 50% may be claimed in the taxable year in which the Department of Natural Resources issues an initial certificate of reforestation or timber stand improvement; and

(ii) 50% may be claimed in the taxable year in which the Department of Natural Resources issues a final certificate of reforestation or timber stand improvement.

SECTION 4. BE IT FURTHER ENACTED, That by January 1, 2015, the Department of Planning, in consultation with the Department of Natural Resources ~~and Resources~~, the Sustainable Forestry Council, and other interested parties, shall provide local jurisdictions with guidelines, recommendations, and technical assistance on policies and standards to protect forest land and urban tree canopy from ~~the~~ adverse effects of development.

SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act is intended to supplement or limit the authority of the Department of Agriculture to

establish policies relating to forest land under any program regulated at the Department of Agriculture.

SECTION 6. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) the policy of achieving no net loss of forest shall be implemented in a manner that does not incentivize the conversion of prime agricultural land with Natural Resources Conservation Service type I, II, or III soil classification to forestland, except for conservation best management practices meeting Natural Resources Conservation Service standards and specifications; but

(2) this Act may not be construed to prohibit an owner of agricultural land from voluntarily agreeing to place conservation best management practices on the property owner's agricultural land.

SECTION 7. AND BE IT FURTHER ENACTED, That, following the release of the first statewide forest resource inventory after January 1, 2017, the Department of Natural Resources shall convene a stakeholder group comprised of representatives from local government, agriculture, forestry, development, conservation, and other interested parties to review the inventory and make recommendations in accordance with the policy goals established under § 5-102(b) of the Natural Resources Article, as enacted by Section 1 of this Act.

SECTION ~~6~~ 8. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 385

(House Bill 724)

AN ACT concerning

Insurance – Risk Based Capital Standards – Fraternal Benefit Societies and Life Insurers

FOR the purpose of requiring that a fraternal benefit society's risk based capital be determined in accordance with a certain formula set forth in certain instructions; altering the circumstances under which a company action level event occurs in the case of a life insurer; establishing the circumstances under which a company action level event occurs in the case of a fraternal benefit society; requiring the Maryland Insurance Commissioner to take any action that may be necessary to place a fraternal benefit society under conservation,

rehabilitation, or liquidation if a mandatory control level event occurs; providing that certain provisions of law apply to fraternal benefit societies; defining a certain term; and generally relating to company action level events, fraternal benefit societies, and life insurers.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 4–301(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Insurance
Section 4–301(f–1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 4–301(k), 4–304, 4–305(a), 4–308, and 8–403
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article – Insurance

4–301.

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

(F–1) “FRATERNAL BENEFIT SOCIETY” MEANS A PERSON AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN THE STATE UNDER TITLE 8, SUBTITLE 4 OF THIS ARTICLE.

(k) “Negative trend” means, with respect to a life insurer [or], health insurer, **OR FRATERNAL BENEFIT SOCIETY**, negative trend over a period of time, as determined in accordance with the “trend test calculation” included in the RBC instructions.

4–304.

(a) (1) A life insurer’s **OR FRATERNAL BENEFIT SOCIETY’S** risk based capital shall be determined in accordance with the formula set forth in the RBC instructions.

(2) By applying the factors in the manner set forth in the RBC instructions, the formula shall take into account and may adjust for the covariance between:

(i) the risk with respect to the life insurer's **OR FRATERNAL BENEFIT SOCIETY'S** assets;

(ii) the risk of adverse insurance experience with respect to the life insurer's **OR FRATERNAL BENEFIT SOCIETY'S** liabilities and obligations;

(iii) the interest rate risk with respect to the life insurer's **OR FRATERNAL BENEFIT SOCIETY'S** business; and

(iv) all other business risks and other relevant risks as set forth in the RBC instructions.

(b) (1) Except as provided in subsection (a) of this section, an insurer's risk based capital shall be determined in accordance with the formula set forth in the RBC instructions.

(2) By applying the factors in the manner set forth in the RBC instructions, the formula shall take into account and may adjust for the covariance between:

(i) asset risk;

(ii) credit risk;

(iii) underwriting risk; and

(iv) all other business risks and other relevant risks as set forth in the RBC instructions.

4-305.

(a) A company action level event occurs:

(1) when an insurer files an RBC report that indicates that:

(i) the insurer has total adjusted capital that is:

1. greater than or equal to its regulatory action level RBC; and

2. less than its company action level RBC;

(ii) in the case of a life insurer **OR FRATERNAL BENEFIT SOCIETY**, the life insurer **OR FRATERNAL BENEFIT SOCIETY** has total adjusted capital that:

1. is greater than or equal to its company action level RBC;
2. is less than the product of its authorized control level RBC and **[2.5] 3.0**; and
3. has a negative trend;

(iii) in the case of a property and casualty insurer, the property and casualty insurer has total adjusted capital that:

1. is greater than or equal to its company action level RBC;
2. is less than the product of its authorized control level RBC and 3.0; and
3. triggers the trend test calculation included in the property and casualty RBC instructions; or

(iv) in the case of a health insurer, the health insurer has total adjusted capital that:

1. is greater than or equal to its company action level RBC;
2. is less than the product of its authorized control level RBC and 3.0; and
3. triggers the trend test calculation included in the health RBC instructions;

(2) when the Commissioner notifies an insurer of an adjusted RBC report that indicates an event under item (1) of this subsection; or

(3) if an insurer requests a hearing to challenge an adjusted RBC report that indicates an event under item (1) of this subsection, when the Commissioner notifies the insurer that the Commissioner, after a hearing, has rejected the insurer's challenge.

(a) A mandatory control level event occurs when:

(1) an insurer files an RBC report that indicates that the insurer has total adjusted capital that is less than its mandatory control level RBC;

(2) the Commissioner notifies the insurer of an adjusted RBC report that indicates an event under item (1) of this subsection; or

(3) if an insurer requests a hearing to challenge an adjusted RBC report that indicates the event under item (1) of this subsection, the Commissioner notifies the insurer that the Commissioner, after a hearing, has rejected the insurer's challenge.

(b) (1) In the case of a life insurer **OR FRATERNAL BENEFIT SOCIETY**, if a mandatory control level event occurs with respect to the life insurer **OR FRATERNAL BENEFIT SOCIETY**, the Commissioner shall take any action that may be necessary to place the life insurer **OR FRATERNAL BENEFIT SOCIETY** under conservation, rehabilitation, or liquidation under Title 9 of this article.

(2) In the case of a property and casualty insurer, if a mandatory control level event occurs with respect to the property and casualty insurer, the Commissioner:

(i) shall take any action that may be necessary to place the property and casualty insurer under conservation, rehabilitation, or liquidation under Title 9 of this article; or

(ii) in the case of a property and casualty insurer that is not writing any new business and that is running off its existing business, may allow the property and casualty insurer to continue its run-off under the supervision of the Commissioner.

(3) In the case of a health insurer, if a mandatory control level event occurs with respect to the health insurer, the Commissioner shall take any action that may be necessary to place the health insurer under conservation, rehabilitation, or liquidation under Title 9 of this article.

(c) The Commissioner may delay action under subsection (b) of this section for up to 90 days after the occurrence of the mandatory control level event if the Commissioner finds there is a reasonable expectation that the mandatory control level event may be eliminated within the 90-day period.

(d) (1) The Commissioner shall have the rights, powers, and duties under Title 9 of this article needed to carry out the requirements of this section.

(2) If the Commissioner takes any action under Title 9 of this article pursuant to an adjusted RBC report as provided in this section, the insurer shall be

entitled to the protections afforded to insurers under Title 9 of this article with regard to summary proceedings.

8-403.

- (a) (1) Except as otherwise provided in this section, societies are:
 - (i) governed exclusively by this subtitle; and
 - (ii) exempt from the other insurance laws of the State.

(2) A statute enacted after December 31, 1963, does not apply to societies unless the statute expressly states that it applies to them.

(b) (1) In addition to the provisions of this subtitle, the following provisions of this article apply to societies to the extent not in conflict with the express provisions and reasonable implications of this subtitle:

- (i) Title 1 of this article;
- (ii) Title 2, Subtitle 1 of this article, including § 2-112 of this article;
- (iii) Title 2, Subtitle 2 of this article;
- (iv) § 3-117 of this article;
- (v) § 3-127 of this article;
- (vi) § 4-102(b) of this article;
- (vii) § 4-113(a)(7), (8), and (9) of this article;
- (viii) § 4-203 of this article;
- (ix) § 4-204 of this article;
- (x) § 5-103 of this article;
- (xi) § 5-201 of this article;
- (xii) Title 6, Subtitle 2 of this article;
- (xiii) Title 9, Subtitle 2 of this article;
- (xiv) § 10-120 of this article;

- (xv) Title 15, Subtitle 9 of this article;
- (xvi) Title 27 of this article; [and]
- (xvii) § 1–301 of this article; AND

(XVIII) TITLE 4, SUBTITLE 3 OF THIS ARTICLE.

(2) In addition to the provisions of this subtitle, societies are subject to the provisions of Title 13, Subtitle 5 of the Estates and Trusts Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 386

(House Bill 742)

AN ACT concerning

Criminal Procedure – Citation Authority

FOR the purpose of authorizing a police officer to charge by citation for certain crimes; making this Act an emergency measure; and generally relating to criminal citations.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 4–101(c)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

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

Article – Criminal Procedure

4–101.

(c) (1) **(I)** Subject to paragraph (2) of this subsection, in addition to any other law allowing a crime to be charged by citation, a police officer shall charge by citation for:

[(i)] 1. any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment;

[(ii)] 2. any misdemeanor or local ordinance violation for which the maximum penalty of imprisonment is 90 days or less, except:

[1.] A. failure to comply with a peace order under § 3–1508 of the Courts Article;

[2.] B. failure to comply with a protective order under § 4–509 of the Family Law Article;

[3.] C. violation of a condition of pretrial or posttrial release while charged with a sexual crime against a minor under § 5–213.1 of this article;

[4.] D. possession of an electronic control device after conviction of a drug felony or crime of violence under § 4–109(b) of the Criminal Law Article;

[5.] E. violation of an out-of-state domestic violence order under § 4–508.1 of the Family Law Article; or

[6.] F. abuse or neglect of an animal under § 10–604 of the Criminal Law Article; or

[(iii)] 3. possession of marijuana under § 5–601 of the Criminal Law Article.

(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN ADDITION TO ANY OTHER LAW ALLOWING A CRIME TO BE CHARGED BY CITATION, A POLICE OFFICER MAY CHARGE BY CITATION FOR:

1. SALE OF AN ALCOHOLIC BEVERAGE TO AN UNDERAGE DRINKER OR INTOXICATED PERSON UNDER ARTICLE 2B, § 12–108 OF THE CODE;

2. MALICIOUS DESTRUCTION OF PROPERTY UNDER § 6–301 OF THE CRIMINAL LAW ARTICLE, IF THE AMOUNT OF DAMAGE TO THE PROPERTY IS LESS THAN \$500; OR

3. MISDEMEANOR THEFT UNDER § 7–104(G)(2) OF THE CRIMINAL LAW ARTICLE.

(2) A police officer may charge a defendant by citation only if:

- (i) the officer is satisfied with the defendant's evidence of identity;
 - (ii) the officer reasonably believes that the defendant will comply with the citation;
 - (iii) the officer reasonably believes that the failure to charge on a statement of charges will not pose a threat to public safety;
 - (iv) the defendant is not subject to arrest for another criminal charge arising out of the same incident; and
 - (v) the defendant complies with all lawful orders by the officer.
- (3) A police officer who has grounds to make a warrantless arrest for an offense that may be charged by citation under this subsection may:
- (i) issue a citation in lieu of making the arrest; or
 - (ii) make the arrest and subsequently issue a citation in lieu of continued custody.

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

Approved by the Governor, May 2, 2013.

Chapter 387

(House Bill 749)

AN ACT concerning

Garrett County – Alcoholic Beverages – Licenses, Permits, and Other Authorizations

FOR the purpose of authorizing the Board of License Commissioners in Garrett County to grant certain license holders a privilege at no charge to sell certain alcoholic beverages at catered events in commemorative or special event bottles for consumption off the licensed premises under certain circumstances; establishing a Class BDR beer and wine license for a deluxe restaurant that has

a certain minimum seating capacity and a certain minimum capital investment; specifying certain privileges, issuing fees, and annual fees for certain licenses with or without a catering option; providing for the days and hours of sale for certain licenses; authorizing the Board to adopt certain regulations; establishing a refillable container permit; authorizing the Board to issue the permit to certain draft beer license holders; requiring a container to meet certain specifications to be used as a refillable container ~~permit~~; specifying the time when sales may begin on Sunday for a wine festival license issued for use in a certain location; authorizing certain Sunday sales to be made under certain circumstances; establishing beer festival licenses; authorizing the Board to issue annually a certain number of beer festival licenses; requiring that a beer festival license be issued to a holder of a certain license; authorizing a holder of a beer festival license to display and sell beer under certain circumstances; requiring the Board to perform certain activities; requiring a product to be displayed and sold at a beer festival to be invoiced in a certain manner and to be delivered to the beer festival from the licensed premises of the wholesaler; authorizing certain license holders to enter into a certain agreement under certain circumstances; authorizing Sunday sales under certain circumstances; requiring the Board to adopt certain regulations; adding an establishment for which a certain license is issued to the list of establishments in which an individual under certain circumstances may consume wine not purchased from or provided by the license holder; and generally relating to alcoholic beverages in Garrett County.

BY adding to

Article 2B – Alcoholic Beverages

Section 5–201(m–1) and (m–2), 6–201(m)(6), 6–401(m)(4), and 8–807

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 5–401(m), 6–201(m)(5)(iii), 6–401(m)(2)(ii), 7–101(p), 8–212, 8–308.3(h),
and 12–107(b)(10)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section 5–401(a)(1) and 8–308.3(b)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

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

Article 2B – Alcoholic Beverages

5-201.

(M-1) (1) THIS SUBSECTION APPLIES ONLY IN GARRETT COUNTY.

(2) THERE IS A CLASS BDR (DELUXE RESTAURANT) BEER AND WINE (ON-SALE) LICENSE, WHICH IS A SPECIAL CLASS B LICENSE.

(3) A CLASS BDR LICENSE MAY BE ISSUED FOR A DELUXE RESTAURANT AS DEFINED IN THE REGULATIONS OF THE BOARD OF LICENSE COMMISSIONERS.

(4) NOTWITHSTANDING § 9-102(A) OF THIS ARTICLE, A CLASS BDR LICENSE MAY BE ISSUED TO AN APPLICANT THAT HOLDS A CLASS B BEER AND WINE LICENSE OR A CLASS B BEER, WINE AND LIQUOR LICENSE.

(5) A CLASS BDR LICENSE MAY BE ISSUED FOR THE USE OF A RESTAURANT THAT:

(I) HAS A MINIMUM FACILITY SEATING CAPACITY OF 20 PERSONS; AND

(II) A MINIMUM CAPITAL INVESTMENT OF \$25,000 FOR THE RESTAURANT FACILITIES, NOT INCLUDING THE COST OF LAND OR BUILDINGS.

(6) IF THE APPLICANT PURCHASES OR LEASES AN EXISTING BUILDING, THE CAPITAL INVESTMENT ATTRIBUTABLE TO THE COST OF THE LAND AND IMPROVEMENTS SHALL BE BASED ON THE ASSESSED VALUE OF THE LAND AND IMPROVEMENTS IN ACCORDANCE WITH THE RECORDS OF THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION AT THE TIME OF PURCHASE.

(7) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS BDR LICENSE WITHOUT OR WITH A CATERING OPTION.

(8) A HOLDER OF A CLASS BDR LICENSE WITHOUT A CATERING OPTION MAY SELL:

(I) BEER AND LIGHT WINE FOR CONSUMPTION ON THE LICENSED PREMISES; AND

(II) BREWED BEVERAGES FOR CONSUMPTION OFF THE LICENSED PREMISES.

(9) (I) IN ADDITION TO EXERCISING THE PRIVILEGES STATED IN PARAGRAPH (8) OF THIS SUBSECTION, A HOLDER OF A CLASS BDR LICENSE WITH A CATERING OPTION MAY KEEP FOR SALE AND SELL BEER AND LIGHT WINE FOR CONSUMPTION AT EVENTS THAT THE HOLDER CATERS OFF THE LICENSED PREMISES.

(II) TO EXERCISE THE CATERING OPTION, A HOLDER OF A CLASS BDR LICENSE:

1. SHALL PROVIDE FOOD IF THE HOLDER PROVIDES ALCOHOLIC BEVERAGES AT A CATERED EVENT OFF THE LICENSED PREMISES; AND

2. MAY EXERCISE THE CATERING OPTION ONLY DURING THE HOURS AND DAYS THAT ARE ALLOWED BY THE BOARD OF LICENSE COMMISSIONERS.

(10) FOR A LICENSE WITHOUT A CATERING OPTION:

(I) THE ISSUING FEE FOR A NEW LICENSE IS \$500; AND

(II) THE ANNUAL FEE IS \$500.

(11) FOR A LICENSE WITH A CATERING OPTION:

(I) THE ISSUING FEE FOR A NEW LICENSE IS \$625; AND

(II) THE ISSUING FEE IS \$625.

(12) THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

(M-2) IN GARRETT COUNTY, THE BOARD MAY GRANT A LICENSE HOLDER A PRIVILEGE AT NO CHARGE TO SELL BEER OR WINE FOR CONSUMPTION OFF THE LICENSED PREMISES AT A CATERED EVENT IF:

(1) THE BEER OR WINE IS BOTTLED IN COMMEMORATIVE OR SPECIAL EVENT BOTTLES AND SOLD AT A SPECIAL EVENT;

(2) THE BOARD APPROVES THE COMMEMORATIVE OR SPECIAL EVENT BOTTLES BEFORE THE EVENT OCCURS; AND

(3) THE BEER OR WINE WILL BE SOLD AT THE EVENT ONLY ON THE DAYS AND HOURS ALLOWED BY THE BOARD.

5-401.

(a) (1) A Class D beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes its holder to keep for sale and to sell beer and light wines at retail, at the place described in the license, for consumption on the premises or elsewhere. The license may not be issued for any drugstore.

(m) (1) [In Garrett County the annual license fee is \$350] **THIS SUBSECTION APPLIES ONLY IN GARRETT COUNTY.**

(2) [The issuing fee for a new license, in addition to the annual fee, is \$350] **THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS D BEER AND LIGHT WINE LICENSE WITHOUT OR WITH A CATERING OPTION.**

(3) A HOLDER OF A CLASS D BEER AND LIGHT WINE LICENSE WITHOUT A CATERING OPTION MAY SELL:

~~**(I) BEER AND LIGHT WINE FOR CONSUMPTION ON THE LICENSED PREMISES; AND**~~

~~**(II) BREWED BEVERAGES FOR CONSUMPTION OFF THE LICENSED PREMISES**~~ **BEER AND LIGHT WINE FOR CONSUMPTION ON THE LICENSED PREMISES OR ELSEWHERE.**

(4) (I) IN ADDITION TO EXERCISING THE PRIVILEGES STATED IN PARAGRAPH (3) OF THIS SUBSECTION, A HOLDER OF A CLASS D BEER AND LIGHT WINE LICENSE WITH A CATERING OPTION MAY KEEP FOR SALE AND SELL BEER AND LIGHT WINE FOR CONSUMPTION AT EVENTS THAT THE HOLDER CATERES OFF THE LICENSED PREMISES.

(II) TO EXERCISE THE CATERING OPTION, A HOLDER OF A CLASS D BEER AND LIGHT WINE LICENSE:

1. SHALL PROVIDE FOOD IF THE HOLDER PROVIDES ALCOHOLIC BEVERAGES AT A CATERED EVENT OFF THE LICENSED PREMISES; AND

2. MAY EXERCISE THE CATERING OPTION ONLY DURING THE HOURS AND DAYS THAT ARE ALLOWED BY THE BOARD OF LICENSE COMMISSIONERS.

(5) FOR A LICENSE WITHOUT A CATERING OPTION:

- (I) THE ISSUING FEE FOR A NEW LICENSE IS \$350; AND
- (II) THE ANNUAL FEE IS \$350.

(6) FOR A LICENSE WITH A CATERING OPTION:

- (I) THE ISSUING FEE FOR A NEW LICENSE IS \$475; AND
- (II) ~~THE ISSUING~~ ANNUAL FEE IS \$475.

(7) THE BOARD MAY GRANT A LICENSE HOLDER A PRIVILEGE AT NO CHARGE TO SELL BEER OR LIGHT WINE FOR CONSUMPTION OFF THE LICENSED PREMISES AT A CATERED EVENT IF:

(I) THE BEER OR LIGHT WINE IS BOTTLED IN COMMEMORATIVE OR SPECIAL EVENT BOTTLES AND SOLD AT A SPECIAL EVENT;

(II) THE BOARD APPROVES THE COMMEMORATIVE OR SPECIAL EVENT BOTTLES BEFORE THE EVENT OCCURS; AND

(III) THE BEER OR WINE WILL BE SOLD AT THE EVENT ONLY ON THE DAYS AND HOURS ALLOWED BY THE BOARD.

6-201.

(m) (5) (iii) Notwithstanding § 9-102(a) of this article, a Class BDR license may be issued to an applicant who already holds a Class B (on-sale) beer, wine and liquor license, **A CLASS B (ON-SALE) BEER AND LIGHT WINE LICENSE** or a Class B Resort (on-sale) beer, wine and liquor license.

(6) THE BOARD MAY GRANT A LICENSE HOLDER A PRIVILEGE AT NO CHARGE TO SELL BEER, WINE, OR LIQUOR FOR CONSUMPTION OFF THE LICENSED PREMISES AT A CATERED EVENT IF:

(I) THE BEER, WINE, OR LIQUOR IS BOTTLED IN COMMEMORATIVE OR SPECIAL EVENT BOTTLES AND SOLD AT A SPECIAL EVENT;

(II) THE BOARD APPROVES THE COMMEMORATIVE OR SPECIAL EVENT BOTTLES BEFORE THE EVENT OCCURS; AND

(III) THE BEER, WINE, OR LIQUOR WILL BE SOLD AT THE EVENT ONLY ON THE DAYS AND HOURS ALLOWED BY THE BOARD.

6-401.

(m) (2) (ii) 1. A Class D (on-sale) license for beer, wine and liquor sales shall be issued to establishments whose total beer, wine and liquor sales constitute at least 75 percent on-premises consumption and up to 25 percent off-premises consumption.

2. [A. The annual license fee is \$1,500.

B. The issuing fee for a new license is \$1,500, in addition to the annual fee] **THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS D BEER ~~AND LIGHT WINE~~, WINE AND LIQUOR LICENSE WITHOUT OR WITH A CATERING OPTION.**

3. **A HOLDER OF A CLASS D BEER, WINE AND LIQUOR ~~WINE~~ LICENSE WITHOUT A CATERING OPTION MAY SELL:**

~~**A. BEER AND LIGHT WINE FOR CONSUMPTION ON THE LICENSED PREMISES; AND**~~

~~**B. BREWED BEVERAGES FOR CONSUMPTION OFF THE LICENSED PREMISES**~~ **BEER, WINE AND LIQUOR FOR CONSUMPTION ON THE LICENSED PREMISES OR ELSEWHERE.**

4. **IN ADDITION TO EXERCISING THE PRIVILEGES STATED IN SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH, A HOLDER OF A CLASS D BEER, WINE AND LIQUOR LICENSE WITH A CATERING OPTION MAY KEEP FOR SALE AND SELL BEER, WINE, AND LIQUOR FOR CONSUMPTION AT EVENTS THAT THE HOLDER CATERS OFF THE LICENSED PREMISES.**

5. **TO EXERCISE THE CATERING OPTION, A HOLDER OF A CLASS D BEER, WINE AND LIQUOR LICENSE:**

A. SHALL PROVIDE FOOD IF THE HOLDER PROVIDES ALCOHOLIC BEVERAGES AT A CATERED EVENT OFF THE LICENSED PREMISES; AND

B. MAY EXERCISE THE CATERING OPTION ONLY DURING THE HOURS AND DAYS THAT ARE ALLOWED BY THE BOARD OF LICENSE COMMISSIONERS.

6. **FOR A LICENSE WITHOUT A CATERING OPTION:**

A. THE ISSUING FEE FOR A NEW LICENSE IS \$1,500;
AND

B. THE ANNUAL FEE IS \$1,500.

7. FOR A LICENSE WITH A CATERING OPTION:

A. THE ISSUING FEE FOR A NEW LICENSE IS \$2,000;

AND

B. ~~THE ISSUING~~ ANNUAL FEE IS \$2,000.

(4) THE BOARD MAY GRANT A LICENSE HOLDER A PRIVILEGE AT NO CHARGE TO SELL BEER, WINE, OR LIQUOR FOR CONSUMPTION OFF THE LICENSED PREMISES AT A CATERED EVENT IF:

(I) THE BEER, WINE, OR LIQUOR IS BOTTLED IN COMMEMORATIVE OR SPECIAL EVENT BOTTLES AND SOLD AT A SPECIAL EVENT;

(II) THE BOARD APPROVES THE COMMEMORATIVE OR SPECIAL EVENT BOTTLES BEFORE THE EVENT OCCURS; AND

(III) THE BEER, WINE, OR LIQUOR WILL BE SOLD AT THE EVENT ONLY ON THE DAYS AND HOURS ALLOWED BY THE BOARD.

7-101.

(p) **(1)** In Garrett County, there are 4 types of special Class C beer, beer and wine, or beer, wine and liquor licenses available, as follows:

[(1)] (I) A special 2-day Class C license for a fee of \$50;

[(2)] (II) A special 6-day Class C license for a fee of \$150;

[(3)] (III) A special 12-day Class C license for a fee of \$300; or

[(4)] (IV) A special multiple event Class C license under the following conditions:

[(i)] 1. The Board of License Commissioners may issue a special multiple event license to an organization that otherwise qualifies for a special Class C license;

[(ii)] 2. The annual fee for a special multiple event license is as follows:

[1.] A. \$125 for up to 5 events per year;

[2.] B. \$250 for up to 12 events per year;

[3.] C. \$375 for up to 18 events per year; and

[4.] D. \$500 for up to 24 events per year;

[(iii)] 3. The Board may not issue more than 1 special multiple event license to an organization in a license year;

[(iv)] 4. A special multiple event licensee shall notify the Board in writing at least 7 days before an event; and

[(v)] 5. The Board shall publish a notice for application for a special multiple event license one time at least 7 days before the hearing on the license.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE GARRETT COUNTY BOARD OF LICENSE COMMISSIONERS MAY GRANT A LICENSE HOLDER A PRIVILEGE AT NO CHARGE TO SELL FOR CONSUMPTION OFF THE LICENSED PREMISES AN ALCOHOLIC BEVERAGE AUTHORIZED BY THE LICENSE IF:

1. THE ALCOHOLIC BEVERAGE IS BOTTLED IN COMMEMORATIVE OR SPECIAL EVENT BOTTLES AND SOLD AT A SPECIAL EVENT;

2. THE BOARD APPROVES THE COMMEMORATIVE OR SPECIAL EVENT BOTTLES BEFORE THE EVENT OCCURS; AND

3. THE ALCOHOLIC BEVERAGE WILL BE SOLD AT THE EVENT ONLY ON THE DAYS AND HOURS ALLOWED BY THE BOARD.

(II) A HOLDER OF A LICENSE IS ENTITLED TO BE GRANTED THE PRIVILEGE DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE LICENSE IS A:

1. SPECIAL 2-DAY CLASS C LICENSE;

2. SPECIAL 6-DAY CLASS C LICENSE;

3. SPECIAL 12-DAY CLASS C LICENSE; OR

4. SPECIAL MULTI-EVENT CLASS C LICENSE.

8-212.

(a) This section applies only in Garrett County.

(b) (1) To sell draft beer, any establishment regularly licensed to sell beer shall obtain a special license from the Board of License Commissioners and the fee for the license is \$75. The issuing fee for new licenses, in addition to the annual fee, is \$75.

(2) (i) To sell draft beer, a licensee who holds a Class B—resort license shall obtain a special license from the Board of License Commissioners.

(ii) The annual license fees are:

1. Two facilities, \$150; and
2. Each additional facility, \$75.

(iii) The Board of License Commissioners shall charge an issuing fee for new licenses in an amount equal to the annual license fee.

(C) (1) THERE IS A REFILLABLE CONTAINER PERMIT.

(2) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A REFILLABLE CONTAINER PERMIT TO A DRAFT BEER LICENSE HOLDER WHO ALSO HOLDS ANY ALCOHOLIC BEVERAGES LICENSE ISSUED BY THE BOARD EXCEPT A CLASS C LICENSE OR A CLASS A LICENSE.

(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A REFILLABLE CONTAINER ~~LICENSE~~ PERMIT ENTITLES THE HOLDER TO SELL DRAFT BEER FOR CONSUMPTION OFF THE LICENSED PREMISES IN A REFILLABLE CONTAINER WITH A CAPACITY OF NOT LESS THAN 32 OUNCES AND NOT MORE THAN 128 OUNCES.

(4) TO BE USED AS A REFILLABLE CONTAINER ~~LICENSE~~, A CONTAINER SHALL:

(I) BE SEALABLE;

(II) BE BRANDED WITH AN IDENTIFYING MARK OF THE LICENSE HOLDER;

(III) BEAR THE FEDERAL HEALTH WARNING STATEMENT REQUIRED FOR CONTAINERS OF ALCOHOLIC BEVERAGES UNDER 21 C.F.R. 16.21;

(IV) DISPLAY INSTRUCTIONS FOR CLEANING THE CONTAINER; AND

(V) BEAR A LABEL STATING THAT:

1. CLEANING THE CONTAINER IS THE RESPONSIBILITY OF THE CONSUMER; AND

2. THE CONTENTS OF THE CONTAINER ARE PERISHABLE AND SHOULD BE REFRIGERATED IMMEDIATELY AND CONSUMED WITHIN 48 HOURS AFTER PURCHASE.

(5) THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

[(c)] (D) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than \$5,000 or to imprisonment for not more than 1 year or both.

8-308.3.

(b) This section applies only in Garrett County.

(h) [Notwithstanding § 11-512(c) of this article, a] **A wine festival license issued [for use in election district 11 or 15] FOR USE IN A LOCATION WHERE SUNDAY SALES ARE ALLOWED UNDER § 11-512(C) OF THIS ARTICLE** authorizes Sunday sales:

(1) To begin at 10 a.m.; and

(2) To be made without a consumer placing an order for a meal simultaneously or before placing an order for an alcoholic beverage.

8-807.

(A) IN THIS SECTION, “BOARD” MEANS THE GARRETT COUNTY BOARD OF LICENSE COMMISSIONERS.

(B) THIS SECTION APPLIES ONLY IN GARRETT COUNTY.

(C) THE BOARD MAY ISSUE ANNUALLY NOT MORE THAN TWO BEER FESTIVAL LICENSES.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, AN APPLICANT FOR A FESTIVAL LICENSE SHALL BE A HOLDER OF A:

- BOARD;**
- (1) **RETAIL ALCOHOLIC BEVERAGES LICENSE ISSUED BY THE**
 - (2) **CLASS 5 BREWERY LICENSE;**
 - (3) **CLASS 6 PUB-BREWERY LICENSE; OR**
 - (4) **CLASS 7 MICRO-BREWERY LICENSE.**
- (E) A HOLDER OF A BEER FESTIVAL LICENSE MAY:**
- (1) **ONLY DISPLAY AND SELL BEER THAT IS:**
 - (I) **MANUFACTURED AND PROCESSED IN ~~A~~ THE STATE**
STATE; AND
 - (II) **DISTRIBUTED IN THE STATE WHEN THE APPLICATION IS**
FILED; AND
 - (2) **DISPLAY AND SELL BEER AT RETAIL FOR CONSUMPTION ON**
OR OFF THE LICENSED PREMISES ON THE DAYS AND FOR THE HOURS
DESIGNATED FOR A BEER FESTIVAL.
- (F) FOR A BEER FESTIVAL LICENSE, THE BOARD SHALL:**
- (1) **ESTABLISH A FEE;**
 - (2) **APPROVE A FIXED PERIOD OF TIME FOR THE FESTIVAL OF UP**
TO 2 CONSECUTIVE DAYS, EXCLUDING SUNDAY; AND
 - (3) **APPROVE A FESTIVAL LOCATION IN THE COUNTY FOR WHICH**
A LICENSE HAS NOT BEEN ISSUED.
- (G) (1) A PRODUCT TO BE DISPLAYED AND SOLD AT A BEER FESTIVAL**
SHALL BE:
- (I) **INVOICED TO THE HOLDER OF THE BEER FESTIVAL**
LICENSE BY A LICENSED STATE WHOLESALER OR HOLDER OF A CLASS 5
BREWERY LICENSE, CLASS 6 PUB-BREWERY LICENSE OR CLASS 6
MICRO-BREWERY LICENSE; AND
 - (II) **DELIVERED TO THE BEER FESTIVAL FROM THE**
LICENSED PREMISES OF THE WHOLESALER.

(2) WHEN A BEER FESTIVAL LICENSE IS ISSUED, A HOLDER OF A WHOLESALER'S LICENSE, A CLASS 5 BREWERY LICENSE, A CLASS 6 PUB-BREWERY LICENSE, OR A CLASS 7 MICRO-BREWERY LICENSE MAY ENTER INTO AN AGREEMENT WITH THE HOLDER OF THE BEER FESTIVAL LICENSE TO DELIVER BEER 2 DAYS BEFORE THE EFFECTIVE DATE OF THE BEER FESTIVAL LICENSE AND TO ACCEPT RETURNS NOT LATER THAN 2 DAYS AFTER THE EXPIRATION DATE OF THE BEER FESTIVAL LICENSE.

(H) A BEER FESTIVAL LICENSE ISSUED FOR A LOCATION AT WHICH SUNDAY SALES ARE ALLOWED UNDER § 11-512(C) OF THIS ARTICLE AUTHORIZES SUNDAY SALES:

(1) TO BEGIN AT 1 P.M.; AND

(2) TO BE MADE WITHOUT A CONSUMER PLACING AN ORDER FOR A MEAL SIMULTANEOUSLY OR BEFORE PLACING AN ORDER FOR AN ALCOHOLIC BEVERAGE.

(I) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

12-107.

(b) (10) (i) THIS PARAGRAPH APPLIES TO AN INDIVIDUAL IN:

1. A RESTAURANT, CLUB, OR HOTEL FOR WHICH A CLASS B OR CLASS C LICENSE ALLOWING THE SALE OF WINE IS ISSUED; OR

2. AN ESTABLISHMENT IN GARRETT COUNTY FOR WHICH A CLASS B-B&B (BED AND BREAKFAST) LICENSE IS ISSUED.

(II) An individual [in a restaurant, club, or hotel for which a Class B or Class C license allowing the sale of wine is issued] COVERED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH may consume wine not purchased from or provided by the license holder only if:

1. The wine is consumed with a meal during the hours of sale specified by the license;

2. The individual receives the approval of the license holder;

3. The wine is not available for sale on the license holder's wine list; and

4. The license holder obtains a permit from the local licensing board before allowing an individual the privilege of consuming wine not purchased from or provided by the license holder.

[(ii)] (III) A local licensing board shall issue a permit at no charge to each license holder who seeks to allow an individual to consume wine under the conditions specified in subparagraph ~~(i)~~ (II) of this paragraph.

[(iii)] (IV) A license holder that allows an individual the privilege of consuming wine described under subparagraph ~~(i)~~ (II) of this paragraph may determine and charge the individual a fee for the privilege, on which a sales tax shall be imposed.

[(iv)] (V) Except as provided in subparagraph ~~(v)~~ (VI) of this paragraph, the license holder shall dispose of wine described under subparagraph ~~(i)~~ (II) of this paragraph that remains after the meal is finished.

[(v)] (VI) The individual may remove from the licensed premises a bottle of wine, the contents of which are only partially consumed with the meal, if the license holder or an employee of the license holder inserts a cork in or places a cap on the bottle.

[(vi)] (VII) A bottle of wine that is removed from the licensed premises under subparagraph ~~(v)~~ (VI) of this paragraph is an "open container" for purposes of § 10–125 of the Criminal Law Article.

[(vii)] (VIII) A license holder may not allow an individual who is under 21 years old or who is visibly under the influence of an alcoholic beverage the privilege of consuming wine described under subparagraph ~~(i)~~ (II) of this paragraph.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 388

(House Bill 781)

AN ACT concerning

Vehicle Laws – Towing or Removal of Vehicles – ~~Mailing Charges~~ Notice

FOR the purpose of altering the ~~costs that~~ authority of a person who tows or removes a vehicle from a parking lot may to charge certain persons for providing the required notice of the tow or removal; altering the time period within which a person that tows or removes a vehicle from a parking lot is required to provide certain notice to certain persons; and generally relating to authorized notice charges for the towing or removal of a vehicle from a parking lot.

BY repealing and reenacting, with amendments,

Article – Transportation

Section 21–10A–04

Annotated Code of Maryland

(2012 Replacement Volume)

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

Article – Transportation

21–10A–04.

(a) Unless otherwise set by local law, a person who undertakes the towing or removal of a vehicle from a parking lot:

(1) May not charge the owner of the vehicle, the owner's agent, the insurer of record, or any secured party more than:

(i) Twice the amount of the total fees normally charged or authorized by the political subdivision for the public safety impound towing of vehicles;

(ii) Notwithstanding § 16–207(f)(1) of the Commercial Law Article, the fee normally charged or authorized by the political subdivision from which the vehicle was towed for the daily storage of impounded vehicles;

(iii) If a political subdivision does not establish a fee limit for the public safety towing, recovery, or storage of impounded vehicles, \$250 for towing and recovering a vehicle and \$30 per day for vehicle storage; and

(iv) ~~The~~ SUBJECT TO SUBSECTION (B) OF THIS SECTION, ~~THE~~ ~~actual cost of~~ ~~MAILING COSTS FOR~~ providing notice under this section;

(2) Shall notify the police department in the jurisdiction where the parking lot is located within 1 hour after towing or removing the vehicle from the parking lot, and shall provide the following information:

(i) A description of the vehicle including the vehicle's registration plate number and vehicle identification number;

- (ii) The date and time the vehicle was towed or removed;
- (iii) The reason the vehicle was towed or removed; and
- (iv) The locations from which and to which the vehicle was towed or removed;

(3) Shall notify the owner, any secured party, and the insurer of record by certified mail, return receipt requested, and first-class mail within ~~3~~ **7** days, exclusive of days that the towing business is closed, after towing or removing the vehicle, and shall provide the same information required in a notice to a police department under item (2) of this subsection;

(4) Shall provide to the owner, any secured party, and the insurer of record the itemized actual costs of providing notice under this section;

(5) Before towing or removing the vehicle, shall have authorization of the parking lot owner which shall include:

- (i) The name of the person authorizing the tow or removal;
- (ii) A statement that the vehicle is being towed or removed at the request of the parking lot owner; and
- (iii) Photographic evidence of the violation or event that precipitated the towing of the vehicle;

(6) Shall obtain commercial liability insurance in the amount required by federal law for transporting property in interstate or foreign commerce to cover the cost of any damage to the vehicle resulting from the person's negligence;

(7) May not employ or otherwise compensate individuals, commonly referred to as "spotters", whose primary task is to report the presence of unauthorized parked vehicles for the purposes of towing or removal, and impounding;

(8) May not pay any remuneration to the owner, agent, or employee of the parking lot; and

(9) May not tow a vehicle solely for a violation of failure to display a valid current registration under § 13-411 of this article until 72 hours after a notice of violation is placed on the vehicle.

(b) A PERSON MAY NOT CHARGE FOR THE ACTUAL COST OF PROVIDING NOTICE UNDER SUBSECTION (A)(1)(IV) OF THIS SECTION IF THE VEHICLE OWNER, THE OWNER'S AGENT, THE INSURER OF RECORD, OR ANY SECURED

PARTY RETAKES POSSESSION OF THE VEHICLE WITHIN 48 HOURS AFTER THE VEHICLE WAS RECEIVED AT THE STORAGE FACILITY.

(C) The Administration shall:

(1) Establish and maintain a database containing the proper address for providing notice to an insurer under subsection (a)(3) of this section for each insurer authorized to write a vehicle liability insurance policy in the State; and

(2) Make the database available to any tower free of charge.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 389

(House Bill 791)

AN ACT concerning

Tax Credits – Electric Vehicles – Extensions

FOR the purpose of extending the credit against the State income tax for certain qualified electric vehicle recharging equipment for certain tax years; providing for the amount of tax credit certificates that may be issued by the Maryland Energy Administration; transferring certain money from the Strategic Energy Investment Fund to the General Fund in certain fiscal years; extending the credit against the motor vehicle excise tax for certain qualified plug-in electric drive vehicles for a certain period of time; altering the amount of credit that certain vehicles may claim; establishing that the tax credit is subject to available funding; transferring certain money from the Strategic Energy Investment Fund to the Transportation Trust Fund in a certain fiscal year; altering a certain definition; and generally relating to the extension of tax credits relevant to electric vehicles.

BY repealing and reenacting, without amendments,
Article – Environment
Section 2-1002(g)(2)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government

Section 9–20B–05(a) and (e)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–729
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–815
Annotated Code of Maryland
(2012 Replacement Volume)

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

Article – Environment

2–1002.

(g) (2) Not later than June 30, 2007, the Governor shall include the State as a full participant in the Regional Greenhouse Gas Initiative among Mid–Atlantic and Northeast states.

Article – State Government

9–20B–05.

(a) There is a Maryland Strategic Energy Investment Fund.

(e) The Fund consists of:

(1) all of the proceeds from the sale of allowances under § 2–1002(g) of the Environment Article;

(2) money appropriated in the State budget to the Program;

(3) repayments and prepayments of principal and interest on loans made from the Fund;

(4) interest and investment earnings on the Fund;

(5) compliance fees paid under § 7–705 of the Public Utilities Article;

and

(6) money received from any public or private source for the benefit of the Fund.

Article – Tax – General

10–729.

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

(2) “Administration” means the Maryland Energy Administration.

(3) “Qualified electric vehicle recharging equipment” means property used for the recharging of motor vehicles propelled by electricity that meets the definition of “qualified alternative fuel vehicle refueling property” in § 30C of the Internal Revenue Code.

(b) For tax years 2011 through [2013] **2016** only, an individual or corporation that receives an initial credit certificate under subsection (d) of this section from the Administration may claim a credit against the State income tax for a taxable year in an amount equal to 20% of the cost of any qualified electric vehicle recharging equipment placed in service by the taxpayer during the taxable year.

(c) (1) For any taxable year, the credit allowed under this section may not exceed the lesser of:

(i) \$400 for each individual recharging system; or

(ii) the State income tax for that taxable year.

(2) The unused amount of the credit for any taxable year may not be carried over to any other taxable year.

(d) (1) On application by a taxpayer, the Administration shall issue an initial credit certificate in an amount equal to 20% of the estimated cost of the qualified electric vehicle recharging equipment to be placed in service in the State by the taxpayer during the taxable year.

(2) The initial credit certificate issued under this subsection shall state the maximum amount of credit that may be claimed by the taxpayer.

(3) The credit allowed under this section is limited to the acquisition of:

(i) 1 recharging system per individual; and

(ii) 30 recharging systems per business entity.

(4) The Administration may issue total credit certificates not to exceed the following amounts:

- (i) for tax year 2011, \$400,000;
- (ii) for tax year 2012, \$500,000; and
- (iii) for tax [year] **YEARS 2013 THROUGH 2016, INCLUSIVE, \$600,000 EACH TAX YEAR.**

(5) On January 1, 2012, and each year the credit is authorized, the Administration shall provide to the Comptroller a list of all taxpayers in the prior tax year that have been issued an initial credit certificate and shall specify for each taxpayer the maximum amount of credit allowed.

(6) (i) The Administration may adopt regulations to administer the initial credit certificate required under this subsection.

(ii) The regulations adopted by the Administration may include a further limit on the maximum amount of credit that may be claimed by the taxpayer.

Article – Transportation

13–815.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Excise tax” means the tax imposed under § 13–809 of this subtitle.
 - (3) “Qualified plug-in electric drive vehicle” means a motor vehicle that:
 - (i) Is made by a manufacturer;
 - (ii) Is manufactured primarily for use on public streets, roads, and highways;
 - (iii) Has not been modified from original manufacturer specifications;
 - (iv) Is acquired for use or lease by the taxpayer and not for resale;
 - (v) Is rated at not more than 8,500 pounds unloaded gross vehicle weight;

(vi) Has a maximum speed capability of at least 55 miles per hour; AND

(vii) Is propelled to a significant extent by an electric motor that draws electricity from a battery that:

1. For a 4-wheeled motor vehicle, has a capacity of not less than 4 kilowatt-hours;

2. For a 2-wheeled or 3-wheeled motor vehicle, has a capacity of not less than 2.5 kilowatt-hours; and

3. Is capable of being recharged from an external source of electricity; ~~and~~

~~(viii) Is titled by the taxpayer on or after October 1, 2010, but before July 1, [2013] 2014.~~

(b) THIS SECTION APPLIES ONLY TO A PLUG-IN ELECTRIC DRIVE VEHICLE THAT IS TITLED BY THE TAXPAYER ON OR AFTER OCTOBER 1, 2010, BUT BEFORE JULY 1, 2014.

(C) (1) [A] SUBJECT TO AVAILABLE FUNDING, A credit is allowed against the excise tax imposed for a qualified plug-in electric drive vehicle.

(2) Subject to the limitations under subsections ~~(e)~~ **(D)** through ~~(e)~~ **(E)** of this section, the credit allowed under this section equals 100% of the excise tax imposed for a vehicle.

~~(e)~~ **(D)** The credit allowed under this section may not exceed ~~\$2,000;~~

(1) \$600 FOR A VEHICLE WITH A BATTERY CAPACITY OF AT LEAST 4.0 KILOWATT-HOURS BUT NOT MORE THAN 10.0 KILOWATT-HOURS;

(2) \$700 FOR A VEHICLE WITH A BATTERY CAPACITY OF AT LEAST 10.1 KILOWATT-HOURS BUT NOT MORE THAN 15.0 KILOWATT-HOURS; AND

(3) \$1,000 FOR A VEHICLE WITH A BATTERY CAPACITY OF AT LEAST 15.0 KILOWATT-HOURS.

~~(e)~~ **(E)** The credit allowed under this section is limited to the acquisition of:

(1) One vehicle per individual; and

(2) 10 vehicles per business entity.

~~(E)~~ **(F)** A credit may not be claimed under this section:

- (1) For a vehicle unless the vehicle is registered in the State;
- (2) Unless the manufacturer has already conformed to any applicable State or federal laws or regulations governing clean-fuel vehicle or electric vehicle purchases applicable during the calendar year in which the vehicle is titled; or
- (3) For a vehicle that was initially registered in another state.

~~(G)~~ **(G)** The Motor Vehicle Administration shall administer the credit under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, for fiscal years 2016, 2017, and 2018, respectively, the lesser of \$600,000 or the total amount of credit certificates issued in tax years 2014, 2015, and 2016, respectively, shall be transferred from the Strategic Energy Investment Fund established under § 9-20B-05 of the State Government Article to the General Fund to offset a reduction in revenues from the tax credit for electric vehicle recharging equipment established under § 10-729 of the Tax – General Article as enacted by this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, for fiscal year 2014, the lesser of \$1,287,000 or the actual total amount of credits allowed against the excise tax shall be transferred from the Strategic Energy Investment Fund established under § 9-20B-05 of the State Government Article to the Transportation Trust Fund to offset a reduction in revenues from the vehicle excise tax credit for qualified plug-in electric drive vehicles under § 13-815 of the Transportation Article as enacted by this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 390

(House Bill 803)

AN ACT concerning

**Income Tax – Business and Economic Development – Cybersecurity
Investment Incentive Tax Credit**

FOR the purpose of providing for credits against the State income tax for ~~certain investments in~~ certain cybersecurity companies *under certain circumstances*; providing for *certain* applications to the Department of Business and Economic Development for approval *and certification* of ~~the credit and certification by the Department to investors of approved credit amounts~~ *certain credits*; providing for the issuance of certain initial credit certificates by the Department, subject to certain requirements and limitations; providing certain limits on the amount of credits that can be claimed; requiring the Secretary of the Department to issue final credit certificates under certain circumstances; making certain credits refundable under certain circumstances; authorizing the Department to establish a panel of experts in the area of cybersecurity technology to assist the Department in making certain determinations; providing for an exemption from certain provisions of the procurement law to procure the services of certain experts to serve on a certain panel; establishing the Maryland Cybersecurity Investment Tax Credit Reserve Fund; requiring the Governor to include ~~an~~ *a* *certain* appropriation to the Reserve Fund in the annual budget bill; providing for the payment of certain administrative costs from a certain fund; requiring the Comptroller to transfer certain amounts from the Reserve Fund to the General Fund under certain circumstances; requiring the Comptroller to transfer certain amounts from the Reserve Fund to the Department for certain purposes; specifying the year in which certain credits may first be claimed; ~~limiting the maximum amount of initial credit certificates that may be issued in a certain fiscal year; providing that certain credit amounts may be carried over to subsequent taxable years; providing that certain credit amounts not issued under initial credit certificates in a certain fiscal year revert to the General Fund; limiting the maximum amount of credits that may be claimed on certain State income tax returns;~~ providing for certain procedures to claim approved credits; providing for revocations or recapture of a credit under certain circumstances; requiring the Department to make a certain report by a certain date each year; requiring the Department and the Comptroller jointly to adopt certain regulations; defining certain terms; providing for the application of this Act; providing for the termination of this Act; and generally relating to credits against the State income tax ~~based on certain investments in certain cybersecurity businesses in the State~~ *for certain cybersecurity companies in the State based on certain investments.*

BY adding to

Article – Tax – General

Section 10–733

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

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

Article – Tax – General

10-733.

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

(2) (I) "COMPANY" MEANS ANY ENTITY OF ANY FORM DULY ORGANIZED AND EXISTING UNDER THE LAWS OF ANY JURISDICTION FOR THE PURPOSE OF CONDUCTING BUSINESS FOR PROFIT.

(II) "COMPANY" DOES NOT INCLUDE A SOLE PROPRIETORSHIP.

(3) "CYBERSECURITY COMPANY" MEANS A COMPANY ORGANIZED FOR PROFIT THAT IS ENGAGED PRIMARILY IN THE DEVELOPMENT OF INNOVATIVE AND PROPRIETARY CYBERSECURITY TECHNOLOGY.

(4) "CYBERSECURITY TECHNOLOGY" MEANS PRODUCTS OR GOODS INTENDED TO DETECT OR PREVENT ACTIVITY INTENDED TO RESULT IN UNAUTHORIZED ACCESS TO, EXFILTRATION OF, MANIPULATION OF, OR IMPAIRMENT TO THE INTEGRITY, CONFIDENTIALITY, OR AVAILABILITY OF AN INFORMATION SYSTEM OR INFORMATION STORED ON OR TRANSITING AN INFORMATION SYSTEM.

(5) "DEPARTMENT" MEANS THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT.

(6) (I) "INVESTMENT" MEANS THE CONTRIBUTION OF MONEY IN CASH OR CASH EQUIVALENTS EXPRESSED IN UNITED STATES DOLLARS, AT A RISK OF LOSS, TO A QUALIFIED MARYLAND CYBERSECURITY COMPANY IN EXCHANGE FOR STOCK, A PARTNERSHIP OR MEMBERSHIP INTEREST, OR ANY OTHER OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED MARYLAND CYBERSECURITY COMPANY, TITLE TO WHICH OWNERSHIP INTEREST SHALL VEST IN THE QUALIFIED INVESTOR.

(II) "INVESTMENT" DOES NOT INCLUDE DEBT.

(III) FOR PURPOSES OF THIS SECTION, AN INVESTMENT IS AT RISK OF LOSS WHEN REPAYMENT ENTIRELY DEPENDS ON THE SUCCESS OF THE BUSINESS OPERATIONS OF THE QUALIFIED COMPANY.

(7) "PANEL" MEANS THE PANEL THAT THE DEPARTMENT MAY ESTABLISH UNDER SUBSECTION (E) OF THIS SECTION COMPOSED OF EXPERTS IN THE AREA OF CYBERSECURITY TECHNOLOGY.

(8) (I) “QUALIFIED INVESTOR” MEANS ANY INDIVIDUAL OR ENTITY THAT INVESTS AT LEAST \$25,000 IN A QUALIFIED MARYLAND CYBERSECURITY COMPANY AND THAT IS REQUIRED TO FILE AN INCOME TAX RETURN IN ANY JURISDICTION.

(II) “QUALIFIED INVESTOR” DOES NOT INCLUDE A QUALIFIED PENSION PLAN, AN INDIVIDUAL RETIREMENT ACCOUNT, OR ANY OTHER QUALIFIED RETIREMENT PLAN UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED, OR FIDUCIARIES OR CUSTODIANS UNDER SUCH PLANS, OR SIMILAR TAX-FAVORED PLANS OR ENTITIES UNDER THE LAWS OF OTHER COUNTRIES.

(9) “QUALIFIED MARYLAND CYBERSECURITY COMPANY” MEANS A CYBERSECURITY COMPANY THAT HAS MET THE CRITERIA SET FORTH IN SUBSECTION (C)(2) OF THIS SECTION AND BEEN DETERMINED UNDER SUBSECTION (C)(3)(II)2 OF THIS SECTION TO QUALIFY FOR ~~INVESTMENTS THAT ARE ELIGIBLE FOR~~ THE TAX CREDIT UNDER THIS SECTION.

(10) “SECRETARY” MEANS THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT.

(B) (1) SUBJECT TO ~~PARAGRAPHS (2) AND (3)~~ PARAGRAPH (2) OF THIS SUBSECTION AND SUBSECTIONS (D) AND (F) OF THIS SECTION, FOR THE TAXABLE YEAR IN WHICH AN INVESTMENT IN A QUALIFIED MARYLAND CYBERSECURITY COMPANY IS MADE, A QUALIFIED ~~INVESTOR~~ MARYLAND CYBERSECURITY COMPANY MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO THE AMOUNT OF TAX CREDIT STATED IN THE FINAL CREDIT CERTIFICATE APPROVED BY THE SECRETARY FOR THE INVESTMENT AS PROVIDED UNDER THIS SECTION.

~~(2) TO BE ELIGIBLE FOR THE TAX CREDIT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED INVESTOR SHALL BE:~~

~~(I) FOR A COMPANY, DULY ORGANIZED AND IN GOOD STANDING IN THE JURISDICTION UNDER THE LAWS UNDER WHICH IT IS ORGANIZED;~~

~~(II) FOR A COMPANY, IN GOOD STANDING AND AUTHORIZED OR REGISTERED TO DO BUSINESS IN THE STATE;~~

~~(III) CURRENT IN THE PAYMENT OF ALL TAX OBLIGATIONS TO THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE; AND~~

~~(IV) NOT IN DEFAULT UNDER THE TERMS OF ANY CONTRACT WITH, INDEBTEDNESS TO, OR GRANT FROM THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE.~~

~~(3) (2) TO BE ELIGIBLE FOR FOR PURPOSES OF THE TAX CREDIT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED INVESTOR; MAY NOT, AFTER MAKING THE PROPOSED INVESTMENT, OWN OR CONTROL MORE THAN 25% OF THE EQUITY INTERESTS IN THE QUALIFIED MARYLAND CYBERSECURITY COMPANY IN WHICH THE INVESTMENT IS MADE.~~

(I) MAY NOT, AFTER MAKING THE PROPOSED INVESTMENT, OWN OR CONTROL MORE THAN 25% OF THE EQUITY INTERESTS IN THE QUALIFIED MARYLAND CYBERSECURITY COMPANY IN WHICH THE INVESTMENT IS MADE; AND

(II) SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT CONTAINING THE FOLLOWING:

1. EVIDENCE THAT THE INVESTOR IS:

A. IF A COMPANY, DULY ORGANIZED AND IN GOOD STANDING IN THE JURISDICTION UNDER THE LAWS UNDER WHICH IT IS ORGANIZED;

B. CURRENT IN THE PAYMENT OF ALL TAX OBLIGATIONS TO A STATE OR ANY UNIT OR SUBDIVISION OF A STATE; AND

C. NOT IN DEFAULT UNDER THE TERMS OF ANY CONTRACT WITH, INDEBTEDNESS TO, OR GRANT FROM A STATE OR ANY UNIT OR SUBDIVISION OF A STATE; AND

2. ANY OTHER INFORMATION THE DEPARTMENT MAY REQUIRE.

(c) (1) AT LEAST 30 DAYS PRIOR TO ~~MAKING~~ RECEIVING AN INVESTMENT IN A QUALIFIED MARYLAND CYBERSECURITY COMPANY FOR WHICH A QUALIFIED ~~INVESTOR~~ MARYLAND CYBERSECURITY COMPANY WOULD BE ELIGIBLE FOR AN INITIAL TAX CREDIT CERTIFICATE, THE QUALIFIED ~~INVESTOR~~ MARYLAND CYBERSECURITY COMPANY SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT.

(2) THE APPLICATION SHALL EVIDENCE THAT THE QUALIFIED MARYLAND CYBERSECURITY COMPANY HAS SATISFIED THE FOLLOWING

MINIMUM REQUIREMENTS FOR CONSIDERATION AS A QUALIFIED MARYLAND CYBERSECURITY COMPANY:

(I) HAS ITS HEADQUARTERS AND BASE OF OPERATIONS IN THIS STATE;

(II) HAS NOT PARTICIPATED IN THE TAX CREDIT PROGRAM UNDER THIS SECTION FOR MORE THAN 1 PRIOR FISCAL YEAR;

(III) HAS BEEN IN ACTIVE BUSINESS NO LONGER THAN 5 YEARS;

(IV) HAS AN AGGREGATE CAPITALIZATION OF AT LEAST \$100,000;

(V) OWNS OR HAS PROPERLY LICENSED ANY PROPRIETARY TECHNOLOGY;

(VI) HAS FEWER THAN 50 FULL-TIME EMPLOYEES;

(VII) DOES NOT HAVE ITS SECURITIES PUBLICLY TRADED ON ANY EXCHANGE;

(VIII) IS IN GOOD STANDING;

(IX) IS CURRENT IN THE PAYMENT OF ALL TAX OBLIGATIONS TO THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE;

(X) IS NOT IN DEFAULT UNDER THE TERMS OF ANY CONTRACT WITH, INDEBTEDNESS TO, OR GRANT FROM THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE; AND

(XI) MEETS ANY OTHER REASONABLE REQUIREMENTS OF THE DEPARTMENT EVIDENCING THAT THE COMPANY IS A GOING CONCERN PRIMARILY ENGAGED IN THE DEVELOPMENT OF INNOVATIVE AND PROPRIETARY CYBERSECURITY TECHNOLOGY.

(3) THE DEPARTMENT SHALL:

(I) APPROVE ALL APPLICATIONS THAT QUALIFY FOR CREDITS UNDER THIS SECTION ON A FIRST-COME, FIRST-SERVED BASIS; AND

(II) WITHIN 30 CALENDAR DAYS OF RECEIPT OF AN APPLICATION:

1. CERTIFY THE AMOUNT OF ANY APPROVED TAX CREDITS TO A QUALIFIED ~~INVESTOR~~ MARYLAND CYBERSECURITY COMPANY; AND

2. DETERMINE WHETHER A CYBERSECURITY COMPANY QUALIFIES FOR INVESTMENTS THAT ARE ELIGIBLE FOR THE TAX CREDIT UNDER THIS SECTION.

(4) (I) AFTER THE DATE ON WHICH THE DEPARTMENT ISSUES AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION, A QUALIFIED INVESTOR SHALL HAVE 30 CALENDAR DAYS TO MAKE AN INVESTMENT IN A QUALIFIED MARYLAND CYBERSECURITY COMPANY UNDER THIS SECTION.

(II) WITHIN 10 CALENDAR DAYS AFTER THE DATE ON WHICH A QUALIFIED INVESTOR MAKES THE INVESTMENT, THE QUALIFIED ~~INVESTOR~~ MARYLAND CYBERSECURITY COMPANY SHALL PROVIDE TO THE DEPARTMENT NOTICE AND PROOF OF THE MAKING OF THE INVESTMENT, INCLUDING:

1. THE DATE OF THE INVESTMENT;
2. THE AMOUNT INVESTED;
3. PROOF OF THE RECEIPT OF THE INVESTED FUNDS BY THE QUALIFIED MARYLAND CYBERSECURITY COMPANY;
4. A COMPLETE DESCRIPTION OF THE NATURE OF THE OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED MARYLAND CYBERSECURITY COMPANY ACQUIRED IN CONSIDERATION OF THE INVESTMENT; AND
5. ANY REASONABLE SUPPORTING DOCUMENTATION THE DEPARTMENT MAY REQUIRE.

(III) IF A QUALIFIED ~~INVESTOR~~ MARYLAND CYBERSECURITY COMPANY DOES NOT PROVIDE THE NOTICE AND PROOF OF THE MAKING OF THE INVESTMENT REQUIRED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH WITHIN 40 CALENDAR DAYS AFTER THE DATE ON WHICH THE DEPARTMENT ISSUES AN INITIAL TAX CREDIT CERTIFICATE UNDER THIS SECTION:

1. THE DEPARTMENT SHALL RESCIND THE INITIAL TAX CREDIT CERTIFICATE; AND

2. THE CREDIT AMOUNT ALLOCATED TO THE RESCINDED CERTIFICATE SHALL REVERT TO THE MARYLAND CYBERSECURITY INVESTMENT TAX CREDIT RESERVE FUND AND SHALL BE AVAILABLE IN THE APPLICABLE FISCAL YEAR FOR ALLOCATION BY THE DEPARTMENT TO OTHER INITIAL TAX CREDIT CERTIFICATES IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(D) (1) THE TAX CREDIT ALLOWED IN AN INITIAL TAX CREDIT CERTIFICATE ISSUED UNDER THIS SECTION IS 33% OF THE INVESTMENT IN A QUALIFIED MARYLAND CYBERSECURITY COMPANY, NOT TO EXCEED \$250,000.

(2) DURING ANY FISCAL YEAR, THE SECRETARY MAY NOT CERTIFY ELIGIBILITY FOR TAX CREDITS FOR INVESTMENTS IN A SINGLE QUALIFIED MARYLAND CYBERSECURITY COMPANY THAT IN THE AGGREGATE EXCEED 15% OF THE TOTAL APPROPRIATIONS TO THE MARYLAND CYBERSECURITY INVESTMENT TAX CREDIT RESERVE FUND FOR THAT FISCAL YEAR.

~~(3) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE QUALIFIED INVESTOR FOR THAT TAXABLE YEAR, THE QUALIFIED INVESTOR MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.~~

~~(3) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, AN INDIVIDUAL OR A CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:~~

~~(I) THE FULL AMOUNT OF THE EXCESS IS USED; OR~~

~~(II) THE EXPIRATION OF THE SEVENTH TAXABLE YEAR AFTER THE TAXABLE YEAR IN WHICH THE INVESTMENT EXPENSE WAS INCURRED CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.~~

(E) (1) THE DEPARTMENT MAY ESTABLISH A PANEL COMPOSED OF EXPERTS IN THE AREA OF CYBERSECURITY TECHNOLOGY.

(2) THE DEPARTMENT MAY ESTABLISH THE PANEL UNDER SERVICE CONTRACTS WITH INDEPENDENT REVIEWERS.

(3) THE PANEL SHALL ASSIST THE DEPARTMENT IN ITS DETERMINATION AS TO WHETHER A COMPANY IS A QUALIFIED MARYLAND CYBERSECURITY COMPANY.

(4) A MEMBER OF THE PANEL IS NOT ELIGIBLE TO RECEIVE ANY BENEFIT, DIRECT OR INDIRECT, FROM THE TAX CREDIT UNDER THIS SECTION.

(5) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT APPLY TO A SERVICE THAT THE DEPARTMENT OBTAINS UNDER THIS SECTION.

(II) THE DEPARTMENT IS SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE FOR SERVICES THE DEPARTMENT OBTAINS UNDER THIS SECTION.

(F) (1) IN THIS SUBSECTION, "RESERVE FUND" MEANS THE MARYLAND CYBERSECURITY INVESTMENT TAX CREDIT RESERVE FUND ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(2) (I) THERE IS A MARYLAND CYBERSECURITY INVESTMENT TAX CREDIT RESERVE FUND WHICH IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(II) THE MONEY IN THE RESERVE FUND SHALL BE INVESTED AND REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE CREDITED TO THE GENERAL FUND.

(III) THE MONEY IN THE RESERVE FUND MAY BE USED BY THE DEPARTMENT TO PAY THE COSTS OF ADMINISTERING THE TAX CREDIT PROGRAM UNDER THIS SECTION.

(3) (I) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE SECRETARY SHALL ISSUE AN INITIAL TAX CREDIT CERTIFICATE TO A QUALIFIED MARYLAND CYBERSECURITY COMPANY FOR EACH APPROVED INVESTMENT IN A QUALIFIED MARYLAND CYBERSECURITY COMPANY ELIGIBLE FOR A TAX CREDIT.

(II) AN INITIAL TAX CREDIT CERTIFICATE ISSUED UNDER THIS SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF TAX CREDIT FOR WHICH THE QUALIFIED ~~INVESTOR~~ MARYLAND CYBERSECURITY COMPANY IS ELIGIBLE.

(III) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE SECRETARY MAY NOT ISSUE INITIAL TAX CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE

TOTALING MORE THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR IN THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY, AS REDUCED BY THE AMOUNT NEEDED TO PAY THE COSTS OF ADMINISTERING THE TAX CREDIT PROGRAM UNDER THIS SECTION.

2. IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL TAX CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR, ANY EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE ISSUED UNDER INITIAL TAX CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.

3. FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED FROM THE RESERVE FUND UNDER THE AUTHORITY OF ANY PROVISION OF LAW OTHER THAN UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE MAXIMUM CREDIT AMOUNTS IN THE AGGREGATE FOR WHICH THE SECRETARY MAY ISSUE INITIAL TAX CREDIT CERTIFICATES SHALL BE REDUCED BY THE AMOUNT TRANSFERRED.

(IV) ~~FOR EACH FISCAL YEAR, FISCAL YEAR 2015 AND EACH FISCAL YEAR THEREAFTER~~ EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION OF AT LEAST \$2,000,000 TO THE RESERVE FUND.

(V) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT REDUCE AN APPROPRIATION TO THE RESERVE FUND IN THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.

(VI) BASED ON THE ACTUAL AMOUNT OF AN INVESTMENT MADE BY A QUALIFIED INVESTOR, THE SECRETARY SHALL ISSUE A FINAL TAX CREDIT CERTIFICATE TO THE QUALIFIED ~~INVESTOR~~ MARYLAND CYBERSECURITY COMPANY.

(4) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH ~~AND IN PARAGRAPH (5) OF THIS SUBSECTION~~, MONEY APPROPRIATED TO THE RESERVE FUND SHALL REMAIN IN THE RESERVE FUND.

(II) 1. WITHIN 15 DAYS AFTER THE END OF EACH CALENDAR QUARTER, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER AS TO EACH FINAL CREDIT CERTIFICATE ISSUED DURING THE QUARTER:

A. THE MAXIMUM CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FOR THE INVESTMENT IN THE QUALIFIED MARYLAND CYBERSECURITY COMPANY; AND

B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE INVESTMENT IN THE QUALIFIED MARYLAND CYBERSECURITY COMPANY.

2. ON NOTIFICATION THAT AN INVESTMENT HAS BEEN CERTIFIED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO THE CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FOR THE INVESTMENT FROM THE RESERVE FUND TO THE GENERAL FUND.

(III) 1. PERIODICALLY, BUT NOT MORE FREQUENTLY THAN QUARTERLY, THE DEPARTMENT MAY SUBMIT INVOICES FOR COSTS THAT HAVE BEEN INCURRED OR ARE ANTICIPATED TO BE INCURRED IN ADMINISTERING THE TAX CREDIT PROGRAM UNDER THIS SECTION.

2. THE COMPTROLLER SHALL TRANSFER MONEY FROM THE RESERVE FUND TO THE DEPARTMENT TO PAY FOR COSTS THAT HAVE BEEN INCURRED OR ARE ANTICIPATED TO BE INCURRED IN ADMINISTERING THE TAX CREDIT PROGRAM UNDER THIS SECTION.

~~**(5) (I) FROM THE AMOUNT APPROPRIATED TO THE RESERVE FUND IN FISCAL YEAR 2014, THE DEPARTMENT MAY NOT ISSUE INITIAL TAX CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE THAT EXCEED \$2,000,000.**~~

~~**(II) ANY AMOUNT REMAINING IN THE RESERVE FUND AFTER THE ISSUANCE OF INITIAL TAX CREDIT CERTIFICATES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL REVERT TO THE GENERAL FUND.**~~

(G) (1) THE CREDIT CLAIMED UNDER THIS SECTION SHALL BE RECAPTURED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION IF WITHIN 2 YEARS FROM THE CLOSE OF THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED:

(I) THE QUALIFIED INVESTOR SELLS, TRANSFERS, OR OTHERWISE DISPOSES OF THE OWNERSHIP INTEREST IN THE QUALIFIED MARYLAND CYBERSECURITY COMPANY THAT GAVE RISE TO THE CREDIT; OR

~~**(II) THE QUALIFIED MARYLAND CYBERSECURITY COMPANY THAT GAVE RISE TO THE CREDIT CEASES OPERATING AS AN ACTIVE BUSINESS WITH ITS HEADQUARTERS AND BASE OF OPERATIONS IN THE STATE.**~~

(II) THE QUALIFIED MARYLAND CYBERSECURITY COMPANY THAT RECEIVED THE CREDIT:

1. CEASES OPERATING AS AN ACTIVE BUSINESS WITH ITS HEADQUARTERS AND BASE OF OPERATIONS IN THE STATE; OR

2. PAYS OUT AS DIVIDENDS OR OTHERWISE DISTRIBUTES THE EQUITY INVESTMENT.

(2) THE AMOUNT REQUIRED TO BE RECAPTURED UNDER THIS SUBSECTION IS THE PRODUCT OF MULTIPLYING:

(I) THE TOTAL AMOUNT OF THE CREDIT CLAIMED OR, IN THE CASE OF AN EVENT DESCRIBED IN PARAGRAPH (1)(I) OF THIS SUBSECTION, THE PORTION OF THE CREDIT ATTRIBUTABLE TO THE OWNERSHIP INTEREST DISPOSED OF; AND

(II) 1. 100%, IF THE EVENT REQUIRING RECAPTURE OF THE CREDIT OCCURS DURING THE TAXABLE YEAR FOR WHICH THE TAX CREDIT IS CLAIMED;

2. 67%, IF THE EVENT REQUIRING RECAPTURE OF THE CREDIT OCCURS DURING THE FIRST YEAR AFTER THE CLOSE OF THE TAXABLE YEAR FOR WHICH THE TAX CREDIT IS CLAIMED; OR

3. 33%, IF THE EVENT REQUIRING RECAPTURE OF THE CREDIT OCCURS MORE THAN 1 YEAR BUT NOT MORE THAN 2 YEARS AFTER THE CLOSE OF THE TAXABLE YEAR FOR WHICH THE TAX CREDIT IS CLAIMED.

(3) THE QUALIFIED ~~INVESTOR~~ MARYLAND CYBERSECURITY COMPANY THAT CLAIMED THE CREDIT SHALL PAY THE AMOUNT TO BE RECAPTURED AS DETERMINED UNDER PARAGRAPH (2) OF THIS SUBSECTION AS TAXES PAYABLE TO THE STATE FOR THE TAXABLE YEAR IN WHICH THE EVENT REQUIRING RECAPTURE OF THE CREDIT OCCURS.

(H) (1) THE DEPARTMENT MAY REVOKE ITS INITIAL OR FINAL CERTIFICATION OF AN APPROVED CREDIT UNDER THIS SECTION IF ANY REPRESENTATION MADE IN CONNECTION WITH THE APPLICATION FOR THE CERTIFICATION IS DETERMINED BY THE DEPARTMENT TO HAVE BEEN FALSE.

(2) THE REVOCATION MAY BE IN FULL OR IN PART AS THE DEPARTMENT MAY DETERMINE AND, SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, SHALL BE COMMUNICATED TO THE QUALIFIED INVESTOR, THE QUALIFIED MARYLAND CYBERSECURITY COMPANY, AND THE COMPTROLLER.

(3) THE QUALIFIED ~~INVESTOR~~ MARYLAND CYBERSECURITY COMPANY SHALL HAVE AN OPPORTUNITY TO APPEAL ANY REVOCATION TO THE DEPARTMENT PRIOR TO NOTIFICATION OF THE COMPTROLLER.

(4) THE COMPTROLLER MAY MAKE AN ASSESSMENT AGAINST THE QUALIFIED ~~INVESTOR~~ MARYLAND CYBERSECURITY COMPANY TO RECAPTURE ANY AMOUNT OF TAX CREDIT THAT THE QUALIFIED ~~INVESTOR~~ MARYLAND CYBERSECURITY COMPANY HAS ALREADY CLAIMED.

(I) (1) ON OR BEFORE JANUARY 10 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON THE INITIAL TAX CREDIT CERTIFICATES AWARDED UNDER THIS SECTION FOR THE PRIOR CALENDAR YEAR.

(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE FOR EACH INITIAL TAX CREDIT CERTIFICATE AWARDED:

(I) THE NAME OF THE QUALIFIED INVESTOR AND THE AMOUNT OF CREDIT AWARDED OR ALLOCATED TO EACH ~~INVESTOR~~ QUALIFIED MARYLAND CYBERSECURITY COMPANY;

(II) THE NAME AND ADDRESS OF THE QUALIFIED MARYLAND CYBERSECURITY COMPANY THAT RECEIVED ~~THE INVESTMENT GIVING RISE TO~~ THE CREDIT UNDER THIS SECTION AND THE COUNTY WHERE THE QUALIFIED MARYLAND CYBERSECURITY COMPANY IS LOCATED; AND

(III) THE DATES OF RECEIPT AND APPROVAL BY THE DEPARTMENT OF ALL APPLICATIONS FOR INITIAL TAX CREDIT CERTIFICATES.

(3) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SUMMARIZE FOR THE ~~CATEGORY~~ CATEGORIES OF QUALIFIED INVESTORS AND QUALIFIED MARYLAND CYBERSECURITY COMPANIES:

(I) THE TOTAL NUMBER OF APPLICANTS FOR INITIAL TAX CREDIT CERTIFICATES UNDER THIS SECTION IN EACH CALENDAR YEAR;

(II) THE NUMBER OF APPLICATIONS FOR WHICH INITIAL TAX CREDIT CERTIFICATES WERE ISSUED IN EACH CALENDAR YEAR; AND

(III) THE TOTAL INITIAL TAX CREDIT CERTIFICATES AUTHORIZED UNDER THIS SECTION FOR ALL CALENDAR YEARS UNDER THIS SECTION.

(J) THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION AND TO SPECIFY CRITERIA AND PROCEDURES FOR APPLICATION FOR, APPROVAL OF, AND MONITORING CONTINUING ELIGIBILITY FOR THE TAX CREDIT UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2013, but before January 1, 2019. This Act shall remain effective for a period of 6 years and, at the end of June 30, 2019 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 2, 2013.

Chapter 391

(House Bill 806)

AN ACT concerning

Health Occupations – State Board of Social Work Examiners – Revisions

FOR the purpose of renaming a certain license issued by the State Board of Social Work Examiners; requiring the appointment of a certain licensee to the Board within a certain number of months of a certain vacancy on the Board; altering the number of signatures required for a certain list of nominees; authorizing certain officers or directors to submit a certain list of nominees; exempting a certain member of the Board from a certain requirement; requiring the Board to elect certain officers for certain purposes; requiring the Board to determine the manner of election of certain officers and the duties of certain officers; exempting certain students from certain licensure requirements; requiring certain applicants to complete a certain criminal history records check and submit to a certain examination under certain circumstances; authorizing certain applicants to meet certain licensure requirements by receiving a certain degree; repealing a certain provisional graduate social worker license; altering the number of hours of a certain type of supervision required to obtain a certain license; altering certain education requirements required to obtain a certain license; repealing the authority of the Board to waive a certain supervision requirement under certain circumstances; requiring certain applicants for licensure to submit certain fingerprints and certain fees to the Criminal Justice

Information System Central Repository of the Department of Public Safety and Correctional Services; requiring the Central Repository to forward certain criminal history record information to the Board and to certain applicants; authorizing the Board to accept an alternate method of criminal history records check under certain circumstances; providing that certain information obtained from the Central Repository is confidential and may be used only for certain purposes; requiring the Board, in using information obtained from the Central Repository to determine whether to issue a license, to consider certain factors; authorizing certain subjects to contest certain contents of a certain printed statement issued by the Central Repository; authorizing the Board to require certain applicants to submit to certain examinations under certain circumstances; providing that certain applicants are deemed to have consented to submit to certain examinations and to have waived certain claims or privileges relating to certain examination reports; providing that a certain refusal to submit to certain examinations must be considered as certain evidence of certain applicants' inability to practice social work in a certain manner; repealing a certain obsolete provision; requiring the Board to maintain a certain roster on its Web site of certain licensees; requiring the Board to include certain information on certain licensee records; repealing a requirement that the Board issue certain licenses; prohibiting certain licensees from practicing social work, engaging in private practice, and diagnosing certain disorders, except under certain circumstances; requiring the Board to send certain notices to certain addresses that state certain information; requiring the Board to maintain certain information regarding certain licensees; prohibiting the Board from renewing certain licenses under certain circumstances; exempting certain licensees from the maximum period of time during which a licensee may be placed on a certain licensure status; requiring the Board to provide certain licensees certain written notification under certain circumstances; requiring the Board to reactivate certain licenses under certain circumstances; requiring the Board to place certain licensees on nonrenewed status for a certain period of time, subject to a certain exception, under certain circumstances; altering certain grounds for discipline of certain licensees; authorizing the Board to take certain actions if certain applicants or licensees fail to comply with certain requirements pertaining to the maintenance, disclosure, and destruction of medical records; altering the amount of a certain fine that the Board may impose under certain circumstances; authorizing the Board to issue certain subpoenas and administer certain oaths over certain signatures; prohibiting the use of certain abbreviations under certain circumstances; altering certain penalty provisions relating to violations of certain provisions of law; making certain stylistic changes; altering certain defined terms; defining certain terms; and generally relating to the State Board of Social Work Examiners.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 19–101(a) and (b)
Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 19–101(d), (e), (i), (j), (m), and (n), 19–202(a)(3) and (5) and (d), 19–203, 19–301, 19–302, 19–304, 19–306, 19–307(c), 19–308(b) and (e), 19–309, 19–311, 19–311.1(a), 19–312(c), 19–314, 19–402, and 19–407

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – Health Occupations

Section 19–302.2, 19–302.3, and 19–308(f)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

19–101.

- (a) In this title the following words have the meanings indicated.
- (b) “Board” means the State Board of Social Work Examiners.
- (d) “License” means, unless the context requires otherwise, one of four types of licenses issued by the Board authorizing an individual to practice:
 - (1) [Associate] **BACHELOR** social work;
 - (2) Graduate social work;
 - (3) Certified social work; or
 - (4) Certified social work–clinical.
- (e) “Licensed [associate] **BACHELOR** social worker” means an individual licensed by the Board to practice [associate] **BACHELOR** social work.
- (i) “Practice [associate] **BACHELOR** social work” means to practice social work:
 - (1) Under the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the conditions specified in regulations; and

(2) Utilizing the education and training required under § 19–302(b) of this title.

(j) “Practice certified social work” means to practice social work utilizing the education, training, and experience required under § 19–302(d) [or (e)] of this title.

(m) (1) “Practice social work” means to apply the theories, knowledge, procedures, methods, or ethics derived from a formal educational program in social work to restore or enhance social functioning of individuals, couples, families, groups, organizations, or communities through:

(i) Assessment;

[(ii) Formulating diagnostic impressions;]

[(iii) (II) Planning;

[(iv) (III) Intervention;

[(v) (IV) Evaluation of intervention plans;

[(vi) (V) Case management;

[(vii) (VI) Information and referral;

[(viii) (VII) Counseling that does not include diagnosis or treatment of mental disorders;

[(ix) (VIII) Advocacy;

[(x) (IX) Consultation;

[(xi) (X) Education;

[(xii) (XI) Research;

[(xiii) (XII) Community organization; or

[(xiv) (XIII) Development, implementation, and administration of policies, programs, and activities.

(2) For an individual licensed as a graduate social worker, “practice social work” also includes:

(i) Supervision of other social workers if the graduate social worker meets the requirements set out in regulations; [and]

(II) FORMULATING A DIAGNOSIS, UNDER THE DIRECT SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL;

[(ii)] (III) Treatment of [psychosocial conditions] BIOPSYCHOSOCIAL CONDITIONS; and

(IV) TREATMENT OF mental disorders and the provision of psychotherapy under the direct supervision of a licensed certified social worker–clinical.

(3) For an individual licensed as a certified social worker, “practice social work” also includes:

(i) Supervision of other social workers; [and]

(II) FORMULATING A DIAGNOSIS, UNDER THE DIRECT SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL;

[(ii)] (III) Treatment of [psychosocial conditions] BIOPSYCHOSOCIAL CONDITIONS; and

(IV) TREATMENT OF mental disorders and the provision of psychotherapy under the direct supervision of a licensed certified social worker–clinical.

(4) For an individual licensed as a certified social worker–clinical, “practice social work” also includes:

(i) Supervision of other social workers;

(ii) Evaluation, diagnosis, and treatment of [psychosocial] BIOPSYCHOSOCIAL conditions, mental and emotional conditions and impairments, and mental disorders as defined in § 10–101(f) of the Health – General Article; [and]

(III) PETITIONING FOR EMERGENCY EVALUATION UNDER TITLE 10, SUBTITLE 6 OF THE HEALTH – GENERAL ARTICLE; AND

[(iii)] (IV) The provision of psychotherapy.

(n) “Psychotherapy” means [a method for] the ASSESSMENT AND treatment of mental disorders and behavioral disturbances [in which a licensed health care

practitioner enters into a professional contract with the patient and, through a therapeutic communication or interaction, attempts to:

- (1) Alleviate emotional disturbances;
- (2) Reverse or alter maladaptive patterns of behavior; or
- (3) Encourage personality growth and development].

19–202.

(a) (3) If a licensed [social work associate] **BACHELOR SOCIAL WORKER**, a licensed graduate social worker, a licensed certified social worker, a licensed certified social worker–clinical, or a licensed social worker is not appointed to the Board under paragraph (2)(i) of this subsection within [6] **3** months of a vacancy, a licensee of any license level shall be appointed immediately if that licensee is qualified to be a member of the Board under subsections (b) and (d) of this section.

(5) The Governor shall appoint all social work members of the Board from a list of nominees containing names submitted by:

- (i) Professional social work associations in the State;
- (ii) Any person who provides a statement of nomination signed by at least [25] **15** social workers licensed in the State; [or]
- (iii) The secretaries of public agencies of the State where social workers are employed; **OR**

(IV) THE CORPORATE EXECUTIVE OFFICERS OR EXECUTIVE DIRECTORS OF PRIVATE ORGANIZATIONS WHERE SOCIAL WORKERS ARE EMPLOYED.

(d) Except for the licensed **BACHELOR** social worker [associate] member and the licensed graduate social worker member, each social worker member of the Board shall have been licensed in the State for 5 years immediately preceding the appointment and actively employed in the field of social work for at least 3 of the 5 years immediately preceding the appointment.

19–203.

(a) (1) From among its members, the Board shall elect a [chairman] **CHAIR, VICE CHAIR, and [a secretary] SECRETARY–TREASURER** every 2 years.

(2) The Board may elect other officers as necessary to fulfill the duties and responsibilities of the Board.

(b) The Board shall determine:

(1) The manner of election of the [chairman, secretary,] **CHAIR, VICE CHAIR, SECRETARY–TREASURER**, and other officers; and

(2) The duties of each officer.

19–301.

(a) Except as otherwise provided in this title, an individual shall be:

(1) Licensed by the Board before the individual may practice social work in this State while representing oneself as a social worker; or

(2) Licensed as a certified social worker–clinical before the individual may practice clinical social work in this State.

(b) This section does not apply to:

(1) An individual employed by any agency of the federal government while performing the duties of that employment;

(2) An individual licensed as a social worker in another state while responding to an emergency in this State; [or]

(3) An individual who:

(i) Is licensed to practice social work in any other state;

(ii) Has an application for a license pending before the Board;

and

(iii) Meets requirements established by the Board in regulations;

OR

(4) A STUDENT WHILE PURSUING A SUPERVISED COURSE OF STUDY IN A SOCIAL WORK PROGRAM THAT IS ACCREDITED OR IS A CANDIDATE FOR ACCREDITATION BY THE COUNCIL ON SOCIAL WORK EDUCATION.

(c) An individual may not practice social work without a license under subsection (b)(3) of this section for more than 6 months.

19–302.

(a) To obtain a license, an applicant shall demonstrate to the satisfaction of the Board that the applicant:

(1) Has submitted a complete written application in the form prescribed by the Board;

(2) Is at least 18 years old;

(3) Is of good moral character;

(4) Except as otherwise provided in this title, has successfully passed an examination or examinations prescribed by the Board pertinent to the license sought; [and]

(5) Has paid all applicable fees specified by the Board [relative to the licensure process];

(6) HAS COMPLETED A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 19-302.2 OF THIS SUBTITLE AT THE APPLICANT'S EXPENSE; AND

(7) HAS SUBMITTED TO AN EXAMINATION IF REQUIRED UNDER § 19-302.3 OF THIS SUBTITLE.

(b) To obtain a **BACHELOR** social work [associate] license, an applicant shall:

(1) Meet the requirements of subsection (a) of this section; and

(2) Have received a baccalaureate degree in social work from a program **THAT IS** accredited **OR IS A CANDIDATE FOR ACCREDITATION** by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education.

(c) **[(1)]** To obtain a graduate social worker license, an applicant shall:

[(i)] (1) Meet the requirements of subsection (a) of this section; and

[(ii)] (2) Have received a master's degree from a program **THAT IS** accredited **OR IS A CANDIDATE FOR ACCREDITATION** by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education.

[(2)] (i) To obtain a provisional graduate social worker license, an applicant shall:

1. Meet the requirements of subsection (a) of this section; and

2. Have received a master's degree from a program which had received formal candidacy status from the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education at the time the degree was awarded.

(ii) A provisional graduate social work license shall be issued for the lesser of a period:

1. Not to exceed 3 years; or

2. Until the program has attained accredited status from the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education.

(iii) Provisional licensees whose degree programs become accredited during the license period shall be permitted to apply for a license as a graduate social worker upon accreditation being granted to the program.]

(d) Except as provided in § 19–302.1 of this subtitle, to obtain a certified social worker license, an applicant shall:

(1) Meet the requirements of subsection (a) of this section;

(2) Have received a master's degree from a program accredited by the Council on Social Work Education or an equivalent organization approved by the Council on Social Work Education; and

(3) Except as provided in subsection (g) of this section, provide in a form prescribed by the Board, documentation of having completed 2 years as a licensee with supervised experience of at least 3,000 hours after receiving the master's degree with a minimum of [144] **100** hours of periodic face-to-face supervision in the practice of social work under the terms and conditions that the Board determines by regulation.

(e) Except as provided in § 19–302.1 of this subtitle, to obtain a certified social worker-clinical license, an applicant shall:

(1) Meet the requirements of subsection (a) of this section;

(2) Have received a master's degree in social work and documentation of **COMPLETION OF 12 ACADEMIC CREDITS IN** clinical course work from a ~~MASTER'S DEGREE~~ program accredited by the Council on Social Work Education or

an equivalent organization approved by the Council on Social Work Education, *WITH A MINIMUM OF 6 OF THE 12 ACADEMIC CREDITS OBTAINED IN A MASTER'S DEGREE PROGRAM*; and

(3) Provide in a form prescribed by the Board, documentation of having completed 2 years as a licensee with supervised experience of at least 3,000 hours, **OF WHICH 1,500 HOURS ARE IN FACE-TO-FACE CLIENT CONTACT**, after receiving the master's degree with a minimum of 144 hours of periodic face-to-face supervision in the assessment, formulation of a diagnostic impression, and treatment of mental disorders and other conditions and the provision of psychotherapy under the terms and conditions that the Board determines by regulation.

[(f) If the supervision required for a certified social worker license under subsection (d)(3) of this section was not available to the applicant while the applicant was obtaining the required 2 years of experience, the Board may waive the supervision requirement on the request of the applicant.

(g) If an applicant who is licensed or registered to practice social work in another state has obtained 2 years of supervised experience under circumstances that are otherwise equivalent to those required under subsection (d) of this section, the Board may waive the supervision requirement.]

19-302.2.

(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(1) ~~TWO COMPLETE SETS~~ A COMPLETE SET OF LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND

(3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(C) IN ACCORDANCE WITH §§ 10–201 THROUGH 10–228 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE BOARD AND TO THE APPLICANT THE CRIMINAL HISTORY RECORD INFORMATION OF THE APPLICANT.

(D) IF AN APPLICANT HAS MADE TWO OR MORE UNSUCCESSFUL ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN ALTERNATE METHOD OF CRIMINAL HISTORY RECORDS CHECK AS PERMITTED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(E) (1) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

~~(1)~~ (I) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED;
AND

~~(2)~~ (II) MAY BE USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS TITLE.

(2) IN USING INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION TO DETERMINE WHETHER TO ISSUE A LICENSE, THE BOARD SHALL CONSIDER:

(I) THE AGE AT WHICH THE CRIME WAS COMMITTED;

(II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

(III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME WAS COMMITTED;

(IV) SUBSEQUENT WORK HISTORY;

(V) EMPLOYMENT AND CHARACTER REFERENCES; AND

(VI) OTHER EVIDENCE THAT DEMONSTRATES WHETHER THE APPLICANT POSES A THREAT TO THE PUBLIC HEALTH OR SAFETY.

(F) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10–223 OF THE CRIMINAL PROCEDURE ARTICLE.

(A) THE BOARD MAY REQUIRE AN APPLICANT TO SUBMIT TO A MENTAL OR PHYSICAL EXAMINATION BY A HEALTH CARE PRACTITIONER DESIGNATED BY THE BOARD IF THE BOARD:

(1) HAS REASON TO BELIEVE THAT THE APPLICANT MAY CAUSE HARM TO THE APPLICANT OR TO ANOTHER PERSON;

(2) MAKES A WRITTEN REQUEST FOR THE APPLICANT TO SUBMIT TO THE EXAMINATION;

(3) PROVIDES THE APPLICANT WITH A LIST OF THREE HEALTH CARE PRACTITIONERS FROM WHICH THE APPLICANT MAY CHOOSE A HEALTH CARE PRACTITIONER TO CONDUCT THE EXAMINATION; AND

(4) PAYS THE COST OF THE EXAMINATION.

(B) AN APPLICANT REQUIRED TO SUBMIT TO AN EXAMINATION UNDER SUBSECTION (A) OF THIS SECTION SHALL BE DEEMED TO HAVE:

(1) CONSENTED TO SUBMIT TO THE EXAMINATION; AND

(2) WAIVED ANY CLAIM OR PRIVILEGE AS TO THE EXAMINATION REPORT.

(C) THE REFUSAL OF AN APPLICANT TO SUBMIT TO THE EXAMINATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE PRIMA FACIE EVIDENCE OF THE APPLICANT'S INABILITY TO PRACTICE SOCIAL WORK COMPETENTLY, UNLESS THE BOARD FINDS THAT THE REFUSAL WAS BEYOND THE CONTROL OF THE APPLICANT.

19-304.

(a) An approved applicant is entitled to be examined for licensure as provided in this section.

(b) The Board shall ensure that a Board-approved examination for each category of license is made available for an applicant to take at least twice a year, at the times and places that the Board determines.

(c) The Board shall notify each approved applicant of the procedures for taking the examination.

(d) (1) The Board shall approve the subjects, scope, form, and passing score for each type of examination given under this subtitle.

(2) The examinations given under this subtitle shall strive to be free of cultural bias.

(e) (1) The Board, by regulation, may limit:

(i) The number of times an applicant may be reexamined after failing an examination required under this subtitle; and

(ii) The interval between reexaminations.

(2) If an applicant is permitted to be reexamined under paragraph (1) of this subsection, the applicant shall pay a fee to the examining body approved by the Board.

[(f) Notwithstanding the provisions of § 19–302 of this subtitle, an applicant for a certified social worker license or a certified social worker–clinical license who was enrolled in a doctoral program on October 1, 1992 and has remained continuously enrolled in a doctoral program and who otherwise qualifies for the applicable license is entitled to be examined for that license as provided in this section.]

[(g) (F) The examination shall be prepared to measure the competence of the applicant to engage in the pertinent practice of social work.

[(h) (G) In the preparation, administration, and grading of an examination, the Board may employ, cooperate, or contract with an organization or consultant.

19–306.

(a) The Board shall [issue a license to any applicant who meets] **MAINTAIN ON ITS WEB SITE A ROSTER OF ALL LICENSEES WHO MEET** the requirements of this title.

(b) The Board shall include on each **ELECTRONIC** license [that the Board issues] **RECORD**:

(1) The kind of license;

(2) The full name of the licensee;

(3) A [serial] **LICENSE** number;

(4) The [signatures of the chairman and the secretary of the Board] **LICENSE STATUS**;

(5) The [seal of the Board] **EXPIRATION DATE**; and

- (6) The original date of issuance.

[(c) The Board shall issue a license to replace a lost, destroyed, or mutilated license if the licensee pays the license replacement fee set by the Board and demonstrates to the satisfaction of the Board that the license was lost, destroyed, or mutilated.]

19-307.

- (c) (1) A licensed [associate] **BACHELOR** social worker may not:

(i) Practice social work without the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the requirements specified in the regulations;

(ii) Make a clinical diagnosis of a mental or emotional disorder;
[or]

(iii) Provide psychotherapy; **OR**

(IV) ENGAGE IN PRIVATE PRACTICE.

- (2) A licensed graduate social worker may not:

(i) Practice graduate social work without the supervision of a licensed certified social worker, licensed certified social worker–clinical, or licensed graduate social worker who meets the requirements specified in the regulations;

(ii) Treat mental or emotional disorders or provide psychotherapy without the direct supervision of a licensed certified social worker–clinical; [or]

(iii) Diagnose a mental disorder **WITHOUT THE DIRECT SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL; OR**

(IV) ENGAGE IN PRIVATE PRACTICE WITHOUT THE DIRECT SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER–CLINICAL.

- (3) A licensed certified social worker may not:

(i) Treat mental or emotional disorders or provide psychotherapy without the direct supervision of a licensed certified social worker–clinical; or

(ii) Diagnose a mental disorder **WITHOUT THE DIRECT SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER—CLINICAL.**

19–308.

(b) At least 1 month before the license expires, the Board shall send to the licensee, [by first-class mail to] **AT** the last known **ELECTRONIC OR PHYSICAL** 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; and

(3) The amount of the renewal fee.

(e) (1) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(2) The Board shall [include the term of the renewal on each renewal certificate that the Board issues] **MAINTAIN THE SAME INFORMATION ON EACH LICENSEE.**

(F) THE BOARD MAY NOT RENEW A BACHELOR SOCIAL WORK LICENSE OR A GRADUATE SOCIAL WORK LICENSE OF A LICENSEE WHO HOLDS A BACCALAUREATE DEGREE OR MASTER’S DEGREE FROM A PROGRAM THAT WAS A CANDIDATE FOR ACCREDITATION BUT WAS DENIED ACCREDITATION.

19–309.

(a) (1) [The] **EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION,** THE Board shall place a licensee on inactive status for a maximum of 5 years, if the licensee submits to the Board:

(i) A written application for inactive status in a form prescribed by the Board; and

(ii) The inactive status fee set by the Board.

(2) The Board shall provide a licensee who has complied with the requirements of paragraph (1) of this subsection with written notification of:

(i) **THE DATE THAT THE LICENSE EXPIRED;**

(II) The date that the licensee’s inactive status becomes effective;

and **[(ii)] (III)** The date that the licensee's inactive status expires;

[(iii)] (IV) The consequences of not resuming active status before expiration of inactive status.

(3) The Board shall **[issue] REACTIVATE** a license **[to] FOR** an individual on inactive status who:

(i) **APPLIES TO THE BOARD FOR REACTIVATION OF THE LICENSE;**

(II) Complies with the renewal requirements that are in effect when the individual requests the reactivation of the license;

[(ii)] (III) Has completed the number of credit hours of approved continuing education in social work set by the Board in the 2 years preceding the licensee's application for an active license; **[and]**

(IV) PAYS TO THE BOARD THE REACTIVATION PROCESSING FEE SET BY THE BOARD; AND

[(iii)] (V) Has been on inactive status for less than 5 years.

[(b) A social worker whose inactive license expires before the social worker returns to active licensure shall meet the reinstatement requirements of § 19-314 of this subtitle.

(c) (1) A social worker who is on inactive status as of October 1, 2000 shall have a 5-year period during which to continue on inactive status following notification by the Board.

(2) A social worker who fails to return to active licensure within that 5-year period shall meet the reinstatement requirements of § 19-314 of this subtitle.]

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE BOARD SHALL PLACE A LICENSEE ON NONRENEWED STATUS FOR A MAXIMUM OF 5 YEARS IF THE LICENSEE:

(I) DOES NOT RENEW THE LICENSEE'S LICENSE UNDER SUBSECTION (A) OF THIS SECTION; AND

(II) SUBMITS TO THE BOARD:

1. A WRITTEN APPLICATION FOR NONRENEWED STATUS IN A FORM PRESCRIBED BY THE BOARD; AND

2. THE APPLICABLE FEE SET BY THE BOARD.

(2) THE BOARD SHALL PROVIDE A LICENSEE WHO HAS COMPLIED WITH THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION WITH WRITTEN NOTIFICATION OF:

(I) THE DATE THAT THE LICENSE EXPIRED;

(II) THE DATE THAT THE INACTIVE STATUS EXPIRED;

(III) THE DATE THAT THE LICENSEE'S NONRENEWED STATUS BECOMES EFFECTIVE;

(IV) THE DATE THAT THE LICENSEE'S NONRENEWED STATUS EXPIRES; AND

(V) THE FACT THAT THE LICENSEE MAY NOT PRACTICE SOCIAL WORK IN THE STATE.

(3) THE BOARD SHALL REACTIVATE A LICENSE FOR AN INDIVIDUAL ON NONRENEWED STATUS WHO:

(I) APPLIES TO THE BOARD FOR REACTIVATION OF THE LICENSE;

(II) PAYS TO THE BOARD THE REACTIVATION PROCESSING FEE SET BY THE BOARD;

(III) COMPLIES WITH THE RENEWAL REQUIREMENTS THAT ARE IN EFFECT WHEN THE INDIVIDUAL REQUESTS THE REACTIVATION OF THE LICENSE;

(IV) HAS COMPLETED THE NUMBER OF CREDIT HOURS OF APPROVED CONTINUING EDUCATION IN SOCIAL WORK SET BY THE BOARD IN THE 2 YEARS PRECEDING THE INDIVIDUAL'S APPLICATION FOR AN ACTIVE LICENSE; AND

(V) HAS BEEN ON NONRENEWED STATUS FOR LESS THAN 5 YEARS.

(C) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, THE BOARD SHALL REACTIVATE THE LICENSE OF AN INDIVIDUAL WHO:

(1) APPLIES TO THE BOARD FOR REACTIVATION OF THE LICENSE;

(2) PAYS TO THE BOARD THE REACTIVATION PROCESSING FEE SET BY THE BOARD AND ANY OTHER FEES REQUIRED BY THE BOARD;

(3) PROVIDES ANY DOCUMENTATION REQUIRED BY THE BOARD, IN A FORM PRESCRIBED BY THE BOARD; AND

(4) PASSES THE RESPECTIVE EXAMINATION REQUIRED FOR INITIAL LICENSURE.

19-311.

Subject to the hearing provisions of § 19-312 of this subtitle, the Board may deny a license to any applicant, fine a licensee, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

(1) Obtained or attempted to obtain a license for the applicant or licensee or for another through fraud, deceit, or misrepresentation;

(2) Fraudulently or deceptively uses a license;

(3) Is mentally or physically incompetent **TO PRACTICE SOCIAL WORK;**

(4) Commits any act of gross negligence, incompetence, or misconduct in the practice of social work;

[(5) Knowingly violates any provision of this title;]

[(6) (5) Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work;

[(7) (6) Violates any provision of this title or regulations governing the practice of social work adopted and published by the Board;

[(8) (7) 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;

[(9) (8) 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 prescribed amounts or without valid medical indication;

[(10)] **(9)** Is disciplined by a licensing or disciplinary authority of any state, country, or branch of the armed services, or the Veterans' Administration for an act that would be grounds for disciplinary action under this section;

[(11)] **(10)** Practices social work with an unauthorized person or supervises or aids an unauthorized person in the practice of social work;

[(12)] **(11)** [Knowingly makes] **MAKES** or files a false report or record in the practice of social work;

[(13)] **(12)** [Knowingly fails] **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 the report;

[(14)] **(13)** Submits a false statement to collect a fee;

[(15)] **(14)** [Knowingly fails] **FAILS** to report suspected child abuse **OR NEGLECT** in violation of § 5–704 of the Family Law Article;

[(16)] **(15)** Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services on the basis of race, age, gender, sexual orientation, disability, religion, or ethnic origin or because the individual is HIV positive;

[(17)] **(16)** Fails to cooperate with a lawful investigation conducted by the Board;

[(18)] **(17)** By threats, force, or improper means, intimidates or influences, or attempts to intimidate or influence, for the purpose of:

(i) Causing any person to withhold or change testimony in hearings or proceedings before the Board or otherwise delegated to the Office of Administrative Hearings; or

(ii) Hindering, preventing, or otherwise delaying a person from making information available to the Board in furtherance of an investigation by the Board;

[(19)] **(18)** [Knowingly fails] **FAILS** to report suspected abuse or neglect of a vulnerable adult in violation of § 3–604 or § 3–605 of the Criminal Law Article;

[(20)] **(19)** Fails to comply with the requirements of any order entered by the Board as a result of any disciplinary matter with the Board, including payment of costs as required by § 19–312 of this subtitle; [or]

[(21)] **(20)** Fails to maintain adequate patient records; **OR**

(21) FAILS TO COMPLY WITH THE MAINTENANCE, DISCLOSURE, AND DESTRUCTION OF MEDICAL RECORDS AS REQUIRED UNDER TITLE 4, SUBTITLES 3 AND 4 OF THE HEALTH – GENERAL ARTICLE.

19–311.1.

(a) If after a hearing under § 19–312 of this subtitle the Board finds that there are grounds under § 19–311 of this subtitle to reprimand a licensee, place a licensee on probation, or suspend or revoke a license, the Board may impose a fine on the licensee in an amount not exceeding [\$5,000] **\$10,000**:

(1) Instead of reprimanding the licensee, placing the licensee on probation, or suspending or revoking the social worker's license; or

(2) In addition to reprimanding the licensee, placing the licensee on probation, or suspending or revoking the social worker's license.

19–312.

(c) Over the signature of an officer or the [administrator] **EXECUTIVE DIRECTOR** of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

19–314.

[(a)] If a license has been suspended or revoked under § 19–311 of this subtitle, the Board may reinstate that license only in accordance with:

(1) The terms and conditions of the order of suspension or revocation;
or

(2) An order of reinstatement issued by the Board.

[(b)] If a licensee has failed for any reason to renew the license for a period of less than 5 years, the Board shall reinstate the license if the social worker:

- (1) Applies to the Board for reinstatement of the license;
 - (2) Meets the continuing education requirements of § 19–308 of this subtitle for each 2–year period that the license was not renewed; and
 - (3) Pays to the Board the reinstatement fee set by the Board.
- (c) If a licensee has failed for any reason to renew the license for a period of 5 years or more, the social worker shall meet the current requirements for licensure.]

19–402.

Unless authorized to practice social work under this title, a person may not:

- (1) Represent to the public that the person is a licensed social worker;
- or
- (2) Use any title, abbreviation, sign, card, or other representation that the person is a licensed social worker, including the use of the words “social worker” or “social work” and the use of the abbreviations [“LSWA”] “**LBSW**”, “LGSW”, “LCSW”, or “LCSW–C”.

19–407.

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] **\$5,000** or imprisonment not exceeding [90 days] **2 YEARS**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 392

(House Bill 813)

AN ACT concerning

Task Force to Study the Impact of Expanding Credit and Noncredit Courses for Students with Intellectual and Developmental Disabilities

FOR the purpose of establishing the Task Force to Study the Impact of Expanding Credit and Noncredit Courses for Students with Intellectual and Developmental

Disabilities; providing for the composition, chair, and staffing 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 study and make recommendations regarding certain matters; 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 the Impact of Expanding Credit and Noncredit Courses for Students with Intellectual and Developmental Disabilities.

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

(a) There is a Task Force to Study the Impact of Expanding Credit and Noncredit Courses for Students with Intellectual and Developmental Disabilities.

(b) The Task Force consists of the following members:

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

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

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

(4) the Chancellor of the University System of Maryland, or the Chancellor's designee;

(5) the President of Morgan State University, or the President's designee;

(6) the President of St. Mary's College of Maryland, or the President's designee;

(7) the President of a community college, appointed by the Maryland Association of Community Colleges, or the President's designee; ~~the President of Baltimore City Community College, or the President's designee;~~

~~(8)~~ (8) the Executive Director of the Maryland Association of Community Colleges, or the Executive Director's designee; ~~and~~

~~(8)~~ (9) the Assistant State Superintendent for Rehabilitation Services, or the Assistant State Superintendent's designee;

~~(9)~~ (10) the Secretary of the Maryland Department of Disabilities, or the Secretary's designee;

~~(10)~~ (11) the Director of the Developmental Disabilities Administration, or the Director's designee; and

~~(11) the Chair of the Maryland Commission on Disabilities, or the Chair's designee; and~~

~~(9)~~ (12) the following members, appointed by the Governor:

(i) two individuals with an intellectual or a developmental disability;

(ii) one employer of individuals with intellectual or developmental disabilities; and

~~(ii)~~ (iii) three representatives of organizations that represent individuals with intellectual and developmental disabilities.

(c) The Governor shall designate the chair of the Task Force.

(d) The Maryland Higher Education 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 Task Force shall:

(1) study the impact of credit and expanding the availability of credit and noncredit course offerings for students with intellectual and developmental disabilities at public institutions of higher education in the State, including costs, distance learning options, pathways to meaningful credentials or gainful employment, as defined in regulations adopted under Title IV of the federal Higher Education Act, barriers, and logistics; and

(2) make recommendations regarding the expansion of credit and noncredit course offerings for students with intellectual and developmental disabilities at public institutions of higher education in the State.

(g) On or before January 1, 2014, 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 July 1, 2013. It shall remain effective for a period of 1 year 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 2, 2013.

Chapter 393

(House Bill 868)

AN ACT concerning

Health Occupations – State Board of Pharmacy – Waivers – Pharmacies That Only Dispense Devices

FOR the purpose of authorizing the State Board of Pharmacy to waive certain requirements for certain pharmacies that only dispense devices in accordance with certain rules and regulations; making certain technical changes; making this Act an emergency measure; and generally relating to the State Board of Pharmacy and waivers for pharmacies that only dispense devices.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–403
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

12–403.

(a) This section does not require a nonresident pharmacy to violate the laws or regulations of the state in which it is located.

(b) Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:

(1) Shall be operated in compliance with the law and with the rules and regulations of the Board;

(2) Shall be located and equipped so that the pharmacy may be operated without endangering the public health or safety;

(3) Shall ensure that a licensed pharmacist be immediately available on the premises to provide pharmacy services at all times the pharmacy is in operation;

(4) Shall be supervised by a licensed pharmacist who is responsible for the operations of the pharmacy at all times the pharmacy is in operation;

(5) Shall provide complete pharmaceutical service by preparing and dispensing all prescriptions that reasonably may be expected of a pharmacist;

(6) Shall provide services to the general public and may not restrict or limit its services to any group of individuals unless granted a waiver from this requirement by the Board;

(7) May not offer pharmaceutical services under any term or condition that tends to interfere with or impair the free and complete exercise of professional pharmaceutical judgment or skill;

(8) May not make any agreement that denies a patient a free choice of pharmacist or pharmacy services;

(9) May not participate in any activity that is a ground for Board action against a licensed pharmacist under § 12–313 or a registered pharmacy technician under § 12–6B–09 of this title;

(10) (i) Shall maintain at all times a current reference library that is appropriate to meet the needs of:

1. The practice specialty of that pharmacy; and
2. The consumers the pharmacy serves; and

(ii) Shall comply with any regulations adopted by the Board establishing the types of texts required to be included in the reference libraries in each of the various practice specialty pharmacies;

(11) (i) Shall maintain at all times the minimum professional and technical equipment and sanitary appliances that are necessary in a pharmacy:

1. To prepare and dispense prescriptions properly; and
2. To otherwise operate a pharmacy; and

(ii) Shall:

1. Be equipped with the minimum equipment and appliances specified by the Board under this section; and

2. Be kept in a clean and orderly manner;

(12) Shall store all prescription or nonprescription drugs or devices properly and safely subject to the rules and regulations adopted by the Board;

(13) Shall:

(i) Make and keep on file for at least 5 years a record of each prescription prepared or dispensed in the pharmacy;

(ii) Disclose the records and files maintained of prescriptions for drugs or devices that identify or may be readily associated with the identity of a patient only in accordance with the provisions of Title 4, Subtitle 3 of the Health – General Article; and

(iii) Keep additional records as required by the rules and regulations adopted by the Board;

(14) Except as otherwise provided under federal law, shall establish and maintain mechanisms to ensure that all prescription drugs or devices used within institutions that provide acute, subacute, or long-term care, or within their related corporate subsidiaries, but stored outside a pharmacy, are stored properly and safely, subject to rules and regulations adopted by the Board and policies established by the institution;

(15) Shall provide such personnel, automation, and technology as are necessary to allow the licensed pharmacist employee sufficient time to utilize the pharmacist's knowledge and training and to perform competently the functions of a licensed pharmacist as required by law;

(16) Shall provide such personnel, automation, and technology as are necessary to [allow the licensed pharmacist employee or registered pharmacy technician to] comply with the labeling requirements specified in § 12-505 of this title;

(17) With regard to a prescription drug that is delivered in this State by the United States mail, a common carrier, or a delivery service and is not personally hand delivered directly to a patient or to the agent of the patient at the residence of the patient or at another location designated by the patient, shall:

(i) Provide a general written notice in each shipment of a prescription drug that alerts a consumer that, under certain circumstances, a medication's effectiveness may be affected by exposure to extremes of heat, cold, or humidity; and

(ii) Provide a specific written notice in each shipment of a prescription drug that provides a consumer with a toll-free or local consumer access telephone number accessible during regular hours of operation, which is designed to respond to consumer questions pertaining to medications;

(18) (i) May maintain a record log of any prescription that is requested to be filled or refilled by a patient in accordance with the provisions of Title 4, Subtitle 3 of the Health – General Article;

(ii) If the prescription record of a patient includes the patient's Social Security number, shall keep the Social Security number confidential;

(iii) May not list in the record log the type of illness, disability, or condition that is the basis of any dispensing or distribution of a drug by a pharmacist; and

(iv) May not list a patient's Social Security number, illness, disability, or condition, or the name and type of drug received in the record log if the log is available to other pharmacy customers;

(19) May not allow an unauthorized individual to represent that the individual is a pharmacist or registered pharmacy technician;

(20) Shall provide information regarding the process for resolving incorrectly filled prescriptions in accordance with existing regulations by:

(i) Posting a sign that is conspicuously positioned and readable by consumers at the point where prescription drugs are dispensed to consumers; or

(ii) Including written information regarding the process with each prescription dispensed; and

(21) Shall dispense or dispose of prescription drugs or medical supplies in accordance with Title 15, Subtitle 6 of the Health – General Article.

(c) (1) The Board may waive any of the requirements of this section for the University of Maryland School of Pharmacy, for nuclear pharmacy and dental pharmacy experimental and teaching programs.

(2) The Board may waive the requirements of subsection (b)(5) and (6) of this section for pharmacies that are engaged in pharmaceutical specialties which are recognized by the Board under rules and regulations adopted by the Board.

(3) THE BOARD MAY WAIVE THE REQUIREMENTS OF SUBSECTION (B)(3) THROUGH (6) AND (15) OF THIS SECTION FOR PHARMACIES THAT ONLY

DISPENSE DEVICES IN ACCORDANCE WITH RULES AND REGULATIONS ADOPTED BY THE BOARD.

~~[(3)]~~ (4) The Board shall waive the requirements of subsection (b)(20) of this section for a pharmacy owned and operated by a hospital, nursing facility, or clinic to which the public does not have access to purchase pharmaceuticals on a retail basis.

(d) A nonresident pharmacy shall:

(1) Hold a pharmacy permit issued by the Board; and

(2) Have a pharmacist on staff who is:

(i) Licensed by the Board; and

(ii) Designated as the pharmacist responsible for providing pharmaceutical services to patients in the State.

(e) (1) In order to obtain a pharmacy permit from the Board, a nonresident pharmacy shall:

(i) Submit an application to the Board on the form that the Board requires;

(ii) Pay to the Board an application fee set by the Board;

(iii) Submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which the nonresident pharmacy is located; and

(iv) On the required permit application, identify the name and current address of an agent located in this State officially designated to accept service of process.

(2) A nonresident pharmacy shall report a change in the name or address of the resident agent in writing to the Board 30 days prior to the change.

(f) Notwithstanding subsection (a) of this section, a nonresident pharmacy shall:

(1) Comply with the requirements of subsection (b)(2), (7) through (12), and (19) **OF THIS SECTION** when:

(i) Dispensing prescription drugs or prescription devices to a patient in this State; or

(ii) Otherwise engaging in the practice of pharmacy in this State;

(2) On an annual basis and within 30 days after a change of office, corporate officer, or pharmacist, disclose to the Board the location, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescriptions for drugs or devices to persons in this State;

(3) Comply with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is located and all requests for information made by the Board pursuant to this section;

(4) Maintain at all times a valid, unexpired permit to conduct a pharmacy in compliance with the laws of the state in which it is located;

(5) Maintain its records of prescription drugs or devices dispensed to patients in this State so that the records are readily retrievable;

(6) During its regular hours of operation, but not less than 6 days a week, and for a minimum of 40 hours per week, provide toll-free telephone service to facilitate communication between patients in this State and a pharmacist **OR AN INDIVIDUAL** who:

(i) Has access to the patient's prescription records; and

(ii) Is required to refer patients in the State to the responsible pharmacist licensed in the State, as appropriate;

(7) Disclose its toll-free telephone number on a label affixed to each container of drugs or devices;

(8) Comply with the laws of this State relating to the confidentiality of prescription records if there are no laws relating to the confidentiality of prescription records in the state in which the nonresident pharmacy is located; and

(9) Comply with the requirements of subsection (b)(17) and (20) of this section.

(g) Subject to the hearing provisions of § 12-411 of this subtitle, if a pharmacy or a nonresident pharmacy is operated in violation of this section, the Board may suspend the applicable pharmacy permit until the pharmacy complies with this section.

(H) THE BOARD MAY WAIVE THE FOLLOWING REQUIREMENTS FOR NONRESIDENT PHARMACIES THAT ONLY DISPENSE DEVICES IN ACCORDANCE WITH RULES AND REGULATIONS ADOPTED BY THE BOARD:

(1) SUBSECTIONS (D)(2) AND (F)(6)(II) OF THIS SECTION; AND

(2) IF NOT APPLICABLE, SUBSECTIONS (E)(1)(III) AND (F)(4) OF THIS SECTION.

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

Approved by the Governor, May 2, 2013.

Chapter 394

(House Bill 955)

AN ACT concerning

Task Force to Study Temporary Disability Insurance Programs *and the Process for Assisting Individuals with Disabilities at Local Departments of Social Services*

FOR the purpose of establishing the Task Force to Study Temporary Disability Insurance Programs *and the Process for Assisting Individuals with Disabilities at Local Departments of Social Services*; providing for the composition, chair, and staffing 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 study and make recommendations regarding certain matters; 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 Temporary Disability Insurance Programs *and the Process for Assisting Individuals with Disabilities at Local Departments of Social Services*.

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

(a) There is a Task Force to Study Temporary Disability Insurance Programs *and the Process for Assisting Individuals with Disabilities at Local Departments of Social Services*.

(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) two members of the House of Delegates, appointed by the Speaker of the House;
- (3) the Commissioner of the Maryland Insurance Administration, or the Commissioner's designee;
- (4) the Secretary of Human Resources, or the Secretary's designee;
- (5) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee;
- (6) the Secretary of Health and Mental Hygiene, or the Secretary's designee; and
- (7) the following members, appointed by the Governor:
 - (i) one representative of the Workers' Compensation Commission;
 - (ii) one representative of ~~the American Cancer Society~~ All Shades of Pink;
 - (iii) one representative of the Cancer Support Foundation;
 - (iv) two representatives of Maryland labor organizations;
 - (v) one representative of the ~~Maryland Chamber of Commerce~~ Leukemia and Lymphoma Society;
 - (vi) two members of the business community;
 - (vii) ~~three~~ two members of the insurance industry, including one member of the temporary disability insurance industry; ~~and~~
 - (viii) one member of the public;
 - (ix) one representative of a disability advocacy organization;
 - (x) two representatives of local departments of social services;
 - (xi) at least two representatives of cancer treatment centers in the State who perform patient navigation services.

- (c) The Governor shall designate the chair of the Task Force.
- (d) The Maryland Insurance Administration *and the Department of Human Resources* 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 full complement of benefits available under State and federal law to workers and recently unemployed individuals in Maryland who become disabled due to nonwork–related illness or injury;
 - (2) study the wage replacement benefits available to a worker or a recently unemployed individual in Maryland who becomes disabled due to nonwork–related illness or injury;
 - (3) study the availability and sufficiency of wage replacement benefits available to workers and recently unemployed individuals in Maryland who become disabled due to nonwork–related cancer;
 - (4) study the exclusivity and exhaustion of benefit standards that limit the level or extent of benefits that a worker or a recently unemployed individual in Maryland who becomes disabled due to nonwork–related illness or injury may receive;
 - (5) study and compare temporary disability insurance programs in other jurisdictions in terms of:
 - (i) coverage;
 - (ii) eligibility requirements and limitations;
 - (iii) minimum and maximum benefit threshold amounts;
 - (iv) costs to employers, employees, and administrators;
 - (v) funding mechanisms;
 - (vi) administration; and

(vii) appeals processes;

(6) study and make recommendations regarding the adequacy of the application processes utilized by local departments of social services to assist individuals who become disabled due to nonwork-related illness or injury, including individuals undergoing treatment for cancer, and who apply for assistance, including food stamps, temporary cash assistance, energy assistance benefits, temporary disability assistance benefits, and medical assistance;

~~(6)~~ (7) make recommendations regarding potential costs and benefits to the State's workforce of establishing a temporary disability insurance program; and

~~(7)~~ (8) make recommendations regarding the potential structure, administration, eligibility standards, and funding mechanisms for a temporary disability insurance program in Maryland.

(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 June 1, 2013. It shall remain effective for a period of 1 year and, at the end of May 31, 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 2, 2013.

Chapter 395

(House Bill 963)

AN ACT concerning

~~Edward T. Conroy Jean B. Cryor Memorial Scholarship Eligibility Creation~~
Edward T. Conroy and Jean B. Cryor Memorial Scholarship Programs

FOR the purpose of ~~expanding the eligibility requirements for the Edward T. Conroy Memorial Scholarship Program to include~~ establishing the Jean B. Cryor Memorial Scholarship Program to provide scholarships for the son or daughter or the surviving spouse of a certain public-school educator school employee under certain circumstances; authorizing certain persons to apply to certain postsecondary institutions for the Jean B. Cryor Memorial Scholarship Program; authorizing the use of the scholarship for certain educational expenses; prohibiting the scholarship awarded from exceeding a certain amount or being less than a certain amount; ~~authorizing~~ requiring certain

postsecondary institutions to determine eligibility for the scholarships; requiring certain postsecondary institutions to report to the Maryland Higher Education Commission by certain dates the number of eligible recipients for the scholarships; requiring the Commission to allocate funds to certain postsecondary institutions for eligible recipients; authorizing each recipient to hold the scholarship award for a certain number of years of study; making certain conforming changes to the Edward T. Conroy Memorial Scholarship Program; establishing a certain scholarship fund; providing that the fund is a special, nonlapsing fund that is not subject to certain provisions of law; requiring the State Treasurer to hold the fund and the Comptroller to account for the fund; directing the Commission to use certain gifts and grants for the fund in a certain manner; defining ~~certain terms~~ a certain term; and generally relating to ~~eligibility requirements for the Edward T. Conroy the Jean B. Cryor Memorial Scholarship Program.~~ memorial scholarship programs.

~~BY repealing and reenacting, with amendments,
Article — Education
Section 18-601
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)~~

~~BY adding to
Article — Education
Section 18-6A-01 to be under the new subtitle “Subtitle 6A. Scholarships for the Surviving Spouse and Children of School Personnel”
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – Education
Section 18-601 to be under the amended subtitle “Subtitle 6. Scholarships for Military and Public Safety Personnel and Their Dependents and the Dependents of Certain School Employees”
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)~~

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

Article – Education

~~18-601.~~

- ~~(a) (1) In this section the following words have the meanings indicated:~~
- ~~(2) “Disabled public safety employee” means a State or local public safety employee who sustains an injury in the line of duty that:~~

~~(i) Precludes the individual from continuing to serve or be employed as a State or local public safety employee; and~~

~~(ii) In the case of a volunteer member of a fire department or ambulance or rescue company or squad, precludes the member from continuing to be employed in the nonpublic safety occupation in which the member is engaged at the time of the injury.~~

~~(3) “Surviving spouse” means a person who has not remarried.~~

~~(4) “State or local public safety employee” means a person who is:~~

~~(i) A career or volunteer member of a:~~

~~1. Fire department;~~

~~2. Ambulance company or squad; or~~

~~3. Rescue company or squad;~~

~~(ii) A law enforcement officer;~~

~~(iii) A correctional officer; or~~

~~(iv) A member of the Maryland National Guard who was a resident of this State at the time of death.~~

~~(5) “Victim of the September 11, 2001, terrorist attacks” means a Maryland resident who was killed as a result of the attacks on the World Trade Center in New York City, the attack on the Pentagon in Virginia, or the crash of United Airlines Flight 93 in Pennsylvania.~~

~~(b) There is a program of scholarships that are awarded by eligible postsecondary institutions under this section.~~

~~(c) The Program is the Edward T. Conroy Memorial Scholarship Program.~~

~~(d) A person may apply to an eligible postsecondary institution for a scholarship under this section if the person:~~

~~(1) (i) Is a resident of Maryland at the time of application; or~~

~~(ii) Was a resident of Maryland when an event described in paragraph (3) of this subsection occurred;~~

~~(2) (i) Is accepted for admission or enrolled in the regular undergraduate, graduate or professional program at an eligible institution; or~~

~~(ii) Is enrolled in a 2-year terminal certificate program in which the course work is acceptable for transfer credit for an accredited baccalaureate program in an eligible institution; and~~

~~(3) (i) Is at least 16 years old and a son or daughter of a member of the armed forces who:~~

~~1. Died as a result of military service after December 7, 1941;~~

~~2. Suffered a service connected 100% permanent disability after December 7, 1941; or~~

~~3. Was declared to be a prisoner of war or missing in action, if that occurred on or after January 1, 1960, as a result of the Vietnam conflict, and if the child was born prior to or while the parent was a prisoner of war or missing in action;~~

~~(ii) Was a prisoner of war or missing in action, if that occurred on or after January 1, 1960, as a result of the Vietnam conflict and was a resident of this State at the time the person was declared to be a prisoner of war or missing in action;~~

~~(iii) 1. Is at least 16 years old and a son or daughter of any State or local public safety employee killed in the line of duty; or~~

~~2. Is the surviving spouse of any State or local public safety employee killed in the line of duty;~~

~~(iv) 1. Is a disabled public safety employee;~~

~~2. Is at least 16 years old and a son or daughter of a disabled public safety employee who sustains an injury in the line of duty that renders the public safety employee 100% disabled; or~~

~~3. Is the surviving spouse of a disabled public safety employee who sustains an injury in the line of duty that renders the public safety employee 100% disabled;~~

~~(v) Is a veteran, as defined under § 9-901 of the State Government Article, who:~~

~~1. Suffers a service connected disability of 25% or greater; and~~

~~2. Has exhausted or is no longer eligible for federal veterans' educational benefits;~~

~~(vi) Is the surviving spouse of a member of the armed forces who suffered a service connected 100% permanent disability; [or]~~

~~(vii) Is at least 16 years old and a son or daughter of or the surviving spouse of a victim of the September 11, 2001, terrorist attacks; OR~~

~~(VIII) 1. IS AT LEAST 16 YEARS OLD AND A SON OR DAUGHTER OF A PUBLIC SCHOOL EDUCATOR WHO:~~

~~A. DIED IN THE LINE OF DUTY; OR~~

~~B. SUSTAINED AN INJURY IN THE LINE OF DUTY THAT RENDERED THE PUBLIC SCHOOL EDUCATOR 100% DISABLED; OR~~

~~2. IS THE SURVIVING SPOUSE, AND HAS NOT REMARRIED, OF A PUBLIC SCHOOL EDUCATOR WHO:~~

~~A. DIED IN THE LINE OF DUTY; OR~~

~~B. SUSTAINED AN INJURY IN THE LINE OF DUTY THAT RENDERED THE PUBLIC SCHOOL EDUCATOR 100% DISABLED.~~

~~(e) A scholarship awarded under this section:~~

~~(1) May be used for the tuition and mandatory fees at any eligible institution; and~~

~~(2) May not:~~

~~(i) Exceed the equivalent annual tuition and mandatory fees of a resident undergraduate student at the 4-year public institution of higher education within the University System of Maryland, other than the University of Maryland University College and University of Maryland, Baltimore, with the highest annual expenses for a full-time resident undergraduate; and~~

~~(ii) Be less than the lesser of:~~

~~1. \$3,000; or~~

~~2. The equivalent annual tuition and mandatory fees of a resident of the institution attended by the recipient of the scholarship.~~

~~(f) (1) Each postsecondary institution shall determine the eligibility of persons who apply to the institution for the Edward T. Conroy Memorial Scholarship Program.~~

~~(2) Funds for the Edward T. Conroy Memorial Scholarship Program shall be allocated by the Commission to each postsecondary institution based on the number of eligible recipients attending each institution.~~

~~(3) In October and February of each year, each postsecondary institution shall report to the Commission the number of eligible recipients attending the institution.~~

~~(4) The Commission shall allocate funds for awards to postsecondary institutions upon verification of eligible recipients attending the institutions.~~

~~(5) If funds cannot be allocated in the fiscal year in which awards are made, priority shall be given to allocating funds for those awards in the following fiscal year.~~

~~(g) (1) Each recipient of a scholarship under this section may hold the award for 5 years of full-time study or 8 years of part-time study.~~

~~(2) The number of eligible recipients under subsection (d)(3)(v) of this section shall be limited to 15 each year.~~

~~(3) An award provided under subsection (d)(3)(vi) of this section may not exceed the amount specified in subsection (e)(2) of this section when combined with any other scholarship received by a student based on the student's status as a child or spouse of a victim of the September 11, 2001, terrorist attacks.~~

~~(h) The Commission:~~

~~(1) May accept any gift or grant from any person for the Edward T. Conroy Scholarship Fund;~~

~~(2) Shall use any gift or grant that it receives for a scholarship from the Program; and~~

~~(3) Shall deposit any gift or grant that it receives for the Program with the State Treasurer in a nonbudgeted account.~~

~~**SUBTITLE 6A. SCHOLARSHIPS FOR THE SURVIVING SPOUSE AND CHILDREN OF SCHOOL PERSONNEL.**~~

~~**18-6A-01.**~~

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

~~(2) "SCHOOL EMPLOYEE" INCLUDES AN EMPLOYEE OF A PUBLIC OR NONPUBLIC SCHOOL IN THE STATE.~~

~~(3) "SURVIVING SPOUSE" MEANS A PERSON WHO HAS NOT REMARRIED.~~

~~(B) THERE IS A PROGRAM OF SCHOLARSHIPS THAT ARE AWARDED BY ELIGIBLE POSTSECONDARY INSTITUTIONS UNDER THIS SECTION.~~

~~(C) THE PROGRAM IS THE JEAN B. CRYOR MEMORIAL SCHOLARSHIP PROGRAM.~~

~~(D) A PERSON MAY APPLY TO AN ELIGIBLE POSTSECONDARY INSTITUTION FOR A SCHOLARSHIP UNDER THIS SECTION IF THE PERSON:~~

~~(1) (i) IS A RESIDENT OF MARYLAND AT THE TIME OF APPLICATION; OR~~

~~(ii) WAS A RESIDENT OF MARYLAND WHEN AN EVENT DESCRIBED IN ITEM (3) OF THIS SUBSECTION OCCURRED;~~

~~(2) (i) IS ACCEPTED FOR ADMISSION OR ENROLLED IN THE REGULAR UNDERGRADUATE, GRADUATE, OR PROFESSIONAL PROGRAM AT AN ELIGIBLE INSTITUTION; OR~~

~~(ii) IS ENROLLED IN A 2-YEAR TERMINAL CERTIFICATE PROGRAM IN WHICH THE COURSE WORK IS ACCEPTABLE FOR TRANSFER CREDIT FOR AN ACCREDITED BACCALAUREATE PROGRAM IN AN ELIGIBLE INSTITUTION; AND~~

~~(3) (i) IS AT LEAST 16 YEARS OLD AND A SON OR DAUGHTER OF A SCHOOL EMPLOYEE WHO, AS A RESULT OF AN ACT OF VIOLENCE:~~

~~1. DIED IN THE LINE OF DUTY; OR~~

~~2. SUSTAINED AN INJURY IN THE LINE OF DUTY THAT RENDERED THE SCHOOL EMPLOYEE 100% DISABLED; OR~~

~~(ii) IS THE SURVIVING SPOUSE, AND HAS NOT REMARRIED, OF A SCHOOL EMPLOYEE WHO, AS A RESULT OF AN ACT OF VIOLENCE:~~

~~1. DIED IN THE LINE OF DUTY; OR~~

~~2. SUSTAINED AN INJURY IN THE LINE OF DUTY THAT RENDERED THE SCHOOL EMPLOYEE 100% DISABLED.~~

~~(E) A SCHOLARSHIP AWARDED UNDER THIS SECTION:~~

~~(1) MAY BE USED FOR THE TUITION AND MANDATORY FEES AT ANY ELIGIBLE INSTITUTION; AND~~

~~(2) MAY NOT:~~

~~(i) EXCEED THE EQUIVALENT ANNUAL TUITION AND MANDATORY FEES OF A RESIDENT UNDERGRADUATE STUDENT AT THE 4-YEAR PUBLIC INSTITUTION OF HIGHER EDUCATION WITHIN THE UNIVERSITY SYSTEM OF MARYLAND, OTHER THAN THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE AND UNIVERSITY OF MARYLAND, BALTIMORE, WITH THE HIGHEST ANNUAL EXPENSES FOR A FULL-TIME RESIDENT UNDERGRADUATE; AND~~

~~(ii) BE LESS THAN THE LESSER OF:~~

~~1. \$3,000; OR~~

~~2. THE EQUIVALENT ANNUAL TUITION AND MANDATORY FEES OF A RESIDENT OF THE INSTITUTION ATTENDED BY THE RECIPIENT OF THE SCHOLARSHIP.~~

~~(F) (1) EACH POSTSECONDARY INSTITUTION SHALL DETERMINE THE ELIGIBILITY OF PERSONS WHO APPLY TO THE INSTITUTION FOR THE JEAN B. CRYOR MEMORIAL SCHOLARSHIP PROGRAM.~~

~~(2) FUNDS FOR THE JEAN B. CRYOR MEMORIAL SCHOLARSHIP PROGRAM SHALL BE ALLOCATED BY THE COMMISSION TO EACH POSTSECONDARY INSTITUTION BASED ON THE NUMBER OF ELIGIBLE RECIPIENTS ATTENDING EACH INSTITUTION.~~

~~(3) IN OCTOBER AND FEBRUARY OF EACH YEAR, EACH POSTSECONDARY INSTITUTION SHALL REPORT TO THE COMMISSION THE NUMBER OF ELIGIBLE RECIPIENTS ATTENDING THE INSTITUTION.~~

~~(4) THE COMMISSION SHALL ALLOCATE FUNDS FOR AWARDS TO POSTSECONDARY INSTITUTIONS ON VERIFICATION OF ELIGIBLE RECIPIENTS ATTENDING THE INSTITUTIONS.~~

~~(5) IF FUNDS CANNOT BE ALLOCATED IN THE FISCAL YEAR IN WHICH AWARDS ARE MADE, PRIORITY SHALL BE GIVEN TO ALLOCATING FUNDS FOR THOSE AWARDS IN THE FOLLOWING FISCAL YEAR.~~

~~(G) EACH RECIPIENT OF A SCHOLARSHIP UNDER THIS SECTION MAY HOLD THE AWARD FOR 5 YEARS OF FULL TIME STUDY OR 8 YEARS OF PART TIME STUDY.~~

~~(H) THE COMMISSION:~~

~~(1) MAY ACCEPT ANY GIFT OR GRANT FROM ANY PERSON FOR THE JEAN B. CRYOR MEMORIAL SCHOLARSHIP PROGRAM;~~

~~(2) SHALL USE ANY GIFT OR GRANT THAT IT RECEIVES FOR A SCHOLARSHIP FROM THE PROGRAM; AND~~

~~(3) SHALL DEPOSIT ANY GIFT OR GRANT THAT IT RECEIVES FOR THE PROGRAM WITH THE STATE TREASURER IN A NONBUDGETED ACCOUNT.~~

*Subtitle 6. Scholarships for Military and Public Safety Personnel and Their [Children]
DEPENDENTS AND THE DEPENDENTS OF CERTAIN SCHOOL EMPLOYEES.*

18-601.

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

(2) “Disabled public safety employee” means a State or local public safety employee who sustains an injury in the line of duty that:

(i) Precludes the individual from continuing to serve or be employed as a State or local public safety employee; and

(ii) In the case of a volunteer member of a fire department or ambulance or rescue company or squad, precludes the member from continuing to be employed in the nonpublic safety occupation in which the member is engaged at the time of the injury.

(3) “SCHOOL EMPLOYEE” INCLUDES AN EMPLOYEE OF A PUBLIC OR NONPUBLIC SCHOOL IN THE STATE.

~~[(3)]~~ ***(4) “Surviving spouse” means a person who has not remarried.***

~~[(4)]~~ ***(5) “State or local public safety employee” means a person who is:***

(i) A career or volunteer member of a:

1. Fire department;
2. Ambulance company or squad; or
3. Rescue company or squad;

(ii) A law enforcement officer;

(iii) A correctional officer; or

(iv) A member of the Maryland National Guard who was a resident of this State at the time of death.

[(5)] (6) “Victim of the September 11, 2001, terrorist attacks” means a Maryland resident who was killed as a result of the attacks on the World Trade Center in New York City, the attack on the Pentagon in Virginia, or the crash of United Airlines Flight 93 in Pennsylvania.

(b) There is a program of scholarships that are awarded by eligible postsecondary institutions under this section.

(c) **(1)** The [Program] PROGRAM FOR MILITARY AND PUBLIC SAFETY PERSONNEL AND THEIR ELIGIBLE DEPENDENTS is the Edward T. Conroy Memorial Scholarship Program.

(2) THE PROGRAM FOR ELIGIBLE DEPENDENTS OF PUBLIC AND NONPUBLIC SCHOOL EMPLOYEES IS THE JEAN B. CRYOR MEMORIAL SCHOLARSHIP PROGRAM.

(d) A person may apply to an eligible postsecondary institution for a scholarship under this section if the person:

(1) (i) Is a resident of Maryland at the time of application; or

(ii) Was a resident of Maryland when an event described in paragraph (3) of this subsection occurred;

(2) (i) Is accepted for admission or enrolled in the regular undergraduate, graduate or professional program at an eligible institution; or

(ii) Is enrolled in a 2-year terminal certificate program in which the course work is acceptable for transfer credit for an accredited baccalaureate program in an eligible institution; and

(3) (i) Is at least 16 years old and a son or daughter of a member of the armed forces who:

1. Died as a result of military service after December 7, 1941;

2. Suffered a service connected 100% permanent disability after December 7, 1941; or

3. Was declared to be a prisoner of war or missing in action, if that occurred on or after January 1, 1960, as a result of the Vietnam conflict, and if the child was born prior to or while the parent was a prisoner of war or missing in action;

(ii) Was a prisoner of war or missing in action, if that occurred on or after January 1, 1960, as a result of the Vietnam conflict and was a resident of this State at the time the person was declared to be a prisoner of war or missing in action;

(iii) 1. Is at least 16 years old and a son or daughter of any State or local public safety employee killed in the line of duty; or

2. Is the surviving spouse of any State or local public safety employee killed in the line of duty;

(iv) 1. Is a disabled public safety employee;

2. Is at least 16 years old and a son or daughter of a disabled public safety employee who sustains an injury in the line of duty that renders the public safety employee 100% disabled; or

3. Is the surviving spouse of a disabled public safety employee who sustains an injury in the line of duty that renders the public safety employee 100% disabled;

(v) Is a veteran, as defined under § 9-901 of the State Government Article, who:

1. Suffers a service connected disability of 25% or greater; and

2. Has exhausted or is no longer eligible for federal veterans' educational benefits;

(vi) Is the surviving spouse of a member of the armed forces who suffered a service connected 100% permanent disability; [or]

(vii) Is at least 16 years old and a son or daughter of or the surviving spouse of a victim of the September 11, 2001, terrorist attacks;

(VIII) IS AT LEAST 16 YEARS OLD AND A SON OR DAUGHTER OF A SCHOOL EMPLOYEE WHO, AS A RESULT OF AN ACT OF VIOLENCE:

1. DIED IN THE LINE OF DUTY; OR

2. SUSTAINED AN INJURY IN THE LINE OF DUTY THAT RENDERED THE SCHOOL EMPLOYEE 100% DISABLED; OR

(IX) IS THE SURVIVING SPOUSE OF A SCHOOL EMPLOYEE WHO, AS A RESULT OF AN ACT OF VIOLENCE:

1. DIED IN THE LINE OF DUTY; OR

2. SUSTAINED AN INJURY IN THE LINE OF DUTY THAT RENDERED THE SCHOOL EMPLOYEE 100% DISABLED.

(e) A scholarship awarded under this section:

(1) May be used for the tuition and mandatory fees at any eligible institution; and

(2) May not:

(i) Exceed the equivalent annual tuition and mandatory fees of a resident undergraduate student at the 4-year public institution of higher education within the University System of Maryland, other than the University of Maryland University College and University of Maryland, Baltimore, with the highest annual expenses for a full-time resident undergraduate; and

(ii) Be less than the lesser of:

1. \$3,000; or

2. The equivalent annual tuition and mandatory fees of a resident of the institution attended by the recipient of the scholarship.

(f) (1) Each postsecondary institution shall determine the eligibility of persons who apply to the institution for the Edward T. Conroy Memorial Scholarship Program AND THE JEAN B. CRYOR MEMORIAL SCHOLARSHIP PROGRAM.

(2) Funds for the Edward T. Conroy Memorial Scholarship Program AND THE JEAN B. CRYOR MEMORIAL SCHOLARSHIP PROGRAM shall be allocated

by the Commission to each postsecondary institution based on the number of eligible recipients attending each institution.

(3) In October and February of each year, each postsecondary institution shall report to the Commission the number of eligible recipients attending the institution.

(4) The Commission shall allocate funds for awards to postsecondary institutions upon verification of eligible recipients attending the institutions.

(5) If funds cannot be allocated in the fiscal year in which awards are made, priority shall be given to allocating funds for those awards in the following fiscal year.

(g) (1) Each recipient of a scholarship under this section may hold the award for 5 years of full-time study or 8 years of part-time study.

(2) The number of eligible recipients under subsection (d)(3)(v) of this section shall be limited to 15 each year.

(3) An award provided under subsection (d)(3)(vi) of this section may not exceed the amount specified in subsection (e)(2) of this section when combined with any other scholarship received by a student based on the student's status as a child or spouse of a victim of the September 11, 2001, terrorist attacks.

(h) (1) **THERE IS AN EDWARD T. CONROY AND JEAN B. CRYOR SCHOLARSHIP FUND.**

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

(3) **THE STATE TREASURER SHALL HOLD THE FUND AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

(4) **The Commission:**

[(1)] (I) **May accept any gift or grant from any person for the [Edward T. Conroy Scholarship Fund] FUND;**

[(2)] (II) **Shall use any gift or grant that it receives for a scholarship from the [Program] PROGRAMS; and**

[(3)] (III) **Shall deposit any gift or grant that it receives for the [Program] PROGRAMS with the State Treasurer [in a nonbudgeted account].**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 396

(House Bill 978)

AN ACT concerning

Alcoholic Beverages – Winery Off-Site Permit and Wine Festival Permit

FOR the purpose of requiring the Office of the Comptroller to collect a fee for a winery off-site permit and a wine festival permit; repealing provisions that provide for a winery special event permit and a related fee; repealing provisions that provide for a farmer's market permit; establishing a winery off-site permit to be issued by the Office of the Comptroller; authorizing the Office of the Comptroller to issue a winery off-site permit to certain persons who meet certain requirements; authorizing a winery off-site permit holder to provide and sell wine for certain purposes under certain circumstances; requiring a winery off-site permit holder to have a certain agent present ~~during a certain event~~ while selling wine or providing samples at a farmers' market; specifying certain events in which a winery off-site permit may be used; specifying the term of a winery off-site permit; requiring an applicant for a winery off-site permit to submit a certain application form developed by the Office of the Comptroller and pay a certain fee to obtain a permit; requiring a winery off-site permit holder to notify the Office of the Comptroller within a certain period of time of its intention to attend an off-site event; authorizing the Office of the Comptroller to adopt regulations to require a winery off-site permit holder to notify a certain board of license commissioners of its intention to attend an off-site event; specifying a certain winery off-site permit fee; establishing a wine festival permit to be issued by the Office of the Comptroller; authorizing the Office of the Comptroller to issue a wine festival permit to certain persons who meet certain requirements, provided that the wine festival will occur over a certain period of time; authorizing a wine festival permit holder to purchase wine at wholesale to provide and sell wine for certain purposes under certain circumstances; requiring a wine festival permit holder to provide space at the wine festival for holders of winery off-site permits; authorizing a winery off-site permit holder to provide and sell wine in the same manner as a wine festival permit holder, under certain circumstances; requiring a wine festival permit holder to have certain agents present during a certain event; ~~requiring a certain holder of a winery off-site permit to have a certain agent present during a certain event~~; requiring an applicant for a wine festival permit to submit a certain application form developed by the Office of the Comptroller within a

certain period of time before the proposed event and pay a certain fee to obtain a permit; specifying the contents of an application for a wine festival permit; requiring a wine festival permit holder to provide the Office of the Comptroller with a list of winery off-site permit holders that will attend a certain wine festival within a certain period of time before the event; establishing certain limits on the attendance at a certain number of events each calendar year by a winery off-site permit holder; making conforming changes; and generally relating to winery off-site permits and wine festival permits.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–101(b)(1), (v), (w), and (y) and 7.5–101(b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing
Article 2B – Alcoholic Beverages
Section 2–101(b)(11), (u), and (x)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section ~~2–102 and 2–103~~, 2–103, and 2–104
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article 2B – Alcoholic Beverages

2–101.

(b) (1) (i) The Office of the Comptroller shall collect a fee for the issuance or renewal of the following permits:

1. \$50 for a solicitor's permit, an individual storage permit, a nonresident winery permit, or a commercial nonbeverage permit;
2. \$75 for a public storage permit, a public transportation permit, or an import and export permit;
3. \$200 for a public storage and transportation permit, a nonresident dealer's permit, a resident dealer's permit, or a bulk transfer permit;
4. \$400 for a family beer and wine facility permit;

5. \$200 for issuance or renewal of a direct wine shipper's permit; [and]

6. \$100 for a common carrier permit;

7. \$100 FOR A WINERY OFF-SITE PERMIT; AND

8. \$100 FOR A WINE FESTIVAL PERMIT.

(ii) The Office of the Comptroller shall issue a nonbeverage permit without the payment of any fee for an eleemosynary or a fuel-alcohol permittee.

[(11) The fee for a winery special event permit is \$25 per event.]

[(u) (1) The Office of the Comptroller may issue a winery special event permit to a licensed Class 4 Maryland limited winery, provided that:

(i) Except as provided in paragraphs (6), (7), (8), (9), (10), (11), (12), (13), and (14) of this subsection, no more than 12 winery special event permits are issued to the Class 4 Maryland limited winery in any given calendar year;

(ii) The permit does not exceed 3 consecutive days; and

(iii) Except as provided in paragraphs (6), (7), (8), (9), (10), (11), (12), (13), and (14) of this subsection, no more than three winery special event permits are issued in any calendar year to any given limited winery for use in the same political subdivision.

(2) In addition to the winery special event permit under paragraph (1) of this subsection, the Office of the Comptroller may issue a winery special event permit to a licensed Class 4 Maryland limited winery for use during the entire length of the Montgomery County Agricultural Fair.

(3) The winery special event permit may only be issued for an event which:

(i) Has as its major purpose an activity other than the sale and promotion of alcoholic beverages and for which the participation of the winery is a subordinate activity;

(ii) Is approved by the Department of Agriculture and the Office of the Comptroller; and

(iii) Is held on a nonlicensed premises or a premises on which a person may obtain a temporary alcoholic beverages license.

(4) A winery special event permit shall authorize the holder to:

(i) Provide samples not to exceed 1 fluid ounce per brand to consumers;

(ii) Sell not more than four 750 ml bottles of wine to a consumer at any given event or festival for off–premises consumption; and

(iii) Sell by the glass wine produced by the licensee to persons participating in any event or festival and for on–premises consumption.

(5) The winery special event permit application shall be filed with the Office of the Comptroller not less than 15 days prior to any event.

(6) A Class 4 Maryland limited winery in Calvert County may be issued a winery special event permit for unlimited use for one night each week from June through November at the North Beach Friday Night Farmers' Market.

(7) (i) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued not more than 12 winery special event permits for use at farmers' markets in Prince George's County that are listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

(ii) If a winery special event permit is issued under this paragraph:

1. The holder of the permit may not sell wine by the glass; and

2. The farmers' market administrator or the administrator's designee and the holder of the permit or the holder's designee shall be:

A. Certified by an alcohol awareness program approved by the Comptroller; and

B. Present during the hours when wine may be sold.

(8) (i) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued not more than 12 winery special event permits for use at farmers' markets in Montgomery County that are listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

(ii) If a winery special event permit is issued under this paragraph:

1. The holder of the permit may not sell wine by the glass; and

2. The farmers' market administrator or the administrator's designee and the holder of the permit or the holder's designee shall be:

A. Certified by an alcohol awareness program approved by the Comptroller; and

B. Present during the hours when wine may be sold.

(9) (i) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued not more than 12 winery special event permits for use at farmers' markets in Frederick County that are listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

(ii) If a winery special event permit is issued under this paragraph:

1. The holder of the permit may not sell wine by the glass; and

2. The farmers' market administrator or the administrator's designee and the holder of the permit or the holder's designee shall be:

A. Certified by an alcohol awareness program approved by the Comptroller; and

B. Present during the hours when wine may be sold.

(10) (i) 1. In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection and subject to subparagraph 2 of this subparagraph, a Class 4 Maryland limited winery may be issued not more than 12 winery special event permits for use at farmers' markets in Baltimore County that are listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

2. A Class 4 Maryland limited winery may use not more than six winery special event permits at the same farmers' market in Baltimore County in a year.

(ii) If a winery special event permit is issued under this paragraph:

1. The holder of the permit may not sell wine by the glass; and

2. The farmers' market administrator or the administrator's designee and the holder of the permit or the holder's designee shall be:

A. Certified by an alcohol awareness program approved by the Comptroller; and

B. Present during the hours when wine may be sold.

(11) (i) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued not more than 12 winery special event permits for use at farmers' markets in Carroll County that are listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

(ii) If a winery special event permit is issued under this paragraph:

1. The holder of the permit may not sell wine by the glass; and

2. The farmers' market administrator or the administrator's designee and the holder of the permit or the holder's designee shall be:

A. Certified by an alcohol awareness program approved by the Comptroller; and

B. Present during the hours when wine may be sold.

(12) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued a winery special event permit for unlimited use for 1 day each week at a farmers' market in St. Mary's County that is listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

(13) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued a winery special event permit for unlimited use for 1 day each week at a farmers' market in Dorchester County that is listed on the Farmers' Market Directory of the Maryland Department of Agriculture.

(14) In addition to the winery special event permits that may be issued under paragraph (1)(i) and (iii) of this subsection, a Class 4 Maryland limited winery may be issued a winery special event permit for unlimited use for 1 day each week at a

farmers' market in Charles County that is listed on the Farmers' Market Directory of the Maryland Department of Agriculture.]

[(v)] (U) (1) The Office of the Comptroller may issue a nonresident winery permit to a person that:

(i) Is licensed outside of the State to engage in the manufacture of wine;

(ii) Produces not more than 27,500 gallons of its own wine annually; and

(iii) Does not hold a nonresident dealer's permit.

(2) A holder of a nonresident winery permit may sell and deliver its own wine from a location outside of the State to a retail licensee or permit holder in the State authorized to acquire the wine.

(3) A nonresident winery permit holder shall comply with all of the requirements of this article, the Tax – General Article, and the regulations of the Office of the Comptroller that apply to a holder of a Class 6 limited wine wholesaler's license.

[(w)] (V) (1) Subject to paragraph (2) of this subsection, the Comptroller may issue a resident dealer's permit to:

(i) An importer of beer, wine, or distilled spirits produced outside the United States who purchases directly from the brand owner or from a sales agent of a brewer, distiller, rectifier, bottler, manufacturer, vintner, or winery, who is authorized by the brand owner to sell in the State, and who has provided proof of this sales agency relationship to the Comptroller; or

(ii) An American sales agent of an importer under subparagraph (i) of this paragraph, providing proof of that agency is presented to the Comptroller.

(2) To be issued a resident dealer's permit, an individual applicant, an applicant qualifying as a resident applicant for a corporation, or each applicant for a partnership shall have been a resident of the State for at least 2 years immediately before applying for the permit.

(3) A resident dealer's permit may not be issued to a person who:

(i) Holds a wholesaler or retailer license of any class issued under this article;

(ii) Has an interest in a wholesaler licensed under this article, other than a disclosed legal, equity, or security interest of a malt beverage wholesaler; or

(iii) Has an interest in a retailer licensed under this article.

(4) A resident dealer's permit authorizes the holder to sell alcoholic beverages to a wholesaler licensed under this article in the State or to a person outside of the State who the Comptroller authorizes to acquire the alcoholic beverages.

(5) A holder of a resident dealer's permit may not own or operate a warehouse in the State.

[(x) (1) In this subsection, "permit" means a farmer's market permit.

(2) There is a farmer's market permit.

(3) The Comptroller may issue the permit to a holder of a license:

(i) Other than a Class 4 limited winery license, that allows the holder to sell alcoholic beverages to the public for consumption off the licensed premises; and

(ii) That was issued by the local licensing board of the jurisdiction in which the farmer's market will be held.

(4) The holder of a permit shall notify the local licensing board of the jurisdiction in which the farmer's market will be held that the permit has been issued.

(5) (i) A permit may be used only:

1. At a farmer's market that is listed in the farmer's market directory of the Maryland Department of Agriculture;

2. At the farmer's market named in the permit; and

3. During the hours of operation of the farmer's market for which it is obtained.

(ii) The Comptroller may issue not more than one permit for use at each farmer's market.

(6) A permit authorizes the holder to:

(i) Occupy stall space at a farmer's market; and

(ii) Subject to paragraph (7) of this subsection:

1. Offer and sell sealed containers of wine to consumers for consumption off the licensed premises of the farmer's market; and

2. Provide at no charge samples of wine not to exceed 1 fluid ounce per brand to consumers for consumption on the licensed premises of the farmer's market.

(7) All wine offered for sale or samplings by the permit holder shall be the product of a Class 4 limited winery.]

[(y)] (W) (1) The Office of the Comptroller may issue a common carrier permit to a person who meets the definition of a "common carrier" under § 7.5-101 of this article.

(2) The holder of a common carrier permit may deliver wine from a location inside or outside the State to a consumer in the State for the consumer's personal use under Title 7.5 of this article.

(3) The holder of a common carrier permit that delivers wine solely under Title 7.5 of this article may not be required to obtain a transportation permit issued under subsection (g) of this section in addition to the common carrier permit.

2-102.

(A) THERE IS A WINERY OFF-SITE PERMIT.

(B) THE OFFICE OF THE COMPTROLLER MAY ISSUE THE PERMIT TO A CLASS 4 LIMITED WINERY THAT MEETS THE REQUIREMENTS OF THIS SECTION.

(C) DURING AN EVENT LISTED IN SUBSECTION (E) OF THIS SECTION, THE PERMIT HOLDER MAY:

(1) PROVIDE TO A CONSUMER A SAMPLE THAT HAS BEEN PRODUCED BY THE PERMIT HOLDER AND THAT MAY NOT EXCEED 1 FLUID OUNCE FOR EACH BRAND;

(2) SELL TO A CONSUMER WINE ~~IN SEALED CONTAINERS~~ THAT HAS BEEN PRODUCED BY THE PERMIT HOLDER FOR OFF-PREMISES CONSUMPTION; AND

(3) EXCEPT FOR FARMERS' MARKETS LISTED IN SUBSECTION (E) OF THIS SECTION, SELL TO A CONSUMER WINE ~~BY THE GLASS~~ THAT IS PRODUCED BY THE PERMIT HOLDER FOR ~~ON-PREMISES~~ ON- AND OFF-PREMISES CONSUMPTION.

(D) WHILE SELLING WINE OR PROVIDING SAMPLES AT ~~AN EVENT LISTED~~ A FARMERS' MARKET AS PROVIDED IN SUBSECTION ~~(E)~~ (E)(4) OF THIS SECTION, A PERMIT HOLDER SHALL HAVE AN AGENT PRESENT WHO IS CERTIFIED BY AN APPROVED ALCOHOL AWARENESS PROGRAM.

(E) THE WINERY OFFSITE PERMIT MAY BE USED ONLY:

(1) DURING THE MONTGOMERY COUNTY AGRICULTURAL FAIR;

(2) 1 NIGHT EACH WEEK FROM JUNE THROUGH NOVEMBER AT THE NORTH BEACH FRIDAY NIGHT FARMERS' MARKET;

(3) AT AN EVENT THAT HAS AS ITS MAJOR PURPOSE AN ACTIVITY:

(I) THAT IS OTHER THAN THE SALE AND PROMOTION OF ALCOHOLIC BEVERAGES; AND

(II) FOR WHICH THE PARTICIPATION OF A WINERY IS A SUBORDINATE ACTIVITY;

(4) AT FARMERS' MARKETS THAT ARE:

~~(I) LISTED~~ LISTED ON THE FARMERS' MARKET DIRECTORY OF THE MARYLAND DEPARTMENT OF AGRICULTURE; ~~AND~~

~~(II) LOCATED IN BALTIMORE COUNTY, CARROLL COUNTY, FREDERICK COUNTY, MONTGOMERY COUNTY, OR PRINCE GEORGE'S COUNTY;~~
AND

(5) AT A WINE FESTIVAL THAT:

(I) HAS AS ITS PRIMARY PURPOSE THE PROMOTION OF MARYLAND WINE; AND

(II) IS AUTHORIZED BY THE OFFICE OF THE COMPTROLLER UNDER § 2-103 OF THIS SUBTITLE.

(F) THE TERM OF A WINERY OFF-SITE PERMIT IS 1 YEAR.

(G) AN APPLICANT SHALL:

(1) SUBMIT TO THE OFFICE OF THE COMPTROLLER A COMPLETED APPLICATION ON A FORM THAT THE OFFICE OF THE COMPTROLLER PROVIDES; AND

(2) PAY A FEE OF \$100 FOR THE WINERY OFF-SITE PERMIT.

(H) (1) NO LATER THAN THE 20TH DAY OF THE MONTH PRECEDING THE OFF-SITE EVENT, THE PERMIT HOLDER SHALL NOTIFY THE OFFICE OF THE COMPTROLLER OF ITS INTENTION TO ATTEND AN OFF-SITE EVENT.

(2) THE NOTICE SHALL BE ON A FORM THAT THE OFFICE OF THE COMPTROLLER PROVIDES.

(I) THE COMPTROLLER MAY ADOPT REGULATIONS TO REQUIRE THE PERMIT HOLDER TO NOTIFY THE BOARD OF LICENSE COMMISSIONERS IN THE COUNTY WHERE THE EVENT IS BEING HELD OF ITS INTENTION TO ATTEND AN OFF-SITE EVENT.

2-103.

(A) THERE IS A WINE FESTIVAL PERMIT.

(B) (1) AN APPLICANT FOR A WINE FESTIVAL PERMIT ~~MAY ONLY~~ SHALL BE A NONPROFIT ORGANIZATION, AS DEFINED BY § 501(C) OF THE INTERNAL REVENUE CODE.

(2) THE OFFICE OF THE COMPTROLLER MAY ISSUE THE PERMIT TO A NONPROFIT ORGANIZATION THAT MEETS THE REQUIREMENTS OF THIS SECTION.

(3) A PERMIT AUTHORIZES THE PERMIT HOLDER TO CONDUCT A WINE FESTIVAL FOR AT LEAST 1 DAY AND NOT MORE THAN 3 CONSECUTIVE DAYS.

(C) (1) THE PERMIT HOLDER MAY PURCHASE WINE AT WHOLESALE TO:

(I) PROVIDE TO A CONSUMER A SAMPLE THAT MAY NOT EXCEED 1 FLUID OUNCE FOR EACH BRAND; AND

(II) SELL TO A CONSUMER WINE ~~IN A SEALED CONTAINER~~ FOR ON- AND OFF-PREMISES CONSUMPTION; ~~AND~~

~~(III) SELL TO A CONSUMER WINE IN AN OPEN CONTAINER OR BY THE GLASS FOR ON-PREMISES CONSUMPTION.~~

(2) THE PERMIT HOLDER SHALL PROVIDE SPACE AT A WINE FESTIVAL FOR HOLDERS OF WINERY OFF-SITE PERMITS.

(3) A HOLDER OF A WINERY OFF-SITE PERMIT THAT ATTENDS A WINE FESTIVAL MAY PROVIDE WINE TO A CONSUMER IN THE SAME MANNER AS THE HOLDER OF THE WINE FESTIVAL PERMIT.

(4) THE PERMIT HOLDER MAY PROVIDE OR SELL AT THE WINE FESTIVAL ONLY ALCOHOLIC BEVERAGES PROVIDED BY THE PERMIT HOLDER OR A HOLDER OF A WINERY OFF-SITE PERMIT THAT IS IN ATTENDANCE.

(D) ~~(1)~~ AT ALL TIMES DURING THE WINE FESTIVAL, THE PERMIT HOLDER SHALL HAVE PRESENT AT LEAST TWO AGENTS, ONE OF WHOM MAY BE THE PERMIT HOLDER, WHO ARE CERTIFIED BY AN APPROVED ALCOHOL AWARENESS PROGRAM.

~~(2) A HOLDER OF A WINERY OFF-SITE PERMIT THAT ATTENDS A WINE FESTIVAL SHALL HAVE PRESENT AN ADDITIONAL AGENT WHO IS CERTIFIED BY AN APPROVED ALCOHOL AWARENESS PROGRAM AS REQUIRED UNDER § 2-102(D) OF THIS SUBTITLE.~~

(E) AN APPLICANT FOR A WINE FESTIVAL PERMIT SHALL:

(1) NO LESS THAN 30 DAYS BEFORE THE PROPOSED EVENT, SUBMIT TO THE OFFICE OF THE COMPTROLLER A COMPLETED APPLICATION ON A FORM THAT THE OFFICE OF THE COMPTROLLER PROVIDES THAT:

(I) STATES THAT THE PRIMARY PURPOSE OF THE WINE FESTIVAL IS TO PROMOTE MARYLAND WINE;

(II) PROVIDES DETAILS OF THE WINE FESTIVAL, INCLUDING THE LOCATION, DATES, AND TIMES OF OPERATION; AND

(III) INCLUDES APPROPRIATE EVIDENCE THAT THE OWNER OF THE PROPERTY IN WHICH THE WINE FESTIVAL MAY BE HELD HAS GIVEN PERMISSION TO THE APPLICANT TO HAVE THE WINE FESTIVAL ON ITS PREMISES; AND

(2) PAY A FEE OF \$100 FOR THE WINE FESTIVAL PERMIT.

(F) NO LESS THAN 15 DAYS BEFORE THE WINE FESTIVAL, THE PERMIT HOLDER SHALL PROVIDE THE OFFICE OF THE COMPTROLLER WITH A LIST OF WINERY OFF-SITE PERMIT HOLDERS THAT WILL ATTEND.

2-104.

EACH CALENDAR YEAR, ATTENDANCE AT AN EVENT DESCRIBED IN § 2-102(E)(3) OF THIS TITLE AND AT A WINE FESTIVAL DESCRIBED IN § 2-103 OF THIS TITLE BY A HOLDER OF A WINERY OFF-SITE PERMIT SHALL BE LIMITED TO ATTENDANCE AT NO MORE THAN:

- (1) 21 EVENTS STATEWIDE; AND**
- (2) NINE EVENTS AT ANY SINGLE VENUE.**

7.5-101.

(b) (1) “Common carrier” means a business entity that:

(i) Holds itself out as being available to the public to transport in interstate or foreign commerce for compensation any class of passenger or property; and

(ii) Holds a common carrier permit issued under § [2-101(y)] **2-101(w)** of this article.

(2) “Common carrier” does not include a business entity that transports only property it owns or that is consigned to it.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 397

(House Bill 986)

AN ACT concerning

State Board of Pharmacy – Sterile Compounding – Permits

FOR the purpose of requiring a sterile compounding facility to hold a sterile compounding permit issued by the State Board of Pharmacy before the sterile

compounding facility may perform sterile compounding in the State; providing that a sterile compounding permit is required in addition to and does not replace certain other permits or licenses; requiring a sterile compounding facility that performs sterile compounding outside the State to hold a sterile compounding permit issued by the Board under certain circumstances; requiring a separate sterile compounding permit for each site at which sterile compounding is performed; prohibiting the transfer of a sterile compounding permit; providing that a person that prepares and distributes sterile drug products into or within the State is not required to hold a sterile compounding permit but must hold certain other permits; authorizing the Board to waive certain requirements in accordance with regulations adopted by the Board; establishing the requirements that must be met for a waiver to be issued; requiring the Board to post certain waivers on its Web site; requiring the Board to include certain information for each waiver posted on its Web site; providing for the duration, renewal, and rescission of a waiver; requiring an applicant for a sterile compounding permit to satisfy the Board that the applicant will perform sterile compounding in accordance with certain requirements; requiring the Board, by regulation, to establish permit requirements ~~in certain tiered permit categories and to require an applicant to obtain a permit in a certain category~~ based on risk; establishing certain application requirements for a sterile compounding permit; prohibiting the Board from issuing a sterile compounding permit unless the Board or its designee conducts an inspection and finds that the sterile compounding facility meets certain requirements; requiring the Board to issue a sterile compounding permit to any applicant that meets certain requirements; providing for the expiration and renewal of a sterile compounding permit; requiring the Board to adopt regulations to carry out certain provisions of this Act; requiring the regulations to require or include certain provisions; establishing inspection and reporting requirements for sterile compounding applicants and permit holders; authorizing the Board to take certain disciplinary actions and impose certain fines for certain violations; providing that each violation is grounds for a separate fine; requiring the Board to pay certain fines into the State Board of Pharmacy Fund; providing for a certain hearing and a certain appeal; requiring the Board to report on its Web site and make available to the public on request certain information relating to certain actions of the Board; prohibiting, with a certain exception, a sterile compounding facility from operating in the State or allowing the sterile compounded preparations of the sterile compounding facility to be dispensed in the State unless the sterile compounding facility holds a sterile compounding permit issued by the Board; prohibiting, with a certain exception, a person from distributing sterile drug products in the State unless the sterile drug products are produced in a facility that holds a certain permit; requiring the Board to maintain and submit to the Secretary with a certain frequency certain information relating to sterile compounding permit holders; requiring a wholesale distributor applicant or permit holder that prepares sterile drug products to submit to the Board, at certain times, a report of a certain inspection; establishing certain criminal penalties and a certain civil fine for certain violations; authorizing the Board to phase in the requirements of certain

provisions of this Act, with full implementation on or before a certain date; requiring the Board to report to the Governor and the General Assembly on the implementation of certain provisions of this Act; defining certain terms; repealing a certain obsolete provision of law; and generally relating to sterile compounding permits and the State Board of Pharmacy.

BY adding to

Article – Health Occupations

Section 12-4A-01 through 12-4A-11 to be under the new subtitle “Subtitle 4A. Sterile Compounding Permits”; and 12-6C-03.2

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 12-707

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

SUBTITLE 4A. STERILE COMPOUNDING PERMITS.

12-4A-01.

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

(B) ~~(1)~~ “COMPOUNDING” MEANS THE PREPARATION, MIXING, ASSEMBLING, PACKAGING, OR LABELING OF A DRUG ~~OR DEVICE~~ ONLY:

~~(1)~~ (1) AS THE RESULT OF A PRACTITIONER’S PRESCRIPTION DRUG ORDER OR INITIATIVE BASED ON THE PRACTITIONER/PATIENT/~~PHARMACIST~~ RELATIONSHIP IN THE COURSE OF PROFESSIONAL PRACTICE; ~~OR~~

~~(2)~~ (2) FOR THE PURPOSE OF, OR INCIDENTAL TO, RESEARCH, TEACHING, OR CHEMICAL ANALYSIS AND NOT FOR THE SALE OR DISPENSING OF THE DRUG OR DEVICE; ~~OR~~

~~(3)~~ (3) “COMPOUNDING” ~~INCLUDES THE PREPARATION OF DRUGS OR DEVICES IN~~ IN ANTICIPATION OF A PRESCRIPTION DRUG ORDER BASED ON ROUTINE, REGULARLY OBSERVED PRESCRIBING PATTERNS.

(C) **“DESIGNEE” MEANS A PUBLIC AGENCY OR PRIVATE ENTITY APPROVED BY THE BOARD TO CONDUCT INSPECTIONS OF STERILE COMPOUNDING ~~APPLICANTS OR PERMIT HOLDERS LOCATED OUTSIDE THE STATE~~ FACILITIES OR ENTITIES THAT PREPARE STERILE DRUG PRODUCTS.**

(D) **“STERILE COMPOUNDING” MEANS COMPOUNDING OF BIOLOGICS, DIAGNOSTICS, DRUGS, NUTRIENTS, AND RADIOPHARMACEUTICALS THAT, UNDER USP 797, MUST BE ~~STERILE WHEN ADMINISTERED TO PATIENTS~~ PREPARED USING ASEPTIC TECHNIQUES.**

(E) **“STERILE COMPOUNDING FACILITY” MEANS A PHARMACY, A HEALTH CARE PRACTITIONER’S OFFICE, OR ANY OTHER SETTING IN WHICH STERILE ~~PREPARATIONS ARE COMPOUNDED~~ COMPOUNDING IS PERFORMED.**

(F) **“STERILE DRUG PRODUCT” MEANS A DRUG PRODUCT THAT:**

(1) **MUST BE PREPARED USING ASEPTIC TECHNIQUES; AND**

(2) **IS NOT REQUIRED TO BE PREPARED IN RESPONSE TO A PATIENT SPECIFIC PRESCRIPTION.**

~~(F)~~ (G) **“USP 797” MEANS THE STANDARDS SET FORTH IN THE UNITED STATES PHARMACOPEIA, GENERAL CHAPTER 797, “PHARMACEUTICAL COMPOUNDING – STERILE PREPARATIONS”.**

12-4A-02.

(A) **A STERILE COMPOUNDING FACILITY SHALL HOLD A STERILE COMPOUNDING PERMIT ISSUED BY THE BOARD BEFORE THE STERILE COMPOUNDING FACILITY MAY PERFORM STERILE COMPOUNDING IN THE STATE.**

(B) **A STERILE COMPOUNDING PERMIT IS REQUIRED IN ADDITION TO AND DOES NOT REPLACE ANY OTHER PERMIT OR LICENSE A STERILE COMPOUNDING FACILITY HOLDS.**

(C) **A STERILE COMPOUNDING FACILITY THAT PERFORMS STERILE COMPOUNDING OUTSIDE THE STATE SHALL HOLD A STERILE COMPOUNDING PERMIT ISSUED BY THE BOARD BEFORE THE STERILE COMPOUNDED PREPARATIONS OF THE STERILE COMPOUNDING FACILITY ARE DISPENSED IN THE STATE.**

(D) A SEPARATE STERILE COMPOUNDING PERMIT IS REQUIRED FOR EACH SITE AT WHICH STERILE COMPOUNDING IS PERFORMED.

(E) A STERILE COMPOUNDING PERMIT IS NOT TRANSFERABLE.

(F) A PERSON THAT PREPARES AND DISTRIBUTES STERILE DRUG PRODUCTS INTO OR WITHIN THE STATE:

(1) IS NOT REQUIRED TO HOLD A STERILE COMPOUNDING PERMIT UNDER SUBSECTION (A) OR (C) OF THIS SECTION; AND

(2) SHALL HOLD:

(I) A MANUFACTURER'S PERMIT OR OTHER PERMIT DESIGNATED BY THE U.S. FOOD AND DRUG ADMINISTRATION TO ENSURE THE SAFETY OF STERILE DRUG PRODUCTS; AND

(II) A WHOLESALE DISTRIBUTOR'S PERMIT ISSUED BY THE BOARD UNDER SUBTITLE 6C OF THIS TITLE.

(G) (1) THE BOARD MAY WAIVE ANY REQUIREMENTS OF THIS SUBTITLE, INCLUDING THE REQUIREMENTS OF SUBSECTION (F) OF THIS SECTION, IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD.

(2) A WAIVER MAY BE ISSUED TO A STERILE COMPOUNDING FACILITY OR A PERSON DESCRIBED IN SUBSECTION (F) OF THIS SECTION ONLY:

(I) FOR SPECIFIED STERILE COMPOUNDED PREPARATIONS OR STERILE DRUG PRODUCTS FOR WHICH THERE IS A CLINICAL NEED, AS DETERMINED BY THE BOARD WITH INPUT FROM HEALTH CARE PROVIDERS IN THE STATE;

(II) IN EXIGENT CIRCUMSTANCES THAT, AS DETERMINED BY THE BOARD, OTHERWISE PREVENT HEALTH CARE PROVIDERS FROM OBTAINING, IN THE SIZE AND STRENGTH NEEDED, THE SPECIFIED STERILE COMPOUNDED PREPARATIONS OR STERILE DRUG PRODUCTS UNDER ITEM (I) OF THIS PARAGRAPH; AND

(III) IF THE STERILE COMPOUNDING FACILITY OR PERSON DESCRIBED IN SUBSECTION (F) OF THIS SECTION MEETS REQUIREMENTS ESTABLISHED BY THE BOARD, INCLUDING:

1. PROVISION OF:

A. REPORTS OF INSPECTIONS CONDUCTED BY A DESIGNEE OR THE U.S. FOOD AND DRUG ADMINISTRATION;

B. A STATEMENT OF COMPLIANCE WITH USP 797;
AND

C. A REVIEW OF ADVERSE REGULATORY ACTION;
AND

2. ANY OTHER REQUIREMENT AS DETERMINED BY THE BOARD.

(3) (I) THE BOARD SHALL POST ON ITS WEB SITE ANY WAIVER ISSUED UNDER THIS SUBSECTION.

(II) FOR EACH WAIVER POSTED ON ITS WEB SITE, THE BOARD SHALL INCLUDE:

1. THE NAME OF THE STERILE COMPOUNDING FACILITY OR OTHER PERSON RECEIVING THE WAIVER;

2. THE STERILE COMPOUNDED PREPARATION OR STERILE DRUG PRODUCT FOR WHICH THE WAIVER IS ISSUED;

3. THE BASIS FOR ISSUING THE WAIVER;

4. THE DURATION OF THE WAIVER; AND

5. ANY OTHER INFORMATION RELATING TO THE WAIVER OR LIMITATIONS ON THE WAIVER DETERMINED APPROPRIATE BY THE BOARD.

(4) ANY WAIVER ISSUED BY THE BOARD:

(I) MAY NOT EXCEED 2 YEARS IN DURATION;

(II) MAY BE RENEWED BY THE BOARD; AND

(III) MAY BE RESCINDED BY THE BOARD IF THE BOARD FINDS THAT ANY REQUIREMENTS OF THIS SUBTITLE ARE NOT MET.

(5) (I) THE BOARD SHALL INCLUDE IN THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION REQUIREMENTS FOR DOCUMENTING, IN A RECORD ACCEPTABLE TO THE BOARD, THE

ADMINISTRATION TO A PATIENT OF A STERILE COMPOUNDED PREPARATION OR STERILE DRUG PRODUCT OBTAINED UNDER A WAIVER ISSUED UNDER THIS SUBSECTION.

(II) THE REQUIREMENTS SHALL INCLUDE:

1. DOCUMENTATION OF THE LOT NUMBER OR OTHER MECHANISM FOR IDENTIFYING THE STERILE COMPOUNDED PREPARATION OR STERILE DRUG PRODUCT FOR THE PURPOSE OF TRACING THE STERILE COMPOUNDED PREPARATION OR STERILE DRUG PRODUCT BACK TO THE STERILE COMPOUNDING FACILITY OR OTHER PERSON THAT PREPARED IT; OR

2. IF DOCUMENTATION OF THE LOT NUMBER OR OTHER IDENTIFICATION MECHANISM IS NOT FEASIBLE, DOCUMENTATION OF THE SOURCE OF THE STERILE COMPOUNDED PREPARATION OR STERILE DRUG PRODUCT FOR THE PURPOSE OF TRACKING THE STERILE COMPOUNDED PREPARATION OR STERILE DRUG PRODUCT BACK TO THE STERILE COMPOUNDING FACILITY OR OTHER PERSON THAT PREPARED IT.

12-4A-03.

(A) TO QUALIFY FOR A STERILE COMPOUNDING PERMIT, AN APPLICANT SHALL SATISFY THE BOARD THAT THE APPLICANT WILL PERFORM STERILE COMPOUNDING IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBTITLE.

(B) THE BOARD SHALL:

~~(1) ESTABLISH PERMIT REQUIREMENTS FOR APPLICANTS IN THREE TIERED PERMIT CATEGORIES, BASED ON THE RISK CATEGORIES DESCRIBED IN USP 797;~~

~~(i) LOW RISK;~~

~~(ii) MEDIUM RISK; AND~~

~~(iii) HIGH RISK; AND~~

~~(2) REQUIRE AN APPLICANT TO OBTAIN A PERMIT IN THE CATEGORY APPROPRIATE TO THE HIGHEST RISK OF STERILE COMPOUNDING PERFORMED BY THE STERILE COMPOUNDING FACILITY~~ ESTABLISH, BY REGULATION, REQUIREMENTS FOR APPLICANTS BASED ON RISK.

12-4A-04.

(A) TO APPLY FOR A STERILE COMPOUNDING PERMIT, AN APPLICANT SHALL:

(1) PAY TO THE BOARD AN APPLICATION FEE SET BY THE BOARD;
AND

(2) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT THE BOARD REQUIRES.

(B) THE BOARD MAY NOT ISSUE A STERILE COMPOUNDING PERMIT TO AN APPLICANT UNLESS THE BOARD OR ITS DESIGNEE:

(1) CONDUCTS AN INSPECTION OF THE STERILE COMPOUNDING FACILITY APPLYING FOR THE PERMIT; AND

(2) FINDS THAT THE STERILE COMPOUNDING FACILITY MEETS THE BOARD'S REQUIREMENTS.

(C) THE BOARD SHALL ISSUE A STERILE COMPOUNDING PERMIT TO ANY APPLICANT THAT MEETS THE REQUIREMENTS OF THIS SECTION.

12-4A-05.

(A) A STERILE COMPOUNDING PERMIT EXPIRES ON ~~THE SECOND ANNIVERSARY~~ MAY 31 OF THE NEXT EVEN-NUMBERED YEAR AFTER ITS EFFECTIVE DATE, UNLESS THE STERILE COMPOUNDING PERMIT IS RENEWED FOR ~~AN ADDITIONAL~~ A 2-YEAR TERM AS PROVIDED IN THIS SECTION.

(B) BEFORE A STERILE COMPOUNDING PERMIT EXPIRES, THE STERILE COMPOUNDING PERMIT MAY BE RENEWED FOR AN ADDITIONAL 2-YEAR TERM IF THE APPLICANT:

(1) OTHERWISE IS ENTITLED TO THE PERMIT;

(2) PAYS TO THE BOARD THE RENEWAL FEE SET BY THE BOARD IN REGULATION; AND

(3) SUBMITS TO THE BOARD:

~~(4)~~ A RENEWAL APPLICATION ON THE FORM THE BOARD REQUIRES;~~AND~~

~~(H) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY REQUIREMENT UNDER THIS SUBTITLE FOR RENEWAL OF THE PERMIT.~~

(C) THE BOARD SHALL RENEW A PERMIT IF THE APPLICANT MEETS THE REQUIREMENTS OF THIS SECTION.

12-4A-06.

(A) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) THE REGULATIONS SHALL:

(1) REQUIRE COMPLIANCE WITH USP 797;

(2) REQUIRE EACH STERILE COMPOUNDED PREPARATION TO BE DISPENSED OR ADMINISTERED IN ACCORDANCE WITH A PRESCRIPTION FROM AN AUTHORIZED PRESCRIBER;

(3) INCLUDE, ~~FOR EACH STERILE COMPOUNDING PERMIT CATEGORY:~~

(I) IN ACCORDANCE WITH §§ 12-4A-07 AND 12-4A-08 OF THIS SUBTITLE, REQUIREMENTS FOR:

1. INSPECTIONS;

2. REPORTING OF ADVERSE EVENTS AND EVIDENCE OF ENVIRONMENTAL CONTAMINATION; AND

3. REPORTING OF DEFICIENCIES, DISCIPLINARY ACTION, OR CHANGES IN ACCREDITATION STATUS;

(II) QUALITY AND SAFETY STANDARDS; AND

(III) INITIAL PERMIT AND PERMIT RENEWAL FEES; AND

(4) REQUIRE A STERILE COMPOUNDING PERMIT HOLDER TO ENSURE THAT PERSONNEL ENGAGING IN STERILE COMPOUNDING ARE TRAINED AND DEMONSTRATE COMPETENCE IN THE SAFE HANDLING AND COMPOUNDING OF STERILE PREPARATIONS.

12-4A-07.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE BOARD:

(1) SHALL INSPECT A STERILE COMPOUNDING PERMIT HOLDER:

~~(I) IN A HIGH RISK OR MEDIUM RISK CATEGORY, AT LEAST ANNUALLY; AND~~

~~(II) IN A LOW RISK CATEGORY, AT INTERVALS REQUIRED WITH A FREQUENCY BASED ON RISK AS SET FORTH IN REGULATIONS ADOPTED BY THE BOARD;~~

(2) SHALL INCLUDE, IN ALL INSPECTIONS UNDER ~~PARAGRAPH ITEM (1) OF THIS SUBSECTION, MICROBIAL~~ A REVIEW IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD, OF:

(I) QUALITY ASSURANCE TESTING REPORTS; AND

(II) MICROBIAL TESTING OF A SAMPLING OF THE COMPOUNDED PREPARATIONS OF THE STERILE COMPOUNDING PERMIT HOLDER; AND

(3) MAY INSPECT A STERILE COMPOUNDING PERMIT HOLDER AT ANY TIME:

(I) TO VERIFY COMPLIANCE WITH PERMIT REQUIREMENTS;
OR

(II) TO INVESTIGATE A COMPLAINT.

(B) (1) IF AN APPLICANT OR PERMIT HOLDER IS PERFORMING STERILE COMPOUNDING OUTSIDE THE STATE, THE BOARD MAY RELY ON AN INSPECTION CONDUCTED BY A DESIGNEE TO CONDUCT INSPECTIONS UNDER THIS SUBTITLE.

(2) THE BOARD MAY APPROVE A DESIGNEE TO CONDUCT INSPECTIONS OF APPLICANTS OR PERMIT HOLDERS OUTSIDE THE STATE ONLY IF THE INSPECTIONS ARE CONDUCTED IN ACCORDANCE WITH THIS SUBTITLE AND THE REGULATIONS ADOPTED BY THE BOARD.

(3) AN APPLICANT OR PERMIT HOLDER OUTSIDE THE STATE IS RESPONSIBLE FOR OBTAINING AN INSPECTION FROM A DESIGNEE TO MEET THE REQUIREMENTS OF THIS SUBTITLE.

(A) THE BOARD SHALL:

(1) DETERMINE THE ADVERSE EVENTS AND EVIDENCE OF ENVIRONMENTAL CONTAMINATION THAT MUST BE REPORTED BY A STERILE COMPOUNDING PERMIT HOLDER; AND

(2) REQUIRE A STERILE COMPOUNDING PERMIT HOLDER TO REPORT TO THE BOARD THE ADVERSE EVENTS OR EVIDENCE OF ENVIRONMENTAL CONTAMINATION WITHIN 5 CALENDAR DAYS AFTER BECOMING AWARE OF THE ADVERSE EVENTS OR EVIDENCE.

(B) (1) THE BOARD SHALL:

(I) DETERMINE THE DEFICIENCIES, DISCIPLINARY ACTIONS, AND CHANGES IN ACCREDITATION STATUS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION THAT MUST BE REPORTED BY A STERILE COMPOUNDING PERMIT HOLDER; AND

(II) REQUIRE A STERILE COMPOUNDING PERMIT HOLDER TO REPORT TO THE BOARD THE DEFICIENCIES, DISCIPLINARY ACTIONS, AND CHANGES IN ACCREDITATION STATUS WITHIN 5 CALENDAR DAYS AFTER BECOMING AWARE OF THE DEFICIENCIES, DISCIPLINARY ACTIONS, OR CHANGES IN ACCREDITATION STATUS.

(2) THE BOARD MAY REQUIRE A STERILE COMPOUNDING PERMIT HOLDER TO REPORT UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) A DEFICIENCY NOTED DURING AN INSPECTION, DURING AN ACCREDITATION SITE VISIT, OR IN OFFICIAL CORRESPONDENCE FROM A STATE OR FEDERAL AGENCY, A PROFESSIONAL ASSOCIATION, OR AN ACCREDITATION ORGANIZATION;

(II) DISCIPLINARY ACTION BY A STATE OR FEDERAL AGENCY, INCLUDING A REVOCATION, SUSPENSION, PROBATION, CENSURE, REPRIMAND, OR RESTRICTION PLACED ON A LICENSE, A PERMIT, OR ANY OTHER AUTHORIZATION OF THE STERILE COMPOUNDING PERMIT HOLDER OR A HEALTH CARE PRACTITIONER WHO IS AN OWNER, OPERATOR, OR EMPLOYEE OF A STERILE COMPOUNDING PERMIT HOLDER; OR

(III) A CHANGE IN ACCREDITATION STATUS ISSUED BY A PROFESSIONAL ASSOCIATION OR AN ACCREDITATION ORGANIZATION RELATING TO THE STERILE COMPOUNDING PERMIT HOLDER.

12-4A-09.

(A) (1) SUBJECT TO THE HEARING PROVISIONS OF SUBSECTION (C) OF THIS SECTION, FOR A VIOLATION OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE, THE BOARD MAY:

- (I) DENY A PERMIT TO AN APPLICANT;**
- (II) REPRIMAND A PERMIT HOLDER;**
- (III) PLACE A PERMIT HOLDER ON PROBATION; OR**
- (IV) SUSPEND OR REVOKE A PERMIT.**

(2) INSTEAD OF OR IN ADDITION TO A REPRIMAND, PROBATION, SUSPENSION, OR REVOCATION, THE BOARD MAY IMPOSE A FINE NOT EXCEEDING \$10,000 FOR ANY VIOLATION OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE.

(3) EACH VIOLATION OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE IS GROUNDS FOR A SEPARATE FINE.

(B) THE BOARD SHALL PAY ANY FINE COLLECTED UNDER THIS SECTION INTO THE STATE BOARD OF PHARMACY FUND.

(C) (1) BEFORE THE BOARD TAKES ANY ACTION UNDER SUBSECTION (A) OF THIS SECTION, IT SHALL GIVE THE APPLICANT OR PERMIT HOLDER AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

(2) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

(3) ANY APPLICANT OR PERMIT HOLDER AGGRIEVED BY A FINAL DECISION OF THE BOARD MAY APPEAL AS PROVIDED UNDER THE ADMINISTRATIVE PROCEDURE ACT.

(D) THE BOARD SHALL REPORT ON ITS WEB SITE AND MAKE AVAILABLE TO THE PUBLIC ON REQUEST:

(1) WITHIN 5 CALENDAR DAYS AFTER TAKING THE ACTION, INFORMATION RELATING TO A SUSPENSION OR REVOCATION OF A PERMIT; AND

(2) WITHIN 30 CALENDAR DAYS AFTER TAKING THE ACTION, INFORMATION RELATING TO ANY OTHER FORMAL ACTION AGAINST AN APPLICANT OR PERMIT HOLDER.

12-4A-10.

(A) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A STERILE COMPOUNDING FACILITY MAY NOT OPERATE IN THE STATE OR ALLOW THE STERILE COMPOUNDED PREPARATIONS OF THE STERILE COMPOUNDING FACILITY TO BE DISPENSED IN THE STATE UNLESS THE STERILE COMPOUNDING FACILITY HOLDS A STERILE COMPOUNDING PERMIT ISSUED BY THE BOARD.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PERSON MAY NOT DISTRIBUTE STERILE DRUG PRODUCTS IN THE STATE UNLESS THE STERILE DRUG PRODUCTS ARE PRODUCED IN A FACILITY THAT HOLDS A MANUFACTURER'S PERMIT OR OTHER PERMIT DESIGNATED BY THE U.S. FOOD AND DRUG ADMINISTRATION TO ENSURE THE SAFETY OF STERILE DRUG PRODUCTS.

(C) A PERSON MAY DISPENSE OR DISTRIBUTE STERILE COMPOUNDED PREPARATIONS OR STERILE DRUG PRODUCTS IN THE STATE WITHOUT MEETING THE REQUIREMENTS OF SUBSECTION (A) OR (B) OF THIS SECTION ONLY IN ACCORDANCE WITH A WAIVER ISSUED BY THE BOARD UNDER § 12-4A-02 OF THIS SUBTITLE.

12-4A-11.

THE BOARD SHALL MAINTAIN AND SUBMIT ANNUALLY TO THE SECRETARY INFORMATION RELATING TO EACH STERILE COMPOUNDING PERMIT HOLDER, INCLUDING:

- (1) THE PERMIT HOLDER'S NAME AND ADDRESS;
- (2) THE PERMIT HOLDER'S PERMIT CATEGORY; AND
- (3) ANY DISCIPLINARY ACTIONS TAKEN AGAINST THE PERMIT HOLDER DURING THE REPORTING PERIOD.

12-6C-03.2.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A WHOLESALE DISTRIBUTOR APPLICANT OR PERMIT HOLDER THAT PREPARES STERILE DRUG PRODUCTS SHALL SUBMIT TO THE BOARD A REPORT OF AN

INSPECTION CONDUCTED BY THE U.S. FOOD AND DRUG ADMINISTRATION OR A BOARD DESIGNEE:

(1) AT THE TIME OF APPLICATION; AND

(2) ON RENEWAL.

(B) THE INSPECTION REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE:

(1) CONDUCTED WITHIN 1 YEAR BEFORE THE DATE OF APPLICATION OR RENEWAL; AND

(2) DEMONSTRATE COMPLIANCE WITH APPLICABLE FEDERAL GOOD MANUFACTURING PRACTICE STANDARDS OR USP 797, AS DEFINED IN § 12-4A-01 OF THIS TITLE.

(C) AN APPLICANT OR PERMIT HOLDER IS RESPONSIBLE FOR OBTAINING AN INSPECTION TO MEET THE REQUIREMENTS OF THIS SECTION.

12-707.

(a) A person who violates any provision of the following subtitles or sections of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000:

(1) § 12-311 (“Display of licenses”);

(2) Subtitle 4 (“Pharmacy permits”);

(3) § 12-502(b) (“Pharmaceutical information”);

(4) § 12-505 (“Labeling requirements for prescription medicines”); and

(5) § 12-604 (“General power to inspect drugs, devices, and other products”).

(b) A person who violates any provision of the following sections of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both:

[(1) § 12-602 (“Distribution permits”);]

(1) § 12-4A-10 (“OPERATING A STERILE COMPOUNDING FACILITY WITHOUT PERMIT”);

- (2) § 12-701 (“Practicing pharmacy without license”);
- (3) § 12-702 (“License obtained by false representation”);
- (4) § 12-703 (“Operating a pharmacy without permit”);
- (5) § 12-704 (“Misrepresentations”); and
- (6) § 12-6B-12 (“Working as an unregistered pharmacy technician”).

(c) Each day that a violation of any section of Subtitle 4 of this title continues constitutes a separate offense.

(d) Within 10 days after a court renders the conviction, the court shall report to the Board each conviction of a pharmacist or registered pharmacy technician for:

(1) Any crime regarding the pharmacy or drug laws that involves professional misconduct; or

(2) Any crime that involves the State law regarding controlled dangerous substances or the federal narcotic laws.

(e) (1) Any person who violates **§ 12-4A-10 (“OPERATING A STERILE COMPOUNDING FACILITY WITHOUT PERMIT”)**, § 12-701 (“Practicing pharmacy without a license”), § 12-703 (“Operating a pharmacy without a permit”), or § 12-6B-12 (“Working as an unregistered pharmacy technician”) of this title is subject to a civil fine of not more than \$50,000 to be assessed by the Board.

(2) The Board shall pay any penalty collected under this subsection into the State Board of Pharmacy Fund.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Pharmacy may phase in the requirements of Title 12, Subtitle 4A of the Health Occupations Article, as enacted by Section 1 of this Act, with full implementation to be completed on or before April 1, 2014.

SECTION 3. AND BE IT FURTHER ENACTED, That on or before January 1, 2014, the State Board of Pharmacy shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on the implementation of Title 12, Subtitle 4A of the Health Occupations Article, as enacted by Section 1 of this Act.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 398**(House Bill 1009)**

AN ACT concerning

Medical Spa Facilities – Licensing Requirements
Cosmetic Surgical Facilities – Regulation

FOR the purpose of ~~prohibiting a medical spa facility from operating in the State unless the medical spa facility holds a license issued by the Secretary of Health and Mental Hygiene; requiring the Secretary to set certain application and renewal fees; requiring the Secretary to issue a license to an applicant that meets certain requirements; prohibiting the transfer of a license; requiring a license to be displayed in a certain manner; requiring an applicant for a license to pay a certain application fee and submit an application to the Secretary on a certain form; requiring the application to include certain items; requiring the owner of a medical spa facility to submit an application and obtain a separate license for each medical spa facility to be operated; providing for the expiration and renewal of a license; requiring the Secretary to conduct a random inspection of each licensed medical spa facility with a certain frequency and for certain purposes; authorizing the Secretary to conduct certain inspections of a licensed medical spa facility for certain purposes; requiring a licensed medical spa facility to allow certain access; requiring the Secretary and a licensed medical spa facility to make the results of a certain inspection available to the public on request; requiring the Secretary to adopt regulations for certain purposes; authorizing the Secretary to deny a license and take certain actions relating to a license of a licensee under certain circumstances; requiring the Secretary to provide the opportunity for a hearing in accordance with the Administrative Procedure Act under certain circumstances; establishing certain penalties for violations of certain provisions of this Act or certain regulations; requiring the Secretary to adopt regulations that establish standards for the imposition of a certain penalty;~~ authorizing the Secretary of Health and Mental Hygiene to adopt certain regulations for cosmetic surgical facilities; authorizing the Secretary to investigate certain complaints relating to cosmetic surgical facilities; requiring certain complaints to be referred to certain health occupations boards; altering a certain definition; defining certain terms; and generally relating to licensing medical spa regulating cosmetic surgical facilities and the Secretary of Health and Mental Hygiene.

BY adding to

Article – Health – General

Section 19-3C-01 through ~~19-3C-09~~ 19-3C-03 to be under the new subtitle“Subtitle 3C. Medical Spa Cosmetic Surgical Facilities”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 14–101(d)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

Preamble

WHEREAS, Licensure of ambulatory surgical centers may exclude offices and facilities in which cosmetic surgical procedures are performed; and

WHEREAS, The authority of the Board of Physicians to discipline licensees who perform cosmetic surgical procedures excludes specified procedures and only responds to specific complaints; and

WHEREAS, The infections, subsequent hospitalizations, and, in the case of one individual, death among individuals who had undergone liposuction at a medical spa in the State exposed weaknesses in the State’s regulation of offices and facilities in which cosmetic surgical procedures are performed; now, therefore,

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

Article – Health – General

SUBTITLE 3C. ~~MEDICAL SPA~~ COSMETIC SURGICAL FACILITIES.

19–3C–01.

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

~~(B) (1) “COSMETIC MEDICAL PROCEDURE” MEANS A PROCEDURE USING A COSMETIC MEDICAL DEVICE OR MEDICAL PRODUCT TO IMPROVE AN INDIVIDUAL’S APPEARANCE.~~

~~(2) “COSMETIC MEDICAL PROCEDURE” INCLUDES:~~

~~(I) SKIN TREATMENTS USING LASERS;~~

~~(II) SKIN TREATMENTS USING INTENSE PULSED LIGHT;~~

~~(III) SKIN TREATMENTS USING RADIO FREQUENCIES, MICROWAVES, OR ELECTRIC PULSES;~~

~~(IV) DEEP SKIN PEELS;~~

~~(V) SKIN TREATMENTS WITH PHOTOTHERAPY;~~

~~(VI) MICRODERMABRASION;~~

~~(VII) SUBCUTANEOUS, INTRADERMAL, OR INTRAMUSCULAR INJECTIONS OF MEDICAL PRODUCTS;~~

~~(VIII) TREATMENTS INTENDED TO REMOVE OR CAUSE DESTRUCTION OF FAT; AND~~

~~(IX) ANY TREATMENT USING A COSMETIC MEDICAL DEVICE FOR THE PURPOSE OF IMPROVING AN INDIVIDUAL'S APPEARANCE.~~

(B) (1) “COSMETIC SURGICAL FACILITY” MEANS AN OFFICE OR A FACILITY IN WHICH A COSMETIC SURGICAL PROCEDURE IS PERFORMED.

(2) “COSMETIC SURGICAL FACILITY” DOES NOT INCLUDE:

(I) AN AMBULATORY SURGICAL FACILITY REGULATED UNDER SUBTITLE 3B OF THIS TITLE;

(II) A HOSPITAL REGULATED UNDER SUBTITLE 3 OF THIS TITLE; OR

(III) AN OFFICE OWNED OR OPERATED BY ONE OR MORE DENTISTS PROVIDING SERVICES WITHIN THE SCOPE OF PRACTICE OF DENTISTRY UNDER TITLE 4 OF THE HEALTH OCCUPATIONS ARTICLE.

(C) (1) “COSMETIC SURGICAL PROCEDURE” MEANS THE USE OF SURGICAL SERVICES TO RESHAPE THE STRUCTURE OF A HUMAN BODY TO CHANGE THE APPEARANCE OF AN INDIVIDUAL.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, “COSMETIC COSMETIC SURGICAL PROCEDURE” DOES NOT INCLUDE:

(I) A PROCEDURE DONE UNDER LOCAL ANESTHESIA OR MILD SEDATION; OR

(II) LIPOSUCTION THAT REMOVES LESS THAN 1,000 CUBIC CENTIMETERS OF ASPIRATE.

(3) "COSMETIC SURGICAL PROCEDURE" INCLUDES ANY PROCEDURE UNDER PARAGRAPH (2) OF THIS SUBSECTION THAT, UNDER THE CIRCUMSTANCES ESTABLISHED BY THE SECRETARY IN REGULATIONS ADOPTED UNDER § 19-3C-02(D) OF THIS SUBTITLE, IS A COSMETIC SURGICAL PROCEDURE.

~~(D) "MEDICAL SPA DIRECTOR" MEANS A LICENSED PHYSICIAN WHO DIRECTS OR SERVES AS THE MEDICAL ADVISOR FOR A MEDICAL SPA FACILITY.~~

~~(E) "MEDICAL SPA FACILITY" MEANS ANY ENTITY, HOWEVER ORGANIZED, IN WHICH A COSMETIC MEDICAL PROCEDURE OR A COSMETIC SURGICAL PROCEDURE IS PERFORMED.~~

~~19-3C-02.~~

~~THIS SUBTITLE DOES NOT APPLY TO:~~

~~(1) A HEALTH CARE FACILITY THAT HOLDS A LICENSE UNDER THIS TITLE;~~

~~(2) THE PRACTICE OF COSMETOLOGY OR ELECTROLOGY, WHETHER IN A SEPARATE FACILITY OR IN A MEDICAL SPA FACILITY; OR~~

~~(3) A CLINIC OR MEDICAL PRACTICE THAT PROVIDES COSMETIC MEDICAL PROCEDURES OR COSMETIC SURGICAL PROCEDURES AS PART OF OR INCIDENT TO ITS OTHER MEDICAL SERVICES, AS DETERMINED BY THE DEPARTMENT.~~

~~19-3C-03.~~

~~(A) A MEDICAL SPA FACILITY MAY NOT OPERATE IN THE STATE UNLESS THE MEDICAL SPA FACILITY HOLDS A LICENSE ISSUED BY THE SECRETARY.~~

~~(B) THE SECRETARY SHALL SET REASONABLE APPLICATION AND RENEWAL FEES NOT TO EXCEED THE ADMINISTRATIVE COSTS OF LICENSING AND INSPECTION.~~

~~(C) THE SECRETARY SHALL ISSUE A LICENSE TO AN APPLICANT THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE AND ALL APPLICABLE REGULATIONS ADOPTED BY THE SECRETARY.~~

~~(D) A LICENSE ISSUED UNDER THIS SUBTITLE IS NOT TRANSFERABLE.~~

~~(E) A MEDICAL SPA FACILITY LICENSE SHALL BE DISPLAYED CONSPICUOUSLY IN THE PLACE OF BUSINESS FOR WHICH THE LICENSE IS ISSUED.~~

~~19-3C-04.~~

~~(A) AN APPLICANT FOR A MEDICAL SPA FACILITY LICENSE SHALL:~~

~~(1) PAY TO THE SECRETARY AN APPLICATION FEE SET BY THE SECRETARY; AND~~

~~(2) SUBMIT AN APPLICATION TO THE SECRETARY ON THE FORM THAT THE SECRETARY REQUIRES.~~

~~(B) THE APPLICATION SHALL INCLUDE:~~

~~(1) THE NAME, FULL BUSINESS ADDRESS, AND TELEPHONE NUMBER OF THE APPLICANT;~~

~~(2) ALL TRADE OR BUSINESS NAMES USED BY THE APPLICANT;~~

~~(3) THE TYPE OF BUSINESS FORM UNDER WHICH THE APPLICANT OPERATES, SUCH AS PARTNERSHIP, CORPORATION, OR SOLE PROPRIETORSHIP;~~

~~(4) THE NAME OF EACH OWNER OF THE APPLICANT;~~

~~(5) THE NAME AND PHYSICIAN LICENSE NUMBER OF THE MEDICAL SPA DIRECTOR;~~

~~(6) THE NAMES AND PHYSICIAN LICENSE NUMBERS OF ALL SUPERVISING PHYSICIANS;~~

~~(7) A LIST OF ALL MEDICAL DEVICES TO BE USED AT THE MEDICAL SPA FACILITY; AND~~

~~(8) A LIST OF ALL COSMETIC MEDICAL PROCEDURES AND ALL COSMETIC SURGICAL PROCEDURES TO BE PERFORMED AT THE MEDICAL SPA FACILITY.~~

~~(C) AN OWNER OF A MEDICAL SPA FACILITY SHALL SUBMIT AN APPLICATION AND OBTAIN A SEPARATE LICENSE FOR EACH MEDICAL SPA FACILITY TO BE OPERATED.~~

~~19-3C-05.~~

~~(A) A LICENSE EXPIRES ON THE THIRD ANNIVERSARY OF ITS EFFECTIVE DATE, UNLESS THE LICENSE IS RENEWED FOR A 3 YEAR TERM AS PROVIDED IN THIS SECTION.~~

~~(B) BEFORE THE LICENSE EXPIRES, A LICENSE MAY BE RENEWED FOR AN ADDITIONAL 3 YEAR TERM IF THE APPLICANT:~~

~~(1) OTHERWISE IS ENTITLED TO THE LICENSE;~~

~~(2) PAYS TO THE SECRETARY THE RENEWAL FEE SET BY THE SECRETARY; AND~~

~~(3) SUBMITS TO THE SECRETARY:~~

~~(i) A RENEWAL APPLICATION ON THE FORM THAT THE SECRETARY REQUIRES; AND~~

~~(ii) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY REQUIREMENT UNDER THIS SUBTITLE FOR LICENSE RENEWAL.~~

~~(C) THE SECRETARY SHALL RENEW A LICENSE IF THE APPLICANT MEETS THE REQUIREMENTS OF THIS SECTION.~~

~~19-3C-06.~~

~~(A) THE SECRETARY:~~

~~(1) SHALL CONDUCT A RANDOM INSPECTION OF EACH LICENSED MEDICAL SPA FACILITY:~~

~~(i) WITHIN THE FIRST 6 MONTHS AFTER THE MEDICAL SPA FACILITY BEGINS OPERATIONS; AND~~

~~(ii) AT LEAST EVERY 3 YEARS THEREAFTER; AND~~

~~(2) MAY CONDUCT AN INSPECTION OF A LICENSED MEDICAL SPA FACILITY:~~

~~(i) TO VERIFY COMPLIANCE WITH LICENSING REQUIREMENTS; AND~~

~~(ii) TO INVESTIGATE COMPLAINTS.~~

~~(B) A LICENSED MEDICAL SPA FACILITY SHALL ALLOW ACCESS TO ALL PARTS OF THE MEDICAL SPA FACILITY AND ALL PERTINENT RECORDS REQUIRED FOR INSPECTION.~~

~~(C) THE SECRETARY AND A LICENSED MEDICAL SPA FACILITY SHALL MAKE THE RESULTS OF AN INSPECTION CONDUCTED UNDER SUBSECTION (A) AVAILABLE TO THE PUBLIC ON REQUEST.~~

~~19-3C-07.~~

~~THE SECRETARY SHALL ADOPT REGULATIONS TO:~~

~~(1) ESTABLISH STANDARDS AND PROCEDURES TO ENSURE QUALITY OF CARE AND PATIENT SAFETY, INCLUDING:~~

~~(I) QUALIFICATIONS, TRAINING, AND RESPONSIBILITIES OF MEDICAL SPA DIRECTORS, SUPERVISING PHYSICIANS, AND OTHER PERSONNEL;~~

~~(II) STANDARDS FOR DELEGATION OF COSMETIC MEDICAL PROCEDURES AND COSMETIC SURGICAL PROCEDURES TO NONPHYSICIAN PERSONNEL;~~

~~(III) PROCEDURES FOR CREDENTIALING AND PEER REVIEW;~~

~~(IV) EMERGENCY PLANS AND PROCEDURES;~~

~~(V) STANDARDS AND PROCEDURES FOR SANITATION AND HAZARDOUS WASTE DISPOSAL;~~

~~(VI) FACILITY AND BUILDING STANDARDS;~~

~~(VII) QUALITY CONTROLS FOR ANY MEDICAL DEVICES OR EQUIPMENT;~~

~~(VIII) PROCEDURES FOR PATIENT RECOVERY, DISCHARGE, AND FOLLOW-UP;~~

~~(IX) REPORTING OF ADVERSE EVENTS; AND~~

~~(X) ANY OTHER STANDARDS OR PROCEDURES THE SECRETARY CONSIDERS NECESSARY FOR QUALITY OF CARE AND PATIENT SAFETY; AND~~

~~(2) CARRY OUT THIS SUBTITLE.~~

~~19-3C-08.~~

~~(A) THE SECRETARY MAY DENY A LICENSE TO ANY APPLICANT, OR SUSPEND, RESTRICT, OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE FAILS TO MEET THE REQUIREMENTS OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE.~~

~~(B) (1) BEFORE DENYING, SUSPENDING, RESTRICTING, OR REVOKING A LICENSE UNDER THIS SECTION, THE SECRETARY SHALL PROVIDE THE APPLICANT OR LICENSEE AN OPPORTUNITY FOR A HEARING.~~

~~(2) THE SECRETARY SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.~~

~~19-3C-09.~~

~~(A) (1) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A PENALTY NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.~~

~~(2) EACH DAY A VIOLATION CONTINUES AFTER THE FIRST CONVICTION IS A SEPARATE OFFENSE.~~

~~(B) (1) IN ADDITION TO THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION, THE SECRETARY MAY IMPOSE AN ADMINISTRATIVE PENALTY OF UP TO \$1,000 FOR A VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE.~~

~~(2) THE SECRETARY SHALL ADOPT REGULATIONS THAT ESTABLISH STANDARDS FOR THE IMPOSITION OF AN ADMINISTRATIVE PENALTY UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~19-3C-02.~~

~~(A) THE SECRETARY MAY ADOPT REGULATIONS FOR COSMETIC SURGICAL FACILITIES IN THE STATE.~~

~~(B) REGULATIONS ADOPTED BY THE SECRETARY UNDER THIS SECTION SHALL INCLUDE DEEMING A COSMETIC SURGICAL FACILITY TO MEET SPECIFIED REQUIREMENTS, IF THE COSMETIC SURGICAL FACILITY IS ACCREDITED BY:~~

(1) THE AMERICAN ASSOCIATION FOR ACCREDITATION OF AMBULATORY SURGICAL FACILITIES;

(2) THE ACCREDITATION ASSOCIATION FOR AMBULATORY HEALTH CARE;

(3) THE JOINT COMMISSION; OR

(4) ANY OTHER ACCREDITATION ORGANIZATION, AS DETERMINED BY THE SECRETARY.

(C) REGULATIONS ADOPTED UNDER THIS SECTION MAY NOT REQUIRE HIGHER STANDARDS FOR COSMETIC SURGICAL FACILITIES THAN THE STANDARDS REQUIRED FOR AMBULATORY SURGICAL FACILITIES UNDER SUBTITLE 3B OF THIS TITLE.

(D) (1) THE SECRETARY MAY ADOPT REGULATIONS THAT ESTABLISH THE CIRCUMSTANCES UNDER WHICH A PROCEDURE IS A “COSMETIC SURGICAL PROCEDURE” UNDER § 19-3C-01(C)(3) OF THIS SUBTITLE.

(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON A FINDING BY THE SECRETARY THAT THE PROCEDURE RAISES SUBSTANTIAL HEALTH AND SAFETY CONCERNS THAT WARRANT REGULATION OF THE PROCEDURE UNDER THIS SUBTITLE.

(3) IN ADOPTING REGULATIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY SHALL CONSIDER AVAILABLE STUDIES, REPORTS, AND OTHER LITERATURE RELATED TO:

(I) THE SAFETY OR RISKS OF THE PROCEDURE;

(II) THE EDUCATION AND TRAINING OF THE HEALTH CARE PRACTITIONERS ADMINISTERING ANESTHESIA FOR THE PROCEDURE;

(III) THE EDUCATION AND TRAINING OF THE HEALTH CARE PRACTITIONERS PERFORMING THE PROCEDURE; AND

(IV) THE SETTING IN WHICH THE PROCEDURE IS PERFORMED.

19-3C-03.

(A) THE SECRETARY MAY INVESTIGATE COMPLAINTS CONCERNING THE CONFORMANCE OF A COSMETIC SURGICAL FACILITY TO THE REQUIREMENTS OF REGULATIONS ADOPTED UNDER § 19-3C-02 OF THIS SUBTITLE.

(B) IF THE COMPLAINT CONCERNS HEALTH CARE PRACTITIONER PERFORMANCE OR STANDARDS OF MEDICAL PRACTICE, THE COMPLAINT SHALL BE REFERRED TO THE APPROPRIATE HEALTH OCCUPATIONS BOARD THAT LICENSES, CERTIFIES, OR OTHERWISE REGULATES THE HEALTH CARE PRACTITIONER UNDER THE HEALTH OCCUPATIONS ARTICLE.

Article – Health Occupations

14-101.

(d) (1) “Cosmetic surgical procedure” means the use of surgical services to reshape the structure of a human body in order to change the appearance of an individual.

(2) [“Cosmetic] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, “COSMETIC surgical procedure” does not include:

(i) A procedure done under local anesthesia or mild sedation; or
(ii) Liposuction that removes less than 1,000 cubic centimeters of aspirate.

(3) “COSMETIC SURGICAL PROCEDURE” INCLUDES ANY PROCEDURE UNDER PARAGRAPH (2) OF THIS SUBSECTION THAT, UNDER THE CIRCUMSTANCES ESTABLISHED BY THE SECRETARY IN REGULATIONS ADOPTED UNDER TITLE 19, SUBTITLE 3C OF THE HEALTH – GENERAL ARTICLE, IS A COSMETIC SURGICAL PROCEDURE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 399

(House Bill 1040)

AN ACT concerning

Business Regulation – Secondhand Precious Metal Object Dealers and Pawnbrokers – Revisions

FOR the purpose of repealing the exemption of a certain business transaction relating to numismatic items from the provisions of law that regulate secondhand precious metal object dealers; providing that certain provisions of law do not apply to certain retail jewelers who ~~hold a remounting~~ participate in a remount sale ~~during which the retail jeweler accepts trade-ins of old mountings toward the purchase of a new mounting~~; requiring certain dealers and pawnbrokers to hold certain items for an additional number of days on request of a primary law enforcement unit under certain circumstances; authorizing a primary law enforcement unit to renew a certain request to hold items for a certain period of time; defining a certain term; and generally relating to secondhand precious metal object dealers and pawnbrokers.

BY repealing and reenacting, without amendments,

Article – Business Regulation

Section 12–101(a)

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY adding to

Article – Business Regulation

Section 12–101(k)

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 12–102 and 12–401

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

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

Article – Business Regulation

12–101.

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

(K) “REMOUNT SALE” MEANS A TRANSACTION BETWEEN A RETAILER AND AN EXISTING CUSTOMER TO UPGRADE THE CUSTOMER’S PRECIOUS OR SEMIPRECIOUS STONE OR PEARL BY REMOVING FROM AN EXISTING MOUNTING AND PLACING IN A NEW MOUNTING FROM THE RETAILER AND CREDITING THE

VALUE OF THE EXISTING MOUNTING TOWARD THE COST OF THE NEW MOUNTING.

12-102.

(a) This title does not apply to a transaction that involves:

(1) merchandise acquired from an established manufacturer or dealer who holds a license under this title, other than a pawnbroker, if the dealer who acquires the merchandise keeps an invoice or other customary proof of origin for the merchandise;

(2) a metal acquired for use in dentistry by a dentist licensed to practice dentistry under Title 4 of the Health Occupations Article;

(3) coins [or numismatic items]; or

(4) the purchase of junk or scrap metal that is subject to the record keeping and reporting requirements under § 17-1011 of this article.

(b) If a retail jeweler has a fixed business address in the State, this title does not apply to a transaction in which the retail jeweler:

(1) accepts, in accordance with a posted return policy, the return of an item that the jeweler originally sold;

(2) accepts, in accordance with a published trade-in policy, merchandise in trade that the jeweler originally sold;

(3) repossesses merchandise that the jeweler originally sold, if the original buyer has defaulted;

(4) retains merchandise that the jeweler originally accepted for repair as a bailee for hire, if the customer who deposited the merchandise:

(i) defaulted; or

(ii) failed to reclaim the merchandise within the time agreed on with the jeweler; [or]

(5) accumulates pieces of precious metals in the course of performing repairs, remountings, fabrications, or custom orders; **OR**

(6) ~~HOLDS PARTICIPATES IN A REMOUNT SALE DURING WHICH THE RETAIL JEWELER ACCEPTS TRADE-INS OF OLD MOUNTINGS, THE VALUE OF WHICH IS APPLIED TO THE COST OF NEW MOUNTING PURCHASES.~~

(c) Except as otherwise provided in this title, this title does not apply to a pawnbroker located in a county that regulates pawnbrokers unless the pawnbroker does business as a dealer.

(d) (1) A county or municipal corporation may not enact a law to regulate dealers[,] **OR** coins[, or numismatic items].

(2) This title supersedes any existing law of a county or municipal corporation that regulates dealers[,] **OR** coins[, or numismatic items].

12-401.

(a) This section applies to all dealers and all pawnbrokers wherever located in the State.

(b) A dealer or pawnbroker shall release to the primary law enforcement unit an item of personal property, other than a security or printed evidence of indebtedness, located at the place of business of the dealer or pawnbroker if:

(1) the item is established to have been stolen;

(2) the owner of the item or victim of the theft has positively identified the item;

(3) the owner of the item or the agent or designee of the owner has provided an affidavit of ownership;

(4) the stolen property report describes the item by:

(i) a date;

(ii) initials;

(iii) an insurance record;

(iv) a photograph;

(v) a sales receipt;

(vi) a serial number;

(vii) specific damage;

(viii) a statement of the facts that show that the item is one of a kind; or

(ix) a unique engraving; and

(5) the primary law enforcement unit provides to the dealer or pawnbroker a receipt that describes the item and that notifies the dealer or pawnbroker of the dealer's or pawnbroker's right to file an application for a statement of charges against the individual who sold the item to the dealer or pawnbroker, or other alleged thief for theft under § 7-104 of the Criminal Law Article.

(c) **(1) [A] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A dealer shall retain in the dealer's place of business, for an additional period of 12 days, any item of personal property or other valuable thing, other than securities or printed evidence of indebtedness, if:**

[(1)] (I) the primary law enforcement unit requests that the dealer retain the item;

[(2)] (II) the primary law enforcement unit has reasonable cause to believe the item has been stolen; and

[(3)] (III) the item has not been identified under subsection (b)(2) of this section.

(2) A DEALER SHALL RETAIN IN THE DEALER'S PLACE OF BUSINESS, FOR AN ADDITIONAL 45 DAYS FOLLOWING THE HOLDING PERIOD REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, AN ITEM OF PERSONAL PROPERTY OR OTHER VALUABLE THING, OTHER THAN SECURITIES OR PRINTED EVIDENCE OF INDEBTEDNESS, IF THE PRIMARY LAW ENFORCEMENT UNIT:

(I) REQUESTS THAT THE DEALER RETAIN THE ITEM IN THE DEALER'S PLACE OF BUSINESS;

(II) HAS A CONTINUOUS ACTIVE INVESTIGATION OF AN ITEM INITIALLY HELD UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON A REASONABLE CAUSE TO BELIEVE THE ITEM WAS STOLEN; AND

(III) HAS DOCUMENTATION OF PROGRESS IN THE INVESTIGATION AS LONG AS THE INVESTIGATION HAS NOT BEEN CLOSED.

(3) A PRIMARY LAW ENFORCEMENT UNIT MAY RENEW A REQUEST TO HOLD AN ITEM UNDER PARAGRAPH (2) OF THIS SUBSECTION AS MANY TIMES AS NECESSARY.

(d) When a primary law enforcement unit no longer needs an item for evidence, the primary law enforcement unit shall give the item to its owner.

(e) A dealer or pawnbroker who is required to release an item under this section is not entitled to reimbursement for any pledge or purchase price paid for the item from:

- (1) the primary law enforcement unit to which the dealer released the item;
- (2) the owner of the item; or
- (3) the victim of the theft.

(f) If the owner of the item or the victim of the theft chooses to participate in the prosecution of the alleged identified thief, then the charges of theft from the owner or the victim of the theft and the charges of theft from the dealer or pawnbroker may be heard in a joint trial.

(g) The Secretary shall distribute to licensed dealers or post on the Department's website the name of the primary law enforcement unit responsible for enforcing this title in each jurisdiction, including municipalities.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 400

(House Bill 1082)

AN ACT concerning

**Prince George's County – Alcoholic Beverages – ~~Class BCE and Class A~~
Licenses and Class B-AE Licenses**

PG 317-13

FOR the purpose of increasing the number of ~~Class BCE alcoholic beverages licenses for catering establishments and~~ Class B-AE (arts and entertainment) alcoholic beverages licenses that may be issued in Prince George's County; prohibiting the Board of License Commissioners of Prince George's County from issuing a new Class A license or transferring an existing Class A license to a location within a certain distance of a correctional facility; and generally relating to alcoholic beverages licenses in Prince George's County.

BY repealing and reenacting, without amendments,
 Article 2B – Alcoholic Beverages
 Section 6–201(r)(8) and (18) and 9–217(a)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
 Article 2B – Alcoholic Beverages
 Section 9–217(b)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 9–217(e–1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Correctional Services
Section 1–101(d)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

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

Article 2B – Alcoholic Beverages

6–201.

- (r) (8) (i) There is a Class BCE license.
- (ii) The annual license fee is \$3,630.
- (iii) The Board may issue a special Class B on–sale beer, wine and liquor license to be known as Class BCE which shall be issued only to catering establishments.
- (iv) A catering establishment shall be defined by the regulations of the Board which shall require that:
1. The catering establishment have a minimum capital investment of \$500,000 for dining room facilities and kitchen equipment. This sum may not include the cost of land, buildings, or a lease; and
 2. A minimum seating capacity of 150 persons.

(v) The Board shall prescribe regulations pertaining to the hours and days of sale.

(vi) Food shall be served with alcoholic beverages.

(vii) A Class BCE license is limited and restricted to the purpose of providing alcoholic beverages for consumption on the licensed premises by participants of catered events only, and off-sale privileges may not be exercised.

(18) (i) There is a Class B-AE (arts and entertainment) beer, wine and liquor license.

(ii) A Class B-AE license may be issued only to an establishment in the Prince George’s County arts and entertainment district as approved by the County Council in Council Resolution CR-83-2001.

(iii) The license authorizes the holder to sell beer, wine, and liquor for consumption on the licensed premises only.

(iv) A person may not hold more than 2 Class B-AE licenses.

(v) The annual license fee is \$2,750.

(vi) The Board of License Commissioners shall adopt regulations to carry out this paragraph, including regulations specifying hours and days of sale.

9-217.

(a) This section applies only in Prince George’s County.

(b) Subject to subsection (b-1) of this section, the number of licenses of each class of alcoholic beverage licenses may not exceed the following maximum amounts:

(1) Beer license, Class A	19
(2) Beer license, Class B	23
(3) Beer license, Class C	3
(4) Beer license, Class D	76
(5) Beer and light wine license, Class A.....	26
(6) Beer and light wine license, Class B.....	45
(7) Beer and light wine license, Class B-GC	4

(8) Beer and light wine license, Class B–Stadium 1

(9) Beer and light wine license, Class C..... 8

(10) Beer and light wine license, Class D 55

(11) Beer, wine and liquor license, Class A..... 142

(12) Beer, wine and liquor license, Class B..... 185

(13) Beer, wine and liquor license, Class B–AE ~~[5] 10~~ 8

(14) Beer, wine and liquor license, Class BCE ~~[8] 15~~

(15) Beer, wine and liquor license, Class B–CI..... 2

(16) Reserved.

(17) Beer, wine and liquor license, Class B/ECF..... 1

(18) Beer, wine and liquor license, Class B–ECF/DS..... 1

(19) Beer, wine and liquor license, Class B–ECR..... 1

(20) Beer, wine and liquor license, Class B–Stadium 1

(21) Beer, wine and liquor license, Class C

(i) Under § 6–301(r)(2)..... 30

(ii) Under § 6–301(r)(3)..... 25

(iii) Under § 6–301(r)(4)..... 4

(iv) Under § 6–301(r)(5)..... 12

(v) Under § 6–301(r)(7)..... 1

(E-1) THE BOARD OF LICENSE COMMISSIONERS MAY NOT ISSUE A NEW CLASS A LICENSE FOR OR TRANSFER AN EXISTING CLASS A LICENSE TO A LOCATION WITHIN THREE-FOURTHS OF A MILE OF A CORRECTIONAL FACILITY, AS DEFINED IN § 1-101 OF THE CORRECTIONAL SERVICES ARTICLE, IN UPPER MARLBORO.

1-101.

(d) “Correctional facility” means a facility that is operated for the purpose of detaining or confining adults who are charged with or found guilty of a crime.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 401

(House Bill 1096)

AN ACT concerning

State Board of Physicians and Allied Health Advisory Committees – Sunset Extension and Program Evaluation

FOR the purpose of continuing 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; requiring that an evaluation of the Board and the related allied health advisory committees and the statutes and regulations of the Board and the related allied health advisory committees be performed on or before a certain date; altering to a certain date the termination provision related to the Perfusion Advisory Committee; stating the policy of the State regarding the regulation and control of health occupations in the State; stating that the health occupation boards are created to function in a certain way with a certain intent; altering the membership of the Board; altering the powers and duties of the Board; 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; requiring the application for the warrant to meet certain requirements; authorizing a judge who receives a certain search warrant application to issue a warrant under certain circumstances; requiring a certain search warrant to include certain information and be executed and returned to a certain individual within a certain period of time; clarifying that certain fees charged by the Board, which must be set so as to approximate the cost of maintaining the Board, include the cost of providing a certain rehabilitation program; requiring the Board to adopt certain regulations to allow a certain licensee to receive up to a certain number of credit hours for providing certain services; establishing certain disciplinary panels through which certain allegations must be resolved;

requiring the chair of the Board to assign each member of the Board to one of the disciplinary panels; providing for the composition and chairs of the disciplinary panels; authorizing the chair of the Board to serve as an ex-officio member of a certain disciplinary panel; specifying the quorum of a disciplinary panel; authorizing a disciplinary panel to conduct a certain investigation; requiring a disciplinary panel to determine the final disposition of a complaint against a physician or an allied health professional, except under certain circumstances; providing that each disciplinary panel has the independent authority to make a final determination regarding a certain matter; prohibiting the Board from voting to approve or disapprove an action of a disciplinary panel; requiring a disciplinary panel to consult with the chair of a certain allied health advisory committee, or the chair's designee, under certain circumstances; requiring a complaint to be assigned to a disciplinary panel after the completion of a certain investigation by the Board; authorizing a disciplinary panel to enter into a consent order with a physician or an allied health professional after conducting a certain meeting; requiring the chair of a certain disciplinary panel to refer a complaint to the other disciplinary panel under certain circumstances; prohibiting a certain disciplinary panel, or its members, from continuing to handle or participating in disciplinary proceedings regarding a complaint under certain circumstances; authorizing a disciplinary panel, instead of the Board, to take certain action regarding a complaint or come to a certain agreement with a licensee; requiring a disciplinary panel, instead of the Board, to refer certain allegations to a certain entity for peer review; requiring a disciplinary panel, instead of the Board, to obtain a certain number of peer review reports for certain allegations; repealing certain obsolete language regarding a certain request for proposals; repealing the requirement that the Board, under certain circumstances, provide direct rehabilitation services for physicians; requiring a disciplinary panel, instead of the Board, to offer certain complainants and licensees an opportunity to mediate certain disputes; authorizing a disciplinary panel, instead of the Board, to determine, for certain allegations, that an agreement for corrective action is warranted; requiring a disciplinary panel, instead of the Board, to notify certain licensees of identified deficiencies and enter into a certain corrective action; prohibiting a disciplinary panel, instead of the Board, from entering into an agreement for corrective action under certain circumstances; requiring a disciplinary panel, instead of the Board, to evaluate licensees with whom the disciplinary panel has entered into an agreement for corrective action and to take certain action under certain circumstances; requiring a disciplinary panel to provide certain individuals an opportunity to appear before the disciplinary panel under certain circumstances; authorizing a disciplinary panel, instead of the Board, to take certain disciplinary action against a physician or allied health professional under certain circumstances; clarifying that an affirmative vote of the majority of the quorum of the Board or of the quorum of a disciplinary panel is required before the Board or the disciplinary panel takes certain action; requiring a disciplinary panel, instead of the Board, to take certain disciplinary action against a certain physician or allied health professional under certain circumstances; prohibiting a disciplinary panel, instead of the Board, from

taking disciplinary action against a certain physician under certain circumstances; requiring a disciplinary panel, instead of the Board, to give a certain individual an opportunity for a certain hearing; requiring a disciplinary panel, instead of the Board, to pass an order under certain circumstances; authorizing a disciplinary panel, instead of the Board, to reinstate certain licenses under certain circumstances; requiring a disciplinary panel to notify the Board of certain license reinstatements; providing that proceedings, records, and files of a disciplinary panel are not discoverable or admissible in certain actions except under certain circumstances; prohibiting a disciplinary panel from disclosing information in a record except under certain circumstances; requiring the Board to disclose the filing of charges and initial denials of licensure on the Board's Web site; requiring a disciplinary panel to disclose certain information in a record under certain circumstances; requiring certain licensee profiles to include a summary of charges filed against the licensee, including a copy of the charging document, under certain circumstances; requiring that licensee profiles include a certain disclaimer; requiring the Board to include certain information on a licensee's profile within a certain time period; ~~requiring that a certain report that certain entities are required to file with the Board include a certain statement under certain circumstances;~~ requiring the Board, in consultation with certain interested parties, to adopt regulations to define certain circumstances under which certain reporting is required by hospitals, related institutions, and alternative health systems; 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; ~~requiring a certain court reporting requirement to be enforced by the imposition of a certain civil penalty;~~ authorizing a disciplinary panel, instead of the Board, to take certain action against a physician who performs acupuncture under certain circumstances; requiring the chairs of certain committees, or the chairs' designees, to serve in an advisory capacity to the Board; requiring certain committees to submit an annual report to the Board; requiring the Board to consider all recommendations of certain committees and annually provide a certain report to the committees; 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 factual inaccuracies in certain profiles; requiring the Polysomnography Professional Standards Committee to elect a chair every certain number of years; repealing the requirement that the Board provide a certain explanation to the Physician Assistant Advisory Committee; repealing the requirement that the Board assess a certain fee under certain circumstances; requiring the Board to submit a certain report to certain committees of the General Assembly and the Department of Legislative Services on or before a certain date and annually thereafter for a certain period of time; exempting the Board and the related

allied health advisory committees from certain provisions of law requiring a certain preliminary evaluation; making this Act an emergency measure; defining certain terms; making certain conforming, stylistic, and technical changes; and generally relating to the State Board of Physicians and the related allied health advisory committees.

BY adding to

Article – Health Occupations

Section 1–102, 14–101(a–1) and (c–1), 14–206.1, 14–401, 14–416, 14–5A–18.1, 14–5B–15.1, 14–5C–06(d), 14–5C–18.1, 14–5D–16.1, 14–5E–18.1, 15–101(i–1), and 15–316.1

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 14–101(a) and 15–101(a)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 14–101(m), 14–202(a), 14–205, 14–206(d)(1), 14–207(b), 14–316, 14–401, 14–403 through 14–405.1, 14–406, 14–407(a), 14–408, 14–409(a), 14–410, 14–411(a), (b), (d)(1)(ii), (i), (j)(2)(i), (l)(2), (m), (r), and (s), 14–411.1(b), (c)(2), and (f), 14–413, 14–414, 14–504(g), 14–506(b)(2), 14–5A–04(a), 14–5A–06(d), 14–5A–07, 14–5A–16, 14–5A–17, 14–5A–17.1, 14–5A–18(f), 14–5A–19, 14–5A–25, 14–5B–04(a), 14–5B–05(c), 14–5B–06, 14–5B–13, 14–5B–14, 14–5B–14.1, 14–5B–15(f), 14–5B–16, 14–5B–21, 14–5C–04(a), 14–5C–07, 14–5C–16, 14–5C–17, 14–5C–18(f), 14–5C–19, 14–5C–25, 14–5D–03(a), 14–5D–05(e), 14–5D–06, 14–5D–14, 14–5D–15, 14–5D–16, 14–5D–20, 14–5E–04(a), 14–5E–06(d), 14–5E–07, 14–5E–15, 14–5E–16, 14–5E–18(f), 14–5E–19, 14–5E–25, 14–603, 14–702, 15–103(h), 15–202(d) and (e), 15–205, 15–206(a), 15–302(g), 15–312, 15–314 through 15–316, and 15–502

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing

Article – Health Occupations

Section 15–310(e)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 8–403(b)(6), (45), (48), (49), (53), (59), and (63)

Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

1–102.

(A) IT IS THE POLICY OF THE STATE THAT HEALTH OCCUPATIONS SHOULD BE REGULATED AND CONTROLLED AS PROVIDED IN THIS ARTICLE TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC.

(B) THE HEALTH OCCUPATIONS BOARDS ESTABLISHED BY THIS ARTICLE, THE MAJORITY OF WHOSE MEMBERS ARE LICENSED OR CERTIFIED UNDER THIS ARTICLE, ARE CREATED TO FUNCTION AS INDEPENDENT BOARDS, WITH THE INTENT THAT A PEER GROUP IS BEST QUALIFIED TO REGULATE, CONTROL, AND OTHERWISE DISCIPLINE IN A FAIR AND UNBIASED MANNER THE LICENSEES OR CERTIFICATE HOLDERS WHO PRACTICE IN THE STATE.

14–101.

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

(A–1) “ALLIED HEALTH PROFESSIONAL” MEANS AN INDIVIDUAL LICENSED BY THE BOARD UNDER SUBTITLE 5A, 5B, 5C, 5D, OR 5E OF THIS TITLE OR TITLE 15 OF THIS ARTICLE.

(C–1) “DISCIPLINARY PANEL” MEANS A DISCIPLINARY PANEL OF THE BOARD ESTABLISHED UNDER § 14–401 OF THIS TITLE.

(m) “Physician Rehabilitation Program” means the program of the Board or the nonprofit entity with which the Board contracts under [§ 14–401(g)] § 14–401.1(G) of this title that evaluates and provides assistance to impaired physicians and other health professionals regulated by the Board who are directed by the Board to receive treatment and rehabilitation for alcoholism, chemical dependency, or other physical, emotional, or mental conditions.

14–202.

(a) (1) The Board shall consist of [21] 22 members appointed by the Governor with the advice of the Secretary and the advice and consent of the Senate.

(2) Of the [21] 22 members:

(i) 11 shall be practicing licensed physicians, at least one of whom shall be a doctor of osteopathy, appointed as provided in subsections (d) and (e) of this section;

(ii) 1 shall be a practicing licensed physician appointed at the Governor's discretion;

(iii) 1 shall be a representative of the Department nominated by the Secretary;

(iv) 1 shall be a [certified] **LICENSED** physician assistant appointed at the Governor's discretion as provided in subsections (f) and (g) of this section;

(v) [1] **2** shall be [a] practicing licensed [physician] **PHYSICIANS** with [a] full-time faculty [appointment] **APPOINTMENTS** appointed to serve as [a representative] **REPRESENTATIVES** of [an] academic medical [institution] **INSTITUTIONS** in [this] **THE** State [appointed from a list containing] **AND OF WHOM:**

1. **1 SHALL BE APPOINTED FROM A LIST CONTAINING** 3 names submitted by the Johns Hopkins University School of Medicine; and

2. **1 SHALL BE APPOINTED FROM A LIST CONTAINING** 3 names submitted by the University of Maryland School of Medicine;

(vi) 5 shall be consumer members; and

(vii) 1 shall be a public member knowledgeable in risk management or quality assurance matters appointed from a list submitted by the Maryland Hospital Association.

14-205.

(a) **IN ADDITION TO THE POWERS AND DUTIES SET FORTH IN THIS TITLE AND IN TITLE 15 OF THIS ARTICLE, THE BOARD SHALL:**

(1) ENFORCE THIS TITLE AND TITLE 15 OF THIS ARTICLE;

(2) ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS TITLE AND TITLE 15 OF THIS ARTICLE;

(3) ESTABLISH POLICIES FOR BOARD OPERATIONS;

(4) MAINTAIN THE RULES, REGULATIONS, AND POLICIES OF THE BOARD SO THAT THE RULES, REGULATIONS, AND POLICIES REFLECT THE CURRENT PRACTICES OF THE BOARD;

(5) OVERSEE:

(I) THE LICENSING REQUIREMENTS FOR PHYSICIANS AND THE ALLIED HEALTH PROFESSIONALS; AND

(II) THE ISSUANCE AND RENEWAL OF LICENSES;

(6) MAINTAIN SECURE AND COMPLETE RECORDS;

(7) REVIEW AND PRELIMINARILY INVESTIGATE COMPLAINTS, INCLUDING ACKNOWLEDGING RECEIPT OF COMPLAINTS AND INFORMING COMPLAINANTS OF THE FINAL DISPOSITION OF COMPLAINTS;

~~(8) ESTABLISH MECHANISMS FOR IDENTIFYING AND MONITORING THE TREATMENT OF LICENSEES WHO ARE DEPENDENT ON ALCOHOL OR OTHER ADDICTIVE SUBSTANCES AND FOR THE VOLUNTARY SELF-REPORTING OF SUBSTANCE ABUSE ISSUES BY LICENSEES;~~

~~(9)~~ (8) DEVELOP AND IMPLEMENT METHODS TO:

~~(I) IDENTIFY INCOMPETENT LICENSEES WHO FAIL TO MEET ACCEPTABLE STANDARDS OF CARE;~~

~~(II)~~ (I) ASSESS AND IMPROVE LICENSEE PRACTICES; AND

~~(III)~~ (II) ENSURE THE ONGOING COMPETENCE OF LICENSEES;

~~(10)~~ (9) ENSURE THAT AN OPPORTUNITY FOR A HEARING IS PROVIDED TO AN INDIVIDUAL, IN ACCORDANCE WITH LAW, BEFORE ANY ACTION IS TAKEN AGAINST THE INDIVIDUAL;

~~(11)~~ (10) ADJUDICATE NONDISCIPLINARY MATTERS WITHIN THE BOARD'S JURISDICTION;

~~(12)~~ (11) REPORT ON ALL DISCIPLINARY ACTIONS, LICENSE DENIALS, AND LICENSE SURRENDERS;

~~(13)~~ (12) ESTABLISH APPROPRIATE FEES THAT ARE ADEQUATE TO FUND THE EFFECTIVE REGULATION OF PHYSICIANS AND ALLIED HEALTH PROFESSIONALS;

~~(14)~~ (13) MAKE RECOMMENDATIONS THAT BENEFIT THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC;

~~(15)~~ (14) PROVIDE ONGOING EDUCATION AND TRAINING FOR BOARD MEMBERS TO ENSURE THAT THE BOARD MEMBERS CAN COMPETENTLY DISCHARGE THEIR DUTIES;

~~(16)~~ (15) DIRECT EDUCATIONAL OUTREACH TO AND COMMUNICATE WITH LICENSEES AND THE PUBLIC;

~~(17)~~ (16) DEVELOP AND ADOPT A BUDGET THAT REFLECTS REVENUES AND SUPPORTS THE COSTS ASSOCIATED WITH EACH ALLIED HEALTH PROFESSION REGULATED BY THE BOARD;

~~(18)~~ (17) DEVELOP AND APPROVE AN ANNUAL REPORT AND OTHER REQUIRED REPORTS FOR SUBMISSION TO THE SECRETARY, THE GOVERNOR, THE GENERAL ASSEMBLY, AND THE PUBLIC;

~~(19)~~ (18) APPROVE CONTRACTS AS NEEDED AND WITHIN BUDGETARY LIMITS;

~~(20)~~ (19) APPOINT STANDING AND AD HOC COMMITTEES FROM AMONG BOARD MEMBERS AS NECESSARY;

~~(21)~~ (20) DELEGATE TO THE EXECUTIVE DIRECTOR OF THE BOARD THE AUTHORITY TO DISCHARGE BOARD DUTIES, AS DEEMED APPROPRIATE AND NECESSARY BY THE BOARD, AND HOLD THE EXECUTIVE DIRECTOR ACCOUNTABLE TO THE BOARD; AND

~~(22)~~ (21) APPOINT MEMBERS OF THE DISCIPLINARY PANELS.

(B) (1) In addition to the powers set forth elsewhere in this title, the Board may:

(i) Adopt [rules and] regulations to[

1. Carry out the provisions of this title; or

2. Regulate] **REGULATE** the performance of acupuncture, but only to the extent authorized by § 14-504 of this title;

(ii) After consulting with the State Board of Pharmacy, adopt rules and regulations regarding the dispensing of prescription drugs by a licensed physician;

(iii) Subject to the Administrative Procedure Act, deny a license to an applicant or, **IF AN APPLICANT HAS FAILED TO RENEW THE APPLICANT'S LICENSE**, refuse to renew or reinstate an applicant's license for any of the reasons that are grounds for action under § 14-404 of this title;

(iv) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a physician or acupuncturist, other than an office of a physician or acupuncturist in a hospital, related institution, freestanding medical facility, or a freestanding birthing center, to determine compliance at that office with the Centers for Disease Control and Prevention's guidelines on universal precautions; and

(v) Contract with others for the purchase of administrative and examination services to carry out the provisions of this title.

(2) The Board **OR A DISCIPLINARY PANEL** may investigate an alleged violation of this title.

[(b)] (C) (1) In addition to the duties set forth elsewhere in this title, the Board shall:

(i) Submit an annual report to the Faculty and to the Secretary;

(ii) Issue, for use in other jurisdictions, a certificate of professional standing to any licensed physician; and

(iii) Keep a list of all license applicants.

(2) (i) The Board shall keep a list of all physicians who are currently licensed.

(ii) The list shall include each physician's designated public address.

(iii) A physician's designated public address may be a post office box only if the physician provides to the Board a nonpublic address, under paragraph (3) of this subsection, that is not a post office box.

(iv) Each list prepared under this paragraph shall be kept as a permanent record of the Board.

(v) The list of currently licensed physicians is a public record.

(3) (i) The Board shall maintain on file a physician's designated nonpublic address, if provided by the physician, to facilitate communication between the physician and the Board.

(ii) The Board shall offer a physician the opportunity to designate a nonpublic address, in addition to the physician's public address, at the time of initial licensure and license renewal.

(iii) A physician shall designate an address where the Board may send the physician mail.

(iv) A physician's designated nonpublic address is not a public record and may not be released by the Board.

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) BASED ON A COMPLAINT RECEIVED BY THE BOARD, THE EXECUTIVE DIRECTOR OF THE BOARD MAY APPLY TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR A SEARCH WARRANT TO ENTER PRIVATE PREMISES WHERE THE BOARD OR A DISCIPLINARY PANEL SUSPECTS THAT A PERSON WHO IS NOT LICENSED BY THE BOARD IS PRACTICING, ATTEMPTING TO PRACTICE, OR OFFERING TO PRACTICE MEDICINE.

(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 AFTER THE DATE OF ISSUANCE; OR

(2) WITHIN 15 DAYS AFTER THE DATE OF ISSUANCE, IF NO PERIOD IS SPECIFIED IN THE WARRANT.

14-207.

(b) (1) 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, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR PHYSICIANS UNDER § 14-401.1(G) OF THIS TITLE.**

(3) Funds to cover the compensation and expenses of the Board members shall be generated by fees set under this section.

14-316.

(d) (1) In addition to any other qualifications and requirements established by the Board, the Board may establish continuing education requirements as a condition to the renewal of licenses under this section.

(2) In establishing these requirements, the Board shall evaluate existing methods, devices, and programs in use among the various medical specialties and other recognized medical groups.

(3) THE BOARD SHALL ADOPT REGULATIONS THAT ALLOW A LICENSEE SEEKING RENEWAL TO RECEIVE UP TO 5 CONTINUING EDUCATION CREDITS PER RENEWAL PERIOD FOR PROVIDING UNCOMPENSATED, VOLUNTARY MEDICAL SERVICES DURING EACH RENEWAL PERIOD.

[(3)] (4) The Board may not establish or enforce these requirements if they would so reduce the number of physicians in a community as to jeopardize the availability of adequate medical care in that community.

[(4)] (5) The Board may impose a civil penalty of up to \$100 per continuing medical education credit in lieu of a sanction under § 14-404 of this title, for a first offense, for the failure of a licensee to obtain the continuing medical education credits required by the Board.

14-401.

(A) THERE ARE TWO DISCIPLINARY PANELS THROUGH WHICH ALLEGATIONS OF GROUNDS FOR DISCIPLINARY ACTION AGAINST A LICENSED PHYSICIAN OR AN ALLIED HEALTH PROFESSIONAL SHALL BE RESOLVED.

(B) (1) THE CHAIR OF THE BOARD SHALL ASSIGN EACH MEMBER OF THE BOARD TO ONE OF THE DISCIPLINARY PANELS ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.

(2) EACH DISCIPLINARY PANEL SHALL CONSIST OF 11 BOARD MEMBERS.

(3) OF THE 11 MEMBERS ON A DISCIPLINARY PANEL:

(I) 6 SHALL BE PRACTICING LICENSED PHYSICIANS;

(II) 1 SHALL BE A PRACTICING LICENSED PHYSICIAN WITH A FULL-TIME FACULTY APPOINTMENT;

(III) 1 SHALL BE A REPRESENTATIVE OF THE DEPARTMENT OR A LICENSED PHYSICIAN ASSISTANT; AND

(IV) 3 SHALL BE MEMBERS OF THE PUBLIC.

(4) THE CHAIR OF THE BOARD MAY SERVE AS AN EX-OFFICIO MEMBER OF THE DISCIPLINARY PANEL TO WHICH THE CHAIR WAS NOT ASSIGNED AS A MEMBER UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(5) THE CHAIR OF THE BOARD SHALL SELECT A MEMBER OF EACH DISCIPLINARY PANEL TO BE THE CHAIR OF THE DISCIPLINARY PANEL.

(6) A QUORUM OF A DISCIPLINARY PANEL CONSISTS OF ~~6~~ 7 MEMBERS.

[14-401.] 14-401.1.

(a) (1) The Board shall perform any necessary preliminary investigation REGARDING AN ALLEGATION OF GROUNDS FOR DISCIPLINARY OR OTHER ACTION BROUGHT TO THE BOARD'S ATTENTION before [the Board refers] THE ALLEGATION IS ASSIGNED to [an investigatory body an allegation of grounds for disciplinary or other action brought to its attention] A DISCIPLINARY PANEL.

(2) (I) AFTER THE COMPLETION OF ANY NECESSARY PRELIMINARY INVESTIGATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, A COMPLAINT SHALL BE ASSIGNED TO A DISCIPLINARY PANEL.

(II) SUBJECT TO THE PROVISIONS OF THIS SECTION, A DISCIPLINARY PANEL:

1. SHALL DETERMINE THE FINAL DISPOSITION OF A COMPLAINT AGAINST A PHYSICIAN OR AN ALLIED HEALTH PROFESSIONAL; AND

2. HAS THE INDEPENDENT AUTHORITY TO MAKE A DETERMINATION REGARDING THE FINAL DISPOSITION OF A COMPLAINT.

(III) THE BOARD MAY NOT VOTE TO APPROVE OR DISAPPROVE ANY ACTION TAKEN BY A DISCIPLINARY PANEL, INCLUDING THE FINAL DISPOSITION OF A COMPLAINT.

(3) A DISCIPLINARY PANEL THAT IS ASSIGNED A COMPLAINT UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION MAY:

(I) CONDUCT ANY ADDITIONAL INVESTIGATION INTO A COMPLAINT THAT IS DEEMED NECESSARY TO DETERMINE WHETHER A VIOLATION OF THIS TITLE OR TITLE 15 OF THIS ARTICLE HAS OCCURRED; AND

(II) ENTER INTO A CONSENT ORDER WITH A PHYSICIAN OR AN ALLIED HEALTH PROFESSIONAL AFTER CONDUCTING A MEETING BETWEEN THE DISCIPLINARY PANEL AND THE PHYSICIAN OR ALLIED HEALTH PROFESSIONAL TO DISCUSS ANY PROPOSED DISPOSITION OF THE COMPLAINT.

(4) A DISCIPLINARY PANEL THAT IS ASSIGNED A COMPLAINT AGAINST AN ALLIED HEALTH PROFESSIONAL UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL CONSULT WITH THE CHAIR OF THE APPROPRIATE ALLIED HEALTH ADVISORY COMMITTEE, OR THE CHAIR'S DESIGNEE, BEFORE TAKING DISCIPLINARY ACTION AGAINST THE ALLIED HEALTH PROFESSIONAL.

(5) (I) IF A COMPLAINT PROCEEDS TO A HEARING UNDER § 14-405, § 14-5A-17, § 14-5B-14, § 14-5C-17, § 14-5D-15, OR § 14-5E-16 OF THIS TITLE OR § 15-315 OF THIS ARTICLE, THE CHAIR OF THE DISCIPLINARY PANEL THAT WAS ASSIGNED THE COMPLAINT UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL REFER THE COMPLAINT TO THE OTHER DISCIPLINARY PANEL.

(II) IF THE COMPLAINT PROCEEDS TO A HEARING AND IS REFERRED TO THE OTHER DISCIPLINARY PANEL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DISCIPLINARY PANEL THAT WAS ASSIGNED THE COMPLAINT UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, OR ANY OF ITS MEMBERS, MAY NOT:

- 1. CONTINUE TO HANDLE THE COMPLAINT;**
- 2. PARTICIPATE IN ANY DISCIPLINARY PROCEEDINGS REGARDING THE COMPLAINT; OR**
- 3. DETERMINE THE FINAL DISPOSITION OF THE COMPLAINT.**

(b) If an allegation of grounds for disciplinary or other action is made by a patient or a family member of a patient based on § 14-404(a)(22) of this subtitle and a full investigation results from that allegation, the full investigation shall include an offer of an interview with the patient or a family member of the patient who was present on or about the time that the incident that gave rise to the allegation occurred.

(c) (1) Except as otherwise provided in this subsection, after [performing any necessary preliminary investigation of an allegation of grounds for disciplinary or other action] **BEING ASSIGNED A COMPLAINT UNDER SUBSECTION (A) OF THIS SECTION**, the [Board] **DISCIPLINARY PANEL** may:

(i) Refer [the] AN allegation for further investigation to the entity that has contracted with the Board under subsection (e) of this section;

(ii) Take any appropriate and immediate action as necessary; or

(iii) Come to an agreement for corrective action with a licensee pursuant to paragraph (4) of this subsection.

(2) **(I)** After [performing any necessary preliminary investigation of an allegation of grounds for disciplinary or other action] **BEING ASSIGNED A COMPLAINT**, the [Board] **DISCIPLINARY PANEL** shall refer any allegation **IN THE COMPLAINT** based on § 14–404(a)(22) of this subtitle to the entity or entities that have contracted with the Board under subsection (e) of this section for further investigation and physician peer review within the involved medical specialty or specialties.

(II) A DISCIPLINARY PANEL SHALL OBTAIN TWO PEER REVIEW REPORTS FROM THE ENTITY OR INDIVIDUAL WITH WHOM THE BOARD CONTRACTED UNDER SUBSECTION (E) OF THIS SECTION FOR EACH ALLEGATION THE DISCIPLINARY PANEL REFERS FOR PEER REVIEW.

(3) If, after [performing any necessary preliminary investigation] **BEING ASSIGNED A COMPLAINT**, the [Board] **DISCIPLINARY PANEL** determines that an allegation involving fees for professional or ancillary services does not constitute grounds for disciplinary or other action, the [Board] **DISCIPLINARY PANEL** shall offer the complainant and the licensee an opportunity to mediate the dispute.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, if an allegation is based on § 14–404(a)(40) of this subtitle, [the Board] **A DISCIPLINARY PANEL:**

1. May determine that an agreement for corrective action is warranted; and

2. Shall notify the licensee of the identified deficiencies and enter into an agreement for corrective action with the licensee as provided in this paragraph.

(ii) [The Board] **A DISCIPLINARY PANEL** may not enter into an agreement for corrective action with a licensee if patient safety is an issue.

(iii) The [Board] **DISCIPLINARY PANEL** shall subsequently evaluate the licensee and shall:

1. Terminate the corrective action if the [Board] **DISCIPLINARY PANEL** is satisfied that the licensee is in compliance with the agreement for corrective action and has corrected the deficiencies; or

2. Pursue disciplinary action under § 14–404 of this subtitle if the deficiencies persist or the licensee has failed to comply with the agreement for corrective action.

(iv) An agreement for corrective action under this paragraph may not be made public or considered a disciplinary action under this title.

(v) The Board shall provide a summary of [the] **EACH DISCIPLINARY PANEL'S** corrective action agreements in the executive director's report of Board activities.

(d) County medical societies shall refer to the Board all complaints that set forth allegations of grounds for disciplinary action under § 14–404 of this subtitle.

(e) (1) [(i)] In accordance with subsection (f) of this section, the Board shall enter into a written contract with an entity or individual for confidential physician peer review of allegations based on § 14–404(a)(22) of this subtitle.

[(ii) The Board shall obtain two peer review reports for each allegation it refers for peer review.]

(2) A peer reviewer shall:

- (i) Be Board certified;
- (ii) Have special qualifications to judge the matter at hand;
- (iii) Have received a specified amount of medical experience and training;
- (iv) Have no formal actions against the peer reviewer's own license;
- (v) Receive training in peer review;
- (vi) Have a standard format for peer review reports; and
- (vii) To the extent practicable, be licensed and engaged in the practice of medicine in the State.

(3) The Board may consult with the appropriate specialty health care provider societies in the State to obtain a list of physicians qualified to provide peer review services.

(4) For purposes of peer review, the Board may use sole source procurement under § 13–107 of the State Finance and Procurement Article.

(5) The hearing of charges may not be stayed or challenged because of the selection of peer reviewers under this subsection before the filing of charges.

(f) (1) The entity or individual peer reviewer with which the Board contracts under subsection (e) of this section shall have 90 days for completion of peer review.

(2) The entity or individual peer reviewer may apply to the Board for an extension of up to 30 days to the time limit imposed under paragraph (1) of this subsection.

(3) If an extension is not granted, and 90 days have elapsed, the Board may contract with any other entity or individual who meets the requirements of subsection (e)(2) of this section for the services of peer review.

(4) If an extension has been granted, and 120 days have elapsed, the Board may contract with any other entity or individual who meets the requirements of subsection (e)(2) of this section for the services of peer review.

(g) ~~(1) Except as provided in paragraph (2) of this subsection, on or before January 1, 2008, the~~ **THE** Board shall issue a request for proposals and enter into a written contract with a nonprofit entity to provide rehabilitation services for physicians or other allied health professionals directed by the Board to receive rehabilitation services.

~~(2) If the Board does not receive a responsive proposal under paragraph (1) of this subsection or is not able to contract with a nonprofit entity, the Board shall provide directly rehabilitation services for physicians.~~

(h) (1) To facilitate the investigation and prosecution of disciplinary matters and the mediation of fee disputes coming before it, the Board may contract with an entity or entities for the purchase of investigatory, mediation, and related services.

(2) Services that may be contracted for under this subsection include the services of:

(i) Investigators;

(ii) Attorneys;

- (iii) Accountants;
- (iv) Expert witnesses;
- (v) Consultants; and
- (vi) Mediators.

(i) The Board **OR A DISCIPLINARY PANEL** may issue subpoenas and administer oaths in connection with any investigation under this section and any hearing or proceeding before it.

(j) Those individuals not licensed under this title but covered under § 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of § 14-405 of this subtitle.

(k) (1) It is the intent of this section that the disposition of every complaint against a licensee that sets forth allegations of grounds for disciplinary action filed with the Board shall be completed as expeditiously as possible and, in any event, within 18 months after the complaint was received by the Board.

(2) If [the Board] **A DISCIPLINARY PANEL** is unable to complete the disposition of a complaint within 1 year, the Board shall include in the record of that complaint a detailed explanation of the reason for the delay.

(L) A DISCIPLINARY PANEL, IN CONDUCTING A MEETING WITH A PHYSICIAN OR ALLIED HEALTH PROFESSIONAL TO DISCUSS THE PROPOSED DISPOSITION OF A COMPLAINT, SHALL PROVIDE AN OPPORTUNITY TO APPEAR BEFORE THE DISCIPLINARY PANEL TO BOTH THE LICENSEE WHO HAS BEEN CHARGED AND THE INDIVIDUAL WHO HAS FILED THE COMPLAINT AGAINST THE LICENSEE GIVING RISE TO THE CHARGE.

14-403.

(a) Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license, certification, or registration of an individual the Board regulates, the individual may not surrender the license, certification, or registration nor may the license, certification, or registration lapse by operation of law while the individual is under investigation or while charges are pending.

(b) [The Board] **A DISCIPLINARY PANEL** may set conditions on its agreement to accept surrender of a license, certification, or registration.

14-404.

(a) Subject to the hearing provisions of § 14–405 of this subtitle, [the Board] **A DISCIPLINARY PANEL**, on the affirmative vote of a majority of the quorum **OF THE DISCIPLINARY PANEL**, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of:
 - (i) Immoral conduct in the practice of medicine; or
 - (ii) Unprofessional conduct in the practice of medicine;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Solicits or advertises in violation of § 14–503 of this title;
- (6) Abandons a patient;
- (7) Habitually is intoxicated;
- (8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (9) 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;
- (10) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (11) Willfully makes or files a false report or record in the practice of medicine;
- (12) Willfully fails to file or record any medical 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;

(13) On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health – General Article, fails to provide details of a patient's medical record to the patient, another physician, or hospital;

(14) Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician;

(15) Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient;

(16) Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient, unless the licensed physician discloses on the bill to the patient or third-party payor:

(i) The name of the laboratory;

(ii) The amount paid to the laboratory for the test or test series;

and

(iii) The amount of procurement or processing charge of the licensed physician, if any, for each specimen taken;

(17) Makes a willful misrepresentation in treatment;

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine;

(19) Grossly overutilizes health care services;

(20) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this section;

(22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State;

(23) Willfully submits false statements to collect fees for which services are not provided;

(24) Was subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this section and the licensee:

(i) Surrendered the license issued by the state or country to the state or country; or

(ii) Allowed the license issued by the state or country to expire or lapse;

(25) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(26) Fails to educate a patient being treated for breast cancer of alternative methods of treatment as required by § 20–113 of the Health – General Article;

(27) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(28) Fails to comply with the provisions of § 12–102 of this article;

(29) 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 to render because the individual is HIV positive;

(30) Except as to an association that has remained in continuous existence since July 1, 1963:

(i) Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy;

(ii) Employs a pharmacist for the purpose of operating a pharmacy; or

(iii) Contracts with a pharmacist for the purpose of operating a pharmacy;

(31) 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;

(32) Fails to display the notice required under § 14–415 of this subtitle;

(33) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**;

(34) Is convicted of insurance fraud as defined in § 27-801 of the Insurance Article;

(35) Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the licensee's medical education;

(36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine;

(37) By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or proceedings before the Board **OR A DISCIPLINARY PANEL** or those otherwise delegated to the Office of Administrative Hearings;

(38) By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the Board **OR A DISCIPLINARY PANEL** in furtherance of any investigation of the Board **OR A DISCIPLINARY PANEL**;

(39) Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board **OR A DISCIPLINARY PANEL** or those otherwise delegated to the Office of Administrative Hearings;

(40) Fails to keep adequate medical records as determined by appropriate peer review; or

(41) Performs a cosmetic surgical procedure in an office or a facility that is not:

(i) Accredited by:

1. The American Association for Accreditation of Ambulatory Surgical Facilities;

2. The Accreditation Association for Ambulatory Health Care; or

3. The Joint Commission on the Accreditation of Health Care Organizations; or

(ii) Certified to participate in the Medicare program, as enacted by Title XVIII of the Social Security Act.

(b) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the

suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

(c) (1) Except as provided in paragraph (2) of this subsection, [the Board] **A DISCIPLINARY PANEL** may not reprimand, place on probation, or suspend or revoke a license of a licensee for providing a patient with a written statement, medical records, or testimony that, in the licensee's professional opinion, the patient is likely to receive therapeutic or palliative relief from marijuana.

(2) Nothing in this subsection shall be deemed to release a licensee from the duty to exercise a professional standard of care when evaluating a patient's medical condition.

14-405.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board **OR A DISCIPLINARY PANEL** takes any action under § 14-404(a) of this subtitle or § 14-5A-17(a) of this title, it shall give the individual against whom the action is contemplated an opportunity for a hearing before a hearing officer.

(b) (1) The hearing officer shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(2) Factual findings shall be supported by a preponderance of the evidence.

(c) The individual may be represented at the hearing by counsel.

(d) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the hearing officer may hear and refer the matter to the Board **OR A DISCIPLINARY PANEL** for disposition.

(e) After performing any necessary hearing under this section, the hearing officer shall refer proposed factual findings to the Board **OR A DISCIPLINARY PANEL** for the Board's **OR DISCIPLINARY PANEL'S** disposition.

(f) The Board may adopt regulations to govern the taking of depositions and discovery in the hearing of charges.

(g) The hearing of charges may not be stayed or challenged by any procedural defects alleged to have occurred prior to the filing of charges.

14-405.1.

(a) If after a hearing under § 14-405 of this subtitle [the Board] **A DISCIPLINARY PANEL** finds that there are grounds under § 14-404 of this subtitle to suspend or revoke a license to practice medicine or osteopathy, or to reprimand a licensed physician or osteopath, the [Board] **DISCIPLINARY PANEL** may impose a fine subject to the Board's regulations:

- (1) Instead of suspending the license; or
- (2) In addition to suspending or revoking the license or reprimanding the licensee.

(b) The Board shall pay any fines collected under this section into the General Fund.

14-406.

(a) Following the filing of charges, if a majority of the quorum of [the Board] **A DISCIPLINARY PANEL** finds that there are grounds for action under § 14-404 of this subtitle, the [Board] **DISCIPLINARY PANEL** shall pass an order in accordance with the Administrative Procedure Act.

(b) After the charges are filed, if [the Board] **A DISCIPLINARY PANEL** finds, on an affirmative vote of a majority of its quorum, that there are no grounds for action under § 14-404 of this subtitle, the [Board] **DISCIPLINARY PANEL**:

- (1) Immediately shall dismiss the charges and exonerate the licensee;
- (2) (i) Except as provided in item (ii) of this [paragraph] **ITEM**, shall expunge all records of the charges 3 years after the charges are dismissed; or
(ii) If the physician executes a document releasing the Board from any liability related to the charges, shall immediately expunge all records of the charges; and

- (3) May not take any further action on the charges.

14-407.

(a) An order of suspension or revocation is effective, in accordance with its terms and conditions, as soon as [the Board] **A DISCIPLINARY PANEL** files it under this title.

14-408.

(a) Except as provided in this section for an action under § 14-404 of this subtitle or § 14-5A-17 of this title, any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** in a contested case, as defined in the Administrative Procedure Act, may:

(1) Appeal that decision to the Board of Review; and

(2) Then take any further appeal allowed by the Administrative Procedure Act.

(b) (1) Any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under § 14-404 of this subtitle or § 14-5A-17 of this title may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(c) An order of the Board **OR A DISCIPLINARY PANEL** may not be stayed pending review.

(d) The Board may appeal from any decision that reverses or modifies [its] **AN order OF THE BOARD OR A DISCIPLINARY PANEL**.

14-409.

(a) **(1)** Except as provided in subsection (b) of this section, [the Board] **A DISCIPLINARY PANEL** may reinstate the license of an individual whose license has been suspended or revoked under this title only in accordance with:

[(1)] (I) The terms and conditions of the order of suspension or revocation;

[(2)] (II) An order of reinstatement issued by the [Board] **DISCIPLINARY PANEL**; or

[(3)] (III) A final judgment in any proceeding for review.

(2) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

14-410.

(a) Except by the express stipulation and consent of all parties to a proceeding before the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies, in a civil or criminal action:

(1) The proceedings, records, or files of the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies are not discoverable and are not admissible in evidence; and

(2) Any order passed by the Board **OR DISCIPLINARY PANEL** is not admissible in evidence.

(b) This section does not apply to a civil action brought by a party to a proceeding before the Board **OR A DISCIPLINARY PANEL** who claims to be aggrieved by the decision of the Board **OR THE DISCIPLINARY PANEL**.

(c) If any medical or hospital record or any other exhibit is subpoenaed and otherwise is admissible in evidence, the use of that record or exhibit in a proceeding before the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies does not prevent its production in any other proceeding.

14-411.

(a) In this section, "record" means the proceedings, records, or files of the Board **OR A DISCIPLINARY PANEL**.

(b) Except as otherwise expressly provided in this section and § 14-411.1 of this subtitle, the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies may not disclose any information contained in a record.

(d) The Board shall disclose any information contained in a record to:

(1) A committee of a hospital, health maintenance organization, or related institution if:

(ii) **[The Board] A DISCIPLINARY PANEL** has issued an order as to a licensed physician on whom the information is requested; and

(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**.

(j) The Board may disclose any information contained in a record to a licensing or disciplinary authority of another state if:

(2) The disclosure of any information is limited to the pendency of an allegation of a ground for disciplinary or other action by **[the Board] A DISCIPLINARY PANEL** until:

(i) The **[Board] DISCIPLINARY PANEL** has passed an order under § 14–406 of this subtitle; or

(l) The Board may disclose any information contained in a record to the State Medical Assistance Compliance Administration, the Secretary of the U.S. Department of Health and Human Services or the Secretary’s designee, or any health occupational regulatory board if:

(2) (i) **[The Board] A DISCIPLINARY PANEL** has issued an order under § 14–406 of this subtitle; or

(ii) An allegation is pending before the Board **OR A DISCIPLINARY PANEL**; and

(m) If the Board **OR A DISCIPLINARY PANEL** determines that the information contained in a record concerns possible criminal activity, the Board **OR THE DISCIPLINARY PANEL** shall disclose the information to a law enforcement or prosecutorial official.

(r) This section does not apply to:

(1) Any disclosure of a record by the Board to **A DISCIPLINARY PANEL OR** any of its **OTHER** investigatory bodies; or

(2) A licensee, certificate holder, or registration holder who has been charged under this title or a party to a proceeding before the Board **OR A DISCIPLINARY PANEL** who claims to be aggrieved by the decision of the Board **OR THE DISCIPLINARY PANEL**.

(s) If any information contained in any medical or hospital document or any other exhibit is otherwise open for disclosure under law, the use of that document or exhibit in any record of the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies does not prevent its disclosure in any other proceeding.

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, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY**

PANEL 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 **OR A DISCIPLINARY PANEL** 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))] § 14-416** 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.

(c) 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 A DISCIPLINARY PANEL; and

(f) The Board shall include information relating to [a] **CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY** final disciplinary action taken by [the Board] **A DISCIPLINARY PANEL** 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.

(5) THE BOARD, IN CONSULTATION WITH ALL INTERESTED PARTIES, MAY ADOPT REGULATIONS TO DEFINE:

(I) CHANGES IN EMPLOYMENT OR PRIVILEGES THAT REQUIRE REPORTING UNDER THIS SECTION; AND

(II) ACTIONS BY LICENSEES THAT ARE GROUNDS FOR DISCIPLINE AND THAT REQUIRE REPORTING UNDER THIS SECTION.

[(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 **OR A DISCIPLINARY PANEL** 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~~.

~~(iii) 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.

(5) THE BOARD, IN CONSULTATION WITH ALL INTERESTED PARTIES, MAY ADOPT REGULATIONS TO DEFINE:

(I) CHANGES IN EMPLOYMENT OR PRIVILEGES THAT REQUIRE REPORTING UNDER THIS SECTION; AND

(II) ACTIONS BY LICENSEES THAT ARE GROUNDS FOR DISCIPLINE AND REQUIRE REPORTING UNDER THIS SECTION.

[(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 OR A DISCIPLINARY PANEL 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)~~ **(B) THE COURT SHALL SUBMIT THE REPORT WITHIN 10 DAYS AFTER THE CONVICTION OR ENTRY OF THE PLEA.**

~~(B) FAILURE TO REPORT UNDER THIS SECTION SHALL RESULT IN IMPOSITION OF A CIVIL PENALTY OF UP TO \$5,000 BY A CIRCUIT COURT OF THE STATE.~~

14-504.

(g) Subject to the hearing provisions of § 14-405 of this title, [the Board] **A DISCIPLINARY PANEL**, on the affirmative vote of a majority of its quorum, may reprimand or place a physician who performs acupuncture on probation or suspend or revoke the registration of a physician for:

(1) Any conduct prohibited under the provisions of this section or prohibited under any regulation adopted pursuant to the provisions of this section;

(2) Except in an emergency life-threatening situation where it is not feasible or practicable, failing to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions; or

(3) Failing to display the notice required under subsection (h) of this section.

14-506.

(b) The following records and other information are confidential records:

(2) Any record of a proceeding or transaction before the entity or individual that contracts with the Board or one of its committees that relates to any

investigation or report under [§ 14-401] § 14-401.1 of this title as to an allegation of grounds for disciplinary or other action.

14-5A-04.

(a) (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and the other services it provides to respiratory care practitioners.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to respiratory care practitioners, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR RESPIRATORY CARE PRACTITIONERS UNDER § 14-401.1(G) OF THIS TITLE.**

14-5A-06.

(d) (1) From among its members, the Committee shall elect a chair once every 2 years.

(2) **THE CHAIR, OR THE CHAIR'S DESIGNEE, SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.**

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

(2) PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.

14-5A-16.

Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license, a licensed respiratory care practitioner may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

14-5A-17.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, on the affirmative vote of a majority of a quorum **OF THE BOARD**, may deny a license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE DISCIPLINARY PANEL, MAY** reprimand any licensee, place any licensee 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, licensee, or for another;

(2) Fraudulently or deceptively uses a license;

(3) Is guilty of unprofessional or immoral conduct in the practice of respiratory care;

(4) Is professionally, physically, or mentally incompetent;

(5) Abandons a patient;

- (6) Is habitually intoxicated;
- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (8) 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 any other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of respiratory care;
- (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;
- (12) Breaches patient confidentiality;
- (13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;
- (14) Knowingly makes a misrepresentation while practicing respiratory care;
- (15) Knowingly practices respiratory care with an unauthorized individual or aids an unauthorized individual in the practice of respiratory care;
- (16) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;
- (17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home, or any other location in this State;

(19) Knowingly submits false statements to collect fees for which services are not provided;

(20) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) **[The licensed individual] HAS:**

1. Surrendered the license issued by the state or country; or

2. Allowed the license issued by the state or country to expire or lapse;

(21) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(22) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(23) Practices or attempts to practice beyond the authorized scope of practice;

(24) 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 to render because the individual is HIV positive;

(25) Practices or attempts to practice a respiratory care procedure or uses or attempts to use respiratory care equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment;

(26) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**; or

(27) Fails to practice under the supervision of a physician or violates a supervisory order of a supervising physician.

(b) Except as otherwise provided in the Administrative Procedure Act, before the Board **OR A DISCIPLINARY PANEL** takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an

opportunity for a hearing before the Board **OR THE DISCIPLINARY PANEL** in accordance with the hearing requirements of § 14-405 of this title.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

14-5A-17.1.

(a) (1) Any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(b) An order of the Board **OR A DISCIPLINARY PANEL** may not be stayed pending review.

(c) The Board may appeal from any decision that reverses or modifies [its] **AN order OF THE BOARD OR A DISCIPLINARY PANEL**.

14-5A-18.

(f) 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 **OR A DISCIPLINARY PANEL** under this title.

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, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL 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 OR A DISCIPLINARY PANEL 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 IF THE BOARD KNOWS ABOUT THE DISCIPLINARY ACTION;

(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 THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN 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 ON EACH LICENSEE'S PROFILE A STATEMENT 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 A DISCIPLINARY PANEL.

(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 A DISCIPLINARY PANEL AND ANY FINAL

DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.

14-5A-19.

(A) On the application of an individual whose license has been revoked, [the Board] **A DISCIPLINARY PANEL**, on the affirmative vote of a majority of the quorum **OF THE DISCIPLINARY PANEL**, may reinstate a revoked license.

(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

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] **2018**.

14-5B-04.

(a) (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and other services it provides to licensees and holders of temporary licenses.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to licensees and holders of temporary licenses, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR LICENSEES AND HOLDERS OF TEMPORARY LICENSES UNDER § 14-401.1(G) OF THIS TITLE.**

14-5B-05.

(c) (1) From among its members, the Committee shall elect a chair once every 2 years.

(2) THE CHAIR, OR THE CHAIR'S DESIGNEE, SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.

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

(2) **PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.**

14-5B-13.

Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license or temporary license, a licensee or holder of a temporary license may not

surrender the license or temporary license and the license or temporary license may not lapse by operation of law while the licensee or holder of a temporary license is under investigation or while charges are pending against the licensee or holder of a temporary license.

14-5B-14.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, on the affirmative vote of a majority of the quorum **OF THE BOARD**, may deny a license or temporary license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE QUORUM OF THE DISCIPLINARY PANEL, MAY** reprimand any licensee or holder of a temporary license, place any licensee or holder of a temporary license on probation, or suspend or revoke a license, if the applicant licensee or holder of a temporary license:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or temporary license for the applicant, licensed individual, holder of a temporary license, or for another;
- (2) Fraudulently or deceptively uses a license or temporary license;
- (3) Is guilty of unprofessional or immoral conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Is habitually intoxicated;
- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (8) 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 any other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;

(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;

(12) Breaches patient confidentiality;

(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;

(14) Knowingly makes a misrepresentation while practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance;

(15) Knowingly practices radiation therapy, radiography, nuclear medicine technology, or radiology assistance with an unauthorized individual or aids an unauthorized individual in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;

(16) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(18) Fails to meet appropriate standards for the delivery of quality radiation therapy, radiography, nuclear medicine technology, or radiology assistance care performed in any outpatient surgical facility, office, hospital or related institution, or any other location in this State;

(19) Knowingly submits false statements to collect fees for which services are not provided;

(20) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) [The licensed individual] **HAS:**

1. Surrendered the license issued by the state or country; or

2. Allowed the license issued by the state or country to expire or lapse;

(21) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(22) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(23) Practices or attempts to practice beyond the authorized scope of practice;

(24) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee or holder of a temporary license is licensed and qualified to render because the individual is HIV positive;

(25) Practices or attempts to practice a radiation therapy, radiography, nuclear medicine technology, or radiology assistance procedure or uses radiation therapy, radiography, nuclear medicine technology, or radiology assistance equipment if the applicant or licensee or holder of a temporary license has not received education, internship, training, or experience in the performance of the procedure or the use of the equipment;

(26) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**; or

(27) Fails to practice under the supervision of a physician or violates a supervisory order of a supervising physician.

(b) Except as otherwise provided in the Administrative Procedure Act, before the Board **OR A DISCIPLINARY PANEL** takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board **OR THE DISCIPLINARY PANEL** in accordance with the hearing requirements of § 14–405 of this title.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a licensee or holder of a temporary license if the licensee or holder of a temporary license is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving

moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license or temporary license on the certification by the Office of the Attorney General.

14-5B-14.1.

(a) (1) Any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(b) An order of the Board **OR A DISCIPLINARY PANEL** may not be stayed pending review.

(c) The Board may appeal from any decision that reverses or modifies [its] **THE order OF THE BOARD OR A DISCIPLINARY PANEL**.

14-5B-15.

(f) 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 **OR A DISCIPLINARY PANEL** under this title.

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, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL 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 OR A DISCIPLINARY PANEL 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 IF THE BOARD KNOWS OF THE DISCIPLINARY ACTION;

(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 THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN 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 ON EACH LICENSEE'S PROFILE A STATEMENT 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 A DISCIPLINARY PANEL.

(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 A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.

14-5B-16.

(A) On the application of an individual whose license has been revoked, [the Board] A DISCIPLINARY PANEL may reinstate a revoked license.

(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

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] **2018**.

14-5C-04.

(a) (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and other services it provides to polysomnographic technologists.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to polysomnographic technologists, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR POLYSOMNOGRAPHIC TECHNOLOGISTS UNDER § 14-401.1(G) OF THIS TITLE.**

14-5C-06.

(D) (1) FROM AMONG ITS MEMBERS, THE COMMITTEE SHALL ELECT A CHAIR ONCE EVERY 2 YEARS.

(2) THE CHAIR, OR THE CHAIR'S DESIGNEE, SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.

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**

(2) PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.

14-5C-16.

Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license, a licensed polysomnographic technologist may not surrender the license nor

may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

14-5C-17.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, **ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE BOARD**, may deny a license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE DISCIPLINARY PANEL**, MAY reprimand any licensee, place any licensee 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, licensee, or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of unprofessional or immoral conduct in the practice of polysomnography;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Is habitually intoxicated;
- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (8) 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 any other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of polysomnography;
- (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;

(12) Breaches patient confidentiality;

(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;

(14) Knowingly makes a misrepresentation while practicing polysomnography;

(15) Knowingly practices polysomnography with an unauthorized individual or aids an unauthorized individual in the practice of polysomnography;

(16) Knowingly delegates a polysomnographic duty to an unlicensed individual;

(17) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(18) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(19) Fails to meet appropriate standards for the delivery of polysomnographic services performed in a hospital sleep laboratory or a stand-alone sleep center;

(20) Knowingly submits false statements to collect fees for which services are not provided;

(21) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) Has:

1. Surrendered the license, if any, issued by the state or country; or

2. Allowed the license, if any, issued by the state or country to expire or lapse;

(22) Knowingly fails to report suspected child abuse in violation of § 5-704 of the Family Law Article;

(23) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(24) Practices or attempts to practice beyond the authorized scope of practice;

(25) 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;

(26) 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 to render because the individual is HIV positive; or

(27) Practices or attempts to practice a polysomnography procedure or uses or attempts to use polysomnography equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment.

(b) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Board **OR A DISCIPLINARY PANEL** takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board **OR THE DISCIPLINARY PANEL** in accordance with the hearing requirements of § 14-405 of this title.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

14-5C-18.

(f) 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 **OR A DISCIPLINARY PANEL** under this title.

14-5C-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, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL 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 OR A DISCIPLINARY PANEL 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 IF THE BOARD KNOWS OF THE DISCIPLINARY ACTION;

(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 THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN 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 ON EACH LICENSEE'S PROFILE A STATEMENT 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 A DISCIPLINARY PANEL.

(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 A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.

14-5C-19.

(A) On the application of an individual whose license has been revoked, [the Board] **A DISCIPLINARY PANEL**, on the affirmative vote of a majority of its full authorized membership, may reinstate a revoked license.

(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

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] **2018**.

14-5D-03.

(a) (1) The Board shall set reasonable fees for the issuance and renewal of licenses and the other services it provides to athletic trainers.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to athletic trainers, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR ATHLETIC TRAINERS UNDER § 14-401.1(G) OF THIS TITLE.**

14-5D-05.

(e) (1) From among its members, the Committee shall elect a chair every 2 years.

(2) THE CHAIR SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.

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

(2) PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.

14-5D-14.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, **ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE BOARD**, may deny a license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE DISCIPLINARY PANEL**, may reprimand any licensee, place any licensee 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, licensee, or for another;

- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of unprofessional or immoral conduct in the practice of athletic training;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Habitually is intoxicated;
- (7) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (8) 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 any other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of athletic training;
- (11) 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;
- (12) Breaches patient confidentiality;
- (13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any individual for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;
- (14) Knowingly makes a misrepresentation while practicing athletic training;
- (15) Knowingly practices athletic training with an unauthorized individual or aids an unauthorized individual in the practice of athletic trainer services;

(16) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(17) Is disciplined by a licensing, certifying, or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under this section;

(18) Fails to meet appropriate standards for the delivery of athletic training services;

(19) Knowingly submits false statements to collect fees for which services have not been provided;

(20) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) **[The licensed individual] HAS:**

1. Surrendered the license issued by the state or country; or

2. Allowed the license issued by the state or country to expire or lapse;

(21) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(22) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(23) Practices or attempts to practice beyond the authorized scope of practice;

(24) 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 to render because the individual is HIV positive;

(25) Practices or attempts to practice an athletic training procedure or uses or attempts to use athletic training equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment;

(26) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL;**

(27) Fails to practice under the supervision of a physician or violates the approved evaluation and treatment protocol; or

(28) Violates an order of the Board **OR A DISCIPLINARY PANEL**, including any condition of probation.

(b) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process, if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

14-5D-15.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Board **OR A DISCIPLINARY PANEL** takes any action under § 14-5D-14 of this subtitle, [it] **THE BOARD OR THE DISCIPLINARY PANEL** shall give the individual against whom the action is contemplated an opportunity for a hearing before a hearing officer.

(2) The hearing officer shall give notice and hold the hearing in accordance with Title 10, Subtitle 2[,] of the State Government Article.

(3) The Board **OR A DISCIPLINARY PANEL** may administer oaths in connection with any proceedings under this section.

(4) At least 14 days before the hearing, a hearing notice shall be sent by certified mail to the last known address of the individual.

(b) (1) Any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(c) An order of the Board **OR A DISCIPLINARY PANEL** may not be stayed pending review.

(d) The Board may appeal from any decision that reverses or modifies [its] **AN order OF THE BOARD OR A DISCIPLINARY PANEL**.

14-5D-16.

(A) On the application of an individual whose license has been revoked, [the Board] A DISCIPLINARY PANEL may reinstate a revoked license.

(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

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, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL 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 OR A DISCIPLINARY PANEL 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 IF THE BOARD KNOWS OF THE DISCIPLINARY ACTION;

(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 THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN 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 ON EACH LICENSEE'S PROFILE A STATEMENT 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 A DISCIPLINARY PANEL.

(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 A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL 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] **2018**.

14-5E-04.

(a) (1) The Board shall set reasonable fees for the issuance and renewal of licenses and other services it provides to perfusionists.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to perfusionists, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR PERFUSIONISTS UNDER § 14-401.1(G) OF THIS TITLE.**

14-5E-06.

(d) (1) From among its members, the Committee shall elect a chair every 2 years.

(2) THE CHAIR SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.

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

(2) PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.

14-5E-15.

Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license, a licensed perfusionist may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

14-5E-16.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, **ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE QUORUM OF THE BOARD**, may deny a license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE QUORUM OF THE DISCIPLINARY PANEL, MAY**

reprimand any licensee, place any licensee 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 licensee or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of unprofessional or immoral conduct in the practice of perfusion;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Is habitually intoxicated;
- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (8) 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 any other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of perfusion;
- (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;
- (12) Breaches patient confidentiality;
- (13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;
- (14) Knowingly makes a misrepresentation while practicing perfusion;

(15) Knowingly practices perfusion with an unauthorized individual or aids an unauthorized individual in the practice of perfusion;

(16) Knowingly delegates a perfusion duty to an unlicensed individual;

(17) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(18) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(19) Fails to meet appropriate standards for the delivery of perfusion services;

(20) Knowingly submits false statements to collect fees for which services are not provided;

(21) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) Has:

1. Surrendered the license, if any, issued by the state or country; or

2. Allowed the license, if any, issued by the state or country to expire or lapse;

(22) Knowingly fails to report suspected child abuse in violation of § 5-704 of the Family Law Article;

(23) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(24) Practices or attempts to practice beyond the authorized scope of practice;

(25) 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;

(26) 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 to render because the individual is HIV positive;

(27) Practices or attempts to practice a perfusion procedure or uses or attempts to use perfusion equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment; or

(28) Fails to cooperate with a lawful investigation of the Board **OR A DISCIPLINARY PANEL**.

(b) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Board **OR A DISCIPLINARY PANEL** takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board **OR THE DISCIPLINARY PANEL** in accordance with the hearing requirements of § 14-405 of this title.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

14-5E-18.

(f) 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 **OR A DISCIPLINARY PANEL** under this title.

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, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL 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 OR A DISCIPLINARY PANEL 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 THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN 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 ON EACH LICENSEE'S PROFILE A STATEMENT 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 A DISCIPLINARY PANEL.

(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 A DISCIPLINARY PANEL AND ANY FINAL

DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.

14-5E-19.

(A) On the application of an individual whose license has been revoked, [the Board] **A DISCIPLINARY PANEL**, on the affirmative vote of a majority of its full authorized membership, may reinstate a revoked license.

(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

14-5E-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, [2022] **2018**.

14-603.

A person may not make any false statement, report, or representation to the Board **OR A DISCIPLINARY PANEL**.

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] **2018**.

15-101.

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

(I-1) "DISCIPLINARY PANEL" MEANS A DISCIPLINARY PANEL OF THE BOARD ESTABLISHED UNDER § 14-401 OF THIS ARTICLE.

15-103.

(h) A report 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 **OR A DISCIPLINARY PANEL** under this title.

15-202.

(d) A Committee [chairperson] **CHAIR** and a secretary shall be selected every 2 years by a majority vote of the membership of the Committee.

(e) The [chairperson] **CHAIR, OR THE CHAIR'S DESIGNEE**, shall serve in an advisory capacity to the Board as a representative of the Committee.

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] **TO THE COMMITTEE AN ANNUAL 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.

15-206.

(a) The Board shall set reasonable fees for:

(1) The issuance and renewal of licenses; and

(2) The other services rendered by the Board in connection with physician assistants, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR PHYSICIAN ASSISTANTS UNDER § 14-401.1(G) OF THIS ARTICLE.**

15-302.

(g) If the Board determines that a primary or alternate supervising physician or physician assistant is practicing in a manner inconsistent with the requirements of this title or Title 14 of this article, the Board on its own initiative or on the recommendation of the Committee may demand modification of the practice, withdraw the approval of the delegation agreement, or **[take] REFER THE MATTER TO A DISCIPLINARY PANEL FOR THE PURPOSE OF TAKING** other disciplinary action under § 14-404 or § 15-314 of this article.

15-310.

[(e) 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.]

15-312.

(a) Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license of a physician assistant, the physician assistant may not surrender the license nor may the licensure lapse by operation of law while the physician assistant is under investigation or while charges are pending.

(b) [The Board] **A DISCIPLINARY PANEL** may set conditions on its agreement to accept surrender of a license.

15-314.

(a) Subject to the hearing provisions of § 15-315 of this subtitle, [the Board] **A DISCIPLINARY PANEL**, on the affirmative vote of a majority of the quorum, may reprimand any physician assistant, place any physician assistant on probation, or suspend or revoke a license if the physician assistant:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of:
 - (i) Immoral conduct in the practice of medicine; or
 - (ii) Unprofessional conduct in the practice of medicine;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Solicits or advertises in violation of § 14-503 of this article;
- (6) Abandons a patient;
- (7) Habitually is intoxicated;
- (8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (9) 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;

(10) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;

(11) Willfully makes or files a false report or record in the practice of medicine;

(12) Willfully fails to file or record any medical 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;

(13) On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health – General Article, fails to provide details of a patient’s medical record to the patient, another physician, or hospital;

(14) Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician;

(15) Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient;

(16) Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient, unless the licensed physician assistant discloses on the bill to the patient or third-party payor:

(i) The name of the laboratory;

(ii) The amount paid to the laboratory for the test or test series;
and

(iii) The amount of procurement or processing charge of the licensed physician, if any, for each specimen taken;

(17) Makes a willful misrepresentation in treatment;

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine;

(19) Grossly overutilizes health care services;

(20) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this section;

(22) Fails to meet appropriate standards for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State;

(23) Willfully submits false statements to collect fees for which services are not provided;

(24) Was subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this section and the licensee:

(i) Surrendered the license issued by the state or country to the state or country; or

(ii) Allowed the license issued by the state or country to expire or lapse;

(25) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(26) Fails to educate a patient being treated for breast cancer of alternative methods of treatment as required by § 20–113 of the Health – General Article;

(27) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(28) Fails to comply with the provisions of § 12–102 of this article;

(29) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the physician assistant is licensed and qualified to render because the individual is HIV positive;

(30) Except as to an association that has remained in continuous existence since July 1, 1963:

(i) Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy;

(ii) Employs a pharmacist for the purpose of operating a pharmacy; or

(iii) Contracts with a pharmacist for the purpose of operating a pharmacy;

(31) 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;

(32) Fails to display the notice required under § 14-415 of this article;

(33) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**;

(34) Is convicted of insurance fraud as defined in § 27-801 of the Insurance Article;

(35) Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the physician assistant's medical education;

(36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine;

(37) By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or proceedings before the Board **OR A DISCIPLINARY PANEL** or those otherwise delegated to the Office of Administrative Hearings;

(38) By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the Board **OR A DISCIPLINARY PANEL** in furtherance of any investigation of the Board **OR A DISCIPLINARY PANEL**;

(39) Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board **OR A DISCIPLINARY PANEL** or those otherwise delegated to the Office of Administrative Hearings;

(40) Fails to keep adequate medical records;

(41) Performs delegated medical acts beyond the scope of the delegation agreement filed with the Board or after notification from the Board that an advanced duty has been disapproved; or

(42) Performs delegated medical acts without the supervision of a physician.

(b) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the physician assistant is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

15-315.

(a) (1) Except as otherwise provided under § 10-226 of the State Government Article, before [the Board] **A DISCIPLINARY PANEL** takes any action under § 15-314(a) of this subtitle, the [Board] **DISCIPLINARY PANEL** shall give the individual against whom the action is contemplated an opportunity for a hearing before a hearing officer.

(2) The hearing officer shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(3) [The Board] **A DISCIPLINARY PANEL** may administer oaths in connection with any proceeding under this section.

(4) At least 14 days before the hearing, the hearing notice required under this subtitle shall be sent by certified mail to the last known address of the individual.

(b) (1) Any licensee who is aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not appeal to the Board of Review but may take a direct judicial appeal.

(2) The appeal shall be as provided for judicial review of the final decision in Title 10, Subtitle 2 of the State Government Article.

(c) An order of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not be stayed pending review.

(d) All of the findings and orders of the Board **OR A DISCIPLINARY PANEL** that relate to physician assistants are subject to the provisions of Title 14, Subtitle 4 of this article.

15-316.

(a) If, after a hearing under § 15–315 of this subtitle, [the Board] A DISCIPLINARY PANEL finds that there are grounds for discipline under § 15–314(a) of this subtitle to suspend or revoke a license of a physician assistant [or to deny a license to an applicant] or to reprimand a licensed physician assistant, the [Board] DISCIPLINARY PANEL may impose a fine subject to the Board’s regulations instead of or in addition to suspending or revoking the license or reprimanding the licensee.

(b) The Board shall pay any fines collected under this section into the General Fund of the State.

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, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL 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 OR A DISCIPLINARY PANEL 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 THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN 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 ON EACH LICENSEE’S PROFILE A STATEMENT 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 A DISCIPLINARY PANEL.

(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 A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL 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] **2018**.

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:

(6) Athletic Training Advisory Committee (§ 14-5D-04 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(45) Perfusion Advisory Committee (§ 14-5E-05 of the Health Occupations Article: [July 1, 2021] **OCTOBER 30, 2016**);

(48) Physician Assistant Advisory Committee (§ 15–201 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(49) Physicians, State Board of (§ 14–201 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(53) Polysomnography Professional Standards Committee (§ 14–5C–05 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(59) Radiation Oncology/Therapy Technologists, Medical Radiation Technologists, and Nuclear Medicine Technologists Advisory Committee (§ 14–5B–05 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(63) Respiratory Care Professional Standards Committee, State (§ 14–5A–05 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, and annually thereafter for the next 5 years, the State Board of Physicians shall submit a report, 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. The report shall provide an update on:

(1) any changes to the Board’s discipline process that have been implemented and the effect of those changes on the complaint backlog and complaint resolution times;

(2) the progress of the Board in procuring and implementing a new information technology system to improve data management;

(3) a long–term financial plan;

(4) financial data for the preceding fiscal year; and

(5) the progress of the Board in implementing 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” and any statutory changes affecting the Board.

SECTION 3. AND BE IT FURTHER ENACTED, That the provisions of § 8–404 of the State Government Article requiring a preliminary evaluation do not apply to the State Board of Physicians or the related allied health advisory committees prior to the evaluation required on or before October 30, 2016.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety,

has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 2, 2013.

Chapter 402

(House Bill 1098)

AN ACT concerning

~~Procurement~~ ~~Prevailing Wage~~ ~~Applicability~~
Task Force to Study the Applicability of the Maryland Prevailing Wage Law

FOR the purpose of ~~altering~~ ~~repealing a certain limitation on the applicability of the Prevailing Wage Law to the construction of a public work by revising a certain definition;~~ *establishing a Task Force to Study the Applicability of the Maryland Prevailing Wage Law; providing for the membership and cochairs of the Task Force; requiring the Department of Legislative Services, with assistance from the Department of Labor, Licensing, and Regulation, to staff the Task Force; providing that a member of the Task Force may not receive certain compensation but is entitled to certain reimbursement; providing for the duties of the Task Force; requiring the Task Force to report certain findings and recommendations, on or before a certain date, to the Governor and certain committees of the General Assembly; providing for the termination of this Act;* and generally relating to the applicability of the Prevailing Wage Law.

~~BY repealing and reenacting, with amendments,~~
~~Article State Finance and Procurement~~
~~Section 17-201~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 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~~

~~17-201.~~

(a) ~~In this subtitle, unless the context indicates otherwise, the following words have the meanings indicated.~~

(b) ~~“Apprentice” means an individual who:~~

- ~~(1) is at least 16 years old;~~
- ~~(2) has signed with an employer or employer's agent, an association of employers, an organization of employees, or a joint committee from both, an agreement including a statement of:
 - ~~(i) the trade, craft, or occupation that the individual is learning;~~
 - ~~(ii) the beginning and ending dates of the apprenticeship; and~~~~
- ~~(3) is registered in a program of the Council or the Bureau of Apprenticeship and Training of the United States Department of Labor.~~
- ~~(c) "Commissioner" means:
 - ~~(1) the Commissioner of Labor and Industry;~~
 - ~~(2) the Deputy Commissioner of Labor and Industry; or~~
 - ~~(3) an authorized representative of the Commissioner.~~~~
- ~~(d) "Construction" includes all:
 - ~~(1) building;~~
 - ~~(2) reconstructing;~~
 - ~~(3) improving;~~
 - ~~(4) enlarging;~~
 - ~~(5) painting and decorating;~~
 - ~~(6) altering;~~
 - ~~(7) maintaining; and~~
 - ~~(8) repairing.~~~~
- ~~(e) "Council" means the Apprenticeship and Training Council.~~
- ~~(f) (1) "Employee" means an apprentice or worker employed by a contractor or subcontractor under a public work contract.~~

~~(2) "Employee" does not include an individual employed by a public body.~~

~~(g) (1) "Locality" means the county in which the work is to be performed.~~

~~(2) If the public work is located within 2 or more counties, the locality includes all counties in which the public work is located.~~

~~(h) "Prevailing wage rate" means the hourly rate of wages paid in the locality as determined by the Commissioner under § 17-208 of this subtitle.~~

~~(i) (1) "Public body" means:~~

~~(i) the State;~~

~~(ii) except as provided in paragraph (2)(i) (2) of this subsection, a unit of the State government or instrumentality of the State;~~

~~(iii) any political subdivision, agency, person, or entity with respect to the construction of any public work for which [50%] 25% or more of the money used for construction is FUNDED IN WHOLE OR IN PART WITH State money; and~~

~~(iv) notwithstanding paragraph (2)(ii) of this subsection, a political subdivision if its governing body:~~

~~1. provides by ordinance or resolution that the political subdivision is covered by this subtitle; and~~

~~2. gives written notice of that ordinance or resolution to the Commissioner.~~

~~(2) "Public body" does not include:~~

~~(i) a unit of the State government or instrumentality of the State funded wholly from a source other than the State; or~~

~~(ii) any political subdivision, agency, person, or entity with respect to the construction of any public work for which less than [50%] 25% of the money used for construction is State money.~~

~~(j) (1) Subject to paragraph (2) of this subsection, "public work" means a structure or work, including a bridge, building, ditch, road, alley, waterwork, or sewage disposal plant, that:~~

~~(i) is constructed for public use or benefit; or~~

~~(ii) is paid for wholly or partly by public money.~~

~~(2) “Public work” does not include, **INCLUDE:**~~

~~(I) **A STRUCTURE OR WORK WHOSE CONSTRUCTION IS PERFORMED BY A PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION, REGARDLESS OF PAYMENT WHOLLY OR PARTLY BY PUBLIC MONEY; OR**~~

~~(II) unless let to contract, a structure or work whose construction is performed by a public service company under order of the Public Service Commission or other public authority regardless of:~~

~~(i) 1. public supervision or direction; or~~

~~(ii) 2. payment wholly or partly from public money.~~

~~(k) “Public work contract” means a contract for construction of a public work.~~

~~(l) “Worker” means a laborer or mechanic.~~

(a) There is a Task Force to Study the Applicability of the Maryland Prevailing Wage Law.

(b) The Task Force consists of the following members:

(1) two members of the Senate of Maryland, one of whom shall be a member of the minority party, appointed by the President of the Senate;

(2) two members of the House of Delegates, one of whom shall be a member of the minority party, appointed by the Speaker of the House;

(3) the Secretary of Labor, Licensing, and Regulation;

(4) the Secretary of General Services;

(5) the Executive Director of the Public School Construction Program;

(6) the following members appointed by the President of the Senate and the Speaker of the House:

(i) one member of the AFL-CIO;

(ii) one member of the Washington, DC Building and Construction Trades Council;

(iii) one member of the Associated Builders and Contractors;

(iii) fringe benefits provided to workers;

(iv) licensing requirements;

(v) reporting requirements; and

(vi) union requirements that may affect staffing levels;

(3) analyze and examine prevailing wage and nonprevailing wage construction projects through the duration of the project to determine if project quality varies by contract type, accounting for the following:

(i) local school system–driven modifications;

(ii) unforeseen condition modifications; and

(iii) defective workmanship;

(4) study how local prevailing wage laws compare to the Maryland Prevailing Wage Law;

(5) review:

(i) other state prevailing wage laws;

(ii) other studies on the effect of prevailing wage laws on construction costs, community well-being, worker wages and income tax revenues, and State and local budgets; and

(iii) any other matter that relates to the scope and application of the Maryland Prevailing Wage Law.

(g) On or before December 31, 2013, the Task Force shall report its findings and recommendations relating to the effect of the Maryland Prevailing Wage Law on school construction to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. It shall remain effective for a period of 1 year 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 2, 2013.

Chapter 403**(House Bill 1101)**

AN ACT concerning

~~Medical Marijuana – Academic Medical Centers~~
Medical Marijuana – Academic Medical Centers –
Natalie M. LaPrade Medical Marijuana Commission

FOR the purpose of establishing the Natalie M. LaPrade Medical Marijuana Commission; providing that the Commission is an independent commission that functions within the Department of Health and Mental Hygiene; providing for the purpose and the membership of the Commission; providing for the terms of the members of the Commission; requiring the Governor to designate the chair of the Commission; providing that a member of the Commission may not receive certain compensation but is entitled to certain reimbursement; authorizing the Commission to employ a certain staff; establishing the Natalie M. LaPrade Medical Marijuana Commission Fund; requiring the Commission to administer the Fund; providing that the Fund is a special continuing, nonlapsing fund that is not subject to a certain provision of law; requiring the State Treasurer to hold the Fund and the State Comptroller to account for the Fund; requiring the Fund to be invested and reinvested in a certain manner and the investment earnings be retained to the credit of the Fund; requiring the Fund to be subject to a certain audit; requiring the Comptroller to pay out money from the Fund as directed by the Commission; providing that the Fund consists of certain money; prohibiting any part of the Fund from reverting or being credited to the General Fund of the State or any other special fund of the State; providing that expenditures from the Fund may be made only in accordance with the State budget; requiring the Commission to issue a certain request for applications at least annually; requiring a certain application submitted by an academic medical center to include certain information; requiring the Commission to set certain application and renewal fees; requiring the Commission to establish a certain application review process; requiring certain reviewers to review, evaluate, and rate certain applications and to make certain recommendations; authorizing the Commission to grant a certain approval; limiting the number of programs that the Commission may approve to operate at one time; requiring certain academic medical centers to provide certain data on a certain basis to the ~~Department of Health and Mental Hygiene~~ Commission; requiring the ~~Department~~ Commission to make certain data available to law enforcement in a certain manner; providing that an academic medical center operating a certain program may obtain marijuana only from certain sources; subjecting an academic medical center to certain requirements if an academic medical center utilizes caregivers as part of a certain program; requiring certain academic medical centers to provide a certain annual report to the Commission; requiring a certain academic medical center to apply annually to the Commission for a

certain renewal in accordance with certain procedures; providing that certain academic medical centers are subject to certain inspection by the Commission; authorizing the Commission to rescind approval of certain programs under certain circumstances; requiring the Commission to provide a certain report to the Governor and General Assembly on or before a certain date each year; requiring the ~~Department~~ Commission to license medical marijuana growers for a certain purpose; limiting the number of medical marijuana growers that the Commission may license; providing that certain entities may provide marijuana only to certain academic medical centers; requiring the ~~Department~~ Commission to establish certain security and manufacturing requirements; authorizing the ~~Department~~ Commission to inspect certain growers; authorizing the ~~Department~~ Commission to impose certain penalties or rescind certain licenses; exempting certain persons from certain penalties when acting in accordance with this Act; providing that a person may not distribute, possess, manufacture, or use certain marijuana; providing for certain penalties; providing for the construction of this Act; authorizing the State to pay for the defense of certain State employees under certain circumstances; authorizing the Governor to suspend implementation of the Act under certain circumstances; establishing that a certain requirement that certain interest accrue to the General Fund of the State does not apply to the Natalie M. LaPrade Medical Marijuana Commission Fund; during a certain fiscal year, requiring the Commission to develop certain policies, procedures, regulations, and guidelines for implementation of the Act; requiring the Commission to provide a certain report to the Governor and General Assembly on or before a certain date; defining certain terms; and generally relating to marijuana for medical use.

BY adding to

Article – Health – General

Section 13-3101 through ~~13-3110~~ 13-3111 to be under the new subtitle

“Subtitle 31. Medical Marijuana”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 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 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 6-226(a)(2)(ii)69. and 70.

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – State Finance and Procurement

Section 6-226(a)(2)(ii)71.
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health – General

SUBTITLE 31. ~~MEDICAL MARIJUANA~~ NATALIE M. LAPRADE MEDICAL MARIJUANA COMMISSION.

13-3101.

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

(B) “ACADEMIC MEDICAL CENTER” MEANS A HOSPITAL THAT:

(1) OPERATES A MEDICAL RESIDENCY PROGRAM FOR PHYSICIANS; AND

(2) CONDUCTS RESEARCH THAT IS OVERSEEN BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES AND INVOLVES HUMAN SUBJECTS.

(C) “COMMISSION” MEANS THE NATALIE M. LAPRADE MEDICAL MARIJUANA COMMISSION ESTABLISHED UNDER THIS SUBTITLE.

(D) “FUND” MEANS THE NATALIE M. LAPRADE MEDICAL MARIJUANA COMMISSION FUND ESTABLISHED UNDER § 13-3103 OF THIS SUBTITLE.

~~(D)~~ (E) “PROGRAM” MEANS AN INVESTIGATIONAL USE-TYPE PROGRAM OVERSEEN BY AN ACADEMIC MEDICAL CENTER THROUGH WHICH MARIJUANA IS MADE AVAILABLE TO PATIENTS FOR MEDICAL USE.

13-3102.

(A) THERE IS A NATALIE M. LAPRADE MEDICAL MARIJUANA COMMISSION.

(B) THE COMMISSION IS AN INDEPENDENT COMMISSION THAT FUNCTIONS WITHIN THE DEPARTMENT.

~~(B)~~ (C) THE PURPOSE OF THE COMMISSION IS TO:

(1) DEVELOP REQUESTS FOR APPLICATIONS FOR ACADEMIC MEDICAL CENTERS TO OPERATE PROGRAMS IN ACCORDANCE WITH THIS SUBTITLE;

(2) APPROVE OR DENY APPLICATIONS FOR PROGRAMS;

(3) APPROVE OR DENY APPLICATIONS FOR RENEWAL OF PROGRAMS; AND

(4) MONITOR AND OVERSEE PROGRAMS APPROVED FOR OPERATION UNDER THIS SUBTITLE.

13-3103.

(A) THE COMMISSION CONSISTS OF THE FOLLOWING 12 MEMBERS:

(1) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE; AND

(2) THE FOLLOWING 11 MEMBERS, APPOINTED BY THE GOVERNOR:

(I) ONE MEMBER OF THE PUBLIC WHO SUPPORTS THE USE OF MARIJUANA FOR MEDICAL PURPOSES AND WHO IS OR WAS A PATIENT WHO FOUND RELIEF FROM THE USE OF MEDICAL MARIJUANA;

(II) ONE MEMBER OF THE PUBLIC DESIGNATED BY THE MARYLAND CHAPTER OF THE NATIONAL COUNCIL ON ALCOHOLISM AND DRUG DEPENDENCE;

(III) THREE PHYSICIANS LICENSED IN THE STATE WHO SPECIALIZE IN ADDICTION, PAIN, ONCOLOGY, NEUROLOGY, OR CLINICAL RESEARCH;

(IV) ONE NURSE LICENSED IN THE STATE WHO HAS EXPERIENCE IN HOSPICE CARE, NOMINATED BY A STATE RESEARCH INSTITUTION OR TRADE ASSOCIATION;

(V) ONE PHARMACIST LICENSED IN THE STATE, NOMINATED BY A STATE RESEARCH INSTITUTION OR TRADE ASSOCIATION;

(VI) ONE SCIENTIST WHO HAS EXPERIENCE IN THE SCIENCE OF MARIJUANA, NOMINATED BY A STATE RESEARCH INSTITUTION;

(VII) ONE REPRESENTATIVE OF THE MARYLAND STATE'S ATTORNEYS' ASSOCIATION;

(VIII) ONE REPRESENTATIVE OF THE MARYLAND CHIEFS OF POLICE; AND

(IX) AN ATTORNEY WHO IS KNOWLEDGEABLE ABOUT MEDICAL MARIJUANA LAWS IN THE UNITED STATES.

(B) (1) THE TERM OF A MEMBER IS 4 YEARS.

(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS ON OCTOBER 1, 2013.

(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 THREE CONSECUTIVE FULL TERMS.

(5) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(C) THE GOVERNOR SHALL DESIGNATE THE CHAIR FROM AMONG THE MEMBERS OF THE COMMISSION.

(D) A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP OF THE COMMISSION IS A QUORUM.

(E) A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) THE COMMISSION MAY EMPLOY A STAFF, INCLUDING CONTRACTUAL STAFF, IN ACCORDANCE WITH THE STATE BUDGET.

(G) (1) THERE IS A NATALIE M. LAPRADE MEDICAL MARIJUANA COMMISSION FUND.

(2) THE COMMISSION SHALL ADMINISTER THE FUND.

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

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

(5) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS, AND ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT OF THE FUND.

(6) THE FUND SHALL BE SUBJECT TO AN AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS AS PROVIDED FOR IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

(7) THE COMPTROLLER SHALL PAY OUT MONEY FROM THE FUND AS DIRECTED BY THE COMMISSION.

(8) THE FUND CONSISTS OF:

(I) ANY MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(II) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND, IN ACCORDANCE WITH ANY CONDITIONS ADOPTED BY THE COMMISSION FOR THE ACCEPTANCE OF DONATIONS OR GIFTS TO THE FUND.

(9) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO:

(I) THE GENERAL FUND OF THE STATE; OR

(II) ANY OTHER SPECIAL FUND OF THE STATE.

(10) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(A) THE COMMISSION SHALL ISSUE AT LEAST ANNUALLY A REQUEST FOR APPLICATIONS FOR ACADEMIC MEDICAL CENTERS TO OPERATE MEDICAL MARIJUANA COMPASSIONATE USE PROGRAMS.

(B) AN APPLICATION SUBMITTED BY AN ACADEMIC MEDICAL CENTER TO OPERATE A PROGRAM UNDER THIS SUBTITLE SHALL:

(1) SPECIFY THE MEDICAL CONDITIONS TO BE TREATED UNDER THE PROGRAM TO BE OPERATED BY THE ACADEMIC MEDICAL CENTER, PROPOSED ON THE BASIS OF EVIDENCE;

(2) SPECIFY THE CRITERIA BY WHICH THE ACADEMIC MEDICAL CENTER WILL INCLUDE AND EXCLUDE PATIENTS FROM PARTICIPATION IN THE PROGRAM;

(3) SPECIFY HOW PATIENTS WILL BE ASSESSED FOR ADDICTION BEFORE AND DURING TREATMENT USING MARIJUANA THROUGH THE PROGRAM;

(4) DESCRIBE THE SOURCE OF THE MARIJUANA TO BE USED IN A PROGRAM AND INCLUDE SCIENTIFIC DETAILS OF THE TYPE OF MARIJUANA TO BE USED IN THE PROGRAM;

(5) SPECIFY THE LENGTH OF TREATMENT AND DOSAGE PERMITTED UNDER THE PROGRAM;

(6) DESCRIBE HOW HEALTH CARE PROVIDERS WILL BE ELIGIBLE TO PARTICIPATE IN THE PROGRAM AND WHAT TRAINING THEY WILL RECEIVE;

(7) INCLUDE A DESCRIPTION OF WHETHER AND HOW CAREGIVERS WILL INTERACT WITH PATIENTS PARTICIPATING IN THE PROGRAM;

(8) DEMONSTRATE APPROVAL OF THE PROGRAM BY THE ACADEMIC MEDICAL CENTER'S INSTITUTIONAL REVIEW BOARD;

(9) DESCRIBE THE PLAN FOR DEFINING AND MONITORING THE SUCCESS OR FAILURE OF TREATMENT USING MARIJUANA THROUGH THE PROGRAM;

(10) INCLUDE A PLAN FOR MONITORING AGGREGATE DATA AND OUTCOMES AND PUBLISHING RESULTS FROM THE PROGRAM, AS APPROPRIATE;

(11) INCLUDE A DESCRIPTION OF THE SOURCES OF FUNDING FOR THE PROGRAM, INCLUDING ANY RESEARCH GRANTS;

(12) DESCRIBE ANY REQUIRED TRAINING FOR HEALTH CARE PROVIDERS AND PATIENTS PARTICIPATING IN THE PROGRAM ON DIVERSION-RELATED ISSUES;

(13) DESCRIBE STEPS THE ACADEMIC MEDICAL CENTER WILL TAKE TO PREVENT AND MONITOR FOR DIVERSION AND ADDRESS VIOLATIONS OF ITS DIVERSION POLICY;

(14) DESCRIBE HOW THE PROGRAM WILL DISPOSE OF ANY UNUSED MARIJUANA; AND

(15) DESCRIBE HOW THE ACADEMIC MEDICAL CENTER AND THE PROGRAM WILL MEET ANY OTHER CRITERIA ESTABLISHED BY THE COMMISSION RELATED TO DIVERSION OR OTHER ASPECTS OF PROGRAMS OVERSEEN BY THE COMMISSION.

(C) THE COMMISSION SHALL SET APPLICATION FEES AND RENEWAL FEES THAT COVER ITS EXPENSES IN REVIEWING AND APPROVING APPLICATIONS AND PROVIDING OVERSIGHT TO PROGRAMS.

13-3105.

(A) THE COMMISSION SHALL ESTABLISH AN APPLICATION REVIEW PROCESS THAT INCLUDES REVIEWERS WITH EXPERTISE IN SCIENTIFIC RESEARCH AND ANALYSIS, MEDICAL TRAINING, AND LAW ENFORCEMENT.

(B) THE REVIEWERS SHALL:

(1) REVIEW, EVALUATE, AND RATE APPLICATIONS FOR MEDICAL MARIJUANA COMPASSIONATE USE PROGRAMS SUBMITTED BY ACADEMIC MEDICAL CENTERS BASED ON THE PROCEDURES AND GUIDELINES ESTABLISHED BY THE COMMISSION; AND

(2) MAKE RECOMMENDATIONS TO THE COMMISSION, BASED ON THE RATINGS AWARDED TO PROPOSALS BY THE REVIEWERS, FOR APPROVAL OF APPLICATIONS FROM MEDICAL MARIJUANA COMPASSIONATE USE PROGRAMS.

(C) THE COMMISSION MAY GRANT A 1-YEAR APPROVAL TO A PROGRAM, WHICH MAY BE RENEWED BY THE COMMISSION.

(D) THE COMMISSION MAY APPROVE NO MORE THAN FIVE PROGRAMS TO OPERATE AT ONE TIME.

13-3106.

(A) (1) AN ACADEMIC MEDICAL CENTER APPROVED TO OPERATE A PROGRAM UNDER THIS SUBTITLE SHALL PROVIDE TO THE ~~DEPARTMENT~~ COMMISSION UPDATED DATA EACH DAY ON PATIENTS AND CAREGIVERS PARTICIPATING IN EACH PROGRAM OVERSEEN BY THE ACADEMIC MEDICAL CENTER.

(2) THE ~~DEPARTMENT~~ COMMISSION SHALL MAKE THE DATA AVAILABLE IN REAL TIME TO LAW ENFORCEMENT.

(B) AN ACADEMIC MEDICAL CENTER OPERATING A PROGRAM APPROVED UNDER THIS SUBTITLE MAY USE MARIJUANA OBTAINED ONLY FROM:

(1) THE FEDERAL GOVERNMENT; OR

(2) A MEDICAL MARIJUANA GROWER LICENSED UNDER THIS SUBTITLE.

(C) IF AN ACADEMIC MEDICAL CENTER UTILIZES CAREGIVERS AS PART OF A PROGRAM APPROVED UNDER THIS SUBTITLE, THE ACADEMIC MEDICAL CENTER SHALL:

(1) LIMIT THE NUMBER OF PATIENTS A CAREGIVER IS ALLOWED TO SERVE TO NO MORE THAN FIVE; AND

(2) LIMIT THE NUMBER OF CAREGIVERS THAT SERVE A PARTICULAR PATIENT TO NO MORE THAN TWO.

(D) AN ACADEMIC MEDICAL CENTER OPERATING A PROGRAM APPROVED UNDER THIS SUBTITLE SHALL REPORT ANNUALLY TO THE COMMISSION, IN THE FORM SPECIFIED BY THE COMMISSION, ON:

(1) THE NUMBER OF PATIENTS SERVED THROUGH THE PROGRAM;

(2) THE COUNTY OF RESIDENCE OF THE PATIENTS SERVED BY THE PROGRAM;

(3) THE CONDITIONS TREATED UNDER THE PROGRAM;

(4) ANY OUTCOMES DATA ON THE RESULTS OF TREATMENT THROUGH THE PROGRAM; AND

(5) ANY RESEARCH STUDIES CONDUCTED UNDER THE PROGRAM.

(E) AN ACADEMIC MEDICAL CENTER OPERATING A PROGRAM APPROVED UNDER THIS SUBTITLE SHALL APPLY ANNUALLY TO THE COMMISSION FOR RENEWAL OF APPROVAL OF THE PROGRAM, IN ACCORDANCE WITH ANY PROCEDURES ESTABLISHED BY THE COMMISSION.

(F) AN ACADEMIC MEDICAL CENTER OPERATING A PROGRAM APPROVED UNDER THIS SUBTITLE IS SUBJECT TO INSPECTION BY THE COMMISSION TO ENSURE THAT THE PROGRAM IS OPERATING ACCORDING TO THE CONDITIONS OF APPROVAL ESTABLISHED BY THE COMMISSION.

(G) THE COMMISSION MAY RESCIND APPROVAL OF A PROGRAM IF THE COMMISSION FINDS THAT THE PROGRAM IS NOT IN COMPLIANCE WITH THE CONDITIONS OF APPROVAL ESTABLISHED BY THE COMMISSION.

13-3107.

ON OR BEFORE JANUARY 1 EACH YEAR, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON PROGRAMS APPROVED TO OPERATE UNDER THIS SUBTITLE.

13-3108.

(A) (1) THE ~~DEPARTMENT~~ COMMISSION SHALL LICENSE MEDICAL MARIJUANA GROWERS TO OPERATE IN THE STATE TO PROVIDE MARIJUANA TO PROGRAMS APPROVED FOR OPERATION UNDER THIS SUBTITLE.

(2) THE COMMISSION MAY LICENSE NO MORE THAN FIVE MEDICAL MARIJUANA GROWERS FOR EACH APPROVED PROGRAM.

(B) AN ENTITY LICENSED TO GROW MARIJUANA UNDER THIS SECTION MAY PROVIDE MARIJUANA ONLY TO AN ACADEMIC MEDICAL CENTER APPROVED TO OPERATE A PROGRAM UNDER THIS SUBTITLE.

(C) THE ~~DEPARTMENT~~ COMMISSION SHALL ESTABLISH REQUIREMENTS FOR SECURITY AND THE MANUFACTURING PROCESS THAT A GROWER MUST MEET IN ORDER TO OBTAIN A LICENSE UNDER THIS SECTION, INCLUDING A REQUIREMENT FOR A PRODUCT-TRACKING SYSTEM.

(D) THE ~~DEPARTMENT~~ COMMISSION MAY INSPECT GROWERS LICENSED UNDER THIS SECTION TO ENSURE COMPLIANCE WITH THIS SECTION.

(E) ~~THE DEPARTMENT~~ COMMISSION MAY IMPOSE PENALTIES OR RESCIND THE LICENSE OF A GROWER THAT DOES NOT MEET THE STANDARDS FOR LICENSURE SET BY THE ~~DEPARTMENT~~ COMMISSION.

13-3109.

(A) ANY OF THE FOLLOWING PERSONS ACTING IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE MAY NOT BE SUBJECT TO ARREST, PROSECUTION, OR ANY CIVIL OR ADMINISTRATIVE PENALTY, INCLUDING A CIVIL PENALTY OR DISCIPLINARY ACTION BY A PROFESSIONAL LICENSING BOARD, OR BE DENIED ANY RIGHT OR PRIVILEGE, FOR THE MEDICAL USE OF MARIJUANA:

(1) A PATIENT ENROLLED IN A PROGRAM APPROVED UNDER THIS SUBTITLE WHO IS IN POSSESSION OF AN AMOUNT OF MARIJUANA AUTHORIZED UNDER THE PROGRAM;

(2) A GROWER LICENSED UNDER § 13-3108 OF THIS SUBTITLE OR AN EMPLOYEE OF THE LICENSED GROWER WHO IS ACTING IN ACCORDANCE WITH THE TERMS OF THE LICENSE; OR

(3) AN ACADEMIC MEDICAL CENTER, AN EMPLOYEE OF THE ACADEMIC MEDICAL CENTER, OR ANY OTHER PERSON ASSOCIATED WITH THE OPERATION OF A PROGRAM APPROVED UNDER THIS SUBTITLE FOR ACTIVITIES CONDUCTED IN ACCORDANCE WITH THE PROGRAM APPROVED UNDER THIS SUBTITLE.

(B) (1) A PERSON MAY NOT DISTRIBUTE, POSSESS, MANUFACTURE, OR USE MARIJUANA THAT HAS BEEN DIVERTED FROM A PROGRAM APPROVED UNDER THIS SUBTITLE OR FROM A PATIENT WHO IS ENROLLED IN A PROGRAM APPROVED UNDER THIS SUBTITLE.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

(3) THE PENALTY UNDER THIS SUBSECTION IS IN ADDITION TO ANY PENALTIES THAT A PERSON MAY BE SUBJECT TO FOR MANUFACTURE, POSSESSION, OR DISTRIBUTION OF MARIJUANA UNDER THE CRIMINAL LAW ARTICLE.

13-3110.

(A) THIS SUBTITLE MAY NOT BE CONSTRUED TO AUTHORIZE ANY INDIVIDUAL TO ENGAGE IN, AND DOES NOT PREVENT THE IMPOSITION OF ANY CIVIL, CRIMINAL, OR OTHER PENALTIES FOR, THE FOLLOWING:

(1) UNDERTAKING ANY TASK UNDER THE INFLUENCE OF MARIJUANA, WHEN DOING SO WOULD CONSTITUTE NEGLIGENCE OR PROFESSIONAL MALPRACTICE;

(2) OPERATING, NAVIGATING, OR BEING IN ACTUAL PHYSICAL CONTROL OF ANY MOTOR VEHICLE, AIRCRAFT, OR BOAT WHILE UNDER THE INFLUENCE OF MARIJUANA;

(3) SMOKING MARIJUANA IN ANY PUBLIC PLACE;

(4) SMOKING MARIJUANA IN A MOTOR VEHICLE; OR

(5) SMOKING MARIJUANA ON A PRIVATE PROPERTY THAT:

(i) 1. IS RENTED FROM A LANDLORD; AND

2. IS SUBJECT TO A POLICY THAT PROHIBITS THE SMOKING OF MARIJUANA ON THE PROPERTY; OR

(ii) IS SUBJECT TO A POLICY THAT PROHIBITS THE SMOKING OF MARIJUANA ON THE PROPERTY OF AN ATTACHED DWELLING ADOPTED BY ONE OF THE FOLLOWING ENTITIES:

1. THE BOARD OF DIRECTORS OF THE COUNCIL OF UNIT OWNERS OF A CONDOMINIUM REGIME; OR

2. THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION.

(B) THIS SUBTITLE MAY NOT BE CONSTRUED TO PROVIDE IMMUNITY TO A PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBTITLE FROM CRIMINAL PROSECUTION FOR A VIOLATION OF ANY LAW PROHIBITING OR REGULATING THE USE, POSSESSION, DISPENSING, DISTRIBUTION, OR PROMOTION OF CONTROLLED DANGEROUS SUBSTANCES, DANGEROUS DRUGS, DETRIMENTAL DRUGS, OR HARMFUL DRUGS, OR ANY CONSPIRACY OR ATTEMPT TO COMMIT ANY OF THOSE OFFENSES.

13-3111.

(A) NOTWITHSTANDING § 12-315 OF THE STATE GOVERNMENT ARTICLE, A STATE EMPLOYEE WHO INCURS COUNSEL FEES IN CONNECTION WITH A FEDERAL CRIMINAL INVESTIGATION OR PROSECUTION SOLELY RELATED TO THE EMPLOYEE'S GOOD FAITH DISCHARGE OF PUBLIC RESPONSIBILITIES UNDER THIS SUBTITLE IS ELIGIBLE FOR REIMBURSEMENT OF COUNSEL FEES AS AUTHORIZED BY § 12-314 OF THE STATE GOVERNMENT ARTICLE.

(B) THE GOVERNOR MAY SUSPEND IMPLEMENTATION OF THIS SUBTITLE ON MAKING A DETERMINATION THAT THERE IS A REASONABLE CHANCE OF FEDERAL PROSECUTION OF STATE EMPLOYEES FOR INVOLVEMENT WITH IMPLEMENTATION OF THIS SUBTITLE.

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:

69. the Maryland Legal Services Corporation Fund; [and]

70. Mortgage Loan Servicing Practices Settlement Fund;

AND

71. NATALIE M. LAPRADE MEDICAL MARIJUANA COMMISSION FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Medical Marijuana Commission, established under Section 1 of this Act, shall expire as follows:

- (1) four in 2015;
- (2) four in 2016; and
- (3) four in 2017.

SECTION 3. AND BE IT FURTHER ENACTED, That during fiscal year 2014, the Commission shall develop policies, procedures, regulations, and guidelines for implementation of this Act, including:

- (a) the request for proposals;
- (b) the application review process;
- (c) the application renewal process;
- (d) the inspection process;
- (e) data requirements for participating programs;
- (f) the annual report format; and
- (g) the Commission's requirements for licensing, including security and the product-tracking system.

SECTION 4. AND BE IT FURTHER ENACTED, That on or before December 1, 2013, the Commission shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly, on sources of funding for the implementation of the provisions of Section 1 of this Act and suggested fees to support the implementation of this Act beginning July 1, 2014.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 404

(House Bill 1115)

AN ACT concerning

Health Occupations Boards – License Renewal, Investigation of Alleged Violations, and Immunity from Liability

FOR the purpose of authorizing certain health occupations boards within the Department of Health and Mental Hygiene to establish a certain electronic system for the purpose of distributing certain licenses, permits, certifications, or registrations; requiring the system to meet certain requirements; requiring certain boards to discontinue sending by first-class mail certain renewal notices and a renewed license, permit, certificate, or registration; requiring certain

boards to send by electronic means certain renewal notices and a renewed license, permit, certification, or registration; requiring certain boards to continue to send by first-class mail ~~an initial license, permit, certification, or registration~~ certain renewal notices, licenses, permits, certifications, or registrations under certain circumstances; requiring certain health occupations boards to investigate certain violations of law; providing immunity from liability for certain persons who provide certain information to certain health occupations boards or participate in certain activities; authorizing certain health occupations boards to send a certain notice by electronic means or first-class mail; providing that certain individuals who act in good faith and within the scope of jurisdiction of certain boards are not civilly liable for providing certain information or for participating in certain activities; defining certain terms; altering certain definitions; making certain conforming and stylistic changes; and generally relating to the health occupations boards and license renewal, investigation of alleged violations, and immunity from liability.

BY adding to

Article – Health Occupations
Section 1–220, 1A–207, 5–207, 17–207, and 20–208
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations
Section 1A–205, 1A–306(b), 2–308(b), 3–308(b), 3–5A–10(b), 4–309, 4–505, 5–205, 5–308(b), 7–314(b), 9–311(b), 10–205, 10–311(b), 11–205, 11–308(b), 13–206, 16–307(b), 17–504(b), 19–205, and 20–310(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations
Section 1A–306(a), 2–308(a), 3–308(a), 3–5A–10(a), 5–308(a), 7–314(a), 9–311(a), 10–311(a), 11–308(a), 16–307(a), 17–504(a), and 20–310(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings
Section 5–702, 5–703, 5–706, 5–707, and 5–719
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY adding to

Article – Courts and Judicial Proceedings
Section 5–722 through 5–724
Annotated Code of Maryland

(2006 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

1-220.

(A) EACH HEALTH OCCUPATION BOARD MAY DEVELOP A SECURE ELECTRONIC SYSTEM FOR THE DISTRIBUTION OF A RENEWED LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION REQUIRED TO BE ISSUED UNDER THIS TITLE.

(B) THE SYSTEM SHALL:

(1) BE ACCESSIBLE TO THE PUBLIC FOR THE PURPOSE OF VERIFICATION OF A CURRENT LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION; AND

(2) PROVIDE THE LICENSEE, PERMIT HOLDER, CERTIFICATE HOLDER, OR REGISTRANT THE OPTION OF PRINTING A VERIFICATION OF THE STATUS OF THEIR LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION.

(C) EXCEPT AS OTHERWISE PROVIDED BY LAW, A BOARD THAT DEVELOPS AND IMPLEMENTS A SYSTEM AUTHORIZED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) DISCONTINUE TO SEND BY FIRST-CLASS MAIL:

(I) A RENEWAL NOTICE FOR A LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION; AND

(II) A RENEWED LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION;

(2) SEND BY ELECTRONIC MEANS:

(I) A RENEWAL NOTICE FOR A LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION; AND

(II) A RENEWED LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION; AND

(3) CONTINUE TO SEND BY FIRST-CLASS MAIL AN INITIAL LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION.

(D) IF A BOARD CHOOSES TO SEND RENEWAL NOTICES OR RENEWED LICENSES, PERMITS, CERTIFICATIONS, OR REGISTRATIONS EXCLUSIVELY BY ELECTRONIC MAIL UNDER SUBSECTION (C) OF THIS SECTION, THE BOARD SHALL, ON REQUEST OF THE LICENSEE, PERMIT HOLDER, CERTIFICATE HOLDER, OR REGISTRANT, SEND BY FIRST-CLASS MAIL:

(1) THE RENEWAL NOTICE; OR

(2) THE RENEWED LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION.

1A-205.

(a) In addition to the powers set forth elsewhere in this title, the Board may adopt:

(1) Regulations to carry out the provisions of this title; and

(2) A code of ethics for licensees.

(b) In addition to the duties set forth elsewhere in this title, the Board shall keep:

(1) Records and minutes necessary for the orderly conduct of business; and

(2) A list of each currently licensed acupuncturist.

(C) IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS TITLE, THE BOARD SHALL INVESTIGATE ANY ALLEGED VIOLATION OF THIS TITLE.

1A-207.

A PERSON SHALL HAVE IMMUNITY FROM THE LIABILITY DESCRIBED UNDER § 5-724 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.

1A-306.

(a) (1) The Board shall provide for the term and renewal of licenses under this section.

(2) The term of a license may not be more than 3 years.

(3) A license expires at the end of its term, unless the license is renewed for a term as provided by the Board.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** 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; and

(3) The amount of the renewal fee.

2–308.

(a) Except as provided for a limited license in §§ 2–310 through 2–310.3 of this subtitle, a license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) At least 2 months before the license expires, the Board shall contact the licensee **BY ELECTRONIC MEANS OR FIRST-CLASS MAIL** at the last known **ELECTRONIC OR PHYSICAL** address provided by the licensee and advise the licensee of:

(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; and

(3) The amount of the renewal fee.

3–308.

(a) A license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term of longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to each licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee, a renewal form and a renewal notice that states:

(1) The date on which the current license expires;

(2) That the renewal application and fee must be received by the Board on or before the license expiration date; and

(3) The amount of the renewal fee.

3-5A-10.

(a) (1) A license or registration expires on the date set by the Board, unless the license or registration is renewed for a 1-year term as provided in this section.

(2) A license or registration may not be renewed for a term of longer than 2 years.

(b) At least 1 month before the license or registration expires, the Board shall send to the licensee or registration holder, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee or registration holder, a renewal notice that states:

(1) The date on which the current license or registration 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 or registration expires; and

(3) The amount of the renewal fee.

4-309.

(a) (1) Except as otherwise provided in this subsection, a license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(2) Except as provided in § 4-303.1 of this subtitle, a limited license to practice dentistry expires on the first anniversary of its effective date.

(3) A teacher's license to practice dentistry or a teacher's license to practice dental hygiene expires on the earlier of:

(i) The date set by the Board, unless the license is renewed for an additional term as provided in this section; or

(ii) The date when the licensee ceases to be a full-time or part-time faculty member at the institution named on the license.

(b) If a teacher's license to practice dentistry expires because the licensee no longer is a full-time or part-time faculty member at the institution named on the license, the licensee shall surrender the license to the Board secretary within 30 days.

(C) AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE BOARD SHALL SEND TO THE LICENSEE, BY ELECTRONIC MEANS OR FIRST-CLASS MAIL TO THE LAST KNOWN ELECTRONIC OR PHYSICAL 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; AND

(3) THE AMOUNT OF THE RENEWAL FEE.

4-505.

(a) The Board of Dental Examiners shall:

(1) Define, for the purpose of this section, the terms "dental radiation technologist" and "practice dental radiation technology";

(2) Adopt rules and regulations concerning qualifications, training, certification, monitoring of, and enforcement requirements for a dental radiation technologist; and

(3) Provide for a requirement to ensure competency in new safety and technological advances.

(b) The qualifications required of applicants for Board certification as a dental radiation technologist shall include requirements established by:

(1) The American Dental Association; or

(2) Any applicable federal standards for training and certification.

(c) After July 1, 1988, an individual must be certified by the Board as a dental radiation technologist before a licensed dentist may employ the individual to practice dental radiation technology.

(d) After July 1, 1988, an individual may not practice dental radiation technology unless certified by the Board.

(E) AT LEAST 1 MONTH BEFORE A CERTIFICATE EXPIRES, THE BOARD SHALL SEND TO EACH CERTIFICATE HOLDER, BY ELECTRONIC MEANS OR FIRST-CLASS MAIL TO THE LAST KNOWN ELECTRONIC OR PHYSICAL ADDRESS OF THE CERTIFICATE HOLDER, A RENEWAL NOTICE THAT STATES:

(1) THE DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;

(2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE CERTIFICATE EXPIRES; AND

(3) THE AMOUNT OF THE RENEWAL FEE.

5-205.

(a) In addition to the powers set forth elsewhere in this subtitle, the Board may:

(1) Adopt regulations to carry out the provisions of this subtitle;

(2) Sue to enforce any provision of this subtitle 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 subtitle, the Board shall:

(1) Keep a list of all dietitian-nutritionists who are currently licensed;

(2) Keep a record of its proceedings; [and]

(3) Submit an annual report of its transactions for the previous fiscal year to the Governor by September 30 of each year; **AND**

(4) INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE.

5-207.

A PERSON SHALL HAVE IMMUNITY FROM THE LIABILITY DESCRIBED UNDER § 5-719 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.

5-308.

(a) (1) Unless the license is renewed for an additional term as provided in this section, a license expires on the date set by the Board.

(2) A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the Board must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

7-314.

(a) A license issued under this title expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** 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; and

(3) The amount of the renewal fee.

9-311.

(a) A license expires on the second anniversary of its effective date, unless the license 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 **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** 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; and

- (3) The amount of the renewal fee.

10-205.

(a) In addition to the powers set forth elsewhere in this title, the Board may adopt:

- (1) Rules and regulations to carry out the provisions of this title;
- (2) A code of ethics for licensees; and

(3) In consultation with the State Board of Physical Therapy Examiners and the Board of Chiropractic Examiners, regulations that recognize occupational therapists and occupational therapy assistants who have acquired advanced practice skills.

(b) In addition to the duties set forth elsewhere in this title, the Board shall [keep]:

(1) [Records] **KEEP RECORDS** and minutes necessary for the orderly conduct of business; [and]

(2) [A] **KEEP A** list of each currently licensed occupational therapist and occupational therapy assistant; **AND**

(3) INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE.

10-311.

(a) A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** 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; and

(3) The amount of the renewal fee.

11-205.

(a) In addition to the powers set forth elsewhere in this title, the Board has the following powers:

(1) Each member of the Board may administer oaths and take affidavits for any matter under the jurisdiction of the Board; and

(2) The Board may adopt rules and regulations to carry out the provisions of this title.

(b) In addition to the duties set forth elsewhere in this title, the Board shall:

(1) Keep a current list showing all:

(i) Licensed optometrists;

(ii) Optometrists who are on inactive status;

(iii) Diagnostically certified optometrists;

(iv) Therapeutically certified optometrists; and

(v) Optometrists against whom action has been taken under § 11-313 of this title;

(2) Keep a full record of its proceedings; [and]

(3) Adopt an official seal; **AND**

(4) **INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE.**

11-308.

(a) A license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** 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; and

(3) The amount of the renewal fee.

13–206.

- (a) In addition to the powers set forth elsewhere in this title, the Board may:
- (1) Adopt rules and regulations to carry out the provisions of this title;
 - (2) Adopt standards of practice and a code of ethics for the practice of physical therapy and limited physical therapy; and
 - (3) Pay, in accordance with the State budget, any necessary expense that relates to the referral of an alleged violation of the criminal provisions of this title.
- (b) In addition to the duties set forth elsewhere in this title, the Board shall:
- (1) Keep a list of the name and address of each licensed physical therapist and licensed physical therapist assistant;
 - (2) Present evidence of any alleged violation of this title to the State's Attorney of the county where the alleged violation occurred; [and]
 - (3) Adopt rules and regulations that govern the use of a physical therapy aide by a licensed physical therapist; **AND**
 - (4) **INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE.**

16–307.

- (a) Except as provided for a limited license in § 16–317 of this subtitle, a license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.
- (b) At least 1 month before a license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** 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; and
 - (3) The amount of the renewal fee.

17–207.

A PERSON SHALL HAVE IMMUNITY FROM THE LIABILITY DESCRIBED UNDER § 5-722 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.

17-504.

(a) (1) A license or certificate expires on the date set by the Board, unless the license or certificate is renewed for an additional term as provided in this section.

(2) A license or certificate may not be renewed for a term longer than 2 years.

(b) At least 1 month before the license or certificate expires, the Board shall send to the licensee or certificate holder, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee or certificate holder, a renewal notice that states:

(1) The date on which the current license or certificate expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license or certificate expires; and

(3) The amount of the renewal fee.

19-205.

In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(1) To adopt rules and regulations to carry out the provisions of this title;

(2) To adopt a code of ethics;

(3) To adopt an official seal;

(4) To hold hearings and keep records and minutes necessary for the orderly conduct of business; [and]

(5) To issue a list annually of all currently licensed social workers and all social workers disciplined by the Board in the past year in accordance with § 10-617(h) of the State Government Article; **AND**

(6) TO INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE.

20-208.

A PERSON SHALL HAVE IMMUNITY FROM THE LIABILITY DESCRIBED UNDER § ~~5-722~~ 5-723 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.

20-310.

(a) (1) A certificate expires on a date set by the Board, unless the certificate is renewed for an additional term as provided in this section.

(2) A certificate may not be renewed for a term longer than 2 years.

(b) At least 1 month before the certificate expires, the Board shall send to the certified program administrator or certified residential child and youth care practitioner, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the certified program administrator or certified residential child and youth care practitioner, a renewal notice that states:

(1) The date on which the current certificate expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and

(3) The amount of the renewal fee.

Article – Courts and Judicial Proceedings**5-702.**

(a) In this section, “Board” means the State Board of Environmental [Sanitarian Registration] **HEALTH SPECIALISTS**.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

5-703.

(a) In this section, “Board” means the State Board of Examiners for Audiologists, **HEARING AID DISPENSERS, AND SPEECH-LANGUAGE PATHOLOGISTS** in the Department of Health and Mental Hygiene.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

5–706.

(a) In this section, [“Board”] **“COMMITTEE”** means the [State Board of Electrologists] **ELECTROLOGY PRACTICE COMMITTEE**.

(b) A person who acts in good faith and within the scope of the jurisdiction of the [Board] **COMMITTEE** is not civilly liable for giving information to the [Board] **COMMITTEE** or otherwise participating in its activities.

5–707.

(a) In this section, “Board” means the Maryland State Board of Morticians **AND FUNERAL DIRECTORS**.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

5–719.

(a) In this section, “Board” means the State Board of [Examiners for Speech–Language Pathologists] **DIETETIC PRACTICE**.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

5–722.

(A) IN THIS SECTION, “BOARD” MEANS THE STATE BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS.

(B) A PERSON WHO ACTS IN GOOD FAITH AND WITHIN THE SCOPE OF THE JURISDICTION OF THE BOARD IS NOT CIVILLY LIABLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.

5–723.

(A) IN THIS SECTION, “BOARD” MEANS THE STATE BOARD FOR CERTIFICATION OF RESIDENTIAL CHILD CARE PROGRAM PROFESSIONALS.

(B) A PERSON WHO ACTS IN GOOD FAITH AND WITHIN THE SCOPE OF THE JURISDICTION OF THE BOARD IS NOT CIVILLY LIABLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.

5-724.

(A) IN THIS SECTION, "BOARD" MEANS THE STATE BOARD OF ACUPUNCTURE.

(B) A PERSON WHO ACTS IN GOOD FAITH AND WITHIN THE SCOPE OF THE JURISDICTION OF THE BOARD IS NOT CIVILLY LIABLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ACTIVITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 405

(House Bill 1190)

AN ACT concerning

County Property Tax – Personal Property Rate

FOR the purpose of authorizing the Mayor and City Council of Baltimore City or the governing body of a county to set a tax rate for personal property and certain operating real property of less than a certain amount; repealing an obsolete provision; providing for the application of this Act; and generally relating to setting the county tax rate for personal property and certain operating real property.

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 6-302

Annotated Code of Maryland

(2012 Replacement Volume)

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

Article – Tax – Property

6–302.

(a) Except as otherwise provided in this section and after complying with § 6–305 of this subtitle, in each year after the date of finality and before the following July 1, the Mayor and City Council of Baltimore City or the governing body of each county annually shall set the tax rate for the next taxable year on all assessments of property subject to that county's property tax.

(b) (1) Except as provided in subsection (c) of this section, §§ 6–305 and 6–306 of this subtitle and § 6–203 of this title:

(i) there shall be a single county property tax rate for all real property subject to county property tax except for operating real property described in § 8–109(c) of this article; and

(ii) the county tax rate applicable to personal property and the operating real property described in § 8–109(c) of this article [for taxable years beginning after June 30, 2001] shall be **NO MORE THAN 2.5** times the rate for real property.

(2) Paragraph (1) of this subsection does not affect a special rate prevailing in a taxing district or part of a county.

(c) (1) Intangible personal property is subject to county property tax as otherwise provided in this title at a rate set annually, if:

(i) the intangible personal property has paid interest or dividends during the 12 months that precede the date of finality;

(ii) interest or dividends were withheld on the intangible personal property during the 12 months that precede the date of finality to avoid the tax under this subsection;

(iii) the intangible personal property consists of newly issued bonds, certificates of indebtedness, or evidences of debt on which interest is not in default; or

(iv) a stock dividend has been declared on the intangible personal property during the 12 months that precede the date of finality.

(2) The county tax rate for the intangible personal property is 30 cents for each \$100 of assessment.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, and shall be applicable to all taxable years beginning after June 30, 2013.

Approved by the Governor, May 2, 2013.

Chapter 406

(House Bill 1203)

AN ACT concerning

**~~Homeowner's or Renter's Insurance – Underwriting and Policy Exclusions –~~
Policy Exclusions for Specific Breed or Size of Dog Breeds or Mixed Breeds of
Dogs – Notices**

FOR the purpose of ~~prohibiting an insurer, with respect to homeowner's or renter's insurance, from refusing to underwrite a risk based solely on the specific breed or size of a dog owned by an applicant or insured; prohibiting an insurer from excluding coverage under a policy of homeowner's or renter's insurance for a specific breed or size of a dog owned by an applicant or insured requiring certain insurers that use breed-specific dog exclusions or underwriting guidelines with respect to~~ exclude coverage for losses caused by specific breeds or specific mixed breeds of dogs under homeowner's or renter's insurance policies to provide a certain notice to the an applicant or insured under certain circumstances at certain times; providing for the application of this Act; and generally relating to ~~underwriting and~~ policy exclusions for dogs under policies of homeowner's or renter's insurance.

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

Article – Insurance

Section 19-205

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY adding to

Article – Insurance

Section ~~27-501(e)~~ 19-206.1

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

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

Article – Insurance

~~27-501.~~

~~(R) WITH RESPECT TO HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE, AN INSURER MAY NOT:~~

~~(1) REFUSE TO UNDERWRITE A RISK BASED SOLELY ON THE SPECIFIC BREED OR SIZE OF A DOG OWNED BY AN APPLICANT OR INSURED; OR~~

~~(2) EXCLUDE COVERAGE UNDER A POLICY OF HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE FOR A SPECIFIC BREED OR SIZE OF A DOG OWNED BY AN APPLICANT OR INSURED.~~

19-205.

(a) (1) An insurer shall provide a policyholder with an annual statement that summarizes the coverages and exclusions under the policy issued by the insurer.

(2) The insurer's statement shall be clear and specific.

(3) The insurer's statement shall state whether the coverages under the policy provide for replacement cost, actual cash value, or other method of loss payment for covered structures and contents.

(4) The insurer's statement shall include a disclosure that states:

(i) the policyholder should read the policy for complete information on coverages and exclusions;

(ii) the policyholder should refer to the declarations page for a listing of coverages purchased;

(iii) the policyholder should communicate with the insurance producer or the insurer for any additional information regarding the scope of coverages in the policy;

(iv) the statement does not include additional optional coverage purchased by the policyholder, if any;

(v) the statement is not part of the policy or contract of insurance and does not create a private right of action;

(vi) all rights, duties, and obligations are controlled by the policy and contract of insurance; ~~and~~

(vii) the standard homeowner's insurance policy does not cover losses from flood; AND

~~(VIII) THE POLICY DOES NOT COVER LOSSES CAUSED BY DOG BREEDS THAT ARE SPECIFICALLY EXCLUDED UNDER THE POLICY.~~

(b) The statement under subsection (a) of this section:

- (1) is not part of the policy or contract of insurance; and
- (2) does not create a private right of action.

(c) The Commissioner may adopt regulations to implement the provisions of this section.

19-206.1.

~~(A) (1) AN INSURER THAT SELLS OR NEGOTIATES HOMEOWNER'S INSURANCE IN THE STATE SHALL PROVIDE AN APPLICANT, AT THE TIME A POLICY OF HOMEOWNER'S INSURANCE IS INITIALLY PURCHASED, WITH A WRITTEN NOTICE THAT STATES WHETHER THE INSURER UNDERWRITES HOMEOWNER'S INSURANCE ON A BREED SPECIFIC BASIS OR WHETHER THE INSURANCE POLICY HAS A BREED SPECIFIC EXCLUSION.~~

~~(2) IF AN APPLICATION IS MADE BY TELEPHONE, THE INSURER IS DEEMED TO BE IN COMPLIANCE WITH THIS SECTION IF, WITHIN 7 CALENDAR DAYS AFTER THE DATE OF APPLICATION, THE INSURER SENDS BY CERTIFICATE OF MAILING THE NOTICE TO THE APPLICANT OR INSURED.~~

~~(3) IF AN APPLICATION IS MADE USING THE INTERNET, THE INSURER IS DEEMED TO BE IN COMPLIANCE WITH THIS SECTION IF THE INSURER PROVIDES THE NOTICE TO THE APPLICANT BEFORE THE SUBMISSION OF THE APPLICATION.~~

~~(B) THE NOTICE SHALL STATE THE BREEDS THAT THE INSURER DOES NOT UNDERWRITE OR THAT THE INSURER EXCLUDES FROM COVERAGE.~~

~~(C) A NOTICE PROVIDED UNDER THIS SECTION DOES NOT CREATE A PRIVATE RIGHT OF ACTION.~~

(A) THIS SECTION APPLIES TO AN INSURER THAT OFFERS A HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE POLICY IN THE STATE THAT DOES NOT PROVIDE COVERAGE FOR LOSSES CAUSED BY SPECIFIC BREEDS OR SPECIFIC MIXED BREEDS OF DOGS.

(B) AT THE TIME OF APPLICATION FOR OR ISSUANCE OF A POLICY OF HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE, AND AT EACH RENEWAL OF A POLICY OF HOMEOWNER'S INSURANCE OR RENTER'S INSURANCE, AN INSURER SUBJECT TO THIS SECTION SHALL PROVIDE TO AN APPLICANT OR AN INSURED A WRITTEN NOTICE THAT:

(1) STATES THAT THE POLICY DOES NOT PROVIDE COVERAGE FOR LOSSES CAUSED BY SPECIFIC BREEDS OR SPECIFIC MIXED BREEDS OF DOGS; AND

(2) IDENTIFIES THE SPECIFIC BREEDS OR SPECIFIC MIXED BREEDS OF DOGS FOR WHICH THE POLICY DOES NOT PROVIDE COVERAGE.

(C) AN INSURER SUBJECT TO THIS SECTION MAY PROVIDE THE NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION IN THE ANNUAL STATEMENT REQUIRED UNDER § 19-205 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies of homeowner's insurance or renter's insurance issued, delivered, or renewed in the State on or after ~~October 1, 2013~~ January 1, 2014.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 407

(House Bill 1205)

AN ACT concerning

~~Task Force to Study of~~ Study of Captive Insurers

FOR the purpose of ~~establishing the Task Force to Study Captive Insurers; providing for the purpose, membership, cochairs, and staffing of the Task Force; providing that the members of the Task Force may not receive compensation, but may be reimbursed for certain expenses; requiring the Task Force to study and~~ requiring the Maryland Insurance Administration to study and examine methods to establish and properly regulate a captive insurer industry in the State; authorizing the Administration to hire a certain consultant to assist in the study; requiring the Administration to report on certain matters to the Governor and certain committees on or before a certain date; ~~providing for the~~

~~termination of this Act,~~ and generally relating to the captive insurance industry.

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

(a) ~~There is a Task Force to Study Captive Insurers.~~

(b) ~~The purpose of the Task Force is to~~ The Maryland Insurance Administration shall examine methods to establish and properly regulate a captive insurer industry in the State.

(c) ~~The Task Force consists of the following members:~~

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

(2) ~~one member of the House Economic Matters Committee, appointed by the Speaker of the House of Delegates;~~

(3) ~~the Maryland Insurance Commissioner, or the Commissioner's designee;~~

(4) ~~the People's Insurance Counsel, or the Insurance Counsel's designee; and~~

(5) ~~the following members, appointed by the Governor:~~

(i) ~~an insurer that underwrites risk for large commercial business in the State;~~

(ii) ~~a reinsurer that operates in the State;~~

(iii) ~~an independent insurance producer in the State;~~

(iv) ~~a representative of a large business that would be a potential customer for a captive insurer in the State;~~

(v) ~~a representative of a small or medium sized business that would be a potential customer for a captive insurer in the State;~~

(vi) ~~an attorney with significant knowledge and experience in the corporate structure of insurance companies and related tax law; and~~

(vii) ~~a member of the public.~~

~~(d) The members appointed from the Senate and House committees shall be the cochairs of the Task Force.~~

~~(e) (1) The Maryland Insurance Administration shall provide staff for the Task Force.~~

~~(2) (b) The Administration may hire an outside consultant as needed to assist the Task Force in the study.~~

~~(f) A member of the Task Force may not receive compensation for serving on the Task Force, but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.~~

~~(g) (c) In examining the possibility of establishing a captive insurance industry in the State, the Task Force Administration shall:~~

(1) study:

(i) the models of regulation of captive insurance industries in other states, including the mechanisms for funding those regulatory models;

(ii) the potential benefits of hosting a captive insurance industry in the State to different classes of insureds, and the associated costs of captive insurance compared with insurance procured through traditional insurance underwriting and brokerage;

(iii) the impact on the State and the domestic insurance industry, both as to the potential expansion of the insurance industry and related professions and activities in the State, and the effect of newly available captive insurance on existing traditional insurance underwriting and brokerage in the State;

(iv) the need for different or additional consumer protections and financial controls for customers of captive insurers compared with customers of traditional insurers in the State;

(v) the effectiveness, cost, and long-term viability of alternative regulatory or market mechanisms addressing the same or similar markets that have been implemented or are being considered in other states; and

(vi) any additional matters the ~~Task Force~~ Administration considers relevant to assessing the possibility of establishing a captive insurance industry in the State; and

(2) develop recommendations for whether Maryland should establish a captive insurance industry and, if so, how to establish, promote, and regulate the industry.

~~(h) (d)~~ On or before December 31, 2013, the ~~Task Force~~ Administration shall report on its findings and recommendations, including any recommendations for proposed legislation, to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013. ~~It shall remain effective for a period of 1 year and, at the end of May 31, 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 2, 2013.

Chapter 408

(House Bill 1215)

AN ACT concerning

Consumer Protection – Home ~~Appliances~~ Appliances and Warranty Enforcement – Study

FOR the purpose of ~~requiring a manufacturer of home appliances or its agent to repair or correct a nonconformity in a home appliance at no cost to the consumer if the home appliance does not conform to the manufacturer's express warranties; providing that a manufacturer's obligation to repair or correct a nonconformity under this Act applies only if the consumer satisfies certain conditions; requiring a manufacturer, under certain circumstances and at the option of the consumer, to replace a home appliance with a comparable home appliance or accept return of a home appliance and refund the purchase price less certain reasonable allowances; requiring that a refund of the purchase price be made to the consumer and any holder of a perfected security interest in the home appliance in a certain manner; providing that the manufacturer is responsible for the cost of returning a home appliance to the manufacturer; providing for certain affirmative defenses; establishing a certain presumption; providing for the extension of the term of a manufacturer's express warranty by any time during which a home appliance is out of service for repair of a nonconformity; providing for the extension of the term of a manufacturer's express warranty and a certain out-of-service period if repair services are not available for certain reasons; providing that this Act does not limit the rights and remedies that otherwise are available to a consumer under any other law; providing that a consumer is not required to resort to a certain informal dispute settlement procedure before certain provisions of this Act apply; providing that a consumer who resorts to an informal dispute resolution procedure may not be precluded from seeking other available remedies; providing that an agreement for the~~

~~purchase of a home appliance is void to the extent that it attempts to waive, limit, or disclaim certain rights of a consumer; providing that a manufacturer that fails to comply with certain provisions of this Act is liable to the consumer for certain damages; authorizing a court to award reasonable attorney's fees to a prevailing plaintiff in an action brought under this Act; authorizing a court to order a party to pay to the other party reasonable attorney's fees if it appears that an action is brought in bad faith or is frivolous in nature; requiring that an action brought under this Act be brought within a certain time; providing that a violation of certain provisions of this Act is an unfair or deceptive trade practice within the meaning of the Maryland Consumer Protection Act; prohibiting a consumer who recovers damages under certain provisions of this Act from recovering damages for the same violation under a certain provision of the Maryland Consumer Protection Act; providing for the application of this Act; defining certain terms *requiring the Consumer Protection Division of the Office of the Attorney General to conduct a study of the consumer protections available to purchasers of home appliances who seek enforcement of certain warranties; requiring the study to analyze certain complaints, evaluate whether certain requirements and remedies under State and federal law provide adequate protection to certain purchasers of home appliances, and make a certain determination; requiring the Consumer Protection Division to consult with certain persons in conducting its study; requiring the Consumer Protection Division to report certain findings and recommendations to certain committees of the General Assembly on or before a certain date;* and generally relating to home appliances and the enforcement of manufacturers' express warranties on home appliances.~~

~~BY adding to~~

~~Article — Commercial Law~~

~~Section 14-15A-01 through 14-15A-08 to be under the new subtitle "Subtitle 15A. Home Appliance Warranty Enforcement Act"~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2012 Supplement)~~

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

~~Article — Commercial Law~~

~~SUBTITLE 15A. HOME APPLIANCE WARRANTY ENFORCEMENT ACT.~~

~~14-15A-01.~~

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

~~(B) "CONSUMER" MEANS:~~

~~(1) THE PURCHASER, OTHER THAN FOR PURPOSES OF RESALE, OF A HOME APPLIANCE; OR~~

~~(2) ANY OTHER PERSON WHO IS ENTITLED TO ENFORCE THE OBLIGATIONS OF A MANUFACTURER'S EXPRESS WARRANTY ON A HOME APPLIANCE.~~

~~(C) "HOME APPLIANCE" MEANS A REFRIGERATOR, A WASHER, A DRYER, OR A DISHWASHER THAT IS USED OR SOLD FOR USE IN A PRIVATE RESIDENCE.~~

~~(D) (1) "MANUFACTURER" MEANS A PERSON ENGAGED IN THE BUSINESS OF MANUFACTURING, ASSEMBLING, IMPORTING, OR DISTRIBUTING HOME APPLIANCES.~~

~~(2) "MANUFACTURER" DOES NOT INCLUDE A HOME APPLIANCE DEALER.~~

~~14-15A-02.~~

~~(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF A HOME APPLIANCE DOES NOT CONFORM TO THE MANUFACTURER'S EXPRESS WARRANTIES, THE MANUFACTURER OR ITS AGENT SHALL REPAIR OR CORRECT THE NONCONFORMITY AT NO COST TO THE CONSUMER.~~

~~(B) THE MANUFACTURER'S OBLIGATION TO REPAIR OR CORRECT A NONCONFORMITY UNDER SUBSECTION (A) OF THIS SECTION APPLIES ONLY IF THE CONSUMER:~~

~~(1) REPORTS THE NONCONFORMITY TO THE MANUFACTURER OR ITS AGENT; AND~~

~~(2) MAKES THE HOME APPLIANCE AVAILABLE FOR REPAIR.~~

~~14-15A-03.~~

~~(A) IF THE MANUFACTURER OR ITS AGENT IS UNABLE TO CONFORM THE HOME APPLIANCE TO THE MANUFACTURER'S EXPRESS WARRANTIES AFTER A REASONABLE NUMBER OF ATTEMPTS AND THE NONCONFORMITY SUBSTANTIALLY IMPAIRS THE USE AND MARKET VALUE OF THE HOME APPLIANCE TO THE CONSUMER, THE MANUFACTURER, AT THE OPTION OF THE CONSUMER, SHALL:~~

~~(1) REPLACE THE HOME APPLIANCE WITH A COMPARABLE HOME APPLIANCE ACCEPTABLE TO THE CONSUMER; OR~~

~~(2) ACCEPT RETURN OF THE HOME APPLIANCE FROM THE CONSUMER AND REFUND TO THE CONSUMER THE FULL PURCHASE PRICE, INCLUDING ALL SALES TAXES PAID IN CONNECTION WITH THE PURCHASE OF THE HOME APPLIANCE, LESS:~~

~~(i) A REASONABLE ALLOWANCE FOR THE CONSUMER'S USE OF THE HOME APPLIANCE NOT TO EXCEED 15% OF THE PURCHASE PRICE; AND~~

~~(ii) A REASONABLE ALLOWANCE FOR DAMAGE NOT ATTRIBUTABLE TO NORMAL WEAR, BUT NOT INCLUDING DAMAGE RESULTING FROM A NONCONFORMITY.~~

~~(B) ANY REFUNDS MADE UNDER SUBSECTION (A) OF THIS SECTION SHALL BE MADE TO THE CONSUMER AND ANY HOLDER OF A PERFECTED SECURITY INTEREST IN THE HOME APPLIANCE IN ACCORDANCE WITH THEIR RESPECTIVE INTERESTS.~~

~~(C) THE MANUFACTURER IS RESPONSIBLE FOR THE COST OF RETURNING THE HOME APPLIANCE TO THE MANUFACTURER.~~

~~(D) IT IS AN AFFIRMATIVE DEFENSE TO ANY CLAIM UNDER THIS SECTION THAT THE NONCONFORMITY:~~

~~(1) DOES NOT SUBSTANTIALLY IMPAIR THE USE AND MARKET VALUE OF THE HOME APPLIANCE; OR~~

~~(2) IS THE RESULT OF ABUSE OR NEGLIGENCE OF THE HOME APPLIANCE.~~

~~(E) IT IS PRESUMED THAT A REASONABLE NUMBER OF ATTEMPTS HAVE BEEN UNDERTAKEN TO CONFORM A HOME APPLIANCE TO THE MANUFACTURER'S EXPRESS WARRANTIES IF:~~

~~(1) THE SAME NONCONFORMITY HAS BEEN SUBJECT TO REPAIR THREE OR MORE TIMES BY THE MANUFACTURER OR ITS AGENT BUT THE SAME NONCONFORMITY CONTINUES TO EXIST; OR~~

~~(2) THE HOME APPLIANCE IS OUT OF SERVICE BY REASON OF REPAIR OF ONE OR MORE NONCONFORMITIES FOR A CUMULATIVE TOTAL OF 30 OR MORE DAYS.~~

~~14-15A-04.~~

~~(A) THE TERM OF A MANUFACTURER'S EXPRESS WARRANTY SHALL BE EXTENDED BY ANY TIME DURING WHICH THE HOME APPLIANCE UNDER WARRANTY IS OUT OF SERVICE BY REASON OF REPAIR OF ONE OR MORE NONCONFORMITIES.~~

~~(B) THE TERM OF A MANUFACTURER'S EXPRESS WARRANTY AND THE 30 DAY OUT OF SERVICE PERIOD UNDER § 14-15A-03(E)(2) OF THIS SUBTITLE SHALL BE EXTENDED BY ANY TIME DURING WHICH REPAIR SERVICES ARE NOT AVAILABLE TO THE CONSUMER BY REASON OF:~~

- ~~(1) WAR;~~
- ~~(2) INVASION;~~
- ~~(3) STRIKE; OR~~
- ~~(4) FIRE, FLOOD, OR OTHER NATURAL DISASTER.~~

~~14-15A-05.~~

~~THIS SUBTITLE DOES NOT LIMIT THE RIGHTS OR REMEDIES THAT OTHERWISE ARE AVAILABLE TO A CONSUMER UNDER ANY OTHER LAW, INCLUDING THE MARYLAND UNIFORM COMMERCIAL CODE AND TITLE 15, CHAPTER 50 OF THE U.S. CODE (MAGNUSON MOSS ACT).~~

~~14-15A-06.~~

~~(A) IF A MANUFACTURER HAS ESTABLISHED AN INFORMAL DISPUTE SETTLEMENT PROCEDURE THAT COMPLIES IN ALL RESPECTS WITH 16 C.F.R. PART 703, A CONSUMER IS NOT REQUIRED TO RESORT TO THAT PROCEDURE BEFORE § 14-15A-03 OF THIS SUBTITLE APPLIES.~~

~~(B) A CONSUMER WHO HAS RESORTED TO AN INFORMAL DISPUTE SETTLEMENT PROCEDURE MAY NOT BE PRECLUDED FROM SEEKING OTHER REMEDIES PROVIDED BY LAW.~~

~~14-15A-07.~~

~~AN AGREEMENT ENTERED INTO BY A CONSUMER FOR THE PURCHASE OF A HOME APPLIANCE IS VOID TO THE EXTENT THAT THE AGREEMENT ATTEMPTS TO WAIVE, LIMIT, OR DISCLAIM THE CONSUMER'S RIGHTS UNDER THIS SUBTITLE.~~

~~14-15A-08.~~

~~(A) A MANUFACTURER THAT FAILS TO COMPLY WITH § 14-15A-02 OR § 14-15A-03 OF THIS SUBTITLE IS LIABLE TO THE CONSUMER FOR:~~

~~(1) ACTUAL DAMAGES SUSTAINED BY THE CONSUMER AS A RESULT OF THE MANUFACTURER'S FAILURE TO COMPLY; AND~~

~~(2) IF THE MANUFACTURER ACTED IN BAD FAITH, AN ADDITIONAL AMOUNT OF UP TO TWO TIMES THE ACTUAL DAMAGES SUSTAINED BY THE CONSUMER.~~

~~(B) (1) A COURT MAY AWARD REASONABLE ATTORNEY'S FEES TO A PREVAILING PLAINTIFF UNDER THIS SUBTITLE.~~

~~(2) IF IT APPEARS TO THE SATISFACTION OF THE COURT THAT AN ACTION IS BROUGHT IN BAD FAITH OR IS OF A FRIVOLOUS NATURE, THE COURT MAY ORDER THE OFFENDING PARTY TO PAY TO THE OTHER PARTY REASONABLE ATTORNEY'S FEES.~~

~~(C) AN ACTION BROUGHT UNDER THIS SUBTITLE MUST BE BROUGHT WITHIN 1 YEAR AFTER THE MANUFACTURER'S VIOLATION OF THIS SUBTITLE.~~

~~(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A VIOLATION OF § 14-15A-02 OR § 14-15A-03 OF THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE.~~

~~(2) A CONSUMER WHO RECOVERS DAMAGES UNDER THIS SECTION FOR A VIOLATION OF § 14-15A-02 OR § 14-15A-03 OF THIS SUBTITLE MAY NOT RECOVER DAMAGES FOR THE SAME VIOLATION UNDER § 13-408 OF THIS ARTICLE.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively to home appliances that are sold on or after the effective date of this Act.~~

(a) (1) The Consumer Protection Division of the Office of the Attorney General shall conduct a study of the consumer protections available to purchasers of home appliances who seek enforcement of manufacturers' express warranties on home appliances.

(2) The study shall:

(i) analyze complaints received by the Consumer Protection Division relating to home appliances;

(ii) evaluate whether existing requirements and remedies under State and federal law provide adequate protection to purchasers of home appliances who seek enforcement of manufacturers' express warranties on home appliances; and

(iii) determine what, if any, changes to State law are needed to protect consumers who purchase home appliances that do not conform to the manufacturers' express warranties.

(b) In conducting its study, the Consumer Protection Division shall consult with:

(1) consumers and representatives of consumer advocacy organizations;

(2) manufacturers and retailers of home appliances;

(3) the Association of Home Appliance Manufacturers; and

(4) any other person that the Consumer Protection Division considers appropriate.

(c) On or before December 31, 2013, the Consumer Protection Division shall report, in accordance with § 2-1246 of the State Government Article, its findings and recommendations, including draft legislation, if any, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 409

(House Bill 1220)

AN ACT concerning

Invalidation and Destruction of Unexecuted Warrant, Summons, or Other Criminal Process – Failure to Appear Designation

FOR the purpose of specifying that a certain provision of law relating to invalidation and destruction of an unexecuted warrant, summons, or other criminal process may not be construed to nullify or remove a failure to appear designation that

has been placed on an individual's driving record by the Motor Vehicle Administration; limiting the circumstances under which a certain State's Attorney may argue against the invalidation and destruction of a certain warrant, summons, or other criminal process; making clarifying and stylistic changes; and generally relating to invalidation and destruction of an unexecuted warrant, summons, or other criminal process.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 4–109
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

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

Article – Criminal Procedure

4–109.

(A) THIS SECTION APPLIES ONLY TO A WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS FOR A MISDEMEANOR OFFENSE.

~~(A)~~ **(B)** A law enforcement agency may make a written request for the State's Attorney within the jurisdiction of the law enforcement agency to petition the administrative judge of the district to have a warrant, summons, or other criminal process ~~for a misdemeanor offense~~ in the possession of the law enforcement agency invalidated and destroyed due to the age of the unexecuted warrant, summons, or other criminal process and unavailability of the defendant, or other special circumstances, if:

(1) the warrant, summons, or other criminal process was issued for the arrest of the defendant in order that the defendant might stand for trial and has remained unexecuted for at least 5 years;

(2) the warrant, summons, or other criminal process was issued for the failure of the defendant to make a deferred payment of a fine or costs as ordered by the court and has remained unexecuted for at least 5 years;

(3) the warrant, summons, or other criminal process was issued for a violation of probation and has remained unexecuted for at least 5 years;

(4) except as provided in item (5) of this subsection, the warrant, summons, or other criminal process was issued for the arrest of the defendant for the failure of the defendant to appear as directed by the court and has remained unexecuted for at least 5 years; or

(5) the defendant was released on bail posted by a private surety, and the warrant was issued for the arrest of the defendant for the failure of the defendant to appear as directed by the court and has remained unexecuted for at least 10 years.

~~(b)~~ **(C)** (1) On receipt of a request made under subsection ~~(a)~~ **(B)**(1), ~~(a)~~ **(B)**(2), ~~(a)~~ **(B)**(3), or ~~(a)~~ **(B)**(4) of this section, the State's Attorney:

(i) if the warrant, summons, or other criminal process has remained unexecuted for more than 5 years but less than 7 years, may petition the Administrative Judge of the District for the invalidation and destruction of the unexecuted warrant, summons, or other process; and

(ii) if the warrant, summons, or other criminal process has remained unexecuted for at least 7 years, shall petition the Administrative Judge of the District for the invalidation and destruction of the unexecuted warrant, summons, or other process.

(2) On receipt of a request made under subsection ~~(a)~~ **(B)**(5) of this section, the State's Attorney shall petition the Administrative Judge of the District for the invalidation and destruction of the unexecuted warrant, summons, or other criminal process.

~~(c)~~ **(D)** The State's Attorney may argue against the invalidation and destruction of [the unexecuted] A warrant, summons, or other criminal process **OF WHICH THE STATE'S ATTORNEY HAS PETITIONED THE COURT FOR INVALIDATION AND DESTRUCTION UNDER SUBSECTION ~~(b)~~ (C)(1)(II) OR (2) OF THIS SECTION** due to a justifiable continuing active investigation of the case.

~~(d)~~ **(E)** Unless preservation is determined by the court to be justifiable, the court shall order the invalidation and destruction of [an] **THE** unexecuted warrant [for a misdemeanor offense], summons, or other criminal process in accordance with § 1-605 of the Courts and Judicial Proceedings Article.

~~(e)~~ **(F)** An arrest may not be made under the authority of a warrant, **SUMMONS**, or other criminal process that has been ordered invalidated and destroyed.

~~(f)~~ **(G)** The State's Attorney may enter a nolle prosequi or place the case on the stet docket at the time of the court order under this section.

~~(g)~~ **(H)** Nothing in this section may be construed to:

(1) prevent the reissuance of a warrant, summons, or other criminal process;

(2) affect the time within which a prosecution for a misdemeanor may be commenced; [or]

(3) NULLIFY OR REMOVE A FAILURE TO APPEAR DESIGNATION THAT HAS BEEN PLACED ON AN INDIVIDUAL'S DRIVING RECORD BY THE MOTOR VEHICLE ADMINISTRATION; OR

[(3)] (4) affect any pending criminal charge.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 410

(House Bill 1279)

AN ACT concerning

Statewide Building Codes – Maryland Accessibility Code – Enforcement

FOR the purpose of authorizing an ~~aggrieved individual~~ occupant, a dependant of an occupant, or a prospective tenant who otherwise meets the requirements for tenancy to commence a civil action to obtain relief for a violation of the Maryland Accessibility Code ~~by a person that operates~~ with regard to a building of four or more dwelling units under certain circumstances; requiring an occupant, a dependant of an occupant, or a prospective tenant who otherwise meets the requirements for tenancy to provide a certain written notice to a property manager, landlord, or rental agent before filing a complaint under this Act; authorizing a court that finds that a violation of the Maryland Accessibility Code has occurred to grant certain relief and award certain costs and damages under certain circumstances; correcting an obsolete reference; defining a certain term; and generally relating to private enforcement actions ~~brought by aggrieved individuals~~ under the Maryland Accessibility Code.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–202
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article – Public Safety

12-202.

(a) **(1)** In this section, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “Department” means the Department of Housing and Community Development.

(3) “HISTORIC PROPERTY” MEANS A QUALIFIED HISTORIC BUILDING OR FACILITY THAT IS:

(I) LISTED OR ELIGIBLE FOR LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES; OR

(II) DESIGNATED AS HISTORIC UNDER STATE OR LOCAL LAW.

(b) (1) The Department shall adopt by regulation a State building code to make buildings and facilities accessible and usable by individuals with physical disabilities to the extent feasible.

(2) The regulations shall be developed in conjunction with:

(i) ~~the Governor’s Committee on Employment of People with~~ Maryland Department of Disabilities;

(ii) the Maryland Rehabilitation Association; and

(iii) the Maryland Society of Architects.

(c) The Maryland Accessibility Code shall be enforced by local jurisdictions or any other governmental units with authority over buildings or facilities.

(d) The Department:

(1) shall decide questions of interpretation of the Maryland Accessibility Code; and

(2) may authorize waivers or exemptions under the Maryland Accessibility Code.

(e) In addition to any other penalty for a violation of the Maryland Accessibility Code, the Department shall investigate to determine if a violation exists.

(f) (1) If the Department determines that a violation of the Maryland Accessibility Code exists, the Department may resolve any issue related to the violation by mediation and conciliation.

(2) In addition, the Department may bring an action for equitable or other appropriate relief in a court in the jurisdiction in which the violation occurred, including an action to enjoin the construction, renovation, or occupancy of a building or facility that violates the Maryland Accessibility Code.

(3) Notwithstanding paragraph (2) of this subsection, the Department may not seek an injunction until 5 working days after the Department has sought to resolve the violation through mediation and conciliation.

(g) The Attorney General may prosecute civil cases that arise under this section that are referred to the Attorney General by the Department.

(h) (1) The Department shall cooperate with and provide technical assistance to the Commission on Civil Rights concerning an action brought by the Commission on Civil Rights to enforce § 20–705 or § 20–706 of the State Government Article.

(2) This section does not limit the authority of the Commission on Civil Rights to enforce §§ 20–705 and 20–706 of the State Government Article.

(i) (1) A person may not willfully violate the Maryland Accessibility Code.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject for each violation to imprisonment not exceeding 3 months or a fine not exceeding \$500 for each day the violation exists or both.

(3) A penalty imposed under this subsection is in addition to and not a substitute for any other penalty imposed under federal, State, or local law.

(J) (1) THIS SUBSECTION DOES NOT APPLY TO AN AGGRIEVED INDIVIDUAL WHO HAS AN EXISTING PRIVATE RIGHT OF ACTION AGAINST A HOUSING AUTHORITY TO ENFORCE ACCESSIBILITY REQUIREMENTS UNDER:

(I) SECTION 504 OF THE FEDERAL REHABILITATION ACT OF 1973; OR

(II) THE FEDERAL AMERICANS WITH DISABILITIES ACT OF 1990.

(2) ~~AN AGGRIEVED INDIVIDUAL~~ SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN OCCUPANT, A DEPENDANT OF AN OCCUPANT, OR A PROSPECTIVE TENANT WHO OTHERWISE MEETS THE REQUIREMENTS FOR

TENANCY MAY COMMENCE A CIVIL ACTION IN THE DISTRICT COURT OR CIRCUIT COURT TO OBTAIN RELIEF FOR A VIOLATION OF THE MARYLAND ACCESSIBILITY CODE ~~BY A PERSON THAT OPERATES~~ WITH REGARD TO A BUILDING OF FOUR OR MORE DWELLING UNITS THAT:

(I) IS SUBJECT TO THE MARYLAND ACCESSIBILITY CODE;
BUT

(II) IS NOT A HISTORIC PROPERTY.

(3) AT LEAST 30 DAYS BEFORE FILING A COMPLAINT UNDER THIS SUBSECTION, AN OCCUPANT, A DEPENDANT OF AN OCCUPANT, OR A PROSPECTIVE TENANT WHO OTHERWISE MEETS THE REQUIREMENTS FOR TENANCY SHALL PROVIDE WRITTEN NOTICE TO THE PROPERTY MANAGER, LANDLORD, OR RENTAL AGENT THAT:

(I) STATES THAT THE OCCUPANT, DEPENDANT OF AN OCCUPANT, OR PROSPECTIVE TENANT WHO OTHERWISE MEETS THE REQUIREMENTS FOR TENANCY NEEDS ACCESSIBILITY;

(II) IDENTIFIES THE LOCATION OF THE MULTIFAMILY BUILDING THAT IS ALLEGED TO BE NONCOMPLIANT; AND

(III) STATES THAT THE OWNER OF THE MULTIFAMILY BUILDING HAS 30 DAYS FROM THE DATE OF THE NOTICE TO MAKE ARRANGEMENTS TO BRING THE MULTIFAMILY BUILDING INTO COMPLIANCE.

~~(2)~~ (4) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, IF THE COURT FINDS THAT A VIOLATION OF THE MARYLAND ACCESSIBILITY CODE HAS OCCURRED, THE COURT MAY:

(I) GRANT RELIEF AS THE COURT CONSIDERS APPROPRIATE, INCLUDING INJUNCTIVE RELIEF;

(II) AWARD THE PREVAILING PARTY REASONABLE ATTORNEY'S FEES AND COSTS; AND

(III) AWARD THE PREVAILING ~~PLAINTIFF~~ PARTY ACTUAL ~~AND PUNITIVE~~ DAMAGES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 411**(House Bill 1292)**

AN ACT concerning

**Calvert County – Alcoholic Beverages Licenses – ~~Retirement Communities~~
*and Appeals***

FOR the purpose of establishing a Continuing Care Retirement Community license in Calvert County; authorizing the license to be issued for a club that meets certain requirements; authorizing a licensee to sell beer, wine, and liquor to certain individuals under certain circumstances; providing for an annual license fee; authorizing a court to remand certain proceedings to the local licensing board of Calvert County; and generally relating to alcoholic beverages licenses in Calvert County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–301(f)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 6–301(f)(3)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 16–101(e)(4)(ii)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article 2B – Alcoholic Beverages

6–301.

(f) (1) This subsection applies only in Calvert County.

(3) (I) THERE IS A CONTINUING CARE RETIREMENT COMMUNITY LICENSE.

(II) THE LICENSE MAY BE ISSUED FOR A CLUB THAT:

1. IS COMPOSED OF RESIDENTS OF A CONTINUING CARE RETIREMENT COMMUNITY THAT HAS OBTAINED A CERTIFICATE OF REGISTRATION FROM THE STATE DEPARTMENT OF AGING UNDER TITLE 10, SUBTITLE 4 OF THE HUMAN SERVICES ARTICLE;

2. HAS AT LEAST 50 BONA FIDE MEMBERS; AND

3. HAS ANNUAL DUES THAT AVERAGE AT LEAST \$5 PER MEMBER.

(III) A LICENSEE MAY KEEP FOR SALE AND SELL AT RETAIL BEER, WINE, AND LIQUOR TO A MEMBER OR A GUEST WHEN ACCOMPANIED BY A MEMBER AT THE PLACE DESCRIBED IN THE LICENSE.

(IV) THE ANNUAL LICENSE FEE IS \$500.

16-101.

(e) (4) (ii) In addition to the other powers of the court provided in this article, the court may remand the proceedings to the local licensing board in the following jurisdictions:

1. Anne Arundel County;

2. Baltimore City;

3. CALVERT COUNTY;

[3.] 4. Carroll County;

[4.] 5. Charles County;

[5.] 6. Frederick County;

[6.] 7. Harford County;

[7.] 8. Howard County;

[8.] 9. Montgomery County;

[9.] 10. Prince George's County; and

[10.] 11. St. Mary's County.

SECTION 2. AND BE IT FURTHER ENACTED, That § 16-101(e)(4)(ii)3 of Article 2B, as enacted by Section 1 of this Act, may not be applied to any case for which a final judgment has been rendered and for which all judicial appeals have been exhausted before the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 412

(House Bill 1301)

AN ACT concerning

State Board of Cosmetologists – Limited ~~Licenses~~ License – Hairstylist

FOR the purpose of establishing a limited license to provide hair services under the State Board of Cosmetologists; specifying the level of supervision required for an apprentice hairstylist; requiring the Board to adopt regulations to set certain curriculum standards for certain students; ~~requiring an applicant for a limited license to provide hair services to meet certain requirements; requiring the Board to adopt regulations to establish certain standards; establishing certain qualifications for applicants for a limited license to provide hair services;~~ defining the scope of practice for a limited license to provide hair services; authorizing a certain registered apprentice learning to provide hair services to practice under the supervision of a certain licensee; authorizing a beauty salon to operate as a limited practice beauty salon by providing only hair services; altering a certain reference to a basis for misrepresentation; authorizing a hairstylist to provide hair services in certain locations; defining certain terms; making stylistic and conforming changes; and generally relating to a limited license to provide hair services issued by the State Board of Cosmetologists.

BY repealing and reenacting, with amendments,

Article – Business Occupations and Professions

Section 5-101, 5-205, 5-301, 5-305, 5-310, ~~5-404~~, 5-501, 5-604, and 5-605

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Business Occupations and Professions

Section 5-405

Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

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

Article – Business Occupations and Professions

5–101.

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

(b) “Apprentice” means an individual who is learning to practice cosmetology or any limited practice of cosmetology in a beauty salon that holds a beauty salon permit under the supervision of:

(1) if learning to practice cosmetology, a licensed senior cosmetologist;

(2) if learning to provide esthetic services, a licensed senior cosmetologist or a licensed esthetician with 2 years’ experience; [and]

(3) IF LEARNING TO PROVIDE HAIR SERVICES, A LICENSED SENIOR COSMETOLOGIST OR A LICENSED HAIRSTYLIST WITH 2 YEARS’ EXPERIENCE; AND

~~(3)~~**(4)** if learning to provide nail technician services, a licensed senior cosmetologist or a licensed nail technician with 2 years’ experience.

(c) (1) “Beauty salon” means any commercial establishment, except a barbershop, in which an individual practices cosmetology.

(2) “Beauty salon” does not include a clinic in a cosmetology school.

(d) “Beauty salon permit” means a permit issued by the Board to operate a beauty salon.

(e) “Board” means the State Board of Cosmetologists.

(f) “Cosmetologist” means an individual who practices cosmetology.

(G) “HAIRSTYLIST” MEANS AN INDIVIDUAL WHO PROVIDES HAIR SERVICES.

~~(H)~~ **(H)** (1) “License” means, unless the context requires otherwise, a license issued by the Board.

(2) “License” includes, unless the context requires otherwise, each of the following licenses:

- (i) a license to practice cosmetology;
- (ii) a license to practice as a senior cosmetologist;
- (iii) a limited license to provide esthetic services; [and]
- (IV) A LIMITED LICENSE TO PROVIDE HAIR SERVICES; AND**
- ~~[(iv)]~~**(V)** a limited license to provide nail technician services.

~~(I)~~ **(I)** “Licensed cosmetologist” means, unless the context requires otherwise, a cosmetologist who is licensed by the Board to practice cosmetology.

~~(J)~~ **(J)** “Licensed senior cosmetologist” means a person who:

- (1) has at least 2 years of experience as a licensed cosmetologist; and
- (2) has passed a test approved by the Board.

~~(K)~~ **(K)** (1) “Limited license” means a license issued by the Board to practice cosmetology as limited in § 5–301 of this title.

(2) “Limited license” includes, unless the context requires otherwise, each of the following licenses:

- (i) a limited license to provide esthetic services; [and]
- (II) A LIMITED LICENSE TO PROVIDE HAIR SERVICES; AND**
- ~~[(ii)]~~ **(III)** a limited license to provide nail technician services.

~~(L)~~ **(L)** (1) “Practice cosmetology” means to engage in any of the following for compensation:

(i) ~~beautifying, cleaning, or embellishing the hair of an individual by:~~

- ~~1. arranging the hair;~~
- ~~2. bleaching the hair;~~
- ~~3. cleansing the hair;~~

~~4. coloring the hair;~~
~~5. curling the hair;~~
~~6. cutting the hair;~~
~~7. dressing the hair;~~
~~8. singeing the hair;~~
~~9. permanent waving the hair;~~
~~10. waving the hair; or~~
~~11. performing any other similar procedure intended to beautify, clean, or embellish the hair~~ PROVIDING HAIR SERVICES;

- (ii) arching or dyeing eyebrows;
- (iii) dyeing eyelashes;
- (iv) providing esthetic services; or
- (v) providing nail technician services.

(2) The practice of cosmetology does not include:

- (i) the mere sale, fitting, or styling of wigs or hairpieces;
- (ii) the mere shampooing of hair; or
- (iii) a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

~~(M)~~ **(M)** "Provide esthetic services" means to provide to an individual, for compensation, the service of:

- (1) cleansing, exercising, massaging, stimulating, or performing any other similar procedure on the skin or scalp by electrical, mechanical, or any other means;
- (2) applying to the face an alcohol, cream, lotion, astringent, or cosmetic preparation; or

(3) removing superfluous hair by the use of a depilatory, tweezers, or wax.

~~(M)~~ **(N)** “**PROVIDE HAIR SERVICES**” MEANS TO PROVIDE TO AN INDIVIDUAL FOR COMPENSATION THE SERVICE OF BEAUTIFYING, CLEANING, OR EMBELLISHING THE HAIR OF THE INDIVIDUAL BY:

(1) ARRANGING THE HAIR;

(2) BLEACHING THE HAIR;

(3) CLEANSING THE HAIR;

(4) COLORING THE HAIR;

(5) CURLING THE HAIR;

(6) CUTTING THE HAIR;

(7) DRESSING THE HAIR;

(8) SINGEING THE HAIR;

(9) PERMANENT WAVING THE HAIR;

(10) WAVING THE HAIR; OR

(11) PERFORMING ANY OTHER SIMILAR PROCEDURE INTENDED TO BEAUTIFY, CLEAN, OR EMBELLISH THE HAIR.

[(m)] ~~(N)~~ (O) “Provide nail technician services” means to provide to an individual, for compensation, the service of:

(1) manicuring or pedicuring the individual’s nails;

(2) applying artificial nail enhancement products; or

(3) maintaining artificial nail enhancement products.

5–205.

(a) In addition to any duties set forth elsewhere, the Board shall adopt:

(1) bylaws for the conduct of its proceedings;

(2) regulations for qualification and examination of applicants for licenses, registration, and permits and issuance of licenses, certificates of registration, and permits;

(3) regulations to govern the conduct of persons regulated under this title;

(4) regulations to govern sanitation and safety in practicing cosmetology, including regulations that establish precautions to prevent the spread of infectious and contagious diseases; and

(5) regulations to govern the direct supervision of the operation of limited practice beauty salons.

(b) (1) The Board shall establish reasonable fees for licensing, licensing renewal, examinations, reinstatements, certifications, applications, preopening inspections, per diem fees for Board members, compensation for inspectors appointed by the Board, and for any other service performed by the Board necessary to carry out the provisions of this title.

(2) (i) Except for the examination fees which the Board shall establish in amounts not to exceed the costs of the examinations and subject to subparagraph (ii) of this paragraph, the fees established by the Board shall be set in a manner that will produce funds sufficient to cover the actual direct and indirect costs of regulating the cosmetology industry in the State in accordance with the provisions of this title.

(ii) The Board may not set fees for licensing and license renewals that exceed \$50.

(3) The total cost of regulating the cosmetology industry in the State in accordance with the provisions of this title may not be more than the revenues generated by the fees established under paragraph (1) of this subsection.

(c) (1) The Board shall adopt regulations that establish detailed curriculum standards for use by the State Board of Education or the Maryland Higher Education Commission in approving applications for instruction in the practice of cosmetology, the provision of esthetic services, **THE PROVISION OF HAIR SERVICES**, and the provision of nail technician services at public schools or private career schools.

(2) The curriculum standards established under paragraph (1) of this subsection shall:

(i) incorporate modern methods and practices for:

1. practicing cosmetology;

2. providing esthetic services; [and]

3. PROVIDING HAIR SERVICES; AND

[3.]**4.** providing nail technician services;

(ii) include a reference to each topic and the emphasis of each topic required of a comprehensive curriculum in the appropriate licensing area; and

(iii) be reviewed and updated periodically as determined by the Board.

5–301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice cosmetology before the individual may practice cosmetology in the State.

(b) If an individual holds the appropriate limited license, the individual may practice cosmetology in a manner limited to:

(1) providing esthetic services; [or]

(2) PROVIDING HAIR SERVICES; OR

[(2)] (3) providing nail technician services.

(c) Subsection (a) of this section does not apply to:

(1) a student while the student practices cosmetology in accordance with § 5–302 or § 5–303 of this subtitle; or

(2) a registered apprentice.

5–305.

(a) To qualify for a limited license to practice cosmetology, an applicant shall be an individual who meets the requirements of this section.

(b) An applicant for a limited license to provide esthetic services shall:

(1) be at least 17 years old;

(2) have completed successfully a 9th grade education or the equivalent; and

(3) have received training by:

(i) serving as a registered apprentice for at least 6 months as provided under §§ 5-404 and 5-405 of this title; or

(ii) successfully completing at least 600 hours of instruction in providing esthetic services in a cosmetology school approved by the State Department of Education or the Maryland Higher Education Commission in consultation with the Board.

(C) AN APPLICANT FOR A LIMITED LICENSE TO PROVIDE HAIR SERVICES SHALL ~~MEET THE REQUIREMENTS SET BY THE BOARD:~~

(1) BE AT LEAST 17 YEARS OLD;

(2) HAVE COMPLETED SUCCESSFULLY A 9TH GRADE EDUCATION OR THE EQUIVALENT; AND

(3) HAVE RECEIVED TRAINING BY:

(I) SERVING AS A REGISTERED APPRENTICE FOR AT LEAST 15 MONTHS AS PROVIDED UNDER §§ 5-404 AND 5-405 OF THIS TITLE; OR

(II) SUCCESSFULLY COMPLETING AT LEAST 1,200 HOURS OF INSTRUCTION PROVIDING HAIR SERVICES IN A COSMETOLOGY SCHOOL APPROVED BY THE STATE DEPARTMENT OF EDUCATION OR THE MARYLAND HIGHER EDUCATION COMMISSION IN CONSULTATION WITH THE BOARD.

[(c)] (D) An applicant for a limited license to provide nail technician services shall:

(1) be at least 17 years old;

(2) have successfully completed a 9th grade education or the equivalent; and

(3) have received training by:

(i) serving as a registered apprentice for at least 3 months as provided under §§ 5-404 and 5-405 of this title; or

(ii) successfully completing at least 250 hours of instruction in providing nail technician services in a cosmetology school approved by the State Department of Education or the Maryland Higher Education Commission in consultation with the Board.

[(d)] (E) If an applicant is licensed to practice as an esthetician, HAIRSTYLIST, or nail technician in another state or foreign country, the applicant meets the training requirements of this section if the applicant has held a limited license in the other state or foreign country and has actively practiced in the other state or foreign country for a period of 6 months.

[(e)] (F) An applicant for a limited license shall pass an examination given by the Board under this subtitle.

~~(G) THE BOARD SHALL ADOPT REGULATIONS TO ESTABLISH QUALIFICATION STANDARDS FOR A LIMITED LICENSE TO PROVIDE HAIR SERVICES.~~

5-310.

(a) Subject to subsections (b) [and], (c), AND (D) of this section and while a license to practice cosmetology is in effect, it authorizes the licensee to practice cosmetology.

(b) While a limited license to provide esthetic services is in effect, it authorizes the licensee to provide only esthetic services.

(C) WHILE A LIMITED LICENSE TO PROVIDE HAIR SERVICES IS IN EFFECT, THE LICENSE AUTHORIZES THE LICENSEE TO PROVIDE ONLY HAIR SERVICES.

[(c)] (D) While a limited license to provide nail technician services is in effect, it authorizes the licensee to provide only nail technician services.

5-404.

While registration as an apprentice is in effect, the registration authorizes the individual to learn to practice cosmetology or any limited practice of cosmetology:

(1) in a:

(i) beauty salon that holds a beauty salon permit; or

(ii) barbershop that holds a barbershop permit; and

(2) under the supervision of:

(i) if learning to practice cosmetology, a licensed senior cosmetologist;

(ii) if learning to provide esthetic services, a licensed senior cosmetologist or a licensed esthetician with 2 years' experience; [and]

(III) IF LEARNING TO PROVIDE HAIR SERVICES, A LICENSED SENIOR COSMETOLOGIST OR A LICENSED HAIRSTYLIST WITH 2 YEARS' EXPERIENCE; AND

[(iii)] (IV) if learning to provide nail technician services, a licensed senior cosmetologist or a licensed nail technician with 2 years' experience.

5-405.

(a) Except as otherwise provided in subsection (g) of this section, the initial term of registration as an apprentice is 2 years.

(b) Unless registration as an apprentice is renewed for one additional 2-year term as provided in this section, the registration expires on the date set by the Board.

(c) At least 1 month before the registration of an individual expires, the Board shall mail to the individual, at the last known address of the individual:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current registration expires;

(ii) the date by which the Board must receive the renewal application for the renewal to be issued and mailed before the registration expires; and

(iii) the amount of the renewal fee.

(d) Before the registration of an individual expires, the individual may renew it for an additional term, if the individual:

(1) otherwise is entitled to be registered;

(2) pays to the Board a renewal fee established by the Board in accordance with § 5-205 of this title; and

(3) submits to the Board a renewal application on the form that the Board provides.

(e) Except as otherwise provided in subsection (g) of this section, an individual registered as an apprentice may renew the registration only one time for a 2-year term.

(f) The Board shall renew the registration of and issue a renewal certificate to each individual who meets the requirements of this section.

(g) A registration as an apprentice for any limited practice of cosmetology expires 12 months after the date of its issuance unless the limited practice apprentice registration is renewed for one 1-year term.

5-501.

(a) A person shall hold a beauty salon permit issued by the Board before the person may operate a beauty salon in the State.

(b) A beauty salon may operate as a limited practice beauty salon by offering cosmetology services limited to:

(1) providing esthetic services; [or]

(2) PROVIDING HAIR SERVICES; OR

[(2)] (3) providing nail technician services.

(c) A separate beauty salon permit is required for each beauty salon that a person operates.

5-604.

(a) (1) Unless authorized under this title to practice cosmetology, a person may not represent to the public, by use of a title, including “licensed cosmetologist”, [or “licensed hairdresser”,] by description of services, methods, or procedures, or otherwise, that the person is authorized to practice cosmetology in the State.

(2) If an individual is authorized under this title to engage in the limited practice of cosmetology, the individual may represent to the public that the individual is authorized to practice cosmetology in a manner restricted to that limited practice.

(b) Unless an establishment holds a beauty salon permit under this title, a person may not represent to the public, by title, by description of services, methods, or procedures, or otherwise, that the establishment is a beauty salon.

5-605.

(a) Except as provided in §§ 5-302 and 5-303 of this title and subsection (b) of this section, a person may not practice cosmetology, provide esthetic services, **PROVIDE HAIR SERVICES**, or provide nail technician services in any place other than:

- (1) a beauty salon that holds a beauty salon permit; or
- (2) a barbershop that holds a barbershop permit issued under Title 4 of this article.

(b) (1) A licensed cosmetologist, esthetician, **HAIRSTYLIST**, or nail technician may practice cosmetology and provide services in:

- (i) a facility in which beautification-oriented medical services, authorized by the Department of Health and Mental Hygiene, are provided;
- (ii) the residence of an individual confined to the residence by reason of a physical or mental infirmity;
- (iii) an assisted living facility as defined in § 19-1801 of the Health – General Article;
- (iv) a hospice facility defined in § 19-901(c) of the Health – General Article;
- (v) a nursing home as defined in § 19-1401(e) of the Health – General Article; or
- (vi) a hospital as defined in § 19-301 of the Health – General Article or a similar institution.

- (2) To practice in any of the locations specified in this subsection:
 - (i) the licensed cosmetologist, esthetician, **HAIRSTYLIST**, or nail technician shall be sponsored by a beauty salon in which the cosmetologist, esthetician, **HAIRSTYLIST**, or nail technician is authorized to practice;
 - (ii) the patron to whom the services are rendered shall be a customer of the beauty salon; and
 - (iii) the services shall be rendered by appointment through the beauty salon.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 413**(House Bill 1320)**

AN ACT concerning

Baltimore City and Baltimore County – Child in Need of Supervision Pilot Program – ~~Increase, Allocation, and Extension~~

FOR the purpose of ~~increasing and allocating the General Fund appropriation for and extending the termination date of the Child in Need of Supervision Pilot Program in Baltimore City and Baltimore County; requiring the Governor to include a certain General Fund appropriation in the budget bills for certain fiscal years for a certain purpose; requiring that certain funds be provided as grants to Baltimore County and Baltimore City for a certain purpose; and generally relating to the Child in Need of Supervision Pilot Program in Baltimore City and Baltimore County.~~

BY repealing and reenacting, with amendments,
Chapter 601 of the Acts of the General Assembly of 2005, as amended by
Chapter 420 of the Acts of the General Assembly of 2009
Section ~~3~~ and 5

~~BY repealing and reenacting, without amendments,
Chapter 601 of the Acts of the General Assembly of 2005, as amended by
Chapter 420 of the Acts of the General Assembly of 2009
Section 4~~

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

Chapter 601 of the Acts of 2005, as amended by Chapter 420 of the Acts of 2009

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Governor shall include a general fund appropriation of \$250,000 for the Department of Juvenile Services in each budget bill for fiscal 2007, fiscal 2008, fiscal 2009, fiscal 2010, fiscal 2011, fiscal 2012, and fiscal 2013 AND A GENERAL FUND APPROPRIATION OF \$300,000 FOR THE DEPARTMENT OF JUVENILE SERVICES IN EACH BUDGET BILL FOR FISCAL 2015, FISCAL 2016, AND FISCAL 2017 for the purpose of implementing the provisions of this Act. Of the [\$250,000] \$300,000, [\$83,000] \$100,000 shall be provided as a grant to Baltimore County and [\$167,000] \$200,000 shall be provided as a grant to Baltimore City for the purpose of implementing the provisions of this Act.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect July 1, 2006.~~

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect October 1, 2005. It shall remain effective until the end of [June 30, 2013] **JUNE 30, 2016**, and, at the end of [June 30, 2013] **JUNE 30, 2016**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 414

(House Bill 1394)

AN ACT concerning

Harford County – Appointment of Fire Company Members as Deputy Sheriffs – Number

FOR the purpose of increasing the number of members of a fire company in Harford County that a commanding officer may designate to be appointed by the sheriff as deputy sheriffs; and generally relating to deputy sheriffs in Harford County.

BY repealing and reenacting, without amendments,
 Article – Public Safety
 Section 7–303(a)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
 Article – Public Safety
 Section 7–303(b)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

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

Article – Public Safety

7–303.

(a) (1) This section applies only to Allegany County, Carroll County, Cecil County, Dorchester County, Frederick County, Harford County, Kent County, Somerset County, Wicomico County, and Worcester County.

(2) Except as modified by this section, the provisions of § 7–302 of this subtitle apply to this section.

(b) (1) Except as provided in paragraph (2) of this subsection, the commanding officer may designate 12 members of a fire company to be appointed as deputy sheriffs.

(2) In Cecil County AND **HARFORD COUNTY**, the commanding officer may designate 20 members of a fire company to be appointed as deputy sheriffs.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 415

(House Bill 1396)

AN ACT concerning

Criminal Law – Theft–Related Crimes – Penalties

FOR the purpose of altering certain penalties for a conviction of extortion, malicious destruction of property, obtaining property or services by bad check, credit card fraud, identity fraud, State health plan fraud, and exploitation of a vulnerable adult involving a value at or over a certain amount; making conforming changes; and generally relating to theft–related crimes.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 15–803(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–404, 3–701, 3–702, 6–301, 8–106, 8–206, 8–207, 8–209, 8–301, 8–516,
and 8–801
Annotated Code of Maryland

(2012 Replacement Volume and 2012 Supplement)

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

Article – Commercial Law

15–803.

(a) A notice of dishonor sent by a holder to a maker or drawer under § 15–802 of this subtitle shall substantially comply with the following form:

“NOTICE OF DISHONORED CHECK

Date _____

Name of Issuer _____

Street Address _____

City and State _____

You are according to law hereby notified that a check or instrument numbered _____ and dated _____, drawn on the _____ bank of _____ in the amount of _____ has been returned unpaid with the notation the payment has been refused because of _____

Within 30 days from the mailing of this notice, you must pay or tender to _____

(Holder)

sufficient money to pay such check or instrument in full and a collection fee of \$_____ (not more than \$35). If payment of the above amounts is not made within 30 days of the mailing of this notice of dishonor, you shall be liable under § 15–802 of the Commercial Law Article, in addition to the amount of the check or instrument and a collection fee of up to \$35, for an amount up to 2 times the amount of the check or instrument, but not more than \$1,000. In addition, you may be prosecuted under Title 8, Subtitle 1 of the Criminal Law Article of Maryland and subject to the following penalties:

(1) If the property or services has a value of **[\$500 or more] AT LEAST \$1,000 BUT LESS THAN \$10,000**, a fine not exceeding **[\$1,000] \$10,000** or imprisonment not exceeding **[15] 10** years, or both;

(2) IF THE PROPERTY OR SERVICES HAS A VALUE OF AT LEAST \$10,000 BUT LESS THAN \$100,000, A FINE NOT EXCEEDING \$15,000 OR IMPRISONMENT NOT EXCEEDING 15 YEARS, OR BOTH;

(3) IF THE PROPERTY OR SERVICES HAS A VALUE OF \$100,000 OR MORE, A FINE NOT EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 25 YEARS, OR BOTH;

[(2)](4) If the property or services has a value of less than **[\$500] \$1,000**, a fine not exceeding **[\$100] \$500** or imprisonment not exceeding 18 months, or both.

It shall be a complete defense to any action brought by any holder under § 15–802 of the Commercial Law Article that, within 30 days from the mailing of the “Notice of Dishonored Check”, the maker or drawer has paid the holder the full amount of the check or instrument and collection costs of not more than \$35. A holder may not recover any damages if the holder has demanded of, and received from, the maker or drawer collection costs exceeding \$35.

It shall be a complete defense to any action brought under § 15–802 of the Commercial Law Article by a holder to whom a dishonored check or other instrument was issued that the dishonor of the check or other instrument was due to a justifiable stop payment order or to the attachment of the account.

In any action brought under § 15–802 of the Commercial Law Article by a holder or holder in due course to whom a dishonored check or other instrument was negotiated, the action is subject to all valid defenses that may be raised by the maker or drawer against the holder or holder in due course under Title 3 of the Commercial Law Article.”

Article – Criminal Law

3–404.

(a) An indictment, information, warrant, or other charging document for robbery is sufficient if it substantially states:

“(name of defendant) on (date) in (county) did feloniously rob (name of victim) of (property/service) (having a value of ~~[\$500]~~ **\$1,000** or more) (with a dangerous weapon) in violation of (section violated) against the peace, government, and dignity of the State.”.

(b) If a charging document alleges that the value of the property or service subject to this subtitle is ~~[\$500]~~ **\$1,000** or more, the court shall instruct the jury to determine whether the value of the property or service is less than ~~[\$500]~~ **\$1,000**, or ~~[\$500]~~ **\$1,000** or more.

(c) Unless a charging document alleges that the value of the property or service subject to this subtitle is ~~[\$500]~~ **\$1,000** or more, a felony violation of § 7–104 of this article is not a lesser included crime of robbery.

3–701.

(a) This section does not apply to legitimate efforts by employees or their representatives to obtain certain wages, hours, or working conditions.

(b) A person may not obtain, attempt to obtain, or conspire to obtain money, property, labor, services, or anything of value from another person with the person's consent, if the consent is induced by wrongful use of actual or threatened:

(1) force or violence;

(2) economic injury; or

(3) destruction, concealment, removal, confiscation, or possession of any immigration or government identification document with intent to harm the immigration status of another person.

(c) **(1)** If the value of the property, labor, or services is **[\$500 or more] AT LEAST \$1,000 BUT LESS THAN \$10,000**, a person who violates this section is guilty of the felony of extortion and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding **[\$5,000] \$10,000** or both.

(2) IF THE VALUE OF THE PROPERTY, LABOR, OR SERVICES IS AT LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY OF EXTORTION AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH.

(3) IF THE VALUE OF THE PROPERTY, LABOR, OR SERVICES IS \$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY OF EXTORTION AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.

(d) If the value of the property, labor, or services is less than **[\$500] \$1,000**, a person who violates this section is guilty of the misdemeanor of extortion and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding **[\$500] \$1,000** or both.

(e) A prosecution for a felony under this section shall be instituted within 5 years after the crime was committed.

3-702.

(a) In this section, "political subdivision" includes a:

(1) county;

(2) municipal corporation;

(3) bicounty or multicounty agency;

- (4) county board of education;
- (5) public authority; or
- (6) special taxing district.

(b) An officer or employee of the State or of a political subdivision may not wrongfully obtain or attempt to obtain money, property, or anything of value from a person with the person's consent, if the consent is obtained under color or pretense of office, under color of official right, or by wrongful use of actual or threatened force or violence.

(c) If the value of the property is **[\$500 or more] AT LEAST \$1,000 BUT LESS THAN \$10,000**, a person who violates this section:

(1) is guilty of the felony of extortion and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding **[\$5,000] \$10,000** or both; and

(2) notwithstanding any pardon, shall be barred permanently from employment by the State or by a political subdivision.

(D) IF THE VALUE OF THE PROPERTY IS AT LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO VIOLATES THIS SECTION:

(1) IS GUILTY OF THE FELONY OF EXTORTION AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH; AND

(2) NOTWITHSTANDING ANY PARDON, SHALL BE BARRED PERMANENTLY FROM EMPLOYMENT BY THE STATE OR BY A POLITICAL SUBDIVISION.

(E) IF THE VALUE OF THE PROPERTY IS \$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION:

(1) IS GUILTY OF THE FELONY OF EXTORTION AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH; AND

(2) NOTWITHSTANDING ANY PARDON, SHALL BE BARRED PERMANENTLY FROM EMPLOYMENT BY THE STATE OR BY A POLITICAL SUBDIVISION.

[(d)](F) If the value of the property is less than **[\$500] \$1,000**, a person who violates this section is guilty of the misdemeanor of extortion and on conviction is subject to imprisonment not exceeding **[6] 18** months or a fine not exceeding \$500 or both.

[(e)](G) A prosecution for a felony under this section shall be instituted within 5 years after the crime was committed.

6-301.

(a) A person may not willfully and maliciously destroy, injure, or deface the real or personal property of another.

(b) A person who, in violation of this section, causes damage of at least **[\$500] \$1,000** to the property is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$2,500 or both.

(c) A person who, in violation of this section, causes damage of less than **[\$500] \$1,000** to the property is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 60 days or a fine not exceeding \$500 or both.

(d) (1) For purposes of this subsection, an act of "graffiti" means a permanent drawing, permanent painting, or a permanent mark or inscription on the property of another without the permission of the owner of the property.

(2) In addition to the penalties set forth in subsections (b) and (c) of this section, the court shall order a person convicted of causing malicious destruction by an act of graffiti to pay restitution or perform community service or both.

(3) Title 11, Subtitle 6 of the Criminal Procedure Article applies to an order of restitution under this subsection.

(e) (1) Except as provided in paragraph (2) of this subsection, to determine a penalty, the court may consider as one crime the aggregate value of damage to each property resulting from one scheme or continuing course of conduct.

(2) If separate acts resulting in damage to the properties of one or more owners are set forth by separate counts in one or more charging documents, the separate counts may not be merged for sentencing.

(f) (1) The value of damage is not a substantive element of a crime under this section and need not be stated in the charging document.

(2) The value of damage shall be based on the evidence and that value shall be applied for the purpose of imposing the penalties established in this section.

(3) If it cannot be determined from the evidence whether the value of the damage to the property is more or less than ~~[\$500]~~ **\$1,000**, the value is deemed to be less than ~~[\$500]~~ **\$1,000**.

8–106.

(a) **(1)** A person who obtains property or services with a value of ~~[\$500 or more]~~ **AT LEAST \$1,000 BUT LESS THAN \$10,000** by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding ~~[15]~~ **10** years or a fine not exceeding ~~[\$1,000]~~ **\$10,000** or both.

(2) A PERSON WHO OBTAINS PROPERTY OR SERVICES WITH A VALUE OF AT LEAST \$10,000 BUT LESS THAN \$100,000 BY ISSUING OR PASSING A CHECK IN VIOLATION OF § 8–103 OF THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH.

(3) A PERSON WHO OBTAINS PROPERTY OR SERVICES WITH A VALUE OF \$100,000 OR MORE BY ISSUING OR PASSING A CHECK IN VIOLATION OF § 8–103 OF THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.

(b) A person who obtains property or services by issuing or passing more than one check in violation of § 8–103 of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding ~~[15]~~ **10** years or a fine not exceeding ~~[\$1,000]~~ **\$10,000** or both if:

(1) each check that is issued is for less than ~~[\$500]~~ **\$1,000** and is issued to the same person within a 30–day period; and

(2) the cumulative value of the property or services is ~~[\$500]~~ **\$1,000** or more.

(c) Except as provided in subsections (b) and (d) of this section, a person who obtains property or services with a value of less than ~~[\$500]~~ **\$1,000** by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding ~~[\$100]~~ **\$500** or both.

(d) **(1)** A person who obtains property or services with a value of less than \$100 by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$500 or both.

(2) It is not a defense to the crime of obtaining property or services with a value of less than \$100 by issuing or passing a check in violation of § 8–103 of this subtitle that the value of the property or services at issue is \$100 or more.

8–206.

(a) A person may not for the purpose of obtaining money, goods, services, or anything of value, and with the intent to defraud another, use:

(1) a credit card obtained or retained in violation of § 8–204 or § 8–205 of this subtitle; or

(2) a credit card that the person knows is counterfeit.

(b) A person may not, with the intent to defraud another, obtain money, goods, services, or anything of value by representing:

(1) without the consent of the cardholder, that the person is the holder of a specified credit card; or

(2) that the person is the holder of a credit card when the credit card had not been issued.

(c) (1) **(I)** If the value of all money, goods, services, and other things of value obtained in violation of this section [exceeds \$500] **IS AT LEAST \$1,000 BUT LESS THAN \$10,000**, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding [15]**10** years or a fine not exceeding [\$1,000] **\$10,000** or both.

(II) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION IS AT LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH.

(III) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION IS \$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.

(2) Except as provided in paragraph (3) of this subsection, if the value of all money, goods, services, and other things of value obtained in violation of this

section [does not exceed \$500] **IS LESS THAN \$1,000**, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding \$500 or both.

(3) If the value of all money, goods, services, and other things of value obtained in violation of this section does not exceed \$100, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$500 or both.

8–207.

(a) If a person is authorized by an issuer to furnish money, goods, services, or anything of value on presentation of a credit card by the cardholder, the person or an agent or employee of the person may not, with the intent to defraud the issuer or cardholder:

(1) furnish money, goods, services, or anything of value on presentation of:

(i) a credit card obtained or retained in violation of § 8–204 or § 8–205 of this subtitle; or

(ii) a credit card that the person knows is counterfeit; or

(2) fail to furnish money, goods, services, or anything of value that the person represents in writing to the issuer that the person has furnished.

(b) (1) **(I)** If the value of all money, goods, services, and other things of value furnished or not furnished in violation of this section [exceeds \$500] **IS AT LEAST \$1,000 BUT LESS THAN \$10,000**, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding [15] **10** years or a fine not exceeding [\$1,000] **\$10,000** or both.

(II) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER THINGS OF VALUE FURNISHED OR NOT FURNISHED IN VIOLATION OF THIS SECTION IS AT LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH.

(III) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER THINGS OF VALUE FURNISHED OR NOT FURNISHED IN VIOLATION OF THIS SECTION IS \$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.

(2) Except as provided in paragraph (3) of this subsection, if the value of all money, goods, services, and other things of value furnished or not furnished in violation of this section [does not exceed \$500] **IS LESS THAN \$1,000**, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding \$500 or both.

(3) If the value of all money, goods, services, and other things of value furnished or not furnished in violation of this section does not exceed \$100, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$500 or both.

8-209.

(a) A person may not receive money, goods, services, or anything of value if the person knows or believes that the money, goods, services, or other thing of value was obtained in violation of § 8-206 of this subtitle.

(b) (1) **(I)** If the value of all money, goods, services, and other things of value obtained in violation of this section [exceeds \$500] **IS AT LEAST \$1,000 BUT LESS THAN \$10,000**, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding [15] **10** years or a fine not exceeding [\$1,000] **\$10,000** or both.

(II) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION IS AT LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH.

(III) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION IS \$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.

(2) Except as provided in paragraph (3) of this subsection, if the value of all money, goods, services, and other things of value obtained in violation of this section [does not exceed \$500] **IS LESS THAN \$1,000**, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding \$500 or both.

(3) If the value of all money, goods, services, and other things of value obtained in violation of this section does not exceed \$100, a person who violates this

section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$500 or both.

8–301.

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

(2) “Payment device number” has the meaning stated in § 8–213 of this title.

(3) “Personal identifying information” includes a name, address, telephone number, driver’s license number, Social Security number, place of employment, employee identification number, mother’s maiden name, bank or other financial institution account number, date of birth, personal identification number, credit card number, or other payment device number.

(4) “Re–encoder” means an electronic device that places encoded personal identifying information or a payment device number from the magnetic strip or stripe of a credit card onto the magnetic strip or stripe of a different credit card or any electronic medium that allows such a transaction to occur.

(5) “Skimming device” means a scanner, skimmer, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, personal identifying information or a payment device number encoded on the magnetic strip or stripe of a credit card.

(b) A person may not knowingly, willfully, and with fraudulent intent possess, obtain, or help another to possess or obtain any personal identifying information of an individual, without the consent of the individual, in order to use, sell, or transfer the information to get a benefit, credit, good, service, or other thing of value in the name of the individual.

(c) A person may not knowingly and willfully assume the identity of another, including a fictitious person:

(1) to avoid identification, apprehension, or prosecution for a crime; or

(2) with fraudulent intent to:

(i) get a benefit, credit, good, service, or other thing of value; or

(ii) avoid the payment of debt or other legal obligation.

(d) A person may not knowingly, willfully, and with fraudulent intent to obtain a benefit, credit, good, service, or other thing of value, use:

(1) a re-encoder to place information encoded on the magnetic strip or stripe of a credit card onto the magnetic strip or stripe of a different credit card or use any other electronic medium that allows such a transaction to occur without the consent of the individual authorized to use the credit card from which the personal identifying information or payment device number is being re-encoded; or

(2) a skimming device to access, read, scan, obtain, memorize, or store personal identifying information or a payment device number on the magnetic strip or stripe of a credit card without the consent of the individual authorized to use the credit card.

(e) A person may not knowingly, willfully, and with fraudulent intent possess, obtain, or help another possess or obtain a re-encoder device or a skimming device for the unauthorized use, sale, or transfer of personal identifying information or a payment device number.

(f) A person may not knowingly and willfully claim to represent another person without the knowledge and consent of that person, with the intent to solicit, request, or take any other action to otherwise induce another person to provide personal identifying information or a payment device number.

(g) (1) **(I)** A person who violates this section where the benefit, credit, good, service, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of ~~[\$500 or greater]~~ **AT LEAST \$1,000 BUT LESS THAN \$10,000** is guilty of a felony and on conviction is subject to imprisonment not exceeding ~~[15]~~ **10** years or a fine not exceeding ~~[\$25,000]~~ **\$10,000** or both.

(II) A PERSON WHO VIOLATES THIS SECTION WHERE THE BENEFIT, CREDIT, GOOD, SERVICE, OR OTHER THING OF VALUE THAT IS THE SUBJECT OF SUBSECTION (B), (C), OR (D) OF THIS SECTION HAS A VALUE OF AT LEAST \$10,000 BUT LESS THAN \$100,000 IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH.

(III) A PERSON WHO VIOLATES THIS SECTION WHERE THE BENEFIT, CREDIT, GOOD, SERVICE, OR OTHER THING OF VALUE THAT IS THE SUBJECT OF SUBSECTION (B), (C), OR (D) OF THIS SECTION HAS A VALUE OF \$100,000 OR MORE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.

(2) A person who violates this section where the benefit, credit, good, service, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of less than ~~[\$500]~~ **\$1,000** is guilty of a misdemeanor and on

conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding [\$5,000] **\$500** or both.

(3) A person who violates this section under circumstances that reasonably indicate that the person's intent was to manufacture, distribute, or dispense another individual's personal identifying information without that individual's consent is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years or a fine not exceeding \$25,000 or both.

(4) A person who violates subsection (c)(1), (e), or (f) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding [\$5,000] **\$500** or both.

(5) When the violation of this section is pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one violation and the value of the benefit, credit, good, service, or other thing of value may be aggregated in determining whether the violation is a felony or misdemeanor.

(h) A person described in subsection (g)(2) or (4) of this section is subject to § 5–106(b) of the Courts Article.

(i) In addition to restitution under Title 11, Subtitle 6 of the Criminal Procedure Article, a court may order a person who pleads guilty or nolo contendere or who is found guilty under this section to make restitution to the victim for reasonable costs, including reasonable attorney's fees, incurred:

(1) for clearing the victim's credit history or credit rating; and

(2) in connection with a civil or administrative proceeding to satisfy a debt, lien, judgment, or other obligation of the victim that arose because of the violation.

(j) A sentence under this section may be imposed separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing the violation of this section.

(k) Notwithstanding any other law, the Department of State Police may initiate investigations and enforce this section throughout the State without regard to any limitation otherwise applicable to the Department's activities in a municipal corporation or other political subdivision.

(l) (1) Notwithstanding any other law, a law enforcement officer of the Maryland Transportation Authority Police, the Maryland Port Administration Police, the Park Police of the Maryland–National Capital Park and Planning Commission, or a municipal corporation or county may investigate violations of this section throughout

the State without any limitation as to jurisdiction and to the same extent as a law enforcement officer of the Department of State Police.

(2) The authority granted in paragraph (1) of this subsection may be exercised only in accordance with regulations that the Department of State Police adopts.

(3) The regulations are not subject to Title 10, Subtitle 1 of the State Government Article.

(4) The authority granted in paragraph (1) of this subsection may be exercised only if an act related to the crime was committed in the investigating law enforcement agency's jurisdiction or if the complaining witness resides in the investigating law enforcement agency's jurisdiction.

(m) If action is taken under the authority granted in subsection (l) of this section, notification of an investigation:

(1) in a municipal corporation, shall be made to the chief of police or designee of the chief of police;

(2) in a county that has a county police department, shall be made to the chief of police or designee of the chief of police;

(3) in a county without a police department, shall be made to the sheriff or designee of the sheriff;

(4) in Baltimore City, shall be made to the Police Commissioner or the Police Commissioner's designee;

(5) on property owned, leased, or operated by or under the control of the Maryland Transportation Authority, the Maryland Aviation Administration, or the Maryland Port Administration, shall be made to the respective chief of police or the chief's designee; and

(6) on property owned, leased, or operated by or under the control of the Maryland–National Capital Park and Planning Commission, to the chief of police of the Maryland–National Capital Park and Planning Commission for the county in which the property is located.

(n) When acting under the authority granted in subsection (k) or (l) of this section, a law enforcement officer:

(1) in addition to any other immunities and exemptions to which the officer may be entitled, has the immunities from liability and exemptions accorded to a law enforcement officer of the Department of State Police; but

(2) remains an employee of the officer's employing agency.

(o) (1) A State's Attorney or the Attorney General may investigate and prosecute a violation of this section or a violation of any crime based on the act establishing a violation of this section.

(2) If the Attorney General exercises authority under paragraph (1) of this subsection, the Attorney General has all the powers and duties of a State's Attorney, including the use of a grand jury in any county or Baltimore City, to investigate and prosecute the violation.

(p) Notwithstanding any other provision of law, the prosecution of a violation of this section or for a violation of any crime based on the act establishing a violation of this section may be commenced in any county in which:

(1) an element of the crime occurred; or

(2) the victim resides.

8-516.

(a) If a violation of this part results in the death of an individual, a person who violates a provision of this part is guilty of a felony and on conviction is subject to imprisonment not exceeding life or a fine not exceeding \$200,000 or both.

(b) If a violation of this part results in serious injury to an individual, a person who violates a provision of this part is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding \$100,000 or both.

(c) If the value of the money, health care services, or other goods or services involved is [~~\$500~~] **\$1,000** or more in the aggregate, a person who violates a provision of this part is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$100,000 or both.

(d) A person who violates any other provision of this part is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$50,000 or both.

(e) (1) In this subsection, "business entity" includes an association, firm, institution, partnership, and corporation.

(2) A business entity that violates a provision of this part is subject to a fine not exceeding:

(i) \$250,000 for each felony; and

- (ii) \$100,000 for each misdemeanor.

8–801.

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

- (2) “Deception” has the meaning stated in § 7–101 of this article.

- (3) “Deprive” has the meaning stated in § 7–101 of this article.

- (4) “Obtain” has the meaning stated in § 7–101 of this article.

- (5) “Property” has the meaning stated in § 7–101 of this article.

- (6) (i) “Undue influence” means domination and influence amounting to force and coercion exercised by another person to such an extent that a vulnerable adult or an individual at least 68 years old was prevented from exercising free judgment and choice.

- (ii) “Undue influence” does not include the normal influence that one member of a family has over another member of the family.

- (7) “Value” has the meaning stated in § 7–103 of this article.

- (8) “Vulnerable adult” has the meaning stated in § 3–604 of this article.

- (b) (1) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is a vulnerable adult with intent to deprive the vulnerable adult of the vulnerable adult’s property.

- (2) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is at least 68 years old, with intent to deprive the individual of the individual’s property.

- (c) (1) **(I)** A person convicted of a violation of this section when the value of the property is [~~\$500 or more~~] **AT LEAST \$1,000 BUT LESS THAN \$10,000** is guilty of a felony and:

- [(i)] 1.** is subject to imprisonment not exceeding [~~15~~] **10** years or a fine not exceeding \$10,000 or both; and

- [(ii)] 2.** shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner’s estate.

(II) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION WHEN THE VALUE OF THE PROPERTY IS AT LEAST \$10,000 BUT LESS THAN \$100,000 IS GUILTY OF A FELONY AND:

1. IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH; AND

2. SHALL RESTORE THE PROPERTY TAKEN OR ITS VALUE TO THE OWNER, OR, IF THE OWNER IS DECEASED, RESTORE THE PROPERTY OR ITS VALUE TO THE OWNER'S ESTATE.

(III) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION WHEN THE VALUE OF THE PROPERTY IS \$100,000 OR MORE IS GUILTY OF A FELONY AND:

1. IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH; AND

2. SHALL RESTORE THE PROPERTY TAKEN OR ITS VALUE TO THE OWNER, OR, IF THE OWNER IS DECEASED, RESTORE THE PROPERTY OR ITS VALUE TO THE OWNER'S ESTATE.

(2) A person convicted of a violation of this section when the value of the property is less than [~~\$500~~] **\$1,000** is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding 18 months or a fine not exceeding \$500 or both; and

(ii) shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(d) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing the violation of this section.

(e) (1) If a defendant fails to restore fully the property taken or its value as ordered under subsection (c) of this section, the defendant is disqualified, to the extent of the defendant's failure to restore the property or its value, from inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the victim of the offense, whether by operation of law or pursuant to a legal document executed or entered into by the victim before the defendant shall have been convicted under this section.

(2) The defendant has the burden of proof with respect to establishing under paragraph (1) of this subsection that the defendant has fully restored the property taken or its value.

(f) This section may not be construed to impose criminal liability on a person who, at the request of the victim of the offense, the victim's family, or the court appointed guardian of the victim, has made a good faith effort to assist the victim in the management of or transfer of the victim's property.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 416

(House Bill 1406)

AN ACT concerning

Howard County – Sheriff – Salary Increases

Ho. Co. 13–13

FOR the purpose of increasing the annual salary of the Sheriff of Howard County to a certain amount over a certain time period; making a certain technical correction in a provision of law concerning the salary of the Sheriff for certain calendar years; providing that this Act does not apply to the salary or compensation of the incumbent Sheriff during a certain term of office; and generally relating to the salary of the Sheriff of Howard County.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–309(o)(1)(i)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

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

Article – Courts and Judicial Proceedings

2–309.

(o) (1) (i) The Sheriff of Howard County shall receive an annual salary as follows:

1. [\$65,000 for calendar year 2005;
2. \$66,500 for calendar year 2006;
3. \$77,500 for calendar year 2007;
4. \$80,000 for calendar year 2008;
5. \$82,500 for calendar year 2009; and
- 6.] **\$85,000 EACH CALENDAR YEAR for calendar year 2010 THROUGH CALENDAR YEAR 2014;**
2. **\$88,000 FOR CALENDAR YEAR 2015;**
3. **\$91,000 FOR CALENDAR YEAR 2016;**
4. **\$94,000 FOR CALENDAR YEAR 2017; AND**
5. **\$97,000 FOR CALENDAR YEAR 2018.**

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

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 417

(House Bill 1408)

AN ACT concerning

Family Law – Criminal History Records Checks – Student Teachers

FOR the purpose of requiring the Department of Public Safety and Correctional Services, on written request from a certain student teacher, to submit a certain printed statement to additional employers if the criminal history records check was completed during a certain period of time; establishing that a certain printed statement is valid in any county; and generally relating to criminal history records checks for student teachers.

BY repealing and reenacting, with amendments,

Article – Family Law

Section 5–564

Annotated Code of Maryland

(2012 Replacement Volume)

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

Article – Family Law

5–564.

(a) (1) (i) The Department shall conduct the criminal history records check and issue the printed statement provided for under this Part VI of this subtitle.

(ii) It shall update an initial criminal history records check for an employee, employer, or individual identified in § 5–561(c), (d), (e), or (f) of this subtitle and issue a revised printed statement in accordance with federal law and regulations on dissemination of FBI identification records.

(2) The Department shall adopt regulations requiring:

(i) employers to verify periodically the continuing employment of an employee and the continuing assignment of a volunteer;

(ii) State or local agencies that license, register, approve, or certify any of the facilities identified in § 5–561(b) of this subtitle to verify periodically the continuing licensure, registration, approval, or certification of a facility or the continuing assignment of individuals identified in § 5–561(e) of this subtitle; and

(iii) child placement agencies that place a child as described in § 5–561(c) of this subtitle to verify periodically the continuing participation or presence of individuals identified in § 5–561(c) of this subtitle.

(3) The employee, employer, volunteer, or other individual identified in § 5–561 of this subtitle is not responsible for payment of any fee to update criminal history records checks.

(b) (1) The Department shall provide an initial and a revised statement of the applicant's State criminal record to:

(i) the recipients of the printed statement specified in subsection (c) of this section; and

(ii) the State Department of Education if the applicant is an employee of:

1. a child care center that is required to be licensed or to hold a letter of compliance under Part VII of this subtitle; or

2. a family child care home or large family child care home that is required to be registered under Part V of this subtitle.

(2) The Department shall distribute the printed statement in accordance with federal law and regulations on dissemination of FBI identification records.

(c) (1) Upon completion of the criminal history records check of an employee, the Department shall submit the printed statement to:

(i) the employee's current or prospective employer at the facility or program;

(ii) the employee; and

(iii) for an employee of a child care center that is required to be licensed or to hold a letter of compliance under Part VII of this subtitle or an employee of a family child care home that is required to be registered under Part V of this subtitle, the State Department of Education.

(2) (I) [Upon] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, UPON** receiving a written request from an employee, the Department shall submit the printed statement to additional employers, if the criminal history records check was completed during the prior 180 days.

(II) UPON RECEIVING A WRITTEN REQUEST FROM A STUDENT TEACHER EMPLOYED UNDER § 6-107 OF THE EDUCATION ARTICLE, THE DEPARTMENT SHALL SUBMIT THE PRINTED STATEMENT TO ADDITIONAL EMPLOYERS IF THE CRIMINAL HISTORY RECORDS CHECK WAS COMPLETED DURING THE PRIOR 365 DAYS.

(3) Upon completion of the criminal history records check of an employer, the Department shall submit the printed statement to:

(i) the appropriate State or local agency responsible for the licensure, registration, approval, or certification of the employer's facility; and

(ii) the employer.

(4) Upon completion of the criminal history records check of an individual identified in § 5-561(c), (d), (e), or (f) of this subtitle, the Department shall submit the printed statement to the appropriate child placement or registering agency.

(5) A PRINTED STATEMENT ISSUED UNDER THIS SECTION IS VALID IN ANY COUNTY IN THE STATE.

(d) Information obtained from the Department under this Part VI of this subtitle shall be confidential and may be disseminated only to the individual who is the subject of the criminal history records check and to the participants in the hiring or approval process.

(e) Information obtained from the Department under this Part VI of this subtitle may not:

(1) be used for any purpose other than that for which it was disseminated; or

(2) be redisseminated.

(f) Information obtained from the Department under this Part VI of this subtitle shall be maintained in a manner to insure the security of the information.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 418

(House Bill 1429)

AN ACT concerning

**State Ethics — Former State Department of Health and Mental Hygiene —
Former Officials and Employees — Employment**

FOR the purpose of providing that ~~a former State official or employee~~ certain former officials or employees of the Department of Health and Mental Hygiene may not be considered to have participated significantly in a contract under certain

circumstances for purposes of certain restrictions on employment; requiring the Department to submit a certain report by a certain date to certain committees of the General Assembly describing certain information regarding certain former officials or employees; and generally relating to employment of certain former State officials and employees of the Department of Health and Mental Hygiene.

~~BY repealing and reenacting, with amendments,
Article – State Government
Section 15–504
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)~~

BY adding to
Article – Health – General
Section 15–147
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

~~Article – State Government~~

~~15–504.~~

~~(a) (1) This subsection does not apply to members of the General Assembly.~~

~~(2) Except as provided in paragraph (3) of this subsection, an official or employee may not, for contingent compensation, assist or represent a party in any matter before or involving any unit of the State or a political subdivision of the State.~~

~~(3) Paragraph (2) of this subsection does not apply to assistance to or representation of a party:~~

~~(i) in a judicial or quasi-judicial proceeding, including a proceeding before an administrative law judge in the Office of Administrative Hearings, or a matter preliminary, incidental, or collateral to a judicial or quasi-judicial proceeding; or~~

~~(ii) in a matter before or involving the Workers' Compensation Commission, the Maryland Automobile Insurance Fund, or the Criminal Injuries Compensation Board.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection, a member of the General Assembly may not, for compensation, assist or represent a party in any matter before or involving any unit of the State or a political subdivision of the State.~~

~~(2) Paragraph (1) of this subsection does not apply to assistance to or representation of a party:~~

~~(i) in matters relating to the performance of ministerial acts by a governmental unit;~~

~~(ii) in matters involving the member's regular business, employment, or profession, in which contact with a governmental unit:~~

~~1. is an incidental part of the business, employment, or profession;~~

~~2. is made in the manner that is customary for persons in that business, employment, or profession; and~~

~~3. is not for contingent compensation;~~

~~(iii) in a judicial or quasi-judicial proceeding, including a proceeding before an administrative law judge in the Office of Administrative Hearings, or a matter preliminary, incidental, or collateral to a judicial or quasi-judicial proceeding;~~

~~(iv) in a matter before or involving the Workers' Compensation Commission, the Maryland Automobile Insurance Fund, or the Criminal Injuries Compensation Board; or~~

~~(v) in a matter in which the assistance or representation, other than for contingent compensation, was commenced by the member of the General Assembly before:~~

~~1. the member filed a certificate of candidacy for election to the General Assembly at a time when the member was not an incumbent; or~~

~~2. if the member was appointed to fill a vacancy, the date of appointment.~~

~~(c) (1) A member of the General Assembly may not assist or represent a person, including himself or herself, for compensation before a State or local governmental agency in any matter involving:~~

~~(i) procurement; or~~

~~(ii) the adoption of regulations.~~

~~(2) Paragraph (1) of this subsection does not apply to an administrative proceeding conducted in accordance with Title 10, Subtitle 2 (Administrative Procedure Act – Contested Cases) of this article.~~

~~(d) (1) Except for a former member of the General Assembly, who shall be subject to the restrictions provided under paragraph [(2)] (3) of this subsection, a former official or employee may not assist or represent a party, other than the State, in a case, contract, or other specific matter for compensation if:~~

~~(i) the matter involves State government; and~~

~~(ii) the former official or employee participated significantly in the matter as an official or employee.~~

~~(2) A FORMER OFFICIAL OR EMPLOYEE MAY NOT BE CONSIDERED TO HAVE PARTICIPATED SIGNIFICANTLY IN A CONTRACT UNDER PARAGRAPH (D)(1) OF THIS SUBSECTION, IF THE ETHICS COMMISSION DETERMINES THAT THE FORMER OFFICIAL OR EMPLOYEE:~~

~~(I) DID NOT DEVELOP A REQUEST FOR PROPOSALS RESULTING IN THE CONTRACT;~~

~~(II) DID NOT PARTICIPATE IN AN EVALUATION COMMITTEE OR OTHER STATE ENTITY CHARGED WITH SELECTING A CONTRACTOR FOR THE CONTRACT; AND~~

~~(III) PARTICIPATED ONLY BY PROVIDING SUPPORT OR OTHER ASSISTANCE AS PART OF THE TRANSITION PROCESS FROM A STATE-RUN OPERATION TO A PRIVATELY CONTRACTED OPERATION UNDER THE CONTRACT.~~

~~[(2)] (3) (i) Except as provided in subparagraph (ii) of this paragraph, until the conclusion of the next regular session that begins after the member leaves office, a former member of the General Assembly may not assist or represent another party for compensation in a matter that is the subject of legislative action.~~

~~(ii) The limitation under subparagraph (i) of this paragraph on representation by a former member of the General Assembly does not apply to the former member's representation of a municipal corporation, county, or State governmental entity.~~

~~(e) Notwithstanding subsection (a)(3) of this section or § 15-502 of this subtitle, a full-time official or employee in the Judicial Branch may not represent a party before a court or unit of the Judicial Branch except in the discharge of official duties.~~

Article – Health – General

15-147.

NOTWITHSTANDING § 15-504 OF THE STATE GOVERNMENT ARTICLE, A FORMER OFFICIAL OR EMPLOYEE MAY NOT BE CONSIDERED TO HAVE PARTICIPATED SIGNIFICANTLY IN A CONTRACT IF THE FORMER OFFICIAL OR EMPLOYEE:

(1) DID NOT DEVELOP A REQUEST FOR PROPOSALS RESULTING IN THE CONTRACT;

(2) DID NOT PARTICIPATE IN AN EVALUATION COMMITTEE OR OTHER STATE ENTITY CHARGED WITH SELECTING A CONTRACTOR FOR THE CONTRACT; AND

(3) PARTICIPATED ONLY BY PROVIDING SUPPORT OR OTHER ASSISTANCE AS DIRECTED BY A SENIOR MANAGER AFTER CONTRACT AWARD AS PART OF THE TRANSITION PROCESS FROM A STATE-RUN MEDICAID MANAGEMENT INFORMATION SYSTEM TO A PRIVATE CONTRACTED OPERATION.

SECTION 2. AND BE IT FURTHER ENACTED, That on or before December 1, 2016, the Department of Health and Mental Hygiene, in accordance with § 2-1246 of the State Government Article, shall submit a report to the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee that describes, to the extent known by the Department, the number, the ranges of levels of employment and pay grades at the time of separation from State employment, and the fields of work of individuals who have left State employment, as described under § 15-147 of the Health – General Article, as enacted by Section 1 of this Act, for employment at a private entity operating the Maryland Medicaid Management Information System.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 419

(House Bill 1499)

AN ACT concerning

Campaign Finance Reform Act of 2013

FOR the purpose of altering certain definitions; authorizing the State Board of Elections to audit certain account books, records, and statements; requiring an individual to establish an authorized candidate campaign committee before filing a declaration of intent; prohibiting a political committee from receiving or disbursing money if there is a vacancy in certain offices of the committee; ~~prohibiting a candidate from remaining a member of a slate or joining a slate~~ providing that a candidate may join a slate or continue as a member of a slate only under certain circumstances; authorizing the establishment of legislative party caucus committees; providing that the State Board satisfies certain notice requirements by sending notices to certain addresses; authorizing a central committee of a political party or legislative party caucus committee to establish an administrative account; establishing requirements for the functioning of administrative accounts; altering the circumstances under which a campaign contribution receipt must be issued; altering certain limits on the aggregate amount of contributions a person may make in an election cycle; requiring that certain contribution limits and certain transfer limits be adjusted in a certain manner at certain times; providing that contributions by two or more business entities be considered as being made by one contributor under certain circumstances; providing that certain limits on transfers between campaign finance entities do not apply to certain campaign finance entities; establishing a limit on the amount of transfers a slate may make in an election cycle to the authorized candidate campaign committees of its members; establishing a limit on the amount of transfers a legislative party caucus committee may make in an election cycle to the authorized candidate campaign committee of a candidate the legislative party caucus committee seeks to elect; requiring certain political action committees to include certain information on the face of a check transferring funds to another campaign finance entity; authorizing certain officials to deposit a contribution during a session of the General Assembly under certain circumstances; repealing a certain provision relating to expenditures made by a campaign finance entity located outside the State; requiring an out-of-state political committee to register and file reports with the State Board that include certain information at certain times and in a certain manner; altering certain requirements for contributions received from the sale of a raffle ticket, spin, or chance at a campaign fundraising event; prohibiting an authorized candidate campaign committee from reporting more than a certain amount of certain contributions in an election cycle on its campaign finance reports without providing certain information about each contribution; authorizing a political committee to report certain contributions collected in a certain manner on its campaign finance reports without providing certain information about each contribution under certain circumstances; repealing certain provisions relating to the filing of campaign finance reports or affidavits by authorized candidate campaign committees of candidates for election to the central committee of a political party; altering certain definitions in the law governing disclosure of independent expenditures and electioneering communications; requiring a person who makes a certain amount of

independent expenditures or electioneering communications to register and file certain reports with the State Board within a certain time; requiring an independent expenditure or electioneering communication report to identify persons who made donations of a certain amount to the person making the independent expenditure or electioneering communication; requiring a person to file an amended independent expenditure or electioneering communication report under certain circumstances; authorizing the State Board to assess certain civil penalties for failure to file properly an independent expenditure or electioneering communication report; requiring a campaign finance entity to file a campaign finance report on a certain date immediately preceding a general election; providing that the authorized candidate campaign committee of a candidate for election to the central committee of a political party is required to file certain campaign finance reports and is not required to file any other campaign finance reports; requiring a political committee that makes only independent expenditures or electioneering communications to file campaign finance reports at certain times and subject to certain sanctions; requiring a campaign finance entity to file an amended campaign finance report under certain circumstances; providing for certain fees and other sanctions for late filing of an amended campaign finance report; altering certain fees for late filing of a campaign finance report; requiring that a late filing fee be paid by a campaign finance entity except under certain circumstances; authorizing the governing body of a county to establish a system of public campaign financing for elective offices in the executive or legislative branches of county government; specifying certain requirements for a county system of public campaign financing; authorizing the State Board to assess a civil penalty for certain violations of campaign finance law; providing for the maximum amount of a civil penalty and requirements for issuing, paying, and contesting a civil penalty; authorizing a person who is assessed a civil penalty to elect to stand trial for the violation in District Court; requiring the State Prosecutor to assume responsibility for prosecuting a violation in District Court; providing for the procedures to be followed in the District Court; providing that a civil penalty is not a criminal conviction; altering certain definitions in the law governing disclosure of contributions by persons doing public business; altering certain requirements relating to certain statements of contributions by persons doing public business; transferring responsibility for waiving certain disclosure requirements applicable to persons doing public business from the Attorney General to the State Board; requiring a person doing public business to maintain certain records for a certain period of time; requiring a governmental entity to ~~verify that~~ require a person doing public business with the governmental entity to certify that the person has filed a certain statement of contributions under certain circumstances; providing an exception before ~~allowing the person to begin performance of a contract;~~ requiring a governmental entity to notify the State Board of persons doing public business with the governmental entity who are required to file a certain statement of contributions within a certain period of time; requiring certain participating organizations, as defined, making certain contributions or donations or certain disbursements to register with the State Board and file a certain report under

certains circumstances; altering the deadline date for certain candidates to file a certificate of candidacy; requiring certain campaign finance entities to file a campaign finance report by a certain date; altering the date by which the State Board shall certify the content and arrangement of a certain ballot; requiring a person doing public business to file an amended statement of contributions under certain circumstances; authorizing the State Board to impose certain fees for late filing of a statement of contributions by a person doing public business in a certain manner; authorizing the State Board to adopt regulations implementing the law governing disclosure of contributions by persons doing public business; extending the statute of limitations for a misdemeanor constituting a criminal offense under the State election laws; providing for the application of the extension of the statute of limitations under this Act; making technical and clarifying corrections; making conforming changes; defining certain terms; making the provisions of this Act severable; providing for a delayed effective date for certain provisions of this Act; and generally relating to campaign finance.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 1–101(o), (ff), and (gg), 2–102, 5–303, 9–207(a), 13–202, 13–207, 13–209, 13–214, 13–222, 13–226, 13–227, 13–228, 13–234, 13–235, 13–240, 13–304, 13–305, 13–306, 13–307, 13–309, 13–327, 13–331, 13–340, 14–101, 14–104, 14–105, and 14–107

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY adding to

Article – Election Law

Section 1–101(bb–1), 13–208.1, 13–220.1, 13–301, 13–309.1, 13–309.2, 13–505, 13–604.1, and 14–109

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY repealing

Article – Election Law

Section 13–301

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Election Law

Section 14–102, 14–103, 14–106, and 14–108

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings

Section 5–106(f) and (h)
 Annotated Code of Maryland
 (2006 Replacement Volume and 2012 Supplement)

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

Article – Election Law

1–101.

(o) (1) “Contribution” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a campaign finance entity to promote or assist in the promotion of the success or defeat of a candidate, political party, or question.

(2) “Contribution” includes:

(I) proceeds from the sale of tickets to a campaign fund–raising event; AND

(II) A DISBURSEMENT OR DEPOSIT OF MONEY OR A GIFT, A SUBSCRIPTION, ~~A LOAN~~, AN ADVANCE, OR ANYTHING OF VALUE THAT IS MADE BY A PERSON IN COORDINATION WITH, OR AT THE REQUEST OR SUGGESTION OF, A CANDIDATE OR A CAMPAIGN FINANCE ENTITY OF A CANDIDATE.

~~(BB-1) “LEGISLATIVE PARTY CAUCUS COMMITTEE” MEANS A POLITICAL COMMITTEE THAT IS ESTABLISHED TO PROMOTE THE ELECTION OF CANDIDATES OF A SINGLE POLITICAL PARTY TO ONE OF THE TWO HOUSES OF THE GENERAL ASSEMBLY.~~

~~(ff) “Political action committee” means a political committee that is not:~~

~~(1) a political party;~~

~~(2) a central committee;~~

~~(3) a slate;~~

~~(4) A LEGISLATIVE PARTY CAUCUS COMMITTEE;~~

~~[(4)] (5) a political committee organized and operated solely to support or oppose a single candidate; or~~

~~[(5)] (6) a political committee organized and operated solely to support or oppose a ballot issue.~~

(gg) “Political committee” means a combination of two or more individuals that ~~[assists or attempts] HAS AS ITS MAJOR PURPOSE ASSISTING OR ATTEMPTING to assist in~~ promoting the success or defeat of a candidate, political party, or question submitted to a vote at any election.

2–102.

(a) The State Board shall manage and supervise elections in the State and ensure compliance with the requirements of this article and any applicable federal law by all persons involved in the elections process.

(b) In exercising its authority under this article and in order to ensure compliance with this article and with any requirements of federal law, the State Board shall:

- (1) supervise the conduct of elections in the State;
- (2) direct, support, monitor, and evaluate the activities of each local board;
- (3) have a staff sufficient to perform its functions;
- (4) adopt regulations to implement its powers and duties;
- (5) receive, ~~[and] OR~~ in its discretion audit, campaign finance reports, **ACCOUNT BOOKS AND RECORDS KEPT UNDER § 13–221 OF THIS ARTICLE**, independent expenditure reports filed **AND RECORDS KEPT** under § 13–306 of this article, ~~[and]~~ electioneering communication reports filed **AND RECORDS KEPT** under § 13–307 of this article, **AND STATEMENTS FILED AND RECORDS KEPT UNDER § 14–105 OF THIS ARTICLE**;
- (6) appoint a State Administrator in accordance with § 2–103 of this subtitle;
- (7) maximize the use of technology in election administration, including the development of a plan for a comprehensive computerized elections management system;
- (8) canvass and certify the results of elections as prescribed by law;
- (9) make available to the general public, in a timely and efficient manner, information on the electoral process, including a publication that includes the text of this article, relevant portions of the Maryland Constitution, and information gathered and maintained regarding elections;

(10) subject to § 2–106 of this subtitle and § 13–341 of this article, receive, maintain, and serve as a depository for elections documents, materials, records, statistics, reports, certificates, proclamations, and other information prescribed by law or regulation;

(11) prescribe all forms required under this article; and

(12) serve as the official designated office in accordance with the Uniformed and Overseas Citizens Absentee Voting Act for providing information regarding voter registration and absentee ballot procedures for absent uniformed services voters and overseas voters with respect to elections for federal office.

(c) The powers and duties assigned to the State Board under this article shall be exercised in accordance with an affirmative vote by a supermajority of the members of the State Board.

~~13–202.~~

~~(a) Unless otherwise expressly authorized by law, all campaign finance activity for an election under this article shall be conducted through a campaign finance entity.~~

~~(b) An individual may not file a certificate of candidacy OR A DECLARATION OF INTENT UNDER § 5–703 OR § 5–703.1 OF THIS ARTICLE until the individual establishes, or causes to be established, an authorized [political] CANDIDATE CAMPAIGN committee.~~

13–207.

(a) This section applies to a political committee other than a political club.

(b) A political committee may not receive or disburse money or any other thing of value unless the political committee is established in accordance with the requirements of this section.

(c) To establish a political committee:

(1) a chairman and a treasurer shall be appointed on a form that the State Board prescribes and that is signed by the chairman and treasurer and includes:

(i) the residence addresses of the chairman and the treasurer;

(ii) if the chairman and treasurer affirmatively consent to receiving notice under this title only by electronic mail, the electronic mail address of the chairman and the treasurer; and

(iii) the information required by § 13–208 of this subtitle; and

(2) the form shall be filed with the [board where the political committee is required to file campaign finance reports] **STATE BOARD**.

(3) The chairman or treasurer of a political committee shall notify the State Board of a change in the residence address of the chairman or treasurer no later than 21 days before the day on which the political committee's next campaign finance report is due under § 13–309 of this title.

(4) The chairman or treasurer of a political committee shall notify the State Board of a change in the electronic mail address of the chairman or treasurer by the date specified in paragraph (3) of this subsection if the chairman and treasurer of the political committee have affirmatively consented to receiving notice under this title only by electronic mail.

(d) (1) A chairman or treasurer of a political committee may resign by completing a resignation form that the State Board prescribes and filing the form with the [board where the political committee was established] **STATE BOARD**.

(2) If a vacancy occurs in the office of chairman or the office of treasurer, the political committee promptly shall appoint a new chairman or treasurer in accordance with this section.

(3) A POLITICAL COMMITTEE MAY NOT RECEIVE OR DISBURSE MONEY OR ANY OTHER THING OF VALUE IF THERE IS A VACANCY IN THE OFFICE OF CHAIRMAN OR THE OFFICE OF TREASURER.

~~13-208.1.~~

~~(A) EACH POLITICAL PARTY MAY ESTABLISH ONE LEGISLATIVE PARTY CAUCUS COMMITTEE FOR EACH HOUSE OF THE GENERAL ASSEMBLY.~~

~~(B) THE STATE BOARD SHALL ADOPT REGULATIONS GOVERNING THE ESTABLISHMENT, STRUCTURE, AND OPERATION OF LEGISLATIVE PARTY CAUCUS COMMITTEES.~~

13-209.

(a) Two or more candidates who have established separate campaign finance entities may form a slate.

(b) After establishing a campaign finance entity in accordance with § 13–202(b) of this subtitle, a candidate may join a slate.

(c) (1) To join a slate, a candidate shall file a written notice with the State Board.

- (2) The notice shall specify:
- (i) the name of the slate that the candidate has joined; and
 - (ii) the date on which the candidate joined the slate.

~~(D) A CANDIDATE MAY NOT REMAIN A MEMBER OF A SLATE OR JOIN A SLATE IF THE CANDIDATE:~~

~~(1) HAS NOT FILED A CERTIFICATE OF CANDIDACY; AND~~

~~(2) IS NOT AN INCUMBENT OFFICEHOLDER.~~

(D) A CANDIDATE MAY JOIN A SLATE OR CONTINUE AS A MEMBER OF A SLATE ONLY IF:

(1) THE CANDIDATE HAS FILED A CERTIFICATE OF CANDIDACY;

OR

(2) (I) THE CANDIDATE IS AN INCUMBENT OFFICEHOLDER;

AND

(II) THE DEADLINE FOR FILING A CERTIFICATE OF CANDIDACY FOR THE OFFICE THE CANDIDATE HOLDS HAS NOT PASSED.

13-214.

(a) The responsible officers of a campaign finance entity are jointly and severally responsible for:

(1) filing all campaign finance reports in full and accurate detail; and
[for]

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, all other actions of the entity.

(b) Notice shall be provided to a campaign finance entity by serving the responsible officers.

(C) THE STATE BOARD SATISFIES ALL NOTICE REQUIREMENTS UNDER THIS TITLE BY SENDING NOTICES TO THE ADDRESSES PROVIDED BY THE RESPONSIBLE OFFICERS OF A CAMPAIGN FINANCE ENTITY UNDER § 13-207(C) OF THIS SUBTITLE.

~~13-220.1.~~

~~(A) EACH CENTRAL COMMITTEE OF A POLITICAL PARTY OR LEGISLATIVE PARTY CAUCUS COMMITTEE MAY ESTABLISH ONE ADMINISTRATIVE ACCOUNT.~~

~~(B) DISBURSEMENTS FROM AN ADMINISTRATIVE ACCOUNT MAY BE MADE ONLY FOR NONELECTORAL PURPOSES.~~

~~(C) A DONATION TO AN ADMINISTRATIVE ACCOUNT:~~

~~(1) MAY BE MADE ONLY IF THE DONOR IS AWARE THAT THE DONATION WILL BE USED FOR ADMINISTRATIVE NONELECTORAL PURPOSES AND CONSENTS TO THAT USE BEFORE MAKING THE DONATION; AND~~

~~(2) IS NOT SUBJECT TO § 13-226(B) OF THIS SUBTITLE.~~

~~(D) A CAMPAIGN FINANCE ENTITY MAY NOT MAKE A TRANSFER TO AN ADMINISTRATIVE ACCOUNT.~~

~~(E) THE STATE BOARD SHALL ADOPT REGULATIONS THAT:~~

~~(1) DEFINE PERMISSIBLE NONELECTORAL DISBURSEMENTS FROM AN ADMINISTRATIVE ACCOUNT; AND~~

~~(2) REQUIRE DISCLOSURE OF:~~

~~(I) DONATIONS TO AN ADMINISTRATIVE ACCOUNT; AND~~

~~(II) DISBURSEMENTS FROM AN ADMINISTRATIVE ACCOUNT.~~

13-222.

(a) (1) By the next deadline for filing a campaign finance report after receiving a contribution specified in paragraph (2) of this subsection, a treasurer shall issue a campaign contribution receipt on the form that the State Board prescribes.

(2) A campaign contribution receipt shall be mailed or delivered to each person who[

(i)] makes one or more contributions[, other than the purchase of tickets for a campaign event,] in the cumulative amount of \$51 or more[; or

(ii) purchases one or more tickets for a campaign event:

1. at a cost of \$51 or more per ticket; or
2. in the cumulative amount of \$251 or more].

(3) At the request of a contributor, a treasurer shall issue a campaign contribution receipt for any other contribution.

(4) A campaign contribution receipt issued under this section is evidence of the contribution.

(b) The information from a campaign contribution receipt shall be included in the campaign finance report filed by the treasurer under this title.

13-226.

(a) The limits on contributions in this section do not apply to:

- (1) a contribution to a ballot issue committee; or
- (2) those contributions defined as transfers.

(b) Subject to [subsection] **SUBSECTIONS (c) AND (D)** of this section, a person may not, either directly or indirectly, in an election cycle make aggregate contributions in excess of:

- (1) ~~[\$4,000]~~ **\$6,000** to any one campaign finance entity; or
- (2) ~~[\$10,000]~~ **\$24,000** to all campaign finance entities.

(c) (1) Notwithstanding subsection (b) of this section, a central committee of a political party **OR LEGISLATIVE PARTY CAUCUS COMMITTEE** may make aggregate in-kind contributions **TO A SINGLE CANDIDATE** during an election cycle that are not in excess of:

(i) for a State central committee **OR LEGISLATIVE PARTY CAUCUS COMMITTEE**, \$1 for every two registered voters in the State; and

(ii) for a local central committee, \$1 for every two registered voters in the county.

(2) For the purposes of paragraph (1) of this subsection, the number of registered voters is determined, regardless of party affiliation, as of the first day of the election cycle.

~~(D) (1) BEGINNING WITH THE ELECTION CYCLE THAT BEGINS ON JANUARY 1, 2019, AND AT THE BEGINNING OF EACH ELECTION CYCLE~~

~~THEREAFTER, THE CONTRIBUTION LIMITS UNDER SUBSECTION (B) OF THIS SECTION AND THE TRANSFER LIMITS UNDER § 13-227(C) OF THIS SUBTITLE SHALL BE ADJUSTED IN ACCORDANCE WITH THIS SUBSECTION.~~

~~(2) ON OR BEFORE THE DECEMBER 20 IMMEDIATELY PRECEDING THE END OF AN ELECTION CYCLE, THE STATE BOARD SHALL DETERMINE AND ANNOUNCE THE CONTRIBUTION LIMITS AND TRANSFER LIMITS EFFECTIVE FOR THE NEXT ELECTION CYCLE.~~

~~(3) SUBJECT TO PARAGRAPHS (5) AND (6) OF THIS SUBSECTION, THE CONTRIBUTION LIMIT IN SUBSECTION (B)(1) OF THIS SECTION AND THE TRANSFER LIMIT UNDER § 13-227(C)(1) OF THIS SUBTITLE SHALL BE INCREASED BY THE AMOUNT THAT EQUALS THE PRODUCT OF MULTIPLYING:~~

~~(I) THE CONTRIBUTION LIMIT OR TRANSFER LIMIT IN EFFECT FOR THE CURRENT ELECTION CYCLE; AND~~

~~(II) THE PERCENTAGE GROWTH IN THE CONSUMER PRICE INDEX AS DETERMINED BY THE STATE BOARD UNDER PARAGRAPH (4) OF THIS SUBSECTION.~~

~~(4) (I) IN THIS PARAGRAPH, "CONSUMER PRICE INDEX" MEANS THE INDEX FOR ALL URBAN CONSUMERS PUBLISHED MONTHLY BY THE BUREAU OF LABOR STATISTICS OF THE U.S. DEPARTMENT OF LABOR THAT IS A WEIGHTED THE U.S. CITY AVERAGE OF ALL ITEMS IN A BASKET OF CONSUMER GOODS AND SERVICES.~~

~~(II) THE PERCENTAGE GROWTH IN THE CONSUMER PRICE INDEX SHALL BE DETERMINED BY COMPARING THE AVERAGE OF THE INDEX FOR THE CURRENT YEAR THROUGH NOVEMBER 30 AND THE PRECEDING 3 YEARS TO THE AVERAGE OF THE INDEX FOR THE PRIOR 4 YEARS.~~

~~(5) THE AMOUNT RESULTING FROM THE CALCULATION UNDER PARAGRAPH (3) OF THIS SUBSECTION SHALL BE ROUNDED TO THE NEAREST MULTIPLE OF \$500.~~

~~(6) IF THERE IS A DECLINE OR NO GROWTH IN THE CONSUMER PRICE INDEX, THE CONTRIBUTION LIMITS AND TRANSFER LIMITS FOR THE NEXT ELECTION CYCLE SHALL REMAIN UNCHANGED FROM THOSE IN EFFECT FOR THE CURRENT ELECTION CYCLE.~~

~~(7) THE CONTRIBUTION LIMIT UNDER SUBSECTION (B)(2) OF THIS SECTION AND THE TRANSFER LIMIT UNDER § 13-227(C)(2) OF THIS SUBTITLE SHALL BE ADJUSTED AT THE BEGINNING OF EACH ELECTION CYCLE~~

~~TO AN AMOUNT EQUAL TO 4 TIMES THE AMOUNT RESULTING FROM THE CALCULATION UNDER PARAGRAPH (3) OF THIS SUBSECTION.~~

~~[(d)] (E)~~ The limit on contributions to the campaign finance entity of a candidate applies regardless of the number of offices sought by the candidate or campaign finance entities formed to support the candidate.

~~(F)~~ **(E)** (1) IN THIS SUBSECTION, "BUSINESS ENTITY" INCLUDES A CORPORATION, A SOLE PROPRIETORSHIP, A GENERAL PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED LIABILITY COMPANY, A REAL ESTATE INVESTMENT TRUST, ~~AND ANY OTHER BUSINESS OR OTHER ENTITY.~~

[(e)] (2) Contributions by [a corporation and any wholly owned subsidiary of the corporation, or by two or more corporations owned by the same stockholders,] **TWO OR MORE BUSINESS ENTITIES** shall be considered as being made by one contributor **IF:**

(I) ONE BUSINESS ENTITY IS A WHOLLY OWNED SUBSIDIARY OF ANOTHER; OR

(II) THE BUSINESS ENTITIES ARE OWNED OR CONTROLLED BY AT LEAST 80% OF THE SAME INDIVIDUALS OR BUSINESS ENTITIES.

13-227.

(a) In this section, a "campaign finance entity" includes a nonfederal out-of-state political committee.

(b) The [limit] **LIMITS** on transfers set forth in subsection (c) of this section [does] **DO** not apply to a transfer:

(1) by a campaign finance entity to a ballot issue committee; ~~and~~

~~(2)~~ **(2) BY THE AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE OF A MEMBER OF A SLATE TO A SLATE OF WHICH THE CANDIDATE IS A MEMBER;**

(3) BY THE AUTHORIZED CANDIDATE CAMPAIGN COMMITTEES OF THE CANDIDATES THAT A LEGISLATIVE PARTY CAUCUS COMMITTEE SEEKS TO ELECT TO THE LEGISLATIVE PARTY CAUCUS COMMITTEE; AND

(4) between or among:

(i) political committees that are State or local central committees of the same political party;

(ii) a slate and the [campaign finance entities of its members] **AUTHORIZED CANDIDATE CAMPAIGN COMMITTEES OF ITS MEMBERS, IF THE ONLY MEMBERS OF THE SLATE ARE A CANDIDATE FOR GOVERNOR AND A CANDIDATE FOR LIEUTENANT GOVERNOR WHO ARE RUNNING ON THE SAME TICKET; ~~and~~**

~~(iii) A LEGISLATIVE PARTY CAUCUS COMMITTEE AND THE AUTHORIZED CANDIDATE CAMPAIGN COMMITTEES OF THE CANDIDATES THE LEGISLATIVE PARTY CAUCUS COMMITTEE SEEKS TO ELECT; AND~~

~~[(iii)] (iv) the campaign finance entities of a candidate.~~

(III) THE AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE OF A CANDIDATE.

(c) (1) [During] **SUBJECT TO § 13-226(D) OF THIS SUBTITLE AND ~~PARAGRAPH (2)~~ PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,** DURING an election cycle, a campaign finance entity may not directly or indirectly make transfers in a cumulative amount of more than \$6,000 to any one other campaign finance entity.

(2) **DURING AN ELECTION CYCLE, A SLATE MAY NOT MAKE TRANSFERS DIRECTLY OR INDIRECTLY TO ~~ONE OR MORE~~ THE AUTHORIZED CANDIDATE CAMPAIGN ~~COMMITTEES~~ COMMITTEE OF ANY SINGLE MEMBER OF THE SLATE IN A CUMULATIVE AMOUNT OF MORE THAN \$24,000.**

(3) DURING AN ELECTION CYCLE, A LEGISLATIVE PARTY CAUCUS COMMITTEE MAY NOT MAKE TRANSFERS DIRECTLY TO THE AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE OF A CANDIDATE THAT THE LEGISLATIVE PARTY CAUCUS COMMITTEE SEEKS TO ELECT IN A CUMULATIVE AMOUNT OF MORE THAN \$24,000.

(d) (1) All affiliated campaign finance entities are treated as a single entity in determining:

(i) the amount of transfers made by a campaign finance entity;
and

(ii) the amount of transfers received by a campaign finance entity.

(2) Campaign finance entities are deemed to be affiliated if they:

(i) are organized and operated in coordination and cooperation with each other; or

(ii) otherwise conduct their operations and make their decisions relating to transfers and other contributions under the control of the same individual or entity.

(e) The limit on transfers to the campaign finance entities of a candidate prescribed in subsection (c) of this section applies regardless of the number of offices sought by the candidate.

13-228.

A political action committee that makes a transfer to the campaign finance entity of a candidate or to a slate shall:

(1) display its official name, as filed with the State Board under this subtitle, in a prominent place on the face of the check by which the funds are transferred; and

(2) include in a prominent place on the face of the check:

(I) the words "political action committee" or the notation "PAC", to indicate that the transferor is a political action committee; **OR**

(II) IF THE POLITICAL ACTION COMMITTEE IS ORGANIZED UNDER MARYLAND LAW, THE WORDS "MARYLAND REGISTERED POLITICAL ACTION COMMITTEE" OR THE NOTATION "MD REGISTERED PAC" TO INDICATE THAT THE TRANSFEROR IS A MARYLAND POLITICAL ACTION COMMITTEE.

~~13-234.~~

~~(a) A contribution of money may be made only by:~~

~~(1) check;~~

~~(2) credit card;~~

~~(3) cash, if the contribution does not exceed \$100 IN AN ELECTION CYCLE; or~~

~~(4) an electronic method that the State Board authorizes by regulation.~~

~~(b) An electronic method of making a contribution that the State Board authorizes under this section shall ensure that:~~

~~(1) the identity of the person making the contribution may be verified;~~

- ~~(2) the transaction is secure; and~~
- ~~(3) there is an adequate record of the transaction.~~

~~13-235.~~

~~(a) This section applies to the following officials:~~

- ~~(1) the Governor;~~
- ~~(2) the Lieutenant Governor;~~
- ~~(3) the Attorney General;~~
- ~~(4) the Comptroller; and~~
- ~~(5) a member of the General Assembly.~~

~~(b) Except as provided in subsection (c) [or], (d) OR (E) of this section, during a regular session of the General Assembly an official described in subsection (a) of this section, or a person acting on behalf of the official, may not, as to a candidate for federal, State, or local office, or a campaign finance entity of the candidate or any other campaign finance entity organized under this title and operated in coordination with a candidate:~~

- ~~(1) receive a contribution;~~
- ~~(2) conduct a fund-raising event;~~
- ~~(3) solicit or sell a ticket to a fund-raising event; or~~
- ~~(4) deposit or use any contribution of money that was not deposited prior to the session.~~

~~(c) An official described in subsection (a) of this section, or a person acting on behalf of the official, is not subject to this section when engaged in activities solely related to the official's election to an elective federal or local office for which the official is a filed candidate.~~

~~(d) Under the Public Financing Act, a gubernatorial ticket, during the year of the election only, may accept eligible private contributions and any disbursement of funds by the State Board that is based on the eligible private contributions.~~

~~(E) AN OFFICIAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION, OR A PERSON ACTING ON BEHALF OF THE OFFICIAL, MAY DEPOSIT A~~

~~CONTRIBUTION DURING THE LEGISLATIVE SESSION IF THE CONTRIBUTION WAS MADE ELECTRONICALLY BEFORE THE START OF THE SESSION.~~

~~[(c)] (F) (1) As to a violation of this section, the campaign finance entity of the official in violation is liable for a civil penalty as provided in this subsection.~~

~~(2) The State Board, represented by the State Prosecutor, may institute a civil action in the circuit court for any county seeking the civil penalty provided in this subsection.~~

~~(3) A campaign finance entity that receives a contribution as a result of the violation shall:~~

~~(i) refund the contribution to the contributor; and~~

~~(ii) pay a civil penalty that equals the sum of \$1,000 plus the amount of the contribution.~~

13-240.

(a) This section applies to a spin or chance on a paddle wheel or wheel of fortune **OR A RAFFLE** that is authorized under the laws of this State to operate at a campaign fund-raising event.

(b) [Notwithstanding] **EXCEPT AS PROVIDED IN § 13-304(C) OF THIS TITLE, BUT NOTWITHSTANDING § 13-239** of this subtitle or any other law that prohibits an anonymous contribution, a political committee may accept ~~money~~ **CONTRIBUTIONS** received from the sale of a spin or chance **OR A RAFFLE TICKET**, and need not identify the individual ~~purchaser in its account book~~ **CONTRIBUTOR ON ITS CAMPAIGN FINANCE REPORTS**, if:

(1) the account book of the political committee includes:

(i) the net amount received by the political committee **FROM THE RAFFLE, SPIN, OR CHANCE** at the **FUNDRAISING** event at which the sale was made; and

(ii) the name and address of each ~~individual~~ **PERSON** who attended the event;

(2) no spin or chance is sold at the event for more than \$2;

(3) the net income of the sponsoring political committee from spins and chances at the event does not exceed \$1,500 in a 24-hour period; ~~and~~

(4) the total receipts of the sponsoring political committee from spins and chances in that election do not exceed \$2,500;

(5) A RAFFLE IS CONDUCTED IN ACCORDANCE WITH § 12-106(B) OF THE CRIMINAL LAW ARTICLE; AND

(6) THE POLITICAL COMMITTEE INCLUDES ON ITS CAMPAIGN FINANCE REPORT:

(I) A LUMP SUM CONTRIBUTION OF THE NET AMOUNT RECEIVED BY THE POLITICAL COMMITTEE FROM THE RAFFLE, SPIN, OR CHANCE AT THE FUNDRAISING EVENT; AND

(II) THE TOTAL NUMBER OF PERSONS PURCHASING A RAFFLE TICKET, SPIN, OR CHANCE AT THE EVENT.

(c) If a political committee raises funds in excess of a limit specified in this section, the political committee shall:

(1) donate the excess to a charity of its choice; or

(2) identify in its account book the amount received from each individual who purchased a spin or chance.

(d) The State Board shall adopt regulations to implement this section.

[13-301.

In this subtitle, the provisions that apply to a “campaign finance entity” also apply to a campaign entity located outside the State with regard to all expenditures within the State.]

13-301.

(A) IN THIS SECTION, “OUT-OF-STATE POLITICAL COMMITTEE” MEANS A NONFEDERAL POLITICAL COMMITTEE ORGANIZED UNDER THE LAW OF ANOTHER STATE.

(B) (1) AN OUT-OF-STATE POLITICAL COMMITTEE SHALL REGISTER WITH THE STATE BOARD ON A FORM THAT THE STATE BOARD PRESCRIBES WITHIN 48 HOURS AFTER DIRECTLY OR INDIRECTLY MAKING TRANSFERS IN A CUMULATIVE AMOUNT OF \$6,000 OR MORE IN AN ELECTION CYCLE TO ONE OR MORE CAMPAIGN FINANCE ENTITIES ORGANIZED UNDER SUBTITLE 2, PART II OF THIS TITLE.

(2) THE REGISTRATION FORM THE STATE BOARD PRESCRIBES SHALL REQUIRE AN OUT-OF-STATE POLITICAL COMMITTEE TO DESIGNATE THE ELECTION YEAR IN WHICH THE COMMITTEE IS PARTICIPATING.

(C) AFTER REGISTERING WITH THE STATE BOARD, AN OUT-OF-STATE POLITICAL COMMITTEE SHALL FILE REPORTS WITH THE STATE BOARD FOR THE ELECTION YEAR IN WHICH THE COMMITTEE IS PARTICIPATING ON OR BEFORE EACH DATE THAT A CAMPAIGN FINANCE ENTITY OF A CANDIDATE IS REQUIRED TO FILE A CAMPAIGN FINANCE REPORT UNDER § 13-309 OF THIS SUBTITLE.

(D) THE REPORTS UNDER SUBSECTION (C) OF THIS SECTION SHALL:

(1) DISCLOSE ALL EXPENDITURES MADE IN THE STATE BY THE OUT-OF-STATE POLITICAL COMMITTEE:

(I) FROM THE BEGINNING OF THE ELECTION CYCLE IN THE CASE OF THE FIRST REPORT FILED BY THE OUT-OF-STATE POLITICAL COMMITTEE; OR

(II) DURING THE APPLICABLE REPORTING PERIOD UNDER § 13-312 OF THIS SUBTITLE FOR EACH SUBSEQUENT REPORT FILED BY THE OUT-OF-STATE POLITICAL COMMITTEE;

(2) DESCRIBE HOW TO ACCESS THE CAMPAIGN FINANCE REPORTS FILED BY THE OUT-OF-STATE POLITICAL COMMITTEE IN THE STATE WHERE THE COMMITTEE IS ~~ORGANIZED~~ REGISTERED AND FILES THE REPORTS; AND

(3) BE FILED IN THE MANNER AND SUBJECT TO THE SANCTIONS PROVIDED IN PARTS VI AND VII OF THIS SUBTITLE.

13-304.

(a) (1) From the date of its organization until its termination under the provisions of this title, a campaign finance entity, except a political club, shall file a campaign finance report at the State Board at the times and for the periods required by §§ 13-309, 13-312, and 13-316 of this subtitle.

(2) A campaign finance report submitted using an electronic format shall:

(i) be made under oath or affirmation;

(ii) require an electronic signature from the treasurer at the time of the filing of the campaign finance report; and

(iii) be made subject to the penalties for perjury.

(b) A campaign finance report filed by a campaign finance entity under subsection (a) of this section shall include:

(1) the information required by the State Board with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during the designated reporting period; and

(2) the information regarding the occupations and employers of contributors required to be recorded by the treasurer of a campaign finance entity under § 13-221 of this title.

(c) (1) IN THIS SUBSECTION, “ELIGIBLE CONTRIBUTION” MEANS A CONTRIBUTION OR SERIES OF CONTRIBUTIONS MADE BY THE SAME PERSON FOR WHICH A RECEIPT IS NOT REQUIRED TO BE ISSUED UNDER § 13-222 OF THIS TITLE.

(2) THE REQUIREMENTS OF THIS SUBSECTION PREVAIL TO THE EXTENT OF ANY CONFLICT WITH § 13-240(B) OF THIS TITLE.

~~(2)~~ (3) EXCEPT AS PROVIDED IN ~~PARAGRAPH (3)~~ PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, AN AUTHORIZED CANDIDATE CAMPAIGN A POLITICAL COMMITTEE SHALL REPORT THE FOLLOWING INFORMATION ON ITS CAMPAIGN FINANCE REPORTS FOR EACH CONTRIBUTION THE COMMITTEE RECEIVES:

(I) THE AMOUNT OF EACH CONTRIBUTION; AND

(II) THE NAME AND RESIDENTIAL ADDRESS OF EACH CONTRIBUTOR, UNLESS A CONTRIBUTOR RECEIVES A CONFIDENTIALITY WAIVER FROM THE STATE BOARD FOR A RESIDENTIAL ADDRESS, IN WHICH CASE A SUITABLE ALTERNATIVE ADDRESS APPROVED BY THE STATE BOARD MAY BE USED.

~~(3)~~ (4) A CAMPAIGN FINANCE ENTITY OF A CANDIDATE MAY REPORT A MAXIMUM OF A CUMULATIVE AMOUNT OF \$25,000 IN ELIGIBLE CONTRIBUTIONS IN AN ELECTION CYCLE ON ITS CAMPAIGN FINANCE REPORTS WITHOUT PROVIDING THE INFORMATION REQUIRED UNDER PARAGRAPH ~~(2)~~ (3) OF THIS SUBSECTION.

(5) A POLITICAL COMMITTEE MAY REPORT ELIGIBLE CONTRIBUTIONS COLLECTED IN ACCORDANCE WITH § 13-241 OR § 13-242 OF THIS TITLE ON ITS CAMPAIGN FINANCE REPORTS IN THE MANNER SPECIFIED IN

PARAGRAPH (4) OF THIS SUBSECTION IF THE FOLLOWING IS INCLUDED ON THE POLITICAL COMMITTEE'S CAMPAIGN FINANCE REPORT:

(I) A LUMP SUM CONTRIBUTION OF THE TOTAL AMOUNT RECEIVED BY THE POLITICAL COMMITTEE IN THE FORM OF ELIGIBLE CONTRIBUTIONS;

(II) THE NUMBER OF INDIVIDUALS MAKING ELIGIBLE CONTRIBUTIONS; AND

(III) THE AVERAGE AMOUNT OF THE ELIGIBLE CONTRIBUTIONS RECEIVED BY THE POLITICAL COMMITTEE.

[(c)] (D) A campaign finance report prescribed by this subtitle for the campaign finance entity of a candidate is required whether or not:

- (1) the candidate files a certificate of candidacy;
- (2) the candidate withdraws, declines a nomination, or otherwise ceases to be a candidate;
- (3) the candidate's name appears on the primary ballot; or
- (4) the candidate is successful in the election.

13-305.

(a) Instead of filing a report required under § 13-309 of this subtitle, a treasurer may file an affidavit stating that the campaign finance entity has not raised or spent a cumulative amount of \$1,000 or more, exclusive of the filing fee, and regardless of the balance of the campaign account, since:

- (1) establishing the campaign finance entity; or
- (2) filing the campaign finance entity's last campaign finance report.

(b) The affidavit shall be filed on or before the date a campaign finance report is due to be filed under § 13-309 of this subtitle.

[(c)] (1) This subsection only applies to a campaign finance entity of a candidate for election to the central committee of a political party that is authorized under subsection (a) of this section to file an affidavit instead of filing a campaign finance report on a date specified in § 13-309(a) of this subtitle.

(2) Subject to paragraph (3) of this subsection, a campaign finance entity subject to this subsection is not required to file an affidavit under this section or a campaign finance report on a date specified in § 13–309(a) of this subtitle.

(3) A campaign finance entity subject to this subsection shall file an affidavit under subsection (a) of this section or a campaign finance report on the date specified in § 13–309(c) of this subtitle.]

13–306.

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

(2) (I) “Donation” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a person [that is made for the purpose of furthering] **WHO MAKES** independent expenditures.

(II) **“DONATION” DOES NOT INCLUDE ANY AMOUNT OF MONEY OR ANY OTHER THING OF VALUE:**

1. RECEIVED BY A PERSON IN THE ORDINARY COURSE OF ANY TRADE OR BUSINESS CONDUCTED BY THE PERSON, WHETHER FOR PROFIT OR NOT FOR PROFIT, OR IN THE FORM OF INVESTMENTS IN THE PERSON’S BUSINESS; OR

2. A. THAT THE DONOR AND THE PERSON RECEIVING THE MONEY OR THING OF VALUE EXPRESSLY AGREE IN WRITING MAY NOT BE USED FOR INDEPENDENT EXPENDITURES; AND

B. IN THE CASE OF A MONETARY DONATION, IS DEPOSITED IN A SEPARATE BANK ACCOUNT THAT IS NEVER USED FOR INDEPENDENT EXPENDITURES.

(3) **“E-MAIL BLAST” MEANS A TRANSMISSION OF ELECTRONIC MAIL MESSAGES OF AN IDENTICAL OR SUBSTANTIALLY SIMILAR NATURE TO 5,000 OR MORE E-MAIL ACCOUNTS SIMULTANEOUSLY.**

[(3)] (4) “Mass mailing” means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

[(4)] (5) (i) “Person” includes an individual, a partnership, a committee, an association, a corporation, a labor organization, or any other organization or group of persons.

(ii) "Person" does not include a campaign finance entity organized under Subtitle 2, Part II of this title.

~~[(5)] (6)~~ (i) "Public communication" means a communication by means of any broadcast **TELEVISION OR RADIO COMMUNICATION**, cable **TELEVISION COMMUNICATION**, [or] satellite **TELEVISION OR RADIO** communication, newspaper, magazine, outdoor advertising facility, mass mailing, **E-MAIL BLAST, TEXT BLAST**, or telephone bank to the general public, or any other form of general public political advertising.

(ii) "Public communication" does not include:

1. a news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, satellite television or radio provider, Web site, newspaper, magazine, or other periodical publication, including any Internet or electronic publication, that is not controlled by a candidate or political party; ~~or~~

~~2. **AN INTERNAL COMMUNICATION DISSEMINATED BY A MEMBERSHIP ORGANIZATION, BUSINESS ENTITY, OR OTHER ENTITY TO ITS MEMBERS, EMPLOYEES, OR OTHER PERSONS AFFILIATED WITH THE ORGANIZATION OR ENTITY; OR**~~

~~2. **AN INTERNAL MEMBERSHIP COMMUNICATION BY A BUSINESS OR OTHER ENTITY TO ITS STOCKHOLDERS OR MEMBERS AND EXECUTIVE AND ADMINISTRATIVE PERSONNEL AND THEIR IMMEDIATE FAMILIES, OR BY A MEMBERSHIP ENTITY, AS DEFINED UNDER § 13-243 OF THIS TITLE, TO ITS MEMBERS, EXECUTIVE AND ADMINISTRATIVE PERSONNEL AND THEIR IMMEDIATE FAMILIES; OR**~~

~~3.~~ 3. a candidate debate or forum.

~~[(6)] (7)~~ "Telephone bank" means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.

(8) "TEXT BLAST" MEANS A TRANSMISSION OF TEXT MESSAGES OF AN IDENTICAL OR SUBSTANTIALLY SIMILAR NATURE TO 5,000 OR MORE TELEPHONE NUMBERS SIMULTANEOUSLY.

(B) WITHIN 48 HOURS AFTER A PERSON MAKES AGGREGATE INDEPENDENT EXPENDITURES OF \$5,000 OR MORE IN AN ELECTION CYCLE FOR CAMPAIGN MATERIAL THAT IS A PUBLIC COMMUNICATION, THE PERSON SHALL FILE A REGISTRATION FORM WITH THE STATE BOARD.

[(b)] (C) [After] WITHIN 48 HOURS AFTER A DAY ON WHICH a person makes aggregate independent expenditures of \$10,000 or more in an election cycle for campaign material that is a public communication, the person shall file an independent expenditure report [as required in this section] **WITH THE STATE BOARD.**

[(c) (1)] If the campaign material relates to a candidate, the person shall file an independent expenditure report with the State Board on the next date a campaign finance entity of a candidate is required to file a campaign finance report under § 13–309 of this subtitle.

(2) If the campaign material relates to a ballot issue, the person shall file an independent expenditure report with the State Board on the next date a ballot issue committee is required to file a campaign finance report under § 13–309 of this subtitle.

(3) An independent expenditure report filed under this subsection shall include the information required by subsection (e) of this section for the period from the beginning of the election cycle through the last day of the reporting period under § 13–312 of this subtitle that precedes the report filing date.]

(d) [(1)] A person who files an independent expenditure report under subsection (c) of this section shall file an additional independent expenditure report [following a date on which] **WITH THE STATE BOARD WITHIN 48 HOURS AFTER A DAY ON WHICH** the person makes aggregate independent expenditures of \$10,000 or more for campaign material that is a public communication following the closing date of the person’s previous independent expenditure report.

[(2)] An independent expenditure report under this subsection shall:

(i) be filed with the State Board on the date specified in subsection (c)(1) and (2) of this section; and

(ii) include the information required by subsection (e) of this section for the period from the closing date of the previous independent expenditure report through the last day of the reporting period under § 13–312 of this subtitle that precedes the report filing date.]

(e) An independent expenditure report shall include the following information:

(1) the identity of the person making the independent expenditures and of any person exercising direction or control over the activities of the person making the independent expenditures;

(2) the business address of the person making the independent expenditures;

(3) the amount and date of each independent expenditure during the period covered by the report and the person to whom the expenditure was made;

(4) the candidate or ballot issue to which the independent expenditure relates and whether the independent expenditure supports or opposes that candidate or ballot issue; and

(5) the identity of each person who made cumulative donations [in excess] of [\$51] ~~\$10,000~~ \$6,000 OR MORE to the person making the independent expenditures during the period covered by the report.

(f) For purposes of this section, a person shall be considered to have made an independent expenditure if the person has executed a contract to make an independent expenditure.

(g) The cost of creating and disseminating campaign material, including any design and production costs, shall be considered in determining the aggregate amount of independent expenditures made by a person for campaign material that is a public communication under this section.

(h) The treasurer or other individual designated by an entity required to file an independent expenditure report under this section:

(1) shall sign each independent expenditure report; and

(2) is responsible for filing independent expenditure reports in full and accurate detail.

(i) (1) [An individual is subject to the sanctions that apply to the responsible officers of a campaign finance entity under Part VII of this subtitle for failure to file properly an independent expenditure report.

(2) The failure] **A PERSON WHO FAILS** to provide on an independent expenditure report all of the information required by this section [is deemed a failure to file and renders the report overdue] **SHALL FILE AN AMENDED REPORT** as provided in § 13-327(b) of this subtitle.

(2) (1) ~~IN~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN ADDITION TO ANY OTHER SANCTION PROVIDED BY LAW, THE STATE BOARD MAY ASSESS A CIVIL PENALTY FOR FAILURE TO FILE PROPERLY AN INDEPENDENT EXPENDITURE REPORT OR AN AMENDED INDEPENDENT EXPENDITURE REPORT IN AN AMOUNT NOT EXCEEDING THE GREATER OF:

~~(H)~~ **1. \$1,000 FOR EACH DAY OR PART OF A DAY THAT AN INDEPENDENT EXPENDITURE REPORT OR AMENDED INDEPENDENT EXPENDITURE REPORT IS OVERDUE; OR**

~~(H)~~ **2. 10% OF THE AMOUNT OF THE DONATIONS OR INDEPENDENT EXPENDITURES THAT WERE NOT REPORTED IN A TIMELY MANNER.**

(II) IF THE FAILURE TO FILE PROPERLY AN INDEPENDENT EXPENDITURE REPORT OR AN AMENDED INDEPENDENT EXPENDITURE REPORT OCCURS MORE THAN 28 DAYS BEFORE THE DAY OF A PRIMARY OR GENERAL ELECTION, THE STATE BOARD MAY ASSESS A CIVIL PENALTY IN AN AMOUNT NOT EXCEEDING THE GREATER OF:

1. \$100 FOR EACH DAY OR PART OF A DAY THAT AN INDEPENDENT EXPENDITURE REPORT OR AMENDED INDEPENDENT EXPENDITURE REPORT IS OVERDUE; OR

2. 10% OF THE AMOUNT OF THE DONATIONS OR DISBURSEMENTS FOR INDEPENDENT EXPENDITURES THAT WERE NOT REPORTED IN A TIMELY MANNER.

(3) A CIVIL PENALTY UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE:

(I) ASSESSED IN THE MANNER SPECIFIED IN § 13-604.1 OF THIS TITLE; AND

(II) DISTRIBUTED TO THE GENERAL FUND OF THE STATE.

(4) A PERSON WHO FAILS TO FILE PROPERLY AN INDEPENDENT EXPENDITURE REPORT OR AMENDED INDEPENDENT EXPENDITURE REPORT UNDER THIS SECTION MAY SEEK RELIEF FROM A PENALTY UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR JUST CAUSE AS PROVIDED IN § 13-337 OF THIS SUBTITLE.

(j) (1) An entity required to file an independent expenditure report under this section shall do at least one of the following, unless neither are applicable to the entity:

(i) if the entity submits regular, periodic reports to its shareholders, members, or donors, include in each report, in a clear and conspicuous manner, the information specified in subsection (e)(3) through (5) of this section for

each independent expenditure made during the period covered by the report that must be included in an independent expenditure report; or

(ii) if the entity maintains an Internet site, post on that Internet site a hyperlink from its homepage to the Internet site where the entity's independent expenditure report information is publicly available.

(2) An entity shall post the hyperlink required under paragraph (1)(ii) of this subsection within 24 hours of the entity's independent expenditure report information being made publicly available on the Internet, and the hyperlink shall remain posted on the entity's Internet site until the end of the election cycle during which the entity filed an independent expenditure report.

(k) (1) A person required to file an independent expenditure report under this section shall keep detailed and accurate records of:

(i) all independent expenditures made by the person for campaign material that is a public communication; and

(ii) all donations received by the person [that are for the purpose of furthering independent expenditures for campaign material that is a public communication].

(2) Records required to be kept under this subsection shall be preserved for 2 years after the end of the election cycle in which the person filed the independent expenditure report to which the records relate.

(l) The State Board may adopt regulations as necessary to implement the requirements of this section.

13-307.

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

(2) (I) "Donation" means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a person that [is made for the purpose of furthering] **MAKES DISBURSEMENTS FOR** electioneering communications.

(II) "**DONATION**" **DOES NOT INCLUDE ANY AMOUNT OF MONEY OR ANY OTHER THING OF VALUE:**

1. RECEIVED BY A PERSON IN THE ORDINARY COURSE OF ANY TRADE OR BUSINESS CONDUCTED BY THE PERSON, WHETHER FOR PROFIT OR NOT FOR PROFIT, OR IN THE FORM OF INVESTMENTS IN THE PERSON'S BUSINESS; OR

2. A. THAT THE DONOR AND THE PERSON RECEIVING THE MONEY OR THING OF VALUE EXPRESSLY AGREE IN WRITING MAY NOT BE USED FOR ELECTIONEERING COMMUNICATIONS; AND

B. IN THE CASE OF A MONETARY DONATION, IS DEPOSITED IN A SEPARATE BANK ACCOUNT THAT IS NEVER USED FOR ELECTIONEERING COMMUNICATIONS.

(3) (i) “Electioneering communication” means a broadcast **TELEVISION OR RADIO COMMUNICATION, A cable TELEVISION COMMUNICATION, [or] A satellite TELEVISION OR RADIO communication, A MASS MAILING, AN E-MAIL BLAST, A TEXT BLAST, A TELEPHONE BANK, OR AN ADVERTISEMENT IN A PRINT PUBLICATION** that:

1. refers to a clearly identified candidate or ballot issue;

2. is made within 60 days of an election day on which the candidate or ballot issue is on the ballot;

3. is capable of being received by:

A. 50,000 or more individuals in the constituency where the candidate or ballot issue is on the ballot, IF THE COMMUNICATION IS TRANSMITTED BY TELEVISION OR RADIO; OR

B. 5,000 OR MORE INDIVIDUALS IN THE CONSTITUENCY WHERE THE CANDIDATE OR BALLOT ISSUE IS ON THE BALLOT, IF THE COMMUNICATION IS A MASS MAILING, AN E-MAIL BLAST, A TEXT BLAST, A TELEPHONE BANK, OR AN ADVERTISEMENT IN A PRINT PUBLICATION; and

4. is not made in coordination with, or at the request or suggestion of, a candidate, a campaign finance entity of a candidate, an agent of a candidate, or a ballot issue committee.

(ii) “Electioneering communication” does not include:

1. an independent expenditure;

2. a news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, or satellite television or radio provider that is not controlled by a candidate or political party;

3. a candidate debate or forum; ~~or~~

~~4. AN INTERNAL COMMUNICATION DISSEMINATED BY A MEMBERSHIP ORGANIZATION, BUSINESS ENTITY, OR OTHER ENTITY TO ITS MEMBERS, EMPLOYEES, OR OTHER PERSONS AFFILIATED WITH THE ORGANIZATION OR ENTITY; OR~~

4. AN INTERNAL MEMBERSHIP COMMUNICATION BY A BUSINESS OR OTHER ENTITY TO ITS STOCKHOLDERS OR MEMBERS AND EXECUTIVE AND ADMINISTRATIVE PERSONNEL AND THEIR IMMEDIATE FAMILIES, OR BY A MEMBERSHIP ENTITY, AS DEFINED UNDER § 13-243 OF THIS TITLE, TO ITS MEMBERS, EXECUTIVE AND ADMINISTRATIVE PERSONNEL AND THEIR IMMEDIATE FAMILIES; OR

~~5.~~ a communication that proposes a commercial transaction.

(iii) For purposes of this paragraph, “clearly identified” means:

1. the name of a candidate appears;
2. a photograph or drawing of a candidate appears; or
3. the identity of a candidate or ballot issue is apparent by unambiguous reference.

(4) “E-MAIL BLAST” MEANS A TRANSMISSION OF ELECTRONIC MAIL MESSAGES OF AN IDENTICAL OR SUBSTANTIALLY SIMILAR NATURE TO 5,000 OR MORE E-MAIL ACCOUNTS SIMULTANEOUSLY.

(5) “MASS MAILING” MEANS A MAILING BY UNITED STATES MAIL OR FACSIMILE OF MORE THAN 5,000 PIECES OF MAIL MATTER OF AN IDENTICAL OR SUBSTANTIALLY SIMILAR NATURE WITHIN ANY 30-DAY PERIOD.

[(4)] (6) (i) “Person” includes an individual, a partnership, a committee, an association, a corporation, a labor organization, or any other organization or group of persons.

(ii) “Person” does not include a campaign finance entity organized under Subtitle 2, Part II of this title.

(7) “TELEPHONE BANK” MEANS MORE THAN 5,000 TELEPHONE CALLS OF AN IDENTICAL OR SUBSTANTIALLY SIMILAR NATURE WITHIN ANY 30-DAY PERIOD.

(8) “TEXT BLAST” MEANS A TRANSMISSION OF TEXT MESSAGES OF AN IDENTICAL OR SUBSTANTIALLY SIMILAR NATURE TO 5,000 OR MORE TELEPHONE NUMBERS SIMULTANEOUSLY.

(B) WITHIN 48 HOURS AFTER A PERSON MAKES AGGREGATE DISBURSEMENTS OF \$5,000 OR MORE IN AN ELECTION CYCLE FOR ELECTIONEERING COMMUNICATIONS, THE PERSON SHALL FILE A REGISTRATION FORM WITH THE STATE BOARD.

[(b) (C) [After] WITHIN 48 HOURS AFTER A DAY ON WHICH a person makes aggregate disbursements of \$10,000 or more in an election cycle for electioneering communications, the person shall file an electioneering communication report [as required in this section] WITH THE STATE BOARD.

[(c) (1) If the electioneering communications relate to a candidate, the person shall file an electioneering communication report with the State Board on the next date a campaign finance entity of a candidate is required to file a campaign finance report under § 13–309 of this subtitle.

(2) If the electioneering communications relate to a ballot issue, the person shall file an electioneering communication report with the State Board on the next date a ballot issue committee is required to file a campaign finance report under § 13–309 of this subtitle.

(3) An electioneering communication report filed under this subsection shall include the information required by subsection (e) of this section for the period from the beginning of the election cycle through the last day of the reporting period under § 13–312 of this subtitle that precedes the report filing date.]

(d) [(1)] A person who files an electioneering communication report under subsection (c) of this section shall file an additional electioneering communication report [following a date on which] WITH THE STATE BOARD WITHIN 48 HOURS AFTER A DAY ON WHICH the person makes aggregate disbursements of \$10,000 or more for electioneering communications following the closing date of the person’s previous electioneering communication report.

[(2) An electioneering communication report under this subsection shall:

(i) be filed with the State Board on the date specified in subsection (c)(1) and (2) of this section; and

(ii) include the information required by subsection (e) of this section for the period from the closing date of the previous electioneering communication report through the last day of the reporting period under § 13–312 of this subtitle that precedes the report filing date.]

(e) An electioneering communication report shall include the following information:

(1) the identity of the person making disbursements for electioneering communications and of any person exercising direction or control over the activities of the person making the disbursements for electioneering communications;

(2) the business address of the person making the disbursements for electioneering communications;

(3) the amount and date of each disbursement for electioneering communications during the period covered by the report and the person to whom the disbursement was made;

(4) the candidate or ballot issue to which the electioneering communications relate;

(5) the identity of each person who made cumulative donations [in excess] of [\$51] ~~\$10,000~~ \$6,000 OR MORE to the person making the disbursements for electioneering communications during the period covered by the report.

(f) (1) For purposes of this section, a person shall be considered to have made a disbursement for an electioneering communication if the person has executed a contract to make a disbursement for an electioneering communication.

(2) A person who makes a contribution to a campaign finance entity may not be considered to have made a disbursement for electioneering communications under this section because of the contribution.

(g) The cost of creating and disseminating electioneering communications, including any design and production costs, shall be considered in determining the aggregate amount of disbursements for electioneering communications made by a person under this section.

(h) The treasurer or other individual designated by an entity required to file an electioneering communication report under this section:

(1) shall sign each electioneering communication report; and

(2) is responsible for filing electioneering communication reports in full and accurate detail.

(i) (1) [An individual is subject to the sanctions that apply to the responsible officers of a campaign finance entity under Part VII of this subtitle for failure to file properly an electioneering communication report.

(2) The failure] **A PERSON WHO FAILS** to provide on an electioneering communication report all of the information required by this section [is deemed a failure to file and renders the report overdue] **SHALL FILE AN AMENDED REPORT** as provided in § 13–327(b) of this subtitle.

(2) ~~(I)~~ **IN EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN** ADDITION TO ANY OTHER SANCTION PROVIDED BY LAW, THE STATE BOARD MAY ASSESS A CIVIL PENALTY FOR FAILURE TO FILE PROPERLY AN ELECTIONEERING COMMUNICATION REPORT OR AN AMENDED ELECTIONEERING COMMUNICATION REPORT IN AN AMOUNT NOT EXCEEDING THE GREATER OF:

~~(I)~~ **1. \$1,000 FOR EACH DAY OR PART OF A DAY THAT AN ELECTIONEERING COMMUNICATION REPORT OR AMENDED ELECTIONEERING COMMUNICATION REPORT IS OVERDUE; OR**

~~(II)~~ **2. 10% OF THE AMOUNT OF THE DONATIONS OR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS THAT WERE NOT REPORTED IN A TIMELY MANNER.**

(II) IF THE FAILURE TO FILE PROPERLY AN ELECTIONEERING COMMUNICATION REPORT OR AN AMENDED ELECTIONEERING COMMUNICATION REPORT OCCURS MORE THAN 28 DAYS BEFORE THE DAY OF A PRIMARY OR GENERAL ELECTION, THE STATE BOARD MAY ASSESS A CIVIL PENALTY IN AN AMOUNT NOT EXCEEDING THE GREATER OF:

1. \$100 FOR EACH DAY OR PART OF A DAY THAT AN ELECTIONEERING COMMUNICATION REPORT OR AMENDED ELECTIONEERING COMMUNICATION REPORT IS OVERDUE; OR

2. 10% OF THE AMOUNT OF THE DONATIONS OR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS THAT WERE NOT REPORTED IN A TIMELY MANNER.

(3) A PENALTY UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE:

(I) ASSESSED IN THE MANNER SPECIFIED IN § 13–604.1 OF THIS TITLE; AND

(II) DISTRIBUTED TO THE GENERAL FUND OF THE STATE.

(4) A PERSON WHO FAILS TO FILE PROPERLY AN ELECTIONEERING COMMUNICATION REPORT OR AMENDED ELECTIONEERING

COMMUNICATION REPORT UNDER THIS SECTION MAY SEEK RELIEF FROM A PENALTY UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR JUST CAUSE AS PROVIDED IN § 13-337 OF THIS SUBTITLE.

(j) (1) An entity required to file an electioneering communication report under this section shall do at least one of the following, unless neither are applicable to the entity:

(i) if the entity submits regular, periodic reports to its shareholders, members, or donors, include in each report in a clear and conspicuous manner, the information specified in subsection (e)(3) through (5) of this section for each disbursement for electioneering communications made during the period covered by the report that must be included in an electioneering communication report; or

(ii) if the entity maintains an Internet site, post on that Internet site a hyperlink from its homepage to the Internet site where the entity's electioneering communication report information is publicly available.

(2) (i) An entity shall post the hyperlink required under paragraph (1)(ii) of this subsection within 24 hours of the entity's electioneering communication report information being made publicly available on the Internet.

(ii) The hyperlink shall remain posted on the entity's Internet site until the end of the election cycle during which the entity filed an electioneering communication report.

(k) (1) A person required to file an electioneering communication report under this section shall keep detailed and accurate records of:

(i) all disbursements for electioneering communications made by the person; and

(ii) all donations received by the person [that are for the purpose of furthering electioneering communications].

(2) Records required to be kept under this subsection shall be preserved until 2 years after the end of the election cycle in which the person filed the electioneering communication report to which the records relate.

(l) The State Board may adopt regulations as necessary to implement the requirements of this section.

~~(a) Subject to other provisions of this subtitle AND EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, a campaign finance entity shall file campaign finance reports as follows:~~

~~(1) except for a ballot issue committee, on or before the fourth Tuesday immediately preceding each primary election [except a presidential primary election];~~

~~(2) except for a ballot issue committee, on or before the second Friday immediately preceding a primary election;~~

~~(3) ON OR BEFORE THE LAST TUESDAY IN AUGUST IMMEDIATELY PRECEDING A GENERAL ELECTION;~~

~~[(3)] (4) for a ballot issue committee only, on or before the fourth Friday immediately preceding a general election;~~

~~[(4)] (5) on or before the second Friday immediately preceding a general election; and~~

~~[(5)] (6) on or before the third Tuesday after a general election.~~

~~(b) (1) A campaign finance entity is subject to subsection (a) of this section and this subsection only as to the election in which the entity designates that it will participate.~~

~~(2) In addition to the campaign finance reports required under subsection (a) of this section, but subject to paragraph (4) of this subsection, a campaign finance entity shall file A campaign finance [reports] REPORT on the third Wednesday in January.~~

~~(3) (i) If subsequent to the filing of its declaration under § 13-208(e)(3) of this title, a campaign finance entity participates in an election in which it was not designated to participate, the campaign finance entity shall file all campaign FINANCE reports prescribed under subsection (a) of this section for that election.~~

~~(ii) A violation of subparagraph (i) of this paragraph constitutes a failure to file by the campaign finance entity, and the responsible officer is guilty of a misdemeanor and on conviction is subject to the penalties prescribed under Part VII of this subtitle.~~

~~(4) If a campaign finance entity has neither a cash balance nor an outstanding obligation at the end of a reporting period, a campaign finance report for that period, clearly marked as “final”, shall be filed on or before the due date, and no further report is required.~~

~~(e) In addition to the campaign FINANCE reports required under subsection (a) of this section, a continuing political committee shall file a campaign finance report on the third Wednesday in January of each year the committee is in existence.~~

~~(D) AN AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE OF A CANDIDATE FOR ELECTION TO THE CENTRAL COMMITTEE OF A POLITICAL PARTY:~~

~~(1) SHALL FILE A CAMPAIGN FINANCE REPORT ON OR BEFORE THE THIRD TUESDAY AFTER A GUBERNATORIAL PRIMARY ELECTION; AND~~

~~(2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION AND § 13-310 OF THIS SUBTITLE, IS NOT REQUIRED TO FILE ANY OTHER CAMPAIGN FINANCE REPORTS.~~

13-309.1.

(A) IN THIS SECTION, "ELECTIONEERING COMMUNICATION" HAS THE MEANING STATED IN § 13-307(A) OF THIS SUBTITLE.

(B) THIS SECTION APPLIES TO A POLITICAL ACTION COMMITTEE ~~IF THE EXPENDITURES OF THE POLITICAL COMMITTEE ARE EXCLUSIVELY~~ THAT EXCLUSIVELY MAKES:

(1) INDEPENDENT EXPENDITURES; OR

(2) DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(C) FOR PURPOSES OF THIS SECTION, A POLITICAL ACTION COMMITTEE SHALL BE CONSIDERED TO HAVE MADE AN EXPENDITURE IF THE POLITICAL COMMITTEE HAS EXECUTED A CONTRACT TO MAKE AN EXPENDITURE.

(D) (1) THE ~~CAMPAIGN FINANCE~~ DISCLOSURE REPORTS REQUIRED UNDER THIS SECTION ARE IN ADDITION TO THE CAMPAIGN FINANCE REPORTS REQUIRED UNDER § 13-309 OF THIS SUBTITLE.

(2) THE POLITICAL ACTION COMMITTEE SHALL INCLUDE ALL OF THE INFORMATION REPORTED ON A DISCLOSURE REPORT ON ITS REGULARLY FILED CAMPAIGN FINANCE REPORTS.

~~(E) WITHIN 48 HOURS AFTER A DAY ON WHICH A POLITICAL COMMITTEE SUBJECT TO THIS SECTION MAKES AGGREGATE EXPENDITURES OF \$10,000 OR MORE IN AN ELECTION CYCLE, THE POLITICAL COMMITTEE SHALL FILE A CAMPAIGN FINANCE REPORT.~~

~~(F) A POLITICAL COMMITTEE THAT FILES A CAMPAIGN FINANCE REPORT UNDER SUBSECTION (E) OF THIS SECTION SHALL FILE AN ADDITIONAL CAMPAIGN FINANCE REPORT WITHIN 48 HOURS AFTER A DAY ON WHICH THE POLITICAL COMMITTEE MAKES AGGREGATE EXPENDITURES OF \$10,000 OR MORE FOLLOWING THE CLOSING DATE OF THE POLITICAL COMMITTEE'S PREVIOUS CAMPAIGN FINANCE REPORT.~~

(E) A POLITICAL ACTION COMMITTEE SHALL FILE A DISCLOSURE REPORT WITHIN 48 HOURS AFTER A DAY ON WHICH THE POLITICAL ACTION COMMITTEE MAKES AGGREGATE EXPENDITURES OF \$10,000 OR MORE ON CAMPAIGN MATERIAL DURING THE REPORTING PERIOD COVERED BY ITS NEXT CAMPAIGN FINANCE REPORT.

(F) A POLITICAL ACTION COMMITTEE SHALL FILE AN ADDITIONAL DISCLOSURE REPORT WITHIN 48 HOURS AFTER A DAY ON WHICH THE POLITICAL ACTION COMMITTEE MAKES AGGREGATE EXPENDITURES OF \$10,000 OR MORE ON CAMPAIGN MATERIAL FOLLOWING THE CLOSING DATE OF THE IMMEDIATELY PRECEDING DISCLOSURE REPORT FILED BY THE POLITICAL ACTION COMMITTEE.

(G) IN ADDITION TO ANY OTHER SANCTION PROVIDED BY LAW, THE STATE BOARD MAY ASSESS A PENALTY FOR FAILURE TO FILE PROPERLY A ~~CAMPAIGN FINANCE~~ DISCLOSURE REPORT OR AN AMENDED ~~CAMPAIGN FINANCE~~ DISCLOSURE REPORT REQUIRED UNDER THIS SECTION IN AN AMOUNT NOT EXCEEDING THE GREATER OF:

(1) \$1,000 FOR EACH DAY OR PART OF A DAY THAT A ~~CAMPAIGN FINANCE~~ DISCLOSURE REPORT OR AN AMENDED CAMPAIGN FINANCE REPORT IS OVERDUE; OR

(2) 10% OF THE AMOUNT OF THE CONTRIBUTIONS OR EXPENDITURES THAT WERE NOT REPORTED IN A TIMELY MANNER.

(H) A PERSON WHO FAILS TO FILE PROPERLY A ~~CAMPAIGN FINANCE~~ DISCLOSURE REPORT OR AN AMENDED ~~CAMPAIGN FINANCE~~ DISCLOSURE REPORT UNDER THIS SECTION MAY SEEK RELIEF FROM A PENALTY UNDER SUBSECTION (G) OF THIS SECTION FOR JUST CAUSE AS PROVIDED IN § 13-337 OF THIS SUBTITLE.

(I) A PENALTY UNDER SUBSECTION (G) OF THIS SECTION SHALL BE:

(1) ASSESSED IN THE MANNER SPECIFIED IN § 13-604.1 OF THIS TITLE; AND

- (2) DISTRIBUTED TO THE GENERAL FUND OF THE STATE.

13-309.2.

(A) IN THIS SECTION, "PARTICIPATING ORGANIZATION" MEANS ANY ENTITY THAT IS ORGANIZED UNDER § 501(C)(4) OR (6) OR § 527 OF THE INTERNAL REVENUE CODE AND MAKES:

(1) A CONTRIBUTION TO A CAMPAIGN FINANCE ENTITY FOR THE EXPRESS PURPOSE OF CAUSING THE CAMPAIGN FINANCE ENTITY TO MAKE A DISBURSEMENT IN THE STATE;

(2) A DONATION TO A PERSON FOR THE EXPRESS PURPOSE OF CAUSING THE PERSON TO MAKE AN INDEPENDENT EXPENDITURE OR A DISBURSEMENT FOR ELECTIONEERING COMMUNICATIONS IN THE STATE; OR

(3) A DONATION TO AN OUT-OF-STATE POLITICAL COMMITTEE FOR THE EXPRESS PURPOSE OF CAUSING THE POLITICAL COMMITTEE TO MAKE A DISBURSEMENT IN THE STATE.

(B) WITHIN 48 HOURS AFTER A PARTICIPATING ORGANIZATION MAKES A CONTRIBUTION, DONATION, OR DISBURSEMENT OF \$6,000 OR MORE IN AN ELECTION CYCLE THE PARTICIPATING ORGANIZATION SHALL FILE A REGISTRATION FORM WITH THE STATE BOARD.

(C) A PARTICIPATING ORGANIZATION SHALL FILE A REPORT WITH THE STATE BOARD IN THE YEAR OF THE ELECTION FOR WHICH IT IS PARTICIPATING FOR THE PERIODS AND ON OR BEFORE THE DATES THAT A CAMPAIGN FINANCE ENTITY FOR A CANDIDATE IS REQUIRED TO FILE A CAMPAIGN FINANCE REPORT UNDER THIS SUBTITLE.

(D) THE REPORT SHALL INCLUDE ALL DISBURSEMENTS MADE TO INFLUENCE AN ELECTION IN THE STATE AND EITHER:

(1) THE NAME, ADDRESS, AND OCCUPATION, IF ANY, OF THE FIVE DONORS WHO GAVE THE LARGEST AMOUNT OF MONEY TO THE PARTICIPATING ORGANIZATION TO INFLUENCE AN ELECTION IN THE STATE DURING THE 1 YEAR PERIOD THAT IMMEDIATELY PRECEDES THE DATE OF THE REPORT; OR

(2) IF THE PARTICIPATING ORGANIZATION MADE A FILING WITH THE STATE BOARD UNDER SUBSECTION (B) OF THIS SECTION WITHIN 6 MONTHS OF THE DATE WHEN A REPORT OTHERWISE WOULD BE REQUIRED, DESCRIBE HOW THE PUBLIC MAY ACCESS VIA THE INTERNET THE PARTICIPATING

ORGANIZATION'S REPORTS THAT DETAIL DISBURSEMENTS MADE AND DONATIONS RECEIVED.

13–327.

(a) A campaign finance entity that fails to file a campaign finance report [or], AN affidavit, **OR AN AMENDED CAMPAIGN FINANCE REPORT** required by this subtitle is subject to the sanctions provided in Part VII of this subtitle.

(b) [The failure] **IF A CAMPAIGN FINANCE ENTITY FAILS** to provide on a campaign finance report required by § 13–304 of this subtitle all of the information required of the campaign finance entity by the State Board under this subtitle [is deemed a failure to file and renders the campaign finance report overdue, only if]:

(1) the State Board [notifies] **SHALL NOTIFY** the responsible officers in writing of the particular deficiencies; and

(2) the responsible officers [fail to] **SHALL** file [a properly corrected] **AN AMENDED** campaign finance report **THAT INCLUDES ALL OF THE INFORMATION REQUIRED** within 30 days after service of the notice.

13–331.

(a) In accordance with subsection (b) of this section, the State Board shall assess a late filing fee for a failure to file a campaign finance report [or], AN affidavit, **OR AN AMENDED CAMPAIGN FINANCE REPORT**, as specified in § 13–327 of this subtitle.

(b) (1) The fee is \$10 for each day or part of a day[, excluding Saturdays, Sundays, and holidays,] that a campaign finance report [or], AN affidavit, **OR AN AMENDED CAMPAIGN FINANCE REPORT** is overdue.

(2) An additional fee of \$10 is due for each of the first 6 days[, excluding Saturdays, Sundays, and holidays,] that a preelection campaign finance report under § 13–309 of this subtitle is overdue.

(3) The maximum fee payable for a campaign finance report [or], AN affidavit, **OR AN AMENDED CAMPAIGN FINANCE REPORT** is [~~\$250~~] **\$500**.

(c) (1) The State Board shall accept an overdue campaign finance report [or], affidavit, **OR AMENDED CAMPAIGN FINANCE REPORT** that is submitted without payment of the late filing fee, but the campaign finance report, **AFFIDAVIT, OR AMENDED CAMPAIGN FINANCE REPORT** is not considered filed until the fee has been paid.

(2) After an overdue campaign finance report [or], affidavit, OR AMENDED CAMPAIGN FINANCE REPORT is received under paragraph (1) of this subsection no further late filing fee shall be incurred.

(d) (1) [A] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A late filing fee [is the joint and several liability of the responsible officers and:

(1) may not] SHALL be paid[, directly or indirectly,] by the campaign finance entity]; and

(2) is neither a contribution to nor an expenditure of the entity].

(2) IF THE CAMPAIGN FINANCE ENTITY HAS INSUFFICIENT FUNDS WITH WHICH TO PAY A LATE FILING FEE IN A TIMELY MANNER, THE LATE FILING FEE IS THE JOINT AND SEVERAL LIABILITY OF THE RESPONSIBLE OFFICERS.

13-340.

Fees [relating to] FOR LATE FILING OF campaign finance reports, AFFIDAVITS, OR AMENDED CAMPAIGN FINANCE REPORTS IMPOSED UNDER § 13-331 OF THIS SUBTITLE shall be paid to the State Board and be applied to pay the expenses of collection and of any audits of campaign finance reports performed by or at the direction of the State Administrator.

13-505.

(A) (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE GOVERNING BODY OF A COUNTY MAY ESTABLISH, BY LAW, A SYSTEM OF PUBLIC CAMPAIGN FINANCING FOR ELECTIVE OFFICES IN THE EXECUTIVE OR LEGISLATIVE BRANCHES OF COUNTY GOVERNMENT.

(2) WHEN ESTABLISHING A SYSTEM OF PUBLIC CAMPAIGN FINANCING FOR ELECTIVE OFFICES IN THE EXECUTIVE OR LEGISLATIVE BRANCHES OF COUNTY GOVERNMENT, THE GOVERNING BODY OF A COUNTY SHALL SPECIFY THE CRITERIA THAT IS TO BE USED TO DETERMINE WHETHER AN INDIVIDUAL IS ELIGIBLE FOR PUBLIC CAMPAIGN FINANCING.

(B) A SYSTEM OF PUBLIC CAMPAIGN FINANCING ENACTED UNDER SUBSECTION (A) OF THIS SECTION:

(1) SHALL PROVIDE FOR PARTICIPATION OF CANDIDATES IN PUBLIC CAMPAIGN FINANCING ON A STRICTLY VOLUNTARY BASIS;

(2) MAY NOT REGULATE CANDIDATES WHO CHOOSE NOT TO PARTICIPATE IN PUBLIC CAMPAIGN FINANCING;

(3) SHALL PROHIBIT THE USE OF PUBLIC CAMPAIGN FINANCING FOR ANY CAMPAIGN EXCEPT A CAMPAIGN FOR COUNTY ELECTIVE OFFICE;

(4) SHALL REQUIRE A CANDIDATE WHO ACCEPTS PUBLIC CAMPAIGN FINANCING TO:

(I) ESTABLISH A CAMPAIGN FINANCE ENTITY SOLELY FOR THE CAMPAIGN FOR COUNTY ELECTIVE OFFICE; AND

(II) USE FUNDS FROM THAT CAMPAIGN FINANCE ENTITY ONLY FOR THE CAMPAIGN FOR COUNTY ELECTIVE OFFICE;

(5) SHALL PROHIBIT A CANDIDATE WHO ACCEPTS PUBLIC CAMPAIGN FINANCING FROM TRANSFERRING FUNDS:

(I) TO THE CAMPAIGN FINANCE ENTITY ESTABLISHED TO FINANCE THE CAMPAIGN FOR COUNTY ELECTIVE OFFICE FROM ANY OTHER CAMPAIGN FINANCE ENTITY ESTABLISHED FOR THE CANDIDATE; AND

(II) FROM THE CAMPAIGN FINANCE ENTITY ESTABLISHED TO FINANCE THE CAMPAIGN FOR COUNTY ELECTIVE OFFICE TO ANY OTHER CAMPAIGN FINANCE ENTITY;

(6) SHALL PROVIDE FOR A PUBLIC ELECTION FUND FOR COUNTY ELECTIVE OFFICES THAT IS ADMINISTERED BY THE CHIEF FINANCIAL OFFICER OF THE COUNTY; AND

(7) SHALL BE SUBJECT TO REGULATION AND OVERSIGHT BY THE STATE BOARD TO ENSURE CONFORMITY WITH STATE LAW AND POLICY TO THE EXTENT PRACTICABLE.

(C) A SYSTEM OF PUBLIC CAMPAIGN FINANCING ENACTED UNDER SUBSECTION (A) OF THIS SECTION MAY:

(1) PROVIDE FOR MORE STRINGENT REGULATION OF CAMPAIGN FINANCE ACTIVITY BY CANDIDATES WHO CHOOSE TO ACCEPT PUBLIC CAMPAIGN FINANCING, INCLUDING CONTRIBUTIONS, EXPENDITURES, REPORTING, AND CAMPAIGN MATERIAL, THAN IS PROVIDED FOR BY STATE LAW; AND

(2) PROVIDE FOR ADMINISTRATIVE PENALTIES FOR VIOLATIONS, IN ACCORDANCE WITH ARTICLE 25A, § 5 OF THE CODE.

~~13-604.1.~~

~~(A) THE STATE BOARD MAY IMPOSE A CIVIL PENALTY IN ACCORDANCE WITH THIS SECTION FOR THE FOLLOWING VIOLATIONS:~~

~~(1) MAKING A DISBURSEMENT IN A MANNER NOT AUTHORIZED IN § 13-218(B)(2), (C), AND (D) OF THIS TITLE;~~

~~(2) FAILURE TO MAINTAIN A CAMPAIGN BANK ACCOUNT AS REQUIRED IN § 13-220(A) OF THIS TITLE;~~

~~(3) MAKING A DISBURSEMENT BY A METHOD NOT AUTHORIZED IN § 13-220(D) OF THIS TITLE;~~

~~(4) FAILURE TO MAINTAIN DETAILED AND ACCURATE ACCOUNT BOOKS AND RECORDS AS REQUIRED IN § 13-221 OF THIS TITLE;~~

~~(5) FAILURE TO REPORT ALL CONTRIBUTIONS RECEIVED AND EXPENDITURES MADE AS REQUIRED IN § 13-304(B) OF THIS TITLE;~~

~~(6) FAILURE TO INCLUDE AN AUTHORITY LINE ON CAMPAIGN MATERIAL AS REQUIRED IN § 13-401 OF THIS TITLE; OR~~

~~(7) FAILURE TO RETAIN A COPY OF CAMPAIGN MATERIAL AS REQUIRED IN § 13-403 OF THIS TITLE.~~

~~(B) A CIVIL PENALTY IMPOSED UNDER THIS SECTION FOR A VIOLATION SPECIFIED IN SUBSECTION (A) OF THIS SECTION IS IN ADDITION TO ANY OTHER SANCTION PROVIDED BY LAW.~~

~~(C) THE AMOUNT OF A CIVIL PENALTY IMPOSED UNDER THIS SECTION MAY NOT EXCEED \$500 FOR EACH VIOLATION.~~

~~(D) THE CIVIL PENALTY IS PAYABLE TO THE STATE BOARD BY THE PERSON CHARGED IN A CITATION WITHIN 20 CALENDAR DAYS AFTER SERVICE OF THE CITATION.~~

~~(E) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A CIVIL PENALTY IMPOSED UNDER THIS SECTION SHALL BE PAID BY THE CAMPAIGN FINANCE ENTITY.~~

~~(2) IF THE CAMPAIGN FINANCE ENTITY HAS INSUFFICIENT FUNDS WITH WHICH TO PAY THE CIVIL PENALTY IN A TIMELY MANNER, THE CIVIL~~

~~PENALTY IS THE JOINT AND SEVERAL LIABILITY OF THE RESPONSIBLE OFFICERS.~~

~~(3) IF A VIOLATION IS COMMITTED BY A PERSON NOT ACTING ON BEHALF OF, OR AT THE REQUEST OR SUGGESTION OF, A CANDIDATE OR A CAMPAIGN FINANCE ENTITY, THE CIVIL PENALTY SHALL BE PAID BY THE PERSON WHO COMMITTED THE VIOLATION.~~

~~(F) THE STATE BOARD MAY ISSUE A CITATION TO ANY PERSON THE STATE BOARD BELIEVES IS COMMITTING OR HAS COMMITTED A VIOLATION SPECIFIED IN SUBSECTION (A) OF THIS SECTION.~~

~~(G) THE CITATION SHALL BE SERVED ON THE DEFENDANT IN ACCORDANCE WITH THE MARYLAND RULES.~~

~~(H) THE CITATION SHALL CONTAIN:~~

~~(1) THE CERTIFICATION BY THE STATE BOARD ATTESTING TO THE TRUTH OF THE MATTER SET FORTH IN THE CITATION;~~

~~(2) THE NAME AND ADDRESS OF THE PERSON CHARGED;~~

~~(3) THE NATURE, TIME, AND PLACE OF THE VIOLATION;~~

~~(4) THE MANNER IN WHICH THE VIOLATION OCCURRED;~~

~~(5) THE AMOUNT OF THE PENALTY ASSESSED;~~

~~(6) THE MANNER, TIME, AND LOCATION TO PAY THE PENALTY;~~

~~(7) A STATEMENT THAT THE PERSON RECEIVING THE CITATION HAS A RIGHT TO TRIAL IN THE DISTRICT COURT; AND~~

~~(8) THE EFFECT OF FAILING TO PAY THE ASSESSED FINE OR OF FAILING TO DEMAND A TRIAL WITHIN THE PRESCRIBED TIME.~~

~~(I) (1) A PERSON CHARGED IN A CITATION MAY ELECT TO STAND TRIAL FOR THE VIOLATION BY NOTIFYING THE STATE BOARD IN WRITING OF THE PERSON'S INTENT TO STAND TRIAL.~~

~~(2) THE WRITTEN NOTICE SHALL BE GIVEN AT LEAST 5 DAYS BEFORE THE DATE OF PAYMENT AS SET FORTH IN THE CITATION.~~

~~(J) (1) ON RECEIPT OF THE WRITTEN NOTICE OF INTENT TO STAND TRIAL, THE STATE BOARD SHALL FORWARD TO THE STATE PROSECUTOR A COPY OF THE CITATION AND THE WRITTEN NOTICE.~~

~~(2) THE STATE PROSECUTOR SHALL FORWARD TO THE DISTRICT COURT HAVING VENUE A COPY OF THE CITATION AND THE WRITTEN NOTICE.~~

~~(3) ON RECEIPT OF THE CITATION AND THE WRITTEN NOTICE:~~

~~(I) THE STATE PROSECUTOR SHALL ASSUME RESPONSIBILITY FOR PROSECUTING THE VIOLATION; AND~~

~~(II) THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL, NOTIFY THE DEFENDANT OF THE TRIAL DATE, AND SUMMON THE DEFENDANT TO APPEAR.~~

~~(K) (1) IF A PERSON CHARGED IN A CITATION FAILS TO PAY THE PENALTY BY THE DATE OF PAYMENT SET FORTH IN THE CITATION AND FAILS TO DELIVER TO THE STATE BOARD THE WRITTEN NOTICE OF INTENT TO STAND TRIAL, THE PERSON IS LIABLE FOR THE ASSESSED PENALTY.~~

~~(2) THE STATE BOARD MAY DOUBLE THE PENALTY TO AN AMOUNT NOT TO EXCEED \$1,000 AND REQUEST ADJUDICATION OF THE CASE THROUGH THE DISTRICT COURT BY FILING A DEMAND FOR JUDGMENT ON AFFIDAVIT.~~

~~(L) THE DEFENDANT'S FAILURE TO RESPOND TO THE SUMMONS OF THE DISTRICT COURT SHALL RESULT IN THE ENTRY OF JUDGMENT AGAINST THE DEFENDANT IN FAVOR OF THE STATE BOARD IN THE AMOUNT SET FORTH IN THE CITATION IF A PROPER DEMAND FOR JUDGMENT ON AFFIDAVIT HAS BEEN MADE.~~

~~(M) IF A PERSON IS FOUND BY THE DISTRICT COURT TO HAVE COMMITTED A VIOLATION:~~

~~(1) (I) THE DISTRICT COURT SHALL ORDER THE PERSON TO PAY THE PENALTY SET FORTH IN THE CITATION AND MAY DOUBLE THE AMOUNT OF THE PENALTY TO AN AMOUNT NOT TO EXCEED \$1,000;~~

~~(II) THE PENALTY IMPOSED SHALL CONSTITUTE A JUDGMENT IN FAVOR OF THE STATE BOARD; AND~~

~~(III) IF THE PENALTY REMAINS UNPAID FOR 30 DAYS FOLLOWING THE DATE OF ITS ENTRY, THE JUDGMENT SHALL BE ENFORCEABLE~~

~~IN THE SAME MANNER AND TO THE SAME EXTENT AS OTHER CIVIL JUDGMENTS FOR MONEY UNLESS THE COURT HAS SUSPENDED OR DEFERRED PAYMENT OF THE PENALTY AS PROVIDED IN ITEM (2) OF THIS SUBSECTION;~~

~~(2) THE DISTRICT COURT MAY SUSPEND OR DEFER THE PAYMENT OF ANY PENALTY UNDER CONDITIONS THAT THE COURT SETS;~~

~~(3) THE DEFENDANT SHALL BE LIABLE FOR THE COSTS OF THE PROCEEDINGS IN THE DISTRICT COURT; AND~~

~~(4) THE DISTRICT COURT MAY ORDER THE PERSON TO ABATE THE VIOLATION.~~

~~(N) IF A DEFENDANT FAILS TO PAY ANY PENALTY OR COST IMPOSED BY THE DISTRICT COURT WITHOUT GOOD CAUSE, THE DISTRICT COURT MAY PUNISH THE FAILURE AS CONTEMPT OF COURT.~~

~~(O) ADJUDICATION OF A VIOLATION UNDER THIS SECTION:~~

~~(1) IS NOT A CRIMINAL CONVICTION; AND~~

~~(2) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES THAT ARISE FROM A CRIMINAL CONVICTION.~~

~~(P) IN A DISTRICT COURT PROCEEDING RELATING TO A VIOLATION UNDER THIS SECTION:~~

~~(1) THE STATE PROSECUTOR HAS THE BURDEN TO PROVE THAT THE DEFENDANT HAS COMMITTED THE VIOLATION BY CLEAR AND CONVINCING EVIDENCE;~~

~~(2) THE DISTRICT COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS PROVIDED BY LAW OR RULE FOR THE TRIAL OF CIVIL CAUSES;~~

~~(3) THE DISTRICT COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT UNDERSTANDS THOSE CHARGES;~~

~~(4) THE DEFENDANT MAY CROSS EXAMINE ALL WITNESSES WHO APPEAR AGAINST THE DEFENDANT, PRODUCE EVIDENCE OR WITNESSES IN THE DEFENDANT'S OWN BEHALF, OR TESTIFY IN THE DEFENDANT'S OWN BEHALF;~~

~~(5) THE DEFENDANT SHALL BE ENTITLED TO BE REPRESENTED BY COUNSEL OF THE DEFENDANT'S OWN SELECTION AND AT THE DEFENDANT'S OWN EXPENSE;~~

~~(6) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY OF THE VIOLATION AS CHARGED; AND~~

~~(7) THE VERDICT OF THE DISTRICT COURT SHALL BE GUILTY OF A VIOLATION OR NOT GUILTY OF A VIOLATION, OR THE DISTRICT COURT MAY, BEFORE RENDERING JUDGMENT, PLACE THE DEFENDANT ON PROBATION.~~

~~(Q) THE STATE BOARD SHALL CONSIDER THE FOLLOWING IN DETERMINING THE AMOUNT OF A PENALTY UNDER THIS SECTION:~~

~~(1) THE SEVERITY OF THE VIOLATION FOR WHICH THE PENALTY IS TO BE ASSESSED;~~

~~(2) THE GOOD FAITH OF THE VIOLATOR; AND~~

~~(3) ANY HISTORY OF PRIOR VIOLATIONS.~~

~~(R) PENALTIES COLLECTED UNDER THIS SECTION SHALL BE DISTRIBUTED TO THE GENERAL FUND OF THE STATE.~~

14-101.

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

(b) "Applicable contribution" means a contribution BY A PERSON OR ATTRIBUTED TO A PERSON to a candidate[, or a series of such contributions, in a cumulative amount in excess of \$500] FOR AN OFFICE OF A GOVERNMENTAL ENTITY WITH WHICH THE PERSON IS DOING PUBLIC BUSINESS.

(c) "Business entity" includes a firm, corporation, trust, unincorporated association, or other organization, whether or not conducted for profit.

(d) "Candidate" includes an incumbent office holder.

~~(e) "Contract" [includes a sale, purchase, lease, or other agreement] MEANS A PROCUREMENT CONTRACT AS DEFINED IN § 11-101(N) OF THE STATE FINANCE AND PROCUREMENT ARTICLE THAT IS AWARDED BY ANY GOVERNMENTAL ENTITY.~~

(E) (1) “CONTRACT” MEANS AN AGREEMENT IN ANY FORM ENTERED INTO BY A GOVERNMENTAL ENTITY FOR A PROCUREMENT AS DEFINED IN § 11-101(M)(1) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) “CONTRACT” DOES NOT INCLUDE:

(I) A COLLECTIVE BARGAINING AGREEMENT WITH AN EMPLOYEE ORGANIZATION;

(II) AN AGREEMENT WITH A CONTRACTUAL EMPLOYEE, AS DEFINED IN § 1-101(D) OF THE STATE PERSONNEL AND PENSIONS ARTICLE;

(III) A MEDICAID, JUDICARE, OR SIMILAR REIMBURSEMENT CONTRACT FOR WHICH LAW SETS:

1. USER OR RECIPIENT ELIGIBILITY; AND

2. PRICE PAYABLE BY THE STATE; OR

(IV) A MEDICAID CONTRACT WITH A MANAGED CARE ORGANIZATION, AS DEFINED IN § 15-101(E) OF THE HEALTH – GENERAL ARTICLE AS TO WHICH REGULATIONS ADOPTED BY THE DEPARTMENT ESTABLISH:

1. RECIPIENT ELIGIBILITY;

2. MINIMUM QUALIFICATIONS FOR MANAGED CARE ORGANIZATIONS; AND

3. CRITERIA FOR ENROLLING RECIPIENTS IN MANAGED CARE ORGANIZATIONS.

(f) (1) Subject to paragraph (2) of this subsection, “contribution” has the meaning stated in § 1-101 of this article.

(2) “Contribution” does not include:

(i) a bona fide gift by a spouse or relative within the third degree of consanguinity; or

(ii) an honorary membership in a social, service, or fraternal organization presented as a courtesy by the organization.

(G) “DIRECTOR” MEANS A MEMBER OF THE BOARD OF DIRECTORS OF A BUSINESS ENTITY.

[(g)] (H) (1) “Doing public business” means making[, during any 12-month period, one or more contracts] **A SINGLE CONTRACT** with [one or more governmental entities] **A SINGLE GOVERNMENTAL ENTITY** involving cumulative consideration of at least [\$100,000] **\$200,000**.

(2) “Doing public business” does not include receiving a salary from a governmental entity.

[(h)] (I) “Governmental entity” means:

(1) the State, a county, a municipal corporation, or other political subdivision of the State; and

(2) a unit of the State, a county, a municipal corporation, or other political subdivision of the State.

[(i)] (J) “Make a contribution” includes to cause a contribution to be made.

(K) “OFFICER” MEANS AN INDIVIDUAL WHO SERVES AS A BUSINESS ENTITY’S CHIEF EXECUTIVE OFFICER, PRESIDENT, VICE PRESIDENT, SECRETARY, TREASURER, CHIEF FINANCIAL OFFICER, MANAGING PARTNER, MANAGING MEMBER, OR PRINCIPAL, OR IN ANY OTHER FORMAL OR INFORMAL ROLE IN WHICH THE INDIVIDUAL EXERCISES SUBSTANTIAL INDEPENDENT RESPONSIBILITY FOR MANAGING THE AFFAIRS OF A BUSINESS ENTITY.

14–102.

For purposes of this title, words and phrases defined under § 1–101 of this article shall be deemed, as the case may be, to include or apply to an individual who seeks or holds elective office in a municipal corporation and a campaign fundraising entity for that individual.

14–103.

A contribution to a campaign finance entity of a candidate shall be deemed to be a contribution to the candidate for the purposes of this title.

14–104.

(a) A person doing public business shall file a statement with the State Board as provided in this section.

(b) (1) When a contract is [made] **AWARDED** that causes a person to be doing public business, an initial statement shall be filed[:

(i)] at that time, covering the preceding 24 months[, if the person has made an applicable contribution within that period; or

(ii) if item (i) of this paragraph does not apply, but the person subsequently makes an applicable contribution during a reporting period specified in paragraph (2) of this subsection, as required by that paragraph].

(2) (i) A person **WHO FILES AN INITIAL STATEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION** shall file a semi-annual statement in accordance with this paragraph for each reporting period specified in subparagraph (ii) of this paragraph [in which the person has made an applicable contribution] if[:

1.] performance remains uncompleted on [any] **THE** contract that caused the person to be doing public business[; or

2. the person is doing public business].

(ii) 1. The statements required by subparagraph (i) of this paragraph shall cover 6-month reporting periods ending on January 31 and July 31.

2. A statement required by subparagraph (i) of this paragraph shall be filed within 5 days after the end of the applicable reporting period.

(c) (1) The statement required by this section shall be made under oath and shall contain:

(i) the name of each candidate, **IF ANY**, to whom [an applicable contribution was] **ONE OR MORE APPLICABLE CONTRIBUTIONS IN A CUMULATIVE AMOUNT OF \$500 OR MORE WERE** made during the reporting period [and, if not previously reported, during the preceding reporting period];

(ii) the office sought by each candidate named in item (i) of this paragraph;

(iii) the amount of aggregate contributions made to each candidate named in item (i) of this paragraph;

(iv) the name of each unit of a governmental entity with which the person did public business during the reporting period;

(v) the nature and amount of public business done with each unit of a governmental entity; and

(vi) if the public business was done or the contribution was made by another person but is attributed to the person filing the statement, the name of the

person who did the public business or made the contribution and the relationship of that person to the person filing the statement.

(2) The information required by paragraph (1)(iv) and (v) of this subsection may be omitted on the written approval of the [Attorney General] **STATE BOARD** if the [Attorney General] **STATE BOARD** finds that:

- (i) requiring the information would be unduly burdensome;
- (ii) the public interest would not be impaired substantially by the omission of this information; and
- (iii) the person filing the statement stipulates that the person has done public business during the reporting period.

(d) **[(1)]** The State Board shall retain each statement filed under this title as a public record for at least 2 years after its receipt and shall make the statement **PUBLICLY** available [for public examination and copying during normal office hours] **ON THE INTERNET**.

[(2)] The State Board may establish reasonable fees and administrative procedures governing public examination and copying of the statements filed under this section.†

‡(e) The State Board shall prescribe and make available forms for the statements required by this section.]

(E) A PERSON SHALL FILE A STATEMENT REQUIRED UNDER THIS SECTION IN AN ELECTRONIC FORMAT REQUIRED BY THE STATE BOARD.

14–105.

(a) Except as provided in subsection (f) of this section, an applicable contribution made by an officer, director, or partner of a business entity doing public business shall be attributed to the business entity.

(b) Except as provided in subsection (f) of this section, each officer, director, or partner of a business entity doing public business who makes an applicable contribution shall report the applicable contribution to the chief executive officer of the business entity.

(c) **[A] AN APPLICABLE** contribution by an officer, director, partner, employee, agent, or other person made at the suggestion or direction of a business entity doing public business shall be attributed to the business entity.

(d) Each officer, director, partner, employee, agent, or other person who, at the suggestion or direction of a business entity doing public business, makes an applicable contribution shall report the applicable contribution to the chief executive officer of the business entity.

(e) (1) Business done with a governmental entity by a subsidiary of a business entity shall be attributed to the business entity if 30% or more of the equity of the subsidiary is owned or controlled by the business entity.

(2) Applicable contributions made by or attributed to a subsidiary described in paragraph (1) of this subsection shall be attributed to the business entity.

(f) (1) In this subsection:

(i) “officer” means an individual who serves as an organization’s president or chairman, vice-president or vice-chairman, secretary, treasurer, or executive director, or any individual exercising duties comparable to those typically exercised by an individual holding one of those titles in a not-for-profit organization; and

(ii) “officer” does not include an individual holding a title but not exercising substantial independent responsibility on behalf of the organization similar to the responsibility typically exercised by an individual holding one of the titles under item (i) of this paragraph.

(2) Subject to paragraph (3) of this subsection, an applicable contribution made by an individual who serves as a trustee or member of the board of directors or as an officer of a not-for-profit organization doing public business is not attributable to the organization, and the individual is not required to report the applicable contribution to the chief executive officer of the organization.

(3) This subsection does not apply if:

(i) the applicable contribution is made on the recommendation of the not-for-profit organization; or

(ii) the individual described in paragraph (2) of this subsection is paid by the not-for-profit organization.

(G) (1) A PERSON DOING PUBLIC BUSINESS SHALL MAINTAIN DETAILED AND ACCURATE RECORDS OF:

(I) CONTRACTS MADE BY THE PERSON OR ATTRIBUTED TO THE PERSON THAT CAUSE THE PERSON TO BE DOING PUBLIC BUSINESS; AND

(II) APPLICABLE CONTRIBUTIONS MADE BY THE PERSON OR ATTRIBUTED TO THE PERSON.

(2) RECORDS REQUIRED TO BE KEPT UNDER THIS SUBSECTION SHALL BE PRESERVED UNTIL THE EARLIER OF:

(I) 10 YEARS AFTER THE CREATION OF THE RECORD; OR

(II) 4 YEARS AFTER PERFORMANCE IS COMPLETED ON THE CONTRACT THAT CAUSED THE PERSON TO BE DOING PUBLIC BUSINESS.

14-106.

If a contract involves consideration to be paid over multiple reporting periods, the total ascertainable consideration to be paid under the contract shall be attributable to the date when the contract is made.

14-107.

(A) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A GOVERNMENTAL ENTITY THAT HAS AWARDED A PERSON A CONTRACT THAT CAUSES THE PERSON TO BE DOING PUBLIC BUSINESS SHALL VERIFY REQUIRE:

(I) REQUIRE THE PERSON TO CERTIFY THAT THE PERSON HAS FILED THE STATEMENT REQUIRED UNDER § 14-104(B)(1) OF THIS TITLE; AND BEFORE ALLOWING THE PERSON TO BEGIN PERFORMANCE OF THE CONTRACT.

~~(2) A GOVERNMENTAL ENTITY SHALL (II) NOTIFY THE STATE BOARD IF A PERSON OF THE NAMES AND CONTACT INFORMATION OF PERSONS IF A PERSON DOING PUBLIC BUSINESS WITH THE GOVERNMENTAL ENTITY FAILS WHO ARE REQUIRED FAILS TO FILE THE STATEMENT REQUIRED UNDER § 14-104(B)(1) OF THIS TITLE WITHIN 15 DAYS AFTER THE DATE THAT THE PERSON BEGAN DOING PUBLIC BUSINESS WITH THE GOVERNMENTAL ENTITY.~~

(2) THIS SUBSECTION DOES NOT APPLY TO A CONTRACT FOR WHICH NOTICE OF AWARD HAS BEEN POSTED ON EMARYLAND MARKETPLACE.

(B) (1) IF A PERSON FILES A STATEMENT UNDER § 14-104 OF THIS TITLE THAT DOES NOT INCLUDE ALL THE INFORMATION REQUIRED, THE STATE BOARD SHALL NOTIFY THE PERSON IN WRITING OF THE PARTICULAR DEFICIENCIES.

(2) WITHIN 30 DAYS AFTER SERVICE OF THE NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PERSON SHALL FILE AN AMENDED STATEMENT THAT INCLUDES ALL THE INFORMATION REQUIRED.

(C) (1) AS PROVIDED IN THIS SUBSECTION, THE STATE BOARD MAY IMPOSE FEES FOR LATE FILING OF:

(I) A STATEMENT REQUIRED UNDER § 14-104 OF THIS TITLE; OR

(II) AN AMENDED STATEMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

(2) THE STATE BOARD MAY IMPOSE LATE FILING FEES IN THE SAME AMOUNTS AND IN THE SAME MANNER AS PROVIDED UNDER § 13-331(A) AND (B) OF THIS ARTICLE FOR LATE FILING OF CAMPAIGN FINANCE REPORTS.

(3) LATE FILING FEES IMPOSED UNDER THIS SUBSECTION SHALL BE DISTRIBUTED TO THE GENERAL FUND OF THE STATE.

[(a)] (D) A person who knowingly and willfully violates this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

[(b)] (E) An officer or partner of a business entity who knowingly authorizes or participates in a violation of this title by the business entity is subject to the penalty provided in subsection (a) of this section.

14-108.

This title shall be liberally construed to require full disclosure.

14-109.

THE STATE BOARD MAY ADOPT REGULATIONS TO IMPLEMENT THIS TITLE.

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

Article – Courts and Judicial Proceedings

5-106.

(f) A prosecution for the commission of or the attempt to commit a misdemeanor constituting: (1) [except as provided in subsection (h) of this section, a criminal offense under the State election laws; or (2)] a criminal offense under the Maryland Public Ethics Law; or [(3)](2) criminal malfeasance, misfeasance, or nonfeasance in office committed by an officer of the State, or of an agency of the State, or of a political subdivision of the State, or of a bicounty or multicounty agency in the State shall be instituted within 2 years after the offense was committed.

(h) A prosecution: **(1) FOR THE COMMISSION OF OR FOR THE ATTEMPT TO COMMIT A MISDEMEANOR CONSTITUTING A CRIMINAL OFFENSE UNDER THE STATE ELECTION LAWS; OR (2)** to impose a civil fine for an offense arising under § 13-604 of the Election Law Article shall be instituted within 3 years after the offense was committed.

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

Article – Election Law

1-101.

(BB-1) “LEGISLATIVE PARTY CAUCUS COMMITTEE” MEANS A POLITICAL COMMITTEE THAT IS ESTABLISHED TO PROMOTE THE ELECTION OF CANDIDATES OF A SINGLE POLITICAL PARTY TO ONE OF THE TWO HOUSES OF THE GENERAL ASSEMBLY.

(ff) “Political action committee” means a political committee that is not:

(1) a political party;

(2) a central committee;

(3) a slate;

(4) A LEGISLATIVE PARTY CAUCUS COMMITTEE;

[(4)] (5) [a political committee organized and operated solely to support or oppose a single candidate] AN AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE; or

[(5)] (6) [a political committee organized and operated solely to support or oppose] a ballot issue COMMITTEE.

5-303.

(a) Except as provided in subsections (b) and (c) of this section:

(1) in the year in which the Governor is elected, a certificate of candidacy shall be filed not later than 9 p.m. on the [Wednesday following the second Tuesday in April] LAST TUESDAY IN FEBRUARY in the year in which the primary election will be held; and

(2) for any other regularly scheduled election, a certificate of candidacy shall be filed not later than 9 p.m. on the Wednesday that is 83 days before the day on which the primary election will be held.

(b) A certificate of candidacy for an office to be filled by a special election under this article shall be received and filed in the office of the appropriate board not later than 5 p.m. on the Monday that is 3 weeks or 21 days prior to the date for the special primary election specified by the Governor in the proclamation for the special primary election.

(c) The certificate of candidacy for the election of a write-in candidate shall be filed by the earlier of:

(1) 7 days after a total expenditure of at least \$51 is made to promote the candidacy by a campaign finance entity of the candidate; or

(2) 5 p.m. on the Wednesday preceding the day of the election for which the certificate is filed.

9-207.

(a) The State Board shall certify the content and arrangement of each ballot:

(1) for a primary election, no more than 11 days after the filing date provided in § 5-303 of this article;

(2) for a general election[;:

(i) in the year that the President of the United States is elected[, at least 55 days before the election[; and

(ii) in any other year, not more than 18 days after the primary election[;:

(3) for a special primary election, at least 18 days before the election; and

(4) for a special general election, not later than a date specified in the Governor's proclamation.

13-202.

(a) Unless otherwise expressly authorized by law, all campaign finance activity for an election under this article shall be conducted through a campaign finance entity.

(b) An individual may not file a certificate of candidacy OR A DECLARATION OF INTENT UNDER § 5-703 OR § 5-703.1 OF THIS ARTICLE until the individual establishes, or causes to be established, an authorized [political] CANDIDATE CAMPAIGN committee.

13-208.1.

(A) EACH POLITICAL PARTY MAY ESTABLISH ONE LEGISLATIVE PARTY CAUCUS COMMITTEE FOR EACH HOUSE OF THE GENERAL ASSEMBLY.

(B) THE STATE BOARD SHALL ADOPT REGULATIONS GOVERNING THE ESTABLISHMENT, STRUCTURE, AND OPERATION OF LEGISLATIVE PARTY CAUCUS COMMITTEES.

13-220.1.

(A) EACH CENTRAL COMMITTEE OF A POLITICAL PARTY OR LEGISLATIVE PARTY CAUCUS COMMITTEE MAY ESTABLISH ONE ADMINISTRATIVE ACCOUNT.

(B) DISBURSEMENTS FROM AN ADMINISTRATIVE ACCOUNT MAY BE MADE ONLY FOR NONELECTORAL PURPOSES.

(C) A DONATION TO AN ADMINISTRATIVE ACCOUNT:

(1) MAY BE MADE ONLY IF THE DONOR IS AWARE THAT THE DONATION WILL BE USED FOR NONELECTORAL PURPOSES AND CONSENTS TO THAT USE BEFORE MAKING THE DONATION; AND

(2) IS NOT SUBJECT TO § 13-226(B) OF THIS SUBTITLE.

(D) A CAMPAIGN FINANCE ENTITY MAY NOT MAKE A TRANSFER TO AN ADMINISTRATIVE ACCOUNT.

(E) THE STATE BOARD SHALL ADOPT REGULATIONS THAT:

(1) DEFINE PERMISSIBLE NONELECTORAL DISBURSEMENTS FROM AN ADMINISTRATIVE ACCOUNT; AND

(2) REQUIRE DISCLOSURE OF:

(I) DONATIONS TO AN ADMINISTRATIVE ACCOUNT; AND

(II) DISBURSEMENTS FROM AN ADMINISTRATIVE ACCOUNT.

13-234.

(a) A contribution of money may be made only by:

(1) check;

(2) credit card;

(3) cash, if the contribution does not exceed \$100 IN AN ELECTION CYCLE; or

(4) an electronic method that the State Board authorizes by regulation.

(b) An electronic method of making a contribution that the State Board authorizes under this section shall ensure that:

(1) the identity of the person making the contribution may be verified;

(2) the transaction is secure; and

(3) there is an adequate record of the transaction.

13-235.

(a) This section applies to the following officials:

(1) the Governor;

(2) the Lieutenant Governor;

(3) the Attorney General;

(4) the Comptroller; and

(5) a member of the General Assembly.

(b) Except as provided in subsection (c) [or], (d), OR (E) of this section, during a regular session of the General Assembly an official described in subsection (a) of this section, or a person acting on behalf of the official, may not, as to a candidate for federal, State, or local office, or a campaign finance entity of the candidate or any other

campaign finance entity organized under this title and operated in coordination with a candidate:

- (1) receive a contribution;
- (2) conduct a fund-raising event;
- (3) solicit or sell a ticket to a fund-raising event; or
- (4) deposit or use any contribution of money that was not deposited prior to the session.

(c) An official described in subsection (a) of this section, or a person acting on behalf of the official, is not subject to this section when engaged in activities solely related to the official's election to an elective federal or local office for which the official is a filed candidate.

(d) Under the Public Financing Act, a gubernatorial ticket, during the year of the election only, may accept eligible private contributions and any disbursement of funds by the State Board that is based on the eligible private contributions.

(E) AN OFFICIAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION, OR A PERSON ACTING ON BEHALF OF THE OFFICIAL, MAY DEPOSIT A CONTRIBUTION DURING THE LEGISLATIVE SESSION IF THE CONTRIBUTION WAS MADE ELECTRONICALLY BEFORE THE START OF THE SESSION.

[(e)] (F) (1) As to a violation of this section, the campaign finance entity of the official in violation is liable for a civil penalty as provided in this subsection.

(2) The State Board, represented by the State Prosecutor, may institute a civil action in the circuit court for any county seeking the civil penalty provided in this subsection.

(3) A campaign finance entity that receives a contribution as a result of the violation shall:

- (i) refund the contribution to the contributor; and
- (ii) pay a civil penalty that equals the sum of \$1,000 plus the amount of the contribution.

13-309.

(a) Subject to other provisions of this subtitle AND EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, a campaign finance entity shall file campaign finance reports as follows:

(1) EXCEPT FOR A BALLOT ISSUE COMMITTEE, ON OR BEFORE THE THIRD TUESDAY IN APRIL, IF THE CAMPAIGN FINANCE ENTITY DID NOT FILE THE ANNUAL CAMPAIGN FINANCE REPORT SPECIFIED UNDER SUBSECTION (B)(2) OF THIS SECTION ON THE IMMEDIATELY PRECEDING THIRD WEDNESDAY IN JANUARY;

~~[(1)]~~ **(2) except for a ballot issue committee, on or before the fourth Tuesday immediately preceding each primary election [except a presidential primary election];**

~~[(2)]~~ **(3) except for a ballot issue committee, on or before the second Friday immediately preceding a primary election;**

(4) ON OR BEFORE THE LAST TUESDAY IN AUGUST IMMEDIATELY PRECEDING A GENERAL ELECTION;

~~[(3)]~~ **(5) for a ballot issue committee only, on or before the fourth Friday immediately preceding a general election;**

~~[(4)]~~ **(6) on or before the second Friday immediately preceding a general election; and**

~~[(5)]~~ **(7) on or before the third Tuesday after a general election.**

(b) (1) A campaign finance entity is subject to subsection (a) of this section and this subsection only as to the election in which the entity designates that it will participate.

(2) In addition to the campaign finance reports required under subsection (a) of this section, but subject to paragraph (4) of this subsection, a campaign finance entity shall file A campaign finance [reports] REPORT on the third Wednesday in January.

(3) (i) If subsequent to the filing of its declaration under § 13-208(c)(3) of this title, a campaign finance entity participates in an election in which it was not designated to participate, the campaign finance entity shall file all campaign FINANCE reports prescribed under subsection (a) of this section for that election.

(ii) A violation of subparagraph (i) of this paragraph constitutes a failure to file by the campaign finance entity, and the responsible officer is guilty of a misdemeanor and on conviction is subject to the penalties prescribed under Part VII of this subtitle.

(4) If a campaign finance entity has neither a cash balance nor an outstanding obligation at the end of a reporting period, a campaign finance report for

that period, clearly marked as "final", shall be filed on or before the due date, and no further report is required.

(c) In addition to the campaign FINANCE reports required under subsection (a) of this section, a continuing political committee shall file a campaign finance report on the third Wednesday in January of each year the committee is in existence.

(D) AN AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE OF A CANDIDATE FOR ELECTION TO THE CENTRAL COMMITTEE OF A POLITICAL PARTY:

(1) SHALL FILE A CAMPAIGN FINANCE REPORT ON OR BEFORE THE THIRD TUESDAY AFTER A GUBERNATORIAL PRIMARY ELECTION; AND

(2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION AND § 13-310 OF THIS SUBTITLE, IS NOT REQUIRED TO FILE ANY OTHER CAMPAIGN FINANCE REPORTS.

13-604.1.

(A) IN THIS SECTION, "PERSON" INCLUDES A POLITICAL COMMITTEE.

(B) THE STATE BOARD MAY IMPOSE A CIVIL PENALTY IN ACCORDANCE WITH THIS SECTION FOR THE FOLLOWING VIOLATIONS:

(1) MAKING A DISBURSEMENT IN A MANNER NOT AUTHORIZED IN § 13-218(B)(2), (C), AND (D) OF THIS TITLE;

(2) FAILURE TO MAINTAIN A CAMPAIGN BANK ACCOUNT AS REQUIRED IN § 13-220(A) OF THIS TITLE;

(3) MAKING A DISBURSEMENT BY A METHOD NOT AUTHORIZED IN § 13-220(D) OF THIS TITLE;

(4) FAILURE TO MAINTAIN DETAILED AND ACCURATE ACCOUNT BOOKS AND RECORDS AS REQUIRED IN § 13-221 OF THIS TITLE;

(5) FAILURE TO REPORT ALL CONTRIBUTIONS RECEIVED AND EXPENDITURES MADE AS REQUIRED IN § 13-304(B) OF THIS TITLE;

(6) FAILURE TO INCLUDE AN AUTHORITY LINE ON CAMPAIGN MATERIAL AS REQUIRED IN § 13-401 OF THIS TITLE; OR

(7) FAILURE TO RETAIN A COPY OF CAMPAIGN MATERIAL AS REQUIRED IN § 13-403 OF THIS TITLE.

(C) A CIVIL PENALTY IMPOSED UNDER THIS SECTION FOR A VIOLATION SPECIFIED IN SUBSECTION (B) OF THIS SECTION IS IN ADDITION TO ANY OTHER SANCTION PROVIDED BY LAW.

(D) THE AMOUNT OF A CIVIL PENALTY IMPOSED UNDER THIS SECTION MAY NOT EXCEED \$500 FOR EACH VIOLATION.

(E) THE CIVIL PENALTY IS PAYABLE TO THE STATE BOARD BY THE PERSON CHARGED IN A CITATION WITHIN 20 CALENDAR DAYS AFTER SERVICE OF THE CITATION.

(F) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A CIVIL PENALTY IMPOSED UNDER THIS SECTION SHALL BE PAID BY THE CAMPAIGN FINANCE ENTITY.

(2) IF THE CAMPAIGN FINANCE ENTITY HAS INSUFFICIENT FUNDS WITH WHICH TO PAY THE FULL AMOUNT OF THE CIVIL PENALTY IN A TIMELY MANNER, AFTER THE CAMPAIGN ACCOUNT OF THE FINANCE ENTITY IS EXHAUSTED THE BALANCE OF THE CIVIL PENALTY IS THE JOINT AND SEVERAL LIABILITY OF THE RESPONSIBLE OFFICERS.

(3) IF A VIOLATION IS COMMITTED BY A PERSON NOT ACTING ON BEHALF OF, OR AT THE REQUEST OR SUGGESTION OF, A CANDIDATE OR A CAMPAIGN FINANCE ENTITY, THE CIVIL PENALTY SHALL BE PAID BY THE PERSON WHO COMMITTED THE VIOLATION.

(G) THE STATE BOARD MAY ISSUE A CITATION TO ANY PERSON THE STATE BOARD BELIEVES IS COMMITTING OR HAS COMMITTED A VIOLATION SPECIFIED IN SUBSECTION (B) OF THIS SECTION.

(H) THE CITATION SHALL BE SERVED ON THE DEFENDANT IN ACCORDANCE WITH THE MARYLAND RULES.

(I) THE CITATION SHALL CONTAIN:

(1) THE CERTIFICATION BY THE STATE BOARD ATTESTING TO THE TRUTH OF THE MATTER SET FORTH IN THE CITATION;

(2) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(3) THE NATURE, TIME, AND PLACE OF THE VIOLATION;

(4) THE MANNER IN WHICH THE VIOLATION OCCURRED;

(5) THE AMOUNT OF THE PENALTY ASSESSED;

(6) THE MANNER, TIME, AND LOCATION TO PAY THE PENALTY;

(7) A STATEMENT THAT THE PERSON RECEIVING THE CITATION HAS A RIGHT TO TRIAL IN THE DISTRICT COURT; AND

(8) THE EFFECT OF FAILING TO PAY THE ASSESSED FINE OR OF FAILING TO DEMAND A TRIAL WITHIN THE PRESCRIBED TIME.

(J) (1) A PERSON CHARGED IN A CITATION MAY ELECT TO STAND TRIAL FOR THE VIOLATION BY NOTIFYING THE STATE BOARD IN WRITING OF THE PERSON'S INTENT TO STAND TRIAL.

(2) THE WRITTEN NOTICE SHALL BE GIVEN AT LEAST 5 DAYS BEFORE THE DATE OF PAYMENT AS SET FORTH IN THE CITATION.

(K) (1) ON RECEIPT OF THE WRITTEN NOTICE OF INTENT TO STAND TRIAL, THE STATE BOARD SHALL FORWARD TO THE STATE PROSECUTOR A COPY OF THE CITATION AND THE WRITTEN NOTICE.

(2) THE STATE PROSECUTOR SHALL FORWARD TO THE DISTRICT COURT HAVING VENUE A COPY OF THE CITATION AND THE WRITTEN NOTICE.

(3) ON RECEIPT OF THE CITATION AND THE WRITTEN NOTICE:

(I) THE STATE PROSECUTOR SHALL ASSUME RESPONSIBILITY FOR PROSECUTING THE VIOLATION; AND

(II) THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL, NOTIFY THE DEFENDANT OF THE TRIAL DATE, AND SUMMON THE DEFENDANT TO APPEAR.

(L) (1) IF A PERSON CHARGED IN A CITATION FAILS TO PAY THE PENALTY BY THE DATE OF PAYMENT SET FORTH IN THE CITATION AND FAILS TO DELIVER TO THE STATE BOARD THE WRITTEN NOTICE OF INTENT TO STAND TRIAL, THE PERSON IS LIABLE FOR THE ASSESSED PENALTY.

(2) THE STATE PROSECUTOR, ON BEHALF OF THE STATE BOARD, MAY DOUBLE THE PENALTY TO AN AMOUNT NOT TO EXCEED \$1,000 AND REQUEST ADJUDICATION OF THE CASE THROUGH THE DISTRICT COURT BY FILING A DEMAND FOR JUDGMENT ON AFFIDAVIT.

(M) THE DEFENDANT'S FAILURE TO RESPOND TO THE SUMMONS OF THE DISTRICT COURT SHALL RESULT IN THE ENTRY OF JUDGMENT AGAINST THE DEFENDANT IN FAVOR OF THE STATE BOARD IN THE AMOUNT SET FORTH IN THE CITATION IF A PROPER DEMAND FOR JUDGMENT ON AFFIDAVIT HAS BEEN MADE.

(N) IF A PERSON IS FOUND BY THE DISTRICT COURT TO HAVE COMMITTED A VIOLATION:

(1) (I) THE DISTRICT COURT SHALL ORDER THE PERSON TO PAY THE PENALTY SET FORTH IN THE CITATION AND MAY DOUBLE THE AMOUNT OF THE PENALTY TO AN AMOUNT NOT TO EXCEED \$1,000;

(II) THE PENALTY IMPOSED SHALL CONSTITUTE A JUDGMENT IN FAVOR OF THE STATE BOARD; AND

(III) IF THE PENALTY REMAINS UNPAID FOR 30 DAYS FOLLOWING THE DATE OF ITS ENTRY, THE JUDGMENT SHALL BE ENFORCEABLE IN THE SAME MANNER AND TO THE SAME EXTENT AS OTHER CIVIL JUDGMENTS FOR MONEY UNLESS THE COURT HAS SUSPENDED OR DEFERRED PAYMENT OF THE PENALTY AS PROVIDED IN ITEM (2) OF THIS SUBSECTION;

(2) THE DISTRICT COURT MAY SUSPEND OR DEFER THE PAYMENT OF ANY PENALTY UNDER CONDITIONS THAT THE COURT SETS;

(3) THE DEFENDANT SHALL BE LIABLE FOR THE COSTS OF THE PROCEEDINGS IN THE DISTRICT COURT; AND

(4) THE DISTRICT COURT MAY ORDER THE PERSON TO ABATE THE VIOLATION.

(O) IF A DEFENDANT FAILS TO PAY ANY PENALTY OR COST IMPOSED BY THE DISTRICT COURT WITHOUT GOOD CAUSE, THE DISTRICT COURT MAY PUNISH THE FAILURE AS CONTEMPT OF COURT.

(P) ADJUDICATION OF A VIOLATION UNDER THIS SECTION:

(1) IS NOT A CRIMINAL CONVICTION; AND

(2) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES THAT ARISE FROM A CRIMINAL CONVICTION.

(Q) IN A DISTRICT COURT PROCEEDING RELATING TO A VIOLATION UNDER THIS SECTION:

(1) THE STATE PROSECUTOR HAS THE BURDEN TO PROVE THAT THE DEFENDANT HAS COMMITTED THE VIOLATION BY CLEAR AND CONVINCING EVIDENCE;

(2) THE DISTRICT COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS PROVIDED BY LAW OR RULE FOR THE TRIAL OF CIVIL CAUSES;

(3) THE DISTRICT COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT UNDERSTANDS THOSE CHARGES;

(4) THE DEFENDANT MAY CROSS-EXAMINE ALL WITNESSES WHO APPEAR AGAINST THE DEFENDANT, PRODUCE EVIDENCE OR WITNESSES IN THE DEFENDANT'S OWN BEHALF, OR TESTIFY IN THE DEFENDANT'S OWN BEHALF;

(5) THE DEFENDANT SHALL BE ENTITLED TO BE REPRESENTED BY COUNSEL OF THE DEFENDANT'S OWN SELECTION AND AT THE DEFENDANT'S OWN EXPENSE;

(6) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY OF THE VIOLATION AS CHARGED; AND

(7) THE VERDICT OF THE DISTRICT COURT SHALL BE GUILTY OF A VIOLATION OR NOT GUILTY OF A VIOLATION, OR THE DISTRICT COURT MAY, BEFORE RENDERING JUDGMENT, PLACE THE DEFENDANT ON PROBATION.

(R) THE STATE BOARD SHALL CONSIDER THE FOLLOWING IN DETERMINING THE AMOUNT OF A PENALTY UNDER THIS SECTION:

(1) THE SEVERITY OF THE VIOLATION FOR WHICH THE PENALTY IS TO BE ASSESSED;

(2) THE GOOD FAITH OF THE VIOLATOR; AND

(3) ANY HISTORY OF PRIOR VIOLATIONS.

(S) PENALTIES COLLECTED UNDER THIS SECTION SHALL BE DISTRIBUTED TO THE GENERAL FUND OF THE STATE.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be construed to apply only prospectively to offenses committed on or after the effective date of this Act and may not be applied or interpreted to have any effect on or application to an offense committed before the effective date of this Act.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose, the provisions of this Act are declared severable.

SECTION ~~4~~ 5 6. AND BE IT FURTHER ENACTED, That Sections 1, 2, and 4 of this Act shall take effect January 1, 2015.

SECTION 7. AND BE IT FURTHER ENACTED, That, except as provided in Section 6 of this Act, this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

Chapter 420

(House Bill 1513)

AN ACT concerning

Public Safety – Response to a State Disaster or Emergency – Licensing and Taxes

FOR the purpose of providing that certain out-of-state businesses and out-of-state employees may not be considered to have established a presence in the State that would subject the businesses or employees to certain licensing, registration, or tax requirements; exempting certain out-of-state businesses and out-of-state employees from certain income taxes and withholding requirements; requiring certain out-of-state businesses and registered businesses to provide a certain statement containing certain information; defining certain terms; and generally relating to out-of-state businesses and out-of-state employees.

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 14–203(b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Public Safety
Section 14–219
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article – Public Safety

14–203.

(b) This subtitle applies only during the effective period of an official proclamation by the Governor that declares a stated area to be within an actual or threatened emergency or disaster area.

14–219.

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

(2) “DECLARED STATE DISASTER OR EMERGENCY” MEANS ANY DISASTER OR EMERGENCY EVENT FOR WHICH:

(I) THE GOVERNOR PROCLAIMS A STATE OF EMERGENCY;

(II) A PRESIDENTIAL DECLARATION OF A FEDERAL MAJOR DISASTER OR EMERGENCY IS ISSUED; OR

(III) A ~~GOOD FAITH RESPONSE EFFORT IS REQUIRED~~ WIDESPREAD UTILITY OUTAGE OCCURS.

(3) “DISASTER– OR EMERGENCY–RELATED WORK” MEANS REPAIRING, RENOVATING, INSTALLING, BUILDING, RENDERING SERVICES, OR OTHER BUSINESS ACTIVITIES THAT RELATE TO INFRASTRUCTURE THAT IS DAMAGED, IMPAIRED, OR DESTROYED BY THE DECLARED STATE DISASTER OR EMERGENCY.

(4) “DISASTER PERIOD” MEANS A PERIOD THAT BEGINS 10 DAYS BEFORE THE FIRST DAY OF THE DECLARED STATE DISASTER OR EMERGENCY AND EXTENDS FOR A PERIOD OF 60 CALENDAR DAYS AFTER THE END OF THE DECLARED STATE DISASTER OR EMERGENCY.

(5) (I) “INFRASTRUCTURE” MEANS PROPERTY AND EQUIPMENT OWNED OR USED BY COMMUNICATIONS NETWORKS, ELECTRIC ~~GENERATION FACILITIES, GAS DISTRIBUTION SYSTEMS, PUBLIC ROADS AND BRIDGES, TRANSMISSION AND DISTRIBUTION SYSTEMS, WATER PIPELINES, AND~~ GENERATION FACILITIES, ELECTRIC AND GAS TRANSMISSION AND

DISTRIBUTION SYSTEMS, WATER PIPELINES, AND RELATED SUPPORT FACILITIES.

(II) “INFRASTRUCTURE” INCLUDES REAL AND PERSONAL PROPERTY.

(6) (I) “OUT-OF-STATE BUSINESS” MEANS A BUSINESS ENTITY THAT:

1. HAS NO REGISTRATIONS, NEXUS, OR TAX FILINGS IN THE STATE PRIOR TO THE DECLARED STATE DISASTER OR EMERGENCY; AND

2. IS REQUESTED BY A REGISTERED BUSINESS OR THE STATE OR A LOCAL GOVERNMENT TO PERFORM DISASTER OR EMERGENCY RELATED WORK DURING A DISASTER PERIOD.

(II) “OUT-OF-STATE BUSINESS” INCLUDES A BUSINESS ENTITY THAT IS AFFILIATED WITH A REGISTERED BUSINESS IN THE STATE SOLELY THROUGH COMMON OWNERSHIP.

(7) “OUT-OF-STATE EMPLOYEE” MEANS AN EMPLOYEE WHO DOES NOT WORK IN THE STATE, EXCEPT DURING A DECLARED STATE DISASTER OR EMERGENCY.

(8) “REGISTERED BUSINESS” MEANS A BUSINESS ENTITY THAT IS CURRENTLY REGISTERED TO DO BUSINESS IN THE STATE BEFORE THE DECLARED STATE DISASTER OR EMERGENCY.

(B) AN OUT-OF-STATE BUSINESS THAT PERFORMS DISASTER- OR EMERGENCY-RELATED WORK DURING A DISASTER PERIOD DOES NOT ESTABLISH A LEVEL OF PRESENCE THAT WOULD REQUIRE THE OUT-OF-STATE BUSINESS OR ITS OUT-OF-STATE EMPLOYEES TO BE SUBJECT TO:

(1) STATE OR LOCAL LICENSING OR REGISTRATION REQUIREMENTS;

(2) STATE OR COUNTY INCOME TAXES;

(3) UNEMPLOYMENT INSURANCE CONTRIBUTIONS;

(4) PERSONAL PROPERTY TAX; OR

(5) ANY REQUIREMENT TO COLLECT AND REMIT THE SALES AND USE TAX.

(C) (1) AN OUT-OF-STATE EMPLOYEE MAY NOT BE REQUIRED TO PAY STATE OR COUNTY INCOME TAXES OR BE SUBJECT TO INCOME TAX WITHHOLDING REQUIREMENTS.

(2) AN OUT-OF-STATE BUSINESS THAT EMPLOYS AN OUT-OF-STATE EMPLOYEE MAY NOT BE REQUIRED TO PAY STATE OR COUNTY INCOME TAXES OR BE SUBJECT TO INCOME TAX WITHHOLDING REQUIREMENTS WITH RESPECT TO ANY OUT-OF-STATE EMPLOYEES.

(D) (1) AN OUT-OF-STATE BUSINESS SHALL PROVIDE TO THE COMPTROLLER A STATEMENT THAT THE OUT-OF-STATE BUSINESS IS IN THE STATE SOLELY FOR PURPOSES OF PERFORMING DISASTER- OR EMERGENCY-RELATED WORK.

(2) THE STATEMENT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE FOR THE OUT-OF-STATE BUSINESS:

- (I) THE NAME;
- (II) THE STATE OF DOMICILE;
- (III) THE PRINCIPAL ADDRESS;
- (IV) THE FEDERAL TAX IDENTIFICATION NUMBER;
- (V) THE DATE OF ENTRY INTO THE STATE; AND
- (VI) CONTACT INFORMATION.

(E) A REGISTERED BUSINESS IN THE STATE SHALL PROVIDE THE INFORMATION REQUIRED UNDER SUBSECTION (D) OF THIS SECTION FOR ANY OUT-OF-STATE BUSINESS AFFILIATE THAT ENTERS THE STATE TO PERFORM DISASTER- OR EMERGENCY-RELATED WORK.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2013.

Approved by the Governor, May 2, 2013.

AN ACT concerning

Howard County – Noise Control – Outdoor Concert Venues

Ho. Co. 9-13

FOR the purpose of ~~prohibiting Howard County or a political subdivision of Howard County from adopting a certain noise control ordinance, rule, or regulation for an outdoor concert venue with a certain capacity;~~ prohibiting the Department of the Environment from adopting a certain noise control ordinance, rule, or regulation that prohibits the electronic amplification of sound between certain hours at an outdoor concert venue with a certain capacity in Howard County, subject to certain limitations; prohibiting an outdoor concert venue with a certain capacity from producing any electronic amplification of sound during a certain time period, subject to a certain exception; providing that certain noise control ordinances, rules, or regulations adopted by Howard County in effect on a certain date do not apply to the electronic amplification of sound at an outdoor concert venue with a certain capacity in Howard County; and generally relating to the adoption of sound level limits and noise control ordinances, rules, and regulations concerning the electronic amplification of sound at an outdoor concert venue in Howard County.

BY repealing and reenacting, with amendments,
Article – Environment
Section ~~3-105(a)~~ and 3-401(c)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Environment
Section ~~3-105(a)~~ and 3-401(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

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

Article – Environment

3-105.

(a) (1) Except as provided in this section, this title does not limit the power of a political subdivision to adopt noise control ordinances, rules, or regulations.

(2) A political subdivision may not adopt any noise control ordinance, rule, or regulation that is less stringent than the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

(3) (i) A political subdivision may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of January 1, 2001.

(ii) This paragraph does not apply in Baltimore City or Allegany, Anne Arundel, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, Allegany County, Anne Arundel County, Garrett County, Washington County, or a political subdivision of Allegany County, Anne Arundel County, Garrett County, or Washington County may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of January 1, 2005.

(ii) 1. Subject to the provisions of subparagraph 2 of this subparagraph, Allegany County, Anne Arundel County, Garrett County, Washington County, or a political subdivision of Allegany County, Anne Arundel County, Garrett County, or Washington County may adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the responsible political subdivision determines is not in compliance as of January 1, 2005 with environmental noise standards, sound level limits, or noise control rules or regulations adopted under this title.

2. A noise control ordinance, rule, or regulation adopted under subparagraph 1 of this subparagraph shall allow trapshooting, skeetshooting, and other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the responsible political subdivision determines has become compliant with environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

(5) Carroll County or a political subdivision of Carroll County may not enforce any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, against a public school in Carroll County that violates the ordinance, rule, or regulation between the hours of 8 a.m. and 9:30 p.m.

~~(6) HOWARD COUNTY OR A POLITICAL SUBDIVISION OF HOWARD COUNTY MAY NOT ADOPT A NOISE CONTROL ORDINANCE, RULE, OR REGULATION, INCLUDING THE ENVIRONMENTAL NOISE CONTROL STANDARDS, SOUND LEVEL LIMITS, AND NOISE CONTROL RULES AND REGULATIONS ADOPTED UNDER THIS TITLE, FOR AN OUTDOOR CONCERT VENUE WITH A CAPACITY OF OVER 15,000 INDIVIDUALS.~~

3-401.

(a) Except as otherwise provided by law, the Department shall adopt environmental noise standards, sound level limits, and noise control rules and regulations as necessary to protect the public health, the general welfare, and property.

(c) (1) In adopting sound level limits and noise control rules and regulations, the Department or the political subdivision shall consider, among other things:

(i) The residential, commercial, or industrial nature of the area affected;

(ii) Zoning;

(iii) The nature and source of various kinds of noise;

(iv) The degree of noise reduction that may be attained and maintained using the best available technology;

(v) Accepted scientific and professional methods for measurement of sound levels; and

(vi) The cost of compliance with the sound level limits.

(2) The sound level limits adopted under this subsection shall be consistent with the environmental noise standards adopted by the Department.

(3) The sound level limits and noise control rules and regulations adopted under this subsection may not prohibit trapshooting or other target shooting on any range or other property in Frederick County that the Frederick County Department of Planning and Zoning has approved as a place for those sporting events.

(4) The sound level limits and noise control rules and regulations adopted under this subsection shall be as follows for residential heat pumps and air conditioning units:

- (i) Residential heat pumps 75dba.
- (ii) Residential air conditioning units 70dba.

(5) (i) The sound level limits and noise control rules and regulations adopted under this subsection may not prohibit trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. on any range or other property of a shooting sports club that is chartered and in operation as of January 1, 2001.

(ii) This paragraph does not apply in Allegany, Anne Arundel, Baltimore City, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

(6) (i) Except as provided in subparagraph (ii) of this paragraph, the Department may not adopt sound level limits and noise control rules and regulations under this subsection that prohibit trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. in Allegany County, Anne Arundel County, Garrett County, or Washington County on any range or other property of a shooting sports club that is chartered and in operation as of January 1, 2005.

(ii) 1. Subject to the provisions of subsubparagraph 2 of this subparagraph, the Department may adopt sound level limits and noise control rules and regulations under this subsection that prohibit trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. in Allegany County, Anne Arundel County, Garrett County, or Washington County on any range or other property of a shooting club that the Department determines is not in compliance as of January 1, 2005 with environmental noise standards, sound level limits, or noise control rules and regulations adopted under this title.

2. A sound level limit or noise control rule or regulation adopted under this subsection shall allow trapshooting, skeetshooting, and other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the Department determines has become compliant with sound level limits and noise control rules and regulations adopted under this title.

(7) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN HOWARD COUNTY, THE SOUND LEVEL LIMITS AND NOISE CONTROL RULES AND REGULATIONS ADOPTED UNDER THIS SUBSECTION MAY NOT PROHIBIT THE ELECTRONIC AMPLIFICATION OF SOUND AT AN OUTDOOR CONCERT VENUE WITH A CAPACITY OF OVER 15,000 INDIVIDUALS THAT:

1. WITHIN THE AREA THAT IS INCLUDED IN A 0.25 MILE RADIUS OF THE VENUE, PRODUCES SOUND THAT IS:

A. 95 DBA OR LOWER BETWEEN 9:00 A.M. AND 11:00 P.M.; AND

B. 55 DBA OR LOWER BETWEEN 11:00 P.M. AND 11:30 P.M.; AND

2. WITHIN THE AREA THAT IS OUTSIDE A 0.25 MILE RADIUS OF THE VENUE, PRODUCES SOUND THAT IS:

A. 72.5 DBA OR LOWER BETWEEN 9:00 A.M. AND 11:00 P.M.; AND

B. 55 DBA OR LOWER BETWEEN 11:00 P.M. AND 11:30 P.M.

(II) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, AN OUTDOOR CONCERT VENUE WITH A CAPACITY OF OVER 15,000 INDIVIDUALS MAY NOT PRODUCE ANY ELECTRONIC AMPLIFICATION OF SOUND BETWEEN 11:30 P.M. AND 9:00 A.M.

2. THE LIMITATIONS CONCERNING THE ELECTRONIC AMPLIFICATION OF SOUND AT AN OUTDOOR CONCERT VENUE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH DO NOT APPLY TO AN ACTIVITY SPONSORED OR AUTHORIZED BY THE HOWARD COUNTY PUBLIC SCHOOL SYSTEM BETWEEN 8:00 A.M. AND 9:00 A.M.

(III) NOTWITHSTANDING § 3-105(A)(1) AND (2) OF THIS ARTICLE, THE NOISE CONTROL ORDINANCES, RULES, OR REGULATIONS ADOPTED BY HOWARD COUNTY AND IN EFFECT ON OCTOBER 1, 2013, DO NOT APPLY TO THE ELECTRONIC AMPLIFICATION OF SOUND AT AN OUTDOOR CONCERT VENUE IN THE COUNTY WITH A CAPACITY OF OVER 15,000 INDIVIDUALS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.
