

Laws
of the
State of Maryland

At the Session of the General Assembly Begun and Held in the
City of Annapolis on the Ninth Day of January 2013
and Ending on the Eighth Day of April 2013

VOLUME VI

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Chapter 507**(House Bill 644)**

AN ACT concerning

Income Tax – Electronic Filing – Designation to Purchase Federal Savings Bonds

FOR the purpose of allowing an individual who files an income tax return electronically to elect to use a certain income tax refund to purchase certain bonds; specifying that the individual must make the designation in certain increments; requiring the Comptroller to send a certain portion of the individual's refund to the individual; requiring the Comptroller to adopt certain regulations; providing for the application of this Act; and generally relating to the State income tax and income tax refunds.

BY adding to

Article – Tax – General

Section 10–804(k)

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

10–804.

(K) (1) AN INDIVIDUAL WHO FILES AN INCOME TAX RETURN ELECTRONICALLY MAY ELECT TO USE ALL OR A PORTION OF THE INDIVIDUAL'S INCOME TAX REFUND TO PURCHASE U.S. SERIES I SAVINGS BONDS.

(2) IF AN INDIVIDUAL ELECTS TO PURCHASE U.S. SERIES I SAVINGS BONDS UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE INDIVIDUAL SHALL MAKE THE DESIGNATION IN \$50 INCREMENTS; AND

(II) THE COMPTROLLER SHALL SEND ANY REMAINING PORTION OF THE INDIVIDUAL'S REFUND TO THE INDIVIDUAL.

(3) THE COMPTROLLER SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.

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, 2014.

Approved by the Governor, May 16, 2013.

Chapter 508

(Senate Bill 617)

AN ACT concerning

Drug Therapy Management – Physician–Pharmacist Agreements

FOR the purpose of repealing certain provisions of law requiring certain physician–pharmacist agreements to be approved by the State Board of Pharmacy and the State Board of Physicians; requiring, in a group model health maintenance organization, a licensed physician who has entered into a certain physician–pharmacist agreement to provide drug therapy management to submit a copy of the agreement, certain modifications to the agreement, and certain protocols to the State Board of Physicians; requiring, in a group model health maintenance organization, a licensed pharmacist who has entered into a certain physician–pharmacist agreement to provide drug therapy management to submit a copy of the agreement, certain modifications to the agreement, and certain protocols to the State Board of Pharmacy; repealing certain provisions of law relating to the approval, term, and renewal of certain physician–pharmacist agreements; altering a certain definition; making stylistic and conforming changes; and generally relating to physician–pharmacist agreements for drug therapy management in a group model health maintenance organization.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–713.6

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

19–713.6.

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

(2) “Documented informed consent” means:

(i) A written consent form signed by a patient; or

(ii) Verbal or otherwise communicated consent signified by a notation in a patient’s electronic medical record maintained by a group model health maintenance organization.

(3) “Drug therapy management” means treatment of a patient using drug therapy, laboratory tests, or medical devices under conditions or limitations set forth in a protocol specified in a physician–pharmacist agreement for the purpose of improving patient outcome.

(4) “Group model health maintenance organization” means a health maintenance organization that:

(i) Contracts with one multispecialty group of physicians who are employed by and shareholders of the multispecialty group; and

(ii) Provides and arranges for the provision of physician services to patients at medical facilities operated by the health maintenance organization.

(5) “Licensed pharmacist” means an individual who is licensed to practice pharmacy under Title 12 of the Health Occupations Article.

(6) “Licensed physician” means an individual who is licensed to practice medicine under Title 14 of the Health Occupations Article.

(7) “Patient” means:

(i) A patient who is a member of a group model health maintenance organization; or

(ii) An individual to whom the group model health maintenance organization is contractually or legally obligated to provide, or arrange to provide, health care services.

(8) “Physician–pharmacist agreement” means an [approved] agreement between a licensed physician and a licensed pharmacist that is disease–state specific and specifies the protocols that may be used.

(9) “Protocol” means a course of treatment predetermined by the licensed physician and licensed pharmacist according to generally accepted medical practice for the proper completion of a particular therapeutic or diagnostic intervention.

(b) (1) In a group model health maintenance organization, a licensed physician and a licensed pharmacist who wish to provide drug therapy management to patients shall have a physician–pharmacist agreement [that is approved by the State Board of Pharmacy and the State Board of Physicians].

(2) Drug therapy management shall be provided under this section only:

(i) In accordance with a physician–pharmacist agreement; and

(ii) Through the internal pharmacy operations of the group model health maintenance organization.

(3) A LICENSED PHYSICIAN WHO HAS ENTERED INTO A PHYSICIAN–PHARMACIST AGREEMENT SHALL SUBMIT TO THE STATE BOARD OF PHYSICIANS A COPY OF THE PHYSICIAN–PHARMACIST AGREEMENT AND ANY SUBSEQUENT MODIFICATIONS MADE TO THE PHYSICIAN–PHARMACIST AGREEMENT OR THE PROTOCOLS SPECIFIED IN THE PHYSICIAN–PHARMACIST AGREEMENT.

(4) A LICENSED PHARMACIST WHO HAS ENTERED INTO A PHYSICIAN–PHARMACIST AGREEMENT SHALL SUBMIT TO THE STATE BOARD OF PHARMACY A COPY OF THE PHYSICIAN–PHARMACIST AGREEMENT AND ANY SUBSEQUENT MODIFICATIONS MADE TO THE PHYSICIAN–PHARMACIST AGREEMENT OR THE PROTOCOLS SPECIFIED IN THE PHYSICIAN–PHARMACIST AGREEMENT.

(c) A licensed pharmacist is authorized to enter into a physician–pharmacist agreement if the licensed pharmacist:

(1) Has a Doctor of Pharmacy Degree or equivalent training as established in regulations adopted by the State Board of Pharmacy;

(2) Is approved by the State Board of Pharmacy to enter into a physician–pharmacist agreement with a licensed physician; and

(3) Meets any other requirements established by regulation by the State Board of Pharmacy.

(d) A physician–pharmacist agreement shall prohibit the substitution of a chemically dissimilar drug product by the pharmacist for the product prescribed by the physician, unless permitted in the protocol specified in the physician–pharmacist agreement.

(e) [The Board of Physicians and the Board of Pharmacy may not approve a physician–pharmacist agreement if the boards find that there is:

(1) Inadequate training, experience, or education of the physicians or pharmacists to implement the protocol or protocols specified in the physician–pharmacist agreement; or

(2) A failure to satisfy the requirements of:

(i) This section or Title 14 of the Health Occupations Article; or

(ii) Any regulations adopted by the Board of Physicians and the Board of Pharmacy under this section.

(f) A physician–pharmacist agreement under this section shall be valid for 2 years from the date of its final approval by the Board of Physicians and the Board of Pharmacy and may be renewed for additional 2–year terms with approval from the Board of Physicians and the Board of Pharmacy.

(g) A patient may decline to participate or withdraw from participating in drug therapy management in a group model health maintenance organization at any time.

[(h)] (F) A licensed physician or licensed pharmacist or both shall inform a patient:

(1) Regarding the procedures that will be utilized for drug therapy management under the associated protocols;

(2) That the patient may decline to participate or withdraw from participating in the drug therapy management at any time; and

(3) That neither the physician nor the pharmacist has been coerced, given economic incentives, excluding normal reimbursement for services rendered, or involuntarily required to participate.

[(i)] (G) A licensed physician or a licensed pharmacist or both shall obtain documented informed consent from a patient after disclosing the information required to be disclosed under subsection **[(h)] (F)** of this section.

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

Approved by the Governor, May 16, 2013.

Chapter 509**(House Bill 716)**

AN ACT concerning

Drug Therapy Management – Physician–Pharmacist Agreements

FOR the purpose of repealing certain provisions of law requiring certain physician–pharmacist agreements to be approved by the State Board of Pharmacy and the State Board of Physicians; requiring, in a group model health maintenance organization, a licensed physician who has entered into a certain physician–pharmacist agreement to provide drug therapy management to submit a copy of the agreement, certain modifications to the agreement, and certain protocols to the State Board of Physicians; requiring, in a group model health maintenance organization, a licensed pharmacist who has entered into a certain physician–pharmacist agreement to provide drug therapy management to submit a copy of the agreement, certain modifications to the agreement, and certain protocols to the State Board of Pharmacy; repealing certain provisions of law relating to the approval, term, and renewal of certain physician–pharmacist agreements; altering a certain definition; making stylistic and conforming changes; and generally relating to physician–pharmacist agreements for drug therapy management in a group model health maintenance organization.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–713.6

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

19–713.6.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Documented informed consent” means:
 - (i) A written consent form signed by a patient; or
 - (ii) Verbal or otherwise communicated consent signified by a notation in a patient’s electronic medical record maintained by a group model health maintenance organization.

(3) “Drug therapy management” means treatment of a patient using drug therapy, laboratory tests, or medical devices under conditions or limitations set forth in a protocol specified in a physician–pharmacist agreement for the purpose of improving patient outcome.

(4) “Group model health maintenance organization” means a health maintenance organization that:

(i) Contracts with one multispecialty group of physicians who are employed by and shareholders of the multispecialty group; and

(ii) Provides and arranges for the provision of physician services to patients at medical facilities operated by the health maintenance organization.

(5) “Licensed pharmacist” means an individual who is licensed to practice pharmacy under Title 12 of the Health Occupations Article.

(6) “Licensed physician” means an individual who is licensed to practice medicine under Title 14 of the Health Occupations Article.

(7) “Patient” means:

(i) A patient who is a member of a group model health maintenance organization; or

(ii) An individual to whom the group model health maintenance organization is contractually or legally obligated to provide, or arrange to provide, health care services.

(8) “Physician–pharmacist agreement” means an [approved] agreement between a licensed physician and a licensed pharmacist that is disease–state specific and specifies the protocols that may be used.

(9) “Protocol” means a course of treatment predetermined by the licensed physician and licensed pharmacist according to generally accepted medical practice for the proper completion of a particular therapeutic or diagnostic intervention.

(b) (1) In a group model health maintenance organization, a licensed physician and a licensed pharmacist who wish to provide drug therapy management to patients shall have a physician–pharmacist agreement [that is approved by the State Board of Pharmacy and the State Board of Physicians].

(2) Drug therapy management shall be provided under this section only:

(i) In accordance with a physician–pharmacist agreement; and

(ii) Through the internal pharmacy operations of the group model health maintenance organization.

(3) A LICENSED PHYSICIAN WHO HAS ENTERED INTO A PHYSICIAN–PHARMACIST AGREEMENT SHALL SUBMIT TO THE STATE BOARD OF PHYSICIANS A COPY OF THE PHYSICIAN–PHARMACIST AGREEMENT AND ANY SUBSEQUENT MODIFICATIONS MADE TO THE PHYSICIAN–PHARMACIST AGREEMENT OR THE PROTOCOLS SPECIFIED IN THE PHYSICIAN–PHARMACIST AGREEMENT.

(4) A LICENSED PHARMACIST WHO HAS ENTERED INTO A PHYSICIAN–PHARMACIST AGREEMENT SHALL SUBMIT TO THE STATE BOARD OF PHARMACY A COPY OF THE PHYSICIAN–PHARMACIST AGREEMENT AND ANY SUBSEQUENT MODIFICATIONS MADE TO THE PHYSICIAN–PHARMACIST AGREEMENT OR THE PROTOCOLS SPECIFIED IN THE PHYSICIAN–PHARMACIST AGREEMENT.

(c) A licensed pharmacist is authorized to enter into a physician–pharmacist agreement if the licensed pharmacist:

(1) Has a Doctor of Pharmacy Degree or equivalent training as established in regulations adopted by the State Board of Pharmacy;

(2) Is approved by the State Board of Pharmacy to enter into a physician–pharmacist agreement with a licensed physician; and

(3) Meets any other requirements established by regulation by the State Board of Pharmacy.

(d) A physician–pharmacist agreement shall prohibit the substitution of a chemically dissimilar drug product by the pharmacist for the product prescribed by the physician, unless permitted in the protocol specified in the physician–pharmacist agreement.

(e) [The Board of Physicians and the Board of Pharmacy may not approve a physician–pharmacist agreement if the boards find that there is:

(1) Inadequate training, experience, or education of the physicians or pharmacists to implement the protocol or protocols specified in the physician–pharmacist agreement; or

(2) A failure to satisfy the requirements of:

(i) This section or Title 14 of the Health Occupations Article; or

(ii) Any regulations adopted by the Board of Physicians and the Board of Pharmacy under this section.

(f) A physician–pharmacist agreement under this section shall be valid for 2 years from the date of its final approval by the Board of Physicians and the Board of Pharmacy and may be renewed for additional 2–year terms with approval from the Board of Physicians and the Board of Pharmacy.

(g) A patient may decline to participate or withdraw from participating in drug therapy management in a group model health maintenance organization at any time.

[(h)] (F) A licensed physician or licensed pharmacist or both shall inform a patient:

(1) Regarding the procedures that will be utilized for drug therapy management under the associated protocols;

(2) That the patient may decline to participate or withdraw from participating in the drug therapy management at any time; and

(3) That neither the physician nor the pharmacist has been coerced, given economic incentives, excluding normal reimbursement for services rendered, or involuntarily required to participate.

[(i)] (G) A licensed physician or a licensed pharmacist or both shall obtain documented informed consent from a patient after disclosing the information required to be disclosed under subsection [(h)] (F) of this section.

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

Approved by the Governor, May 16, 2013.

Chapter 510

(Senate Bill 631)

AN ACT concerning

Hotel Rental Tax – Exemption – Lodging at a Corporate Training Center

FOR the purpose of providing an exemption ~~for certain counties~~ from certain hotel rental taxes and transient occupancy taxes imposed by certain counties for the sale of a right to occupy a room or lodgings as a transient guest at certain

facilities or campuses; ~~authorizing certain taxpayers to claim certain refunds; providing for the application of this Act;~~ and generally relating to providing a certain exemption under certain county hotel rental and transient occupancy taxes.

~~BY adding to~~

~~Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9-306 and 9-602(f)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Local Government
Section 20-404
Annotated Code of Maryland
(As enacted by Chapter 119 (H.B. 472) of the Acts of the General Assembly of 2013)

BY adding to

Article – Local Government
Section 20-603(e)
Annotated Code of Maryland
(As enacted by Chapter 119 (H.B. 472) of the Acts of the General Assembly of 2013)

BY adding to

The Charter of Baltimore City
Article II – General Powers
Section (40)(f)
(2007 Replacement Volume, as amended)

BY adding to

The Public Local Laws of Baltimore County
Section 11-1-102(e)
Article 3 – Public Local Laws of Maryland
(2003 Edition and October 2012 Supplement, as amended)

BY adding to

The Public Local Laws of Howard County
Section 20.400(d)
Article 14 – Public Local Laws of Maryland
(1977 Edition and August 2008 Supplement, as amended)

BY adding to

The Public Local Laws of Montgomery County
Section 52-17(e)
Article 16 – Public Local Laws of Maryland

(2004 Edition and December 2012 Supplement, as amended)

BY adding to

The Public Local Laws of Prince George's County

Section 10-218.01(c)

Article 17 – Public Local Laws of Maryland

(2007 Edition and 2010 Supplement, as amended)

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

~~Article 24 – Political Subdivisions – Miscellaneous Provisions~~

~~9-306.~~

Article – Local Government

20-404.

(A) THE HOTEL RENTAL TAX DOES NOT APPLY TO THE SALE OF A RIGHT TO OCCUPY A ROOM OR LODGINGS AS A TRANSIENT GUEST AT A DORMITORY OR OTHER LODGING FACILITY THAT:

(1) ~~IS~~ IS OPERATED SOLELY IN SUPPORT OF THE HEADQUARTERS, A TRAINING FACILITY, A CONFERENCE FACILITY, AN AWARDS FACILITY, OR THE CAMPUS OF A CORPORATION OR OTHER ORGANIZATION;

(2) ~~PROVIDES~~ PROVIDES LODGING SOLELY FOR EMPLOYEES, CONTRACTORS, VENDORS, AND OTHER INVITEES OF THE CORPORATION THAT OWNS THE DORMITORY OR LODGING FACILITY; AND

(3) ~~DOES~~ DOES NOT OFFER LODGING SERVICES TO THE GENERAL PUBLIC.

~~9-602.~~

[(a)] (B) By resolution, Calvert County and St. Mary's County may provide a tax exemption for classes of hotels.

[(b)] (C) In Carroll County, the hotel rental tax does not apply to a hotel with 10 or fewer sleeping rooms.

[(c)] (D) Cecil County may impose the hotel rental tax only on a transient charge paid to a hotel located in any part of Cecil County that:

(1) is specified by the governing body of Cecil County as a population center;

(2) is not larger than 10 square miles in geographic area; and

(3) has a population of at least 6,000 residents.

~~[(d)]~~ (E) In Frederick County, the hotel rental tax does not apply to a hotel with:

(1) 10 or fewer sleeping rooms in its main building; and

(2) not more than 20 additional sleeping rooms in auxiliary structures on the hotel's property.

~~[(e)]~~ (F) In Washington County, the hotel rental tax does not apply to a transient charge paid to a hotel by:

(1) the federal government;

(2) a state; or

(3) a unit or instrumentality of a state or the federal government.

20-603.

~~(F)~~ (E) **THE HOTEL TAX AUTHORIZED UNDER THIS SECTION DOES NOT APPLY TO THE SALE OF A RIGHT TO OCCUPY A ROOM OR LODGINGS AS A TRANSIENT GUEST AT A DORMITORY OR OTHER LODGING FACILITY THAT:**

(1) ~~IS~~ IS **OPERATED SOLELY IN SUPPORT OF THE HEADQUARTERS, A TRAINING FACILITY, A CONFERENCE FACILITY, AN AWARDS FACILITY, OR THE CAMPUS OF A CORPORATION OR OTHER ORGANIZATION;**

(2) ~~PROVIDES~~ PROVIDES **LODGING SOLELY FOR EMPLOYEES, CONTRACTORS, VENDORS, AND OTHER INVITEES OF THE CORPORATION THAT OWNS THE DORMITORY OR LODGING FACILITY; AND**

(3) ~~DOES~~ DOES **NOT OFFER LODGING SERVICES TO THE GENERAL PUBLIC.**

The Charter of Baltimore City

Article II – General Powers

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(40)

(F) A HOTEL ROOM TAX AUTHORIZED UNDER THIS SECTION DOES NOT APPLY TO THE SALE OF A RIGHT TO OCCUPY A ROOM OR LODGINGS AS A TRANSIENT GUEST AT A DORMITORY OR OTHER LODGING FACILITY THAT:

(1) IS OPERATED SOLELY IN SUPPORT OF THE HEADQUARTERS, A TRAINING FACILITY, A CONFERENCE FACILITY, AN AWARDS FACILITY, OR THE CAMPUS OF A CORPORATION OR OTHER ORGANIZATION;

(2) PROVIDES LODGING SOLELY FOR EMPLOYEES, CONTRACTORS, VENDORS, AND OTHER INVITEES OF THE CORPORATION THAT OWNS THE DORMITORY OR LODGING FACILITY; AND

(3) DOES NOT OFFER LODGING SERVICES TO THE GENERAL PUBLIC.

Article 3 – Baltimore County

11-1-102.

(E) A TRANSIENT OCCUPANCY TAX AUTHORIZED UNDER THIS SECTION DOES NOT APPLY TO THE SALE OF A RIGHT TO OCCUPY A ROOM OR LODGINGS AS A TRANSIENT GUEST AT A DORMITORY OR OTHER LODGING FACILITY THAT:

(1) IS OPERATED SOLELY IN SUPPORT OF THE HEADQUARTERS, A TRAINING FACILITY, A CONFERENCE FACILITY, AN AWARDS FACILITY, OR THE CAMPUS OF A CORPORATION OR OTHER ORGANIZATION;

(2) PROVIDES LODGING SOLELY FOR EMPLOYEES, CONTRACTORS, VENDORS, AND OTHER INVITEES OF THE CORPORATION THAT OWNS THE DORMITORY OR LODGING FACILITY; AND

(3) DOES NOT OFFER LODGING SERVICES TO THE GENERAL PUBLIC.

Article 14 – Howard County

SUBTITLE 4. ROOM RENTAL TAX

20.400.

(D) THE ROOM RENTAL TAX AUTHORIZED UNDER THIS SECTION DOES NOT APPLY TO THE SALE OF A RIGHT TO OCCUPY A ROOM OR LODGINGS AS A TRANSIENT GUEST AT A DORMITORY OR OTHER LODGING FACILITY THAT:

(1) IS OPERATED SOLELY IN SUPPORT OF THE HEADQUARTERS, A TRAINING FACILITY, A CONFERENCE FACILITY, AN AWARDS FACILITY, OR THE CAMPUS OF A CORPORATION OR OTHER ORGANIZATION;

(2) PROVIDES LODGING SOLELY FOR EMPLOYEES, CONTRACTORS, VENDORS, AND OTHER INVITEES OF THE CORPORATION THAT OWNS THE DORMITORY OR LODGING FACILITY; AND

(3) DOES NOT OFFER LODGING SERVICES TO THE GENERAL PUBLIC.

Article 16 – Montgomery County

52–17.

(E) THE COUNCIL MAY NOT IMPOSE A TAX ON THE SALE OF A RIGHT TO OCCUPY A ROOM OR LODGINGS AS A TRANSIENT GUEST AT A DORMITORY OR OTHER LODGING FACILITY THAT:

(1) IS OPERATED SOLELY IN SUPPORT OF THE HEADQUARTERS, A TRAINING FACILITY, A CONFERENCE FACILITY, AN AWARDS FACILITY, OR THE CAMPUS OF A CORPORATION OR OTHER ORGANIZATION;

(2) PROVIDES LODGING SOLELY FOR EMPLOYEES, CONTRACTORS, VENDORS, AND OTHER INVITEES OF THE CORPORATION THAT OWNS THE DORMITORY OR LODGING FACILITY; AND

(3) DOES NOT OFFER LODGING SERVICES TO THE GENERAL PUBLIC.

Article 17 – Prince George’s County

10–218.01.

(C) THE TAX AUTHORIZED UNDER THIS SECTION DOES NOT APPLY TO THE SALE OF A RIGHT TO OCCUPY A ROOM OR LODGINGS AS A TRANSIENT GUEST AT A DORMITORY OR OTHER LODGING FACILITY THAT:

(1) IS OPERATED SOLELY IN SUPPORT OF THE HEADQUARTERS, A TRAINING FACILITY, A CONFERENCE FACILITY, AN AWARDS FACILITY, OR THE CAMPUS OF A CORPORATION OR OTHER ORGANIZATION;

(2) PROVIDES LODGING SOLELY FOR EMPLOYEES, CONTRACTORS, VENDORS, AND OTHER INVITEES OF THE CORPORATION THAT OWNS THE DORMITORY OR LODGING FACILITY; AND

(3) DOES NOT OFFER LODGING SERVICES TO THE GENERAL PUBLIC.

~~SECTION 2. AND BE IT FURTHER ENACTED, That a taxpayer may claim a refund from a local government for any hotel rental or transient occupancy taxes paid after June 30, 2010, if the taxes were paid on a transaction that is exempt under this Act.~~

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, ~~and shall be applicable to all taxes imposed after June 30, 2010.~~

Approved by the Governor, May 16, 2013.

Chapter 511

(Senate Bill 632)

AN ACT concerning

State Brain Injury Trust Fund

FOR the purpose of establishing the State Brain Injury Trust Fund as a special fund to be used to support certain services for certain individuals with brain injuries; requiring the Secretary of Health and Mental Hygiene or the Secretary's designee to administer the Fund; requiring the Secretary or the Secretary's designee to report to the Governor and the General Assembly on or before a certain date each year; establishing eligibility for individuals to receive assistance from the Fund; requiring that certain investment earnings be credited to the Fund; ~~altering the amount of a certain motor vehicle registration fee surcharge; requiring that a certain amount of the motor vehicle registration fee surcharge be paid into the Fund;~~ requiring the Department of Health and Mental Hygiene to report to the General Assembly on or before a certain date on certain issues related to the implementation of this Act; authorizing the Department to contract with a certain entity for a certain purpose; declaring the intent of the General Assembly regarding implementation

of administration of the Fund; and generally relating to the establishment of the State Brain Injury Trust Fund.

BY adding to

Article – Health – General

Section 13–21A–01 through 13–21A–03 to be under the new subtitle “Subtitle 21A. State Brain Injury Trust Fund”

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)

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

~~Article – Transportation~~

~~Section 13–054~~

~~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 – Health – General

SUBTITLE 21A. STATE BRAIN INJURY TRUST FUND.

13–21A–01.

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

(B) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

(C) "FUND" MEANS THE STATE BRAIN INJURY TRUST FUND.

(D) "TRAUMATIC BRAIN INJURY" HAS THE MEANING ESTABLISHED IN THE POLICIES AND PROCEDURES ADOPTED BY THE STATE TRAUMATIC BRAIN INJURY ADVISORY BOARD UNDER § 13-2105 OF THIS TITLE.

13-21A-02.

(A) THERE IS A STATE BRAIN INJURY TRUST FUND.

(B) (1) THE PURPOSE OF THE FUND IS TO ASSIST IN THE PROVISION OF THE FOLLOWING SERVICES TO ELIGIBLE INDIVIDUALS WHO HAVE SUSTAINED BRAIN INJURIES:

(I) INDIVIDUAL CASE MANAGEMENT SERVICES; AND

(II) NEUROPSYCHOLOGICAL EVALUATION.

(2) THE FUND MAY BE USED TO SUPPORT:

(I) PREVENTION, EDUCATION, AND AWARENESS PROGRAMS;

(II) REHABILITATION SERVICES;

(III) MEDICAL SERVICES;

(IV) DURABLE MEDICAL EQUIPMENT;

(V) ASSISTIVE TECHNOLOGY ASSESSMENT AND EQUIPMENT;

(VI) SERVICES TO ASSIST IN THE RETURN TO DRIVING;

(VII) EVALUATION AND TRAINING RELATED TO THE BRAIN INJURY;

(VIII) NEUROBEHAVIORAL HEALTH SERVICES;

(IX) NURSING HOME TRANSITION SERVICES;

(X) COMMUNITY REENTRY SERVICES;

(XI) EDUCATIONAL NEEDS;

(XII) HOUSING AND RESIDENTIAL SERVICES; AND

(XIII) TRANSPORTATION SERVICES.

(C) THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL ADMINISTER THE FUND.

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

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

(E) THE FUND CONSISTS OF:

~~(1) MOTOR VEHICLE REGISTRATION SURCHARGES PAID INTO THE FUND IN ACCORDANCE WITH § 13-954(B)(3) OF THE TRANSPORTATION ARTICLE;~~

~~(2)~~ MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

~~(3)~~ (2) INVESTMENT EARNINGS OF THE FUND; AND

~~(4)~~ (3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(F) THE FUND MAY BE USED ONLY TO PROVIDE FUNDING FOR THE PURPOSE DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

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

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

(H) MONEY EXPENDED FROM THE FUND TO SUPPORT SERVICES TO INDIVIDUALS WITH BRAIN INJURIES IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT WOULD OTHERWISE BE APPROPRIATED FOR THOSE SERVICES.

(I) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE NUMBER OF INDIVIDUALS SERVED AND THE SERVICES PROVIDED IN THE PRECEDING FISCAL YEAR USING THE FUND.

13-21A-03.

(A) TO BE ELIGIBLE FOR ASSISTANCE FROM THE FUND, AN INDIVIDUAL SHALL:

(1) BE A UNITED STATES CITIZEN AND A RESIDENT OF THE STATE AT THE TIME OF THE BRAIN INJURY;

(2) HAVE A BRAIN INJURY THAT HAS BEEN DOCUMENTED IN THE MEDICAL RECORDS OF THE INDIVIDUAL;

(3) HAVE INCOME AT OR BELOW 300% OF THE FEDERAL POVERTY LEVEL; AND

(4) HAVE EXHAUSTED ALL OTHER HEALTH, REHABILITATION, AND DISABILITY BENEFIT FUNDING SOURCES THAT COVER THE SERVICES PROVIDED BY THE FUND.

(B) AN INDIVIDUAL MAY NOT RECEIVE SERVICES FROM THE FUND COSTING MORE THAN:

(1) THE ANNUAL AMOUNT ESTABLISHED BY POLICIES AND PROCEDURES ADOPTED BY THE SECRETARY OR THE SECRETARY'S DESIGNEE; AND

(2) THE LIFETIME OF THE INDIVIDUAL AMOUNT ESTABLISHED BY POLICIES AND PROCEDURES ADOPTED BY THE SECRETARY OR THE SECRETARY'S DESIGNEE.

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. STATE BRAIN INJURY TRUST FUND.

~~Article Transportation~~

~~13-954.~~

~~(a) In this section, “motor vehicle” means a:~~

~~(1) Class A (passenger) vehicle;~~

~~(2) Class B (for hire) vehicle;~~

~~(3) Class C (funeral and ambulance) vehicle;~~

~~(4) Class D (motorcycle) vehicle;~~

~~(5) Class E (truck) vehicle;~~

~~(6) Class F (tractor) vehicle;~~

~~(7) Class H (school) vehicle;~~

~~(8) Class J (vanpool) vehicle;~~

~~(9) Class M (multipurpose) vehicle;~~

~~(10) Class P (passenger bus) vehicle;~~

~~(11) Class Q (limousine) vehicle;~~

~~(12) Class R (low speed) vehicle; or~~

~~(13) Vehicle within any other class designated by the Administrator.~~

~~(b) (1) In addition to the registration fee otherwise required by this title, the owner of any motor vehicle registered under this title shall pay a surcharge of [\$13.50]\$15.50 per year for each motor vehicle registered.~~

~~(2) \$2.50 of the surcharge collected under paragraph (1) of this subsection shall be paid into the Maryland Trauma Physician Services Fund established under § 19-130 of the Health General Article.~~

~~(3) \$2.00 OF THE SURCHARGE COLLECTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PAID INTO THE STATE BRAIN INJURY TRUST FUND ESTABLISHED UNDER § 13-21A-02 OF THE HEALTH GENERAL ARTICLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2014, the Department of Health and Mental Hygiene shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on:

- (1) the expected date of implementation of Section 1 of this Act;
- (2) the status of adoption of any rules or procedures relating to the administration of the Fund established under Section 1 of this Act; and
- (3) any recommendations for legislation needed to allow for more efficient administration of the Fund established under Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene may contract with an outside entity to develop the rules and procedures relating to the administration of the Fund established under Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that implementation of administration of the Fund begin on or after July 1, 2014.

SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 16, 2013.

Chapter 512

(Senate Bill 633)

AN ACT concerning

Libraries – County Library Capital Project Grant – Wealth-Based Cost Share

FOR the purpose of establishing a State cost share formula for county library capital projects that receive State funding; setting a minimum and a maximum State cost share percentage; and generally relating to the county library capital grant program.

BY repealing and reenacting, with amendments,
Article – Education
Section 23–510
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

23–510.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Capital project” means the:
- (i) Acquisition of land or buildings for a county library; or
- (ii) Construction or improvement of a county library.
- (3) “Construction or improvement” means planning, design, engineering, alteration, construction, reconstruction, enlargement, expansion, extension, improvement, replacement, rehabilitation, renovation, upgrading, repair, or capital equipping.
- (4) “County library” means a library in a county public library system in the State.
- (5) “Division” means the Division of Library Development and Services in the Department.
- (b) (1) There is a State grant program for county public library capital projects in the Division.
- (2) The grant program is in addition to the county–State minimum library program established under § 23–502 of this subtitle.
- (c) (1) THE DIVISION SHALL DEVELOP AND ADMINISTER A GRANT PROGRAM TO ASSIST IN THE FUNDING OF COUNTY LIBRARY CAPITAL PROJECTS.**

(2) THE PURPOSE OF THE GRANT PROGRAM IS TO:

(I) PROVIDE A UNIFORM AND OBJECTIVE ANALYSIS OF PROPOSED CAPITAL PROJECTS; AND

(II) SUPPORT PROJECTS THAT ADDRESS THE LIBRARY NEEDS IN THE STATE.

(3) GRANTS UNDER THE PROGRAM:

(I) REQUIRE A MATCHING FUND FROM ANY COMBINATION OF COUNTY, MUNICIPAL, OR PRIVATE SOURCES; AND

(II) MAY NOT BE FOR AN AMOUNT LESS THAN \$20,000.

[(c)] (D) (1) On or before July 15 of each year, a county public library system may submit applications to the Division to receive grants for county library capital projects for the next fiscal year.

(2) In order to apply for a capital project grant, a county public library system shall have:

(i) A countywide library plan that includes a mission statement, needs statement, and multiyear goals and objectives on file with the Division; and

(ii) A master plan that includes a description of the capital project approved by the applicant's governing body.

(3) An application shall include:

(i) A description of the scope and purpose of the project;

(ii) A building plan that includes the estimated total cost of the project; and

(iii) Any other information required by the Division.

(4) A county public library system may not apply for more than three capital project grants in a fiscal year.

[(d)] (1) The Division shall develop and administer a grant program to assist in the funding of county library capital projects.

(2) The purpose of the grant program is to:

- projects; and
- (i) Provide a uniform and objective analysis of proposed capital projects; and
 - (ii) Support projects that address the library needs in the State.
- (3) Grants under the program:
- (i) Require a matching fund from any combination of county, municipal, or private sources;
 - (ii) May not exceed 50% of the total cost of a capital project; and
 - (iii) May not be for an amount less than \$20,000.]
- (e) (1) The Division shall review grant applications submitted in accordance with subsection [(c)] **(D)** of this section.
- (2) On or before October 1 of each year, the Division shall make recommendations to the State Board regarding capital project grants for the next fiscal year.
- (3) In making its recommendations, the Division shall consider:
- (i) The public necessity and urgency of a project;
 - (ii) The need for additional sources of funding for a project;
 - (iii) The estimated cost and timeliness of executing a project;
 - (iv) The viability of matching funds for a project; and
 - (v) Geographic diversity.
- (4) On or before November 1 of each year, the State Board shall:
- (i) Approve capital projects for funding in the State budget for the next fiscal year; and
 - (ii) Forward the list of approved capital projects to the Department of Budget and Management.
- (5) For fiscal year 2008 and each fiscal year thereafter, the Governor shall include in the annual operating or capital budget submission \$5,000,000 for county library capital projects.

(F) (1) THE STATE SHARE PERCENTAGE FOR A COUNTY LIBRARY CAPITAL PROJECT APPROVED UNDER THIS SECTION SHALL BE CALCULATED BY DIVIDING THE STATE SHARE OF THE MINIMUM PROGRAM FOR A COUNTY CALCULATED UNDER § 23-505(B) OF THIS SUBTITLE BY THE LIBRARY PROGRAM AMOUNT FOR A COUNTY CALCULATED UNDER § 23-503(B) OF THIS SUBTITLE, AND MULTIPLYING THIS QUOTIENT BY 1.25.

(2) (I) THE MINIMUM STATE SHARE OF A COUNTY LIBRARY CAPITAL PROJECT IS 50%.

(II) THE MAXIMUM STATE SHARE OF A COUNTY LIBRARY CAPITAL PROJECT IS 90%.

[(f)] (G) The State Board shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly, on or before October 1 of each year, on State grants awarded for county public library capital projects for the prior fiscal year.

[(g)] (H) The State Board shall adopt regulations to implement the grant program established under this section.

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

Approved by the Governor, May 16, 2013.

Chapter 513

(Senate Bill 639)

AN ACT concerning

Civil Rights Tax Relief Act

FOR the purpose of allowing an individual a subtraction modification under the Maryland income tax for certain payments received by a claimant for certain damages as a result of certain claims of unlawful discrimination; defining certain terms; providing for the application of this Act; and generally relating to an income tax subtraction modification for certain damages as a result of certain claims of unlawful discrimination.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10-207(a)

Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to

Article – Tax – General
Section 10–207(aa)
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

10–207.

(a) To the extent included in federal adjusted gross income, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(AA) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “LOST PAY” MEANS WAGES, SALARY, OR OTHER COMPENSATION ATTRIBUTABLE TO SERVICES PERFORMED, OR THAT WOULD HAVE BEEN PERFORMED BUT FOR A CLAIMED VIOLATION OF LAW, AS AN EMPLOYEE, A FORMER EMPLOYEE, OR A PROSPECTIVE EMPLOYEE.

(III) 1. “NONECONOMIC DAMAGES” MEANS AMOUNTS RECEIVED BY A CLAIMANT IN SATISFACTION OF A CLAIM OF UNLAWFUL DISCRIMINATION, OTHER THAN COMPENSATION FOR LOST PAY OR PUNITIVE DAMAGES.

2. “NONECONOMIC DAMAGES” INCLUDES AMOUNTS RECEIVED AS A RESULT OF A CLAIM OF UNLAWFUL DISCRIMINATION:

A. WHETHER BY JUDGMENT OR OTHER ORDER OR BY SETTLEMENT; AND

B. WHETHER PAYABLE IN A LUMP SUM OR PERIODIC PAYMENTS.

(IV) “UNLAWFUL DISCRIMINATION” HAS THE MEANING STATED IN § 62(E) OF THE INTERNAL REVENUE CODE.

(2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES ANY AMOUNT RECEIVED BY A CLAIMANT FOR NONECONOMIC DAMAGES AS A RESULT OF A CLAIM OF UNLAWFUL DISCRIMINATION.

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.

Approved by the Governor, May 16, 2013.

Chapter 514

(Senate Bill 642)

AN ACT concerning

Residential ~~Real~~ Property – Prohibition on Nonjudicial Evictions

FOR the purpose of prohibiting ~~certain persons~~ a party claiming the right to possession from taking possession or threatening to take possession of residential property from a certain protected resident in a certain manner; establishing that ~~certain persons~~ a party claiming the right to possession may take possession of residential property from a certain protected resident only under certain circumstances; requiring a party claiming the right to possession to provide a certain notice in a certain manner under certain circumstances; prohibiting a landlord from taking possession or threatening to take possession of a dwelling unit from a tenant or tenant holding over in a certain manner; establishing that a landlord may take possession of a dwelling unit from a tenant or tenant holding over only under certain circumstances; prohibiting a mobile home park owner from taking possession or threatening to take possession of leased premises from a resident in a certain manner; establishing that a mobile home park owner may take possession of leased premises from a resident only under certain circumstances; providing certain remedies for a violation of this Act; providing that the remedies are not exclusive ~~and that certain persons may recover certain other damages under any other applicable law~~; defining certain terms; providing for the application of certain provisions of this Act; providing for the construction of certain provisions of this Act; stating the intent of the General Assembly; and generally relating to nonjudicial evictions.

BY adding to

Article – Real Property

Section 7–112, 8–216, and 8A–1102

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

Preamble

~~WHEREAS, The General Assembly has created numerous expedited court processes to assist owners of residential real property in quickly recovering possession of their properties with the assistance of the sheriff; and~~

~~WHEREAS, So-called self-help evictions in the residential context are inconsistent with human dignity and human rights and will lead to an increased potential for violent confrontations and sudden homelessness; and~~

~~WHEREAS, The General Assembly intends to supersede the ruling of the Court of Appeals of Maryland in *Nickens v. Mount Vernon Realty Group, et al.*, 429 Md. 53 (2012), and abrogate any right to so-called self-help eviction that owners may possess in the context of residential foreclosures, tax sale foreclosures, landlord-tenant actions, and mobile home park actions; now, therefore,~~

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

Article – Real Property

7-112.

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

(2) “PARTY CLAIMING THE RIGHT TO POSSESSION” MEANS A PERSON OR SUCCESSOR TO ANY PERSON WHO:

(I) DOES NOT HAVE ACTUAL POSSESSION OF A RESIDENTIAL PROPERTY; AND

(II) HAS OR CLAIMS TO HAVE A LEGAL RIGHT TO POSSESSION OF THE RESIDENTIAL PROPERTY:

1. BY THE TERMS OF A CONTRACT OR FORECLOSURE SALE; OR

2. UNDER A COURT ORDER, INCLUDING A COURT ORDER EXTINGUISHING A RIGHT OF REDEMPTION.

~~(2) (3) (1) “PROTECTED RESIDENT” MEANS A CURRENT AN OWNER OR FORMER OWNER, MORTGAGOR, OR GRANTOR, OR A TENANT OR ANOTHER PERSON CLAIMING UNDER A CURRENT OR FORMER OWNER,~~

~~MORTGAGOR, GRANTOR, OR TENANT, WHO IS RESIDING IN ACTUAL POSSESSION OF RESIDENTIAL PROPERTY.~~

(II) "PROTECTED RESIDENT" INCLUDES A GRANTEE, TENANT, SUBTENANT, OR OTHER PERSON IN ACTUAL POSSESSION BY, THROUGH, OR UNDER AN OWNER OR FORMER OWNER OF RESIDENTIAL PROPERTY.

(III) "PROTECTED RESIDENT" DOES NOT INCLUDE A TRESPASSER OR SQUATTER.

~~(3) (4) "RESIDENTIAL PROPERTY" MEANS A BUILDING, STRUCTURE, OR PORTION OF A BUILDING OR STRUCTURE THAT IS OCCUPIED, DESIGNED, OR INTENDED FOR OCCUPANCY AS A RESIDENCE BY ONE OR MORE FAMILIES~~ DESIGNED PRINCIPALLY AND IS INTENDED FOR HUMAN HABITATION.

(5) "THREATEN TO TAKE POSSESSION" MEANS USING WORDS OR ACTIONS INTENDED TO CONVINCE A REASONABLE PERSON THAT A PARTY CLAIMING THE RIGHT TO POSSESSION INTENDS TO TAKE IMMEDIATE POSSESSION OF RESIDENTIAL PROPERTY IN VIOLATION OF THIS SECTION.

(6) "WILLFUL DIMINUTION OF SERVICES" MEANS INTENTIONALLY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, OR GAS BY A PARTY CLAIMING THE RIGHT TO POSSESSION FOR THE PURPOSE OF FORCING A PROTECTED RESIDENT TO ABANDON RESIDENTIAL PROPERTY.

~~(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A SECURED PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF IN A TAX SALE FORECLOSURE UNDER TITLE 14 OF THE TAX PROPERTY ARTICLE, OR A SUCCESSOR TO A SECURED PARTY, FORECLOSURE SALE PURCHASER, OR PLAINTIFF IN A TAX SALE FORECLOSURE~~ PARTY CLAIMING THE RIGHT TO POSSESSION MAY NOT TAKE POSSESSION OR THREATEN TO TAKE POSSESSION OF RESIDENTIAL PROPERTY FROM A PROTECTED RESIDENT BY LOCKING:

~~(I) LOCKING THE RESIDENT OUT OR ANY OTHER ACTION, INCLUDING WILLFUL DIMINUTION OF SERVICES TO THE PROTECTED RESIDENT BY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR OTHER ESSENTIAL SERVICES OF THE RESIDENTIAL PROPERTY;~~

(II) ENGAGING IN WILLFUL DIMINUTION OF SERVICES TO THE PROTECTED RESIDENT; OR

(III) TAKING ANY OTHER ACTION THAT DEPRIVES THE PROTECTED RESIDENT OF ACTUAL POSSESSION.

~~(2) A SECURED PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF IN A TAX SALE FORECLOSURE UNDER TITLE 14 OF THE TAX PROPERTY ARTICLE, OR A SUCCESSOR TO A SECURED PARTY, FORECLOSURE SALE PURCHASER, OR PLAINTIFF IN A TAX SALE FORECLOSURE (I)~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PARTY CLAIMING THE RIGHT TO POSSESSION MAY TAKE POSSESSION OF RESIDENTIAL PROPERTY FROM A PROTECTED RESIDENT ONLY:

~~(I) IN~~ IN ACCORDANCE WITH A WRIT OF POSSESSION ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; ~~OR.~~

~~(II) IF THE PROTECTED RESIDENT HAS ABANDONED OR SURRENDERED POSSESSION OF THE PROPERTY~~ A PARTY CLAIMING THE RIGHT TO POSSESSION OF RESIDENTIAL PROPERTY MAY USE NONJUDICIAL SELF-HELP TO TAKE POSSESSION OF THE PROPERTY, IF THE PARTY:

1. REASONABLY BELIEVES THE PROTECTED RESIDENT HAS ABANDONED OR SURRENDERED POSSESSION OF THE PROPERTY BASED ON A REASONABLE INQUIRY INTO THE OCCUPANCY STATUS OF THE PROPERTY;

2. PROVIDES NOTICE AS PROVIDED IN SUBSECTION (C) OF THIS SECTION; AND

3. RECEIVES NO RESPONSIVE COMMUNICATION TO THAT NOTICE WITHIN 15 DAYS AFTER THE LATER OF POSTING OR MAILING THE NOTICE AS REQUIRED BY SUBSECTION (C) OF THIS SECTION.

(C) (1) IF A PARTY CLAIMING THE RIGHT TO POSSESSION OF RESIDENTIAL PROPERTY REASONABLY BELIEVES, BASED ON A REASONABLE INQUIRY INTO THE OCCUPANCY STATUS OF THE PROPERTY, THAT ALL PROTECTED RESIDENTS HAVE ABANDONED OR SURRENDERED POSSESSION OF THE RESIDENTIAL PROPERTY, THE PARTY CLAIMING THE RIGHT TO POSSESSION MAY POST ON THE FRONT DOOR OF THE RESIDENTIAL PROPERTY AND MAIL BY FIRST-CLASS MAIL ADDRESSED TO “ALL OCCUPANTS” AT THE ADDRESS OF THE RESIDENTIAL PROPERTY A WRITTEN NOTICE IN SUBSTANTIALLY THE FOLLOWING FORM:

“IMPORTANT NOTICE ABOUT EVICTION

A PERSON WHO CLAIMS THE RIGHT TO POSSESS THIS PROPERTY BELIEVES THAT THIS PROPERTY IS ABANDONED. IF YOU ARE CURRENTLY RESIDING IN THE PROPERTY, YOU MUST IMMEDIATELY CONTACT:

NAME

ADDRESS

TELEPHONE

DATE OF THIS NOTICE

IF YOU DO NOT CONTACT THE PERSON LISTED ABOVE WITHIN 15 DAYS AFTER THE DATE OF THIS NOTICE, THE PERSON CLAIMING POSSESSION MAY CONSIDER THE PROPERTY ABANDONED AND SEEK TO SECURE THE PROPERTY, INCLUDING CHANGING THE LOCKS WITHOUT A COURT ORDER.”.

(2) THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL BE:

(I) A SEPARATE DOCUMENT; AND

(II) PRINTED IN AT LEAST 12 POINT TYPE.

(3) THE OUTSIDE OF THE ENVELOPE CONTAINING THE MAILED WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE ADDRESS SIDE, IN BOLD, CAPITAL LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING: “IMPORTANT NOTICE TO ALL OCCUPANTS: EVICTION INFORMATION ENCLOSED; OPEN IMMEDIATELY.”.

~~(c)~~ (D) (1) IF IN ANY PROCEEDING THE COURT FINDS THAT A SECURED PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF IN A TAX SALE FORECLOSURE UNDER TITLE 14 OF THE TAX PROPERTY ARTICLE, OR A SUCCESSOR TO A SECURED PARTY, FORECLOSURE SALE PURCHASER, OR PLAINTIFF IN A TAX SALE PARTY CLAIMING THE RIGHT TO POSSESSION VIOLATED SUBSECTION (B) OF THIS SECTION, THE PROTECTED RESIDENT MAY RECOVER:

(I) POSSESSION OF THE PROPERTY, IF NO OTHER PERSON THEN RESIDES IN THE PROPERTY;

(II) ~~THREE TIMES ACTUAL~~ ACTUAL DAMAGES; AND

(III) REASONABLE ATTORNEY'S FEES AND COSTS.

(2) ~~(A)~~ THE REMEDIES SET FORTH IN THIS SUBSECTION ARE NOT EXCLUSIVE.

~~(H) A PROTECTIVE RESIDENT OR ANY PERSON CLAIMING UNDER A PROTECTED RESIDENT MAY RECOVER ANY OTHER ACTUAL OR CONSEQUENTIAL DAMAGES AVAILABLE UNDER ANY OTHER APPLICABLE LAW.~~

(E) THIS SECTION DOES NOT APPLY IF THE PARTIES ARE GOVERNED BY TITLE 8, SUBTITLE 2, OR TITLE 8A OF THIS ARTICLE.

8-216.

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

(2) "THREATEN TO TAKE POSSESSION" MEANS USING WORDS OR ACTIONS INTENDED TO CONVINCING A REASONABLE PERSON THAT THE LANDLORD INTENDS TO TAKE IMMEDIATE POSSESSION OF THE PROPERTY IN VIOLATION OF THIS SECTION.

(3) (I) "WILLFUL DIMINUTION OF SERVICES" MEANS INTENTIONALLY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, OR GAS BY THE LANDLORD FOR THE PURPOSE OF FORCING A TENANT TO ABANDON THE PROPERTY.

(II) "WILLFUL DIMINUTION OF SERVICES" DOES NOT INCLUDE A LANDLORD CHOOSING NOT TO CONTINUE TO PAY FOR UTILITY SERVICE FOR RESIDENTIAL PROPERTY AFTER A FINAL COURT ORDER AWARDING POSSESSION OF THE RESIDENTIAL PROPERTY, IF THE LANDLORD HAS PROVIDED THE TENANT REASONABLE NOTICE OF THE LANDLORD'S INTENTION AND THE OPPORTUNITY FOR THE TENANT TO OPEN AN ACCOUNT IN THE TENANT'S NAME FOR THAT SERVICE.

~~(A)~~ (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LANDLORD MAY NOT TAKE POSSESSION OR THREATEN TO TAKE POSSESSION OF A DWELLING UNIT FROM A TENANT OR TENANT HOLDING OVER BY LOCKING THE TENANT OUT OR ANY OTHER ACTION, INCLUDING WILLFUL DIMINUTION OF SERVICES TO THE TENANT BY INTERRUPTING OR CAUSING THE

~~INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR OTHER ESSENTIAL SERVICES.~~

(2) A LANDLORD MAY TAKE POSSESSION OF A DWELLING UNIT FROM A TENANT OR TENANT HOLDING OVER ONLY:

(I) IN ACCORDANCE WITH A WARRANT OF RESTITUTION ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR

(II) IF THE TENANT HAS ABANDONED OR SURRENDERED POSSESSION OF THE DWELLING UNIT.

~~(B)~~ (C) (1) IF IN ANY PROCEEDING THE COURT FINDS IN FAVOR OF THE TENANT BECAUSE THE LANDLORD VIOLATED SUBSECTION ~~(A)~~ (B) OF THIS SECTION, THE TENANT MAY RECOVER:

(I) ~~RECOVER POSSESSION OF THE PROPERTY OR TERMINATE THE LEASE AGREEMENT;~~

~~(II) RECOVER THE GREATER OF THREE TIMES ACTUAL ACTUAL DAMAGES OR THREE MONTHS' PERIODIC RENT; AND~~

~~(III)~~ (II) ~~RECOVER~~ REASONABLE REASONABLE ATTORNEY'S FEES AND COSTS.

(2) ~~(A)~~ THE REMEDIES SET FORTH IN THIS SUBSECTION ARE NOT EXCLUSIVE.

~~(II) A TENANT OR ANY PERSON CLAIMING UNDER A TENANT MAY RECOVER ANY OTHER ACTUAL OR CONSEQUENTIAL DAMAGES AVAILABLE UNDER ANY OTHER APPLICABLE LAW.~~

(D) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A LANDLORD FROM TAKING TEMPORARY MEASURES, INCLUDING CHANGING THE LOCKS, TO SECURE AN UNSECURED RESIDENTIAL PROPERTY, IF THE LANDLORD MAKES GOOD FAITH ATTEMPTS TO PROVIDE REASONABLE NOTICE TO THE TENANT THAT THE TENANT MAY PROMPTLY BE RESTORED TO POSSESSION OF THE PROPERTY.

8A-1102.

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

(2) “THREATEN TO TAKE POSSESSION” MEANS USING WORDS OR ACTIONS INTENDED TO CONVINCING A REASONABLE PERSON THAT THE PARK OWNER INTENDS TO TAKE IMMINENT POSSESSION OF THE LEASED PREMISES IN VIOLATION OF THIS SECTION.

(3) (I) “WILLFUL DIMINUTION OF SERVICES” MEANS INTENTIONALLY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, OR GAS BY THE PARK OWNER FOR THE PURPOSE OF FORCING A RESIDENT TO ABANDON THE PROPERTY.

(II) “WILLFUL DIMINUTION OF SERVICES” DOES NOT INCLUDE A PARK OWNER CHOOSING NOT TO CONTINUE TO PAY FOR UTILITY SERVICE FOR THE LEASED PREMISES AFTER A FINAL COURT ORDER AWARDING POSSESSION OF THE LEASED PREMISES, IF THE PARK OWNER HAS PROVIDED THE RESIDENT REASONABLE NOTICE OF THE OWNER’S INTENTION AND THE OPPORTUNITY FOR THE RESIDENT TO OPEN AN ACCOUNT IN THE RESIDENT’S NAME FOR THAT SERVICE.

~~(A) (B)~~ (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PARK OWNER MAY NOT TAKE POSSESSION OR THREATEN TO TAKE POSSESSION OF LEASED PREMISES FROM A RESIDENT OR RESIDENT HOLDING OVER BY LOCKING THE RESIDENT OUT OR ANY OTHER ACTION, INCLUDING WILLFUL DIMINUTION OF SERVICES TO THE RESIDENT ~~BY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR OTHER ESSENTIAL SERVICES.~~

(2) A PARK OWNER MAY TAKE POSSESSION OF LEASED PREMISES FROM A RESIDENT OR RESIDENT HOLDING OVER ONLY:

(I) IN ACCORDANCE WITH A WARRANT OF RESTITUTION ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR

(II) IF THE RESIDENT HAS ABANDONED OR SURRENDERED POSSESSION OF THE LEASED PREMISES.

~~(B) (C)~~ (1) IF IN ANY PROCEEDING THE COURT FINDS IN FAVOR OF THE RESIDENT BECAUSE THE PARK OWNER VIOLATED SUBSECTION ~~(A) (B)~~ OF THIS SECTION, THE RESIDENT MAY RECOVER:

~~(I) RECOVER POSSESSION OF THE LEASED PREMISES OR TERMINATE THE RENTAL AGREEMENT;~~

~~(II) RECOVER THE GREATER OF THREE TIMES ACTUAL ACTUAL DAMAGES OR THREE MONTHS’ PERIODIC RENT; AND~~

~~(H)~~ (II) ~~RECOVER~~ ~~REASONABLE~~ REASONABLE
ATTORNEY'S FEES AND COSTS.

(2) ~~(H)~~ THE REMEDIES SET FORTH IN THIS SUBSECTION ARE NOT EXCLUSIVE.

~~(H) A RESIDENT OR ANY PERSON CLAIMING UNDER A RESIDENT MAY RECOVER ANY OTHER ACTUAL OR CONSEQUENTIAL DAMAGES AVAILABLE UNDER ANY OTHER APPLICABLE LAW.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is intended to supersede the ruling of the Court of Appeals of Maryland in Nickens v. Mount Vernon Realty Group, et al., 429 Md. 53 (2012) and modify any right to self-help eviction that certain persons may possess in the context of residential foreclosures, tax sale foreclosures, landlord-tenant actions, and mobile home park actions.

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

Approved by the Governor, May 16, 2013.

Chapter 515

(House Bill 1308)

AN ACT concerning

Residential ~~Real~~ Property – Prohibition on Nonjudicial Evictions

FOR the purpose of prohibiting ~~certain persons~~ a party claiming the right to possession from taking possession or threatening to take possession of residential property from a certain protected resident in a certain manner; establishing that ~~certain persons~~ a party claiming the right to possession may take possession of residential property from a certain protected resident only under certain circumstances; requiring a party claiming the right to possession to provide a certain notice in a certain manner under certain circumstances; prohibiting a landlord from taking possession or threatening to take possession of a dwelling unit from a tenant or tenant holding over in a certain manner; establishing that a landlord may take possession of a dwelling unit from a tenant or tenant holding over only under certain circumstances; prohibiting a mobile home park owner from taking possession or threatening to take possession of leased premises from a resident in a certain manner; establishing that a mobile home park owner may take possession of leased premises from a

resident only under certain circumstances; providing certain remedies for a violation of this Act; providing that the remedies are not exclusive ~~and that certain persons may recover certain other damages under any other applicable law~~; defining certain terms; providing for the application of certain provisions of this Act; providing for the construction of certain provisions of this Act; stating the intent of the General Assembly; and generally relating to nonjudicial evictions.

BY adding to

Article – Real Property

Section 7–112, 8–216, and 8A–1102

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

Preamble

~~WHEREAS, The General Assembly has created numerous expedited court processes to assist owners of residential real property in quickly recovering possession of their properties with the assistance of the sheriff; and~~

~~WHEREAS, So-called self-help evictions in the residential context are inconsistent with human dignity and human rights and will lead to an increased potential for violent confrontations and sudden homelessness; and~~

~~WHEREAS, The General Assembly intends to supersede the ruling of the Court of Appeals of Maryland in *Nickens v. Mount Vernon Realty Group, et al.*, 429 Md. 53 (2012), and abrogate any right to so-called self-help eviction that owners may possess in the context of residential foreclosures, tax sale foreclosures, landlord-tenant actions, and mobile home park actions; now, therefore,~~

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

Article – Real Property

7–112.

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

(2) “PARTY CLAIMING THE RIGHT TO POSSESSION” MEANS A PERSON OR SUCCESSOR TO ANY PERSON WHO:

(I) DOES NOT HAVE ACTUAL POSSESSION OF A RESIDENTIAL PROPERTY; AND

(II) HAS OR CLAIMS TO HAVE A LEGAL RIGHT TO POSSESSION OF THE RESIDENTIAL PROPERTY:

1. BY THE TERMS OF A CONTRACT OR FORECLOSURE SALE; OR

2. UNDER A COURT ORDER, INCLUDING A COURT ORDER EXTINGUISHING A RIGHT OF REDEMPTION.

~~(2) (3)~~ (1) "PROTECTED RESIDENT" MEANS A CURRENT AN OWNER OR FORMER OWNER, MORTGAGOR, OR GRANTOR, OR A TENANT OR ANOTHER PERSON CLAIMING UNDER A CURRENT OR FORMER OWNER, MORTGAGOR, GRANTOR, OR TENANT, WHO IS RESIDING IN ACTUAL POSSESSION OF RESIDENTIAL PROPERTY.

(II) "PROTECTED RESIDENT" INCLUDES A GRANTEE, TENANT, SUBTENANT, OR OTHER PERSON IN ACTUAL POSSESSION BY, THROUGH, OR UNDER AN OWNER OR FORMER OWNER OF RESIDENTIAL PROPERTY.

(III) "PROTECTED RESIDENT" DOES NOT INCLUDE A TRESPASSER OR SQUATTER.

~~(3) (4)~~ "RESIDENTIAL PROPERTY" MEANS A BUILDING, STRUCTURE, OR PORTION OF A BUILDING OR STRUCTURE THAT IS OCCUPIED, DESIGNED, OR INTENDED FOR OCCUPANCY AS A RESIDENCE BY ONE OR MORE FAMILIES DESIGNED PRINCIPALLY AND IS INTENDED FOR HUMAN HABITATION.

(5) "THREATEN TO TAKE POSSESSION" MEANS USING WORDS OR ACTIONS INTENDED TO CONVINCING A REASONABLE PERSON THAT A PARTY CLAIMING THE RIGHT TO POSSESSION INTENDS TO TAKE IMMINENT POSSESSION OF RESIDENTIAL PROPERTY IN VIOLATION OF THIS SECTION.

(6) "WILLFUL DIMINUTION OF SERVICES" MEANS INTENTIONALLY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, OR GAS BY A PARTY CLAIMING THE RIGHT TO POSSESSION FOR THE PURPOSE OF FORCING A PROTECTED RESIDENT TO ABANDON RESIDENTIAL PROPERTY.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A SECURED PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF IN A TAX SALE FORECLOSURE UNDER TITLE 14 OF THE TAX PROPERTY ARTICLE, OR A SUCCESSOR TO A SECURED PARTY, FORECLOSURE SALE PURCHASER, OR PLAINTIFF IN A TAX SALE FORECLOSURE PARTY CLAIMING THE

RIGHT TO POSSESSION MAY NOT TAKE POSSESSION OR THREATEN TO TAKE POSSESSION OF RESIDENTIAL PROPERTY FROM A PROTECTED RESIDENT BY LOCKING;

(I) LOCKING THE RESIDENT OUT OR ANY OTHER ACTION, INCLUDING WILLFUL DIMINUTION OF SERVICES TO THE PROTECTED RESIDENT BY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR OTHER ESSENTIAL SERVICES OF THE RESIDENTIAL PROPERTY;

(II) ENGAGING IN WILLFUL DIMINUTION OF SERVICES TO THE PROTECTED RESIDENT; OR

(III) TAKING ANY OTHER ACTION THAT DEPRIVES THE PROTECTED RESIDENT OF ACTUAL POSSESSION.

(2) A SECURED PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF IN A TAX SALE FORECLOSURE UNDER TITLE 14 OF THE TAX PROPERTY ARTICLE, OR A SUCCESSOR TO A SECURED PARTY, FORECLOSURE SALE PURCHASER, OR PLAINTIFF IN A TAX SALE FORECLOSURE

(I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PARTY CLAIMING THE RIGHT TO POSSESSION MAY TAKE POSSESSION OF RESIDENTIAL PROPERTY FROM A PROTECTED RESIDENT ONLY;

(I) IN ACCORDANCE WITH A WRIT OF POSSESSION ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR.

(II) IF THE PROTECTED RESIDENT HAS ABANDONED OR SURRENDERED POSSESSION OF THE PROPERTY A PARTY CLAIMING THE RIGHT TO POSSESSION OF RESIDENTIAL PROPERTY MAY USE NONJUDICIAL SELF-HELP TO TAKE POSSESSION OF THE PROPERTY, IF THE PARTY:

1. REASONABLY BELIEVES THE PROTECTED RESIDENT HAS ABANDONED OR SURRENDERED POSSESSION OF THE PROPERTY BASED ON A REASONABLE INQUIRY INTO THE OCCUPANCY STATUS OF THE PROPERTY;

2. PROVIDES NOTICE AS PROVIDED IN SUBSECTION (C) OF THIS SECTION; AND

3. RECEIVES NO RESPONSIVE COMMUNICATION TO THAT NOTICE WITHIN 15 DAYS AFTER THE LATER OF POSTING OR MAILING THE NOTICE AS REQUIRED BY SUBSECTION (C) OF THIS SECTION.

(C) (1) IF A PARTY CLAIMING THE RIGHT TO POSSESSION OF RESIDENTIAL PROPERTY REASONABLY BELIEVES, BASED ON A REASONABLE INQUIRY INTO THE OCCUPANCY STATUS OF THE PROPERTY, THAT ALL PROTECTED RESIDENTS HAVE ABANDONED OR SURRENDERED POSSESSION OF THE RESIDENTIAL PROPERTY, THE PARTY CLAIMING THE RIGHT TO POSSESSION MAY POST ON THE FRONT DOOR OF THE RESIDENTIAL PROPERTY AND MAIL BY FIRST-CLASS MAIL ADDRESSED TO "ALL OCCUPANTS" AT THE ADDRESS OF THE RESIDENTIAL PROPERTY A WRITTEN NOTICE IN SUBSTANTIALLY THE FOLLOWING FORM:

"IMPORTANT NOTICE ABOUT EVICTION

A PERSON WHO CLAIMS THE RIGHT TO POSSESS THIS PROPERTY BELIEVES THAT THIS PROPERTY IS ABANDONED. IF YOU ARE CURRENTLY RESIDING IN THE PROPERTY, YOU MUST IMMEDIATELY CONTACT:

NAME

ADDRESS

TELEPHONE

DATE OF THIS NOTICE

IF YOU DO NOT CONTACT THE PERSON LISTED ABOVE WITHIN 15 DAYS AFTER THE DATE OF THIS NOTICE, THE PERSON CLAIMING POSSESSION MAY CONSIDER THE PROPERTY ABANDONED AND SEEK TO SECURE THE PROPERTY, INCLUDING CHANGING THE LOCKS WITHOUT A COURT ORDER."

(2) THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL BE:

(I) A SEPARATE DOCUMENT; AND

(II) PRINTED IN AT LEAST 12 POINT TYPE.

(3) THE OUTSIDE OF THE ENVELOPE CONTAINING THE MAILED WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE ADDRESS SIDE, IN BOLD, CAPITAL LETTERS IN AT LEAST 12 POINT TYPE, THE

FOLLOWING: “IMPORTANT NOTICE TO ALL OCCUPANTS: EVICTION INFORMATION ENCLOSED; OPEN IMMEDIATELY.”.

~~(c)~~ (D) (1) IF IN ANY PROCEEDING THE COURT FINDS THAT A SECURED PARTY, FORECLOSURE SALE PURCHASER, PLAINTIFF IN A TAX SALE FORECLOSURE UNDER TITLE 14 OF THE TAX PROPERTY ARTICLE, OR A SUCCESSOR TO A SECURED PARTY, FORECLOSURE SALE PURCHASER, OR PLAINTIFF IN A TAX SALE PARTY CLAIMING THE RIGHT TO POSSESSION VIOLATED SUBSECTION (B) OF THIS SECTION, THE PROTECTED RESIDENT MAY RECOVER:

(I) POSSESSION OF THE PROPERTY, IF NO OTHER PERSON THEN RESIDES IN THE PROPERTY;

(II) ~~THREE TIMES ACTUAL~~ ACTUAL DAMAGES; AND

(III) REASONABLE ATTORNEY’S FEES AND COSTS.

(2) ~~(H)~~ THE REMEDIES SET FORTH IN THIS SUBSECTION ARE NOT EXCLUSIVE.

~~(H) A PROTECTIVE RESIDENT OR ANY PERSON CLAIMING UNDER A PROTECTED RESIDENT MAY RECOVER ANY OTHER ACTUAL OR CONSEQUENTIAL DAMAGES AVAILABLE UNDER ANY OTHER APPLICABLE LAW.~~

(E) THIS SECTION DOES NOT APPLY IF THE PARTIES ARE GOVERNED BY TITLE 8, SUBTITLE 2, OR TITLE 8A OF THIS ARTICLE.

8-216.

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

(2) “THREATEN TO TAKE POSSESSION” MEANS USING WORDS OR ACTIONS INTENDED TO CONVINCING A REASONABLE PERSON THAT THE LANDLORD INTENDS TO TAKE IMMEDIATE POSSESSION OF THE PROPERTY IN VIOLATION OF THIS SECTION.

(3) (I) “WILLFUL DIMINUTION OF SERVICES” MEANS INTENTIONALLY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, OR GAS BY THE LANDLORD FOR THE PURPOSE OF FORCING A TENANT TO ABANDON THE PROPERTY.

(II) "WILLFUL DIMINUTION OF SERVICES" DOES NOT INCLUDE A LANDLORD CHOOSING NOT TO CONTINUE TO PAY FOR UTILITY SERVICE FOR RESIDENTIAL PROPERTY AFTER A FINAL COURT ORDER AWARDING POSSESSION OF THE RESIDENTIAL PROPERTY, IF THE LANDLORD HAS PROVIDED THE TENANT REASONABLE NOTICE OF THE LANDLORD'S INTENTION AND THE OPPORTUNITY FOR THE TENANT TO OPEN AN ACCOUNT IN THE TENANT'S NAME FOR THAT SERVICE.

~~(A)~~ (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LANDLORD MAY NOT TAKE POSSESSION OR THREATEN TO TAKE POSSESSION OF A DWELLING UNIT FROM A TENANT OR TENANT HOLDING OVER BY LOCKING THE TENANT OUT OR ANY OTHER ACTION, INCLUDING WILLFUL DIMINUTION OF SERVICES TO THE TENANT ~~BY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR OTHER ESSENTIAL SERVICES.~~

(2) A LANDLORD MAY TAKE POSSESSION OF A DWELLING UNIT FROM A TENANT OR TENANT HOLDING OVER ONLY:

(I) IN ACCORDANCE WITH A WARRANT OF RESTITUTION ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR

(II) IF THE TENANT HAS ABANDONED OR SURRENDERED POSSESSION OF THE DWELLING UNIT.

~~(B)~~ (C) (1) IF IN ANY PROCEEDING THE COURT FINDS IN FAVOR OF THE TENANT BECAUSE THE LANDLORD VIOLATED SUBSECTION ~~(A)~~ (B) OF THIS SECTION, THE TENANT MAY RECOVER:

(I) ~~RECOVER POSSESSION OF THE PROPERTY OR TERMINATE THE LEASE AGREEMENT;~~

~~(II) RECOVER THE GREATER OF THREE TIMES ACTUAL DAMAGES OR THREE MONTHS' PERIODIC RENT; AND~~

~~(III) RECOVER REASONABLE~~

(II) REASONABLE ATTORNEY'S FEES AND COSTS.

(2) ~~(I)~~ THE REMEDIES SET FORTH IN THIS SUBSECTION ARE NOT EXCLUSIVE.

~~(H) A TENANT OR ANY PERSON CLAIMING UNDER A TENANT MAY RECOVER ANY OTHER ACTUAL OR CONSEQUENTIAL DAMAGES AVAILABLE UNDER ANY OTHER APPLICABLE LAW.~~

(D) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A LANDLORD FROM TAKING TEMPORARY MEASURES, INCLUDING CHANGING THE LOCKS, TO SECURE AN UNSECURED RESIDENTIAL PROPERTY, IF THE LANDLORD MAKES GOOD FAITH ATTEMPTS TO PROVIDE REASONABLE NOTICE TO THE TENANT THAT THE TENANT MAY PROMPTLY BE RESTORED TO POSSESSION OF THE PROPERTY.

8A-1102.

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

(2) “THREATEN TO TAKE POSSESSION” MEANS USING WORDS OR ACTIONS INTENDED TO CONVINCING A REASONABLE PERSON THAT THE PARK OWNER INTENDS TO TAKE IMMEDIATE POSSESSION OF THE LEASED PREMISES IN VIOLATION OF THIS SECTION.

(3) (i) “WILLFUL DIMINUTION OF SERVICES” MEANS INTENTIONALLY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, OR GAS BY THE PARK OWNER FOR THE PURPOSE OF FORCING A RESIDENT TO ABANDON THE PROPERTY.

(ii) “WILLFUL DIMINUTION OF SERVICES” DOES NOT INCLUDE A PARK OWNER CHOOSING NOT TO CONTINUE TO PAY FOR UTILITY SERVICE FOR THE LEASED PREMISES AFTER A FINAL COURT ORDER AWARDING POSSESSION OF THE LEASED PREMISES, IF THE PARK OWNER HAS PROVIDED THE RESIDENT REASONABLE NOTICE OF THE OWNER’S INTENTION AND THE OPPORTUNITY FOR THE RESIDENT TO OPEN AN ACCOUNT IN THE RESIDENT’S NAME FOR THAT SERVICE.

~~(A) (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PARK OWNER MAY NOT TAKE POSSESSION OR THREATEN TO TAKE POSSESSION OF LEASED PREMISES FROM A RESIDENT OR RESIDENT HOLDING OVER BY LOCKING THE RESIDENT OUT OR ANY OTHER ACTION, INCLUDING WILLFUL DIMINUTION OF SERVICES TO THE RESIDENT BY INTERRUPTING OR CAUSING THE INTERRUPTION OF HEAT, RUNNING WATER, HOT WATER, ELECTRICITY, GAS, OR OTHER ESSENTIAL SERVICES.~~

(2) A PARK OWNER MAY TAKE POSSESSION OF LEASED PREMISES FROM A RESIDENT OR RESIDENT HOLDING OVER ONLY:

(I) IN ACCORDANCE WITH A WARRANT OF RESTITUTION ISSUED BY A COURT AND EXECUTED BY A SHERIFF OR CONSTABLE; OR

(II) IF THE RESIDENT HAS ABANDONED OR SURRENDERED POSSESSION OF THE LEASED PREMISES.

~~(B)~~ (C) (1) IF IN ANY PROCEEDING THE COURT FINDS IN FAVOR OF THE RESIDENT BECAUSE THE PARK OWNER VIOLATED SUBSECTION ~~(A)~~ (B) OF THIS SECTION, THE RESIDENT MAY RECOVER:

~~(I) RECOVER POSSESSION OF THE LEASED PREMISES OR TERMINATE THE RENTAL AGREEMENT;~~

~~(II) RECOVER THE GREATER OF THREE TIMES ACTUAL ACTUAL DAMAGES OR THREE MONTHS' PERIODIC RENT; AND~~

~~(III) RECOVER REASONABLE~~

(II) REASONABLE ATTORNEY'S FEES AND COSTS.

(2) ~~(I)~~ THE REMEDIES SET FORTH IN THIS SUBSECTION ARE NOT EXCLUSIVE.

~~(II) A RESIDENT OR ANY PERSON CLAIMING UNDER A RESIDENT MAY RECOVER ANY OTHER ACTUAL OR CONSEQUENTIAL DAMAGES AVAILABLE UNDER ANY OTHER APPLICABLE LAW.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is intended to supersede the ruling of the Court of Appeals of Maryland in Nickens v. Mount Vernon Realty Group, et al., 429 Md. 53 (2012) and modify any right to self-help eviction that certain persons may possess in the context of residential foreclosures, tax sale foreclosures, landlord-tenant actions, and mobile home park actions.

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

Approved by the Governor, May 16, 2013.

Chapter 516

(Senate Bill 656)

AN ACT concerning

Calvert County – Property Tax – Natural Gas Facility

FOR the purpose of authorizing the governing body of Calvert County to enter into a payment in lieu of taxes agreement with the owner of a facility for the liquefaction of natural gas; requiring an agreement for payment in lieu of taxes to include certain provisions; providing that certain property of the owner of a natural gas facility is exempt from county property tax as provided in a payment in lieu of taxes agreement; requiring a certain supervisor to assess certain property of a facility that is subject to a payment in lieu of taxes agreement on the request of the governing body of Calvert County; authorizing the governing body of Calvert County to grant a credit against the county property tax imposed on certain property of an expanding or new business engaged in the liquefaction of natural gas; providing for the application of this Act; and generally relating to authorizing property tax relief for a natural gas facility in Calvert County.

BY adding to

Article – Tax – Property
Section 7–517
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Tax – Property
Section 9–306(g)
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

7–517.

(A) THE GOVERNING BODY OF CALVERT COUNTY MAY ENTER INTO AN AGREEMENT WITH THE OWNER OF A FACILITY FOR THE LIQUEFACTION OF NATURAL GAS THAT IS LOCATED OR LOCATES IN THE COUNTY FOR A NEGOTIATED PAYMENT BY THE OWNER IN LIEU OF TAXES ON THE FACILITY.

(B) AN AGREEMENT FOR A NEGOTIATED PAYMENT IN LIEU OF TAXES UNDER THIS SECTION SHALL PROVIDE THAT, FOR THE TERM SPECIFIED IN THE AGREEMENT:

(1) THE OWNER SHALL PAY TO THE COUNTY A SPECIFIED AMOUNT EACH YEAR IN LIEU OF THE PAYMENT OF COUNTY REAL, OPERATING REAL, PERSONAL, OR OPERATING PERSONAL PROPERTY TAX; AND

(2) ALL OR A SPECIFIED PART OF THE REAL, OPERATING REAL, PERSONAL, OR OPERATING PERSONAL PROPERTY AT THE FACILITY SHALL BE EXEMPT FROM COUNTY PROPERTY TAX FOR THE TERM OF THE AGREEMENT.

(C) AS SPECIFIED IN AN AGREEMENT FOR A NEGOTIATED PAYMENT IN LIEU OF TAXES UNDER THIS SECTION, FOR THE TERM SPECIFIED IN THE AGREEMENT, THE REAL, OPERATING REAL, PERSONAL, OR OPERATING PERSONAL PROPERTY AT A FACILITY FOR THE LIQUEFACTION OF NATURAL GAS THAT IS LOCATED OR LOCATES IN THE COUNTY IS EXEMPT FROM COUNTY PROPERTY TAX.

(D) ON THE WRITTEN REQUEST OF THE GOVERNING BODY OF CALVERT COUNTY, THE SUPERVISOR SHALL ASSESS THE REAL, OPERATING REAL, PERSONAL, OR OPERATING PERSONAL PROPERTY OF THE OWNER OF A FACILITY FOR THE LIQUEFACTION OF NATURAL GAS WITH WHOM THE COUNTY HAS ENTERED INTO A PAYMENT IN LIEU OF TAXES AGREEMENT UNDER THIS SECTION.

9-306.

(g) (1) (i) Subject to subparagraph (ii) of this paragraph, the governing body of Calvert County may grant, by law, a property tax credit under this section against the county property tax imposed on real property owned by an expanding or new business that:

1. employs at least 25 new additional full-time employees, the salaries for which must be greater than the county annual average salary in the economic development target market sector, as determined by the county; and

2. acquires at least \$2,500,000 in land, improvements to the land, or equipment in the county.

(ii) If the expanding or new business is engaged in the generation of electricity **OR LIQUEFACTION OF NATURAL GAS**, the credit under this section may be granted against the county property tax imposed on personal property [and], **OPERATING PERSONAL PROPERTY**, real property, **OR OPERATING REAL PROPERTY** owned by the expanding or new business.

(2) The tax credit under this section shall be granted to:

(i) a business that owns the land and building it occupies within the county; or

(ii) any party responsible for paying the real property taxes on all or part of the land or building.

(3) The amount of the credit may not exceed 50% of the amount of property tax due in any taxable year.

(4) The governing body of Calvert County may define, fix, or limit the amount, terms, scope, and duration of any credit provided for or affirmed under this subsection.

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 16, 2013.

Chapter 517

(Senate Bill 658)

AN ACT concerning

Estate Tax and Income Tax – ~~Qualifying Income Interest for Life Marital Deduction~~ and Subtraction Modification for Health Insurance ~~and Medical Expenses~~

FOR the purpose of ~~altering the qualifications for a qualified income interest for life under the Maryland estate tax to include individuals recognized as married by the State~~ providing that, for purposes of calculating Maryland estate tax, the surviving spouse of a decedent shall include any individual to whom, at the time of the decedent's death, the decedent was lawfully married under State law; providing a subtraction modification under the Maryland income tax for ~~the costs of health insurance and other medical expenses incurred by an individual on behalf of another adult individual under certain circumstances;~~ certain costs incurred by a taxpayer to provide health insurance for the taxpayer's spouse; providing that the subtraction may not exceed a certain amount; providing for the application of this Act; and generally relating to the calculation of the Maryland estate tax for certain individuals and an income tax subtraction modification for ~~the costs of~~ certain health insurance ~~and other medical expenses incurred on behalf of another adult individual~~ costs.

BY repealing and reenacting, with amendments,

Article – Tax – General
 Section 7-309~~(b)(6)~~ (b)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
 Article – Tax – General
 Section 10-208(a)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2012 Supplement)

BY adding to
 Article – Tax – General
 Section 10-208(t)
 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

7-309.

~~(b) (6) (i) For purposes of calculating Maryland estate tax, a decedent shall be deemed to have had a qualifying income interest for life under § 2044(a) of the Internal Revenue Code with regard to any property for which a marital deduction qualified terminable interest property election was made for the decedent's predeceased spouse on a timely filed Maryland estate tax return under paragraph (5) of this subsection.~~

~~(H) FOR PURPOSES OF CALCULATING MARYLAND ESTATE TAX UNDER THIS PARAGRAPH, A QUALIFYING INCOME INTEREST FOR LIFE SHALL INCLUDE THOSE OF INDIVIDUALS RECOGNIZED BY THE STATE AS LAWFULLY MARRIED.~~

~~[(i)] (H) For the purpose of apportioning Maryland estate tax under § 7-308 of this subtitle, any property as to which a decedent is deemed to have had a qualifying income interest for life under [subparagraph] SUBPARAGRAPHS (i) AND (H) of this paragraph shall be deemed to be included in both the estate and the taxable estate of the decedent.~~

(b) (1) Except as provided in paragraphs (2) through [(7)] (8) of this subsection and subsection (c) of this section, after the effective date of an Act of Congress described in subsection (a) of this section, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and

(ii) other provisions of federal estate tax law as in effect on the date of the decedent's death.

(2) Except as provided in paragraphs (3) through [(7)] (8) of this subsection and subsection (c) of this section, if the federal estate tax is not in effect on the date of the decedent's death, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and

(ii) other provisions of federal estate tax law as in effect on the date immediately preceding the effective date of the repeal of the federal estate tax.

(3) (i) Notwithstanding any increase in the unified credit allowed against the federal estate tax for decedents dying after 2003, the unified credit used for determining the Maryland estate tax may not exceed the applicable credit amount corresponding to an applicable exclusion amount of \$1,000,000 within the meaning of § 2010(c) of the Internal Revenue Code.

(ii) The Maryland estate tax shall be determined without regard to any deduction for State death taxes allowed under § 2058 of the Internal Revenue Code.

(iii) Unless the federal credit allowable by § 2011 of the Internal Revenue Code is in effect on the date of the decedent's death, the federal credit used to determine the Maryland estate tax may not exceed 16% of the amount by which the decedent's taxable estate, as defined in § 2051 of the Internal Revenue Code, exceeds \$1,000,000.

(4) (i) With regard to an election to value property as provided in § 2032 of the Internal Revenue Code, if a federal estate tax return is not required to be filed:

1. an irrevocable election made on a timely filed Maryland estate tax return shall be deemed to be an election as required by § 2032(d) of the Internal Revenue Code;

2. the provisions of § 2032(c) of the Internal Revenue Code do not apply; and

3. an election may not be made under item 1 of this subparagraph unless that election will decrease:

A. the value of the gross estate; and

B. the Maryland estate tax due with regard to the transfer of a decedent's Maryland estate.

(ii) An election to value property as provided in § 2032 of the Internal Revenue Code for Maryland estate tax purposes must be the same as the election made for federal estate tax purposes.

(5) (i) With regard to an election to treat property as marital deduction qualified terminable interest property in calculating the Maryland estate tax, an irrevocable election made on a timely filed Maryland estate tax return shall be deemed to be an election as required by § 2056(b)(7)(B)(i), (iii), and (v) of the Internal Revenue Code.

(ii) An election under this paragraph made on a timely filed Maryland estate tax return shall be recognized for purposes of calculating the Maryland estate tax even if an inconsistent election is made for the same decedent for federal estate tax purposes.

(6) (i) For purposes of calculating Maryland estate tax, a decedent shall be deemed to have had a qualifying income interest for life under § 2044(a) of the Internal Revenue Code with regard to any property for which a marital deduction qualified terminable interest property election was made for the decedent's predeceased spouse on a timely filed Maryland estate tax return under paragraph (5) of this subsection.

(ii) For the purpose of apportioning Maryland estate tax under § 7-308 of this subtitle, any property as to which a decedent is deemed to have had a qualifying income interest for life under subparagraph (i) of this paragraph shall be deemed to be included in both the estate and the taxable estate of the decedent.

(7) For purposes of calculating Maryland estate tax, amounts allowable under § 2053 or § 2054 of the Internal Revenue Code as a deduction in computing the taxable estate of a decedent may not be allowed as a deduction or as an offset against the sales price of property in determining gain or loss if the amount has been allowed as a deduction in computing the federal taxable income of the estate or of any other person.

(8) NOTWITHSTANDING ANY CONTRARY DEFINITION OF "MARRIAGE" AND "SPOUSE" UNDER ANY APPLICABLE PROVISION OF FEDERAL LAW, FOR PURPOSES OF CALCULATING MARYLAND ESTATE TAX UNDER THIS SUBSECTION, THE SURVIVING "SPOUSE" OF A DECEDENT SHALL INCLUDE ANY

INDIVIDUAL TO WHOM, AT THE TIME OF THE DECEDENT'S DEATH, THE DECEDENT WAS LAWFULLY MARRIED AS DETERMINED UNDER THE LAWS OF THE STATE.

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

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.

(T) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES 100% OF THE COSTS OF HEALTH INSURANCE ~~AND OTHER MEDICAL EXPENSES THAT AN INDIVIDUAL~~ A TAXPAYER INCURS ON BEHALF OF ANOTHER INDIVIDUAL IF THE OTHER INDIVIDUAL ~~;~~ AND TAXPAYER ARE RECOGNIZED BY THE STATE AS LAWFULLY MARRIED.

~~(I) IS NOT A DEPENDENT, AS DEFINED UNDER § 152 OF THE INTERNAL REVENUE CODE;~~

~~(II) IS AT LEAST 18 YEARS OF AGE; AND~~

~~(III) RESIDES IN THE SAME HOUSEHOLD AS THE INDIVIDUAL CLAIMING THE SUBTRACTION MODIFICATION.~~

~~(2) THE SUBTRACTION UNDER THIS SUBSECTION MAY NOT EXCEED \$5,000 FOR ANY TAXABLE YEAR.~~

(2) THE SUBTRACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED THE COST OF A HEALTH INSURANCE PREMIUM THAT:

(I) IS PAID BY THE TAXPAYER OR THE EMPLOYER OF THE TAXPAYER TO PROVIDE COVERAGE FOR THE TAXPAYER'S SPOUSE; AND

(II) IS SUBJECT TO FEDERAL INCOME TAX UNDER THE INTERNAL REVENUE CODE.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be applicable to decedents dying after December 31, 2012, and Section 2 of this Act shall be applicable to all taxable years beginning after December 31, 2012.

SECTION 4. AND BE IT FURTHER ENACTED, That, ~~except as provided in~~ subject to Section 3 of this Act, this Act shall take effect July 1, 2013 ~~and shall be applicable to all taxable years beginning after December 31, 2012.~~

Approved by the Governor, May 16, 2013.

Chapter 518

(House Bill 1031)

AN ACT concerning

Estate Tax and Income Tax – ~~Qualifying Income Interest for Life Marital Deduction~~ and Subtraction Modification for Health Insurance ~~and Medical Expenses~~

FOR the purpose of ~~altering the qualifications for a qualified income interest for life under the Maryland estate tax to include individuals recognized as married by the State~~ providing that, for purposes of calculating Maryland estate tax, the surviving spouse of a decedent shall include any individual to whom, at the time of the decedent's death, the decedent was lawfully married under State law; providing a subtraction modification under the Maryland income tax for ~~the costs of health insurance and other medical expenses incurred by an individual on behalf of another adult individual under certain circumstances;~~ certain costs incurred by a taxpayer to provide health insurance for the taxpayer's spouse; providing that the subtraction may not exceed a certain amount; providing for the application of this Act; and generally relating to the calculation of the Maryland estate tax for certain individuals and an income tax subtraction modification for ~~the costs of certain health insurance and other medical expenses incurred on behalf of another adult individual~~ costs.

BY repealing and reenacting, with amendments,
 Article – Tax – General
 Section 7-309~~(b)(6)~~(b)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
 Article – Tax – General
 Section 10-208(a)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2012 Supplement)

BY adding to
 Article – Tax – General

Section 10–208(t)
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

7–309.

~~(b) (6) (i) For purposes of calculating Maryland estate tax, a decedent shall be deemed to have had a qualifying income interest for life under § 2044(a) of the Internal Revenue Code with regard to any property for which a marital deduction qualified terminable interest property election was made for the decedent's predeceased spouse on a timely filed Maryland estate tax return under paragraph (5) of this subsection.~~

~~(H) FOR PURPOSES OF CALCULATING MARYLAND ESTATE TAX UNDER THIS PARAGRAPH, A QUALIFYING INCOME INTEREST FOR LIFE SHALL INCLUDE THOSE OF INDIVIDUALS RECOGNIZED BY THE STATE AS LAWFULLY MARRIED.~~

~~[(i)] (H) For the purpose of apportioning Maryland estate tax under § 7–308 of this subtitle, any property as to which a decedent is deemed to have had a qualifying income interest for life under [subparagraph] SUBPARAGRAPHS (i) AND (H) of this paragraph shall be deemed to be included in both the estate and the taxable estate of the decedent.~~

(b) (1) Except as provided in paragraphs (2) through [(7)] (8) of this subsection and subsection (c) of this section, after the effective date of an Act of Congress described in subsection (a) of this section, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and

(ii) other provisions of federal estate tax law as in effect on the date of the decedent's death.

(2) Except as provided in paragraphs (3) through [(7)] (8) of this subsection and subsection (c) of this section, if the federal estate tax is not in effect on the date of the decedent's death, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and

(ii) other provisions of federal estate tax law as in effect on the date immediately preceding the effective date of the repeal of the federal estate tax.

(3) (i) Notwithstanding any increase in the unified credit allowed against the federal estate tax for decedents dying after 2003, the unified credit used for determining the Maryland estate tax may not exceed the applicable credit amount corresponding to an applicable exclusion amount of \$1,000,000 within the meaning of § 2010(c) of the Internal Revenue Code.

(ii) The Maryland estate tax shall be determined without regard to any deduction for State death taxes allowed under § 2058 of the Internal Revenue Code.

(iii) Unless the federal credit allowable by § 2011 of the Internal Revenue Code is in effect on the date of the decedent's death, the federal credit used to determine the Maryland estate tax may not exceed 16% of the amount by which the decedent's taxable estate, as defined in § 2051 of the Internal Revenue Code, exceeds \$1,000,000.

(4) (i) With regard to an election to value property as provided in § 2032 of the Internal Revenue Code, if a federal estate tax return is not required to be filed:

1. an irrevocable election made on a timely filed Maryland estate tax return shall be deemed to be an election as required by § 2032(d) of the Internal Revenue Code;

2. the provisions of § 2032(c) of the Internal Revenue Code do not apply; and

3. an election may not be made under item 1 of this subparagraph unless that election will decrease:

A. the value of the gross estate; and

B. the Maryland estate tax due with regard to the transfer of a decedent's Maryland estate.

(ii) An election to value property as provided in § 2032 of the Internal Revenue Code for Maryland estate tax purposes must be the same as the election made for federal estate tax purposes.

(5) (i) With regard to an election to treat property as marital deduction qualified terminable interest property in calculating the Maryland estate tax, an irrevocable election made on a timely filed Maryland estate tax return shall be deemed to be an election as required by § 2056(b)(7)(B)(i), (iii), and (v) of the Internal Revenue Code.

(ii) An election under this paragraph made on a timely filed Maryland estate tax return shall be recognized for purposes of calculating the Maryland estate tax even if an inconsistent election is made for the same decedent for federal estate tax purposes.

(6) (i) For purposes of calculating Maryland estate tax, a decedent shall be deemed to have had a qualifying income interest for life under § 2044(a) of the Internal Revenue Code with regard to any property for which a marital deduction qualified terminable interest property election was made for the decedent's predeceased spouse on a timely filed Maryland estate tax return under paragraph (5) of this subsection.

(ii) For the purpose of apportioning Maryland estate tax under § 7-308 of this subtitle, any property as to which a decedent is deemed to have had a qualifying income interest for life under subparagraph (i) of this paragraph shall be deemed to be included in both the estate and the taxable estate of the decedent.

(7) For purposes of calculating Maryland estate tax, amounts allowable under § 2053 or § 2054 of the Internal Revenue Code as a deduction in computing the taxable estate of a decedent may not be allowed as a deduction or as an offset against the sales price of property in determining gain or loss if the amount has been allowed as a deduction in computing the federal taxable income of the estate or of any other person.

(8) NOTWITHSTANDING ANY CONTRARY DEFINITION OF "MARRIAGE" AND "SPOUSE" UNDER ANY APPLICABLE PROVISION OF FEDERAL LAW, FOR PURPOSES OF CALCULATING MARYLAND ESTATE TAX UNDER THIS SUBSECTION, THE SURVIVING "SPOUSE" OF A DECEDENT SHALL INCLUDE ANY INDIVIDUAL TO WHOM, AT THE TIME OF THE DECEDENT'S DEATH, THE DECEDENT WAS LAWFULLY MARRIED AS DETERMINED UNDER THE LAWS OF THE STATE.

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

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.

(T) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES 100% OF THE COSTS OF HEALTH INSURANCE AND OTHER MEDICAL EXPENSES THAT AN INDIVIDUAL A TAXPAYER INCURS ON BEHALF OF ANOTHER INDIVIDUAL IF THE OTHER INDIVIDUAL AND TAXPAYER ARE RECOGNIZED BY THE STATE AS LAWFULLY MARRIED.

~~(I) IS NOT A DEPENDENT, AS DEFINED UNDER § 152 OF THE INTERNAL REVENUE CODE;~~

~~(II) IS AT LEAST 18 YEARS OF AGE; AND~~

~~(III) RESIDES IN THE SAME HOUSEHOLD AS THE INDIVIDUAL CLAIMING THE SUBTRACTION MODIFICATION.~~

~~(2) THE SUBTRACTION UNDER THIS SUBSECTION MAY NOT EXCEED \$5,000 FOR ANY TAXABLE YEAR.~~

(2) THE SUBTRACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED THE COST OF A HEALTH INSURANCE PREMIUM THAT:

(I) IS PAID BY THE TAXPAYER OR THE EMPLOYER OF THE TAXPAYER TO PROVIDE COVERAGE FOR THE TAXPAYER'S SPOUSE; AND

(II) IS SUBJECT TO FEDERAL INCOME TAX UNDER THE INTERNAL REVENUE CODE.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be applicable to decedents dying after December 31, 2012, and Section 2 of this Act shall be applicable to all taxable years beginning after December 31, 2012.

SECTION 4. AND BE IT FURTHER ENACTED, That, ~~except as provided in~~ subject to Section 3 of this Act, this Act shall take effect July 1, 2013 ~~and shall be applicable to all taxable years beginning after December 31, 2012.~~

Approved by the Governor, May 16, 2013.

Chapter 519

(Senate Bill 662)

AN ACT concerning

Natural Resources – Commercial Fishing – Licensing

FOR the purpose of altering the annual fees and surcharges for certain commercial fishing licenses and authorizations; requiring that tidal fish licensees with certain authorizations obtain a harvester registration from the Department of Natural Resources; establishing a certain annual fee for the harvester registration; establishing that the harvester registration is nontransferable; authorizing the Department to issue a permit to commercially harvest certain fish species, subject to certain annual fees; authorizing the Department to adopt regulations establishing a permit to commercially harvest certain other fish species, subject to a certain maximum annual fee; repealing a provision of law authorizing a tidal fish licensee to catch striped bass for sale on payment of a certain annual surcharge; altering the amount of a certain annual surcharge for seafood marketing programs assessed on tidal fish licensees; exempting certain nonresident tidal fish licensees from a certain required annual surcharge; requiring the Department to accept applications for certain commercial fish license authorizations and to maintain a waiting list of candidates for each fishing activity in a certain order; repealing provisions of law that authorize the Department to establish and issue a commercial fishing apprenticeship permit, accept applications and annual fees for the permit, issue a certain license to a person who has completed an apprenticeship, adopt certain regulations related to the criteria required for an apprenticeship permit, and otherwise administer a commercial fishing apprenticeship permit process; authorizing a tidal fish licensee to renew a harvester registration annually; repealing a certain provision of law authorizing certain tidal fish license conversions; requiring certain licensees to possess a harvester registration when engaged in certain commercial fishing activity; altering certain standards for determining when a person is required to obtain a seafood dealer authorization; requiring certain persons to obtain a bait harvester permit under certain circumstances; establishing an annual fee for a bait harvester permit; requiring a licensee to provide the Department certain notification and pay a certain pound net activity registration fee in a certain time frame before setting a pound net; authorizing the Governor annually to include a certain appropriation in the State budget for a certain purpose; providing for certain corrections of cross-references and terminology; clarifying certain language; and generally relating to commercial fishing licensing.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–701, 4–702, and 4–711(i)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing
Article – Natural Resources

Section 4-701.1
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4-711(a), (b), and (h)
Annotated Code of Maryland
(2012 Replacement Volume)

BY adding to
Article – Natural Resources
Section 4-711(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

4-701.

(a) This section applies to any person who is required under Subtitle 2, 7, 8, 9, or 10 of this title to be licensed to guide fishing parties or to catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters.

(b) (1) The Department shall utilize a single, commercial license, to be known and designated as a tidal fish license.

(2) A tidal fish license authorizes a licensee:

(i) To engage in each activity indicated on the license; and

(ii) For catching crabs, to utilize the number of crew members [indicated on the license] **AUTHORIZED UNDER § 4-814 OF THIS TITLE.**

(3) Except for a person receiving a license as a beneficiary of a deceased licensee under subsection (j)(4)(i) of this section, the Department may not issue a tidal fish license to an individual who is younger than 14 years of age.

(4) A person may not guide fishing parties or catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters unless licensed under this section.

(c) (1) The license year for every tidal fish license shall be 12 months from September 1 through August 31 of the following year.

(2) A licensee and crew members may engage only in those activities for which the annual fees for that license year have been paid.

(d) (1) The Department may issue no more than one authorization to a person to engage in each activity under paragraph (2)(ii)1 and 2 of this subsection during a license year.

(2) (i) On a tidal fish license, the Department may issue an authorization for any of the following activities for which the indicated fee has been paid.

(ii) The following annual fees for an authorization shall apply regardless of when the license is issued or an activity is authorized:

1. To provide services as:
 - A. A fishing guide in the tidal waters of Maryland – ~~[\$50]~~ **\$100** for a resident and ~~[\$100]~~ **\$200** for a nonresident; and
 - B. A master fishing guide, in addition to the fee under item A of this item – ~~[\$50]~~ **\$100** per vessel
2. To catch for sale fish with equipment which is legal under this title:
 - A. Finfish:
 - I. Hook and line only, anywhere: ~~[\$37.50]~~ **\$100**
 - II. All other equipment: ~~[\$100]~~ **\$150**
 - B. Crabs:
 - I. Up to 50 pots, trotlines, nets, dip nets, traps, pounds, and scrapes: ~~[\$50]~~ **\$100**
 - II. Over 50 pots, plus any other gear listed in item I of this sub-sub-subparagraph: ~~\$150~~
 - C. Clams – \$100
 - D. Oysters – \$250 for a dredge boat and ~~[\$50]~~ **\$100** for other than a dredge boat
 - E. Conch, turtles, and lobster – ~~[\$50]~~ **\$100**

F. For all activities in item 1A of this subparagraph and in items A through E of this item, unlimited tidal fish – \$300

3. For one or two crew members employed under § 4–814 of this title to enable a licensee to catch crabs under subparagraph (ii)2BII and F of this paragraph with more than 300 pots, the licensee shall pay [\$20 for each crew member] **AN ADDITIONAL:**

A. \$100 FOR UP TO 600 POTS TOTAL PER VESSEL; OR

B. ~~\$200~~ \$150 FOR UP TO 900 POTS TOTAL PER VESSEL.

4. [Except for a licensee dealing in his own catch, for] **FOR** a person to buy, process, pack, resell, market or otherwise deal in fish caught in the tidal waters of Maryland, seafood dealer [– \$150]:

A. \$50 FOR A PERSON LICENSED UNDER ITEM 2 OF THIS SUBPARAGRAPH; OR

B. \$250 FOR A PERSON NOT LICENSED UNDER ITEM 2 OF THIS SUBPARAGRAPH.

5. For a person who is not licensed under this section to land fish caught in out-of-state tidal waters, seafood landing – ~~\$150~~ **\$350**

(E) (1) BEFORE CATCHING FISH FOR SALE UNDER AN AUTHORIZATION ISSUED UNDER SUBSECTION (D)(2)(II)2 OF THIS SECTION, A TIDAL FISH LICENSEE SHALL OBTAIN A HARVESTER REGISTRATION FROM THE DEPARTMENT.

(2) THE ANNUAL FEE FOR A HARVESTER REGISTRATION IS \$215.

(3) A HARVESTER REGISTRATION IS NONTRANSFERABLE.

(F) FOR A TIDAL FISH LICENSE, THE DEPARTMENT MAY ISSUE A PERMIT FOR ANY OF THE FOLLOWING ACTIVITIES FOR WHICH THE INDICATED ANNUAL FEE HAS BEEN PAID:

(1) TO CATCH FOR SALE:

(I) STRIPED BASS:

1. **\$200 FOR A LICENSEE AUTHORIZED UNDER SUBSECTION (D)(2)(II)2A OF THIS SECTION; OR**

2. **\$150 FOR A LICENSEE AUTHORIZED UNDER SUBSECTION (D)(2)(II)2F OF THIS SECTION;**

(II) **YELLOW PERCH: \$25;**

(III) **HORSESHOE CRAB: \$25;**

(IV) **BLACK SEA BASS: \$25; ~~OR~~**

(V) **SUMMER FLOUNDER: \$25; OR**

(VI) **SNAPPING TURTLE: \$25.**

(2) THE DEPARTMENT MAY ESTABLISH BY REGULATION A PERMIT AND AN ANNUAL PERMIT FEE NOT EXCEEDING \$25 FOR ANY SPECIES NOT SUBJECT TO A PERMIT UNDER THIS SUBSECTION.

[(e)] (G) (1) [To catch striped bass for sale:

(i) A licensee authorized under subsection (d)(2)(ii)2A of this section shall pay an annual surcharge of \$200; or

(ii) A licensee authorized under subsection (d)(2)(ii)2F of this section shall pay with the license fee an annual surcharge of \$100.

(2)] (i) A person may not catch oysters for sale without:

1. Possessing a valid license under this section;

2. Paying an annual surcharge of \$300; and

3. Certifying to the Department that the person received the publications required under § 4–1006.2 of this title.

(ii) The Department shall use the surcharges collected under this paragraph only for oyster repletion activities.

[(3)] (2) In addition to the normal license fees imposed under subsection (d)(2)(ii)2 and 4 of this section, a licensee shall pay to the Department an annual surcharge [of \$10] IN THE FOLLOWING AMOUNTS to be credited to the Seafood Marketing Office of the Department to fund seafood marketing programs which have been approved by the Department:

(I) \$20 FOR A LICENSEE AUTHORIZED UNDER SUBSECTION (D)(2)(II)1, 2, 3, OR 5 OF THIS SECTION, IF THE LICENSEE IS NOT ALSO AUTHORIZED UNDER SUBSECTION (D)(2)(II)4 OF THIS SECTION; OR

(II) \$50 FOR A LICENSEE AUTHORIZED UNDER SUBSECTION (D)(2)(II)4 OF THIS SECTION, REGARDLESS OF WHETHER THE LICENSEE IS ALSO AUTHORIZED UNDER SUBSECTION (D)(2)(II)1, 2, 3, OR 5 OF THIS SECTION.

[(4)] (3) (i) 1. In this paragraph, “fishing activities” means those activities that are directly related to catching fish.

2. “Fishing activities” does not include the activities of buying, selling, processing, transporting, exporting, or similarly dealing in fish.

(ii) **[The Department shall assess annually on] FOR** every nonresident license **[applicant for the applicant’s fishing activities] ISSUED** under Subtitles 7, 8, and 9 of this title, **EXCEPT UNDER SUBSECTION (D)(2)(II)1A OF THIS SECTION, THE DEPARTMENT SHALL ASSESS AN ANNUAL SURCHARGE** in addition to the normal license fees imposed by this subsection, **[a surcharge which cumulatively for the license year,] WHICH** shall be the greater of:

1. An amount equal to the difference between the total fees charged to a Maryland resident engaged in like fishing activities in the state of residence of the nonresident applicant and the total of normal license fees for fishing activities in Maryland; or

2. **[\$350] \$450.**

[(f)] (H) The Department may assess annually on every person licensed under subsection (d)(2)(ii)2 of this section a surcharge for the costs incurred by the Department for:

- (1) Fish tags issued to the licensee; and
- (2) The use by a licensee of a hailing system.

[(g)] (I) (1) THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR NEW AUTHORIZATIONS TO PARTICIPATE IN FISHING ACTIVITIES UNDER SUBSECTION (D)(2)(II)1 OR 2 OF THIS SECTION FROM QUALIFIED PERSONS AND MAINTAIN A WAITING LIST OF CANDIDATES FOR EACH FISHING ACTIVITY IN ORDER OF THE DATE AND TIME THAT APPLICATIONS ARE RECEIVED.

(2) An applicant for a license to provide services as a commercial fishing guide in tidal waters of the State shall supply as part of the application

verifiable references to any federal license that is issued by the U.S. Coast Guard to operate a vessel carrying passengers for hire in the applicant's name, as a condition precedent to engaging as a commercial fishing guide in tidal waters.

[(h) (1)] Notwithstanding any other provision of this section, the Department may issue an apprenticeship permit for any activity under subsection **(d)(2)(ii)1** or **2** of this section to a person who currently resides and has resided for at least 5 years on an island in the State that is at least 3 miles from the mainland.

(2) [(J) (1)] The Department may set by regulation targets for the number of tidal fish license authorizations under subsection **(d)(2)(ii)** of this section to be the number issued between September 1, 1998 and March 31, 1999. The Department may modify by regulation the target number of authorizations based on:

(i) Recommendations of the Tidal Fisheries Advisory Commission;

(ii) Recommendations of fishery management plans adopted by the Department, the Chesapeake Bay Program, the Atlantic States Marine Fisheries Commission, the Mid-Atlantic Fisheries Management Council, or any other appropriate management body;

(iii) The number of people historically participating;

(iv) Target species, size, number, weight, incidental catch, total biomass, annual harvest, mortality rates, and other factors which are necessary and appropriate; and

(v) The number of authorizations relinquished to the Department under subsection **[(k) (L)]** of this section.

[(3) (2)] (i) The Department shall by regulation limit the total number of commercial authorizations to fish for striped bass not to exceed 1,231 participants in the commercial fishery and 499 participants in the charter boat fishery.

(ii) The Department shall provide in its regulations for reallocation of any authorizations that may be revoked or voluntarily relinquished to the Department.

(iii) The Department shall provide in its regulations for the allocation of any available quota on a monthly basis to assure that all areas of the State have ample opportunity to attain an equitable portion of the available quota.

[(i) The Department shall issue a license authorizing participation in a particular fishing activity to a person who has completed the requirements of an apprenticeship under § 4-701.1 of this subtitle.]

[(j)] (K) (1) A license or authorization may be transferred only under the provisions of this subsection.

(2) A person who desires to obtain a license or authorization by transfer under this subsection shall, for each license or authorization applied for:

(i) Pay a \$50 application fee; and

(ii) Submit a completed application to the Department.

(3) The Department shall review and may approve the permanent transfer of a license or an authorization to a person who is the licensee's spouse, daughter, son, stepchild, grandchild, stepgrandchild, parent, sister, brother, grandparent, aunt, uncle, niece, nephew, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, or brother-in-law.

(4) (i) On the death of a licensee, the Department shall review and may approve the permanent transfer of a license or authorization to the person indicated on the beneficiary form submitted by the deceased licensee at the time of issuance on the license.

(ii) The personal representative of the estate of the deceased licensee may retain the license or authorization for 2 years from the date of appointment as personal representative if:

1. The deceased licensee did not indicate a license beneficiary;

2. The Department determines that the license beneficiary is not qualified to receive the license or authorization; or

3. The license beneficiary does not accept the license or authorization.

(iii) On appointment, the personal representative shall notify the Department of the appointment and the intent to retain the license or authorization.

(iv) A license or authorization retained under this paragraph may be renewed annually as required by this title.

(v) Before the end of the 2-year period, the personal representative may submit a completed transfer application to transfer the license or authorization to a qualified individual.

(vi) If a license or authorization is not transferred under subparagraph (i) of this paragraph, and a transfer application is not submitted under subparagraph (ii) of this paragraph, the license or authorization is void.

(vii) A person may not operate under the license or authorization of the deceased licensee without approval of the application by the Department.

(5) (i) Twice per license year, the Department may approve a temporary transfer of a license or authorization for not more than the remainder of the license year.

(ii) A temporary transferee who is convicted or receives an accepted plea of nolo contendere for a violation of federal or State fisheries law that results in a license suspension or revocation may not engage in that fishing activity or receive a transfer of a tidal fish license during the period of suspension or revocation.

(6) The Department may approve the permanent transfer of a license or authorization under this subsection from a person who has held a valid tidal fish license for at least 2 years to a person who provides a notarized bill of sale for the license or authorization being transferred.

(7) (i) Except for a fishing guide licensee or a master fishing guide licensee, a licensee may allow one individual to use the licensee's commercial fishing vessel to engage in activities authorized under the license if:

1. The licensee's commercial fishing vessel number is registered on the license; and

2. The licensee has [indicated the name of] **IDENTIFIED** the assigned individual to the Department on a form provided by the Department.

(ii) A licensee may change the assignment once per license year.

(iii) If a licensee allows an individual to utilize a vessel under this paragraph, the individual and the licensee shall be held responsible for any violations committed by the individual using the vessel.

[(k)] (L) (1) Notwithstanding the qualification criteria for a license and authorization to engage in an activity under this section, licensees may renew **A HARVESTER REGISTRATION AND** any valid existing authorizations on their licenses annually.

(2) (i) Application to renew a tidal fish license shall be made not later than August 31, or the next business day in the instance that the Department is not open, for the following license year.

(ii) The Department may not accept application for renewal after that date, as stated in subparagraph (i) of this paragraph unless:

1. Application is made by March 31, or the next business day in the instance that the Department is not open, of the following license year;

2. The applicant shows good cause why application was not made by August 31 of the previous license year; and

3. A late fee of \$50 is paid by the applicant in addition to the license fee.

[(1)] (M) (1) **[Before September 1, 2012, at the time of license renewal, a licensee who possesses three or more authorizations under subsection (d)(2)(ii)1 and 2A through E of this section, one of which is a crabbing authorization, may relinquish each authorization and receive an authorization under subsection (d)(2)(ii)2F of this section.**

(2)] (i) A licensee who possesses an unlimited tidal fish license under subsection (d)(2)(ii)2F of this section may relinquish the unlimited tidal fish license and receive one or more authorizations under subsection (d)(2)(ii)1A through E of this section.

(ii) If the fee for an unlimited tidal fish license is less than the total of the fees for authorizations received by a licensee under subparagraph (i) of this paragraph, the licensee shall pay to the Department an amount equal to the difference between the fee for the unlimited tidal fish license and the total of the fees for the authorizations received.

[(3)] (2) The Department shall adjust the number of authorizations under subsection (d)(2)(ii) of this section to reflect the number of license conversions under **[paragraphs (1) and (2)] PARAGRAPH (1)** of this subsection.

[(m)] (N) (1) In addition to any other penalty provided in this title, the Department may suspend or revoke a person's entitlement to engage in a particular activity or activities under a tidal fish license.

(2) During a period of suspension or revocation imposed by the Department, the person penalized is not and shall not be authorized under any existing, renewed, transferred, or new tidal fish license to engage in the particular activity or activities for which the suspension is imposed.

(3) The following are grounds for suspension or revocation of a tidal fish license:

(i) Making any false statement in an application for a tidal fish license;

(ii) A serious violation of a State or federal commercial fisheries law that results in a conviction or an accepted plea of nolo contendere;

(iii) Failure to submit reports required by the provisions of this title or by the Department pursuant to provisions of this title; or

(iv) Failure for a nonresident of the State to appear in court pursuant to a citation issued by a Natural Resources police officer, or to any other process issued by any court of Maryland, for violation of this title.

(4) A penalty imposed in accordance with this subtitle shall be in addition to any other penalty authorized under § 4–1201 of this title regarding striped bass.

(5) The Department, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, shall adopt regulations relating to the suspension and revocation of licenses and authorizations issued under this title, including:

(i) A schedule of points assigned to various offenses under this title;

(ii) A schedule of the maximum number of days that a license may be suspended according to the number of points accumulated;

(iii) Suspension or revocation of a license or authorization for a serious violation of a State or federal commercial fisheries law that results in an individual receiving a conviction or an accepted plea of nolo contendere;

(iv) Enhanced penalties for repeated violations of this title; and

(v) Enhanced penalties for violations of provisions of this title that regulate species deemed by the Department to be in need of special protection, including striped bass, crabs, oysters, and menhaden.

(6) (i) Before the suspension or revocation of a tidal fish license under this section, the Department shall notify the licensee in writing of the licensee's right to a hearing on request.

(ii) If a licensee submits a written request for a hearing to the Department within 30 days after the date that the notice required under this paragraph is mailed, the Department shall:

1. Hold a hearing after providing at least 10 days' notice to the licensee; and

2. Conduct the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(iii) The Department may suspend a commercial license issued under this title without a hearing if:

1. The licensee does not submit a written request for a hearing; or

2. The licensee fails to appear for a scheduled hearing for which the Department provided notice.

[(n)] (O) (1) If a person is engaged in an activity for which a license or authorization is required under this section, the person shall possess:

(i) Any required license, authorization, **REGISTRATION**, or permit; and

(ii) For a person to whom a license or authorization has been temporarily transferred, documentation indicating the Department's approval of the temporary transfer application.

(2) (i) This paragraph does not limit the Department's authority to inspect books, statements, and accounts under § 4-206(b) of this title.

(ii) The licensee or any person to whom a licensee has transferred a license under subsection **[(j)] (K)** of this section shall allow any police officer, at reasonable times, including when the licensee or person is engaged in an activity that requires a license under this section, to inspect:

1. The license, authorization, or permit;

2. Any applicable application to transfer the commercial tidal fish license approved by the Department for a temporary transfer;

3. Commercial fishing vessels;

4. Vehicles used to transport fish for commercial purposes; and

5. Fish businesses owned or operated by a person licensed under this section.

(iii) Inspections of vessels, vehicles, and businesses authorized under this paragraph shall be restricted to inspections of fishing gear and places where fish may be stored.

(iv) Inspections of businesses authorized under this paragraph may be conducted in any building other than a dwelling house.

(3) (i) An inspector may seize fishing gear or fish found during an inspection under this subsection that is used or possessed in connection with a violation of this title or a regulation adopted under this title.

(ii) Fishing gear seized under this paragraph shall be held by the Department pending disposition of court proceedings, and on conviction the property seized or proceeds from the seizure shall be forfeited to the State for destruction or disposition as the Department may deem appropriate.

(iii) The Department may dispose of fish seized under this paragraph at its discretion.

[(o)] (P) The Department shall assign a permanent identification number to each licensee. A licensee shall display the identification number on every vessel, vehicle, gear, or place of business, as the Department may require by regulation.

[(p)] (Q) The Department shall:

(1) Deposit to the credit of the Fisheries Research and Development Fund all fees received for tidal fish licenses, authorizations, and permits under this section; and

(2) Use the funds received from the sale of striped bass surcharges for striped bass management and enforcement purposes.

[(q)] (R) (1) This subsection applies only to a person who, on April 1, 1997:

(i) Held a valid fishing guide license; and

(ii) Either:

1. Owned two or more vessels used to carry passengers for fishing;

2. Owned or operated a federally licensed vessel of 50 tons or more that was used to carry passengers for fishing; or

3. Owned or operated a marina from which 10 or more vessels operate to carry passengers for fishing.

(2) A person who meets the requirements of paragraph (1) of this subsection may obtain an annual master fishing guide license by:

(i) Filing an application on a form provided by the Department;

(ii) Supplying with the application proofs of ownership of the required vessels; and

(iii) Paying the master fishing guide license fee set forth in subsection (d)(2)(i)1 of this section.

(3) A person holding a master fishing guide license may:

(i) Employ other persons to guide fishing parties on vessels owned by the master fishing guide; and

(ii) Allow a person who holds a valid Coast Guard license to operate a vessel to carry passengers for fishing from the marina owned or operated by the master guide license holder authorized under paragraph (1)(i)3 of this subsection as follows:

1. One person for 10 vessels;
2. Two persons for 11 to 20 vessels;
3. Three persons for 21 to 30 vessels;
4. Four persons for 31 to 40 vessels;
5. Five persons for 41 to 50 vessels; and
6. Six persons for 51 or more vessels.

(4) (i) The Department shall issue a number of copies of the master fishing guide license corresponding to the number of vessels owned or operated by the master fishing guide, with each copy bearing the registration number of one of the vessels.

(ii) The master fishing guide shall ensure that when a vessel is operated, the appropriate copy of the license is on board.

(5) If a master fishing guide employs another person to operate a vessel to carry passengers for fishing, for purposes of the license suspension criteria in subsection (m) of this section, the master fishing guide shall be held responsible for any violations committed by the person employed to operate the vessel.

[4-701.1.

(a) This section applies to a person who does not qualify for a license required under Subtitle 2, Subtitle 7, Subtitle 8, Subtitle 9, or Subtitle 10 of this title, except for a seafood dealer license or a seafood landing license, to be licensed to guide fishing parties or to catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters.

(b) Except as provided under subsection (h) of this section, the Department may issue an apprenticeship permit to authorize a person to gain practical experience in the presence of a tidal fish licensee regarding commercial fishing activities.

(c) An apprenticeship permit is valid for up to 3 years from the date of issuance and may be renewed for 1 year if the applicant shows good cause.

(d) The fees for an apprenticeship permit shall be the same as the annual fees applied under § 4-701(d) of this subtitle for each commercial fishing activity for the term of the apprenticeship and the first license year.

(e) (1) The Department may accept an application for an apprenticeship permit from a person who is at least 14 years of age and does not qualify for a commercial tidal fish license or an authorization for a particular fishing activity.

(2) The Department may issue an apprenticeship permit if the number of tidal fish authorizations issued for that fishing activity is less than the target number established by regulation.

(3) The Department shall maintain a list in chronological order of persons who have applied for an apprenticeship permit but have not been issued an apprenticeship permit due to the target number already having been issued.

(4) The Department shall issue an apprenticeship permit to the first person on the list when a permit becomes available.

(5) The Department may not issue an apprenticeship permit for a particular fishing activity unless the number of the tidal fish authorizations issued for the particular activity is below the target number or a review by the General Assembly has been completed.

(f) The Department shall issue a tidal fish license or authorization in accordance with § 4-701(i) of this subtitle to persons who have completed the criteria established in subsection (g) or (h) of this section.

(g) (1) (i) The practical experience of a permittee shall consist of:

1. For each commercial fishing activity authorized under § 4-701(d)(2)(ii) of this subtitle, 150 days of experience in the fishing activity applied for;

2. For multiple fishing activities under § 4-701(d)(2)(ii) of this subtitle and an unlimited tidal fish authorization, 180 days of experience in at least two commercial fishing activities; and

3. For the purposes of subparagraph (ii) of this paragraph, at least 60 days of practical experience spent in separate commercial fishing activities.

(ii) A permittee shall obtain the practical experience required under this subsection within 10 years before applying for a license or an authorization under subsection (f) of this section.

(2) Except as provided in paragraph (6) of this subsection, the practical experience shall be documented by the permittee on the forms provided by the Department and submitted to the Department on a monthly basis when engaging in practical experience. The forms shall include:

(i) Number of days spent gaining practical experience under the presence of a tidal fish licensee;

(ii) Particular fishing activities;

(iii) The signature of a tidal fish licensee certifying that the recorded information regarding the practical experience in fishing activities is true and correct; and

(iv) Copies of appropriate income tax forms documenting the permittee's compensated employment in the presence of a tidal fish licensee.

(3) (i) An applicant for an apprenticeship permit may begin to complete the requirements of this subsection if the applicant posts the fee for the apprenticeship permit.

(ii) This paragraph may not be construed to alter the applicant's position on the waiting list established under subsection (e)(3) of this section.

(4) An applicant shall be issued an apprenticeship permit in accordance with subsection (e)(4) of this section.

(5) An applicant may be credited with the completed requirements that were accrued and documented in accordance with paragraph (2) or (6) of this subsection before being issued an apprenticeship permit.

(6) (i) This paragraph shall apply only to an individual who:

1. Served as a crew member to a tidal fish licensee or a person that holds a commercial fishing license issued by another state or the federal government;

2. Held a Maryland Provisional Chesapeake Bay Charter Boat Permit in accordance with § 4–210.2 of this title;

3. Held a tidal fish license and has not permanently transferred a tidal fish license within the past 24 months in accordance with § 4–701(j) of this subtitle;

4. Held a temporary transfer of a tidal fish license;

5. Harvested fish from the waters of the Exclusive Economic Zone and landed the fish in the State;

6. Holds a commercial fishing license issued by another state or the federal government; or

7. Held a commercial fishing license issued by another state or the federal government.

(ii) Practical experience shall be documented by:

1. Stating the number of days spent engaged in a particular fishing activity up to the minimum number of days required under paragraph (1) of this subsection on forms and in a manner provided by the Department; and

2. Any fishing activity reports required by the State, by another state, or by the federal government.

(iii) For an individual who served as a crew member to a tidal fish licensee or person that holds a commercial fishing license issued by another state or the federal government, practical fishing experience shall be documented by:

1. Stating the number of days spent serving as a crew member engaged in a particular fishing activity up to the minimum number of days required under paragraph (1) of this subsection, certified in writing by the tidal fish licensee or person that holds a commercial fishing license issued by another state or the federal government on forms provided by the Department; and

2. Any fishing activity reports of the tidal fish licensee required by the State, another state, or by the federal government.

(7) In addition to practical experience, before a license may be issued to a permittee, the permittee shall complete an 8-hour program approved by the Department concerning commercial fishing activities.

(h) (1) The Department shall adopt regulations to establish criteria for the practical experience for an individual who holds a valid tidal fish license and who has applied for an additional authorization other than a fishing guide authorization or an unlimited tidal fish authorization.

(2) The criteria established in accordance with paragraph (1) of this subsection shall include documentation at the time of application for an authorization, for the previous 2 years, that at least 20% of the individual's gross income was from the individual's commercial fishing activities.]

4-702.

(a) Except as provided in subsection (b) of this section, a person may not buy[, sell, ship, transport, or otherwise deal in] **FOR RESALE** finfish, **CRABS**, or shellfish **FROM WATERS OF THE STATE** unless the person is licensed [by the Department] **AND AUTHORIZED AS A SEAFOOD DEALER UNDER § 4-701 OF THIS SUBTITLE.**

(b) The following persons are not required to obtain a [license] **SEAFOOD DEALER AUTHORIZATION** under this section:

(1) [A person licensed by the Department to catch finfish or shellfish for sale;

(2) A retail market, restaurant, or other establishment where finfish or shellfish are sold or served to ultimate consumers, and not for resale;

(3)] A person who buys finfish, **CRABS**, or shellfish for personal use or consumption; [and]

[(4)] (2) A person who [catches and sells as bait] **BUYS FOR RESALE** finfish or shellfish species defined as bait under subsection (c) of this section; **AND**

(3) **A PERSON WHO BUYS FINFISH, CRABS, OR SHELLFISH FROM A ~~TIDAL FISH LICENSEE WITH A HARVESTER REGISTRATION AND PERSON WITH A SEAFOOD DEALER AUTHORIZATION UNDER § 4-701 OF THIS SUBTITLE.~~**

(c) (1) **ANY PERSON NOT OTHERWISE LICENSED UNDER § 4-701(D)(2)(II)2 OF THIS SUBTITLE THAT HARVESTS AND SELLS FINFISH OR SHELLFISH SPECIES DEFINED AS BAIT UNDER PARAGRAPH (3) OF THIS**

SUBSECTION SHALL OBTAIN A BAIT HARVESTER PERMIT FROM THE DEPARTMENT.

(2) THE ANNUAL FEE FOR A BAIT HARVESTER PERMIT IS \$25.

(3) The Department shall adopt regulations defining which species of finfish and shellfish may be caught and sold as bait [under subsection (b)(4) of this section] IN ACCORDANCE WITH A BAIT HARVESTER PERMIT ISSUED UNDER THIS SUBSECTION.

(d) The Department shall adopt regulations to define the species that are included as shellfish under this section.

4-711.

(a) A person may not set any pound net or any line of these nets that is greater in length than one third the distance across the waters of the bay, sound, river, creek, cove, or inlet where it is set, or is set so that it impedes or obstructs navigation on or blocks in any way the main channel of the bay, sound, river, creek, cove, or inlet. The length limit provided here shall not be construed to apply to any line of nets running parallel to the bank or shore of any bay, sound, river, creek, cove, or inlet, but no net may be set across the mouth on any tributary, harbor, or navigation channel.

(b) A person may not set at any time a pound net within 4500 feet of another pound net in the Chesapeake Bay and within 1500 feet in a tributary of the Chesapeake Bay, measured at right angles to the line of stakes. Every pound net set licensed in the Chesapeake Bay or one of its tributaries may retain the locations it lawfully occupied on June 1, 1949. Except as otherwise provided by this title, a person may not set at any time a fyke net within 300 feet of a pound net, measured at right angles to the line of stakes. A person may set any fyke net closer to any pound net than the distance provided in this subsection if the owner of the pound net location gives written permission.

(h) (1) Every licensee shall:

(i) Maintain the licensee's stakes in good condition; and

(ii) Promptly remove and renew any stake that may be unsound, broken, or liable to go adrift.

(2) A licensee may not permit or allow to remain in the water:

(i) Any pound net stake for a period greater than 30 days following the removal of the net from each stake;

(ii) Any pound net or stake for a period greater than 30 days following the discontinuance of fishing of the net; or

(iii) Any pound net or stake between January 1 and January 31 of any year unless the owner of the pound net or stake notifies the Department by certified mail, return receipt requested, that the net is being actively fished.

(3) A licensee who fails to comply with the provisions of this subsection is guilty of a misdemeanor and upon conviction is subject to a fine of at least \$200 and not exceeding \$1,000 with costs imposed in the discretion of the court.

(4) For a licensee who is convicted twice within 2 years of violating paragraph (1) of this subsection, the Department may suspend the licensee's striped bass authorization in the following year.

(I) BEFORE SETTING A POUND NET IN ACCORDANCE WITH THIS SECTION AND THE REGULATIONS ADOPTED UNDER SUBSECTION (J) OF THIS SECTION, A LICENSEE SHALL ENSURE THAT, AT LEAST 7 DAYS BEFORE THE SETTING OF THE NET, THE DEPARTMENT RECEIVES:

(1) NOTICE FROM THE LICENSEE ~~ON A FORM PROVIDED BY THE DEPARTMENT~~ THAT THE POUND NET WILL BE SET AND ACTIVELY FISHED; AND

(2) A POUND NET ACTIVITY REGISTRATION FEE OF \$20.

[(i)] (J) (1) The Department may adopt regulations on the placement of pound or stake nets, including a limit on the number of locations of pound nets that may be assigned to a licensee.

(2) In the regulations adopted under paragraph (1) of this subsection, the Department may impose a limit of up to eight locations of pound nets that may be assigned to a licensee.

SECTION 2. AND BE IT FURTHER ENACTED, That, beginning in fiscal year 2014 and each fiscal year thereafter, the Governor may include in the State budget an appropriation from the General Fund to augment the increase in revenues generated for and received by the Department of Natural Resources under this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the publishers of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2013 that affects provisions enacted by this Act. The publishers shall adequately describe any such correction in an editor's note following the section affected.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 16, 2013.

Chapter 520

(Senate Bill 671)

AN ACT concerning

Land Use – Local Comprehensive Planning and Zoning Cycle

FOR the purpose of requiring that, in certain years, a certain annual planning report contain a certain narrative on the implementation status of a certain comprehensive plan; increasing the time period of the comprehensive planning and zoning cycles of certain local jurisdictions to better coincide with the release of United States decennial census data; requiring the Department of Planning along with the Maryland Association of Counties and the Maryland Municipal League to create a certain transition schedule to increase the time period of the comprehensive planning cycle of certain local jurisdictions that adopt a comprehensive plan; requiring a certain transition schedule to coincide, to the extent practicable, with the release of United States decennial census data; requiring a certain transition schedule to allow, to the extent practicable, a local jurisdiction to access certain data at the beginning of the comprehensive plan review process; requiring the Department to submit a proposed transition schedule to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee on or before a certain date; requiring certain local jurisdictions to incorporate certain growth tiers into a comprehensive plan according to a certain schedule notwithstanding certain provisions of this Act; requiring a local jurisdiction to make a certain statement regarding the failure to adopt a growth tier under certain circumstances; providing that certain growth tiers are not considered adopted for certain purposes under certain circumstances; providing for a certain construction of this Act; requiring a local jurisdiction to comply with certain provisions of law concerning growth tiers except under certain circumstances; providing that this Act does not prohibit a local jurisdiction from amending its comprehensive plan, certain laws, or certain ordinances or regulations at any time; making conforming changes; and generally relating to the comprehensive planning and zoning cycles of local jurisdictions.

BY repealing and reenacting, with amendments,

Article – Land Use

Section 1–207, 1–416, 1–417, 1–509, 3–301, and 3–303

Annotated Code of Maryland

(2012 Volume)

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

Article – Land Use

1–207.

(a) In this section, “planning commission” includes a planning commission or board established under:

- (1) Title 2 of this article;
- (2) Division II of this article; or
- (3) Article 25A of the Code.

(b) On or before July 1 of each year, a planning commission shall prepare, adopt, and file an annual report for the previous calendar year with the legislative body.

(c) The annual report shall:

(1) index and locate on a map any changes in development patterns that occurred during the period covered by the report, including:

- (i) land use;
- (ii) transportation;
- (iii) community facilities patterns;
- (iv) zoning map amendments; and
- (v) subdivision plats;

(2) state whether the changes under item (1) of this subsection are consistent with:

- (i) each other;
- (ii) the recommendations of the last annual report;
- (iii) the adopted plans of the local jurisdiction;
- (iv) the adopted plans of all adjoining local jurisdictions; and

(v) the adopted plans of State and local jurisdictions that have responsibility for financing or constructing public improvements necessary to implement the local jurisdiction's plan;

(3) contain statements and recommendations for improving the planning and development process within the local jurisdiction;

(4) state which local laws or regulations have been adopted or changed to implement the visions in § 1–201 of this subtitle as required under § 1–417 of this title or § 3–303 of this article; [and]

(5) contain the measures and indicators required under § 1–208(c) of this subtitle; AND

(6) ~~IN THE FIFTH YEAR~~ AT LEAST ONCE WITHIN THE 5-YEAR PERIOD AFTER THE ADOPTION OR REVIEW BY THE LOCAL JURISDICTION OF A COMPREHENSIVE PLAN UNDER PART II OF SUBTITLE 4 OF THIS TITLE OR UNDER TITLE 3 OF THIS ARTICLE, CONTAIN A NARRATIVE ON THE IMPLEMENTATION STATUS OF THE COMPREHENSIVE PLAN, INCLUDING:

(I) A SUMMARY OF THE DEVELOPMENT TRENDS CONTAINED IN THE PREVIOUS ANNUAL REPORTS FILED DURING THE PERIOD COVERED BY THE NARRATIVE;

(II) THE STATUS OF COMPREHENSIVE PLAN IMPLEMENTATION TOOLS SUCH AS ~~ZONING AND ORDINANCES~~ COMPREHENSIVE REZONING TO CARRY OUT THE PROVISIONS OF THE COMPREHENSIVE PLAN;

(III) IDENTIFICATION OF ANY *SIGNIFICANT* CHANGES TO EXISTING PROGRAMS, ZONING ORDINANCES, REGULATIONS, ~~OR~~ FINANCING PROGRAMS, OR STATE REQUIREMENTS NECESSARY TO ACHIEVE THE VISIONS AND GOALS OF THE COMPREHENSIVE PLAN DURING THE REMAINING PLANNING TIMEFRAME;

(IV) IDENTIFICATION OF ANY STATE OR FEDERAL LAWS, REGULATIONS, OR REQUIREMENTS THAT HAVE IMPEDED LOCAL ~~SMART GROWTH INITIATIVES IDENTIFIED IN~~ IMPLEMENTATION OF THE COMPREHENSIVE PLAN AND RECOMMENDATIONS TO REMOVE ANY IMPEDIMENTS;

(V) FUTURE LAND USE CHALLENGES AND ISSUES; AND

(VI) ~~SCHEDULED, PLANNED, AND~~ A SUMMARY OF ANY POTENTIAL UPDATES TO THE COMPREHENSIVE PLAN.

(d) The legislative body shall review the annual report and direct that any appropriate and necessary studies and other actions be undertaken to ensure the continuation of a viable planning and development process.

(e) The local jurisdiction shall make the annual report available for public inspection.

(f) (1) The local jurisdiction shall mail a copy of the report to the Secretary of Planning.

(2) The Department of Planning may comment on the report.

1-416.

(a) At least once every **[6] 10** years, each planning commission shall review the comprehensive plan and, if necessary, revise or amend the comprehensive plan to include all:

(1) the elements required under Part II of this subtitle; and

(2) the visions set forth in § 1-201 of this title.

(b) The planning commission may prepare comprehensive plans for one or more geographic sections or divisions of the local jurisdiction if the plan for each geographic section or division is reviewed and, if necessary, revised or amended at least once every **[6] 10** years.

1-417.

(a) At least once every **[6] 10** years, which corresponds to the comprehensive plan revision process under § 1-416 of this subtitle, a charter county shall ensure the implementation of the visions, the development regulations element, and the sensitive areas element of the plan.

(b) A charter county shall ensure that the implementation of the requirements of subsection (a) of this section are achieved through the adoption of applicable:

(1) zoning laws; and

(2) local laws governing:

(i) planned development;

(ii) subdivision; and

(iii) other land use provisions that are consistent with the comprehensive plan.

1–509.

(a) A local jurisdiction that adopts growth tiers shall incorporate the tiers into the comprehensive plan or an element of the plan:

(1) when the local jurisdiction conducts the [6–year] **10–YEAR** review of the plan under § 1–416(a) or § 3–301(a) of this article; and

(2) in accordance with the requirements of this section.

(b) If a local jurisdiction does not incorporate all of the growth tiers authorized under this section into the comprehensive plan or an element of the plan, the local jurisdiction shall state that a tier is not adopted.

3–301.

(a) At least once every [6] **10** years, each planning commission shall review the comprehensive plan and, if necessary, revise or amend the comprehensive plan to include all:

(1) the elements required under Subtitle 1 of this title; and

(2) the visions set forth in § 1–201 of this article.

(b) The planning commission may prepare comprehensive plans for one or more geographic sections or divisions of the local jurisdiction if the plan for each geographic section or division is reviewed and, if necessary, revised or amended at least once every [6] **10** years.

3–303.

(a) At least once every [6] **10** years, which corresponds to the comprehensive plan revision process under § 3–301 of this subtitle, a local jurisdiction shall ensure the implementation of the visions, the development regulations element, and the sensitive areas element of the plan.

(b) A local jurisdiction shall ensure that the implementation of the requirements of subsection (a) of this section are achieved through the adoption of applicable:

(1) zoning laws;

(2) planned development ordinances and regulations;

- (3) subdivision ordinances and regulations; and
- (4) other land use ordinances and regulations that are consistent with the comprehensive plan.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Department of Planning along with the Maryland Association of Counties and the Maryland Municipal League shall create a schedule to transition the comprehensive planning cycle of each local jurisdiction that adopts a comprehensive plan from a 6-year cycle to a 10-year cycle.

(b) The transition schedule shall, to the extent practicable:

- (i) coincide with the release of data from the United States decennial census; and
- (ii) allow a local jurisdiction access to the census data at the beginning of the local jurisdiction's comprehensive plan review process.

(c) The Department of Planning shall submit a proposed transition schedule to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee on or before December 1, 2015.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) ~~Notwithstanding~~ If a local jurisdiction chooses to adopt growth tiers under Title 1, Subtitle 5 of the Land Use Article, and notwithstanding § 1-509 of the Land Use Article, as enacted by this Act, a local jurisdiction that, as of the effective date of this Act, has not incorporated the growth tiers under Title 1, Subtitle 5 of the Land Use Article into the comprehensive plan shall incorporate the growth tiers at the time that the local jurisdiction was scheduled to conduct its 6-year review of the comprehensive plan in accordance with § 1-509 of the Land Use Article as it was in effect on July 1, 2012.

(b) If a local jurisdiction adopts a growth tier but does not incorporate all of the growth tiers tier into the comprehensive plan or an element of the plan in accordance with this section:

~~(1) the local jurisdiction shall state that a growth tier is not adopted;~~
and

~~(2) the growth tiers section, the growth tier will not be considered as adopted for purposes of § 9-206 of the Environment Article.~~

(c) This Act may not be construed as requiring a local jurisdiction to adopt, amend, or repeal growth tiers under Title 1, Subtitle 5 of the Land Use Article.

(d) Except as provided in subsection (a) of this section, a local jurisdiction shall comply with Title 1, Subtitle 5 of the Land Use Article when adopting growth tiers.

SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act prohibits a local jurisdiction from amending its comprehensive plan, zoning laws, or any other land use ordinance or regulation at any time.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 16, 2013.

Chapter 521

(House Bill 409)

AN ACT concerning

Land Use – ~~Local Governments~~ – Comprehensive Planning and Zoning Cycles Cycle

FOR the purpose of ~~altering the time period of a local government's comprehensive planning and zoning cycle~~ requiring that, in certain years, a certain annual planning report contain a certain narrative on the implementation status of a certain comprehensive plan; increasing the time period of the comprehensive planning and zoning cycles of certain local jurisdictions to better coincide with the release of United States decennial census data; requiring certain planning commissions to include in a certain annual report information on the implementation status of a certain comprehensive plan; altering certain time frames for certain planning commissions to review certain comprehensive plans and to implement certain elements of certain comprehensive plans; requiring the Department of Planning along with the Maryland Association of Counties, and the Maryland Municipal League, and the Maryland Department of Planning to form a certain stakeholders group to create a certain transition schedules for each local government that drafts a comprehensive plan schedule to increase the time period of the comprehensive planning cycle of certain local jurisdictions that adopt a comprehensive plan; requiring a certain transition schedules, to the extent practicable, schedule to coincide, to the extent practicable, with the release of certain data from the United States decennial census data; requiring a certain transition schedule to allow, to the extent practicable, a local jurisdiction to access certain data at the beginning of the comprehensive plan review process; requiring a certain stakeholder group to submit a proposed transition schedule to certain committees of the General

~~Assembly~~ the Department to submit a proposed transition schedule to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee on or before a certain date; requiring certain local jurisdictions to incorporate certain growth tiers into a comprehensive plan according to a certain schedule notwithstanding certain provisions of this Act; ~~requiring a local jurisdiction to make a certain statement regarding the failure to adopt a growth tier under certain circumstances; providing that certain growth tiers are not considered adopted for certain purposes under certain circumstances; providing for a certain construction of this Act; requiring a local jurisdiction to comply with certain provisions of law concerning growth tiers except under certain circumstances; providing that this Act does not prohibit a local jurisdiction from amending its comprehensive plan, certain laws, or certain ordinances or regulations at any time; making conforming changes; and generally relating to ~~local government~~ the comprehensive planning and zoning cycles of local jurisdictions.~~

BY repealing and reenacting, with amendments,

Article – Land Use

Section 1–207, 1–416, 1–417, 1–509, 3–301, and 3–303

Annotated Code of Maryland

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Article – Land Use

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(a) In this section, “planning commission” includes a planning commission or board established under:

- (1) Title 2 of this article;
- (2) Division II of this article; or
- (3) Article 25A of the Code.

(b) On or before July 1 of each year, a planning commission shall prepare, adopt, and file an annual report for the previous calendar year with the legislative body.

(c) The annual report shall:

(1) index and locate on a map any changes in development patterns that occurred during the period covered by the report, including:

- (i) land use;
 - (ii) transportation;
 - (iii) community facilities patterns;
 - (iv) zoning map amendments; and
 - (v) subdivision plats;
- (2) state whether the changes under item (1) of this subsection are consistent with:
- (i) each other;
 - (ii) the recommendations of the last annual report;
 - (iii) the adopted plans of the local jurisdiction;
 - (iv) the adopted plans of all adjoining local jurisdictions; and
 - (v) the adopted plans of State and local jurisdictions that have responsibility for financing or constructing public improvements necessary to implement the local jurisdiction's plan;
- (3) contain statements and recommendations for improving the planning and development process within the local jurisdiction;
- (4) state which local laws or regulations have been adopted or changed to implement the visions in § 1–201 of this subtitle as required under § 1–417 of this title or § 3–303 of this article; [and]
- (5) contain the measures and indicators required under § 1–208(c) of this subtitle; AND
- (6) FOR THE FIFTH YEAR AT LEAST ONCE WITHIN THE 5-YEAR PERIOD AFTER THE ADOPTION DATE OF OR REVIEW BY THE LOCAL JURISDICTION'S COMPREHENSIVE PLAN JURISDICTION OF A COMPREHENSIVE PLAN UNDER PART II OF SUBTITLE 4 OF THIS TITLE OR UNDER TITLE 3 OF THIS ARTICLE, CONTAIN A NARRATIVE OF ON THE IMPLEMENTATION STATUS OF THE COMPREHENSIVE PLAN, INCLUDING:**
- (I) A SUMMARY OF THE DEVELOPMENT TRENDS CONTAINED IN THE PREVIOUS ANNUAL REPORTS FILED DURING THE PERIOD COVERED BY THE NARRATIVE;**

(II) THE STATUS OF COMPREHENSIVE PLAN IMPLEMENTATION TOOLS SUCH AS ~~ZONING AND ORDINANCES~~ *COMPREHENSIVE REZONING* TO CARRY OUT THE PROVISIONS OF THE COMPREHENSIVE PLAN;

(III) IDENTIFICATION OF ANY *SIGNIFICANT* CHANGES TO EXISTING PROGRAMS, ZONING ORDINANCES, REGULATIONS, ~~OR~~ FINANCING PROGRAMS, *OR STATE REQUIREMENTS* NECESSARY TO ACHIEVE THE VISIONS AND GOALS OF THE COMPREHENSIVE PLAN DURING THE REMAINING PLANNING TIMEFRAME;

(IV) IDENTIFICATION OF ANY STATE OR FEDERAL LAWS, REGULATIONS, OR REQUIREMENTS THAT HAVE IMPEDED LOCAL ~~SMART GROWTH INITIATIVES IDENTIFIED IN~~ *IMPLEMENTATION OF THE* COMPREHENSIVE PLAN AND RECOMMENDATIONS TO REMOVE ANY IMPEDIMENTS;

(V) FUTURE LAND USE CHALLENGES AND ISSUES; AND

(VI) ~~SCHEDULED, PLANNED, AND~~ *A SUMMARY OF ANY* POTENTIAL UPDATES TO THE COMPREHENSIVE PLAN.

(d) The legislative body shall review the annual report and direct that any appropriate and necessary studies and other actions be undertaken to ensure the continuation of a viable planning and development process.

(e) The local jurisdiction shall make the annual report available for public inspection.

(f) (1) The local jurisdiction shall mail a copy of the report to the Secretary of Planning.

(2) The Department of Planning may comment on the report.

1-416.

(a) At least once every [6] 10 years, each planning commission shall review the comprehensive plan and, if necessary, revise or amend the comprehensive plan to include all:

(1) the elements required under Part II of this subtitle; and

(2) the visions set forth in § 1-201 of this title.

(b) The planning commission may prepare comprehensive plans for one or more geographic sections or divisions of the local jurisdiction if the plan for each

geographic section or division is reviewed and, if necessary, revised or amended at least once every [6] 10 years.

1–417.

(a) At least once every [6] 10 years, which corresponds to the comprehensive plan revision process under § 1–416 of this subtitle, a charter county shall ensure the implementation of the visions, the development regulations element, and the sensitive areas element of the plan.

(b) A charter county shall ensure that the implementation of the requirements of subsection (a) of this section are achieved through the adoption of applicable:

(1) zoning laws; and

(2) local laws governing:

(i) planned development;

(ii) subdivision; and

(iii) other land use provisions that are consistent with the comprehensive plan.

1–509.

(a) A local jurisdiction that adopts growth tiers shall incorporate the tiers into the comprehensive plan or an element of the plan:

(1) when the local jurisdiction conducts the [6–year] 10–YEAR review of the plan under § 1–416(a) or § 3–301(a) of this article; and

(2) in accordance with the requirements of this section.

(b) If a local jurisdiction does not incorporate all of the growth tiers authorized under this section into the comprehensive plan or an element of the plan, the local jurisdiction shall state that a tier is not adopted.

3–301.

(a) At least once every [6] 10 years, each planning commission shall review the comprehensive plan and, if necessary, revise or amend the comprehensive plan to include all:

(1) the elements required under Subtitle 1 of this title; and

(2) the visions set forth in § 1–201 of this article.

(b) The planning commission may prepare comprehensive plans for one or more geographic sections or divisions of the local jurisdiction if the plan for each geographic section or division is reviewed and, if necessary, revised or amended at least once every [6] 10 years.

3–303.

(a) At least once every [6] 10 years, which corresponds to the comprehensive plan revision process under § 3–301 of this subtitle, a local jurisdiction shall ensure the implementation of the visions, the development regulations element, and the sensitive areas element of the plan.

(b) A local jurisdiction shall ensure that the implementation of the requirements of subsection (a) of this section are achieved through the adoption of applicable:

- (1) zoning laws;
- (2) planned development ordinances and regulations;
- (3) subdivision ordinances and regulations; and

(4) other land use ordinances and regulations that are consistent with the comprehensive plan.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) ~~The Department of Planning along with the Maryland Association of Counties, and the Maryland Municipal League, and the Maryland Department of Planning shall form a stakeholders group to create a transition schedule for each to transition the comprehensive planning cycle of each local government jurisdiction that drafts~~ adopts a comprehensive plan ~~to convert their comprehensive planning cycle~~ from a 6-year cycle to a 10-year cycle.

(b) The transition schedule shall, to the extent practicable;

(i) coincide with the release of data from the United States decennial census; and

(ii) allow a local jurisdiction access to ~~that~~ the census data at the beginning of the local jurisdiction's comprehensive plan review process.

(c) ~~On or before December 1, 2015, the stakeholders group~~ The Department of Planning shall submit a proposed transition schedule, ~~in accordance with § 2–1246~~

~~of the State Government Article,~~ to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee on or before December 1, 2015.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) ~~Notwithstanding~~ If a local jurisdiction chooses to adopt growth tiers under Title 1, Subtitle 5 of the Land Use Article, and notwithstanding § 1-509 of the Land Use Article, as enacted by this Act, a local jurisdiction that, as of the effective date of this Act, has not incorporated the growth tiers under Title 1, Subtitle 5 of the Land Use Article into the comprehensive plan shall incorporate the growth tiers at the time that the local jurisdiction was scheduled to conduct its 6-year review of the comprehensive plan in accordance with § 1-509 of the Land Use Article as it was in effect on July 1, 2012.

(b) If a local jurisdiction adopts a growth tier but does not incorporate all of the growth tiers tier into the comprehensive plan or an element of the plan in accordance with this section:

(1) ~~the local jurisdiction shall state that a growth tier is not adopted;~~
~~and~~

(2) ~~the growth tiers~~ section, the growth tier will not be considered as adopted for purposes of § 9-206 of the Environment Article.

(c) This Act may not be construed as requiring a local jurisdiction to adopt, amend, or repeal growth tiers under Title 1, Subtitle 5 of the Land Use Article.

(d) Except as provided in subsection (a) of this section, a local jurisdiction shall comply with Title 1, Subtitle 5 of the Land Use Article when adopting growth tiers.

SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act prohibits a local jurisdiction from amending its comprehensive plan, zoning laws, or any other land use ordinance or regulation at any time.

~~SECTION 5.~~ SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 16, 2013.

Chapter 522

(Senate Bill 674)

AN ACT concerning

**Employees' Pension System – Elected or Appointed Officials – ~~Optional~~
Membership**

FOR the purpose of ~~providing that certain elected or appointed officials whose employers are participating employers of the State Retirement and Pension System may elect to join the Employees' Pension System within a certain period of time; providing that certain elected or appointed officials whose employers are participating employers of the State Retirement and Pension System may elect to cease membership in the Employees' Pension System within a certain period of time; requiring certain elected or appointed officials who make an election to join or an election to cease membership to complete a certain form and file it with the Board of Trustees for the State Retirement and Pension System; providing that certain elected or appointed officials who do not make an election to join within a certain period of time may not join the Employees' Pension System; providing that certain elected or appointed officials who do not make an election to cease membership within a certain period of time remain members in the Employees' Pension System; requiring the Board of Trustees to adopt certain regulations; defining a certain term; prohibiting certain individuals who are serving in certain elected or appointed positions from being members of the Employees' Pension System while serving in those positions; and generally relating to ~~optional~~ membership for elected or appointed officials in the Employees' Pension System.~~

~~BY adding to~~

~~Article – State Personnel and Pensions~~

~~Section 23 – 204.1~~

~~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 Personnel and Pensions**~~

~~**23 – 204.1.**~~

~~(A) IN THIS SECTION, “ELECTED OR APPOINTED OFFICIAL” MEANS AN INDIVIDUAL EMPLOYED BY A PARTICIPATING EMPLOYER AS:~~

~~(1) A STATE'S ATTORNEY;~~

~~(2) A SHERIFF, OTHER THAN THE BALTIMORE CITY SHERIFF;~~

~~(3) AN ELECTED OFFICIAL OF A COUNTY OR MUNICIPAL CORPORATION;~~

~~(4) AN ORPHANS' COURT JUDGE FOR A COUNTY THAT IS NOT REQUIRED TO PAY A PENSION UNDER § 2-108(Y) OF THE ESTATES AND TRUSTS ARTICLE;~~

~~(5) A MEMBER OF A BOARD THAT REGULATES GAMING UNDER TITLE 13 OF THE CRIMINAL LAW ARTICLE; OR~~

~~(6) A MEMBER OF A LOCAL LICENSING BOARD AS DEFINED IN ARTICLE 2B, § 1-101 OF THE CODE.~~

~~(B) (1) (i) MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM IS OPTIONAL FOR AN INDIVIDUAL WHO:~~

~~1. IS SERVING AS AN ELECTED OR APPOINTED OFFICIAL ON OR AFTER JULY 1, 2011;~~

~~2. REMAINS IN THE SAME ELECTED OR APPOINTED POSITION ON JULY 1, 2013; AND~~

~~3. IS NOT ENROLLED IN THE EMPLOYEES' PENSION SYSTEM.~~

~~(H) AN INDIVIDUAL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH WHO ELECTS TO JOIN THE EMPLOYEES' PENSION SYSTEM MUST MAKE THE ELECTION IN WRITING ON A FORM PROVIDED BY THE BOARD OF TRUSTEES AND MUST FILE THE FORM WITH THE BOARD OF TRUSTEES ON OR BEFORE SEPTEMBER 30, 2013.~~

~~(III) AN INDIVIDUAL WHO DOES NOT ELECT TO JOIN THE EMPLOYEES' PENSION SYSTEM AS PROVIDED UNDER SUBPARAGRAPH (H) IF THIS PARAGRAPH MAY NOT JOIN THE EMPLOYEES' PENSION SYSTEM AS AN ELECTED OR APPOINTED OFFICIAL WHILE SERVING IN THE SAME ELECTED OR APPOINTED POSITION.~~

~~(2) (i) MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM IS OPTIONAL FOR AN INDIVIDUAL WHO:~~

~~1. BEGINS SERVING AS AN ELECTED OR APPOINTED OFFICIAL ON OR AFTER JULY 1, 2013; OR~~

~~2. A. WAS SERVING AS AN ELECTED OR APPOINTED OFFICIAL ON OR AFTER JULY 1, 2011;~~

~~B. BEGINS SERVING AS AN ELECTED OR APPOINTED OFFICIAL IN A DIFFERENT POSITION ON OR AFTER JULY 1, 2013; AND~~

~~C. IS NOT ENROLLED IN THE EMPLOYEES' PENSION SYSTEM.~~

~~(H) AN INDIVIDUAL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH WHO ELECTS TO JOIN THE EMPLOYEES' PENSION SYSTEM MUST MAKE THE ELECTION IN WRITING ON A FORM PROVIDED BY THE BOARD OF TRUSTEES AND MUST FILE THE FORM WITH THE BOARD OF TRUSTEES WITHIN 3 MONTHS OF BECOMING AN ELECTED OR APPOINTED OFFICIAL IN A NEW OR DIFFERENT POSITION ON OR AFTER JULY 1, 2013.~~

~~(HH) AN INDIVIDUAL WHO DOES NOT ELECT TO JOIN THE EMPLOYEES' PENSION SYSTEM AS PROVIDED UNDER SUBPARAGRAPH (H) OF THIS PARAGRAPH MAY NOT JOIN THE EMPLOYEES' PENSION SYSTEM AS AN ELECTED OR APPOINTED OFFICIAL WHILE SERVING IN THAT ELECTED OR APPOINTED POSITION.~~

~~(3) AN ELECTED OR APPOINTED OFFICIAL'S ELECTION UNDER THIS SUBSECTION TO JOIN THE EMPLOYEES' PENSION SYSTEM IS A ONE-TIME, IRREVOCABLE ELECTION.~~

~~(c) (1) THIS SUBSECTION APPLIES ONLY TO AN INDIVIDUAL WHO:~~

~~(i) IS AN ELECTED OR APPOINTED OFFICIAL ON OR AFTER JULY 1, 2011, AND REMAINS AN ELECTED OR APPOINTED OFFICIAL ON JULY 1, 2013; AND~~

~~(ii) IS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM.~~

~~(2) AN ELECTED OR APPOINTED OFFICIAL UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY ELECT TO CEASE BEING A MEMBER IN THE EMPLOYEES' PENSION SYSTEM AT THE START OF THE OFFICIAL'S NEW TERM OF OFFICE.~~

~~(3) AN ELECTION TO TERMINATE MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM SHALL BE MADE IN WRITING ON A FORM PROVIDED BY THE BOARD OF TRUSTEES AND FILED WITH THE BOARD OF TRUSTEES PROMPTLY AFTER THE START OF THE OFFICIAL'S NEW TERM OF OFFICE.~~

~~(4) AN ELECTED OR APPOINTED OFFICIAL'S ELECTION UNDER THIS SUBSECTION TO TERMINATE MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM IS A ONE-TIME, IRREVOCABLE ELECTION.~~

~~(5) AN ELECTED OR APPOINTED OFFICIAL WHO DOES NOT ELECT TO TERMINATE MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM REMAINS A MEMBER IN THE EMPLOYEES' PENSION SYSTEM.~~

~~(D) THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.~~

(a) This section applies to an individual:

(1) (i) who, on or after July 1, 2011, was serving as an elected or appointed official of a municipality that became a participating governmental unit on or after July 1, 2006, and remains in the same elected or appointed position on July 1, 2013;

(ii) for whom no member or employer contributions have been made with respect to the individual's service as an elected or appointed official; and

(iii) who has not been enrolled in the Employees' Pension System on or before June 30, 2013; or

(2) (i) who, on or after July 1, 2011, was serving as an orphans' court judge in a county not required to provide a pension under § 2-108 of the Estates and Trusts Article and remains an orphans' court judge on July 1, 2013;

(ii) for whom no member or employer contributions have been made with respect to the individual's service as an orphan's court judge; and

(iii) who has not been enrolled in the Employees' Pension System on or before June 30, 2013.

(b) Notwithstanding any other provision of law to the contrary, an individual under subsection (a) of this section may not be a member of the Employees' Pension System while in the position described in subsection (a) of this section.

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

Approved by the Governor, May 16, 2013.

Chapter 523

(Senate Bill 675)

AN ACT concerning

Maryland Pesticide Reporting and Information ~~Act~~ Workgroup

FOR the purpose of ~~requiring the Department of Agriculture to adopt certain regulations regarding reporting on the use, release, sale, and purchase of certain pesticides; requiring certain persons that use, release, sell, or purchase certain pesticides to submit certain reports to the Department; requiring the reports to contain certain information; requiring certain restricted-use pesticide reports to be submitted at least semi-annually in a manner required by the Department; requiring certain pesticide reports to be submitted annually beginning on a certain date; requiring the Department to establish the format of the reports; requiring the Department to adopt regulations for standard naming conventions for certain chemicals and products; requiring a person that withholds certain information from a certain report to notify the Department and provide a certain explanation; establishing that this Act does not relieve a person from certain reporting requirements under federal, State, or local laws; authorizing the Department to inspect certain records; requiring certain records to be made available to the Department for inspection at a certain time; requiring the Department to provide notice of a certain inspection of records to a certain person; requiring the Department to serve as the repository for certain records; authorizing the Department to delegate certain data management functions; authorizing the Department to share data management resources with other State departments; requiring the Department to establish a system, including an electronic reporting system for the submission of reports; requiring the online electronic reporting system to allow certain information to be reported; authorizing the Department to establish a certain policy regarding electronic reporting; authorizing the Department to adopt regulations regarding the public availability of certain information; requiring the Department to adopt regulations to ensure that certain data will not result in the association of the data with a certain person; requiring the Department to adopt regulations to protect the identity of certain persons; limiting access to certain reports to certain persons; prohibiting access to certain reports unless certain requirements are met; requiring the availability of certain administrative and judicial review under certain circumstances; creating a Pesticide Use and Release Fund; providing for the administration of the Fund; requiring the Fund to be used for certain purposes; requiring the Fund to have an annual revenue target; requiring the Department to set the revenue target and adjust the target based on certain conditions; requiring certain penalties and fees to be deposited into the Fund; requiring the Department to place a certain surcharge on certain fees; requiring the surcharge fees to be deposited into the Fund; requiring the surcharge fees to be used for a certain purpose; prohibiting the violation of this Act; establishing the penalties for certain violations; providing for the~~

~~enforcement of this Act; requiring the Department to establish a tracking system for certain pesticide purchases; defining certain terms; declaring certain findings of the General Assembly; and generally relating to pesticide use and release reporting. establishing the Maryland Pesticide Reporting and Information Workgroup; providing for the composition, cochaIRS, and staffing of the Workgroup; prohibiting a member of the Workgroup from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Workgroup to study and make recommendations regarding the establishment of a pesticide use database; requiring the Workgroup to report its preliminary and final findings and recommendations to certain committees of the General Assembly on or before certain dates; providing for the termination of this Act; and generally relating to the Maryland Pesticide Reporting and Information Workgroup.~~

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

~~Article — Agriculture~~

~~Section 5-101(g), 5-105, and 5-201(a), (e), (g), (j), (l), and (r)~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume and 2012 Supplement)~~

~~BY adding to~~

~~Article — Agriculture~~

~~Section 5-2A-01 through 5-2A-21 to be under the new subtitle “Subtitle 2A-
Use, Release, Sale, and Purchase of Pesticides”~~

~~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~~

~~5-101.~~

~~(g) “Distributor” means a person who imports, manufactures, produces, mixes, or consigns pesticides as part of a commercial enterprise.~~

~~5-105.~~

~~(a) Except as provided in subsection (g) of this section, a distributor shall register with the Secretary each brand or product name of a pesticide before distributing it in the State. The registration for each pesticide expires December 31 each year.~~

~~(b) Each applicant shall file with the Secretary a statement listing:~~

~~(1) The name and address of each applicant and the name and address of the person whose name will appear on the label, if other than the registrant;~~

~~(2) The name of the pesticide;~~

~~(3) A complete copy of the labeling accompanying the pesticide and a statement of every claim to be made for it, including directions for use; and~~

~~(4) A full description of every test conducted and the results upon which any claim is based, if requested by the Secretary.~~

~~(e) A separate application shall be filed for each person whose name appears on the label. Upon renewal, a person shall file a statement listing any required new information that does not appear on the statement filed when the pesticide was registered or was last reregistered.~~

~~(d) The applicant shall pay an annual fee of \$100 to the Secretary for each product registered. Unless the Secretary determines otherwise, each applicant also shall pay a terminal registration fee of \$100 for each discontinued pesticide each year for two years.~~

~~(e) In addition to the annual fee, any person filing a renewal application after January 31 for any product offered for sale shall pay a ten percent per month late registration fee for each pesticide, but not exceeding twice the annual registration fee per pesticide. Late fees apply retroactively to the January 1 filing date. Late fees are not applicable to new products which are registered before being distributed, sold, or offered for sale.~~

~~(f) The Secretary may require the submission of toxicological, environmental, or health effects data that the Secretary considers appropriate, or the complete formula of any pesticide whenever he deems this action necessary to effectuate the purposes of this subtitle. The Secretary shall register the pesticide if he determines that the pesticide, its labeling, and other material required to be submitted comply with the requirements of this subtitle.~~

~~(g) Provided the product label has not been altered or changed, a distributor shall not be required to register the brand or trade name of a pesticide which has been registered by another person under this subtitle.~~

~~(h) Before a pesticide may be registered by the Secretary, the pesticide shall comply with the provisions of federal pesticide laws and regulations.~~

~~5-201.~~

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

~~(e) “Certified applicator” means a person who is certified by the Secretary under this subtitle.~~

~~(g) “Labeling” means all written, printed, or graphic matter:~~

~~(1) Accompanying the pesticide or device at any time; or~~

~~(2) To which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the:~~

~~(i) Environmental Protection Agency;~~

~~(ii) United States Departments of Agriculture, Interior, and Health and Human Services;~~

~~(iii) State experiment stations;~~

~~(iv) State agricultural colleges; or~~

~~(v) Other similar federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.~~

~~(j) (1) “Pest control applicator” means a person engaged in the business of pest control.~~

~~(2) Except as provided by the Secretary, “pest control applicator” includes a person who applies pesticides on any premises where the public is commonly invited for the sale of goods or services.~~

~~(k) “Pesticide” means any substance or mixture of substances intended for:~~

~~(1) Preventing, destroying, repelling, or mitigating any pest;~~

~~(2) Use as a plant regulator, defoliant, or desiccant; or~~

~~(3) Use as a spray adjuvant such as a wetting agent or adhesive.~~

~~(r) “Restricted use pesticide” means a pesticide so classified by the provisions in this title or by the federal government or the Secretary of Agriculture, State of Maryland.~~

~~SUBTITLE 2A. USE, RELEASE, SALE, AND PURCHASE OF PESTICIDES.~~

~~PART I. DEFINITIONS; GENERAL PROVISIONS.~~

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

~~(B) "CERTIFIED APPLICATOR", "LABELING", "PEST CONTROL APPLICATOR", "PESTICIDE", AND "RESTRICTED USE PESTICIDE" HAVE THE MEANINGS STATED IN § 5-201 OF THIS TITLE.~~

~~(C) "DISTRIBUTOR" HAS THE MEANING STATED IN § 5-101 OF THIS TITLE.~~

~~(D) "FUND" MEANS THE PESTICIDE USE AND RELEASE FUND ESTABLISHED UNDER § 5-2A-14 OF THIS SUBTITLE.~~

~~(E) "RELEASE" MEANS ANY PESTICIDE APPLICATION OR SPILL THAT DOES NOT COMPLY WITH PESTICIDE LABELING INSTRUCTIONS.~~

~~(F) "USE" MEANS ANY PESTICIDE APPLICATION THAT COMPLIES WITH PESTICIDE LABELING INSTRUCTIONS.~~

~~5-2A-02.~~

~~THE GENERAL ASSEMBLY FINDS THAT:~~

~~(1) THE RELEASE OF PESTICIDES INTO THE ENVIRONMENT CAN HAVE A NEGATIVE EFFECT ON PUBLIC HEALTH AND THE ENVIRONMENT;~~

~~(2) NEGATIVE EFFECTS ON PUBLIC HEALTH AND THE ENVIRONMENT MAY OCCUR EVEN IF PESTICIDES ARE USED IN FULL ACCORDANCE WITH APPROVED APPLICATIONS AND LABELING INSTRUCTIONS;~~

~~(3) WITHOUT INFORMATION ON THE PATTERNS OF THE SALE, USE, AND RELEASE OF PESTICIDES, IT IS COSTLY AND CHALLENGING TO DESIGN APPROPRIATE MONITORING, TRACKING, EVALUATION, AND PROTECTION PROGRAMS;~~

~~(4) THE PROTECTION OF THE ENVIRONMENT, PUBLIC HEALTH, AND PUBLIC WELL-BEING FROM TERRORIST ATTACKS REQUIRES THAT CERTAIN INFORMATION ON THE SALE, USE, AND RELEASE OF PESTICIDES BE ASSEMBLED;~~

~~(5) IT IS RECOGNIZED THAT RESTRICTED USE PESTICIDES POTENTIALLY MAY BE USED BY TERRORISTS AND THAT THE TRACKING OF INFORMATION REGARDING THE PURCHASE AND SALE OF RESTRICTED USE PESTICIDES MAY BE USEFUL IN IDENTIFYING POTENTIALLY UNLAWFUL AND THREATENING USES OF THESE PESTICIDES;~~

~~(6) ACCESS TO REPORTED DATA AND THE IDENTITY OF A PERSON SUBMITTING A REPORT REQUIRED UNDER THIS SUBTITLE IS INTENDED FOR GOVERNMENT AGENCIES, RESEARCH ORGANIZATIONS, AND ENVIRONMENTAL AND PUBLIC HEALTH EXPERTS THAT HAVE A SECURITY, REGULATORY, PUBLIC HEALTH, OR ACADEMIC INTEREST IN THE SALE, USE, AND RELEASE OF PESTICIDES THAT COULD SIGNIFICANTLY IMPAIR OR DAMAGE PUBLIC HEALTH OR THE ENVIRONMENT; AND~~

~~(7) BECAUSE EFFICIENCIES IN REPORTING OF DATA CAN BE ACHIEVED THROUGH THE USE OF CONSOLIDATED ELECTRONIC SYSTEMS AND THE NEWEST ELECTRONIC TECHNOLOGIES, EFFORTS NEED TO BE MADE TO USE THESE TECHNOLOGIES FOR THE BENEFIT OF THE BUSINESSES THAT MUST REPORT THE DATA AND TO ASSIST GOVERNMENT AGENCIES AND RESEARCH ORGANIZATIONS THAT USE THE REPORTED DATA.~~

~~5-2A-03. RESERVED.~~

~~5-2A-04. RESERVED.~~

~~PART II. REPORTING.~~

~~5-2A-05.~~

~~A DISTRIBUTOR, CERTIFIED APPLICATOR, OR PEST CONTROL APPLICATOR SHALL SUBMIT A REPORT UNDER THIS PART.~~

~~5-2A-06.~~

~~THE DEPARTMENT SHALL ADOPT REGULATIONS FOR REPORTING:~~

~~(1) THE USE AND RELEASE OF PESTICIDES, INCLUDING:~~

~~(i) OUTDOOR AGRICULTURAL RELEASE;~~

~~(ii) WOOD DESTROYING INSECT CONTROL, INCLUDING OUTDOOR AND SUBSURFACE BUILDING TREATMENTS;~~

~~(iii) LAWN CARE AND LANDSCAPING SERVICES;~~

~~(iv) GOLF COURSE MAINTENANCE;~~

~~(v) HIGHWAY, UTILITY, AND RAILROAD RIGHTS OF WAY MAINTENANCE;~~

~~(VI) FOREST PEST CONTROL; AND~~

~~(VII) MOSQUITO CONTROL; AND~~

~~(2) THE PURCHASE AND SALE OF RESTRICTED USE PESTICIDES.~~

~~5-2A-07.~~

~~(A) A PERSON REQUIRED TO SUBMIT A REPORT UNDER THIS PART SHALL SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT INDICATING:~~

~~(1) THE QUANTITIES OF THE PESTICIDE USED OR RELEASED IN AT LEAST ANNUAL TOTALS OR AS REQUIRED BY THE DEPARTMENT;~~

~~(2) THE ACREAGE OF LAND MASS COVERED BY THE QUANTITIES OF THE PESTICIDE USED OR RELEASED;~~

~~(3) THE TYPES OF PESTICIDE USED OR RELEASED;~~

~~(4) THE LOCATIONS WHERE PESTICIDE IS USED OR RELEASED BY ZIP CODE, WATERSHED, OR OTHER GEOGRAPHIC AREA DETERMINED BY THE DEPARTMENT;~~

~~(5) THE INTENDED PURPOSES OF THE PESTICIDE APPLICATION OR RELEASE, INCLUDING:~~

~~(I) CROPS TO WHICH PESTICIDE IS APPLIED; AND~~

~~(II) TARGETED ORGANISMS FOR PESTICIDE USE;~~

~~(6) THE 16 DIGIT U.S. GEOLOGICAL SURVEY UNIT CODE FOR THE WATERSHED, OR EQUIVALENT CODE ESTABLISHED BY THE DEPARTMENT, IN WHICH PESTICIDE WAS USED OR RELEASED; AND~~

~~(7) ANY ADDITIONAL INFORMATION RELATING TO PESTICIDE USE OR RELEASE THAT THE SECRETARY REQUIRES.~~

~~(B) RESTRICTED USE PESTICIDE SALE AND PURCHASE REPORTS REQUIRED UNDER THIS PART SHALL BE SUBMITTED AT LEAST SEMI-ANNUALLY IN A MANNER REQUIRED BY THE DEPARTMENT.~~

~~(C) PESTICIDE USE AND RELEASE REPORTS REQUIRED UNDER THIS PART OR REGULATIONS ADOPTED IN ACCORDANCE WITH THIS SUBTITLE SHALL~~

~~COVER THE PRECEDING CALENDAR YEAR AND BE SUBMITTED ANNUALLY TO THE DEPARTMENT BEGINNING ON MARCH 1, 2015.~~

~~(D) (1) THE DEPARTMENT SHALL SPECIFY THE FORMAT OF REPORTS REQUIRED UNDER THIS PART.~~

~~(2) THE DEPARTMENT SHALL ADOPT REGULATIONS FOR STANDARD NAMING CONVENTIONS AND CATEGORIES FOR THE VARIOUS CHEMICAL NAMES, PRODUCT NAMES, AND PRODUCT FORMULATIONS.~~

~~(E) A PERSON THAT WITHHOLDS INFORMATION FROM A REPORT REQUIRED UNDER THIS SECTION BASED ON A CLAIM THAT THE INFORMATION IS CONFIDENTIAL BUSINESS INFORMATION SHALL:~~

~~(1) NOTIFY THE DEPARTMENT THAT INFORMATION IS BEING WITHHELD; AND~~

~~(2) PROVIDE AN EXPLANATION FOR THE CLAIM THAT THE WITHHELD INFORMATION IS CONFIDENTIAL.~~

~~(F) THIS SECTION DOES NOT RELIEVE A PERSON FROM ANY OTHER REPORTING REQUIREMENTS UNDER FEDERAL, STATE, OR LOCAL LAWS.~~

~~5-2A-08.~~

~~(A) THE DEPARTMENT MAY INSPECT ANY RECORDS OR REPORTS OF PESTICIDE USE, RELEASE, SALE, AND PURCHASE BY A PERSON.~~

~~(B) ON REQUEST BY THE DEPARTMENT, A PERSON SHALL MAKE RECORDS AVAILABLE FOR INSPECTION BY THE DEPARTMENT DURING NORMAL BUSINESS HOURS.~~

~~(C) IF THE DEPARTMENT INTENDS TO INSPECT RECORDS AT THE LOCATION WHERE THE RECORDS ARE MAINTAINED, THE DEPARTMENT SHALL PROVIDE ADVANCE NOTICE OF NOT LESS THAN 1 WEEK TO THE PERSON IN POSSESSION OF THE RECORDS.~~

~~5-2A-09.~~

~~(A) THE DEPARTMENT SHALL SERVE AS THE REPOSITORY FOR DATA REGARDING PESTICIDE USE, RELEASE, SALE, AND PURCHASE IN THE STATE.~~

~~(B) THE DEPARTMENT MAY DELEGATE THE MANAGEMENT OF THE DEPARTMENT'S DATA REPOSITORY FUNCTIONS TO ANOTHER STATE AGENCY OR PRIVATE CONTRACTOR.~~

~~(C) THE DEPARTMENT MAY SHARE SYSTEMS AND RESOURCES WITH OTHER STATE DEPARTMENTS TO OPTIMIZE THE MANAGEMENT AND SHARING OF THE DATA REPOSITORIES OF THE DEPARTMENT.~~

~~5-2A-10.~~

~~(A) (1) THE DEPARTMENT SHALL ESTABLISH A SYSTEM, INCLUDING AN ELECTRONIC REPORTING SYSTEM FOR THE SUBMITTAL OF REPORTS REQUIRED UNDER THIS PART.~~

~~(2) THE ELECTRONIC REPORTING SYSTEM SHALL IDENTIFY THE WATERSHED WHERE THE PESTICIDES ARE USED OR ARE RELEASED AS REQUIRED UNDER § 5-2A-07(A)(6) OF THIS PART.~~

~~(B) THE DEPARTMENT MAY ESTABLISH A POLICY TO ENSURE THAT 90% OF THE REPORTS REQUIRED UNDER THIS PART ARE SUBMITTED BY 2018.~~

~~5-2A-11.~~

~~(A) THE DEPARTMENT MAY ADOPT REGULATIONS REGARDING ACCESS BY THE PUBLIC TO INFORMATION SUBMITTED TO OR MAINTAINED BY THE DEPARTMENT REGARDING PESTICIDES USED, RELEASED, SOLD, AND PURCHASED IN THE STATE.~~

~~(B) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO:~~

~~(I) ENSURE THAT PUBLICLY DISTRIBUTED DATA WILL NOT RESULT IN THE ASSOCIATION OF ANY DATA WITH A PERSON; AND~~

~~(II) PROTECT THE IDENTITY OF A PERSON REQUIRED TO SUBMIT A REPORT UNDER THIS PART.~~

~~(2) ACCESS TO INDIVIDUAL REPORTS SHALL BE LIMITED TO:~~

~~(I) GOVERNMENT AGENCIES;~~

~~(II) RESEARCH ORGANIZATIONS THAT HAVE A REGULATORY OR ACADEMIC INTEREST IN THE USE, RELEASE, SALE, OR PURCHASE OF PESTICIDES; AND~~

~~(III) ENVIRONMENTAL AND PUBLIC HEALTH EXPERTS.~~

~~(3) ACCESS TO INDIVIDUAL REPORTS MAY NOT BE PROVIDED TO AN ENTITY LISTED UNDER PARAGRAPH (2) OF THIS SUBSECTION UNLESS THE ENTITY:~~

~~(i) DEMONSTRATES THE ENTITY HAS ADEQUATE SECURITY MEASURES TO PREVENT THE RELEASE OF INFORMATION THAT IS ATTRIBUTABLE TO A PERSON SUBMITTING A REPORT; AND~~

~~(ii) SIGNS AN AGREEMENT TO KEEP CONFIDENTIAL THE IDENTITY OF A PERSON THAT HAS SUBMITTED A REPORT.~~

~~(c) FOR MATTERS RELATING TO THE DEPARTMENT'S PROTECTION OF THE IDENTITY OF A PERSON REQUIRED TO SUBMIT A REPORT, A PERSON SHALL BE ENTITLED TO:~~

~~(1) A REVIEW BY AN ADMINISTRATIVE LAW JUDGE; AND~~

~~(2) AN APPEAL TO A COURT OF COMPETENT JURISDICTION, AS AUTHORIZED BY STATE LAW.~~

~~5-2A-12. RESERVED.~~

~~5-2A-13. RESERVED.~~

~~PART III. PESTICIDE USE AND RELEASE FUND.~~

~~5-2A-14.~~

~~(A) THERE IS A PESTICIDE USE AND RELEASE FUND IN THE DEPARTMENT.~~

~~(B) THE SECRETARY SHALL ADMINISTER THE FUND.~~

~~(C) (1) (i) EXCEPT AS PROVIDED BY SUBPARAGRAPH (ii) OF THIS PARAGRAPH, THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(ii) IF THE FUND HAS SUFFICIENT MONEY TO COVER ALL COSTS OF THE PROGRAM ESTABLISHED UNDER THIS SUBTITLE FOR THE UPCOMING FISCAL YEAR, THE DEPARTMENT MAY TRANSFER EXCESS MONEY TO AN ACCOUNT IN THE DEPARTMENT FOR THE PURPOSE OF ADMINISTERING THE OFFICE OF THE STATE CHEMIST IN THE DEPARTMENT.~~

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

~~(D) THE FUND CONSISTS OF:~~

~~(1) REVENUE DISTRIBUTED TO THE FUND UNDER THIS SUBTITLE;~~

~~(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;~~
~~AND~~

~~(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.~~

~~(E) THE FUND SHALL BE USED FOR:~~

~~(1) THE COLLECTION, MANAGEMENT, AND ANALYSIS OF DATA RECEIVED BY THE DEPARTMENT FROM PERSONS REQUIRED TO REPORT IN ACCORDANCE WITH THIS SUBTITLE OR REGULATIONS ADOPTED IN ACCORDANCE WITH THIS SUBTITLE;~~

~~(2) ENFORCEMENT OF THE PROVISIONS OF THIS SUBTITLE; AND~~

~~(3) IN ACCORDANCE WITH SUBSECTION (C)(1)(II) OF THIS SECTION, THE ADMINISTRATION OF THE OFFICE OF THE STATE CHEMIST IN THE DEPARTMENT.~~

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

~~(2) ANY INTEREST OR OTHER INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED AND PAID INTO THE FUND.~~

~~(G) (1) THE FUND SHALL HAVE AN ANNUAL REVENUE TARGET.~~

~~(2) THE ANNUAL REVENUE TARGET SHALL BE SET AND ADJUSTED ANNUALLY BY THE DEPARTMENT IN RESPONSE TO DOCUMENTED PROGRAM NEEDS OR CHANGES IN THE COST OF LIVING INDEX USED BY THE STATE.~~

~~(3) THE ANNUAL REVENUE TARGET SHALL BE SET AT A LEVEL SUFFICIENT TO COVER ALL COSTS OF THE PROGRAM ESTABLISHED UNDER THIS SUBTITLE.~~

~~ANY FEE OR PENALTY COLLECTED IN ACCORDANCE WITH THIS SUBTITLE SHALL BE DEPOSITED INTO THE FUND.~~

~~5-2A-16.~~

~~(A) THE DEPARTMENT SHALL PLACE A SURCHARGE ON REGISTRATION FEES PAID UNDER § 5-105 OF THIS TITLE IN AN AMOUNT SUFFICIENT TO GENERATE FUNDS TO MEET THE ANNUAL REVENUE TARGET ESTABLISHED UNDER § 5-2A-14(C) OF THIS PART.~~

~~(B) THE SURCHARGE PORTION OF REGISTRATION FEES UNDER SUBSECTION (A) OF THIS SECTION SHALL BE USED FOR THE PURPOSE OF SUPPORTING THE DEVELOPMENT AND OPERATION OF, AND COMPLIANCE WITH, THE REPORTING PROGRAMS REQUIRED UNDER THIS SUBTITLE.~~

~~(C) THE SURCHARGE ON THE PESTICIDE REGISTRATION FEES SHALL BE DEPOSITED INTO THE FUND.~~

~~5-2A-17. RESERVED.~~

~~5-2A-18. RESERVED.~~

~~PART IV. ENFORCEMENT AND PENALTIES.~~

~~5-2A-19.~~

~~A PERSON MAY NOT KNOWINGLY OR RECKLESSLY SUBMIT FALSE INFORMATION IN RESPONSE TO A REPORTING REQUIREMENT UNDER THIS SUBTITLE.~~

~~5-2A-20.~~

~~(A) A PERSON SHALL BE SUBJECT TO A PENALTY IN AN AMOUNT NOT TO EXCEED \$100 FOR AN INITIAL NOTICE OF NONCOMPLIANCE WITH THIS SUBTITLE.~~

~~(B) FAILURE TO SUBMIT A REPORT OR PAY THE FEES AS REQUIRED UNDER THIS SUBTITLE ON SECOND AND SUBSEQUENT NOTICES DELIVERED AT LEAST 30 DAYS FROM THE INITIAL OR PREVIOUS NOTICE SHALL BE SUBJECT TO A PENALTY IN AN AMOUNT NOT TO EXCEED \$1,000 FOR EACH NOTICE.~~

~~(C) KNOWINGLY SUBMITTING FALSE INFORMATION TO THE DEPARTMENT IN A REPORT REQUIRED UNDER THIS SUBTITLE SHALL BE SUBJECT TO A PENALTY IN AN AMOUNT NOT TO EXCEED \$5,000.~~

~~(D) A PERSON THAT VIOLATES AN AGREEMENT OF CONFIDENTIALITY UNDER § 5-2A-11 OF THIS SUBTITLE SHALL BE SUBJECT TO A PENALTY IN AN AMOUNT NOT TO EXCEED \$5,000.~~

~~5-2A-21.~~

~~(A) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PROVISIONS AND PROCEDURES OF TITLE 12 OF THIS ARTICLE SHALL BE USED AND APPLIED TO ANY PERSON THAT KNOWINGLY OR RECKLESSLY VIOLATES:~~

~~(1) THIS SUBTITLE; AND~~

~~(2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE.~~

~~(B) A PENALTY IMPOSED FOR A VIOLATION OF THIS SUBTITLE IS PAYABLE TO THE FUND AND MAY BE COLLECTED IN ANY MANNER PROVIDED BY LAW FOR THE COLLECTION OF DEBTS.~~

~~(C) THE DEPARTMENT AND OTHER AGENCIES ASSIGNED TO SUPPORT THE DEPARTMENT SHALL ENFORCE THIS SUBTITLE.~~

~~(D) UNLESS A PERSON SERVED WITH NOTICE OF A PENALTY UNDER THIS PART MAKES A WRITTEN REQUEST FOR A HEARING WITHIN 30 DAYS OF RECEIPT OF THE NOTICE, THE PENALTY IS CONSIDERED FINAL.~~

~~(E) IF A PERSON REQUIRED TO PAY A FINAL PENALTY IMPOSED UNDER THIS PART FAILS TO PAY WITHIN 30 DAYS AFTER THE PENALTY BECOMES FINAL, A LIEN SHALL BE RECORDED AGAINST ANY REAL PROPERTY OWNED BY THE PERSON IN THE AMOUNT OF THE PENALTY, TOGETHER WITH INTEREST AND ANY COSTS THAT MAY ACCRUE.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~(a) The Department of Agriculture shall establish a tracking system to facilitate the reporting, recording, and investigating of suspicious pesticide purchases.~~

~~(b) The tracking system shall include:~~

~~(1) a toll-free telephone line for citizens to anonymously report suspicious pesticide purchases; and~~

~~(2) a database, maintained by the Department, to record all citizen reports.~~

~~(c) Once a report has been entered into the database, the Department shall:~~

~~(1) review the report; and~~

~~(2) forward to the appropriate federal or State law enforcement agency any report the Department determines to contain credible evidence of potentially dangerous or illegal activity.~~

~~(d) On or before October 1, 2014, the Department shall adopt regulations to carry out these provisions.~~

(a) There is a Maryland Pesticide Reporting and Information Workgroup.

(b) The Workgroup 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 Secretary of Agriculture, or the Secretary's designee;

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

(5) the Secretary of Natural Resources, or the Secretary's designee;

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

(7) the Chair of the Pesticide Advisory Committee, or the Chair's designee; and

(8) the following members appointed jointly by the President of the Senate and the Speaker of the House:

(i) one representative of the Chesapeake Bay Foundation;

(ii) one representative of the Maryland Pesticide Network;

(iii) one representative of the Maryland Farm Bureau;

(iv) one representative of the Maryland State Pest Control Association;

- (v) one representative of the Maryland Grain Producers;
- (vi) one representative from the pesticide manufacturing industry;
- (vii) one representative from the environmental community;
- (viii) one public health expert;
- (ix) one public health and toxicology expert;
- (x) one environmental health expert; and
- (xi) one farmer.

(c) (1) The President of the Senate shall designate one of the members appointed from the Senate of Maryland as cochair of the Workgroup.

(2) The Speaker of the House shall designate one of the members appointed from the House of Delegates as cochair of the Workgroup.

(d) The Department of Agriculture shall provide staff for the Workgroup.

(e) A member of the Workgroup:

(1) may not receive compensation 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.

(f) The Workgroup shall:

(1) identify any pesticide use data gaps;

(2) determine the need for a data reporting program;

(3) determine the appropriate format to make data available for research;

~~(3)~~ (4) review scientific research and data regarding the use of pesticides and the potential for harm from pesticides;

~~(4)~~ (5) determine and make recommendations regarding how to protect the privacy of a person reporting data;

~~(5)~~ (6) determine and make recommendations regarding the best method for assembling and maintaining data;

~~(6)~~ (7) determine the need for and make recommendations regarding regulations and guidelines needed for a consistent, unified database;

~~(7)~~ (8) determine and make recommendations regarding whether legislation is necessary to facilitate access to pesticide information and data;

~~(8)~~ (9) determine whether it is feasible to gather data from retailers and homeowners; and

(10) study the current federal process to approve a pesticide for use;

(11) conduct a cost–benefit analysis of:

and
(i) implementing and maintaining a data reporting program;

(ii) any recommendations that will have an economic impact on the State;

(12) study the impacts of using organic pesticides on farms; and

~~(9)~~ (13) consult with the U.S. Environmental Protection Agency and other federal agencies when the Workgroup determines it necessary.

(g) (1) On or before December 31, 2013, the Workgroup shall report its preliminary findings and recommendations to the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee in accordance with § 2–1246 of the State Government Article.

(2) On or before July 1, 2014, the Workgroup shall report its final findings and recommendations to the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee in accordance with § 2–1246 of the State Government Article.

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. It 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, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 16, 2013.

Chapter 524

(House Bill 775)

AN ACT concerning

Maryland Pesticide Reporting and Information ~~Act~~ Workgroup

FOR the purpose of ~~requiring the Department of Agriculture to adopt certain regulations regarding reporting on the use, release, sale, and purchase of certain pesticides; requiring certain persons that use, release, sell, or purchase certain pesticides to submit certain reports to the Department; requiring the reports to contain certain information; requiring certain restricted-use pesticide reports to be submitted at least semi-annually in a manner required by the Department; requiring certain pesticide reports to be submitted annually beginning on a certain date; requiring the Department to establish the format of the reports; requiring the Department to adopt regulations for standard naming conventions for certain chemicals and products; requiring a person that withholds certain information from a certain report to notify the Department and provide a certain explanation; establishing that this Act does not relieve a person from certain reporting requirements under federal, State, or local laws; authorizing the Department to inspect certain records; requiring certain records to be made available to the Department for inspection at a certain time; requiring the Department to provide notice of a certain inspection of records to a certain person; requiring the Department to serve as the repository for certain records; authorizing the Department to delegate certain data management functions; authorizing the Department to share data management resources with other State departments; requiring the Department to establish a system, including an electronic reporting system for the submission of reports; requiring the online electronic reporting system to allow certain information to be reported; authorizing the Department to establish a certain policy regarding electronic reporting; authorizing the Department to adopt regulations regarding the public availability of certain information; requiring the Department to adopt regulations to ensure that certain data will not result in the association of the data with a certain person; requiring the Department to adopt regulations to protect the identity of certain persons; limiting access to certain reports to certain persons; prohibiting access to certain reports unless certain requirements are met; requiring the availability of certain administrative and judicial review under certain circumstances; creating a Pesticide Use and Release Fund; providing for the administration of the Fund; requiring the Fund to be used for certain purposes; requiring the Fund to have an annual revenue target; requiring the Department to set the revenue target and adjust the target based on certain conditions; requiring certain penalties and fees to be deposited into the Fund; requiring the Department to place a certain surcharge on certain fees; requiring the surcharge fees to be deposited into the Fund; requiring the surcharge fees to be used for a certain purpose; prohibiting the violation of this Act; establishing the penalties for certain violations; providing for the~~

~~enforcement of this Act; requiring the Department to establish a tracking system for certain pesticide purchases; defining certain terms; declaring certain findings of the General Assembly; and generally relating to pesticide use and release reporting. establishing the Maryland Pesticide Reporting and Information Workgroup; providing for the composition, cochairs, and staffing of the Workgroup; prohibiting a member of the Workgroup from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Workgroup to study and make recommendations regarding the establishment of a pesticide use database; requiring the Workgroup to report its preliminary and final findings and recommendations to certain committees of the General Assembly on or before certain dates; providing for the termination of this Act; and generally relating to the Maryland Pesticide Reporting and Information Workgroup.~~

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

~~Article – Agriculture~~

~~Section 5-101(g), 5-105, and 5-201(a), (e), (g), (j), (l), and (r)~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume and 2012 Supplement)~~

~~BY adding to~~

~~Article – Agriculture~~

~~Section 5-2A-01 through 5-2A-21 to be under the new subtitle “Subtitle 2A-
Use, Release, Sale, and Purchase of Pesticides”~~

~~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~~

~~5-101.~~

~~(g) “Distributor” means a person who imports, manufactures, produces, mixes, or consigns pesticides as part of a commercial enterprise.~~

~~5-105.~~

~~(a) Except as provided in subsection (g) of this section, a distributor shall register with the Secretary each brand or product name of a pesticide before distributing it in the State. The registration for each pesticide expires December 31 each year.~~

~~(b) Each applicant shall file with the Secretary a statement listing:~~

~~(1) The name and address of each applicant and the name and address of the person whose name will appear on the label, if other than the registrant;~~

~~(2) The name of the pesticide;~~

~~(3) A complete copy of the labeling accompanying the pesticide and a statement of every claim to be made for it, including directions for use; and~~

~~(4) A full description of every test conducted and the results upon which any claim is based, if requested by the Secretary.~~

~~(e) A separate application shall be filed for each person whose name appears on the label. Upon renewal, a person shall file a statement listing any required new information that does not appear on the statement filed when the pesticide was registered or was last reregistered.~~

~~(d) The applicant shall pay an annual fee of \$100 to the Secretary for each product registered. Unless the Secretary determines otherwise, each applicant also shall pay a terminal registration fee of \$100 for each discontinued pesticide each year for two years.~~

~~(e) In addition to the annual fee, any person filing a renewal application after January 31 for any product offered for sale shall pay a ten percent per month late registration fee for each pesticide, but not exceeding twice the annual registration fee per pesticide. Late fees apply retroactively to the January 1 filing date. Late fees are not applicable to new products which are registered before being distributed, sold, or offered for sale.~~

~~(f) The Secretary may require the submission of toxicological, environmental, or health effects data that the Secretary considers appropriate, or the complete formula of any pesticide whenever he deems this action necessary to effectuate the purposes of this subtitle. The Secretary shall register the pesticide if he determines that the pesticide, its labeling, and other material required to be submitted comply with the requirements of this subtitle.~~

~~(g) Provided the product label has not been altered or changed, a distributor shall not be required to register the brand or trade name of a pesticide which has been registered by another person under this subtitle.~~

~~(h) Before a pesticide may be registered by the Secretary, the pesticide shall comply with the provisions of federal pesticide laws and regulations.~~

~~5-201.~~

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

~~(e) “Certified applicator” means a person who is certified by the Secretary under this subtitle.~~

~~(g) “Labeling” means all written, printed, or graphic matter:~~

~~(1) Accompanying the pesticide or device at any time; or~~

~~(2) To which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the:~~

~~(i) Environmental Protection Agency;~~

~~(ii) United States Departments of Agriculture, Interior, and Health and Human Services;~~

~~(iii) State experiment stations;~~

~~(iv) State agricultural colleges; or~~

~~(v) Other similar federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.~~

~~(j) (1) “Pest control applicator” means a person engaged in the business of pest control.~~

~~(2) Except as provided by the Secretary, “pest control applicator” includes a person who applies pesticides on any premises where the public is commonly invited for the sale of goods or services.~~

~~(k) “Pesticide” means any substance or mixture of substances intended for:~~

~~(1) Preventing, destroying, repelling, or mitigating any pest;~~

~~(2) Use as a plant regulator, defoliant, or desiccant; or~~

~~(3) Use as a spray adjuvant such as a wetting agent or adhesive.~~

~~(r) “Restricted use pesticide” means a pesticide so classified by the provisions in this title or by the federal government or the Secretary of Agriculture, State of Maryland.~~

~~SUBTITLE 2A. USE, RELEASE, SALE, AND PURCHASE OF PESTICIDES.~~

~~PART I. DEFINITIONS; GENERAL PROVISIONS.~~

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

~~(B) "CERTIFIED APPLICATOR", "LABELING", "PEST CONTROL APPLICATOR", "PESTICIDE", AND "RESTRICTED USE PESTICIDE" HAVE THE MEANINGS STATED IN § 5-201 OF THIS TITLE.~~

~~(C) "DISTRIBUTOR" HAS THE MEANING STATED IN § 5-101 OF THIS TITLE.~~

~~(D) "FUND" MEANS THE PESTICIDE USE AND RELEASE FUND ESTABLISHED UNDER § 5-2A-14 OF THIS SUBTITLE.~~

~~(E) "RELEASE" MEANS ANY PESTICIDE APPLICATION OR SPILL THAT DOES NOT COMPLY WITH PESTICIDE LABELING INSTRUCTIONS.~~

~~(F) "USE" MEANS ANY PESTICIDE APPLICATION THAT COMPLIES WITH PESTICIDE LABELING INSTRUCTIONS.~~

~~5-2A-02:~~

~~THE GENERAL ASSEMBLY FINDS THAT:~~

~~(1) THE RELEASE OF PESTICIDES INTO THE ENVIRONMENT CAN HAVE A NEGATIVE EFFECT ON PUBLIC HEALTH AND THE ENVIRONMENT;~~

~~(2) NEGATIVE EFFECTS ON PUBLIC HEALTH AND THE ENVIRONMENT MAY OCCUR EVEN IF PESTICIDES ARE USED IN FULL ACCORDANCE WITH APPROVED APPLICATIONS AND LABELING INSTRUCTIONS;~~

~~(3) WITHOUT INFORMATION ON THE PATTERNS OF THE SALE, USE, AND RELEASE OF PESTICIDES, IT IS COSTLY AND CHALLENGING TO DESIGN APPROPRIATE MONITORING, TRACKING, EVALUATION, AND PROTECTION PROGRAMS;~~

~~(4) THE PROTECTION OF THE ENVIRONMENT, PUBLIC HEALTH, AND PUBLIC WELL-BEING FROM TERRORIST ATTACKS REQUIRES THAT CERTAIN INFORMATION ON THE SALE, USE, AND RELEASE OF PESTICIDES BE ASSEMBLED;~~

~~(5) IT IS RECOGNIZED THAT RESTRICTED USE PESTICIDES POTENTIALLY MAY BE USED BY TERRORISTS AND THAT THE TRACKING OF INFORMATION REGARDING THE PURCHASE AND SALE OF RESTRICTED USE PESTICIDES MAY BE USEFUL IN IDENTIFYING POTENTIALLY UNLAWFUL AND THREATENING USES OF THESE PESTICIDES;~~

~~(6) ACCESS TO REPORTED DATA AND THE IDENTITY OF A PERSON SUBMITTING A REPORT REQUIRED UNDER THIS SUBTITLE IS INTENDED FOR GOVERNMENT AGENCIES, RESEARCH ORGANIZATIONS, AND ENVIRONMENTAL AND PUBLIC HEALTH EXPERTS THAT HAVE A SECURITY, REGULATORY, PUBLIC HEALTH, OR ACADEMIC INTEREST IN THE SALE, USE, AND RELEASE OF PESTICIDES THAT COULD SIGNIFICANTLY IMPAIR OR DAMAGE PUBLIC HEALTH OR THE ENVIRONMENT; AND~~

~~(7) BECAUSE EFFICIENCIES IN REPORTING OF DATA CAN BE ACHIEVED THROUGH THE USE OF CONSOLIDATED ELECTRONIC SYSTEMS AND THE NEWEST ELECTRONIC TECHNOLOGIES, EFFORTS NEED TO BE MADE TO USE THESE TECHNOLOGIES FOR THE BENEFIT OF THE BUSINESSES THAT MUST REPORT THE DATA AND TO ASSIST GOVERNMENT AGENCIES AND RESEARCH ORGANIZATIONS THAT USE THE REPORTED DATA.~~

~~5-2A-03. RESERVED.~~

~~5-2A-04. RESERVED.~~

~~PART II. REPORTING.~~

~~5-2A-05.~~

~~A DISTRIBUTOR, CERTIFIED APPLICATOR, OR PEST CONTROL APPLICATOR SHALL SUBMIT A REPORT UNDER THIS PART.~~

~~5-2A-06.~~

~~THE DEPARTMENT SHALL ADOPT REGULATIONS FOR REPORTING:~~

~~(1) THE USE AND RELEASE OF PESTICIDES, INCLUDING:~~

~~(i) OUTDOOR AGRICULTURAL RELEASE;~~

~~(ii) WOOD DESTROYING INSECT CONTROL, INCLUDING OUTDOOR AND SUBSURFACE BUILDING TREATMENTS;~~

~~(iii) LAWN CARE AND LANDSCAPING SERVICES;~~

~~(iv) GOLF COURSE MAINTENANCE;~~

~~(v) HIGHWAY, UTILITY, AND RAILROAD RIGHTS OF WAY MAINTENANCE;~~

~~(VI) FOREST PEST CONTROL; AND~~

~~(VII) MOSQUITO CONTROL; AND~~

~~(2) THE PURCHASE AND SALE OF RESTRICTED USE PESTICIDES.~~

~~5-2A-07.~~

~~(A) A PERSON REQUIRED TO SUBMIT A REPORT UNDER THIS PART SHALL SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT INDICATING:~~

~~(1) THE QUANTITIES OF THE PESTICIDE USED OR RELEASED IN AT LEAST ANNUAL TOTALS OR AS REQUIRED BY THE DEPARTMENT;~~

~~(2) THE ACREAGE OF LAND MASS COVERED BY THE QUANTITIES OF THE PESTICIDE USED OR RELEASED;~~

~~(3) THE TYPES OF PESTICIDE USED OR RELEASED;~~

~~(4) THE LOCATIONS WHERE PESTICIDE IS USED OR RELEASED BY ZIP CODE, WATERSHED, OR OTHER GEOGRAPHIC AREA DETERMINED BY THE DEPARTMENT;~~

~~(5) THE INTENDED PURPOSES OF THE PESTICIDE APPLICATION OR RELEASE, INCLUDING:~~

~~(I) CROPS TO WHICH PESTICIDE IS APPLIED; AND~~

~~(II) TARGETED ORGANISMS FOR PESTICIDE USE;~~

~~(6) THE 16 DIGIT U.S. GEOLOGICAL SURVEY UNIT CODE FOR THE WATERSHED, OR EQUIVALENT CODE ESTABLISHED BY THE DEPARTMENT, IN WHICH PESTICIDE WAS USED OR RELEASED; AND~~

~~(7) ANY ADDITIONAL INFORMATION RELATING TO PESTICIDE USE OR RELEASE THAT THE SECRETARY REQUIRES.~~

~~(B) RESTRICTED USE PESTICIDE SALE AND PURCHASE REPORTS REQUIRED UNDER THIS PART SHALL BE SUBMITTED AT LEAST SEMI-ANNUALLY IN A MANNER REQUIRED BY THE DEPARTMENT.~~

~~(C) PESTICIDE USE AND RELEASE REPORTS REQUIRED UNDER THIS PART OR REGULATIONS ADOPTED IN ACCORDANCE WITH THIS SUBTITLE SHALL~~

~~COVER THE PRECEDING CALENDAR YEAR AND BE SUBMITTED ANNUALLY TO THE DEPARTMENT BEGINNING ON MARCH 1, 2015.~~

~~(D) (1) THE DEPARTMENT SHALL SPECIFY THE FORMAT OF REPORTS REQUIRED UNDER THIS PART.~~

~~(2) THE DEPARTMENT SHALL ADOPT REGULATIONS FOR STANDARD NAMING CONVENTIONS AND CATEGORIES FOR THE VARIOUS CHEMICAL NAMES, PRODUCT NAMES, AND PRODUCT FORMULATIONS.~~

~~(E) A PERSON THAT WITHHOLDS INFORMATION FROM A REPORT REQUIRED UNDER THIS SECTION BASED ON A CLAIM THAT THE INFORMATION IS CONFIDENTIAL BUSINESS INFORMATION SHALL:~~

~~(1) NOTIFY THE DEPARTMENT THAT INFORMATION IS BEING WITHHELD; AND~~

~~(2) PROVIDE AN EXPLANATION FOR THE CLAIM THAT THE WITHHELD INFORMATION IS CONFIDENTIAL.~~

~~(F) THIS SECTION DOES NOT RELIEVE A PERSON FROM ANY OTHER REPORTING REQUIREMENTS UNDER FEDERAL, STATE, OR LOCAL LAWS.~~

~~5-2A-08.~~

~~(A) THE DEPARTMENT MAY INSPECT ANY RECORDS OR REPORTS OF PESTICIDE USE, RELEASE, SALE, AND PURCHASE BY A PERSON.~~

~~(B) ON REQUEST BY THE DEPARTMENT, A PERSON SHALL MAKE RECORDS AVAILABLE FOR INSPECTION BY THE DEPARTMENT DURING NORMAL BUSINESS HOURS.~~

~~(C) IF THE DEPARTMENT INTENDS TO INSPECT RECORDS AT THE LOCATION WHERE THE RECORDS ARE MAINTAINED, THE DEPARTMENT SHALL PROVIDE ADVANCE NOTICE OF NOT LESS THAN 1 WEEK TO THE PERSON IN POSSESSION OF THE RECORDS.~~

~~5-2A-09.~~

~~(A) THE DEPARTMENT SHALL SERVE AS THE REPOSITORY FOR DATA REGARDING PESTICIDE USE, RELEASE, SALE, AND PURCHASE IN THE STATE.~~

~~(B) THE DEPARTMENT MAY DELEGATE THE MANAGEMENT OF THE DEPARTMENT'S DATA REPOSITORY FUNCTIONS TO ANOTHER STATE AGENCY OR PRIVATE CONTRACTOR.~~

~~(C) THE DEPARTMENT MAY SHARE SYSTEMS AND RESOURCES WITH OTHER STATE DEPARTMENTS TO OPTIMIZE THE MANAGEMENT AND SHARING OF THE DATA REPOSITORIES OF THE DEPARTMENT.~~

~~5-2A-10.~~

~~(A) (1) THE DEPARTMENT SHALL ESTABLISH A SYSTEM, INCLUDING AN ELECTRONIC REPORTING SYSTEM FOR THE SUBMITTAL OF REPORTS REQUIRED UNDER THIS PART.~~

~~(2) THE ELECTRONIC REPORTING SYSTEM SHALL IDENTIFY THE WATERSHED WHERE THE PESTICIDES ARE USED OR ARE RELEASED AS REQUIRED UNDER § 5-2A-07(A)(6) OF THIS PART.~~

~~(B) THE DEPARTMENT MAY ESTABLISH A POLICY TO ENSURE THAT 90% OF THE REPORTS REQUIRED UNDER THIS PART ARE SUBMITTED BY 2018.~~

~~5-2A-11.~~

~~(A) THE DEPARTMENT MAY ADOPT REGULATIONS REGARDING ACCESS BY THE PUBLIC TO INFORMATION SUBMITTED TO OR MAINTAINED BY THE DEPARTMENT REGARDING PESTICIDES USED, RELEASED, SOLD, AND PURCHASED IN THE STATE.~~

~~(B) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO:~~

~~(I) ENSURE THAT PUBLICLY DISTRIBUTED DATA WILL NOT RESULT IN THE ASSOCIATION OF ANY DATA WITH A PERSON; AND~~

~~(II) PROTECT THE IDENTITY OF A PERSON REQUIRED TO SUBMIT A REPORT UNDER THIS PART.~~

~~(2) ACCESS TO INDIVIDUAL REPORTS SHALL BE LIMITED TO:~~

~~(I) GOVERNMENT AGENCIES;~~

~~(II) RESEARCH ORGANIZATIONS THAT HAVE A REGULATORY OR ACADEMIC INTEREST IN THE USE, RELEASE, SALE, OR PURCHASE OF PESTICIDES; AND~~

~~(III) ENVIRONMENTAL AND PUBLIC HEALTH EXPERTS.~~

~~(3) ACCESS TO INDIVIDUAL REPORTS MAY NOT BE PROVIDED TO AN ENTITY LISTED UNDER PARAGRAPH (2) OF THIS SUBSECTION UNLESS THE ENTITY:~~

~~(i) DEMONSTRATES THE ENTITY HAS ADEQUATE SECURITY MEASURES TO PREVENT THE RELEASE OF INFORMATION THAT IS ATTRIBUTABLE TO A PERSON SUBMITTING A REPORT; AND~~

~~(ii) SIGNS AN AGREEMENT TO KEEP CONFIDENTIAL THE IDENTITY OF A PERSON THAT HAS SUBMITTED A REPORT.~~

~~(c) FOR MATTERS RELATING TO THE DEPARTMENT'S PROTECTION OF THE IDENTITY OF A PERSON REQUIRED TO SUBMIT A REPORT, A PERSON SHALL BE ENTITLED TO:~~

~~(1) A REVIEW BY AN ADMINISTRATIVE LAW JUDGE; AND~~

~~(2) AN APPEAL TO A COURT OF COMPETENT JURISDICTION, AS AUTHORIZED BY STATE LAW.~~

~~5-2A-12. RESERVED.~~

~~5-2A-13. RESERVED.~~

~~PART III. PESTICIDE USE AND RELEASE FUND.~~

~~5-2A-14.~~

~~(A) THERE IS A PESTICIDE USE AND RELEASE FUND IN THE DEPARTMENT.~~

~~(B) THE SECRETARY SHALL ADMINISTER THE FUND.~~

~~(C) (1) (i) EXCEPT AS PROVIDED BY SUBPARAGRAPH (ii) OF THIS PARAGRAPH, THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(ii) IF THE FUND HAS SUFFICIENT MONEY TO COVER ALL COSTS OF THE PROGRAM ESTABLISHED UNDER THIS SUBTITLE FOR THE UPCOMING FISCAL YEAR, THE DEPARTMENT MAY TRANSFER EXCESS MONEY TO AN ACCOUNT IN THE DEPARTMENT FOR THE PURPOSE OF ADMINISTERING THE OFFICE OF THE STATE CHEMIST IN THE DEPARTMENT.~~

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

~~(D) THE FUND CONSISTS OF:~~

~~(1) REVENUE DISTRIBUTED TO THE FUND UNDER THIS SUBTITLE;~~

~~(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;~~
~~AND~~

~~(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.~~

~~(E) THE FUND SHALL BE USED FOR:~~

~~(1) THE COLLECTION, MANAGEMENT, AND ANALYSIS OF DATA RECEIVED BY THE DEPARTMENT FROM PERSONS REQUIRED TO REPORT IN ACCORDANCE WITH THIS SUBTITLE OR REGULATIONS ADOPTED IN ACCORDANCE WITH THIS SUBTITLE;~~

~~(2) ENFORCEMENT OF THE PROVISIONS OF THIS SUBTITLE; AND~~

~~(3) IN ACCORDANCE WITH SUBSECTION (C)(1)(II) OF THIS SECTION, THE ADMINISTRATION OF THE OFFICE OF THE STATE CHEMIST IN THE DEPARTMENT.~~

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

~~(2) ANY INTEREST OR OTHER INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED AND PAID INTO THE FUND.~~

~~(G) (1) THE FUND SHALL HAVE AN ANNUAL REVENUE TARGET.~~

~~(2) THE ANNUAL REVENUE TARGET SHALL BE SET AND ADJUSTED ANNUALLY BY THE DEPARTMENT IN RESPONSE TO DOCUMENTED PROGRAM NEEDS OR CHANGES IN THE COST OF LIVING INDEX USED BY THE STATE.~~

~~(3) THE ANNUAL REVENUE TARGET SHALL BE SET AT A LEVEL SUFFICIENT TO COVER ALL COSTS OF THE PROGRAM ESTABLISHED UNDER THIS SUBTITLE.~~

~~ANY FEE OR PENALTY COLLECTED IN ACCORDANCE WITH THIS SUBTITLE SHALL BE DEPOSITED INTO THE FUND.~~

~~5-2A-16.~~

~~(A) THE DEPARTMENT SHALL PLACE A SURCHARGE ON REGISTRATION FEES PAID UNDER § 5-105 OF THIS TITLE IN AN AMOUNT SUFFICIENT TO GENERATE FUNDS TO MEET THE ANNUAL REVENUE TARGET ESTABLISHED UNDER § 5-2A-14(C) OF THIS PART.~~

~~(B) THE SURCHARGE PORTION OF REGISTRATION FEES UNDER SUBSECTION (A) OF THIS SECTION SHALL BE USED FOR THE PURPOSE OF SUPPORTING THE DEVELOPMENT AND OPERATION OF, AND COMPLIANCE WITH, THE REPORTING PROGRAMS REQUIRED UNDER THIS SUBTITLE.~~

~~(C) THE SURCHARGE ON THE PESTICIDE REGISTRATION FEES SHALL BE DEPOSITED INTO THE FUND.~~

~~5-2A-17. RESERVED.~~

~~5-2A-18. RESERVED.~~

~~PART IV. ENFORCEMENT AND PENALTIES.~~

~~5-2A-19.~~

~~A PERSON MAY NOT KNOWINGLY OR RECKLESSLY SUBMIT FALSE INFORMATION IN RESPONSE TO A REPORTING REQUIREMENT UNDER THIS SUBTITLE.~~

~~5-2A-20.~~

~~(A) A PERSON SHALL BE SUBJECT TO A PENALTY IN AN AMOUNT NOT TO EXCEED \$100 FOR AN INITIAL NOTICE OF NONCOMPLIANCE WITH THIS SUBTITLE.~~

~~(B) FAILURE TO SUBMIT A REPORT OR PAY THE FEES AS REQUIRED UNDER THIS SUBTITLE ON SECOND AND SUBSEQUENT NOTICES DELIVERED AT LEAST 30 DAYS FROM THE INITIAL OR PREVIOUS NOTICE SHALL BE SUBJECT TO A PENALTY IN AN AMOUNT NOT TO EXCEED \$1,000 FOR EACH NOTICE.~~

~~(C) KNOWINGLY SUBMITTING FALSE INFORMATION TO THE DEPARTMENT IN A REPORT REQUIRED UNDER THIS SUBTITLE SHALL BE SUBJECT TO A PENALTY IN AN AMOUNT NOT TO EXCEED \$5,000.~~

~~(D) A PERSON THAT VIOLATES AN AGREEMENT OF CONFIDENTIALITY UNDER § 5-2A-11 OF THIS SUBTITLE SHALL BE SUBJECT TO A PENALTY IN AN AMOUNT NOT TO EXCEED \$5,000.~~

~~5-2A-21.~~

~~(A) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PROVISIONS AND PROCEDURES OF TITLE 12 OF THIS ARTICLE SHALL BE USED AND APPLIED TO ANY PERSON THAT KNOWINGLY OR RECKLESSLY VIOLATES:~~

~~(1) THIS SUBTITLE; AND~~

~~(2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE.~~

~~(B) A PENALTY IMPOSED FOR A VIOLATION OF THIS SUBTITLE IS PAYABLE TO THE FUND AND MAY BE COLLECTED IN ANY MANNER PROVIDED BY LAW FOR THE COLLECTION OF DEBTS.~~

~~(C) THE DEPARTMENT AND OTHER AGENCIES ASSIGNED TO SUPPORT THE DEPARTMENT SHALL ENFORCE THIS SUBTITLE.~~

~~(D) UNLESS A PERSON SERVED WITH NOTICE OF A PENALTY UNDER THIS PART MAKES A WRITTEN REQUEST FOR A HEARING WITHIN 30 DAYS OF RECEIPT OF THE NOTICE, THE PENALTY IS CONSIDERED FINAL.~~

~~(E) IF A PERSON REQUIRED TO PAY A FINAL PENALTY IMPOSED UNDER THIS PART FAILS TO PAY WITHIN 30 DAYS AFTER THE PENALTY BECOMES FINAL, A LIEN SHALL BE RECORDED AGAINST ANY REAL PROPERTY OWNED BY THE PERSON IN THE AMOUNT OF THE PENALTY, TOGETHER WITH INTEREST AND ANY COSTS THAT MAY ACCRUE.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~(a) The Department of Agriculture shall establish a tracking system to facilitate the reporting, recording, and investigating of suspicious pesticide purchases.~~

~~(b) The tracking system shall include:~~

~~(1) a toll-free telephone line for citizens to anonymously report suspicious pesticide purchases; and~~

~~(2) a database, maintained by the Department, to record all citizen reports.~~

~~(c) Once a report has been entered into the database, the Department shall:~~

~~(1) review the report; and~~

~~(2) forward to the appropriate federal or State law enforcement agency any report the Department determines to contain credible evidence of potentially dangerous or illegal activity.~~

~~(d) On or before October 1, 2014, the Department shall adopt regulations to carry out these provisions.~~

(a) There is a Maryland Pesticide Reporting and Information Workgroup.

(b) The Workgroup 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 Secretary of Agriculture, or the Secretary's designee;

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

(5) the Secretary of Natural Resources, or the Secretary's designee;

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

(7) the Chair of the Pesticide Advisory Committee, or the Chair's designee; and

(8) the following members appointed jointly by the President of the Senate and the Speaker of the House:

(i) one representative of the Chesapeake Bay Foundation;

(ii) one representative of the Maryland Pesticide Network;

(iii) one representative of the Maryland Farm Bureau;

(iv) one representative of the Maryland State Pest Control Association;

- (v) one representative of the Maryland Grain Producers;
- (vi) one representative from the pesticide manufacturing industry;
- ~~(vi)~~ (vii) one representative from the environmental community;
- ~~(vii)~~ (viii) one public health expert;
- (ix) one public health and toxicology expert;
- ~~(viii)~~ (x) one environmental health expert; and
- ~~(ix)~~ (xi) one farmer.

(c) (1) The President of the Senate shall designate one of the members appointed from the Senate of Maryland as cochair of the Workgroup.

(2) The Speaker of the House shall designate one of the members appointed from the House of Delegates as cochair of the Workgroup.

(d) The Department of Agriculture shall provide staff for the Workgroup.

(e) A member of the Workgroup:

(1) may not receive compensation 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.

(f) The Workgroup shall:

(1) identify any pesticide use data gaps;

(2) determine the need for a data reporting program;

~~(2)~~ (3) determine the appropriate format to make data available for research;

~~(3)~~ (4) review scientific research and data regarding the use of pesticides and the potential for harm from pesticides;

~~(4)~~ (5) determine and make recommendations regarding how to protect the privacy of a person reporting data;

~~(5)~~ (6) determine and make recommendations regarding the best method for assembling and maintaining data;

~~(6)~~ (7) determine the need for and make recommendations regarding regulations and guidelines needed for a consistent, unified database;

~~(7)~~ (8) determine and make recommendations regarding whether legislation is necessary to facilitate access to pesticide information and data;

~~(8)~~ (9) determine whether it is feasible to gather data from retailers and homeowners; and

(10) study the current federal process to approve a pesticide for use;

(11) conduct a cost–benefit analysis of:

and
(i) implementing and maintaining a data reporting program;

(ii) any recommendations that will have an economic impact on the State;

(12) study the impacts of using organic pesticides on farms; and

~~(9)~~ (13) consult with the U.S. Environmental Protection Agency and other federal agencies when the Workgroup determines it necessary.

(g) (1) On or before December 31, 2013, the Workgroup shall report its preliminary findings and recommendations to the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee in accordance with § 2–1246 of the State Government Article.

(2) On or before July 1, 2014, the Workgroup shall report its final findings and recommendations to the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee in accordance with § 2–1246 of the State Government Article.

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. It shall remain effective for a period of 2 years and, at the end of May 31, 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 16, 2013.

Chapter 525

(Senate Bill 682)

AN ACT concerning

Portable Electronics Insurance – Compensation of Employees of Vendor – Vendor, Disclosures to Customers Customers, and Study

FOR the purpose of providing that a vendor of portable electronics insurance or an authorized representative of the vendor may compensate employees of the vendor or an authorized representative in a certain manner; altering the content of certain disclosures that a vendor of portable electronics insurance must provide to customers under certain circumstances; requiring the Maryland Insurance Commissioner to make certain determinations and review certain laws, practices, guidelines, and standards relating to limited lines insurance; requiring the Commissioner to keep track of certain complaints regarding the sales practices of vendor employees at point of sale; requiring the Commissioner to report certain findings and recommendations to certain committees of the General Assembly on or before a certain date; providing for the termination of certain provisions of this Act; and generally relating to portable electronics insurance.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 10–703(e) and 10–705(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 – Insurance

10–703.

(e) (1) A vendor may receive compensation for billing and collection services under a policy of portable electronics insurance.

(2) A vendor or an authorized representative of the vendor may compensate the employees of the vendor or of the authorized representative in a manner that does not depend SOLELY on the sale of portable electronics insurance.

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

Article – Insurance

10–705.

(a) A limited lines license to offer or sell coverage under a policy of portable electronics insurance to a customer issued under this subtitle authorizes a vendor or an authorized representative of the vendor to sell coverage under a policy of portable electronics insurance to customers at each location at which the vendor engages in portable electronics transactions in the State if:

(1) the portable electronics insurance policies have been filed with and approved by the Commissioner;

(2) the vendor holds an appointment under § 10–118 of this title with each authorized insurer that the vendor intends to represent;

(3) at each location where coverage under a policy of portable electronics insurance is offered or sold to customers, the vendor provides to the customers disclosures approved by the Commissioner that:

(i) summarize the material terms of the coverage under the policy of portable electronics insurance including:

1. the identity of the insurer;
2. the premium to be paid;
3. any applicable deductible;
4. the major features of the benefits of the coverage; and
5. the [major features of any exclusions, conditions, or other limitations] **KEY TERMS AND CONDITIONS** of coverage including whether the portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

(ii) 1. state that portable electronics insurance may duplicate insurance coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of insurance coverage; and

2. state that the purchase of coverage under a policy of portable electronics insurance would make this coverage primary to any other coverage, including duplicate coverage;

(iii) state that the purchase of coverage under a policy of portable electronics insurance is not required in order to enter into the portable electronics transaction;

(iv) describe the process for filing a claim if the customer elects to purchase coverage under a policy of portable electronics insurance including a description of:

1. any requirement to pay a deductible;
2. any requirement to return portable electronics;
3. the maximum fee applicable if the customer fails to comply with a return requirement; and
4. any requirement to file a proof of loss;

(v) state that:

1. the customer may cancel coverage under the portable electronics insurance at any time; and
2. if the customer cancels coverage under the portable electronics insurance, any unearned premium will be refunded to the person paying the premium in accordance with applicable law; and

(vi) provide the toll-free consumer hotline telephone number of the Administration; and

(4) the vendor provides a training program, approved by the Commissioner, for any employee or authorized representative who sells coverage under a policy of portable electronics insurance to customers under this subtitle that includes instruction:

(i) about the portable electronics insurance offered to customers of the vendor;

(ii) that the employee or authorized representative may not represent or imply to a customer that purchase of coverage under a policy of portable electronics insurance is required in order to purchase portable electronics;

(iii) that portable electronics insurance may duplicate insurance coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of insurance coverage; and

(iv) about the other disclosures required by item (3) of this subsection.

SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Insurance Commissioner shall:

(1) determine the types of limited lines insurance that are authorized to be offered in other states;

(2) review the laws and practices of other states relating to the offering of limited lines insurance, including whether a license to sell a limited lines insurance policy is required, and whether and how employees of a licensee are compensated for selling a limited lines insurance policy;

(3) review the National Association of Insurance Commissioners' guidelines and standards relating to the authorization of limited lines insurance;

(4) determine the appropriate regulatory structure, including consumer protections, for the sale of a limited lines insurance policy; and

(5) on or before December 1, 2013, report the Commissioner's 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 4. AND BE IT FURTHER ENACTED, That the Maryland Insurance Commissioner shall:

(1) keep track of complaints from consumers regarding the sales practices of vendor employees at point of sale, including:

(i) the number of complaints;

(ii) a summary of the allegations contained in the complaints;

and

(iii) the disposition of the complaints;

(2) based on the complaints under paragraph (1) of this section and any other information the Commissioner determines necessary, determine whether and how vendor employees should be compensated for selling a portable electronics limited lines insurance policy; and

(3) on or before January 1, 2017, report the Commissioner's 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 ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. Section 1 of this Act shall remain effective for a period of 4 years and, at the end of September 30, 2017, 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 16, 2013.

Chapter 526**(Senate Bill 686)**

AN ACT concerning

Family Investment Program – Earned Income Disregard Pilot Program

FOR the purpose of establishing an Earned Income Disregard Pilot Program within the Family Investment Program; requiring the Department of Human Resources to select a certain ~~number of counties for participation~~ type of county to participate in the Pilot Program; requiring the Department of Human Resources and certain directors of local departments of social services to select and inform participants; specifying certain eligibility requirements for participation in the program; authorizing the Department to select a rural county to participate in the Pilot Program; requiring ~~a~~ the county that participates in the Pilot Program to administer benefits under the Family Investment Program in a certain manner; altering the amount of the earned income that is disregarded for the purpose of determining the amount of assistance an individual may receive under the Pilot Program; requiring the Department to collect and report certain information to certain committees of the General Assembly by certain dates; requiring the Department to adopt certain regulations; defining a certain term; providing for a delayed effective date; providing for the termination of this Act; and generally relating to the Earned Income Disregard Pilot Program under the Family Investment Program.

BY repealing and reenacting, without amendments,
Article – Human Services
Section 5–301(b) and 5–310(a)
Annotated Code of Maryland
(2007 Volume and 2012 Supplement)

BY adding to
Article – Human Services
Section 5–310.1
Annotated Code of Maryland
(2007 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

5–301.

(b) “FIP” means the Family Investment Program.

5-310.

(a) (1) For applicants to the FIP, the amount of assistance shall be computed by counting no more than 4 weeks of earned income in any month and disregarding 20% of that earned income.

(2) For eligible recipients who obtain unsubsidized employment, the amount of assistance shall be computed by counting no more than 4 weeks of earned income in any month and disregarding 40% of that earned income.

5-310.1.

(A) IN THIS SECTION, “PILOT PROGRAM” MEANS THE EARNED INCOME DISREGARD PILOT PROGRAM ESTABLISHED UNDER THIS SECTION.

(B) THERE IS AN EARNED INCOME DISREGARD PILOT PROGRAM WITHIN THE FIP.

(C) (1) THE DEPARTMENT SHALL SELECT ONE COUNTY THAT HAS MORE THAN ONE DISTRICT OFFICE TO PARTICIPATE IN THE PILOT PROGRAM;

~~**(1) TWO OR MORE RURAL COUNTIES; AND**~~

~~**(2) ONE URBAN OR SUBURBAN COUNTY.**~~

(2) THE DEPARTMENT MAY SELECT ONE RURAL COUNTY TO PARTICIPATE IN THE PILOT PROGRAM.

(3) THE DEPARTMENT AND THE APPROPRIATE LOCAL DIRECTORS SHALL:

(I) SELECT AND ASSIGN ELIGIBLE INDIVIDUALS TO THE PILOT PROGRAM; AND

(II) INFORM SELECTED PARTICIPANTS OF THE ASSIGNMENT.

~~**(3) (4) TO BE ELIGIBLE TO PARTICIPATE IN THE PILOT PROGRAM AN INDIVIDUAL:**~~

~~**(I) MAY NOT RECEIVE TEMPORARY CASH ASSISTANCE BETWEEN MAY 1, 2014 AND SEPTEMBER 30, 2014; AND**~~

~~**(II) SHALL APPLY AND QUALIFY FOR TEMPORARY CASH ASSISTANCE ON OR AFTER OCTOBER 1, 2014.**~~

(D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE ~~COUNTIES~~ COUNTY PARTICIPATING IN THE PILOT PROGRAM SHALL ADMINISTER THE FIP IN ACCORDANCE WITH THIS SUBTITLE.

(E) (1) NOTWITHSTANDING § 5-310(A) OF THIS SUBTITLE, FOR APPLICANTS TO THE FIP WHO ARE SELECTED TO PARTICIPATE IN THE PILOT PROGRAM, THE AMOUNT OF ASSISTANCE SHALL BE COMPUTED BY COUNTING NO MORE THAN 4 WEEKS OF EARNED INCOME IN ANY MONTH AND DISREGARDING 20% OF THAT EARNED INCOME.

(2) NOTWITHSTANDING § 5-310(A) OF THIS SUBTITLE, FOR FIP RECIPIENTS WHO ARE SELECTED TO PARTICIPATE IN THE PILOT PROGRAM WHO OBTAIN UNSUBSIDIZED EMPLOYMENT AND WORK LESS THAN 25 HOURS A WEEK, THE AMOUNT OF ASSISTANCE SHALL BE COMPUTED BY COUNTING NO MORE THAN 4 WEEKS OF EARNED INCOME IN ANY MONTH AND DISREGARDING 40% OF THAT EARNED INCOME.

~~(2) (3)~~ ~~FOR ELIGIBLE RECIPIENTS~~ NOTWITHSTANDING § 5-310(A) OF THIS SUBTITLE, FOR FIP RECIPIENTS WHO ARE SELECTED TO PARTICIPATE IN THE PILOT PROGRAM WHO OBTAIN UNSUBSIDIZED EMPLOYMENT AND WORK AT LEAST 25 HOURS A WEEK, THE AMOUNT OF ASSISTANCE SHALL BE COMPUTED BY COUNTING NO MORE THAN 4 WEEKS OF EARNED INCOME IN ANY MONTH AND DISREGARDING:

(I) 100% OF THAT EARNED INCOME FOR THE FIRST 3 MONTHS OF EMPLOYMENT;

(II) 60% OF THAT EARNED INCOME FOR EMPLOYMENT EXCEEDING 3 MONTHS, BUT LESS THAN 10 MONTHS; AND

(III) 40% OF THAT EARNED INCOME FOR EMPLOYMENT EXCEEDING 9 MONTHS.

(F) THE DEPARTMENT SHALL:

(1) COLLECT INFORMATION NECESSARY TO ASSESS THE EFFECTIVENESS OF THE PILOT PROGRAM, INCLUDING:

(I) THE NUMBER OF CLIENTS RECEIVING FIP BENEFITS AFTER RECEIVING BENEFITS UNDER THE PILOT PROGRAM;

(II) THE NUMBER OF CLIENTS WORKING FOR AN EMPLOYER COVERED BY MARYLAND UNEMPLOYMENT INSURANCE; AND

(III) WHETHER THE CLIENTS MADE PROGRESS IN THEIR QUARTERLY EARNINGS; AND

(2) (I) ON OR BEFORE SEPTEMBER 30, ~~2015~~ 2016, SUBMIT AN INTERIM REPORT OF ITS FINDINGS TO THE SENATE FINANCE COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON WELFARE REFORM, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE; AND

(II) ON OR BEFORE SEPTEMBER 30, ~~2016~~ 2017, SUBMIT A FINAL REPORT OF ITS FINDINGS TO THE SENATE FINANCE COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON WELFARE REFORM, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.

(G) THE DEPARTMENT SHALL ADOPT ANY REGULATIONS NECESSARY TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, ~~2013~~ 2014. It shall remain effective for a period of 3 years and, at the end of September 30, ~~2016~~ 2017, 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 16, 2013.

Chapter 527

(Senate Bill 697)

AN ACT concerning

Corporations and Associations – Conversions

FOR the purpose of authorizing certain entities to convert to certain other entities; establishing the manner of and procedures for conversions; requiring articles of conversion to be filed for record with the State Department of Assessments and Taxation; specifying the contents of articles of conversion; providing for the effects of a conversion; providing for the timing of the effectiveness of articles of conversion and the effective time for the completion of a conversion; providing for the abandonment of a conversion under certain circumstances; requiring a certain nonrefundable processing fee for articles of conversion; establishing that, under certain circumstances, a stockholder of a Maryland corporation has the right to fair value of the stockholder's stock if the corporation is converted;

providing certain rights to a member of a limited liability company, a shareholder of a real estate investment trust, and a partner of a partnership who objects to a conversion; altering the manner in which certain charter documents must be executed; defining certain terms; altering certain definitions; making certain conforming changes; and generally relating to conversions of certain entities.

BY renumbering

Article – Corporations and Associations

Section 4A-1101 through 4A-1108 and the subtitle “Subtitle 11. Benefit Limited Liability Companies”; 4A-1201 through 4A-1203 and the subtitle “Subtitle 12. Miscellaneous”; 8-701 and the subtitle “Subtitle 7. Penalties”; 8-801 and the subtitle “Subtitle 8. Short Title”; and 9A-1201 through 9A-1205 and the subtitle “Subtitle 12. Miscellaneous Provisions”, respectively

to be Section 4A-1201 through 4A-1208 and the subtitle “Subtitle 12. Benefit Limited Liability Companies”; 4A-1301 through 4A-1303 and the subtitle “Subtitle 13. Miscellaneous”; 8-801 and the subtitle “Subtitle 8. Penalties”; 8-901 and the subtitle “Subtitle 9. Miscellaneous”; and 9A-1301 through 9A-1305 and the subtitle “Subtitle 13. Miscellaneous Provisions”, respectively

Annotated Code of Maryland

(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Corporations and Associations

Section 1-101, 1-203(b)(1), 1-301(a), 3-202(a), 4A-206, 4A-403, and 10-204(a)

Annotated Code of Maryland

(2007 Replacement Volume and 2012 Supplement)

BY adding to

Article – Corporations and Associations

Section 3-901 through 3-907 to be under the new subtitle “Subtitle 9. Conversions of Corporations”; 4A-1101 through 4A-1107 to be under the new subtitle “Subtitle 11. Conversions of Limited Liability Companies”; 8-701 through 8-707 to be under the new subtitle “Subtitle 7. Conversions of Real Estate Investment Trusts”; 9A-1201 through 9A-1207 to be under the new subtitle “Subtitle 12. Conversions of Partnerships”; 10-7A-01 through 10-7A-07 to be under the new subtitle “Subtitle 7A. Conversions of Limited Partnerships”; and Section 12-1001 through 12-1007 to be under the new subtitle “Subtitle 10. Conversions of Statutory Trusts”

Annotated Code of Maryland

(2007 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 4A-1101 through 4A-1108 and the subtitle “Subtitle 11.

Benefit Limited Liability Companies”; 4A–1201 through 4A–1203 and the subtitle “Subtitle 12. Miscellaneous”; 8–701 and the subtitle “Subtitle 7. Penalties”; 8–801 and the subtitle “Subtitle 8. Short Title”; and 9A–1201 through 9A–1205 and the subtitle “Subtitle 12. Miscellaneous Provisions”, respectively, of Article – Corporations and Associations of the Annotated Code of Maryland be renumbered to be Section(s) 4A–1201 through 4A–1208 and the “Subtitle 12. Benefit Limited Liability Companies”; 4A–1301 through 4A–1303 and the subtitle “Subtitle 13. Miscellaneous”; 8–801 and the subtitle “Subtitle 8. Penalties”; 8–901 and the subtitle “Subtitle 9. Miscellaneous”; and 9A–1301 through 9A–1305 and the subtitle “Subtitle 13. Miscellaneous Provisions”, respectively.

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

Article – Corporations and Associations

1–101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(b) “Address” means the post office address, and includes street and number, if any, county or municipal area, and state and, if outside the United States, country.

(c) “Articles of transfer” means articles of sale, articles of lease, articles of asset exchange, or articles of transfer.

(d) “Assets” means any tangible, intangible, real, or personal property or other assets, including goodwill and franchises.

(e) “Business trust” means an unincorporated trust or association, including a common-law trust, a Massachusetts trust, a real estate investment trust as defined in § 8–101 of this article, a statutory trust as defined in § 12–101 of this article, and a foreign statutory trust as defined in § 12–101 of this article, that is engaged in business and in which property is acquired, held, managed, administered, controlled, invested, or disposed of by trustees or the trust for the benefit and profit of any person who may become a holder of a transferable unit of beneficial interest in the trust.

(f) (1) “Charter” includes:

(i) A charter granted by special act of the General Assembly;

(ii) Articles or certificate of incorporation;

(iii) Amended articles or certificate of incorporation;

(iv) Articles of restatement, if approved as described in § 2-609 of this article;

(v) Articles of amendment and restatement; and

(vi) Articles or agreements of consolidation.

(2) "Charter" includes the documents referred to in paragraph (1) of this subsection, either as:

(i) Originally passed or accepted for record; or

(ii) As amended, corrected, or supplemented by special act of the General Assembly, articles of amendment, articles of amendment and reduction, articles of extension, articles supplementary, articles or agreements of merger, articles of revival, or a certificate of correction.

(g) "Charter document" means any:

(1) Document enumerated in subsection (f) of this section; and

(2) Articles of reduction, articles or agreements of transfer, articles of merger, articles of share exchange, **ARTICLES OF CONVERSION**, articles of dissolution, and stock issuance statements.

(h) "Clerk of the court" means clerk of the circuit court for any county.

(i) "Convertible securities" includes:

(1) Shares of stock which by their terms are convertible into shares of stock of one or more classes; and

(2) Obligations which by their terms are convertible into shares of stock of one or more classes.

(j) "County" includes Baltimore City.

(k) "Department" means the State Department of Assessments and Taxation.

(l) "Director" means a member of the governing body of a corporation, whether designated as a director, trustee, or manager or by any other title.

(m) "Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that:

(1) May be retained, retrieved, and reviewed by a recipient of the communication; and

(2) May be reproduced directly in paper form by a recipient through an automated process.

(n) “Foreign corporation” means a corporation, association, or joint-stock company organized under the laws of the United States, another state of the United States, a territory, possession, or district of the United States, or a foreign country.

(o) **“GOVERNING DOCUMENT” MEANS:**

(1) **THE ARTICLES OR CERTIFICATE OF INCORPORATION AND THE BYLAWS OF A MARYLAND CORPORATION OR A FOREIGN CORPORATION;**

(2) **THE ARTICLES OF ORGANIZATION OR CERTIFICATE OF FORMATION AND THE OPERATING AGREEMENT OR LIMITED LIABILITY COMPANY AGREEMENT OF A DOMESTIC LIMITED LIABILITY COMPANY OR A FOREIGN LIMITED LIABILITY COMPANY;**

(3) **THE PARTNERSHIP AGREEMENT OF AN OTHER ENTITY THAT IS A PARTNERSHIP OR LIMITED PARTNERSHIP, ANY STATEMENT OF PARTNERSHIP AUTHORITY OF A PARTNERSHIP, THE CERTIFICATE OF LIMITED PARTNERSHIP OF A LIMITED PARTNERSHIP, AND THE CERTIFICATE OF LIMITED LIABILITY PARTNERSHIP OF A LIMITED LIABILITY PARTNERSHIP;**

(4) **THE DECLARATION OF TRUST OR GOVERNING INSTRUMENT OF A BUSINESS TRUST; OR**

(5) **A SIMILAR GOVERNING DOCUMENT OR INSTRUMENT OF ANY OTHER TYPE OF ENTITY.**

[(o)] (P) “Mail” means to deposit in the United States mails postage prepaid.

[(p)] (Q) “Maryland corporation” means a corporation organized and existing under the laws of [the] **THIS** State.

[(q)] (R) “Municipal area” means any incorporated or unincorporated city, town, or village.

[(r)] (S) “Person” includes an individual[,] **AND A DOMESTIC OR FOREIGN** corporation, business trust, statutory trust, estate, trust, partnership, limited partnership, limited liability company, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

[(s)] (T) “Principal office” means:

(1) The place in this State filed or recorded with the Department as the principal office of a corporation or domestic limited partnership; or

(2) If there is no principal office designated, the main office of the corporation or domestic limited partnership in this State for the transaction of business.

[(t)] (U) “Resident agent” means an individual residing in this State or a Maryland corporation or limited liability company whose name, address, and designation as a resident agent are filed or recorded with the Department in accordance with the provisions of this article.

[(u)] (V) “Share exchange” means a transaction:

(1) In which a corporation acquires all the issued or all the outstanding shares of stock of one or more classes of another corporation by a stockholder vote under this article; and

(2) Which does not affect the corporate existence of either corporation.

[(v)] (W) “Stated capital” means the amount of stated capital determined in accordance with Title 2, Subtitle 3 of this article.

[(w)] (X) “Stockholder” means a person who is a record holder of shares of stock in a corporation and includes a member of a corporation organized without stock.

[(x)] (Y) “Stockholder rights plan” means an agreement or other instrument under which a corporation issues rights to its stockholders that:

(1) May be exercised under specified circumstances to purchase stock or other securities of a corporation or any other person; and

(2) May become void if owned by a designated person or classes of persons under specified circumstances.

[(y)] (Z) “Successor” means:

(1) A new corporation formed by consolidation;

(2) A corporation or other entity surviving a merger;

(3) A corporation acquiring stock in a share exchange; or

(4) A vendee, lessee, or other transferee in a transfer of assets.

[(z)] (AA) “Transfer assets”, “transfer its assets”, and “transfer of assets” mean to sell, lease, exchange, or otherwise transfer all or substantially all of the assets of a corporation.

1–203.

(b) (1) Except as provided in paragraph (11) of this subsection, for each of the following documents, the nonrefundable processing fee is \$100:

Document

Articles of incorporation

Articles of amendment

Articles of extension

Articles of restatement of charter

Articles of amendment and restatement

Articles supplementary

Articles of share exchange

Articles of consolidation, merger, or transfer

Articles of dissolution

Articles of revival for stock corporation

Articles of revival for nonstock corporation

ARTICLES OF CONVERSION

1–301.

(a) Articles supplementary and articles of amendment, restatement, amendment and restatement, consolidation, merger, share exchange, transfer, **CONVERSION**, and extension and, except as provided in § 3–406(b) of this article, articles of dissolution shall be executed as follows:

(1) They shall be signed and acknowledged for each corporation, statutory trust, or real estate investment trust party to the articles, by its chairman or vice chairman of the board of directors or board of trustees, by its chief executive officer, chief operating officer, chief financial officer, president, or one of its vice presidents, or, if authorized by the bylaws or resolution of the board of directors or

board of trustees and the articles so state, by any other officer or agent of the corporation, statutory trust, or real estate investment trust;

(2) They shall be witnessed or attested by the secretary, treasurer, chief financial officer, assistant treasurer, or assistant secretary of each corporation, statutory trust, or real estate investment trust party to the articles, or, if authorized by the bylaws or resolution of the board of directors or board of trustees and the articles so state, by any other officer or agent of the corporation, statutory trust, or real estate investment trust;

(3) They shall be signed and acknowledged for each other entity party to the articles by [a majority of the entire board of trustees or other governing body or by a person acting in a similar capacity for the entity as an officer described in item (1) of this subsection] **A PERSON AUTHORIZED TO ACT FOR THE ENTITY BY LAW OR BY THE GOVERNING DOCUMENT**; and

(4) Except as provided in subsection (b) of this section, the matters and facts set forth in the articles with respect to authorization and approval shall be verified under oath as follows:

(i) With respect to any Maryland corporation, statutory trust, or real estate investment trust party to the articles, by the chairman or the secretary of the meeting at which the articles or transaction were approved, by the chairman or vice chairman of the board of directors or board of trustees, by the chief executive officer, chief operating officer, chief financial officer, president, vice president, secretary, or assistant secretary of the corporation, statutory trust, or real estate investment trust, or, if authorized in accordance with item (1) of this subsection and the articles so state, by any other officer or agent of the corporation, statutory trust, or real estate investment trust;

(ii) With respect to any foreign corporation party to articles of consolidation, merger, or share exchange, by the chief executive officer, chief operating officer, **CHIEF FINANCIAL OFFICER**, president, vice president, secretary, or assistant secretary of the corporation; and

(iii) With respect to any other Maryland or foreign entity party to the articles, by [the chief executive officer, chief operating officer, president, vice president, secretary, assistant secretary, managing trustee, or persons acting in a similar position for the entity] **A PERSON AUTHORIZED BY LAW OR BY THE GOVERNING DOCUMENT TO ACT FOR THE ENTITY**.

3-202.

(a) Except as provided in subsection (c) of this section, a stockholder of a Maryland corporation has the right to demand and receive payment of the fair value of the stockholder's stock from the successor if:

- (1) The corporation consolidates or merges with another corporation;
- (2) The stockholder's stock is to be acquired in a share exchange;
- (3) The corporation transfers its assets in a manner requiring action under § 3-105(e) of this title;
- (4) The corporation amends its charter in a way which alters the contract rights, as expressly set forth in the charter, of any outstanding stock and substantially adversely affects the stockholder's rights, unless the right to do so is reserved by the charter of the corporation; [or]
- (5) The transaction is governed by § 3-602 of this title or exempted by § 3-603(b) of this title; OR
- (6) THE CORPORATION IS CONVERTED IN ACCORDANCE WITH § 3-901 OF THIS TITLE.**

SUBTITLE 9. CONVERSIONS OF CORPORATIONS.

3-901.

- (A) IN THIS SUBTITLE, "OTHER ENTITY" MEANS:**
- (1) A FOREIGN CORPORATION, AS DEFINED IN § 1-101 OF THIS ARTICLE;**
 - (2) A DOMESTIC LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;**
 - (3) A FOREIGN LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;**
 - (4) A PARTNERSHIP, AS DEFINED IN § 9A-101 OF THIS ARTICLE;**
 - (5) A LIMITED PARTNERSHIP, AS DEFINED IN § 10-101 OF THIS ARTICLE, INCLUDING A LIMITED PARTNERSHIP REGISTERED AS A LIMITED LIABILITY LIMITED PARTNERSHIP UNDER § 10-805 OF THIS ARTICLE;**
 - (6) A FOREIGN LIMITED PARTNERSHIP, AS DEFINED IN § 10-101 OF THIS ARTICLE;**
 - (7) A BUSINESS TRUST, AS DEFINED IN § 1-101 OF THIS ARTICLE;**
- OR**

(8) ANOTHER FORM OF UNINCORPORATED BUSINESS FORMED UNDER THE LAWS OF THIS STATE OR THE LAWS OF THE UNITED STATES, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION, OR DISTRICT OF THE UNITED STATES, OR A FOREIGN COUNTRY.

(B) UNLESS THE CHARTER PROVIDES OTHERWISE, A MARYLAND CORPORATION MAY CONVERT TO AN OTHER ENTITY BY:

(1) APPROVING THE CONVERSION IN ACCORDANCE WITH § 3-902 OF THIS SUBTITLE; AND

(2) FILING FOR RECORD WITH THE DEPARTMENT ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE.

(C) AN OTHER ENTITY MAY CONVERT TO A MARYLAND CORPORATION HAVING CAPITAL STOCK BY COMPLYING WITH § 3-902 OF THIS SUBTITLE AND FILING FOR RECORD WITH THE DEPARTMENT:

(1) ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE; AND

(2) ARTICLES OF INCORPORATION, WHICH SHALL INCLUDE THE NAME OF THE CONVERTING OTHER ENTITY, EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE AND OTHERWISE COMPLYING WITH THE MARYLAND GENERAL CORPORATION LAW.

3-902.

(A) A CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY SHALL BE APPROVED IN THE MANNER PROVIDED BY THIS SECTION AND IN ACCORDANCE WITH ANY ADDITIONAL REQUIREMENTS SET FORTH IN THE MARYLAND CORPORATION'S CHARTER.

(B) A CONVERSION OF A MARYLAND CORPORATION NEED BE APPROVED ONLY BY A MAJORITY OF ITS BOARD OF DIRECTORS IF THERE IS NO STOCK OUTSTANDING OR SUBSCRIBED FOR.

(C) THE BOARD OF DIRECTORS OF A MARYLAND CORPORATION THAT PROPOSES TO CONVERT TO AN OTHER ENTITY SHALL:

(1) ADOPT A RESOLUTION DECLARING THAT THE PROPOSED CONVERSION IS ADVISABLE ON SUBSTANTIALLY THE TERMS AND CONDITIONS SET FORTH OR REFERRED TO IN THE RESOLUTION; AND

(2) DIRECT THAT THE PROPOSED CONVERSION BE SUBMITTED FOR CONSIDERATION AT AN ANNUAL OR A SPECIAL MEETING OF THE STOCKHOLDERS.

(D) NOTICE STATING THAT A PURPOSE OF THE MEETING WILL BE TO ACT ON THE PROPOSED CONVERSION SHALL BE GIVEN BY THE CORPORATION IN THE MANNER REQUIRED BY TITLE 2 OF THIS ARTICLE TO:

(1) EACH OF ITS STOCKHOLDERS ENTITLED TO VOTE ON THE PROPOSED TRANSACTION; AND

(2) EACH OF ITS STOCKHOLDERS NOT ENTITLED TO VOTE ON THE PROPOSED TRANSACTION.

(E) THE PROPOSED CONVERSION SHALL BE APPROVED BY THE STOCKHOLDERS OF THE MARYLAND CORPORATION BY THE AFFIRMATIVE VOTE OF TWO-THIRDS OF ALL THE VOTES ENTITLED TO BE CAST ON THE MATTER.

(F) A CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION SHALL BE APPROVED IN THE MANNER AND BY THE VOTE REQUIRED BY ITS GOVERNING DOCUMENT AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED.

3-903.

(A) IN THIS SECTION, “FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION” INCLUDES:

(1) AN ACTION OR A DETERMINATION BY ANY PERSON, INCLUDING:

(I) THE CORPORATION OR OTHER ENTITY, AS APPLICABLE;

(II) THE DIRECTORS, PARTNERS, MEMBERS, TRUSTEES, OFFICERS, OR OTHER AGENTS OF THE CORPORATION OR OTHER ENTITY; AND

(III) ANY OTHER PERSON AFFILIATED WITH THE CORPORATION OR OTHER ENTITY; AND

(2) ANY OTHER EVENT.

(B) ARTICLES OF CONVERSION SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

(C) IN A CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE MARYLAND CORPORATION AND THE DATE OF FILING OF ITS ORIGINAL ARTICLES OF INCORPORATION WITH THE DEPARTMENT;

(2) THE NAME OF THE OTHER ENTITY TO WHICH THE MARYLAND CORPORATION WILL BE CONVERTED AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING OUTSTANDING SHARES OF STOCK OF THE CORPORATION INTO SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY ISSUED SHARES OF STOCK NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION;

(6) IF THE OTHER ENTITY IS NOT ORGANIZED UNDER THE LAWS OF THIS STATE:

(I) THE LOCATION OF THE PRINCIPAL OFFICE IN THE PLACE WHERE IT IS ORGANIZED; AND

(II) THE NAME AND ADDRESS OF THE RESIDENT AGENT IN THIS STATE; AND

(7) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(D) IN A CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE OTHER ENTITY, THE DATE ON WHICH THE OTHER ENTITY WAS FIRST CREATED, AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(2) THE NAME OF THE MARYLAND CORPORATION TO WHICH THE OTHER ENTITY WILL BE CONVERTED;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY INTO SHARES OF STOCK OF THE MARYLAND CORPORATION OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION; AND

(6) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(E) THE ARTICLES OF CONVERSION MAY CONTAIN A FUTURE EFFECTIVE TIME FOR THE ARTICLES OF CONVERSION THAT IS NOT LATER THAN 30 DAYS AFTER THE ARTICLES OF CONVERSION ARE ACCEPTED FOR RECORD.

3-904.

(A) A CONVERSION HAS THE EFFECTS PROVIDED IN THIS SECTION.

(B) (1) THIS SUBSECTION APPLIES ON THE COMPLETION OF THE CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY.

(2) THE MARYLAND CORPORATION SHALL CEASE TO EXIST AS A MARYLAND CORPORATION AND SHALL CONTINUE TO EXIST AS THE OTHER

ENTITY INTO WHICH THE MARYLAND CORPORATION HAS CONVERTED, AND THE OTHER ENTITY, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING MARYLAND CORPORATION.

(3) (I) ALL THE ASSETS OF THE MARYLAND CORPORATION, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, SHALL VEST IN AND DEVOLVE ON THE OTHER ENTITY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE OTHER ENTITY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE MARYLAND CORPORATION SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE MARYLAND CORPORATION TO AN OTHER ENTITY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE MARYLAND CORPORATION BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE MARYLAND CORPORATION BY ITS LAST ACTING OFFICERS OR BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY.

(4) (I) THE OTHER ENTITY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE MARYLAND CORPORATION.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE MARYLAND CORPORATION MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE OTHER ENTITY MAY BE SUBSTITUTED AS A PARTY AND A JUDGMENT AGAINST THE MARYLAND CORPORATION CONSTITUTES A LIEN ON THE PROPERTY OF THE OTHER ENTITY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE MARYLAND CORPORATION.

(5) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE STOCKHOLDERS OF THE MARYLAND CORPORATION UNDER THE ARTICLES OF CONVERSION AND TO THE RIGHTS OF AN OBJECTING STOCKHOLDER UNDER § 3-202 OF THIS TITLE, THE OWNERSHIP INTERESTS OF THE STOCKHOLDERS OF THE MARYLAND CORPORATION CEASE TO EXIST AS

STOCK IN THE CONVERTED MARYLAND CORPORATION AND CONTINUE TO EXIST AS OWNERSHIP INTERESTS IN THE OTHER ENTITY.

(6) THE CONVERSION OF THE MARYLAND CORPORATION TO AN OTHER ENTITY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE MARYLAND CORPORATION OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE CONVERSION.

(7) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF CONVERSION, THE CONVERTING MARYLAND CORPORATION IS NOT REQUIRED TO WIND UP ITS AFFAIRS OR PAY ITS LIABILITIES AND DISTRIBUTE ITS ASSETS, AND THE CONVERSION DOES NOT CONSTITUTE DISSOLUTION OR A TRANSFER OF ASSETS OR LIABILITIES OF THE MARYLAND CORPORATION.

(8) A PERSON BECOMES LIABLE FOR ANY OBLIGATION INCURRED BY THE MARYLAND CORPORATION BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT PROVIDED FOR BY THE LAWS APPLICABLE TO THE OTHER ENTITY.

(c) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION.

(2) THE MARYLAND CORPORATION, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING OTHER ENTITY.

(3) (i) ALL THE ASSETS OF THE OTHER ENTITY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, VEST IN AND DEVOLVE ON THE MARYLAND CORPORATION WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE MARYLAND CORPORATION, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE OTHER ENTITY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(ii) THE CONVERSION OF THE OTHER ENTITY TO A MARYLAND CORPORATION DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE OTHER ENTITY BEFORE THE CONVERSION.

(iii) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE OTHER ENTITY BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR

MEMBERS OF THE OTHER ENTITY OR BY THE OFFICERS OF THE MARYLAND CORPORATION.

(4) (I) THE MARYLAND CORPORATION SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE OTHER ENTITY.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE OTHER ENTITY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE MARYLAND CORPORATION MAY BE SUBSTITUTED AS A PARTY AND A JUDGMENT AGAINST THE OTHER ENTITY CONSTITUTES A LIEN ON THE PROPERTY OF THE ~~OTHER ENTITY~~ MARYLAND CORPORATION.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE OTHER ENTITY.

(5) THE CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE OTHER ENTITY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(6) A PERSON REMAINS LIABLE FOR ANY OBLIGATION INCURRED BY THE OTHER ENTITY BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT THAT THE PERSON WOULD HAVE BEEN LIABLE IF THE CONVERSION HAD NOT OCCURRED.

(7) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY CEASE TO EXIST AS OWNERSHIP INTERESTS IN THE CONVERTED OTHER ENTITY AND CONTINUE TO EXIST AS SHARES OF STOCK IN THE MARYLAND CORPORATION.

3-905.

(A) IN A CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION, THE STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK OF THE MARYLAND CORPORATION OR STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP

INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF ANY OTHER CORPORATION OR OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

- (2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;
- (3) MONEY; AND
- (4) ANY OTHER CONSIDERATION.

(B) IN A CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY, STOCK OF THE MARYLAND CORPORATION MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY TO WHICH THE MARYLAND CORPORATION IS CONVERTED OR OF ANY OTHER CORPORATION OR OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

- (2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;
- (3) MONEY; AND
- (4) ANY OTHER CONSIDERATION.

3-906.

(A) THE CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION SHALL BE COMPLETED ON THE LATER OF:

(1) THE INCORPORATION OF THE MARYLAND CORPORATION IN ACCORDANCE WITH SUBTITLE 2 OF THIS TITLE; OR

(2) THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(B) THE CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY SHALL BE COMPLETED ON THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(C) ARTICLES OF CONVERSION ARE EFFECTIVE ON THE LATER OF:

(1) THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES OF CONVERSION FOR RECORD; OR

(2) THE FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION AS SET FORTH IN ARTICLES OF CONVERSION THAT HAVE BEEN ACCEPTED BY THE DEPARTMENT FOR RECORD.

(D) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT THE TIME THE CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION IS COMPLETED:

1. THE OTHER ENTITY SHALL BE CONVERTED TO A MARYLAND CORPORATION;

2. THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 3-904 OF THIS SUBTITLE; AND

3. THE CORPORATION SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THE MARYLAND GENERAL CORPORATION LAW.

(II) NOTWITHSTANDING § 2-102 OF THIS ARTICLE, THE EXISTENCE OF THE MARYLAND CORPORATION SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE THE OTHER ENTITY COMMENCED ITS EXISTENCE IN THE PLACE IN WHICH THE OTHER ENTITY WAS FIRST INCORPORATED, CREATED, FORMED, OR OTHERWISE CAME INTO BEING.

(2) AT THE TIME THE CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY IS COMPLETED, THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 3-904 OF THIS SUBTITLE.

3-907.

(A) UNLESS THE CHARTER OF THE MARYLAND CORPORATION OR ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY MAY BE ABANDONED BEFORE THE EFFECTIVE DATE OF THE ARTICLES OF CONVERSION BY MAJORITY VOTE OF THE ENTIRE BOARD OF DIRECTORS OF THE MARYLAND CORPORATION.

(B) UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION MAY BE ABANDONED IN THE MANNER AND BY THE VOTE REQUIRED BY THE GOVERNING DOCUMENT OF THE OTHER ENTITY AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED OR, IF NO MANNER AND VOTE IS

SPECIFIED, IN THE MANNER AND BY THE VOTE REQUIRED TO APPROVE THE CONVERSION UNDER § 3-902 OF THIS SUBTITLE.

(C) IF THE ARTICLES OF CONVERSION HAVE BEEN FILED WITH THE DEPARTMENT, NOTICE OF THE ABANDONMENT SHALL BE GIVEN PROMPTLY TO THE DEPARTMENT.

(D) (1) IF THE PROPOSED CONVERSION IS ABANDONED AS PROVIDED IN THIS SECTION, NO LEGAL LIABILITY ARISES UNDER THE ARTICLES OF CONVERSION.

(2) ABANDONMENT OF A CONVERSION UNDER THIS SECTION DOES NOT PREJUDICE THE RIGHTS OF ANY PERSON UNDER ANY OTHER CONTRACT MADE BY A MARYLAND CORPORATION IN CONNECTION WITH THE PROPOSED CONVERSION.

4A-206.

(a) Articles and certificates required by this title to be filed with the Department shall be executed in the following manner:

(1) Articles of organization shall be executed by any individual authorized to do so by the persons forming the limited liability company; and

(2) Articles of amendment, articles of merger, certificates of correction, articles of dissolution, articles of continuation, **ARTICLES OF CONVERSION**, articles of cancellation, and articles of reinstatement shall be executed by an authorized person.

(b) (1) An authorized person may sign any articles or certificates by an attorney in fact.

(2) Powers of attorney relating to the signing of articles or certificates by an attorney in fact need not be sworn to, verified, or acknowledged, and need not be filed with the Department.

(c) Any document required to be certified, acknowledged, or verified under this title shall be so acknowledged, verified, or certified in accordance with the procedure set forth in Title 1, Subtitle 3 of this article.

4A-403.

(a) The provisions of this section apply unless otherwise provided in this title or unless otherwise agreed.

(b) (1) Members shall vote in proportion to their respective interests in profits of the limited liability company, as determined under § 4A-503 of this title.

(2) Decisions concerning the affairs of the limited liability company shall require the consent of members holding at least a majority of the interests in profits of the limited liability company as determined under § 4A-503 of this title.

(c) (1) A meeting of the members may be called by the written request of members holding at least 25% of the interests in profits of the limited liability company as determined under § 4A-503 of this title.

(2) (i) Members of a limited liability company may participate in a meeting by means of conference telephone or other communications equipment or by means of remote communication, if all persons participating in the meeting:

1. Can either hear or read the proceedings of the meeting substantially concurrent with the proceedings; and

2. Have the opportunity to participate in the meeting and vote on matters submitted to the members.

(ii) Participation in a meeting by the means authorized by subparagraph (i) of this paragraph constitutes presence in person at the meeting.

(d) (1) A member may not take any of the following actions without the consent of members holding at least two-thirds of the interest in profits of the limited liability company as determined under § 4A-503 of this title:

(i) Dispose of all or substantially all of the business or property of the limited liability company; [or]

(ii) Approve a merger as provided in § 4A-702 of this title; OR

(III) APPROVE A CONVERSION AS PROVIDED IN § 4A-1102 OF THIS TITLE.

(2) A member may not take any of the following actions without the unanimous consent of the members:

(i) Institute a voluntary proceeding under the federal bankruptcy code;

(ii) Assign the property of the limited liability company in trust for creditors or on the assignee's promise to pay the debts of the limited liability company;

(iii) Alter the allocation of profit or loss to members of the limited liability company;

(iv) Alter the allocation of or the manner of computing distributions payable to members of the limited liability company; or

(v) Do any other act that would make it impossible to carry on the ordinary business of the limited liability company.

SUBTITLE 11. CONVERSIONS OF LIMITED LIABILITY COMPANIES.

4A-1101.

(A) IN THIS SUBTITLE, “OTHER ENTITY” MEANS:

(1) A MARYLAND CORPORATION INCORPORATED UNDER TITLE 2 OF THIS ARTICLE;

(2) A FOREIGN CORPORATION, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(3) A PARTNERSHIP, AS DEFINED IN § 9A-101 OF THIS ARTICLE;

(4) A LIMITED PARTNERSHIP, INCLUDING A LIMITED PARTNERSHIP REGISTERED OR DENOMINATED AS A LIMITED LIABILITY LIMITED PARTNERSHIP UNDER § 10-805 OF THIS ARTICLE OR UNDER THE LAWS OF A STATE OTHER THAN THIS STATE;

(5) A BUSINESS TRUST, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(6) ANOTHER FORM OF UNINCORPORATED BUSINESS FORMED UNDER THE LAWS OF THIS STATE OR THE LAWS OF THE UNITED STATES, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION, OR DISTRICT OF THE UNITED STATES, OR A FOREIGN COUNTRY; OR

(7) A FOREIGN LIMITED LIABILITY COMPANY.

(B) UNLESS OTHERWISE AGREED, A LIMITED LIABILITY COMPANY MAY CONVERT TO AN OTHER ENTITY BY:

(1) APPROVING THE CONVERSION IN ACCORDANCE WITH § 4A-1102 OF THIS SUBTITLE; AND

(2) FILING FOR RECORD WITH THE DEPARTMENT ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE.

(C) AN OTHER ENTITY MAY CONVERT TO A LIMITED LIABILITY COMPANY BY COMPLYING WITH THE REQUIREMENTS OF § 4A-1102 OF THIS SUBTITLE AND FILING FOR RECORD WITH THE DEPARTMENT:

(1) ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY § 4A-206 OF THIS TITLE; AND

(2) ARTICLES OF ORGANIZATION, WHICH SHALL INCLUDE THE NAME OF THE CONVERTING OTHER ENTITY, EXECUTED IN THE MANNER REQUIRED BY § 4A-206 AND OTHERWISE COMPLYING WITH THIS TITLE.

4A-1102.

(A) UNLESS OTHERWISE AGREED, A LIMITED LIABILITY COMPANY SHALL APPROVE THE CONVERSION OF THE LIMITED LIABILITY COMPANY TO AN OTHER ENTITY BY THE VOTE REQUIRED UNDER § 4A-403(D)(1) OF THIS TITLE.

(B) AN OTHER ENTITY SEEKING TO CONVERT TO A LIMITED LIABILITY COMPANY SHALL APPROVE THE CONVERSION OF THE OTHER ENTITY TO A LIMITED LIABILITY COMPANY IN THE MANNER AND BY THE VOTE REQUIRED BY ITS GOVERNING DOCUMENT AND THE LAWS OF THE PLACE WHERE IT IS INCORPORATED OR ORGANIZED.

(C) (1) A MEMBER OF A LIMITED LIABILITY COMPANY OBJECTING TO A CONVERSION OF THE LIMITED LIABILITY COMPANY HAS THE SAME RIGHTS WITH RESPECT TO THE MEMBER'S INTEREST IN THE LIMITED LIABILITY COMPANY AS A STOCKHOLDER OF A MARYLAND CORPORATION WHO OBJECTS HAS WITH RESPECT TO THE STOCKHOLDER'S STOCK UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE.

(2) THE PROCEDURES UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE SHALL BE APPLICABLE TO THE EXTENT PRACTICABLE.

4A-1103.

(A) IN THIS SECTION, "FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION" INCLUDES:

(1) AN ACTION OR A DETERMINATION BY ANY PERSON, INCLUDING:

(I) THE LIMITED LIABILITY COMPANY OR OTHER ENTITY, AS APPLICABLE;

(II) THE MEMBERS, PARTNERS, DIRECTORS, TRUSTEES, OFFICERS, OR OTHER AGENTS OF THE LIMITED LIABILITY COMPANY OR OTHER ENTITY; AND

(III) ANY OTHER PERSON AFFILIATED WITH THE LIMITED LIABILITY COMPANY OR OTHER ENTITY; AND

(2) ANY OTHER EVENT.

(B) ARTICLES OF CONVERSION SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

(C) IN A CONVERSION OF A LIMITED LIABILITY COMPANY TO AN OTHER ENTITY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE LIMITED LIABILITY COMPANY AND THE DATE OF FILING OF THE ORIGINAL ARTICLES OF ORGANIZATION WITH THE DEPARTMENT;

(2) THE NAME OF THE OTHER ENTITY TO WHICH THE LIMITED LIABILITY COMPANY WILL BE CONVERTED AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY INTO SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY MEMBERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION;

(6) IF THE OTHER ENTITY IS NOT ORGANIZED UNDER THE LAWS OF THIS STATE:

(I) THE LOCATION OF THE PRINCIPAL OFFICE IN THE PLACE WHERE IT IS ORGANIZED; AND

(II) THE NAME AND ADDRESS OF THE RESIDENT AGENT IN THIS STATE; AND

(7) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(D) IN A CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE OTHER ENTITY, THE DATE ON WHICH THE OTHER ENTITY WAS FIRST CREATED, AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(2) THE NAME OF THE LIMITED LIABILITY COMPANY TO WHICH THE OTHER ENTITY WILL BE CONVERTED;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY INTO MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION; AND

(6) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(E) THE ARTICLES OF CONVERSION MAY CONTAIN A FUTURE EFFECTIVE TIME FOR THE ARTICLES OF CONVERSION THAT IS NOT LATER THAN 30 DAYS AFTER THE ARTICLES OF CONVERSION ARE ACCEPTED FOR RECORD.

4A-1104.

(A) A CONVERSION HAS THE EFFECTS PROVIDED IN THIS SECTION.

(B) (1) THIS SUBSECTION APPLIES ON THE COMPLETION OF THE CONVERSION OF A LIMITED LIABILITY COMPANY TO AN OTHER ENTITY.

(2) THE LIMITED LIABILITY COMPANY SHALL CEASE TO EXIST AS A LIMITED LIABILITY COMPANY AND SHALL CONTINUE TO EXIST AS THE OTHER ENTITY INTO WHICH THE LIMITED LIABILITY COMPANY HAS CONVERTED, AND THE OTHER ENTITY SHALL, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING LIMITED LIABILITY COMPANY.

(3) (I) ALL THE ASSETS OF THE LIMITED LIABILITY COMPANY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, SHALL VEST IN AND DEVOLVE ON THE OTHER ENTITY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE OTHER ENTITY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE LIMITED LIABILITY COMPANY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE LIMITED LIABILITY COMPANY TO AN OTHER ENTITY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE LIMITED LIABILITY COMPANY BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE LIMITED LIABILITY COMPANY BY ITS LAST ACTING AUTHORIZED PERSONS OR BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY.

(4) (I) THE OTHER ENTITY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE LIMITED LIABILITY COMPANY.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE LIMITED LIABILITY COMPANY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE OTHER ENTITY MAY BE SUBSTITUTED AS A PARTY, AND A JUDGMENT AGAINST THE LIMITED LIABILITY COMPANY CONSTITUTES A LIEN ON THE PROPERTY OF THE OTHER ENTITY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE LIMITED LIABILITY COMPANY.

(5) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE MEMBERS OF THE LIMITED LIABILITY COMPANY UNDER THE ARTICLES OF CONVERSION AND TO THE RIGHTS OF AN OBJECTING MEMBER UNDER THIS SUBTITLE, THE OWNERSHIP INTERESTS OF THE MEMBERS OF THE LIMITED LIABILITY COMPANY CEASE TO EXIST AS MEMBERSHIP INTERESTS IN THE CONVERTED LIMITED LIABILITY COMPANY AND CONTINUE TO EXIST AS OWNERSHIP INTERESTS IN THE OTHER ENTITY.

(6) THE CONVERSION OF THE LIMITED LIABILITY COMPANY TO AN OTHER ENTITY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE LIMITED LIABILITY COMPANY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(7) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF CONVERSION, THE CONVERTING LIMITED LIABILITY COMPANY IS NOT REQUIRED TO WIND UP ITS AFFAIRS OR PAY ITS LIABILITIES AND DISTRIBUTE ITS ASSETS, AND THE CONVERSION DOES NOT CONSTITUTE DISSOLUTION OR A TRANSFER OF ASSETS OR LIABILITIES OF THE LIMITED LIABILITY COMPANY.

(8) A PERSON BECOMES LIABLE FOR ANY OBLIGATION INCURRED BY THE LIMITED LIABILITY COMPANY BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT PROVIDED FOR BY THE LAWS APPLICABLE TO THE OTHER ENTITY.

(c) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY.

(2) THE LIMITED LIABILITY COMPANY, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING OTHER ENTITY.

(3) (i) ALL THE ASSETS OF THE OTHER ENTITY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, VEST IN AND DEVOLVE ON THE LIMITED LIABILITY COMPANY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE LIMITED LIABILITY COMPANY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE OTHER ENTITY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE OTHER ENTITY TO A LIMITED LIABILITY COMPANY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE OTHER ENTITY BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE OTHER ENTITY BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY OR BY AN AUTHORIZED PERSON OF THE LIMITED LIABILITY COMPANY.

(4) (I) THE LIMITED LIABILITY COMPANY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE OTHER ENTITY.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE OTHER ENTITY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE LIMITED LIABILITY COMPANY OR ANY PARTY, THE LIMITED LIABILITY COMPANY MAY BE SUBSTITUTED AS A PARTY, AND A JUDGMENT AGAINST THE OTHER ENTITY CONSTITUTES A LIEN ON THE PROPERTY OF THE LIMITED LIABILITY COMPANY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE OTHER ENTITY.

(5) THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE OTHER ENTITY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(6) A PERSON REMAINS LIABLE FOR ANY OBLIGATION INCURRED BY THE OTHER ENTITY BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT THAT THE PERSON WOULD HAVE BEEN LIABLE IF THE CONVERSION HAD NOT OCCURRED.

(7) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY CEASE TO EXIST AS OWNERSHIP INTERESTS IN THE CONVERTED OTHER ENTITY AND CONTINUE TO EXIST AS MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY.

4A-1105.

(A) IN A CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY, THE STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY OR STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF AN OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

(B) IN A CONVERSION OF A LIMITED LIABILITY COMPANY TO AN OTHER ENTITY, MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY TO WHICH THE LIMITED LIABILITY COMPANY IS CONVERTED OR OF AN OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

4A-1106.

(A) THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY SHALL BE COMPLETED ON THE LATER OF:

(1) THE FORMATION OF THE LIMITED LIABILITY COMPANY IN ACCORDANCE WITH THIS TITLE; OR

(2) THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(B) THE CONVERSION OF A LIMITED LIABILITY COMPANY TO AN OTHER ENTITY SHALL BE COMPLETED ON THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(C) ARTICLES OF CONVERSION ARE EFFECTIVE ON THE LATER OF:

(1) THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES OF CONVERSION FOR RECORD; OR

(2) THE FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION SET FORTH IN ARTICLES OF CONVERSION THAT HAVE BEEN ACCEPTED BY THE DEPARTMENT FOR RECORD.

(D) (1) (I) EXCEPT AS PROVIDE IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT THE TIME THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY IS COMPLETED:

1. THE OTHER ENTITY SHALL BE CONVERTED TO A LIMITED LIABILITY COMPANY;

2. THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 4A-1104 OF THIS SUBTITLE; AND

3. THE LIMITED LIABILITY COMPANY SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THIS TITLE.

(II) NOTWITHSTANDING § 4A-202 OF THIS TITLE, THE EXISTENCE OF THE LIMITED LIABILITY COMPANY AS A DOMESTIC LIMITED LIABILITY COMPANY SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE THE OTHER ENTITY COMMENCED ITS EXISTENCE IN THE PLACE IN WHICH THE OTHER ENTITY WAS FIRST INCORPORATED, CREATED, FORMED, OR OTHERWISE CAME INTO BEING.

(2) AT THE TIME THE CONVERSION OF A LIMITED LIABILITY COMPANY TO AN OTHER ENTITY IS COMPLETED, THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 4A-1104 OF THIS SUBTITLE.

4A-1107.

(A) UNLESS OTHERWISE AGREED OR THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF A LIMITED LIABILITY COMPANY TO AN OTHER ENTITY MAY BE ABANDONED BEFORE THE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION BY THE VOTE REQUIRED UNDER § 4A-403(D)(1) OF THIS TITLE TO APPROVE THE CONVERSION.

(B) UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY MAY BE ABANDONED BEFORE THE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION IN THE MANNER AND BY THE VOTE REQUIRED BY THE GOVERNING DOCUMENT OF THE OTHER ENTITY AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED OR, IF NO MANNER AND VOTE IS SPECIFIED, IN THE MANNER AND BY THE VOTE REQUIRED TO APPROVE THE CONVERSION UNDER § 4A-1102 OF THIS SUBTITLE.

(C) IF THE ARTICLES OF CONVERSION HAVE BEEN FILED WITH THE DEPARTMENT, NOTICE OF THE ABANDONMENT SHALL BE GIVEN PROMPTLY TO THE DEPARTMENT.

(D) (1) IF THE PROPOSED CONVERSION IS ABANDONED AS PROVIDED IN THIS SECTION, NO LEGAL LIABILITY ARISES UNDER THE ARTICLES OF CONVERSION.

(2) ABANDONMENT OF A CONVERSION UNDER THIS SECTION DOES NOT PREJUDICE THE RIGHTS OF ANY PERSON UNDER ANY OTHER CONTRACT MADE BY A PARTY TO THE PROPOSED CONVERSION IN CONNECTION WITH THE PROPOSED CONVERSION.

SUBTITLE 7. CONVERSIONS OF REAL ESTATE INVESTMENT TRUSTS.

8-701.

(A) IN THIS SUBTITLE, "OTHER ENTITY" MEANS:

(1) A MARYLAND CORPORATION INCORPORATED UNDER TITLE 2 OF THIS ARTICLE;

(2) A FOREIGN CORPORATION, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(3) A DOMESTIC LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(4) A FOREIGN LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(5) A PARTNERSHIP, AS DEFINED IN § 9A-101 OF THIS ARTICLE;

(6) A LIMITED PARTNERSHIP, AS DEFINED IN § 10-101 OF THIS ARTICLE, INCLUDING A LIMITED PARTNERSHIP REGISTERED AS A LIMITED LIABILITY LIMITED PARTNERSHIP UNDER § 10-805 OF THIS ARTICLE;

(7) A FOREIGN LIMITED PARTNERSHIP, AS DEFINED IN § 10-101 OF THIS ARTICLE;

(8) A BUSINESS TRUST, AS DEFINED IN § 1-101 OF THIS ARTICLE, EXCLUDING A REAL ESTATE INVESTMENT TRUST; OR

(9) ANOTHER FORM OF UNINCORPORATED BUSINESS FORMED UNDER THE LAWS OF THIS STATE OR THE LAWS OF THE UNITED STATES, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION OR DISTRICT OF THE UNITED STATES, OR A FOREIGN COUNTRY.

(B) UNLESS THE DECLARATION OF TRUST PROVIDES OTHERWISE, A REAL ESTATE INVESTMENT TRUST MAY CONVERT TO AN OTHER ENTITY BY:

(1) APPROVING THE CONVERSION IN ACCORDANCE WITH § 8-702 OF THIS SUBTITLE; AND

(2) FILING FOR RECORD WITH THE DEPARTMENT ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE.

(C) AN OTHER ENTITY MAY CONVERT TO A REAL ESTATE INVESTMENT TRUST BY COMPLYING WITH § 8-702 OF THIS SUBTITLE AND FILING FOR RECORD WITH THE DEPARTMENT:

(1) ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE; AND

(2) A DECLARATION OF TRUST, WHICH SHALL INCLUDE THE NAME OF THE CONVERTING OTHER ENTITY, EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE AND OTHERWISE COMPLYING WITH THIS TITLE.

8-702.

(A) A CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY SHALL BE APPROVED IN THE MANNER PROVIDED BY THIS SECTION AND IN ACCORDANCE WITH ANY ADDITIONAL REQUIREMENTS SET FORTH IN THE REAL ESTATE INVESTMENT TRUST'S DECLARATION OF TRUST.

(B) A CONVERSION OF A REAL ESTATE INVESTMENT TRUST NEED BE APPROVED ONLY BY A MAJORITY OF THE BOARD OF TRUSTEES IF NO SHARES OF BENEFICIAL INTEREST ARE OUTSTANDING OR SUBSCRIBED FOR.

(C) THE BOARD OF TRUSTEES OF A REAL ESTATE INVESTMENT TRUST THAT PROPOSES TO CONVERT TO AN OTHER ENTITY SHALL:

(1) ADOPT A RESOLUTION DECLARING THAT THE PROPOSED CONVERSION IS ADVISABLE ON SUBSTANTIALLY THE TERMS AND CONDITIONS SET FORTH OR REFERRED TO IN THE RESOLUTION; AND

(2) DIRECT THAT THE PROPOSED CONVERSION BE SUBMITTED FOR CONSIDERATION AT AN ANNUAL OR A SPECIAL MEETING OF THE SHAREHOLDERS.

(D) NOTICE STATING THAT A PURPOSE OF THE MEETING WILL BE TO ACT ON THE PROPOSED CONVERSION SHALL BE GIVEN BY THE REAL ESTATE INVESTMENT TRUST IN THE MANNER PROVIDED FOR CORPORATIONS BY TITLE 2 OF THIS ARTICLE TO:

(1) EACH OF ITS SHAREHOLDERS ENTITLED TO VOTE ON THE PROPOSED TRANSACTION; AND

(2) EACH OF ITS SHAREHOLDERS NOT ENTITLED TO VOTE ON THE PROPOSED TRANSACTION.

(E) THE PROPOSED CONVERSION SHALL BE APPROVED BY THE SHAREHOLDERS OF THE REAL ESTATE INVESTMENT TRUST BY THE AFFIRMATIVE VOTE OF TWO-THIRDS OF ALL THE VOTES ENTITLED TO BE CAST ON THE MATTER.

(F) A CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST SHALL BE APPROVED IN THE MANNER AND BY THE VOTE REQUIRED BY ITS GOVERNING DOCUMENT AND THE LAWS OF THE PLACE WHERE IT IS INCORPORATED OR ORGANIZED.

(G) EACH SHAREHOLDER OF A REAL ESTATE INVESTMENT TRUST OBJECTING TO A CONVERSION OF THE REAL ESTATE INVESTMENT TRUST SHALL HAVE THE SAME RIGHTS AS AN OBJECTING STOCKHOLDER OF A MARYLAND

CORPORATION UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE AND UNDER THE SAME PROCEDURES.

8-703.

(A) IN THIS SECTION, “FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION” INCLUDES:

(1) AN ACTION OR A DETERMINATION BY ANY PERSON, INCLUDING:

(I) THE REAL ESTATE INVESTMENT TRUST OR OTHER ENTITY, AS APPLICABLE;

(II) THE TRUSTEES, DIRECTORS, PARTNERS, MEMBERS, OFFICERS, OR OTHER AGENTS OF THE REAL ESTATE INVESTMENT TRUST OR OTHER ENTITY; AND

(III) ANY OTHER PERSON AFFILIATED WITH THE REAL ESTATE INVESTMENT TRUST OR OTHER ENTITY; AND

(2) ANY OTHER EVENT.

(B) ARTICLES OF CONVERSION SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

(C) IN A CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE REAL ESTATE INVESTMENT TRUST AND THE DATE OF FILING OF THE ORIGINAL DECLARATION OF TRUST WITH THE DEPARTMENT;

(2) THE NAME OF THE OTHER ENTITY TO WHICH THE REAL ESTATE INVESTMENT TRUST WILL BE CONVERTED AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ISSUED SHARES OF BENEFICIAL INTEREST OF THE REAL ESTATE INVESTMENT TRUST INTO SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE

OTHER ENTITY, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY ISSUED SHARES OF BENEFICIAL INTEREST NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION;

(6) IF THE OTHER ENTITY IS NOT ORGANIZED UNDER THE LAWS OF THIS STATE:

(I) THE LOCATION OF THE PRINCIPAL OFFICE IN THE PLACE WHERE IT IS ORGANIZED; AND

(II) THE NAME AND ADDRESS OF THE RESIDENT AGENT IN THIS STATE; AND

(7) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(D) IN A CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE OTHER ENTITY, THE DATE ON WHICH THE OTHER ENTITY WAS FIRST CREATED, AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(2) THE NAME OF THE REAL ESTATE INVESTMENT TRUST TO WHICH THE OTHER ENTITY WILL BE CONVERTED;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY INTO SHARES OF BENEFICIAL INTEREST OF THE REAL ESTATE INVESTMENT TRUST, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION; AND

(6) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(E) THE ARTICLES OF CONVERSION MAY CONTAIN A FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION THAT IS NOT LATER THAN 30 DAYS AFTER THE ARTICLES OF CONVERSION ARE ACCEPTED FOR RECORD.

8-704.

(A) A CONVERSION HAS THE EFFECTS PROVIDED IN THIS SECTION.

(B) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY.

(2) THE REAL ESTATE INVESTMENT TRUST SHALL CEASE TO EXIST AS A REAL ESTATE INVESTMENT TRUST AND SHALL CONTINUE TO EXIST AS THE OTHER ENTITY INTO WHICH THE REAL ESTATE INVESTMENT TRUST HAS CONVERTED, AND THE OTHER ENTITY SHALL, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING REAL ESTATE INVESTMENT TRUST.

(3) (I) ALL THE ASSETS OF THE REAL ESTATE INVESTMENT TRUST, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, SHALL VEST IN AND DEVOLVE ON THE OTHER ENTITY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE OTHER ENTITY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE REAL ESTATE INVESTMENT TRUST SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE REAL ESTATE INVESTMENT TRUST BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE REAL ESTATE INVESTMENT TRUST BY ITS LAST ACTING OFFICERS, OR BY THE APPROPRIATE AUTHORIZED

PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY.

(4) (I) THE OTHER ENTITY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE REAL ESTATE INVESTMENT TRUST.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE REAL ESTATE INVESTMENT TRUST MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE OTHER ENTITY MAY BE SUBSTITUTED AS A PARTY AND A JUDGMENT AGAINST THE REAL ESTATE INVESTMENT TRUST CONSTITUTES A LIEN ON THE PROPERTY OF THE OTHER ENTITY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE REAL ESTATE INVESTMENT TRUST.

(5) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE SHAREHOLDERS OF THE REAL ESTATE INVESTMENT TRUST UNDER THE ARTICLES OF CONVERSION AND TO THE RIGHTS OF AN OBJECTING SHAREHOLDER UNDER THIS SUBTITLE, THE OWNERSHIP INTERESTS OF THE SHAREHOLDERS OF THE REAL ESTATE INVESTMENT TRUST SHALL CEASE TO EXIST AS SHARES OF BENEFICIAL INTEREST OF THE REAL ESTATE INVESTMENT TRUST AND CONTINUE TO EXIST AS OWNERSHIP INTERESTS IN THE OTHER ENTITY.

(6) THE CONVERSION OF THE REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE REAL ESTATE INVESTMENT TRUST OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE CONVERSION.

(7) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF CONVERSION, THE CONVERTING REAL ESTATE INVESTMENT TRUST IS NOT REQUIRED TO WIND UP ITS AFFAIRS OR PAY ITS LIABILITIES AND DISTRIBUTE ITS ASSETS, AND THE CONVERSION DOES NOT CONSTITUTE DISSOLUTION OR A TRANSFER OF ASSETS OR LIABILITIES OF THE REAL ESTATE INVESTMENT TRUST.

(8) A PERSON BECOMES LIABLE FOR ANY OBLIGATION INCURRED BY THE REAL ESTATE INVESTMENT TRUST BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT PROVIDED FOR BY THE LAWS APPLICABLE TO THE OTHER ENTITY.

(C) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST.

(2) THE REAL ESTATE INVESTMENT TRUST, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING OTHER ENTITY.

(3) (I) ALL THE ASSETS OF THE OTHER ENTITY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, VEST IN AND DEVOLVE ON THE REAL ESTATE INVESTMENT TRUST WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE REAL ESTATE INVESTMENT TRUST, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE OTHER ENTITY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE OTHER ENTITY BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE OTHER ENTITY BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY OR BY THE OFFICERS OF THE REAL ESTATE INVESTMENT TRUST.

(4) (I) THE REAL ESTATE INVESTMENT TRUST SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE OTHER ENTITY.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE OTHER ENTITY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE REAL ESTATE INVESTMENT TRUST MAY BE SUBSTITUTED AS A PARTY AND A JUDGMENT AGAINST THE OTHER ENTITY CONSTITUTES A LIEN ON THE PROPERTY OF THE ~~OTHER ENTITY~~ REAL ESTATE INVESTMENT TRUST.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE OTHER ENTITY.

(5) THE CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER

THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE OTHER ENTITY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(6) A PERSON REMAINS LIABLE FOR ANY OBLIGATION INCURRED BY THE OTHER ENTITY BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT THAT THE PERSON WOULD HAVE BEEN LIABLE IF THE CONVERSION HAD NOT OCCURRED.

(7) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY CEASE TO EXIST AS OWNERSHIP INTERESTS IN THE CONVERTED OTHER ENTITY AND CONTINUE TO EXIST AS SHARES OF BENEFICIAL INTEREST IN THE REAL ESTATE INVESTMENT TRUST.

8-705.

(A) IN A CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST, THE STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) SHARES OF BENEFICIAL INTEREST OF THE REAL ESTATE INVESTMENT TRUST OR STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF ANY OTHER REAL ESTATE INVESTMENT TRUST OR OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

(B) IN A CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY, SHARES OF BENEFICIAL INTEREST OF THE REAL ESTATE INVESTMENT TRUST MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY TO WHICH THE REAL ESTATE

INVESTMENT TRUST IS CONVERTED OR OF ANY OTHER REAL ESTATE INVESTMENT TRUST OR OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

- (2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;
- (3) MONEY; AND
- (4) ANY OTHER CONSIDERATION.

8-706.

(A) THE CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST SHALL BE COMPLETED ON THE LATER OF:

(1) THE FORMATION OF THE REAL ESTATE INVESTMENT TRUST IN ACCORDANCE WITH THIS TITLE; OR

(2) THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(B) THE CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY SHALL BE COMPLETED ON THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(C) ARTICLES OF CONVERSION ARE EFFECTIVE ON THE LATER OF:

(1) THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES OF CONVERSION FOR RECORD; OR

(2) THE FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION AS SET FORTH IN ARTICLES OF CONVERSION THAT HAVE BEEN ACCEPTED BY THE DEPARTMENT FOR RECORD.

(D) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT THE TIME THE CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST IS COMPLETED:

1. THE OTHER ENTITY SHALL BE CONVERTED TO A REAL ESTATE INVESTMENT TRUST;

2. THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 8-704 OF THIS SUBTITLE; AND

3. THE REAL ESTATE INVESTMENT TRUST SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THE MARYLAND REIT LAW.

(II) THE EXISTENCE OF THE REAL ESTATE INVESTMENT TRUST SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE THE OTHER ENTITY COMMENCED ITS EXISTENCE IN THE PLACE IN WHICH THE OTHER ENTITY WAS FIRST INCORPORATED, CREATED, FORMED, OR OTHERWISE CAME INTO BEING.

(2) AT THE TIME THE CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY IS COMPLETED, THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 8-704 OF THIS SUBTITLE.

8-707.

(A) UNLESS THE DECLARATION OF TRUST OF THE REAL ESTATE INVESTMENT TRUST OR ARTICLES OF CONVERSION PROVIDE OTHERWISE, THE PROPOSED CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY MAY BE ABANDONED BEFORE THE EFFECTIVE DATE OF THE ARTICLES OF CONVERSION BY MAJORITY VOTE OF THE ENTIRE BOARD OF TRUSTEES OF THE REAL ESTATE INVESTMENT TRUST PARTY TO THE ARTICLES OF CONVERSION.

(B) UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, THE PROPOSED CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST MAY BE ABANDONED IN THE MANNER AND BY THE VOTE REQUIRED BY THE GOVERNING DOCUMENT OF THE OTHER ENTITY AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED OR, IF NO MANNER AND VOTE IS SPECIFIED, IN THE MANNER AND BY THE VOTE REQUIRED TO APPROVE THE CONVERSION UNDER § 8-702 OF THIS SUBTITLE.

(C) IF THE ARTICLES OF CONVERSION HAVE BEEN FILED WITH THE DEPARTMENT, NOTICE OF THE ABANDONMENT SHALL BE GIVEN PROMPTLY TO THE DEPARTMENT.

(D) (1) IF THE PROPOSED CONVERSION IS ABANDONED AS PROVIDED IN THIS SECTION, NO LEGAL LIABILITY ARISES UNDER THE ARTICLES OF CONVERSION.

(2) ABANDONMENT OF A CONVERSION UNDER THIS SECTION DOES NOT PREJUDICE THE RIGHTS OF ANY PERSON UNDER ANY OTHER CONTRACT MADE BY A REAL ESTATE INVESTMENT TRUST IN CONNECTION WITH THE PROPOSED CONVERSION.

SUBTITLE 12. CONVERSIONS OF PARTNERSHIPS.**9A-1201.**

(A) IN THIS SUBTITLE, “OTHER ENTITY” MEANS:

(1) A MARYLAND CORPORATION INCORPORATED UNDER TITLE 2 OF THIS ARTICLE;

(2) A FOREIGN CORPORATION, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(3) A DOMESTIC LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(4) A FOREIGN LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(5) A LIMITED PARTNERSHIP, INCLUDING A LIMITED PARTNERSHIP REGISTERED AS A LIMITED LIABILITY LIMITED PARTNERSHIP UNDER § 10-805 OF THIS ARTICLE;

(6) A FOREIGN LIMITED PARTNERSHIP;

(7) A BUSINESS TRUST, AS DEFINED IN § 1-101 OF THIS ARTICLE;

OR

(8) ANOTHER FORM OF UNINCORPORATED BUSINESS FORMED UNDER THE LAWS OF THIS STATE OR THE LAWS OF THE UNITED STATES, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION, OR DISTRICT OF THE UNITED STATES, OR A FOREIGN COUNTRY.

(B) UNLESS THE PARTNERSHIP AGREEMENT PROVIDES OTHERWISE, A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE MAY CONVERT TO AN OTHER ENTITY BY:

(1) APPROVING THE CONVERSION IN ACCORDANCE WITH § 9A-1202 OF THIS SUBTITLE; AND

(2) FILING FOR RECORD WITH THE DEPARTMENT ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE.

(C) BEFORE A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE MAY CONVERT TO AN OTHER ENTITY IN ACCORDANCE WITH THIS SUBTITLE, THE PARTNERSHIP SHALL FILE OR HAVE FILED FOR RECORD WITH THE DEPARTMENT:

(1) A STATEMENT OF AUTHORITY IN ACCORDANCE WITH § 9A-303 OF THIS TITLE; OR

(2) A CERTIFICATE OF LIMITED LIABILITY PARTNERSHIP IN ACCORDANCE WITH § 9A-1001 OF THIS TITLE.

(D) AN OTHER ENTITY MAY CONVERT TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE BY COMPLYING WITH THE REQUIREMENTS OF § 9A-1202 OF THIS SUBTITLE AND FILING FOR RECORD WITH THE DEPARTMENT:

(1) ARTICLES OF CONVERSION EXECUTED BY AT LEAST TWO PARTNERS; AND

(2) A STATEMENT OF PARTNERSHIP AUTHORITY THAT COMPLIES WITH § 9A-303 OF THIS TITLE EXECUTED IN THE MANNER REQUIRED BY § 9A-105(B) OF THIS TITLE OR, IN THE CASE OF THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY PARTNERSHIP, A CERTIFICATE OF LIMITED LIABILITY PARTNERSHIP THAT COMPLIES WITH § 9A-1001 OF THIS TITLE.

(E) THE STATUTORY CONVERSION PROVISIONS OF THIS SUBTITLE DO NOT PRECLUDE A PARTNERSHIP FROM BEING CONVERTED OR MERGED BY AGREEMENT OR BY OPERATION OF LAW.

9A-1202.

(A) A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE SHALL APPROVE THE CONVERSION OF THE PARTNERSHIP TO AN OTHER ENTITY BY THE AFFIRMATIVE VOTE OF ALL OF ITS PARTNERS, OR A LESSER NUMBER OR PERCENTAGE SPECIFIED FOR CONVERSION IN ITS PARTNERSHIP AGREEMENT.

(B) AN OTHER ENTITY SEEKING TO CONVERT TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE SHALL:

(1) APPROVE THE CONVERSION OF THE OTHER ENTITY TO THE PARTNERSHIP IN THE MANNER AND BY THE VOTE REQUIRED BY ITS GOVERNING DOCUMENT AND THE LAWS OF THE PLACE WHERE IT IS INCORPORATED OR ORGANIZED; AND

(2) COMPLY WITH ALL OTHER REQUIREMENTS FOR THE FORMATION OF A PARTNERSHIP UNDER THE LAWS OF THIS STATE.

(C) (1) A ~~MEMBER~~ PARTNER OF A PARTNERSHIP OBJECTING TO A CONVERSION OF THE PARTNERSHIP HAS THE SAME RIGHTS WITH RESPECT TO THE PARTNER'S INTEREST IN THE PARTNERSHIP AS A STOCKHOLDER OF A MARYLAND CORPORATION WHO OBJECTS HAS WITH RESPECT TO THE STOCKHOLDER'S STOCK UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE.

(2) THE PROCEDURES UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE SHALL BE APPLICABLE TO THE EXTENT PRACTICABLE.

9A-1203.

(A) IN THIS SECTION, "FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION" INCLUDES:

(1) AN ACTION OR A DETERMINATION BY ANY PERSON, INCLUDING:

(I) THE PARTNERSHIP OR OTHER ENTITY, AS APPLICABLE;

(II) THE PARTNERS, MEMBERS, DIRECTORS, TRUSTEES, OFFICERS, OR OTHER AGENTS OF THE PARTNERSHIP OR OTHER ENTITY; AND

(III) ANY OTHER PERSON AFFILIATED WITH THE PARTNERSHIP OR OTHER ENTITY; AND

(2) ANY OTHER EVENT.

(B) ARTICLES OF CONVERSION SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

(C) IN A CONVERSION OF A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE TO AN OTHER ENTITY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE PARTNERSHIP AND THE DATE OF FILING OF ITS ORIGINAL STATEMENT OF PARTNERSHIP AUTHORITY OR CERTIFICATE OF LIMITED LIABILITY PARTNERSHIP WITH THE DEPARTMENT;

(2) THE NAME OF THE OTHER ENTITY TO WHICH THE PARTNERSHIP WILL BE CONVERTED AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING PARTNERSHIP INTERESTS IN THE PARTNERSHIP INTO SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY PARTNERSHIP INTERESTS NOT TO BE SO CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION;

(6) IF THE OTHER ENTITY IS NOT ORGANIZED UNDER THE LAWS OF THIS STATE:

(I) THE LOCATION OF THE PRINCIPAL OFFICE IN THE PLACE WHERE IT IS ORGANIZED; AND

(II) THE NAME AND ADDRESS OF THE RESIDENT AGENT IN THIS STATE; AND

(7) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(D) IN A CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE OTHER ENTITY, THE DATE ON WHICH THE OTHER ENTITY WAS FIRST CREATED, AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(2) THE NAME OF THE PARTNERSHIP TO WHICH THE OTHER ENTITY WILL BE CONVERTED;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY INTO PARTNERSHIP INTERESTS IN THE PARTNERSHIP OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION; AND

(6) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(E) THE ARTICLES OF CONVERSION MAY CONTAIN A FUTURE EFFECTIVE TIME FOR THE ARTICLES OF CONVERSION THAT IS NOT LATER THAN 30 DAYS AFTER THE ARTICLES OF CONVERSION ARE ACCEPTED FOR RECORD.

9A-1204.

(A) A CONVERSION HAS THE EFFECTS PROVIDED IN THIS SECTION.

(B) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE TO AN OTHER ENTITY.

(2) THE PARTNERSHIP SHALL CEASE TO EXIST AS A PARTNERSHIP UNDER THE LAWS OF THIS STATE AND SHALL CONTINUE TO EXIST AS THE OTHER ENTITY INTO WHICH THE PARTNERSHIP HAS CONVERTED, AND THE OTHER ENTITY, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING PARTNERSHIP.

(3) (I) ALL THE ASSETS OF THE PARTNERSHIP, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, SHALL VEST IN AND DEVOLVE ON THE OTHER ENTITY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE OTHER ENTITY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE PARTNERSHIP SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE PARTNERSHIP TO AN OTHER ENTITY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE PARTNERSHIP BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE PARTNERSHIP BY ITS LAST ACTING PARTNERS, OR BY THE APPROPRIATE AUTHORIZED PERSONS, GENERAL PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY.

(4) (I) THE OTHER ENTITY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE PARTNERSHIP.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE PARTNERSHIP MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE OTHER ENTITY MAY BE SUBSTITUTED AS A PARTY, AND A JUDGMENT AGAINST THE PARTNERSHIP CONSTITUTES A LIEN ON THE PROPERTY OF THE OTHER ENTITY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE PARTNERSHIP.

(5) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE PARTNERS OF THE PARTNERSHIP UNDER THE ARTICLES OF CONVERSION AND TO THE RIGHTS OF AN OBJECTING PARTNER UNDER THIS SUBTITLE, THE OWNERSHIP INTERESTS OF THE PARTNERS OF THE PARTNERSHIP CEASE TO EXIST AS PARTNERSHIP INTERESTS IN THE CONVERTED PARTNERSHIP AND CONTINUE TO EXIST AS OWNERSHIP INTERESTS IN THE OTHER ENTITY.

(6) (I) THE CONVERSION OF THE PARTNERSHIP TO AN OTHER ENTITY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE PARTNERSHIP OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(II) SUBJECT TO SUBTITLES 7 AND 8 OF THIS TITLE, A PARTNER OF THE PARTNERSHIP REMAINS LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE PARTNERSHIP FOR WHICH THE PARTNER WAS LIABLE BEFORE THE COMPLETION OF THE CONVERSION.

(7) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF CONVERSION, THE CONVERTING PARTNERSHIP IS NOT REQUIRED TO WIND UP ITS AFFAIRS OR PAY ITS LIABILITIES AND DISTRIBUTE ITS ASSETS, AND THE CONVERSION DOES NOT CONSTITUTE DISSOLUTION OR A TRANSFER OF ASSETS OR LIABILITIES OF THE PARTNERSHIP.

(8) A PERSON BECOMES LIABLE FOR ANY OBLIGATION INCURRED BY THE PARTNERSHIP BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT PROVIDED FOR BY THE LAWS APPLICABLE TO THE OTHER ENTITY.

(c) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE.

(2) THE PARTNERSHIP, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING OTHER ENTITY.

(3) (i) ALL THE ASSETS OF THE OTHER ENTITY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, VEST IN AND DEVOLVE ON THE PARTNERSHIP WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE PARTNERSHIP, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE OTHER ENTITY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(ii) THE CONVERSION OF THE OTHER ENTITY TO A PARTNERSHIP DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE OTHER ENTITY BEFORE THE CONVERSION.

(iii) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE OTHER ENTITY BY THE APPROPRIATE AUTHORIZED PERSONS, GENERAL PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY, OR BY THE PARTNERS OF THE PARTNERSHIP.

(4) (i) THE PARTNERSHIP SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE OTHER ENTITY.

(ii) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE OTHER ENTITY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF

THE PARTNERSHIP OR ANY PARTY, THE PARTNERSHIP MAY BE SUBSTITUTED AS A PARTY, AND A JUDGMENT AGAINST THE OTHER ENTITY CONSTITUTES A LIEN ON THE PROPERTY OF THE PARTNERSHIP.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE OTHER ENTITY.

(5) THE CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE OTHER ENTITY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(6) A PARTNER OF THE PARTNERSHIP AFTER THE COMPLETION OF THE CONVERSION IS LIABLE FOR:

(I) ALL OBLIGATIONS OF THE OTHER ENTITY FOR WHICH THE PARTNER WAS PERSONALLY LIABLE BEFORE THE COMPLETION OF THE CONVERSION; AND

(II) EXCEPT AS PROVIDED IN § 9A-306(C) OF THIS TITLE, ALL OBLIGATIONS OF THE CONVERTED PARTNERSHIP INCURRED AFTER THE CONVERSION IS COMPLETED.

(7) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY CEASE TO EXIST AS OWNERSHIP INTERESTS IN THE CONVERTED OTHER ENTITY AND CONTINUE TO EXIST AS PARTNERSHIP INTERESTS IN THE PARTNERSHIP.

9A-1205.

(A) IN A CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE, THE STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) PARTNERSHIP INTERESTS IN THE PARTNERSHIP OR STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF AN OTHER ENTITY, WHETHER OR NOT A PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

(B) IN A CONVERSION OF A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE TO AN OTHER ENTITY, PARTNERSHIP INTERESTS IN THE PARTNERSHIP MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY TO WHICH THE PARTNERSHIP IS CONVERTED OR OF AN OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

9A-1206.

(A) THE CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE SHALL BE COMPLETED ON THE LATER OF:

(1) THE FORMATION OF THE PARTNERSHIP IN ACCORDANCE WITH THIS TITLE OR, IN THE CASE OF THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE, THE FILING OF A CERTIFICATE OF LIMITED LIABILITY PARTNERSHIP THAT COMPLIES WITH § 9A-1001 OF THIS TITLE; OR

(2) THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(B) THE CONVERSION OF A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE TO AN OTHER ENTITY SHALL BE COMPLETED ON THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(C) ARTICLES OF CONVERSION SHALL BE EFFECTIVE ON THE LATER OF:

(1) THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES OF CONVERSION FOR RECORD; OR

(2) THE FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION AS SET FORTH IN ARTICLES OF CONVERSION THAT HAVE BEEN ACCEPTED BY THE DEPARTMENT FOR RECORD.

(D) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT THE TIME THE CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP FORMED UNDER THE LAWS OF THIS STATE IS COMPLETED:

1. THE OTHER ENTITY SHALL BE CONVERTED TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE;

2. THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 9A-1204 OF THIS SUBTITLE; AND

3. THE PARTNERSHIP SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THIS TITLE.

(II) NOTWITHSTANDING § 9A-202 OF THIS TITLE, THE EXISTENCE OF THE PARTNERSHIP AS A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE THE OTHER ENTITY COMMENCED ITS EXISTENCE IN THE PLACE IN WHICH THE OTHER ENTITY WAS FIRST INCORPORATED, CREATED, FORMED, OR OTHERWISE CAME INTO BEING.

(2) AT THE TIME THE CONVERSION OF A PARTNERSHIP FORMED UNDER THE LAWS OF THIS STATE TO AN OTHER ENTITY IS COMPLETED, THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 9A-1204 OF THIS SUBTITLE.

9A-1207.

(A) UNLESS THE PARTNERSHIP AGREEMENT OR THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE TO AN OTHER ENTITY MAY BE ABANDONED BEFORE THE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION BY THE AFFIRMATIVE VOTE OF ALL OF THE PARTNERS OF THE PARTNERSHIP, OR ANY LESSER NUMBER OR PERCENTAGE SPECIFIED FOR THE APPROVAL OF A CONVERSION IN ITS PARTNERSHIP AGREEMENT.

(B) UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP ORGANIZED

UNDER THE LAWS OF THIS STATE MAY BE ABANDONED BEFORE THE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION IN THE MANNER AND BY THE VOTE REQUIRED BY THE GOVERNING DOCUMENT OF THE OTHER ENTITY AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED OR, IF NO MANNER AND VOTE IS SPECIFIED, IN THE MANNER AND BY THE VOTE REQUIRED TO APPROVE THE CONVERSION UNDER § 9A-1202 OF THIS SUBTITLE.

(C) IF THE ARTICLES OF CONVERSION HAVE BEEN FILED WITH THE DEPARTMENT, NOTICE OF THE ABANDONMENT SHALL BE GIVEN PROMPTLY TO THE DEPARTMENT.

(D) (1) IF THE PROPOSED CONVERSION IS ABANDONED AS PROVIDED IN THIS SECTION, NO LEGAL LIABILITY ARISES UNDER THE ARTICLES OF CONVERSION.

(2) ABANDONMENT OF A CONVERSION UNDER THIS SUBSECTION DOES NOT PREJUDICE THE RIGHTS OF ANY PERSON UNDER ANY OTHER CONTRACT MADE BY A PARTY TO THE PROPOSED CONVERSION IN CONNECTION WITH THE PROPOSED CONVERSION.

10-204.

(a) Each certificate **OR ARTICLES** required by this subtitle to be filed with the Department shall be executed in the following manner:

(1) The certificate of limited partnership [under § 10-201 of this subtitle], **ARTICLES OF CONVERSION TO A LIMITED PARTNERSHIP, AND ARTICLES OF CONVERSION TO AN OTHER ENTITY** must be signed by all general partners **OR, IN THE CASE OF ARTICLES OF CONVERSION TO A LIMITED PARTNERSHIP, BY ANY PERSON AUTHORIZED TO EXECUTE THE CERTIFICATE ON BEHALF OF THE OTHER ENTITY;**

(2) A certificate of amendment under § 10-202 of this subtitle must be signed by at least one general partner and by each other general partner designated in the certificate of amendment as a new general partner or a withdrawing general partner;

(3) A certificate of cancellation under § 10-203 of this subtitle must be signed by all general partners, or, if there is no general partner, by a majority of the limited partners; and

(4) A certificate of reinstatement under § 10-214 of this subtitle must be signed by all general partners, or, if there is no general partner, by a majority of the limited partners.

SUBTITLE 7A. CONVERSIONS OF LIMITED PARTNERSHIPS.**10-7A-01.**

(A) IN THIS SUBTITLE, "OTHER ENTITY" MEANS:

(1) A MARYLAND CORPORATION INCORPORATED UNDER TITLE 2 OF THIS ARTICLE;

(2) A FOREIGN CORPORATION, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(3) A DOMESTIC LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(4) A FOREIGN LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(5) A PARTNERSHIP, AS DEFINED IN § 9A-101 OF THIS ARTICLE;

(6) A BUSINESS TRUST, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(7) AN OTHER FORM OF UNINCORPORATED BUSINESS FORMED UNDER THE LAWS OF THIS STATE OR THE LAWS OF THE UNITED STATES, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION, OR DISTRICT OF THE UNITED STATES, OR A FOREIGN COUNTRY; OR

(8) A FOREIGN LIMITED PARTNERSHIP, INCLUDING A FOREIGN LIMITED PARTNERSHIP REGISTERED OR DENOMINATED AS A LIMITED LIABILITY LIMITED PARTNERSHIP UNDER THE LAWS OF A STATE OTHER THAN THIS STATE.

(B) UNLESS THE PARTNERSHIP AGREEMENT PROVIDES OTHERWISE, A LIMITED PARTNERSHIP MAY CONVERT TO AN OTHER ENTITY BY:

(1) APPROVING THE CONVERSION IN ACCORDANCE WITH § 10-7A-02 OF THIS SUBTITLE; AND

(2) FILING FOR RECORD WITH THE DEPARTMENT ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY § 10-204 OF THIS TITLE.

(C) AN OTHER ENTITY MAY CONVERT TO A LIMITED PARTNERSHIP BY COMPLYING WITH THE REQUIREMENTS OF § 10-7A-02 OF THIS SUBTITLE AND FILING FOR RECORD WITH THE DEPARTMENT:

(1) ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY § 10-204 OF THIS TITLE; AND

(2) A CERTIFICATE OF LIMITED PARTNERSHIP THAT COMPLIES WITH § 10-201 OF THIS TITLE AND, IN THE CASE OF THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY PARTNERSHIP, § 10-805 OF THIS TITLE, EXECUTED IN THE MANNER REQUIRED BY § 10-204 OF THIS TITLE.

10-7A-02.

(A) UNLESS THE PARTNERSHIP AGREEMENT SPECIFIES THE MANNER OF AUTHORIZING A CONVERSION OF THE LIMITED PARTNERSHIP, THE LIMITED PARTNERSHIP SHALL APPROVE THE CONVERSION OF THE LIMITED PARTNERSHIP TO AN OTHER ENTITY BY THE AFFIRMATIVE VOTE OF ALL OF THE GENERAL PARTNERS AND A MAJORITY IN INTEREST OF THE LIMITED PARTNERS.

(B) AN OTHER ENTITY SEEKING TO CONVERT TO A LIMITED PARTNERSHIP SHALL APPROVE THE CONVERSION OF THE OTHER ENTITY TO A LIMITED PARTNERSHIP IN THE MANNER AND BY THE VOTE REQUIRED BY ITS GOVERNING DOCUMENT AND THE LAWS OF THE PLACE WHERE IT IS INCORPORATED OR ORGANIZED.

(C) (1) A PARTNER OF A LIMITED PARTNERSHIP OBJECTING TO A CONVERSION OF THE LIMITED PARTNERSHIP HAS THE SAME RIGHTS WITH RESPECT TO THE PARTNER'S PARTNERSHIP INTEREST IN THE LIMITED PARTNERSHIP AS A STOCKHOLDER OF A MARYLAND CORPORATION WHO OBJECTS HAS WITH RESPECT TO THE STOCKHOLDER'S STOCK UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE.

(2) THE PROCEDURES UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE SHALL BE APPLICABLE TO THE EXTENT PRACTICABLE.

10-7A-03.

(A) IN THIS SECTION, "FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION" INCLUDES:

(1) AN ACTION OR A DETERMINATION BY ANY PERSON, INCLUDING:

(I) THE LIMITED PARTNERSHIP OR OTHER ENTITY, AS APPLICABLE:

(II) THE PARTNERS, MEMBERS, DIRECTORS, TRUSTEES, OFFICERS, OR OTHER AGENTS OF THE LIMITED PARTNERSHIP OR OTHER ENTITY; AND

(III) ANY OTHER PERSON AFFILIATED WITH THE LIMITED PARTNERSHIP OR OTHER ENTITY; AND

(2) ANY OTHER EVENT.

(B) ARTICLES OF CONVERSION SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

(C) IN A CONVERSION OF A LIMITED PARTNERSHIP TO AN OTHER ENTITY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE LIMITED PARTNERSHIP AND THE DATE OF FILING OF ITS ORIGINAL CERTIFICATE OF LIMITED PARTNERSHIP WITH THE DEPARTMENT;

(2) THE NAME OF THE OTHER ENTITY TO WHICH THE LIMITED PARTNERSHIP WILL BE CONVERTED AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING PARTNERSHIP INTERESTS IN THE LIMITED PARTNERSHIP INTO SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY PARTNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION;

(6) IF THE OTHER ENTITY IS NOT ORGANIZED UNDER THE LAWS OF THIS STATE:

(I) THE LOCATION OF THE PRINCIPAL OFFICE IN THE PLACE WHERE IT IS ORGANIZED; AND

(II) THE NAME AND ADDRESS OF THE RESIDENT AGENT IN THIS STATE; AND

(7) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(D) IN A CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE OTHER ENTITY, THE DATE ON WHICH THE OTHER ENTITY WAS FIRST CREATED, AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(2) THE NAME OF THE LIMITED PARTNERSHIP TO WHICH THE OTHER ENTITY WILL BE CONVERTED;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY INTO PARTNERSHIP INTERESTS IN THE LIMITED PARTNERSHIP OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION; AND

(6) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(E) THE ARTICLES OF CONVERSION MAY CONTAIN A FUTURE EFFECTIVE TIME FOR THE ARTICLES OF CONVERSION THAT IS NOT LATER THAN 30 DAYS AFTER THE ARTICLES OF CONVERSION ARE ACCEPTED FOR RECORD.

10-7A-04.

(A) A CONVERSION HAS THE EFFECTS PROVIDED IN THIS SECTION.

(B) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF A LIMITED PARTNERSHIP TO AN OTHER ENTITY.

(2) THE LIMITED PARTNERSHIP SHALL CEASE TO EXIST AS A LIMITED PARTNERSHIP AND SHALL CONTINUE TO EXIST AS THE OTHER ENTITY INTO WHICH THE PARTNERSHIP HAS CONVERTED, AND THE OTHER ENTITY, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING LIMITED PARTNERSHIP.

(3) (I) ALL THE ASSETS OF THE LIMITED PARTNERSHIP, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, SHALL VEST IN AND DEVOLVE ON THE OTHER ENTITY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE OTHER ENTITY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE LIMITED PARTNERSHIP SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE LIMITED PARTNERSHIP TO AN OTHER ENTITY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE LIMITED PARTNERSHIP BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE LIMITED PARTNERSHIP BY ITS LAST ACTING GENERAL PARTNERS, OR BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY.

(4) (I) THE OTHER ENTITY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE LIMITED PARTNERSHIP.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE LIMITED PARTNERSHIP MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE OTHER ENTITY MAY BE SUBSTITUTED AS A PARTY, AND A JUDGMENT AGAINST THE LIMITED PARTNERSHIP CONSTITUTES A LIEN ON THE PROPERTY OF THE OTHER ENTITY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE LIMITED PARTNERSHIP.

(5) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE PARTNERS OF THE LIMITED PARTNERSHIP UNDER THE ARTICLES OF CONVERSION AND TO THE RIGHTS OF AN OBJECTING PARTNER UNDER THIS SUBTITLE, THE OWNERSHIP INTERESTS OF THE PARTNERS OF THE LIMITED PARTNERSHIP CEASE TO EXIST AS PARTNERSHIP INTERESTS IN THE CONVERTED LIMITED PARTNERSHIP AND CONTINUE TO EXIST AS OWNERSHIP INTERESTS IN THE OTHER ENTITY.

(6) (I) THE CONVERSION OF THE LIMITED PARTNERSHIP TO AN OTHER ENTITY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE LIMITED PARTNERSHIP OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED PRIOR TO THE COMPLETION OF THE CONVERSION.

(II) SUBJECT TO §§ 10-303 AND 10-403 OF THIS TITLE, A PARTNER OF THE LIMITED PARTNERSHIP REMAINS LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE LIMITED PARTNERSHIP FOR WHICH THE PARTNER WAS LIABLE BEFORE THE COMPLETION OF THE CONVERSION.

(7) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF CONVERSION, THE CONVERTING LIMITED PARTNERSHIP IS NOT REQUIRED TO WIND UP ITS AFFAIRS OR PAY ITS LIABILITIES AND DISTRIBUTE ITS ASSETS, AND THE CONVERSION DOES NOT CONSTITUTE DISSOLUTION OR A TRANSFER OF ASSETS OR LIABILITIES OF THE LIMITED PARTNERSHIP.

(8) A PERSON BECOMES LIABLE FOR ANY OBLIGATION INCURRED BY THE LIMITED PARTNERSHIP BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT PROVIDED FOR BY THE LAWS APPLICABLE TO THE OTHER ENTITY.

(C) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP.

(2) THE LIMITED PARTNERSHIP, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING OTHER ENTITY.

(3) (I) ALL THE ASSETS OF THE OTHER ENTITY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, VEST IN AND DEVOLVE ON THE LIMITED PARTNERSHIP WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE LIMITED PARTNERSHIP, AND THE TITLE TO

ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE OTHER ENTITY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF THIS SUBTITLE.

(II) THE CONVERSION OF THE OTHER ENTITY TO A LIMITED PARTNERSHIP DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE OTHER ENTITY BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE OTHER ENTITY BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY, OR BY THE GENERAL PARTNERS OF THE LIMITED PARTNERSHIP.

(4) (I) THE LIMITED PARTNERSHIP SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE OTHER ENTITY.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE OTHER ENTITY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE LIMITED PARTNERSHIP OR ANY PARTY, THE LIMITED PARTNERSHIP MAY BE SUBSTITUTED AS A PARTY, AND A JUDGMENT AGAINST THE OTHER ENTITY CONSTITUTES A LIEN ON THE PROPERTY OF THE LIMITED PARTNERSHIP.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE OTHER ENTITY.

(5) THE CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE OTHER ENTITY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED PRIOR TO THE COMPLETION OF THE CONVERSION.

(6) A PERSON REMAINS LIABLE FOR ANY OBLIGATION INCURRED BY THE OTHER ENTITY BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT THAT THE PERSON WOULD HAVE BEEN LIABLE IF THE CONVERSION HAD NOT OCCURRED.

(7) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY CEASE TO EXIST AS OWNERSHIP INTERESTS IN THE CONVERTED OTHER ENTITY AND

CONTINUE TO EXIST AS PARTNERSHIP INTERESTS IN THE LIMITED PARTNERSHIP.

10-7A-05.

(A) IN A CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP, THE STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) PARTNERSHIP INTERESTS IN THE LIMITED PARTNERSHIP OR STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF AN OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

(B) IN A CONVERSION OF A LIMITED PARTNERSHIP TO AN OTHER ENTITY, PARTNERSHIP INTERESTS IN THE LIMITED PARTNERSHIP MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY TO WHICH THE LIMITED PARTNERSHIP IS CONVERTED OR OF AN OTHER ENTITY, WHETHER OR NOT A PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

10-7A-06.

(A) THE CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP SHALL BE COMPLETED ON THE LATER OF:

(1) THE FORMATION OF THE LIMITED PARTNERSHIP IN ACCORDANCE WITH THIS TITLE; OR

(2) THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(B) THE CONVERSION OF A LIMITED PARTNERSHIP TO AN OTHER ENTITY SHALL BE COMPLETED ON THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(C) ARTICLES OF CONVERSION SHALL BE EFFECTIVE ON THE LATER OF:

(1) THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES OF CONVERSION FOR RECORD; OR

(2) THE FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION SET FORTH IN THE ARTICLES OF CONVERSION THAT HAVE BEEN ACCEPTED BY THE DEPARTMENT FOR RECORD.

(D) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT THE TIME THE CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP IS COMPLETED:

1. THE OTHER ENTITY SHALL BE CONVERTED TO A LIMITED PARTNERSHIP;

2. THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 10-7A-04 OF THIS SUBTITLE; AND

3. THE LIMITED PARTNERSHIP SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THIS TITLE.

(II) NOTWITHSTANDING § 10-201 OF THIS TITLE, THE EXISTENCE OF THE LIMITED PARTNERSHIP AS A DOMESTIC LIMITED PARTNERSHIP SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE THE OTHER ENTITY COMMENCED ITS EXISTENCE IN THE PLACE IN WHICH THE OTHER ENTITY WAS FIRST INCORPORATED, CREATED, FORMED, OR OTHERWISE CAME INTO BEING.

(2) AT THE TIME THE CONVERSION OF A LIMITED PARTNERSHIP TO AN OTHER ENTITY IS COMPLETED, THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 10-7A-04 OF THIS SUBTITLE.

10-7A-07.

(A) UNLESS THE PARTNERSHIP AGREEMENT OR THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF A LIMITED PARTNERSHIP TO AN OTHER ENTITY MAY BE ABANDONED BEFORE THE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION BY A VOTE OF THE MAJORITY OF THE GENERAL PARTNERS AND A MAJORITY IN INTEREST OF THE LIMITED PARTNERS OF THE LIMITED PARTNERSHIP.

(B) UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP MAY BE ABANDONED BEFORE THE EFFECTIVE DATE OF THE ARTICLES OF CONVERSION IN THE MANNER AND BY THE VOTE REQUIRED BY THE GOVERNING DOCUMENT OF THE OTHER ENTITY AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED OR, IF NO MANNER AND VOTE IS SPECIFIED, IN THE MANNER AND BY THE VOTE REQUIRED TO APPROVE THE CONVERSION UNDER § 10-7A-02 OF THIS SUBTITLE.

(C) IF THE ARTICLES OF CONVERSION HAVE BEEN FILED WITH THE DEPARTMENT, NOTICE OF THE ABANDONMENT SHALL BE GIVEN PROMPTLY TO THE DEPARTMENT.

(D) (1) IF THE PROPOSED CONVERSION IS ABANDONED AS PROVIDED IN THIS SECTION, NO LEGAL LIABILITY ARISES UNDER THE ARTICLES OF CONVERSION.

(2) ABANDONMENT OF A CONVERSION UNDER THIS SECTION DOES NOT PREJUDICE THE RIGHTS OF ANY PERSON UNDER ANY OTHER CONTRACT MADE BY A PARTY TO THE PROPOSED CONVERSION IN CONNECTION WITH THE PROPOSED CONVERSION.

SUBTITLE 10. CONVERSIONS OF STATUTORY TRUSTS.

12-1001.

(A) IN THIS SUBTITLE, “OTHER ENTITY” MEANS:

(1) A MARYLAND CORPORATION INCORPORATED UNDER TITLE 2 OF THIS ARTICLE;

(2) A FOREIGN CORPORATION, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(3) A DOMESTIC LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(4) A FOREIGN LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(5) A PARTNERSHIP, AS DEFINED IN § 9A-101(I) OF THIS ARTICLE;

(6) A LIMITED PARTNERSHIP, AS DEFINED IN § 10-101 OF THIS ARTICLE, INCLUDING A LIMITED PARTNERSHIP REGISTERED AS A LIMITED LIABILITY LIMITED PARTNERSHIP UNDER § 10-805 OF THIS ARTICLE;

(7) A FOREIGN LIMITED PARTNERSHIP AS DEFINED IN § 10-101 OF THIS ARTICLE;

(8) A BUSINESS TRUST, AS DEFINED IN § 1-101 OF THIS ARTICLE, EXCLUDING A STATUTORY TRUST; OR

(9) ANOTHER FORM OF UNINCORPORATED BUSINESS FORMED UNDER THE LAWS OF THIS STATE OR THE LAWS OF THE UNITED STATES, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION OR DISTRICT OF THE UNITED STATES, OR A FOREIGN COUNTRY.

(B) EXCEPT AS PROVIDED IN ITS GOVERNING INSTRUMENT, A STATUTORY TRUST MAY CONVERT TO AN OTHER ENTITY BY:

(1) APPROVING THE CONVERSION IN ACCORDANCE WITH § 12-1002 OF THIS SUBTITLE; AND

(2) FILING FOR RECORD WITH THE DEPARTMENT ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE.

(C) AN OTHER ENTITY MAY CONVERT TO A STATUTORY TRUST BY COMPLYING WITH § 12-1002 OF THIS SUBTITLE AND FILING FOR RECORD WITH THE DEPARTMENT:

(1) ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE; AND

(2) A CERTIFICATE OF TRUST, WHICH SHALL INCLUDE THE NAME OF THE CONVERTING OTHER ENTITY, EXECUTED IN THE MANNER REQUIRED BY § 12-204 OF THIS TITLE AND OTHERWISE COMPLYING WITH THIS TITLE.

12-1002.

(A) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT, A CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY SHALL BE APPROVED BY A MAJORITY OF THE TRUSTEES AND BY THE BENEFICIAL OWNERS BY THE AFFIRMATIVE VOTE OF TWO-THIRDS OF ALL THE VOTES ENTITLED TO BE CAST ON THE MATTER.

(B) A CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST SHALL BE APPROVED IN THE MANNER AND BY THE VOTE REQUIRED BY ITS GOVERNING DOCUMENT AND THE LAWS OF THE PLACE WHERE IT IS INCORPORATED OR ORGANIZED.

12-1003.

(A) IN THIS SECTION, “FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION” INCLUDES:

(1) AN ACTION OR DETERMINATION BY ANY PERSON, INCLUDING:

(I) THE STATUTORY TRUST OR OTHER ENTITY, AS APPLICABLE;

(II) THE TRUSTEES, DIRECTORS, PARTNERS, MEMBERS, OFFICERS, OR OTHER AGENTS OF THE STATUTORY TRUST OR OTHER ENTITY; AND

(III) ANY OTHER PERSON AFFILIATED WITH THE STATUTORY TRUST OR OTHER ENTITY; AND

(2) ANY OTHER EVENT.

(B) ARTICLES OF CONVERSION SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

(C) IN A CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE STATUTORY TRUST AND THE DATE OF FILING OF ITS ORIGINAL CERTIFICATE OF TRUST WITH THE DEPARTMENT;

(2) THE NAME OF THE OTHER ENTITY TO WHICH THE STATUTORY TRUST WILL BE CONVERTED AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ISSUED BENEFICIAL INTERESTS OF THE STATUTORY TRUST INTO SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY ISSUED BENEFICIAL INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE OF THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION;

(6) IF THE OTHER ENTITY IS NOT ORGANIZED UNDER THE LAWS OF THIS STATE:

(I) THE LOCATION OF THE PRINCIPAL OFFICE IN THE PLACE WHERE IT IS ORGANIZED; AND

(II) THE NAME AND ADDRESS OF THE RESIDENT AGENT IN THIS STATE; AND

(7) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(D) IN A CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE OTHER ENTITY, THE DATE ON WHICH THE OTHER ENTITY WAS FIRST CREATED, AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(2) THE NAME OF THE STATUTORY TRUST TO WHICH THE OTHER ENTITY WILL BE CONVERTED;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP

INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY INTO BENEFICIAL INTERESTS OF THE STATUTORY TRUST, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE OF THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION; AND

(6) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(E) THE ARTICLES OF CONVERSION MAY CONTAIN A FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION THAT IS NOT LATER THAN 30 DAYS AFTER THE ARTICLES OF CONVERSION ARE ACCEPTED FOR RECORD.

12-1004.

(A) A CONVERSION HAS THE EFFECTS PROVIDED IN THIS SECTION.

(B) (1) THIS SUBSECTION APPLIES ON THE COMPLETION OF THE CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY.

(2) THE STATUTORY TRUST SHALL CEASE TO EXIST AS A STATUTORY TRUST AND SHALL CONTINUE TO EXIST AS THE OTHER ENTITY INTO WHICH THE STATUTORY TRUST HAS CONVERTED, AND THE OTHER ENTITY, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING STATUTORY TRUST.

(3) (I) ALL THE ASSETS OF THE STATUTORY TRUST, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, SHALL VEST IN AND DEVOLVE ON THE OTHER ENTITY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE OTHER ENTITY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE STATUTORY TRUST SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE STATUTORY TRUST TO AN OTHER ENTITY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR

NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE STATUTORY TRUST BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE STATUTORY TRUST BY ITS LAST ACTING TRUSTEES OR OFFICERS, OR BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY.

(4) (I) THE OTHER ENTITY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE STATUTORY TRUST.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE STATUTORY TRUST MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE OTHER ENTITY MAY BE SUBSTITUTED AS A PARTY AND A JUDGMENT AGAINST THE STATUTORY TRUST CONSTITUTES A LIEN ON THE PROPERTY OF THE OTHER ENTITY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE STATUTORY TRUST.

(5) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE BENEFICIAL OWNERS OF THE STATUTORY TRUST UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE BENEFICIAL OWNERS OF THE STATUTORY TRUST SHALL CEASE TO EXIST AS BENEFICIAL INTERESTS OF THE STATUTORY TRUST AND CONTINUE TO EXIST AS OWNERSHIP INTERESTS IN THE OTHER ENTITY.

(6) THE CONVERSION OF THE STATUTORY TRUST TO AN OTHER ENTITY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE STATUTORY TRUST OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE CONVERSION.

(7) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF CONVERSION, THE CONVERTING STATUTORY TRUST IS NOT REQUIRED TO WIND UP ITS AFFAIRS OR PAY ITS LIABILITIES AND DISTRIBUTE ITS ASSETS, AND THE CONVERSION DOES NOT CONSTITUTE DISSOLUTION OR A TRANSFER OF ASSETS OR LIABILITIES OF THE STATUTORY TRUST.

(8) A PERSON BECOMES LIABLE FOR ANY OBLIGATION INCURRED BY THE STATUTORY TRUST BEFORE THE COMPLETION OF THE CONVERSION

ONLY TO THE EXTENT PROVIDED FOR BY THE LAWS APPLICABLE TO THE OTHER ENTITY.

(c) (1) THIS SUBSECTION APPLIES ON THE COMPLETION OF THE CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST.

(2) THE STATUTORY TRUST, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING OTHER ENTITY.

(3) (i) ALL THE ASSETS OF THE OTHER ENTITY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, VEST IN AND DEVOLVE ON THE STATUTORY TRUST WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE STATUTORY TRUST, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE OTHER ENTITY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(ii) THE CONVERSION OF THE OTHER ENTITY TO A STATUTORY TRUST DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE OTHER ENTITY BEFORE THE CONVERSION.

(iii) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE OTHER ENTITY BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY, OR BY THE TRUSTEES OR OFFICERS OF THE STATUTORY TRUST.

(4) (i) THE STATUTORY TRUST SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE OTHER ENTITY.

(ii) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE OTHER ENTITY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE STATUTORY TRUST MAY BE SUBSTITUTED AS A PARTY AND A JUDGMENT AGAINST THE OTHER ENTITY CONSTITUTES A LIEN ON THE PROPERTY OF THE ~~OTHER ENTITY~~ STATUTORY TRUST.

(iii) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS OF THE PROPERTY OF THE OTHER ENTITY.

(5) THE CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE OTHER ENTITY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(6) A PERSON REMAINS LIABLE FOR ANY OBLIGATION INCURRED BY THE OTHER ENTITY BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT THAT THE PERSON WOULD HAVE BEEN LIABLE IF THE CONVERSION HAD NOT OCCURRED.

(7) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY CEASE TO EXIST AS OWNERSHIP INTERESTS IN THE CONVERTED OTHER ENTITY AND CONTINUE TO EXIST AS BENEFICIAL INTERESTS IN THE STATUTORY TRUST.

12-1005.

(A) IN A CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST, THE STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) BENEFICIAL INTERESTS OF THE STATUTORY TRUST OR STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF ANY OTHER STATUTORY TRUST OR OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

(B) IN A CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY, BENEFICIAL INTERESTS OF THE STATUTORY TRUST MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY TO WHICH THE STATUTORY

TRUST IS CONVERTED OR OF ANY OTHER STATUTORY TRUST OR OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

- (2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;**
- (3) MONEY; AND**
- (4) ANY OTHER CONSIDERATION.**

12-1006.

(A) THE CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST SHALL BE COMPLETED ON THE LATER OF:

(1) THE FORMATION OF THE STATUTORY TRUST IN ACCORDANCE WITH THIS TITLE; OR

(2) THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(B) THE CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY SHALL BE COMPLETED ON THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(C) ARTICLES OF CONVERSION ARE EFFECTIVE ON THE LATER OF:

(1) THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES OF CONVERSION FOR RECORD; OR

(2) THE FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION AS SET FORTH IN ARTICLES OF CONVERSION THAT HAVE BEEN ACCEPTED BY THE DEPARTMENT FOR RECORD.

(D) (1) (i) EXCEPT AS PROVIDE IN SUBPARAGRAPH (ii) OF THIS PARAGRAPH, AT THE TIME THE CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST IS COMPLETED:

1. THE OTHER ENTITY SHALL BE CONVERTED TO A STATUTORY TRUST:

2. THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 12-1004 OF THIS SUBTITLE; AND

3. THE STATUTORY TRUST SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THE MARYLAND STATUTORY TRUST ACT.

(II) NOTWITHSTANDING § 12-204 OF THIS TITLE, THE EXISTENCE OF THE STATUTORY TRUST SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE THE OTHER ENTITY COMMENCED EXISTENCE IN THE PLACE IN WHICH THE OTHER ENTITY WAS FIRST INCORPORATED, CREATED, FORMED, OR OTHERWISE CAME INTO BEING.

(2) AT THE TIME THE CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY IS COMPLETED, THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 12-1004 OF THIS SUBTITLE.

12-1007.

(A) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT, UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, THE PROPOSED CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY MAY BE ABANDONED BEFORE THE EFFECTIVE DATE OF THE ARTICLES OF CONVERSION BY MAJORITY VOTE OF THE TRUSTEES OF THE STATUTORY TRUST.

(B) UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, THE PROPOSED CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST MAY BE ABANDONED IN THE MANNER AND BY THE VOTE REQUIRED BY THE GOVERNING DOCUMENT OF THE OTHER ENTITY AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED OR, IF NO MANNER AND VOTE IS SPECIFIED, IN THE MANNER AND BY THE VOTE REQUIRED TO APPROVE THE CONVERSION UNDER § 12-1002 OF THIS SUBTITLE.

(C) IF THE ARTICLES OF CONVERSION HAVE BEEN FILED WITH THE DEPARTMENT, NOTICE OF THE ABANDONMENT SHALL BE GIVEN PROMPTLY TO THE DEPARTMENT.

(D) (1) IF THE PROPOSED CONVERSION IS ABANDONED AS PROVIDED IN THIS SECTION, NO LEGAL LIABILITY ARISES UNDER THE ARTICLES OF CONVERSION.

(2) ABANDONMENT OF A CONVERSION UNDER THIS SECTION DOES NOT PREJUDICE THE RIGHTS OF ANY PERSON UNDER ANY OTHER CONTRACT MADE BY A STATUTORY TRUST PARTY TO THE PROPOSED CONVERSION IN CONNECTION WITH THE PROPOSED CONVERSION.

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

Approved by the Governor, May 16, 2013.

Chapter 528

(House Bill 1140)

AN ACT concerning

Corporations and Associations – Conversions

FOR the purpose of authorizing certain entities to convert to certain other entities; establishing the manner of and procedures for conversions; requiring articles of conversion to be filed for record with the State Department of Assessments and Taxation; specifying the contents of articles of conversion; providing for the effects of a conversion; providing for the timing of the effectiveness of articles of conversion and the effective time for the completion of a conversion; providing for the abandonment of a conversion under certain circumstances; requiring a certain nonrefundable processing fee for articles of conversion; establishing that, under certain circumstances, a stockholder of a Maryland corporation has the right to fair value of the stockholder's stock if the corporation is converted; providing certain rights to a member of a limited liability company, a shareholder of a real estate investment trust, ~~a member of a partnership~~, and a partner of a ~~limited~~ partnership who objects to a conversion; altering the manner in which certain charter documents must be executed; defining certain terms; altering certain definitions; making certain conforming changes; and generally relating to conversions of certain entities.

BY renumbering

Article – Corporations and Associations

Section 4A-1101 through 4A-1108 and the subtitle “Subtitle 11. Benefit Limited Liability Companies”; 4A-1201 through 4A-1203 and the subtitle “Subtitle 12. Miscellaneous”; 8-701 and the subtitle “Subtitle 7. Penalties”; 8-801 and the subtitle “Subtitle 8. Short Title”; and 9A-1201 through 9A-1205 and the subtitle “Subtitle 12. Miscellaneous Provisions”, respectively

to be Section 4A-1201 through 4A-1208 and the subtitle “Subtitle 12. Benefit Limited Liability Companies”; 4A-1301 through 4A-1303 and the subtitle “Subtitle 13. Miscellaneous”; 8-801 and the subtitle “Subtitle 8. Penalties”; 8-901 and the subtitle “Subtitle 9. Miscellaneous”; and 9A-1301 through 9A-1305 and the subtitle “Subtitle 13. Miscellaneous Provisions”, respectively

Annotated Code of Maryland

(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Corporations and Associations

Section 1–101, 1–203(b)(1), 1–301(a), 3–202(a), 4A–206, 4A–403, and 10–204(a)

Annotated Code of Maryland

(2007 Replacement Volume and 2012 Supplement)

BY adding to

Article – Corporations and Associations

Section 3–901 through 3–907 to be under the new subtitle “Subtitle 9. Conversions of Corporations”; 4A–1101 through 4A–1107 to be under the new subtitle “Subtitle 11. Conversions of Limited Liability Companies”; 8–701 through 8–707 to be under the new subtitle “Subtitle 7. Conversions of Real Estate Investment Trusts”; 9A–1201 through 9A–1207 to be under the new subtitle “Subtitle 12. Conversions of Partnerships”; 10–7A–01 through 10–7A–07 to be under the new subtitle “Subtitle 7A. Conversions of Limited Partnerships”; and Section 12–1001 through 12–1007 to be under the new subtitle “Subtitle 10. Conversions of Statutory Trusts”

Annotated Code of Maryland

(2007 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 4A–1101 through 4A–1108 and the subtitle “Subtitle 11. Benefit Limited Liability Companies”; 4A–1201 through 4A–1203 and the subtitle “Subtitle 12. Miscellaneous”; 8–701 and the subtitle “Subtitle 7. Penalties”; 8–801 and the subtitle “Subtitle 8. Short Title”; and 9A–1201 through 9A–1205 and the subtitle “Subtitle 12. Miscellaneous Provisions”, respectively, of Article – Corporations and Associations of the Annotated Code of Maryland be renumbered to be Section(s) 4A–1201 through 4A–1208 and the “Subtitle 12. Benefit Limited Liability Companies”; 4A–1301 through 4A–1303 and the subtitle “Subtitle 13. Miscellaneous”; 8–801 and the subtitle “Subtitle 8. Penalties”; 8–901 and the subtitle “Subtitle 9. Miscellaneous”; and 9A–1301 through 9A–1305 and the subtitle “Subtitle 13. Miscellaneous Provisions”, respectively.

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

Article – Corporations and Associations

1–101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(b) “Address” means the post office address, and includes street and number, if any, county or municipal area, and state and, if outside the United States, country.

(c) “Articles of transfer” means articles of sale, articles of lease, articles of asset exchange, or articles of transfer.

(d) “Assets” means any tangible, intangible, real, or personal property or other assets, including goodwill and franchises.

(e) “Business trust” means an unincorporated trust or association, including a common-law trust, a Massachusetts trust, a real estate investment trust as defined in § 8–101 of this article, a statutory trust as defined in § 12–101 of this article, and a foreign statutory trust as defined in § 12–101 of this article, that is engaged in business and in which property is acquired, held, managed, administered, controlled, invested, or disposed of by trustees or the trust for the benefit and profit of any person who may become a holder of a transferable unit of beneficial interest in the trust.

(f) (1) “Charter” includes:

- (i) A charter granted by special act of the General Assembly;
- (ii) Articles or certificate of incorporation;
- (iii) Amended articles or certificate of incorporation;
- (iv) Articles of restatement, if approved as described in § 2–609 of this article;
- (v) Articles of amendment and restatement; and
- (vi) Articles or agreements of consolidation.

(2) “Charter” includes the documents referred to in paragraph (1) of this subsection, either as:

- (i) Originally passed or accepted for record; or
- (ii) As amended, corrected, or supplemented by special act of the General Assembly, articles of amendment, articles of amendment and reduction, articles of extension, articles supplementary, articles or agreements of merger, articles of revival, or a certificate of correction.

(g) “Charter document” means any:

- (1) Document enumerated in subsection (f) of this section; and
- (2) Articles of reduction, articles or agreements of transfer, articles of merger, articles of share exchange, **ARTICLES OF CONVERSION**, articles of dissolution, and stock issuance statements.

- (h) "Clerk of the court" means clerk of the circuit court for any county.
- (i) "Convertible securities" includes:
 - (1) Shares of stock which by their terms are convertible into shares of stock of one or more classes; and
 - (2) Obligations which by their terms are convertible into shares of stock of one or more classes.
- (j) "County" includes Baltimore City.
- (k) "Department" means the State Department of Assessments and Taxation.
- (l) "Director" means a member of the governing body of a corporation, whether designated as a director, trustee, or manager or by any other title.
- (m) "Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that:
 - (1) May be retained, retrieved, and reviewed by a recipient of the communication; and
 - (2) May be reproduced directly in paper form by a recipient through an automated process.
- (n) "Foreign corporation" means a corporation, association, or joint-stock company organized under the laws of the United States, another state of the United States, a territory, possession, or district of the United States, or a foreign country.
- (o) **"GOVERNING DOCUMENT" MEANS:**
 - (1) THE ARTICLES OR CERTIFICATE OF INCORPORATION AND THE BYLAWS OF A MARYLAND CORPORATION OR A FOREIGN CORPORATION;**
 - (2) THE ARTICLES OF ORGANIZATION OR CERTIFICATE OF FORMATION AND THE OPERATING AGREEMENT OR LIMITED LIABILITY COMPANY AGREEMENT OF A DOMESTIC LIMITED LIABILITY COMPANY OR A FOREIGN LIMITED LIABILITY COMPANY;**
 - (3) THE PARTNERSHIP AGREEMENT OF AN OTHER ENTITY THAT IS A PARTNERSHIP OR LIMITED PARTNERSHIP, ANY STATEMENT OF PARTNERSHIP AUTHORITY OF A PARTNERSHIP, THE CERTIFICATE OF LIMITED PARTNERSHIP OF A LIMITED PARTNERSHIP, AND THE CERTIFICATE OF LIMITED LIABILITY PARTNERSHIP OF A LIMITED LIABILITY PARTNERSHIP;**

(4) THE DECLARATION OF TRUST OR GOVERNING INSTRUMENT OF A BUSINESS TRUST; OR

(5) A SIMILAR GOVERNING DOCUMENT OR INSTRUMENT OF ANY OTHER TYPE OF ENTITY.

[(o)] (P) “Mail” means to deposit in the United States mails postage prepaid.

[(p)] (Q) “Maryland corporation” means a corporation organized and existing under the laws of **[the] THIS** State.

[(q)] (R) “Municipal area” means any incorporated or unincorporated city, town, or village.

[(r)] (S) “Person” includes an individual~~[,]~~ **AND A DOMESTIC OR FOREIGN** corporation, business trust, statutory trust, estate, trust, partnership, limited partnership, limited liability company, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

[(s)] (T) “Principal office” means:

(1) The place in this State filed or recorded with the Department as the principal office of a corporation or domestic limited partnership; or

(2) If there is no principal office designated, the main office of the corporation or domestic limited partnership in this State for the transaction of business.

[(t)] (U) “Resident agent” means an individual residing in this State or a Maryland corporation or limited liability company whose name, address, and designation as a resident agent are filed or recorded with the Department in accordance with the provisions of this article.

[(u)] (V) “Share exchange” means a transaction:

(1) In which a corporation acquires all the issued or all the outstanding shares of stock of one or more classes of another corporation by a stockholder vote under this article; and

(2) Which does not affect the corporate existence of either corporation.

[(v)] (W) “Stated capital” means the amount of stated capital determined in accordance with Title 2, Subtitle 3 of this article.

[(w)] (X) “Stockholder” means a person who is a record holder of shares of stock in a corporation and includes a member of a corporation organized without stock.

[(x)] (Y) “Stockholder rights plan” means an agreement or other instrument under which a corporation issues rights to its stockholders that:

(1) May be exercised under specified circumstances to purchase stock or other securities of a corporation or any other person; and

(2) May become void if owned by a designated person or classes of persons under specified circumstances.

[(y)] (Z) “Successor” means:

(1) A new corporation formed by consolidation;

(2) A corporation or other entity surviving a merger;

(3) A corporation acquiring stock in a share exchange; or

(4) A vendee, lessee, or other transferee in a transfer of assets.

[(z)] (AA) “Transfer assets”, “transfer its assets”, and “transfer of assets” mean to sell, lease, exchange, or otherwise transfer all or substantially all of the assets of a corporation.

1–203.

(b) (1) Except as provided in paragraph (11) of this subsection, for each of the following documents, the nonrefundable processing fee is \$100:

Document

Articles of incorporation

Articles of amendment

Articles of extension

Articles of restatement of charter

Articles of amendment and restatement

Articles supplementary

Articles of share exchange

Articles of consolidation, merger, or transfer

Articles of dissolution

Articles of revival for stock corporation

Articles of revival for nonstock corporation

ARTICLES OF CONVERSION

1–301.

(a) Articles supplementary and articles of amendment, restatement, amendment and restatement, consolidation, merger, share exchange, transfer, **CONVERSION**, and extension and, except as provided in § 3–406(b) of this article, articles of dissolution shall be executed as follows:

(1) They shall be signed and acknowledged for each corporation, statutory trust, or real estate investment trust party to the articles, by its chairman or vice chairman of the board of directors or board of trustees, by its chief executive officer, chief operating officer, chief financial officer, president, or one of its vice presidents, or, if authorized by the bylaws or resolution of the board of directors or board of trustees and the articles so state, by any other officer or agent of the corporation, statutory trust, or real estate investment trust;

(2) They shall be witnessed or attested by the secretary, treasurer, chief financial officer, assistant treasurer, or assistant secretary of each corporation, statutory trust, or real estate investment trust party to the articles, or, if authorized by the bylaws or resolution of the board of directors or board of trustees and the articles so state, by any other officer or agent of the corporation, statutory trust, or real estate investment trust;

(3) They shall be signed and acknowledged for each other entity party to the articles by [a majority of the entire board of trustees or other governing body or by a person acting in a similar capacity for the entity as an officer described in item (1) of this subsection] **A PERSON AUTHORIZED TO ACT FOR THE ENTITY BY LAW OR BY THE GOVERNING DOCUMENT**; and

(4) Except as provided in subsection (b) of this section, the matters and facts set forth in the articles with respect to authorization and approval shall be verified under oath as follows:

(i) With respect to any Maryland corporation, statutory trust, or real estate investment trust party to the articles, by the chairman or the secretary of the meeting at which the articles or transaction were approved, by the chairman or vice chairman of the board of directors or board of trustees, by the chief executive

officer, chief operating officer, chief financial officer, president, vice president, secretary, or assistant secretary of the corporation, statutory trust, or real estate investment trust, or, if authorized in accordance with item (1) of this subsection and the articles so state, by any other officer or agent of the corporation, statutory trust, or real estate investment trust;

(ii) With respect to any foreign corporation party to articles of consolidation, merger, or share exchange, by the chief executive officer, chief operating officer, **CHIEF FINANCIAL OFFICER**, president, vice president, secretary, or assistant secretary of the corporation; and

(iii) With respect to any other Maryland or foreign entity party to the articles, by [the chief executive officer, chief operating officer, president, vice president, secretary, assistant secretary, managing trustee, or persons acting in a similar position for the entity] **A PERSON AUTHORIZED BY LAW OR BY THE GOVERNING DOCUMENT TO ACT FOR THE ENTITY.**

3-202.

(a) Except as provided in subsection (c) of this section, a stockholder of a Maryland corporation has the right to demand and receive payment of the fair value of the stockholder's stock from the successor if:

(1) The corporation consolidates or merges with another corporation;

(2) The stockholder's stock is to be acquired in a share exchange;

(3) The corporation transfers its assets in a manner requiring action under § 3-105(e) of this title;

(4) The corporation amends its charter in a way which alters the contract rights, as expressly set forth in the charter, of any outstanding stock and substantially adversely affects the stockholder's rights, unless the right to do so is reserved by the charter of the corporation; [or]

(5) The transaction is governed by § 3-602 of this title or exempted by § 3-603(b) of this title; **OR**

(6) THE CORPORATION IS CONVERTED IN ACCORDANCE WITH § 3-901 OF THIS TITLE.

SUBTITLE 9. CONVERSIONS OF CORPORATIONS.

3-901.

(A) IN THIS SUBTITLE, "OTHER ENTITY" MEANS:

(1) A FOREIGN CORPORATION, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(2) A DOMESTIC LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(3) A FOREIGN LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(4) A PARTNERSHIP, AS DEFINED IN § 9A-101 OF THIS ARTICLE;

(5) A LIMITED PARTNERSHIP, AS DEFINED IN § 10-101 OF THIS ARTICLE, INCLUDING A LIMITED PARTNERSHIP REGISTERED AS A LIMITED LIABILITY LIMITED PARTNERSHIP UNDER § 10-805 OF THIS ARTICLE;

(6) A FOREIGN LIMITED PARTNERSHIP, AS DEFINED IN § 10-101 OF THIS ARTICLE;

(7) A BUSINESS TRUST, AS DEFINED IN § 1-101 OF THIS ARTICLE;
OR

(8) ANOTHER FORM OF UNINCORPORATED BUSINESS FORMED UNDER THE LAWS OF THIS STATE OR THE LAWS OF THE UNITED STATES, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION, OR DISTRICT OF THE UNITED STATES, OR A FOREIGN COUNTRY.

(B) UNLESS THE CHARTER PROVIDES OTHERWISE, A MARYLAND CORPORATION MAY CONVERT TO AN OTHER ENTITY BY:

(1) APPROVING THE CONVERSION IN ACCORDANCE WITH § 3-902 OF THIS SUBTITLE; AND

(2) FILING FOR RECORD WITH THE DEPARTMENT ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE.

(C) AN OTHER ENTITY MAY CONVERT TO A MARYLAND CORPORATION HAVING CAPITAL STOCK BY COMPLYING WITH § 3-902 OF THIS SUBTITLE AND FILING FOR RECORD WITH THE DEPARTMENT:

(1) ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE; AND

(2) ARTICLES OF INCORPORATION, WHICH SHALL INCLUDE THE NAME OF THE CONVERTING OTHER ENTITY, EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE AND OTHERWISE COMPLYING WITH THE MARYLAND GENERAL CORPORATION LAW.

3-902.

(A) A CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY SHALL BE APPROVED IN THE MANNER PROVIDED BY THIS SECTION AND IN ACCORDANCE WITH ANY ADDITIONAL REQUIREMENTS SET FORTH IN THE MARYLAND CORPORATION'S CHARTER.

(B) A CONVERSION OF A MARYLAND CORPORATION NEED BE APPROVED ONLY BY A MAJORITY OF ITS BOARD OF DIRECTORS IF THERE IS NO STOCK OUTSTANDING OR SUBSCRIBED FOR.

(C) THE BOARD OF DIRECTORS OF A MARYLAND CORPORATION THAT PROPOSES TO CONVERT TO AN OTHER ENTITY SHALL:

(1) ADOPT A RESOLUTION DECLARING THAT THE PROPOSED CONVERSION IS ADVISABLE ON SUBSTANTIALLY THE TERMS AND CONDITIONS SET FORTH OR REFERRED TO IN THE RESOLUTION; AND

(2) DIRECT THAT THE PROPOSED CONVERSION BE SUBMITTED FOR CONSIDERATION AT AN ANNUAL OR A SPECIAL MEETING OF THE STOCKHOLDERS.

(D) NOTICE STATING THAT A PURPOSE OF THE MEETING WILL BE TO ACT ON THE PROPOSED CONVERSION SHALL BE GIVEN BY THE CORPORATION IN THE MANNER REQUIRED BY TITLE 2 OF THIS ARTICLE TO:

(1) EACH OF ITS STOCKHOLDERS ENTITLED TO VOTE ON THE PROPOSED TRANSACTION; AND

(2) EACH OF ITS STOCKHOLDERS NOT ENTITLED TO VOTE ON THE PROPOSED TRANSACTION.

(E) THE PROPOSED CONVERSION SHALL BE APPROVED BY THE STOCKHOLDERS OF THE MARYLAND CORPORATION BY THE AFFIRMATIVE VOTE OF TWO-THIRDS OF ALL THE VOTES ENTITLED TO BE CAST ON THE MATTER.

(F) A CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION SHALL BE APPROVED IN THE MANNER AND BY THE VOTE REQUIRED BY ITS GOVERNING DOCUMENT AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED.

3-903.

(A) IN THIS SECTION, “FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION” INCLUDES:

(1) AN ACTION OR A DETERMINATION BY ANY PERSON, INCLUDING:

(I) THE CORPORATION OR OTHER ENTITY, AS APPLICABLE;

(II) THE DIRECTORS, PARTNERS, MEMBERS, TRUSTEES, OFFICERS, OR OTHER AGENTS OF THE CORPORATION OR OTHER ENTITY; AND

(III) ANY OTHER PERSON AFFILIATED WITH THE CORPORATION OR OTHER ENTITY; AND

(2) ANY OTHER EVENT.

(B) ARTICLES OF CONVERSION SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

(C) IN A CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE MARYLAND CORPORATION AND THE DATE OF FILING OF ITS ORIGINAL ARTICLES OF INCORPORATION WITH THE DEPARTMENT;

(2) THE NAME OF THE OTHER ENTITY TO WHICH THE MARYLAND CORPORATION WILL BE CONVERTED AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING OUTSTANDING SHARES OF STOCK OF THE CORPORATION INTO SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL

INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY ISSUED SHARES OF STOCK NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION;

(6) IF THE OTHER ENTITY IS NOT ORGANIZED UNDER THE LAWS OF THIS STATE:

(I) THE LOCATION OF THE PRINCIPAL OFFICE IN THE PLACE WHERE IT IS ORGANIZED; AND

(II) THE NAME AND ADDRESS OF THE RESIDENT AGENT IN THIS STATE; AND

(7) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(D) IN A CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE OTHER ENTITY, THE DATE ON WHICH THE OTHER ENTITY WAS FIRST CREATED, AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(2) THE NAME OF THE MARYLAND CORPORATION TO WHICH THE OTHER ENTITY WILL BE CONVERTED;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY INTO SHARES OF STOCK OF THE MARYLAND CORPORATION OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS NOT TO BE CONVERTED OR

EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION; AND

(6) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(E) THE ARTICLES OF CONVERSION MAY CONTAIN A FUTURE EFFECTIVE TIME FOR THE ARTICLES OF CONVERSION THAT IS NOT LATER THAN 30 DAYS AFTER THE ARTICLES OF CONVERSION ARE ACCEPTED FOR RECORD.

3-904.

(A) A CONVERSION HAS THE EFFECTS PROVIDED IN THIS SECTION.

(B) (1) THIS SUBSECTION APPLIES ON THE COMPLETION OF THE CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY.

(2) THE MARYLAND CORPORATION SHALL CEASE TO EXIST AS A MARYLAND CORPORATION AND SHALL CONTINUE TO EXIST AS THE OTHER ENTITY INTO WHICH THE MARYLAND CORPORATION HAS CONVERTED, AND THE OTHER ENTITY, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING MARYLAND CORPORATION.

(3) (I) ALL THE ASSETS OF THE MARYLAND CORPORATION, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, SHALL VEST IN AND DEVOLVE ON THE OTHER ENTITY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE OTHER ENTITY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE MARYLAND CORPORATION SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE MARYLAND CORPORATION TO AN OTHER ENTITY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE MARYLAND CORPORATION BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE MARYLAND CORPORATION BY ITS LAST ACTING OFFICERS OR BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY.

(4) (I) THE OTHER ENTITY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE MARYLAND CORPORATION.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE MARYLAND CORPORATION MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE OTHER ENTITY MAY BE SUBSTITUTED AS A PARTY AND A JUDGMENT AGAINST THE MARYLAND CORPORATION CONSTITUTES A LIEN ON THE PROPERTY OF THE OTHER ENTITY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE MARYLAND CORPORATION.

(5) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE STOCKHOLDERS OF THE MARYLAND CORPORATION UNDER THE ARTICLES OF CONVERSION AND TO THE RIGHTS OF AN OBJECTING STOCKHOLDER UNDER § 3-202 OF THIS TITLE, THE OWNERSHIP INTERESTS OF THE STOCKHOLDERS OF THE MARYLAND CORPORATION CEASE TO EXIST AS STOCK IN THE CONVERTED MARYLAND CORPORATION AND CONTINUE TO EXIST AS OWNERSHIP INTERESTS IN THE OTHER ENTITY.

(6) THE CONVERSION OF THE MARYLAND CORPORATION TO AN OTHER ENTITY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE MARYLAND CORPORATION OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE CONVERSION.

(7) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF CONVERSION, THE CONVERTING MARYLAND CORPORATION IS NOT REQUIRED TO WIND UP ITS AFFAIRS OR PAY ITS LIABILITIES AND DISTRIBUTE ITS ASSETS, AND THE CONVERSION DOES NOT CONSTITUTE DISSOLUTION OR A TRANSFER OF ASSETS OR LIABILITIES OF THE MARYLAND CORPORATION.

(8) A PERSON BECOMES LIABLE FOR ANY OBLIGATION INCURRED BY THE MARYLAND CORPORATION BEFORE THE COMPLETION OF THE

CONVERSION ONLY TO THE EXTENT PROVIDED FOR BY THE LAWS APPLICABLE TO THE OTHER ENTITY.

(c) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION.

(2) THE MARYLAND CORPORATION, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING OTHER ENTITY.

(3) (i) ALL THE ASSETS OF THE OTHER ENTITY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, VEST IN AND DEVOLVE ON THE MARYLAND CORPORATION WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE MARYLAND CORPORATION, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE OTHER ENTITY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(ii) THE CONVERSION OF THE OTHER ENTITY TO A MARYLAND CORPORATION DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE OTHER ENTITY BEFORE THE CONVERSION.

(iii) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE OTHER ENTITY BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY OR BY THE OFFICERS OF THE MARYLAND CORPORATION.

(4) (i) THE MARYLAND CORPORATION SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE OTHER ENTITY.

(ii) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE OTHER ENTITY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE MARYLAND CORPORATION MAY BE SUBSTITUTED AS A PARTY AND A JUDGMENT AGAINST THE OTHER ENTITY CONSTITUTES A LIEN ON THE PROPERTY OF THE MARYLAND CORPORATION.

(iii) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE OTHER ENTITY.

(5) THE CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE OTHER ENTITY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(6) A PERSON REMAINS LIABLE FOR ANY OBLIGATION INCURRED BY THE OTHER ENTITY BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT THAT THE PERSON WOULD HAVE BEEN LIABLE IF THE CONVERSION HAD NOT OCCURRED.

(7) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY CEASE TO EXIST AS OWNERSHIP INTERESTS IN THE CONVERTED OTHER ENTITY AND CONTINUE TO EXIST AS SHARES OF STOCK IN THE MARYLAND CORPORATION.

3-905.

(A) IN A CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION, THE STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK OF THE MARYLAND CORPORATION OR STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF ANY OTHER CORPORATION OR OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

(B) IN A CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY, STOCK OF THE MARYLAND CORPORATION MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER

OWNERSHIP INTERESTS OF THE OTHER ENTITY TO WHICH THE MARYLAND CORPORATION IS CONVERTED OR OF ANY OTHER CORPORATION OR OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

- (2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;
- (3) MONEY; AND
- (4) ANY OTHER CONSIDERATION.

3-906.

(A) THE CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION SHALL BE COMPLETED ON THE LATER OF:

(1) THE INCORPORATION OF THE MARYLAND CORPORATION IN ACCORDANCE WITH SUBTITLE 2 OF THIS TITLE; OR

(2) THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(B) THE CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY SHALL BE COMPLETED ON THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(C) ARTICLES OF CONVERSION ARE EFFECTIVE ON THE LATER OF:

(1) THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES OF CONVERSION FOR RECORD; OR

(2) THE FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION AS SET FORTH IN ARTICLES OF CONVERSION THAT HAVE BEEN ACCEPTED BY THE DEPARTMENT FOR RECORD.

(D) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT THE TIME THE CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION IS COMPLETED:

1. THE OTHER ENTITY SHALL BE CONVERTED TO A MARYLAND CORPORATION;

2. THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 3-904 OF THIS SUBTITLE; AND

3. THE CORPORATION SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THE MARYLAND GENERAL CORPORATION LAW.

(II) NOTWITHSTANDING § 2-102 OF THIS ARTICLE, THE EXISTENCE OF THE MARYLAND CORPORATION SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE THE OTHER ENTITY COMMENCED ITS EXISTENCE IN THE PLACE IN WHICH THE OTHER ENTITY WAS FIRST INCORPORATED, CREATED, FORMED, OR OTHERWISE CAME INTO BEING.

(2) AT THE TIME THE CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY IS COMPLETED, THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 3-904 OF THIS SUBTITLE.

3-907.

(A) UNLESS THE CHARTER OF THE MARYLAND CORPORATION OR ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF A MARYLAND CORPORATION TO AN OTHER ENTITY MAY BE ABANDONED BEFORE THE EFFECTIVE DATE OF THE ARTICLES OF CONVERSION BY MAJORITY VOTE OF THE ENTIRE BOARD OF DIRECTORS OF THE MARYLAND CORPORATION.

(B) UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF AN OTHER ENTITY TO A MARYLAND CORPORATION MAY BE ABANDONED IN THE MANNER AND BY THE VOTE REQUIRED BY THE GOVERNING DOCUMENT OF THE OTHER ENTITY AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED OR, IF NO MANNER AND VOTE IS SPECIFIED, IN THE MANNER AND BY THE VOTE REQUIRED TO APPROVE THE CONVERSION UNDER § 3-902 OF THIS SUBTITLE.

(C) IF THE ARTICLES OF CONVERSION HAVE BEEN FILED WITH THE DEPARTMENT, NOTICE OF THE ABANDONMENT SHALL BE GIVEN PROMPTLY TO THE DEPARTMENT.

(D) (1) IF THE PROPOSED CONVERSION IS ABANDONED AS PROVIDED IN THIS SECTION, NO LEGAL LIABILITY ARISES UNDER THE ARTICLES OF CONVERSION.

(2) ABANDONMENT OF A CONVERSION UNDER THIS SECTION DOES NOT PREJUDICE THE RIGHTS OF ANY PERSON UNDER ANY OTHER CONTRACT MADE BY A MARYLAND CORPORATION IN CONNECTION WITH THE PROPOSED CONVERSION.

4A-206.

(a) Articles and certificates required by this title to be filed with the Department shall be executed in the following manner:

(1) Articles of organization shall be executed by any individual authorized to do so by the persons forming the limited liability company; and

(2) Articles of amendment, articles of merger, certificates of correction, articles of dissolution, articles of continuation, **ARTICLES OF CONVERSION**, articles of cancellation, and articles of reinstatement shall be executed by an authorized person.

(b) (1) An authorized person may sign any articles or certificates by an attorney in fact.

(2) Powers of attorney relating to the signing of articles or certificates by an attorney in fact need not be sworn to, verified, or acknowledged, and need not be filed with the Department.

(c) Any document required to be certified, acknowledged, or verified under this title shall be so acknowledged, verified, or certified in accordance with the procedure set forth in Title 1, Subtitle 3 of this article.

4A-403.

(a) The provisions of this section apply unless otherwise provided in this title or unless otherwise agreed.

(b) (1) Members shall vote in proportion to their respective interests in profits of the limited liability company, as determined under § 4A-503 of this title.

(2) Decisions concerning the affairs of the limited liability company shall require the consent of members holding at least a majority of the interests in profits of the limited liability company as determined under § 4A-503 of this title.

(c) (1) A meeting of the members may be called by the written request of members holding at least 25% of the interests in profits of the limited liability company as determined under § 4A-503 of this title.

(2) (i) Members of a limited liability company may participate in a meeting by means of conference telephone or other communications equipment or by means of remote communication, if all persons participating in the meeting:

1. Can either hear or read the proceedings of the meeting substantially concurrent with the proceedings; and

2. Have the opportunity to participate in the meeting and vote on matters submitted to the members.

(ii) Participation in a meeting by the means authorized by subparagraph (i) of this paragraph constitutes presence in person at the meeting.

(d) (1) A member may not take any of the following actions without the consent of members holding at least two-thirds of the interest in profits of the limited liability company as determined under § 4A-503 of this title:

(i) Dispose of all or substantially all of the business or property of the limited liability company; [or]

(ii) Approve a merger as provided in § 4A-702 of this title; OR

(III) APPROVE A CONVERSION AS PROVIDED IN § 4A-1102 OF THIS TITLE.

(2) A member may not take any of the following actions without the unanimous consent of the members:

(i) Institute a voluntary proceeding under the federal bankruptcy code;

(ii) Assign the property of the limited liability company in trust for creditors or on the assignee's promise to pay the debts of the limited liability company;

(iii) Alter the allocation of profit or loss to members of the limited liability company;

(iv) Alter the allocation of or the manner of computing distributions payable to members of the limited liability company; or

(v) Do any other act that would make it impossible to carry on the ordinary business of the limited liability company.

SUBTITLE 11. CONVERSIONS OF LIMITED LIABILITY COMPANIES.

4A-1101.

(A) IN THIS SUBTITLE, "OTHER ENTITY" MEANS:

(1) A MARYLAND CORPORATION INCORPORATED UNDER TITLE 2 OF THIS ARTICLE;

(2) A FOREIGN CORPORATION, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(3) A PARTNERSHIP, AS DEFINED IN § 9A-101 OF THIS ARTICLE;

(4) A LIMITED PARTNERSHIP, INCLUDING A LIMITED PARTNERSHIP REGISTERED OR DENOMINATED AS A LIMITED LIABILITY LIMITED PARTNERSHIP UNDER § 10-805 OF THIS ARTICLE OR UNDER THE LAWS OF A STATE OTHER THAN THIS STATE;

(5) A BUSINESS TRUST, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(6) ANOTHER FORM OF UNINCORPORATED BUSINESS FORMED UNDER THE LAWS OF THIS STATE OR THE LAWS OF THE UNITED STATES, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION, OR DISTRICT OF THE UNITED STATES, OR A FOREIGN COUNTRY; OR

(7) A FOREIGN LIMITED LIABILITY COMPANY.

(B) UNLESS OTHERWISE AGREED, A LIMITED LIABILITY COMPANY MAY CONVERT TO AN OTHER ENTITY BY:

(1) APPROVING THE CONVERSION IN ACCORDANCE WITH § 4A-1102 OF THIS SUBTITLE; AND

(2) FILING FOR RECORD WITH THE DEPARTMENT ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE.

(C) AN OTHER ENTITY MAY CONVERT TO A LIMITED LIABILITY COMPANY BY COMPLYING WITH THE REQUIREMENTS OF § 4A-1102 OF THIS SUBTITLE AND FILING FOR RECORD WITH THE DEPARTMENT:

(1) ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY § 4A-206 OF THIS TITLE; AND

(2) ARTICLES OF ORGANIZATION, WHICH SHALL INCLUDE THE NAME OF THE CONVERTING OTHER ENTITY, EXECUTED IN THE MANNER REQUIRED BY § 4A-206 AND OTHERWISE COMPLYING WITH THIS TITLE.

4A-1102.

(A) UNLESS OTHERWISE AGREED, A LIMITED LIABILITY COMPANY SHALL APPROVE THE CONVERSION OF THE LIMITED LIABILITY COMPANY TO AN OTHER ENTITY BY THE VOTE REQUIRED UNDER § 4A-403(D)(1) OF THIS TITLE.

(B) AN OTHER ENTITY SEEKING TO CONVERT TO A LIMITED LIABILITY COMPANY SHALL APPROVE THE CONVERSION OF THE OTHER ENTITY TO A LIMITED LIABILITY COMPANY IN THE MANNER AND BY THE VOTE REQUIRED BY ITS GOVERNING DOCUMENT AND THE LAWS OF THE PLACE WHERE IT IS INCORPORATED OR ORGANIZED.

(C) (1) A MEMBER OF A LIMITED LIABILITY COMPANY OBJECTING TO A CONVERSION OF THE LIMITED LIABILITY COMPANY HAS THE SAME RIGHTS WITH RESPECT TO THE MEMBER'S INTEREST IN THE LIMITED LIABILITY COMPANY AS A STOCKHOLDER OF A MARYLAND CORPORATION WHO OBJECTS HAS WITH RESPECT TO THE STOCKHOLDER'S STOCK UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE.

(2) THE PROCEDURES UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE SHALL BE APPLICABLE TO THE EXTENT PRACTICABLE.

4A-1103.

(A) IN THIS SECTION, "FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION" INCLUDES:

(1) AN ACTION OR A DETERMINATION BY ANY PERSON, INCLUDING:

(I) THE LIMITED LIABILITY COMPANY OR OTHER ENTITY, AS APPLICABLE;

(II) THE MEMBERS, PARTNERS, DIRECTORS, TRUSTEES, OFFICERS, OR OTHER AGENTS OF THE LIMITED LIABILITY COMPANY OR OTHER ENTITY; AND

(III) ANY OTHER PERSON AFFILIATED WITH THE LIMITED LIABILITY COMPANY OR OTHER ENTITY; AND

(2) ANY OTHER EVENT.

(B) ARTICLES OF CONVERSION SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

(C) IN A CONVERSION OF A LIMITED LIABILITY COMPANY TO AN OTHER ENTITY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE LIMITED LIABILITY COMPANY AND THE DATE OF FILING OF THE ORIGINAL ARTICLES OF ORGANIZATION WITH THE DEPARTMENT;

(2) THE NAME OF THE OTHER ENTITY TO WHICH THE LIMITED LIABILITY COMPANY WILL BE CONVERTED AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY INTO SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY MEMBERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION;

(6) IF THE OTHER ENTITY IS NOT ORGANIZED UNDER THE LAWS OF THIS STATE:

(i) THE LOCATION OF THE PRINCIPAL OFFICE IN THE PLACE WHERE IT IS ORGANIZED; AND

(ii) THE NAME AND ADDRESS OF THE RESIDENT AGENT IN THIS STATE; AND

(7) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(D) IN A CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE OTHER ENTITY, THE DATE ON WHICH THE OTHER ENTITY WAS FIRST CREATED, AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(2) THE NAME OF THE LIMITED LIABILITY COMPANY TO WHICH THE OTHER ENTITY WILL BE CONVERTED;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY INTO MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION; AND

(6) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(E) THE ARTICLES OF CONVERSION MAY CONTAIN A FUTURE EFFECTIVE TIME FOR THE ARTICLES OF CONVERSION THAT IS NOT LATER THAN 30 DAYS AFTER THE ARTICLES OF CONVERSION ARE ACCEPTED FOR RECORD.

4A-1104.

(A) A CONVERSION HAS THE EFFECTS PROVIDED IN THIS SECTION.

(B) (1) THIS SUBSECTION APPLIES ON THE COMPLETION OF THE CONVERSION OF A LIMITED LIABILITY COMPANY TO AN OTHER ENTITY.

(2) THE LIMITED LIABILITY COMPANY SHALL CEASE TO EXIST AS A LIMITED LIABILITY COMPANY AND SHALL CONTINUE TO EXIST AS THE OTHER ENTITY INTO WHICH THE LIMITED LIABILITY COMPANY HAS CONVERTED, AND THE OTHER ENTITY SHALL, FOR ALL PURPOSES OF THE LAWS OF THIS STATE,

BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING LIMITED LIABILITY COMPANY.

(3) (I) ALL THE ASSETS OF THE LIMITED LIABILITY COMPANY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, SHALL VEST IN AND DEVOLVE ON THE OTHER ENTITY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE OTHER ENTITY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE LIMITED LIABILITY COMPANY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE LIMITED LIABILITY COMPANY TO AN OTHER ENTITY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE LIMITED LIABILITY COMPANY BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE LIMITED LIABILITY COMPANY BY ITS LAST ACTING AUTHORIZED PERSONS OR BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY.

(4) (I) THE OTHER ENTITY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE LIMITED LIABILITY COMPANY.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE LIMITED LIABILITY COMPANY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE OTHER ENTITY MAY BE SUBSTITUTED AS A PARTY, AND A JUDGMENT AGAINST THE LIMITED LIABILITY COMPANY CONSTITUTES A LIEN ON THE PROPERTY OF THE OTHER ENTITY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE LIMITED LIABILITY COMPANY.

(5) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE MEMBERS OF THE LIMITED LIABILITY COMPANY UNDER THE ARTICLES OF CONVERSION AND TO THE RIGHTS OF AN OBJECTING MEMBER UNDER THIS SUBTITLE, THE OWNERSHIP INTERESTS OF THE MEMBERS OF THE LIMITED LIABILITY COMPANY CEASE TO EXIST AS MEMBERSHIP INTERESTS IN THE

CONVERTED LIMITED LIABILITY COMPANY AND CONTINUE TO EXIST AS OWNERSHIP INTERESTS IN THE OTHER ENTITY.

(6) THE CONVERSION OF THE LIMITED LIABILITY COMPANY TO AN OTHER ENTITY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE LIMITED LIABILITY COMPANY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(7) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF CONVERSION, THE CONVERTING LIMITED LIABILITY COMPANY IS NOT REQUIRED TO WIND UP ITS AFFAIRS OR PAY ITS LIABILITIES AND DISTRIBUTE ITS ASSETS, AND THE CONVERSION DOES NOT CONSTITUTE DISSOLUTION OR A TRANSFER OF ASSETS OR LIABILITIES OF THE LIMITED LIABILITY COMPANY.

(8) A PERSON BECOMES LIABLE FOR ANY OBLIGATION INCURRED BY THE LIMITED LIABILITY COMPANY BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT PROVIDED FOR BY THE LAWS APPLICABLE TO THE OTHER ENTITY.

(C) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY.

(2) THE LIMITED LIABILITY COMPANY, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING OTHER ENTITY.

(3) (I) ALL THE ASSETS OF THE OTHER ENTITY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, VEST IN AND DEVOLVE ON THE LIMITED LIABILITY COMPANY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE LIMITED LIABILITY COMPANY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE OTHER ENTITY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE OTHER ENTITY TO A LIMITED LIABILITY COMPANY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE OTHER ENTITY BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE OTHER ENTITY BY THE

APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY OR BY AN AUTHORIZED PERSON OF THE LIMITED LIABILITY COMPANY.

(4) (I) THE LIMITED LIABILITY COMPANY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE OTHER ENTITY.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE OTHER ENTITY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE LIMITED LIABILITY COMPANY OR ANY PARTY, THE LIMITED LIABILITY COMPANY MAY BE SUBSTITUTED AS A PARTY, AND A JUDGMENT AGAINST THE OTHER ENTITY CONSTITUTES A LIEN ON THE PROPERTY OF THE LIMITED LIABILITY COMPANY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE OTHER ENTITY.

(5) THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE OTHER ENTITY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(6) A PERSON REMAINS LIABLE FOR ANY OBLIGATION INCURRED BY THE OTHER ENTITY BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT THAT THE PERSON WOULD HAVE BEEN LIABLE IF THE CONVERSION HAD NOT OCCURRED.

(7) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY CEASE TO EXIST AS OWNERSHIP INTERESTS IN THE CONVERTED OTHER ENTITY AND CONTINUE TO EXIST AS MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY.

4A-1105.

(A) IN A CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY, THE STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY OR STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF AN OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

(B) IN A CONVERSION OF A LIMITED LIABILITY COMPANY TO AN OTHER ENTITY, MEMBERSHIP INTERESTS IN THE LIMITED LIABILITY COMPANY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY TO WHICH THE LIMITED LIABILITY COMPANY IS CONVERTED OR OF AN OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

4A-1106.

(A) THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY SHALL BE COMPLETED ON THE LATER OF:

(1) THE FORMATION OF THE LIMITED LIABILITY COMPANY IN ACCORDANCE WITH THIS TITLE; OR

(2) THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(B) THE CONVERSION OF A LIMITED LIABILITY COMPANY TO AN OTHER ENTITY SHALL BE COMPLETED ON THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(C) ARTICLES OF CONVERSION ARE EFFECTIVE ON THE LATER OF:

(1) THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES OF CONVERSION FOR RECORD; OR

(2) THE FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION SET FORTH IN ARTICLES OF CONVERSION THAT HAVE BEEN ACCEPTED BY THE DEPARTMENT FOR RECORD.

(D) (1) (I) EXCEPT AS PROVIDE IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT THE TIME THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY IS COMPLETED:

1. THE OTHER ENTITY SHALL BE CONVERTED TO A LIMITED LIABILITY COMPANY;

2. THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 4A-1104 OF THIS SUBTITLE; AND

3. THE LIMITED LIABILITY COMPANY SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THIS TITLE.

(II) NOTWITHSTANDING § 4A-202 OF THIS TITLE, THE EXISTENCE OF THE LIMITED LIABILITY COMPANY AS A DOMESTIC LIMITED LIABILITY COMPANY SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE THE OTHER ENTITY COMMENCED ITS EXISTENCE IN THE PLACE IN WHICH THE OTHER ENTITY WAS FIRST INCORPORATED, CREATED, FORMED, OR OTHERWISE CAME INTO BEING.

(2) AT THE TIME THE CONVERSION OF A LIMITED LIABILITY COMPANY TO AN OTHER ENTITY IS COMPLETED, THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 4A-1104 OF THIS SUBTITLE.

4A-1107.

(A) UNLESS OTHERWISE AGREED OR THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF A LIMITED LIABILITY COMPANY TO AN OTHER ENTITY MAY BE ABANDONED BEFORE THE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION BY THE VOTE REQUIRED UNDER § 4A-403(D)(1) OF THIS TITLE TO APPROVE THE CONVERSION.

(B) UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY COMPANY MAY BE ABANDONED BEFORE THE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION IN THE MANNER AND BY THE VOTE REQUIRED BY THE GOVERNING DOCUMENT OF THE OTHER ENTITY AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED OR, IF NO MANNER AND VOTE IS SPECIFIED, IN THE MANNER AND BY THE VOTE REQUIRED TO APPROVE THE CONVERSION UNDER § 4A-1102 OF THIS SUBTITLE.

(C) IF THE ARTICLES OF CONVERSION HAVE BEEN FILED WITH THE DEPARTMENT, NOTICE OF THE ABANDONMENT SHALL BE GIVEN PROMPTLY TO THE DEPARTMENT.

(D) (1) IF THE PROPOSED CONVERSION IS ABANDONED AS PROVIDED IN THIS SECTION, NO LEGAL LIABILITY ARISES UNDER THE ARTICLES OF CONVERSION.

(2) ABANDONMENT OF A CONVERSION UNDER THIS SECTION DOES NOT PREJUDICE THE RIGHTS OF ANY PERSON UNDER ANY OTHER CONTRACT MADE BY A PARTY TO THE PROPOSED CONVERSION IN CONNECTION WITH THE PROPOSED CONVERSION.

SUBTITLE 7. CONVERSIONS OF REAL ESTATE INVESTMENT TRUSTS.

8-701.

(A) IN THIS SUBTITLE, "OTHER ENTITY" MEANS:

(1) A MARYLAND CORPORATION INCORPORATED UNDER TITLE 2 OF THIS ARTICLE;

(2) A FOREIGN CORPORATION, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(3) A DOMESTIC LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(4) A FOREIGN LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(5) A PARTNERSHIP, AS DEFINED IN § 9A-101 OF THIS ARTICLE;

(6) A LIMITED PARTNERSHIP, AS DEFINED IN § 10–101 OF THIS ARTICLE, INCLUDING A LIMITED PARTNERSHIP REGISTERED AS A LIMITED LIABILITY LIMITED PARTNERSHIP UNDER § 10–805 OF THIS ARTICLE;

(7) A FOREIGN LIMITED PARTNERSHIP, AS DEFINED IN § 10–101 OF THIS ARTICLE;

(8) A BUSINESS TRUST, AS DEFINED IN § 1–101 OF THIS ARTICLE, EXCLUDING A REAL ESTATE INVESTMENT TRUST; OR

(9) ANOTHER FORM OF UNINCORPORATED BUSINESS FORMED UNDER THE LAWS OF THIS STATE OR THE LAWS OF THE UNITED STATES, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION OR DISTRICT OF THE UNITED STATES, OR A FOREIGN COUNTRY.

(B) UNLESS THE DECLARATION OF TRUST PROVIDES OTHERWISE, A REAL ESTATE INVESTMENT TRUST MAY CONVERT TO AN OTHER ENTITY BY:

(1) APPROVING THE CONVERSION IN ACCORDANCE WITH § 8–702 OF THIS SUBTITLE; AND

(2) FILING FOR RECORD WITH THE DEPARTMENT ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE.

(C) AN OTHER ENTITY MAY CONVERT TO A REAL ESTATE INVESTMENT TRUST BY COMPLYING WITH § 8–702 OF THIS SUBTITLE AND FILING FOR RECORD WITH THE DEPARTMENT:

(1) ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE; AND

(2) A DECLARATION OF TRUST, WHICH SHALL INCLUDE THE NAME OF THE CONVERTING OTHER ENTITY, EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE AND OTHERWISE COMPLYING WITH THIS TITLE.

8–702.

(A) A CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY SHALL BE APPROVED IN THE MANNER PROVIDED BY THIS SECTION AND IN ACCORDANCE WITH ANY ADDITIONAL REQUIREMENTS SET FORTH IN THE REAL ESTATE INVESTMENT TRUST'S DECLARATION OF TRUST.

(B) A CONVERSION OF A REAL ESTATE INVESTMENT TRUST NEED BE APPROVED ONLY BY A MAJORITY OF THE BOARD OF TRUSTEES IF NO SHARES OF BENEFICIAL INTEREST ARE OUTSTANDING OR SUBSCRIBED FOR.

(C) THE BOARD OF TRUSTEES OF A REAL ESTATE INVESTMENT TRUST THAT PROPOSES TO CONVERT TO AN OTHER ENTITY SHALL:

(1) ADOPT A RESOLUTION DECLARING THAT THE PROPOSED CONVERSION IS ADVISABLE ON SUBSTANTIALLY THE TERMS AND CONDITIONS SET FORTH OR REFERRED TO IN THE RESOLUTION; AND

(2) DIRECT THAT THE PROPOSED CONVERSION BE SUBMITTED FOR CONSIDERATION AT AN ANNUAL OR A SPECIAL MEETING OF THE SHAREHOLDERS.

(D) NOTICE STATING THAT A PURPOSE OF THE MEETING WILL BE TO ACT ON THE PROPOSED CONVERSION SHALL BE GIVEN BY THE REAL ESTATE INVESTMENT TRUST IN THE MANNER PROVIDED FOR CORPORATIONS BY TITLE 2 OF THIS ARTICLE TO:

(1) EACH OF ITS SHAREHOLDERS ENTITLED TO VOTE ON THE PROPOSED TRANSACTION; AND

(2) EACH OF ITS SHAREHOLDERS NOT ENTITLED TO VOTE ON THE PROPOSED TRANSACTION.

(E) THE PROPOSED CONVERSION SHALL BE APPROVED BY THE SHAREHOLDERS OF THE REAL ESTATE INVESTMENT TRUST BY THE AFFIRMATIVE VOTE OF TWO-THIRDS OF ALL THE VOTES ENTITLED TO BE CAST ON THE MATTER.

(F) A CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST SHALL BE APPROVED IN THE MANNER AND BY THE VOTE REQUIRED BY ITS GOVERNING DOCUMENT AND THE LAWS OF THE PLACE WHERE IT IS INCORPORATED OR ORGANIZED.

(G) EACH SHAREHOLDER OF A REAL ESTATE INVESTMENT TRUST OBJECTING TO A CONVERSION OF THE REAL ESTATE INVESTMENT TRUST SHALL HAVE THE SAME RIGHTS AS AN OBJECTING STOCKHOLDER OF A MARYLAND CORPORATION UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE AND UNDER THE SAME PROCEDURES.

8-703.

(A) IN THIS SECTION, “FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION” INCLUDES:

(1) AN ACTION OR A DETERMINATION BY ANY PERSON, INCLUDING:

(I) THE REAL ESTATE INVESTMENT TRUST OR OTHER ENTITY, AS APPLICABLE;

(II) THE TRUSTEES, DIRECTORS, PARTNERS, MEMBERS, OFFICERS, OR OTHER AGENTS OF THE REAL ESTATE INVESTMENT TRUST OR OTHER ENTITY; AND

(III) ANY OTHER PERSON AFFILIATED WITH THE REAL ESTATE INVESTMENT TRUST OR OTHER ENTITY; AND

(2) ANY OTHER EVENT.

(B) ARTICLES OF CONVERSION SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

(C) IN A CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE REAL ESTATE INVESTMENT TRUST AND THE DATE OF FILING OF THE ORIGINAL DECLARATION OF TRUST WITH THE DEPARTMENT;

(2) THE NAME OF THE OTHER ENTITY TO WHICH THE REAL ESTATE INVESTMENT TRUST WILL BE CONVERTED AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ISSUED SHARES OF BENEFICIAL INTEREST OF THE REAL ESTATE INVESTMENT TRUST INTO SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY ISSUED SHARES OF BENEFICIAL INTEREST NOT TO BE CONVERTED OR

EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION;

(6) IF THE OTHER ENTITY IS NOT ORGANIZED UNDER THE LAWS OF THIS STATE:

(i) THE LOCATION OF THE PRINCIPAL OFFICE IN THE PLACE WHERE IT IS ORGANIZED; AND

(ii) THE NAME AND ADDRESS OF THE RESIDENT AGENT IN THIS STATE; AND

(7) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(D) IN A CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE OTHER ENTITY, THE DATE ON WHICH THE OTHER ENTITY WAS FIRST CREATED, AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(2) THE NAME OF THE REAL ESTATE INVESTMENT TRUST TO WHICH THE OTHER ENTITY WILL BE CONVERTED;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY INTO SHARES OF BENEFICIAL INTEREST OF THE REAL ESTATE INVESTMENT TRUST, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION; AND

(6) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(E) THE ARTICLES OF CONVERSION MAY CONTAIN A FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION THAT IS NOT LATER THAN 30 DAYS AFTER THE ARTICLES OF CONVERSION ARE ACCEPTED FOR RECORD.

8-704.

(A) A CONVERSION HAS THE EFFECTS PROVIDED IN THIS SECTION.

(B) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY.

(2) THE REAL ESTATE INVESTMENT TRUST SHALL CEASE TO EXIST AS A REAL ESTATE INVESTMENT TRUST AND SHALL CONTINUE TO EXIST AS THE OTHER ENTITY INTO WHICH THE REAL ESTATE INVESTMENT TRUST HAS CONVERTED, AND THE OTHER ENTITY SHALL, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING REAL ESTATE INVESTMENT TRUST.

(3) (I) ALL THE ASSETS OF THE REAL ESTATE INVESTMENT TRUST, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, SHALL VEST IN AND DEVOLVE ON THE OTHER ENTITY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE OTHER ENTITY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE REAL ESTATE INVESTMENT TRUST SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE REAL ESTATE INVESTMENT TRUST BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE REAL ESTATE INVESTMENT TRUST BY ITS LAST ACTING OFFICERS, OR BY THE APPROPRIATE AUTHORIZED

PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY.

(4) (I) THE OTHER ENTITY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE REAL ESTATE INVESTMENT TRUST.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE REAL ESTATE INVESTMENT TRUST MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE OTHER ENTITY MAY BE SUBSTITUTED AS A PARTY AND A JUDGMENT AGAINST THE REAL ESTATE INVESTMENT TRUST CONSTITUTES A LIEN ON THE PROPERTY OF THE OTHER ENTITY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE REAL ESTATE INVESTMENT TRUST.

(5) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE SHAREHOLDERS OF THE REAL ESTATE INVESTMENT TRUST UNDER THE ARTICLES OF CONVERSION AND TO THE RIGHTS OF AN OBJECTING SHAREHOLDER UNDER THIS SUBTITLE, THE OWNERSHIP INTERESTS OF THE SHAREHOLDERS OF THE REAL ESTATE INVESTMENT TRUST SHALL CEASE TO EXIST AS SHARES OF BENEFICIAL INTEREST OF THE REAL ESTATE INVESTMENT TRUST AND CONTINUE TO EXIST AS OWNERSHIP INTERESTS IN THE OTHER ENTITY.

(6) THE CONVERSION OF THE REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE REAL ESTATE INVESTMENT TRUST OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE CONVERSION.

(7) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF CONVERSION, THE CONVERTING REAL ESTATE INVESTMENT TRUST IS NOT REQUIRED TO WIND UP ITS AFFAIRS OR PAY ITS LIABILITIES AND DISTRIBUTE ITS ASSETS, AND THE CONVERSION DOES NOT CONSTITUTE DISSOLUTION OR A TRANSFER OF ASSETS OR LIABILITIES OF THE REAL ESTATE INVESTMENT TRUST.

(8) A PERSON BECOMES LIABLE FOR ANY OBLIGATION INCURRED BY THE REAL ESTATE INVESTMENT TRUST BEFORE THE COMPLETION OF THE

CONVERSION ONLY TO THE EXTENT PROVIDED FOR BY THE LAWS APPLICABLE TO THE OTHER ENTITY.

(c) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST.

(2) THE REAL ESTATE INVESTMENT TRUST, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING OTHER ENTITY.

(3) (i) ALL THE ASSETS OF THE OTHER ENTITY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, VEST IN AND DEVOLVE ON THE REAL ESTATE INVESTMENT TRUST WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE REAL ESTATE INVESTMENT TRUST, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE OTHER ENTITY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(ii) THE CONVERSION OF THE OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE OTHER ENTITY BEFORE THE CONVERSION.

(iii) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE OTHER ENTITY BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY OR BY THE OFFICERS OF THE REAL ESTATE INVESTMENT TRUST.

(4) (i) THE REAL ESTATE INVESTMENT TRUST SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE OTHER ENTITY.

(ii) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE OTHER ENTITY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE REAL ESTATE INVESTMENT TRUST MAY BE SUBSTITUTED AS A PARTY AND A JUDGMENT AGAINST THE OTHER ENTITY CONSTITUTES A LIEN ON THE PROPERTY OF THE REAL ESTATE INVESTMENT TRUST.

(iii) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE OTHER ENTITY.

(5) THE CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE OTHER ENTITY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(6) A PERSON REMAINS LIABLE FOR ANY OBLIGATION INCURRED BY THE OTHER ENTITY BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT THAT THE PERSON WOULD HAVE BEEN LIABLE IF THE CONVERSION HAD NOT OCCURRED.

(7) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY CEASE TO EXIST AS OWNERSHIP INTERESTS IN THE CONVERTED OTHER ENTITY AND CONTINUE TO EXIST AS SHARES OF BENEFICIAL INTEREST IN THE REAL ESTATE INVESTMENT TRUST.

8-705.

(A) IN A CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST, THE STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) SHARES OF BENEFICIAL INTEREST OF THE REAL ESTATE INVESTMENT TRUST OR STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF ANY OTHER REAL ESTATE INVESTMENT TRUST OR OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

(B) IN A CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY, SHARES OF BENEFICIAL INTEREST OF THE REAL ESTATE INVESTMENT TRUST MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY TO WHICH THE REAL ESTATE INVESTMENT TRUST IS CONVERTED OR OF ANY OTHER REAL ESTATE INVESTMENT TRUST OR OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

8-706.

(A) THE CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST SHALL BE COMPLETED ON THE LATER OF:

(1) THE FORMATION OF THE REAL ESTATE INVESTMENT TRUST IN ACCORDANCE WITH THIS TITLE; OR

(2) THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(B) THE CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY SHALL BE COMPLETED ON THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(C) ARTICLES OF CONVERSION ARE EFFECTIVE ON THE LATER OF:

(1) THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES OF CONVERSION FOR RECORD; OR

(2) THE FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION AS SET FORTH IN ARTICLES OF CONVERSION THAT HAVE BEEN ACCEPTED BY THE DEPARTMENT FOR RECORD.

(D) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT THE TIME THE CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST IS COMPLETED:

1. THE OTHER ENTITY SHALL BE CONVERTED TO A REAL ESTATE INVESTMENT TRUST;

2. THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 8-704 OF THIS SUBTITLE; AND

3. THE REAL ESTATE INVESTMENT TRUST SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THE MARYLAND REIT LAW.

(II) THE EXISTENCE OF THE REAL ESTATE INVESTMENT TRUST SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE THE OTHER ENTITY COMMENCED ITS EXISTENCE IN THE PLACE IN WHICH THE OTHER ENTITY WAS FIRST INCORPORATED, CREATED, FORMED, OR OTHERWISE CAME INTO BEING.

(2) AT THE TIME THE CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY IS COMPLETED, THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 8-704 OF THIS SUBTITLE.

8-707.

(A) UNLESS THE DECLARATION OF TRUST OF THE REAL ESTATE INVESTMENT TRUST OR ARTICLES OF CONVERSION PROVIDE OTHERWISE, THE PROPOSED CONVERSION OF A REAL ESTATE INVESTMENT TRUST TO AN OTHER ENTITY MAY BE ABANDONED BEFORE THE EFFECTIVE DATE OF THE ARTICLES OF CONVERSION BY MAJORITY VOTE OF THE ENTIRE BOARD OF TRUSTEES OF THE REAL ESTATE INVESTMENT TRUST PARTY TO THE ARTICLES OF CONVERSION.

(B) UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, THE PROPOSED CONVERSION OF AN OTHER ENTITY TO A REAL ESTATE INVESTMENT TRUST MAY BE ABANDONED IN THE MANNER AND BY THE VOTE REQUIRED BY THE GOVERNING DOCUMENT OF THE OTHER ENTITY AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED OR, IF NO MANNER AND VOTE IS SPECIFIED, IN THE MANNER AND BY THE VOTE REQUIRED TO APPROVE THE CONVERSION UNDER § 8-702 OF THIS SUBTITLE.

(C) IF THE ARTICLES OF CONVERSION HAVE BEEN FILED WITH THE DEPARTMENT, NOTICE OF THE ABANDONMENT SHALL BE GIVEN PROMPTLY TO THE DEPARTMENT.

(D) (1) IF THE PROPOSED CONVERSION IS ABANDONED AS PROVIDED IN THIS SECTION, NO LEGAL LIABILITY ARISES UNDER THE ARTICLES OF CONVERSION.

(2) ABANDONMENT OF A CONVERSION UNDER THIS SECTION DOES NOT PREJUDICE THE RIGHTS OF ANY PERSON UNDER ANY OTHER CONTRACT MADE BY A REAL ESTATE INVESTMENT TRUST IN CONNECTION WITH THE PROPOSED CONVERSION.

SUBTITLE 12. CONVERSIONS OF PARTNERSHIPS.

9A-1201.

(A) IN THIS SUBTITLE, “OTHER ENTITY” MEANS:

(1) A MARYLAND CORPORATION INCORPORATED UNDER TITLE 2 OF THIS ARTICLE;

(2) A FOREIGN CORPORATION, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(3) A DOMESTIC LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(4) A FOREIGN LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(5) A LIMITED PARTNERSHIP, INCLUDING A LIMITED PARTNERSHIP REGISTERED AS A LIMITED LIABILITY LIMITED PARTNERSHIP UNDER § 10-805 OF THIS ARTICLE;

(6) A FOREIGN LIMITED PARTNERSHIP;

(7) A BUSINESS TRUST, AS DEFINED IN § 1-101 OF THIS ARTICLE;
OR

(8) ANOTHER FORM OF UNINCORPORATED BUSINESS FORMED UNDER THE LAWS OF THIS STATE OR THE LAWS OF THE UNITED STATES, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION, OR DISTRICT OF THE UNITED STATES, OR A FOREIGN COUNTRY.

(B) UNLESS THE PARTNERSHIP AGREEMENT PROVIDES OTHERWISE, A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE MAY CONVERT TO AN OTHER ENTITY BY:

(1) APPROVING THE CONVERSION IN ACCORDANCE WITH § 9A-1202 OF THIS SUBTITLE; AND

(2) FILING FOR RECORD WITH THE DEPARTMENT ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE.

(C) BEFORE A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE MAY CONVERT TO AN OTHER ENTITY IN ACCORDANCE WITH THIS SUBTITLE, THE PARTNERSHIP SHALL FILE OR HAVE FILED FOR RECORD WITH THE DEPARTMENT:

(1) A STATEMENT OF AUTHORITY IN ACCORDANCE WITH § 9A-303 OF THIS TITLE; OR

(2) A CERTIFICATE OF LIMITED LIABILITY PARTNERSHIP IN ACCORDANCE WITH § 9A-1001 OF THIS TITLE.

(D) AN OTHER ENTITY MAY CONVERT TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE BY COMPLYING WITH THE REQUIREMENTS OF § 9A-1202 OF THIS SUBTITLE AND FILING FOR RECORD WITH THE DEPARTMENT:

(1) ARTICLES OF CONVERSION EXECUTED BY AT LEAST TWO PARTNERS; AND

(2) A STATEMENT OF PARTNERSHIP AUTHORITY THAT COMPLIES WITH § 9A-303 OF THIS TITLE EXECUTED IN THE MANNER REQUIRED BY § 9A-105(B) OF THIS TITLE OR, IN THE CASE OF THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY PARTNERSHIP, A CERTIFICATE OF LIMITED LIABILITY PARTNERSHIP THAT COMPLIES WITH § 9A-1001 OF THIS TITLE.

(E) THE STATUTORY CONVERSION PROVISIONS OF THIS SUBTITLE DO NOT PRECLUDE A PARTNERSHIP FROM BEING CONVERTED OR MERGED BY AGREEMENT OR BY OPERATION OF LAW.

9A-1202.

(A) A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE SHALL APPROVE THE CONVERSION OF THE PARTNERSHIP TO AN OTHER ENTITY BY THE AFFIRMATIVE VOTE OF ALL OF ITS PARTNERS, OR A LESSER NUMBER OR PERCENTAGE SPECIFIED FOR CONVERSION IN ITS PARTNERSHIP AGREEMENT.

(B) AN OTHER ENTITY SEEKING TO CONVERT TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE SHALL:

(1) APPROVE THE CONVERSION OF THE OTHER ENTITY TO THE PARTNERSHIP IN THE MANNER AND BY THE VOTE REQUIRED BY ITS GOVERNING DOCUMENT AND THE LAWS OF THE PLACE WHERE IT IS INCORPORATED OR ORGANIZED; AND

(2) COMPLY WITH ALL OTHER REQUIREMENTS FOR THE FORMATION OF A PARTNERSHIP UNDER THE LAWS OF THIS STATE.

(C) (1) A ~~MEMBER~~ PARTNER OF A PARTNERSHIP OBJECTING TO A CONVERSION OF THE PARTNERSHIP HAS THE SAME RIGHTS WITH RESPECT TO THE PARTNER'S INTEREST IN THE PARTNERSHIP AS A STOCKHOLDER OF A MARYLAND CORPORATION WHO OBJECTS HAS WITH RESPECT TO THE STOCKHOLDER'S STOCK UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE.

(2) THE PROCEDURES UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE SHALL BE APPLICABLE TO THE EXTENT PRACTICABLE.

9A-1203.

(A) IN THIS SECTION, "FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION" INCLUDES:

(1) AN ACTION OR A DETERMINATION BY ANY PERSON, INCLUDING:

(I) THE PARTNERSHIP OR OTHER ENTITY, AS APPLICABLE;

(II) THE PARTNERS, MEMBERS, DIRECTORS, TRUSTEES, OFFICERS, OR OTHER AGENTS OF THE PARTNERSHIP OR OTHER ENTITY; AND

(III) ANY OTHER PERSON AFFILIATED WITH THE PARTNERSHIP OR OTHER ENTITY; AND

(2) ANY OTHER EVENT.

(B) ARTICLES OF CONVERSION SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

(C) IN A CONVERSION OF A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE TO AN OTHER ENTITY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE PARTNERSHIP AND THE DATE OF FILING OF ITS ORIGINAL STATEMENT OF PARTNERSHIP AUTHORITY OR CERTIFICATE OF LIMITED LIABILITY PARTNERSHIP WITH THE DEPARTMENT;

(2) THE NAME OF THE OTHER ENTITY TO WHICH THE PARTNERSHIP WILL BE CONVERTED AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING PARTNERSHIP INTERESTS IN THE PARTNERSHIP INTO SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY PARTNERSHIP INTERESTS NOT TO BE SO CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION;

(6) IF THE OTHER ENTITY IS NOT ORGANIZED UNDER THE LAWS OF THIS STATE:

(I) THE LOCATION OF THE PRINCIPAL OFFICE IN THE PLACE WHERE IT IS ORGANIZED; AND

(II) THE NAME AND ADDRESS OF THE RESIDENT AGENT IN THIS STATE; AND

(7) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(D) IN A CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE OTHER ENTITY, THE DATE ON WHICH THE OTHER ENTITY WAS FIRST CREATED, AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(2) THE NAME OF THE PARTNERSHIP TO WHICH THE OTHER ENTITY WILL BE CONVERTED;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY INTO PARTNERSHIP INTERESTS IN THE PARTNERSHIP OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION; AND

(6) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(E) THE ARTICLES OF CONVERSION MAY CONTAIN A FUTURE EFFECTIVE TIME FOR THE ARTICLES OF CONVERSION THAT IS NOT LATER THAN 30 DAYS AFTER THE ARTICLES OF CONVERSION ARE ACCEPTED FOR RECORD.

9A-1204.

(A) A CONVERSION HAS THE EFFECTS PROVIDED IN THIS SECTION.

(B) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE TO AN OTHER ENTITY.

(2) THE PARTNERSHIP SHALL CEASE TO EXIST AS A PARTNERSHIP UNDER THE LAWS OF THIS STATE AND SHALL CONTINUE TO EXIST AS THE OTHER ENTITY INTO WHICH THE PARTNERSHIP HAS CONVERTED, AND THE OTHER ENTITY, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING PARTNERSHIP.

(3) (I) ALL THE ASSETS OF THE PARTNERSHIP, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, SHALL VEST IN AND DEVOLVE ON THE OTHER ENTITY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE OTHER ENTITY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE PARTNERSHIP SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE PARTNERSHIP TO AN OTHER ENTITY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE PARTNERSHIP BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE PARTNERSHIP BY ITS LAST ACTING PARTNERS, OR BY THE APPROPRIATE AUTHORIZED PERSONS, GENERAL PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY.

(4) (I) THE OTHER ENTITY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE PARTNERSHIP.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE PARTNERSHIP MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE OTHER ENTITY MAY BE SUBSTITUTED AS A PARTY, AND A JUDGMENT AGAINST THE PARTNERSHIP CONSTITUTES A LIEN ON THE PROPERTY OF THE OTHER ENTITY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE PARTNERSHIP.

(5) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE PARTNERS OF THE PARTNERSHIP UNDER THE ARTICLES OF CONVERSION AND TO THE RIGHTS OF AN OBJECTING PARTNER UNDER THIS SUBTITLE, THE OWNERSHIP INTERESTS OF THE PARTNERS OF THE PARTNERSHIP CEASE TO EXIST AS PARTNERSHIP INTERESTS IN THE CONVERTED PARTNERSHIP AND CONTINUE TO EXIST AS OWNERSHIP INTERESTS IN THE OTHER ENTITY.

(6) (I) THE CONVERSION OF THE PARTNERSHIP TO AN OTHER ENTITY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE PARTNERSHIP OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(II) SUBJECT TO SUBTITLES 7 AND 8 OF THIS TITLE, A PARTNER OF THE PARTNERSHIP REMAINS LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE PARTNERSHIP FOR WHICH THE PARTNER WAS LIABLE BEFORE THE COMPLETION OF THE CONVERSION.

(7) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF CONVERSION, THE CONVERTING PARTNERSHIP IS NOT REQUIRED TO WIND UP ITS AFFAIRS OR PAY ITS LIABILITIES AND DISTRIBUTE ITS ASSETS, AND THE CONVERSION DOES NOT CONSTITUTE DISSOLUTION OR A TRANSFER OF ASSETS OR LIABILITIES OF THE PARTNERSHIP.

(8) A PERSON BECOMES LIABLE FOR ANY OBLIGATION INCURRED BY THE PARTNERSHIP BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT PROVIDED FOR BY THE LAWS APPLICABLE TO THE OTHER ENTITY.

(C) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE.

(2) THE PARTNERSHIP, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING OTHER ENTITY.

(3) (I) ALL THE ASSETS OF THE OTHER ENTITY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, VEST IN AND DEVOLVE ON THE PARTNERSHIP WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE PARTNERSHIP, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE OTHER ENTITY SHALL NOT

REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE OTHER ENTITY TO A PARTNERSHIP DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE OTHER ENTITY BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE OTHER ENTITY BY THE APPROPRIATE AUTHORIZED PERSONS, GENERAL PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY, OR BY THE PARTNERS OF THE PARTNERSHIP.

(4) (I) THE PARTNERSHIP SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE OTHER ENTITY.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE OTHER ENTITY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE PARTNERSHIP OR ANY PARTY, THE PARTNERSHIP MAY BE SUBSTITUTED AS A PARTY, AND A JUDGMENT AGAINST THE OTHER ENTITY CONSTITUTES A LIEN ON THE PROPERTY OF THE PARTNERSHIP.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE OTHER ENTITY.

(5) THE CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE OTHER ENTITY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(6) A PARTNER OF THE PARTNERSHIP AFTER THE COMPLETION OF THE CONVERSION IS LIABLE FOR:

(I) ALL OBLIGATIONS OF THE OTHER ENTITY FOR WHICH THE PARTNER WAS PERSONALLY LIABLE BEFORE THE COMPLETION OF THE CONVERSION; AND

(II) EXCEPT AS PROVIDED IN § 9A-306(C) OF THIS TITLE, ALL OBLIGATIONS OF THE CONVERTED PARTNERSHIP INCURRED AFTER THE CONVERSION IS COMPLETED.

(7) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY CEASE TO EXIST AS OWNERSHIP INTERESTS IN THE CONVERTED OTHER ENTITY AND CONTINUE TO EXIST AS PARTNERSHIP INTERESTS IN THE PARTNERSHIP.

9A-1205.

(A) IN A CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE, THE STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) PARTNERSHIP INTERESTS IN THE PARTNERSHIP OR STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF AN OTHER ENTITY, WHETHER OR NOT A PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

(B) IN A CONVERSION OF A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE TO AN OTHER ENTITY, PARTNERSHIP INTERESTS IN THE PARTNERSHIP MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY TO WHICH THE PARTNERSHIP IS CONVERTED OR OF AN OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

9A-1206.

(A) THE CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE SHALL BE COMPLETED ON THE LATER OF:

(1) THE FORMATION OF THE PARTNERSHIP IN ACCORDANCE WITH THIS TITLE OR, IN THE CASE OF THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE, THE FILING OF A CERTIFICATE OF LIMITED LIABILITY PARTNERSHIP THAT COMPLIES WITH § 9A-1001 OF THIS TITLE; OR

(2) THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(B) THE CONVERSION OF A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE TO AN OTHER ENTITY SHALL BE COMPLETED ON THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(C) ARTICLES OF CONVERSION SHALL BE EFFECTIVE ON THE LATER OF:

(1) THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES OF CONVERSION FOR RECORD; OR

(2) THE FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION AS SET FORTH IN ARTICLES OF CONVERSION THAT HAVE BEEN ACCEPTED BY THE DEPARTMENT FOR RECORD.

(D) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT THE TIME THE CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP FORMED UNDER THE LAWS OF THIS STATE IS COMPLETED:

1. THE OTHER ENTITY SHALL BE CONVERTED TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE;

2. THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 9A-1204 OF THIS SUBTITLE; AND

3. THE PARTNERSHIP SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THIS TITLE.

(II) NOTWITHSTANDING § 9A-202 OF THIS TITLE, THE EXISTENCE OF THE PARTNERSHIP AS A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE THE OTHER ENTITY COMMENCED ITS EXISTENCE IN THE PLACE IN WHICH THE OTHER ENTITY WAS FIRST INCORPORATED, CREATED, FORMED, OR OTHERWISE CAME INTO BEING.

(2) AT THE TIME THE CONVERSION OF A PARTNERSHIP FORMED UNDER THE LAWS OF THIS STATE TO AN OTHER ENTITY IS COMPLETED, THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 9A-1204 OF THIS SUBTITLE.

9A-1207.

(A) UNLESS THE PARTNERSHIP AGREEMENT OR THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE TO AN OTHER ENTITY MAY BE ABANDONED BEFORE THE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION BY THE AFFIRMATIVE VOTE OF ALL OF THE PARTNERS OF THE PARTNERSHIP, OR ANY LESSER NUMBER OR PERCENTAGE SPECIFIED FOR THE APPROVAL OF A CONVERSION IN ITS PARTNERSHIP AGREEMENT.

(B) UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF AN OTHER ENTITY TO A PARTNERSHIP ORGANIZED UNDER THE LAWS OF THIS STATE MAY BE ABANDONED BEFORE THE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION IN THE MANNER AND BY THE VOTE REQUIRED BY THE GOVERNING DOCUMENT OF THE OTHER ENTITY AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED OR, IF NO MANNER AND VOTE IS SPECIFIED, IN THE MANNER AND BY THE VOTE REQUIRED TO APPROVE THE CONVERSION UNDER § 9A-1202 OF THIS SUBTITLE.

(C) IF THE ARTICLES OF CONVERSION HAVE BEEN FILED WITH THE DEPARTMENT, NOTICE OF THE ABANDONMENT SHALL BE GIVEN PROMPTLY TO THE DEPARTMENT.

(D) (1) IF THE PROPOSED CONVERSION IS ABANDONED AS PROVIDED IN THIS SECTION, NO LEGAL LIABILITY ARISES UNDER THE ARTICLES OF CONVERSION.

(2) ABANDONMENT OF A CONVERSION UNDER THIS SUBSECTION DOES NOT PREJUDICE THE RIGHTS OF ANY PERSON UNDER ANY OTHER CONTRACT MADE BY A PARTY TO THE PROPOSED CONVERSION IN CONNECTION WITH THE PROPOSED CONVERSION.

10-204.

(a) Each certificate **OR ARTICLES** required by this subtitle to be filed with the Department shall be executed in the following manner:

(1) The certificate of limited partnership [under § 10-201 of this subtitle], **ARTICLES OF CONVERSION TO A LIMITED PARTNERSHIP, AND ARTICLES OF CONVERSION TO AN OTHER ENTITY** must be signed by all general partners **OR, IN THE CASE OF ARTICLES OF CONVERSION TO A LIMITED PARTNERSHIP, BY ANY PERSON AUTHORIZED TO EXECUTE THE CERTIFICATE ON BEHALF OF THE OTHER ENTITY;**

(2) A certificate of amendment under § 10-202 of this subtitle must be signed by at least one general partner and by each other general partner designated in the certificate of amendment as a new general partner or a withdrawing general partner;

(3) A certificate of cancellation under § 10-203 of this subtitle must be signed by all general partners, or, if there is no general partner, by a majority of the limited partners; and

(4) A certificate of reinstatement under § 10-214 of this subtitle must be signed by all general partners, or, if there is no general partner, by a majority of the limited partners.

SUBTITLE 7A. CONVERSIONS OF LIMITED PARTNERSHIPS.

10-7A-01.

(A) IN THIS SUBTITLE, "OTHER ENTITY" MEANS:

(1) A MARYLAND CORPORATION INCORPORATED UNDER TITLE 2 OF THIS ARTICLE;

(2) A FOREIGN CORPORATION, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(3) A DOMESTIC LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(4) A FOREIGN LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(5) A PARTNERSHIP, AS DEFINED IN § 9A-101 OF THIS ARTICLE;

(6) A BUSINESS TRUST, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(7) AN OTHER FORM OF UNINCORPORATED BUSINESS FORMED UNDER THE LAWS OF THIS STATE OR THE LAWS OF THE UNITED STATES, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION, OR DISTRICT OF THE UNITED STATES, OR A FOREIGN COUNTRY; OR

(8) A FOREIGN LIMITED PARTNERSHIP, INCLUDING A FOREIGN LIMITED PARTNERSHIP REGISTERED OR DENOMINATED AS A LIMITED LIABILITY LIMITED PARTNERSHIP UNDER THE LAWS OF A STATE OTHER THAN THIS STATE.

(B) UNLESS THE PARTNERSHIP AGREEMENT PROVIDES OTHERWISE, A LIMITED PARTNERSHIP MAY CONVERT TO AN OTHER ENTITY BY:

(1) APPROVING THE CONVERSION IN ACCORDANCE WITH § 10-7A-02 OF THIS SUBTITLE; AND

(2) FILING FOR RECORD WITH THE DEPARTMENT ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY § 10-204 OF THIS TITLE.

(C) AN OTHER ENTITY MAY CONVERT TO A LIMITED PARTNERSHIP BY COMPLYING WITH THE REQUIREMENTS OF § 10-7A-02 OF THIS SUBTITLE AND FILING FOR RECORD WITH THE DEPARTMENT:

(1) ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY § 10-204 OF THIS TITLE; AND

(2) A CERTIFICATE OF LIMITED PARTNERSHIP THAT COMPLIES WITH § 10-201 OF THIS TITLE AND, IN THE CASE OF THE CONVERSION OF AN OTHER ENTITY TO A LIMITED LIABILITY PARTNERSHIP, § 10-805 OF THIS TITLE, EXECUTED IN THE MANNER REQUIRED BY § 10-204 OF THIS TITLE.

10-7A-02.

(A) UNLESS THE PARTNERSHIP AGREEMENT SPECIFIES THE MANNER OF AUTHORIZING A CONVERSION OF THE LIMITED PARTNERSHIP, THE LIMITED PARTNERSHIP SHALL APPROVE THE CONVERSION OF THE LIMITED

PARTNERSHIP TO AN OTHER ENTITY BY THE AFFIRMATIVE VOTE OF ALL OF THE GENERAL PARTNERS AND A MAJORITY IN INTEREST OF THE LIMITED PARTNERS.

(B) AN OTHER ENTITY SEEKING TO CONVERT TO A LIMITED PARTNERSHIP SHALL APPROVE THE CONVERSION OF THE OTHER ENTITY TO A LIMITED PARTNERSHIP IN THE MANNER AND BY THE VOTE REQUIRED BY ITS GOVERNING DOCUMENT AND THE LAWS OF THE PLACE WHERE IT IS INCORPORATED OR ORGANIZED.

(C) (1) A PARTNER OF A LIMITED PARTNERSHIP OBJECTING TO A CONVERSION OF THE LIMITED PARTNERSHIP HAS THE SAME RIGHTS WITH RESPECT TO THE PARTNER'S PARTNERSHIP INTEREST IN THE LIMITED PARTNERSHIP AS A STOCKHOLDER OF A MARYLAND CORPORATION WHO OBJECTS HAS WITH RESPECT TO THE STOCKHOLDER'S STOCK UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE.

(2) THE PROCEDURES UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE SHALL BE APPLICABLE TO THE EXTENT PRACTICABLE.

10-7A-03.

(A) IN THIS SECTION, "FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION" INCLUDES:

(1) AN ACTION OR A DETERMINATION BY ANY PERSON, INCLUDING:

(I) THE LIMITED PARTNERSHIP OR OTHER ENTITY, AS APPLICABLE:

(II) THE PARTNERS, MEMBERS, DIRECTORS, TRUSTEES, OFFICERS, OR OTHER AGENTS OF THE LIMITED PARTNERSHIP OR OTHER ENTITY; AND

(III) ANY OTHER PERSON AFFILIATED WITH THE LIMITED PARTNERSHIP OR OTHER ENTITY; AND

(2) ANY OTHER EVENT.

(B) ARTICLES OF CONVERSION SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

(C) IN A CONVERSION OF A LIMITED PARTNERSHIP TO AN OTHER ENTITY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE LIMITED PARTNERSHIP AND THE DATE OF FILING OF ITS ORIGINAL CERTIFICATE OF LIMITED PARTNERSHIP WITH THE DEPARTMENT;

(2) THE NAME OF THE OTHER ENTITY TO WHICH THE LIMITED PARTNERSHIP WILL BE CONVERTED AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING PARTNERSHIP INTERESTS IN THE LIMITED PARTNERSHIP INTO SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY PARTNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION;

(6) IF THE OTHER ENTITY IS NOT ORGANIZED UNDER THE LAWS OF THIS STATE:

(i) THE LOCATION OF THE PRINCIPAL OFFICE IN THE PLACE WHERE IT IS ORGANIZED; AND

(ii) THE NAME AND ADDRESS OF THE RESIDENT AGENT IN THIS STATE; AND

(7) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(D) IN A CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE OTHER ENTITY, THE DATE ON WHICH THE OTHER ENTITY WAS FIRST CREATED, AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(2) THE NAME OF THE LIMITED PARTNERSHIP TO WHICH THE OTHER ENTITY WILL BE CONVERTED;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY INTO PARTNERSHIP INTERESTS IN THE LIMITED PARTNERSHIP OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION; AND

(6) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(E) THE ARTICLES OF CONVERSION MAY CONTAIN A FUTURE EFFECTIVE TIME FOR THE ARTICLES OF CONVERSION THAT IS NOT LATER THAN 30 DAYS AFTER THE ARTICLES OF CONVERSION ARE ACCEPTED FOR RECORD.

10-7A-04.

(A) A CONVERSION HAS THE EFFECTS PROVIDED IN THIS SECTION.

(B) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF A LIMITED PARTNERSHIP TO AN OTHER ENTITY.

(2) THE LIMITED PARTNERSHIP SHALL CEASE TO EXIST AS A LIMITED PARTNERSHIP AND SHALL CONTINUE TO EXIST AS THE OTHER ENTITY INTO WHICH THE PARTNERSHIP HAS CONVERTED, AND THE OTHER ENTITY, FOR

ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING LIMITED PARTNERSHIP.

(3) (I) ALL THE ASSETS OF THE LIMITED PARTNERSHIP, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, SHALL VEST IN AND DEVOLVE ON THE OTHER ENTITY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE OTHER ENTITY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE LIMITED PARTNERSHIP SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE LIMITED PARTNERSHIP TO AN OTHER ENTITY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE LIMITED PARTNERSHIP BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE LIMITED PARTNERSHIP BY ITS LAST ACTING GENERAL PARTNERS, OR BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY.

(4) (I) THE OTHER ENTITY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE LIMITED PARTNERSHIP.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE LIMITED PARTNERSHIP MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE OTHER ENTITY MAY BE SUBSTITUTED AS A PARTY, AND A JUDGMENT AGAINST THE LIMITED PARTNERSHIP CONSTITUTES A LIEN ON THE PROPERTY OF THE OTHER ENTITY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE LIMITED PARTNERSHIP.

(5) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE PARTNERS OF THE LIMITED PARTNERSHIP UNDER THE ARTICLES OF CONVERSION AND TO THE RIGHTS OF AN OBJECTING PARTNER UNDER THIS SUBTITLE, THE OWNERSHIP INTERESTS OF THE PARTNERS OF THE LIMITED PARTNERSHIP CEASE TO EXIST AS PARTNERSHIP INTERESTS IN THE CONVERTED LIMITED PARTNERSHIP AND CONTINUE TO EXIST AS OWNERSHIP INTERESTS IN THE OTHER ENTITY.

(6) (I) THE CONVERSION OF THE LIMITED PARTNERSHIP TO AN OTHER ENTITY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE LIMITED PARTNERSHIP OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED PRIOR TO THE COMPLETION OF THE CONVERSION.

(II) SUBJECT TO §§ 10-303 AND 10-403 OF THIS TITLE, A PARTNER OF THE LIMITED PARTNERSHIP REMAINS LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE LIMITED PARTNERSHIP FOR WHICH THE PARTNER WAS LIABLE BEFORE THE COMPLETION OF THE CONVERSION.

(7) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF CONVERSION, THE CONVERTING LIMITED PARTNERSHIP IS NOT REQUIRED TO WIND UP ITS AFFAIRS OR PAY ITS LIABILITIES AND DISTRIBUTE ITS ASSETS, AND THE CONVERSION DOES NOT CONSTITUTE DISSOLUTION OR A TRANSFER OF ASSETS OR LIABILITIES OF THE LIMITED PARTNERSHIP.

(8) A PERSON BECOMES LIABLE FOR ANY OBLIGATION INCURRED BY THE LIMITED PARTNERSHIP BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT PROVIDED FOR BY THE LAWS APPLICABLE TO THE OTHER ENTITY.

(C) (1) THIS SUBSECTION APPLIES ON THE CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP.

(2) THE LIMITED PARTNERSHIP, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING OTHER ENTITY.

(3) (I) ALL THE ASSETS OF THE OTHER ENTITY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, VEST IN AND DEVOLVE ON THE LIMITED PARTNERSHIP WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE LIMITED PARTNERSHIP, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE OTHER ENTITY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF THIS SUBTITLE.

(II) THE CONVERSION OF THE OTHER ENTITY TO A LIMITED PARTNERSHIP DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE OTHER ENTITY BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE OTHER ENTITY BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY, OR BY THE GENERAL PARTNERS OF THE LIMITED PARTNERSHIP.

(4) (I) THE LIMITED PARTNERSHIP SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE OTHER ENTITY.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE OTHER ENTITY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE LIMITED PARTNERSHIP OR ANY PARTY, THE LIMITED PARTNERSHIP MAY BE SUBSTITUTED AS A PARTY, AND A JUDGMENT AGAINST THE OTHER ENTITY CONSTITUTES A LIEN ON THE PROPERTY OF THE LIMITED PARTNERSHIP.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE OTHER ENTITY.

(5) THE CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE OTHER ENTITY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED PRIOR TO THE COMPLETION OF THE CONVERSION.

(6) A PERSON REMAINS LIABLE FOR ANY OBLIGATION INCURRED BY THE OTHER ENTITY BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT THAT THE PERSON WOULD HAVE BEEN LIABLE IF THE CONVERSION HAD NOT OCCURRED.

(7) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY CEASE TO EXIST AS OWNERSHIP INTERESTS IN THE CONVERTED OTHER ENTITY AND CONTINUE TO EXIST AS PARTNERSHIP INTERESTS IN THE LIMITED PARTNERSHIP.

10-7A-05.

(A) IN A CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP, THE STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE

OTHER ENTITY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) PARTNERSHIP INTERESTS IN THE LIMITED PARTNERSHIP OR STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF AN OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

(B) IN A CONVERSION OF A LIMITED PARTNERSHIP TO AN OTHER ENTITY, PARTNERSHIP INTERESTS IN THE LIMITED PARTNERSHIP MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY TO WHICH THE LIMITED PARTNERSHIP IS CONVERTED OR OF AN OTHER ENTITY, WHETHER OR NOT A PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

10-7A-06.

(A) THE CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP SHALL BE COMPLETED ON THE LATER OF:

(1) THE FORMATION OF THE LIMITED PARTNERSHIP IN ACCORDANCE WITH THIS TITLE; OR

(2) THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(B) THE CONVERSION OF A LIMITED PARTNERSHIP TO AN OTHER ENTITY SHALL BE COMPLETED ON THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(C) ARTICLES OF CONVERSION SHALL BE EFFECTIVE ON THE LATER OF:

(1) THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES OF CONVERSION FOR RECORD; OR

(2) THE FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION SET FORTH IN THE ARTICLES OF CONVERSION THAT HAVE BEEN ACCEPTED BY THE DEPARTMENT FOR RECORD.

(D) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT THE TIME THE CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP IS COMPLETED:

1. THE OTHER ENTITY SHALL BE CONVERTED TO A LIMITED PARTNERSHIP;

2. THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 10-7A-04 OF THIS SUBTITLE; AND

3. THE LIMITED PARTNERSHIP SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THIS TITLE.

(II) NOTWITHSTANDING § 10-201 OF THIS TITLE, THE EXISTENCE OF THE LIMITED PARTNERSHIP AS A DOMESTIC LIMITED PARTNERSHIP SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE THE OTHER ENTITY COMMENCED ITS EXISTENCE IN THE PLACE IN WHICH THE OTHER ENTITY WAS FIRST INCORPORATED, CREATED, FORMED, OR OTHERWISE CAME INTO BEING.

(2) AT THE TIME THE CONVERSION OF A LIMITED PARTNERSHIP TO AN OTHER ENTITY IS COMPLETED, THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 10-7A-04 OF THIS SUBTITLE.

10-7A-07.

(A) UNLESS THE PARTNERSHIP AGREEMENT OR THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF A LIMITED PARTNERSHIP TO AN OTHER ENTITY MAY BE ABANDONED BEFORE THE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION BY A VOTE OF THE

MAJORITY OF THE GENERAL PARTNERS AND A MAJORITY IN INTEREST OF THE LIMITED PARTNERS OF THE LIMITED PARTNERSHIP.

(B) UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, A PROPOSED CONVERSION OF AN OTHER ENTITY TO A LIMITED PARTNERSHIP MAY BE ABANDONED BEFORE THE EFFECTIVE DATE OF THE ARTICLES OF CONVERSION IN THE MANNER AND BY THE VOTE REQUIRED BY THE GOVERNING DOCUMENT OF THE OTHER ENTITY AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED OR, IF NO MANNER AND VOTE IS SPECIFIED, IN THE MANNER AND BY THE VOTE REQUIRED TO APPROVE THE CONVERSION UNDER § 10-7A-02 OF THIS SUBTITLE.

(C) IF THE ARTICLES OF CONVERSION HAVE BEEN FILED WITH THE DEPARTMENT, NOTICE OF THE ABANDONMENT SHALL BE GIVEN PROMPTLY TO THE DEPARTMENT.

(D) (1) IF THE PROPOSED CONVERSION IS ABANDONED AS PROVIDED IN THIS SECTION, NO LEGAL LIABILITY ARISES UNDER THE ARTICLES OF CONVERSION.

(2) ABANDONMENT OF A CONVERSION UNDER THIS SECTION DOES NOT PREJUDICE THE RIGHTS OF ANY PERSON UNDER ANY OTHER CONTRACT MADE BY A PARTY TO THE PROPOSED CONVERSION IN CONNECTION WITH THE PROPOSED CONVERSION.

SUBTITLE 10. CONVERSIONS OF STATUTORY TRUSTS.

12-1001.

(A) IN THIS SUBTITLE, "OTHER ENTITY" MEANS:

(1) A MARYLAND CORPORATION INCORPORATED UNDER TITLE 2 OF THIS ARTICLE;

(2) A FOREIGN CORPORATION, AS DEFINED IN § 1-101 OF THIS ARTICLE;

(3) A DOMESTIC LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(4) A FOREIGN LIMITED LIABILITY COMPANY, AS DEFINED IN § 4A-101 OF THIS ARTICLE;

(5) A PARTNERSHIP, AS DEFINED IN § 9A-101(I) OF THIS ARTICLE;

(6) A LIMITED PARTNERSHIP, AS DEFINED IN § 10-101 OF THIS ARTICLE, INCLUDING A LIMITED PARTNERSHIP REGISTERED AS A LIMITED LIABILITY LIMITED PARTNERSHIP UNDER § 10-805 OF THIS ARTICLE;

(7) A FOREIGN LIMITED PARTNERSHIP AS DEFINED IN § 10-101 OF THIS ARTICLE;

(8) A BUSINESS TRUST, AS DEFINED IN § 1-101 OF THIS ARTICLE, EXCLUDING A STATUTORY TRUST; OR

(9) ANOTHER FORM OF UNINCORPORATED BUSINESS FORMED UNDER THE LAWS OF THIS STATE OR THE LAWS OF THE UNITED STATES, ANOTHER STATE OF THE UNITED STATES, A TERRITORY, POSSESSION OR DISTRICT OF THE UNITED STATES, OR A FOREIGN COUNTRY.

(B) EXCEPT AS PROVIDED IN ITS GOVERNING INSTRUMENT, A STATUTORY TRUST MAY CONVERT TO AN OTHER ENTITY BY:

(1) APPROVING THE CONVERSION IN ACCORDANCE WITH § 12-1002 OF THIS SUBTITLE; AND

(2) FILING FOR RECORD WITH THE DEPARTMENT ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE.

(C) AN OTHER ENTITY MAY CONVERT TO A STATUTORY TRUST BY COMPLYING WITH § 12-1002 OF THIS SUBTITLE AND FILING FOR RECORD WITH THE DEPARTMENT:

(1) ARTICLES OF CONVERSION EXECUTED IN THE MANNER REQUIRED BY TITLE 1 OF THIS ARTICLE; AND

(2) A CERTIFICATE OF TRUST, WHICH SHALL INCLUDE THE NAME OF THE CONVERTING OTHER ENTITY, EXECUTED IN THE MANNER REQUIRED BY § 12-204 OF THIS TITLE AND OTHERWISE COMPLYING WITH THIS TITLE.

12-1002.

(A) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT, A CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY SHALL BE

APPROVED BY A MAJORITY OF THE TRUSTEES AND BY THE BENEFICIAL OWNERS BY THE AFFIRMATIVE VOTE OF TWO-THIRDS OF ALL THE VOTES ENTITLED TO BE CAST ON THE MATTER.

(B) A CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST SHALL BE APPROVED IN THE MANNER AND BY THE VOTE REQUIRED BY ITS GOVERNING DOCUMENT AND THE LAWS OF THE PLACE WHERE IT IS INCORPORATED OR ORGANIZED.

12-1003.

(A) IN THIS SECTION, "FACTS ASCERTAINABLE OUTSIDE THE ARTICLES OF CONVERSION" INCLUDES:

(1) AN ACTION OR DETERMINATION BY ANY PERSON, INCLUDING:

(I) THE STATUTORY TRUST OR OTHER ENTITY, AS APPLICABLE;

(II) THE TRUSTEES, DIRECTORS, PARTNERS, MEMBERS, OFFICERS, OR OTHER AGENTS OF THE STATUTORY TRUST OR OTHER ENTITY; AND

(III) ANY OTHER PERSON AFFILIATED WITH THE STATUTORY TRUST OR OTHER ENTITY; AND

(2) ANY OTHER EVENT.

(B) ARTICLES OF CONVERSION SHALL BE FILED FOR RECORD WITH THE DEPARTMENT.

(C) IN A CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE STATUTORY TRUST AND THE DATE OF FILING OF ITS ORIGINAL CERTIFICATE OF TRUST WITH THE DEPARTMENT;

(2) THE NAME OF THE OTHER ENTITY TO WHICH THE STATUTORY TRUST WILL BE CONVERTED AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ISSUED BENEFICIAL INTERESTS OF THE STATUTORY TRUST INTO SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY ISSUED BENEFICIAL INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE OF THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION;

(6) IF THE OTHER ENTITY IS NOT ORGANIZED UNDER THE LAWS OF THIS STATE:

(I) THE LOCATION OF THE PRINCIPAL OFFICE IN THE PLACE WHERE IT IS ORGANIZED; AND

(II) THE NAME AND ADDRESS OF THE RESIDENT AGENT IN THIS STATE; AND

(7) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(D) IN A CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST, THE ARTICLES OF CONVERSION SHALL SET FORTH:

(1) THE NAME OF THE OTHER ENTITY, THE DATE ON WHICH THE OTHER ENTITY WAS FIRST CREATED, AND THE PLACE OF INCORPORATION OR ORGANIZATION OF THE OTHER ENTITY;

(2) THE NAME OF THE STATUTORY TRUST TO WHICH THE OTHER ENTITY WILL BE CONVERTED;

(3) A STATEMENT THAT THE CONVERSION HAS BEEN APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;

(4) THE MANNER AND BASIS OF CONVERTING OR EXCHANGING ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE

OTHER ENTITY INTO BENEFICIAL INTERESTS OF THE STATUTORY TRUST, OR OTHER CONSIDERATION, AND THE TREATMENT OF ANY OUTSTANDING SHARES OF STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS NOT TO BE CONVERTED OR EXCHANGED, ANY OF WHICH MAY BE MADE DEPENDENT ON FACTS ASCERTAINABLE OUTSIDE OF THE ARTICLES OF CONVERSION;

(5) THE FUTURE EFFECTIVE TIME, WHICH SHALL BE A TIME CERTAIN, OF THE ARTICLES OF CONVERSION, IF THE ARTICLES OF CONVERSION ARE NOT TO BE EFFECTIVE ON THE ACCEPTANCE FOR RECORD OF THE ARTICLES OF CONVERSION; AND

(6) ANY OTHER PROVISION NECESSARY TO EFFECT THE CONVERSION.

(E) THE ARTICLES OF CONVERSION MAY CONTAIN A FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION THAT IS NOT LATER THAN 30 DAYS AFTER THE ARTICLES OF CONVERSION ARE ACCEPTED FOR RECORD.

12-1004.

(A) A CONVERSION HAS THE EFFECTS PROVIDED IN THIS SECTION.

(B) (1) THIS SUBSECTION APPLIES ON THE COMPLETION OF THE CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY.

(2) THE STATUTORY TRUST SHALL CEASE TO EXIST AS A STATUTORY TRUST AND SHALL CONTINUE TO EXIST AS THE OTHER ENTITY INTO WHICH THE STATUTORY TRUST HAS CONVERTED, AND THE OTHER ENTITY, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING STATUTORY TRUST.

(3) (I) ALL THE ASSETS OF THE STATUTORY TRUST, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, SHALL VEST IN AND DEVOLVE ON THE OTHER ENTITY WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE OTHER ENTITY, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE STATUTORY TRUST SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE STATUTORY TRUST TO AN OTHER ENTITY DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR

NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE STATUTORY TRUST BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE STATUTORY TRUST BY ITS LAST ACTING TRUSTEES OR OFFICERS, OR BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY.

(4) (I) THE OTHER ENTITY SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE STATUTORY TRUST.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE STATUTORY TRUST MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE OTHER ENTITY MAY BE SUBSTITUTED AS A PARTY AND A JUDGMENT AGAINST THE STATUTORY TRUST CONSTITUTES A LIEN ON THE PROPERTY OF THE OTHER ENTITY.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS ON THE PROPERTY OF THE STATUTORY TRUST.

(5) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE BENEFICIAL OWNERS OF THE STATUTORY TRUST UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE BENEFICIAL OWNERS OF THE STATUTORY TRUST SHALL CEASE TO EXIST AS BENEFICIAL INTERESTS OF THE STATUTORY TRUST AND CONTINUE TO EXIST AS OWNERSHIP INTERESTS IN THE OTHER ENTITY.

(6) THE CONVERSION OF THE STATUTORY TRUST TO AN OTHER ENTITY IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE STATUTORY TRUST OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE CONVERSION.

(7) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF CONVERSION, THE CONVERTING STATUTORY TRUST IS NOT REQUIRED TO WIND UP ITS AFFAIRS OR PAY ITS LIABILITIES AND DISTRIBUTE ITS ASSETS, AND THE CONVERSION DOES NOT CONSTITUTE DISSOLUTION OR A TRANSFER OF ASSETS OR LIABILITIES OF THE STATUTORY TRUST.

(8) A PERSON BECOMES LIABLE FOR ANY OBLIGATION INCURRED BY THE STATUTORY TRUST BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT PROVIDED FOR BY THE LAWS APPLICABLE TO THE OTHER ENTITY.

(C) (1) THIS SUBSECTION APPLIES ON THE COMPLETION OF THE CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST.

(2) THE STATUTORY TRUST, FOR ALL PURPOSES OF THE LAWS OF THIS STATE, SHALL BE DEEMED TO BE THE SAME ENTITY AS THE CONVERTING OTHER ENTITY.

(3) (I) ALL THE ASSETS OF THE OTHER ENTITY, INCLUDING ANY LEGACIES THAT IT WOULD HAVE BEEN CAPABLE OF TAKING, VEST IN AND DEVOLVE ON THE STATUTORY TRUST WITHOUT FURTHER ACT OR DEED AND SHALL BE THE PROPERTY OF THE STATUTORY TRUST, AND THE TITLE TO ANY REAL PROPERTY VESTED BY DEED OR OTHERWISE IN THE OTHER ENTITY SHALL NOT REVERT OR BE IN ANY WAY IMPAIRED BY REASON OF A CONVERSION UNDER THIS SUBTITLE.

(II) THE CONVERSION OF THE OTHER ENTITY TO A STATUTORY TRUST DOES NOT AFFECT, INVALIDATE, TERMINATE, SUSPEND, OR NULLIFY ANY LICENSES, PERMITS, OR REGISTRATIONS GRANTED TO THE OTHER ENTITY BEFORE THE CONVERSION.

(III) CONFIRMATORY DEEDS, ASSIGNMENTS, OR SIMILAR INSTRUMENTS TO EVIDENCE THE CONVERSION MAY BE EXECUTED AND DELIVERED AT ANY TIME IN THE NAME OF THE OTHER ENTITY BY THE APPROPRIATE AUTHORIZED PERSONS, PARTNERS, OFFICERS, TRUSTEES, OR MEMBERS OF THE OTHER ENTITY, OR BY THE TRUSTEES OR OFFICERS OF THE STATUTORY TRUST.

(4) (I) THE STATUTORY TRUST SHALL BE LIABLE FOR ALL THE DEBTS AND OBLIGATIONS OF THE OTHER ENTITY.

(II) AN EXISTING CLAIM, ACTION, OR PROCEEDING PENDING BY OR AGAINST THE OTHER ENTITY MAY BE PROSECUTED TO JUDGMENT AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR, ON MOTION OF THE OTHER ENTITY OR ANY PARTY, THE STATUTORY TRUST MAY BE SUBSTITUTED AS A PARTY AND A JUDGMENT AGAINST THE OTHER ENTITY CONSTITUTES A LIEN ON THE PROPERTY OF THE STATUTORY TRUST.

(III) A CONVERSION DOES NOT IMPAIR THE RIGHTS OF CREDITORS OR ANY LIENS OF THE PROPERTY OF THE OTHER ENTITY.

(5) THE CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST IN ACCORDANCE WITH ARTICLES OF CONVERSION UNDER THIS SUBTITLE DOES NOT AFFECT ANY DEBTS, OBLIGATIONS, OR LIABILITIES OF THE OTHER ENTITY OR THE PERSONAL LIABILITY OF ANY PERSON INCURRED BEFORE THE COMPLETION OF THE CONVERSION.

(6) A PERSON REMAINS LIABLE FOR ANY OBLIGATION INCURRED BY THE OTHER ENTITY BEFORE THE COMPLETION OF THE CONVERSION ONLY TO THE EXTENT THAT THE PERSON WOULD HAVE BEEN LIABLE IF THE CONVERSION HAD NOT OCCURRED.

(7) SUBJECT TO THE TREATMENT OF THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY UNDER THE ARTICLES OF CONVERSION, THE OWNERSHIP INTERESTS OF THE OWNERS OF THE OTHER ENTITY CEASE TO EXIST AS OWNERSHIP INTERESTS IN THE CONVERTED OTHER ENTITY AND CONTINUE TO EXIST AS BENEFICIAL INTERESTS IN THE STATUTORY TRUST.

12-1005.

(A) IN A CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST, THE STOCK, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) BENEFICIAL INTERESTS OF THE STATUTORY TRUST OR STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF ANY OTHER STATUTORY TRUST OR OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

(B) IN A CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY, BENEFICIAL INTERESTS OF THE STATUTORY TRUST MAY BE EXCHANGED FOR OR CONVERTED INTO ANY ONE OR MORE OF THE FOLLOWING:

(1) STOCK, EVIDENCE OF INDEBTEDNESS, MEMBERSHIP INTERESTS, PARTNERSHIP INTERESTS, BENEFICIAL INTERESTS, OR OTHER OWNERSHIP INTERESTS OF THE OTHER ENTITY TO WHICH THE STATUTORY TRUST IS CONVERTED OR OF ANY OTHER STATUTORY TRUST OR OTHER ENTITY, WHETHER OR NOT PARTY TO THE CONVERSION;

(2) OTHER TANGIBLE OR INTANGIBLE PROPERTY;

(3) MONEY; AND

(4) ANY OTHER CONSIDERATION.

12-1006.

(A) THE CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST SHALL BE COMPLETED ON THE LATER OF:

(1) THE FORMATION OF THE STATUTORY TRUST IN ACCORDANCE WITH THIS TITLE; OR

(2) THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(B) THE CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY SHALL BE COMPLETED ON THE EFFECTIVENESS OF ARTICLES OF CONVERSION FILED FOR RECORD WITH THE DEPARTMENT.

(C) ARTICLES OF CONVERSION ARE EFFECTIVE ON THE LATER OF:

(1) THE TIME THE DEPARTMENT ACCEPTS THE ARTICLES OF CONVERSION FOR RECORD; OR

(2) THE FUTURE EFFECTIVE TIME OF THE ARTICLES OF CONVERSION AS SET FORTH IN ARTICLES OF CONVERSION THAT HAVE BEEN ACCEPTED BY THE DEPARTMENT FOR RECORD.

(D) (1) (i) EXCEPT AS PROVIDE IN SUBPARAGRAPH (ii) OF THIS PARAGRAPH, AT THE TIME THE CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST IS COMPLETED:

1. THE OTHER ENTITY SHALL BE CONVERTED TO A STATUTORY TRUST:

2. THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 12-1004 OF THIS SUBTITLE; AND

3. THE STATUTORY TRUST SHALL BE SUBJECT TO ALL OF THE PROVISIONS OF THE MARYLAND STATUTORY TRUST ACT.

(II) NOTWITHSTANDING § 12-204 OF THIS TITLE, THE EXISTENCE OF THE STATUTORY TRUST SHALL BE DEEMED TO HAVE COMMENCED ON THE DATE THE OTHER ENTITY COMMENCED EXISTENCE IN THE PLACE IN WHICH THE OTHER ENTITY WAS FIRST INCORPORATED, CREATED, FORMED, OR OTHERWISE CAME INTO BEING.

(2) AT THE TIME THE CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY IS COMPLETED, THE CONVERSION SHALL HAVE THE EFFECTS SET FORTH IN § 12-1004 OF THIS SUBTITLE.

12-1007.

(A) EXCEPT AS PROVIDED IN THE GOVERNING INSTRUMENT, UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, THE PROPOSED CONVERSION OF A STATUTORY TRUST TO AN OTHER ENTITY MAY BE ABANDONED BEFORE THE EFFECTIVE DATE OF THE ARTICLES OF CONVERSION BY MAJORITY VOTE OF THE TRUSTEES OF THE STATUTORY TRUST.

(B) UNLESS THE ARTICLES OF CONVERSION PROVIDE OTHERWISE, THE PROPOSED CONVERSION OF AN OTHER ENTITY TO A STATUTORY TRUST MAY BE ABANDONED IN THE MANNER AND BY THE VOTE REQUIRED BY THE GOVERNING DOCUMENT OF THE OTHER ENTITY AND THE LAWS OF THE PLACE IN WHICH IT IS INCORPORATED OR ORGANIZED OR, IF NO MANNER AND VOTE IS SPECIFIED, IN THE MANNER AND BY THE VOTE REQUIRED TO APPROVE THE CONVERSION UNDER § 12-1002 OF THIS SUBTITLE.

(C) IF THE ARTICLES OF CONVERSION HAVE BEEN FILED WITH THE DEPARTMENT, NOTICE OF THE ABANDONMENT SHALL BE GIVEN PROMPTLY TO THE DEPARTMENT.

(D) (1) IF THE PROPOSED CONVERSION IS ABANDONED AS PROVIDED IN THIS SECTION, NO LEGAL LIABILITY ARISES UNDER THE ARTICLES OF CONVERSION.

(2) ABANDONMENT OF A CONVERSION UNDER THIS SECTION DOES NOT PREJUDICE THE RIGHTS OF ANY PERSON UNDER ANY OTHER

CONTRACT MADE BY A STATUTORY TRUST PARTY TO THE PROPOSED
CONVERSION IN CONNECTION WITH THE PROPOSED CONVERSION.

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

Approved by the Governor, May 16, 2013.

Chapter 529

(Senate Bill 702)

AN ACT concerning

**Maryland Public Art Initiative Program – ~~Revisions~~ Selection of Art for
Capital Projects**

FOR the purpose of ~~altering a provision of law relating to the qualifications for appointment as a public member of the Maryland Commission on Public Art; requiring the Commission to include additional State agencies and departments in the Maryland Public Art Initiative Program; requiring the Commission to determine which projects are subject to a certain requirement of the Program; requiring the Commission, in cooperation with the Department of General Services, to be responsible for the management of the collection, including the inventory, conservation, preservation, and deaccession of all artwork acquired through the Program; altering the sources of funding for the Maryland Public Art Fund; repealing a certain provision of law relating to an annual appropriation for the Program in the State operating or capital budget; requiring certain State agencies or departments or other recipients of State funds for certain construction or renovation projects to set aside a certain percentage of the money allocated for the projects to be paid into the Fund; providing that money paid into the Fund under a certain percentage set aside requirement may be used for certain purposes; establishing the intent of the General Assembly that a certain percentage set aside requirement not result in an increase in certain costs; repealing certain provisions of law establishing that all artwork funded by the Program is the property of the Maryland Historical Trust; repealing certain provisions of law relating to the responsibilities of the Trust; establishing, with a certain exception, that all artwork funded by the Program is the property of the Commission~~ providing that artwork funded by the Maryland Public Art Initiative Program is the property of the Maryland Commission on Public Art; providing that the Commission is responsible for the inventory, maintenance, and preservation of certain artwork; requiring the State to include public art into all construction projects and major renovation projects under certain circumstances; requiring, at a certain time, that a certain group determines the identification and selection of public art to be included in

a certain project; requiring the Division of Tourism, Film, and the Arts to work with the Maryland State Arts Council and the Commission in the selection of certain public art; requiring the Department of Budget and Management and the Department of General Services to jointly establish a certain waiver process; declaring the intent of the General Assembly; defining certain terms; and generally relating to the Maryland Public Art Initiative Program and the selection of art for capital projects.

~~BY repealing and reenacting, without amendments,
Article – Economic Development
Section 4-601, 4-603(a), and 4-606
Annotated Code of Maryland
(2008 Volume and 2012 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 4-603(b), 4-604, 4-605, and 4-608
Annotated Code of Maryland
(2008 Volume and 2012 Supplement)

BY adding to
Article – State Finance and Procurement
Section 3-602.2
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 – Economic Development

~~4-601.~~

- ~~(a) In this subtitle the following words have the meanings indicated.~~
- ~~(b) “Commission” means the Maryland Commission on Public Art.~~
- ~~(c) “Fund” means the Maryland Public Art Fund.~~
- ~~(d) “Program” means the Maryland Public Art Initiative Program.~~

~~4-603.~~

- ~~(a) There is a Maryland Commission on Public Art.~~
- ~~(b) (1) The Commission consists of the following 11 members:~~

~~(i) as designated by the chair of the Council, either the Executive Director or a member of the Maryland State Arts Council established under Subtitle 5 of this title;~~

~~(ii) as designated by the chair of the Trust, either the Director or a member of the Maryland Historical Trust established under Title 5A, Subtitle 3 of the State Finance and Procurement Article;~~

~~(iii) as designated by the State Archivist, either the State Archivist or a member of the Commission on Artistic Property established under Title 9, Subtitle 10 of the State Government Article;~~

~~(iv) the Comptroller or the Comptroller's designee; and~~

~~(v) seven public members appointed by the Secretary with the approval of the Governor.~~

~~(2) (i) The Secretary shall include as public members representatives of the artistic community who have professional expertise SUCH as artists, curators, art historians, art educators, or architects.~~

~~(ii) A public member serves at the pleasure of the Secretary.~~

~~4-604.~~

~~The Commission shall:~~

~~(1) work with the Department of General Services, the State Department of Transportation, [and] the University System of Maryland, AND OTHER STATE AGENCIES AND DEPARTMENTS to ensure that new public facilities constructed by State units include the installation of artwork;~~

~~(2) DETERMINE WHICH PROJECTS, UP TO A MAXIMUM OF 10 PROJECTS PER FISCAL YEAR, ARE SUBJECT TO THE PROGRAM PERCENTAGE SET ASIDE REQUIREMENT ESTABLISHED UNDER THIS SUBTITLE;~~

~~[(2)] (3) allocate money from the Fund to commission artwork for installation at public facilities around the State;~~

~~[(3)] (4) establish selection panels to recommend artists and artwork to be funded by the Fund; [and]~~

~~[(4)] (5) make final recommendations concerning the disbursement of money allocated to the Program; AND~~

~~(6) IN COOPERATION WITH THE DEPARTMENT OF GENERAL SERVICES, BE RESPONSIBLE FOR THE MANAGEMENT OF THE COLLECTION, INCLUDING THE INVENTORY, CONSERVATION, PRESERVATION, AND DEACCESSION OF ALL ARTWORK ACQUIRED THROUGH THE PROGRAM.~~

~~4-605.~~

~~(a) There is a Maryland Public Art Fund.~~

~~(b) The purpose of the Fund is to provide money to carry out the Program.~~

~~(c) The Commission shall administer the Fund.~~

~~(d) (1) The Fund is a special, nonlapsing fund that is not subject to reversion under § 7-302 of the State Finance and Procurement Article.~~

~~(2) The Treasurer shall hold the Fund and the Comptroller shall account for the Fund.~~

~~(e) (1) The Fund consists of:~~

~~(i) MONEY MADE AVAILABLE TO THE FUND UNDER SUBSECTION (F) OF THIS SECTION;~~

~~(ii) money appropriated in the State budget for the Program;~~
and

~~[(i)] (iii) any other money accepted for the benefit of the Fund from any other source.~~

~~(2) Any investment earnings of the Fund shall be paid into the Fund.~~

~~[(f) It is the intent of the General Assembly that for each fiscal year, the Governor shall include in the operating or capital budget an appropriation not to exceed \$1,000,000 for the Program.]~~

~~(F) (1) EACH STATE AGENCY OR DEPARTMENT OR OTHER RECIPIENT OF STATE FUNDS FOR A CONSTRUCTION OR RENOVATION PROJECT THAT THE COMMISSION DETERMINES TO BE SUBJECT TO THE PROGRAM SHALL SET ASIDE 1% OF THE MONEY ALLOCATED FOR THE CONSTRUCTION OR RENOVATION PROJECT TO BE PAID INTO THE FUND IF:~~

~~(i) AT LEAST 50% OF THE CONSTRUCTION OR RENOVATION PROJECT IS FUNDED THROUGH ALLOCATIONS IN THE STATE CAPITAL BUDGET;~~
AND

~~(H) THE TOTAL AMOUNT ALLOCATED FOR THE PROJECT IN THE STATE CAPITAL BUDGET IS AT LEAST \$500,000.~~

~~(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PERCENTAGE SET ASIDE REQUIREMENT ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION NOT RESULT IN AN INCREASE IN THE COST OF PROJECTS FINANCED IN WHOLE OR IN PART BY THE PROCEEDS OF STATE GENERAL OBLIGATION BONDS.~~

~~(g) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.~~

~~(h) Money in the Fund may only be spent:~~

~~(1) to carry out the purposes of this subtitle; [and]~~

~~(2) in accordance with the State budget process; AND~~

~~(3) IF PAID INTO THE FUND UNDER SUBSECTION (F) OF THIS SECTION, FOR:~~

~~(I) COMMISSIONING OR ACQUIRING ARTWORK FOR PROPERTY OWNED OR LEASED BY THE STATE OR FOR PUBLIC SPACES;~~

~~(II) GRANTS TO LOCAL GOVERNMENTS OR INSTRUMENTALITIES; AND~~

~~(III) THE COST OF COLLECTION MANAGEMENT AND PROGRAM ADMINISTRATION.~~

~~4-606.~~

~~(a) Before a grant is awarded to a local government under this subtitle, the local government shall provide and spend a matching fund.~~

~~(b) A matching fund of a local government may not consist of:~~

~~(1) money provided, directly or indirectly, from appropriated or unappropriated State money;~~

~~(2) real property;~~

~~(3) in kind contributions; or~~

~~(4) money spent before June 1, 2005.~~

4-608.

~~[(a) All] EXCEPT FOR A PROJECT FUNDED BY A MATCHING FUND OF A LOCAL GOVERNMENT, ALL~~ artwork funded by the Program is the property of the [Maryland Historical Trust] COMMISSION.

~~[(b) In cooperation with the Department of General Services, the Maryland Historical Trust~~ COMMISSION is responsible for the inventory, maintenance, and preservation of all artwork acquired through the Program.~~]~~

Article – State Finance and Procurement

3-602.2.

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

(2) “COMMISSION” MEANS THE MARYLAND COMMISSION ON PUBLIC ART ESTABLISHED UNDER TITLE 4, SUBTITLE 6 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(3) “CONSTRUCTION PROJECT” MEANS THE CONSTRUCTION OF A NEW BUILDING THAT IS PROPOSED TO CONTAIN 15,000 OR MORE SQUARE FEET.

(4) “COUNCIL” MEANS THE MARYLAND STATE ARTS COUNCIL ESTABLISHED UNDER TITLE 4, SUBTITLE 5 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(5) “DIVISION” MEANS THE DIVISION OF TOURISM, FILM, AND THE ARTS ESTABLISHED UNDER TITLE 4, SUBTITLE 1 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(6) “MAJOR RENOVATION PROJECT” MEANS THE RENOVATION OF AN EXISTING BUILDING WHERE:

(I) THE BUILDING IS TO BE RECONSTRUCTED AND REUSED AFTER THE CONSTRUCTION;

(II) THE HEATING, VENTILATION, AND AIR CONDITIONING, ELECTRICAL, AND PLUMBING SYSTEMS ARE TO BE REPLACED; AND

(III) THE SCOPE OF THE RENOVATION IS 15,000 OR MORE SQUARE FEET.

- (7) (I) "PUBLIC ART" MEANS:**
- 1. AN ARCHITECTURAL ENHANCEMENT OF ARTISTIC SIGNIFICANCE; OR**
 - 2. AN INDIVIDUAL PIECE OF ART.**
- (II) "PUBLIC ART" INCLUDES:**
- 1. A MURAL;**
 - 2. A TILE MOSAIC;**
 - 3. A PAINTING; OR**
 - 4. A SCULPTURE.**

(B) (1) THIS SECTION APPLIES TO CAPITAL PROJECTS THAT ARE FUNDED ENTIRELY WITH STATE FUNDS.

(2) THIS SECTION DOES NOT APPLY TO THE FOLLOWING TYPES OF UNOCCUPIED BUILDINGS:

- (I) WAREHOUSE AND STORAGE FACILITIES;**
- (II) GARAGES;**
- (III) MAINTENANCE FACILITIES;**
- (IV) TRANSMITTER BUILDINGS;**
- (V) PUMPING STATIONS; AND**
- (VI) OTHER SIMILAR BUILDINGS, AS DETERMINED BY THE DEPARTMENT.**

(C) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE REQUIREMENTS OF THIS SECTION WILL NOT INCREASE THE COST OF A CONSTRUCTION PROJECT OR A MAJOR RENOVATION PROJECT.

(D) TO THE EXTENT PRACTICABLE AND EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, THE STATE SHALL INCLUDE PUBLIC ART IN ALL CONSTRUCTION PROJECTS AND MAJOR RENOVATION PROJECTS.

(E) DURING THE INITIAL DESIGN OF EACH CONSTRUCTION PROJECT AND MAJOR RENOVATION PROJECT, THE IDENTIFICATION AND SELECTION OF PUBLIC ART TO BE INCLUDED IN THE PROJECT SHALL BE DETERMINED BY A GROUP COMPOSED OF REPRESENTATIVES OF:

(1) THE UNIT OF STATE GOVERNMENT THAT WILL BE THE PRIMARY USER OF THE BUILDING;

(2) THE UNIT OF STATE GOVERNMENT RESPONSIBLE FOR PROJECT MANAGEMENT OF THE BUILDING; AND

(3) THE DIVISION.

(F) THE DIVISION SHALL WORK WITH THE COUNCIL AND THE COMMISSION IN THE SELECTION OF PUBLIC ART FOR ANY PROJECT UNDER THIS SECTION.

(G) (1) THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE DEPARTMENT OF GENERAL SERVICES SHALL JOINTLY ESTABLISH A PROCESS TO ALLOW A UNIT OF STATE GOVERNMENT TO OBTAIN A WAIVER FROM COMPLYING WITH THIS SECTION.

(2) THE WAIVER PROCESS SHALL:

(I) PROVIDE FOR CONSULTATION WITH THE DIVISION, ON BEHALF OF THE COUNCIL AND THE COMMISSION, TO DETERMINE IF THE INCLUSION OF PUBLIC ART IN A PROPOSED PROJECT IS TOO COSTLY OR NOT PRACTICABLE; AND

(II) REQUIRE THE APPROVAL OF THE SECRETARIES OF BUDGET AND MANAGEMENT AND GENERAL SERVICES.

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

Approved by the Governor, May 16, 2013.

Chapter 530

(House Bill 1337)

AN ACT concerning

**Maryland Public Art Initiative Program – ~~Revisions~~ Selection of Art for
Capital Projects**

FOR the purpose of ~~altering a provision of law relating to the qualifications for appointment as a public member of the Maryland Commission on Public Art; requiring the Commission to include additional State agencies and departments in the Maryland Public Art Initiative Program; requiring the Commission to determine which projects are subject to a certain requirement of the Program; requiring the Commission, in cooperation with the Department of General Services, to be responsible for the management of the collection, including the inventory, conservation, preservation, and deaccession of all artwork acquired through the Program; altering the sources of funding for the Maryland Public Art Fund; repealing a certain provision of law relating to an annual appropriation for the Program in the State operating or capital budget; requiring certain State agencies or departments or other recipients of State funds for certain construction or renovation projects to set aside a certain percentage of the money allocated for the projects to be paid into the Fund; providing that money paid into the Fund under a certain percentage set aside requirement may be used for certain purposes; establishing the intent of the General Assembly that a certain percentage set aside requirement not result in an increase in certain costs; repealing certain provisions of law establishing that all artwork funded by the Program is the property of the Maryland Historical Trust; repealing certain provisions of law relating to the responsibilities of the Trust; establishing, with a certain exception, that all artwork funded by the Program is the property of the Commission~~ providing that artwork funded by the Maryland Public Art Initiative Program is the property of the Maryland Commission on Public Art; providing that the Commission is responsible for the inventory, maintenance, and preservation of certain artwork; requiring the State to include public art into all construction projects and major renovation projects under certain circumstances; requiring, at a certain time, that a certain group determines the identification and selection of public art to be included in a certain project; requiring the Division of Tourism, Film, and the Arts to work with the Maryland State Arts Council and the Commission in the selection of certain public art; requiring the Department of Budget and Management and the Department of General Services to jointly establish a certain waiver process; declaring the intent of the General Assembly; defining certain terms; and generally relating to the Maryland Public Art Initiative Program and the selection of art for capital projects.

~~BY repealing and reenacting, without amendments,
Article – Economic Development
Section 4-601, 4-603(a), and 4-606
Annotated Code of Maryland
(2008 Volume and 2012 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Economic Development

Section ~~4-603(b), 4-604, 4-605, and 4-608~~
Annotated Code of Maryland
(2008 Volume and 2012 Supplement)

BY adding to

Article – State Finance and Procurement
Section 3-602.2
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 – Economic Development

~~4-601.~~

- ~~(a) In this subtitle the following words have the meanings indicated.~~
- ~~(b) “Commission” means the Maryland Commission on Public Art.~~
- ~~(c) “Fund” means the Maryland Public Art Fund.~~
- ~~(d) “Program” means the Maryland Public Art Initiative Program.~~

~~4-603.~~

- ~~(a) There is a Maryland Commission on Public Art.~~
- ~~(b) (1) The Commission consists of the following 11 members:
 - ~~(i) as designated by the chair of the Council, either the Executive Director or a member of the Maryland State Arts Council established under Subtitle 5 of this title;~~
 - ~~(ii) as designated by the chair of the Trust, either the Director or a member of the Maryland Historical Trust established under Title 5A, Subtitle 3 of the State Finance and Procurement Article;~~
 - ~~(iii) as designated by the State Archivist, either the State Archivist or a member of the Commission on Artistic Property established under Title 9, Subtitle 10 of the State Government Article;~~
 - ~~(iv) the Comptroller or the Comptroller’s designee; and~~
 - ~~(v) seven public members appointed by the Secretary with the approval of the Governor.~~~~

~~(2) (i) The Secretary shall include as public members representatives of the artistic community who have professional expertise SUCH as artists, curators, art historians, art educators, or architects.~~

~~(ii) A public member serves at the pleasure of the Secretary.~~

~~4-604.~~

~~The Commission shall:~~

~~(1) work with the Department of General Services, the State Department of Transportation, [and] the University System of Maryland, AND OTHER STATE AGENCIES AND DEPARTMENTS to ensure that new public facilities constructed by State units include the installation of artwork;~~

~~(2) DETERMINE WHICH PROJECTS, UP TO A MAXIMUM OF 10 PROJECTS PER FISCAL YEAR, ARE SUBJECT TO THE PROGRAM PERCENTAGE SET ASIDE REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE;~~

~~[(2)] (3) allocate money from the Fund to commission artwork for installation at public facilities around the State;~~

~~[(3)] (4) establish selection panels to recommend artists and artwork to be funded by the Fund; [and]~~

~~[(4)] (5) make final recommendations concerning the disbursement of money allocated to the Program; AND~~

~~(6) IN COOPERATION WITH THE DEPARTMENT OF GENERAL SERVICES, BE RESPONSIBLE FOR THE MANAGEMENT OF THE COLLECTION, INCLUDING THE INVENTORY, CONSERVATION, PRESERVATION, AND DEACCESSION OF ALL ARTWORK ACQUIRED THROUGH THE PROGRAM.~~

~~4-605.~~

~~(a) There is a Maryland Public Art Fund.~~

~~(b) The purpose of the Fund is to provide money to carry out the Program.~~

~~(c) The Commission shall administer the Fund.~~

~~(d) (1) The Fund is a special, nonlapsing fund that is not subject to reversion under § 7-302 of the State Finance and Procurement Article.~~

~~(2) The Treasurer shall hold the Fund and the Comptroller shall account for the Fund.~~

~~(c) (1) The Fund consists of:~~

~~(i) MONEY MADE AVAILABLE TO THE FUND UNDER SUBSECTION (F) OF THIS SECTION;~~

~~(ii) money appropriated in the State budget for the Program;~~
and

~~[(ii)] (iii) any other money accepted for the benefit of the Fund from any other source.~~

~~(2) Any investment earnings of the Fund shall be paid into the Fund.~~

~~[(f) It is the intent of the General Assembly that for each fiscal year, the Governor shall include in the operating or capital budget an appropriation not to exceed \$1,000,000 for the Program.]~~

~~(F) (1) EACH STATE AGENCY OR DEPARTMENT OR OTHER RECIPIENT OF STATE FUNDS FOR A CONSTRUCTION OR RENOVATION PROJECT THAT THE COMMISSION DETERMINES TO BE SUBJECT TO THE PROGRAM SHALL SET ASIDE 1% OF THE MONEY ALLOCATED FOR THE CONSTRUCTION OR RENOVATION PROJECT TO BE PAID INTO THE FUND IF:~~

~~(i) AT LEAST 50% OF THE CONSTRUCTION OR RENOVATION PROJECT IS FUNDED THROUGH ALLOCATIONS IN THE STATE CAPITAL BUDGET; AND~~

~~(ii) THE TOTAL AMOUNT ALLOCATED FOR THE PROJECT IN THE STATE CAPITAL BUDGET IS AT LEAST \$500,000.~~

~~(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PERCENTAGE SET ASIDE REQUIREMENT ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION NOT RESULT IN AN INCREASE IN THE COST OF PROJECTS FINANCED IN WHOLE OR IN PART BY THE PROCEEDS OF STATE GENERAL OBLIGATION BONDS.~~

~~(g) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.~~

~~(h) Money in the Fund may only be spent:~~

~~(1) to carry out the purposes of this subtitle; [and]~~

~~(2) in accordance with the State budget process; AND~~

~~(3) IF PAID INTO THE FUND UNDER SUBSECTION (F) OF THIS SECTION, FOR:~~

~~(I) COMMISSIONING OR ACQUIRING ARTWORK FOR PROPERTY OWNED OR LEASED BY THE STATE OR FOR PUBLIC SPACES;~~

~~(II) GRANTS TO LOCAL GOVERNMENTS OR INSTRUMENTALITIES; AND~~

~~(III) THE COST OF COLLECTION MANAGEMENT AND PROGRAM ADMINISTRATION.~~

~~4-606.~~

~~(a) Before a grant is awarded to a local government under this subtitle, the local government shall provide and spend a matching fund.~~

~~(b) A matching fund of a local government may not consist of:~~

~~(1) money provided, directly or indirectly, from appropriated or unappropriated State money;~~

~~(2) real property;~~

~~(3) in kind contributions; or~~

~~(4) money spent before June 1, 2005.~~

~~4-608.~~

~~[(a) All] EXCEPT FOR A PROJECT FUNDED BY A MATCHING FUND OF A LOCAL GOVERNMENT, ALL~~ artwork funded by the Program is the property of the [Maryland Historical Trust] COMMISSION.

~~[(b) In cooperation with the Department of General Services, the Maryland Historical Trust~~ COMMISSION is responsible for the inventory, maintenance, and preservation of all artwork acquired through the Program.~~]~~

Article – State Finance and Procurement

3-602.2.

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

(2) “COMMISSION” MEANS THE MARYLAND COMMISSION ON PUBLIC ART ESTABLISHED UNDER TITLE 4, SUBTITLE 6 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(3) “CONSTRUCTION PROJECT” MEANS THE CONSTRUCTION OF A NEW BUILDING THAT IS PROPOSED TO CONTAIN 15,000 OR MORE SQUARE FEET.

(4) “COUNCIL” MEANS THE MARYLAND STATE ARTS COUNCIL ESTABLISHED UNDER TITLE 4, SUBTITLE 5 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(5) “DIVISION” MEANS THE DIVISION OF TOURISM, FILM, AND THE ARTS ESTABLISHED UNDER TITLE 4, SUBTITLE 1 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(6) “MAJOR RENOVATION PROJECT” MEANS THE RENOVATION OF AN EXISTING BUILDING WHERE:

(I) THE BUILDING IS TO BE RECONSTRUCTED AND REUSED AFTER THE CONSTRUCTION;

(II) THE HEATING, VENTILATION, AND AIR CONDITIONING, ELECTRICAL, AND PLUMBING SYSTEMS ARE TO BE REPLACED; AND

(III) THE SCOPE OF THE RENOVATION IS 15,000 OR MORE SQUARE FEET.

(7) (I) “PUBLIC ART” MEANS:

1. AN ARCHITECTURAL ENHANCEMENT OF ARTISTIC SIGNIFICANCE; OR

2. AN INDIVIDUAL PIECE OF ART.

(II) “PUBLIC ART” INCLUDES:

1. A MURAL;

2. A TILE MOSAIC;

3. A PAINTING; OR

4. A SCULPTURE.

(B) (1) THIS SECTION APPLIES TO CAPITAL PROJECTS THAT ARE FUNDED ENTIRELY WITH STATE FUNDS.

(2) THIS SECTION DOES NOT APPLY TO THE FOLLOWING TYPES OF UNOCCUPIED BUILDINGS:

(I) WAREHOUSE AND STORAGE FACILITIES;

(II) GARAGES;

(III) MAINTENANCE FACILITIES;

(IV) TRANSMITTER BUILDINGS;

(V) PUMPING STATIONS; AND

(VI) OTHER SIMILAR BUILDINGS, AS DETERMINED BY THE DEPARTMENT.

(C) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE REQUIREMENTS OF THIS SECTION WILL NOT INCREASE THE COST OF A CONSTRUCTION PROJECT OR A MAJOR RENOVATION PROJECT.

(D) TO THE EXTENT PRACTICABLE AND EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, THE STATE SHALL INCLUDE PUBLIC ART IN ALL CONSTRUCTION PROJECTS AND MAJOR RENOVATION PROJECTS.

(E) DURING THE INITIAL DESIGN OF EACH CONSTRUCTION PROJECT AND MAJOR RENOVATION PROJECT, THE IDENTIFICATION AND SELECTION OF PUBLIC ART TO BE INCLUDED IN THE PROJECT SHALL BE DETERMINED BY A GROUP COMPOSED OF REPRESENTATIVES OF:

(1) THE UNIT OF STATE GOVERNMENT THAT WILL BE THE PRIMARY USER OF THE BUILDING;

(2) THE UNIT OF STATE GOVERNMENT RESPONSIBLE FOR PROJECT MANAGEMENT OF THE BUILDING; AND

(3) THE DIVISION.

(F) THE DIVISION SHALL WORK WITH THE COUNCIL AND THE COMMISSION IN THE SELECTION OF PUBLIC ART FOR ANY PROJECT UNDER THIS SECTION.

(G) (1) THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE DEPARTMENT OF GENERAL SERVICES SHALL JOINTLY ESTABLISH A PROCESS TO ALLOW A UNIT OF STATE GOVERNMENT TO OBTAIN A WAIVER FROM COMPLYING WITH THIS SECTION.

(2) THE WAIVER PROCESS SHALL:

(I) PROVIDE FOR CONSULTATION WITH THE DIVISION, ON BEHALF OF THE COUNCIL AND THE COMMISSION, TO DETERMINE IF THE INCLUSION OF PUBLIC ART IN A PROPOSED PROJECT IS TOO COSTLY OR NOT PRACTICABLE; AND

(II) REQUIRE THE APPROVAL OF THE SECRETARIES OF BUDGET AND MANAGEMENT AND GENERAL SERVICES.

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

Approved by the Governor, May 16, 2013.

Chapter 531

(Senate Bill 730)

AN ACT concerning

Recordation and Transfer Taxes – Low Income Housing Projects – Controlling Interest

FOR the purpose of establishing the consideration used to calculate the recordation and State and county transfer tax on certain transactions for which a controlling interest is conveyed; providing for the application of this Act; and generally relating to the recordation and State and county transfer taxes.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 12–103(a), 13–203(a), and 13–412
Annotated Code of Maryland
(2012 Replacement Volume)

BY adding to

Article – Tax – Property
 Section 12-103(a-1), and 13-203(a-1), ~~and 13-412(e)~~
 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

12-103.

(a) (1) ~~[The] EXCEPT AS PROVIDED IN SUBSECTION (A-1) OF THIS SECTION, THE~~ recordation tax rates under this section are applied to each \$500 or fraction of \$500 of consideration payable or of the principal amount of the debt secured for an instrument of writing.

(2) The consideration:

(i) includes the amount of any mortgage or deed of trust assumed by the grantee; and

(ii) subject to item (i) of this paragraph, includes only the amount paid or delivered in return for the sale of the property and does not include the amount of any debt forgiven or no longer secured by a mortgage or deed of trust on the property.

(A-1) (1) THE RECORDATION TAX RATES UNDER THIS SECTION ARE APPLIED TO EACH \$500 OR FRACTION OF \$500 OF CONSIDERATION PAID FOR THE CONVEYANCE OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AS DEFINED IN § 12-117 OF THIS SUBTITLE THAT HAS DEVELOPED REAL PROPERTY UNDER SECTION 42 OF THE INTERNAL REVENUE CODE, THE LOW INCOME HOUSING TAX CREDIT PROGRAM.

(2) THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE THE ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE PURCHASE OF THE INTEREST.

13-203.

(a) (1) Except ~~AS PROVIDED IN SUBSECTION (A-1)~~ SUBSECTIONS (A-1) AND (B) OF THIS SECTION, ~~AND EXCEPT as provided in subsection (b) of this section,~~ the rate of the transfer tax is 0.5% of the consideration payable for the instrument of writing.

(2) The consideration:

(i) includes the amount of any mortgage or deed of trust assumed by the grantee; and

(ii) subject to item (i) of this paragraph, includes only the amount paid or delivered in return for the sale of the property and does not include the amount of any debt forgiven or no longer secured by a mortgage or deed of trust on the property.

(A-1) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE RATE OF THE TRANSFER TAX IS 0.5% OF THE CONSIDERATION PAID FOR THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AS DEFINED IN § 13-103 OF THIS TITLE THAT HAS DEVELOPED REAL PROPERTY UNDER SECTION 42 OF THE INTERNAL REVENUE CODE, THE LOW INCOME HOUSING TAX CREDIT PROGRAM.

(2) THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE THE ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE PURCHASE OF THE INTEREST.

13-412.

(a) (1) Except **AS PROVIDED IN SUBSECTION (C) OF THIS SECTION** ~~AND EXCEPT as provided in~~ paragraph (2) of this subsection, a county transfer tax shall apply to the consideration payable for an instrument of writing.

(2) If a county transfer tax applies to mortgages or deeds of trust, the county transfer tax shall apply to the consideration payable or the principal amount of the debt secured for an instrument of writing.

(b) **[The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE** consideration:

(1) includes the amount of any mortgage or deed of trust assumed by the grantee; and

(2) subject to item (1) of this subsection, includes only the amount paid or delivered in return for the sale of the property and does not include the amount of any debt forgiven or no longer secured by a mortgage or deed of trust on the property.

(C) (1) A COUNTY TRANSFER TAX APPLIES TO THE CONSIDERATION PAID FOR THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AS DEFINED IN § 13-103 OF THIS TITLE THAT HAS DEVELOPED REAL

PROPERTY UNDER SECTION 42 OF THE INTERNAL REVENUE CODE, THE LOW INCOME HOUSING TAX CREDIT PROGRAM.

(2) THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE THE ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE PURCHASE OF THE INTEREST.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013, and shall be applicable to all instruments of writing recorded or filed on or after July 1, 2013.

Approved by the Governor, May 16, 2013.

Chapter 532

(House Bill 1236)

AN ACT concerning

**Recordation and Transfer Taxes – Low Income Housing Projects –
Controlling Interest**

FOR the purpose of establishing the consideration used to calculate the recordation and State and county transfer tax on certain transactions for which a controlling interest is conveyed; ~~defining certain terms; making conforming and stylistic changes;~~ providing for the application of this Act; and generally relating to the recordation of and State and county transfer taxes.

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section ~~12-101(g) through (l), 12-103(a), 13-101(g) and (h), 13-103(a), 13-203(a), and 13-412~~

Annotated Code of Maryland
(2012 Replacement Volume)

BY adding to

Article – Tax – Property

Section ~~12-101(a-1) and (g), 12-103(a-1), 12-103(a-1) 13-101(a-1) and (g), and 13-203(a-1), and 13-412(e)~~

Annotated Code of Maryland
(2012 Replacement Volume)

~~BY repealing~~

~~Article – Tax – Property~~

~~Section 12-117(a)(6)
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

~~12-101.~~

~~(A-1) “ACTUAL PAYMENT” MEANS THE AMOUNT OF MONETARY CONSIDERATION PAID FOR THE CONVEYANCE OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY THAT OWNS PROPERTY DEVELOPED UNDER SECTION 42 OF THE INTERNAL REVENUE CODE, THE LOW INCOME HOUSING TAX CREDIT PROGRAM.~~

~~(C) (1) “REAL PROPERTY ENTITY” MEANS A CORPORATION, A PARTNERSHIP, AN ASSOCIATION, A LIMITED LIABILITY COMPANY, A LIMITED LIABILITY PARTNERSHIP, ANY OTHER UNINCORPORATED FORM OF DOING BUSINESS, OR A TRUST THAT DIRECTLY OR BENEFICIALLY OWNS REAL PROPERTY THAT:~~

~~(i) CONSTITUTES AT LEAST 80% OF THE VALUE OF ITS ASSETS; AND~~

~~(ii) HAS AN AGGREGATE VALUE OF AT LEAST \$1,000,000 THAT IS DETERMINED WITHOUT REDUCTION FOR ANY MORTGAGE, DEED OF TRUST, OR OTHER LIEN ON OR SECURITY INTEREST IN THE REAL PROPERTY.~~

~~(2) “REAL PROPERTY ENTITY” DOES NOT INCLUDE AN ENTITY WITH LAND HOLDINGS THAT, OTHER THAN HOMESITES OR AREAS OF COMMERCIAL ACTIVITY RELATED TO AGRICULTURAL PRODUCTION, ARE ENTIRELY SUBJECT TO AN AGRICULTURAL USE ASSESSMENT UNDER § 8-209 OF THIS ARTICLE.~~

~~(g)(ii) “Recordation tax” means the tax imposed under this title.~~

~~(h)(1) (1) “Security agreement” means an agreement that creates or provides for a security interest.~~

~~(2) “Security agreement” includes a financing statement filed under the Maryland Uniform Commercial Code to perfect a security interest.~~

~~[(i)] (J)~~ (1) ~~“Security interest” means an interest in real property or personal property that secures payment or performance of an obligation.~~

~~(2) “Security interest” includes a lien or encumbrance on real property or personal property.~~

~~[(i)] (K)~~ ~~“Subsidiary corporation” includes any corporation that is a subsidiary of either a parent corporation or any other subsidiary corporation of the parent corporation.~~

~~[(k)] (L)~~ ~~“Successor” has the meaning stated in § 1-101(y) of the Corporations and Associations Article.~~

~~[(d)] (M)~~ (1) ~~“Supplemental instrument of writing” means an instrument of writing that confirms, corrects, modifies, or supplements a previously recorded instrument of writing.~~

~~(2) “Supplemental instrument of writing” includes an instrument of writing that secures a debt and grants a security interest in property in addition to or in substitution for property described in the previously recorded instrument of writing.~~

12-103.

(a) (1) [The] **EXCEPT AS PROVIDED IN SUBSECTION (A-1) OF THIS SECTION, THE** recordation tax rates under this section are applied to each \$500 or fraction of \$500 of consideration payable or of the principal amount of the debt secured for an instrument of writing.

(2) The consideration:

(i) includes the amount of any mortgage or deed of trust assumed by the grantee; and

(ii) subject to item (i) of this paragraph, includes only the amount paid or delivered in return for the sale of the property and does not include the amount of any debt forgiven or no longer secured by a mortgage or deed of trust on the property.

(A-1) (1) THE RECORDATION TAX RATES UNDER THIS SECTION ARE APPLIED TO EACH \$500 OR FRACTION OF \$500 OF CONSIDERATION PAID FOR THE CONVEYANCE OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AS DEFINED IN § 12-117 OF THIS SUBTITLE THAT HAS DEVELOPED REAL PROPERTY UNDER SECTION 42 OF THE INTERNAL REVENUE CODE, THE LOW INCOME HOUSING TAX CREDIT PROGRAM.

(2) THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE THE ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE PURCHASE OF THE INTEREST.

~~12-117.~~

~~(a) (c) (i) “Real property entity” means a corporation, partnership, association, limited liability company, limited liability partnership, other unincorporated form of doing business, or trust that directly or beneficially owns real property that:~~

~~1. constitutes at least 80% of the value of its assets; and~~

~~2. has an aggregate value of at least \$1,000,000.~~

~~(ii) For the purposes of this paragraph, the value of real property shall be determined without reduction for any mortgage, deed of trust, or other lien on or security interest in the real property.~~

~~(iii) “Real property entity” does not include an entity with land holdings that, other than homesites or areas of commercial activity related to agricultural production, are entirely subject to an agricultural use assessment under § 8-209 of this article.]~~

~~13-101.~~

~~(A-1) “ACTUAL PAYMENT” HAS THE MEANING STATED IN § 12-101 OF THIS ARTICLE.~~

~~(c) (1) “REAL PROPERTY ENTITY” MEANS A CORPORATION, A PARTNERSHIP, AN ASSOCIATION, A LIMITED LIABILITY COMPANY, A LIMITED LIABILITY PARTNERSHIP, ANY OTHER UNINCORPORATED FORM OF DOING BUSINESS, OR A TRUST THAT DIRECTLY OR BENEFICIALLY OWNS REAL PROPERTY THAT:~~

~~(i) CONSTITUTES AT LEAST 80% OF THE VALUE OF ITS ASSETS; AND~~

~~(ii) HAS AN AGGREGATE VALUE OF AT LEAST \$1,000,000 THAT IS DETERMINED WITHOUT REDUCTION FOR ANY MORTGAGE, DEED OF TRUST, OR OTHER LIEN ON OR SECURITY INTEREST IN THE REAL PROPERTY.~~

~~(2) “REAL PROPERTY ENTITY” DOES NOT INCLUDE AN ENTITY WITH LAND HOLDINGS THAT, OTHER THAN HOMESITES OR AREAS OF COMMERCIAL ACTIVITY RELATED TO AGRICULTURAL PRODUCTION, ARE~~

~~ENTIRELY SUBJECT TO AN AGRICULTURAL USE ASSESSMENT UNDER § 8-209 OF THIS ARTICLE.~~

~~[(g)](H) “Subsidiary corporation” includes any corporation that is a subsidiary of either a parent corporation or any other subsidiary corporation of the parent corporation.~~

~~[(h)](I) “Successor” has the meaning stated in § 1-101(y) of the Corporations and Associations Article.~~

~~13-103.~~

~~(a) In this section, “controlling interest”[,], AND “real property”[,], and “real property entity”[,], have the meanings stated in § 12-117 of this article.~~

13-203.

(a) (1) Except AS PROVIDED IN ~~SUBSECTION (A-1)~~ **SUBSECTIONS (A-1) AND (B) OF THIS SECTION, AND EXCEPT** as provided in subsection (b) of this section, the rate of the transfer tax is 0.5% of the consideration payable for the instrument of writing.

(2) The consideration:

(i) includes the amount of any mortgage or deed of trust assumed by the grantee; and

(ii) subject to item (i) of this paragraph, includes only the amount paid or delivered in return for the sale of the property and does not include the amount of any debt forgiven or no longer secured by a mortgage or deed of trust on the property.

(A-1) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE RATE OF THE TRANSFER TAX IS 0.5% OF THE CONSIDERATION PAID FOR THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AS DEFINED IN § 13-103 OF THIS TITLE THAT HAS DEVELOPED REAL PROPERTY UNDER SECTION 42 OF THE INTERNAL REVENUE CODE, THE LOW INCOME HOUSING TAX CREDIT PROGRAM.

(2) THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE THE ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE PURCHASE OF THE INTEREST.

13-412.

(a) (1) Except **AS PROVIDED IN SUBSECTION (C) OF THIS SECTION** AND ~~EXCEPT as provided in~~ paragraph (2) of this subsection, a county transfer tax shall apply to the consideration payable for an instrument of writing.

(2) If a county transfer tax applies to mortgages or deeds of trust, the county transfer tax shall apply to the consideration payable or the principal amount of the debt secured for an instrument of writing.

(b) [The] **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,** THE consideration:

(1) includes the amount of any mortgage or deed of trust assumed by the grantee; and

(2) subject to item (1) of this subsection, includes only the amount paid or delivered in return for the sale of the property and does not include the amount of any debt forgiven or no longer secured by a mortgage or deed of trust on the property.

(c) (1) **A COUNTY TRANSFER TAX APPLIES TO THE CONSIDERATION PAID FOR THE TRANSFER OF A CONTROLLING INTEREST IN A REAL PROPERTY ENTITY AS DEFINED IN § 13-103 OF THIS TITLE THAT HAS DEVELOPED REAL PROPERTY UNDER SECTION 42 OF THE INTERNAL REVENUE CODE, THE LOW INCOME HOUSING TAX CREDIT PROGRAM.**

(2) **THE CONSIDERATION UNDER THIS SUBSECTION SHALL BE THE ACTUAL PAYMENT MADE BY THE PURCHASER TO THE SELLER FOR THE PURCHASE OF THE INTEREST.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013, and shall be applicable to all instruments of writing recorded or filed on or after July 1, 2013.

Approved by the Governor, May 16, 2013.

Chapter 533

(Senate Bill 740)

AN ACT concerning

College *and Career* Readiness and *College* Completion Act of 2013

FOR the purpose of requiring the State ~~Department~~ Board of Education to establish certain ~~mathematics course~~ curriculum and graduation requirements for certain

students; ~~requiring students to enroll in a college preparation curriculum except in a certain circumstance~~; requiring the State Department of Education to make a certain assessment of ~~all students in the 11th grade~~ certain students by a certain school year; requiring the Department, in collaboration with ~~a certain association~~ certain local school systems and certain community colleges, to develop and implement certain courses for the 12th grade by a certain school year; providing that the implementation of certain courses must include a certain assessment and may not preclude or replace certain requirements; requiring certain students to enroll in a mathematics course in each year of high school; requiring the Department to adopt certain regulations; stating certain goals of the State; stating a certain duty of the Maryland Higher Education Commission; requiring the Commission, in collaboration with certain institutions of higher education, to develop and implement ~~a certain course numbering system and~~ certain credit transfer agreements by certain dates and certain incentives for certain students to obtain certain degrees under certain circumstances; requiring the Commission, in collaboration with certain institutions of higher education, to create a certain statewide communication campaign to identify certain individuals; requiring the Commission to develop and implement a certain incentive plan for certain individuals and certain institutions of higher education; requiring the Commission to submit ~~a certain report by a certain date~~ certain reports by certain dates; requiring certain students to file a degree plan with certain institutions of higher education by a certain time; requiring a degree plan to be developed in consultation with a student's certain academic advisor and to follow a certain pathway to a degree; requiring certain institutions of higher education to develop and implement a certain block scheduling pathway system with certain benchmarks for certain students; ~~requiring certain institutions of higher education to consider implementing certain block scheduling~~; requiring certain institutions of higher education to provide certain financial assistance to certain students; beginning on a certain date, establishing a standard number of credits required for certain degrees at certain institutions of higher education except under certain circumstances; authorizing the ~~Commission~~ governing board of a public institution of higher education, in consultation with the Commission, to establish additional exceptions to the standard number of credits required for certain degrees; clarifying eligibility for a certain grant program for certain students; ~~beginning on or before a certain date~~, prohibiting certain institutions of higher education from charging dually enrolled students tuition; requiring each county board of education to provide a certain amount of funding to certain institutions of higher education for dually enrolled students; requiring a county board to pay a certain amount for a certain number of courses for a certain dually enrolled student under certain circumstances; authorizing county boards to charge a ~~student activities~~ fee to dually enrolled students not to exceed a certain amount; requiring a county board to consider certain information when setting fees; requiring the county board to waive a certain fee for certain students; requiring certain county boards to offer make certain students aware of the opportunity to dually enroll under certain circumstances; requiring the Maryland Longitudinal Data System Center to submit a certain annual report;

requiring the Governor's P-20 Leadership Council of Maryland to monitor implementation of certain college strategies; requiring the Council to submit certain reports by certain dates; requiring the Department to develop, in consultation with certain institutions of higher education, a certain plan to improve college and career counseling; requiring the Department to conduct a certain study and to submit a certain report by a certain date certain reports by certain dates; requiring the Commission to submit certain data to the Department of Legislative Services and to submit certain reports by certain dates; requiring the Segmental Advisory Council to submit a certain report by a certain date; expressing a certain legislative intent; defining certain terms; and generally relating to college and career readiness and college completion in the State.

BY repealing and reenacting, without amendments,

Article – Education

Section 1-101(a), (d), (f), and (l), 10-101(a), (c), (h), and (m), and 24-801(a)

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

BY adding to

Article – Education

Section 7-205.1, 11-105(b)(9), 11-209, 15-113 through 15-116, 18-14A-04, 18-14A-05, 24-703.1, and 24-801(m)

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 10-205, 11-207, 18-14A-01 through 18-14A-04, and 24-801(i)

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

Preamble

WHEREAS, The United States is one of the most well-educated countries in the world with 42% of adults age 25 to 64 years having attained a postsecondary degree; and

WHEREAS, Many countries have surpassed the United States in the percentage of young adults with a postsecondary degree; and

WHEREAS, By 2018, two-thirds of all jobs in Maryland will require some postsecondary education; and

WHEREAS, Governor Martin O'Malley has set the goal that at least 55% of Maryland's adults aged 25 to 64 years will hold at least an associate's degree by 2025; and

WHEREAS, Nearly two-thirds of high school graduates who enroll in a community college and one-quarter of high school graduates who enroll in a four-year institution require remediation; now, therefore,

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

Article – Education

1–101.

(a) In this article, unless the context requires otherwise, the following words have the meanings indicated.

(d) “County board” means the board of education of a county and includes the Baltimore City Board of School Commissioners.

(f) “Department” means the State Department of Education.

(l) “State Board” means the State Board of Education.

7–205.1.

(A) THE STATE BOARD SHALL ESTABLISH HIGH SCHOOL CURRICULUM AND GRADUATION REQUIREMENTS FOR ALL PUBLIC SCHOOLS IN ACCORDANCE WITH THIS SECTION.

~~**(B) ALL STUDENTS SHALL ENROLL IN A COLLEGE PREPARATION CURRICULUM IN HIGH SCHOOL UNLESS A PARENT OF A STUDENT CHOOSES TO ENROLL THE STUDENT IN A NONCOLLEGE PREPARATION CURRICULUM.**~~

~~**(C)**~~ **(B) (1) BEGINNING WITH THE ~~2014–2015~~ 2015–2016 SCHOOL YEAR, ALL STUDENTS SHALL BE ASSESSED ~~IN THE~~ USING ACCEPTABLE COLLEGE PLACEMENT CUT SCORES NO LATER THAN 11TH GRADE TO DETERMINE WHETHER THE STUDENT IS READY FOR COLLEGE-LEVEL CREDIT-BEARING COURSE WORK IN ENGLISH LANGUAGE ARTS, LITERACY, AND MATHEMATICS.**

(2) (I) ~~THE~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT, IN COLLABORATION WITH LOCAL SCHOOL SYSTEMS AND PUBLIC COMMUNITY COLLEGES, SHALL DEVELOP AND IMPLEMENT, BY THE ~~2015–2016~~ 2016–2017 SCHOOL YEAR, TRANSITION COURSES OR OTHER INSTRUCTIONAL OPPORTUNITIES TO BE DELIVERED IN THE 12TH GRADE TO STUDENTS WHO HAVE NOT ACHIEVED COLLEGE AND CAREER READINESS BY THE END OF THE 11TH GRADE.

(II) THE IMPLEMENTATION OF TRANSITION COURSES OR OTHER INSTRUCTIONAL OPPORTUNITIES REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. SHALL INCLUDE AN ASSESSMENT OR REASSESSMENT OF THE STUDENT AFTER COMPLETION OF THE COURSE; AND

2. MAY NOT PRECLUDE OR REPLACE ENROLLMENT IN A COURSE OTHERWISE REQUIRED FOR GRADUATION FROM HIGH SCHOOL.

~~(D)~~ (C) (1) EACH BEGINNING WITH THE 9TH GRADE CLASS OF 2014, AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND SUBSECTION (E) OF THIS SECTION, EACH STUDENT SHALL COMPLETE ENROLL IN A MATHEMATICS COURSE IN EACH YEAR OF HIGH SCHOOL THAT THE STUDENT ATTENDS HIGH SCHOOL.

(2) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT ESTABLISH THE MATHEMATICS AND MATH-RELATED COURSES THAT FULFILL THE REQUIREMENTS OF THIS SUBSECTION, WHICH MAY INCLUDE MATH-RELATED CAREER AND TECHNOLOGY PROGRAM COURSES.

~~(2) (I) THE MINIMUM LEVEL OF MATHEMATICS COMPETENCY THAT EACH STUDENT WHO IS ENROLLED IN A COLLEGE PREPARATION CURRICULUM IN HIGH SCHOOL SHALL ACHIEVE IS IN ALGEBRA II.~~

~~(II) IF A STUDENT ENROLLED IN A COLLEGE PREPARATION CURRICULUM IN HIGH SCHOOL HAS ACHIEVED COMPETENCY IN ALGEBRA II BEFORE THE SENIOR YEAR, THE STUDENT SHALL ENROLL IN A NONTRIVIAL MATHEMATICS COURSE, INCLUDING TRIGONOMETRY, PRECALCULUS, CALCULUS, STATISTICS, OR COLLEGE ALGEBRA.~~

~~(2) (D)~~ IT IS THE GOAL OF THE STATE THAT ALL STUDENTS ACHIEVE MATHEMATICS COMPETENCY IN ALGEBRA II.

~~(D)~~ (E) A STUDENT WHO IS ENROLLED IN A CREDIT-BEARING MATHEMATICS TRANSITION COURSE UNDER SUBSECTION (B)(2) OF THIS SECTION:

(1) SUBJECT TO ITEM (2) OF THIS SUBSECTION, SHALL BE CONSIDERED TO MEET THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION; AND

(2) MAY NOT BE CONSIDERED TO MEET THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION IF OTHER CREDIT-BEARING COURSES REQUIRED FOR GRADUATION HAVE NOT BEEN MET.

10-101.

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

(c) "Commission" means the Maryland Higher Education Commission.

(h) (1) "Institution of higher education" means an institution of postsecondary education that generally limits enrollment to graduates of secondary schools, and awards degrees at either the associate, baccalaureate, or graduate level.

(2) "Institution of higher education" includes public, private nonprofit, and for-profit institutions of higher education.

(m) "Public senior higher education institution" means:

(1) The constituent institutions of the University System of Maryland;

(2) Morgan State University; and

(3) St. Mary's College of Maryland.

10-205.

(A) IT IS THE GOAL OF THE STATE THAT AT LEAST 55% OF MARYLAND'S ADULTS AGE 25 TO 64 WILL HOLD AT LEAST AN ASSOCIATE'S DEGREE BY THE YEAR 2025.

(B) IT IS THE GOAL OF THE STATE THAT ALL DEGREE-SEEKING STUDENTS ENROLLED IN A PUBLIC COMMUNITY COLLEGE EARN AN ASSOCIATE'S DEGREE BEFORE LEAVING THE COMMUNITY COLLEGE OR TRANSFERRING TO A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION.

[(a)] (C) Institutions of higher education should utilize educational resources to provide the greatest possible benefit to the citizens of the State and to foster economic development.

[(b)] (D) In each region of the State, institutions of higher education should cooperate to assure an effective and efficient education system.

[(c)] (E) In developing missions and programs, the Maryland Higher Education Commission and each governing board and its constituent institutions shall consider the role, mission, and function of other public senior higher education

institutions, particularly those institutions offering unique programs and services in the same geographical region.

11–105.

(b) (9) THE COMMISSION HAS STATEWIDE COORDINATING RESPONSIBILITIES FOR INSTITUTIONS OF HIGHER EDUCATION TO ENSURE THE STATE ACHIEVES THE GOALS ESTABLISHED UNDER § 10–205 OF THIS ARTICLE.

11–207.

(a) The Commission shall:

(1) Establish procedures for transfer of students between the public segments of postsecondary education;

(2) Recommend cooperative programs among segments of postsecondary education to assure appropriate flexibility in the higher education system; and

(3) In conjunction with the governing boards, establish standards for articulation agreements.

~~**(B) THE COMMISSION, IN COLLABORATION WITH THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION, SHALL DEVELOP AND IMPLEMENT A COMMON COURSE NUMBERING SYSTEM AT ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION BY JULY 1, 2015.**~~

~~**(B)**~~ **(B) THE COMMISSION, IN COLLABORATION WITH THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION, SHALL DEVELOP AND IMPLEMENT A STATEWIDE TRANSFER AGREEMENT WHEREBY ~~ALL~~ AT LEAST 60 CREDITS OF GENERAL EDUCATION, ELECTIVE, AND MAJOR COURSES THAT A STUDENT EARNS AT ANY COMMUNITY COLLEGE IN THE STATE TOWARD AN ASSOCIATE'S OF ART OR ASSOCIATE'S OF SCIENCE DEGREE SHALL BE TRANSFERRABLE TO ANY PUBLIC SENIOR HIGHER EDUCATION INSTITUTION IN THE STATE FOR CREDIT TOWARD A BACHELOR'S DEGREE BY JULY 1, 2016.**

~~**(D)**~~ **(C) THE COMMISSION, IN COLLABORATION WITH THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION, SHALL DEVELOP AND IMPLEMENT A STATEWIDE REVERSE TRANSFER AGREEMENT WHEREBY ~~ALL~~ AT LEAST 30 CREDITS THAT A STUDENT EARNS AT ANY PUBLIC SENIOR HIGHER EDUCATION INSTITUTION IN THE STATE TOWARD A BACHELOR'S DEGREE ARE TRANSFERRABLE TO ANY COMMUNITY COLLEGE IN THE STATE FOR CREDIT TOWARD AN ASSOCIATE'S DEGREE BY JULY 1, 2016.**

(D) THE COMMISSION AND EACH PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL DEVELOP AND IMPLEMENT INCENTIVES FOR STUDENTS TO OBTAIN AN ASSOCIATE'S DEGREE BEFORE ENROLLING IN A PUBLIC SENIOR INSTITUTION OF HIGHER EDUCATION.

[(b)] ~~(E)~~ (F) The Commission may recommend procedures and guidelines for consideration by the governing boards of institutions of postsecondary education on:

- (1) Improvement and coordination of student financial assistance programs; and
- (2) Other subjects of general interest and concern to the higher education community in the State.

11-209.

(A) IN THIS SECTION, "NEAR COMPLETER" MEANS AN INDIVIDUAL WHO HAS COMPLETED SOME COLLEGE CREDITS BUT DOES NOT HAVE A COLLEGE DEGREE AND IS NO LONGER ATTENDING AN INSTITUTION OF HIGHER EDUCATION.

(B) THE COMMISSION, IN COLLABORATION WITH INSTITUTIONS OF HIGHER EDUCATION, SHALL CREATE A STATEWIDE COMMUNICATION CAMPAIGN TO IDENTIFY NEAR COMPLETERS IN THE STATE AND TO ENCOURAGE NEAR COMPLETERS TO RE-ENROLL IN AN INSTITUTION OF HIGHER EDUCATION TO EARN A DEGREE.

(C) THE COMMUNICATION CAMPAIGN SHALL:

(1) MAKE USE OF A VARIETY OF MARKETING MEDIA, INCLUDING BILLBOARDS, BROCHURES, AND ELECTRONIC RESOURCES;

(2) PROVIDE A CENTRALIZED CONTACT POINT FOR NEAR COMPLETERS TO GET INFORMATION ABOUT AND ASSISTANCE WITH RE-ENROLLING; ~~AND~~

(3) MAKE READILY AVAILABLE CONTACT INFORMATION FOR EACH PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE; AND

~~(3)~~ (4) FOCUS ON NEAR COMPLETERS WHO:

(i) EARNED A MINIMUM GRADE POINT AVERAGE OF 2.0 ON A SCALE OF 4.0 WHILE IN COLLEGE; AND

(II) 1. EARNED AT LEAST 45 CREDIT HOURS IF THE INDIVIDUAL ATTENDED A COMMUNITY COLLEGE; OR

2. EARNED AT LEAST ~~70~~ 90 CREDIT HOURS IF THE INDIVIDUAL ATTENDED A SENIOR HIGHER EDUCATION INSTITUTION.

(D) (1) THE COMMISSION SHALL DEVELOP AND IMPLEMENT A PLAN THAT WOULD PROVIDE AN INCENTIVE TO:

(I) A NEAR COMPLETER TO RE-ENROLL AND EARN A DEGREE; AND

(II) A COLLEGE TO IDENTIFY AND GRADUATE NEAR COMPLETERS.

(2) THE INCENTIVE PLAN SHALL USE ALL AVAILABLE RESOURCES, INCLUDING ~~ENDOWMENT~~ INSTITUTIONAL FUNDS, PRIVATE SECTOR FUNDS, AND STATE FUNDS.

(E) THE COMMISSION AND INSTITUTIONS OF HIGHER EDUCATION MAY IMPLEMENT OTHER NEAR COMPLETER INITIATIVES IN ADDITION TO THE CAMPAIGN AND INCENTIVE PLAN REQUIRED UNDER THIS SECTION.

(F) BY DECEMBER 1, 2013, THE COMMISSION SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE DETAILS OF THE STATEWIDE COMMUNICATION CAMPAIGN AND THE INCENTIVE PLAN, INCLUDING THE EXPECTED TIMELINE FOR IMPLEMENTATION.

15-113.

(A) IN THIS SECTION, “DEGREE PLAN” MEANS A STATEMENT OF THE COURSE OF STUDY REQUIREMENTS THAT AN UNDERGRADUATE STUDENT ENROLLED IN A PUBLIC ~~SENIOR~~ HIGHER EDUCATION INSTITUTION MUST COMPLETE TO GRADUATE FROM THE INSTITUTION.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, EACH UNDERGRADUATE STUDENT ENROLLED IN A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION SHALL FILE A DEGREE PLAN WITH THE INSTITUTION AS SOON AS PRACTICABLE BUT NOT LATER THAN BY THE COMPLETION OF ~~45~~ 30 45 CREDIT HOURS OF COURSE WORK.

(C) EACH UNDERGRADUATE STUDENT WHO TRANSFERS TO A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION WITH AT LEAST 45 CREDIT HOURS OF

COURSE WORK SHALL FILE A DEGREE PLAN WITH THE INSTITUTION DURING THE STUDENT'S FIRST SEMESTER AT THE INSTITUTION.

(D) EACH DEGREE-SEEKING UNDERGRADUATE STUDENT ENROLLED AT A COMMUNITY COLLEGE SHALL FILE A DEGREE PLAN WITH THE INSTITUTION ON ENTERING THE INSTITUTION.

~~(D)~~ (E) A DEGREE PLAN FILED UNDER THIS SECTION SHALL:

(1) (I) ~~BE~~ BE DEVELOPED IN CONSULTATION WITH AN ACADEMIC ADVISOR IN THE STUDENT'S DEGREE PROGRAM; OR

(II) IF AN ACADEMIC ADVISOR IS NOT AVAILABLE IN THE STUDENT'S DEGREE PROGRAM, ANY ACADEMIC ADVISOR AT THE INSTITUTION; AND

(2) FOLLOW A PATHWAY TO A DEGREE AS REQUIRED UNDER § 15-114 OF THIS SUBTITLE.

15-114.

~~(A)~~ (A) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL:

~~(1) DEVELOP A BLOCK SCHEDULING PATHWAY SYSTEM WHEREBY A DEGREE-SEEKING STUDENT IS AUTOMATICALLY ENROLLED IN COURSES FOR THE FIRST YEAR OF ENROLLMENT OR IS ENROLLED IN COURSES CONCURRENTLY WITH THE FILING OF A DEGREE PLAN UNDER § 15-113 OF THIS SUBTITLE, WHICHEVER IS LATER;~~

(1) DEVELOP A PATHWAY SYSTEM WHEREBY PUBLIC INSTITUTIONS OF HIGHER EDUCATION ESTABLISH GRADUATION PROGRESS BENCHMARKS FOR EACH ACADEMIC MAJOR AND FOR THE GENERAL EDUCATION PROGRAM FOR STUDENTS WHO HAVE NOT DECLARED A MAJOR;

(2) REQUIRE THE ~~BLOCK-SCHEDULE~~ PATHWAY FOR EACH FIRST-TIME DEGREE-SEEKING STUDENT TO INCLUDE CREDIT-BEARING MATHEMATICS AND ENGLISH COURSES IN THE FIRST 24 CREDIT HOURS OF COURSES; AND

(3) REQUIRE THE ~~BLOCK-SCHEDULE~~ PATHWAY FOR EACH DEGREE-SEEKING STUDENT ENROLLED IN A DEVELOPMENTAL COURSE IN MATHEMATICS, READING, OR ENGLISH TO INCLUDE THE CREDIT-BEARING COURSE IN MATHEMATICS, READING, OR ENGLISH CONCURRENT WITH OR IN

THE SEMESTER IMMEDIATELY FOLLOWING COMPLETION OF THE DEVELOPMENTAL COURSE.

(B) (1) THE BENCHMARKS ESTABLISHED IN SUBSECTION (A)(1) OF THIS SECTION SHALL SPECIFY THE CREDIT AND COURSE CRITERIA THAT INDICATE SATISFACTORY PROGRESS TOWARD A DEGREE.

(2) ACADEMIC UNITS SHALL ESTABLISH SCHEDULES FOR REGULAR PERIODIC REVIEWS OF STUDENT PROGRESS.

(3) STUDENTS WHO ARE IN DANGER OF FALLING BEHIND THE PROGRAM BENCHMARKS SHALL BE REQUIRED TO CONSULT WITH AN ACADEMIC ADVISOR BEFORE REGISTRATION.

~~(B) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL CONSIDER IMPLEMENTING BLOCK SCHEDULING BASED ON THE TIME OF DAY TO ASSIST FULL TIME STUDENTS OR PART TIME STUDENTS WITH WORK OR FAMILY COMMITMENTS TO ACHIEVE A COLLEGE DEGREE.~~

15-115.

EACH PUBLIC SENIOR HIGHER EDUCATION INSTITUTION SHALL DEDICATE A PORTION OF INSTITUTIONAL FINANCIAL AID TO PROVIDE FINANCIAL ASSISTANCE TO RESIDENT UNDERGRADUATE STUDENTS THAT TRANSFER WITH AN ASSOCIATE'S DEGREE FROM A COMMUNITY COLLEGE IN THE STATE.

15-116.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE STANDARD NUMBER OF CREDITS REQUIRED FOR A BACCALAUREATE DEGREE FROM A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION IS 120 CREDIT HOURS.

(2) THE STANDARD NUMBER OF CREDITS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF:

(I) THE DEGREE PROGRAM IS DEFINED AS A 5-YEAR BACCALAUREATE PROGRAM;

(II) PROFESSIONAL ACCREDITATION REQUIRES A HIGHER NUMBER OF CREDIT HOURS OR REQUIRES COURSE WORK THAT CANNOT BE COMPLETED IN 120 CREDITS; OR

(III) CERTIFICATION REQUIREMENTS RESULT IN A NEED FOR CREDIT HOURS IN EXCESS OF 120.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, BEGINNING WITH FALL 2015, THE STANDARD NUMBER OF CREDITS REQUIRED FOR AN ASSOCIATE'S DEGREE FROM A PUBLIC COMMUNITY COLLEGE IS 60 CREDIT HOURS.

(2) THE STANDARD NUMBER OF CREDITS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF:

(I) THE DEGREE PROGRAM IS DEFINED AS MORE THAN A 2-YEAR ASSOCIATE'S DEGREE;

(II) PROFESSIONAL ACCREDITATION REQUIRES A HIGHER NUMBER OF CREDIT HOURS OR REQUIRES COURSE WORK THAT CANNOT BE COMPLETED IN 60 CREDITS; OR

(III) CERTIFICATION REQUIREMENTS RESULT IN A NEED FOR CREDIT HOURS IN EXCESS OF 60.

(C) ~~THE COMMISSION~~ GOVERNING BOARD OF A PUBLIC INSTITUTION OF HIGHER EDUCATION, IN CONSULTATION WITH THE COMMISSION, MAY APPROVE ADDITIONAL EXCEPTIONS TO THE CREDIT HOUR REQUIREMENTS UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION.

18-14A-01.

(a) (1) In this section[, "dually"] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "DUALY enrolled student" means a student who is dually enrolled in:

[(1)] (I) A secondary school in the State; and

[(2)] (II) An institution of higher education in the State.

(3) "FULL-TIME EQUIVALENT ENROLLMENT" HAS THE MEANING STATED IN § 5-202 OF THIS ARTICLE.

(4) "GRANT" MEANS THE EARLY COLLEGE ACCESS GRANT.

~~(5) “LOCAL SHARE OF THE FOUNDATION PROGRAM” HAS THE MEANING STATED IN § 5-202 OF THIS ARTICLE.~~

(B) THERE IS AN EARLY COLLEGE ACCESS GRANT THAT PROVIDES FINANCIAL ASSISTANCE TO DUALY ENROLLED STUDENTS IN THE STATE.

[(b)] (C) In cooperation with institutions of higher education in the State, the Commission shall [establish and] administer [a grant program for dually enrolled students] **THE GRANT**.

[(c)] (D) A recipient of [an early college access] A grant shall:

(1) [Be a resident of the State;

(2) Be a [dually enrolled] student **DUALY ENROLLED IN THE STATE**; and

[(3)] (2) Demonstrate financial need according to criteria established by the Commission.

[(d)] (E) For courses completed under the [program] **GRANT**, a recipient [of an early college access grant] is not required to receive credit from a secondary school and an institution of higher education at the same time.

18-14A-02.

(a) Funds for the [Early College Access] Grant [Program] shall be allocated by the Commission to an institution of higher education based on the number of dually enrolled students receiving credit for courses completed at the institution.

(b) Funds for the [Early College Access] Grant [Program] shall be as provided in the annual budget of the Commission by the Governor.

18-14A-03.

The Commission shall:

(1) Establish guidelines for **AWARDING** the [awarding of early college access grants] **GRANT** to dually enrolled students; and

(2) Adopt any other guidelines or regulations necessary for the administration of this subtitle.

18-14A-04.

(A) ~~A BEGINNING ON JANUARY 1, 2014, A~~ A PUBLIC INSTITUTION OF HIGHER EDUCATION MAY NOT CHARGE TUITION TO A DUALY ENROLLED STUDENT.

(B) ~~(1) FOR~~ SUBJECT TO SUBSECTION (D) OF THIS SECTION, FOR EACH DUALY ENROLLED STUDENT WHO IS ENROLLED IN A PUBLIC SCHOOL IN THE COUNTY, THE COUNTY BOARD SHALL PAY THE PUBLIC INSTITUTION OF HIGHER EDUCATION FOR EACH COURSE UP TO A MAXIMUM OF FOUR COURSES IN WHICH THE STUDENT IS ENROLLED WHILE A STUDENT IN A PUBLIC SECONDARY SCHOOL IN THE STATE:

~~(1)~~ (I) FOR A PUBLIC SENIOR INSTITUTION OF HIGHER EDUCATION, 75% OF THE COST OF TUITION; AND

~~(2)~~ (II) FOR A COMMUNITY COLLEGE, THE LESSER OF:

~~(1)~~ ~~(I)~~ 1. THE AMOUNT CALCULATED IN SUBSECTION (C) OF THIS SECTION 5% OF THE TARGET PER PUPIL FOUNDATION AMOUNT ESTABLISHED UNDER § 5-202(A) OF THIS ARTICLE; OR

~~(2)~~ ~~(II)~~ 2. THE 75% OF THE COST OF TUITION.

(2) FOR EACH COURSE IN EXCESS OF FOUR IN WHICH A DUALY ENROLLED STUDENT IS ENROLLED, THE COUNTY BOARD SHALL PAY:

(I) FOR A PUBLIC SENIOR INSTITUTION OF HIGHER EDUCATION, 90% OF THE COST OF TUITION; AND

(II) FOR A COMMUNITY COLLEGE, THE LESSER OF:

1. 5% OF THE TARGET PER PUPIL FOUNDATION AMOUNT ESTABLISHED UNDER § 5-202(A) OF THIS ARTICLE; OR

2. 90% OF THE COST OF TUITION.

(3) IF THERE IS AN AGREEMENT BEFORE JULY 1, 2013, BETWEEN A PUBLIC SCHOOL AND A PUBLIC INSTITUTION OF HIGHER EDUCATION IN WHICH THE PUBLIC INSTITUTION OF HIGHER EDUCATION CHARGES LESS THAN 75% OF THE COST OF TUITION TO A DUALY ENROLLED STUDENT, THE COUNTY BOARD SHALL PAY THE COST OF TUITION UNDER THE EXISTING AGREEMENT.

~~(C) FOR EACH DUALY ENROLLED STUDENT, THE ANNUAL AMOUNT THAT A PUBLIC INSTITUTION OF HIGHER EDUCATION RECEIVES FROM A COUNTY BOARD IS CALCULATED AS FOLLOWS:~~

~~(1) DIVIDE THE LOCAL SHARE OF THE FOUNDATION PROGRAM BY THE FULL-TIME EQUIVALENT ENROLLMENT OF THE COUNTY;~~

~~(2) DIVIDE THE QUOTIENT CALCULATED IN ITEM (1) OF THIS SUBSECTION BY THE TOTAL NUMBER OF COURSES IN WHICH THE STUDENT IS ENROLLED IN HIGH SCHOOL AND THE PUBLIC INSTITUTION OF HIGHER EDUCATION; AND~~

~~(3) MULTIPLY THE QUOTIENT CALCULATED IN ITEM (2) OF THIS SUBSECTION BY THE NUMBER OF COURSES IN WHICH THE STUDENT IS ENROLLED AT THE PUBLIC INSTITUTION OF HIGHER EDUCATION.~~

~~(D)~~ (C) (1) (I) A COUNTY BOARD MAY CHARGE A DUALY ENROLLED STUDENT A ~~STUDENT ACTIVITIES~~ FEE NOT TO EXCEED ~~50%~~ 90% OF THE AMOUNT PAID UNDER SUBSECTION ~~(B)~~ (B)(1) OF THIS SECTION.

(II) A COUNTY BOARD MAY CHARGE A DUALY ENROLLED STUDENT A FEE NOT TO EXCEED 100% OF THE AMOUNT PAID UNDER SUBSECTION (B)(2) OF THIS SECTION.

(2) A COUNTY BOARD SHALL CONSIDER THE FINANCIAL ABILITY OF STUDENTS WHEN SETTING FEES.

(3) A COUNTY BOARD SHALL WAIVE THE FEE FOR STUDENTS WHO ~~DEMONSTRATE FINANCIAL NEED~~ ARE ELIGIBLE FOR FREE AND REDUCED PRICE MEALS.

(D) IF THERE IS AN AGREEMENT BETWEEN A PUBLIC SCHOOL AND A PUBLIC INSTITUTION OF HIGHER EDUCATION IN WHICH A PUBLIC SCHOOL AGREES TO PAY FOR MORE THAN FOUR COURSES AT A PUBLIC INSTITUTION OF HIGHER EDUCATION FOR A DUALY ENROLLED STUDENT, THE PUBLIC SCHOOL SHALL PAY FOR THE NUMBER OF COURSES UNDER THE AGREEMENT.

18-14A-05.

EACH COUNTY BOARD SHALL ~~OFFER~~ MAKE ALL HIGH SCHOOL STUDENTS WHO MEET MUTUALLY AGREED ON ENROLLMENT REQUIREMENTS AWARE OF THE OPPORTUNITY TO DUALY ENROLL UNDER THIS SUBTITLE.

[18-14A-04.] ~~18-14A-05.~~ 18-14A-06.

An institution of higher education that receives State funds under this subtitle shall provide the Commission with an annual audit of the use of the funds.

24-703.1.

THE CENTER 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, DISAGGREGATED BY LOCAL SCHOOL SYSTEM, REGARDING:

(1) THE NUMBER OF STUDENTS WHO ARE DUALY ENROLLED UNDER TITLE 18, SUBTITLE 14A OF THIS ARTICLE; AND

(2) THE NUMBER AND COURSE NAME OF THE COURSES IN WHICH A STUDENT UNDER ITEM (1) OF THIS SECTION DUALY ENROLLS AT THE HIGH SCHOOL AND AT THE PUBLIC INSTITUTION OF HIGHER EDUCATION.

24-801.

(a) In this section, "Council" means the Governor's P-20 Leadership Council of Maryland.

(i) The Council shall investigate ways to improve education, advance workforce creation, and make the State more competitive through some or all of the following strategies:

(1) Ensuring that all students have the basic, critical thinking, and technical skills necessary to succeed in the modern workplace;

(2) Reducing dropout rates and increasing retention and graduation rates in high school and college;

(3) Improving student achievement and closing student achievement gaps;

(4) Improving teaching quality;

(5) Improving teacher retention;

(6) Strengthening and expanding educational leadership programs;

(7) Redesigning career and technology education programs to meet college expectations and employer needs;

(8) Expanding the availability of career and technology programs and high school centers;

- (9) Strengthening STEM programs at the high school and college levels;
- (10) Connecting high school expectations and college expectations with employer needs;
- (11) Creating pathways for all students to obtain college degrees;
- (12) Providing teachers the resources and professional training they need to help students reach higher standards;
- (13) Expanding opportunities for continuous learning;
- (14) Aligning high school graduation requirements with college readiness requirements;
- (15) Improving the connections between the pre-kindergarten, primary, secondary, and higher education systems;
- (16) Creating programs and incentives to encourage mutually beneficial relationships between schools, school systems, higher education, and the business community; [and]
- (17) **ENSURING COLLEGE AND CAREER READINESS AND COLLEGE COMPLETION STRATEGIES ARE IMPLEMENTED; AND**
- (18) Any other strategies requested by the Governor or General Assembly.

(M) BY DECEMBER 1, 2014, AND EVERY 2 YEARS THEREAFTER, THE COUNCIL SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE PROGRESS OF IMPLEMENTING COLLEGE AND CAREER READINESS AND COLLEGE COMPLETION STRATEGIES ESTABLISHED IN § 7-205.1, TITLE 11, SUBTITLE 7A, §§ 15-113 THROUGH 15-116, AND TITLE 18, SUBTITLE 14A OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

- (a) The State Department of Education shall develop a plan, in consultation with institutions of higher education, to improve college and career counseling that is provided to students in middle and high schools.
- (b) The plan developed under subsection (a) of this section should:
- (1) identify best practices used in the State and nationally; and

(2) include recommendations for a competitive grant program that would be used to implement these best practices across the State as well as recommendations for implementing the College Readiness Outreach Program established under § 18–303.1 of the Education Article.

(c) The Department shall submit the plan to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly by October 1, 2013 to ensure appropriate funding for the plan may be considered for inclusion in the fiscal year 2015 operating budget.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1, ~~2013~~ 2014, the State Department of Education shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, regarding:

(1) the feasibility of the award of a Maryland high school diploma regardless of whether a student has completed the minimum requisite credits or 4 years of high school if the student:

(i) is assessed as college *and* career ready under § 7–205.1 of the Education Article, as enacted by Section 1 of this Act; and

(ii) meets the student service and other assessment graduation requirements established in regulations; and

(2) if found to be feasible under item (1) of this section, an implementation plan for the award of a Maryland high school diploma regardless of whether a student has completed the minimum requisite credits or 4 years of high school.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(1) On or before December 31, 2013, the Maryland Higher Education Commission Segmental Advisory Council shall submit a report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the Senate Budget and Taxation Committee, the Senate Education, Health, and Environmental Affairs Committee, the House Appropriations Committee, and the House Committee on Ways and Means regarding Maryland's academic course articulation data system and academic course transferability between institutions of higher education in the State.

(2) The report required under paragraph (1) of this section shall include:

(i) a review of the online articulation data system currently in use, known as The Articulation System for Maryland Colleges and Universities

(ARTSYS), and whether improvements to the transparency and user-friendly functionality of ARTSYS can be accomplished in a timely manner;

(ii) a review of whether there is an alternative articulation data system available and, if so, what would be the cost and schedule of implementation of the alternative system;

(iii) an analysis of any gaps and deficiencies in the articulation of academic course equivalencies amongst segments of higher education;

(iv) recommendations to establish a course articulation system that is transparent and user-friendly for students and administrators at institutions of higher education; and

(v) recommendations on how to maximize degree credit transferability in a cost- and time-efficient manner.

SECTION 5. AND BE IT FURTHER ENACTED, That, on or before December 1, 2013, the Maryland Higher Education Commission shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly, regarding obstacles and barriers, if any, toward facilitating the sharing of student information among institutions of higher education in the State in furtherance of the communication campaign required under § 11-209 of the Education Article.

SECTION 6. AND BE IT FURTHER ENACTED, That:

(1) On or before December 31, 2017, the Maryland Higher Education Commission, in collaboration with the State Board of Education, the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and the Maryland Association of Community Colleges shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly regarding the academic, enrollment, and financial impacts of being a dually enrolled student under Title 18, Subtitle 14A of the Education Article.

(2) The report required under paragraph (1) of this section shall include:

(i) information disaggregated by local school system and by public institution of higher education; and

(ii) the identification of obstacles to expanded participation in dual enrollment.

SECTION ~~7~~ 7. AND BE IT FURTHER ENACTED, That, by December 1 of each year, the Maryland Higher Education Commission shall submit to the Department of Legislative Services de-identified data in compliance with the federal Family

Educational Rights and Privacy Act that is collected from institutions of higher education and submitted to Complete College America.

SECTION 8. AND BE IT FURTHER ENACTED, That the State Department of Education, in collaboration with the county boards of education and the Maryland Higher Education Commission, and with input from other stakeholders, shall study the transition courses required under Section 7-205.1 of the Education Article as enacted by Section 1 of this Act and examine the development, content, and implementation of transition courses to be delivered to students in the 12th grade who are not college and career ready at the end of 11th grade. The study shall include the alignment of transition courses with the Common Core State Curriculum as well as whether the courses should be credit-bearing and should be considered to meet the requirements for high school graduation. The study shall determine the appropriate assessment to be used to determine college and career readiness and include the number of credits toward graduation that students have accumulated upon entering 12th grade in each local education agency. The study shall also address how students' level of college and career readiness will be reflected on high school transcripts. It is the intent of the General Assembly that separate high school diplomas not be established. A report including any recommendations shall be submitted to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee, the Senate Budget and Taxation Committee, the House Ways and Means Committee, and the House Appropriations Committee no later than December 15, 2013.

SECTION ~~4~~ ~~8~~ 9. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 16, 2013.

Chapter 534

(Senate Bill 741)

AN ACT concerning

State Retirement and Pension System – Board of Trustees

FOR the purpose of adding a trustee to the Board of Trustees for the State Retirement and Pension System to represent certain interests; establishing the qualifications of the trustee; providing for the appointment of the trustee; and generally relating to the Board of Trustees for the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions

Section 21–104
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 Personnel and Pensions

21–104.

- (a) The Board of Trustees consists of the following **[14] 15** trustees:
- (1) the Secretary of Budget and Management, ex officio;
 - (2) the State Comptroller, ex officio;
 - (3) the State Treasurer, ex officio, who may appoint a deputy treasurer as designee; and
 - (4) **[11] 12** trustees elected or appointed as follows:
 - (i) one trustee who is a member of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, or the Law Enforcement Officers' Pension Plan, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;
 - (ii) one trustee who is a retiree of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, or the Law Enforcement Officers' Pension Plan, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;
 - (iii) one trustee who is a member of the Teachers' Pension System or the Teachers' Retirement System, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;
 - (iv) one trustee who is a retiree of the Teachers' Pension System or the Teachers' Retirement System, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(v) one trustee who is either a member or retiree of the State Police Retirement System, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(vi) one trustee who represents the interests of participating governmental units in the Employees' Pension System and the Employees' Retirement System; [and]

(VII) ONE TRUSTEE WHO REPRESENTS THE INTERESTS OF COUNTY GOVERNMENTS WHO HAS AT LEAST 10 YEARS OF EXPERIENCE IN FINANCIAL MANAGEMENT AND OVERSIGHT OF COUNTY GOVERNMENT BUDGETS; AND

[(vii)] (VIII) five trustees who:

1. represent the interests of the public;
2. are not members of any of the several systems;
3. are not employees, directors, partners, or officers of any of the external investment managers for the several systems;
4. do not have an ownership interest in any of the external investment managers of the several systems that is greater than 5% of the issued or outstanding stock;
5. are not directors, partners, or officers of any corporation or large organization in which any of the external managers for the several systems own 10% or more of the issued or outstanding stock of the corporation or large organization; and
6. have at least 10 years of substantial experience overseeing similar pension systems, large foundations, or other similar large organizations with fiduciary responsibilities relating to different classes of participants.

(b) (1) (i) The trustees who are members or retirees of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, or the Law Enforcement Officers' Pension Plan shall be elected by the members and the retirees of those State systems.

(ii) The trustees who are members or retirees of the Teachers' Pension System or the Teachers' Retirement System shall be elected by the members and the retirees of those State systems.

(iii) The trustee who is a member or retiree of the State Police Retirement System shall be elected by the members and the retirees of that State system.

(iv) The elections shall be conducted under regulations that the Board of Trustees adopts.

(2) The trustee who represents the interests of participating subdivisions in the Employees' Pension System and the Employees' Retirement System shall be appointed by the Governor.

(3) The trustees who represent the public shall be appointed by the Governor with the advice and consent of the Senate.

(4) THE TRUSTEE WHO REPRESENTS THE INTERESTS OF COUNTY GOVERNMENTS SHALL BE APPOINTED BY THE GOVERNOR AND MAY BE FROM A LIST SUBMITTED TO THE GOVERNOR BY THE MARYLAND ASSOCIATION OF COUNTIES.

(c) (1) Within 10 days after the appointment or election of an individual as a trustee, the individual shall take and subscribe to an oath of office that, so far as it devolves on the individual, as trustee the individual:

(i) will diligently and honestly administer the affairs of the Board of Trustees; and

(ii) will not knowingly violate or willingly allow a violation of the law applicable to the several systems.

(2) The officer before whom the individual takes the oath shall:

(i) certify the oath; and

(ii) submit the oath immediately to the office of the Secretary of State for filing in that office.

(d) (1) (i) The term of an appointed or elected trustee is 4 years.

(ii) Trustees who represent the public serve staggered 4-year terms.

(2) A trustee who is a member but not a retiree of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, the Law Enforcement Officers' Pension Plan, the Teachers' Pension System, or the Teachers' Retirement System at the time of election of the trustee may complete the term of office even if, during the term, the trustee:

(i) becomes a retiree of the State system of which the trustee was a member at the time of election; and

(ii) has completed more than 3 years of the trustee's term of office.

(3) A vacancy in the office of a trustee shall be filled for the unexpired term in the same manner as the office was previously filled.

(4) At the end of a term, a trustee continues to serve until a successor is appointed or elected.

(5) A trustee who is appointed after a term has begun serves only for the rest of the term and until a successor is selected and qualifies.

(e) (1) Except as provided in paragraph (2) of this subsection, each trustee shall attend at least 80% of the monthly Board of Trustees meetings held during a 1-year period beginning January 1.

(2) (i) A trustee may be granted an excused absence by the chairman of the Board or another officer of the Board due to:

1. illness;
2. family emergencies;
3. jury duty; or
4. attendance at investment or fiduciary training.

(ii) An excused absence under this paragraph may not be considered an absence for the purposes of paragraph (1) of this subsection.

(3) (i) Any elected or Governor-appointed trustee that fails to attend at least 80% of the meetings, not including excused absences under paragraph (2) of this subsection, shall be removed from the Board of Trustees by the Governor.

(ii) The Governor shall fill the vacancy for the office of the trustee for the unexpired term in the same manner as the office was previously filled.

(iii) The State Retirement Agency shall submit a trustee attendance report to the Department of Legislative Services by June 30 and December 31 of each year.

(4) An elected trustee representing employees of any of the several systems shall be given reasonable time during work to attend monthly meetings of the Board of Trustees or committee meetings of the Board of Trustees.

(f) Notwithstanding subsection (d) of this section, the Governor may remove a Governor–appointed trustee for incompetence or misconduct.

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

Approved by the Governor, May 16, 2013.

Chapter 535

(House Bill 390)

AN ACT concerning

State Retirement and Pension System – Board of Trustees

FOR the purpose of adding a trustee to the Board of Trustees for the State Retirement and Pension System to represent certain interests; establishing the qualifications of the trustee; providing for the appointment of the trustee; and generally relating to the Board of Trustees for the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–104
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 Personnel and Pensions

21–104.

- (a) The Board of Trustees consists of the following [14] **15** trustees:
- (1) the Secretary of Budget and Management, ex officio;
 - (2) the State Comptroller, ex officio;

(3) the State Treasurer, ex officio, who may appoint a deputy treasurer as designee; and

(4) **[11] 12** trustees elected or appointed as follows:

(i) one trustee who is a member of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, or the Law Enforcement Officers' Pension Plan, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(ii) one trustee who is a retiree of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, or the Law Enforcement Officers' Pension Plan, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(iii) one trustee who is a member of the Teachers' Pension System or the Teachers' Retirement System, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(iv) one trustee who is a retiree of the Teachers' Pension System or the Teachers' Retirement System, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(v) one trustee who is either a member or retiree of the State Police Retirement System, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(vi) one trustee who represents the interests of participating governmental units in the Employees' Pension System and the Employees' Retirement System; **[and]**

(VII) ONE TRUSTEE WHO REPRESENTS THE INTERESTS OF COUNTY GOVERNMENTS WHO HAS AT LEAST 10 YEARS OF EXPERIENCE IN FINANCIAL MANAGEMENT AND OVERSIGHT OF COUNTY GOVERNMENT BUDGETS; AND

[(vii)] (VIII) five trustees who:

1. represent the interests of the public;
2. are not members of any of the several systems;

3. are not employees, directors, partners, or officers of any of the external investment managers for the several systems;

4. do not have an ownership interest in any of the external investment managers of the several systems that is greater than 5% of the issued or outstanding stock;

5. are not directors, partners, or officers of any corporation or large organization in which any of the external managers for the several systems own 10% or more of the issued or outstanding stock of the corporation or large organization; and

6. have at least 10 years of substantial experience overseeing similar pension systems, large foundations, or other similar large organizations with fiduciary responsibilities relating to different classes of participants.

(b) (1) (i) The trustees who are members or retirees of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, or the Law Enforcement Officers' Pension Plan shall be elected by the members and the retirees of those State systems.

(ii) The trustees who are members or retirees of the Teachers' Pension System or the Teachers' Retirement System shall be elected by the members and the retirees of those State systems.

(iii) The trustee who is a member or retiree of the State Police Retirement System shall be elected by the members and the retirees of that State system.

(iv) The elections shall be conducted under regulations that the Board of Trustees adopts.

(2) The trustee who represents the interests of participating subdivisions in the Employees' Pension System and the Employees' Retirement System shall be appointed by the Governor.

(3) The trustees who represent the public shall be appointed by the Governor with the advice and consent of the Senate.

(4) THE TRUSTEE WHO REPRESENTS THE INTERESTS OF COUNTY GOVERNMENTS SHALL BE APPOINTED BY THE GOVERNOR AND MAY BE FROM A LIST SUBMITTED TO THE GOVERNOR BY THE MARYLAND ASSOCIATION OF COUNTIES.

(c) (1) Within 10 days after the appointment or election of an individual as a trustee, the individual shall take and subscribe to an oath of office that, so far as it devolves on the individual, as trustee the individual:

(i) will diligently and honestly administer the affairs of the Board of Trustees; and

(ii) will not knowingly violate or willingly allow a violation of the law applicable to the several systems.

(2) The officer before whom the individual takes the oath shall:

(i) certify the oath; and

(ii) submit the oath immediately to the office of the Secretary of State for filing in that office.

(d) (1) (i) The term of an appointed or elected trustee is 4 years.

(ii) Trustees who represent the public serve staggered 4-year terms.

(2) A trustee who is a member but not a retiree of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, the Law Enforcement Officers' Pension Plan, the Teachers' Pension System, or the Teachers' Retirement System at the time of election of the trustee may complete the term of office even if, during the term, the trustee:

(i) becomes a retiree of the State system of which the trustee was a member at the time of election; and

(ii) has completed more than 3 years of the trustee's term of office.

(3) A vacancy in the office of a trustee shall be filled for the unexpired term in the same manner as the office was previously filled.

(4) At the end of a term, a trustee continues to serve until a successor is appointed or elected.

(5) A trustee who is appointed after a term has begun serves only for the rest of the term and until a successor is selected and qualifies.

(e) (1) Except as provided in paragraph (2) of this subsection, each trustee shall attend at least 80% of the monthly Board of Trustees meetings held during a 1-year period beginning January 1.

(2) (i) A trustee may be granted an excused absence by the chairman of the Board or another officer of the Board due to:

1. illness;
2. family emergencies;
3. jury duty; or
4. attendance at investment or fiduciary training.

(ii) An excused absence under this paragraph may not be considered an absence for the purposes of paragraph (1) of this subsection.

(3) (i) Any elected or Governor–appointed trustee that fails to attend at least 80% of the meetings, not including excused absences under paragraph (2) of this subsection, shall be removed from the Board of Trustees by the Governor.

(ii) The Governor shall fill the vacancy for the office of the trustee for the unexpired term in the same manner as the office was previously filled.

(iii) The State Retirement Agency shall submit a trustee attendance report to the Department of Legislative Services by June 30 and December 31 of each year.

(4) An elected trustee representing employees of any of the several systems shall be given reasonable time during work to attend monthly meetings of the Board of Trustees or committee meetings of the Board of Trustees.

(f) Notwithstanding subsection (d) of this section, the Governor may remove a Governor–appointed trustee for incompetence or misconduct.

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

Approved by the Governor, May 16, 2013.

Chapter 536

(Senate Bill 750)

AN ACT concerning

**Public Safety – Maryland Building Performance Standards – Local Wind
Design and Wind-Borne Debris Standards**

FOR the purpose of authorizing a local jurisdiction to adopt local amendments to the Maryland Building Performance Standards if the local amendments do not weaken wind design and wind-borne debris provisions contained in the Standards; and generally relating to building performance standards.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–504(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 – Public Safety

12–504.

(a) (1) A local jurisdiction may adopt local amendments to the Standards if the local amendments do not:

(i) prohibit the minimum implementation and enforcement activities set forth in § 12–505 of this subtitle;

(ii) weaken energy conservation and efficiency provisions contained in the Standards; [or]

(iii) except as provided in paragraph (3) of this subsection, weaken the automatic fire sprinkler systems provisions for townhouses and one- and two-family dwellings contained in the Standards; **OR**

(IV) WEAKEN WIND DESIGN AND WIND-BORNE DEBRIS PROVISIONS CONTAINED IN THE STANDARDS.

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

Approved by the Governor, May 16, 2013.

Chapter 537

(House Bill 769)

AN ACT concerning

**Public Safety – Maryland Building Performance Standards – Local Wind
Design and Wind–Borne Debris Standards**

FOR the purpose of authorizing a local jurisdiction to adopt local amendments to the Maryland Building Performance Standards if the local amendments do not weaken wind design and wind–borne debris provisions contained in the Standards; and generally relating to building performance standards.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–504(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 – Public Safety

12–504.

(a) (1) A local jurisdiction may adopt local amendments to the Standards if the local amendments do not:

(i) prohibit the minimum implementation and enforcement activities set forth in § 12–505 of this subtitle;

(ii) weaken energy conservation and efficiency provisions contained in the Standards; [or]

(iii) except as provided in paragraph (3) of this subsection, weaken the automatic fire sprinkler systems provisions for townhouses and one– and two–family dwellings contained in the Standards; **OR**

(IV) WEAKEN WIND DESIGN AND WIND–BORNE DEBRIS PROVISIONS CONTAINED IN THE STANDARDS.

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

Approved by the Governor, May 16, 2013.

Chapter 538**(Senate Bill 757)**

AN ACT concerning

Maryland Occupational Safety and Health Act – Discrimination Against Employee – Complaints

FOR the purpose of authorizing ~~an employee who believes that an employer or other person has violated a certain provision of the Maryland Occupational Safety and Health Act to submit orally a complaint to the Commissioner of Labor and Industry; clarifying language;~~ the Commissioner of Labor and Industry to accept certain oral complaints made by a certain employee if the employee submits a written complaint, signed by the employee, within a certain time period after making the oral complaint; and generally relating to the submission of complaints to the Commissioner of Labor and Industry under the Maryland Occupational Safety and Health Act.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 5–604
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 – Labor and Employment

5–604.

(a) (1) An employer or other person may not discharge or otherwise discriminate against an employee on the basis of information gained through participation of the employee in group medical coverage.

(2) This title does not prevent an employer from using medical information that:

(i) has a direct, material, and timely relationship to the capacity or fitness of an employee to perform the job of the employee properly; or

(ii) differs substantially from medical information that the employee falsely provides in an application for employment.

(b) An employer or other person may not discharge or otherwise discriminate against an employee because the employee:

- (1) files a complaint under or related to this title;
- (2) brings an action under this title or a proceeding under or related to this title or causes the action or proceeding to be brought;
- (3) has testified or will testify in an action under this title or a proceeding under or related to this title; or
- (4) exercises, for the employee or another, a right under this title.

(c) (1) ~~(I) As SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN~~ employee who believes that an employer or other person has discharged or otherwise discriminated against the employee in violation of subsection (a) or (b) of this section may submit to the Commissioner, ~~ORALLY OR IN WRITING,~~ a ~~written~~ complaint that alleges the discrimination ~~and that includes the signature of the employee~~.

~~(II) IF AN EMPLOYEE SUBMITS A WRITTEN COMPLAINT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMPLAINT SHALL INCLUDE THE COMMISSIONER SHALL ACCEPT AS TIMELY AN ORAL COMPLAINT MADE BY THE EMPLOYEE UNDER THE CIRCUMSTANCES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, PROVIDED THE EMPLOYEE SUBMITS A WRITTEN COMPLAINT WITHIN 7 BUSINESS DAYS OF THE ORAL COMPLAINT AND THAT INCLUDES THE SIGNATURE OF THE EMPLOYEE.~~

(2) An employee shall file a complaint under this subsection within 30 days after the alleged discrimination occurs.

(d) (1) On receipt of a complaint under subsection (c) of this section, the Commissioner may investigate.

(2) If, after investigation, the Commissioner determines that an employer or other person has violated subsection (a) or (b) of this section, the Commissioner shall file a complaint to enjoin the violation, to reinstate the employee to the former position with back pay, or for other appropriate relief in the circuit court for:

- (i) the county in which the alleged violation occurred;
- (ii) the county in which the employer has its principal office; or
- (iii) Baltimore City.

(3) Within 90 days after the Commissioner receives a complaint, the Commissioner shall notify the employee of the determination under this subsection.

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

Approved by the Governor, May 16, 2013.

Chapter 539

(House Bill 795)

AN ACT concerning

Maryland Occupational Safety and Health Act – Discrimination Against Employee – Complaints

FOR the purpose of authorizing ~~an employee who believes that an employer or other person has violated a certain provision of the Maryland Occupational Safety and Health Act to submit orally a complaint to the Commissioner of Labor and Industry; clarifying language;~~ the Commissioner of Labor and Industry to accept certain oral complaints made by a certain employee if the employee submits a written complaint, signed by the employee, within a certain time period after making the oral complaint; and generally relating to the submission of complaints to the Commissioner of Labor and Industry under the Maryland Occupational Safety and Health Act.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 5–604
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 – Labor and Employment

5–604.

(a) (1) An employer or other person may not discharge or otherwise discriminate against an employee on the basis of information gained through participation of the employee in group medical coverage.

(2) This title does not prevent an employer from using medical information that:

(i) has a direct, material, and timely relationship to the capacity or fitness of an employee to perform the job of the employee properly; or

(ii) differs substantially from medical information that the employee falsely provides in an application for employment.

(b) An employer or other person may not discharge or otherwise discriminate against an employee because the employee:

(1) files a complaint under or related to this title;

(2) brings an action under this title or a proceeding under or related to this title or causes the action or proceeding to be brought;

(3) has testified or will testify in an action under this title or a proceeding under or related to this title; or

(4) exercises, for the employee or another, a right under this title.

(c) (1) **(I) ~~AN~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN** employee who believes that an employer or other person has discharged or otherwise discriminated against the employee in violation of subsection (a) or (b) of this section may submit to the Commissioner, ~~ORALLY OR IN WRITING,~~ a ~~written~~ complaint that alleges the discrimination ~~and that includes the signature of the employee~~.

(II) ~~IF AN EMPLOYEE SUBMITS A WRITTEN COMPLAINT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMPLAINT SHALL INCLUDE THE COMMISSIONER SHALL ACCEPT AS TIMELY AN ORAL COMPLAINT MADE BY THE EMPLOYEE UNDER THE CIRCUMSTANCES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, PROVIDED THE EMPLOYEE SUBMITS A WRITTEN COMPLAINT WITHIN 7 BUSINESS DAYS OF THE ORAL COMPLAINT AND THAT INCLUDES THE SIGNATURE OF THE EMPLOYEE.~~

(2) An employee shall file a complaint under this subsection within 30 days after the alleged discrimination occurs.

(d) (1) On receipt of a complaint under subsection (c) of this section, the Commissioner may investigate.

(2) If, after investigation, the Commissioner determines that an employer or other person has violated subsection (a) or (b) of this section, the Commissioner shall file a complaint to enjoin the violation, to reinstate the employee

to the former position with back pay, or for other appropriate relief in the circuit court for:

- (i) the county in which the alleged violation occurred;
- (ii) the county in which the employer has its principal office; or
- (iii) Baltimore City.

(3) Within 90 days after the Commissioner receives a complaint, the Commissioner shall notify the employee of the determination under this subsection.

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

Approved by the Governor, May 16, 2013.

Chapter 540

(Senate Bill 758)

AN ACT concerning

Labor and Employment – Lien for Unpaid Wages – Establishment

FOR the purpose of requiring an employee to provide certain written notice to a certain employer first in order to establish a lien for unpaid wages; authorizing a certain employer to dispute a lien for unpaid wages by filing a certain complaint in a certain circuit court in a certain manner; authorizing the employer or employee to request an evidentiary hearing; requiring a circuit court to make a determination on a claim to establish a lien for unpaid wages in a certain manner; authorizing a circuit court to take certain actions; providing for certain court costs and attorney's fees under certain circumstances; specifying the manner in which a lien for unpaid wages may be established; specifying the manner in which an employee may record a lien for unpaid wages; requiring a lien for unpaid wages to be extinguished without prejudice if it is not recorded within a certain period of time; requiring a lien for unpaid wages to be released if certain payment is made or a certain bond is filed; establishing the date by which a lien for unpaid wages takes priority over other claims; providing that certain purchasers of certain property are deemed to have constructive notice of a lien for unpaid wages under certain circumstances; specifying the manner in which an order for a lien for unpaid wages shall be enforced; requiring an action to enforce a certain order to be brought within a certain period of time; prohibiting certain contracts from waiving or requiring an employee to waive a certain right; specifying that a provision of a contract

that violates a certain provision of this Act is void; providing for the construction of this Act; authorizing the Commissioner of Labor and Industry to seek to establish a lien for unpaid wages on behalf of an employee; requiring the Commissioner to adopt certain regulations; defining certain terms; and generally relating to liens for unpaid wages.

BY adding to

Article – Labor and Employment

Section 3–1101 through 3–1110 to be under the new subtitle “Subtitle 11. Lien for Unpaid Wages”

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 – Labor and Employment

SUBTITLE 11. LIEN FOR UNPAID WAGES.

3–1101.

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

(B) “EMPLOYER” INCLUDES A PERSON WHO ACTS DIRECTLY OR INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

(C) “LIEN FOR UNPAID WAGES” MEANS A LIEN FOR THE AMOUNT OF WAGES OWED TO AN EMPLOYEE AND PENALTIES AUTHORIZED UNDER THIS TITLE OR OTHER PROVISIONS OF LAW AGAINST REAL OR PERSONAL PROPERTY OWNED BY AN EMPLOYER AND LOCATED IN THE STATE.

(D) “WAGES” DOES NOT INCLUDE COMMISSIONS.

3–1102.

TO ESTABLISH A LIEN FOR UNPAID WAGES UNDER § 3–1104 OF THIS SUBTITLE, AN EMPLOYEE SHALL FIRST PROVIDE WRITTEN NOTICE TO AN EMPLOYER THAT:

(1) IS SERVED ON THE EMPLOYER WITHIN THE STATUTE OF LIMITATIONS PERIOD UNDER § 5–101 OF THE COURTS ARTICLE;

(2) IS PERSONALLY SERVED IN ACCORDANCE WITH MARYLAND RULE 2-121; AND

(3) CONTAINS THE INFORMATION REQUIRED BY THE COMMISSIONER UNDER § 3-1110 OF THIS SUBTITLE TO PROVIDE THE EMPLOYER WITH ADEQUATE NOTICE OF THE WAGES CLAIMED AND THE PROPERTY AGAINST WHICH THE LIEN FOR UNPAID WAGES IS SOUGHT.

3-1103.

(A) AN EMPLOYER MAY DISPUTE A LIEN FOR UNPAID WAGES BY FILING A COMPLAINT IN THE CIRCUIT COURT FOR THE COUNTY WHERE PROPERTY OF AN EMPLOYER IS LOCATED.

(B) A COMPLAINT FILED UNDER THIS SECTION SHALL:

(1) BE FILED WITHIN 30 DAYS AFTER NOTICE IS SERVED ON THE EMPLOYER; AND

(2) INCLUDE:

(I) THE NAME OF THE EMPLOYER THAT OWES THE EMPLOYEE THE WAGES AND THE NAME OF THE EMPLOYEE TO WHOM THE WAGES ARE OWED;

(II) A COPY OF THE NOTICE TO ESTABLISH A LIEN FOR UNPAID WAGES SERVED ON THE EMPLOYER UNDER § 3-1102 OF THIS SUBTITLE;

(III) A STATEMENT OF ANY DEFENSE TO THE LIEN FOR UNPAID WAGES; AND

(IV) AN AFFIDAVIT CONTAINING A STATEMENT OF FACTS THAT SUPPORT ANY DEFENSES RAISED.

(C) THE EMPLOYER OR EMPLOYEE MAY REQUEST AN EVIDENTIARY HEARING.

(D) IF AN EMPLOYER FILES A COMPLAINT, THE CIRCUIT COURT SHALL DETERMINE WHETHER TO ISSUE AN ORDER ESTABLISHING A LIEN FOR UNPAID WAGES:

(1) WITHIN 45 DAYS AFTER THE DATE ON WHICH THE COMPLAINT WAS FILED; AND

(2) BASED ON A PREPONDERANCE OF THE EVIDENCE IN WHICH THE EMPLOYEE HAS THE BURDEN OF PROOF TO ESTABLISH THE LIEN FOR UNPAID WAGES.

(E) (1) IF A CIRCUIT COURT ISSUES AN ORDER TO ESTABLISH A LIEN FOR UNPAID WAGES, THE EMPLOYEE IS ENTITLED TO COURT COSTS AND REASONABLE ATTORNEY'S FEES.

(2) IF A CIRCUIT COURT DETERMINES THE EFFORT TO ESTABLISH A LIEN FOR UNPAID WAGES TO HAVE BEEN FRIVOLOUS OR MADE IN BAD FAITH, THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY'S FEES TO AN EMPLOYER.

3-1104.

A LIEN FOR UNPAID WAGES IS ESTABLISHED:

(1) AFTER A CIRCUIT COURT ISSUES AN ORDER TO ESTABLISH A LIEN FOR UNPAID WAGES; OR

(2) IF NO COMPLAINT DISPUTING THE LIEN FOR UNPAID WAGES IS FILED, WITHIN 30 DAYS AFTER A NOTICE IS SERVED UNDER § 3-1102 OF THIS SUBTITLE.

3-1105.

(A) IF A CIRCUIT COURT ORDERS THE ESTABLISHMENT OF A LIEN FOR UNPAID WAGES, THE EMPLOYEE MAY RECORD THE LIEN FOR UNPAID WAGES BY FILING A WAGE LIEN STATEMENT UNDER SUBSECTION (C) OF THIS SECTION.

(B) IF THE EMPLOYER FAILS TO FILE A TIMELY COMPLAINT DISPUTING THE NOTICE OF WAGE LIEN, THE EMPLOYEE MAY RECORD THE LIEN FOR UNPAID WAGES BY FILING A WAGE LIEN STATEMENT UNDER SUBSECTION (C) OF THIS SECTION ALONG WITH PROOF OF SERVICE IN ACCORDANCE WITH MARYLAND RULE 2-126.

(C) A WAGE LIEN STATEMENT MAY BE RECORDED:

(1) FOR A LIEN AGAINST REAL PROPERTY, BY FILING A WAGE LIEN STATEMENT, IN A FORM PRESCRIBED BY THE COMMISSIONER, WITH THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY WHERE ANY PORTION OF THE PROPERTY IS LOCATED; AND

(2) FOR A LIEN AGAINST PERSONAL PROPERTY, BY FILING A WAGE LIEN STATEMENT IN THE SAME MANNER, FORM, AND PLACE AS A FINANCING STATEMENT UNDER TITLE 9, SUBTITLE 5 OF THE COMMERCIAL LAW ARTICLE.

(D) (1) IF AN EMPLOYEE DOES NOT RECORD A WAGE LIEN STATEMENT WITHIN 180 DAYS AFTER THE LIEN FOR UNPAID WAGES IS ESTABLISHED, A LIEN FOR UNPAID WAGES SHALL BE EXTINGUISHED WITHOUT PREJUDICE.

(2) IF PAYMENT IS MADE OR A BOND IS FILED FOR THE AMOUNT OF WAGES AND DAMAGES STATED IN THE WAGE LIEN STATEMENT, THE RECORDED LIEN FOR UNPAID WAGES SHALL BE RELEASED.

(E) A LIEN FOR UNPAID WAGES RECORDED UNDER THIS SECTION SHALL BE CONSIDERED A SECURED CLAIM THAT HAS PRIORITY:

(1) FROM THE DATE OF THE COURT ORDER ESTABLISHING THE LIEN FOR UNPAID WAGES; OR

(2) IF NO COMPLAINT DISPUTING THE LIEN FOR UNPAID WAGES IS FILED, FROM THE DATE THAT THE EMPLOYEE FILED THE WAGE LIEN STATEMENT.

(F) SUBSEQUENT BONA FIDE PURCHASERS OF ANY PROPERTY SUBJECT TO A RECORDED LIEN FOR UNPAID WAGES ARE DEEMED TO HAVE CONSTRUCTIVE NOTICE OF THE LIEN FOR UNPAID WAGES FROM DATE OF RECORDATION OF A WAGE LIEN STATEMENT.

3-1106.

(A) AN ORDER FOR A LIEN FOR UNPAID WAGES SHALL BE ENFORCED IN THE SAME MANNER AS ANY OTHER JUDGMENT UNDER STATE LAW.

(B) AN ACTION TO ENFORCE AN ORDER FOR A LIEN FOR UNPAID WAGES SHALL BE BROUGHT WITHIN 12 YEARS OF THE DATE OF RECORDATION OF A LIEN FOR UNPAID WAGES.

3-1107.

(A) A CONTRACT BETWEEN AN EMPLOYEE AND AN EMPLOYER MAY NOT WAIVE OR REQUIRE THE EMPLOYEE TO WAIVE THE RIGHT TO SEEK THE ESTABLISHMENT OF A LIEN FOR UNPAID WAGES UNDER THIS SUBTITLE.

(B) A PROVISION IN AN EXECUTORY CONTRACT BETWEEN AN EMPLOYER AND AN EMPLOYEE THAT CONDITIONS PAYMENT OF WAGES TO THE EMPLOYEE ON RECEIPT BY THE EMPLOYER OF A PAYMENT FROM A PROPERTY OWNER OR A THIRD PARTY MAY NOT ABROGATE OR WAIVE THE RIGHT OF AN EMPLOYEE TO SEEK THE ESTABLISHMENT OF A LIEN FOR UNPAID WAGES UNDER THIS SUBTITLE.

(C) A PROVISION OF A CONTRACT THAT VIOLATES THIS SECTION IS VOID AS AGAINST THE PUBLIC POLICY OF THE STATE.

3-1108.

THIS SUBTITLE MAY NOT BE CONSTRUED TO PREVENT AN EMPLOYEE FROM EXERCISING ANY RIGHT OR SEEKING ANY REMEDY TO WHICH THE EMPLOYEE MAY BE OTHERWISE ENTITLED.

3-1109.

THE COMMISSIONER MAY SEEK TO ESTABLISH A LIEN FOR UNPAID WAGES ON BEHALF OF AN EMPLOYEE.

3-1110.

THE COMMISSIONER SHALL ADOPT REGULATIONS TO:

- (1) ESTABLISH THE CONTENT OF THE NOTICE, COMPLAINT, AND WAGE LIEN STATEMENT UNDER THIS SUBTITLE; AND
- (2) IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

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

Approved by the Governor, May 16, 2013.

Chapter 541

(House Bill 1130)

AN ACT concerning

Labor and Employment – Lien for Unpaid Wages – Establishment

FOR the purpose of requiring an employee to provide certain written notice to a certain employer first in order to establish a lien for unpaid wages; authorizing a certain employer to dispute a lien for unpaid wages by filing a certain complaint in a certain circuit court in a certain manner; authorizing the employer or employee to request an evidentiary hearing; requiring a circuit court to make a determination on a claim to establish a lien for unpaid wages in a certain manner; authorizing a circuit court to take certain actions; providing for certain court costs and attorney's fees under certain circumstances; specifying the manner in which a lien for unpaid wages may be established; specifying the manner in which an employee may record a lien for unpaid wages; requiring a lien for unpaid wages to be extinguished without prejudice if it is not recorded within a certain period of time; requiring a lien for unpaid wages to be released if certain payment is made or a certain bond is filed; establishing the date by which a lien for unpaid wages takes priority over other claims; providing that certain purchasers of certain property are deemed to have constructive notice of a lien for unpaid wages under certain circumstances; specifying the manner in which an order for a lien for unpaid wages shall be enforced; requiring an action to enforce a certain order to be brought within a certain period of time; prohibiting certain contracts from waiving or requiring an employee to waive a certain right; specifying that a provision of a contract that violates a certain provision of this Act is void; providing for the construction of this Act; authorizing the Commissioner of Labor and Industry to seek to establish a lien for unpaid wages on behalf of an employee; requiring the Commissioner to adopt certain regulations; defining certain terms; and generally relating to liens for unpaid wages.

BY adding to

Article – Labor and Employment

Section 3–1101 through 3–1110 to be under the new subtitle “Subtitle 11. Lien for Unpaid Wages”

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 – Labor and Employment

SUBTITLE 11. LIEN FOR UNPAID WAGES.

3–1101.

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

(B) “EMPLOYER” INCLUDES A PERSON WHO ACTS DIRECTLY OR INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

(C) “LIEN FOR UNPAID WAGES” MEANS A LIEN FOR THE AMOUNT OF WAGES OWED TO AN EMPLOYEE AND PENALTIES AUTHORIZED UNDER THIS TITLE OR OTHER PROVISIONS OF LAW AGAINST REAL OR PERSONAL PROPERTY OWNED BY AN EMPLOYER AND LOCATED IN THE STATE.

(D) “WAGES” DOES NOT INCLUDE COMMISSIONS.

3-1102.

TO ESTABLISH A LIEN FOR UNPAID WAGES UNDER § 3-1104 OF THIS SUBTITLE, AN EMPLOYEE SHALL FIRST PROVIDE WRITTEN NOTICE TO AN EMPLOYER THAT:

(1) IS SERVED ON THE EMPLOYER WITHIN THE STATUTE OF LIMITATIONS PERIOD UNDER § 5-101 OF THE COURTS ARTICLE;

(2) IS PERSONALLY SERVED IN ACCORDANCE WITH MARYLAND RULE 2-121; AND

(3) CONTAINS THE INFORMATION REQUIRED BY THE COMMISSIONER UNDER § 3-1110 OF THIS SUBTITLE TO PROVIDE THE EMPLOYER WITH ADEQUATE NOTICE OF THE WAGES CLAIMED AND THE PROPERTY AGAINST WHICH THE LIEN FOR UNPAID WAGES IS SOUGHT.

3-1103.

(A) AN EMPLOYER MAY DISPUTE A LIEN FOR UNPAID WAGES BY FILING A COMPLAINT IN THE CIRCUIT COURT FOR THE COUNTY WHERE PROPERTY OF AN EMPLOYER IS LOCATED.

(B) A COMPLAINT FILED UNDER THIS SECTION SHALL:

(1) BE FILED WITHIN 30 DAYS AFTER NOTICE IS SERVED ON THE EMPLOYER; AND

(2) INCLUDE:

(I) THE NAME OF THE EMPLOYER THAT OWES THE EMPLOYEE THE WAGES AND THE NAME OF THE EMPLOYEE TO WHOM THE WAGES ARE OWED;

(II) A COPY OF THE NOTICE TO ESTABLISH A LIEN FOR UNPAID WAGES SERVED ON THE EMPLOYER UNDER § 3-1102 OF THIS SUBTITLE;

(III) A STATEMENT OF ANY DEFENSE TO THE LIEN FOR UNPAID WAGES; AND

(IV) AN AFFIDAVIT CONTAINING A STATEMENT OF FACTS THAT SUPPORT ANY DEFENSES RAISED.

(C) THE EMPLOYER OR EMPLOYEE MAY REQUEST AN EVIDENTIARY HEARING.

(D) IF AN EMPLOYER FILES A COMPLAINT, THE CIRCUIT COURT SHALL DETERMINE WHETHER TO ISSUE AN ORDER ESTABLISHING A LIEN FOR UNPAID WAGES:

(1) WITHIN 45 DAYS AFTER THE DATE ON WHICH THE COMPLAINT WAS FILED; AND

(2) BASED ON A PREPONDERANCE OF THE EVIDENCE IN WHICH THE EMPLOYEE HAS THE BURDEN OF PROOF TO ESTABLISH THE LIEN FOR UNPAID WAGES.

(E) (1) IF A CIRCUIT COURT ISSUES AN ORDER TO ESTABLISH A LIEN FOR UNPAID WAGES, THE EMPLOYEE IS ENTITLED TO COURT COSTS AND REASONABLE ATTORNEY'S FEES.

(2) IF A CIRCUIT COURT DETERMINES THE EFFORT TO ESTABLISH A LIEN FOR UNPAID WAGES TO HAVE BEEN FRIVOLOUS OR MADE IN BAD FAITH, THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY'S FEES TO AN EMPLOYER.

3-1104.

A LIEN FOR UNPAID WAGES IS ESTABLISHED:

(1) AFTER A CIRCUIT COURT ISSUES AN ORDER TO ESTABLISH A LIEN FOR UNPAID WAGES; OR

(2) IF NO COMPLAINT DISPUTING THE LIEN FOR UNPAID WAGES IS FILED, WITHIN 30 DAYS AFTER A NOTICE IS SERVED UNDER § 3-1102 OF THIS SUBTITLE.

3-1105.

(A) IF A CIRCUIT COURT ORDERS THE ESTABLISHMENT OF A LIEN FOR UNPAID WAGES, THE EMPLOYEE MAY RECORD THE LIEN FOR UNPAID WAGES BY FILING A WAGE LIEN STATEMENT UNDER SUBSECTION (C) OF THIS SECTION.

(B) IF THE EMPLOYER FAILS TO FILE A TIMELY COMPLAINT DISPUTING THE NOTICE OF WAGE LIEN, THE EMPLOYEE MAY RECORD THE LIEN FOR UNPAID WAGES BY FILING A WAGE LIEN STATEMENT UNDER SUBSECTION (C) OF THIS SECTION ALONG WITH PROOF OF SERVICE IN ACCORDANCE WITH MARYLAND RULE 2-126.

(C) A WAGE LIEN STATEMENT MAY BE RECORDED:

(1) FOR A LIEN AGAINST REAL PROPERTY, BY FILING A WAGE LIEN STATEMENT, IN A FORM PRESCRIBED BY THE COMMISSIONER, WITH THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY WHERE ANY PORTION OF THE PROPERTY IS LOCATED; AND

(2) FOR A LIEN AGAINST PERSONAL PROPERTY, BY FILING A WAGE LIEN STATEMENT IN THE SAME MANNER, FORM, AND PLACE AS A FINANCING STATEMENT UNDER TITLE 9, SUBTITLE 5 OF THE COMMERCIAL LAW ARTICLE.

(D) (1) IF AN EMPLOYEE DOES NOT RECORD A WAGE LIEN STATEMENT WITHIN 180 DAYS AFTER THE LIEN FOR UNPAID WAGES IS ESTABLISHED, A LIEN FOR UNPAID WAGES SHALL BE EXTINGUISHED WITHOUT PREJUDICE.

(2) IF PAYMENT IS MADE OR A BOND IS FILED FOR THE AMOUNT OF WAGES AND DAMAGES STATED IN THE WAGE LIEN STATEMENT, THE RECORDED LIEN FOR UNPAID WAGES SHALL BE RELEASED.

(E) A LIEN FOR UNPAID WAGES RECORDED UNDER THIS SECTION SHALL BE CONSIDERED A SECURED CLAIM THAT HAS PRIORITY:

(1) FROM THE DATE OF THE COURT ORDER ESTABLISHING THE LIEN FOR UNPAID WAGES; OR

(2) IF NO COMPLAINT DISPUTING THE LIEN FOR UNPAID WAGES IS FILED, FROM THE DATE THAT THE EMPLOYEE FILED THE WAGE LIEN STATEMENT.

(F) SUBSEQUENT BONA FIDE PURCHASERS OF ANY PROPERTY SUBJECT TO A RECORDED LIEN FOR UNPAID WAGES ARE DEEMED TO HAVE

CONSTRUCTIVE NOTICE OF THE LIEN FOR UNPAID WAGES FROM DATE OF RECORDATION OF A WAGE LIEN STATEMENT.

3-1106.

(A) AN ORDER FOR A LIEN FOR UNPAID WAGES SHALL BE ENFORCED IN THE SAME MANNER AS ANY OTHER JUDGMENT UNDER STATE LAW.

(B) AN ACTION TO ENFORCE AN ORDER FOR A LIEN FOR UNPAID WAGES SHALL BE BROUGHT WITHIN 12 YEARS OF THE DATE OF RECORDATION OF A LIEN FOR UNPAID WAGES.

3-1107.

(A) A CONTRACT BETWEEN AN EMPLOYEE AND AN EMPLOYER MAY NOT WAIVE OR REQUIRE THE EMPLOYEE TO WAIVE THE RIGHT TO SEEK THE ESTABLISHMENT OF A LIEN FOR UNPAID WAGES UNDER THIS SUBTITLE.

(B) A PROVISION IN AN EXECUTORY CONTRACT BETWEEN AN EMPLOYER AND AN EMPLOYEE THAT CONDITIONS PAYMENT OF WAGES TO THE EMPLOYEE ON RECEIPT BY THE EMPLOYER OF A PAYMENT FROM A PROPERTY OWNER OR A THIRD PARTY MAY NOT ABROGATE OR WAIVE THE RIGHT OF AN EMPLOYEE TO SEEK THE ESTABLISHMENT OF A LIEN FOR UNPAID WAGES UNDER THIS SUBTITLE.

(C) A PROVISION OF A CONTRACT THAT VIOLATES THIS SECTION IS VOID AS AGAINST THE PUBLIC POLICY OF THE STATE.

3-1108.

THIS SUBTITLE MAY NOT BE CONSTRUED TO PREVENT AN EMPLOYEE FROM EXERCISING ANY RIGHT OR SEEKING ANY REMEDY TO WHICH THE EMPLOYEE MAY BE OTHERWISE ENTITLED.

3-1109.

THE COMMISSIONER MAY SEEK TO ESTABLISH A LIEN FOR UNPAID WAGES ON BEHALF OF AN EMPLOYEE.

3-1110.

THE COMMISSIONER SHALL ADOPT REGULATIONS TO:

(1) ESTABLISH THE CONTENT OF THE NOTICE, COMPLAINT, AND WAGE LIEN STATEMENT UNDER THIS SUBTITLE; AND

(2) IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

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

Approved by the Governor, May 16, 2013.

Chapter 542

(Senate Bill 762)

AN ACT concerning

Environment – Asbestos Occupation – Training Program and Examination

FOR the purpose of authorizing a business entity to provide an asbestos training program; prohibiting a business entity that provides an asbestos training program from administering an asbestos occupation exam; altering the definition of “independent testing organization”; and generally relating to asbestos training and examinations.

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–417
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

6–417.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Business entity” includes any person designated to manage or supervise the removal or encapsulation of asbestos.
- (3) “Independent testing organization” means an entity that [is]:

(I) IS not in any way affiliated with a business entity that employs an individual to remove or encapsulate asbestos in the State; AND

(II) DOES NOT PROVIDE A TRAINING PROGRAM.

(b) (1) Unless the individual is accredited by the Department, an individual may not engage in an asbestos occupation.

(2) The Department shall accredit an individual only upon verifying that the individual:

(i) Is at least 18 years old;

(ii) Has either:

1. Successfully completed a training program and any required refresher program approved by the Department or the United States Environmental Protection Agency; or

2. Acquired and maintained current accreditation from an EPA-approved state accreditation plan of another state; and

(iii) Has passed an applicable asbestos occupation examination provided and administered by the Department or by an independent testing organization acting on behalf of the Department.

(3) The Department may accept as proof of accreditation a certificate showing successful completion of any approved training program and examination, and any required refresher program.

(4) (I) A BUSINESS ENTITY MAY PROVIDE A TRAINING PROGRAM.

(II) A BUSINESS ENTITY THAT PROVIDES A TRAINING PROGRAM MAY NOT ADMINISTER AN ASBESTOS OCCUPATION EXAMINATION.

(c) (1) The Department shall adopt regulations establishing standards and procedures that are consistent with federal law for the accreditation of asbestos occupations.

(2) The regulations shall include standards for:

(i) Training course approval and review;

(ii) Examinations for accreditation of applicants;

- (iii) Annual refresher courses and renewal of accreditation;
- (iv) Denial, suspension, and revocation of accreditation; and
- (v) Procedures for implementing this accreditation plan.

(d) The Department shall set reasonable fees sufficient to cover the Department's direct and indirect costs in administering the examination, approving training programs, including the cost of applications, issuance and renewal of training course approvals and reviews, on-site audits, record keeping, and other related activities.

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

Approved by the Governor, May 16, 2013.

Chapter 543

(House Bill 793)

AN ACT concerning

Environment – Asbestos Occupation – Training Program and Examination

FOR the purpose of authorizing a business entity to provide an asbestos training program; prohibiting a business entity that provides an asbestos training program from administering an asbestos occupation exam; altering the definition of “independent testing organization”; and generally relating to asbestos training and examinations.

BY repealing and reenacting, with amendments,

Article – Environment

Section 6–417

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

6–417.

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

(2) "Business entity" includes any person designated to manage or supervise the removal or encapsulation of asbestos.

(3) "Independent testing organization" means an entity that [is]:

(I) IS not in any way affiliated with a business entity that employs an individual to remove or encapsulate asbestos in the State; AND

(II) DOES NOT PROVIDE A TRAINING PROGRAM.

(b) (1) Unless the individual is accredited by the Department, an individual may not engage in an asbestos occupation.

(2) The Department shall accredit an individual only upon verifying that the individual:

(i) Is at least 18 years old;

(ii) Has either:

1. Successfully completed a training program and any required refresher program approved by the Department or the United States Environmental Protection Agency; or

2. Acquired and maintained current accreditation from an EPA-approved state accreditation plan of another state; and

(iii) Has passed an applicable asbestos occupation examination provided and administered by the Department or by an independent testing organization acting on behalf of the Department.

(3) The Department may accept as proof of accreditation a certificate showing successful completion of any approved training program and examination, and any required refresher program.

(4) (I) A BUSINESS ENTITY MAY PROVIDE A TRAINING PROGRAM.

(II) A BUSINESS ENTITY THAT PROVIDES A TRAINING PROGRAM MAY NOT ADMINISTER AN ASBESTOS OCCUPATION EXAMINATION.

(c) (1) The Department shall adopt regulations establishing standards and procedures that are consistent with federal law for the accreditation of asbestos occupations.

- (2) The regulations shall include standards for:
- (i) Training course approval and review;
 - (ii) Examinations for accreditation of applicants;
 - (iii) Annual refresher courses and renewal of accreditation;
 - (iv) Denial, suspension, and revocation of accreditation; and
 - (v) Procedures for implementing this accreditation plan.

(d) The Department shall set reasonable fees sufficient to cover the Department's direct and indirect costs in administering the examination, approving training programs, including the cost of applications, issuance and renewal of training course approvals and reviews, on-site audits, record keeping, and other related activities.

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

Approved by the Governor, May 16, 2013.

Chapter 544

(Senate Bill 764)

AN ACT concerning

Task Force to Study Housing and Supportive Services for Unaccompanied Homeless Youth

FOR the purpose of establishing the Task Force to Study Housing and Supportive Services for Unaccompanied Homeless Youth; 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; establishing the duties of the Task Force; 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 Housing and Supportive Services for Unaccompanied Homeless Youth.

Preamble

WHEREAS, Each year, over 1.6 million youth throughout the nation, and an increasing number of youth in Maryland, find themselves without stable housing and outside the care of a parent or guardian; and

WHEREAS, Many of these youth have become homeless and unaccompanied due to being rejected by their families because of their sexual orientation, gender identity, pregnancy, physical or sexual abuse, or severe conflict in the home, or because they have aged out of the foster care system without the skills and resources to support themselves; and

WHEREAS, Unaccompanied homeless youth are a largely invisible population, most of whom are “couch surfing” with friends and extended family, living on the streets, or squatting in vacant buildings; and

WHEREAS, Unaccompanied homeless youth are disproportionately likely to turn to delinquency, become victims of crime, commit suicide, suffer from physical and mental health impairments, engage in risky sexual behaviors, and drop out of school in order to survive on the street; and

WHEREAS, There is a *general* lack of *knowledge about the* public and private sector programs and resources available to assist unaccompanied homeless youth, ~~including a lack~~ *such as the availability* of shelter and permanent housing; case management; medical, mental health, and substance abuse treatment; education and job training; food and clothing; financial counseling; legal advice and representation; and other supportive services; and

WHEREAS, ~~The foster care system is~~ *Current systems are* not adequately meeting the needs of many unaccompanied homeless youth, particularly those who do not come to the attention of ~~child welfare~~ *child-serving* agencies, those who are ~~too old to enter foster care~~ *not eligible for existing programs and services*, those who have lived independently for so long that they are unlikely to form successful relationships with ~~foster or adoptive parents~~ *parental figures*, and those who have had particularly negative experiences while in ~~foster~~ *congregate* care; and

WHEREAS, These youth are urgently in need of safe, secure, *affordable*, and stable housing as well as supportive services that will prevent them from becoming permanently homeless and, instead, set them on a path towards self-sufficiency; now, therefore,

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

(a) *In this section, “unaccompanied homeless youth” means an individual who:*

(1) *is between the ages of 14 and 25 years;*

- (2) lacks a fixed, regular, and adequate nighttime residence; and
- (3) is not in the physical custody of a parent or guardian.

(b) There is a Task Force to Study Housing and Supportive Services for Unaccompanied Homeless Youth.

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

- (1) one member of the Senate ~~Budget and Taxation~~ Education, Health, and Environmental Affairs Committee, appointed by the President of the Senate;
- (2) one member of the House Appropriations Committee, appointed by the Speaker of the House of Delegates;
- (3) the Secretary of Housing and Community Development, or the Secretary's designee;
- (4) the Secretary of Human Resources, or the Secretary's designee;
- (5) the Secretary of Health and Mental Hygiene, or the Secretary's designee;
- (6) the Secretary of Juvenile Services, or the Secretary's designee; ~~and~~
- (7) the State Superintendent of Schools, or the State Superintendent's designee; and

~~(7)~~ (8) the following members, appointed by the Governor:

- (i) one representative from the Governor's Office for Children;
- ~~(ii) two representatives from the State Department of Education;~~
- ~~(iii)~~ (ii) two representatives from the Baltimore Homeless Youth Initiative, one of whom is a service provider and one of whom is a youth or young adult who has experienced homelessness;
- ~~(iii)~~ (iv) (iii) two representatives from the Prince George's County Homeless Youth Work Group, one of whom is a service provider and one of whom is a youth or young adult who has experienced homelessness; and
- ~~(iv)~~ (v) (iv) one representative from the Maryland Affordable Housing Coalition.

~~(e) The Task Force shall elect a chair from among its members.~~

(d) The representative from the Governor's Office for Children shall serve as Chair of the Task Force.

~~(d) (e)~~ The ~~Department of Housing and Community Development Health and Mental Hygiene~~ Governor's Office for Children shall provide staff for the Task Force.

~~(e) (f)~~ 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) (g)~~ The Task Force shall:

(1) compile existing information on and identify ~~and study~~ the unique needs of unaccompanied homeless youth ~~between 13 and 25 years of age~~, and ~~evaluate~~ identify the public and private sector programs and resources currently available to meet those needs;

(2) identify gaps in public and private sector programs and resources currently available to meet the needs of unaccompanied homeless youth;

~~(2) (3)~~ collect and ~~evaluate~~ compile data on the unaccompanied homeless youth population in the State, including the causes of homelessness in this population and the number of unaccompanied homeless youth in each jurisdiction of the State;

~~(3) (4)~~ make recommendations on:

(i) legislation and policy initiatives to address the needs of unaccompanied homeless youth in the State; and

(ii) funding requirements and budgetary priorities to address the needs of unaccompanied homeless youth in the State; and

~~(4) (5)~~ make recommendations on any other relevant issues or considerations identified by the Task Force.

~~(g) (h)~~ On or before ~~December~~ November 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 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 16, 2013.

Chapter 545

(House Bill 823)

AN ACT concerning

Task Force to Study Housing and Supportive Services for Unaccompanied Homeless Youth

FOR the purpose of establishing the Task Force to Study Housing and Supportive Services for Unaccompanied Homeless Youth; 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; establishing the duties of the Task Force; 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 Housing and Supportive Services for Unaccompanied Homeless Youth.

Preamble

WHEREAS, Each year, over 1.6 million youth throughout the nation, and an increasing number of youth in Maryland, find themselves without stable housing and outside the care of a parent or guardian; and

WHEREAS, Many of these youth have become homeless and unaccompanied due to being rejected by their families because of their sexual orientation, gender identity, pregnancy, physical or sexual abuse, or severe conflict in the home, or because they have aged out of the foster care system without the skills and resources to support themselves; and

WHEREAS, Unaccompanied homeless youth are a largely invisible population, most of whom are “couch surfing” with friends and extended family, living on the streets, or squatting in vacant buildings; and

WHEREAS, Unaccompanied homeless youth are disproportionately likely to turn to delinquency, become victims of crime, commit suicide, suffer from physical and mental health impairments, engage in risky sexual behaviors, and drop out of school in order to survive on the street; and

WHEREAS, There is a general lack of knowledge about the public and private sector programs and resources available to assist unaccompanied homeless youth,

~~including a lack~~ such as the availability of shelter and permanent housing; case management; medical, mental health, and substance abuse treatment; education and job training; food and clothing; financial counseling; legal advice and representation; and other supportive services; and

WHEREAS, ~~The foster care system is~~ Current systems are not adequately meeting the needs of many unaccompanied homeless youth, particularly those who do not come to the attention of ~~child welfare~~ child-serving agencies, those who are ~~too old to enter foster care~~ not eligible for existing programs and services, those who have lived independently for so long that they are unlikely to form successful relationships with ~~foster or adoptive parents~~ parental figures, and those who have had particularly negative experiences while in ~~foster~~ congregate care; and

WHEREAS, These youth are urgently in need of safe, secure, affordable, and stable housing as well as supportive services that will prevent them from becoming permanently homeless and, instead, set them on a path towards self-sufficiency; now, therefore,

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

(a) In this section, "unaccompanied homeless youth" means an individual who:

- (1) is between the ages of 14 and 25 years;
- (2) lacks a fixed, regular, and adequate nighttime residence; and
- (3) is not in the physical custody of a parent or guardian.

(b) There is a Task Force to Study Housing and Supportive Services for Unaccompanied Homeless Youth.

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

- (1) one member of the Senate ~~Budget and Taxation~~ Education, Health, and Environmental Affairs Committee, appointed by the President of the Senate;
- (2) one member of the House Appropriations Committee, appointed by the Speaker of the House of Delegates;
- (3) the Secretary of Housing and Community Development, or the Secretary's designee;
- (4) the Secretary of Human Resources, or the Secretary's designee;

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

(6) the Secretary of Juvenile Services, or the Secretary's designee; ~~and~~

(7) the State Superintendent of Schools, or the State Superintendent's designee; and

~~(7)~~ (8) the following members, appointed by the Governor:

(i) one representative from the Governor's Office for Children;

(ii) two representatives from the Baltimore Homeless Youth Initiative, one of whom is a service provider and one of whom is a youth or young adult who has experienced homelessness;

(iii) two representatives from the Prince George's County Homeless Youth Work Group, one of whom is a service provider and one of whom is a youth or young adult who has experienced homelessness; and

(iv) one representative from the Maryland Affordable Housing Coalition.

~~(e) The Task Force shall elect a chair from among its members.~~

(d) The representative from the Governor's Office for Children shall serve as Chair of the Task Force.

~~(d)~~ (e) ~~The Department of Health and Mental Hygiene~~ Governor's Office for Children shall provide staff for the Task Force.

~~(e)~~ (f) 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)~~ (g) The Task Force shall:

(1) compile existing information on and identify ~~and study~~ the unique needs of unaccompanied homeless youth ~~between 13 and 25 years of age~~, and ~~evaluate~~ identify the public and private sector programs and resources currently available to meet those needs;

(2) identify gaps in public and private sector programs and resources currently available to meet the needs of unaccompanied homeless youth;

~~(2)~~ (3) collect and ~~evaluate~~ compile data on the unaccompanied homeless youth population in the State, including the causes of homelessness in this population and the number of unaccompanied homeless youth in each jurisdiction of the State;

~~(3)~~ (4) make recommendations on:

(i) legislation and policy initiatives to address the needs of unaccompanied homeless youth in the State; and

(ii) funding requirements and budgetary priorities to address the needs of unaccompanied homeless youth in the State; and

~~(4)~~ (5) make recommendations on any other relevant issues or considerations identified by the Task Force.

~~(e)~~ (h) On or before ~~September~~ November 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 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 16, 2013.

Chapter 546

(Senate Bill 774)

AN ACT concerning

Income Tax – Subtraction Modification – Maryland Civil Air Patrol

FOR the purpose of making certain members of the Maryland Civil Air Patrol eligible under certain circumstances for a certain subtraction modification under the Maryland income tax for qualifying volunteer fire, rescue, or emergency medical services members; providing that an individual may not qualify for the subtraction modification based on membership in the Maryland Civil Air Patrol unless the Maryland Civil Air Patrol maintains certain records and provides certain reports; providing for a delayed effective date; providing for the application of this Act; and generally relating to a State income tax subtraction modification for certain qualifying members of the Maryland Civil Air Patrol.

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–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

10–208.

(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) (1) The subtraction under subsection (a) of this section includes an amount equal to \$3,500 if an individual is a qualifying volunteer fire, rescue, or emergency medical services member for the taxable year, as determined under paragraph (2) of this subsection.

(2) An individual is a qualifying volunteer fire, rescue, or emergency medical services member for the taxable year eligible for the subtraction modification under this subsection if the individual:

- (i) is an active member of:
1. a bona fide Maryland fire, rescue, or emergency medical services organization;
 2. an auxiliary organization of a bona fide Maryland fire, rescue, or emergency medical services organization;
 3. the United States Coast Guard Auxiliary; [or]
 4. the Maryland Defense Force; **OR**
 5. **THE MARYLAND CIVIL AIR PATROL;**

(ii) serves the organization in a volunteer capacity without compensation, except nominal expenses or meals;

(iii) 1. qualifies for active status during the taxable year under:

A. a volunteer fire, rescue, or emergency medical services personnel or auxiliary length of service award program operated by a county or municipal corporation of the State, if the length of service award program requires for active status qualification a minimum of 50 points per year and that points be earned in at least two different categories; or

B. a point system established by a county or municipal corporation that does not operate a volunteer fire, rescue, or emergency medical services personnel or auxiliary length of service award program or by the United States Coast Guard Auxiliary, [or] the Maryland Defense Force, **OR THE MARYLAND CIVIL AIR PATROL**, to identify active members of a volunteer fire, rescue, or emergency medical services organization or auxiliary organization, if the point system requires for active status qualification a minimum of 50 points per year and that points be earned in at least two different categories;

2. has maintained active status for at least 25 years under a volunteer fire, rescue, or emergency medical services personnel or auxiliary length of service award program or a point system established in lieu of a length of service award program;

3. is a member of the National Guard or other reserve component of the United States armed forces who has been ordered into active military service and who serves on active duty in the armed forces of the United States during the taxable year; or

4. is a civilian or a member of the Merchant Marine on assignment in support of the armed forces of the United States during the taxable year in an area designated as a combat zone by executive order of the President; and

(iv) will have been an active member of a bona fide Maryland fire, rescue, or emergency medical services organization, an auxiliary organization of a bona fide Maryland fire, rescue, or emergency medical services organization, or the United States Coast Guard Auxiliary, [or] the Maryland Defense Force, **OR THE MARYLAND CIVIL AIR PATROL** for at least 36 months during the last 10 calendar years by December 31 of the taxable year.

(3) (i) Each fire, rescue, or emergency medical services organization or auxiliary organization shall:

1. maintain a record of the points earned by each individual during each calendar year;

2. provide each member a report identifying the number of points earned in each category by February 15 of the following year; and

3. provide a report that includes the names, Social Security numbers, and points earned by those members qualifying for the subtraction modification under this subsection to the Maryland State Firemen's Association by May 1 of the following year.

(ii) An individual may not qualify for the subtraction under this subsection based on membership in the United States Coast Guard Auxiliary, [or] the Maryland Defense Force, **OR THE MARYLAND CIVIL AIR PATROL** unless the United States Coast Guard Auxiliary, [or] the Maryland Defense Force, **OR THE MARYLAND CIVIL AIR PATROL**:

1. maintains a record of the points earned by each individual during each calendar year;

2. provides each member a report identifying the number of points earned in each category by February 15 of the following year; and

3. provides a report that includes the names, Social Security numbers, and points earned by those members qualifying for the subtraction modification under this subsection to the Comptroller on or before October 1 of each year.

(4) To qualify for the subtraction modification under this subsection, an individual shall attach to the individual's income tax return a copy of the report provided by the organization under paragraph (3) of this subsection.

(5) On or before October 1 of each year, the Maryland State Firemen's Association shall submit to the Department of Public Safety and Correctional Services and the Office of the Comptroller a report stating the participation in the point system by the various local subdivisions with the names and Social Security numbers of individuals who qualified for the subtraction modification under this subsection for the preceding taxable year.

(6) (i) A person may not knowingly make or cause any false statement or report to be made in any application or in any document required under this subsection.

(ii) Any person who violates or attempts to violate any provision of subparagraph (i) of this paragraph shall be subject to a fine of \$1,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2014, and shall be applicable to all taxable years beginning after December 31, 2014.

Approved by the Governor, May 16, 2013.

Chapter 547

(Senate Bill 784)

AN ACT concerning

**Employment Discrimination – Reasonable Accommodations for Disabilities
Due to Pregnancy**

FOR the purpose of requiring an employer, if an employee requests a reasonable accommodation for a disability caused or contributed to by pregnancy, to explore with the employee certain means of reasonably accommodating the disability; requiring an employer to transfer an employee to a less strenuous or less hazardous position for a certain period of time under certain circumstances; authorizing an employer to require an employee to provide a certain certification from a health care provider under certain circumstances; requiring an employer to post in a certain location, and to include in a certain handbook, information concerning an employee's rights to reasonable accommodations and leave for a disability caused or contributed to by pregnancy; prohibiting an employer from interfering with, restraining, or denying the exercise of, or the attempt to exercise, certain rights; providing that a certain provision of law may not be construed to affect any other provision of law relating to discrimination on the basis of sex or pregnancy or to diminish in any way certain coverage of pregnancy, childbirth, or a related medical condition; defining a certain term; and generally relating to reasonable accommodations for temporary disabilities due to pregnancy.

BY repealing and reenacting, without amendments,
Article – State Government
Section 20–601(a) through (d) and 20–606(a)(4)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 20–609
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

20–601.

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

(b) (1) “Disability” means:

(i) 1. a physical disability, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy; or

2. a mental impairment or deficiency;

(ii) a record of having a physical or mental impairment as otherwise defined under this subsection; or

(iii) being regarded as having a physical or mental impairment as otherwise defined under this subsection.

(2) “Disability” includes:

(i) 1. any degree of paralysis, amputation, or lack of physical coordination;

2. blindness or visual impairment;

3. deafness or hearing impairment;

4. muteness or speech impediment; and

5. physical reliance on a service animal, wheelchair, or other remedial appliance or device; and

(ii) retardation and any other mental impairment or deficiency that may have necessitated remedial or special education and related services.

(c) (1) “Employee” means an individual employed by an employer.

(2) Unless the individual is subject to the State or local civil service laws, “employee” does not include:

(i) an individual elected to public office;

(ii) an individual chosen by an elected officer to be on the officer’s personal staff;

(iii) an appointee on the policy making level; or

(iv) an immediate adviser with respect to the exercise of the constitutional or legal powers of an elected office.

(d) (1) "Employer" means:

(i) a person that:

1. is engaged in an industry or business; and

2. has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year; and

(ii) an agent of a person described in item (i) of this paragraph.

(2) "Employer" includes the State to the extent provided in this title.

(3) Except for a labor organization, "employer" does not include a bona fide private membership club that is exempt from taxation under § 501(c) of the Internal Revenue Code.

20-606.

(a) An employer may not:

(4) fail or refuse to make a reasonable accommodation for the known disability of an otherwise qualified employee.

20-609.

(A) IN THIS SECTION, "REASONABLE ACCOMMODATION" MEANS AN ACCOMMODATION:

(1) FOR AN EMPLOYEE'S DISABILITY CAUSED OR CONTRIBUTED TO BY PREGNANCY; AND

(2) THAT DOES NOT IMPOSE AN UNDUE HARDSHIP ON THE EMPLOYEE'S EMPLOYER.

[(a)] (B) Disabilities caused or contributed to by pregnancy or childbirth:

(1) are temporary disabilities for all job-related purposes; and

(2) shall be treated as temporary disabilities under any health or temporary disability insurance or sick leave plan available in connection with employment.

[(b)] (C) Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions of leave, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.

(D) IF AN EMPLOYEE REQUESTS A REASONABLE ACCOMMODATION, THE EMPLOYER SHALL EXPLORE WITH THE EMPLOYEE ALL POSSIBLE MEANS OF PROVIDING THE REASONABLE ACCOMMODATION, INCLUDING:

- (1) CHANGING THE EMPLOYEE’S JOB DUTIES;**
- (2) CHANGING THE EMPLOYEE’S WORK HOURS;**
- (3) RELOCATING THE EMPLOYEE’S WORK AREA;**
- (4) PROVIDING MECHANICAL OR ELECTRICAL AIDS;**
- (5) TRANSFERRING THE EMPLOYEE TO A LESS STRENUOUS OR LESS HAZARDOUS POSITION; OR**
- (6) PROVIDING LEAVE.**

(E) IF AN EMPLOYEE REQUESTS A TRANSFER TO A LESS STRENUOUS OR LESS HAZARDOUS POSITION AS A REASONABLE ACCOMMODATION, THE EMPLOYER SHALL TRANSFER THE EMPLOYEE FOR A PERIOD OF TIME UP TO THE DURATION OF THE EMPLOYEE’S PREGNANCY IF:

(1) THE EMPLOYER HAS A POLICY, PRACTICE, OR COLLECTIVE BARGAINING AGREEMENT REQUIRING OR AUTHORIZING THE TRANSFER OF A TEMPORARILY DISABLED EMPLOYEE TO A LESS STRENUOUS OR LESS HAZARDOUS POSITION FOR THE DURATION OF THE DISABILITY; OR

(2) THE EMPLOYEE’S HEALTH CARE PROVIDER ADVISES THE TRANSFER AND THE EMPLOYER CAN PROVIDE THE REASONABLE ACCOMMODATION BY TRANSFERRING THE EMPLOYEE WITHOUT:

(I) CREATING ADDITIONAL EMPLOYMENT THAT THE EMPLOYER WOULD NOT OTHERWISE HAVE CREATED;

(II) DISCHARGING ANY EMPLOYEE;

(III) TRANSFERRING ANY EMPLOYEE WITH MORE SENIORITY THAN THE EMPLOYEE REQUESTING THE REASONABLE ACCOMMODATION; OR

(IV) PROMOTING ANY EMPLOYEE WHO IS NOT QUALIFIED TO PERFORM THE JOB.

(F) (1) AN EMPLOYER MAY REQUIRE AN EMPLOYEE TO PROVIDE A CERTIFICATION FROM THE EMPLOYEE'S HEALTH CARE PROVIDER CONCERNING THE MEDICAL ADVISABILITY OF A REASONABLE ACCOMMODATION TO THE SAME EXTENT A CERTIFICATION IS REQUIRED FOR OTHER TEMPORARY DISABILITIES.

(2) A CERTIFICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE DATE THE REASONABLE ACCOMMODATION BECAME MEDICALLY ADVISABLE;

(II) THE PROBABLE DURATION OF THE REASONABLE ACCOMMODATION; AND

(III) AN EXPLANATORY STATEMENT AS TO THE MEDICAL ADVISABILITY OF THE REASONABLE ACCOMMODATION.

(G) AN EMPLOYER SHALL POST IN A CONSPICUOUS LOCATION, AND INCLUDE IN ANY EMPLOYEE HANDBOOK, INFORMATION CONCERNING AN EMPLOYEE'S RIGHTS TO REASONABLE ACCOMMODATIONS AND LEAVE FOR A DISABILITY CAUSED OR CONTRIBUTED TO BY PREGNANCY.

(H) AN EMPLOYER MAY NOT INTERFERE WITH, RESTRAIN, OR DENY THE EXERCISE OF, OR THE ATTEMPT TO EXERCISE, ANY RIGHT PROVIDED UNDER THIS SECTION.

(I) THIS SECTION MAY NOT BE CONSTRUED TO:

(1) AFFECT ANY OTHER PROVISION OF LAW RELATING TO DISCRIMINATION ON THE BASIS OF SEX OR PREGNANCY; OR

(2) DIMINISH IN ANY WAY THE COVERAGE OF PREGNANCY, CHILDBIRTH, OR A MEDICAL CONDITION RELATED TO PREGNANCY OR CHILDBIRTH UNDER THIS SECTION.

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

Approved by the Governor, May 16, 2013.

Chapter 548

(House Bill 804)

AN ACT concerning

Employment Discrimination – Reasonable Accommodations for Disabilities Due to Pregnancy

FOR the purpose of requiring an employer, if an employee requests a reasonable accommodation for a disability caused or contributed to by pregnancy, to explore with the employee certain means of reasonably accommodating the disability; requiring an employer to transfer an employee to a less strenuous or less hazardous position for a certain period of time under certain circumstances; authorizing an employer to require an employee to provide a certain certification from a health care provider under certain circumstances; requiring an employer to post in a certain location, and to include in a certain handbook, information concerning an employee's rights to reasonable accommodations and leave for a disability caused or contributed to by pregnancy; prohibiting an employer from interfering with, restraining, or denying the exercise of, or the attempt to exercise, certain rights; providing that a certain provision of law may not be construed to affect any other provision of law relating to discrimination on the basis of sex or pregnancy or to diminish in any way certain coverage of pregnancy, childbirth, or a related medical condition; defining a certain term; and generally relating to reasonable accommodations for temporary disabilities due to pregnancy.

BY repealing and reenacting, without amendments,
Article – State Government
Section 20–601(a) through (d) and 20–606(a)(4)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 20–609

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

20–601.

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

(b) (1) “Disability” means:

(i) 1. a physical disability, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy; or

2. a mental impairment or deficiency;

(ii) a record of having a physical or mental impairment as otherwise defined under this subsection; or

(iii) being regarded as having a physical or mental impairment as otherwise defined under this subsection.

(2) “Disability” includes:

(i) 1. any degree of paralysis, amputation, or lack of physical coordination;

2. blindness or visual impairment;

3. deafness or hearing impairment;

4. muteness or speech impediment; and

5. physical reliance on a service animal, wheelchair, or other remedial appliance or device; and

(ii) retardation and any other mental impairment or deficiency that may have necessitated remedial or special education and related services.

(c) (1) “Employee” means an individual employed by an employer.

(2) Unless the individual is subject to the State or local civil service laws, “employee” does not include:

- (i) an individual elected to public office;
- (ii) an individual chosen by an elected officer to be on the officer's personal staff;
- (iii) an appointee on the policy making level; or
- (iv) an immediate adviser with respect to the exercise of the constitutional or legal powers of an elected office.

(d) (1) "Employer" means:

- (i) a person that:
 - 1. is engaged in an industry or business; and
 - 2. has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year; and

(ii) an agent of a person described in item (i) of this paragraph.

(2) "Employer" includes the State to the extent provided in this title.

(3) Except for a labor organization, "employer" does not include a bona fide private membership club that is exempt from taxation under § 501(c) of the Internal Revenue Code.

20–606.

(a) An employer may not:

(4) fail or refuse to make a reasonable accommodation for the known disability of an otherwise qualified employee.

20–609.

(A) IN THIS SECTION, "REASONABLE ACCOMMODATION" MEANS AN ACCOMMODATION:

(1) FOR AN EMPLOYEE'S DISABILITY CAUSED OR CONTRIBUTED TO BY PREGNANCY; AND

(2) THAT DOES NOT IMPOSE AN UNDUE HARDSHIP ON THE EMPLOYEE'S EMPLOYER.

[(a)] (B) Disabilities caused or contributed to by pregnancy or childbirth:

- (1) are temporary disabilities for all job-related purposes; and
- (2) shall be treated as temporary disabilities under any health or temporary disability insurance or sick leave plan available in connection with employment.

[(b)] (C) Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions of leave, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.

(D) IF AN EMPLOYEE REQUESTS A REASONABLE ACCOMMODATION, THE EMPLOYER SHALL EXPLORE WITH THE EMPLOYEE ALL POSSIBLE MEANS OF PROVIDING THE REASONABLE ACCOMMODATION, INCLUDING:

- (1) CHANGING THE EMPLOYEE'S JOB DUTIES;**
- (2) CHANGING THE EMPLOYEE'S WORK HOURS;**
- (3) RELOCATING THE EMPLOYEE'S WORK AREA;**
- (4) PROVIDING MECHANICAL OR ELECTRICAL AIDS;**
- (5) TRANSFERRING THE EMPLOYEE TO A LESS STRENUOUS OR LESS HAZARDOUS POSITION; OR**
- (6) PROVIDING LEAVE.**

(E) IF AN EMPLOYEE REQUESTS A TRANSFER TO A LESS STRENUOUS OR LESS HAZARDOUS POSITION AS A REASONABLE ACCOMMODATION, THE EMPLOYER SHALL TRANSFER THE EMPLOYEE FOR A PERIOD OF TIME UP TO THE DURATION OF THE EMPLOYEE'S PREGNANCY IF:

- (1) THE EMPLOYER HAS A POLICY, PRACTICE, OR COLLECTIVE BARGAINING AGREEMENT REQUIRING OR AUTHORIZING THE TRANSFER OF A TEMPORARILY DISABLED EMPLOYEE TO A LESS STRENUOUS OR LESS HAZARDOUS POSITION FOR THE DURATION OF THE DISABILITY; OR**

(2) THE EMPLOYEE'S HEALTH CARE PROVIDER ADVISES THE TRANSFER AND THE EMPLOYER CAN PROVIDE THE REASONABLE ACCOMMODATION BY TRANSFERRING THE EMPLOYEE WITHOUT:

(I) CREATING ADDITIONAL EMPLOYMENT THAT THE EMPLOYER WOULD NOT OTHERWISE HAVE CREATED;

(II) DISCHARGING ANY EMPLOYEE;

(III) TRANSFERRING ANY EMPLOYEE WITH MORE SENIORITY THAN THE EMPLOYEE REQUESTING THE REASONABLE ACCOMMODATION; OR

(IV) PROMOTING ANY EMPLOYEE WHO IS NOT QUALIFIED TO PERFORM THE JOB.

(F) (1) AN EMPLOYER MAY REQUIRE AN EMPLOYEE TO PROVIDE A CERTIFICATION FROM THE EMPLOYEE'S HEALTH CARE PROVIDER CONCERNING THE MEDICAL ADVISABILITY OF A REASONABLE ACCOMMODATION TO THE SAME EXTENT A CERTIFICATION IS REQUIRED FOR OTHER TEMPORARY DISABILITIES.

(2) A CERTIFICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE DATE THE REASONABLE ACCOMMODATION BECAME MEDICALLY ADVISABLE;

(II) THE PROBABLE DURATION OF THE REASONABLE ACCOMMODATION; AND

(III) AN EXPLANATORY STATEMENT AS TO THE MEDICAL ADVISABILITY OF THE REASONABLE ACCOMMODATION.

(G) AN EMPLOYER SHALL POST IN A CONSPICUOUS LOCATION, AND INCLUDE IN ANY EMPLOYEE HANDBOOK, INFORMATION CONCERNING AN EMPLOYEE'S RIGHTS TO REASONABLE ACCOMMODATIONS AND LEAVE FOR A DISABILITY CAUSED OR CONTRIBUTED TO BY PREGNANCY.

(H) AN EMPLOYER MAY NOT INTERFERE WITH, RESTRAIN, OR DENY THE EXERCISE OF, OR THE ATTEMPT TO EXERCISE, ANY RIGHT PROVIDED UNDER THIS SECTION.

(I) THIS SECTION MAY NOT BE CONSTRUED TO:

(1) AFFECT ANY OTHER PROVISION OF LAW RELATING TO DISCRIMINATION ON THE BASIS OF SEX OR PREGNANCY; OR

(2) DIMINISH IN ANY WAY THE COVERAGE OF PREGNANCY, CHILDBIRTH, OR A MEDICAL CONDITION RELATED TO PREGNANCY OR CHILDBIRTH UNDER THIS SECTION.

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

Approved by the Governor, May 16, 2013.

Chapter 549

(Senate Bill 790)

AN ACT concerning

**Department of Health and Mental Hygiene – Advance Directive Registry –
Fee and Date of Operation**

FOR the purpose of requiring the Secretary of Health and Mental Hygiene to set a certain fee, by regulation, for certain services of the Advance Directive Registry; requiring the Department of Health and Mental Hygiene to take the steps necessary to make the Registry operational by a certain date; and generally relating to the Advance Directive Registry in the Department of Health and Mental Hygiene.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 5–620
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 5–622
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

5–620.

There is an Advance Directive Registry in the Department.

5–622.

(a) (1) The Secretary [may] **SHALL**, by regulation, set a fee for any service of the Registry, including an initial fee to utilize the services of the Registry and renewal fees.

(2) The fees set by the Secretary may not, in the aggregate, exceed the Department's costs to establish and operate the Registry.

(b) (1) The Department may, by contract, obtain from any person services related to the establishment and operation of the Registry.

(2) Notwithstanding any contract in accordance with paragraph (1) of this subsection, the Department is responsible for the Registry.

(c) The Department shall carry out appropriate educational and outreach efforts to increase public awareness of the Registry.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene shall take all the steps necessary to make the Advance Directive Registry established under Title 5, Subtitle 6, Part II of the Health – General Article operational on or before October 1, 2014.

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

Approved by the Governor, May 16, 2013.

Chapter 550

(Senate Bill 801)

AN ACT concerning

State Retirement and Pension Systems – Cost-of-Living Adjustments – Simplification and Clarification

FOR the purpose of clarifying the calculation of cost-of-living adjustments for certain State retirement or pension systems; clarifying the applicability of certain cost-of-living adjustments to certain State retirement or pension systems and

to certain participants in those systems; consolidating provisions relating to cost-of-living adjustments that apply to all of the cost-of-living adjustments, including the timing of the initial adjustment, types of benefits to which a cost-of-living adjustment does not apply, the application of a zero rate under certain circumstances, and a certain additional adjustment following a fiscal year in which a zero rate adjustment is applied; clarifying the calculation of cost-of-living adjustments for certain participants in certain Deferred Retirement Option Programs; repealing a certain obsolete provision; making technical and conforming changes; defining certain terms; declaring the intent of the General Assembly that this Act be construed in a certain manner; and generally relating to cost-of-living adjustments to certain allowances provided by certain State retirement or pension systems.

BY repealing

Article – State Personnel and Pensions

Section 29–401 through 29–432 and the subtitle “Subtitle 4. Cost-of-Living Adjustments”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 21–113(a), 22–219(b)(2), 22–220(b)(2), 22–221(e), 23–218(2), 23–226(a)(2), 24–401(e), 24–401.1(h)(2)(ii) and (j)(1) and (2), 26–210(a)(2), and 26–401.1(h)(2)(ii) and (j)(1) and (2)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – State Personnel and Pensions

Section 29–401 through 29–409 and the subtitle “Subtitle 4. Cost-of-Living Adjustments”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 29–401 through 29–432 and the subtitle “Subtitle 4. Cost-of-Living Adjustments” of Article – State Personnel and Pensions of the Annotated Code of Maryland be repealed.

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

Article – State Personnel and Pensions

21–113.

(a) Except as provided in [§ 29–402] **§ 29–409** of this article, if, because of an error in the records of the several systems, a retiree or beneficiary receives a benefit that differs from the benefit the retiree or beneficiary is entitled to receive, the Board of Trustees shall:

(1) correct the error; and

(2) to the extent practicable, adjust the payment to the retiree or beneficiary to provide the actuarial equivalent to which the retiree or beneficiary is correctly entitled.

22–219.

(b) A member who is subject to Selection A (Additional member contributions) shall:

(2) have the allowance adjusted as provided [by Title 29, Subtitle 4, Part III] **IN §§ 29–401 THROUGH 29–403** of this article; and

22–220.

(b) A member who is subject to Selection B (Limited cost-of-living adjustment) shall:

(2) have the allowance adjusted as provided [by Title 29, Subtitle 4, Part IV] **IN §§ 29–401, 29–402, AND 29–405** of this article; and

22–221.

(e) A member who retires on or after the effective date for application of this section shall have the allowance adjusted as provided in [Title 29, Subtitle 4, Part V] **§§ 29–401, 29–402, AND 29–407** of this article.

23–218.

A member who is subject to this Part II of this subtitle shall:

(2) have the allowance adjusted as provided in [Title 29, Subtitle 4, Part VI] **§§ 29–401, 29–402, 29–406, AND 29–408** of this article; and

23–226.

(a) Except as provided in subsection (b) of this section, a member who is subject to this Part IV of this subtitle shall:

(2) have the allowance adjusted as provided in [Title 29, Subtitle 4, Part VII] §§ 29-401, 29-402, AND 29-408 of this article; and
24-401.

(e) [(1)] Subject to [paragraph (2) of this subsection,] §§ 29-401, 29-402, AND 29-403 OF THIS ARTICLE, a retiree, or a beneficiary of a retiree, who retires on or before June 30, 1999 with a service retirement allowance, shall receive an annual retirement allowance adjustment as of July 1, 1999, as follows:

[(i)] (1) for a retiree who has been retired not more than 5 years, \$1,200;

[(ii)] (2) for a retiree who has been retired more than 5 years but not more than 10 years, \$1,500;

[(iii)] (3) for a retiree who has been retired more than 10 years but not more than 15 years, \$1,800; and

[(iv)] (4) for a retiree who has been retired more than 15 years, \$2,100.

[(2)] Except as provided in paragraph (3) of this subsection, each fiscal year, the Board of Trustees shall adjust the adjustment received by the retiree or the beneficiary as of July 1, 1999, by multiplying the adjustment by a fraction that has:

(i) as its numerator, the Consumer Price Index for the calendar year ending December 31 of the preceding fiscal year; and

(ii) as its denominator, the Consumer Price Index for the calendar year ending December 31, 1998.

(3) (i) In this paragraph, "zero-adjustment fiscal year" means any fiscal year when the allowance adjustment as provided in paragraph (2) of this subsection is less than the allowance adjustment paid for the preceding fiscal year.

(ii) For any fiscal year, the allowance adjustment may not be less than the allowance adjustment paid for the preceding fiscal year.

(iii) 1. This subparagraph applies only to a fiscal year that is not a zero-adjustment fiscal year.

2. Subject to subsubparagraph 3 of this subparagraph:

A. for a fiscal year that follows immediately after a zero-adjustment fiscal year, the allowance adjustment as provided in paragraph (2) of

this subsection shall be reduced by the difference between the allowance adjustment paid in the preceding fiscal year and the allowance adjustment that would have been payable for the preceding fiscal year if the allowance for that fiscal year had been adjusted as provided under paragraph (2) of this subsection; and

B. for a fiscal year that follows immediately after 2 or more consecutive zero–adjustment fiscal years, the allowance adjustment as provided in paragraph (2) of this subsection shall be reduced by the difference between the total of the allowance adjustments paid in each consecutive zero–adjustment fiscal year preceding the fiscal year and the total allowances that would have been payable for each of the zero–adjustment fiscal years if the allowance adjustment for each of those fiscal years had been adjusted under paragraph (2) of this subsection.

3. If the amount of the reduction required for any fiscal year under subparagraph 2 of this subparagraph exceeds the difference between the allowance adjustment as provided in paragraph (2) of this subsection for the fiscal year and the allowance adjustment paid in the preceding fiscal year, the excess shall be deducted in future fiscal years, subject to subparagraph (ii) of this paragraph, until the difference is fully recovered.]

24–401.1.

(h) (2) During the period that a DROP member participates in the DROP, the Board of Trustees shall:

(ii) adjust the DROP member’s normal service retirement allowance each fiscal year as provided in [Title 29, Subtitle 4, Part III] §§ **29–401 THROUGH 29–403 AND 29–408** of this article; and

(j) (1) Except as provided in paragraph (2) of this subsection, as of the first day of the month following termination of a DROP member’s participation in the DROP, the Board of Trustees shall commence and continue payment of the normal service retirement allowance, including the [cost of living] **COST–OF–LIVING** adjustments as provided in [Title 29, Subtitle 4, Part III] §§ **29–401 THROUGH 29–403 AND 29–408** of this article, to the member as provided in §§ 24–401 and 24–403 of this subtitle.

(2) If a DROP member dies before termination of the DROP member’s participation in the DROP, the Board of Trustees shall pay 50% of the normal service retirement allowance, including the [cost of living] **COST–OF–LIVING** adjustments as provided in [Title 29, Subtitle 4, Part III] §§ **29–401 THROUGH 29–403 AND 29–408** of this article, to the beneficiary as provided in § 24–403 of this subtitle.

26–210.

(a) A member who is subject to this Part II of this subtitle shall:

(2) have the allowance adjusted as provided in [Title 29, Subtitle 4, Part VI] §§ 29-401, 29-402, 29-406, AND 29-408 of this article; and

26-401.1.

(h) (2) During the period that a DROP member participates in the DROP, the Board of Trustees shall:

(ii) adjust the DROP member's normal service retirement allowance each fiscal year as provided in [Title 29, Subtitle 4, Part VI] §§ 29-401, 29-402, 29-406, AND 29-408 of this article; and

(j) (1) Except as provided in paragraph (2) of this subsection, as of the first day of the month following termination of a DROP member's participation in the DROP, the Board of Trustees shall commence and continue payment of the normal service retirement allowance, including the cost-of-living adjustments as provided in [Title 29, Subtitle 4, Part VI] §§ 29-401, 29-402, 29-406, AND 29-408 of this article, to the member as provided in §§ 26-401 and 26-402 of this subtitle.

(2) If a DROP member dies before termination of the DROP member's participation in the DROP, the Board of Trustees shall pay 50% of the normal service retirement allowance, including the cost-of-living adjustments as provided in [Title 29, Subtitle 4, Part VI] §§ 29-401, 29-402, 29-406, AND 29-408 of this article, to the beneficiary as provided in § 26-402 of this subtitle.

SUBTITLE 4. COST-OF-LIVING ADJUSTMENTS.

29-401.

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

(B) (1) "ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT" MEANS THE SUM OF ALL PRIOR COST-OF-LIVING ADJUSTMENTS MADE TO AN ALLOWANCE.

(2) "ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT" DOES NOT INCLUDE THE COST-OF-LIVING ADJUSTMENT MADE AS OF JULY 1 OF THE CURRENT FISCAL YEAR.

(C) (1) "ALLOWANCE" HAS THE MEANING STATED IN § 20-101 OF THIS ARTICLE.

(2) “ALLOWANCE” INCLUDES AN ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE AS OF JULY 1, 1999 TO A RETIREE OF THE STATE POLICE RETIREMENT SYSTEM WHO RETIRED ON OR BEFORE JUNE 30, 1999, UNDER § 24-401(E) OF THIS ARTICLE.

(D) “CONSUMER PRICE INDEX” MEANS THE ANNUAL AVERAGE CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, UNITED STATES CITY AVERAGE, ALL ITEMS, NOT SEASONALLY ADJUSTED, 1967 = 100) FOR THE CALENDAR YEAR ENDING DECEMBER 31 AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS.

(E) “COST-OF-LIVING ADJUSTMENT” MEANS THE AMOUNT BY WHICH AN ALLOWANCE IS ADJUSTED AS OF JULY 1 OF A FISCAL YEAR.

(F) “COST-OF-LIVING RATE” MEANS THE RATE COMPUTED IN ACCORDANCE WITH § 29-402(C) OF THIS SUBTITLE THAT IS USED TO DETERMINE A COST-OF-LIVING ADJUSTMENT.

(G) “COST-OF-LIVING RATE CAP” MEANS THE MAXIMUM COST-OF-LIVING RATE THAT MAY BE USED TO DETERMINE A COST-OF-LIVING ADJUSTMENT IN A FISCAL YEAR.

(H) “EFFECTIVE DATE” MEANS:

(1) FOR AN ALLOWANCE OF A FORMER MEMBER, A RETIREE, OR THE SURVIVING BENEFICIARY OF A DECEASED MEMBER, THE FIRST DAY OF THE MONTH IN WHICH AN ALLOWANCE IS FIRST PAID TO THE FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY; OR

(2) FOR AN ALLOWANCE OF A SURVIVING BENEFICIARY OF A FORMER MEMBER OR A RETIREE, THE FIRST DAY OF THE MONTH IN WHICH AN ALLOWANCE WAS FIRST PAID TO THE FORMER MEMBER OR RETIREE.

(I) “INITIAL ALLOWANCE” MEANS A BASIC ALLOWANCE OR AN OPTIONAL ALLOWANCE PAID IN ACCORDANCE WITH § 21-403 OF THIS ~~SUBTITLE~~ ARTICLE, NOT INCLUDING A COST-OF-LIVING ADJUSTMENT, ACCUMULATED COST-OF-LIVING ADJUSTMENT, OR ANY ADDITIONAL ANNUITY.

(J) “SELECTION A (ADDITIONAL MEMBER CONTRIBUTIONS)” MEANS THE RETIREMENT SELECTION DESCRIBED IN § 22-219 OF THIS ARTICLE.

(K) “SELECTION B (LIMITED COST-OF-LIVING ADJUSTMENT)” MEANS THE RETIREMENT SELECTION DESCRIBED IN § 22-220 OF THIS ARTICLE.

(L) "SELECTION C (COMBINATION FORMULA)" MEANS THE RETIREMENT SELECTION DESCRIBED IN § 22-221 OF THIS ARTICLE.

29-402.

(A) (1) THIS SUBTITLE APPLIES ONLY TO AN ALLOWANCE PAID TO A FORMER MEMBER, A RETIREE, OR THE SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF:

- (I) THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM;
- (II) THE EMPLOYEES' PENSION SYSTEM;
- (III) THE EMPLOYEES' RETIREMENT SYSTEM;
- (IV) THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM;
- (V) THE LOCAL FIRE AND POLICE SYSTEM;
- (VI) THE STATE POLICE RETIREMENT SYSTEM;
- (VII) THE TEACHERS' PENSION SYSTEM; AND
- (VIII) THE TEACHERS' RETIREMENT SYSTEM.

(2) THIS SUBTITLE DOES NOT APPLY TO AN ALLOWANCE THAT IS PAYABLE UNDER THE JUDGES' RETIREMENT SYSTEM, UNDER THE LEGISLATIVE PENSION PLAN, OR FOR A GOVERNOR UNDER § 22-405 OF THIS ARTICLE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH FISCAL YEAR, THE BOARD OF TRUSTEES SHALL ADJUST AN ALLOWANCE AS PROVIDED IN THIS SUBTITLE.

(2) AN INITIAL COST-OF-LIVING ADJUSTMENT MAY NOT BE MADE UNTIL THE SECOND JULY 1 AFTER THE DAY PRECEDING THE EFFECTIVE DATE OF AN ALLOWANCE.

(3) A COST-OF-LIVING ADJUSTMENT DOES NOT APPLY TO:

- (I) BENEFITS PAID IN A SINGLE PAYMENT;
- (II) THE RETURN OF ACCUMULATED CONTRIBUTIONS; OR

(III) BENEFITS ATTRIBUTABLE TO ADDITIONAL CONTRIBUTIONS.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AND SUBJECT TO SUBSECTION (F) OF THIS SECTION, TO DETERMINE THE COST-OF-LIVING RATE USED TO ADJUST AN ALLOWANCE IN A FISCAL YEAR, THE BOARD OF TRUSTEES SHALL:

(I) SUBTRACT THE CONSUMER PRICE INDEX FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN THE SECOND PRECEDING FISCAL YEAR FROM THE CONSUMER PRICE INDEX FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN THE PRECEDING FISCAL YEAR; AND

(II) DIVIDE THE AMOUNT DETERMINED UNDER ITEM (I) OF THIS PARAGRAPH BY THE CONSUMER PRICE INDEX FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN THE SECOND PRECEDING FISCAL YEAR.

(2) THE COST-OF-LIVING RATE USED TO ADJUST AN ALLOWANCE IN A FISCAL YEAR MAY NOT EXCEED ANY COST-OF-LIVING RATE CAP THAT IS APPLICABLE TO THE ALLOWANCE UNDER § 29-404(C), § 29-405(C), § 29-406(C), OR § 29-408(C) OF THIS SUBTITLE.

(D) (1) A COST-OF-LIVING ADJUSTMENT PAYABLE IN A FISCAL YEAR SHALL BE DETERMINED AS PROVIDED IN THIS SUBSECTION.

(2) FOR A COMPOUND COST-OF-LIVING ADJUSTMENT, THE COST-OF-LIVING ADJUSTMENT AS OF JULY 1 OF A FISCAL YEAR SHALL BE DETERMINED BY MULTIPLYING THE COST-OF-LIVING RATE DETERMINED IN SUBSECTION (C) OF THIS SECTION BY THE SUM OF:

(I) THE INITIAL ALLOWANCE; AND

(II) THE ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT.

(3) FOR A SIMPLE COST-OF-LIVING ADJUSTMENT, THE COST-OF-LIVING ADJUSTMENT AS OF JULY 1 OF A FISCAL YEAR SHALL BE DETERMINED BY MULTIPLYING THE COST-OF-LIVING RATE DETERMINED IN SUBSECTION (C) OF THIS SECTION BY THE INITIAL ALLOWANCE.

(E) THE TOTAL ALLOWANCE PAYABLE IN ANY FISCAL YEAR SHALL BE THE SUM OF:

(1) THE INITIAL ALLOWANCE;

(2) THE COST-OF-LIVING ADJUSTMENT;

(3) THE ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT;

AND

(4) ANY ADDITIONAL ANNUITY.

(F) (1) IN THIS SUBSECTION, "ZERO RATE FISCAL YEAR" MEANS ANY FISCAL YEAR WHEN THE COST-OF-LIVING RATE CALCULATED UNDER SUBSECTION (C) OF THIS SECTION IS LESS THAN 0%.

(2) FOR ANY FISCAL YEAR IN WHICH THE COST-OF-LIVING RATE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION IS LESS THAN 0%, THE COST-OF-LIVING RATE FOR THAT FISCAL YEAR SHALL BE 0%.

(3) (I) THIS PARAGRAPH APPLIES ONLY TO A FISCAL YEAR THAT IS NOT A ZERO RATE FISCAL YEAR.

(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH:

1. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY AFTER A ZERO RATE FISCAL YEAR, THE COST-OF-LIVING RATE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN 0% AND THE COST-OF-LIVING RATE THAT WOULD HAVE BEEN DETERMINED UNDER SUBSECTION (C) OF THIS SECTION FOR THE PRECEDING FISCAL YEAR WITHOUT REGARD TO PARAGRAPH (2) OF THIS SUBSECTION; AND

2. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY AFTER 2 OR MORE CONSECUTIVE ZERO RATE FISCAL YEARS, THE COST-OF-LIVING RATE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN 0% AND THE TOTAL COST-OF-LIVING RATE THAT WOULD HAVE BEEN DETERMINED UNDER SUBSECTION (C) OF THIS SECTION FOR EACH OF THOSE FISCAL YEARS WITHOUT REGARD TO PARAGRAPH (2) OF THIS SUBSECTION.

(III) IF THE RATE REDUCTION REQUIRED FOR ANY FISCAL YEAR UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH WOULD REDUCE THE COST-OF-LIVING RATE FOR THE FISCAL YEAR TO BE LESS THAN 0%, THE DIFFERENCE BETWEEN 0% AND THE EXCESS RATE REDUCTION SHALL BE DEDUCTED FROM THE COST-OF-LIVING RATE IN FUTURE YEARS, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, UNTIL THE TOTAL REQUIRED RATE REDUCTION HAS BEEN FULLY APPLIED.

29-403.

(A) THIS SECTION APPLIES ONLY TO:

(1) AN ALLOWANCE OF A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE:

(I) OF THE EMPLOYEES' RETIREMENT SYSTEM OR THE TEACHERS' RETIREMENT SYSTEM WHO ELECTED SELECTION A (ADDITIONAL MEMBER CONTRIBUTIONS);

(II) WHO TRANSFERRED TO THE LOCAL FIRE AND POLICE SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM; OR

(III) WHO TRANSFERRED TO THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM AND HAD ELECTED SELECTION A (ADDITIONAL MEMBER CONTRIBUTIONS);

(2) AN ALLOWANCE BASED ON CREDITABLE SERVICE EARNED BEFORE JULY 1, 2011, FOR A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF:

(I) THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM;
OR

(II) THE STATE POLICE RETIREMENT SYSTEM; AND

(3) AN ADDITIONAL ANNUAL ALLOWANCE ADJUSTMENT PAYABLE TO A RETIREE OR THE BENEFICIARY OF A RETIREE OF THE STATE POLICE RETIREMENT SYSTEM UNDER § 24-401(E) OF THIS ARTICLE.

(B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE A COMPOUND COST-OF-LIVING ADJUSTMENT COMPUTED IN ACCORDANCE WITH § 29-402(D)(2) OF THIS SUBTITLE.

(C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION IS NOT SUBJECT TO ANY COST-OF-LIVING RATE CAP.

(D) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION MAY NOT REDUCE AN ALLOWANCE TO AN AMOUNT THAT IS LESS THAN THE INITIAL ALLOWANCE.

29-404.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION APPLIES ONLY TO AN ALLOWANCE BASED ON CREDITABLE SERVICE EARNED BEFORE JULY 1, 2011, FOR A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF:

(I) THE EMPLOYEES' PENSION SYSTEM, IF THE DECEASED MEMBER, FORMER MEMBER, OR RETIREE WAS AN EMPLOYEE OF:

1. A PARTICIPATING GOVERNMENTAL UNIT THAT HAS NOT ELECTED THE CONTRIBUTORY PENSION BENEFIT OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION FOR ITS MEMBER IN ACCORDANCE WITH § 31-116 OR § 31-116.1 OF THIS ARTICLE; OR

2. A FORMER PARTICIPATING GOVERNMENTAL UNIT, OTHER THAN FREDERICK COUNTY, THAT HAS WITHDRAWN BEFORE JULY 1, 1998, WHILE A MEMBER;

(II) THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM, ONLY IF THE DECEASED MEMBER, FORMER MEMBER, OR RETIREE TRANSFERRED TO THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM AND DID NOT ELECT TO PARTICIPATE IN THE LAW ENFORCEMENT OFFICERS' MODIFIED PENSION BENEFIT ON OR BEFORE DECEMBER 31, 2000, AS PROVIDED IN § 26-211 OF THIS ARTICLE; OR

(III) THE LOCAL FIRE AND POLICE SYSTEM.

(2) THIS SECTION DOES NOT APPLY TO AN ALLOWANCE THAT IS SUBJECT TO ADJUSTMENT UNDER § 29-403, § 29-405, § 29-406, § 29-407, OR § 29-408 OF THIS SUBTITLE.

(B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE A SIMPLE COST-OF-LIVING ADJUSTMENT COMPUTED IN ACCORDANCE WITH § 29-402(D)(3) OF THIS SUBTITLE.

(C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE SUBJECT TO A COST-OF-LIVING RATE CAP OF 3%.

29-405.

(A) THIS SECTION APPLIES ONLY TO AN ALLOWANCE RECEIVED BY A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE:

(1) OF THE EMPLOYEES' RETIREMENT SYSTEM OR THE TEACHERS' RETIREMENT SYSTEM WHO ELECTED SELECTION B (LIMITED COST-OF-LIVING ADJUSTMENT); OR

(2) WHO TRANSFERRED TO THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM AND HAD ELECTED SELECTION B (LIMITED COST-OF-LIVING ADJUSTMENT).

(B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE A COMPOUND COST-OF-LIVING ADJUSTMENT COMPUTED IN ACCORDANCE WITH § 29-402(D)(2) OF THIS SUBTITLE.

(C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE SUBJECT TO A COST-OF-LIVING RATE CAP OF 5%.

29-406.

(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (A)(2) OF THIS SECTION, THIS SECTION APPLIES:

(I) ON OR AFTER JULY 1, 1998, ONLY TO AN ALLOWANCE BASED ON CREDITABLE SERVICE EARNED BEFORE JULY 1, 2011, AND RECEIVED BY A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM; AND

(II) ON OR AFTER DECEMBER 31, 2000, ONLY TO AN ALLOWANCE BASED ON CREDITABLE SERVICE EARNED BEFORE JULY 1, 2011, AND RECEIVED BY A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM.

(2) THIS SECTION DOES NOT APPLY IF THE MEMBER, FORMER MEMBER, OR RETIREE:

(I) WAS AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT THAT DID NOT ELECT THE CONTRIBUTORY PENSION BENEFIT OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION FOR ITS EMPLOYEES IN ACCORDANCE WITH § 31-116 OR § 31-116.1 OF THIS ARTICLE;

(II) WAS AN EMPLOYEE OF A FORMER PARTICIPATING GOVERNMENTAL UNIT, OTHER THAN FREDERICK COUNTY, THAT HAS WITHDRAWN BEFORE JULY 1, 1998, WHILE A MEMBER; OR

(III) TRANSFERRED TO THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM AND DID NOT ELECT TO PARTICIPATE IN THE LAW ENFORCEMENT OFFICERS' MODIFIED PENSION BENEFIT ON OR BEFORE DECEMBER 31, 2000, AS PROVIDED IN § 26-211 OF THIS ARTICLE.

(B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE A COMPOUND COST-OF-LIVING ADJUSTMENT COMPUTED IN ACCORDANCE WITH § 29-402(D)(2) OF THIS SUBTITLE.

(C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE SUBJECT TO A COST-OF-LIVING RATE CAP OF 3%.

29-407.

(A) THIS SECTION APPLIES ONLY TO AN ALLOWANCE RECEIVED BY A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF THE EMPLOYEES' RETIREMENT SYSTEM OR THE TEACHERS' RETIREMENT SYSTEM WHO ELECTED SELECTION C (COMBINATION FORMULA).

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OR (D) OF THIS SECTION, THE BOARD OF TRUSTEES SHALL ADJUST AN ALLOWANCE SUBJECT TO THIS SECTION:

(1) FOR CREDITABLE SERVICE BEFORE THE EFFECTIVE DATE OF SELECTION, THE COST-OF-LIVING ADJUSTMENT AS PROVIDED BY § 29-403 OF THIS SUBTITLE; AND

(2) FOR CREDITABLE SERVICE ON OR AFTER THE EFFECTIVE DATE OF SELECTION, THE COST-OF-LIVING ADJUSTMENT AS PROVIDED BY § 29-406 OF THIS SUBTITLE.

(C) FOR A MEMBER, FORMER MEMBER, OR RETIREE WHO WAS SUBJECT TO SELECTION B (LIMITED COST-OF-LIVING ADJUSTMENT) BEFORE ELECTING SELECTION C (COMBINATION FORMULA), THE BOARD OF TRUSTEES SHALL ADJUST AN ALLOWANCE SUBJECT TO THIS SECTION:

(1) FOR CREDITABLE SERVICE BEFORE THE EFFECTIVE DATE OF SELECTION, THE COST-OF-LIVING ADJUSTMENT AS PROVIDED BY § 29-405 OF THIS SUBTITLE; AND

(2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, FOR CREDITABLE SERVICE ON OR AFTER THE EFFECTIVE DATE OF SELECTION, THE COST-OF-LIVING ADJUSTMENT AS PROVIDED BY § 29-406 OF THIS SUBTITLE.

(D) IF AN ALLOWANCE IS RECEIVED BY A FORMER MEMBER, RETIREE, OR A SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE WHO, WHILE A MEMBER, WAS AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT THAT HAS NOT ELECTED THE CONTRIBUTORY PENSION BENEFIT OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION FOR ITS MEMBERS IN ACCORDANCE WITH § 31-116 OR § 31-116.1 OF THIS ARTICLE, OR A FORMER PARTICIPATING GOVERNMENTAL UNIT, OTHER THAN FREDERICK COUNTY, THAT HAS WITHDRAWN BEFORE JULY 1, 1998, THE BOARD OF TRUSTEES SHALL ADJUST THE ALLOWANCE FOR CREDITABLE SERVICE ON OR AFTER THE EFFECTIVE DATE OF SELECTION AS PROVIDED IN § 29-404 OF THIS SUBTITLE.

29-408.

(A) THIS SECTION APPLIES ONLY TO AN ALLOWANCE BASED ON CREDITABLE SERVICE EARNED ON OR AFTER JULY 1, 2011, FOR A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF:

- (1) THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM;
- (2) THE EMPLOYEES' PENSION SYSTEM;
- (3) THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM;
- (4) THE STATE POLICE RETIREMENT SYSTEM; OR
- (5) THE TEACHERS' PENSION SYSTEM.

(B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE A COMPOUND COST-OF-LIVING ADJUSTMENT COMPUTED IN ACCORDANCE WITH § 29-402(D)(2) OF THIS SUBTITLE.

(C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE SUBJECT TO A COST-OF-LIVING RATE CAP OF:

(1) 2.5% IF, FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN THE PRECEDING FISCAL YEAR, THE TOTAL INVESTMENT PERFORMANCE OF THE SEVERAL SYSTEMS EQUALS OR EXCEEDS THE ASSUMED RATE OF INVESTMENT RETURN ESTABLISHED BY THE BOARD OF TRUSTEES IN ACCORDANCE WITH § 21-125(C) OF THIS ARTICLE AND IN EFFECT AS OF DECEMBER 31 OF THE PRECEDING FISCAL YEAR; OR

(2) 1% IF, FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN THE PRECEDING FISCAL YEAR, THE TOTAL INVESTMENT PERFORMANCE OF THE SEVERAL SYSTEMS DOES NOT EQUAL OR EXCEED THE ASSUMED RATE OF INVESTMENT RETURN ESTABLISHED BY THE BOARD OF TRUSTEES IN ACCORDANCE WITH § 21-125(C) OF THIS ARTICLE AND IN EFFECT AS OF DECEMBER 31 OF THE PRECEDING FISCAL YEAR.

29-409.

(A) THIS SECTION APPLIES ONLY TO A RETIREE OF THE EMPLOYEES' RETIREMENT SYSTEM OR EMPLOYEES' PENSION SYSTEM WHO:

(1) RETIRED FROM THE EMPLOYEES' RETIREMENT SYSTEM OR EMPLOYEES' PENSION SYSTEM ON OR BEFORE JUNE 30, 2009;

(2) BEFORE RETIREMENT WAS AN EMPLOYEE OF THE MARYLAND SCHOOL FOR THE DEAF; AND

(3) BEFORE RETIREMENT, AS AN EMPLOYEE OF THE MARYLAND SCHOOL FOR THE DEAF, WAS A 10-MONTH EMPLOYEE INCORRECTLY CLASSIFIED AS A 12-MONTH EMPLOYEE.

(B) (1) IF A RETIREE IS RECEIVING A BENEFIT THAT DIFFERS FROM THE BENEFIT THE RETIREE IS ENTITLED TO RECEIVE, THE BOARD OF TRUSTEES SHALL, BEGINNING JULY 1, 2010, AND EACH SUBSEQUENT JULY 1, SUSPEND ANY ANNUAL COST-OF-LIVING ADJUSTMENT THE RETIREE MAY OTHERWISE BE ENTITLED TO RECEIVE UNDER THIS SUBTITLE.

(2) BEGINNING JULY 1, 2010, AND EACH SUBSEQUENT JULY 1, ANY ADJUSTMENT TO THE RETIREE'S ANNUAL RETIREMENT ALLOWANCE DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CALCULATED USING THE CURRENT RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE AND NOT THE CURRENT RETIREMENT ALLOWANCE THE RETIREE IS RECEIVING.

(3) THE BOARD OF TRUSTEES SHALL SUSPEND ANY ANNUAL COST-OF-LIVING ADJUSTMENT OTHERWISE PAYABLE UNDER THIS SUBSECTION

UNTIL THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE, INCLUDING ANY SUSPENDED ANNUAL COST-OF-LIVING ADJUSTMENT, EQUALS OR EXCEEDS THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS RECEIVING ON JULY 1, 2010.

(4) WHEN THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE, INCLUDING ANY SUSPENDED ANNUAL COST-OF-LIVING ADJUSTMENTS, EQUALS OR EXCEEDS THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS RECEIVING ON JULY 1, 2010, THE BOARD OF TRUSTEES SHALL RESUME ADJUSTING THE RETIREE'S ANNUAL ALLOWANCE ON JULY 1 OF EACH YEAR IN ACCORDANCE WITH THIS SUBTITLE, SO THAT THE AMOUNT OF THE ALLOWANCE, INCLUDING ANY COST-OF-LIVING ADJUSTMENTS, EQUALS THE TOTAL ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE.

(C) IF A RETIREE DIES BEFORE THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE WAS ENTITLED TO RECEIVE, INCLUDING ANY SUSPENDED ANNUAL COST-OF-LIVING ADJUSTMENTS, EQUALS THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE WAS RECEIVING ON JULY 1, 2010, AND THE RETIREE HAS SELECTED AN OPTIONAL FORM OF ALLOWANCE UNDER TITLE 21, SUBTITLE 4 OF THIS ARTICLE, THE DECEASED RETIREE'S BENEFICIARY SHALL RECEIVE A BENEFIT CALCULATED ON THE RETIREMENT ALLOWANCE THE DECEASED RETIREE WAS ENTITLED TO RECEIVE AT THE TIME OF THE RETIREE'S DEATH AND NOT WHAT THE RETIREE WAS RECEIVING AT THE TIME OF THE RETIREE'S DEATH.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act shall be construed as clarifying the provisions providing for the calculations of cost-of-living adjustments for recipients of benefits from the State Retirement and Pension System and may not be construed to substantively alter the benefits an individual is receiving or is entitled to receive.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 16, 2013.

Chapter 551

(House Bill 852)

AN ACT concerning

**State Retirement and Pension Systems – Cost-of-Living Adjustments –
Simplification and Clarification**

FOR the purpose of clarifying the calculation of cost-of-living adjustments for certain State retirement or pension systems; clarifying the applicability of certain cost-of-living adjustments to certain State retirement or pension systems and to certain participants in those systems; consolidating provisions relating to cost-of-living adjustments that apply to all of the cost-of-living adjustments, including the timing of the initial adjustment, types of benefits to which a cost-of-living adjustment does not apply, the application of a zero rate under certain circumstances, and a certain additional adjustment following a fiscal year in which a zero rate adjustment is applied; clarifying the calculation of cost-of-living adjustments for certain participants in certain Deferred Retirement Option Programs; repealing a certain obsolete provision; making technical and conforming changes; defining certain terms; declaring the intent of the General Assembly that this Act be construed in a certain manner; and generally relating to cost-of-living adjustments to certain allowances provided by certain State retirement or pension systems.

BY repealing

Article – State Personnel and Pensions

Section 29–401 through 29–432 and the subtitle “Subtitle 4. Cost-of-Living Adjustments”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 21–113(a), 22–219(b)(2), 22–220(b)(2), 22–221(e), 23–218(2), 23–226(a)(2), 24–401(e), 24–401.1(h)(2)(ii) and (j)(1) and (2), 26–210(a)(2), and 26–401.1(h)(2)(ii) and (j)(1) and (2)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – State Personnel and Pensions

Section 29–401 through 29–409 and the subtitle “Subtitle 4. Cost-of-Living Adjustments”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 29–401 through 29–432 and the subtitle “Subtitle 4. Cost-of-Living Adjustments” of Article – State Personnel and Pensions of the Annotated Code of Maryland be repealed.

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

Article – State Personnel and Pensions

21–113.

(a) Except as provided in [§ 29–402] **§ 29–409** of this article, if, because of an error in the records of the several systems, a retiree or beneficiary receives a benefit that differs from the benefit the retiree or beneficiary is entitled to receive, the Board of Trustees shall:

(1) correct the error; and

(2) to the extent practicable, adjust the payment to the retiree or beneficiary to provide the actuarial equivalent to which the retiree or beneficiary is correctly entitled.

22–219.

(b) A member who is subject to Selection A (Additional member contributions) shall:

(2) have the allowance adjusted as provided [by Title 29, Subtitle 4, Part III] **IN §§ 29–401 THROUGH 29–403** of this article; and

22–220.

(b) A member who is subject to Selection B (Limited cost-of-living adjustment) shall:

(2) have the allowance adjusted as provided [by Title 29, Subtitle 4, Part IV] **IN §§ 29–401, 29–402, AND 29–405** of this article; and

22–221.

(e) A member who retires on or after the effective date for application of this section shall have the allowance adjusted as provided in [Title 29, Subtitle 4, Part V] **§§ 29–401, 29–402, AND 29–407** of this article.

23–218.

A member who is subject to this Part II of this subtitle shall:

(2) have the allowance adjusted as provided in [Title 29, Subtitle 4, Part VI] **§§ 29–401, 29–402, 29–406, AND 29–408** of this article; and

23-226.

(a) Except as provided in subsection (b) of this section, a member who is subject to this Part IV of this subtitle shall:

(2) have the allowance adjusted as provided in [Title 29, Subtitle 4, Part VII] **§§ 29-401, 29-402, AND 29-408** of this article; and

24-401.

(e) [(1)] Subject to [paragraph (2) of this subsection,] **§§ 29-401, 29-402, AND 29-403 OF THIS ARTICLE**, a retiree, or a beneficiary of a retiree, who retires on or before June 30, 1999 with a service retirement allowance, shall receive an annual retirement allowance adjustment as of July 1, 1999, as follows:

[(i)] (1) for a retiree who has been retired not more than 5 years, \$1,200;

[(ii)] (2) for a retiree who has been retired more than 5 years but not more than 10 years, \$1,500;

[(iii)] (3) for a retiree who has been retired more than 10 years but not more than 15 years, \$1,800; and

[(iv)] (4) for a retiree who has been retired more than 15 years, \$2,100.

[(2)] Except as provided in paragraph (3) of this subsection, each fiscal year, the Board of Trustees shall adjust the adjustment received by the retiree or the beneficiary as of July 1, 1999, by multiplying the adjustment by a fraction that has:

(i) as its numerator, the Consumer Price Index for the calendar year ending December 31 of the preceding fiscal year; and

(ii) as its denominator, the Consumer Price Index for the calendar year ending December 31, 1998.

(3) (i) In this paragraph, "zero-adjustment fiscal year" means any fiscal year when the allowance adjustment as provided in paragraph (2) of this subsection is less than the allowance adjustment paid for the preceding fiscal year.

(ii) For any fiscal year, the allowance adjustment may not be less than the allowance adjustment paid for the preceding fiscal year.

(iii) 1. This subparagraph applies only to a fiscal year that is not a zero–adjustment fiscal year.

2. Subject to subparagraph 3 of this subparagraph:

A. for a fiscal year that follows immediately after a zero–adjustment fiscal year, the allowance adjustment as provided in paragraph (2) of this subsection shall be reduced by the difference between the allowance adjustment paid in the preceding fiscal year and the allowance adjustment that would have been payable for the preceding fiscal year if the allowance for that fiscal year had been adjusted as provided under paragraph (2) of this subsection; and

B. for a fiscal year that follows immediately after 2 or more consecutive zero–adjustment fiscal years, the allowance adjustment as provided in paragraph (2) of this subsection shall be reduced by the difference between the total of the allowance adjustments paid in each consecutive zero–adjustment fiscal year preceding the fiscal year and the total allowances that would have been payable for each of the zero–adjustment fiscal years if the allowance adjustment for each of those fiscal years had been adjusted under paragraph (2) of this subsection.

3. If the amount of the reduction required for any fiscal year under subparagraph 2 of this subparagraph exceeds the difference between the allowance adjustment as provided in paragraph (2) of this subsection for the fiscal year and the allowance adjustment paid in the preceding fiscal year, the excess shall be deducted in future fiscal years, subject to subparagraph (ii) of this paragraph, until the difference is fully recovered.]

24–401.1.

(h) (2) During the period that a DROP member participates in the DROP, the Board of Trustees shall:

(ii) adjust the DROP member’s normal service retirement allowance each fiscal year as provided in [Title 29, Subtitle 4, Part III] §§ **29–401 THROUGH 29–403 AND 29–408** of this article; and

(j) (1) Except as provided in paragraph (2) of this subsection, as of the first day of the month following termination of a DROP member’s participation in the DROP, the Board of Trustees shall commence and continue payment of the normal service retirement allowance, including the [cost of living] **COST–OF–LIVING** adjustments as provided in [Title 29, Subtitle 4, Part III] §§ **29–401 THROUGH 29–403 AND 29–408** of this article, to the member as provided in §§ 24–401 and 24–403 of this subtitle.

(2) If a DROP member dies before termination of the DROP member’s participation in the DROP, the Board of Trustees shall pay 50% of the normal service

retirement allowance, including the [cost of living] **COST-OF-LIVING** adjustments as provided in [Title 29, Subtitle 4, Part III] **§§ 29-401 THROUGH 29-403 AND 29-408** of this article, to the beneficiary as provided in § 24-403 of this subtitle.

26-210.

(a) A member who is subject to this Part II of this subtitle shall:

(2) have the allowance adjusted as provided in [Title 29, Subtitle 4, Part VI] **§§ 29-401, 29-402, 29-406, AND 29-408** of this article; and

26-401.1.

(h) (2) During the period that a DROP member participates in the DROP, the Board of Trustees shall:

(ii) adjust the DROP member's normal service retirement allowance each fiscal year as provided in [Title 29, Subtitle 4, Part VI] **§§ 29-401, 29-402, 29-406, AND 29-408** of this article; and

(j) (1) Except as provided in paragraph (2) of this subsection, as of the first day of the month following termination of a DROP member's participation in the DROP, the Board of Trustees shall commence and continue payment of the normal service retirement allowance, including the cost-of-living adjustments as provided in [Title 29, Subtitle 4, Part VI] **§§ 29-401, 29-402, 29-406, AND 29-408** of this article, to the member as provided in §§ 26-401 and 26-402 of this subtitle.

(2) If a DROP member dies before termination of the DROP member's participation in the DROP, the Board of Trustees shall pay 50% of the normal service retirement allowance, including the cost-of-living adjustments as provided in [Title 29, Subtitle 4, Part VI] **§§ 29-401, 29-402, 29-406, AND 29-408** of this article, to the beneficiary as provided in § 26-402 of this subtitle.

SUBTITLE 4. COST-OF-LIVING ADJUSTMENTS.

29-401.

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

(B) (1) "ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT" MEANS THE SUM OF ALL PRIOR COST-OF-LIVING ADJUSTMENTS MADE TO AN ALLOWANCE.

(2) “ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT” DOES NOT INCLUDE THE COST-OF-LIVING ADJUSTMENT MADE AS OF JULY 1 OF THE CURRENT FISCAL YEAR.

(C) (1) “ALLOWANCE” HAS THE MEANING STATED IN § 20-101 OF THIS ARTICLE.

(2) “ALLOWANCE” INCLUDES AN ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE AS OF JULY 1, 1999 TO A RETIREE OF THE STATE POLICE RETIREMENT SYSTEM WHO RETIRED ON OR BEFORE JUNE 30, 1999, UNDER § 24-401(E) OF THIS ARTICLE.

(D) “CONSUMER PRICE INDEX” MEANS THE ANNUAL AVERAGE CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, UNITED STATES CITY AVERAGE, ALL ITEMS, NOT SEASONALLY ADJUSTED, 1967 = 100) FOR THE CALENDAR YEAR ENDING DECEMBER 31 AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS.

(E) “COST-OF-LIVING ADJUSTMENT” MEANS THE AMOUNT BY WHICH AN ALLOWANCE IS ADJUSTED AS OF JULY 1 OF A FISCAL YEAR.

(F) “COST-OF-LIVING RATE” MEANS THE RATE COMPUTED IN ACCORDANCE WITH § 29-402(C) OF THIS SUBTITLE THAT IS USED TO DETERMINE A COST-OF-LIVING ADJUSTMENT.

(G) “COST-OF-LIVING RATE CAP” MEANS THE MAXIMUM COST-OF-LIVING RATE THAT MAY BE USED TO DETERMINE A COST-OF-LIVING ADJUSTMENT IN A FISCAL YEAR.

(H) “EFFECTIVE DATE” MEANS:

(1) FOR AN ALLOWANCE OF A FORMER MEMBER, A RETIREE, OR THE SURVIVING BENEFICIARY OF A DECEASED MEMBER, THE FIRST DAY OF THE MONTH IN WHICH AN ALLOWANCE IS FIRST PAID TO THE FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY; OR

(2) FOR AN ALLOWANCE OF A SURVIVING BENEFICIARY OF A FORMER MEMBER OR A RETIREE, THE FIRST DAY OF THE MONTH IN WHICH AN ALLOWANCE WAS FIRST PAID TO THE FORMER MEMBER OR RETIREE.

(I) “INITIAL ALLOWANCE” MEANS A BASIC ALLOWANCE OR AN OPTIONAL ALLOWANCE PAID IN ACCORDANCE WITH § 21-403 OF THIS ~~SUBTITLE~~ ARTICLE, NOT INCLUDING A COST-OF-LIVING ADJUSTMENT, ACCUMULATED COST-OF-LIVING ADJUSTMENT, OR ANY ADDITIONAL ANNUITY.

(J) "SELECTION A (ADDITIONAL MEMBER CONTRIBUTIONS)" MEANS THE RETIREMENT SELECTION DESCRIBED IN § 22-219 OF THIS ARTICLE.

(K) "SELECTION B (LIMITED COST-OF-LIVING ADJUSTMENT)" MEANS THE RETIREMENT SELECTION DESCRIBED IN § 22-220 OF THIS ARTICLE.

(L) "SELECTION C (COMBINATION FORMULA)" MEANS THE RETIREMENT SELECTION DESCRIBED IN § 22-221 OF THIS ARTICLE.

29-402.

(A) (1) THIS SUBTITLE APPLIES ONLY TO AN ALLOWANCE PAID TO A FORMER MEMBER, A RETIREE, OR THE SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF:

- (I) THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM;
- (II) THE EMPLOYEES' PENSION SYSTEM;
- (III) THE EMPLOYEES' RETIREMENT SYSTEM;
- (IV) THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM;
- (V) THE LOCAL FIRE AND POLICE SYSTEM;
- (VI) THE STATE POLICE RETIREMENT SYSTEM;
- (VII) THE TEACHERS' PENSION SYSTEM; AND
- (VIII) THE TEACHERS' RETIREMENT SYSTEM.

(2) THIS SUBTITLE DOES NOT APPLY TO AN ALLOWANCE THAT IS PAYABLE UNDER THE JUDGES' RETIREMENT SYSTEM, UNDER THE LEGISLATIVE PENSION PLAN, OR FOR A GOVERNOR UNDER § 22-405 OF THIS ARTICLE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH FISCAL YEAR, THE BOARD OF TRUSTEES SHALL ADJUST AN ALLOWANCE AS PROVIDED IN THIS SUBTITLE.

(2) AN INITIAL COST-OF-LIVING ADJUSTMENT MAY NOT BE MADE UNTIL THE SECOND JULY 1 AFTER THE DAY PRECEDING THE EFFECTIVE DATE OF AN ALLOWANCE.

(3) A COST-OF-LIVING ADJUSTMENT DOES NOT APPLY TO:

- (I) BENEFITS PAID IN A SINGLE PAYMENT;**
- (II) THE RETURN OF ACCUMULATED CONTRIBUTIONS; OR**
- (III) BENEFITS ATTRIBUTABLE TO ADDITIONAL CONTRIBUTIONS.**

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AND SUBJECT TO SUBSECTION (F) OF THIS SECTION, TO DETERMINE THE COST-OF-LIVING RATE USED TO ADJUST AN ALLOWANCE IN A FISCAL YEAR, THE BOARD OF TRUSTEES SHALL:

(I) SUBTRACT THE CONSUMER PRICE INDEX FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN THE SECOND PRECEDING FISCAL YEAR FROM THE CONSUMER PRICE INDEX FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN THE PRECEDING FISCAL YEAR; AND

(II) DIVIDE THE AMOUNT DETERMINED UNDER ITEM (I) OF THIS PARAGRAPH BY THE CONSUMER PRICE INDEX FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN THE SECOND PRECEDING FISCAL YEAR.

(2) THE COST-OF-LIVING RATE USED TO ADJUST AN ALLOWANCE IN A FISCAL YEAR MAY NOT EXCEED ANY COST-OF-LIVING RATE CAP THAT IS APPLICABLE TO THE ALLOWANCE UNDER § 29-404(C), § 29-405(C), § 29-406(C), OR § 29-408(C) OF THIS SUBTITLE.

(D) (1) A COST-OF-LIVING ADJUSTMENT PAYABLE IN A FISCAL YEAR SHALL BE DETERMINED AS PROVIDED IN THIS SUBSECTION.

(2) FOR A COMPOUND COST-OF-LIVING ADJUSTMENT, THE COST-OF-LIVING ADJUSTMENT AS OF JULY 1 OF A FISCAL YEAR SHALL BE DETERMINED BY MULTIPLYING THE COST-OF-LIVING RATE DETERMINED IN SUBSECTION (C) OF THIS SECTION BY THE SUM OF:

- (I) THE INITIAL ALLOWANCE; AND**
- (II) THE ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT.**

(3) FOR A SIMPLE COST-OF-LIVING ADJUSTMENT, THE COST-OF-LIVING ADJUSTMENT AS OF JULY 1 OF A FISCAL YEAR SHALL BE

DETERMINED BY MULTIPLYING THE COST-OF-LIVING RATE DETERMINED IN SUBSECTION (C) OF THIS SECTION BY THE INITIAL ALLOWANCE.

(E) THE TOTAL ALLOWANCE PAYABLE IN ANY FISCAL YEAR SHALL BE THE SUM OF:

- (1) THE INITIAL ALLOWANCE;
- (2) THE COST-OF-LIVING ADJUSTMENT;
- (3) THE ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT;

AND

- (4) ANY ADDITIONAL ANNUITY.

(F) (1) IN THIS SUBSECTION, "ZERO RATE FISCAL YEAR" MEANS ANY FISCAL YEAR WHEN THE COST-OF-LIVING RATE CALCULATED UNDER SUBSECTION (C) OF THIS SECTION IS LESS THAN 0%.

(2) FOR ANY FISCAL YEAR IN WHICH THE COST-OF-LIVING RATE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION IS LESS THAN 0%, THE COST-OF-LIVING RATE FOR THAT FISCAL YEAR SHALL BE 0%.

(3) (I) THIS PARAGRAPH APPLIES ONLY TO A FISCAL YEAR THAT IS NOT A ZERO RATE FISCAL YEAR.

(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH:

1. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY AFTER A ZERO RATE FISCAL YEAR, THE COST-OF-LIVING RATE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN 0% AND THE COST-OF-LIVING RATE THAT WOULD HAVE BEEN DETERMINED UNDER SUBSECTION (C) OF THIS SECTION FOR THE PRECEDING FISCAL YEAR WITHOUT REGARD TO PARAGRAPH (2) OF THIS SUBSECTION; AND

2. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY AFTER 2 OR MORE CONSECUTIVE ZERO RATE FISCAL YEARS, THE COST-OF-LIVING RATE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN 0% AND THE TOTAL COST-OF-LIVING RATE THAT WOULD HAVE BEEN DETERMINED UNDER SUBSECTION (C) OF THIS SECTION FOR EACH OF THOSE FISCAL YEARS WITHOUT REGARD TO PARAGRAPH (2) OF THIS SUBSECTION.

(III) IF THE RATE REDUCTION REQUIRED FOR ANY FISCAL YEAR UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH WOULD REDUCE THE COST-OF-LIVING RATE FOR THE FISCAL YEAR TO BE LESS THAN 0%, THE DIFFERENCE BETWEEN 0% AND THE EXCESS RATE REDUCTION SHALL BE DEDUCTED FROM THE COST-OF-LIVING RATE IN FUTURE YEARS, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, UNTIL THE TOTAL REQUIRED RATE REDUCTION HAS BEEN FULLY APPLIED.

29-403.

(A) THIS SECTION APPLIES ONLY TO:

(1) AN ALLOWANCE OF A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE:

(I) OF THE EMPLOYEES' RETIREMENT SYSTEM OR THE TEACHERS' RETIREMENT SYSTEM WHO ELECTED SELECTION A (ADDITIONAL MEMBER CONTRIBUTIONS);

(II) WHO TRANSFERRED TO THE LOCAL FIRE AND POLICE SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM; OR

(III) WHO TRANSFERRED TO THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM AND HAD ELECTED SELECTION A (ADDITIONAL MEMBER CONTRIBUTIONS);

(2) AN ALLOWANCE BASED ON CREDITABLE SERVICE EARNED BEFORE JULY 1, 2011, FOR A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF:

(I) THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM;
OR

(II) THE STATE POLICE RETIREMENT SYSTEM; AND

(3) AN ADDITIONAL ANNUAL ALLOWANCE ADJUSTMENT PAYABLE TO A RETIREE OR THE BENEFICIARY OF A RETIREE OF THE STATE POLICE RETIREMENT SYSTEM UNDER § 24-401(E) OF THIS ARTICLE.

(B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE A COMPOUND COST-OF-LIVING ADJUSTMENT COMPUTED IN ACCORDANCE WITH § 29-402(D)(2) OF THIS SUBTITLE.

(C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION IS NOT SUBJECT TO ANY COST-OF-LIVING RATE CAP.

(D) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION MAY NOT REDUCE AN ALLOWANCE TO AN AMOUNT THAT IS LESS THAN THE INITIAL ALLOWANCE.

29-404.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION APPLIES ONLY TO AN ALLOWANCE BASED ON CREDITABLE SERVICE EARNED BEFORE JULY 1, 2011, FOR A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF:

(I) THE EMPLOYEES' PENSION SYSTEM, IF THE DECEASED MEMBER, FORMER MEMBER, OR RETIREE WAS AN EMPLOYEE OF:

1. A PARTICIPATING GOVERNMENTAL UNIT THAT HAS NOT ELECTED THE CONTRIBUTORY PENSION BENEFIT OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION FOR ITS MEMBER IN ACCORDANCE WITH § 31-116 OR § 31-116.1 OF THIS ARTICLE; OR

2. A FORMER PARTICIPATING GOVERNMENTAL UNIT, OTHER THAN FREDERICK COUNTY, THAT HAS WITHDRAWN BEFORE JULY 1, 1998, WHILE A MEMBER;

(II) THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM, ONLY IF THE DECEASED MEMBER, FORMER MEMBER, OR RETIREE TRANSFERRED TO THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM AND DID NOT ELECT TO PARTICIPATE IN THE LAW ENFORCEMENT OFFICERS' MODIFIED PENSION BENEFIT ON OR BEFORE DECEMBER 31, 2000, AS PROVIDED IN § 26-211 OF THIS ARTICLE; OR

(III) THE LOCAL FIRE AND POLICE SYSTEM.

(2) THIS SECTION DOES NOT APPLY TO AN ALLOWANCE THAT IS SUBJECT TO ADJUSTMENT UNDER § 29-403, § 29-405, § 29-406, § 29-407, OR § 29-408 OF THIS SUBTITLE.

(B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE A SIMPLE COST-OF-LIVING ADJUSTMENT COMPUTED IN ACCORDANCE WITH § 29-402(D)(3) OF THIS SUBTITLE.

(C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE SUBJECT TO A COST-OF-LIVING RATE CAP OF 3%.

29-405.

(A) THIS SECTION APPLIES ONLY TO AN ALLOWANCE RECEIVED BY A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE:

(1) OF THE EMPLOYEES' RETIREMENT SYSTEM OR THE TEACHERS' RETIREMENT SYSTEM WHO ELECTED SELECTION B (LIMITED COST-OF-LIVING ADJUSTMENT); OR

(2) WHO TRANSFERRED TO THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM AND HAD ELECTED SELECTION B (LIMITED COST-OF-LIVING ADJUSTMENT).

(B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE A COMPOUND COST-OF-LIVING ADJUSTMENT COMPUTED IN ACCORDANCE WITH § 29-402(D)(2) OF THIS SUBTITLE.

(C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE SUBJECT TO A COST-OF-LIVING RATE CAP OF 5%.

29-406.

(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (A)(2) OF THIS SECTION, THIS SECTION APPLIES:

(I) ON OR AFTER JULY 1, 1998, ONLY TO AN ALLOWANCE BASED ON CREDITABLE SERVICE EARNED BEFORE JULY 1, 2011, AND RECEIVED BY A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM; AND

(II) ON OR AFTER DECEMBER 31, 2000, ONLY TO AN ALLOWANCE BASED ON CREDITABLE SERVICE EARNED BEFORE JULY 1, 2011, AND RECEIVED BY A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM.

(2) THIS SECTION DOES NOT APPLY IF THE MEMBER, FORMER MEMBER, OR RETIREE:

(I) WAS AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT THAT DID NOT ELECT THE CONTRIBUTORY PENSION BENEFIT OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION FOR ITS EMPLOYEES IN ACCORDANCE WITH § 31-116 OR § 31-116.1 OF THIS ARTICLE;

(II) WAS AN EMPLOYEE OF A FORMER PARTICIPATING GOVERNMENTAL UNIT, OTHER THAN FREDERICK COUNTY, THAT HAS WITHDRAWN BEFORE JULY 1, 1998, WHILE A MEMBER; OR

(III) TRANSFERRED TO THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM AND DID NOT ELECT TO PARTICIPATE IN THE LAW ENFORCEMENT OFFICERS' MODIFIED PENSION BENEFIT ON OR BEFORE DECEMBER 31, 2000, AS PROVIDED IN § 26-211 OF THIS ARTICLE.

(B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE A COMPOUND COST-OF-LIVING ADJUSTMENT COMPUTED IN ACCORDANCE WITH § 29-402(D)(2) OF THIS SUBTITLE.

(C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE SUBJECT TO A COST-OF-LIVING RATE CAP OF 3%.

29-407.

(A) THIS SECTION APPLIES ONLY TO AN ALLOWANCE RECEIVED BY A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF THE EMPLOYEES' RETIREMENT SYSTEM OR THE TEACHERS' RETIREMENT SYSTEM WHO ELECTED SELECTION C (COMBINATION FORMULA).

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OR (D) OF THIS SECTION, THE BOARD OF TRUSTEES SHALL ADJUST AN ALLOWANCE SUBJECT TO THIS SECTION:

(1) FOR CREDITABLE SERVICE BEFORE THE EFFECTIVE DATE OF SELECTION, THE COST-OF-LIVING ADJUSTMENT AS PROVIDED BY § 29-403 OF THIS SUBTITLE; AND

(2) FOR CREDITABLE SERVICE ON OR AFTER THE EFFECTIVE DATE OF SELECTION, THE COST-OF-LIVING ADJUSTMENT AS PROVIDED BY § 29-406 OF THIS SUBTITLE.

(C) FOR A MEMBER, FORMER MEMBER, OR RETIREE WHO WAS SUBJECT TO SELECTION B (LIMITED COST-OF-LIVING ADJUSTMENT) BEFORE ELECTING

SELECTION C (COMBINATION FORMULA), THE BOARD OF TRUSTEES SHALL ADJUST AN ALLOWANCE SUBJECT TO THIS SECTION:

(1) FOR CREDITABLE SERVICE BEFORE THE EFFECTIVE DATE OF SELECTION, THE COST-OF-LIVING ADJUSTMENT AS PROVIDED BY § 29-405 OF THIS SUBTITLE; AND

(2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, FOR CREDITABLE SERVICE ON OR AFTER THE EFFECTIVE DATE OF SELECTION, THE COST-OF-LIVING ADJUSTMENT AS PROVIDED BY § 29-406 OF THIS SUBTITLE.

(D) IF AN ALLOWANCE IS RECEIVED BY A FORMER MEMBER, RETIREE, OR A SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE WHO, WHILE A MEMBER, WAS AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT THAT HAS NOT ELECTED THE CONTRIBUTORY PENSION BENEFIT OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION FOR ITS MEMBERS IN ACCORDANCE WITH § 31-116 OR § 31-116.1 OF THIS ARTICLE, OR A FORMER PARTICIPATING GOVERNMENTAL UNIT, OTHER THAN FREDERICK COUNTY, THAT HAS WITHDRAWN BEFORE JULY 1, 1998, THE BOARD OF TRUSTEES SHALL ADJUST THE ALLOWANCE FOR CREDITABLE SERVICE ON OR AFTER THE EFFECTIVE DATE OF SELECTION AS PROVIDED IN § 29-404 OF THIS SUBTITLE.

29-408.

(A) THIS SECTION APPLIES ONLY TO AN ALLOWANCE BASED ON CREDITABLE SERVICE EARNED ON OR AFTER JULY 1, 2011, FOR A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF:

- (1) THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM;**
- (2) THE EMPLOYEES' PENSION SYSTEM;**
- (3) THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM;**
- (4) THE STATE POLICE RETIREMENT SYSTEM; OR**
- (5) THE TEACHERS' PENSION SYSTEM.**

(B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE A COMPOUND COST-OF-LIVING ADJUSTMENT COMPUTED IN ACCORDANCE WITH § 29-402(D)(2) OF THIS SUBTITLE.

(C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION SHALL BE SUBJECT TO A COST-OF-LIVING RATE CAP OF:

(1) 2.5% IF, FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN THE PRECEDING FISCAL YEAR, THE TOTAL INVESTMENT PERFORMANCE OF THE SEVERAL SYSTEMS EQUALS OR EXCEEDS THE ASSUMED RATE OF INVESTMENT RETURN ESTABLISHED BY THE BOARD OF TRUSTEES IN ACCORDANCE WITH § 21-125(C) OF THIS ARTICLE AND IN EFFECT AS OF DECEMBER 31 OF THE PRECEDING FISCAL YEAR; OR

(2) 1% IF, FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN THE PRECEDING FISCAL YEAR, THE TOTAL INVESTMENT PERFORMANCE OF THE SEVERAL SYSTEMS DOES NOT EQUAL OR EXCEED THE ASSUMED RATE OF INVESTMENT RETURN ESTABLISHED BY THE BOARD OF TRUSTEES IN ACCORDANCE WITH § 21-125(C) OF THIS ARTICLE AND IN EFFECT AS OF DECEMBER 31 OF THE PRECEDING FISCAL YEAR.

29-409.

(A) THIS SECTION APPLIES ONLY TO A RETIREE OF THE EMPLOYEES' RETIREMENT SYSTEM OR EMPLOYEES' PENSION SYSTEM WHO:

(1) RETIRED FROM THE EMPLOYEES' RETIREMENT SYSTEM OR EMPLOYEES' PENSION SYSTEM ON OR BEFORE JUNE 30, 2009;

(2) BEFORE RETIREMENT WAS AN EMPLOYEE OF THE MARYLAND SCHOOL FOR THE DEAF; AND

(3) BEFORE RETIREMENT, AS AN EMPLOYEE OF THE MARYLAND SCHOOL FOR THE DEAF, WAS A 10-MONTH EMPLOYEE INCORRECTLY CLASSIFIED AS A 12-MONTH EMPLOYEE.

(B) (1) IF A RETIREE IS RECEIVING A BENEFIT THAT DIFFERS FROM THE BENEFIT THE RETIREE IS ENTITLED TO RECEIVE, THE BOARD OF TRUSTEES SHALL, BEGINNING JULY 1, 2010, AND EACH SUBSEQUENT JULY 1, SUSPEND ANY ANNUAL COST-OF-LIVING ADJUSTMENT THE RETIREE MAY OTHERWISE BE ENTITLED TO RECEIVE UNDER THIS SUBTITLE.

(2) BEGINNING JULY 1, 2010, AND EACH SUBSEQUENT JULY 1, ANY ADJUSTMENT TO THE RETIREE'S ANNUAL RETIREMENT ALLOWANCE DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CALCULATED USING THE CURRENT RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE AND NOT THE CURRENT RETIREMENT ALLOWANCE THE RETIREE IS RECEIVING.

(3) THE BOARD OF TRUSTEES SHALL SUSPEND ANY ANNUAL COST-OF-LIVING ADJUSTMENT OTHERWISE PAYABLE UNDER THIS SUBSECTION UNTIL THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE, INCLUDING ANY SUSPENDED ANNUAL COST-OF-LIVING ADJUSTMENT, EQUALS OR EXCEEDS THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS RECEIVING ON JULY 1, 2010.

(4) WHEN THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE, INCLUDING ANY SUSPENDED ANNUAL COST-OF-LIVING ADJUSTMENTS, EQUALS OR EXCEEDS THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS RECEIVING ON JULY 1, 2010, THE BOARD OF TRUSTEES SHALL RESUME ADJUSTING THE RETIREE'S ANNUAL ALLOWANCE ON JULY 1 OF EACH YEAR IN ACCORDANCE WITH THIS SUBTITLE, SO THAT THE AMOUNT OF THE ALLOWANCE, INCLUDING ANY COST-OF-LIVING ADJUSTMENTS, EQUALS THE TOTAL ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE.

(C) IF A RETIREE DIES BEFORE THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE WAS ENTITLED TO RECEIVE, INCLUDING ANY SUSPENDED ANNUAL COST-OF-LIVING ADJUSTMENTS, EQUALS THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE WAS RECEIVING ON JULY 1, 2010, AND THE RETIREE HAS SELECTED AN OPTIONAL FORM OF ALLOWANCE UNDER TITLE 21, SUBTITLE 4 OF THIS ARTICLE, THE DECEASED RETIREE'S BENEFICIARY SHALL RECEIVE A BENEFIT CALCULATED ON THE RETIREMENT ALLOWANCE THE DECEASED RETIREE WAS ENTITLED TO RECEIVE AT THE TIME OF THE RETIREE'S DEATH AND NOT WHAT THE RETIREE WAS RECEIVING AT THE TIME OF THE RETIREE'S DEATH.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act shall be construed as clarifying the provisions providing for the calculations of cost-of-living adjustments for recipients of benefits from the State Retirement and Pension System and may not be construed to substantively alter the benefits an individual is receiving or is entitled to receive.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 16, 2013.

Chapter 552

(Senate Bill 809)

AN ACT concerning

Maryland Legal Services Corporation Funding – Abandoned Property Funds

FOR the purpose of altering the distributee of certain abandoned property funds that the Comptroller is required to distribute each year; altering the amount that the Comptroller is required to distribute; repealing certain provisions of law requiring the Governor to appropriate a certain amount in certain budgets each year to the Maryland Legal Services Corporation Fund; repealing certain provisions of law authorizing the Governor to transfer a certain amount to the Fund from a certain portion of abandoned property funds; altering a certain source of money in the Fund; and generally relating to Maryland Legal Services Corporation funding.

BY repealing and reenacting, with amendments,
 Article – Commercial Law
 Section 17–317(a)
 Annotated Code of Maryland
 (2005 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
 Article – Human Services
 Section 11–401 and 11–402
 Annotated Code of Maryland
 (2007 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

17–317.

(a) (1) All funds received under this title, including the proceeds of the sale of abandoned property under § 17–316 of this subtitle, shall be credited by the Administrator to a special fund. The Administrator shall retain in the special fund at the end of each fiscal year, from the proceeds received, an amount not to exceed \$50,000, from which sum the Administrator shall pay any claim allowed under this title.

(2) After deducting all costs incurred in administering this title from the remaining net funds the Administrator shall distribute ~~[\$500,000] \$3,000,000~~ **\$1,500,000** to the Maryland Legal Services Corporation [to support the activities of the corporation] **FUND ESTABLISHED UNDER § 11–402 OF THE HUMAN SERVICES ARTICLE**;

- ~~(I) \$1,000,000 IN FISCAL YEAR 2014;~~
~~(II) \$1,500,000 IN FISCAL YEAR 2015;~~
~~(III) \$2,000,000 IN FISCAL YEAR 2016; AND~~
~~(IV) \$500,000 IN FISCAL YEAR 2017 AND THEREAFTER.~~

(3) (i) Subject to subparagraph (ii) of this paragraph, the Administrator shall distribute all unclaimed money from judgments of restitution under Title 11, Subtitle 6 of the Criminal Procedure Article to the State Victims of Crime Fund established under § 11–916 of the Criminal Procedure Article to assist victims of crimes and delinquent acts to protect the victims' rights as provided by law.

(ii) If a victim entitled to restitution that has been treated as abandoned property under § 11–614 of the Criminal Procedure Article is located after the money has been distributed under this paragraph, the Administrator shall reduce the next distribution to the State Victims of Crime Fund by the amount recovered by the victim.

(4) After making the distributions required under paragraphs (2) and (3) of this subsection, the Administrator shall distribute the remaining net funds not retained under paragraph (1) of this subsection to the General Fund of the State.

Article – Human Services

11–401.

[(a) In the State operating budget or in any supplemental budget that the Governor submits to the General Assembly, the Governor shall appropriate at least \$500,000 each year to the Maryland Legal Services Corporation Fund established under § 11–402 of this subtitle.

(b) (1) To support or add to the appropriation under subsection (a) of this section, on July 1 of each year, the Governor may transfer to the Fund up to \$500,000 from the portion of abandoned property funds deposited in the General Fund of the State under § 17–317 of the Commercial Law Article.

(2) If, after deducting all costs of administering the abandoned property fund, the balance in the portion of abandoned property funds deposited in the General Fund of the State under § 17–317 of the Commercial Law Article is less than \$500,000, only the balance may be transferred in accordance with paragraph (1) of this subsection.

(c)] Nonstate funds received by the Corporation shall be accounted for and reported as receipts and disbursements separate and distinct from State funds.

11-402.

- (a) There is a Maryland Legal Services Corporation Fund.
- (b) The Administrative Office of the Courts shall administer the Fund.
- (c) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.
- (d) The Fund consists of:
 - (1) money deposited to the Fund from the surcharge assessed in civil cases under §§ 7-202 and 7-301 of the Courts Article;
 - (2) [money appropriated to the Fund under § 11-401 of this subtitle] **MONEY DISTRIBUTED TO THE FUND UNDER § 17-317 OF THE COMMERCIAL LAW ARTICLE;**
 - (3) interest on attorney trust accounts paid to the Fund under § 10-303 of the Business Occupations and Professions Article; and
 - (4) investment earnings of the Fund.
- (e) The Corporation shall use the Fund to provide funding for civil legal services to indigents under this title.
- (f) The Treasurer shall:
 - (1) invest and reinvest the Fund in the same manner as other State funds; and
 - (2) credit any investment earnings to the Fund and may not charge interest against the Fund if the average daily net cash balance for the month is less than zero.
- (g) Expenditures from the Fund shall be made in accordance with an appropriation requested by the Judicial Branch of the State government under § 7-108 of the State Finance and Procurement Article and approved by the General Assembly in the State budget or by the budget amendment procedure under § 7-208.1 of the State Finance and Procurement Article.

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

Approved by the Governor, May 16, 2013.

Chapter 553**(House Bill 1303)**

AN ACT concerning

Maryland Legal Services Corporation Funding – Abandoned Property Funds

FOR the purpose of altering the distributee of certain abandoned property funds that the Comptroller is required to distribute each year; altering the amount that the Comptroller is required to distribute; repealing certain provisions of law requiring the Governor to appropriate a certain amount in certain budgets each year to the Maryland Legal Services Corporation Fund; repealing certain provisions of law authorizing the Governor to transfer a certain amount to the Fund from a certain portion of abandoned property funds; altering a certain source of money in the Fund; and generally relating to Maryland Legal Services Corporation funding.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 17–317(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Human Services
Section 11–401 and 11–402
Annotated Code of Maryland
(2007 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

17–317.

(a) (1) All funds received under this title, including the proceeds of the sale of abandoned property under § 17–316 of this subtitle, shall be credited by the Administrator to a special fund. The Administrator shall retain in the special fund at the end of each fiscal year, from the proceeds received, an amount not to exceed \$50,000, from which sum the Administrator shall pay any claim allowed under this title.

(2) After deducting all costs incurred in administering this title from the remaining net funds the Administrator shall distribute [\$500,000] ~~\$3,000,000~~

\$1,500,000 to the Maryland Legal Services Corporation [to support the activities of the corporation] **FUND ESTABLISHED UNDER § 11-402 OF THE HUMAN SERVICES ARTICLE.**

(3) (i) Subject to subparagraph (ii) of this paragraph, the Administrator shall distribute all unclaimed money from judgments of restitution under Title 11, Subtitle 6 of the Criminal Procedure Article to the State Victims of Crime Fund established under § 11-916 of the Criminal Procedure Article to assist victims of crimes and delinquent acts to protect the victims' rights as provided by law.

(ii) If a victim entitled to restitution that has been treated as abandoned property under § 11-614 of the Criminal Procedure Article is located after the money has been distributed under this paragraph, the Administrator shall reduce the next distribution to the State Victims of Crime Fund by the amount recovered by the victim.

(4) After making the distributions required under paragraphs (2) and (3) of this subsection, the Administrator shall distribute the remaining net funds not retained under paragraph (1) of this subsection to the General Fund of the State.

Article – Human Services

11-401.

[(a) In the State operating budget or in any supplemental budget that the Governor submits to the General Assembly, the Governor shall appropriate at least \$500,000 each year to the Maryland Legal Services Corporation Fund established under § 11-402 of this subtitle.

(b) (1) To support or add to the appropriation under subsection (a) of this section, on July 1 of each year, the Governor may transfer to the Fund up to \$500,000 from the portion of abandoned property funds deposited in the General Fund of the State under § 17-317 of the Commercial Law Article.

(2) If, after deducting all costs of administering the abandoned property fund, the balance in the portion of abandoned property funds deposited in the General Fund of the State under § 17-317 of the Commercial Law Article is less than \$500,000, only the balance may be transferred in accordance with paragraph (1) of this subsection.

(c)] Nonstate funds received by the Corporation shall be accounted for and reported as receipts and disbursements separate and distinct from State funds.

11-402.

(a) There is a Maryland Legal Services Corporation Fund.

- (b) The Administrative Office of the Courts shall administer the Fund.
- (c) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.
- (d) The Fund consists of:
- (1) money deposited to the Fund from the surcharge assessed in civil cases under §§ 7–202 and 7–301 of the Courts Article;
 - (2) [money appropriated to the Fund under § 11–401 of this subtitle] **MONEY DISTRIBUTED TO THE FUND UNDER § 17–317 OF THE COMMERCIAL LAW ARTICLE;**
 - (3) interest on attorney trust accounts paid to the Fund under § 10–303 of the Business Occupations and Professions Article; and
 - (4) investment earnings of the Fund.
- (e) The Corporation shall use the Fund to provide funding for civil legal services to indigents under this title.
- (f) The Treasurer shall:
- (1) invest and reinvest the Fund in the same manner as other State funds; and
 - (2) credit any investment earnings to the Fund and may not charge interest against the Fund if the average daily net cash balance for the month is less than zero.
- (g) Expenditures from the Fund shall be made in accordance with an appropriation requested by the Judicial Branch of the State government under § 7–108 of the State Finance and Procurement Article and approved by the General Assembly in the State budget or by the budget amendment procedure under § 7–208.1 of the State Finance and Procurement Article.

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

Approved by the Governor, May 16, 2013.

Chapter 554**(Senate Bill 811)**

AN ACT concerning

**Procurement – Investment Activities in Iran – Board of Public Works
Authority to Adopt Regulations**

FOR the purpose of requiring the Board of Public Works to adopt certain regulations if the Board determines that certain acts, laws, or amendments authorize or require the reduction of certain dollar amounts or alteration of certain parameters relating to certain investment activities in Iran; clarifying the intent of the General Assembly; requiring the Department of Legislative Services to provide certain written notice concerning certain legislation to the Attorney General of the United States; clarifying that certain legislation that amends certain provisions of law is severable; providing for the termination of certain legislation that amends certain provisions of law; requiring the Board to notify the Department of Legislative Services of certain events within a certain time period; and generally relating to persons that engage in investment activities in Iran and the authority of the Board of Public Works to adopt regulations.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 17–701, 17–703, and 17–707
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 17–702
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Chapter 447 of the Acts of the General Assembly of 2012
Section 2 through 5

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

Article – State Finance and Procurement

17–701.

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

(b) “Energy sector of Iran” means activities to develop petroleum or natural gas resources or nuclear power in Iran.

(c) “Financial institution” has the meaning stated in Section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172).

(d) “Iran” includes the government of Iran and any agency or instrumentality of Iran.

(e) “Person” includes:

(1) a natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(2) a governmental entity or instrumentality of a government, including a multilateral development institution, as defined by the federal International Financial Institutions Act, 22 U.S.C. 262r(c)(3); or

(3) any parent, successor, subunit, direct or indirect subsidiary of, or any entity under common ownership or control with, an entity described in item (1) or (2) of this subsection.

(f) “Public body” means:

(1) the State;

(2) a county, municipal corporation, or other political subdivision;

(3) a public instrumentality; or

(4) any governmental unit authorized to award a contract.

17–702.

(A) For purposes of this subtitle, a person engages in investment activities in Iran if:

(1) the person provides goods or services of \$20,000,000 or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or

(2) the person is a financial institution that extends \$20,000,000 or more in credit to another person for 45 days or more if the person to whom the credit is extended:

(i) will use the credit to provide goods or services in the energy sector of Iran as described in item (1) of this section; and

(ii) is, at the time of the extension of credit, identified on a list created under § 17-704 of this subtitle as a person engaging in investment activities in Iran.

(B) IF THE BOARD DETERMINES THAT THE COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT ACT OF 2010 HAS BEEN AMENDED OR ANY OTHER FEDERAL ACT OR LAW HAS BEEN ENACTED OR AMENDED THAT AUTHORIZES OR REQUIRES THE REDUCTION OF THE DOLLAR AMOUNTS PROVIDED FOR IN THIS SECTION OR OTHERWISE ALTERS THE PARAMETERS OF INVESTMENT ACTIVITIES IN IRAN FOR THE PURPOSE OF IMPOSING SANCTIONS, THE BOARD SHALL ADOPT REGULATIONS TO REDUCE THE DOLLAR AMOUNTS OR ALTER THE PARAMETERS.

17-703.

A person that, at the time of bid or proposal for a new contract or renewal of an existing contract, is identified on a list created by the Board under § 17-704 of this subtitle as a person engaging in investment activities in Iran is ineligible to, and may not bid on, submit a proposal for, or enter into or renew a contract with a public body for goods or services.

17-707.

This subtitle preempts any law, ordinance, rule, or regulation of any local governing body involving procurement contracts for goods or services with a person engaged in investment activities in Iran.

Chapter 447 of the Acts of 2012

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly to implement the authority granted under Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 AND ANY FEDERAL ACT OR LAW THAT AMENDS THE ACT OR OTHERWISE REGULATES INVESTMENT ACTIVITIES IN IRAN.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Legislative Services shall submit to the Attorney General of the United States written notice of the requirements of this Act OR ANY OTHER LEGISLATION PASSED BY THE GENERAL ASSEMBLY THAT AMENDS THIS ACT within 30 days after the Act OR LEGISLATION takes effect.

SECTION 4. AND BE IT FURTHER ENACTED, That if any provision of this Act **OR LEGISLATION PASSED BY THE GENERAL ASSEMBLY THAT AMENDS 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 **OR LEGISLATION PASSED BY THE GENERAL ASSEMBLY THAT AMENDS THIS ACT** which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act **OR ANY LEGISLATION PASSED BY THE GENERAL ASSEMBLY THAT AMENDS THIS ACT** are declared severable.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) This Act **OR ANY OTHER LEGISLATION THE GENERAL ASSEMBLY PASSES THAT AMENDS THIS ACT** shall remain in effect until:

(1) the Congress or the President of the United States affirmatively and unambiguously declares, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress that Iran is no longer seeking a nuclear weapons capability and no longer supports international terrorism; or

(2) federal law no longer authorizes the states to adopt and enforce provisions of the type authorized in this Act **OR ANY OTHER LEGISLATION THE GENERAL ASSEMBLY PASSES THAT AMENDS THIS ACT**.

(b) The Board of Public Works shall notify the Department of Legislative Services within 5 days after the occurrence of an event described in subsection (a) of this section and, as of the date the event occurred, with no further action required by the General Assembly, this Act **OR ANY OTHER LEGISLATION THE GENERAL ASSEMBLY PASSES THAT AMENDS THIS ACT** shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 16, 2013.

Chapter 555

(House Bill 877)

AN ACT concerning

**Procurement – Investment Activities in Iran – Board of Public Works
Authority to Adopt Regulations**

FOR the purpose of requiring the Board of Public Works to adopt certain regulations if the Board determines that certain acts, laws, or amendments authorize or require the reduction of certain dollar amounts or alteration of certain parameters relating to certain investment activities in Iran; clarifying the intent of the General Assembly; requiring the Department of Legislative Services to provide certain written notice concerning certain legislation to the Attorney General of the United States; clarifying that certain legislation that amends certain provisions of law is severable; providing for the termination of certain legislation that amends certain provisions of law; requiring the Board to notify the Department of Legislative Services of certain events within a certain time period; and generally relating to persons that engage in investment activities in Iran and the authority of the Board of Public Works to adopt regulations.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 17–701, 17–703, and 17–707
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 17–702
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Chapter 447 of the Acts of the General Assembly of 2012
Section 2 through 5

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

Article – State Finance and Procurement

17–701.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Energy sector of Iran” means activities to develop petroleum or natural gas resources or nuclear power in Iran.
- (c) “Financial institution” has the meaning stated in Section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172).

(d) “Iran” includes the government of Iran and any agency or instrumentality of Iran.

(e) “Person” includes:

(1) a natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(2) a governmental entity or instrumentality of a government, including a multilateral development institution, as defined by the federal International Financial Institutions Act, 22 U.S.C. 262r(c)(3); or

(3) any parent, successor, subunit, direct or indirect subsidiary of, or any entity under common ownership or control with, an entity described in item (1) or (2) of this subsection.

(f) “Public body” means:

(1) the State;

(2) a county, municipal corporation, or other political subdivision;

(3) a public instrumentality; or

(4) any governmental unit authorized to award a contract.

17–702.

(A) For purposes of this subtitle, a person engages in investment activities in Iran if:

(1) the person provides goods or services of \$20,000,000 or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or

(2) the person is a financial institution that extends \$20,000,000 or more in credit to another person for 45 days or more if the person to whom the credit is extended:

(i) will use the credit to provide goods or services in the energy sector of Iran as described in item (1) of this section; and

(ii) is, at the time of the extension of credit, identified on a list created under § 17-704 of this subtitle as a person engaging in investment activities in Iran.

(B) IF THE BOARD DETERMINES THAT THE COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT ACT OF 2010 HAS BEEN AMENDED OR ANY OTHER FEDERAL ACT OR LAW HAS BEEN ENACTED OR AMENDED THAT AUTHORIZES OR REQUIRES THE REDUCTION OF THE DOLLAR AMOUNTS PROVIDED FOR IN THIS SECTION OR OTHERWISE ALTERS THE PARAMETERS OF INVESTMENT ACTIVITIES IN IRAN FOR THE PURPOSE OF IMPOSING SANCTIONS, THE BOARD SHALL ADOPT REGULATIONS TO REDUCE THE DOLLAR AMOUNTS OR ALTER THE PARAMETERS.

17-703.

A person that, at the time of bid or proposal for a new contract or renewal of an existing contract, is identified on a list created by the Board under § 17-704 of this subtitle as a person engaging in investment activities in Iran is ineligible to, and may not bid on, submit a proposal for, or enter into or renew a contract with a public body for goods or services.

17-707.

This subtitle preempts any law, ordinance, rule, or regulation of any local governing body involving procurement contracts for goods or services with a person engaged in investment activities in Iran.

Chapter 447 of the Acts of 2012

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly to implement the authority granted under Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 **AND ANY FEDERAL ACT OR LAW THAT AMENDS THE ACT OR OTHERWISE REGULATES INVESTMENT ACTIVITIES IN IRAN.**

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Legislative Services shall submit to the Attorney General of the United States written notice of the requirements of this Act **OR ANY OTHER LEGISLATION PASSED BY THE GENERAL ASSEMBLY THAT AMENDS THIS ACT** within 30 days after the Act **OR LEGISLATION** takes effect.

SECTION 4. AND BE IT FURTHER ENACTED, That if any provision of this Act **OR LEGISLATION PASSED BY THE GENERAL ASSEMBLY THAT AMENDS 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 **OR LEGISLATION PASSED BY THE GENERAL ASSEMBLY THAT AMENDS THIS ACT** which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act **OR ANY LEGISLATION PASSED BY THE GENERAL ASSEMBLY THAT AMENDS THIS ACT** are declared severable.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) This Act **OR ANY OTHER LEGISLATION THE GENERAL ASSEMBLY PASSES THAT AMENDS THIS ACT** shall remain in effect until:

(1) the Congress or the President of the United States affirmatively and unambiguously declares, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress that Iran is no longer seeking a nuclear weapons capability and no longer supports international terrorism; or

(2) federal law no longer authorizes the states to adopt and enforce provisions of the type authorized in this Act **OR ANY OTHER LEGISLATION THE GENERAL ASSEMBLY PASSES THAT AMENDS THIS ACT**.

(b) The Board of Public Works shall notify the Department of Legislative Services within 5 days after the occurrence of an event described in subsection (a) of this section and, as of the date the event occurred, with no further action required by the General Assembly, this Act **OR ANY OTHER LEGISLATION THE GENERAL ASSEMBLY PASSES THAT AMENDS THIS ACT** shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 16, 2013.

Chapter 556

(Senate Bill 813)

AN ACT concerning

State Retirement and Pension System – Service Credit for Unused Sick Leave

FOR the purpose of making certain members of the State Retirement and Pension System eligible to receive creditable service at retirement for the total amount of unused sick leave accumulated as a member of a former system ~~accrued by~~ accrued by

the member in certain systems in the State Retirement and Pension System under certain circumstances; providing for the ~~computation~~ calculation of the creditable service for unused sick leave ~~accumulated in the former State system~~ accrued by a member in certain systems; requiring the Department of Legislative Services and the State Retirement Agency to provide a certain report on or before a certain date; and generally relating to additional creditable service at retirement for unused sick leave for members of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
 Article – State Personnel and Pensions
 Section 20–206
 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 Personnel and Pensions

20–206.

(a) In this section, “unused sick leave” means sick leave credit that has not been used before retirement.

(b) This section does not apply to:

- (1) the Judges’ Retirement System; or
- (2) the Legislative Pension Plan.

(c) **[A] EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, A** member is entitled to receive creditable service for unused sick leave if the member retires on or before 30 days after the member is separated from employment with a participating employer or a participating governmental unit that has withdrawn from one of the several systems under Title 31 of this article.

(d) (1) At retirement, a member is entitled to receive creditable service for unused sick leave, on verification of the unused sick leave to the Board of Trustees.

(2) (i) This subsection does not apply to the Local Fire and Police System or the Law Enforcement Officers’ Pension System.

(ii) A member who separates from employment for reasons other than retirement on or before June 30, 1990, is entitled to receive creditable service for unused sick leave that is reported by the member’s employer at the member’s

separation from employment if the member was entitled to a vested allowance at the time of separation.

(e) (1) Subject to paragraph (3) of this subsection, for 22 days of unused sick leave a member is entitled to receive 1 month of creditable service.

(2) If fractional days totaling 11 or more result from the application of the formula described in paragraph (1) of this subsection, a member is entitled to receive 1 additional month of creditable service.

(3) For the purposes of this section:

(i) a member may not accumulate more than 15 days of sick leave per year;

(ii) unless sick leave credit is accepted and credited by the current participating employer, a member may not receive credit for unused sick leave granted by a former employer; and

(iii) if a participating employer provides a member with more than 15 days of sick leave per year, before crediting the member with additional sick leave for a year, the Board of Trustees shall reduce the member's accumulated sick leave by the lesser of:

1. the days of sick leave used by the member in that year; or

2. the number of days of sick leave provided by the participating employer for the year, less 15.

~~(F) (1) THIS SUBSECTION APPLIES TO A MEMBER OF A STATE SYSTEM WHO:~~

~~(I) WAS TRANSFERRED INVOLUNTARILY FROM ANOTHER STATE SYSTEM AS A RESULT OF A CHANGE IN POSITION THAT RENDERED THE INDIVIDUAL INELIGIBLE FOR MEMBERSHIP IN THE FORMER STATE SYSTEM; AND~~

~~(H) DID NOT TRANSFER SERVICE CREDIT TO THE NEW STATE SYSTEM.~~

~~(2) A MEMBER IS ENTITLED TO RECEIVE CREDITABLE SERVICE FOR UNUSED SICK LEAVE THAT:~~

~~(I) IS ACCUMULATED WHILE A MEMBER OF THE STATE SYSTEM FROM WHICH THE MEMBER RETIRES AS PROVIDED IN SUBSECTIONS (C) THROUGH (E) OF THIS SECTION; AND~~

~~(II) WAS ACCUMULATED WHILE A MEMBER OF THE FORMER STATE SYSTEM AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION.~~

~~(3) (I) AT RETIREMENT, A MEMBER IS ENTITLED TO RECEIVE CREDITABLE SERVICE IN THE FORMER STATE SYSTEM FOR UNUSED SICK LEAVE ACCUMULATED WHILE A MEMBER OF THE FORMER STATE SYSTEM ON VERIFICATION OF THE UNUSED SICK LEAVE TO THE BOARD OF TRUSTEES.~~

~~(II) THE CREDITABLE SERVICE SHALL BE COMPUTED AS PROVIDED IN SUBSECTION (E) OF THIS SECTION.~~

(F) (1) THIS SUBSECTION APPLIES TO A MEMBER OF THE EMPLOYEES' PENSION SYSTEM WHO:

(I) WAS A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM AND WAS TRANSFERRED FROM THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM TO THE EMPLOYEES' PENSION SYSTEM AS A RESULT OF A CHANGE IN POSITION WITH THE SAME EMPLOYER THAT RENDERED THE INDIVIDUAL INELIGIBLE FOR MEMBERSHIP IN THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM; AND

(II) DID NOT TRANSFER SERVICE CREDIT FROM THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM TO THE EMPLOYEES' PENSION SYSTEM.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A MEMBER IS ENTITLED TO RECEIVE CREDITABLE SERVICE FOR THE TOTAL AMOUNT OF UNUSED SICK LEAVE ACCRUED BY THE MEMBER AT THE TIME OF RETIREMENT.

(3) THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE SHALL BE CALCULATED FOR EACH OF THE TWO STATE SYSTEMS BY MULTIPLYING THE TOTAL AMOUNT OF UNUSED SICK LEAVE, CALCULATED IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, BY A FRACTION:

(I) THE NUMERATOR OF WHICH IS THE CREDITABLE SERVICE EARNED IN THE STATE SYSTEM, NOT INCLUDING THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE; AND

(II) THE DENOMINATOR OF WHICH IS THE TOTAL CREDITABLE SERVICE EARNED IN BOTH STATE SYSTEMS, NOT INCLUDING THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE.

[(f)] (G) Credit for unused sick leave may not be used under this section:

(1) to determine years of eligibility service required for a benefit under this Division II; or

(2) to compute average final compensation.

[(g)] (H) A State employee who came into the State system while retaining sick leave and annual leave benefits under a county system and who came under the provisions of Chapter 423 of the Acts of 1971 shall be entitled to the same full credit toward retirement as provided by this section.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2013, the Department of Legislative Services shall report to the Joint Committee on Pensions on~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Legislative Services and the State Retirement Agency shall:

(a) (1) study the requirement for a member of the Correctional Officers' Retirement System to join the Employees' Pension System as a condition of employment when the member is promoted to certain positions, including:

(i) when the requirement was established;

(ii) the rationale for the requirement;

(iii) the number of individuals who have been affected by the requirement; and

(iv) the difference in benefits between the Correctional Officers' Retirement System and the Employees' Pension System, including whether the benefits have changed since the Correctional Officers' Retirement System was established; and

(2) determine the cost of authorizing a member of the Correctional Officers' Retirement System to remain a member of the Correctional Officers' Retirement System even though the member is promoted to a position in which the member must join the Employees' Pension System as a condition of employment; and

(b) on or before December 1, 2013, report any findings and recommendations to the Joint Committee on Pensions.

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

Approved by the Governor, May 16, 2013.

Chapter 557

(Senate Bill 814)

AN ACT concerning

Washington County – Salary ~~and Expense~~ Study Commission – Updating Salary and Expense Provisions – ~~Membership~~

FOR the purpose of updating certain provisions concerning the salaries of certain county officials; altering the membership of the Washington County Salary Study Commission; repealing certain provisions relating to the expense allowance for the judges of the Orphans' Court for Washington County; authorizing the Board of County Commissioners of Washington County to provide for a certain expense allowance for the judges of the Orphans' Court for Washington County; and generally relating to the Washington County Salary Study Commission salaries and expenses of certain county officials in Washington County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–109(w)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

~~BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 12–203(b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, without amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 12–205
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article 25 – County Commissioners
Section 51(e)~~

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

BY repealing and reenacting, with amendments,

Article – Local Government

Section 16–205 and 28–203

Annotated Code of Maryland

(As enacted by Chapter 119 (H.B. 472) of the Acts of the General Assembly of 2013)

BY repealing and reenacting, without amendments,

Article – Local Government

Section 28–207 and 28–209

Annotated Code of Maryland

(As enacted by Chapter 119 (H.B. 472) of the Acts of the General Assembly of 2013)

BY repealing and reenacting, with amendments,

Article – Education

Section 3–1302

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Estates and Trusts

Section ~~2–108(v)(1)~~ 2–108(v)

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

15–109.

(w) (1) This subsection applies only in Washington County.

(2) The annual salaries for the Board of License Commissioners [are:

(i) Chairman – \$9,850; and

(ii) Members – \$9,600] ~~SHALL BE SET BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY UNDER ARTICLE 24, TITLE 12, SUBTITLE 2 OF THE CODE~~ TITLE 28, SUBTITLE 2 OF THE LOCAL GOVERNMENT ARTICLE.

(3) The salaries specified in this subsection are payable monthly from the license fees derived from the issuance of licenses authorized by this article.

(4) A member or employee of the Board may not have any pecuniary or other interest in any phase of the manufacture, sale or distribution of any alcoholic beverages.

~~Article 24 Political Subdivisions Miscellaneous Provisions~~

~~12-203.~~

~~(b) The Commission shall be comprised as follows:~~

~~(1) One member from the Democratic Party Central Committee of Washington County;~~

~~(2) One member from the Republican Party Central Committee of Washington County;~~

~~(3) One member from the Washington County Chamber of Commerce;~~

~~(4) One member from the Washington County Farm Bureau;~~

~~(5) One member from the League of Women Voters of Washington County;~~

~~(6) One member from the Western Maryland Central Labor Council;~~

~~(7) One member from the Cumberland Valley Associated Builders and Contractors, Inc.;~~

~~(8) One member from the Joint Veterans Council of Washington County; and~~

~~(9) One member at large WHO IS A RESIDENT selected by the BOARD OF COUNTY COMMISSIONERS OF Washington County [Retired Teachers Association].~~

~~12-205.~~

~~(a) The Commission shall study the salaries of the Washington County:~~

~~(1) Board of County Commissioners;~~

~~(2) Board of Education;~~

~~(3) Orphans' Court judges;~~

~~(4) Sheriff;~~

~~(5) Treasurer; and~~

~~(6) Board of Liquor License Commissioners.~~

~~(b) (1) On or before November 20, 1996, and on or before December 1 each fourth year thereafter, the Commission shall issue a report containing recommendations to the Board of County Commissioners for review and consideration.~~

~~(2) (i) This paragraph does not apply to the salaries of the County Commissioners or the Sheriff.~~

~~(ii) Within 45 days after receiving the recommendations of the Commission, the Board of County Commissioners shall set by local law the salary for each office included in the recommendations:~~

~~1. Subject to paragraph (3) of this subsection; and~~

~~2. With respect to a public official, in accordance with Article III, § 35 of the Maryland Constitution.~~

~~(3) The Board of County Commissioners may accept, reduce, or reject but may not increase the recommendations of the Commission.~~

~~(4) On or before December 15, 1996, and on or before December 15 each fourth year thereafter, the Board of County Commissioners shall submit recommendations to the legislative delegation concerning the salaries of the County Commissioners and the Sheriff.~~

~~Article 25 – County Commissioners~~

~~51.~~

~~(e) The County Treasurer of Washington County shall receive an annual salary [of \$6,000.00] AS SET BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY UNDER ARTICLE 24, TITLE 12, SUBTITLE 2 OF THE CODE. The deputy treasurer and clerks shall each be paid such compensation as the said Treasurer, with the approval of the County Commissioners of said county shall determine. The County Commissioners shall pay all the office expenses of the Treasurer and shall have the power, in their discretion, to increase the compensation of the Treasurer and the employees in his office.~~

Article – Local Government

16-205.

(a) (1) The annual salary of the County Treasurer of Washington County is:

(i) [\$6,000] AS SET BY THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY UNDER TITLE 28, SUBTITLE 2 OF THIS ARTICLE; or

(ii) any increased compensation authorized by the County Commissioners of Washington County.

(2) The County Treasurer shall determine the annual salaries of the deputy treasurer and employees in the office, subject to:

(i) the approval of the County Commissioners; and

(ii) any increased compensation authorized by the County Commissioners.

(b) The County Commissioners of Washington County shall pay the office expenses of the County Treasurer of Washington County.

28-203.

(a) Subject to subsections (b) and (d) of this section, the Commission consists of the following members:

(1) one member from the Democratic Central Committee of Washington County;

(2) one member from the Republican Central Committee of Washington County;

(3) one member from the Washington County Chamber of Commerce;

(4) one member from the Washington County Farm Bureau;

(5) one member from the League of Women Voters of Washington County;

(6) one member from the Western Maryland Central Labor Council;

(7) one member from the Cumberland Valley Associated Builders and Contractors, Inc.;

(8) one member from the Joint Veterans Council of Washington County; and

(9) one at-large member WHO IS A RESIDENT selected by the ~~BOARD OF COUNTY COMMISSIONERS OF~~ Washington County [Retired Teachers Association].

(b) Each member shall be a registered voter of Washington County who in the previous 4 years has voted in at least two elections, at least one of which was in the gubernatorial election year.

(c) On or before March 31, 2016, and on or before March 31 each fourth year thereafter, the County Commissioners of Washington County shall request that each organization listed in subsection (a) of this section recommend an appointee to the county commissioners on or before the following May 15.

(d) (1) The County Commissioners of Washington County shall appoint the individual recommended by each organization listed in subsection (a) of this section.

(2) If an organization fails to make a recommendation to the county commissioners on or before June 1, the members who have been appointed to the Commission shall meet, solicit prospective members from the public, and select by majority vote a qualified substitute public member to the Commission to serve through the following December 1.

(3) A member of the Commission may not be an elected official or an employee of an official whose salary the Commission studies.

28-207.

(a) The Commission shall study the salaries of:

(1) the County Commissioners of Washington County;

(2) the Washington County Board of Education;

(3) the Washington County Board of Liquor License Commissioners;

(4) the judges of the Orphans' Court for Washington County;

(5) the Sheriff of Washington County; and

(6) the Treasurer of Washington County.

(b) On or before the December 1 following appointment, the Commission shall issue a report that contains recommendations to the County Commissioners of Washington County for review and consideration.

28-209.

(a) (1) This subsection does not apply to the salaries of the County Commissioners of Washington County or the Sheriff of Washington County.

(2) Subject to subsection (b) of this section and Article III, § 35 of the Maryland Constitution, the county commissioners, by local law, shall set the salary for each office included in the recommendations.

(b) The County Commissioners of Washington County may accept, reduce, or reject, but may not increase, the recommendations of the Commission.

(c) On or before the December 15 following appointment of the Commission, the County Commissioners of Washington County shall submit recommendations to the members of the General Assembly who represent any part of Washington County concerning the salaries of the county commissioners and the sheriff.

Article – Education

3-1302.

(a) (1) The president of the county board [is entitled to receive \$6,200 annually as compensation] and the other members are entitled to receive [\$6,100 each annually as] compensation **ANNUALLY AS SET BY THE ~~BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY UNDER ARTICLE 24, TITLE 12, SUBTITLE 2 OF THE CODE~~ TITLE 28, SUBTITLE 2 OF THE LOCAL GOVERNMENT ARTICLE.**

(2) Each member of the Washington County Board of Education is entitled to health insurance and to other fringe benefits regularly provided to employees of the board of education.

(b) After submitting vouchers, members shall be reimbursed for travel and other expenses within the limit set by the Washington County Commissioners.

Article – Estates and Trusts

2-108.

(v) (1) As compensation each of the judges of the Court for Washington County shall receive an annual compensation [of not more than \$7,000 per year] **AS SET BY THE ~~BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY UNDER ARTICLE 24, TITLE 12, SUBTITLE 2 OF THE CODE~~ TITLE 28, SUBTITLE 2 OF THE LOCAL GOVERNMENT ARTICLE.**

(2) [(i) Each judge shall also receive an expense allowance, not to exceed \$1,000 per year, to be paid by the Board of County Commissioners upon presentation of an itemized voucher of legitimate expenses.

(ii) For purposes of subparagraph (i) of this paragraph, legitimate expenses include:

1. Registration fees for business related seminars and conferences;

2. \$10 per year for judge's association membership;

3. Parking expenses incurred while on business related trips out of the county, upon presentation of a receipt from the parking facility indicating the amount;

4. A gasoline expense, equal to the amount per mile paid other Washington County employees while traveling to business related activities held out of the county;

5. A meal expense, not to exceed \$30 per day, incurred while on business related trips out of the county; and

6. A room expense, not to exceed \$85 per day, incurred while on business related activities held out of the county.] ~~THE BOARD OF COUNTY COMMISSIONERS MAY PROVIDE FOR AN EXPENSE ALLOWANCE AS THE BOARD DETERMINES~~ COUNTY COMMISSIONERS DETERMINE.

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

Approved by the Governor, May 16, 2013.

Chapter 558

(House Bill 720)

AN ACT concerning

Washington County – Salary Study Commission – Updating Salary and Expense Provisions – ~~Membership~~

FOR the purpose of updating certain provisions concerning the salaries of certain county officials; altering the membership of the Washington County Salary Study Commission; repealing certain provisions relating to the expense

allowance for the judges of the orphans' court for Washington County; authorizing the Board of County Commissioners of Washington County to provide for a certain expense allowance for the judges of the orphans' court for Washington County; and generally relating to the Washington County Salary Study Commission salaries and expenses of certain county officials in Washington County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–109(w)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

~~BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 12–203(b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, without amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 12–205
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article 25 – County Commissioners
Section 51(e)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Local Government
Section 16–205 and 28–203
Annotated Code of Maryland
(As enacted by Chapter 119 (H.B. 472) of the Acts of the General Assembly of
2013)

BY repealing and reenacting, without amendments,
Article – Local Government
Section 28–207 and 28–209
Annotated Code of Maryland
(As enacted by Chapter 119 (H.B. 472) of the Acts of the General Assembly of
2013)

BY repealing and reenacting, with amendments,
Article – Education

Section 3–1302
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section ~~2–108(v)(1)~~ 2–108(v)
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

15–109.

(w) (1) This subsection applies only in Washington County.

(2) The annual salaries for the Board of License Commissioners [are:

(i) Chairman – \$9,850; and

(ii) Members – \$9,600] ~~SHALL BE SET BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY UNDER ARTICLE 24, TITLE 12, SUBTITLE 2 OF THE CODE~~ TITLE 28, SUBTITLE 2 OF THE LOCAL GOVERNMENT ARTICLE.

(3) The salaries specified in this subsection are payable monthly from the license fees derived from the issuance of licenses authorized by this article.

(4) A member or employee of the Board may not have any pecuniary or other interest in any phase of the manufacture, sale or distribution of any alcoholic beverages.

~~Article 24 – Political Subdivisions – Miscellaneous Provisions~~

~~12–203.~~

~~(b) The Commission shall be comprised as follows:~~

~~(1) One member from the Democratic Party Central Committee of Washington County;~~

~~(2) One member from the Republican Party Central Committee of Washington County;~~

- ~~(3) One member from the Washington County Chamber of Commerce;~~
- ~~(4) One member from the Washington County Farm Bureau;~~
- ~~(5) One member from the League of Women Voters of Washington County;~~
- ~~(6) One member from the Western Maryland Central Labor Council;~~
- ~~(7) One member from the Cumberland Valley Associated Builders and Contractors, Inc.;~~
- ~~(8) One member from the Joint Veterans Council of Washington County; and~~
- ~~(9) One member at large WHO IS A RESIDENT selected by the BOARD OF COUNTY COMMISSIONERS OF Washington County [Retired Teachers Association].~~

~~12-205.~~

- ~~(a) The Commission shall study the salaries of the Washington County:~~
 - ~~(1) Board of County Commissioners;~~
 - ~~(2) Board of Education;~~
 - ~~(3) Orphans' Court judges;~~
 - ~~(4) Sheriff;~~
 - ~~(5) Treasurer; and~~
 - ~~(6) Board of Liquor License Commissioners.~~
- ~~(b) (1) On or before November 20, 1996, and on or before December 1 each fourth year thereafter, the Commission shall issue a report containing recommendations to the Board of County Commissioners for review and consideration.~~
 - ~~(2) (i) This paragraph does not apply to the salaries of the County Commissioners or the Sheriff.~~
 - ~~(ii) Within 45 days after receiving the recommendations of the Commission, the Board of County Commissioners shall set by local law the salary for each office included in the recommendations.~~

~~1. Subject to paragraph (3) of this subsection; and~~

~~2. With respect to a public official, in accordance with Article III, § 35 of the Maryland Constitution.~~

~~(3) The Board of County Commissioners may accept, reduce, or reject but may not increase the recommendations of the Commission.~~

~~(4) On or before December 15, 1996, and on or before December 15 each fourth year thereafter, the Board of County Commissioners shall submit recommendations to the legislative delegation concerning the salaries of the County Commissioners and the Sheriff.~~

~~Article 25 – County Commissioners~~

~~51.~~

~~(e) The County Treasurer of Washington County shall receive an annual salary [of \$6,000.00] AS SET BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY UNDER ARTICLE 24, TITLE 12, SUBTITLE 2 OF THE CODE. The deputy treasurer and clerks shall each be paid such compensation as the said Treasurer, with the approval of the County Commissioners of said county shall determine. The County Commissioners shall pay all the office expenses of the Treasurer and shall have the power, in their discretion, to increase the compensation of the Treasurer and the employees in his office.~~

Article – Local Government

16-205.

(a) (1) The annual salary of the County Treasurer of Washington County is:

(i) [\$6,000] AS SET BY THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY UNDER TITLE 28, SUBTITLE 2 OF THIS ARTICLE; or

(ii) any increased compensation authorized by the County Commissioners of Washington County.

(2) The County Treasurer shall determine the annual salaries of the deputy treasurer and employees in the office, subject to:

(i) the approval of the County Commissioners; and

(ii) any increased compensation authorized by the County Commissioners.

(b) The County Commissioners of Washington County shall pay the office expenses of the County Treasurer of Washington County.

28-203.

(a) Subject to subsections (b) and (d) of this section, the Commission consists of the following members:

(1) one member from the Democratic Central Committee of Washington County;

(2) one member from the Republican Central Committee of Washington County;

(3) one member from the Washington County Chamber of Commerce;

(4) one member from the Washington County Farm Bureau;

(5) one member from the League of Women Voters of Washington County;

(6) one member from the Western Maryland Central Labor Council;

(7) one member from the Cumberland Valley Associated Builders and Contractors, Inc.;

(8) one member from the Joint Veterans Council of Washington County; and

(9) one at-large member WHO IS A RESIDENT selected by the COUNTY COMMISSIONERS OF Washington County [Retired Teachers Association].

(b) Each member shall be a registered voter of Washington County who in the previous 4 years has voted in at least two elections, at least one of which was in the gubernatorial election year.

(c) On or before March 31, 2016, and on or before March 31 each fourth year thereafter, the County Commissioners of Washington County shall request that each organization listed in subsection (a) of this section recommend an appointee to the county commissioners on or before the following May 15.

(d) (1) The County Commissioners of Washington County shall appoint the individual recommended by each organization listed in subsection (a) of this section.

(2) If an organization fails to make a recommendation to the county commissioners on or before June 1, the members who have been appointed to the Commission shall meet, solicit prospective members from the public, and select by majority vote a qualified substitute public member to the Commission to serve through the following December 1.

(3) A member of the Commission may not be an elected official or an employee of an official whose salary the Commission studies.

28–207.

(a) The Commission shall study the salaries of:

(1) the County Commissioners of Washington County;

(2) the Washington County Board of Education;

(3) the Washington County Board of Liquor License Commissioners;

(4) the judges of the Orphans' Court for Washington County;

(5) the Sheriff of Washington County; and

(6) the Treasurer of Washington County.

(b) On or before the December 1 following appointment, the Commission shall issue a report that contains recommendations to the County Commissioners of Washington County for review and consideration.

28–209.

(a) (1) This subsection does not apply to the salaries of the County Commissioners of Washington County or the Sheriff of Washington County.

(2) Subject to subsection (b) of this section and Article III, § 35 of the Maryland Constitution, the county commissioners, by local law, shall set the salary for each office included in the recommendations.

(b) The County Commissioners of Washington County may accept, reduce, or reject, but may not increase, the recommendations of the Commission.

(c) On or before the December 15 following appointment of the Commission, the County Commissioners of Washington County shall submit recommendations to the members of the General Assembly who represent any part of Washington County concerning the salaries of the county commissioners and the sheriff.

3-1302.

(a) (1) The president of the county board [is entitled to receive \$6,200 annually as compensation] and the other members are entitled to receive [\$6,100 each annually as] compensation **ANNUALLY AS SET BY THE ~~BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY UNDER ARTICLE 24, TITLE 12, SUBTITLE 2 OF THE CODE~~ TITLE 28, SUBTITLE 2 OF THE LOCAL GOVERNMENT ARTICLE.**

(2) Each member of the Washington County Board of Education is entitled to health insurance and to other fringe benefits regularly provided to employees of the board of education.

(b) After submitting vouchers, members shall be reimbursed for travel and other expenses within the limit set by the Washington County Commissioners.

Article – Estates and Trusts

2-108.

(v) (1) As compensation each of the judges of the Court for Washington County shall receive an annual compensation [of not more than \$7,000 per year] **AS SET BY THE ~~BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY UNDER ARTICLE 24, TITLE 12, SUBTITLE 2 OF THE CODE~~ TITLE 28, SUBTITLE 2 OF THE LOCAL GOVERNMENT ARTICLE.**

(2) [(i) Each judge shall also receive an expense allowance, not to exceed \$1,000 per year, to be paid by the Board of County Commissioners upon presentation of an itemized voucher of legitimate expenses.

[(ii) For purposes of subparagraph (i) of this paragraph, legitimate expenses include:

1. Registration fees for business related seminars and conferences;

2. \$10 per year for judge's association membership;

3. Parking expenses incurred while on business related trips out of the county, upon presentation of a receipt from the parking facility indicating the amount;

4. A gasoline expense, equal to the amount per mile paid other Washington County employees while traveling to business related activities held out of the county;

5. A meal expense, not to exceed \$30 per day, incurred while on business related trips out of the county; and

6. A room expense, not to exceed \$85 per day, incurred while on business related activities held out of the county.] ~~THE BOARD OF COUNTY COMMISSIONERS MAY PROVIDE FOR AN EXPENSE ALLOWANCE AS THE BOARD DETERMINES~~ COUNTY COMMISSIONERS DETERMINE.

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

Approved by the Governor, May 16, 2013.

Chapter 559

(Senate Bill 815)

AN ACT concerning

~~Nonpublic Schools Primary and Secondary Education~~ Public and Nonpublic Schools – Epinephrine Availability and Use – Policy and Immunity

FOR the purpose of authorizing nonpublic schools in the State to establish a policy to authorize certain school personnel to administer auto-injectable epinephrine to certain students under certain circumstances; requiring ~~a certain policy~~ certain policies to include certain information; ~~providing that a nonpublic school and certain school personnel have certain immunity from civil liability~~ providing that certain nurses and certain school personnel may not be held personally liable for certain acts or omissions except in certain circumstances; defining certain terms; and generally relating to an epinephrine availability and use policy in ~~nonpublic~~ schools of primary and secondary education in the State.

BY repealing and reenacting, with amendments,

Article – Education

Section 7-426.2

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

BY adding to

Article – Education

Section 7-426.3

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

7-426.2.

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

(2) “Anaphylaxis” means a sudden, severe, and potentially life-threatening allergic reaction that occurs when an individual is exposed to an allergen.

(3) “Auto-injectable epinephrine” means a portable, disposable drug delivery device that contains a premeasured single dose of epinephrine that is used to treat anaphylaxis in an emergency situation.

(b) Each county board shall establish a policy for public schools within its jurisdiction to authorize the school nurse and other school personnel to administer auto-injectable epinephrine, if available, to a student who is determined to be or perceived to be in anaphylaxis, regardless of whether the student:

(1) Has been identified as having an anaphylactic allergy, as defined in § 7-426.1 of this subtitle; or

(2) Has a prescription for epinephrine as prescribed by an authorized licensed health care practitioner under the Health Occupations Article.

(c) The policy established under subsection (b) of this section shall include:

(1) Training for school personnel on how to recognize the ~~SIGNS AND~~ symptoms of anaphylaxis ~~BY A LICENSED HEALTH CARE PRACTITIONER WHO IS AUTHORIZED TO ADMINISTER AUTO-INJECTABLE EPINEPHRINE AND WHO HAS BEEN TRAINED IN AN ESTABLISHED PROTOCOL ON HOW TO RECOGNIZE THE SIGNS AND SYMPTOMS OF ANAPHYLAXIS;~~

(2) Procedures for the emergency administration of auto-injectable epinephrine;

(3) The proper follow-up emergency procedures; [and]

(4) A provision authorizing a school nurse to obtain and, ~~SCHOOL PERSONNEL TO~~ store, at a public school auto-injectable epinephrine to be used in an emergency situation; AND

~~(5) AN ONGOING PROCESS FOR OVERSIGHT AND MONITORING BY A LICENSED HEALTH CARE PRACTITIONER OF THE IMPLEMENTATION OF THE POLICY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION.~~

(5) A REQUIREMENT THAT EACH PUBLIC SCHOOL DEVELOP AND IMPLEMENT A METHOD FOR NOTIFYING THE PARENTS OR GUARDIANS OF STUDENTS OF THE SCHOOL'S POLICY UNDER THIS SECTION AT THE BEGINNING OF EACH SCHOOL YEAR.

(D) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, A SCHOOL NURSE OR OTHER SCHOOL PERSONNEL WHO RESPOND IN GOOD FAITH TO THE ANAPHYLACTIC REACTION OF A CHILD IN ACCORDANCE WITH THIS SECTION MAY NOT BE HELD PERSONALLY LIABLE FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE REACTION.

[(d)] (E) (1) Each public school shall submit, on the form that the Department requires, a report to the Department on each incident at the school or at a related school event that required the use of auto-injectable epinephrine.

(2) The Department shall develop and disseminate a standard form to report each incident requiring the use of auto-injectable epinephrine at a public school.

7-426.3.

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

(2) “ANAPHYLAXIS” MEANS A SUDDEN, SEVERE, AND POTENTIALLY LIFE-THREATENING ALLERGIC REACTION THAT OCCURS WHEN AN INDIVIDUAL IS EXPOSED TO AN ALLERGEN.

(3) “AUTO-INJECTABLE EPINEPHRINE” MEANS A PORTABLE, DISPOSABLE DRUG DELIVERY DEVICE THAT CONTAINS A PREMEASURED SINGLE DOSE OF EPINEPHRINE THAT IS USED TO TREAT ANAPHYLAXIS IN AN EMERGENCY SITUATION.

(4) “SCHOOL PERSONNEL” MEANS INDIVIDUALS WHO ARE EMPLOYED BY A NONPUBLIC SCHOOL, INCLUDING PART-TIME EMPLOYEES, TEACHERS AND SUBSTITUTE TEACHERS EMPLOYED BY THE SCHOOL FOR AT LEAST 7 DAYS EACH SCHOOL YEAR, A SCHOOL NURSE, REGISTERED NURSE CASE MANAGER, DELEGATING NURSE, AND ADMINISTRATIVE STAFF.

(B) EACH NONPUBLIC SCHOOL IN THE STATE MAY ESTABLISH A POLICY AUTHORIZING SCHOOL PERSONNEL TO ADMINISTER AUTO-INJECTABLE EPINEPHRINE, IF AVAILABLE, TO A STUDENT WHO IS DETERMINED TO BE OR PERCEIVED TO BE IN ANAPHYLAXIS, REGARDLESS OF WHETHER THE STUDENT:

(1) HAS BEEN IDENTIFIED AS HAVING AN ANAPHYLACTIC ALLERGY, AS DEFINED IN § 7-426.1 OF THIS SUBTITLE; OR

(2) HAS A PRESCRIPTION FOR EPINEPHRINE AS PRESCRIBED BY AN AUTHORIZED LICENSED HEALTH CARE PRACTITIONER UNDER THE HEALTH OCCUPATIONS ARTICLE.

(C) THE POLICY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(1) TRAINING FOR SCHOOL PERSONNEL ON HOW TO RECOGNIZE THE SIGNS AND SYMPTOMS OF ANAPHYLAXIS BY A LICENSED ~~MEDICAL PROFESSIONAL~~ HEALTH CARE PRACTITIONER WHO IS AUTHORIZED TO ADMINISTER AUTO-INJECTABLE EPINEPHRINE AND WHO HAS BEEN TRAINED IN AN ESTABLISHED PROTOCOL ~~OR MEDICAL TECHNICIAN~~ ON HOW TO RECOGNIZE THE SIGNS AND SYMPTOMS OF ANAPHYLAXIS;

(2) PROCEDURES FOR THE EMERGENCY ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE;

(3) THE PROPER FOLLOW-UP EMERGENCY PROCEDURES; ~~AND~~

(4) A PROVISION AUTHORIZING ~~SCHOOL PERSONNEL~~ A SCHOOL NURSE OR OTHER LICENSED HEALTH CARE PRACTITIONER TO OBTAIN AND, SCHOOL PERSONNEL TO STORE, AT A ~~PUBLIC~~ NONPUBLIC SCHOOL AUTO-INJECTABLE EPINEPHRINE TO BE USED IN AN EMERGENCY SITUATION; ~~AND~~

(5) A REQUIREMENT THAT THE NONPUBLIC SCHOOL DEVELOP AND IMPLEMENT A METHOD FOR NOTIFYING THE PARENTS OR GUARDIANS OF STUDENTS OF THE SCHOOL'S POLICY UNDER THIS SECTION AT THE BEGINNING OF EACH SCHOOL YEAR; AND

~~(5)~~ (6) AN ONGOING PROCESS FOR OVERSIGHT AND MONITORING BY A LICENSED HEALTH CARE PRACTITIONER OF THE IMPLEMENTATION OF THE POLICY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION.

~~(D) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, A NONPUBLIC SCHOOL AND SCHOOL PERSONNEL WHO RESPOND IN GOOD FAITH TO THE ANAPHYLACTIC REACTION OF A CHILD IN ACCORDANCE WITH THIS SECTION IS IMMUNE FROM CIVIL LIABILITY FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE REACTION.~~

(D) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, SCHOOL PERSONNEL WHO RESPOND IN GOOD FAITH TO THE ANAPHYLACTIC REACTION OF A CHILD IN ACCORDANCE WITH THIS SECTION MAY NOT BE HELD PERSONALLY LIABLE FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE REACTION.

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

Approved by the Governor, May 16, 2013.

Chapter 560

(House Bill 1014)

AN ACT concerning

~~Nonpublic Schools~~ Public and Nonpublic Schools – Epinephrine Availability and Use – Policy ~~and Immunity~~

FOR the purpose of authorizing nonpublic schools in the State to establish a policy to authorize certain school personnel to administer auto-injectable epinephrine to certain students under certain circumstances; requiring ~~a certain policy~~ certain policies to include certain information; ~~providing that a public school, certain nurses, and certain school personnel have certain immunity from civil liability except in certain circumstances; providing that a nonpublic school and certain school personnel have certain immunity from civil liability~~ providing that certain nurses and certain school personnel may not be held personally liable for certain acts or omissions except in certain circumstances; defining certain terms; and generally relating to an epinephrine availability and use policy in ~~nonpublic~~ schools of primary and secondary education in the State.

BY repealing and reenacting, with amendments,

Article – Education

Section 7-426.2

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

BY adding to

Article – Education

Section 7–426.3

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

7–426.2.

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

(2) “Anaphylaxis” means a sudden, severe, and potentially life-threatening allergic reaction that occurs when an individual is exposed to an allergen.

(3) “Auto-injectable epinephrine” means a portable, disposable drug delivery device that contains a premeasured single dose of epinephrine that is used to treat anaphylaxis in an emergency situation.

(b) Each county board shall establish a policy for public schools within its jurisdiction to authorize the school nurse and other school personnel to administer auto-injectable epinephrine, if available, to a student who is determined to be or perceived to be in anaphylaxis, regardless of whether the student:

(1) Has been identified as having an anaphylactic allergy, as defined in § 7–426.1 of this subtitle; or

(2) Has a prescription for epinephrine as prescribed by an authorized licensed health care practitioner under the Health Occupations Article.

(c) The policy established under subsection (b) of this section shall include:

(1) Training for school personnel on how to recognize the ~~SIGNS AND~~ symptoms of anaphylaxis ~~BY A LICENSED HEALTH CARE PRACTITIONER WHO IS AUTHORIZED TO ADMINISTER AUTO-INJECTABLE EPINEPHRINE AND WHO HAS BEEN TRAINED IN AN ESTABLISHED PROTOCOL ON HOW TO RECOGNIZE THE SIGNS AND SYMPTOMS OF ANAPHYLAXIS;~~

(2) Procedures for the emergency administration of auto-injectable epinephrine;

(3) The proper follow-up emergency procedures; [and]

~~(4) A provision authorizing a school nurse to obtain and, SCHOOL PERSONNEL TO store, at a public school auto-injectable epinephrine to be used in an emergency situation; AND AND~~

~~(5) A REQUIREMENT THAT EACH PUBLIC SCHOOL DEVELOP AND IMPLEMENT A METHOD FOR NOTIFYING THE PARENTS OR GUARDIANS OF STUDENTS OF THE SCHOOL'S POLICY UNDER THIS SECTION AT THE BEGINNING OF EACH SCHOOL YEAR; AND.~~

~~(5) (6) AN ONGOING PROCESS FOR OVERSIGHT AND MONITORING BY A LICENSED HEALTH CARE PRACTITIONER OF THE IMPLEMENTATION OF THE POLICY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION.~~

~~(D) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, A PUBLIC SCHOOL, A SCHOOL NURSE, AND OTHER SCHOOL PERSONNEL WHO RESPOND IN GOOD FAITH TO THE ANAPHYLACTIC REACTION OF A CHILD IN ACCORDANCE WITH THIS SECTION ARE IMMUNE FROM CIVIL LIABILITY FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE REACTION.~~

~~(D) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, A SCHOOL NURSE OR OTHER SCHOOL PERSONNEL WHO RESPOND IN GOOD FAITH TO THE ANAPHYLACTIC REACTION OF A CHILD IN ACCORDANCE WITH THIS SECTION MAY NOT BE HELD PERSONALLY LIABLE FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE REACTION.~~

~~[(d)] (E) (1) Each public school shall submit, on the form that the Department requires, a report to the Department on each incident at the school or at a related school event that required the use of auto-injectable epinephrine.~~

~~(2) The Department shall develop and disseminate a standard form to report each incident requiring the use of auto-injectable epinephrine at a public school.~~

7-426.3.

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

(2) "ANAPHYLAXIS" MEANS A SUDDEN, SEVERE, AND POTENTIALLY LIFE-THREATENING ALLERGIC REACTION THAT OCCURS WHEN AN INDIVIDUAL IS EXPOSED TO AN ALLERGEN.

(3) "AUTO-INJECTABLE EPINEPHRINE" MEANS A PORTABLE, DISPOSABLE DRUG DELIVERY DEVICE THAT CONTAINS A PREMEASURED SINGLE DOSE OF EPINEPHRINE THAT IS USED TO TREAT ANAPHYLAXIS IN AN EMERGENCY SITUATION.

(4) "SCHOOL PERSONNEL" MEANS INDIVIDUALS WHO ARE EMPLOYED BY A NONPUBLIC SCHOOL, INCLUDING PART-TIME EMPLOYEES, TEACHERS AND SUBSTITUTE TEACHERS EMPLOYED BY THE SCHOOL FOR AT LEAST 7 DAYS EACH SCHOOL YEAR, A SCHOOL NURSE, REGISTERED NURSE CASE MANAGER, DELEGATING NURSE, AND ADMINISTRATIVE STAFF.

(B) EACH NONPUBLIC SCHOOL IN THE STATE MAY ESTABLISH A POLICY AUTHORIZING SCHOOL PERSONNEL TO ADMINISTER AUTO-INJECTABLE EPINEPHRINE, IF AVAILABLE, TO A STUDENT WHO IS DETERMINED TO BE OR PERCEIVED TO BE IN ANAPHYLAXIS, REGARDLESS OF WHETHER THE STUDENT:

(1) HAS BEEN IDENTIFIED AS HAVING AN ANAPHYLACTIC ALLERGY, AS DEFINED IN § 7-426.1 OF THIS SUBTITLE; OR

(2) HAS A PRESCRIPTION FOR EPINEPHRINE AS PRESCRIBED BY AN AUTHORIZED LICENSED HEALTH CARE PRACTITIONER UNDER THE HEALTH OCCUPATIONS ARTICLE.

(C) THE POLICY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(1) TRAINING FOR SCHOOL PERSONNEL ON HOW TO RECOGNIZE THE SIGNS AND SYMPTOMS OF ANAPHYLAXIS BY A LICENSED ~~MEDICAL PROFESSIONAL~~ HEALTH CARE PRACTITIONER WHO IS AUTHORIZED TO ADMINISTER AUTO-INJECTABLE EPINEPHRINE AND WHO HAS BEEN TRAINED IN AN ESTABLISHED PROTOCOL ON HOW TO RECOGNIZE THE SIGNS AND SYMPTOMS OF ANAPHYLAXIS;

(2) PROCEDURES FOR THE EMERGENCY ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE;

(3) THE PROPER FOLLOW-UP EMERGENCY PROCEDURES; ~~AND~~

(4) A PROVISION AUTHORIZING ~~SCHOOL PERSONNEL~~ A SCHOOL NURSE OR OTHER LICENSED HEALTH CARE PRACTITIONER TO OBTAIN AND, SCHOOL PERSONNEL TO STORE, AT A NONPUBLIC SCHOOL AUTO-INJECTABLE EPINEPHRINE TO BE USED IN AN EMERGENCY SITUATION; ~~AND~~

(5) A REQUIREMENT THAT THE NONPUBLIC SCHOOL DEVELOP AND IMPLEMENT A METHOD FOR NOTIFYING THE PARENTS OR GUARDIANS OF STUDENTS OF THE SCHOOL'S POLICY UNDER THIS SECTION AT THE BEGINNING OF EACH SCHOOL YEAR; AND

(5) (6) AN ONGOING PROCESS FOR OVERSIGHT AND MONITORING BY A LICENSED HEALTH CARE PRACTITIONER OF THE IMPLEMENTATION OF THE POLICY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION.

~~(D) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, A NONPUBLIC SCHOOL AND SCHOOL PERSONNEL WHO RESPOND IN GOOD FAITH TO THE ANAPHYLACTIC REACTION OF A CHILD IN ACCORDANCE WITH THIS SECTION ARE IMMUNE FROM CIVIL LIABILITY FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE REACTION.~~

(D) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, SCHOOL PERSONNEL WHO RESPOND IN GOOD FAITH TO THE ANAPHYLACTIC REACTION OF A CHILD IN ACCORDANCE WITH THIS SECTION MAY NOT BE HELD PERSONALLY LIABLE FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE REACTION.

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

Approved by the Governor, May 16, 2013.

Chapter 561

(Senate Bill 820)

AN ACT concerning

Animal Welfare – Spay/Neuter Fund – Establishment

FOR the purpose of establishing the Spay/Neuter Fund within the Department of Agriculture; stating the purpose of the Fund; requiring the Department to administer the Fund; specifying the contents of the Fund; requiring the Department to establish a certain ~~surcharge on~~ fee on certain commercial ~~animal~~ feed prepared and distributed for consumption by dogs or cats and deposit the revenue into the Fund; ~~authorizing the Fund to be used to establish a statewide voucher program to support the provision of spay/neuter services; establishing certain income based eligibility criteria for the voucher program;~~

~~requiring the Department to negotiate certain rates for the provision of low cost spay and neuter surgeries and rabies shots under the voucher program; requiring the Department to set a nominal copayment to be made by a participating eligible individual under the voucher program; requiring the Department to deposit all money received for copayments into the Fund; authorizing an eligible individual to purchase a voucher from the Department after taking certain action; requiring the Department to provide certain information to an eligible individual who purchases a voucher; authorizing an eligible individual who purchases a voucher to redeem the voucher for a free spay or neuter surgery and, if necessary, rabies shot at a participating veterinarian; prohibiting a participating veterinarian from billing an eligible individual for certain additional charges; authorizing a participating veterinarian to submit a redeemed voucher to the Department for reimbursement at a certain rate; authorizing the Fund to be used to establish a competitive grant program to support the provision of spay/neuter services; requiring the Department to solicit grant proposals and evaluate the proposals based on certain standards; establishing the Spay/Neuter Advisory Board; providing for the composition and the chair of the Advisory Board; requiring the Department to provide staff support for the Advisory Board; providing that a member of the Advisory Board may not receive compensation for service on the Advisory Board but is entitled to reimbursement for certain expenses; establishing the duties of the Advisory Board; authorizing the Department to use money in the Fund to finance certain public education and outreach programs; authorizing the Department to use the Fund for certain costs of administering the Fund; requiring the Department to adopt certain regulations; providing that the Fund is a special, nonlapsing fund; requiring the State Treasurer to hold the Fund separately and invest the money of the Fund; requiring the Comptroller to account for the Fund; requiring certain local agencies and organizations to report certain information to the Department in a certain manner at certain time intervals; requiring the Department to report certain information annually by a certain date to the Governor and the General Assembly; adding the Fund to the list of exceptions to the requirement that the earnings of special funds accrue to the General Fund; requiring the Department to report to certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; defining certain terms; and generally relating to animal welfare and the establishment of the Spay/Neuter Fund.~~

BY adding to

Article – Agriculture

Section ~~2-303.1 and 6-107.4~~ 2-1601 through 2-1605 to be under the new subtitle “Subtitle 16. Spay/Neuter Fund”

Annotated Code of Maryland

(2007 Replacement Volume and 2012 Supplement)

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

~~Article – Agriculture~~

~~Section 6-103 and 6-107~~
~~Annotated Code of Maryland~~
~~(2007 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 – Agriculture

~~2-303.1.~~

SUBTITLE 16. SPAY/NEUTER FUND.

2-1601.

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

~~(2)~~ (B) “ADVISORY BOARD” MEANS THE SPAY/NEUTER FUND ADVISORY BOARD ESTABLISHED UNDER ~~THIS SECTION~~ § 2-1604 OF THIS SUBTITLE.

~~(3)~~ (C) “FUND” MEANS THE SPAY/NEUTER FUND ESTABLISHED UNDER § 2-1602 OF THIS SUBTITLE.

2-1602.

~~(B)~~ (A) THERE IS A SPAY/NEUTER FUND IN THE DEPARTMENT.

~~(C)~~ (B) THE PURPOSE OF THE FUND IS TO REDUCE ANIMAL SHELTER OVERPOPULATION AND CAT AND DOG EUTHANASIA RATES BY:

~~(1)~~ ~~FINANCING A STATEWIDE VOUCHER PROGRAM TO FOSTER THE PROVISION OF SPAY AND NEUTER SERVICES FOR CATS AND DOGS IN THE STATE; AND~~

~~(2)~~ ~~FINANCING~~ FINANCING GRANTS TO LOCAL GOVERNMENTS AND ANIMAL WELFARE ORGANIZATIONS FOR PROGRAMS THAT MOST EFFICIENTLY AND EFFECTIVELY FACILITATE AND PROMOTE THE PROVISION OF SPAY AND NEUTER SERVICES FOR CATS AND DOGS IN THE STATE.

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

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

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

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

(1) REVENUE DISTRIBUTED TO THE FUND FROM THE ~~COMMERCIAL FEED REGISTRATION SURCHARGE FEE~~ ESTABLISHED UNDER ~~§ 6-107.4~~ § 2-1603 OF THIS ARTICLE SUBTITLE;

~~(2)~~ ~~REVENUE COLLECTED FROM COPAYMENTS UNDER THE VOUCHER PROGRAM ESTABLISHED UNDER THIS SECTION;~~

~~(3)~~ (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

~~(4)~~ (3) ANY INVESTMENT EARNINGS OF THE FUND; AND

~~(5)~~ (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

~~(G)~~ (F) (1) THE FUND MAY BE USED ONLY AS DESCRIBED IN THIS SUBSECTION.

~~(2) (i) THE FUND MAY BE USED TO ESTABLISH A STATEWIDE VOUCHER PROGRAM TO SUPPORT THE PROVISION OF SPAY/NEUTER SERVICES.~~

~~(ii) TO BE ELIGIBLE FOR A VOUCHER, AN INDIVIDUAL MUST DEMONSTRATE THAT THE INDIVIDUAL RECEIVES BENEFITS UNDER ONE OF THE FOLLOWING FEDERAL OR STATE PUBLIC ASSISTANCE PROGRAMS:~~

- ~~1. THE TEMPORARY CASH ASSISTANCE PROGRAM;~~
 - ~~2. THE FOOD SUPPLEMENTAL PROGRAM (FOOD STAMPS);~~
 - ~~3. THE CHILD CARE SUBSIDY PROGRAM;~~
 - ~~4. THE WOMEN, INFANTS, AND CHILDREN PROGRAM (WIC);~~
 - ~~5. THE MARYLAND MEDICAL ASSISTANCE PROGRAM (MEDICAID);~~
 - ~~6. THE RENTAL ALLOWANCE PROGRAM;~~
 - ~~7. THE ELECTRIC UNIVERSAL SERVICE PROGRAM;~~
- ~~OR~~
- ~~8. THE MARYLAND ENERGY ASSISTANCE PROGRAM.~~

~~(iii) 1. THE DEPARTMENT SHALL NEGOTIATE WITH VETERINARIANS FOR THE PROVISION OF LOW COST SPAY AND NEUTER SURGERIES AND, IF NECESSARY, RABIES SHOTS FOR A CAT OR DOG OWNED BY AN ELIGIBLE INDIVIDUAL WHO PURCHASES A VOUCHER.~~

- ~~2. THE DEPARTMENT SHALL SET:~~
 - ~~A. SEPARATE RATES FOR CATS AND DOGS;~~
 - ~~B. VARIABLE RATES BASED ON AGE, WEIGHT, GENDER, PREGNANCY, AND ILLNESS; AND~~
 - ~~C. RATES FOR THE PROVISION OF A RABIES SHOT, IF NECESSARY.~~

~~(iv) 1. THE DEPARTMENT SHALL ESTABLISH A NOMINAL COPAYMENT THAT AN ELIGIBLE INDIVIDUAL IS REQUIRED TO PAY TO OBTAIN A VOUCHER.~~

~~2. THE DEPARTMENT SHALL DEPOSIT ALL MONEY RECEIVED FOR COPAYMENTS INTO THE FUND.~~

~~(v) 1. AN ELIGIBLE INDIVIDUAL MAY PURCHASE A VOUCHER FROM THE DEPARTMENT BY SUBMITTING TO THE DEPARTMENT:~~

~~A. A COMPLETED APPLICATION ON A FORM PRESCRIBED BY THE DEPARTMENT;~~

~~B. PROOF ACCEPTABLE TO THE DEPARTMENT THAT THE INDIVIDUAL IS ELIGIBLE FOR A VOUCHER UNDER SUBPARAGRAPH (H) OF THIS PARAGRAPH; AND~~

~~C. THE COPAYMENT.~~

~~2. THE DEPARTMENT SHALL PROVIDE AN ELIGIBLE INDIVIDUAL WHO PURCHASES A VOUCHER WITH THE VOUCHER AND A LIST OF PARTICIPATING VETERINARIANS IN THE STATE, BROKEN DOWN REGIONALLY.~~

~~3. AN ELIGIBLE INDIVIDUAL WHO PURCHASES A VOUCHER MAY REDEEM THE VOUCHER FOR A FREE SPAY OR NEUTER SURGERY AND, IF NECESSARY, A FREE RABIES SHOT FOR THE INDIVIDUAL'S CAT OR DOG BY A PARTICIPATING VETERINARIAN.~~

~~4. THE PARTICIPATING VETERINARIAN MAY NOT BILL ANY ADDITIONAL CHARGES TO THE ELIGIBLE INDIVIDUAL IN RELATION TO THE SPAY OR NEUTER SURGERY OR RABIES SHOT.~~

~~(vi) 1. THE PARTICIPATING VETERINARIAN MAY SUBMIT THE REDEEMED VOUCHER TO THE DEPARTMENT FOR REIMBURSEMENT.~~

~~2. THE DEPARTMENT SHALL REIMBURSE A PARTICIPATING VETERINARIAN OUT OF THE FUND FOR EACH VOUCHER AT THE PREVIOUSLY NEGOTIATED RATE.~~

~~(vii) THE DEPARTMENT MAY USE MONEY IN THE FUND TO FINANCE PUBLIC EDUCATION AND OUTREACH EFFORTS WITH RESPECT TO THE VOUCHER PROGRAM.~~

~~(3)~~ (2) (I) THE FUND MAY BE USED TO FINANCE SELECTED COMPETITIVE GRANT PROPOSALS SUBMITTED BY A LOCAL GOVERNMENT OR AN ANIMAL WELFARE ORGANIZATION TO FACILITATE AND PROMOTE THE PROVISION OF SPAY AND NEUTER SERVICES FOR CATS AND DOGS.

(II) THE DEPARTMENT SHALL SOLICIT AND EVALUATE COMPETITIVE GRANT PROPOSALS.

(III) A COMPETITIVE GRANT PROPOSAL:

1. SHALL TARGET LOW-INCOME COMMUNITIES AND POPULATIONS TO THE MAXIMUM EXTENT POSSIBLE AND DETAIL HOW THAT GOAL IS TO BE ACCOMPLISHED;

2. MAY TARGET FERAL CAT POPULATIONS IF THE DEPARTMENT DETERMINES THAT THIS TARGETING DOES NOT VIOLATE LOCAL LAW;

3. SHALL EFFICIENTLY AND EFFECTIVELY FACILITATE AND PROMOTE THE PROVISION OF SPAY AND NEUTER SERVICES FOR CATS AND DOGS; AND

4. MAY INCLUDE PUBLIC EDUCATION AND OUTREACH COMPONENTS.

(IV) THE DEPARTMENT SHALL EVALUATE A COMPETITIVE GRANT PROPOSAL BASED ON:

1. THE STANDARDS ESTABLISHED UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH; AND

2. ANY ADDITIONAL STANDARDS THE DEPARTMENT ADOPTS BY REGULATION CONSISTENT WITH THIS SECTION.

(V) THE DEPARTMENT SHALL ADOPT REGULATIONS REQUIRING A GRANT RECIPIENT TO REPORT RELEVANT INFORMATION ON HOW THE GRANT WAS USED, INCLUDING DATA ON THE NUMBER AND TYPE OF SPAY OR NEUTER SURGERIES PERFORMED AND A DESCRIPTION OF ANY PUBLIC EDUCATION AND OUTREACH IMPLEMENTED.

~~(VI)~~ (3) THE DEPARTMENT MAY USE MONEY IN THE FUND
TO:

1. TO FINANCE PUBLIC EDUCATION AND OUTREACH EFFORTS FOR THE COMPETITIVE GRANT PROGRAM; AND

2. FOR THE REASONABLE COSTS OF ADMINISTERING THE FUND.

~~(H) (1) THERE IS A SPAY/NEUTER ADVISORY BOARD.~~

~~(2) (I) THE ADVISORY BOARD CONSISTS OF SEVEN MEMBERS.~~

~~(II) THE MEMBERS SHALL BE REPRESENTATIVE OF ALL PHASES OF ANIMAL CONTROL AND ANIMAL WELFARE INTERESTS IN THE STATE.~~

~~(III) THE GOVERNOR, WITH THE ADVICE OF THE SECRETARY, SHALL APPOINT THE MEMBERS AND THE CHAIR OF THE ADVISORY BOARD.~~

~~(3) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE ADVISORY BOARD.~~

~~(4) A MEMBER OF THE ADVISORY BOARD:~~

~~(I) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY BOARD; BUT~~

~~(II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.~~

~~(5) THE ADVISORY BOARD SHALL ADVISE THE DEPARTMENT WITH RESPECT TO:~~

~~(I) THE ADMINISTRATION OF THE FUND;~~

~~(II) ESTABLISHING APPROPRIATE REIMBURSEMENT RATES FOR SPAY AND NEUTER SURGERIES AND RABIES SHOTS;~~

~~(III) ESTABLISHING APPROPRIATE NOMINAL COPAYMENTS FOR VOUCHERS;~~

~~(IV) THE SOLICITATION AND EVALUATION OF COMPETITIVE GRANT PROPOSALS;~~

~~(V) APPROPRIATE ADDITIONAL STANDARDS FOR GRANT PROPOSALS;~~

~~(VI) ADDITIONAL RELEVANT DATA THAT THE DEPARTMENT SHOULD REQUIRE FROM LOCAL ANIMAL SHELTERS AND APPROPRIATE ANIMAL CONTROL ORGANIZATIONS;~~

~~(VII) THE ADOPTION OF REGULATIONS THAT IMPLEMENT THIS SECTION; AND~~

~~(VIII) ANY OTHER APPROPRIATE MATTER WITH RESPECT TO THE IMPLEMENTATION OF THE FUND IN THE DISCRETION OF THE DEPARTMENT.~~

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

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

~~(H)~~ (H) BEGINNING JANUARY 1, 2014, EACH COUNTY AND MUNICIPAL ANIMAL CONTROL SHELTER AND EACH ORGANIZATION THAT CONTRACTS WITH A COUNTY OR MUNICIPALITY FOR ANIMAL CONTROL SHALL REPORT QUARTERLY TO THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT DESCRIBING FOR THE PREVIOUS 3 MONTHS:

(1) THE NUMBER OF CATS AND DOGS TAKEN IN;

(2) THE NUMBER OF CATS AND DOGS DISPOSED OF, BROKEN DOWN BY METHOD OF DISPOSAL, INCLUDING EUTHANASIA; AND

(3) ANY OTHER RELEVANT DATA THE DEPARTMENT REQUIRES.

~~(I)~~ (I) BY AUGUST 31, 2014, AND EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THAT DESCRIBES THE ACTIVITIES FINANCED BY THE FUND IN THE PREVIOUS FISCAL YEAR, INCLUDING:

~~(1) THE NUMBER OF VOUCHERS ISSUED AND USED;~~

~~(2)~~ (1) A DESCRIPTION OF ALL GRANT PROPOSALS SELECTED FOR FUNDING AND GRANT PROGRAMS IMPLEMENTED;

~~(3)~~ (2) A STATEMENT OF THE NUMBER OF SPAY AND NEUTER SURGERIES PERFORMED UNDER EACH GRANT PROPOSAL SELECTED;

~~(4)~~ (3) A DESCRIPTION OF AND ACCOUNTING FOR ANY PUBLIC EDUCATION AND OUTREACH EFFORTS MADE FOR THE BENEFIT OF FUND PROGRAMS; AND

~~(5)~~ (4) A SUMMARY OF THE INFORMATION REPORTED TO THE DEPARTMENT BY LOCAL ANIMAL CONTROL SHELTERS AND ORGANIZATIONS THAT CONTRACT WITH LOCAL GOVERNMENTS FOR ANIMAL CONTROL UNDER SUBSECTION ~~(J)~~ (H) OF THIS SECTION.

~~(L) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

~~6-103.~~

~~Registration fees constitute a special fund to be used only to defray partially the cost of inspection, sampling, analysis, and other expenses necessary for administering this subtitle. Notwithstanding any other provisions of this Code, any unexpended funds up to a maximum of \$100,000 may not revert to the General Fund of the State at the end of the fiscal year.~~

~~6-107.~~

~~(a) Except as provided in subsection (e) of this section, a distributor shall register each brand name or product name of commercial feed before distributing it in the State. Customer formula feeds and contract feeds are exempt from registration if the registration fee is paid on the commercial feeds which they contain.~~

~~(b) The registration application for commercial feeds shall be submitted on forms furnished by the Secretary, and shall also be accompanied by a label or other printed matter describing the product if requested by the Secretary. The application shall include the information required by §§ 6-109, 6-110, and 6-111 of this subtitle. When the Secretary has approved the registration, he shall furnish a copy to the applicant.~~

~~(c) The annual registration fee for each commercial feed distributed in the State is \$50. Customer formula feeds and contract feeds are exempt if the registration fee is paid on the commercial feeds which they contain.~~

~~(d) Each registration expires April 30 each year.~~

~~(e) Provided the product label has not been altered or changed, a distributor may not be required to register any brand of commercial feed which has been registered under this subtitle by another person.~~

~~6-107.4. 2-1603.~~

~~(A) THE SECRETARY SHALL ESTABLISH A SURCHARGE OF \$100 ON EACH COMMERCIAL FEED REGISTERED IN THE STATE UNDER § 6-107 OF THIS SUBTITLE.~~

(A) (1) IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY SHALL ESTABLISH A FEE ON EACH BRAND NAME OR PRODUCT NAME OF COMMERCIAL FEED THAT IS:

(I) PREPARED AND DISTRIBUTED FOR CONSUMPTION BY A DOG OR CAT; AND

(II) REGISTERED IN THE STATE UNDER § 6-107 OF THIS ARTICLE.

(2) THE FEE ESTABLISHED UNDER THIS SUBSECTION IS:

(I) FROM OCTOBER 1, 2013, THROUGH SEPTEMBER 30, 2014, INCLUSIVE, \$50;

(II) FROM OCTOBER 1, 2014, THROUGH SEPTEMBER 30, 2015, INCLUSIVE, \$75; AND

(III) AFTER SEPTEMBER 30, 2015, \$100.

(B) THE SURCHARGE FEE ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE PAID BY THE PERSON REGISTERING THE COMMERCIAL FEED ACCORDING TO IN ACCORDANCE WITH THE COLLECTION AND REPORTING GUIDELINES ESTABLISHED BY THE DEPARTMENT BY REGULATION.

(C) ANY SURCHARGES FEE COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE SPAY/NEUTER FUND ESTABLISHED UNDER § 2-303.1 OF THIS ARTICLE FUND.

2-1604.

(A) THERE IS A SPAY/NEUTER ADVISORY BOARD.

(B) THE ADVISORY BOARD CONSISTS OF:

(1) THE SECRETARY, OR THE SECRETARY'S DESIGNEE; AND

(2) THE FOLLOWING MEMBERS, APPOINTED BY THE SECRETARY:

(I) ONE REPRESENTATIVE OF A PRIVATE ANIMAL SHELTER;

(II) ONE VETERINARIAN;

(III) ONE REPRESENTATIVE OF A LOCAL ANIMAL CONTROL AGENCY;

(IV) ONE REPRESENTATIVE OF THE PET FOOD INDUSTRY;
AND

(V) TWO REPRESENTATIVES OF ANIMAL WELFARE ADVOCACY ORGANIZATIONS.

(C) THE SECRETARY SHALL DESIGNATE THE CHAIR OF THE ADVISORY BOARD.

(D) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE ADVISORY BOARD.

(E) A MEMBER OF THE ADVISORY BOARD:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY BOARD; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) THE ADVISORY BOARD SHALL ADVISE THE DEPARTMENT WITH RESPECT TO:

(1) THE ADMINISTRATION OF THE FUND;

(2) THE SOLICITATION AND EVALUATION OF COMPETITIVE GRANT PROPOSALS;

(3) APPROPRIATE ADDITIONAL STANDARDS FOR GRANT PROPOSALS;

(4) ADDITIONAL RELEVANT DATA THAT THE DEPARTMENT SHOULD REQUIRE FROM LOCAL ANIMAL SHELTERS AND APPROPRIATE ANIMAL CONTROL ORGANIZATIONS;

(5) THE ADOPTION OF REGULATIONS THAT IMPLEMENT THIS SUBTITLE; AND

(6) ANY OTHER APPROPRIATE MATTER WITH RESPECT TO THE IMPLEMENTATION OF THE FUND IN THE DISCRETION OF THE DEPARTMENT.

2-1605.

THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT 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. THE SPAY/NEUTER FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 15, 2015, the Maryland Department of Agriculture 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 the fee revenue collected under § 2-1603 of the Agriculture Article, as enacted by Section 1 of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of ~~6~~ 9 years and, at the end of September 30, ~~2019~~ 2022, 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 16, 2013.

Chapter 562

(House Bill 767)

AN ACT concerning

Animal Welfare – Spay/Neuter Fund – Establishment

FOR the purpose of establishing the Spay/Neuter Fund within the Department of Agriculture; stating the purpose of the Fund; requiring the Department to administer the Fund; specifying the contents of the Fund; requiring the Department to establish a certain ~~surcharge on~~ fee on certain commercial ~~animal~~ feed prepared and distributed for consumption by dogs or cats and deposit the revenue into the Fund; ~~authorizing the Fund to be used to establish a statewide voucher program to support the provision of spay/neuter services; establishing certain income based eligibility criteria for the voucher program; requiring the Department to negotiate certain rates for the provision of low cost spay and neuter surgeries and rabies shots under the voucher program; requiring the Department to set a nominal copayment to be made by a participating eligible individual under the voucher program; requiring the Department to deposit all money received for copayments into the Fund; authorizing an eligible individual to purchase a voucher from the Department after taking certain action; requiring the Department to provide certain information to an eligible individual who purchases a voucher; authorizing an eligible individual who purchases a voucher to redeem the voucher for a free spay or neuter surgery and, if necessary, rabies shot at a participating veterinarian; prohibiting a participating veterinarian from billing an eligible individual for certain additional charges; authorizing a participating veterinarian to submit a redeemed voucher to the Department for reimbursement at a certain rate;~~ authorizing the Fund to be used to establish a competitive grant program to support the provision of spay/neuter services; requiring the Department to solicit grant proposals and evaluate the proposals based on certain standards; establishing the Spay/Neuter Advisory Board; providing for the composition and the chair of the Advisory Board; requiring the Department to provide staff support for the Advisory Board; providing that a member of the Advisory Board may not receive compensation for service on the Advisory Board but is entitled to reimbursement for certain expenses; establishing the duties of the Advisory Board; authorizing the Department to use money in the Fund to finance certain public education and outreach programs; authorizing the Department to use the Fund for certain costs of administering the Fund; requiring the Department to adopt certain regulations; providing that the Fund is a special, nonlapsing fund; requiring the State Treasurer to hold the Fund separately and invest the money of the Fund; requiring the Comptroller to account for the Fund; requiring certain local agencies and organizations to report certain information to the Department in a certain manner at certain time intervals; requiring the Department to report

certain information annually by a certain date to the Governor and the General Assembly; adding the Fund to the list of exceptions to the requirement that the earnings of special funds accrue to the General Fund; requiring the Department to report to certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; defining certain terms; and generally relating to animal welfare and the establishment of the Spay/Neuter Fund.

BY adding to

Article – Agriculture

Section ~~2-303.1 and 6-107.4~~ 2-1601 through 2-1605 to be under the new subtitle “Subtitle 16. Spay/Neuter Fund”

Annotated Code of Maryland

(2007 Replacement Volume and 2012 Supplement)

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

~~Article – Agriculture~~

~~Section 6-103 and 6-107~~

~~Annotated Code of Maryland~~

~~(2007 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 – Agriculture

~~2-303.1~~

SUBTITLE 16. SPAY/NEUTER FUND.

2-1601.

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

~~(2)~~ (B) "ADVISORY BOARD" MEANS THE SPAY/NEUTER FUND ADVISORY BOARD ESTABLISHED UNDER ~~THIS SECTION~~ § 2-1604 OF THIS SUBTITLE.

~~(3)~~ (C) "FUND" MEANS THE SPAY/NEUTER FUND ESTABLISHED UNDER § 2-1602 OF THIS SUBTITLE.

2-1602.

~~(B)~~ (A) THERE IS A SPAY/NEUTER FUND IN THE DEPARTMENT.

~~(C)~~ (B) THE PURPOSE OF THE FUND IS TO REDUCE ANIMAL SHELTER OVERPOPULATION AND CAT AND DOG EUTHANASIA RATES BY:

~~(1) FINANCING A STATEWIDE VOUCHER PROGRAM TO FOSTER THE PROVISION OF SPAY AND NEUTER SERVICES FOR CATS AND DOGS IN THE STATE; AND~~

~~(2) FINANCING~~ FINANCING GRANTS TO LOCAL GOVERNMENTS AND ANIMAL WELFARE ORGANIZATIONS FOR PROGRAMS THAT MOST EFFICIENTLY AND EFFECTIVELY FACILITATE AND PROMOTE THE PROVISION OF SPAY AND NEUTER SERVICES FOR CATS AND DOGS IN THE STATE.

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

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

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

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

(1) REVENUE DISTRIBUTED TO THE FUND FROM THE ~~COMMERCIAL FEED REGISTRATION SURCHARGE FEE~~ ESTABLISHED UNDER § 6-107.4 § 2-1603 OF THIS ARTICLE SUBTITLE;

~~(2) REVENUE COLLECTED FROM COPAYMENTS UNDER THE VOUCHER PROGRAM ESTABLISHED UNDER THIS SECTION;~~

~~(3) (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;~~

~~(4) (3) ANY INVESTMENT EARNINGS OF THE FUND; AND~~

~~(5) (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.~~

~~(6) (F) (1) THE FUND MAY BE USED ONLY AS DESCRIBED IN THIS SUBSECTION.~~

~~(2) (I) THE FUND MAY BE USED TO ESTABLISH A STATEWIDE VOUCHER PROGRAM TO SUPPORT THE PROVISION OF SPAY/NEUTER SERVICES.~~

~~(II) TO BE ELIGIBLE FOR A VOUCHER, AN INDIVIDUAL MUST DEMONSTRATE THAT THE INDIVIDUAL RECEIVES BENEFITS UNDER ONE OF THE FOLLOWING FEDERAL OR STATE PUBLIC ASSISTANCE PROGRAMS:~~

~~1. THE TEMPORARY CASH ASSISTANCE PROGRAM;~~
~~2. THE FOOD SUPPLEMENTAL PROGRAM (FOOD STAMPS);~~

~~3. THE CHILD CARE SUBSIDY PROGRAM;~~
~~4. THE WOMEN, INFANTS, AND CHILDREN PROGRAM (WIC);~~

~~5. THE MARYLAND MEDICAL ASSISTANCE PROGRAM (MEDICAID);~~

~~6. THE RENTAL ALLOWANCE PROGRAM;~~

~~7. THE ELECTRIC UNIVERSAL SERVICE PROGRAM;~~
 OR

~~8. THE MARYLAND ENERGY ASSISTANCE PROGRAM.~~

~~(III) 1. THE DEPARTMENT SHALL NEGOTIATE WITH VETERINARIANS FOR THE PROVISION OF LOW COST SPAY AND NEUTER~~

~~SURGERIES AND, IF NECESSARY, RABIES SHOTS FOR A CAT OR DOG OWNED BY AN ELIGIBLE INDIVIDUAL WHO PURCHASES A VOUCHER.~~

~~2. THE DEPARTMENT SHALL SET:~~

~~A. SEPARATE RATES FOR CATS AND DOGS;~~

~~B. VARIABLE RATES BASED ON AGE, WEIGHT, GENDER, PREGNANCY, AND ILLNESS; AND~~

~~C. RATES FOR THE PROVISION OF A RABIES SHOT, IF NECESSARY.~~

~~(iv) 1. THE DEPARTMENT SHALL ESTABLISH A NOMINAL COPAYMENT THAT AN ELIGIBLE INDIVIDUAL IS REQUIRED TO PAY TO OBTAIN A VOUCHER.~~

~~2. THE DEPARTMENT SHALL DEPOSIT ALL MONEY RECEIVED FOR COPAYMENTS INTO THE FUND.~~

~~(v) 1. AN ELIGIBLE INDIVIDUAL MAY PURCHASE A VOUCHER FROM THE DEPARTMENT BY SUBMITTING TO THE DEPARTMENT:~~

~~A. A COMPLETED APPLICATION ON A FORM PRESCRIBED BY THE DEPARTMENT;~~

~~B. PROOF ACCEPTABLE TO THE DEPARTMENT THAT THE INDIVIDUAL IS ELIGIBLE FOR A VOUCHER UNDER SUBPARAGRAPH (H) OF THIS PARAGRAPH; AND~~

~~C. THE COPAYMENT.~~

~~2. THE DEPARTMENT SHALL PROVIDE AN ELIGIBLE INDIVIDUAL WHO PURCHASES A VOUCHER WITH THE VOUCHER AND A LIST OF PARTICIPATING VETERINARIANS IN THE STATE, BROKEN DOWN REGIONALLY.~~

~~3. AN ELIGIBLE INDIVIDUAL WHO PURCHASES A VOUCHER MAY REDEEM THE VOUCHER FOR A FREE SPAY OR NEUTER SURGERY AND, IF NECESSARY, A FREE RABIES SHOT FOR THE INDIVIDUAL'S CAT OR DOG BY A PARTICIPATING VETERINARIAN.~~

~~4. THE PARTICIPATING VETERINARIAN MAY NOT BILL ANY ADDITIONAL CHARGES TO THE ELIGIBLE INDIVIDUAL IN RELATION TO THE SPAY OR NEUTER SURGERY OR RABIES SHOT.~~

~~(VI) 1. THE PARTICIPATING VETERINARIAN MAY SUBMIT THE REDEEMED VOUCHER TO THE DEPARTMENT FOR REIMBURSEMENT.~~

~~2. THE DEPARTMENT SHALL REIMBURSE A PARTICIPATING VETERINARIAN OUT OF THE FUND FOR EACH VOUCHER AT THE PREVIOUSLY NEGOTIATED RATE.~~

~~(VII) THE DEPARTMENT MAY USE MONEY IN THE FUND TO FINANCE PUBLIC EDUCATION AND OUTREACH EFFORTS WITH RESPECT TO THE VOUCHER PROGRAM.~~

~~(3) (2)~~ (I) THE FUND MAY BE USED TO FINANCE SELECTED COMPETITIVE GRANT PROPOSALS SUBMITTED BY A LOCAL GOVERNMENT OR AN ANIMAL WELFARE ORGANIZATION TO FACILITATE AND PROMOTE THE PROVISION OF SPAY AND NEUTER SERVICES FOR CATS AND DOGS.

(II) THE DEPARTMENT SHALL SOLICIT AND EVALUATE COMPETITIVE GRANT PROPOSALS.

(III) A COMPETITIVE GRANT PROPOSAL:

1. SHALL TARGET LOW-INCOME COMMUNITIES AND POPULATIONS TO THE MAXIMUM EXTENT POSSIBLE AND DETAIL HOW THAT GOAL IS TO BE ACCOMPLISHED;

2. MAY TARGET FERAL CAT POPULATIONS IF THE DEPARTMENT DETERMINES THAT THIS TARGETING DOES NOT VIOLATE LOCAL LAW;

3. SHALL EFFICIENTLY AND EFFECTIVELY FACILITATE AND PROMOTE THE PROVISION OF SPAY AND NEUTER SERVICES FOR CATS AND DOGS; AND

4. MAY INCLUDE PUBLIC EDUCATION AND OUTREACH COMPONENTS.

(IV) THE DEPARTMENT SHALL EVALUATE A COMPETITIVE GRANT PROPOSAL BASED ON:

1. THE STANDARDS ESTABLISHED UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH; AND

2. ANY ADDITIONAL STANDARDS THE DEPARTMENT ADOPTS BY REGULATION CONSISTENT WITH THIS SECTION.

(V) THE DEPARTMENT SHALL ADOPT REGULATIONS REQUIRING A GRANT RECIPIENT TO REPORT RELEVANT INFORMATION ON HOW THE GRANT WAS USED, INCLUDING DATA ON THE NUMBER AND TYPE OF SPAY OR NEUTER SURGERIES PERFORMED AND A DESCRIPTION OF ANY PUBLIC EDUCATION AND OUTREACH IMPLEMENTED.

~~(VI)~~ (3) THE DEPARTMENT MAY USE MONEY IN THE FUND
TO:

1. TO FINANCE PUBLIC EDUCATION AND OUTREACH EFFORTS FOR THE COMPETITIVE GRANT PROGRAM; AND

2. FOR THE REASONABLE COSTS OF ADMINISTERING THE FUND.

~~(H) (1) THERE IS A SPAY/NEUTER ADVISORY BOARD.~~

~~(2) (I) THE ADVISORY BOARD CONSISTS OF SEVEN MEMBERS.~~

~~(II) THE MEMBERS SHALL BE REPRESENTATIVE OF ALL PHASES OF ANIMAL CONTROL AND ANIMAL WELFARE INTERESTS IN THE STATE.~~

~~(III) THE GOVERNOR, WITH THE ADVICE OF THE SECRETARY, SHALL APPOINT THE MEMBERS AND THE CHAIR OF THE ADVISORY BOARD.~~

~~(3) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE ADVISORY BOARD.~~

~~(4) A MEMBER OF THE ADVISORY BOARD:~~

~~(I) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY BOARD; BUT~~

~~(II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.~~

~~(5) THE ADVISORY BOARD SHALL ADVISE THE DEPARTMENT WITH RESPECT TO:~~

- ~~(I) THE ADMINISTRATION OF THE FUND;~~
- ~~(II) ESTABLISHING APPROPRIATE REIMBURSEMENT RATES FOR SPAY AND NEUTER SURGERIES AND RABIES SHOTS;~~
- ~~(III) ESTABLISHING APPROPRIATE NOMINAL COPAYMENTS FOR VOUCHERS;~~
- ~~(IV) THE SOLICITATION AND EVALUATION OF COMPETITIVE GRANT PROPOSALS;~~
- ~~(V) APPROPRIATE ADDITIONAL STANDARDS FOR GRANT PROPOSALS;~~
- ~~(VI) ADDITIONAL RELEVANT DATA THAT THE DEPARTMENT SHOULD REQUIRE FROM LOCAL ANIMAL SHELTERS AND APPROPRIATE ANIMAL CONTROL ORGANIZATIONS;~~
- ~~(VII) THE ADOPTION OF REGULATIONS THAT IMPLEMENT THIS SECTION; AND~~
- ~~(VIII) ANY OTHER APPROPRIATE MATTER WITH RESPECT TO THE IMPLEMENTATION OF THE FUND IN THE DISCRETION OF THE DEPARTMENT.~~

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

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

~~(H)~~ (H) BEGINNING JANUARY 1, 2014, EACH COUNTY AND MUNICIPAL ANIMAL CONTROL SHELTER AND EACH ORGANIZATION THAT CONTRACTS WITH A COUNTY OR MUNICIPALITY FOR ANIMAL CONTROL SHALL REPORT QUARTERLY TO THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT DESCRIBING FOR THE PREVIOUS 3 MONTHS:

- (1) THE NUMBER OF CATS AND DOGS TAKEN IN;
- (2) THE NUMBER OF CATS AND DOGS DISPOSED OF, BROKEN DOWN BY METHOD OF DISPOSAL, INCLUDING EUTHANASIA; AND
- (3) ANY OTHER RELEVANT DATA THE DEPARTMENT REQUIRES.

~~(K)~~ (I) BY AUGUST 31, 2014, AND EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THAT DESCRIBES THE ACTIVITIES FINANCED BY THE FUND IN THE PREVIOUS FISCAL YEAR, INCLUDING:

~~(1)~~ ~~THE NUMBER OF VOUCHERS ISSUED AND USED;~~

~~(2)~~ (1) A DESCRIPTION OF ALL GRANT PROPOSALS SELECTED FOR FUNDING AND GRANT PROGRAMS IMPLEMENTED;

~~(3)~~ (2) A STATEMENT OF THE NUMBER OF SPAY AND NEUTER SURGERIES PERFORMED UNDER EACH GRANT PROPOSAL SELECTED;

~~(4)~~ (3) A DESCRIPTION OF AND ACCOUNTING FOR ANY PUBLIC EDUCATION AND OUTREACH EFFORTS MADE FOR THE BENEFIT OF FUND PROGRAMS; AND

~~(5)~~ (4) A SUMMARY OF THE INFORMATION REPORTED TO THE DEPARTMENT BY LOCAL ANIMAL CONTROL SHELTERS AND ORGANIZATIONS THAT CONTRACT WITH LOCAL GOVERNMENTS FOR ANIMAL CONTROL UNDER SUBSECTION ~~(J)~~ (H) OF THIS SECTION.

~~(L)~~ ~~THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

~~6-103.~~

~~Registration fees constitute a special fund to be used only to defray partially the cost of inspection, sampling, analysis, and other expenses necessary for administering this subtitle. Notwithstanding any other provisions of this Code, any unexpended funds up to a maximum of \$100,000 may not revert to the General Fund of the State at the end of the fiscal year.~~

~~6-107.~~

~~(a) Except as provided in subsection (e) of this section, a distributor shall register each brand name or product name of commercial feed before distributing it in the State. Customer formula feeds and contract feeds are exempt from registration if the registration fee is paid on the commercial feeds which they contain.~~

~~(b) The registration application for commercial feeds shall be submitted on forms furnished by the Secretary, and shall also be accompanied by a label or other printed matter describing the product if requested by the Secretary. The application shall include the information required by §§ 6-109, 6-110, and 6-111 of this subtitle.~~

~~When the Secretary has approved the registration, he shall furnish a copy to the applicant.~~

~~(c) The annual registration fee for each commercial feed distributed in the State is \$50. Customer formula feeds and contract feeds are exempt if the registration fee is paid on the commercial feeds which they contain.~~

~~(d) Each registration expires April 30 each year.~~

~~(e) Provided the product label has not been altered or changed, a distributor may not be required to register any brand of commercial feed which has been registered under this subtitle by another person.~~

~~6-107.4, 2-1603.~~

~~(A) THE SECRETARY SHALL ESTABLISH A SURCHARGE OF \$100 ON EACH COMMERCIAL FEED REGISTERED IN THE STATE UNDER § 6-107 OF THIS SUBTITLE.~~

(A) (1) IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY SHALL ESTABLISH A FEE ON EACH BRAND NAME OR PRODUCT NAME OF COMMERCIAL FEED THAT IS:

(I) PREPARED AND DISTRIBUTED FOR CONSUMPTION BY A DOG OR CAT; AND

(II) REGISTERED IN THE STATE UNDER § 6-107 OF THIS ARTICLE.

(2) THE FEE ESTABLISHED UNDER THIS SUBSECTION IS:

(I) FROM OCTOBER 1, 2013, THROUGH SEPTEMBER 30, 2014, INCLUSIVE, \$50;

(II) FROM OCTOBER 1, 2014, THROUGH SEPTEMBER 30, 2015, INCLUSIVE, \$75; AND

(III) AFTER SEPTEMBER 30, 2015, \$100.

(B) THE SURCHARGE FEE ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE PAID BY THE PERSON REGISTERING THE COMMERCIAL FEED ACCORDING TO IN ACCORDANCE WITH THE COLLECTION AND REPORTING GUIDELINES ESTABLISHED BY THE DEPARTMENT BY REGULATION.

(C) ~~ANY SURCHARGES FEE COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE SPAY/NEUTER FUND ESTABLISHED UNDER § 2-303.1 OF THIS ARTICLE FUND.~~

2-1604.

(A) THERE IS A SPAY/NEUTER ADVISORY BOARD.

(B) THE ADVISORY BOARD CONSISTS OF:

(1) THE SECRETARY, OR THE SECRETARY'S DESIGNEE; AND

(2) THE FOLLOWING MEMBERS, APPOINTED BY THE SECRETARY:

(I) ONE REPRESENTATIVE OF A PRIVATE ANIMAL SHELTER;

(II) ONE VETERINARIAN;

(III) ONE REPRESENTATIVE OF A LOCAL ANIMAL CONTROL AGENCY;

AND

(IV) ONE REPRESENTATIVE OF THE PET FOOD INDUSTRY;
(V) TWO REPRESENTATIVES OF ANIMAL WELFARE ADVOCACY ORGANIZATIONS.

(C) THE SECRETARY SHALL DESIGNATE THE CHAIR OF THE ADVISORY BOARD.

(D) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE ADVISORY BOARD.

(E) A MEMBER OF THE ADVISORY BOARD:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY BOARD; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) THE ADVISORY BOARD SHALL ADVISE THE DEPARTMENT WITH RESPECT TO:

- (1) THE ADMINISTRATION OF THE FUND;**
- (2) THE SOLICITATION AND EVALUATION OF COMPETITIVE GRANT PROPOSALS;**
- (3) APPROPRIATE ADDITIONAL STANDARDS FOR GRANT PROPOSALS;**
- (4) ADDITIONAL RELEVANT DATA THAT THE DEPARTMENT SHOULD REQUIRE FROM LOCAL ANIMAL SHELTERS AND APPROPRIATE ANIMAL CONTROL ORGANIZATIONS;**
- (5) THE ADOPTION OF REGULATIONS THAT IMPLEMENT THIS SUBTITLE; AND**
- (6) ANY OTHER APPROPRIATE MATTER WITH RESPECT TO THE IMPLEMENTATION OF THE FUND IN THE DISCRETION OF THE DEPARTMENT.**

2-1605.

THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT 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. **THE SPAY/NEUTER FUND.**

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 15, 2015, the Maryland Department of Agriculture 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 the fee revenue collected under § 2-1603 of the Agriculture Article, as enacted by Section 1 of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of ~~6~~ 9 years and, at the end of September 30, ~~2019~~ 2022, 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 16, 2013.

Chapter 563

(Senate Bill 828)

AN ACT concerning

St. Mary's College of Maryland – Tuition Freeze and DeSousa–Brent Scholars Completion Grant

FOR the purpose of prohibiting the Board of Trustees of St. Mary's College of Maryland from increasing the undergraduate resident student tuition rates in certain academic years; requiring the Governor to appropriate a certain amount to St. Mary's College of Maryland from a certain fund in certain fiscal years; requiring a certain calculation for a certain fiscal year to include certain funds; establishing a DeSousa–Brent Scholars Completion Grant; stating the purpose of a certain grant; prohibiting a certain appropriation from being included in a certain calculation for certain fiscal years except in certain circumstances; requiring a certain report by a certain date; defining certain terms; and generally relating to St. Mary's College of Maryland.

BY adding to

Article – Education

Section 14-410 and 14-411

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

14-410.

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

(2) “ACADEMIC YEAR” MEANS THE PERIOD COMMENCING WITH THE FALL SEMESTER AND CONTINUING THROUGH THE IMMEDIATELY FOLLOWING SUMMER SESSION AT ST. MARY’S COLLEGE OF MARYLAND.

(3) “FUND” MEANS THE HIGHER EDUCATION INVESTMENT FUND ESTABLISHED IN § 15-106.6 OF THIS ARTICLE.

(4) (I) “TUITION” MEANS THE CHARGES APPROVED BY THE BOARD OF TRUSTEES OF ST. MARY’S COLLEGE OF MARYLAND THAT ARE REQUIRED OF ALL UNDERGRADUATE RESIDENT STUDENTS BY THE INSTITUTION AS A CONDITION OF ENROLLMENT REGARDLESS OF THE STUDENT’S DEGREE PROGRAM, FIELD OF STUDY, OR SELECTED COURSES.

(II) “TUITION” DOES NOT INCLUDE:

1. FEES THAT ARE REQUIRED OF ALL UNDERGRADUATE RESIDENT STUDENTS BY THE INSTITUTION AS A CONDITION OF ENROLLMENT REGARDLESS OF THE STUDENT’S DEGREE PROGRAM, FIELD OF STUDY, OR SELECTED COURSES;

2. FEES DEDICATED TO SUPPORT AUXILIARY ENTERPRISES AND OTHER SELF-FUNDED ACTIVITIES OF THE INSTITUTION; OR

3. A FEE REQUIRED ONLY FOR ENROLLMENT IN A SPECIFIC DEGREE PROGRAM, FIELD OF STUDY, OR COURSE WHEN THAT FEE IS NOT REQUIRED OF UNDERGRADUATE RESIDENT STUDENTS AT THE INSTITUTION FOR ENROLLMENT IN OTHER DEGREE PROGRAMS, FIELDS OF STUDY, OR COURSES.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR THE ACADEMIC YEARS BEGINNING IN THE FALL OF 2013 ~~THROUGH AND~~ THE FALL OF ~~2017~~ 2014, THE BOARD OF TRUSTEES MAY NOT APPROVE AND MAY NOT IMPOSE AN INCREASE IN THE TUITION CHARGED FOR AN ACADEMIC YEAR TO A RESIDENT UNDERGRADUATE STUDENT AT THE INSTITUTION OVER THE AMOUNT CHARGED FOR TUITION AT THE INSTITUTION IN THE PRECEDING ACADEMIC YEAR.

~~(C) FOR EACH OF FISCAL YEARS 2014 THROUGH 2018, FROM THE FUND, THE GOVERNOR SHALL APPROPRIATE TO ST. MARY'S COLLEGE OF MARYLAND \$800,000 PLUS:~~

~~(1) FOR FISCAL YEAR 2015, THE PRIOR YEAR'S APPROPRIATION FROM THE FUND MADE UNDER THIS SECTION MULTIPLIED BY THE IMPLICIT PRICE DEFLATOR FOR STATE AND LOCAL GOVERNMENT USED UNDER § 14-405 OF THIS ARTICLE FOR THE FISCAL YEAR 2015 GENERAL FUND GRANT;~~

~~(2) FOR FISCAL YEAR 2016, THE PRIOR YEAR'S APPROPRIATION FROM THE FUND MADE UNDER THIS SECTION MULTIPLIED BY THE IMPLICIT PRICE DEFLATOR FOR STATE AND LOCAL GOVERNMENT USED UNDER § 14-405 OF THIS ARTICLE FOR THE FISCAL YEAR 2016 GENERAL FUND GRANT;~~

~~(3) FOR FISCAL YEAR 2017, THE PRIOR YEAR'S APPROPRIATION FROM THE FUND MADE UNDER THIS SECTION MULTIPLIED BY THE IMPLICIT PRICE DEFLATOR FOR STATE AND LOCAL GOVERNMENT USED UNDER § 14-405 OF THIS ARTICLE FOR THE FISCAL YEAR 2017 GENERAL FUND GRANT; AND~~

~~(4) FOR FISCAL YEAR 2018, THE PRIOR YEAR'S APPROPRIATION FROM THE FUND MADE UNDER THIS SECTION MULTIPLIED BY THE IMPLICIT PRICE DEFLATOR FOR STATE AND LOCAL GOVERNMENT USED UNDER § 14-405 OF THIS ARTICLE FOR THE FISCAL YEAR 2018 GENERAL FUND GRANT.~~

(C) FROM THE FUND, THE GOVERNOR SHALL APPROPRIATE TO ST. MARY'S COLLEGE OF MARYLAND:

(1) FOR FISCAL YEAR 2014, \$800,000; AND

(2) FOR FISCAL YEAR 2015, \$1,616,000.

(D) THE CALCULATION MADE UNDER § 14-405 OF THIS SUBTITLE FOR THE FISCAL YEAR ~~2019~~ 2016 GENERAL FUND GRANT SHALL INCLUDE THE FISCAL YEAR ~~2018~~ 2015 APPROPRIATION FROM THE FUND MADE UNDER THIS SECTION.

14-411.

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

(2) "FUND" MEANS THE HIGHER EDUCATION INVESTMENT FUND ESTABLISHED IN § 15-106.6 OF THIS ARTICLE.

(3) “GRANT” MEANS THE DESOUSA–BRENT SCHOLARS COMPLETION GRANT.

(B) THERE IS A DESOUSA–BRENT SCHOLARS COMPLETION GRANT TO ST. MARY’S COLLEGE OF MARYLAND.

(C) THE PURPOSE OF THE GRANT IS TO INCREASE THE RETENTION AND GRADUATION RATES OF DESOUSA–BRENT SCHOLARS AT ST. MARY’S COLLEGE OF MARYLAND.

(D) FOR FISCAL YEARS 2014 THROUGH 2019, THE GOVERNOR SHALL APPROPRIATE THE FOLLOWING GRANT AMOUNTS FROM THE FUND TO ST. MARY’S COLLEGE OF MARYLAND:

(1) \$300,000 IN FISCAL YEAR 2014;

(2) \$550,000 IN FISCAL YEAR 2015; AND

(3) \$800,000 IN EACH OF FISCAL YEARS 2016 THROUGH 2019.

(E) FOR FISCAL YEARS 2015 THROUGH 2020, EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THE PRIOR FISCAL YEAR’S APPROPRIATION FROM THE FUND MADE UNDER THIS SECTION MAY NOT BE INCLUDED IN THE CALCULATION UNDER § 14–405 OF THIS SUBTITLE.

(F) THE FISCAL YEAR 2019 APPROPRIATION FROM THE FUND SHALL BE INCLUDED IN THE CALCULATION UNDER § 14–405 OF THIS SUBTITLE FOR THE FISCAL YEAR 2020 GENERAL FUND GRANT APPROPRIATION IF:

(1) THE FIRST– TO SECOND–YEAR RETENTION RATE FOR THE FALL 2015 COHORT OF THE DESOUSA–BRENT SCHOLARS IS AT LEAST 88%;

(2) THE FIRST– TO THIRD–YEAR RETENTION RATE FOR THE FALL 2015 COHORT OF THE DESOUSA–BRENT SCHOLARS IS AT LEAST 79%; AND

(3) THE FOUR–YEAR GRADUATION RATE FOR THE FALL 2015 COHORT OF THE DESOUSA–BRENT SCHOLARS IS AT LEAST 70%.

(G) ON OR BEFORE DECEMBER 1 OF EACH YEAR ST. MARY’S COLLEGE OF MARYLAND SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THE RETENTION AND GRADUATION RATES OF DESOUSA–BRENT SCHOLARS.

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

Approved by the Governor, May 16, 2013.

Chapter 564

(House Bill 831)

AN ACT concerning

St. Mary's College of Maryland – Tuition Freeze and DeSousa–Brent Scholars Completion Grant

FOR the purpose of prohibiting the Board of Trustees of St. Mary's College of Maryland from increasing the undergraduate resident student tuition rates in certain academic years; requiring the Governor to appropriate a certain amount to St. Mary's College of Maryland from a certain fund in certain fiscal years; requiring a certain calculation for a certain fiscal year to include certain funds; establishing a DeSousa–Brent Scholars Completion Grant; stating the purpose of a certain grant; prohibiting a certain appropriation from being included in a certain calculation for certain fiscal years except in certain circumstances; requiring a certain report by a certain date; defining certain terms; and generally relating to St. Mary's College of Maryland.

BY adding to

Article – Education

Section 14–410 and 14–411

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

14–410.

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

(2) “ACADEMIC YEAR” MEANS THE PERIOD COMMENCING WITH THE FALL SEMESTER AND CONTINUING THROUGH THE IMMEDIATELY FOLLOWING SUMMER SESSION AT ST. MARY'S COLLEGE OF MARYLAND.

(3) “FUND” MEANS THE HIGHER EDUCATION INVESTMENT FUND ESTABLISHED IN § 15–106.6 OF THIS ARTICLE.

(4) (I) “TUITION” MEANS THE CHARGES APPROVED BY THE BOARD OF TRUSTEES OF ST. MARY’S COLLEGE OF MARYLAND THAT ARE REQUIRED OF ALL UNDERGRADUATE RESIDENT STUDENTS BY THE INSTITUTION AS A CONDITION OF ENROLLMENT REGARDLESS OF THE STUDENT’S DEGREE PROGRAM, FIELD OF STUDY, OR SELECTED COURSES.

(II) “TUITION” DOES NOT INCLUDE:

1. FEES THAT ARE REQUIRED OF ALL UNDERGRADUATE RESIDENT STUDENTS BY THE INSTITUTION AS A CONDITION OF ENROLLMENT REGARDLESS OF THE STUDENT’S DEGREE PROGRAM, FIELD OF STUDY, OR SELECTED COURSES;

2. FEES DEDICATED TO SUPPORT AUXILIARY ENTERPRISES AND OTHER SELF-FUNDED ACTIVITIES OF THE INSTITUTION; OR

3. A FEE REQUIRED ONLY FOR ENROLLMENT IN A SPECIFIC DEGREE PROGRAM, FIELD OF STUDY, OR COURSE WHEN THAT FEE IS NOT REQUIRED OF UNDERGRADUATE RESIDENT STUDENTS AT THE INSTITUTION FOR ENROLLMENT IN OTHER DEGREE PROGRAMS, FIELDS OF STUDY, OR COURSES.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR THE ACADEMIC YEARS BEGINNING IN THE FALL OF 2013 ~~THROUGH AND~~ THE FALL OF ~~2017~~ 2014, THE BOARD OF TRUSTEES MAY NOT APPROVE AND MAY NOT IMPOSE AN INCREASE IN THE TUITION CHARGED FOR AN ACADEMIC YEAR TO A RESIDENT UNDERGRADUATE STUDENT AT THE INSTITUTION OVER THE AMOUNT CHARGED FOR TUITION AT THE INSTITUTION IN THE PRECEDING ACADEMIC YEAR.

~~(C) FOR EACH OF FISCAL YEARS 2014 THROUGH 2018, FROM THE FUND, THE GOVERNOR SHALL APPROPRIATE TO ST. MARY’S COLLEGE OF MARYLAND \$800,000 PLUS:~~

~~(1) FOR FISCAL YEAR 2015, THE PRIOR YEAR’S APPROPRIATION FROM THE FUND MADE UNDER THIS SECTION MULTIPLIED BY THE IMPLICIT PRICE DEFLATOR FOR STATE AND LOCAL GOVERNMENT USED UNDER § 14-405 OF THIS ARTICLE FOR THE FISCAL YEAR 2015 GENERAL FUND GRANT;~~

~~(2) FOR FISCAL YEAR 2016, THE PRIOR YEAR'S APPROPRIATION FROM THE FUND MADE UNDER THIS SECTION MULTIPLIED BY THE IMPLICIT PRICE DEFLATOR FOR STATE AND LOCAL GOVERNMENT USED UNDER § 14-405 OF THIS ARTICLE FOR THE FISCAL YEAR 2016 GENERAL FUND GRANT;~~

~~(3) FOR FISCAL YEAR 2017, THE PRIOR YEAR'S APPROPRIATION FROM THE FUND MADE UNDER THIS SECTION MULTIPLIED BY THE IMPLICIT PRICE DEFLATOR FOR STATE AND LOCAL GOVERNMENT USED UNDER § 14-405 OF THIS ARTICLE FOR THE FISCAL YEAR 2017 GENERAL FUND GRANT; AND~~

~~(4) FOR FISCAL YEAR 2018, THE PRIOR YEAR'S APPROPRIATION FROM THE FUND MADE UNDER THIS SECTION MULTIPLIED BY THE IMPLICIT PRICE DEFLATOR FOR STATE AND LOCAL GOVERNMENT USED UNDER § 14-405 OF THIS ARTICLE FOR THE FISCAL YEAR 2018 GENERAL FUND GRANT.~~

(C) FROM THE FUND, THE GOVERNOR SHALL APPROPRIATE TO ST. MARY'S COLLEGE OF MARYLAND:

(1) FOR FISCAL YEAR 2014, \$800,000; AND

(2) FOR FISCAL YEAR 2015, \$1,616,000.

(D) THE CALCULATION MADE UNDER § 14-405 OF THIS SUBTITLE FOR THE FISCAL YEAR ~~2019~~ 2016 GENERAL FUND GRANT SHALL INCLUDE THE FISCAL YEAR ~~2018~~ 2015 APPROPRIATION FROM THE FUND MADE UNDER THIS SECTION.

14-411.

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

(2) "FUND" MEANS THE HIGHER EDUCATION INVESTMENT FUND ESTABLISHED IN § 15-106.6 OF THIS ARTICLE.

(3) "GRANT" MEANS THE DESOUSA-BRENT SCHOLARS COMPLETION GRANT.

(B) THERE IS A DESOUSA-BRENT SCHOLARS COMPLETION GRANT TO ST. MARY'S COLLEGE OF MARYLAND.

(C) THE PURPOSE OF THE GRANT IS TO INCREASE THE RETENTION AND GRADUATION RATES OF DESOUSA-BRENT SCHOLARS AT ST. MARY'S COLLEGE OF MARYLAND.

(D) FOR FISCAL YEARS 2014 THROUGH 2019, THE GOVERNOR SHALL APPROPRIATE THE FOLLOWING GRANT AMOUNTS FROM THE FUND TO ST. MARY'S COLLEGE OF MARYLAND:

- (1) \$300,000 IN FISCAL YEAR 2014;**
- (2) \$550,000 IN FISCAL YEAR 2015; AND**
- (3) \$800,000 IN EACH OF FISCAL YEARS 2016 THROUGH 2019.**

(E) FOR FISCAL YEARS 2015 THROUGH 2020, EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THE PRIOR FISCAL YEAR'S APPROPRIATION FROM THE FUND MADE UNDER THIS SECTION MAY NOT BE INCLUDED IN THE CALCULATION UNDER § 14-405 OF THIS SUBTITLE.

(F) THE FISCAL YEAR 2019 APPROPRIATION FROM THE FUND SHALL BE INCLUDED IN THE CALCULATION UNDER § 14-405 OF THIS SUBTITLE FOR THE FISCAL YEAR 2020 GENERAL FUND GRANT APPROPRIATION IF:

- (1) THE FIRST- TO SECOND-YEAR RETENTION RATE FOR THE FALL 2015 COHORT OF THE DESOUSA-BRENT SCHOLARS IS AT LEAST 88%;**
- (2) THE FIRST- TO THIRD-YEAR RETENTION RATE FOR THE FALL 2015 COHORT OF THE DESOUSA-BRENT SCHOLARS IS AT LEAST 79%; AND**
- (3) THE FOUR-YEAR GRADUATION RATE FOR THE FALL 2015 COHORT OF THE DESOUSA-BRENT SCHOLARS IS AT LEAST 70%.**

(G) ON OR BEFORE DECEMBER 1 OF EACH YEAR ST. MARY'S COLLEGE OF MARYLAND SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THE RETENTION AND GRADUATION RATES OF DESOUSA-BRENT SCHOLARS.

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

Approved by the Governor, May 16, 2013.

Chapter 565

(Senate Bill 832)

AN ACT concerning

Child Care ~~Centers~~ – Dispute Resolution

FOR the purpose of establishing a dispute resolution workgroup in the State Department of Education; providing for the membership of the workgroup; requiring the workgroup to make recommendations to the State Superintendent of Schools, in consultation with the workgroup, to adopt regarding certain rules and regulations establishing a certain dispute resolution process ~~that includes investigation of certain discrimination complaints, written findings of fact and conclusions of law, and appropriate remedies; authorizing the dispute resolution process to include certain informal resolution processes;~~ and generally relating to dispute resolution procedures for child care ~~centers~~ providers.

~~BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–573
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~~

~~5–573.~~

~~(a) The State Superintendent shall adopt rules and regulations for licensing and operating child care centers.~~

~~(b) These rules and regulations shall:~~

~~(1) ensure safe and sanitary conditions in child care centers;~~

~~(2) ensure proper care, protection, and supervision of children in child care centers;~~

~~(3) ensure the health of children in child care centers by:~~

~~(i) monitoring children for signs and symptoms of child abuse;~~

~~(ii) instructing licensees and staff concerning child abuse detection and reporting;~~

~~(iii) monitoring health practices to help prevent the spread of disease; and~~

~~(iv) monitoring the care of infants and children with special needs;~~

~~(4) promote the sound growth and development of children in child care centers;~~

~~(5) carry out otherwise the purposes and requirements of this Part VII of this subtitle, including imposition of intermediate sanctions to ensure compliance;~~

~~(6) prohibit a child from remaining at a child care center for more than 14 hours in 1 day unless the Department issues an exception for that child based on guidelines set by the State Superintendent;~~

~~(7) (i) require that a child care center have in attendance at all times at least 1 individual who is responsible for supervision of children, including children on field trips, and who holds a current certificate indicating successful completion of approved:~~

~~1. basic first aid training through the American Red Cross or through a program with equivalent standards; and~~

~~2. cardiopulmonary resuscitation (CPR) training through the American Heart Association or through a program with equivalent standards appropriate for the ages of children for whom care is provided in the child care center; and~~

~~(ii) require that a child care center serving more than 20 children have in attendance certificate holders described in item (i) of this item in a ratio of at least 1 certificate holder for every 20 children;~~

~~(8) (i) require that a child care center that receives notice of a contaminated drinking water supply from the child care center's supplier of water, in accordance with § 9-410 of the Environment Article or otherwise, send notice of the drinking water contamination to the parent or legal guardian of each child attending the child care center; and~~

~~(ii) require that the notice sent by the child care center shall:~~

~~1. be sent within 10 business days after receipt of the notice of contamination from the child care center's water supplier;~~

~~2. be in writing;~~

~~3. identify the contaminants and their levels in the center's water supply; and~~

~~4. describe the child care center's plan for dealing with the water contamination problem until the child care center's water is determined by the appropriate authority to be safe for consumption;~~

~~(9) (i) require a child care center to have a written emergency preparedness plan for emergency situations that require evacuation, sheltering in place, or other protection of children, such as in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to the children in the child care center;~~

~~(ii) require the plan under item (i) of this item to include:~~

~~1. a designated relocation site and evacuation route;~~

~~2. procedures for notifying parents or other adults responsible for the child of the relocation;~~

~~3. procedures to address the needs of individual children, including children with special needs;~~

~~4. procedures for the reassignment of staff duties during an emergency, as appropriate; and~~

~~5. procedures for communicating with local emergency management officials or other appropriate State or local authorities; and~~

~~(iii) require a child care center to train staff and ensure that staff are familiar with the plan; and~~

~~(10) require a child care center to have window coverings in accordance with § 5-505 of this subtitle.~~

~~(C) (1) THERE IS A DISPUTE RESOLUTION WORKGROUP.~~

~~(2) THE WORKGROUP CONSISTS OF THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:~~

~~(I) ONE REPRESENTATIVE FROM THE MARYLAND DISABILITY LAW CENTER;~~

~~(II) ONE REPRESENTATIVE FROM THE MARYLAND DEVELOPMENTAL DISABILITIES COUNCIL;~~

~~(III) ONE REPRESENTATIVE FROM THE OFFICE OF CHILD CARE IN THE DEPARTMENT;~~

~~(IV) ONE REPRESENTATIVE FROM THE MARYLAND FAMILY NETWORK; AND~~

~~(V) THREE CHILD CARE PROVIDERS.~~

~~(3) THE STATE SUPERINTENDENT, IN CONSULTATION WITH THE DISPUTE RESOLUTION WORKGROUP, SHALL ADOPT RULES AND REGULATIONS ESTABLISHING A UNIFORM AND TIMELY DISPUTE RESOLUTION PROCESS THAT ADDRESSES THE NEEDS OF CHILDREN AND THEIR FAMILIES TO OBTAIN AND KEEP CHILD CARE AND THAT INCLUDES:~~

~~(I) INVESTIGATION OF DISCRIMINATION COMPLAINTS BASED ON A CHILD'S DISABILITY;~~

~~(II) WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW WITH RESPECT TO THE COMPLAINT; AND~~

~~(III) APPROPRIATE REMEDIES.~~

~~(4) THE DISPUTE RESOLUTION PROCESS ADOPTED UNDER PARAGRAPH (3) OF THIS SUBSECTION MAY INCLUDE PROVISIONS FOR AN OMBUDSMAN, A MEDIATION, OR ANY OTHER INFORMAL RESOLUTION PROCESSES.~~

(a) There is a dispute resolution workgroup in the State Department of Education.

(b) The workgroup consists of the following members, appointed by the State Superintendent of Schools:

(1) one representative from the Maryland Disability Law Center;

(2) one representative from the Maryland Developmental Disabilities Council;

(3) one representative from the Office of Child Care in the Department;

(4) one representative from the Division of Special Education Early Intervention Services in the Department;

(5) one representative from the Maryland Coalition of Families for Children's Mental Health;

(6) one representative from the Maryland Family Network; and

(7) three child care providers.

(c) The workgroup shall make recommendations to the State Superintendent regarding rules and regulations to establish a uniform and timely dispute resolution process to resolve claims of discrimination by a child care provider based on a child's disability that addresses the needs of children and their families to obtain and keep child care, which may include:

(1) voluntary mediation;

(2) a fact finder with authority to make determinations and recommendations consistent with the Americans with Disabilities Act;

(3) a process for child care providers to access training and technical assistance; and

(4) referral of claims of discrimination to the United States Department of Justice or other appropriate agency with jurisdiction over the child care provider.

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

Approved by the Governor, May 16, 2013.

Chapter 566

(House Bill 932)

AN ACT concerning

Child Care ~~Centers~~ – Dispute Resolution

FOR the purpose of establishing a dispute resolution workgroup in the State Department of Education; providing for the membership of the workgroup; requiring the workgroup to make recommendations to the State Superintendent of Schools, in consultation with the workgroup, to adopt regarding certain rules and regulations establishing a certain dispute resolution process ~~that includes investigation of certain discrimination complaints, written findings of fact and conclusions of law, and appropriate remedies; authorizing the dispute resolution process to include certain informal resolution processes;~~ and generally relating to dispute resolution procedures for child care ~~centers~~ providers.

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

~~Article — Family Law
Section 5 — 573
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 — 573.~~

~~(a) The State Superintendent shall adopt rules and regulations for licensing and operating child care centers.~~

~~(b) These rules and regulations shall:~~

- ~~(1) ensure safe and sanitary conditions in child care centers;~~
- ~~(2) ensure proper care, protection, and supervision of children in child care centers;~~
- ~~(3) ensure the health of children in child care centers by:~~
 - ~~(i) monitoring children for signs and symptoms of child abuse;~~
 - ~~(ii) instructing licensees and staff concerning child abuse detection and reporting;~~
 - ~~(iii) monitoring health practices to help prevent the spread of disease; and~~
 - ~~(iv) monitoring the care of infants and children with special needs;~~
- ~~(4) promote the sound growth and development of children in child care centers;~~
- ~~(5) carry out otherwise the purposes and requirements of this Part VII of this subtitle, including imposition of intermediate sanctions to ensure compliance;~~
- ~~(6) prohibit a child from remaining at a child care center for more than 14 hours in 1 day unless the Department issues an exception for that child based on guidelines set by the State Superintendent;~~
- ~~(7) (i) require that a child care center have in attendance at all times at least 1 individual who is responsible for supervision of children, including~~

~~children on field trips, and who holds a current certificate indicating successful completion of approved:~~

~~1. basic first aid training through the American Red Cross or through a program with equivalent standards; and~~

~~2. cardiopulmonary resuscitation (CPR) training through the American Heart Association or through a program with equivalent standards appropriate for the ages of children for whom care is provided in the child care center; and~~

~~(ii) require that a child care center serving more than 20 children have in attendance certificate holders described in item (i) of this item in a ratio of at least 1 certificate holder for every 20 children;~~

~~(8) (i) require that a child care center that receives notice of a contaminated drinking water supply from the child care center's supplier of water, in accordance with § 9-410 of the Environment Article or otherwise, send notice of the drinking water contamination to the parent or legal guardian of each child attending the child care center; and~~

~~(ii) require that the notice sent by the child care center shall:~~

~~1. be sent within 10 business days after receipt of the notice of contamination from the child care center's water supplier;~~

~~2. be in writing;~~

~~3. identify the contaminants and their levels in the center's water supply; and~~

~~4. describe the child care center's plan for dealing with the water contamination problem until the child care center's water is determined by the appropriate authority to be safe for consumption;~~

~~(9) (i) require a child care center to have a written emergency preparedness plan for emergency situations that require evacuation, sheltering in place, or other protection of children, such as in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to the children in the child care center;~~

~~(ii) require the plan under item (i) of this item to include:~~

~~1. a designated relocation site and evacuation route;~~

~~2. procedures for notifying parents or other adults responsible for the child of the relocation;~~

~~3. procedures to address the needs of individual children, including children with special needs;~~

~~4. procedures for the reassignment of staff duties during an emergency, as appropriate; and~~

~~5. procedures for communicating with local emergency management officials or other appropriate State or local authorities; and~~

~~(iii) require a child care center to train staff and ensure that staff are familiar with the plan; and~~

~~(10) require a child care center to have window coverings in accordance with § 5-505 of this subtitle.~~

~~(c) (1) THERE IS A DISPUTE RESOLUTION WORKGROUP.~~

~~(2) THE WORKGROUP CONSISTS OF THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:~~

~~(i) ONE REPRESENTATIVE FROM THE MARYLAND DISABILITY LAW CENTER;~~

~~(ii) ONE REPRESENTATIVE FROM THE MARYLAND DEVELOPMENTAL DISABILITIES COUNCIL;~~

~~(iii) ONE REPRESENTATIVE FROM THE OFFICE OF CHILD CARE IN THE DEPARTMENT;~~

~~(iv) ONE REPRESENTATIVE FROM THE MARYLAND FAMILY NETWORK; AND~~

~~(v) THREE CHILD CARE PROVIDERS.~~

~~(3) THE STATE SUPERINTENDENT, IN CONSULTATION WITH THE DISPUTE RESOLUTION WORKGROUP, SHALL ADOPT RULES AND REGULATIONS ESTABLISHING A UNIFORM AND TIMELY DISPUTE RESOLUTION PROCESS THAT ADDRESSES THE NEEDS OF CHILDREN AND THEIR FAMILIES TO OBTAIN AND KEEP CHILD CARE AND THAT INCLUDES:~~

~~(i) INVESTIGATION OF DISCRIMINATION COMPLAINTS BASED ON A CHILD'S DISABILITY;~~

~~(II) WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW WITH RESPECT TO THE COMPLAINT; AND~~

~~(III) APPROPRIATE REMEDIES.~~

~~(4) THE DISPUTE RESOLUTION PROCESS ADOPTED UNDER PARAGRAPH (3) OF THIS SUBSECTION MAY INCLUDE PROVISIONS FOR AN OMBUDSMAN, A MEDIATION, OR ANY OTHER INFORMAL RESOLUTION PROCESSES.~~

(a) There is a dispute resolution workgroup in the State Department of Education.

(b) The workgroup consists of the following members, appointed by the State Superintendent of Schools:

(1) one representative from the Maryland Disability Law Center;

(2) one representative from the Maryland Developmental Disabilities Council;

(3) one representative from the Office of Child Care in the Department;

(4) one representative from the Division of Special Education Early Intervention Services in the Department;

(5) one representative from the Maryland Coalition of Families for Children's Mental Health;

(6) one representative from the Maryland Family Network; and

(7) three child care providers.

(c) The workgroup shall make recommendations to the State Superintendent regarding rules and regulations to establish a uniform and timely dispute resolution process to resolve claims of discrimination by a child care provider based on a child's disability that addresses the needs of children and their families to obtain and keep child care, which may include:

(1) voluntary mediation;

(2) a fact finder with authority to make determinations and recommendations consistent with the Americans with Disabilities Act;

(3) a process for child care providers to access training and technical assistance; and

(4) referral of claims of discrimination to the United States Department of Justice or other appropriate agency with jurisdiction over the child care provider.

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

Approved by the Governor, May 16, 2013.

Chapter 567

(Senate Bill 840)

AN ACT concerning

Voting – Notice of Election by Specimen Ballot

FOR the purpose of altering the date by which a local board of elections must provide voters notice of an election by specimen ballot; and generally relating to notice of elections to voters by specimen ballot.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 7–105 and 8–102
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Election Law
Section 9–214
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 – Election Law

7–105.

(a) A local board shall provide notice of each question to be submitted statewide and each question to be submitted to the voters of the county, by:

(1) specimen ballot mailed at least 1 week before **ANY EARLY VOTING PERIOD BEFORE** the general election; or

(2) publication or dissemination by mass communication during the 3 weeks immediately preceding the general election at which a question will appear on the ballot.

(b) (1) For any question submitted under Article XIV or Article XVI of the Maryland Constitution, the notice required by subsection (a) of this section shall contain the information specified in § 7-103(b) of this title and a brief statement, prepared in clear and concise language, devoid of technical and legal terms to the extent practicable, summarizing the question.

(2) The statement required under paragraph (1) of this subsection shall be:

(i) prepared by the Department of Legislative Services;

(ii) approved by the Attorney General; and

(iii) submitted to the State Board by the fourth Monday in August.

(3) The statement required under paragraph (1) of this subsection is sufficient if it is:

(i) contained in an enactment by the General Assembly, and the enactment clearly specifies that the statement is to be used on the ballot; or

(ii) consistent with some other process mandated by the Maryland Constitution.

(c) The State Board shall adopt regulations governing notice of questions to appear on the ballot, including the use and content of specimen ballots and the publication or dissemination of notice by mass communication.

(d) (1) The complete text of a question shall be posted or available for public inspection in the office of the State Board and each applicable local board for 30 days prior to the general election.

(2) Copies of the complete text of all statewide questions shall be furnished by the State Board to the local boards in quantities as determined by the State Board, including quantities sufficient to provide one copy of each for posting in each polling place and in each local board office.

(3) An individual may receive without charge a copy of the complete text of all constitutional amendments and questions from a local board, either in person or by mail.

8–102.

(a) Except as required under subsection (d) of this section, a local board shall provide notice of each election in its county to the registered voters of the county by either:

(1) specimen ballot mailed at least 1 week before **THE FIRST DAY OF ANY EARLY VOTING PERIOD BEFORE** the election; or

(2) publication or dissemination by mass communication during the calendar week preceding the election.

(b) The notice shall include:

(1) the time and place of the election; and

(2) the offices, candidate names, and questions contained on the ballot.

(c) (1) If a local board provides notice by mailing specimen ballots, a specimen ballot shall be mailed to all registered voters in the county who are eligible to vote in the election.

(2) The specimen ballot shall be a facsimile of the ballot that the voter is entitled to vote in the election.

(d) (1) In Prince George's County for the general election, the Board shall:

(i) provide notice by mailing specimen ballots; and

(ii) mail a specimen ballot to the household of each registered voter in the county.

(2) The costs for mailing specimen ballots in Prince George's County shall be included in the county's annual budget appropriation to the local board.

(e) (1) Unless a local board mails a specimen ballot to its registered voters in accordance with subsection (c) or (d) of this section, the local board shall give notice of the election by newspaper publication or other means of mass communication.

(2) The notice of election under this subsection shall be arranged, if practicable, in the same order and form as the ballot.

(3) (i) If newspaper publication is used in a county, the notice shall be advertised in at least two newspapers of general circulation that are published in the county.

(ii) In a county in which only one newspaper is published, the notice shall be published in that newspaper.

9-214.

Each local board shall provide specimen ballots, so labeled, for all ballots to be used in each election:

(1) for mailing to registered voters under Title 8 of this article, if mailing of specimen ballots is chosen or required in the county; and

(2) for other informational purposes in accordance with the provisions of this article.

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

Approved by the Governor, May 16, 2013.

Chapter 568

(Senate Bill 854)

AN ACT concerning

Environment – Gas and Oil Drilling – Financial Assurance

FOR the purpose of requiring a certain permit application to include a certain closure cost estimate; repealing certain bonding requirements for certain permits; requiring a holder of a permit to drill for gas or oil to comply with certain requirements under certain circumstances; requiring a certain permit holder to provide certain financial assurance in accordance with certain requirements; clarifying a certain requirement for a certain permit holder to obtain and keep in effect certain comprehensive general liability insurance coverage in accordance with certain requirements; requiring a holder of a certain permit to obtain and keep certain environmental pollution liability insurance in accordance with certain requirements; requiring certain environmental pollution liability insurance to be maintained for a certain number of years under certain circumstances; requiring a certain permit holder's financial assurance to extend to certain owners and to cover certain acts and omissions; requiring a certain permit holder that has a well in existence on or before a

certain date to provide certain financial assurance by maintaining certain performance bond and liability insurance requirements; requiring a certain permit holder that has a well in existence on or before a certain date that is modified after a certain date to provide certain financial assurance in accordance with certain requirements; enabling certain permit applicants to offer, and the Department to authorize, certain alternative means for demonstrating financial assurance; authorizing the Department to adopt regulations establishing alternative financial assurance requirements for certain wells; providing that a certain permit or the transfer of a certain permit may not become effective until the financial assurance requirements of this Act have been satisfied; providing that the proceeds from certain financial assurance shall be deposited in the Oil and Gas Fund; and generally relating to financial assurance for gas and oil drilling.

BY repealing and reenacting, with amendments,
Article – Environment
Section 14–105(a), 14–108, 14–111, and 14–122
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

14–105.

(a) **(1)** An applicant for a permit to drill a well under § 14–104 of this subtitle shall submit an application in a manner satisfactory to the Department.

(2) THE APPLICATION FOR A PERMIT TO DRILL A WELL UNDER § 14–104 OF THIS SUBTITLE AND EACH APPLICATION FOR A PERMIT RENEWAL SHALL INCLUDE A CLOSURE COST ESTIMATE FOR THE PROPER SEALING AND PLUGGING OF THE GAS OR OIL WELL AND RECLAMATION OF THE SITE.

14–108.

[(a)] The Department shall deny the permit if the Department determines that:

(1) The proposed operation shall violate a requirement of this subtitle or a regulation adopted under this subtitle;

(2) The proposed drilling or well operation poses a substantial threat to public safety or a risk of significant adverse environmental impact to, but not limited to, the following:

- (i) The Chesapeake Bay;
 - (ii) The Chesapeake Bay Critical Area;
 - (iii) Tidal or nontidal wetlands;
 - (iv) Endangered or threatened species, species in need of conservation, or the habitat of any of them;
 - (v) Historic properties under § 5A-326 of the State Finance and Procurement Article;
 - (vi) Populated areas;
 - (vii) Freshwater, estuarine, or marine fisheries; or
 - (viii) Other significant natural resources;
- (3) The applicant has failed to receive applicable permits or approvals for the operation from all State and local regulatory units responsible for air and water pollution, sediment control, and zoning;
- (4) The operation will constitute a significant physical hazard to a neighboring dwelling unit, school, church, hospital, commercial or industrial building, public road, or other public or private property in existence at the time of the application for the permit;
- (5) The operation will have a significant adverse effect on the uses of a publicly owned park, forest, or recreation area in existence at the time of the application for the permit; or
- (6) The applicant has not corrected any violations committed by the applicant under any prior permit.

[(b) A permit may not become effective until a bond has been deposited with the Department under § 14-111 of this subtitle.]

14-111.

(a) ~~Every~~ **EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, EVERY** holder of a permit to drill for gas or oil shall:

- (1) Submit a completion report on forms to be supplied by the Department within 30 days after the drilling of a well has been completed;
- (2) Submit cutting samples at the request of the Department;

(3) Notify the Department when a well is about to be abandoned;

(4) [Seal and plug the well in a manner approved by the Department] **COMPLY WITH ALL THE REQUIREMENTS OF THIS SUBTITLE, INCLUDING THE PROPER SEALING AND PLUGGING OF A GAS OR OIL WELL AND RECLAMATION OF THE SITE;**

(5) [Post a performance bond to the State in the amount not to exceed \$100,000 for each oil or gas well, and not to exceed \$500,000 as a blanket bond for all of the permit holder's oil or gas wells, with good and sufficient surety, as provided in subsection (d)(1) of this section, conditioned upon compliance with the provisions of this subtitle] **PROVIDE FINANCIAL ASSURANCE OF AT LEAST \$50,000 FOR EACH GAS OR OIL WELL, INCLUDING EACH WELL ON A MULTIWELL PAD, BUT NOT LESS THAN THE MOST RECENT CLOSURE COST ESTIMATE PROVIDED BY THE PERMIT HOLDER UNDER § 14-105(A) OF THIS SUBTITLE;**

(6) Obtain and keep in effect **COMPREHENSIVE GENERAL** liability insurance coverage in an amount not less than \$300,000 for each person and \$500,000 for each occurrence or accident to pay damages for injury to ~~[persons]~~ ~~THIRD PARTIES~~ or damage to property caused by [the drilling, production operations, or plugging of all of the permit holder's gas or oil wells in the State] **SUDDEN ACCIDENTAL OCCURRENCES ARISING FROM, OR IN SUPPORT OF, THE ACTIVITIES AUTHORIZED BY A PERMIT ISSUED UNDER § 14-104 OF THIS SUBTITLE, INCLUDING THE COSTS AND EXPENSES INCURRED IN THE INVESTIGATION, DEFENSE, OR SETTLEMENT OF CLAIMS; [and]**

(7) **OBTAIN AND KEEP IN EFFECT ENVIRONMENTAL POLLUTION LIABILITY INSURANCE IN AN AMOUNT NOT LESS THAN \$1,000,000 PER LOSS FOR BODILY INJURY AND PROPERTY DAMAGE TO ~~THIRD PARTIES~~ PERSONS AND NATURAL RESOURCE DAMAGE, INCLUDING THE COSTS OF CLEANUP AND REMEDIATION, CAUSED BY THE SUDDEN OR NONSUDDEN RELEASE OF POLLUTANTS ARISING FROM, OR IN SUPPORT OF, THE ACTIVITIES AUTHORIZED BY A PERMIT ISSUED UNDER § 14-104 OF THIS SUBTITLE, INCLUDING THE COSTS AND EXPENSES INCURRED IN THE INVESTIGATION, DEFENSE, OR SETTLEMENT OF CLAIMS;**

(8) **IN THE EVENT OF AN ASSIGNMENT OR TRANSFER OF A PERMIT, MAINTAIN THE EXISTING FINANCIAL ASSURANCE REQUIRED UNDER THIS SECTION UNTIL REPLACEMENT FINANCIAL ASSURANCE IS APPROVED BY THE DEPARTMENT; AND**

[(7)] (9) Notify the Department of the location of the equipment required by regulation for the prevention and containment of gas leaks and oil spills.

(B) THE ENVIRONMENTAL POLLUTION LIABILITY INSURANCE REQUIRED UNDER SUBSECTION (A)(7) OF THIS SECTION SHALL BE MAINTAINED FOR 5 YEARS AFTER THE DEPARTMENT DETERMINES THAT:

(1) THE GAS OR OIL WELL HAS BEEN PROPERLY SEALED AND PLUGGED; AND

(2) THE SITE HAS BEEN RECLAIMED.

(C) THE PERMIT HOLDER'S FINANCIAL ASSURANCE REQUIRED UNDER ~~SUBSECTION~~ SUBSECTIONS (A) AND (B) OF THIS SECTION SHALL:

(1) EXTEND TO THE OWNER OR OWNERS OF THE SURFACE AND SUBSURFACE PROPERTY; AND

(2) COVER THE ACTS AND OMISSIONS OF THE PERMIT HOLDER'S CONTRACTORS AND SUBCONTRACTORS DURING THEIR ACTIVITIES IN CONNECTION WITH THE DRILLING, OPERATION, AND CLOSURE OF THE WELL.

[(b)] (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A HOLDER OF A PERMIT TO DRILL FOR GAS OR OIL THAT HAS A WELL IN EXISTENCE ON OR BEFORE OCTOBER 1, 2013, SHALL PROVIDE FINANCIAL ASSURANCE BY MAINTAINING THE SAME PERFORMANCE BOND AND LIABILITY INSURANCE THAT IS REQUIRED FOR THE HOLDER'S MOST RECENT PERMIT OR PERMIT RENEWAL ISSUED ON OR BEFORE OCTOBER 1, 2013.

(2) IF A GAS OR OIL WELL IS IN EXISTENCE ON OR BEFORE OCTOBER 1, 2013, AND IS MODIFIED AFTER OCTOBER 1, 2013, BY RECOMPLETION, STIMULATION, DEEPENING, OR ADDING LATERAL EXTENSIONS, THE HOLDER OF THE PERMIT FOR THE GAS OR OIL WELL SHALL COMPLY WITH THE REQUIREMENTS FOR FINANCIAL ASSURANCE CONTAINED IN SUBSECTIONS (A), (B), (C), AND (E) OF THIS SECTION.

(E) The Department may adopt regulations to:

(1) [increase] INCREASE the minimum amounts of [liability insurance coverage] FINANCIAL ASSURANCE REQUIRED under subsection (a)[(6)] of this section; ~~AND~~

(2) ENABLE PERMIT APPLICANTS TO OFFER, AND THE DEPARTMENT TO AUTHORIZE, ALTERNATIVE MEANS FOR DEMONSTRATING FINANCIAL ASSURANCE, INCLUDING:

- (I) A PERFORMANCE BOND;
- (II) A BLANKET BOND;
- (III) CASH;
- (IV) A CERTIFICATE OF DEPOSIT;
- (V) A LETTER OF CREDIT;
- (VI) SELF-INSURANCE;
- (VII) A CORPORATE GUARANTEE; OR

(VIII) ANY OTHER SURETY THE DEPARTMENT DETERMINES TO BE GOOD AND SUFFICIENT; AND

(3) ESTABLISH ALTERNATIVE FINANCIAL ASSURANCE REQUIREMENTS AS APPROPRIATE FOR A NEW GAS STORAGE WELL AND A GAS STORAGE WELL THAT IS MODIFIED BY RECOMPLETION, STIMULATION, DEEPENING, OR ADDING LATERAL EXTENSIONS.

[(c)] ~~(E)~~ (F) The Department shall adopt regulations requiring each holder of a permit to drill for gas or oil to have equipment available for the prevention and containment of gas leaks and oil spills.

[(d)] A holder of a permit to drill for gas or oil may:

(1) Post the performance bond under subsection (a)(5) of this section in:

- (i) Cash;
- (ii) Certificates of deposit;
- (iii) Letters of credit from any bank or other savings institution;

or

- (iv) Any other good and sufficient security; and

(2) Provide for the holder's own liability insurance under subsection (a)(6) of this section.]

~~(F)~~ (G) A PERMIT OR THE TRANSFER OF A PERMIT MAY NOT BECOME EFFECTIVE UNTIL THE FINANCIAL ASSURANCE REQUIREMENTS OF THIS SECTION HAVE BEEN SATISFIED.

14-122.

- (a) There is an Oil and Gas Fund.
- (b) The Fund consists of:
 - (1) Fees collected by the Department under § 14-105 of this subtitle;
 - (2) Funds appropriated by the General Assembly for deposit to the Fund;
 - (3) Fines and [bond forfeitures] **PROCEEDS FROM FINANCIAL ASSURANCE INSTRUMENTS** collected by the Department in accordance with this subtitle that exceed the amount necessary to ~~restore~~ **RECLAIM** a site; and
 - (4) Any additional money made available from any sources, public or private, for the purposes for which the Fund has been established.
- (c)
 - (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.
 - (2) Notwithstanding any law to the contrary, unused money in the Fund may not revert to the General Fund.
- (d) The Fund shall be maintained and administered by the Department in accordance with the provisions of this subtitle and any regulations the Department adopts.

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

Approved by the Governor, May 16, 2013.

Chapter 569

(Senate Bill 857)

AN ACT concerning

**Commission on the Establishment of a Maryland Educators Service
Memorial**

FOR the purpose of establishing the Commission on the Establishment of a Maryland Educators Service Memorial; providing for the composition, chair, and staffing of the Commission; requiring that the members of the Commission be appointed on or before a certain date; prohibiting a member of the Commission from receiving certain compensation, but authorizing the reimbursement of certain expenses; specifying the duties of the Commission; requiring the Commission to report its initial 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 Commission on the Establishment of a Maryland Educators Service Memorial.

Preamble

WHEREAS, Maryland educators dedicate their lives on a daily basis in service to the learning, care, safety, and future of the children in the State; and

WHEREAS, Educators are committed to nurturing the intellectual growth and character development of Maryland's children and, because of their work, instill in the children a spirit of lifelong learning and good citizenship that enriches the State; and

WHEREAS, Educators provide a safe and welcoming learning environment that honors every child, their heritage, and their contributions; and

WHEREAS, The State recognizes the heroic service of educators in response to the tragedies of school violence and, in doing so, also seeks to recognize the everyday heroic acts shown through the dedication, compassion, and commitment of educators across the State; and

WHEREAS, The creation of the Maryland Educators Service Memorial would recognize the sacrifices, commitment, dedication, and contribution of all Maryland educators past, present, and future, and ensure that their service to the State and its children will be remembered and honored; now, therefore,

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

(a) There is a Commission on the Establishment of a Maryland Educators Service Memorial.

(b) The Commission 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 Secretary of General Services, or the Secretary's designee;
- (4) the State Superintendent of Education, or the Superintendent's designee;
- (5) a member of the State Board of Education, appointed by the President of the Board; and
- (6) the following members, appointed by the Governor:
 - (i) two retired educators who are residents of the State and who taught in the State; and
 - (ii) two educators who are residents of the State and who are actively employed in the State.
- (c) The members of the Commission shall be appointed on or before July 15, 2013.
- (d) The President and the Speaker shall appoint a Senator and a Delegate, respectively, to serve as cochairs.
- (e) The State Department of Education shall provide staff for the Commission.
- (f) 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.
- (g) The Commission shall:
 - (1) identify an appropriate site on property located within the State Capitol Complex or another appropriate site in Annapolis in close proximity to the State Capitol Complex for the location of a Maryland Educators Service Memorial;
 - (2) estimate the total funding required for the design, construction, and appropriate placement of the memorial;
 - (3) consider preliminary design ideas for the construction of the memorial;

(4) make recommendations regarding an appropriate site for the location of the memorial and the design of the memorial; and

(5) provide ongoing review and recommendations regarding the funding and construction of the memorial.

(h) On or before December 1, 2013, the Commission shall report its initial findings and recommendations to the Governor for possible inclusion in the Fiscal Year 2015 Operating and Capital Budgets and, in accordance with § 2-1246 of the State Government Article, to 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 3 years and, at the end of May 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 16, 2013.

Chapter 570

(House Bill 1131)

AN ACT concerning

Commission on the Establishment of a Maryland Educators Service Memorial

FOR the purpose of establishing the Commission on the Establishment of a Maryland Educators Service Memorial; providing for the composition, chair, and staffing of the Commission; requiring that the members of the Commission be appointed on or before a certain date; prohibiting a member of the Commission from receiving certain compensation, but authorizing the reimbursement of certain expenses; specifying the duties of the Commission; requiring the Commission to report its initial 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 Commission on the Establishment of a Maryland Educators Service Memorial.

Preamble

WHEREAS, Maryland educators dedicate their lives on a daily basis in service to the learning, care, safety, and future of the children in the State; and

WHEREAS, Educators are committed to nurturing the intellectual growth and character development of Maryland's children and, because of their work, instill in the children a spirit of lifelong learning and good citizenship that enriches the State; and

WHEREAS, Educators provide a safe and welcoming learning environment that honors every child, their heritage, and their contributions; and

WHEREAS, The State recognizes the heroic service of educators in response to the tragedies of school violence and, in doing so, also seeks to recognize the everyday heroic acts shown through the dedication, compassion, and commitment of educators across the State; and

WHEREAS, The creation of the Maryland Educators Service Memorial would recognize the sacrifices, commitment, dedication, and contribution of all Maryland educators past, present, and future, and ensure that their service to the State and its children will be remembered and honored; now, therefore,

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

(a) There is a Commission on the Establishment of a Maryland Educators Service Memorial.

(b) The Commission 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 Secretary of General Services, or the Secretary's designee;

(4) the State Superintendent of Education, or the Superintendent's designee;

(5) a member of the State Board of Education, appointed by the President of the Board; and

(6) the following members, appointed by the Governor:

(i) two retired educators who are residents of the State and who taught in the State; and

(ii) two educators who are residents of the State and who are actively employed in the State.

(c) The members of the Commission shall be appointed on or before July 15, 2013.

(d) The President and the Speaker shall appoint a Senator and a Delegate, respectively, to serve as cochairs.

(e) The State Department of Education shall provide staff for the Commission.

(f) 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.

(g) The Commission shall:

(1) identify an appropriate site on property located within the State Capitol Complex or another appropriate site in Annapolis in close proximity to the State Capitol Complex for the location of a Maryland Educators Service Memorial;

(2) estimate the total funding required for the design, construction, and appropriate placement of the memorial;

(3) consider preliminary design ideas for the construction of the memorial;

(4) make recommendations regarding an appropriate site for the location of the memorial and the design of the memorial; and

(5) provide ongoing review and recommendations regarding the funding and construction of the memorial.

(h) On or before December 1, 2013, the Commission shall report its initial findings and recommendations to the Governor for possible inclusion in the Fiscal Year 2015 Operating and Capital Budgets and, in accordance with § 2-1246 of the State Government Article, to 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 3 years and, at the end of May 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 16, 2013.

Chapter 571

(Senate Bill 863)

AN ACT concerning

Public Safety – Gas Pipelines – Implementation of Federal Pipeline Safety Laws

FOR the purpose of requiring the Public Service Commission to evaluate a certain process and criteria that the U.S. Secretary of Transportation would use to review an application for the Commission to act under a certain certification or agreement with the U.S. Secretary of Transportation as an interstate authority agent for the purpose of implementing certain federal pipeline safety laws; requiring the Commission to make a certain determination; requiring the Commission to take certain actions necessary to carry out its responsibilities under a certain certification or agreement with the U.S. Secretary of Transportation under certain circumstances and in accordance with certain regulations; authorizing the Commission to accept grants-in-aid, cash, and reimbursements to implement certain federal pipeline safety laws; authorizing the Commission to charge a certain owner a certain fee for certain inspections of gas pipelines; requiring the Commission to regulate certain gas pipelines; requiring the Commission to adopt certain federal regulations as minimum standards for gas pipelines in the State; requiring a gas transmission company to comply with certain planning, notification, and reporting provisions; requiring a gas transmission company and the Commission to notify the National Response Center of certain errors or new information relating to a gas pipeline; authorizing the Commission to enter, inspect, and examine certain records and property of a gas transmission company for a certain purpose and under certain circumstances; requiring the Commission to inspect a gas pipeline with a certain frequency; authorizing the Commission to assess and collect a certain inspection fee from a gas transmission company; authorizing the Commission to seek a certain relief for a violation of this Act; authorizing the Commission to impose a certain civil penalty for a violation of this Act; defining certain terms; providing for the jurisdiction and enforcement authority of the Commission; and generally relating to gas pipeline safety.

BY adding to

Article – Public Safety

Section 15-101 ~~through 15-108~~ and 15-102 to be under the new title “Title 15.

Gas Pipeline Safety”

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

TITLE 15. GAS PIPELINE SAFETY.

15-101.

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

(B) “COMMISSION” MEANS THE PUBLIC SERVICE COMMISSION.

(C) “GAS” MEANS NATURAL GAS, FLAMMABLE GAS, OR TOXIC OR CORROSIVE GAS.

(D) (1) “GAS PIPELINE” MEANS AN INTRASTATE TRANSMISSION LINE OR ANY PORTION OF AN INTERSTATE TRANSMISSION LINE LOCATED WITHIN THE STATE THAT:

~~(1)~~ (I) TRANSPORTS GAS FROM A GATHERING LINE OR STORAGE FACILITY TO A DISTRIBUTION CENTER, STORAGE FACILITY, OR LARGE VOLUME CUSTOMER THAT IS NOT DOWNSTREAM FROM A DISTRIBUTION CENTER;

~~(2)~~ (II) OPERATES AT A HOOP STRESS OF 20% OR MORE OF THE SPECIFIED MINIMUM YIELD STRENGTH OF THE PIPELINE; OR

~~(3)~~ (III) TRANSPORTS GAS WITHIN A STORAGE FIELD.

(2) “GAS PIPELINE” DOES NOT MEAN ANY TRANSMISSION LINE OR DISTRIBUTION LINE CONSTRUCTED, OWNED, OR OPERATED BY A PUBLIC SERVICE COMPANY AS DEFINED IN § 1-101 OF THE PUBLIC UTILITIES ARTICLE.

(E) (1) “GAS TRANSMISSION COMPANY” MEANS A PERSON THAT OWNS OR OPERATES A GAS PIPELINE REGULATED UNDER THIS TITLE.

(2) “GAS TRANSMISSION COMPANY” DOES NOT INCLUDE A PERSON THAT IS PRIMARILY IN THE BUSINESS OF LOCAL GAS DISTRIBUTION.

~~(F) “NATIONAL RESPONSE CENTER” MEANS THE NATIONAL RESPONSE CENTER OF THE U.S. COAST GUARD, AUTHORIZED TO RECEIVE REPORTS OF INCIDENTS INVOLVING THE TRANSPORTATION OF OIL, HAZARDOUS LIQUIDS, AND GAS BY PIPELINE.~~

15-102.

(A) (1) ~~THE~~ ON OR BEFORE DECEMBER 1, 2013, THE COMMISSION,
~~THROUGH SHALL:~~

(I) EVALUATE THE PROCESS AND CRITERIA THE U.S. SECRETARY OF TRANSPORTATION WOULD USE TO REVIEW AN APPLICATION FOR CERTIFICATION OR AGREEMENT WITH THE U.S. SECRETARY OF TRANSPORTATION UNDER 49 U.S.C. CHAPTER 601 WITH RESPECT TO INTERSTATE PIPELINES LOCATED WITHIN THE STATE; AND

(II) DETERMINE WHETHER IT IS IN THE PUBLIC INTEREST FOR THE COMMISSION TO APPLY FOR CERTIFICATION OR AGREEMENT WITH THE U.S. SECRETARY OF TRANSPORTATION UNDER 49 U.S.C. CHAPTER 601, SHALL TO ACT FOR THE U.S. SECRETARY OF TRANSPORTATION TO IMPLEMENT 49 U.S.C. CHAPTER 601 WITH RESPECT TO INTERSTATE GAS PIPELINES LOCATED WITHIN THE STATE.

(2) IF THE COMMISSION DETERMINES THAT IT IS IN THE PUBLIC INTEREST FOR THE COMMISSION TO ACT FOR THE U.S. SECRETARY OF TRANSPORTATION TO IMPLEMENT 49 U.S.C. CHAPTER 601 WITH RESPECT TO INTERSTATE PIPELINES LOCATED WITHIN THE STATE, THE COMMISSION SHALL, ON OR BEFORE JANUARY 1, 2014, APPLY FOR CERTIFICATION OR AGREEMENT WITH THE U.S. SECRETARY OF TRANSPORTATION.

(B) ~~THE COMMISSION SHALL~~ IF THE COMMISSION ENTERS INTO A CERTIFICATION OR AGREEMENT WITH THE U.S. SECRETARY OF TRANSPORTATION TO ACT FOR THE U.S. SECRETARY OF TRANSPORTATION TO IMPLEMENT 49 U.S.C. CHAPTER 601 WITH RESPECT TO INTERSTATE PIPELINES LOCATED WITHIN THE STATE, THE COMMISSION SHALL, IN ACCORDANCE WITH FEDERAL REGULATIONS:

(1) ~~FEDERAL~~ U.S. DEPARTMENT OF TRANSPORTATION AS MAY BE REQUIRED UNDER 49 U.S.C. CHAPTER 601; AND

(2) TAKE ANY OTHER ACTIONS NECESSARY TO CARRY OUT RESPONSIBILITIES UNDER A CERTIFICATION OR AN AGREEMENT WITH THE U.S. SECRETARY OF TRANSPORTATION UNDER THIS TITLE.

(C) THE COMMISSION MAY:

(1) ACCEPT GRANTS-IN-AID, CASH, AND REIMBURSEMENTS MADE AVAILABLE TO THE STATE TO IMPLEMENT FEDERAL PIPELINE SAFETY LAWS OR OTHER FEDERAL LAW; AND

(2) CHARGE AN OWNER OF AN INTERSTATE GAS PIPELINE A FEE TO RECOVER THE COSTS OF THE INSPECTIONS OF THE OWNER'S INTERSTATE GAS PIPELINES LOCATED WITHIN THE STATE, LESS ANY GRANTS PROVIDED THROUGH THE U.S. DEPARTMENT OF TRANSPORTATION FOR INSPECTING INTERSTATE PIPELINES.

~~15-103.~~

~~(A) (1) THE COMMISSION SHALL ADOPT REGULATIONS THAT ESTABLISH SAFETY STANDARDS AND PRACTICES APPLICABLE TO THE DESIGN, CONSTRUCTION, OPERATION, AND MAINTENANCE OF GAS PIPELINES.~~

~~(2) FOR ANY PIPELINE REGULATORY PROGRAM THAT THE COMMISSION ESTABLISHES UNDER THIS TITLE, THE COMMISSION SHALL ADOPT AS MINIMUM STANDARDS THE FEDERAL SAFETY STANDARDS IN TITLE 49, C.F.R. PART 192.~~

~~(B) THE COMMISSION SHALL REQUIRE A GAS TRANSMISSION COMPANY TO PREPARE, MAINTAIN, AND CARRY OUT A WRITTEN PLAN FOR THE OPERATION AND MAINTENANCE OF EACH GAS PIPELINE OWNED OR OPERATED BY THE GAS TRANSMISSION COMPANY.~~

~~15-104.~~

~~(A) A GAS TRANSMISSION COMPANY SHALL IMMEDIATELY NOTIFY THE COMMISSION AND THE NATIONAL RESPONSE CENTER OF ANY:~~

~~(1) SIGNIFICANT ERROR IN INFORMATION THAT THE GAS TRANSMISSION COMPANY HAS PREVIOUSLY SUBMITTED TO EITHER UNIT; OR~~

~~(2) SIGNIFICANT NEW INFORMATION THAT RELATES TO REPORTING CRITERIA OR OTHER INFORMATION THAT THE GAS TRANSMISSION COMPANY IS REQUIRED TO SUBMIT UNDER THIS TITLE.~~

~~(B) THE COMMISSION SHALL NOTIFY THE NATIONAL RESPONSE CENTER OF ANY ERROR OR NEW INFORMATION THAT THE COMMISSION OR AN AGENT OF THE COMMISSION DISCOVERS WHILE:~~

~~(1) PROVIDING TRAINING FOR GAS PIPELINES;~~

- ~~(2) DEVELOPING REGULATIONS UNDER THIS TITLE; OR~~
- ~~(3) INSPECTING A GAS PIPELINE.~~

~~15-105.~~

~~(A) THE COMMISSION MAY ENTER, INSPECT, AND EXAMINE, AT REASONABLE TIMES AND IN A REASONABLE MANNER, THE RECORDS AND PROPERTY OF A GAS TRANSMISSION COMPANY TO DETERMINE WHETHER THE GAS TRANSMISSION COMPANY IS ACTING IN COMPLIANCE WITH THIS TITLE, FEDERAL PIPELINE SAFETY REGULATIONS, AND REGULATIONS ADOPTED BY THE COMMISSION UNDER THIS TITLE.~~

~~(B) THE COMMISSION SHALL INSPECT EACH GAS PIPELINE AT LEAST ONCE EACH YEAR.~~

~~(C) THE COMMISSION MAY ASSESS AND COLLECT FROM A GAS TRANSMISSION COMPANY AN INSPECTION FEE THAT MAY BE USED BY THE COMMISSION FOR ADMINISTERING THE REGULATORY PROGRAM ESTABLISHED UNDER THIS TITLE.~~

~~15-106.~~

~~THE COMMISSION MAY BRING AN ACTION FOR INJUNCTIVE RELIEF IN A CIRCUIT COURT TO:~~

- ~~(1) ENJOIN A VIOLATION OF THIS TITLE;~~
- ~~(2) ENJOIN THE OPERATION OF A GAS PIPELINE; OR~~
- ~~(3) ENFORCE A STANDARD ESTABLISHED BY THE COMMISSION UNDER THIS TITLE.~~

~~15-107.~~

~~(A) THE COMMISSION MAY IMPOSE ON A PERSON THAT VIOLATES THIS TITLE OR A REGULATION ADOPTED IN ACCORDANCE WITH THIS TITLE A CIVIL PENALTY THAT DOES NOT EXCEED THE MAXIMUM PENALTIES PROVIDED IN 49 U.S.C. CHAPTER 601.~~

~~(B) EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION UNDER THIS SECTION.~~

~~(C) TO DETERMINE THE AMOUNT OF A PENALTY IMPOSED UNDER THIS SECTION, THE COMMISSION SHALL CONSIDER:~~

~~(1) THE NATURE, CIRCUMSTANCES, AND GRAVITY OF THE VIOLATION;~~

~~(2) WITH RESPECT TO THE VIOLATOR:~~

~~(I) THE DEGREE OF CULPABILITY;~~

~~(II) ANY HISTORY OF PRIOR VIOLATIONS;~~

~~(III) THE ABILITY TO PAY;~~

~~(IV) ANY EFFECT ON THE ABILITY TO CONTINUE DOING BUSINESS; AND~~

~~(V) GOOD FAITH IN ATTEMPTING TO COMPLY; AND~~

~~(3) OTHER MATTERS THAT JUSTICE REQUIRES.~~

~~15-108.~~

~~THE COMMISSION HAS JURISDICTION OVER AND MAY ENFORCE THIS TITLE AND ANY REGULATION ADOPTED UNDER THIS TITLE TO THE SAME EXTENT AND IN THE SAME MANNER AS ANY PROVISION OF DIVISION I OF THE PUBLIC UTILITIES ARTICLE, AS PROVIDED IN TITLE 13 OF THE PUBLIC UTILITIES ARTICLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, on completion of its evaluation and determination under § 15-102(a) of the Public Safety Article, as enacted by Section 1 of this Act, the Public Service Commission shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on its findings and conclusions.

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

Approved by the Governor, May 16, 2013.

Chapter 572

(Senate Bill 887)

AN ACT concerning

Public Utilities – Solar Photovoltaic Systems

FOR the purpose of ~~specifying the contents of an application for a certificate of public convenience and necessity for a generating station that produces electricity from a certain solar photovoltaic system; altering the process by which the Department of Planning shall forward a certain application for a certificate of public convenience and necessity; exempting a generating station that produces electricity from a certain solar photovoltaic system from a certain requirement to obtain a certificate for public convenience and necessity; requiring a person to file a certain application for approval to construct a certain generating station at least a certain time before construction commences; requiring a person who constructs a certain generating station to pay a certain deposit to the Public Service Commission based on certain criteria; specifying the basis for calculating a certain deposit; requiring the Maryland Energy Administration, in consultation with certain persons, to update and post on its Web site the basis for calculating a certain deposit; requiring the Commission to place certain deposits into a certain escrow account for a certain period of time; requiring the Commission to refund certain deposits under certain circumstances; requiring the Commission to transfer certain money to the Maryland Strategic Energy Investment Fund under certain circumstances; establishing a process for a person to receive an extension for a certain project before the Commission transfers certain money; specifying that the Strategic Energy Investment Fund may contain certain money transferred from the Commission; and generally relating to solar photovoltaic systems and certificates of public convenience and necessity.~~

~~BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7-207(b) and (c) and 7-207.1
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)~~

BY adding to
Article – Public Utilities
Section 7-207.2
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 9-20B-05(a), (b), (c), and (d)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–20B–05(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 – Public Utilities

~~7–207.~~

~~(b) (1) (i) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of:~~

~~1. a generating station; or~~

~~2. a qualified generator lead line.~~

~~(ii) If a person obtains Commission approval for construction under § 7–207.1 of this subtitle, the Commission shall exempt a person from the requirement to obtain a certificate of public convenience and necessity under this section.~~

~~(iii) Notwithstanding subparagraph (i) of this paragraph, a person may not apply to obtain a certificate of public convenience and necessity for construction of a qualified generator lead line unless:~~

~~1. at least 90 days before the filing of an application for a certificate of public convenience and necessity, the person had in good faith offered the electric company that owns that portion of the electric grid in Maryland to which the qualified generator lead line would interconnect a full and fair opportunity for the electric company to construct the qualified generator lead line; and~~

~~2. at any time at least 10 days before the filing of an application for a certificate of public convenience and necessity, the electric company:~~

~~A. did not accept from the person a proposal or a negotiated version of the proposal under which the electric company would construct the qualified generator lead line; or~~

~~B. stated in writing that the electric company did not intend to construct the qualified generator lead line.~~

~~(2) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, and the Commission has found that the capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a person may not exercise a right of condemnation in connection with the construction of a generating station.~~

~~(3) (i) Except as provided in paragraph (4) of this subsection, unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, an electric company may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction.~~

~~(ii) For construction related to an existing overhead transmission line, the Commission may waive the requirement in subparagraph (i) of this paragraph for good cause.~~

~~(4) (i) Except as provided in subparagraph (ii) of this paragraph, for construction related to an existing overhead transmission line designed to carry a voltage in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate of public convenience and necessity if the Commission finds that the construction does not:~~

~~1. require the electric company to obtain new real property or additional rights of way through eminent domain; or~~

~~2. require larger or higher structures to accommodate:~~

~~A. increased voltage; or~~

~~B. larger conductors.~~

~~(ii) 1. For construction related to an existing overhead transmission line, including repairs, that is necessary to avoid an imminent safety hazard or reliability risk, an electric company may undertake the necessary construction.~~

~~2. Within 30 days after construction is completed under subsubparagraph 1 of this subparagraph, an electric company shall file a report with the Commission describing the work that was completed.~~

~~(5) AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A GENERATING STATION THAT PRODUCES ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM THAT IS NOT EXEMPTED UNDER § 7-207.1 OF THIS SUBTITLE SHALL INCLUDE:~~

~~(i) THE CAPACITY OF THE PROJECT;~~

- ~~(H) THE LOCATION OF THE PROJECT BY ZIP CODE;~~
- ~~(HH) THE INTERCONNECTION, OPERATION, AND MAINTENANCE AGREEMENT;~~
- ~~(IV) THE ANTICIPATED DATE THAT THE PROJECT WILL BE ONLINE;~~
- ~~(V) THE SOLAR RENEWABLE ENERGY CREDIT MANAGEMENT PLAN; AND~~
- ~~(VI) ANY OTHER INFORMATION THE COMMISSION REQUIRES.~~

~~(e) (1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice to the Department of Planning and to all other interested persons.~~

~~(2) The Department of Planning shall forward the application:~~

~~(i) IF THE APPLICATION PROPOSES A GENERATING STATION THAT PRODUCES ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM THAT IS NOT EXEMPTED UNDER § 7-207.1 OF THIS SUBTITLE, TO THE MARYLAND ENERGY ADMINISTRATION, WHICH MAY CHOOSE TO MAKE THE APPLICATION AVAILABLE TO THE PUBLIC; OR~~

~~(ii) IF THE APPLICATION PROPOSES A QUALIFYING GENERATOR LEAD LINE OR A GENERATING STATION THAT PRODUCES ELECTRICITY FROM A SOURCE OTHER THAN A SOURCE UNDER ITEM (I) OF THIS PARAGRAPH, to each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area-wide, and local plans or programs.~~

~~7-207.1.~~

~~(a) This section applies to a person who:~~

~~(1) constructs a generating station:~~

~~(i) designed to provide on-site generated electricity if:~~

~~1. the capacity of the generating station does not exceed 70 megawatts; and~~

~~2. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; ~~or~~~~

~~(ii) that produces electricity from wind if:~~

~~1. the generating station is land-based;~~

~~2. the capacity of the generating station does not exceed 70 megawatts;~~

~~3. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company;~~

~~4. the Commission provides an opportunity for public comment at a public hearing as provided in subsection (e) of this section; and~~

~~5. the generating station's wind turbines are not located within a distance from the Patuxent River Naval Air Station that is determined by regulations adopted by the Commission in coordination with the Commander, Naval Air Warfare Center Aircraft Division, provided that the distance requirement under the regulation is:~~

~~A. not greater than is necessary to encompass an area in which utility scale wind turbines could create Doppler radar interference for missions at the Patuxent River Naval Air Station;~~

~~B. not greater than 46 miles, measured from location ~~38.20667N, 76.37668W~~; and~~

~~C. subject to modification if necessary to reflect changes in missions or technology at the Patuxent River Naval Air Station or changes in wind energy technology; or~~

~~(iii) THAT PRODUCES ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM IF:~~

~~1. THE CAPACITY OF THE GENERATING STATION DOES NOT EXCEED 10 MEGAWATTS; AND~~

~~2. THE ELECTRICITY THAT MAY BE EXPORTED FOR SALE FROM THE GENERATING STATION TO THE ELECTRIC SYSTEM IS SOLD ONLY~~

~~ON THE WHOLESALE MARKET UNDER AN INTERCONNECTION, OPERATION, AND MAINTENANCE AGREEMENT WITH THE LOCAL ELECTRIC COMPANY; OR~~

~~(2) constructs a generating station if:~~

~~(i) the capacity of the generating station does not exceed 25 megawatts;~~

~~(ii) the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; and~~

~~(iii) at least 10% of the electricity generated at the generating station each year is consumed on-site.~~

~~(b) (1) The Commission shall require a person that is exempted from the requirement to obtain a certificate of public convenience and necessity to obtain approval from the Commission under this section before the person may construct a generating station described in subsection (a) of this section.~~

~~(2) An application for approval under this section shall:~~

~~(i) be made to the Commission in writing on a form adopted by the Commission;~~

~~(ii) be verified by oath or affirmation; and~~

~~(iii) contain information that the Commission requires, including:~~

~~1. proof of compliance with all applicable requirements of the independent system operator; and~~

~~2. a copy of an interconnection, operation, and maintenance agreement between the generating station and the local electric company.~~

~~(c) When reviewing an application for approval under this section, the Commission shall:~~

~~(1) ensure the safety and reliability of the electric system;~~

~~(2) require the person constructing the generating station to notify the Commission 2 weeks before the first export of electricity from a generating station approved under this section; and~~

~~(3) conduct its review and approval in an expeditious manner.~~

~~(d) The Commission may waive an element of the approval process under this section if the Commission determines that the waiver is in the public interest.~~

~~(e) (1) The Commission shall provide an opportunity for public comment and hold a public hearing as provided under this subsection on an application for approval made under subsection (a)(1)(ii) of this section in each county and municipal corporation in which any portion of the construction of a generating station is proposed to be located.~~

~~(2) Upon the request of the governing body of a county or municipal corporation in which any portion of the construction of a generating station is proposed to be located, the Commission shall hold the public hearing jointly with the governing body.~~

~~(3) Once in each of 2 successive weeks immediately before the hearing date, the Commission, at the expense of the applicant, shall provide weekly notice of the public hearing and opportunity for public comment by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application.~~

7-207.2.

(A) ~~(1)~~ THIS ~~SUBSECTION~~ SECTION APPLIES TO A PERSON WHO CONSTRUCTS A GENERATING STATION THAT:

~~(1)~~ (1) HAS THE CAPACITY TO PRODUCE AT LEAST 2 MEGAWATTS ~~AND NOT MORE THAN 10 MEGAWATTS~~ OF ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM; AND

~~(2)~~ (2) IS EXEMPTED UNDER § 7-207.1 OF THIS SUBTITLE FROM THE REQUIREMENT TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

(B) (1) A PERSON SHALL FILE AN APPLICATION FOR APPROVAL TO CONSTRUCT A GENERATING STATION UNDER § 7-207.1 OF THIS SUBTITLE AT LEAST 6 MONTHS BEFORE CONSTRUCTION COMMENCES.

(2) ~~IF A PERSON HAS FILED AN APPLICATION FOR APPROVAL TO CONSTRUCT A GENERATING STATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE~~ THE COMMISSION SHALL REQUIRE ~~THE PERSON~~ A PERSON WHO FILES AN APPLICATION FOR APPROVAL TO CONSTRUCT A GENERATING STATION TO PAY A DEPOSIT OF 1% OF TOTAL INSTALLED COSTS.

~~(B) (1) THIS SUBSECTION APPLIES TO A PERSON WHO CONSTRUCTS A GENERATING STATION THAT:~~

~~(I) HAS THE CAPACITY TO PRODUCE MORE THAN 10 MEGAWATTS OF ELECTRICITY FROM A SOLAR PHOTOVOLTAIC SYSTEM; AND~~

~~(II) IS NOT EXEMPTED FROM THE REQUIREMENT TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.~~

~~(2) IF A PERSON HAS FILED AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A GENERATING STATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL REQUIRE THE PERSON TO PAY A DEPOSIT OF 2% OF TOTAL INSTALLED COSTS.~~

~~(C) (1) THE AMOUNT OF TOTAL INSTALLED COSTS SHALL BE BASED ON AVERAGE INSTALLED COSTS DATA PROVIDED BY THE MARYLAND ENERGY ADMINISTRATION.~~

~~(2) THE MARYLAND ENERGY ADMINISTRATION, IN CONSULTATION WITH MEMBERS OF THE SOLAR INDUSTRY, SHALL DEVELOP AND POST AVERAGE INSTALLED COSTS DATA ON ITS WEB SITE ON A QUARTERLY BASIS.~~

~~(3) THE AVERAGE INSTALLED COSTS DATA SHALL BE CLASSIFIED BASED ON CAPACITY OF A GENERATING STATION TO PRODUCE ELECTRICITY, IN 5 MEGAWATT HOUR INCREMENTS.~~

~~(D) (C) (1) THE COMMISSION SHALL PLACE ANY DEPOSITS COLLECTED UNDER SUBSECTIONS (A) AND SUBSECTION (B) OF THIS SECTION INTO AN ESCROW ACCOUNT.~~

~~(2) IF A PERSON BEGINS A PROJECT WITHIN 3 YEARS DEMONSTRATES TO THE COMMISSION THAT THE PERSON IS FULLY AUTHORIZED TO COMMENCE CONSTRUCTION WITHIN 18 MONTHS AFTER FILING AN APPLICATION FOR APPROVAL OR AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, THE COMMISSION SHALL REFUND THE DEPOSIT, LESS REASONABLE ADMINISTRATIVE COSTS.~~

~~(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF A PERSON DOES NOT BEGIN A PROJECT WITHIN 3 YEARS COMMENCE CONSTRUCTION WITHIN 18 MONTHS AFTER FILING AN APPLICATION FOR APPROVAL OR AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, THE MONEY HELD IN THE ESCROW ACCOUNT SHALL BE:~~

1. DEEMED TO BE ABANDONED; AND

2. TRANSFERRED TO THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND UNDER § 9-20B-05 OF THE STATE GOVERNMENT ARTICLE, LESS REASONABLE ADMINISTRATIVE COSTS.

(II) 1. A PERSON MAY REQUEST AN EXTENSION FOR A PROJECT THAT DOES NOT ~~BEGIN WITHIN 3 YEARS~~ COMMENCE CONSTRUCTION WITHIN 18 MONTHS AFTER THE FILING OF AN APPLICATION FOR APPROVAL OR AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

2. THE COMMISSION MAY GRANT THE REQUEST BASED ON FACTORS THE COMMISSION CONSIDERS COMPELLING, INCLUDING THE OCCURRENCE OF EVENTS OUTSIDE THE PERSON'S CONTROL.

Article – State Government

9-20B-05.

(a) There is a Maryland Strategic Energy Investment Fund.

(b) The purpose of the Fund is to implement the Strategic Energy Investment Program.

(c) The Administration shall administer the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the 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; AND

(7) MONEY TRANSFERRED FROM THE PUBLIC SERVICE COMMISSION UNDER § 7-207.2(D)(3) OF THE PUBLIC UTILITIES ARTICLE.

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

Approved by the Governor, May 16, 2013.

Chapter 573

(Senate Bill 900)

AN ACT concerning

Baltimore City – ~~Community Development Projects~~ – Payment in Lieu of Taxes Agreements – Economic Development Projects

FOR the purpose of ~~authorizing the City of Baltimore to exempt certain real estate development projects that provide job opportunities and involve private investment of less than specified amounts and are located outside of a specified urban renewal area from Baltimore City real property tax if the owner of the project and Baltimore City enter into a certain payment in lieu of taxes agreement; defining a certain term; altering the definition of “economic development project” used for certain provisions of law relating to payment in lieu of taxes agreements in Baltimore City to remove the requirement that the project must be located in a certain urban renewal area; making conforming changes; providing for the application of this Act; and generally relating to payment in lieu of taxes agreements for certain ~~real estate~~ economic development projects in Baltimore City.~~

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 7-504.3

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

7-504.3.

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

(2) “Economic development project” means a real estate development project for which a payment in lieu of taxes agreement was entered into prior to June 30, 1999, in accordance with former § 7-504.1 of this subtitle as enacted by Chapter 403 of the Acts of 1996, or that consists of newly constructed or rehabilitated commercial or multifamily residential property if the real estate development project:

(i) had a certificate of occupancy as of January 1, 1999 or will have a certificate of occupancy issued on or after January 1, 1999; AND

~~(ii) is located on one or more parcels of land, all of which are situated in an urban renewal area; and~~

~~(iii)~~ includes at least one of the following:

1. a hotel that:

A. provides at least 100 full-time equivalent job opportunities; and

B. has a private capital investment of equity and debt combined of at least \$20,000,000;

2. an office building that:

A. provides at least 150 full-time equivalent job opportunities; and

B. has a private capital investment of equity and debt combined of at least \$20,000,000;

3. a retail facility that:

A. provides at least 100 full-time equivalent job opportunities; and

B. has a private capital investment of equity and debt combined of at least \$10,000,000;

4. a multifamily residential facility that has a private capital investment of equity and debt combined of at least \$5,000,000;

5. an off-street parking facility that:
 - A. contains at least 250 parking spaces; and
 - B. has a private capital investment of equity and debt combined of at least \$2,500,000; or
6. a mixed-use facility that contains one or more of the facilities described in items 1 through 5 of this item, at least one of which satisfies the minimum criteria set forth in item 1, 2, 3, 4, or 5 of this item.

~~(3) “Urban renewal area” means the following urban renewal areas so designated by urban renewal ordinances enacted by the Mayor and City Council of Baltimore under the Baltimore City Charter:~~

- ~~(i) Camden Station Area;~~
- ~~(ii) Charles Center;~~
- ~~(iii) Financial District;~~
- ~~(iv) Harbor Campus;~~
- ~~(v) Inner Harbor East;~~
- ~~(vi) Inner Harbor Project 1;~~
- ~~(vii) Inner Harbor West;~~
- ~~(viii) Market Center;~~
- ~~(ix) Market Center West;~~
- ~~(x) Municipal Center; and~~
- ~~(xi) Key Highway.~~

(b) An economic development project is exempt or partially exempt from Baltimore City real property tax if:

(1) the owner or owners of the economic development project demonstrate to the satisfaction of the Board of Estimates of Baltimore City:

(i) that the City of Baltimore or its designated agency has conducted an economic analysis of the project including:

1. a detailed description of the project and the development budget including the identification of all sources of debt and equity financing;

2. a multiyear cash flow proforma of the project detailing all incoming and outgoing cash flow including revenues, operating expenses, debt service, taxes, capital expenditures and any other cash outlays;

3. the projected return on investment for the owner;

4. a determination that the project is an economic development project meeting the requirements of this section; and

5. any other relevant analysis;

(ii) the public benefit that the project will provide, including:

1. the number of jobs expected to be created, directly or indirectly, as a result of the project and the percentage of those jobs expected to be held by residents of Baltimore City;

2. the wage rates and benefit packages for the jobs expected to be created;

3. other tax revenues of Baltimore City, exclusive of real property taxes, that the project is expected to generate during the term of the payment in lieu of taxes agreement, including admissions and amusement, personal property, hotel, parking, utility, and other taxes;

4. the encouragement of economic development;

5. the general promotion and improvement of Baltimore City and its facilities; and

6. any other relevant benefits;

(iii) the financial necessity for an exemption as authorized under this section; and

(iv) that the private capital being invested in the economic development project includes an equity investment that is:

1. commensurate with the overall undertaking; and

2. A. at least 10% of the combined equity and debt investment in the case of a hotel facility or an office building facility; or

B. at least \$250,000 in the case of a multifamily residential facility or an off–street parking facility;

(2) the Mayor and City Council of Baltimore City have authorized the project by a resolution that stipulates that the project will not involve gambling activities:

(i) beyond those gambling activities allowed by law as of January 1, 1999; or

(ii) related to any game not authorized by the Maryland State Lottery;

(3) the owner or owners of the economic development project and the Baltimore City Board of Estimates enter into a payment in lieu of taxes agreement specifying:

(i) an amount that the owner or owners shall pay to Baltimore City each year in lieu of the payment of Baltimore City real property taxes during the term of the agreement that is not less than:

1. except as provided in item 3 of this item, for an economic development project that is newly constructed or rehabilitated commercial or multifamily property, the sum of the taxes on the property before the construction or rehabilitation of the project and 5% of the Baltimore City real property taxes related to the economic development project that would have otherwise been due absent the agreement;

2. except as provided in item 3 of this item, for an economic development project that was the subject of a payment in lieu of taxes agreement prior to June 30, 1999, in accordance with former § 7–504.1 of this subtitle as enacted by Chapter 403 of the Acts of 1996, 5% of the Baltimore City real property taxes related to the economic development project that would have otherwise been due absent the agreement; or

3. for an economic development project for which a building permit is issued prior to September 30, 1999, the taxes on the property before the construction or rehabilitation of the project;

(ii) the term of the agreement, not to exceed 25 years from the date a certificate of occupancy for the project is issued; and

(iii) that each year after the expiration of the agreement, full property taxes shall be payable on the property; and

(4) prior to or no later than 18 months from the date of entering into the payment in lieu of taxes agreement, construction of the project has commenced

and all conditions for the financing required for the construction of the project have been satisfied or waived.

(c) An economic development project is exempt or partially exempt from Baltimore City real property tax as the parties agree under subsection (b) of this section.

~~(D) (1) IN THIS SUBSECTION, "COMMUNITY DEVELOPMENT PROJECT" MEANS A REAL ESTATE DEVELOPMENT PROJECT THAT CONSISTS OF NEWLY CONSTRUCTED OR REHABILITATED COMMERCIAL OR MULTIFAMILY RESIDENTIAL PROPERTY THAT:~~

~~(I) CONTAINS ONE OR MORE OF THE FOLLOWING:~~

- ~~1. A HOTEL;~~
- ~~2. AN OFFICE BUILDING;~~
- ~~3. A RETAIL FACILITY;~~
- ~~4. A MULTIFAMILY RESIDENTIAL FACILITY; OR~~
- ~~5. AN OFF-STREET PARKING FACILITY;~~

~~(II) IS NOT LOCATED IN AN URBAN RENEWAL AREA;~~

~~(III) DOES NOT SATISFY ANY OF THE MINIMUM CRITERIA SET FORTH IN SUBSECTION (A)(2)(III)1, 2, 3, 4, OR 5 OF THIS SECTION; AND~~

~~(IV) HAS A CERTIFICATE OF OCCUPANCY.~~

~~(2) A COMMUNITY DEVELOPMENT PROJECT IS EXEMPT OR PARTIALLY EXEMPT FROM BALTIMORE CITY REAL PROPERTY TAX:~~

~~(I) IF ALL THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION HAVE BEEN SATISFIED, EXCEPT FOR SUBSECTION (B)(1)(IV)2 OF THIS SECTION; AND~~

~~(II) AS THE PARTIES AGREE UNDER SUBSECTION (B) OF THIS SECTION.~~

~~(d)~~ (E) On or before January 1 of each year, the City of Baltimore or its designated agency shall report to the President of the City Council of Baltimore and, subject to § 2-1246 of the State Government Article, to the General Assembly of Maryland:

(1) a description of each project for which the City entered into a payment in lieu of taxes agreement under this section during the prior fiscal year, including a statement of:

~~(i) the basis on which each project met the requirements set forth in subsection (a)(3) of this section, IF APPLICABLE; and~~

~~(ii) the analysis of the project described in subsection (b)(1) of this section; and~~

(2) for those projects that have a payment in lieu of taxes agreement and for which construction or rehabilitation has been completed:

(i) the number and types of jobs created during the preceding fiscal year and estimated to be created during the following fiscal year;

(ii) the total taxes that the project is estimated to have generated, directly and indirectly, for the City of Baltimore during the preceding fiscal year and estimated to be generated during the following fiscal year; and

(iii) any other economic benefits of the project.

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 16, 2013.

Chapter 574

(House Bill 335)

AN ACT concerning

Baltimore City – ~~Community Development Projects~~ – Payment in Lieu of Taxes Agreements – Economic Development Projects

FOR the purpose of ~~authorizing the City of Baltimore to exempt certain real estate development projects that provide job opportunities and involve private investment of less than specified amounts and are located outside of a specified urban renewal area from Baltimore City real property tax if the owner of the project and Baltimore City enter into a certain payment in lieu of taxes agreement; defining a certain term; altering the definition of “economic development project” used for certain provisions of law relating to payment in~~

lieu of taxes agreements in Baltimore City to remove the requirement that the project must be located in a certain urban renewal area; making conforming changes; providing for the application of this Act; and generally relating to payment in lieu of taxes agreements for certain ~~real-estate~~ economic development projects in Baltimore City.

BY repealing and reenacting, with amendments,
 Article – Tax – Property
 Section 7–504.3
 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

7–504.3.

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

(2) “Economic development project” means a real estate development project for which a payment in lieu of taxes agreement was entered into prior to June 30, 1999, in accordance with former § 7–504.1 of this subtitle as enacted by Chapter 403 of the Acts of 1996, or that consists of newly constructed or rehabilitated commercial or multifamily residential property if the real estate development project:

(i) had a certificate of occupancy as of January 1, 1999 or will have a certificate of occupancy issued on or after January 1, 1999; **AND**

(ii) ~~is located on one or more parcels of land, all of which are situated in an urban renewal area; and~~

~~(iii)~~ includes at least one of the following:

1. a hotel that:
 A. provides at least 100 full-time equivalent job opportunities; and

B. has a private capital investment of equity and debt combined of at least \$20,000,000;

2. an office building that:
 A. provides at least 150 full-time equivalent job opportunities; and

B. has a private capital investment of equity and debt combined of at least \$20,000,000;

3. a retail facility that:

A. provides at least 100 full-time equivalent job opportunities; and

B. has a private capital investment of equity and debt combined of at least \$10,000,000;

4. a multifamily residential facility that has a private capital investment of equity and debt combined of at least \$5,000,000;

5. an off-street parking facility that:

A. contains at least 250 parking spaces; and

B. has a private capital investment of equity and debt combined of at least \$2,500,000; or

6. a mixed-use facility that contains one or more of the facilities described in items 1 through 5 of this item, at least one of which satisfies the minimum criteria set forth in item 1, 2, 3, 4, or 5 of this item.

~~(3) “Urban renewal area” means the following urban renewal areas so designated by urban renewal ordinances enacted by the Mayor and City Council of Baltimore under the Baltimore City Charter:~~

~~(i) Camden Station Area;~~

~~(ii) Charles Center;~~

~~(iii) Financial District;~~

~~(iv) Harbor Campus;~~

~~(v) Inner Harbor East;~~

~~(vi) Inner Harbor Project 1;~~

~~(vii) Inner Harbor West;~~

~~(viii) Market Center;~~

~~(ix) Market Center West;~~

~~(x) Municipal Center; and~~

~~(xi) Key Highway.~~

(b) An economic development project is exempt or partially exempt from Baltimore City real property tax if:

(1) the owner or owners of the economic development project demonstrate to the satisfaction of the Board of Estimates of Baltimore City:

(i) that the City of Baltimore or its designated agency has conducted an economic analysis of the project including:

1. a detailed description of the project and the development budget including the identification of all sources of debt and equity financing;

2. a multiyear cash flow proforma of the project detailing all incoming and outgoing cash flow including revenues, operating expenses, debt service, taxes, capital expenditures and any other cash outlays;

3. the projected return on investment for the owner;

4. a determination that the project is an economic development project meeting the requirements of this section; and

5. any other relevant analysis;

(ii) the public benefit that the project will provide, including:

1. the number of jobs expected to be created, directly or indirectly, as a result of the project and the percentage of those jobs expected to be held by residents of Baltimore City;

2. the wage rates and benefit packages for the jobs expected to be created;

3. other tax revenues of Baltimore City, exclusive of real property taxes, that the project is expected to generate during the term of the payment in lieu of taxes agreement, including admissions and amusement, personal property, hotel, parking, utility, and other taxes;

4. the encouragement of economic development;

5. the general promotion and improvement of Baltimore City and its facilities; and

6. any other relevant benefits;
- (iii) the financial necessity for an exemption as authorized under this section; and
 - (iv) that the private capital being invested in the economic development project includes an equity investment that is:
 1. commensurate with the overall undertaking; and
 2.
 - A. at least 10% of the combined equity and debt investment in the case of a hotel facility or an office building facility; or
 - B. at least \$250,000 in the case of a multifamily residential facility or an off-street parking facility;
- (2) the Mayor and City Council of Baltimore City have authorized the project by a resolution that stipulates that the project will not involve gambling activities:
 - (i) beyond those gambling activities allowed by law as of January 1, 1999; or
 - (ii) related to any game not authorized by the Maryland State Lottery;
 - (3) the owner or owners of the economic development project and the Baltimore City Board of Estimates enter into a payment in lieu of taxes agreement specifying:
 - (i) an amount that the owner or owners shall pay to Baltimore City each year in lieu of the payment of Baltimore City real property taxes during the term of the agreement that is not less than:
 1. except as provided in item 3 of this item, for an economic development project that is newly constructed or rehabilitated commercial or multifamily property, the sum of the taxes on the property before the construction or rehabilitation of the project and 5% of the Baltimore City real property taxes related to the economic development project that would have otherwise been due absent the agreement;
 2. except as provided in item 3 of this item, for an economic development project that was the subject of a payment in lieu of taxes agreement prior to June 30, 1999, in accordance with former § 7-504.1 of this subtitle as enacted by Chapter 403 of the Acts of 1996, 5% of the Baltimore City real property

taxes related to the economic development project that would have otherwise been due absent the agreement; or

3. for an economic development project for which a building permit is issued prior to September 30, 1999, the taxes on the property before the construction or rehabilitation of the project;

(ii) the term of the agreement, not to exceed 25 years from the date a certificate of occupancy for the project is issued; and

(iii) that each year after the expiration of the agreement, full property taxes shall be payable on the property; and

(4) prior to or no later than 18 months from the date of entering into the payment in lieu of taxes agreement, construction of the project has commenced and all conditions for the financing required for the construction of the project have been satisfied or waived.

(c) An economic development project is exempt or partially exempt from Baltimore City real property tax as the parties agree under subsection (b) of this section.

~~(D) (1) IN THIS SUBSECTION, "COMMUNITY DEVELOPMENT PROJECT" MEANS A REAL ESTATE DEVELOPMENT PROJECT THAT CONSISTS OF NEWLY CONSTRUCTED OR REHABILITATED COMMERCIAL OR MULTIFAMILY RESIDENTIAL PROPERTY THAT:~~

~~(I) CONTAINS ONE OR MORE OF THE FOLLOWING:~~

~~1. A HOTEL;~~

~~2. AN OFFICE BUILDING;~~

~~3. A RETAIL FACILITY;~~

~~4. A MULTIFAMILY RESIDENTIAL FACILITY; OR~~

~~5. AN OFF-STREET PARKING FACILITY;~~

~~(II) IS NOT LOCATED IN AN URBAN RENEWAL AREA;~~

~~(III) DOES NOT SATISFY ANY OF THE MINIMUM CRITERIA SET FORTH IN SUBSECTION (A)(2)(III) 1, 2, 3, 4, OR 5 OF THIS SECTION; AND~~

~~(IV) HAS A CERTIFICATE OF OCCUPANCY.~~

~~(2) A COMMUNITY DEVELOPMENT PROJECT IS EXEMPT OR PARTIALLY EXEMPT FROM BALTIMORE CITY REAL PROPERTY TAX:~~

~~(i) IF ALL THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION HAVE BEEN SATISFIED, EXCEPT FOR SUBSECTION (B)(1)(IV)2 OF THIS SECTION; AND~~

~~(ii) AS THE PARTIES AGREE UNDER SUBSECTION (B) OF THIS SECTION.~~

~~[(d)] (E)~~ On or before January 1 of each year, the City of Baltimore or its designated agency shall report to the President of the City Council of Baltimore and, subject to § 2-1246 of the State Government Article, to the General Assembly of Maryland:

(1) a description of each project for which the City entered into a payment in lieu of taxes agreement under this section during the prior fiscal year, including a statement of:

~~(i) the basis on which each project met the requirements set forth in subsection (a)(3) of this section, IF APPLICABLE; and~~

~~(ii) the analysis of the project described in subsection (b)(1) of this section; and~~

(2) for those projects that have a payment in lieu of taxes agreement and for which construction or rehabilitation has been completed:

(i) the number and types of jobs created during the preceding fiscal year and estimated to be created during the following fiscal year;

(ii) the total taxes that the project is estimated to have generated, directly and indirectly, for the City of Baltimore during the preceding fiscal year and estimated to be generated during the following fiscal year; and

(iii) any other economic benefits of the project.

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 16, 2013.

Chapter 575

(Senate Bill 904)

AN ACT concerning

Health Insurance – Vision Services – Provider Contracts ~~and Delivery Systems~~

FOR the purpose of prohibiting a carrier from including in a vision provider contract a provision that requires a vision provider to provide certain services at a fee set by the carrier ~~or provide discounts on materials that are not covered benefits; requiring a carrier to offer a certain vision point of service delivery system option to certain persons under certain circumstances; prohibiting a carrier from imposing a minimum participation level on a vision point of service option under certain circumstances; authorizing an employer, association, or other private group arrangement to require an employee or other individual to pay a certain premium under certain circumstances; authorizing a carrier to impose different cost sharing provisions for a vision point of service option based on whether the vision service is provided through the carrier's provider panel or outside the carrier's provider panel; prohibiting a carrier from including in a vision provider contract a provision that requires a vision provider, as a condition of participating in a fee-for-service vision provider panel, to participate in a capitated vision provider panel, with a certain exception; defining ~~certain terms~~ a certain term; providing for the application of this Act; providing for a delayed effective date; and generally relating to vision services and health insurance carriers.~~

BY repealing and reenacting, without amendments,
 Article – Insurance
 Section 15–112.2(a)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

BY adding to
 Article – Insurance
 Section 15–112.2(h) ~~and 15–114.1~~
 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

15–112.2.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Capitated dental provider panel” means a provider panel for one or more dental plan organizations offering contracts only for dental services reimbursed on a capitated basis for certain services.
- (3) “Carrier” means:
- (i) an insurer;
 - (ii) a nonprofit health service plan;
 - (iii) a health maintenance organization; or
 - (iv) a dental plan organization.
- (4) “Enrollee” means a person entitled to health care benefits from a carrier.
- (5) “Fee-for-service dental provider panel” means a provider panel for one or more dental plan organizations, insurers, or nonprofit health service plans offering contracts only for dental services reimbursed on a full or discounted fee-for-service basis.
- (6) “HMO provider panel” means a provider panel for one or more health maintenance organizations.
- (7) “Managed care organization” has the meaning stated in § 15–101 of the Health – General Article.
- (8) “Non-HMO provider panel” means a provider panel for one or more nonprofit health service plans or insurers.
- (9) “Provider” has the meaning stated in § 19–701 of the Health – General Article.
- (10) “Provider contract” means a contract:
- (i) between a provider and a carrier, an affiliate of a carrier, or an entity that contracts with a provider to serve a carrier; and
 - (ii) under which the provider agrees to provide health care services to enrollees.
- (11) “Provider panel” means the providers that contract either directly or through a subcontracting entity with a carrier to provide health care services to enrollees.

(H) (1) IN THIS SUBSECTION, "COVERED SERVICES" MEANS HEALTH CARE SERVICES THAT ARE REIMBURSABLE UNDER A POLICY OR CONTRACT FOR VISION SERVICES BETWEEN AN ENROLLEE AND A CARRIER, SUBJECT TO ANY CONTRACTUAL LIMITATIONS ON BENEFITS, INCLUDING DEDUCTIBLES, COPAYMENTS, OR FREQUENCY LIMITATIONS.

(2) A CARRIER MAY NOT INCLUDE IN A VISION PROVIDER CONTRACT A PROVISION THAT REQUIRES A VISION PROVIDER:

(I) TO PROVIDE HEALTH CARE SERVICES THAT ARE NOT COVERED SERVICES AT A FEE SET BY THE CARRIER; OR

(II) TO PROVIDE DISCOUNTS ON MATERIALS THAT ARE NOT COVERED BENEFITS.

(3) (I) A CARRIER MAY NOT INCLUDE IN A VISION PROVIDER CONTRACT A PROVISION THAT REQUIRES A VISION PROVIDER, AS A CONDITION OF PARTICIPATION IN A FEE-FOR-SERVICE VISION PROVIDER PANEL, TO PARTICIPATE IN A CAPITATED VISION PROVIDER PANEL.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, A VISION PROVIDER CONTRACT MAY CONTAIN A PROVISION THAT REQUIRES A VISION PROVIDER, AS A CONDITION OF PARTICIPATING IN A NON-HMO VISION PROVIDER PANEL OR AN HMO VISION PROVIDER PANEL TO PARTICIPATE IN A MANAGED CARE ORGANIZATION.

~~15-114.1.~~

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

~~(2) "CARRIER" MEANS:~~

~~(I) AN INSURER;~~

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

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

~~(IV) A VISION PLAN ORGANIZATION; OR~~

~~(V) ANY OTHER PERSON THAT PROVIDES VISION BENEFIT PLANS SUBJECT TO REGULATION BY THE STATE.~~

~~(3) "VISION POINT OF SERVICE OPTION" MEANS A DELIVERY SYSTEM THAT ALLOWS AN INSURED, ENROLLEE, OR OTHER COVERED PERSON UNDER A VISION BENEFIT PLAN TO RECEIVE VISION SERVICES OUTSIDE A PROVIDER PANEL.~~

~~(4) "PROVIDER PANEL" MEANS THE PROVIDERS THAT CONTRACT WITH A CARRIER TO PROVIDE VISION SERVICES TO THE CARRIER'S INSURED, ENROLLEES, OR OTHER COVERED PERSONS UNDER THE CARRIER'S VISION BENEFIT PLAN.~~

~~(B) (1) IF AN EMPLOYER, ASSOCIATION, OR OTHER PRIVATE GROUP ARRANGEMENT OFFERS VISION PLAN COVERAGE TO EMPLOYEES OR OTHER INDIVIDUALS ONLY THROUGH A CARRIER'S PROVIDER PANEL, THE CARRIER OF THE EMPLOYER, ASSOCIATION, OR OTHER PRIVATE GROUP ARRANGEMENT SHALL OFFER, OR CONTRACT WITH ANOTHER CARRIER TO OFFER, A VISION POINT OF SERVICE OPTION TO THE EMPLOYER, ASSOCIATION, OR OTHER PRIVATE GROUP ARRANGEMENT AS AN ADDITIONAL BENEFIT FOR AN EMPLOYEE OR OTHER INDIVIDUAL, TO ACCEPT OR REJECT AT THE EMPLOYEE'S OR OTHER INDIVIDUAL'S OPTION.~~

~~(2) IF A CARRIER'S VISION PROVIDER PANEL IS THE SOLE DELIVERY SYSTEM OFFERED TO EMPLOYEES BY AN EMPLOYER, THE CARRIER:~~

~~(I) SHALL OFFER THE EMPLOYER A VISION POINT OF SERVICE OPTION FOR THE INDIVIDUAL EMPLOYEE TO ACCEPT OR REJECT; AND~~

~~(II) MAY NOT IMPOSE A MINIMUM PARTICIPATION LEVEL ON THE VISION POINT OF SERVICE OPTION.~~

~~(C) (1) AN EMPLOYER, ASSOCIATION, OR OTHER PRIVATE GROUP ARRANGEMENT MAY REQUIRE AN EMPLOYEE OR OTHER INDIVIDUAL WHO ACCEPTS THE ADDITIONAL COVERAGE UNDER A VISION POINT OF SERVICE OPTION UNDER SUBSECTION (B) OF THIS SECTION TO PAY A PREMIUM OVER THE AMOUNT OF THE PREMIUM FOR THE VISION BENEFIT COVERAGE OFFERED BY THE CARRIER ONLY THROUGH ITS PROVIDER PANEL.~~

~~(2) A CARRIER MAY IMPOSE DIFFERENT COST SHARING PROVISIONS FOR THE VISION POINT OF SERVICE OPTION BASED ON WHETHER THE VISION SERVICE IS PROVIDED THROUGH THE CARRIER'S PROVIDER PANEL OR OUTSIDE THE CARRIER'S PROVIDER PANEL.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all vision provider contracts issued, delivered, or renewed in the State on or after ~~October 1, 2013~~ April 1, 2014.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2013~~ April 1, 2014.

Approved by the Governor, May 16, 2013.

Chapter 576

(House Bill 1160)

AN ACT concerning

Health Insurance – Vision Services – Provider Contracts ~~and Delivery Systems~~

FOR the purpose of prohibiting a carrier from including in a vision provider contract a provision that requires a vision provider to provide certain services at a fee set by the carrier or provide discounts on materials that are not covered benefits; ~~requiring a carrier to offer a certain vision point of service delivery system option to certain persons under certain circumstances; prohibiting a carrier from imposing a minimum participation level on a vision point of service option under certain circumstances; authorizing an employer, association, or other private group arrangement to require an employee or other individual to pay a certain premium under certain circumstances; authorizing a carrier to impose different cost-sharing provisions for a vision point of service option based on whether the vision service is provided through the carrier's provider panel or outside the carrier's provider panel; prohibiting a carrier from including in a vision provider contract a provision that requires a vision provider, as a condition of participating in a fee-for-service vision provider panel, to participate in a capitated vision provider panel, with a certain exception; defining ~~certain terms~~ a certain term; providing for the application of this Act; providing for a delayed effective date; and generally relating to vision services and health insurance carriers.~~

BY repealing and reenacting, without amendments,
 Article – Insurance
 Section 15–112.2(a)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

BY adding to
 Article – Insurance

Section 15–112.2(h) ~~and 15–114.1~~
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

15–112.2.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Capitated dental provider panel” means a provider panel for one or more dental plan organizations offering contracts only for dental services reimbursed on a capitated basis for certain services.
- (3) “Carrier” means:
- (i) an insurer;
 - (ii) a nonprofit health service plan;
 - (iii) a health maintenance organization; or
 - (iv) a dental plan organization.
- (4) “Enrollee” means a person entitled to health care benefits from a carrier.
- (5) “Fee-for-service dental provider panel” means a provider panel for one or more dental plan organizations, insurers, or nonprofit health service plans offering contracts only for dental services reimbursed on a full or discounted fee-for-service basis.
- (6) “HMO provider panel” means a provider panel for one or more health maintenance organizations.
- (7) “Managed care organization” has the meaning stated in § 15–101 of the Health – General Article.
- (8) “Non-HMO provider panel” means a provider panel for one or more nonprofit health service plans or insurers.
- (9) “Provider” has the meaning stated in § 19–701 of the Health – General Article.

(10) "Provider contract" means a contract:

(i) between a provider and a carrier, an affiliate of a carrier, or an entity that contracts with a provider to serve a carrier; and

(ii) under which the provider agrees to provide health care services to enrollees.

(11) "Provider panel" means the providers that contract either directly or through a subcontracting entity with a carrier to provide health care services to enrollees.

(H) (1) IN THIS SUBSECTION, "COVERED SERVICES" MEANS HEALTH CARE SERVICES THAT ARE REIMBURSABLE UNDER A POLICY OR CONTRACT FOR VISION SERVICES BETWEEN AN ENROLLEE AND A CARRIER, SUBJECT TO ANY CONTRACTUAL LIMITATIONS ON BENEFITS, INCLUDING DEDUCTIBLES, COPAYMENTS, OR FREQUENCY LIMITATIONS.

(2) A CARRIER MAY NOT INCLUDE IN A VISION PROVIDER CONTRACT A PROVISION THAT REQUIRES A VISION PROVIDER:

(I) TO PROVIDE HEALTH CARE SERVICES THAT ARE NOT COVERED SERVICES AT A FEE SET BY THE CARRIER; OR

(II) TO PROVIDE DISCOUNTS ON MATERIALS THAT ARE NOT COVERED BENEFITS.

(3) (I) A CARRIER MAY NOT INCLUDE IN A VISION PROVIDER CONTRACT A PROVISION THAT REQUIRES A VISION PROVIDER, AS A CONDITION OF PARTICIPATION IN A FEE-FOR-SERVICE VISION PROVIDER PANEL, TO PARTICIPATE IN A CAPITATED VISION PROVIDER PANEL.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, A VISION PROVIDER CONTRACT MAY CONTAIN A PROVISION THAT REQUIRES A VISION PROVIDER, AS A CONDITION OF PARTICIPATING IN A NON-HMO VISION PROVIDER PANEL OR AN HMO VISION PROVIDER PANEL TO PARTICIPATE IN A MANAGED CARE ORGANIZATION.

~~15-114.1.~~

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

~~(2) "CARRIER" MEANS:~~

~~(I) AN INSURER;~~

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

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

~~(IV) A VISION PLAN ORGANIZATION; OR~~

~~(V) ANY OTHER PERSON THAT PROVIDES VISION BENEFIT PLANS SUBJECT TO REGULATION BY THE STATE.~~

~~(3) "VISION POINT OF SERVICE OPTION" MEANS A DELIVERY SYSTEM THAT ALLOWS AN INSURED, ENROLLEE, OR OTHER COVERED PERSON UNDER A VISION BENEFIT PLAN TO RECEIVE VISION SERVICES OUTSIDE A PROVIDER PANEL.~~

~~(4) "PROVIDER PANEL" MEANS THE PROVIDERS THAT CONTRACT WITH A CARRIER TO PROVIDE VISION SERVICES TO THE CARRIER'S INSUREDS, ENROLLEES, OR OTHER COVERED PERSONS UNDER THE CARRIER'S VISION BENEFIT PLAN.~~

~~(B) (1) IF AN EMPLOYER, ASSOCIATION, OR OTHER PRIVATE GROUP ARRANGEMENT OFFERS VISION PLAN COVERAGE TO EMPLOYEES OR OTHER INDIVIDUALS ONLY THROUGH A CARRIER'S PROVIDER PANEL, THE CARRIER OF THE EMPLOYER, ASSOCIATION, OR OTHER PRIVATE GROUP ARRANGEMENT SHALL OFFER, OR CONTRACT WITH ANOTHER CARRIER TO OFFER, A VISION POINT OF SERVICE OPTION TO THE EMPLOYER, ASSOCIATION, OR OTHER PRIVATE GROUP ARRANGEMENT AS AN ADDITIONAL BENEFIT FOR AN EMPLOYEE OR OTHER INDIVIDUAL, TO ACCEPT OR REJECT AT THE EMPLOYEE'S OR OTHER INDIVIDUAL'S OPTION.~~

~~(2) IF A CARRIER'S VISION PROVIDER PANEL IS THE SOLE DELIVERY SYSTEM OFFERED TO EMPLOYEES BY AN EMPLOYER, THE CARRIER:~~

~~(I) SHALL OFFER THE EMPLOYER A VISION POINT OF SERVICE OPTION FOR THE INDIVIDUAL EMPLOYEE TO ACCEPT OR REJECT; AND~~

~~(II) MAY NOT IMPOSE A MINIMUM PARTICIPATION LEVEL ON THE VISION POINT OF SERVICE OPTION.~~

~~(C) (1) AN EMPLOYER, ASSOCIATION, OR OTHER PRIVATE GROUP ARRANGEMENT MAY REQUIRE AN EMPLOYEE OR OTHER INDIVIDUAL WHO ACCEPTS THE ADDITIONAL COVERAGE UNDER A VISION POINT OF SERVICE~~

~~OPTION UNDER SUBSECTION (B) OF THIS SECTION TO PAY A PREMIUM OVER THE AMOUNT OF THE PREMIUM FOR THE VISION BENEFIT COVERAGE OFFERED BY THE CARRIER ONLY THROUGH ITS PROVIDER PANEL.~~

~~(2) A CARRIER MAY IMPOSE DIFFERENT COST SHARING PROVISIONS FOR THE VISION POINT OF SERVICE OPTION BASED ON WHETHER THE VISION SERVICE IS PROVIDED THROUGH THE CARRIER'S PROVIDER PANEL OR OUTSIDE THE CARRIER'S PROVIDER PANEL.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all vision provider contracts issued, delivered, or renewed in the State on or after ~~October 1, 2013~~ April 1, 2014.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2013~~ April 1, 2014.

Approved by the Governor, May 16, 2013.

Chapter 577

(Senate Bill 905)

AN ACT concerning

Video Lottery Facilities – Table Game Proceeds

FOR the purpose of adding table games to a certain definition of proceeds that applies to video lottery terminal operations; and generally relating to table game operations at video lottery facilities.

BY repealing and reenacting, without amendments,
 Article – State Government
 Section 9–1A–01(a)
 Annotated Code of Maryland
 (2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Government
 Section 9–1A–01(u)
 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

9–1A–01.

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

(u) (1) “Proceeds” means the part of the amount of money bet through video lottery terminals and table games that is not returned to successful players but is otherwise allocated under this subtitle.

(2) (i) Subject to subparagraph (ii) of this paragraph, “proceeds” does not include money given away by a video lottery operation licensee as free promotional play and used by players to bet in a video lottery terminal **OR AT A TABLE GAME**.

(ii) After the first fiscal year of operations, the exclusion specified in subparagraph (i) of this paragraph may not exceed a percentage established by the Commission by regulation of the proceeds received from video lottery terminals **AND TABLE GAMES** in the prior fiscal year by the video lottery operation licensee under § 9–1A–27(a)(2), [and] (c)(1)(ii), **AND (D)(1)** of this subtitle.

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

Approved by the Governor, May 16, 2013.

Chapter 578**(House Bill 1155)**

AN ACT concerning

Video Lottery Facilities – Table Game Proceeds

FOR the purpose of adding table games to a certain definition of proceeds that applies to video lottery terminal operations; and generally relating to table game operations at video lottery facilities.

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–1A–01(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–1A–01(u)
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

9–1A–01.

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

(u) (1) “Proceeds” means the part of the amount of money bet through video lottery terminals and table games that is not returned to successful players but is otherwise allocated under this subtitle.

(2) (i) Subject to subparagraph (ii) of this paragraph, “proceeds” does not include money given away by a video lottery operation licensee as free promotional play and used by players to bet in a video lottery terminal **OR AT A TABLE GAME**.

(ii) After the first fiscal year of operations, the exclusion specified in subparagraph (i) of this paragraph may not exceed a percentage established by the Commission by regulation of the proceeds received from video lottery terminals **AND TABLE GAMES** in the prior fiscal year by the video lottery operation licensee under § 9–1A–27(a)(2), [and] (c)(1)(ii), **AND (D)(1)** of this subtitle.

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

Approved by the Governor, May 16, 2013.

Chapter 579

(Senate Bill 916)

AN ACT concerning

Task Force to Study Licensing and Continuing Education Requirements for Electricians

FOR the purpose of establishing the Task Force to Study Licensing and Continuing Education Requirements for Electricians; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing 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 Licensing and Continuing Education Requirements for Electricians.

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

(a) There is a Task Force to Study Licensing and Continuing Education Requirements for Electricians.

(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 Labor, Licensing, and Regulation, or the Secretary's designee; and

(4) the following members, appointed by the Governor:

(i) one representative of the Maryland Uniform Electrical Licensing Examination Committee, Inc.;

(ii) one representative of a local electrical board that licenses journeyman electricians;

(iii) one representative of a local electrical board with an established continuing education program;

(iv) one representative of the National Electrical Contractors Association;

~~(iii)~~ (v) one representative of the Maryland Association of Counties;

~~(iv)~~ (vi) one representative of the International Brotherhood of Electrical Workers;

~~(v)~~ (vii) one representative of Independent Electrical Contractors (IEC) Chesapeake; and

~~(vi)~~ (viii) one member of the State Board of Master Electricians.

(c) The Task Force shall elect a chair from among its members.

(d) The Department of Labor, Licensing, and Regulation 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) examine proposed changes to the State licensing requirements for electricians in the State;

~~(2) review local electrician licensing requirements and issues relating to transitioning to a single, statewide license;~~

~~(3) examine the effect on local boards of electricians and local governments of proposed changes reviewed under items (1) and (2) of this subsection~~
review appropriate approaches for the licensure of electricians at the State and local level to protect citizens and provide for efficiency of electrical services across county lines;

(3) if a new approach to licensure is deemed appropriate, consider how this change affects electricians currently licensed at the State and local level, and the boards that currently oversee licensure at the State and local level;

(4) make recommendations relating to statewide continuing education requirements for electricians; ~~and~~

(5) make recommendations for other legislation relating to licensing requirements for electricians;

(6) make findings and recommendations regarding the effect of statewide licensing on barriers to entry into the electrician marketplace; and

(7) make findings and recommendations as to the causal link between a continuing education program and benefits to the professional practice of an electrician.

(g) On or before November 15, 2013, the Task Force shall report its findings and recommendations for legislation 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 16, 2013.

Chapter 580

(Senate Bill 917)

AN ACT concerning

Allegany County – Video Lottery Terminals – Distribution of Proceeds

FOR the purpose of altering a certain requirement for the distribution of certain proceeds from video lottery terminals at a video lottery facility in Allegany County; and generally relating to proceeds from video lottery terminals at a video lottery facility in Allegany County.

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–1A–27(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–1A–27(b)(2)
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

9-1A-27.

(a) Except as provided in subsections (b) and (c) of this section and § 9-1A-26(a)(3) of this subtitle, on a properly approved transmittal prepared by the Commission, the Comptroller shall pay the following amounts from the proceeds of video lottery terminals at each video lottery facility:

(1) (i) on or before March 31, 2015, 2% to the State Lottery and Gaming Control Agency for costs as defined in § 9-1A-01 of this subtitle; and

(ii) beginning April 1, 2015, 1% to the State Lottery and Gaming Control Agency for costs as defined in § 9-1A-01 of this subtitle;

(2) to the video lottery operation licensee, the percentage stated in the accepted application for the location, not to exceed, except as provided in subsection (b) of this section, 33%;

(3) 5.5% in local impact grants, in accordance with § 9-1A-31 of this subtitle;

(4) 7% to the Purse Dedication Account established under § 9-1A-28 of this subtitle, not to exceed a total of \$100,000,000 to the Account annually;

(5) (i) until the issuance of a video lottery operation license in Baltimore City, 1.75% to the Racetrack Facility Renewal Account established under § 9-1A-29 of this subtitle and distributed in accordance with that section; and

(ii) on or after the issuance of a video lottery operation license in Baltimore City, 1% to the Racetrack Facility Renewal Account established under § 9-1A-29 of this subtitle and distributed in accordance with that section, not to exceed a total of \$20,000,000 to the Account annually;

(6) 1.5% to the Small, Minority, and Women-Owned Businesses Account established under § 9-1A-35 of this subtitle;

(7) (i) except as provided in item (ii) of this item, 6% to the video lottery operation licensee if the video lottery operation licensee owns or leases each video lottery terminal device and the associated equipment and software; and

(ii) 8% to the video lottery operation licensee in Anne Arundel County;

(8) beginning after the issuance of a video lottery operation license for a video lottery facility in Prince George's County, 8% to the video lottery operation licensee in Anne Arundel County and 7% to the licensee in Baltimore City for:

(i) marketing, advertising, and promotional costs required under § 9–1A–23 of this subtitle; and

(ii) capital improvements at the video lottery facilities; and

(9) the remainder to the Education Trust Fund established under § 9–1A–30 of this subtitle.

(b) (2) [(i) After 1 year of operations at a video lottery facility in Allegany County, the percentage in subsection (c)(1)(ii) of this section is equal to 50%, provided that each year an amount equivalent to 0.5% of the proceeds from video lottery terminals at the video lottery facility is spent on capital improvements at the video lottery facility; or

(ii) after] **AFTER** the first 10 years of operations at a video lottery facility in Allegany County, the percentage:

[1.] **(I)** in subsection (a)(2) of this section is equal to 43% provided that each year an amount equivalent to 2.5% of the proceeds from video lottery terminals at the video lottery facility is spent on capital improvements at the video lottery facility; and

[2.] **(II)** in subsection (a)(1) of this section is equal to 2%.

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

Approved by the Governor, May 16, 2013.

Chapter 581

(Senate Bill 926)

AN ACT concerning

Education – State and Local Aid Program for Certification or Renewal of Certification – Sunset Repeal

FOR the purpose of repealing the termination date on a certain provision of law relating to the State and Local Aid Program for Certification by the National Board for Professional Teaching Standards; and generally relating to the State and Local Aid Program for Certification by the National Board for Professional Teaching Standards.

BY repealing and reenacting, without amendments,

Article – Education

Section 6–112

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Chapter 179 of the Acts of the General Assembly of 1997, as amended by Chapter 536 of the Acts of the General Assembly of 1999, Chapter 61 of the Acts of the General Assembly of 2000, Chapter 240 of the Acts of the General Assembly of 2004, and Chapter 309 of the Acts of the General Assembly of 2007

Section 3

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

Article – Education

6–112.

(a) There is a program of State and local aid to teachers who pursue certification or renewal of certification by the National Board for Professional Teaching Standards known as the State and Local Aid Program for Certification by the National Board for Professional Teaching Standards.

(b) Each school year, the State Board shall select, consistent with the amount provided in the State budget for the Program, a maximum of 1,000 teachers to participate in the Program.

(c) The State Board may provide aid under the Program to a participant for up to one retake of an unsuccessful entry on the National Board for Professional Teaching Standards assessment.

(d) The State Board shall adopt regulations to implement and administer the Program established under this section, including:

(1) Procedures for submitting applications for aid; and

(2) Criteria for the selection of recipients of aid.

(e) (1) Except as provided in subsection (c) of this section, each teacher selected by the State Board to receive aid shall receive from the State an amount equal to the certification fee charged by the National Board for Professional Teaching Standards.

(2) Each county shall pay to the State one-third of the cost of certification for each teacher who participates in the Program who teaches in the county.

(3) (i) A teacher who does not complete all the requirements for assessment by the National Board for Professional Teaching Standards shall reimburse the State the full amount of the aid received to participate in the Program.

(ii) The State shall reimburse the county the amount received under paragraph (2) of this subsection on receipt of the reimbursement of aid from a teacher under this paragraph.

(iii) The provisions of subparagraph (i) of this paragraph do not apply to a teacher who completes all the requirements for assessment by the National Board for Professional Teaching Standards but who does not receive certification.

(f) The State Board shall establish a statewide staff development plan that utilizes the skills and knowledge of teachers who have obtained National Board certification.

Chapter 179 of the Acts of 1997, as amended by Chapter 536 of the Acts of 1999, Chapter 61 of the Acts of 2000, Chapter 240 of the Acts of 2004, and Chapter 309 of the Acts of 2007

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect on June 1, 1997. [It shall remain effective for a period of 16 years and 1 month, and, at the end of June 30, 2013, and 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 16, 2013.

Chapter 582

(Senate Bill 942)

AN ACT concerning

State Board of Physicians – ~~Licensing Qualifications – Additional Training Exemption~~ Consultation, Qualification for Licensure, License Renewal, and Representation to the Public

~~FOR the purpose of exempting certain applicants for a license to practice medicine in the State from a requirement to submit evidence of certain additional clinical training after having failed a certain examination a certain number of times; making this Act an emergency measure; and generally relating to licensing qualifications for physicians.~~

FOR the purpose of authorizing certain physicians engaged in certain consultations to practice medicine without a license from the State Board of Physicians under certain circumstances; authorizing certain applicants to qualify for licensure under certain circumstances; requiring the Board to send certain notices and certain data sheets to certain licensees by certain means; making certain stylistic changes; prohibiting certain physicians from making certain representations unless the physician is board certified; defining certain terms; making this Act an emergency measure; and generally relating to the licensure of physicians in the State.

BY renumbering

Article – Health Occupations
Section 14–101(c) through (o), respectively
to be Section 14–101(d) through (p), respectively
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – Health Occupations
Section 14–101(c), 14–101.1, and 14–302.1
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations
Section 14–302, 14–307, 14–316(b), 14–401(e)(2)(i), 14–503, and 14–5C–06(a)(2)
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~~ Section(s) 14–101(c) through (o), respectively, of Article – Health Occupations of the Annotated Code of Maryland be renumbered to be Section(s) 14–101(d) through (p), respectively.

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

Article – Health Occupations

14–101.

(C) “BOARD CERTIFIED” MEANS THE PHYSICIAN IS CERTIFIED BY A PUBLIC OR PRIVATE BOARD, INCLUDING A MULTIDISCIPLINARY BOARD, AND THE CERTIFYING BOARD:

(1) Is:

(i) A MEMBER OF THE AMERICAN BOARD OF MEDICAL SPECIALTIES; OR

(ii) AN AMERICAN OSTEOPATHIC ASSOCIATION CERTIFYING BOARD;

(2) HAS BEEN APPROVED BY THE BOARD UNDER § 14-101.1 OF THIS SUBTITLE; OR

(3) REQUIRES THAT, IN ORDER TO BE CERTIFIED, THE PHYSICIAN:

(i) COMPLETE A POSTGRADUATE TRAINING PROGRAM THAT:

1. PROVIDES COMPLETE TRAINING IN THE SPECIALTY OR SUBSPECIALTY; AND

2. IS ACCREDITED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC ASSOCIATION; AND

(ii) BE CERTIFIED BY THE MEMBER BOARD OF THE AMERICAN BOARD OF MEDICAL SPECIALTIES OR THE AMERICAN OSTEOPATHIC ASSOCIATION IN THE TRAINING FIELD.

14-101.1.

THE BOARD MAY APPROVE A PUBLIC OR PRIVATE BOARD INCLUDING A MULTIDISCIPLINARY BOARD AS A CERTIFYING BOARD ONLY IF THE CERTIFYING BOARD REQUIRES THAT, IN ORDER TO BE CERTIFIED, A PHYSICIAN:

(1) COMPLETE A POSTGRADUATE TRAINING PROGRAM THAT:

(i) PROVIDES COMPLETE TRAINING IN THE SPECIALTY OR SUBSPECIALTY BEING CERTIFIED; AND

(II) IS ACCREDITED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC ASSOCIATION; AND

(2) BE CERTIFIED BY THE AMERICAN BOARD OF MEDICAL SPECIALTIES OR THE AMERICAN OSTEOPATHIC ASSOCIATION IN THE SAME TRAINING FIELD.

14-302.

Subject to the rules, regulations, and orders of the Board, the following individuals may practice medicine without a license:

(1) A medical student or an individual in a postgraduate medical training program that is approved by the Board, while doing the assigned duties at any office of a licensed physician, hospital, clinic, or similar facility;

(2) A physician licensed by and residing in another jurisdiction, [while engaging in consultation with a physician licensed in this State;] IF THE PHYSICIAN:

(I) IS ENGAGED IN CONSULTATION WITH A PHYSICIAN LICENSED IN THE STATE ABOUT A PARTICULAR PATIENT AND DOES NOT DIRECT PATIENT CARE; OR

(II) MEETS THE REQUIREMENTS OF § 14-302.1 OF THIS SUBTITLE;

(3) A physician employed in the service of the federal government while performing the duties incident to that employment;

(4) A physician who resides in and is authorized to practice medicine by any state adjoining this State and whose practice extends into this State, if:

(i) The physician does not have an office or other regularly appointed place in this State to meet patients; and

(ii) The same privileges are extended to licensed physicians of this State by the adjoining state; and

(5) An individual while under the supervision of a licensed physician who has specialty training in psychiatry, and whose specialty training in psychiatry has been approved by the Board, if the individual submits an application to the Board on or before October 1, 1993, and either:

(i) 1. Has a master's degree from an accredited college or university; and

2. Has completed a graduate program accepted by the Board in a behavioral science that includes 1,000 hours of supervised clinical psychotherapy experience; or

(ii) 1. Has a baccalaureate degree from an accredited college or university; and

2. Has 4,000 hours of supervised clinical experience that is approved by the Board.

14-302.1.

A PHYSICIAN WHO IS LICENSED AND RESIDES IN ANOTHER JURISDICTION MAY PRACTICE MEDICINE WITHOUT A LICENSE WHILE ENGAGED IN CLINICAL TRAINING WITH A LICENSED PHYSICIAN IF:

(1) THE BOARD FINDS, ON APPLICATION BY A HOSPITAL IN THE STATE, THAT:

(I) THE PHYSICIAN POSSESSES A SKILL OR USES A PROCEDURE THAT:

1. IS ADVANCED BEYOND THOSE SKILLS OR PROCEDURES NORMALLY TAUGHT OR EXERCISED IN THE HOSPITAL AND IN STANDARD MEDICAL EDUCATION OR TRAINING;

2. COULD NOT BE OTHERWISE CONVENIENTLY TAUGHT OR DEMONSTRATED IN STANDARD MEDICAL EDUCATION OR TRAINING IN THAT HOSPITAL; AND

3. IS LIKELY TO BENEFIT MARYLAND PATIENTS IN THIS INSTANCE;

(II) THE DEMONSTRATION OF THE SKILL OR PROCEDURE WOULD TAKE NO MORE THAN 14 ~~DAYS~~ CONSECUTIVE DAYS WITHIN A CALENDAR YEAR;

(III) A LICENSED PHYSICIAN WHO PRACTICES AT A HOSPITAL IN THE STATE HAS CERTIFIED TO THE BOARD THAT THE LICENSED PHYSICIAN WILL BE RESPONSIBLE FOR THE MEDICAL CARE PROVIDED BY THAT VISITING PHYSICIAN TO PATIENTS IN THE STATE;

(IV) THE VISITING PHYSICIAN HAS NO HISTORY OF ANY MEDICAL DISCIPLINARY ACTION IN ANY OTHER STATE, TERRITORY, NATION, OR

ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE VETERANS ADMINISTRATION, AND HAS NO SIGNIFICANT DETRIMENTAL MALPRACTICE HISTORY IN THE JUDGMENT OF THE BOARD;

(V) THE PHYSICIAN IS COVERED BY MALPRACTICE INSURANCE IN THE JURISDICTION IN WHICH THE PHYSICIAN PRACTICES; AND

(VI) THE HOSPITAL ASSURES THE BOARD THAT THE PATIENTS WILL BE PROTECTED BY ADEQUATE MALPRACTICE INSURANCE; OR

(2) THE BOARD FINDS, ON APPLICATION BY A MARYLAND HOSPITAL, THAT:

(I) THE HOSPITAL PROVIDES TRAINING IN A SKILL OR USES A PROCEDURE THAT:

1. IS ADVANCED BEYOND THOSE SKILLS OR PROCEDURES NORMALLY TAUGHT OR EXERCISED IN STANDARD MEDICAL EDUCATION OR TRAINING;

2. COULD NOT BE OTHERWISE CONVENIENTLY TAUGHT OR DEMONSTRATED IN THE VISITING PHYSICIAN'S PRACTICE; AND

3. IS LIKELY TO BENEFIT MARYLAND PATIENTS IN THIS INSTANCE;

(II) THE DEMONSTRATION OR EXERCISE OF THE SKILL OR PROCEDURE WILL TAKE NO MORE THAN 14 ~~DAYS~~ CONSECUTIVE DAYS WITHIN A CALENDAR YEAR;

(III) A HOSPITAL PHYSICIAN LICENSED IN THE STATE HAS CERTIFIED TO THE BOARD THAT THE PHYSICIAN WILL BE RESPONSIBLE FOR THE MEDICAL CARE PROVIDED BY THAT VISITING PHYSICIAN TO PATIENTS IN THE STATE;

(IV) THE VISITING PHYSICIAN HAS NO HISTORY OF ANY MEDICAL DISCIPLINARY ACTION IN ANY OTHER STATE, TERRITORY, NATION, OR ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE VETERANS ADMINISTRATION, AND HAS NO SIGNIFICANT DETRIMENTAL MALPRACTICE HISTORY IN THE JUDGMENT OF THE BOARD;

(V) THE PHYSICIAN IS COVERED BY MALPRACTICE INSURANCE IN THE JURISDICTION WHERE THE PHYSICIAN PRACTICES; AND

(VI) THE HOSPITAL ASSURES THE BOARD THAT THE PATIENTS WILL BE PROTECTED BY ADEQUATE MALPRACTICE INSURANCE.

14-307.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) Except as provided in § 14-308 of this subtitle, the applicant shall:

(1) (i) Have a degree of doctor of medicine from a medical school that is accredited by an accrediting organization that the Board recognizes in its regulations; and

(ii) Submit evidence acceptable to the Board of successful completion of 1 year of training in a postgraduate medical training program that is accredited by an accrediting organization that the Board recognizes in its regulations; or

(2) (i) Have a degree of doctor of osteopathy from a school of osteopathy in the United States, its territories or possessions, Puerto Rico, or Canada that has standards for graduation equivalent to those established by the American Osteopathic Association; and

(ii) Submit evidence acceptable to the Board of successful completion of 1 year of training in a postgraduate medical training program accredited by an accrediting organization that the Board recognizes in its regulations.

(e) Except as otherwise provided in this title, the applicant shall pass an examination required by the Board under this subtitle.

(f) The applicant shall meet any other qualifications that the Board establishes in its regulations for license applicants.

(g) An applicant who has failed the examination or any part of the examination 3 or more times [shall submit evidence of having completed 1 year of additional clinical training in an approved postgraduate training program following the latest failure] **MAY QUALIFY FOR A LICENSE IF THE APPLICANT:**

(1) HAS SUCCESSFULLY COMPLETED 2 OR MORE YEARS OF A RESIDENCY OR FELLOWSHIP ACCREDITED BY THE ACCREDITATION COUNCIL

ON GRADUATE MEDICAL EDUCATION *OR THE AMERICAN OSTEOPATHIC ASSOCIATION*;

(2) (I) HAS A MINIMUM OF 5 YEARS OF CLINICAL PRACTICE OF MEDICINE IN:

1. IN THE UNITED STATES OR IN CANADA, WITH;

2. WITH AT LEAST 3 OF THE 5 YEARS HAVING OCCURRED WITHIN 5 YEARS OF THE DATE OF THE APPLICATION; AND

~~(II) THE CLINICAL PRACTICE REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH OCCURRED~~

3. THAT OCCURRED UNDER A FULL UNRESTRICTED LICENSE TO PRACTICE MEDICINE; AND

~~(III) (II) NO HAS NO DISCIPLINARY ACTION IS PENDING OR HAS BEEN AND HAS HAD NO DISCIPLINARY ACTION TAKEN AGAINST THE APPLICANT THAT WOULD BE GROUNDS FOR DISCIPLINE UNDER § 14-404 OF THIS TITLE; OR~~

(3) IS BOARD CERTIFIED.

(h) (1) The Board shall require as part of its examination or licensing procedures that an applicant for a license to practice medicine demonstrate an oral competency in the English language.

(2) Graduation from a recognized English-speaking undergraduate school or high school, including General Education Development (GED), after at least 3 years of enrollment, or from a recognized English-speaking professional school is acceptable as proof of proficiency in the oral communication of the English language under this section.

(3) By regulation, the Board shall develop a procedure for testing individuals who because of their speech impairment are unable to complete satisfactorily a Board approved standardized test of oral competency.

(4) If any disciplinary charges or action that involves a problem with the oral communication of the English language are brought against a licensee under this title, the Board shall require the licensee to take and pass a Board approved standardized test of oral competency.

(b) (1) ~~At~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AT least 1 month before the license expires, the Board shall send to the licensee, by ELECTRONIC OR first-class mail to the last known ELECTRONIC OR PHYSICAL address of the licensee:

~~(1)~~ (I) A renewal notice that states:

~~(i)~~ 1. The date on which the current license expires;

~~(ii)~~ 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

~~(iii)~~ 3. The amount of the renewal fee; and

~~(2)~~ (II) A blank panel data sheet supplied by the Health Care Alternative Dispute Resolution Office.

(2) IF THE BOARD CHOOSES TO SEND RENEWAL NOTICES EXCLUSIVELY BY ELECTRONIC MAIL UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD SHALL SEND A RENEWAL NOTICE BY FIRST-CLASS MAIL TO A LICENSEE ON REQUEST OF THE LICENSEE.

14-401.

(e) (2) A peer reviewer shall:

(i) Be [Board] BOARD certified;

14-503.

(a) A physician may not represent to the public that the physician is [certified by a public or private board, including a multidisciplinary board, or that the physician is] board certified unless:

(1) THE PHYSICIAN IS BOARD CERTIFIED; AND

[(1)] (2) The physician discloses the full name of the board from which the physician is certified and the name of the specialty or subspecialty in which the physician is certified]; and

(2) The certifying board meets one of the following requirements:

(i) The certifying board is:

Specialties; or

board;

the physician:

subspecialty; and

1. A member of the American Board of Medical
2. An American Osteopathic Association certifying
 - (ii) The certifying board has been approved by the Board; or
 - (iii) The certifying board requires that, in order to be certified,

1. Complete a postgraduate training program that:
 - A. Provides complete training in the specialty or
 - B. Is accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association; and
2. Be certified by the member board of the American Board of Medical Specialties or the American Osteopathic Association in the training field.

(b) The Board may approve a certifying board under subsection (a)(2)(ii) of this section only if the certifying board requires that, in order to be certified, the physician:

- (1) Complete a postgraduate training program that:
 - (i) Provides complete training in the specialty or subspecialty being certified; and
 - (ii) Is accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association; and
- (2) Be certified by the American Board of Medical Specialties or American Osteopathic Association in the same training field].

[(c)] (B) A physician may advertise only as permitted by the rules and regulations of the Board and subject to subsection (a) of this section.

14-5C-06.

(a) The Committee consists of seven members appointed by the Board as follows:

(2) Three physicians who are [Board] BOARD certified in sleep medicine:

(i) One of whom is a specialist in psychiatry or internal medicine;

(ii) One of whom is a specialist in pulmonary medicine; and

(iii) One of whom is a specialist in neurology; and

~~14-307.~~

~~(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.~~

~~(b) The applicant shall be of good moral character.~~

~~(c) The applicant shall be at least 18 years old.~~

~~(d) Except as provided in § 14-308 of this subtitle, the applicant shall:~~

~~(1) (i) Have a degree of doctor of medicine from a medical school that is accredited by an accrediting organization that the Board recognizes in its regulations; and~~

~~(ii) Submit evidence acceptable to the Board of successful completion of 1 year of training in a postgraduate medical training program that is accredited by an accrediting organization that the Board recognizes in its regulations; or~~

~~(2) (i) Have a degree of doctor of osteopathy from a school of osteopathy in the United States, its territories or possessions, Puerto Rico, or Canada that has standards for graduation equivalent to those established by the American Osteopathic Association; and~~

~~(ii) Submit evidence acceptable to the Board of successful completion of 1 year of training in a postgraduate medical training program accredited by an accrediting organization that the Board recognizes in its regulations.~~

~~(e) Except as otherwise provided in this title, the applicant shall pass an examination required by the Board under this subtitle.~~

~~(f) The applicant shall meet any other qualifications that the Board establishes in its regulations for license applicants.~~

~~(g) (1) [An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN applicant who has failed the examination or any part of the~~

~~examination 3 or more times shall submit evidence of having completed 1 year of additional clinical training in an approved postgraduate training program following the latest failure.~~

~~(2) THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION DO NOT APPLY TO AN APPLICANT WHO:~~

~~(I) HOLDS A VALID LICENSE TO PRACTICE MEDICINE IN ANOTHER STATE;~~

~~(II) HAS PRACTICED MEDICINE FOR AT LEAST 8 YEARS SINCE THE ISSUANCE OF THE APPLICANT'S INITIAL LICENSE TO PRACTICE MEDICINE; AND~~

~~(III) OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION.~~

~~(h) (1) The Board shall require as part of its examination or licensing procedures that an applicant for a license to practice medicine demonstrate an oral competency in the English language.~~

~~(2) Graduation from a recognized English speaking undergraduate school or high school, including General Education Development (GED), after at least 3 years of enrollment, or from a recognized English speaking professional school is acceptable as proof of proficiency in the oral communication of the English language under this section.~~

~~(3) By regulation, the Board shall develop a procedure for testing individuals who because of their speech impairment are unable to complete satisfactorily a Board approved standardized test of oral competency.~~

~~(4) If any disciplinary charges or action that involves a problem with the oral communication of the English language are brought against a licensee under this title, the Board shall require the licensee to take and pass a Board approved standardized test of oral competency.~~

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

Approved by the Governor, May 16, 2013.

Chapter 583**(House Bill 1313)**

AN ACT concerning

**State Board of Physicians – Consultation, Qualification for Licensure,
License Renewal, and Representation to the Public**

FOR the purpose of authorizing certain physicians engaged in certain consultations to practice medicine without a license from the State Board of Physicians under certain circumstances; authorizing certain applicants to qualify for licensure under certain circumstances; requiring the Board to send certain notices and certain data sheets to certain licensees by certain means; making certain stylistic changes; prohibiting certain physicians from making certain representations unless the physician is board certified; defining certain terms; making this Act an emergency measure; and generally relating to the licensure of physicians in the State.

BY renumbering

Article – Health Occupations
Section 14–101(c) through (o), respectively
to be Section 14–101(d) through (p), respectively
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – Health Occupations
Section 14–101(c), 14–101.1, and 14–302.1
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations
Section 14–302, 14–307, 14–316(b), 14–401(e)(2)(i), 14–503, and 14–5C–06(a)(2)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 14–101(c) through (o), respectively, of Article – Health Occupations of the Annotated Code of Maryland be renumbered to be Section(s) 14–101(d) through (p), respectively.

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

Article – Health Occupations

14-101.

(C) "BOARD CERTIFIED" MEANS THE PHYSICIAN IS CERTIFIED BY A PUBLIC OR PRIVATE BOARD, INCLUDING A MULTIDISCIPLINARY BOARD, AND THE CERTIFYING BOARD:

(1) IS:

(I) A MEMBER OF THE AMERICAN BOARD OF MEDICAL SPECIALTIES; OR

(II) AN AMERICAN OSTEOPATHIC ASSOCIATION CERTIFYING BOARD;

(2) HAS BEEN APPROVED BY THE BOARD UNDER § 14-101.1 OF THIS SUBTITLE; OR

(3) REQUIRES THAT, IN ORDER TO BE CERTIFIED, THE PHYSICIAN:

(I) COMPLETE A POSTGRADUATE TRAINING PROGRAM THAT:

1. PROVIDES COMPLETE TRAINING IN THE SPECIALTY OR SUBSPECIALTY; AND

2. IS ACCREDITED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC ASSOCIATION; AND

(II) BE CERTIFIED BY THE MEMBER BOARD OF THE AMERICAN BOARD OF MEDICAL SPECIALTIES OR THE AMERICAN OSTEOPATHIC ASSOCIATION IN THE TRAINING FIELD.

14-101.1.

THE BOARD MAY APPROVE A PUBLIC OR PRIVATE BOARD INCLUDING A MULTIDISCIPLINARY BOARD AS A CERTIFYING BOARD ONLY IF THE CERTIFYING BOARD REQUIRES THAT, IN ORDER TO BE CERTIFIED, A PHYSICIAN:

(1) COMPLETE A POSTGRADUATE TRAINING PROGRAM THAT:

(I) PROVIDES COMPLETE TRAINING IN THE SPECIALTY OR SUBSPECIALTY BEING CERTIFIED; AND

(II) IS ACCREDITED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC ASSOCIATION; AND

(2) BE CERTIFIED BY THE AMERICAN BOARD OF MEDICAL SPECIALTIES OR THE AMERICAN OSTEOPATHIC ASSOCIATION IN THE SAME TRAINING FIELD.

14–302.

Subject to the rules, regulations, and orders of the Board, the following individuals may practice medicine without a license:

(1) A medical student or an individual in a postgraduate medical training program that is approved by the Board, while doing the assigned duties at any office of a licensed physician, hospital, clinic, or similar facility;

(2) A physician licensed by and residing in another jurisdiction, [while engaging in consultation with a physician licensed in this State;] **IF THE PHYSICIAN:**

(I) IS ENGAGED IN CONSULTATION WITH A PHYSICIAN LICENSED IN THE STATE ABOUT A PARTICULAR PATIENT AND DOES NOT DIRECT PATIENT CARE; OR

(II) MEETS THE REQUIREMENTS OF § 14–302.1 OF THIS SUBTITLE;

(3) A physician employed in the service of the federal government while performing the duties incident to that employment;

(4) A physician who resides in and is authorized to practice medicine by any state adjoining this State and whose practice extends into this State, if:

(i) The physician does not have an office or other regularly appointed place in this State to meet patients; and

(ii) The same privileges are extended to licensed physicians of this State by the adjoining state; and

(5) An individual while under the supervision of a licensed physician who has specialty training in psychiatry, and whose specialty training in psychiatry has been approved by the Board, if the individual submits an application to the Board on or before October 1, 1993, and either:

- (i) 1. Has a master's degree from an accredited college or university; and
- 2. Has completed a graduate program accepted by the Board in a behavioral science that includes 1,000 hours of supervised clinical psychotherapy experience; or
- (ii) 1. Has a baccalaureate degree from an accredited college or university; and
- 2. Has 4,000 hours of supervised clinical experience that is approved by the Board.

14-302.1.

A PHYSICIAN WHO IS LICENSED AND RESIDES IN ANOTHER JURISDICTION MAY PRACTICE MEDICINE WITHOUT A LICENSE WHILE ENGAGED IN CLINICAL TRAINING WITH A LICENSED PHYSICIAN IF:

(1) THE BOARD FINDS, ON APPLICATION BY A HOSPITAL IN THE STATE, THAT:

(I) THE PHYSICIAN POSSESSES A SKILL OR USES A PROCEDURE THAT:

1. IS ADVANCED BEYOND THOSE SKILLS OR PROCEDURES NORMALLY TAUGHT OR EXERCISED IN THE HOSPITAL AND IN STANDARD MEDICAL EDUCATION OR TRAINING;

2. COULD NOT BE OTHERWISE CONVENIENTLY TAUGHT OR DEMONSTRATED IN STANDARD MEDICAL EDUCATION OR TRAINING IN THAT HOSPITAL; AND

3. IS LIKELY TO BENEFIT MARYLAND PATIENTS IN THIS INSTANCE;

(II) THE DEMONSTRATION OF THE SKILL OR PROCEDURE WOULD TAKE NO MORE THAN 14 DAYS CONSECUTIVE DAYS WITHIN A CALENDAR YEAR;

(III) A LICENSED PHYSICIAN WHO PRACTICES AT A HOSPITAL IN THE STATE HAS CERTIFIED TO THE BOARD THAT THE LICENSED PHYSICIAN WILL BE RESPONSIBLE FOR THE MEDICAL CARE PROVIDED BY THAT VISITING PHYSICIAN TO PATIENTS IN THE STATE;

(IV) THE VISITING PHYSICIAN HAS NO HISTORY OF ANY MEDICAL DISCIPLINARY ACTION IN ANY OTHER STATE, TERRITORY, NATION, OR ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE VETERANS ADMINISTRATION, AND HAS NO SIGNIFICANT DETRIMENTAL MALPRACTICE HISTORY IN THE JUDGMENT OF THE BOARD;

(V) THE PHYSICIAN IS COVERED BY MALPRACTICE INSURANCE IN THE JURISDICTION IN WHICH THE PHYSICIAN PRACTICES; AND

(VI) THE HOSPITAL ASSURES THE BOARD THAT THE PATIENTS WILL BE PROTECTED BY ADEQUATE MALPRACTICE INSURANCE; OR

(2) THE BOARD FINDS, ON APPLICATION BY A MARYLAND HOSPITAL, THAT:

(I) THE HOSPITAL PROVIDES TRAINING IN A SKILL OR USES A PROCEDURE THAT:

1. IS ADVANCED BEYOND THOSE SKILLS OR PROCEDURES NORMALLY TAUGHT OR EXERCISED IN STANDARD MEDICAL EDUCATION OR TRAINING;

2. COULD NOT BE OTHERWISE CONVENIENTLY TAUGHT OR DEMONSTRATED IN THE VISITING PHYSICIAN'S PRACTICE; AND

3. IS LIKELY TO BENEFIT MARYLAND PATIENTS IN THIS INSTANCE;

(II) THE DEMONSTRATION OR EXERCISE OF THE SKILL OR PROCEDURE WILL TAKE NO MORE THAN 14 ~~DAYS~~ CONSECUTIVE DAYS WITHIN A CALENDAR YEAR;

(III) A HOSPITAL PHYSICIAN LICENSED IN THE STATE HAS CERTIFIED TO THE BOARD THAT THE PHYSICIAN WILL BE RESPONSIBLE FOR THE MEDICAL CARE PROVIDED BY THAT VISITING PHYSICIAN TO PATIENTS IN THE STATE;

(IV) THE VISITING PHYSICIAN HAS NO HISTORY OF ANY MEDICAL DISCIPLINARY ACTION IN ANY OTHER STATE, TERRITORY, NATION, OR ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR THE VETERANS ADMINISTRATION, AND HAS NO SIGNIFICANT DETRIMENTAL MALPRACTICE HISTORY IN THE JUDGMENT OF THE BOARD;

(V) THE PHYSICIAN IS COVERED BY MALPRACTICE INSURANCE IN THE JURISDICTION WHERE THE PHYSICIAN PRACTICES; AND

(VI) THE HOSPITAL ASSURES THE BOARD THAT THE PATIENTS WILL BE PROTECTED BY ADEQUATE MALPRACTICE INSURANCE.

14-307.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) Except as provided in § 14-308 of this subtitle, the applicant shall:

(1) (i) Have a degree of doctor of medicine from a medical school that is accredited by an accrediting organization that the Board recognizes in its regulations; and

(ii) Submit evidence acceptable to the Board of successful completion of 1 year of training in a postgraduate medical training program that is accredited by an accrediting organization that the Board recognizes in its regulations; or

(2) (i) Have a degree of doctor of osteopathy from a school of osteopathy in the United States, its territories or possessions, Puerto Rico, or Canada that has standards for graduation equivalent to those established by the American Osteopathic Association; and

(ii) Submit evidence acceptable to the Board of successful completion of 1 year of training in a postgraduate medical training program accredited by an accrediting organization that the Board recognizes in its regulations.

(e) Except as otherwise provided in this title, the applicant shall pass an examination required by the Board under this subtitle.

(f) The applicant shall meet any other qualifications that the Board establishes in its regulations for license applicants.

(g) An applicant who has failed the examination or any part of the examination 3 or more times [shall submit evidence of having completed 1 year of additional clinical training in an approved postgraduate training program following the latest failure] **MAY QUALIFY FOR A LICENSE IF THE APPLICANT:**

(1) HAS SUCCESSFULLY COMPLETED 2 OR MORE YEARS OF A RESIDENCY OR FELLOWSHIP ACCREDITED BY THE ACCREDITATION COUNCIL ON GRADUATE MEDICAL EDUCATION OR THE AMERICAN OSTEOPATHIC ASSOCIATION;

(2) (I) HAS A MINIMUM OF 5 YEARS OF CLINICAL PRACTICE OF MEDICINE ~~IN~~:

1. IN THE UNITED STATES OR IN CANADA, ~~WITH~~;

2. WITH AT LEAST 3 OF THE 5 YEARS HAVING OCCURRED WITHIN 5 YEARS OF THE DATE OF THE APPLICATION; AND

~~(II) THE CLINICAL PRACTICE REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH OCCURRED~~

3. THAT OCCURRED UNDER A FULL UNRESTRICTED LICENSE TO PRACTICE MEDICINE; AND

~~(II) (II) NO HAS NO DISCIPLINARY ACTION IS PENDING OR HAS BEEN~~ AND HAS HAD NO DISCIPLINARY ACTION TAKEN AGAINST THE APPLICANT THAT WOULD BE GROUNDS FOR DISCIPLINE UNDER § 14-404 OF THIS TITLE; OR

(3) IS BOARD CERTIFIED.

(h) (1) The Board shall require as part of its examination or licensing procedures that an applicant for a license to practice medicine demonstrate an oral competency in the English language.

(2) Graduation from a recognized English-speaking undergraduate school or high school, including General Education Development (GED), after at least 3 years of enrollment, or from a recognized English-speaking professional school is acceptable as proof of proficiency in the oral communication of the English language under this section.

(3) By regulation, the Board shall develop a procedure for testing individuals who because of their speech impairment are unable to complete satisfactorily a Board approved standardized test of oral competency.

(4) If any disciplinary charges or action that involves a problem with the oral communication of the English language are brought against a licensee under this title, the Board shall require the licensee to take and pass a Board approved standardized test of oral competency.

14-316.

(b) **(1)** ~~At~~ **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AT** least 1 month before the license expires, the Board shall send to the licensee, by **ELECTRONIC OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee:

~~(1)~~ **(I)** A renewal notice that states:

~~(i)~~ **1.** The date on which the current license expires;

~~(ii)~~ **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

~~(iii)~~ **3.** The amount of the renewal fee; and

~~(2)~~ **(II)** A blank panel data sheet supplied by the Health Care Alternative Dispute Resolution Office.

(2) IF THE BOARD CHOOSES TO SEND RENEWAL NOTICES EXCLUSIVELY BY ELECTRONIC MAIL UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD SHALL SEND A RENEWAL NOTICE BY FIRST-CLASS MAIL TO A LICENSEE ON REQUEST OF THE LICENSEE.

14-401.

(e) (2) A peer reviewer shall:

(i) Be [Board] **BOARD** certified;

14-503.

(a) A physician may not represent to the public that the physician is [certified by a public or private board, including a multidisciplinary board, or that the physician is] board certified unless:

(1) THE PHYSICIAN IS BOARD CERTIFIED; AND

~~[(1)]~~ **(2)** The physician discloses the full name of the board from which the physician is certified and the name of the specialty or subspecialty in which the physician is certified[]; and

(2) The certifying board meets one of the following requirements:

- (i) The certifying board is:
1. A member of the American Board of Medical Specialties; or
 2. An American Osteopathic Association certifying board;
- (ii) The certifying board has been approved by the Board; or
- (iii) The certifying board requires that, in order to be certified, the physician:
1. Complete a postgraduate training program that:
 - A. Provides complete training in the specialty or subspecialty; and
 - B. Is accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association; and
 2. Be certified by the member board of the American Board of Medical Specialties or the American Osteopathic Association in the training field.
- (b) The Board may approve a certifying board under subsection (a)(2)(ii) of this section only if the certifying board requires that, in order to be certified, the physician:
- (1) Complete a postgraduate training program that:
 - (i) Provides complete training in the specialty or subspecialty being certified; and
 - (ii) Is accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association; and
 - (2) Be certified by the American Board of Medical Specialties or American Osteopathic Association in the same training field].
- [(c) (B)]** A physician may advertise only as permitted by the rules and regulations of the Board and subject to subsection (a) of this section.

14-5C-06.

- (a) The Committee consists of seven members appointed by the Board as follows:

- (2) Three physicians who are [Board] **BOARD** certified in sleep medicine:
- (i) One of whom is a specialist in psychiatry or internal medicine;
 - (ii) One of whom is a specialist in pulmonary medicine; and
 - (iii) One of whom is a specialist in neurology; and

SECTION 3. 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.

Approved by the Governor, May 16, 2013.

Chapter 584

(Senate Bill 949)

AN ACT concerning

Worcester County – Alcoholic Beverages

FOR the purpose of authorizing a holder of a seven-day Class B beer, wine and liquor license in Worcester County to sell beer, wine and liquor off-sale; creating a Class EF (entertainment facility) beer, wine and liquor license; authorizing a license holder to sell beer, wine, and liquor from one or more outlets in a certain entertainment facility, for consumption anywhere throughout the entertainment facility only; requiring a facility for which a license is issued to have a certain amount of capital investment; authorizing the Board of License Commissioners to issue one or more licenses for the same facility; specifying the hours of sale and a certain license fee; authorizing a holder of a seven-day Class D beer, wine and liquor license in Worcester County to sell beer, wine and liquor off-sale; altering the maximum amount of a certain fine for certain violations in Worcester County; applying certain provisions of law relating to certain alcohol awareness programs to holders of certain alcoholic beverages licenses or certain employees of certain license holders in Worcester County; making a certain exception; altering a certain date on which a licensee in the county may elect to purchase wine or liquor from a licensed wholesaler; authorizing ~~the Director of the Department of Liquor Control to purchase or otherwise acquire wine and liquor from any source for resale, regardless of any other State law or regulation~~

~~to the contrary, without a certain tax having been paid; providing that the wine and liquor may not be resold until a certain excise tax has been paid, acting as a wholesaler, to purchase wine and liquor under certain circumstances; prohibiting the resale of certain wine and liquor until a certain excise tax has been paid; authorizing the Department, acting as a retailer, to purchase wine and liquor under certain circumstances; making clarifying changes; and generally relating to alcoholic beverages in Worcester County.~~

BY repealing and reenacting, without amendments,
 Article 2B – Alcoholic Beverages
 Section 6–201(a)(1) and 6–401(a)(1)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
 Article 2B – Alcoholic Beverages
 Section 6–201(y), 6–401(y), 11–304(a), ~~and~~ 13–101, 15–204(e), and 15–205(l)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2012 Supplement)

~~BY adding to
 Article 2B – Alcoholic Beverages
 Section 6–201(y)(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 2B – Alcoholic Beverages

6–201.

(a) (1) A Class B beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located, and the license authorizes its holder to keep for sale and sell all alcoholic beverages at retail at any hotel or restaurant at the place described, for consumption on the premises or elsewhere, or as provided in this section.

- (y) (1) This subsection applies only in Worcester County.
- (2) The annual license fees for the following types of licenses are:
- (i) Six–day licenses – \$1,750; and
 - (ii) Seven–day licenses – \$2,500.

(3) Hotels and restaurants are defined to be:

(i) For six-day license holders:

1. Bona fide hotels having at least 20 rooms and serving meals regularly; or
2. Restaurants having a seating capacity at tables of at least 70 people.

(ii) For seven-day license holders:

1. As required for six-day license holders, which are incorporated by reference; and
2. A. Establishments for the accommodation of the public which provide services found ordinarily in hotels, have a lobby with a registration and mail desk and seating facilities, and an enclosed dining area which serves full-course meals from menus at least twice daily; or
B. Establishments which have an enclosed dining area which serves full-course meals from menus at least twice daily and have daily receipts from the sale of food in excess of that from the sale of alcoholic beverages during the effective period of the license.

(iii) A license may not be issued unless the hotel or restaurant is operated in a clean and sanitary manner and is equipped with the proper restroom facilities.

(4) Seven-day license holders may sell beer, wine and liquor ~~(on-sale OR OFF-SALE) and beer and light wine (off-sale)~~ ON-SALE AND OFF-SALE.

(5) If the premises to be licensed by the provisions of this subsection are within a municipal corporation, the license application may be subject to approval by its mayor and town council and shall be approved by the licensing authority.

(6) All license fees shall go to the general funds of the county. However, if the licensed premises are in a municipal corporation, 75 percent of the fees shall go to that municipal corporation.

(7) (i) Except as provided in subparagraph (ii) of this paragraph, all licensees shall purchase all wines and liquors, except light wine and beer, from the Worcester County Department of Liquor Control. They shall be charged not more than 85 percent of the retail price or any special sale price or discount price, whichever is lower, set by the Department for wines and liquors. All licensees may purchase beer and light wine from licensed wholesalers.

(ii) Beginning on May 1, 2016, a licensee may elect to purchase wine and liquor from a licensed wholesaler under § 15–204(e) of this article.

(8) The hours for sale are as provided in § 11–524 of this article.

(9) (I) THERE IS A CLASS EF (ENTERTAINMENT FACILITY) BEER, WINE AND LIQUOR LICENSE.

(II) A CLASS EF LICENSE AUTHORIZES THE HOLDER TO SELL BEER, WINE, AND LIQUOR BY THE DRINK AND BY THE BOTTLE FROM ONE OR MORE OUTLETS IN THE ENTERTAINMENT FACILITY, FOR CONSUMPTION ANYWHERE THROUGHOUT THE ENTERTAINMENT FACILITY.

(III) A HOLDER OF A CLASS EF LICENSE MAY NOT SELL ALCOHOLIC BEVERAGES FOR OFF-SALE CONSUMPTION.

(IV) NOTWITHSTANDING § 8–208(B) OF THIS ARTICLE, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS EF LICENSE ONLY IF THE APPLICANT HAS AN INITIAL CAPITAL INVESTMENT IN THE FACILITY FOR WHICH THE LICENSE IS SOUGHT OF AT LEAST \$45,000,000.

(V) THE BOARD MAY ISSUE ONE OR MORE CLASS EF LICENSES FOR THE SAME FACILITY.

(VI) A CLASS EF LICENSE AUTHORIZES THE SALE AND SERVING OF BEER, WINE, AND LIQUOR ANYWHERE THROUGHOUT THE ENTERTAINMENT FACILITY DURING THOSE DAYS THAT THE ENTERTAINMENT FACILITY IS OPEN FOR BUSINESS AND FROM 9:00 A.M. THROUGH 4:00 A.M. THE FOLLOWING DAY.

(VII) A CLASS EF LICENSE AUTHORIZES THE PLAYING OF MUSIC AND DANCING.

(VIII) THE ANNUAL LICENSE FEE IS \$15,000.

6–401.

(a) (1) A Class D beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at the place described in it, for consumption on the premises or elsewhere. A license may not be issued for any drugstore.

(y) (1) This subsection applies only in Worcester County.

(2) (i) A Class D beer, wine and liquor license may be issued only within:

1. The corporate limits of Ocean City;
2. The boundary lines of the 10th taxing district;
3. The area bounded by U.S. Route 50 to the south, Turville Creek and Herring Creek to the east, St. Martin River to the north, and Maryland Route 589 to the west;
4. The area bounded by Maryland Route 589 to the north and east, U.S. Route 50 to the south, and U.S. Route 113 to the west; and
5. From the intersection of Maryland Route 589 and U.S. Route 50, an area bounded by a line that extends 1,500 feet south of U.S. Route 50, east to the boundary of the 10th taxing district, north along the 10th taxing district boundary to U.S. Route 50, and west to the intersection of Maryland Route 589 and U.S. Route 50.

(ii) The annual license fee for the six-day license set by the Worcester County Commissioners may not be less than \$3,000.

(iii) The annual license fee for the seven-day license set by the Worcester County Commissioners may not be less than \$3,500.

(iv) Seven-day license holders may sell beer, wine and liquor ~~(on-sale OR OFF-SALE) and beer and light wine (off-sale)~~ ON-SALE AND OFF-SALE.

(v) All license fees shall go to the general funds of the county. However, if the licensed premises are in a municipal corporation, 75 percent of the fees shall go to that municipal corporation.

(vi) 1. Except as provided in subparagraph 2 of this subparagraph, all licensees shall purchase all wines and liquors, except light wine and beer, from the Worcester County Department of Liquor Control. They shall be charged not more than 85 percent of the retail price or any special sale price or discount price, whichever is lower, set by the Department for wines and liquors. All licensees may purchase beer and light wine from licensed wholesalers.

2. Beginning on May 1, 2016, a licensee may elect to purchase wine and liquor from a licensed wholesaler under § 15-204(e) of this article.

(vii) The hours for sale are as provided in § 11-524 of this article.

(viii) With respect to the Ocean City Convention Hall, only the Convention Hall Commission and its successors may be issued an alcoholic beverages

license. The Commission may permit its vendors to dispense alcoholic beverages pursuant to whatever license the Commission is granted. Further, the Commission may contract to receive some proportion of the revenue derived from the vendor's sale of alcoholic beverages. This license shall be subject to the following restrictions:

1. This monopoly may not impinge upon the provisions of § 7–101(u)(5) of this article;

2. Only on–sale transactions shall be permitted; and

3. Consumption of alcoholic beverages shall be restricted to the premises.

(3) (i) 1. A. The Board may issue a special 7–day Class D beer, wine and liquor on–sale retail license to the Mayor of Ocean City for use on the premises of the Ocean City municipal golf courses.

B. A separate license is required for each Ocean City municipal golf course.

2. Prior to the issuance of any license under this paragraph, the Mayor shall designate an individual to complete training in an alcohol awareness program approved under § 13–101 of this article.

3. The individual designated by the Mayor shall:

A. Represent the concessionaire; and

B. Be directly involved with the management of the sale of beer, wine, and liquor by the concessionaire.

(ii) The holder may contract with and permit a concessionaire to keep for sale and sell beer, wine, and liquor for on premises consumption only.

(iii) The hours and days of sale under the license are the same as a Class D beer, wine and liquor on–sale license under § 11–524 of this article or during lesser hours specified by the holder.

(iv) A license shall be issued and renewed without charge or an annual fee and may not be transferred.

11–304.

(a) (1) Between 2 a.m. and 6 a.m. on any day, a person may not consume any alcoholic beverages on any premises open to the general public, any place of public entertainment, or any place at which setups or other component parts of mixed alcoholic drinks are sold under any license issued under the provisions of the Business

Regulation Article, and an owner, operator or manager of the premises or places may not knowingly permit such consumption.

(2) Except as provided in this section, any person found consuming any alcoholic beverage on any premises open to the general public, and any owner, operator or manager of those premises or places who knowingly permits consumption between the hours provided by this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$50 and not less than \$5.

(i) In Anne Arundel County the fine may not be more than \$250.

(ii) In Worcester County the fine may not be more than **[\$1,000]**
\$4,000.

13-101.

(a) In this section "alcohol awareness program" means a program:

(1) That:

(i) Is approved and certified by the State Comptroller; and

(ii) Has been issued an alcohol awareness program permit by the State Comptroller;

(2) That includes instruction on how alcohol affects a person's:

(i) Body; and

(ii) Behavior;

(3) That provides education on the dangers of drinking and driving;
and

(4) That defines effective methods for:

(i) Serving customers to minimize the chance of intoxication;

(ii) Ceasing service before the customer becomes intoxicated;
and

(iii) Determining if a customer is under the drinking age.

(b) (1) The provisions of this section apply to:

(i) Licensed premises that are operated by selling alcoholic beverages directly to a customer from a bar or service bar on the premises;

(ii) Premises licensed for off sale;

(iii) In Montgomery County, a holder of a caterer's license issued under § 6–706.1 of this article; and

(iv) In Baltimore City, an establishment covered under § 20–102(a) of this article.

(2) This section does not apply to:

(i) Temporary alcoholic beverages licenses issued under § 7–101 of this article;

(ii) A Class E (on-sale) steamboat alcoholic beverages license;

(iii) A Class F (on-sale) railroad alcoholic beverages license; or

(iv) A Class G (on-sale) aircraft alcoholic beverages license.

(c) (1) A holder of any class of retail alcoholic beverages license or an employee designated by the holder shall complete training in an approved alcohol awareness program. The training shall be valid for a period of 4 years, and the holder shall complete retraining in an approved program for each successive 4-year period.

(2) (i) This paragraph applies only in the following jurisdictions:

1. Howard County;

2. Montgomery County;

3. Kent County;

4. Washington County;

5. Caroline County; and

6. Except as provided in subparagraph (ii) of this paragraph, Wicomico County **AND WORCESTER COUNTY**.

(ii) This paragraph does not apply to a licensee in Wicomico County **OR WORCESTER COUNTY** with a Class C license.

(iii) The licensee or a person who is employed in a supervisory capacity designated by the licensee:

1. Shall be certified by an approved alcohol awareness program; and

2. Except as otherwise provided in subparagraph (iv) of this paragraph, be present during the hours in which alcohol may be sold.

(iv) 1. In Howard County, Kent County, Washington County, [and] Wicomico County, **AND WORCESTER COUNTY**, the person certified by an approved alcohol awareness program may be absent from the licensed premises for a bona fide personal or business reason or an emergency, if the absence lasts for not more than 2 hours.

2. In Caroline County, the person certified by an approved alcohol awareness program may be absent from the licensed premises for a bona fide emergency, if the absence lasts for not more than 2 hours.

3. The Board of License Commissioners shall require the licensee to keep a log book on the licensed premises that contains documentation of each temporary absence, the length of time of the absence, and the reason for the absence, in the form required by the Board of License Commissioners.

(3) (i) This paragraph applies only in Harford County.

(ii) The licensee or a person who is employed in a supervisory capacity designated by the licensee shall be certified by an approved alcohol awareness program and shall be present during the hours in which alcohol may be sold.

(4) (i) This paragraph applies only to an establishment covered under § 20-102(a) of this article, in Baltimore City.

(ii) Any bottle club owner or a person who is employed in a supervisory capacity designated by the owner shall be certified by an approved alcohol awareness program and shall be present during the hours in which alcohol is served or consumed.

(d) Any licensee who violates the provisions of subsection (c) of this section is subject to:

(1) For the first offense, a \$100 fine; and

(2) For each subsequent offense, a fine not to exceed \$500 or a suspension or revocation of the license or both.

(e) (1) The State Comptroller:

(i) Shall approve and certify each alcohol awareness program that is in compliance with this section; and

(ii) May require recertification of the approved program to insure compliance with any changes in the program.

(2) Any individual who is authorized or employed to teach an alcohol awareness program must obtain an alcohol awareness instructor's permit.

(3) Each local licensing board is responsible for enforcing this section, including the penalty provision.

(4) (i) A certificate of completion shall be issued for each completion of a certified program and it shall be valid for 4 years from the date of issuance.

(ii) An up-to-date valid certificate shall be presented to the proper authority upon request.

(5) (i) Within 5 days after a licensee, bottle club owner, or an employee of a licensee or bottle club owner is sent a certificate of completion, the program provider shall inform the appropriate local licensing board of:

1. The individual's name, address, and certification date;
and

2. The name and address of the licensed establishment.

(ii) Any program provider who violates the provisions of this subsection is subject to a decertification of the program by the State Comptroller.

(f) (1) This section may not be construed to create or enlarge any civil cause of action or criminal proceeding against a licensee.

(2) Evidence of a violation of this section may not be introduced in any civil or criminal proceeding, but may only be used as evidence before the local licensing board in actions brought before the board for violations of this section.

(g) The Comptroller may issue regulations to set standards and requirements pertaining to course content, course duration, course format and any other course related activities the Comptroller may require.

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

(2) A certificate of completion of a certified alcohol awareness program held by an employee or an employee's employer may not be used at more than one licensed establishment.

15-204.

(e) (1) In this subsection, "Department" means the Worcester County Department of Liquor Control.

(2) This subsection applies only in Worcester County.

(3) (i) Beginning on [May 1, 2016] **JULY 1, 2014**, a licensee in the county may elect to purchase wine or liquor from a licensed wholesaler by providing written notice of the licensee's intent to the Department at least 60 days before the date the purchasing activity is to start.

(ii) The notice shall contain:

1. The name of the licensee;

2. The name and address of the licensed premises; and

3. The date that the notice was sent to the Department.

(4) A licensee that meets the requirements of this subsection may purchase wine or liquor from a licensed wholesaler in addition to or instead of the Department.

(5) (i) The Department shall issue a letter of confirmation to a licensee that meets the requirements of this subsection.

(ii) The licensee shall display the letter conspicuously on the licensed premises.

15-205.

(1) (1) In Worcester County, subject to the approval of the County Commissioners, the Director of the Department of Liquor Control may purchase or otherwise acquire:

~~(1)~~ (1) Real or personal property that the Director considers necessary to operate dispensaries, stores, or warehouses; and

~~(2)~~ ~~Wine and liquor from any source for resale, REGARDLESS OF ANY OTHER STATE LAW OR REGULATION TO THE CONTRARY, INCLUDING A GOVERNMENT ALCOHOLIC BEVERAGE CONTROL DEPARTMENT OR AGENCY OF ANOTHER STATE, ANY NONRESIDENT WHOLESALER WHETHER OR NOT LICENSED IN THIS STATE, OR ACTING AS A WHOLESALER, FROM A LICENSED WHOLESALER OR LIQUOR CONTROL BOARD WITHOUT THE TAX IMPOSED BY §~~

~~5-102 OF THE TAX – GENERAL ARTICLE HAVING TO BE PAID, BUT MAY NOT BE
RESOLD UNTIL THE EXCISE TAX HAS BEEN PAID~~

(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,
WINE AND LIQUOR FROM ANY SOURCE FOR RESALE.

(2) (I) 1. ACTING AS A WHOLESALER, THE DEPARTMENT OF
LIQUOR CONTROL MAY PURCHASE WINE AND LIQUOR, ON WHICH THE EXCISE
TAX HAS NOT BEEN PAID, FROM A LICENSED WHOLESALER.

2. THE DEPARTMENT OF LIQUOR CONTROL MAY
ONLY RESELL THE WINE AND LIQUOR PURCHASED UNDER THIS SUBPARAGRAPH
TO A NONDISPENSARY, LICENSED RETAILER AND ONLY AFTER THE EXCISE TAX
HAS BEEN PAID.

(II) ACTING AS A RETAILER, THE DEPARTMENT OF LIQUOR
CONTROL MAY PURCHASE WINE AND LIQUOR, ON WHICH THE EXCISE TAX HAS
BEEN PAID, FROM A LICENSED WHOLESALER FOR RETAIL SALE IN DISPENSARY
STORES.

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

Approved by the Governor, May 16, 2013.

Chapter 585

(Senate Bill 951)

AN ACT concerning

**Health Occupations – Polysomnographic Technologists – Licensure and
Discipline**

FOR the purpose of authorizing, rather than requiring, the State Board of Physicians to reinstate, under certain circumstances, the license of a polysomnographic technologist; repealing the requirement that the Board place a licensed polysomnographic technologist on inactive status under certain circumstances; repealing obsolete language regarding the reinstatement of licenses of certain polysomnographic technologists; authorizing the Board, subject to a certain provision of law, to deny a license or take certain action against a licensee for failing to cooperate with a lawful investigation conducted by the Board; prohibiting, except as otherwise provided by certain provisions of law, a licensed physician from employing or supervising an individual practicing

polysomnography without a license; prohibiting certain entities, except as otherwise provided by certain provisions of law, from employing an individual practicing polysomnography without a license; authorizing the Board to impose a certain civil penalty for the violation of certain provisions of this Act; requiring the Board to pay the penalty into the General Fund of the State; providing that a person who violates a provision of the Maryland Polysomnography Act is subject to a certain civil fine to be levied by the Board; and generally relating to the regulation of the practice of polysomnography in the State.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 14–5C–14(f), 14–5C–17(a)(26) and (27), and 14–5C–23(b)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing

Article – Health Occupations

Section 14–5C–15

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – Health Occupations

Section 14–5C–17(a)(28) and 14–5C–22.1

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

14–5C–14.

(f) The Board [shall] **MAY** reinstate the license of a polysomnographic technologist who has [not placed the license on an inactive status and who has] failed to renew the license for any reason, **AND WHO APPLIES FOR REINSTATEMENT AFTER THE LICENSE HAS EXPIRED**, if the polysomnographic technologist:

(1) [Applies for reinstatement within 30 days after the date the license expires;

(2)] Meets the renewal requirements of this section; [and]

~~[(3)] (2)~~ Pays to the Board the reinstatement fee set by the Board;

AND

(3) MEETS ANY OTHER REQUIREMENTS ESTABLISHED BY REGULATION.

[14–5C–15.

(a) (1) The Board shall place a licensed polysomnographic technologist on inactive status, if the licensee submits to the Board:

(i) An application for inactive status on the form required by the Board; and

(ii) The inactive status fee set by the Board.

(2) The Board shall issue a license to an individual who is on inactive status if the individual complies with the renewal requirements that exist at the time the individual changes from inactive to active status.

(b) The Board may reinstate the license of a polysomnographic technologist who has not been put on inactive status, who has failed to renew the license for any reason, and who applies for reinstatement more than 30 days after the license has expired, if the polysomnographic technologist:

(1) Meets the renewal requirements of § 14–5C–14 of this subtitle;

(2) Pays to the Board the reinstatement fee set by the Board; and

(3) Meets any other requirements established by regulation.]

14–5C–17.

(a) Subject to the hearing provisions of § 14–405 of this title, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

(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; **OR**

(28) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD.

14-5C-22.1.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LICENSED PHYSICIAN MAY NOT EMPLOY OR SUPERVISE AN INDIVIDUAL PRACTICING POLYSOMNOGRAPHY WITHOUT A LICENSE.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A HOSPITAL, A RELATED INSTITUTION, AN ALTERNATIVE HEALTH SYSTEM, OR AN EMPLOYER MAY NOT EMPLOY AN INDIVIDUAL PRACTICING POLYSOMNOGRAPHY WITHOUT A LICENSE.

(C) THE BOARD MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$5,000 FOR A VIOLATION OF THIS SECTION.

(D) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

14-5C-23.

(b) Any person who violates [§ 14-5C-21] A PROVISION of this subtitle is subject to a civil fine of not more than \$5,000 to be levied by the Board.

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

Approved by the Governor, May 16, 2013.

Chapter 586

(House Bill 879)

AN ACT concerning

Health Occupations – Polysomnographic Technologists – Licensure and Discipline

FOR the purpose of authorizing, rather than requiring, the State Board of Physicians to reinstate, under certain circumstances, the license of a polysomnographic technologist; repealing the requirement that the Board place a licensed polysomnographic technologist on inactive status under certain circumstances;

repealing obsolete language regarding the reinstatement of licenses of certain polysomnographic technologists; authorizing the Board, subject to a certain provision of law, to deny a license or take certain action against a licensee for failing to cooperate with a lawful investigation conducted by the Board; prohibiting, except as otherwise provided by certain provisions of law, a licensed physician from employing or supervising an individual practicing polysomnography without a license; prohibiting certain entities, except as otherwise provided by certain provisions of law, from employing an individual practicing polysomnography without a license; authorizing the Board to impose a certain civil penalty for the violation of certain provisions of this Act; requiring the Board to pay the penalty into the General Fund of the State; providing that a person who violates a provision of the Maryland Polysomnography Act is subject to a certain civil fine to be levied by the Board; and generally relating to the regulation of the practice of polysomnography in the State.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 14–5C–14(f), 14–5C–17(a)(26) and (27), and 14–5C–23(b)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing

Article – Health Occupations

Section 14–5C–15

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – Health Occupations

Section 14–5C–17(a)(28) and 14–5C–22.1

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

14–5C–14.

(f) The Board [shall] **MAY** reinstate the license of a polysomnographic technologist who has [not placed the license on an inactive status and who has] failed to renew the license for any reason, **AND WHO APPLIES FOR REINSTATEMENT AFTER THE LICENSE HAS EXPIRED**, if the polysomnographic technologist:

(1) [Applies for reinstatement within 30 days after the date the license expires;

(2)] Meets the renewal requirements of this section; [and]

[(3)] (2) Pays to the Board the reinstatement fee set by the Board;

AND

(3) MEETS ANY OTHER REQUIREMENTS ESTABLISHED BY REGULATION.

[14-5C-15.

(a) (1) The Board shall place a licensed polysomnographic technologist on inactive status, if the licensee submits to the Board:

(i) An application for inactive status on the form required by the Board; and

(ii) The inactive status fee set by the Board.

(2) The Board shall issue a license to an individual who is on inactive status if the individual complies with the renewal requirements that exist at the time the individual changes from inactive to active status.

(b) The Board may reinstate the license of a polysomnographic technologist who has not been put on inactive status, who has failed to renew the license for any reason, and who applies for reinstatement more than 30 days after the license has expired, if the polysomnographic technologist:

(1) Meets the renewal requirements of § 14-5C-14 of this subtitle;

(2) Pays to the Board the reinstatement fee set by the Board; and

(3) Meets any other requirements established by regulation.]

14-5C-17.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

(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; **OR**

(28) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD.

14-5C-22.1.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LICENSED PHYSICIAN MAY NOT EMPLOY OR SUPERVISE AN INDIVIDUAL PRACTICING POLYSOMNOGRAPHY WITHOUT A LICENSE.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A HOSPITAL, A RELATED INSTITUTION, AN ALTERNATIVE HEALTH SYSTEM, OR AN EMPLOYER MAY NOT EMPLOY AN INDIVIDUAL PRACTICING POLYSOMNOGRAPHY WITHOUT A LICENSE.

(C) THE BOARD MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$5,000 FOR A VIOLATION OF THIS SECTION.

(D) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

14-5C-23.

(b) Any person who violates [§ 14-5C-21] A PROVISION of this subtitle is subject to a civil fine of not more than \$5,000 to be levied by the Board.

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

Approved by the Governor, May 16, 2013.

Chapter 587

(Senate Bill 954)

AN ACT concerning

**Maryland Board of Physicians – Authority to Issue Temporary Licenses and
Radiation Therapy, Radiography, Nuclear Medicine Technology, and
Radiology Assistance Advisory Committee**

FOR the purpose of repealing the authority of the Maryland Board of Physicians to issue temporary licenses to practice radiation therapy, radiography, or nuclear medicine technology; repealing certain provisions of law referring to certain temporary licenses; ~~reducing the number of members appointed to the Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee~~; repealing a certain defined term; altering a certain definition; making certain clarifying and technical changes; and generally relating to the Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee and the repeal of the authority of the Maryland Board of Physicians to issue temporary licenses.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14–5B–01(a) and 14–5B–05(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing
Article – Health Occupations
Section 14–5B–01(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–5B–01(p), 14–5B–05(a) ~~and (b)~~, 14–5B–07, 14–5B–09, 14–5B–13,
14–5B–14(a) and (c), 14–5B–15(a) through (c), and 14–5B–18.1(a)
through (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 Occupations

14–5B–01.

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

[(e) “Holder of a temporary license” means an individual who is granted a temporary license to practice radiation therapy, radiography, or nuclear medicine

technology pending fulfillment of the requirements under § 14-5B-09(c) of this subtitle.]

(p) “Practice radiology assistance” means to practice [medical radiation technology] **RADIOGRAPHY** and to perform:

- (1) Fluoroscopy and selected radiology procedures;
- (2) Patient assessment; and
- (3) Patient management.

14-5B-05.

(a) There is a Radiation Therapy, Radiography, Nuclear Medicine Technology [Advisory], and Radiology Assistance **ADVISORY** Committee within the Board.

(b) (1) The Committee consists of ~~{10}~~ ~~NINE~~ members appointed by the Board.

(2) Of the ~~{10}~~ ~~NINE~~ members:

(i) One shall be a licensed physician who specializes in radiology;

(ii) One shall be a licensed physician who specializes in radiology and who supervises a radiologist assistant;

(iii) One shall be a licensed physician who specializes in nuclear medicine;

(iv) One shall be a licensed physician who specializes in radiation oncology;

(v) One shall be a radiation therapist;

(vi) One shall be a radiographer;

~~{(vii)}~~ One shall be a radiologist assistant;

~~{(viii)}~~ ~~(VII)~~ One shall be a nuclear medicine technologist;

~~{(ix)}~~ ~~(VIII)~~ One shall be a consumer member; and

~~{(x)}~~ ~~(IX)~~ One shall be a member of the Board.

14-5B-07.

(a) (1) A licensee [or holder of a temporary license] may only practice under the supervision of a licensed physician.

(2) The failure of a licensed physician to properly supervise a licensee is unprofessional conduct in the practice of medicine under § 14-404(a)(3) of this title.

(b) (1) Except as provided in paragraph (2) of this subsection, the practice of a radiation therapist, radiographer, nuclear medicine technologist, **OR** radiologist assistant[, or holder of a temporary license] is limited to those procedures, operations, preparations, and practices listed in regulation.

(2) A radiologist assistant may not:

(i) Interpret images;

(ii) Make diagnoses; or

(iii) Prescribe medications or therapies.

14-5B-09.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) Except as provided in subsection (c) of this section, the applicant shall:

(1) Be of good moral character;

(2) Be at least 18 years old;

(3) Demonstrate oral and written competency in English as required by the Board; and

(4) Meet any educational, training, or examination requirements established by the Board, including:

(i) Graduation from an appropriate educational program as determined by the Board; and

(ii) Certification.

(c) To qualify for a license to practice as a radiologist assistant, an applicant shall:

(1) Be issued a general license to perform [medical radiation technology] **RADIOGRAPHY**;

(2) Complete an advanced academic program with a nationally recognized radiology curriculum that results in a baccalaureate degree, post baccalaureate certificate, or graduate degree and incorporates a radiologist–directed clinical preceptorship;

(3) Be certified in advanced cardiac life support; and

(4) Be certified as a radiologist assistant by the American Registry of Radiologic Technologists.

[(d) (1) Except for a license to practice radiology assistance, the Board may issue a temporary license to an applicant who:

(i) Except for the certification requirement, has met all of the requirements for licensure in this section; and

(ii) Is scheduled to take a national certifying examination within 3 months after graduation from an appropriate educational program.

(2) The Board shall adopt regulations governing the issuance of temporary licenses to applicants in accordance with this subsection.]

[(e) (D) Except for requirements adopted by the Board for license renewal under § 14–5B–12 of this subtitle, nothing in this subtitle may be construed to require an individual who is certified by the Board as a radiation oncology/therapy technologist, medical radiation technologist, or nuclear medicine technologist as of October 1, 2008, to meet additional education, training, or examination requirements.

14–5B–13.

Unless the Board 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 may deny a license [or temporary license] to any applicant, 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 **OR** 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:

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

(27) Fails to practice under the supervision of a physician or violates a supervisory order of a supervising physician.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, the Board 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 shall order the revocation of a license [or temporary license] on the certification by the Office of the Attorney General.

14-5B-15.

(a) Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1-401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensee [or holder of a temporary license] for any reason that might be grounds for disciplinary action under [§ 14-5B-13] § 14-5B-14 of this subtitle.

(b) A hospital, related institution, alternative health system, or employer that has reason to know that a licensee [or holder of a temporary license] has committed an action or has a condition that might be grounds for reprimand or probation of the licensee [or holder of a temporary license] or suspension or revocation of the licensure because the licensee [or holder of a temporary license] is alcohol impaired or drug impaired is not required to report the licensee [or holder of a temporary license] to the Board if:

(1) The hospital, related institution, alternative health system, or employer knows that the licensee [or holder of a temporary license] is:

(i) In an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or is certified by the Department; or

(ii) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse;

(2) (i) The hospital, related institution, alternative health system, or employer is able to verify that the licensee [or holder of a temporary license] remains in the treatment program until discharge; and

(ii) The action or condition of the licensee [or holder of a temporary license] has not caused injury to any person while the licensee [or holder of a temporary license] is practicing.

(c) (1) If the licensee [or holder of a temporary license] enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified by the Department, the licensee [or holder of a temporary license] shall notify the hospital, related institution, alternative health system, or employer of the licensee's [or holder's] decision to enter the treatment program.

(2) If the licensee [or holder of a temporary license] fails to provide the notice required under paragraph (1) of this subsection, and the hospital, related institution, alternative health system, or employer learns that the licensee [or holder of a temporary license] has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to the Board that the licensee [or holder of a temporary license] has entered a treatment program and has failed to provide the required notice.

(3) If the licensee [or holder of a temporary license] is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify the hospital, related institution, alternative health system, or employer of the licensee's [or holder's] noncompliance.

(4) On receipt of the notification required under paragraph (3) of this subsection, the hospital, related institution, alternative health system, or employer of the licensee [or holder of a temporary license] shall report the licensee's [or holder's] noncompliance to the Board.

14-5B-18.1.

(a) Except as otherwise provided in this subtitle, a licensed physician may not employ or supervise an individual practicing radiation therapy, radiography,

nuclear medicine technology, or radiology assistance without a license [or temporary license].

(b) Except as otherwise provided in this subtitle, a hospital, related institution, alternative health system, or employer may not employ an individual practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance without a license [or temporary license].

(c) The Board may impose a civil penalty of up to \$1,000 for employing an individual without a license [or temporary license] under this section.

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

Approved by the Governor, May 16, 2013.

Chapter 588

(House Bill 980)

AN ACT concerning

Maryland Board of Physicians – Authority to Issue Temporary Licenses and Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee

FOR the purpose of repealing the authority of the Maryland Board of Physicians to issue temporary licenses to practice radiation therapy, radiography, or nuclear medicine technology; repealing certain provisions of law referring to certain temporary licenses; ~~reducing the number of members appointed to the Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee;~~ repealing a certain defined term; altering a certain definition; making certain clarifying and technical changes; and generally relating to the Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee and the repeal of the authority of the Maryland Board of Physicians to issue temporary licenses.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14-5B-01(a) and 14-5B-05(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing
Article – Health Occupations

Section 14-5B-01(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 14-5B-01(p), 14-5B-05(a) ~~and (b)~~, 14-5B-07, 14-5B-09, 14-5B-13,
14-5B-14(a) and (c), 14-5B-15(a) through (c), and 14-5B-18.1(a)
through (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 Occupations

14-5B-01.

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

[(e) “Holder of a temporary license” means an individual who is granted a temporary license to practice radiation therapy, radiography, or nuclear medicine technology pending fulfillment of the requirements under § 14-5B-09(c) of this subtitle.]

(p) “Practice radiology assistance” means to practice [medical radiation technology] **RADIOGRAPHY** and to perform:

- (1) Fluoroscopy and selected radiology procedures;
- (2) Patient assessment; and
- (3) Patient management.

14-5B-05.

(a) There is a Radiation Therapy, Radiography, Nuclear Medicine Technology [Advisory], and Radiology Assistance **ADVISORY** Committee within the Board.

(b) (1) The Committee consists of ~~10~~ **NINE** members appointed by the Board.

- (2) Of the ~~10~~ **NINE** members:

- (i) One shall be a licensed physician who specializes in radiology;
- (ii) One shall be a licensed physician who specializes in radiology and who supervises a radiologist assistant;
- (iii) One shall be a licensed physician who specializes in nuclear medicine;
- (iv) One shall be a licensed physician who specializes in radiation oncology;
- (v) One shall be a radiation therapist;
- (vi) One shall be a radiographer;
- ~~[(vii)]~~ One shall be a radiologist assistant;
- ~~[(viii)]~~ ~~(vii)~~ One shall be a nuclear medicine technologist;
- ~~[(ix)]~~ ~~(viii)~~ One shall be a consumer member; and
- ~~[(x)]~~ ~~(ix)~~ One shall be a member of the Board.

14-5B-07.

(a) (1) A licensee [or holder of a temporary license] may only practice under the supervision of a licensed physician.

(2) The failure of a licensed physician to properly supervise a licensee is unprofessional conduct in the practice of medicine under § 14-404(a)(3) of this title.

(b) (1) Except as provided in paragraph (2) of this subsection, the practice of a radiation therapist, radiographer, nuclear medicine technologist, **OR** radiologist assistant[, or holder of a temporary license] is limited to those procedures, operations, preparations, and practices listed in regulation.

(2) A radiologist assistant may not:

- (i) Interpret images;
- (ii) Make diagnoses; or
- (iii) Prescribe medications or therapies.

14-5B-09.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) Except as provided in subsection (c) of this section, the applicant shall:

(1) Be of good moral character;

(2) Be at least 18 years old;

(3) Demonstrate oral and written competency in English as required by the Board; and

(4) Meet any educational, training, or examination requirements established by the Board, including:

(i) Graduation from an appropriate educational program as determined by the Board; and

(ii) Certification.

(c) To qualify for a license to practice as a radiologist assistant, an applicant shall:

(1) Be issued a general license to perform [medical radiation technology] **RADIOGRAPHY**;

(2) Complete an advanced academic program with a nationally recognized radiology curriculum that results in a baccalaureate degree, post baccalaureate certificate, or graduate degree and incorporates a radiologist–directed clinical preceptorship;

(3) Be certified in advanced cardiac life support; and

(4) Be certified as a radiologist assistant by the American Registry of Radiologic Technologists.

[(d) (1) Except for a license to practice radiology assistance, the Board may issue a temporary license to an applicant who:

(i) Except for the certification requirement, has met all of the requirements for licensure in this section; and

(ii) Is scheduled to take a national certifying examination within 3 months after graduation from an appropriate educational program.

(2) The Board shall adopt regulations governing the issuance of temporary licenses to applicants in accordance with this subsection.]

[(e)] (D) Except for requirements adopted by the Board for license renewal under § 14–5B–12 of this subtitle, nothing in this subtitle may be construed to require an individual who is certified by the Board as a radiation oncology/therapy technologist, medical radiation technologist, or nuclear medicine technologist as of October 1, 2008, to meet additional education, training, or examination requirements.

14–5B–13.

Unless the Board 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 may deny a license [or temporary license] to any applicant, 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 **OR** 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:

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

(27) Fails to practice under the supervision of a physician or violates a supervisory order of a supervising physician.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, the Board 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 shall order the revocation of a license [or temporary license] on the certification by the Office of the Attorney General.

14-5B-15.

(a) Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in § 1-401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensee [or holder of a temporary license] for any reason that might be grounds for disciplinary action under [§ 14-5B-13] **§ 14-5B-14** of this subtitle.

(b) A hospital, related institution, alternative health system, or employer that has reason to know that a licensee [or holder of a temporary license] has committed an action or has a condition that might be grounds for reprimand or probation of the licensee [or holder of a temporary license] or suspension or revocation of the licensure because the licensee [or holder of a temporary license] is alcohol impaired or drug impaired is not required to report the licensee [or holder of a temporary license] to the Board if:

(1) The hospital, related institution, alternative health system, or employer knows that the licensee [or holder of a temporary license] is:

(i) In an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or is certified by the Department; or

(ii) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse;

(2) (i) The hospital, related institution, alternative health system, or employer is able to verify that the licensee [or holder of a temporary license] remains in the treatment program until discharge; and

(ii) The action or condition of the licensee [or holder of a temporary license] has not caused injury to any person while the licensee [or holder of a temporary license] is practicing.

(c) (1) If the licensee [or holder of a temporary license] enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified by the Department, the licensee [or holder of a temporary license] shall notify the

hospital, related institution, alternative health system, or employer of the licensee's [or holder's] decision to enter the treatment program.

(2) If the licensee [or holder of a temporary license] fails to provide the notice required under paragraph (1) of this subsection, and the hospital, related institution, alternative health system, or employer learns that the licensee [or holder of a temporary license] has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to the Board that the licensee [or holder of a temporary license] has entered a treatment program and has failed to provide the required notice.

(3) If the licensee [or holder of a temporary license] is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify the hospital, related institution, alternative health system, or employer of the licensee's [or holder's] noncompliance.

(4) On receipt of the notification required under paragraph (3) of this subsection, the hospital, related institution, alternative health system, or employer of the licensee [or holder of a temporary license] shall report the licensee's [or holder's] noncompliance to the Board.

14-5B-18.1.

(a) Except as otherwise provided in this subtitle, a licensed physician may not employ or supervise an individual practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance without a license [or temporary license].

(b) Except as otherwise provided in this subtitle, a hospital, related institution, alternative health system, or employer may not employ an individual practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance without a license [or temporary license].

(c) The Board may impose a civil penalty of up to \$1,000 for employing an individual without a license [or temporary license] under this section.

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

Approved by the Governor, May 16, 2013.

Chapter 589**(Senate Bill 955)**

AN ACT concerning

Alcoholic Beverages – Refillable Containers – Class 5 Manufacturer’s License

FOR the purpose of authorizing the State Comptroller to issue a refillable container permit to a holder of a Class 5 manufacturer’s license; providing for the renewal of the permit; authorizing a holder of a refillable container permit to sell draft beer in certain refillable containers for consumption off the licensed premises; specifying the hours of sale for the permit; providing that a holder of the permit may refill only a refillable container that was branded by the permit holder; authorizing the Comptroller to adopt certain regulations; and generally relating to the issuance of a refillable container permit to a holder of a Class 5 manufacturer’s license.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–206
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

2–206.

(a) A Class 5 manufacturer’s license:

(1) Is a brewery license; and

(2) Authorizes the holder to:

(i) Establish and operate in this State a plant for brewing and bottling malt beverages at the location described in the license;

(ii) Import beer from holders of nonresident dealer’s permits;
and

(iii) Sell and deliver beer to any wholesale licensee in this State, or person outside of this State, authorized to acquire it.

(b) A licensee may:

(1) Serve to a person of legal drinking age who participates in a guided tour of the facility or attends a scheduled promotional event or other organized activity at the licensed premises, not more than six samples of beer brewed at the licensed premises, with each sample consisting of not more than 3 ounces from a single style of beer; and

(2) Sell beer brewed at the brewery for off-premises consumption to anyone who participates in a guided tour of the brewery or attends a scheduled promotional event or other organized activity at the licensed premises, subject to the following restrictions:

(i) The purchase is limited to 288 ounces of beer per person; and

(ii) The person has attained the legal drinking age.

(c) (1) The Office of the Comptroller may issue a special brewery promotional event permit to a holder of a Class 5 manufacturer's license.

(2) The permit authorizes the holder to conduct on the premises of the brewery a promotional event at which the holder may:

(i) Provide samples of not more than 3 fluid ounces per brand to consumers; and

(ii) Sell beer produced by the holder to persons who participate in the event.

(3) The beer at the event shall be sold by the glass and for consumption on the premises only.

(4) A holder of a Class 5 manufacturer's license may not be issued more than 12 permits in a calendar year.

(5) A single promotional event may not exceed 3 consecutive days.

(6) The permit fee is \$25 per event.

(7) To obtain a permit, a person, at least 15 days before the event, shall file with the Office of the Comptroller an application that the Office provides.

(D) (1) (I) THE COMPTROLLER MAY ISSUE A REFILLABLE CONTAINER PERMIT TO A HOLDER OF A CLASS 5 MANUFACTURER'S LICENSE:

1. ON COMPLETION OF AN APPLICATION FORM THAT THE COMPTROLLER PROVIDES; AND

2. AT NO COST TO THE HOLDER OF THE CLASS 5 MANUFACTURER'S LICENSE.

(II) A REFILLABLE CONTAINER PERMIT MAY BE RENEWED EACH YEAR CONCURRENTLY WITH THE RENEWAL OF THE CLASS 5 MANUFACTURER'S LICENSE.

(2) A REFILLABLE CONTAINER PERMIT AUTHORIZES THE HOLDER TO SELL DRAFT BEER FOR CONSUMPTION OFF THE LICENSED PREMISES IN A REFILLABLE CONTAINER THAT:

(I) HAS A CAPACITY OF NOT LESS THAN 32 OUNCES AND NOT MORE THAN 128 OUNCES; AND

(II) MEETS THE REQUIREMENTS UNDER PARAGRAPH (3) OF THIS SUBSECTION.

(3) TO BE USED AS A REFILLABLE CONTAINER UNDER PARAGRAPH (2) OF THIS SUBSECTION, 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 27 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. CONTENTS OF THE CONTAINER ARE PERISHABLE AND SHOULD BE REFRIGERATED IMMEDIATELY AND CONSUMED WITHIN 48 HOURS AFTER PURCHASE.

(4) THE HOURS OF SALE FOR A REFILLABLE CONTAINER PERMIT ISSUED UNDER THIS SUBSECTION ARE THE SAME AS THE HOURS WHEN A GUIDED TOUR, A PROMOTIONAL EVENT, OR OTHER ORGANIZED ACTIVITY AT THE LICENSED PREMISES AUTHORIZED UNDER SUBSECTION (B) OF THIS SECTION MAY BE CONDUCTED.

(5) A HOLDER OF A REFILLABLE CONTAINER PERMIT MAY REFILL ONLY A REFILLABLE CONTAINER THAT WAS BRANDED BY THE PERMIT HOLDER.

(6) THE COMPTROLLER MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION.

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

Approved by the Governor, May 16, 2013.

Chapter 590

(Senate Bill 957)

AN ACT concerning

Frederick County – Alcoholic Beverages – Banquet Facility License

FOR the purpose of altering the Banquet Facility license in Frederick County by specifying that the license entitles the holder to sell beer, wine, and liquor; specifying that a certain requirement concerning minimum serving capacity may be met by persons who are inside the facility or outside on the premises; repealing the requirement that a facility be eligible for inclusion in a certain national register; altering a certain minimum capital investment requirement for licensees; authorizing a licensee to sell beer, wine, or liquor for off-premises consumption in collectible bottles under certain circumstances; and generally relating to banquet facility licenses in Frederick County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–201(l)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages

Section 6–201(l)(4)
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

6–201.

(l) (1) This subsection applies only in Frederick County.

(4) (i) The Board of License Commissioners may issue a Class B–B.F. (Banquet Facility) beer, [light] wine and liquor on–sale license for a banquet facility that:

1. Accommodates the public for banquets, parties, meetings, and similar functions;

2. Contains a dining room with adequate facilities for preparing and serving full–course meals for at least 100 persons **WHO ARE INSIDE THE FACILITY OR OUTSIDE ON THE PREMISES** at one seating; **AND**

3. [Is eligible for inclusion on the National Register of Historic Places; and

4.] Has a capital investment of not less than [**\$500,000**] **\$250,000**, excluding the cost of the land, buildings, and leases.

(ii) The Class B–B.F. beer, [light] wine and liquor license authorizes the holder to keep for sale, and sell at retail, beer, [light] wine, and liquor by the drink or by the bottle for on–premises consumption only; provided that:

1. The beer, [light] wine, and liquor are only sold during the function;

2. [The] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH**, THE licensee may not sell alcoholic beverages for off–premises consumption;

3. The licensee may not permit alcoholic beverages to be carried off the premises; and

4. Food is furnished at the function where the alcoholic beverages are provided.

(III) A LICENSEE MAY SELL BEER, WINE, OR LIQUOR FOR OFF-PREMISES CONSUMPTION IF THE BEER, WINE, OR LIQUOR IS:

1. IN A COLLECTIBLE BOTTLE COMMEMORATING A SPECIAL ANNIVERSARY OR EVENT; AND

2. SOLD NOT MORE THAN 30 CALENDAR DAYS BEFORE THE SPECIAL ANNIVERSARY OR EVENT.

[(iii)] (IV) The days and hours of sale under this license are as provided in § 11-511 of this article.

[(iv)] (V) The annual license fee for a Class B-B.F. license is \$1,500.

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

Approved by the Governor, May 16, 2013.

Chapter 591

(House Bill 1387)

AN ACT concerning

Frederick County – Alcoholic Beverages – Banquet Facility License

FOR the purpose of altering the Banquet Facility license in Frederick County by specifying that the license entitles the holder to sell beer, wine, and liquor; specifying that a certain requirement concerning minimum serving capacity may be met by persons who are inside the facility or outside on the premises; repealing the requirement that a facility be eligible for inclusion in a certain national register; altering a certain minimum capital investment requirement for licensees; authorizing a licensee to sell beer, wine, or liquor for off-premises consumption in collectible bottles under certain circumstances; and generally relating to banquet facility licenses in Frederick County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6-201(l)(1)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 6–201(l)(4)
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

6–201.

(l) (1) This subsection applies only in Frederick County.

(4) (i) The Board of License Commissioners may issue a Class B–B.F. (Banquet Facility) beer, [light] wine and liquor on–sale license for a banquet facility that:

1. Accommodates the public for banquets, parties, meetings, and similar functions;

2. Contains a dining room with adequate facilities for preparing and serving full–course meals for at least 100 persons **WHO ARE INSIDE THE FACILITY OR OUTSIDE ON THE PREMISES** at one seating; **AND**

3. [Is eligible for inclusion on the National Register of Historic Places; and

4.] Has a capital investment of not less than **[\$500,000]** **\$250,000**, excluding the cost of the land, buildings, and leases.

(ii) The Class B–B.F. beer, [light] wine and liquor license authorizes the holder to keep for sale, and sell at retail, beer, [light] wine, and liquor by the drink or by the bottle for on–premises consumption only; provided that:

1. The beer, [light] wine, and liquor are only sold during the function;

2. [The] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH**, THE licensee may not sell alcoholic beverages for off–premises consumption;

3. The licensee may not permit alcoholic beverages to be carried off the premises; and

4. Food is furnished at the function where the alcoholic beverages are provided.

(III) A LICENSEE MAY SELL BEER, WINE, OR LIQUOR FOR OFF-PREMISES CONSUMPTION IF THE BEER, WINE, OR LIQUOR IS:

1. IN A COLLECTIBLE BOTTLE COMMEMORATING A SPECIAL ANNIVERSARY OR EVENT; AND

2. SOLD NOT MORE THAN 30 CALENDAR DAYS BEFORE THE SPECIAL ANNIVERSARY OR EVENT.

[(iii)] (IV) The days and hours of sale under this license are as provided in § 11-511 of this article.

[(iv)] (V) The annual license fee for a Class B-B.F. license is \$1,500.

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

Approved by the Governor, May 16, 2013.

Chapter 592

(Senate Bill 965)

AN ACT concerning

Maryland Smart Growth Investment Fund Workgroup

FOR the purpose of requiring the Secretary of Housing and Community Development to convene a workgroup to examine creating the Maryland Smart Growth Investment Fund; requiring the workgroup to include certain representatives; prohibiting a member of the workgroup from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the workgroup to evaluate and make recommendations regarding certain matters; requiring the Secretary to report the findings and any recommendations of the workgroup on or before a certain date; providing for the termination of this Act; and generally relating to creating the Maryland Smart Growth Investment Fund.

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

(a) The Secretary of Housing and Community Development shall convene a workgroup to evaluate and make recommendations relating to creating the Maryland Smart Growth Investment Fund.

(b) The workgroup required under this section shall include:

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

(4) the Secretary of Business and Economic Development, or the Secretary's designee;

~~(5) the Secretary of Budget and Management, or the Secretary's designee;~~

~~(5) (6) the Secretary of Planning, or the Secretary's designee;~~

~~(6) (7) the Secretary of Transportation, or the Secretary's designee;~~

~~(7) the Secretary of Budget and Management, or the Secretary's designee;~~

~~(7) (8) the Chair of the Sustainable Growth Commission, or the Chair's designee;~~

~~(8) (9) up to five representatives from the private sector; and~~

~~(9) (10) up to three representatives from local government.~~

(c) A member of the workgroup:

(1) may not receive compensation 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.

(d) The workgroup shall:

- (1) review national and international experience in analogous fund creation, management, and governance;
- (2) design a management and governance model to help accelerate smart growth, revitalization, and sustainable development in areas of the State such as sustainable communities and transit-oriented developments;
- (3) identify criteria for how ~~moneys~~ money in the fund would be invested;
- (4) examine potential funding sources, including institutional investors, high net worth investors, and public funds;
- (5) examine investment instruments, including equity, debt, and guarantees;
- (6) examine the benefits of developing “sidecar” funds that would be funded at the county level and would be coordinated with the Maryland Smart Growth Investment Fund; and
- (7) design an investment and management model for the Maryland Smart Growth Investment Fund.

(e) On or before December 31, 2013, the Secretary of Housing and Community Development shall report the findings and recommendations of the workgroup 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 16, 2013.

Chapter 593

(House Bill 1170)

AN ACT concerning

Maryland Smart Growth Investment Fund Workgroup

FOR the purpose of requiring the Secretary of Housing and Community Development to convene a workgroup to examine creating the Maryland Smart Growth

Investment Fund; requiring the workgroup to include certain representatives; prohibiting a member of the workgroup from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the workgroup to evaluate and make recommendations regarding certain matters; requiring the Secretary to report the findings and any recommendations of the workgroup on or before a certain date; providing for the termination of this Act; and generally relating to creating the Maryland Smart Growth Investment Fund.

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

(a) The Secretary of Housing and Community Development shall convene a workgroup to evaluate and make recommendations relating to creating the Maryland Smart Growth Investment Fund.

(b) The workgroup required under this section shall include:

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

(4) the Secretary of Business and Economic Development, or the Secretary's designee;

(5) the Secretary of Budget and Management, or the Secretary's designee;

~~(5)~~ (6) the Secretary of Planning, or the Secretary's designee;

~~(6)~~ (7) the Secretary of Transportation, or the Secretary's designee;

~~(7)~~ (8) the Chair of the Sustainable Growth Commission, or the Chair's designee;

~~(8)~~ (9) up to five representatives from the private sector; and

~~(9)~~ (10) up to three representatives from local government.

(c) A member of the workgroup:

(1) may not receive compensation 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.

(d) The workgroup shall:

(1) review national and international experience in analogous fund creation, management, and governance;

(2) design a management and governance model to help accelerate smart growth, revitalization, and sustainable development in areas of the State such as sustainable communities and transit-oriented developments;

(3) identify criteria for how ~~moneys~~ money in the Fund would be invested;

(4) examine potential funding sources, including institutional investors, high net worth investors, and public funds;

(5) examine investment instruments, including equity, debt, and guarantees;

(6) examine the benefits of developing "sidecar" funds that would be funded at the county level and would be coordinated with the Maryland Smart Growth Investment Fund; and

(7) design an investment and management model for the Maryland Smart Growth Investment Fund.

(e) On or before December 31, 2013, the Secretary of Housing and Community Development shall report the findings and recommendations of the workgroup to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 3. 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 16, 2013.

Chapter 594

(Senate Bill 969)

AN ACT concerning

Public Safety – Fire Protection and Prevention – Residential Smoke Alarms

FOR the purpose of repealing and recodifying certain provisions of law dealing with smoke detection systems; clarifying that the installation of certain smoke alarms is required in certain areas of certain buildings; providing that this Act is applicable statewide; authorizing a local jurisdiction to adopt certain regulations; requiring a minimum number of smoke alarms be installed in certain areas of certain residential occupancies; requiring a certain smoke alarm to activate other smoke alarms in certain circumstances; requiring certain power sources for certain smoke alarms; requiring a certain upgrading of certain smoke alarm placement under certain circumstances; requiring certain existing residential occupancies to be upgraded on or before a certain date; requiring a certain smoke alarm for a sleeping room occupied by a deaf or hard of hearing individual; requiring a landlord to respond to a certain notice in a certain manner; requiring hotels and motels to make a certain minimum number of smoke alarm notification appliances available under certain circumstances and to post a certain notice; authorizing a hotel or motel to charge a certain deposit; authorizing a certain landlord to require reimbursement from a tenant for the cost of a certain ~~fire~~ smoke alarm; providing for enforcement of and responsibility for installation and maintenance of smoke alarms; authorizing a smoke alarm to be combined with a carbon monoxide alarm in certain circumstances; authorizing certain authorities to issue a certain order; requiring a certain person to respond within a certain period of time; altering the information about smoke alarms that must be included in a certain residential property disclosure statement; providing for the application of certain provisions of this Act; defining certain terms; and generally relating to residential smoke alarms.

BY repealing

Article – Public Safety
Section 9–101 through 9–106
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to

Article – Public Safety
Section 9–101 through 9–106
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Public Safety
Section 9–107 and 9–109
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 9–108
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 10–702(e)(2)
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 Safety

[9–101.

(a) (1) Notwithstanding any other provision of this article, this subtitle applies in Baltimore City.

(2) In Baltimore City, the Baltimore City fire department shall enforce this subtitle.

(3) In Baltimore City, appeals concerning this subtitle shall be made to the Baltimore City fire board.

(b) This subtitle does not affect a public local law or regulation that existed on July 1, 1982, that required smoke detectors in occupancies with less than ten dwelling units.]

[9–102.

(a) (1) Each sleeping area within each occupancy classified residential, as defined in the most recent edition of the National Fire Protection Association Life Safety Code adopted by the State Fire Prevention Commission, shall be equipped with at least one approved smoke detector that:

(i) senses visible or invisible particles of combustion; and

(ii) is installed in a manner and location approved by the State Fire Prevention Commission.

(2) When activated, the smoke detector shall provide an alarm suitable to warn the occupants.

(b) (1) The landlord shall install smoke detectors as required under subsection (a) of this section.

(2) On written notification by certified mail by the tenant or on notification in person by the tenant, the landlord shall repair or replace the smoke detector.

(3) If the tenant personally notifies the landlord of the failure of a smoke detector, the landlord shall provide a written receipt acknowledging the notification.

(4) A tenant may not remove a smoke detector or render a smoke detector inoperative.

(5) Except for hotels or motels, a landlord may require a refundable deposit for a smoke detector not exceeding the value of the smoke detector.

(6) On written request of a tenant who is deaf or hearing impaired, the landlord shall provide a smoke detector that, when activated, provides a signal that:

(i) is approved by a nationally recognized testing laboratory for electrical appliances; and

(ii) is sufficient to warn the deaf or hearing impaired tenant.

(c) (1) Regardless of the number of units, each hotel or motel shall have available at least one smoke detector for the deaf or hearing impaired for each 50 units or fraction of 50 units.

(2) The hotel or motel may require a refundable deposit for a portable smoke detector not exceeding the value of the smoke detector.

(3) The hotel or motel shall post in a conspicuous place at the registration desk a permanent sign that states the availability of smoke detectors for the deaf or hearing impaired.

(d) On or before July 1, 1982, an occupant of a one, two, or three family residential dwelling constructed before July 1, 1975, shall:

(1) equip each occupant's living unit with at least one approved battery or alternating current (AC) primary electric powered smoke detector; and

(2) maintain the smoke detector.]

(a) At least one smoke detector shall be installed on each level, including a basement but excluding an attic, of each new residential dwelling unit:

(1) that contains alternating current (AC) electrical service;

(2) that is classified residential, as defined in the most recent edition of the National Fire Protection Association Life Safety Code adopted by the State Fire Prevention Commission; and

(3) for which a building permit is issued for new construction on or after January 1, 1989.

(b) If two or more smoke detectors are required under subsection (a) of this section, the smoke detectors shall be of a type and installed in a manner so that activation of one smoke detector causes activation of all other required smoke detectors in the residential dwelling unit.

(c) A smoke detector required under this subtitle shall operate both by battery and on an alternating current (AC) primary source of electric power if the smoke detector is installed in a new residential dwelling unit:

(1) that contains alternating current (AC) electrical service;

(2) that is designed to be occupied by one or more families; and

(3) for which a building permit is issued for new construction on or after July 1, 1990.

(d) This section:

(1) may be enforced by a county fire chief, fire administrator, or municipal fire chief; and

(2) does not prevent a county from enacting more stringent laws that relate to smoke detectors.]

[9-104.

(a) (1) Except as provided in paragraph (2) of this subsection and § 9-102(d) of this subtitle, smoke detection systems shall operate on an alternating current (AC) primary source of electric power.

(2) Smoke detection systems may operate on approved power supplies other than an alternating current (AC) primary source of electric power if:

(i) the power supply is approved by the State Fire Prevention Commission; and

(ii) it is clearly evident that reasonable safety is secured.

(b) Each approved smoke detector shall be installed so as not to exceed the lineal or square footage allowances specified for the smoke detector, based on the generally accepted test standards under which the smoke detector was tested and approved.

(c) Smoke detection systems, including specialized smoke detectors for the deaf and hearing impaired, shall be approved for the particular system and shall only be used for detection and signaling in the event of fire.

(d) Each lease for an existing residential dwelling unit that contains alternating current (AC) electric service shall contain a disclosure in 10–point bold type that states:

“This residential dwelling unit contains alternating current (AC) electric service. In the event of a power outage, an alternating current (AC) powered smoke detector will not provide an alarm. Therefore, the occupant should obtain a dual powered smoke detector or a battery powered smoke detector.”]

[9–105.

A person may sell or install a smoke detection system, smoke detector, smoke alarm, or specialized smoke detectors or smoke alarms for the deaf and hard of hearing only in accordance with the State Fire Prevention Code.]

[9–106.

(a) If approved by the State Fire Prevention Commission, an approved automatic fire sprinkler system may be installed instead of a smoke detection system.

(b) Installing an approved automatic fire sprinkler system does not nullify the other requirements of the State Fire Prevention Code or exempt an occupancy from other requirements that are clearly applicable under the State Fire Prevention Code.]

9–101.

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

(B) “SLEEPING AREA” MEANS A SPACE THAT INCLUDES ONE OR MORE SLEEPING ROOMS AND A HALL OR COMMON AREA IMMEDIATELY ADJACENT TO ANY SLEEPING ROOM.

(C) "SLEEPING ROOM" MEANS AN ENCLOSED ROOM WITH A BED ARRANGED TO BE USED AS A BEDROOM.

~~(B)~~ (D) "SMOKE ALARM" MEANS A SINGLE OR MULTIPLE STATION DEVICE THAT DETECTS VISIBLE OR INVISIBLE PRODUCTS OF COMBUSTION AND INCLUDES A BUILT-IN INTERNAL ALARM SIGNAL.

~~(E)~~ (E) "SMOKE DETECTOR" MEANS A SYSTEM-CONNECTED SMOKE SENSING DEVICE TIED TO A FIRE ALARM CONTROL PANEL OR A HOUSEHOLD FIRE WARNING PANEL.

9-102.

(A) THIS SUBTITLE APPLIES THROUGHOUT THE STATE, INCLUDING BALTIMORE CITY.

(B) AN AUTOMATIC SMOKE ALARM SHALL BE PROVIDED IN EACH SLEEPING AREA WITHIN EACH RESIDENTIAL OCCUPANCY, INCLUDING ONE- AND TWO-FAMILY DWELLINGS, LODGING OR ROOMING HOUSES, HOTELS, DORMITORIES, AND APARTMENT BUILDINGS, AS DEFINED IN NFPA 101: LIFE SAFETY CODE AS ADOPTED BY THE STATE FIRE PREVENTION COMMISSION.

(C) SMOKE ALARMS SHALL:

(1) BE INSTALLED IN ACCORDANCE WITH NFPA 72: NATIONAL FIRE ALARM CODE AS REFERENCED BY THE STATE FIRE PREVENTION CODE;

(2) BE LISTED AND LABELED BY A NATIONALLY RECOGNIZED TESTING LABORATORY TO COMPLY WITH UNDERWRITERS LABORATORIES (UL) 217, "STANDARD FOR SAFETY FOR SINGLE AND MULTIPLE STATION SMOKE ALARMS";

(3) BE SUITABLE FOR SENSING VISIBLE OR INVISIBLE PRODUCTS OF COMBUSTION; AND

(4) SOUND AN ALARM SUITABLE TO WARN THE OCCUPANTS.

(D) LOCAL JURISDICTIONS MAY ADOPT SMOKE ALARM REGULATIONS THAT ARE MORE STRINGENT THAN THE PROVISIONS OF THIS SUBTITLE.

9-103.

(A) THIS SECTION APPLIES ONLY TO NEW RESIDENTIAL UNITS CONSTRUCTED ON OR AFTER JULY 1, 2013.

~~(A)~~ **(B)** AT LEAST ONE SMOKE ALARM SHALL BE INSTALLED IN EACH SLEEPING ROOM, IN THE HALLWAY OR COMMON AREA OUTSIDE OF SLEEPING ROOMS, AND IN THE HALLWAY OR COMMON AREA ON EACH LEVEL WITHIN A ~~NEW~~ RESIDENTIAL DWELLING UNIT ~~CONSTRUCTED AFTER JULY 1, 2013~~, INCLUDING BASEMENTS AND EXCLUDING UNOCCUPIED ATTICS, GARAGES, AND CRAWL SPACES.

~~(B)~~ **(C)** IF TWO OR MORE SMOKE ALARMS ARE REQUIRED WITHIN A RESIDENTIAL UNIT, THE SMOKE ALARMS SHALL BE ARRANGED SO THAT ACTIVATION OF ANY ONE SMOKE ALARM CAUSES ALARM ACTIVATION OF ALL OTHER REQUIRED SMOKE ALARMS WITHIN THE RESIDENTIAL UNIT.

~~(C)~~ **(D)** EACH SMOKE ALARM REQUIRED BY THIS SECTION SHALL OPERATE ON AN ALTERNATING CURRENT (AC) PRIMARY SOURCE OF ELECTRIC POWER WITH A BATTERY BACKUP OR AN APPROVED ALTERNATE SECONDARY POWER SOURCE.

~~(D)~~ **(E)** IN ONE- AND TWO-FAMILY DWELLINGS, A SMOKE DETECTOR INSTALLED AS A PART OF AN APPROVED HOUSEHOLD FIRE ALARM SYSTEM IS AN ACCEPTABLE ALTERNATIVE TO THE AC POWERED-BATTERY BACKUP SMOKE ALARM REQUIRED BY THIS SECTION, IF THE SMOKE DETECTOR IS INSTALLED AND LOCATED AS SPECIFIED IN SUBSECTION ~~(A)~~ **(B)** OF THIS SECTION.

~~(E)~~ **(F)** A SMOKE DETECTOR INSTALLED AS A PART OF AN APPROVED FIRE ALARM SYSTEM IS AN ACCEPTABLE ALTERNATIVE TO THE AC POWERED-BATTERY BACKUP SMOKE ALARM REQUIRED BY THIS SECTION, IF THE SMOKE DETECTOR IS INSTALLED AND LOCATED AS SPECIFIED IN SUBSECTION ~~(A)~~ **(B)** OF THIS SECTION.

9-104.

(A) (1) AT LEAST ONE SMOKE ALARM SHALL BE PROVIDED IN EACH RESIDENTIAL SLEEPING AREA.

(2) SMOKE ALARMS REQUIRED IN ONE- AND TWO-FAMILY DWELLINGS CONSTRUCTED BEFORE JULY 1, 1975, SHALL BE BATTERY POWERED OR ALTERNATING CURRENT (AC) PRIMARY ELECTRIC POWERED UNITS.

(3) SMOKE ALARMS REQUIRED IN ONE- AND TWO-FAMILY DWELLINGS CONSTRUCTED BETWEEN JULY 1, 1975, AND JUNE 30, 1990, SHALL BE ALTERNATING CURRENT (AC) PRIMARY ELECTRIC POWERED UNITS.

(4) SMOKE ALARMS REQUIRED IN MULTIFAMILY RESIDENTIAL OCCUPANCIES INCLUDING APARTMENTS, LODGING OR ROOMING HOUSES, DORMITORIES, AND HOTELS SHALL BE ALTERNATING CURRENT (AC) PRIMARY ELECTRIC POWERED UNITS.

(5) SMOKE ALARMS REQUIRED IN A RESIDENTIAL OCCUPANCY CONSTRUCTED ON OR AFTER JULY 1, 1990, SHALL BE ALTERNATING CURRENT (AC) PRIMARY ELECTRIC POWERED UNITS WITH BATTERY BACKUP OR AN APPROVED ALTERNATE SECONDARY POWER SOURCE.

(B) AT LEAST ONE SMOKE ALARM SHALL BE INSTALLED IN EACH LEVEL OF A RESIDENTIAL OCCUPANCY CONSTRUCTED ON OR AFTER JANUARY 1, 1989, INCLUDING BASEMENTS AND EXCLUDING UNOCCUPIED ATTICS, GARAGES, AND CRAWL SPACES.

(C) IF TWO OR MORE SMOKE ALARMS ARE REQUIRED WITHIN A RESIDENTIAL UNIT CONSTRUCTED ON OR AFTER JANUARY 1, 1989, THE SMOKE ALARMS SHALL BE ARRANGED SO THAT ACTIVATION OF ANY ONE SMOKE ALARM CAUSES ALARM ACTIVATION OF ALL OTHER REQUIRED SMOKE ALARMS WITHIN THE RESIDENTIAL UNIT.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, SMOKE ALARM PLACEMENT IN A ONE- OR TWO-FAMILY DWELLING SHALL BE UPGRADED TO COMPLY WITH PARAGRAPH (3) OF THIS SUBSECTION IN EXISTING RESIDENTIAL OCCUPANCIES WHEN ANY ONE OF THE FOLLOWING OCCURS:

(I) THE EXISTING SMOKE ALARMS EXCEED 10 YEARS FROM THE DATE OF MANUFACTURE;

(II) THE EXISTING SMOKE ALARMS FAIL TO RESPOND TO OPERABILITY TESTS OR OTHERWISE MALFUNCTION;

(III) THERE IS ~~A CHANGE OF OWNERSHIP OR~~ A CHANGE OF TENANT IN ~~THE~~ A RESIDENTIAL UNIT AND THE RESIDENTIAL UNIT HAS NOT PREVIOUSLY BEEN EQUIPPED IN ACCORDANCE WITH THIS SUBTITLE WITH SEALED LONG-LIFE BATTERY SMOKE ALARMS WITH SILENCE/HUSH BUTTON FEATURES WITHIN THE 10 YEARS PRECEDING THE ~~CHANGE OF OWNERSHIP OR~~ CHANGE OF TENANT; OR

(IV) A BUILDING PERMIT IS ISSUED FOR AN ADDITIONAL RESIDENTIAL UNIT OR ALTERATION TO A RESIDENTIAL UNIT.

(2) SMOKE ALARM PLACEMENT SHALL BE UPGRADED TO COMPLY WITH PARAGRAPH (3) OF THIS SUBSECTION IN ALL EXISTING RESIDENTIAL OCCUPANCIES ON OR BEFORE JANUARY 1, 2018.

(3) UPGRADED SMOKE ALARM PLACEMENT SHALL INCLUDE THE FOLLOWING:

(I) A MINIMUM OF ONE SMOKE ALARM ON EACH LEVEL OF THE RESIDENTIAL UNIT, INCLUDING BASEMENTS AND EXCLUDING UNOCCUPIED ATTICS, GARAGES, AND CRAWL SPACES;

(II) SMOKE ALARMS SHALL BE ALTERNATING CURRENT (AC) PRIMARY POWERED UNITS WITH BATTERY BACKUP, EXCEPT AS FOLLOWS:

1. SMOKE ALARMS IN ONE- AND TWO-FAMILY DWELLINGS CONSTRUCTED BEFORE JULY 1, 1975, MAY BE BATTERY OPERATED; AND

2. SMOKE ALARMS REQUIRED IN NEW LOCATIONS BY THIS SECTION, IF SMOKE ALARMS DID NOT PREVIOUSLY EXIST, MAY BE BATTERY OPERATED; AND

(III) IF BATTERY OPERATED SMOKE ALARMS ARE PERMITTED, ONLY SEALED, TAMPER RESISTANT UNITS INCORPORATING A SILENCE/HUSH BUTTON AND USING LONG-LIFE BATTERIES MAY BE USED.

(E) IN ONE- AND TWO-FAMILY DWELLINGS, A SMOKE DETECTOR INSTALLED AS A PART OF AN APPROVED HOUSEHOLD FIRE ALARM SYSTEM IS AN ACCEPTABLE ALTERNATIVE TO THE AC POWERED-BATTERY BACKUP SMOKE ALARMS REQUIRED BY THIS SECTION, IF THE SMOKE DETECTORS ARE INSTALLED AND LOCATED AS SPECIFIED IN SUBSECTION (A) OF THIS SECTION.

(F) A SMOKE DETECTOR INSTALLED AS A PART OF AN APPROVED FIRE ALARM SYSTEM IS AN ACCEPTABLE ALTERNATIVE TO THE AC POWERED-BATTERY BACKUP SMOKE ALARMS REQUIRED BY THIS SECTION, IF THE SMOKE DETECTORS ARE INSTALLED AND LOCATED AS SPECIFIED IN SUBSECTION (A) OF THIS SECTION.

9-105.

(A) EACH SLEEPING ROOM OCCUPIED BY A DEAF OR HARD OF HEARING INDIVIDUAL SHALL BE PROVIDED WITH A SMOKE ALARM SUITABLE TO ALERT THE DEAF OR HARD OF HEARING INDIVIDUAL.

(B) (1) ON WRITTEN REQUEST ON BEHALF OF A TENANT WHO IS DEAF OR HARD OF HEARING, A SLEEPING ROOM OCCUPIED BY A DEAF OR HARD OF HEARING INDIVIDUAL SHALL BE PROVIDED WITH AN APPROVED NOTIFICATION APPLIANCE DESIGNED TO ALERT DEAF OR HARD OF HEARING INDIVIDUALS.

(2) THE LANDLORD SHALL PROVIDE A NOTIFICATION APPLIANCE THAT, WHEN ACTIVATED, PROVIDES A SIGNAL THAT IS SUFFICIENT TO WARN THE DEAF OR HARD OF HEARING TENANT IN THOSE SLEEPING ROOMS.

(C) HOTELS AND MOTELS SHALL HAVE AVAILABLE AT LEAST ONE APPROVED NOTIFICATION APPLIANCE FOR THE DEAF OR HARD OF HEARING INDIVIDUAL FOR EACH 50 UNITS OR FRACTION OF 50 UNITS.

(D) HOTELS AND MOTELS SHALL POST IN A CONSPICUOUS PLACE AT THE REGISTRATION DESK A PERMANENT SIGN THAT STATES THE AVAILABILITY OF SMOKE ALARM NOTIFICATION APPLIANCES FOR THE DEAF OR HARD OF HEARING INDIVIDUAL.

(E) (1) HOTELS, AND MOTELS, ~~AND LANDLORDS~~ MAY REQUIRE A REFUNDABLE DEPOSIT FOR NOTIFICATION APPLIANCES FOR THE DEAF OR HARD OF HEARING INDIVIDUAL.

(2) THE AMOUNT OF THE DEPOSIT MAY NOT EXCEED THE VALUE OF THE NOTIFICATION APPLIANCE.

(F) A LANDLORD MAY REQUIRE REIMBURSEMENT FROM A TENANT FOR THE COST OF A SMOKE ALARM REQUIRED UNDER THIS ~~SUBTITLE~~ SECTION.

9-106.

(A) SMOKE ALARM REQUIREMENTS SHALL BE ENFORCED BY THE STATE FIRE MARSHAL, A COUNTY OR MUNICIPAL FIRE MARSHAL, A FIRE CHIEF, THE BALTIMORE CITY FIRE DEPARTMENT, OR ANY OTHER DESIGNATED AUTHORITY HAVING JURISDICTION.

(B) (1) THE BUILDING PERMIT APPLICANT IS RESPONSIBLE FOR THE PROPER INSTALLATION OF REQUIRED SMOKE ALARMS IN RESIDENTIAL OCCUPANCIES CONSTRUCTED ON OR AFTER JULY 1, 2013.

(2) IF A BUILDING PERMIT IS NOT REQUIRED, THE GENERAL CONTRACTOR SHALL BEAR THE RESPONSIBILITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(C) THE LANDLORD OR PROPERTY OWNER IS RESPONSIBLE FOR THE INSTALLATION, REPAIR, MAINTENANCE, AND REPLACEMENT OF SMOKE ALARMS REQUIRED BY THIS SUBTITLE.

(D) OCCUPANTS OF A RESIDENTIAL OCCUPANCY MAY NOT REMOVE OR TAMPER WITH A REQUIRED SMOKE ALARM OR OTHERWISE RENDER THE SMOKE ALARM INOPERATIVE.

(E) (1) TESTING OF SMOKE ALARMS IS THE RESPONSIBILITY OF THE OCCUPANT OF THE RESIDENTIAL UNIT.

(2) (1) A TENANT SHALL NOTIFY THE LANDLORD IN WRITING OF THE FAILURE OR MALFUNCTION OF A REQUIRED SMOKE ALARM.

~~(3) (1) THE LANDLORD SHALL PROVIDE WRITTEN ACKNOWLEDGMENT OF THE NOTIFICATION AND SHALL REPAIR OR REPLACE THE SMOKE ALARM WITHIN 5 CALENDAR DAYS AFTER THE NOTIFICATION.~~

(II) THE WRITTEN NOTIFICATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DELIVERED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO THE LANDLORD, OR BY HAND DELIVERY TO THE LANDLORD OR THE LANDLORD'S AGENT, AT THE ADDRESS USED FOR THE PAYMENT OF RENT.

(III) IF THE DELIVERY OF THE NOTIFICATION IS MADE BY HAND AS DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE LANDLORD OR THE LANDLORD'S AGENT SHALL PROVIDE TO THE TENANT A WRITTEN RECEIPT FOR THE DELIVERY.

(IV) THE LANDLORD SHALL PROVIDE WRITTEN ACKNOWLEDGMENT OF THE NOTIFICATION AND SHALL REPAIR OR REPLACE THE SMOKE ALARM WITHIN 5 CALENDAR DAYS AFTER THE NOTIFICATION.

(F) (1) IF A RESIDENTIAL UNIT DOES NOT CONTAIN ALTERNATING CURRENT (AC) PRIMARY ELECTRIC POWER, BATTERY OPERATED SMOKE ALARMS OR SMOKE ALARM OPERATION ON AN APPROVED ALTERNATE SOURCE OF POWER MAY BE PERMITTED.

(2) BATTERY OPERATED SMOKE ALARMS SHALL BE SEALED, TAMPER RESISTANT UNITS INCORPORATING A SILENCE/HUSH BUTTON AND USING LONG-LIFE BATTERIES.

(G) A SMOKE ALARM MAY BE COMBINED WITH A CARBON MONOXIDE ALARM IF THE DEVICE COMPLIES WITH:

- (1) THIS SUBTITLE;
- (2) TITLE 12 OF THIS ARTICLE; AND
- (3) UNDERWRITERS LABORATORIES (UL) STANDARDS 217 AND 2034.

9–107.

Failure to comply with this subtitle may not be used as a policy defense in the settlement of a property insurance claim.

9–108.

(a) If [after investigating a fire in a one, two, or three family residential dwelling] the State Fire Marshal or [local investigating] **OTHER DESIGNATED** authority **WITH JURISDICTION** finds the absence of **OPERATING**, required smoke detectors, the State Fire Marshal or [local investigating] **OTHER** authority shall issue [to the occupant] a smoke [detection] **ALARM** installation order **TO THE RESPONSIBLE LANDLORD, OWNER, OR OCCUPANT**.

(b) **[A] THE RESPONSIBLE** person [may not fail to] **SHALL** comply with a smoke [detection] **ALARM** installation order within **[15] 5 CALENDAR** days [of reoccupancy].

[(c) (1)] A person who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$50.

(2) The penalty provision of § 9–109 of this subtitle does not apply to this section.]

9–109.

(a) A person may not knowingly violate this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 days or a fine not exceeding \$1,000 or both.

Article – Real Property

10–702.

(e) (2) The disclosure form shall include a list of defects, including latent defects, or information of which the vendor has actual knowledge in relation to the following:

(i) Water and sewer systems, including the source of household water, water treatment systems, and sprinkler systems;

(ii) Insulation;

(iii) Structural systems, including the roof, walls, floors, foundation, and any basement;

(iv) Plumbing, electrical, heating, and air conditioning systems;

(v) Infestation of wood-destroying insects;

(vi) Land use matters;

(vii) Hazardous or regulated materials, including asbestos, lead-based paint, radon, underground storage tanks, and licensed landfills;

(viii) Any other material defects of which the vendor has actual knowledge;

(ix) Whether the smoke [detectors] **ALARMS:**

1. [will] **WILL** provide an alarm in the event of a power outage;

2. **ARE OVER 10 YEARS OLD; AND**

3. **IF BATTERY OPERATED, ARE SEALED, TAMPER RESISTANT UNITS INCORPORATING A SILENCE/HUSH BUTTON AND USE LONG-LIFE BATTERIES AS REQUIRED IN ALL MARYLAND HOMES BY 2018; and**

(x) If the property relies on the combustion of a fossil fuel for heat, ventilation, hot water, or clothes dryer operation, whether a carbon monoxide alarm is installed on the property.

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

Approved by the Governor, May 16, 2013.

Chapter 595**(House Bill 1413)**

AN ACT concerning

Public Safety – Fire Protection and Prevention – Residential Smoke Alarms

FOR the purpose of repealing and recodifying certain provisions of law dealing with smoke detection systems; clarifying that the installation of certain smoke alarms is required in certain areas of certain buildings; providing that this Act is applicable statewide; authorizing a local jurisdiction to adopt certain regulations; requiring a minimum number of smoke alarms be installed in certain areas of certain residential occupancies; requiring a certain smoke alarm to activate other smoke alarms in certain circumstances; requiring certain power sources for certain smoke alarms; requiring a certain upgrading of certain smoke alarm placement under certain circumstances; requiring certain existing residential occupancies to be upgraded on or before a certain date; requiring a certain smoke alarm for a sleeping room occupied by a deaf or hard of hearing individual; requiring a landlord to respond to a certain notice in a certain manner; requiring hotels and motels to make a certain minimum number of smoke alarm notification appliances available under certain circumstances and to post a certain notice; authorizing a hotel or motel to charge a certain deposit; authorizing a certain landlord to require reimbursement from a tenant for the cost of a certain smoke alarm; providing for enforcement of and responsibility for installation and maintenance of smoke alarms; authorizing a smoke alarm to be combined with a carbon monoxide alarm in certain circumstances; authorizing certain authorities to issue a certain order; requiring a certain person to respond within a certain period of time; altering the information about smoke alarms that must be included in a certain residential property disclosure statement; providing for the application of certain provisions of this Act; defining certain terms; and generally relating to residential smoke alarms.

BY repealing

Article – Public Safety
Section 9–101 through 9–106
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to

Article – Public Safety
Section 9–101 through 9–106
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Public Safety
Section 9–107 and 9–109
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 9–108
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 10–702(e)(2)
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 Safety

[9–101.

(a) (1) Notwithstanding any other provision of this article, this subtitle applies in Baltimore City.

(2) In Baltimore City, the Baltimore City fire department shall enforce this subtitle.

(3) In Baltimore City, appeals concerning this subtitle shall be made to the Baltimore City fire board.

(b) This subtitle does not affect a public local law or regulation that existed on July 1, 1982, that required smoke detectors in occupancies with less than ten dwelling units.]

[9–102.

(a) (1) Each sleeping area within each occupancy classified residential, as defined in the most recent edition of the National Fire Protection Association Life Safety Code adopted by the State Fire Prevention Commission, shall be equipped with at least one approved smoke detector that:

(i) senses visible or invisible particles of combustion; and

(ii) is installed in a manner and location approved by the State Fire Prevention Commission.

(2) When activated, the smoke detector shall provide an alarm suitable to warn the occupants.

(b) (1) The landlord shall install smoke detectors as required under subsection (a) of this section.

(2) On written notification by certified mail by the tenant or on notification in person by the tenant, the landlord shall repair or replace the smoke detector.

(3) If the tenant personally notifies the landlord of the failure of a smoke detector, the landlord shall provide a written receipt acknowledging the notification.

(4) A tenant may not remove a smoke detector or render a smoke detector inoperative.

(5) Except for hotels or motels, a landlord may require a refundable deposit for a smoke detector not exceeding the value of the smoke detector.

(6) On written request of a tenant who is deaf or hearing impaired, the landlord shall provide a smoke detector that, when activated, provides a signal that:

(i) is approved by a nationally recognized testing laboratory for electrical appliances; and

(ii) is sufficient to warn the deaf or hearing impaired tenant.

(c) (1) Regardless of the number of units, each hotel or motel shall have available at least one smoke detector for the deaf or hearing impaired for each 50 units or fraction of 50 units.

(2) The hotel or motel may require a refundable deposit for a portable smoke detector not exceeding the value of the smoke detector.

(3) The hotel or motel shall post in a conspicuous place at the registration desk a permanent sign that states the availability of smoke detectors for the deaf or hearing impaired.

(d) On or before July 1, 1982, an occupant of a one, two, or three family residential dwelling constructed before July 1, 1975, shall:

(1) equip each occupant's living unit with at least one approved battery or alternating current (AC) primary electric powered smoke detector; and

- (2) maintain the smoke detector.]

[9–103.

(a) At least one smoke detector shall be installed on each level, including a basement but excluding an attic, of each new residential dwelling unit:

- (1) that contains alternating current (AC) electrical service;
- (2) that is classified residential, as defined in the most recent edition of the National Fire Protection Association Life Safety Code adopted by the State Fire Prevention Commission; and
- (3) for which a building permit is issued for new construction on or after January 1, 1989.

(b) If two or more smoke detectors are required under subsection (a) of this section, the smoke detectors shall be of a type and installed in a manner so that activation of one smoke detector causes activation of all other required smoke detectors in the residential dwelling unit.

(c) A smoke detector required under this subtitle shall operate both by battery and on an alternating current (AC) primary source of electric power if the smoke detector is installed in a new residential dwelling unit:

- (1) that contains alternating current (AC) electrical service;
- (2) that is designed to be occupied by one or more families; and
- (3) for which a building permit is issued for new construction on or after July 1, 1990.

(d) This section:

- (1) may be enforced by a county fire chief, fire administrator, or municipal fire chief; and
- (2) does not prevent a county from enacting more stringent laws that relate to smoke detectors.]

[9–104.

(a) (1) Except as provided in paragraph (2) of this subsection and § 9–102(d) of this subtitle, smoke detection systems shall operate on an alternating current (AC) primary source of electric power.

(2) Smoke detection systems may operate on approved power supplies other than an alternating current (AC) primary source of electric power if:

(i) the power supply is approved by the State Fire Prevention Commission; and

(ii) it is clearly evident that reasonable safety is secured.

(b) Each approved smoke detector shall be installed so as not to exceed the lineal or square footage allowances specified for the smoke detector, based on the generally accepted test standards under which the smoke detector was tested and approved.

(c) Smoke detection systems, including specialized smoke detectors for the deaf and hearing impaired, shall be approved for the particular system and shall only be used for detection and signaling in the event of fire.

(d) Each lease for an existing residential dwelling unit that contains alternating current (AC) electric service shall contain a disclosure in 10-point bold type that states:

“This residential dwelling unit contains alternating current (AC) electric service. In the event of a power outage, an alternating current (AC) powered smoke detector will not provide an alarm. Therefore, the occupant should obtain a dual powered smoke detector or a battery powered smoke detector.”]

[9-105.

A person may sell or install a smoke detection system, smoke detector, smoke alarm, or specialized smoke detectors or smoke alarms for the deaf and hard of hearing only in accordance with the State Fire Prevention Code.]

[9-106.

(a) If approved by the State Fire Prevention Commission, an approved automatic fire sprinkler system may be installed instead of a smoke detection system.

(b) Installing an approved automatic fire sprinkler system does not nullify the other requirements of the State Fire Prevention Code or exempt an occupancy from other requirements that are clearly applicable under the State Fire Prevention Code.]

9-101.

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

(B) “SLEEPING AREA” MEANS A SPACE THAT INCLUDES ONE OR MORE SLEEPING ROOMS AND A HALL OR COMMON AREA IMMEDIATELY ADJACENT TO ANY SLEEPING ROOM.

(C) “SLEEPING ROOM” MEANS AN ENCLOSED ROOM WITH A BED ARRANGED TO BE USED AS A BEDROOM.

~~(B)~~ (D) “SMOKE ALARM” MEANS A SINGLE OR MULTIPLE STATION DEVICE THAT DETECTS VISIBLE OR INVISIBLE PRODUCTS OF COMBUSTION AND INCLUDES A BUILT-IN INTERNAL ALARM SIGNAL.

~~(E)~~ (E) “SMOKE DETECTOR” MEANS A SYSTEM-CONNECTED SMOKE SENSING DEVICE TIED TO A FIRE ALARM CONTROL PANEL OR A HOUSEHOLD FIRE WARNING PANEL.

9-102.

(A) THIS SUBTITLE APPLIES THROUGHOUT THE STATE, INCLUDING BALTIMORE CITY.

(B) AN AUTOMATIC SMOKE ALARM SHALL BE PROVIDED IN EACH SLEEPING AREA WITHIN EACH RESIDENTIAL OCCUPANCY, INCLUDING ONE- AND TWO-FAMILY DWELLINGS, LODGING OR ROOMING HOUSES, HOTELS, DORMITORIES, AND APARTMENT BUILDINGS, AS DEFINED IN NFPA 101: LIFE SAFETY CODE AS ADOPTED BY THE STATE FIRE PREVENTION COMMISSION.

(C) SMOKE ALARMS SHALL:

(1) BE INSTALLED IN ACCORDANCE WITH NFPA 72: NATIONAL FIRE ALARM CODE AS REFERENCED BY THE STATE FIRE PREVENTION CODE;

(2) BE LISTED AND LABELED BY A NATIONALLY RECOGNIZED TESTING LABORATORY TO COMPLY WITH UNDERWRITERS LABORATORIES (UL) 217, “STANDARD FOR SAFETY FOR SINGLE AND MULTIPLE STATION SMOKE ALARMS”;

(3) BE SUITABLE FOR SENSING VISIBLE OR INVISIBLE PRODUCTS OF COMBUSTION; AND

(4) SOUND AN ALARM SUITABLE TO WARN THE OCCUPANTS.

(D) LOCAL JURISDICTIONS MAY ADOPT SMOKE ALARM REGULATIONS THAT ARE MORE STRINGENT THAN THE PROVISIONS OF THIS SUBTITLE.

9-103.

(A) THIS SECTION APPLIES ONLY TO NEW RESIDENTIAL UNITS CONSTRUCTED ON OR AFTER JULY 1, 2013.

~~(A)~~ (B) AT LEAST ONE SMOKE ALARM SHALL BE INSTALLED IN EACH SLEEPING ROOM, IN THE HALLWAY OR COMMON AREA OUTSIDE OF SLEEPING ROOMS, AND IN THE HALLWAY OR COMMON AREA ON EACH LEVEL WITHIN A RESIDENTIAL DWELLING UNIT, INCLUDING BASEMENTS AND EXCLUDING UNOCCUPIED ATTICS, GARAGES, AND CRAWL SPACES.

~~(B)~~ (C) IF TWO OR MORE SMOKE ALARMS ARE REQUIRED WITHIN A RESIDENTIAL UNIT, THE SMOKE ALARMS SHALL BE ARRANGED SO THAT ACTIVATION OF ANY ONE SMOKE ALARM CAUSES ALARM ACTIVATION OF ALL OTHER REQUIRED SMOKE ALARMS WITHIN THE RESIDENTIAL UNIT.

~~(C)~~ (D) EACH SMOKE ALARM REQUIRED BY THIS SECTION SHALL OPERATE ON AN ALTERNATING CURRENT (AC) PRIMARY SOURCE OF ELECTRIC POWER WITH A BATTERY BACKUP OR AN APPROVED ALTERNATE SECONDARY POWER SOURCE.

~~(D)~~ (E) IN ONE- AND TWO-FAMILY DWELLINGS, A SMOKE DETECTOR INSTALLED AS A PART OF AN APPROVED HOUSEHOLD FIRE ALARM SYSTEM IS AN ACCEPTABLE ALTERNATIVE TO THE AC POWERED-BATTERY BACKUP SMOKE ALARM REQUIRED BY THIS SECTION, IF THE SMOKE DETECTOR IS INSTALLED AND LOCATED AS SPECIFIED IN SUBSECTION ~~(A)~~ (B) OF THIS SECTION.

~~(E)~~ (F) A SMOKE DETECTOR INSTALLED AS A PART OF AN APPROVED FIRE ALARM SYSTEM IS AN ACCEPTABLE ALTERNATIVE TO THE AC POWERED-BATTERY BACKUP SMOKE ALARM REQUIRED BY THIS SECTION, IF THE SMOKE DETECTOR IS INSTALLED AND LOCATED AS SPECIFIED IN SUBSECTION ~~(A)~~ (B) OF THIS SECTION.

9-104.

(A) (1) AT LEAST ONE SMOKE ALARM SHALL BE PROVIDED IN EACH RESIDENTIAL SLEEPING AREA.

(2) SMOKE ALARMS REQUIRED IN ONE- AND TWO-FAMILY DWELLINGS CONSTRUCTED BEFORE JULY 1, 1975, SHALL BE BATTERY POWERED OR ALTERNATING CURRENT (AC) PRIMARY ELECTRIC POWERED UNITS.

(3) SMOKE ALARMS REQUIRED IN ONE- AND TWO-FAMILY DWELLINGS CONSTRUCTED BETWEEN JULY 1, 1975, AND JUNE 30, 1990, SHALL BE ALTERNATING CURRENT (AC) PRIMARY ELECTRIC POWERED UNITS.

(4) SMOKE ALARMS REQUIRED IN MULTIFAMILY RESIDENTIAL OCCUPANCIES INCLUDING APARTMENTS, LODGING OR ROOMING HOUSES, DORMITORIES, AND HOTELS SHALL BE ALTERNATING CURRENT (AC) PRIMARY ELECTRIC POWERED UNITS.

(5) SMOKE ALARMS REQUIRED IN A RESIDENTIAL OCCUPANCY CONSTRUCTED ON OR AFTER JULY 1, 1990, SHALL BE ALTERNATING CURRENT (AC) PRIMARY ELECTRIC POWERED UNITS WITH BATTERY BACKUP OR AN APPROVED ALTERNATE SECONDARY POWER SOURCE.

(B) AT LEAST ONE SMOKE ALARM SHALL BE INSTALLED IN EACH LEVEL OF A RESIDENTIAL OCCUPANCY CONSTRUCTED ON OR AFTER JANUARY 1, 1989, INCLUDING BASEMENTS AND EXCLUDING UNOCCUPIED ATTICS, GARAGES, AND CRAWL SPACES.

(C) IF TWO OR MORE SMOKE ALARMS ARE REQUIRED WITHIN A RESIDENTIAL UNIT CONSTRUCTED ON OR AFTER JANUARY 1, 1989, THE SMOKE ALARMS SHALL BE ARRANGED SO THAT ACTIVATION OF ANY ONE SMOKE ALARM CAUSES ALARM ACTIVATION OF ALL OTHER REQUIRED SMOKE ALARMS WITHIN THE RESIDENTIAL UNIT.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, SMOKE ALARM PLACEMENT IN A ONE- OR TWO-FAMILY DWELLING SHALL BE UPGRADED TO COMPLY WITH PARAGRAPH (3) OF THIS SUBSECTION IN EXISTING RESIDENTIAL OCCUPANCIES WHEN ANY ONE OF THE FOLLOWING OCCURS:

(I) THE EXISTING SMOKE ALARMS EXCEED 10 YEARS FROM THE DATE OF MANUFACTURE;

(II) THE EXISTING SMOKE ALARMS FAIL TO RESPOND TO OPERABILITY TESTS OR OTHERWISE MALFUNCTION;

(III) THERE IS ~~A CHANGE OF OWNERSHIP OR~~ A CHANGE OF TENANT IN ~~THE~~ A RESIDENTIAL UNIT AND THE RESIDENTIAL UNIT HAS NOT PREVIOUSLY BEEN EQUIPPED IN ACCORDANCE WITH THIS SUBTITLE WITH SEALED LONG-LIFE BATTERY SMOKE ALARMS WITH SILENCE/HUSH BUTTON FEATURES WITHIN THE 10 YEARS PRECEDING THE CHANGE OF TENANT; OR

(IV) A BUILDING PERMIT IS ISSUED FOR AN ADDITIONAL RESIDENTIAL UNIT OR ALTERATION TO A RESIDENTIAL UNIT.

(2) SMOKE ALARM PLACEMENT SHALL BE UPGRADED TO COMPLY WITH PARAGRAPH (3) OF THIS SUBSECTION IN ALL EXISTING RESIDENTIAL OCCUPANCIES ON OR BEFORE JANUARY 1, 2018.

(3) UPGRADED SMOKE ALARM PLACEMENT SHALL INCLUDE THE FOLLOWING:

(I) A MINIMUM OF ONE SMOKE ALARM ON EACH LEVEL OF THE RESIDENTIAL UNIT, INCLUDING BASEMENTS AND EXCLUDING UNOCCUPIED ATTICS, GARAGES, AND CRAWL SPACES;

(II) SMOKE ALARMS SHALL BE ALTERNATING CURRENT (AC) PRIMARY POWERED UNITS WITH BATTERY BACKUP, EXCEPT AS FOLLOWS:

1. SMOKE ALARMS IN ONE- AND TWO-FAMILY DWELLINGS CONSTRUCTED BEFORE JULY 1, 1975, MAY BE BATTERY OPERATED; AND

2. SMOKE ALARMS REQUIRED IN NEW LOCATIONS BY THIS SECTION, IF SMOKE ALARMS DID NOT PREVIOUSLY EXIST, MAY BE BATTERY OPERATED; AND

(III) IF BATTERY OPERATED SMOKE ALARMS ARE PERMITTED, ONLY SEALED, TAMPER RESISTANT UNITS INCORPORATING A SILENCE/HUSH BUTTON AND USING LONG-LIFE BATTERIES MAY BE USED.

(E) IN ONE- AND TWO-FAMILY DWELLINGS, A SMOKE DETECTOR INSTALLED AS A PART OF AN APPROVED HOUSEHOLD FIRE ALARM SYSTEM IS AN ACCEPTABLE ALTERNATIVE TO THE AC POWERED-BATTERY BACKUP SMOKE ALARMS REQUIRED BY THIS SECTION, IF THE SMOKE DETECTORS ARE INSTALLED AND LOCATED AS SPECIFIED IN SUBSECTION (A) OF THIS SECTION.

(F) A SMOKE DETECTOR INSTALLED AS A PART OF AN APPROVED FIRE ALARM SYSTEM IS AN ACCEPTABLE ALTERNATIVE TO THE AC POWERED-BATTERY BACKUP SMOKE ALARMS REQUIRED BY THIS SECTION, IF THE SMOKE DETECTORS ARE INSTALLED AND LOCATED AS SPECIFIED IN SUBSECTION (A) OF THIS SECTION.

9-105.

(A) EACH SLEEPING ROOM OCCUPIED BY A DEAF OR HARD OF HEARING INDIVIDUAL SHALL BE PROVIDED WITH A SMOKE ALARM SUITABLE TO ALERT THE DEAF OR HARD OF HEARING INDIVIDUAL.

(B) (1) ON WRITTEN REQUEST ON BEHALF OF A TENANT WHO IS DEAF OR HARD OF HEARING, A SLEEPING ROOM OCCUPIED BY A DEAF OR HARD OF HEARING INDIVIDUAL SHALL BE PROVIDED WITH AN APPROVED NOTIFICATION APPLIANCE DESIGNED TO ALERT DEAF OR HARD OF HEARING INDIVIDUALS.

(2) THE LANDLORD SHALL PROVIDE A NOTIFICATION APPLIANCE THAT, WHEN ACTIVATED, PROVIDES A SIGNAL THAT IS SUFFICIENT TO WARN THE DEAF OR HARD OF HEARING TENANT IN THOSE SLEEPING ROOMS.

(C) HOTELS AND MOTELS SHALL HAVE AVAILABLE AT LEAST ONE APPROVED NOTIFICATION APPLIANCE FOR THE DEAF OR HARD OF HEARING INDIVIDUAL FOR EACH 50 UNITS OR FRACTION OF 50 UNITS.

(D) HOTELS AND MOTELS SHALL POST IN A CONSPICUOUS PLACE AT THE REGISTRATION DESK A PERMANENT SIGN THAT STATES THE AVAILABILITY OF SMOKE ALARM NOTIFICATION APPLIANCES FOR THE DEAF OR HARD OF HEARING INDIVIDUAL.

(E) (1) HOTELS, AND MOTELS, ~~AND LANDLORDS~~ MAY REQUIRE A REFUNDABLE DEPOSIT FOR NOTIFICATION APPLIANCES FOR THE DEAF OR HARD OF HEARING INDIVIDUAL.

(2) THE AMOUNT OF THE DEPOSIT MAY NOT EXCEED THE VALUE OF THE NOTIFICATION APPLIANCE.

(F) A LANDLORD MAY REQUIRE REIMBURSEMENT FROM A TENANT FOR THE COST OF A SMOKE ALARM REQUIRED UNDER THIS SECTION.

9-106.

(A) SMOKE ALARM REQUIREMENTS SHALL BE ENFORCED BY THE STATE FIRE MARSHAL, A COUNTY OR MUNICIPAL FIRE MARSHAL, A FIRE CHIEF, THE BALTIMORE CITY FIRE DEPARTMENT, OR ANY OTHER DESIGNATED AUTHORITY HAVING JURISDICTION.

(B) (1) THE BUILDING PERMIT APPLICANT IS RESPONSIBLE FOR THE PROPER INSTALLATION OF REQUIRED SMOKE ALARMS IN RESIDENTIAL OCCUPANCIES CONSTRUCTED ON OR AFTER JULY 1, 2013.

(2) IF A BUILDING PERMIT IS NOT REQUIRED, THE GENERAL CONTRACTOR SHALL BEAR THE RESPONSIBILITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(C) THE LANDLORD OR PROPERTY OWNER IS RESPONSIBLE FOR THE INSTALLATION, REPAIR, MAINTENANCE, AND REPLACEMENT OF SMOKE ALARMS REQUIRED BY THIS SUBTITLE.

(D) OCCUPANTS OF A RESIDENTIAL OCCUPANCY MAY NOT REMOVE OR TAMPER WITH A REQUIRED SMOKE ALARM OR OTHERWISE RENDER THE SMOKE ALARM INOPERATIVE.

(E) (1) TESTING OF SMOKE ALARMS IS THE RESPONSIBILITY OF THE OCCUPANT OF THE RESIDENTIAL UNIT.

(2) (I) A TENANT SHALL NOTIFY THE LANDLORD IN WRITING OF THE FAILURE OR MALFUNCTION OF A REQUIRED SMOKE ALARM.

~~(3) THE LANDLORD SHALL PROVIDE WRITTEN ACKNOWLEDGMENT OF THE NOTIFICATION AND SHALL REPAIR OR REPLACE THE SMOKE ALARM WITHIN 5 CALENDAR DAYS AFTER THE NOTIFICATION.~~

(II) THE WRITTEN NOTIFICATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DELIVERED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO THE LANDLORD, OR BY HAND DELIVERY TO THE LANDLORD OR THE LANDLORD'S AGENT, AT THE ADDRESS USED FOR THE PAYMENT OF RENT.

(III) IF THE DELIVERY OF THE NOTIFICATION IS MADE BY HAND AS DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE LANDLORD OR THE LANDLORD'S AGENT SHALL PROVIDE TO THE TENANT A WRITTEN RECEIPT FOR THE DELIVERY.

(IV) THE LANDLORD SHALL PROVIDE WRITTEN ACKNOWLEDGMENT OF THE NOTIFICATION AND SHALL REPAIR OR REPLACE THE SMOKE ALARM WITHIN 5 CALENDAR DAYS AFTER THE NOTIFICATION.

(F) (1) IF A RESIDENTIAL UNIT DOES NOT CONTAIN ALTERNATING CURRENT (AC) PRIMARY ELECTRIC POWER, BATTERY OPERATED SMOKE ALARMS OR SMOKE ALARM OPERATION ON AN APPROVED ALTERNATE SOURCE OF POWER MAY BE PERMITTED.

(2) BATTERY OPERATED SMOKE ALARMS SHALL BE SEALED, TAMPER RESISTANT UNITS INCORPORATING A SILENCE/HUSH BUTTON AND USING LONG-LIFE BATTERIES.

(G) A SMOKE ALARM MAY BE COMBINED WITH A CARBON MONOXIDE ALARM IF THE DEVICE COMPLIES WITH:

- (1) THIS SUBTITLE;
- (2) TITLE 12 OF THIS ARTICLE; AND
- (3) UNDERWRITERS LABORATORIES (UL) STANDARDS 217 AND 2034.

9–107.

Failure to comply with this subtitle may not be used as a policy defense in the settlement of a property insurance claim.

9–108.

(a) If [after investigating a fire in a one, two, or three family residential dwelling] the State Fire Marshal or [local investigating] **OTHER DESIGNATED** authority **WITH JURISDICTION** finds the absence of **OPERATING**, required smoke detectors, the State Fire Marshal or [local investigating] **OTHER** authority shall issue [to the occupant] a smoke [detection] **ALARM** installation order **TO THE RESPONSIBLE LANDLORD, OWNER, OR OCCUPANT**.

(b) [A] **THE RESPONSIBLE** person [may not fail to] **SHALL** comply with a smoke [detection] **ALARM** installation order within [15] **5 CALENDAR** days [of reoccupancy].

[(c) (1) A person who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$50.

(2) The penalty provision of § 9–109 of this subtitle does not apply to this section.]

9–109.

(a) A person may not knowingly violate this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 days or a fine not exceeding \$1,000 or both.

Article – Real Property

10–702.

(e) (2) The disclosure form shall include a list of defects, including latent defects, or information of which the vendor has actual knowledge in relation to the following:

(i) Water and sewer systems, including the source of household water, water treatment systems, and sprinkler systems;

(ii) Insulation;

(iii) Structural systems, including the roof, walls, floors, foundation, and any basement;

(iv) Plumbing, electrical, heating, and air conditioning systems;

(v) Infestation of wood-destroying insects;

(vi) Land use matters;

(vii) Hazardous or regulated materials, including asbestos, lead-based paint, radon, underground storage tanks, and licensed landfills;

(viii) Any other material defects of which the vendor has actual knowledge;

(ix) Whether the smoke [detectors] **ALARMS:**

1. [will] **WILL** provide an alarm in the event of a power outage;

2. **ARE OVER 10 YEARS OLD; AND**

3. **IF BATTERY OPERATED, ARE SEALED, TAMPER RESISTANT UNITS INCORPORATING A SILENCE/HUSH BUTTON AND USE LONG-LIFE BATTERIES AS REQUIRED IN ALL MARYLAND HOMES BY 2018; and**

(x) If the property relies on the combustion of a fossil fuel for heat, ventilation, hot water, or clothes dryer operation, whether a carbon monoxide alarm is installed on the property.

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

Approved by the Governor, May 16, 2013.

Chapter 596**(Senate Bill 981)**

AN ACT concerning

**State Board of Physicians – Quasi-Judicial Powers and the Board of Review –
~~Revision~~ Revisions**

FOR the purpose of authorizing the State Board of Physicians to issue a cease and desist order or obtain injunctive relief against an individual for taking any action ~~that may be~~ for which the Board determines there is a preponderance of evidence of grounds for discipline under a certain provision of law and that poses a certain risk to a patient; requiring the Board to adopt certain regulations to carry out a certain provision of law; *repealing the authority for certain persons to appeal certain decisions to the Board of Review, followed by a certain appeal; specifying that certain persons may take certain judicial appeals;* and generally relating to the ~~quasi-judicial powers of the~~ State Board of Physicians.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–206 *and 14–408*
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

14–206.

(a) Over the signature of an officer, the executive director, or the deputy 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.

(b) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(c) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(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;

(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.

(2) A person may not deny or interfere with an entry under this subsection.

(3) 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.

(e) The Board may issue a cease and desist order or obtain injunctive relief AGAINST AN INDIVIDUAL for [practicing]:

(1) **PRACTICING** medicine without a license; OR

(2) **TAKING ANY ACTION ~~THAT~~:**

(i) **MAY BE FOR WHICH THE BOARD DETERMINES THERE IS A PREPONDERANCE OF EVIDENCE OF GROUNDS FOR DISCIPLINE UNDER § 14-404 OF THIS TITLE; AND**

(ii) **POSES THAT POSES A SERIOUS RISK TO THE HEALTH, SAFETY, AND WELFARE OF A PATIENT.**

(F) **THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION, INCLUDING HEARING PROCEDURES AND SANCTIONS FOR NONCOMPLIANCE WITH A CEASE AND DESIST ORDER.**

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 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 IN A CONTESTED CASE, AS DEFINED IN THE ADMINISTRATIVE PROCEDURE ACT, [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)] (B) An order of the Board may not be stayed pending review.

[(d)] (C) The Board may appeal from any decision that reverses or modifies its order.

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

Approved by the Governor, May 16, 2013.

Chapter 597

(House Bill 1296)

AN ACT concerning

**State Board of Physicians – Quasi-Judicial Powers *and the Board of Review* –
~~Revision~~ *Revisions***

FOR the purpose of authorizing the State Board of Physicians to issue a cease and desist order or obtain injunctive relief against an individual for taking any action ~~that may be~~ for which the Board determines there is a preponderance of evidence of grounds for discipline under a certain provision of law and that poses a certain risk to a patient; requiring the Board to adopt certain regulations to carry out a certain provision of law; *repealing the authority for certain persons to appeal certain decisions to the Board of Review, followed by a certain appeal; specifying that certain persons may take certain judicial appeals;* and generally relating to the ~~quasi-judicial powers of the~~ State Board of Physicians.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 14-206 *and 14-408*

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

14–206.

(a) Over the signature of an officer, the executive director, or the deputy 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.

(b) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(c) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(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;

(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.

(2) A person may not deny or interfere with an entry under this subsection.

(3) 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.

(e) The Board may issue a cease and desist order or obtain injunctive relief AGAINST AN INDIVIDUAL for [practicing]:

(1) **PRACTICING** medicine without a license; **OR**

(2) **TAKING ANY ACTION** ~~THAT~~:

(I) ~~MAY BE~~ FOR WHICH THE BOARD DETERMINES THERE IS A PREPONDERANCE OF EVIDENCE OF GROUNDS FOR DISCIPLINE UNDER § 14-404 OF THIS TITLE; AND

(II) ~~POSES~~ THAT POSES A SERIOUS RISK TO THE HEALTH, SAFETY, AND WELFARE OF A PATIENT.

(F) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION, INCLUDING HEARING PROCEDURES AND SANCTIONS FOR NONCOMPLIANCE WITH A CEASE AND DESIST ORDER.

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 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 IN A CONTESTED CASE, AS DEFINED IN THE ADMINISTRATIVE PROCEDURE ACT, [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)] (B) An order of the Board may not be stayed pending review.

[(d)] (C) The Board may appeal from any decision that reverses or modifies its order.

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

Approved by the Governor, May 16, 2013.

Chapter 598

(Senate Bill 1026)

AN ACT concerning

Honey—License Exemptions
Department of Health and Mental Hygiene – Study of Honey-Related
Licenses and Permits

FOR the purpose of ~~altering the definition of “raw agricultural product” to include honey and herb mixtures and flavored honey; exempting a person that manufactures, processes, and sells honey and herb mixtures or flavored honey from the requirement to obtain an on-farm home processing facility license or permit~~ requiring the Department of Health and Mental Hygiene to study whether it is necessary to continue to require a certain license and permit for the sale, manufacturing, and processing of honey and herb mixtures, including flavored honey; requiring the Department to report its findings and recommendations to the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to a study on license and permit requirements for the sale, manufacturing, and processing of honey and herb mixtures and flavored honey.

~~BY repealing and reenacting, with amendments,~~
~~Article—Health—General~~
~~Section 21-304(d) and 21-308(e)~~
~~Annotated Code of Maryland~~
~~(2009 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, without amendments,~~
~~Article—Health—General~~
~~Section 21-308(a)~~
~~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

~~21-304.~~

~~(d) (1) (i) In this subsection the following words have the meanings indicated:~~

~~(ii) “Farmer’s market” means a public market in the State where producers of raw agricultural products sell the products directly to the public.~~

~~(iii) “Raw agricultural product” includes:~~

~~1. Whole, unprocessed grains, flowers, herbs, nuts, fruits, and vegetables supplied directly from the farm on which they were produced; [and]~~

~~2. HONEY AND HERB MIXTURES, INCLUDING FLAVORED HONEY; AND~~

~~[2.] 3. Any agricultural products the Department identifies in regulation.~~

~~(2) A local jurisdiction may not require a license for the sale of raw agricultural products at a farmer's market or at a public festival or event.~~

~~21-308.~~

~~(a) In this section, "on farm home processing facility" means a home or domestic kitchen located on an individual's farm that manufactures and processes foods for commercial sale.~~

~~(e) (1) An on farm home processing facility may obtain an on farm home processing plant license for a fee established in regulations.~~

~~(2) An on farm home processing facility that obtains an on farm home processing plant license may manufacture or process only foods provided for in regulations of the Department.~~

~~(3) A license or permit is not required.~~

~~(I) [to] TO deliver prepackaged foods to fill an order of a customer; OR~~

~~(II) FOR THE MANUFACTURING, PROCESSING, AND SALE OF HONEY AND HERB MIXTURES, INCLUDING FLAVORED HONEY.~~

(a) The Department of Health and Mental Hygiene shall study whether it is necessary to continue to require:

(1) a license for the sale of honey and herb mixtures, including flavored honey, at a farmer's market or at a public festival or event; or

(2) an on-farm home processing plant license or permit is necessary for the manufacturing, processing, and sale of honey and herb mixtures, including flavored honey.

(b) On or before December 31, 2013, the Department shall report its findings and recommendations to the General Assembly in accordance with § 2-1246 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 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 16, 2013.

Chapter 599

(Senate Bill 1028)

AN ACT concerning

Baltimore County – Alcoholic Beverages – License Transfers

FOR the purpose of providing in Baltimore County that Class B or Class D alcoholic beverages licenses transferred under certain provisions of law be added to certain totals of transferred licenses that are computed for certain purposes; making certain technical changes; and generally relating to alcoholic beverages licenses in Baltimore County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–204.8
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

8–204.8.

(a) This section applies only in Baltimore County.

(b) (1) Subject to § 8–204.7 of this subtitle and paragraph (2) of this subsection, from May 1, 2012, to April 30, 2017, both inclusive, the Board of Liquor License Commissioners may authorize the transfer of a Class B or Class D license in existence in election district 15 on May 1, 2012, to an election district in which the number of licenses in existence, on the date of approval of the transfer, is not greater

than 25% more than the number of licenses that would otherwise exist in that election district, based on the rule of the Board of Liquor License Commissioners that limits the total number of licenses available in an election district by population.

(2) Not more than two licenses may be transferred under this subsection into any single election district each year from May 1, 2012, to April 30, 2017, both inclusive.

(c) (1) In accordance with this subsection, the Board of Liquor License Commissioners shall:

(i) Approve the transfer of Class B or Class D licenses from election district 15 to any other election district in the County; or

(ii) Issue new Class B Service Bar (SB) licenses under subsection (d) of this section.

(2) On or before April 30, 2013, the Board shall:

(i) Approve the transfer of five Class B or Class D licenses **UNDER SUBSECTION (B) OF THIS SECTION OR § 8-204.3 OR § 8-204.5 OF THIS SUBTITLE**; or

(ii) If five licenses are not transferred, issue new Class B Service Bar (SB) licenses so that the number of licenses transferred or issued since May 1, 2012, totals five.

(3) On or before April 30, 2014, the Board shall:

(i) Approve the transfer of Class B or Class D licenses **UNDER SUBSECTION (B) OF THIS SECTION OR § 8-204.3 OR § 8-204.5 OF THIS SUBTITLE** so that the cumulative number of licenses transferred or issued [under this subsection] since May 1, 2012, totals at least 10; or

(ii) If the number of licenses transferred under item (i) of this paragraph is not sufficient, issue new Class B Service Bar (SB) licenses so that the cumulative number of licenses transferred or issued [under this subsection] since May 1, 2012, equals 10.

(4) On or before April 30, 2015, the Board shall:

(i) Approve the transfer of Class B or Class D licenses **UNDER SUBSECTION (B) OF THIS SECTION OR § 8-204.3 OR § 8-204.5 OF THIS SUBTITLE** so that the cumulative number of licenses transferred or issued [under this subsection] since May 1, 2012, totals at least 15; or

(ii) If the number of licenses transferred under item (i) of this paragraph is not sufficient, issue new Class B Service Bar (SB) licenses so that the cumulative number of licenses transferred or issued [under this subsection] since May 1, 2012, equals 15.

(5) On or before April 30, 2016, the Board shall:

(i) Approve the transfer of Class B or Class D licenses **UNDER SUBSECTION (B) OF THIS SECTION OR § 8-204.3 OR § 8-204.5 OF THIS SUBTITLE** so that the cumulative number of licenses transferred or issued [under this subsection] since May 1, 2012, totals at least 20; or

(ii) If the number of licenses transferred under item (i) of this paragraph is not sufficient, issue new Class B Service Bar (SB) licenses so that the cumulative number of licenses transferred or issued [under this subsection] since May 1, 2012, equals 20.

(6) On or before April 30, 2017, the Board shall:

(i) Approve the transfer of Class B or Class D licenses **UNDER SUBSECTION (B) OF THIS SECTION OR § 8-204.3 OR § 8-204.5 OF THIS SUBTITLE** so that the cumulative number of licenses issued or transferred [under this subsection] since May 1, 2012, totals at least 25; or

(ii) If the number of licenses transferred under item (i) of this paragraph is not sufficient, issue new Class B Service Bar (SB) licenses so that the cumulative number of licenses issued or transferred [under this subsection] since May 1, 2012, equals 25.

(7) In any year, if the Board approves the transfer of more Class B or Class D licenses than are needed to meet the minimum total required for that year, the excess will be counted against the minimum total required for the next year.

(8) The date a license is transferred under this subsection is the date of final, nonappealable approval of the application for a new license or for license transfer by the Board.

(d) (1) A Class B Service Bar (SB) beer and wine license may be issued only in compliance with this subsection.

(2) A Class B Service Bar (SB) license may be used only in the operation of a restaurant, as defined by the Board of Liquor License Commissioners and this article, that maintains average daily receipts from the sale of food of at least 60% of the total daily receipts of the establishment.

(3) A Class B Service Bar (SB) license shall allow on–premises sales of beer and wine only.

(4) A Class B Service Bar (SB) license allows alcoholic beverages to be served to patrons only as part of a meal.

(5) (i) A Class B Service Bar (SB) license shall be restricted to restaurants that have table service.

(ii) A Class B Service Bar (SB) license does not allow service to a customer who is standing or accepting delivery of purchased food or beverage items other than while seated at a table.

(6) (i) Except as provided in subparagraph (ii) of this paragraph, the proposed location of the restaurant for which a Class B Service Bar (SB) license is sought shall comply with the zoning ordinances of Baltimore County, including allowing seating for not fewer than 30 customers and not more than 100 customers.

(ii) The license may not be used in conjunction with the viewing of televised sporting events or the use of live bands, disc jockeys, karaoke, or any other form of live entertainment.

(7) A Class B or D license transferred under subsection (b) of this section or a Class B Service Bar (SB) license issued under this subsection may not thereafter be transferred from the licensed premises or converted to another class of license.

(8) Not more than one Class B Service Bar (SB) license may be issued in any one election district per year.

(9) A Class B Service Bar (SB) license may not be issued for use on premises or a location for which any on–sale license has been issued within 2 years before the application for the Class B Service Bar (SB) license is filed.

(10) Any person, including an individual or sole proprietorship, partnership, corporation, unincorporated association, and limited liability company, may not have a direct or indirect interest as defined in § 9–102(b–3B) of this article in more than one Class B Service Bar (SB) license.

(e) The annual fee for a Class B Service Bar (SB) beer and wine license issued under this section is \$5,000.

(f) (1) When a license is transferred from election district 15 to another election district under this section, the license may not be construed to exist in election district 15.

(2) Subject to the 25% allowance authorized in subsection (b) of this section, a license transferred under this section shall be considered by the Board of Liquor License Commissioners as a regular license and not an exception license for determining the total number of licenses available in any election district based on the rule of the Board of Liquor License Commissioners that limits the total number of licenses available by population.

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

Approved by the Governor, May 16, 2013.

Chapter 600

(Senate Bill 1031)

AN ACT concerning

Hunting – Domesticated, ~~Stray, or Feral~~ Animals – Prohibited Acts

FOR the purpose of prohibiting a person from intentionally or willfully destroying or damaging a domesticated animal of another person ~~or a stray or feral animal~~ while hunting or pursuing wildlife *in certain areas*; and generally relating to prohibited acts while hunting or pursuing wildlife.

BY repealing and reenacting, without amendments,

Article – Natural Resources

Section 10-410(g)

Annotated Code of Maryland

(2012 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 10-424

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.

(g) (1) Except as provided in paragraph (2) of this subsection, a person, other than the owner or occupant, while hunting for any wild bird or mammal may not shoot or discharge any firearm or other deadly weapon within 150 yards, known as the “safety zone,” of a dwelling house, residence, church, or other building or camp occupied by human beings, or shoot at any wild bird or mammal while it is within this area, without the specific advance permission of the owner or occupant.

(2) For archery hunters in Carroll County or Frederick County, the safety zone described in paragraph (1) of this subsection extends for 50 yards from a dwelling house, residence, church, or any other building or camp occupied by human beings.

(3) During any open hunting season, a person, other than the owner or occupant, may not hunt or chase willfully any wild bird or mammal within the safety zone without the specific advance permission of the owner or occupant.

10-424.

While engaged in hunting or pursuing any wildlife, a person may not:

- (1) Carelessly or negligently shoot, wound, or kill another person; or
- (2) Intentionally or willfully destroy or damage ~~any~~:

(I) ANY real property, personal property, ~~DOMESTICATED ANIMAL~~, or farm livestock of another person ~~OR ANY STRAY OR FERAL ANIMAL; OR~~

(II) A DOMESTICATED ANIMAL THAT IS IN A SAFETY ZONE ESTABLISHED UNDER § 10-410(G) OF THIS SUBTITLE.

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

Approved by the Governor, May 16, 2013.

Chapter 601

(House Bill 1482)

AN ACT concerning

Hunting – Domesticated, ~~Stray, or Feral~~ Animals – Prohibited Acts

FOR the purpose of prohibiting a person from intentionally or willfully destroying or damaging a domesticated animal of another person ~~or a stray or feral animal~~ while hunting or pursuing wildlife in certain areas; and generally relating to prohibited acts while hunting or pursuing wildlife.

BY repealing and reenacting, without amendments,

Article – Natural Resources

Section 10–410(g)

Annotated Code of Maryland

(2012 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 10–424

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.

(g) (1) Except as provided in paragraph (2) of this subsection, a person, other than the owner or occupant, while hunting for any wild bird or mammal may not shoot or discharge any firearm or other deadly weapon within 150 yards, known as the “safety zone,” of a dwelling house, residence, church, or other building or camp occupied by human beings, or shoot at any wild bird or mammal while it is within this area, without the specific advance permission of the owner or occupant.

(2) For archery hunters in Carroll County or Frederick County, the safety zone described in paragraph (1) of this subsection extends for 50 yards from a dwelling house, residence, church, or any other building or camp occupied by human beings.

(3) During any open hunting season, a person, other than the owner or occupant, may not hunt or chase willfully any wild bird or mammal within the safety zone without the specific advance permission of the owner or occupant.

10–424.

While engaged in hunting or pursuing any wildlife, a person may not:

- (1) Carelessly or negligently shoot, wound, or kill another person; or
- (2) Intentionally or willfully destroy or damage ~~any~~:

(I) ANY real property, personal property, ~~DOMESTICATED ANIMAL~~, or farm livestock of another person ~~OR ANY STRAY OR FERAL ANIMAL; OR~~

(II) A DOMESTICATED ANIMAL THAT IS IN A SAFETY ZONE ESTABLISHED UNDER § 10-410(G) OF THIS SUBTITLE.

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

Approved by the Governor, May 16, 2013.

Chapter 602

(Senate Bill 1049)

AN ACT concerning

Recycling – Apartment Buildings and Condominiums – Ocean City

FOR the purpose of providing that ~~a certain property owner or manager of an apartment building or a council of unit owners of a condominium is not required to provide for recycling for residents of any dwelling unit located in a county or municipality that does not currently provide a certain recycling service and that utilizes a certain system or facility for the disposal of waste~~ certain provisions of law requiring a certain property owner or manager of an apartment building or a council of unit owners of a condominium to provide for recycling for its residents do not apply in Ocean City; and generally relating to recycling requirements for apartment buildings and condominiums in Ocean City.

BY repealing and reenacting, with amendments,

Article – Environment

Section 9-1711

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

9-1711.

(a) (1) ~~This~~ EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THIS section applies only to:

(i) A property owner or manager of an apartment building that contains 10 or more dwelling units; and

(ii) A council of unit owners of a condominium that contains 10 or more dwelling units.

(2) This section does not affect the authority of a county, municipality, or other local government to enact and enforce recycling requirements, including establishing civil penalties, for an apartment building or a condominium that are more stringent than the requirements of this section.

(3) This section does not require a county to manage or enforce the recycling activities of an apartment building or condominium that is located within the boundaries of a municipality.

(4) THIS SECTION DOES NOT APPLY IN OCEAN CITY.

(b) (1) ~~[On]~~ ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON~~ or before October 1, 2014, each property owner or manager of an apartment building or a council of unit owners of a condominium shall provide for recycling for the residents of the dwelling units, including:

(i) The collection of recyclable materials from residents of the dwelling units; and

(ii) The removal for further recycling of recyclable materials collected from residents of the dwelling units.

~~(2) A PROPERTY OWNER OR MANAGER OF AN APARTMENT BUILDING OR A COUNCIL OF UNIT OWNERS OF A CONDOMINIUM IS NOT REQUIRED TO PROVIDE FOR RECYCLING FOR THE RESIDENTS OF ANY DWELLING UNIT LOCATED IN A COUNTY OR MUNICIPALITY THAT:~~

~~(I) DOES NOT CURRENTLY PROVIDE CURBSIDE RECYCLING; AND~~

~~(II) UTILIZES A METHANE TO ENERGY SYSTEM OR FACILITY OR A WASTE TO ENERGY SYSTEM OR FACILITY FOR THE DISPOSAL OF WASTE.~~

~~(2)~~ ~~(3)~~ A county may require a property owner or manager of an apartment building or a council of unit owners of a condominium that provides for recycling for the residents of the dwelling units in accordance with paragraph (1) of

this subsection to report to the county on recycling activities in a manner determined by the county.

(c) The recycling required under subsection (b) of this section shall be carried out in accordance with the recycling plan required under § 9–1703 of this subtitle for the county in which the apartment building or condominium that contains 10 or more dwelling units is located.

(d) A person that violates subsection (b) or (c) of this section is subject to a civil penalty not exceeding \$50 for each day on which the violation exists.

(e) An enforcement unit, officer, or official of a county, municipality, or other local government may conduct inspections of an apartment building or condominium to enforce subsection (b) of this section.

(f) Any penalties collected under subsection (d) of this section shall be paid to the county, municipality, or other local government that brought the enforcement action.

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

Approved by the Governor, May 16, 2013.

Chapter 603

(Senate Bill 1067)

AN ACT concerning

Commission on the Commemoration of the 100th Anniversary of the Passage of the 19th Amendment to the United States Constitution

FOR the purpose of establishing the Commission on the Commemoration of the 100th Anniversary of the Passage of the 19th Amendment to the United States Constitution; 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 take certain actions and make recommendations regarding certain matters; requiring the Commission to report its activities, findings, and recommendations to the Governor and the General Assembly on or before a certain date and annually thereafter for a certain period of time; providing for the termination of this Act; and generally relating to the Commission on the Commemoration of the 100th Anniversary of the Passage of the 19th Amendment to the United States Constitution.

BY adding to

Article – State Government

Section 9–3001 to be under the new subtitle “Subtitle 30. Commission on the Commemoration of the 100th Anniversary of the Passage of the 19th Amendment to the United States Constitution”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

Preamble

WHEREAS, The 19th Amendment to the United States Constitution giving American women the right to vote was passed by both houses of the United States Congress in 1919; and

WHEREAS, Maryland’s representatives Senator Joseph I. France and Congressmen William Andrews, John Linthicum, and Frederick Zihlman voted in favor of the resolution that sent the proposed amendment to the states; and

WHEREAS, The 19th Amendment was ratified by the State of Tennessee on August 18, 1920, making it the 36th state to ratify the amendment and provided the final ratification necessary to enact the amendment; and

WHEREAS, Maryland and its citizens played an important role in the cause of suffrage for women, including serving as the final stretch of the 1913 March for Women’s Suffrage from Newark, New Jersey, to Washington, D.C.; and

WHEREAS, The years 2019 through 2020 will mark the 100th anniversary of the passage of the 19th Amendment to the United States Constitution; now, therefore,

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

Article – State Government

SUBTITLE 30. COMMISSION ON THE COMMEMORATION OF THE 100TH ANNIVERSARY OF THE PASSAGE OF THE 19TH AMENDMENT TO THE UNITED STATES CONSTITUTION.

9–3001.

(A) THERE IS A COMMISSION ON THE COMMEMORATION OF THE 100TH ANNIVERSARY OF THE PASSAGE OF THE 19TH AMENDMENT TO THE UNITED STATES CONSTITUTION.

(B) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

- (1) THE GOVERNOR, OR THE GOVERNOR'S DESIGNEE;
 - (2) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;
 - (3) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;
 - (4) TWO MEMBERS OF THE MARYLAND COMMISSION FOR WOMEN, APPOINTED BY THE CHAIR OF THE MARYLAND COMMISSION FOR WOMEN;
 - (5) THE DIRECTOR OF THE DIVISION OF HISTORICAL AND CULTURAL PROGRAMS IN THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE DIRECTOR'S DESIGNEE;
 - (6) THE ASSISTANT SECRETARY FOR TOURISM, FILM, AND THE ARTS IN THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, OR THE ASSISTANT SECRETARY'S DESIGNEE;
 - (7) THE EXECUTIVE DIRECTOR OF THE MARYLAND HISTORICAL SOCIETY, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;
 - (8) THE STATE ARCHIVIST, OR THE STATE ARCHIVIST'S DESIGNEE; AND
 - (9) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:
 - (I) ONE REPRESENTATIVE OF THE LEAGUE OF WOMEN VOTERS OF MARYLAND;
 - (II) ONE REPRESENTATIVE OF THE MARYLAND STATE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE;
 - (III) ONE REPRESENTATIVE OF THE MARYLAND DEMOCRATIC PARTY WOMEN'S DIVERSITY LEADERSHIP COUNCIL; AND
 - (IV) ONE REPRESENTATIVE OF THE MARYLAND FEDERATION OF REPUBLICAN WOMEN.
- (C) THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE COMMISSION.

(D) THE MARYLAND STATE ARCHIVES 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) ASSEMBLE AN INVENTORY OF SITES IN MARYLAND THAT ARE SIGNIFICANT TO THE WOMEN'S SUFFRAGE MOVEMENT AND THE RATIFICATION OF THE 19TH AMENDMENT TO THE UNITED STATES CONSTITUTION;

(2) DEVELOP A PLAN FOR COMMEMORATING THE EVENTS THAT OCCURRED IN MARYLAND CONNECTED TO THE WOMEN'S SUFFRAGE MOVEMENT AND THE RATIFICATION OF THE 19TH AMENDMENT TO THE UNITED STATES CONSTITUTION;

(3) DEVELOP A STRATEGY TO ENCOURAGE TOURISM RELATED TO THE COMMEMORATION;

(4) MAKE RECOMMENDATIONS CONCERNING FACILITY DEVELOPMENT AND REPAIR RELATED TO THE COMMEMORATION;

(5) COORDINATE WITH THE FEDERAL GOVERNMENT, LOCAL GOVERNMENTS IN THE STATE, AND NEIGHBORING JURISDICTIONS REGARDING THE DEVELOPMENT OF PLANS COMMEMORATING THE WOMEN'S SUFFRAGE MOVEMENT AND THE RATIFICATION OF THE 19TH AMENDMENT TO THE UNITED STATES CONSTITUTION; AND

(6) IF APPROPRIATE, RECEIVE TESTIMONY FROM AND CONSULT WITH INDIVIDUALS WHO ARE KNOWLEDGEABLE REGARDING THE ISSUES OF INTEREST TO THE COMMISSION.

(G) ON OR BEFORE DECEMBER 31, 2014, AND ANNUALLY THEREAFTER FOR THE FOLLOWING 5 YEARS, THE COMMISSION SHALL REPORT ITS ACTIVITIES, 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 7 years and 4 months and, at the end of October 31, 2020, 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 16, 2013.

Chapter 604

(House Bill 18)

AN ACT concerning

Anne Arundel County – Alcoholic Beverages – Refillable Container License

FOR the purpose of creating in Anne Arundel County a refillable container license; authorizing the Board of License Commissioners to issue the license to a holder of certain classes of alcoholic beverages license issued by the Board; specifying that a holder of the license may sell draft beer for consumption off the licensed premises in a certain refillable container; requiring a refillable container to meet certain requirements; requiring an applicant for the license to complete a certain form and pay a certain fee; requiring that certain applicants meet certain advertising, posting of notice, and public hearing requirements; specifying the term of the license; specifying the hours of sale for the license; allowing a holder of the license to refill only a refillable container that was branded by ~~the~~ a license holder; requiring the Board to adopt certain regulations; and generally relating to alcoholic beverages in Anne Arundel County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 8–202(a) and (b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 8–202(l)
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

8–202.

(a) This section applies only in Anne Arundel County.

(b) (1) In this section the following words have the meanings indicated.

(2) “Board” means the Board of License Commissioners.

(3) “License” means a license for the sale of alcoholic beverages that is issued by the Board.

(L) (1) THERE IS A REFILLABLE CONTAINER LICENSE.

(2) THE BOARD MAY ISSUE A REFILLABLE CONTAINER LICENSE TO A HOLDER OF A CLASS A LICENSE, A CLASS B LICENSE, OR A CLASS D LICENSE.

(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A REFILLABLE CONTAINER LICENSE ENTITLES THE LICENSE 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 ~~182~~ 128 OUNCES.

(4) TO BE USED AS A REFILLABLE CONTAINER UNDER PARAGRAPH (3) OF THIS SUBSECTION, A CONTAINER SHALL:

(I) BE SEALABLE;

(II) BE BRANDED WITH AN IDENTIFYING MARK OF ~~THE~~ A LICENSE HOLDER;

(III) BEAR THE FEDERAL HEALTH WARNING STATEMENT REQUIRED FOR CONTAINERS OF ALCOHOLIC BEVERAGES UNDER 27 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) BEFORE THE BOARD ISSUES A REFILLABLE CONTAINER LICENSE:

(I) THE APPLICANT SHALL:

1. COMPLETE THE FORM THAT THE BOARD PROVIDES; AND

2. PAY AN ANNUAL LICENSE FEE OF:

A. \$500 FOR AN APPLICANT WHOSE ALCOHOLIC BEVERAGES LICENSE DOES NOT HAVE AN OFF-SALE PRIVILEGE; OR

B. \$50 FOR AN APPLICANT WHOSE ALCOHOLIC BEVERAGES LICENSE HAS AN OFF-SALE PRIVILEGE; AND

(II) AN APPLICANT WHO HOLDS A LICENSE WITHOUT AN OFF-SALE PRIVILEGE SHALL MEET THE SAME ADVERTISING, POSTING OF NOTICE, AND PUBLIC HEARING REQUIREMENTS AS THOSE FOR THE LICENSE THAT THE APPLICANT HOLDS.

(6) THE TERM OF A REFILLABLE CONTAINER LICENSE ISSUED TO A SUCCESSFUL APPLICANT IS THE SAME AS THAT OF THE LICENSE THAT THE APPLICANT HOLDS.

(7) THE HOURS OF SALE FOR A REFILLABLE CONTAINER LICENSE:

(I) BEGIN AT THE SAME TIME AS THOSE FOR THE LICENSE ALREADY HELD BY THE PERSON TO WHOM THE REFILLABLE CONTAINER LICENSE IS ISSUED; AND

(II) END AT MIDNIGHT.

(8) A LICENSE HOLDER MAY REFILL ONLY A REFILLABLE CONTAINER THAT WAS BRANDED BY ~~THE~~ A LICENSE HOLDER.

(9) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

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

Approved by the Governor, May 16, 2013.

Chapter 605

(House Bill 48)

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 IS:

(1) IS INCORPORATED IN THE STATE, OR OTHERWISE QUALIFIED TO DO BUSINESS IN THE STATE;

(2) 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

~~(2)~~ (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.

14–302.

(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.

~~(I) THE (II) 1. THE NOT-FOR-PROFIT ENTITY'S PARTICIPATION MAY NOT BE COUNTED TOWARD ACHIEVING THE MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS IN THIS SUBSECTION; AND.~~

~~(H) THE 2. 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 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~~ 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 16, 2013.

Chapter 606

(House Bill 57)

AN ACT concerning

~~Department of Health and Mental Hygiene – Health Care Facilities~~ Office of Health Care Quality – Abuser Registry Workgroup

FOR the purpose of requiring the ~~Secretary of Health and Mental Hygiene to establish a registry that includes certain information on certain employees of health care facilities who provide services to certain individuals and who were terminated for certain reasons; requiring the placement of a certain employee on the registry under certain circumstances; authorizing certain health care facilities to submit the names of former employees to the Secretary for inclusion in the registry; authorizing certain health care facilities to have access to the registry; prohibiting a health care facility from allowing an employee to access the registry except under certain circumstances; authorizing a person responsible for a certain individual to access the registry; requiring a health care facility to adopt a certain procedure, provide certain employee training, and implement a certain quality assurance program; prohibiting a health care facility from hiring certain individuals; defining certain terms; and generally relating to a registry of terminated employees of health care facilities~~ Office of Health Care Quality to reconvene the Abuser Registry Workgroup; requiring the Abuser Registry Workgroup to undertake a certain review, monitor the implementation of certain recommendations, and recommend certain changes; requiring the Office of Health Care Quality to submit a certain report to the Governor and certain legislative committees on or before a certain date; providing for the termination

of this Act; and generally relating to an Abuser Registry Workgroup and the Office of Health Care Quality.

~~BY repealing and reenacting, without amendments,
Article – Health – General
Section 19 – 114(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)~~

~~BY adding to
Article – Health – General
Section 19 – 347.1 and 19 – 351(e) and (f)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – Health – General
Section 19 – 351(a)
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 – 114.~~

- ~~(d) (1) “Health care facility” means:~~
- ~~(i) A hospital, as defined in § 19 – 301 of this title;~~
 - ~~(ii) A limited service hospital, as defined in § 19 – 301 of this title;~~
 - ~~(iii) A related institution, as defined in § 19 – 301 of this title;~~
 - ~~(iv) An ambulatory surgical facility;~~
 - ~~(v) An inpatient facility that is organized primarily to help in the rehabilitation of disabled individuals, through an integrated program of medical and other services provided under competent professional supervision;~~
 - ~~(vi) A home health agency, as defined in § 19 – 401 of this title;~~
 - ~~(vii) A hospice, as defined in § 19 – 901 of this title;~~

~~(viii) A freestanding medical facility, as defined in § 10-3A-01 of this title; and~~

~~(ix) Any other health institution, service, or program for which this Part II of this subtitle requires a certificate of need.~~

~~(2) "Health care facility" does not include:~~

~~(i) A hospital or related institution that is operated, or is listed and certified, by the First Church of Christ Scientist, Boston, Massachusetts;~~

~~(ii) For the purpose of providing an exemption from a certificate of need under § 10-120 of this subtitle, a facility to provide comprehensive care constructed by a provider of continuing care, as defined in § 10-401 of the Human Services Article, if:~~

~~1. Except as provided under § 10-123 of this subtitle, the facility is for the exclusive use of the provider's subscribers who have executed continuing care agreements and paid entrance fees that are at least equal to the lowest entrance fee charged for an independent living unit or an assisted living unit before entering the continuing care community, regardless of the level of care needed by the subscribers at the time of admission;~~

~~2. The facility is located on the campus of the continuing care community; and~~

~~3. The number of comprehensive care nursing beds in the community does not exceed:~~

~~A. 24 percent of the number of independent living units in a community having less than 300 independent living units; or~~

~~B. 20 percent of the number of independent living units in a community having 300 or more independent living units;~~

~~(iii) Except for a facility to provide kidney transplant services or programs, a kidney disease treatment facility, as defined by rule or regulation of the United States Department of Health and Human Services;~~

~~(iv) Except for kidney transplant services or programs, the kidney disease treatment stations and services provided by or on behalf of a hospital or related institution; or~~

~~(v) The office of one or more individuals licensed to practice dentistry under Title 4 of the Health Occupations Article, for the purposes of practicing dentistry.~~

~~19-347.1.~~

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

~~(2) "APPROPRIATE AUTHORITY" INCLUDES CHILD PROTECTIVE SERVICES, THE OFFICE OF HEALTH CARE QUALITY, THE DEPARTMENT, AND A LAW ENFORCEMENT AGENCY.~~

~~(3) "HEALTH CARE FACILITY" HAS THE MEANING STATED IN § 19-114 OF THIS TITLE.~~

~~(B) THE SECRETARY SHALL ESTABLISH A REGISTRY THAT INCLUDES THE NAME AND SOCIAL SECURITY NUMBER OF ANY EMPLOYEE WHO HAS BEEN TERMINATED FOR ABUSING OR NEGLECTING ANY OF THE FOLLOWING INDIVIDUALS IN A HEALTH CARE FACILITY:~~

~~(1) A SENIOR CITIZEN;~~

~~(2) A DISABLED INDIVIDUAL;~~

~~(3) A DEVELOPMENTALLY DISABLED INDIVIDUAL;~~

~~(4) AN INDIVIDUAL RECEIVING CARE BY AN IN-HOME AIDE; OR~~

~~(5) AN INDIVIDUAL INCAPABLE OF SELF-DEFENSE.~~

~~(C) THE EMPLOYEE SHALL BE PLACED IN THE REGISTRY IF:~~

~~(1) THE EMPLOYEE GRIEVANCE PROCEDURE ADOPTED BY THE HEALTH CARE FACILITY IN ACCORDANCE WITH § 19-351(E) OF THIS SUBTITLE HAS BEEN FOLLOWED;~~

~~(2) AN INVESTIGATION HAS BEEN COMPLETED BY BOTH THE HEALTH CARE FACILITY AND AN APPROPRIATE AUTHORITY;~~

~~(3) THE ABUSE HAS BEEN DEEMED TO HAVE OCCURRED;~~

~~(4) THE EMPLOYEE HAS BEEN TERMINATED; AND~~

~~(5) NO CHARGES HAVE BEEN FILED.~~

~~(D) A HEALTH CARE FACILITY MAY SUBMIT THE NAME OF A FORMER EMPLOYEE TO THE SECRETARY FOR INCLUSION IN THE REGISTRY IF THE~~

~~HEALTH CARE FACILITY IS IN COMPLIANCE WITH § 19-351(E) OF THIS SUBTITLE.~~

~~(E) (1) A HEALTH CARE FACILITY MAY ACCESS THE REGISTRY IF:~~

~~(i) THE LICENSING AUTHORITY HAS DETERMINED THAT THE HEALTH CARE FACILITY SHOULD HAVE ACCESS TO THE REGISTRY; AND~~

~~(ii) THE HEALTH CARE FACILITY IS DETERMINING WHETHER AN INDIVIDUAL SEEKING EMPLOYMENT IS LISTED IN THE REGISTRY.~~

~~(2) THE HEALTH CARE FACILITY MAY NOT ALLOW AN EMPLOYEE TO ACCESS THE REGISTRY UNLESS THE EMPLOYEE HAS BEEN GRANTED ACCESS TO CONFIDENTIAL RECORDS.~~

~~(F) A PERSON RESPONSIBLE FOR AN INDIVIDUAL WHO IS RECEIVING CARE BY AN IN-HOME AIDE MAY ACCESS THE REGISTRY.~~

~~19-351.~~

~~(a) Except as provided in subsections (b) [and], (d), AND (F) of this section, this subtitle does not affect the right of a hospital or related institution to employ ANY INDIVIDUAL or appoint staff.~~

~~(E) EACH HEALTH CARE FACILITY SHALL:~~

~~(1) ADOPT AN EMPLOYEE GRIEVANCE PROCEDURE;~~

~~(2) PROVIDE EMPLOYEE TRAINING ON THE PROPER HANDLING OF CONFIDENTIAL INFORMATION; AND~~

~~(3) IMPLEMENT A QUALITY ASSURANCE PROGRAM THAT IS AIMED AT PREVENTING A FORMER EMPLOYEE FROM BEING RECOMMENDED FOR INCLUSION IN THE REGISTRY ESTABLISHED UNDER § 19-347.1 OF THIS SUBTITLE IF THE RECOMMENDATION IS BEING MADE FOR RETALIATORY PURPOSES.~~

~~(F) A HEALTH CARE FACILITY MAY NOT EMPLOY AN INDIVIDUAL WHO IS LISTED IN THE REGISTRY ESTABLISHED UNDER § 19-347.1 OF THIS SUBTITLE.~~

(a) The Office of Health Care Quality shall reconvene the Abuser Registry Workgroup originally convened in 2012.

(b) The Abuser Registry Workgroup shall:

(1) review the previous work of the Abuser Registry Workgroup and the alternative approach described in the January 14, 2013, letter from the Acting Executive Director of the Office of Health Care Quality to the sponsors of Senate Bill 316 and House Bill 382 of 2012;

(2) monitor the implementation of recommendations included in the January 23, 2013, letter from the Acting Executive Director of the Office of Health Care Quality to the House Health and Government Operations Committee relating to:

(i) initiating a National Background Check Program supported by a federal grant;

(ii) educating the provider community about best practices for managing abuse and neglect and utilizing the criminal justice system in cases of abuse and neglect;

(iii) assisting law enforcement in the development of outreach and training concerning abuse and neglect in health care settings; and

(iv) exploring the need to strengthen statutory law relating to criminal history records checks of employees who are not licensed or certified under the Health Occupations Article; and

(3) recommend changes in statutory law, regulations, or procedures to deter abuse and neglect in health care settings.

(c) On or before January 1, 2014, the Office of Health Care Quality shall report 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 on the findings and recommendations of the Abuser Registry Workgroup.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ 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 16, 2013.

Chapter 607

(House Bill 77)

AN ACT concerning

State Government – Commemorative Month – Irish American Heritage Month

FOR the purpose of requiring the Governor to proclaim a certain month each year as Irish American Heritage Month; requiring the proclamation to urge certain organizations to observe the month with certain activities; and generally relating to Irish American Heritage Month.

BY adding to

Article – State Government

Section 13–504

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

13–504.

(A) IN RECOGNITION OF THE CONTRIBUTIONS THAT IRISH AMERICANS HAVE MADE TO THE STATE, THE GOVERNOR SHALL PROCLAIM THE MONTH OF MARCH EACH YEAR AS IRISH AMERICAN HERITAGE MONTH.

(B) THE PROCLAMATION SHALL URGE EDUCATIONAL AND CULTURAL ORGANIZATIONS TO OBSERVE IRISH AMERICAN HERITAGE MONTH PROPERLY WITH APPROPRIATE PROGRAMS, CEREMONIES, AND ACTIVITIES.

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

Approved by the Governor, May 16, 2013.

Chapter 608

(House Bill 95)

AN ACT concerning

Environment – Permits – New Source Performance Standards

FOR the purpose of ~~repealing a requirement that~~ requiring the Department of the Environment ~~provide for~~ to comply with certain public participation

requirements prior to the issuance of a certain permit for a source that is subject to certain federal New Source Performance Standards; and generally relating to ambient air quality control permits and public participation.

BY repealing and reenacting, with amendments,

Article – Environment

Section 2–404

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

2–404.

(a) This section applies to the following activities:

(1) Construction of a new source;

(2) Replacement of components of an existing permitted source, if the fixed capital cost of the replacement components exceeds one-half of the fixed capital cost that would be required to construct a new source comparable in process to the existing source; and

(3) Modification of an existing permitted source by making a physical or operational change to the source that will result in a significant net increase in emissions of any pollutant from that source.

(b) (1) Before accepting an application for a permit subject to subsection (c) of this section, the Department shall require the applicant to submit documentation:

(i) That demonstrates that the proposal has been approved by the local jurisdiction for all zoning and land use requirements; or

(ii) That the source meets all applicable zoning and land use requirements.

(2) Paragraph (1) of this subsection does not apply to any application for a permit to construct at an existing source unless the existing source is a nonconforming use.

(c) The Department shall comply with the provisions in subsection (d) of this section before issuing a permit for the activities listed in subsection (a) of this section at:

(1) Any source which is required to obtain a permit to operate under regulations adopted under this subtitle;

(2) Any source which is subject to federal standards under [40 C.F.R. Part 60 (New Source Performance Standards),] 40 C.F.R. Part 61 (National Emission Standards for Hazardous Air Pollutants)[,] or 40 C.F.R. 52.21 (Prevention of Significant Deterioration); or

(3) Any source that will, after control, discharge 25 tons or more per year of a pollutant regulated under this title in the areas of Baltimore City designated by the United States Post Office as zip code numbers 21225, 21226, and 21230.

(d) (1) Before issuing a permit subject to subsection (c) of this section, the Department shall:

(i) Comply with the provisions of Title 1, Subtitle 6 of this article; and

(ii) Conduct any public hearing required by Title 1, Subtitle 6 of this article in the county in which the proposed source is located.

(2) In addition to the requirements under paragraph (1) of this subsection, before issuing a permit to construct a source described in subsection (c)(3) of this section, the Department shall require at the expense of the applicant the preparation of an ambient air quality impact analysis regarding the proposed construction.

(E) BEFORE ISSUING A PERMIT FOR THE ACTIVITIES LISTED IN SUBSECTION (A) OF THIS SECTION AT ANY SOURCE WHICH IS SUBJECT TO FEDERAL STANDARDS UNDER 40 C.F.R. PART 60 (NEW SOURCE PERFORMANCE STANDARDS), THE DEPARTMENT SHALL:

(1) COMPLY WITH THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION; OR

(2) (I) ELECTRONICALLY POST A NOTICE OF AN APPLICATION FOR THE PERMIT ON THE DEPARTMENT'S WEB SITE IN ACCORDANCE WITH § 1-602(B)(2) OF THIS TITLE;

(II) GIVE NOTICE TO THE CHIEF EXECUTIVE OF ANY COUNTY OR MUNICIPAL CORPORATION IN WHICH ANY PORTION OF THE SOURCE IS LOCATED OR IS PROPOSED TO BE LOCATED; AND

(III) RECEIVE COMMENTS FROM THE PUBLIC ON THE PERMIT APPLICATION.

~~(E)~~ **(F)** The provisions of this section do not apply to any permit to construct control equipment on an existing source or to any permit to operate.

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

Approved by the Governor, May 16, 2013.

Chapter 609

(House Bill 232)

AN ACT concerning

Sales and Use Tax – Exemption – Parent–Teacher Organization Fundraisers

FOR the purpose of providing that the sales and use tax does not apply to a sale by certain ~~nonprofit~~ parent–teacher organizations or other ~~nonprofit~~ organizations within an elementary or secondary school in the State or within a school system in the State; and generally relating to a sales and use tax exemption for certain ~~nonprofit~~ parent–teacher organizations.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 11–204(b)
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

11–204.

(b) The sales and use tax does not apply to a sale by:

(1) a bona fide church or religious organization, if the sale is made for the general purposes of the church or organization;

(2) a gift shop at a mental hospital that the Department of Health and Mental Hygiene operates;

- (3) a hospital thrift shop that:
- (i) is operated by all volunteer staff;
 - (ii) sells only donated articles;
 - (iii) contributes the profits from sales to the hospital with which the shop is associated; and
 - (iv) is not operated in conjunction with a gift shop or another retail establishment;
- (4) a vending facility operated under the Maryland Vending Program for the Blind if:
- (i) the facility is located on property held or acquired by or for the use of the United States for any military or naval purpose; and
 - (ii) a post exchange or other tax-exempt concession is located and operated on the same property;
- (5) an elementary or secondary school in the State or a nonprofit parent-teacher organization or other nonprofit organization within an elementary or secondary school in the State for the sale of magazine subscriptions in a fund-raising campaign, if the net proceeds are used solely for the educational benefit of the school or its students, including a sale resulting from an agreement or contract with an organization to participate in a fund-raising campaign for a percentage of the gross receipts under which students act as agents or salespersons for the organization by selling or taking orders for the sale;

(6) A ~~NONPROFIT~~ PARENT-TEACHER ORGANIZATION OR OTHER ~~NONPROFIT~~ ORGANIZATION WITHIN AN ELEMENTARY OR SECONDARY SCHOOL IN THE STATE OR WITHIN A SCHOOL SYSTEM IN THE STATE; or

[(6)] (7) subject to subsection (e) of this section, a bona fide church, religious organization, or other nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code if:

- (i) the sale is made at an auction sale; and
- (ii) the proceeds of the sale are used to carry on the exempt purposes of the church or organization.

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

Approved by the Governor, May 16, 2013.

Chapter 610

(House Bill 256)

AN ACT concerning

**~~Land Use~~ Frederick County – Development Rights and Responsibilities
Agreements – Direct Judicial Review**

FOR the purpose of prohibiting, in Frederick County, a person aggrieved by a development rights and responsibilities agreement from filing an administrative appeal; authorizing, in Frederick County, a person aggrieved by a development rights and responsibilities agreement to seek direct judicial review by the circuit court by filing a request with the circuit court of the county; requiring that the judicial review be in accordance with the Maryland Rules; ~~providing for a delayed effective date;~~ and generally relating to development rights and responsibilities agreements in Frederick County.

BY adding to

Article – Land Use
Section 7–307
Annotated Code of Maryland
(2012 Volume)

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

Article – Land Use

7–307.

(A) ~~A~~ IN FREDERICK COUNTY, A PERSON AGGRIEVED BY AN AGREEMENT EXECUTED UNDER THIS SUBTITLE:

(1) MAY NOT FILE AN ADMINISTRATIVE APPEAL; AND

(2) MAY SEEK DIRECT JUDICIAL REVIEW OF THE AGREEMENT IN CIRCUIT COURT BY FILING A REQUEST WITH THE CIRCUIT COURT OF THE COUNTY.

(B) THE JUDICIAL REVIEW SHALL BE IN ACCORDANCE WITH TITLE 7, CHAPTER 200 OF THE MARYLAND RULES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2013~~ ~~January 1, 2015~~ October 1, 2013.

Approved by the Governor, May 16, 2013.

Chapter 611

(House Bill 264)

AN ACT concerning

Juvenile Law – Juvenile Records – Disclosure

FOR the purpose of authorizing the Department of Juvenile Services to provide access to and confidential use of certain juvenile court records by certain state agencies under certain circumstances; repealing certain provisions that authorized access to and confidential use of a certain treatment plan of a child under certain circumstances; repealing the requirement that a certain agency have custody of a certain child in order to access certain information; and generally relating to juvenile records.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–8A–27(b)
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

3–8A–27.

(b) (1) A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as provided in §§ 7–303 and 22–309 of the Education Article.

(2) This subsection does not prohibit access to and the use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article in a proceeding in the court involving the child, by personnel of the court, the State's Attorney, counsel for the child, a court-appointed special advocate for the child, or authorized personnel of the Department of Juvenile Services.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, this subsection does not prohibit access to and confidential use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article by the Department of Juvenile Services or in an investigation and prosecution by a law enforcement agency.

(ii) The court record or fingerprints of a child described under §§ 10–215(a)(20) and (21), 10–216, and 10–220 of the Criminal Procedure Article may not be disclosed to:

1. A federal criminal justice agency or information center; or

2. Any law enforcement agency other than a law enforcement agency of the State or a political subdivision of the State.

(4) (i) The Department of Juvenile Services may provide access to and the confidential use of [a treatment plan] **THE COURT RECORD** of a child [described under Title 10, Subtitle 2 of the Criminal Procedure Article] by an agency in the District of Columbia or a state agency in **DELAWARE, PENNSYLVANIA, Virginia, OR WEST VIRGINIA**, if the agency:

1. Performs the same functions in the jurisdiction of the agency as described in § 9–216(a) of the Human Services Article; **AND**

2. Has a reciprocal agreement with the State that provides that the specific information to be shared by the State is the same type of information that will be shared by the agency[; and

3. Has custody of the child].

(ii) A record that is shared under this paragraph may only provide information that is relevant to the supervision, care, and treatment of the child.

(iii) The Department of Juvenile Services shall be liable for an unauthorized release of a court record under this paragraph.

(iv) The Department of Juvenile Services shall adopt regulations to implement this paragraph.

(5) (i) This subsection does not prohibit access to and use of a court record by a judicial officer who is authorized under the Maryland Rules to determine a defendant's eligibility for pretrial release, counsel for the defendant, the State's Attorney, or the Maryland Division of Pretrial Detention and Services if:

1. The individual who is the subject of the court record is charged as an adult with an offense;

2. The access to and use of the court record is strictly limited for the purpose of determining the defendant's eligibility for pretrial release; and

3. The court record concerns an adjudication of delinquency that occurred within 3 years of the date the individual is charged as an adult.

(ii) The Court of Appeals may adopt rules to implement the provisions of this paragraph.

(6) (i) This subsection does not prohibit access to and confidential use of a court record by the Department of Human Resources for the purpose of claiming federal Title IV-E funds.

(ii) The Department of Human Resources shall be liable for the unauthorized release of a court record under this paragraph.

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

Approved by the Governor, May 16, 2013.

Chapter 612

(House Bill 331)

AN ACT concerning

Open Meetings Act – Violations and Penalties

FOR the purpose of requiring that a certain public body take a certain action if the State Open Meetings Law Compliance Board determines that a certain violation of the Open Meetings Act has occurred; providing that compliance with certain provisions of this Act is not an admission to a certain violation and may not be used as evidence in a certain proceeding; repealing a certain prohibition on the introduction of certain opinions issued by the Board as evidence in certain proceedings; altering certain penalties for certain violations; requiring a court to consider certain factors when determining the amount of a certain fine; and generally relating to the Open Meetings Act.

BY repealing and reenacting, with amendments,

Article – State Government
Section 10–502.5(i) and 10–511
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing

Article – State Government
Section 10–502.5(j)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government
Section 10–510(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 – State Government

10–502.5.

(i) (1) The opinions of the Board are advisory only.

(2) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE** Board may not require or compel any specific actions by a public body.

(3) (I) IF THE BOARD DETERMINES THAT A VIOLATION OF THIS SUBTITLE HAS OCCURRED:

1. AT THE NEXT OPEN MEETING OF THE PUBLIC BODY AFTER THE BOARD HAS ISSUED ITS OPINION, A MEMBER OF THE PUBLIC BODY SHALL ANNOUNCE THE VIOLATION AND ORALLY SUMMARIZE THE OPINION; AND

2. A MAJORITY OF THE MEMBERS OF THE PUBLIC BODY SHALL SIGN A COPY OF THE OPINION AND RETURN THE SIGNED COPY TO THE BOARD.

(II) THE PUBLIC BODY MAY NOT DESIGNATE ITS COUNSEL OR ANOTHER REPRESENTATIVE TO PROVIDE THE ANNOUNCEMENT AND SUMMARY.

(III) COMPLIANCE BY A PUBLIC BODY OR A MEMBER OF A PUBLIC BODY WITH SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH:

1. IS NOT AN ADMISSION TO A VIOLATION OF A PROVISION OF THIS SUBTITLE BY THE PUBLIC BODY; AND

2. MAY NOT BE USED AS EVIDENCE IN A PROCEEDING CONDUCTED IN ACCORDANCE WITH § 10-510 OF THIS SUBTITLE.

[(j) A written opinion issued by the Board may not be introduced as evidence in a proceeding conducted in accordance with § 10-510 of this subtitle.]

10-510.

(b) (1) If a public body fails to comply with § 10-505, § 10-506, § 10-507, § 10-508, or § 10-509(c) of this subtitle any person may file with a circuit court that has venue a petition that asks the court to:

- (i) determine the applicability of those sections;
- (ii) require the public body to comply with those sections; or
- (iii) void the action of the public body.

(2) If a violation of § 10-506, § 10-508, or § 10-509(c) of this subtitle is alleged, the person shall file the petition within 45 days after the date of the alleged violation.

(3) If a violation of § 10-505 or § 10-507 of this subtitle is alleged, the person shall file the petition within 45 days after the public body includes in the minutes of an open session the information specified in § 10-509(c)(2) of this subtitle.

(4) If a written complaint is filed with the Board in accordance with § 10-502.5 of this subtitle, the time between the filing of the complaint and the mailing of the written opinion to the complainant and the affected public body under § 10-502.5(g) of this subtitle may not be included in determining if a claim against a public body is barred by the statute of limitations set forth in paragraphs (2) and (3) of this subsection.

10-511.

(A) [A member of] IN ACCORDANCE WITH § 10-510 OF THIS SUBTITLE, a public body [who] THAT willfully [participates in a meeting of the body] MEETS with knowledge that the meeting is being held in violation of the provisions of this subtitle is subject to a civil penalty not to exceed [\$100] ~~\$1,000~~:

(1) \$250 FOR THE FIRST VIOLATION; AND ~~\$10,000~~

(2) \$1,000 FOR EACH SUBSEQUENT VIOLATION THAT OCCURS WITHIN 3 YEARS ~~OR~~ AFTER THE FIRST VIOLATION.

(B) WHEN DETERMINING THE AMOUNT OF A FINE UNDER SUBSECTION (A) OF THIS SECTION, THE COURT SHALL CONSIDER THE FINANCIAL RESOURCES AVAILABLE TO THE PUBLIC BODY AND THE ABILITY OF THE PUBLIC BODY TO PAY THE FINE.

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

Approved by the Governor, May 16, 2013.

Chapter 613

(House Bill 347)

AN ACT concerning

Professional Engineers – Firm Permits

FOR the purpose of requiring a corporation, partnership, or limited liability company on or after a certain date to hold a permit issued by the State Board for Professional Engineers before operating a business through which engineering is practiced, with a certain exception; establishing certain qualifications, application requirements, and fees for the firm permit to practice engineering; establishing the scope of the engineering firm permit; providing for the renewal ~~and reinstatement~~ ~~and reinstatement~~ of the engineering firm permit; requiring permit holders to provide certain notification of certain changes or occurrences within a certain period of time; authorizing the State Board for Professional Engineers to ~~deny a firm permit to an applicant, reprimand a permit holder, suspend or revoke a permit, or deny a firm permit to an applicant, reprimand a permit holder, suspend or revoke a permit, or~~ impose a certain penalty under certain circumstances and subject to certain hearing provisions; establishing certain prohibited acts; adding certain definitions; making stylistic and conforming changes; and generally relating to firm permits issued by the State Board for Professional Engineers.

BY renumbering

Article – Business Occupations and Professions

Section 14–402 and 14–403, respectively

to be Section 14-4A-01 and 14-4A-02, respectively, to be under the new subtitle "Subtitle 4A. Miscellaneous Provisions"
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 14-101; and 14-401 to be under the amended subtitle "Subtitle 4. Permits"
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY adding to
Article – Business Occupations and Professions
Section 14-402 through ~~14-415~~, ~~14-411~~, 14-415, 14-501.1, and 14-502.1
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 14-402 and 14-403, respectively, of Article – Business Occupations and Professions of the Annotated Code of Maryland be renumbered to be Section(s) 14-4A-01 and 14-4A-02, respectively, to be under the new subtitle "Subtitle 4A. Miscellaneous Provisions".

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

Article – Business Occupations and Professions

14-101.

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

(B) "AFFILIATE" MEANS A PERSON THAT DIRECTLY, OR INDIRECTLY THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, OR IS CONTROLLED BY, A PERMIT HOLDER.

[(b)] (C) "Board" means the State Board for Professional Engineers.

[(c)] (D) "Design coordination" means the review and coordination of services provided by individuals licensed or certified under Titles 3, 8, 9, 14, and 15 of this article.

[(d)] (E) "License" means, unless the context requires otherwise, a license issued by the Board to practice engineering.

[(e)] (F) “License fee” means, as applicable, the fee paid in connection with the issuance and renewal of a license and the issuance of a reciprocal license.

(G) “MANAGING AGENT” MEANS A PROFESSIONAL ENGINEER DESIGNATED AS THE MANAGING AGENT BY A PERMIT HOLDER UNDER § 14-403 OF THIS TITLE.

(H) “PERMIT” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A PERMIT ISSUED BY THE BOARD TO ALLOW A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY TO OPERATE A BUSINESS THROUGH WHICH A ONE OR MORE PROFESSIONAL ENGINEERS MAY PRACTICE ENGINEERING.

[(f)] (I) (1) “Practice engineering” means to provide any service or creative work the performance of which requires education, training, and experience in the application of:

(i) special knowledge of the mathematical, physical, and engineering sciences; and

(ii) the principles and methods of engineering analysis and design.

(2) In regard to a building or other structure, machine, equipment, process, works, system, project, or public or private utility, “practice engineering” includes:

(i) consultation;

(ii) design;

(iii) evaluation;

(iv) inspection of construction to ensure compliance with specifications and drawings;

(v) investigation;

(vi) planning; and

(vii) design coordination.

(3) “Practice engineering” does not include the exclusive and sole performance of nontechnical management activities.

[(g)] (J) “Professional engineer” means, unless the context requires otherwise, an engineer who is licensed by the Board to practice engineering.

[(h)] (K) (1) “Responsible charge” means direct control and personal supervision of engineering that requires initiative, professional skill, and independent judgment.

(2) “Responsible charge” includes responsible engineering teaching.

Subtitle 4. **[(Miscellaneous Provisions)] PERMITS.**

14-401.

(a) (1) Subject to the provisions of this **[section] SUBTITLE**, a professional engineer may practice engineering for others through:

(i) a corporation as an officer, employee, or agent of the corporation;

(ii) a limited liability company as a member, employee, or agent of the limited liability company; or

(iii) a partnership as a partner, employee, or agent of the partnership.

(2) Subject to the provisions of this **[section] SUBTITLE**, a corporation, limited liability company, or partnership may provide engineering services through ~~a~~ **ONE OR MORE** professional ~~engineer~~ **ENGINEERS**.

(b) A professional engineer who practices engineering through a corporation, limited liability company, or partnership under this **[section] SUBTITLE** shall be subject to all of the provisions of this title that relate to practicing engineering.

(c) (1) A corporation, limited liability company, or partnership that provides engineering services under this **[section] SUBTITLE** is not, by its compliance with this **[section] SUBTITLE**, relieved of any responsibility that the corporation, limited liability company, or partnership may have for an act or omission of its officer, member, partner, employee, or agent.

(2) An individual who practices engineering through a corporation, limited liability company, or partnership is not, by reason of the individual's employment or other relationship with the corporation, limited liability company, or partnership, relieved of any ~~individual~~ **PROFESSIONAL** responsibility that the individual may have regarding that practice.

14-402.

(A) BEGINNING ON OCTOBER 1, 2015, EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY SHALL HOLD A PERMIT ISSUED BY THE BOARD BEFORE THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY MAY OPERATE A BUSINESS THROUGH WHICH ENGINEERING IS PRACTICED.

(B) A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY MAY PROVIDE ENGINEERING SERVICES FOR ITSELF OR ITS AFFILIATE WITHOUT A PERMIT ISSUED BY THE BOARD.

14-403.

(A) TO QUALIFY FOR A PERMIT, A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY SHALL MEET THE REQUIREMENTS OF THIS SECTION.

(B) (1) A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY SHALL DESIGNATE A MARYLAND PROFESSIONAL ENGINEER IN GOOD STANDING TO BE THE MANAGING AGENT FOR THE ENTITY.

(2) THE MANAGING AGENT SHALL BE:

(I) IN A POSITION TO ACT ON BEHALF ~~OF, AND RESPONSIBLE FOR,~~ OF THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY IN MATTERS RELATED TO THE PRACTICE OF OR THE OFFERING OF THE PRACTICE OF ENGINEERING; AND

(II) AN EMPLOYEE, AN OWNER, A DIRECTOR, AN OFFICER, A MEMBER, OR A PARTNER, AS APPLICABLE, OF THE ENTITY SEEKING A PERMIT.

(C) A LICENSEE MAY NOT BE DESIGNATED AS A MANAGING AGENT FOR MORE THAN ONE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY THAT PROVIDES OR OFFERS TO PROVIDE ENGINEERING SERVICES, EXCEPT IF THE OTHER ENTITY IS AN AFFILIATE OF A PERMIT HOLDER.

14-404.

(A) AN APPLICANT FOR A PERMIT SHALL:

(1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE BOARD PROVIDES; AND

(2) PAY TO THE BOARD A NONREFUNDABLE APPLICATION FEE SET BY THE BOARD.

(B) IN ADDITION TO ANY OTHER INFORMATION REQUIRED ON AN APPLICATION FORM, THE FORM SHALL REQUIRE:

(1) THE NAME AND ADDRESS OF THE MANAGING AGENT; AND

(2) A NOTARIZED STATEMENT THAT THE MANAGING AGENT IS AN EMPLOYEE, AN OWNER, A DIRECTOR, AN OFFICER, A MEMBER, OR A PARTNER, AS APPLICABLE, OF THE ENTITY SEEKING A PERMIT.

14-405.

THE BOARD SHALL ISSUE A PERMIT TO EACH APPLICANT THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE AND PAYS TO THE BOARD A PERMIT FEE SET BY THE BOARD.

14-406.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND WHILE A PERMIT IS IN EFFECT, THE PERMIT AUTHORIZES THE HOLDER TO:

(1) OPERATE A BUSINESS THROUGH WHICH ~~A~~ ONE OR MORE PROFESSIONAL ENGINEER ENGINEERS OR AN INDIVIDUAL INDIVIDUALS AUTHORIZED TO PRACTICE ENGINEERING UNDER § 14-303 OF THIS TITLE ~~PRACTICES OR OFFERS~~ PRACTICE OR OFFER TO PRACTICE ENGINEERING; AND

(2) REPRESENT TO THE PUBLIC THAT THE BUSINESS PROVIDES OR OFFERS TO PROVIDE THE SERVICES OF A PROFESSIONAL ENGINEER.

(B) A PERMIT AUTHORIZES THE HOLDER TO PROVIDE A SERVICE THAT CONSTITUTES THE PRACTICE OF ENGINEERING ONLY IF THE SERVICE IS PERFORMED BY AN INDIVIDUAL WHO IS LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE ENGINEERING UNDER THIS TITLE.

14-407.

(A) UNLESS A PERMIT IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION, THE PERMIT EXPIRES ON THE FIRST JUNE 30 THAT COMES:

(1) AFTER THE EFFECTIVE DATE OF THE PERMIT; AND

(2) IN AN EVEN-NUMBERED YEAR.

(B) AT LEAST 1 MONTH BEFORE A PERMIT EXPIRES, THE BOARD SHALL MAIL TO THE PERMIT HOLDER, AT THE LAST KNOWN ADDRESS OF THE HOLDER:

(1) A RENEWAL APPLICATION FORM; AND

(2) A NOTICE THAT STATES:

(I) THE DATE ON WHICH THE CURRENT PERMIT EXPIRES;

(II) THE DATE BY WHICH THE BOARD MUST RECEIVE THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE PERMIT EXPIRES; AND

(III) THE AMOUNT OF THE PERMIT FEE.

(C) BEFORE A PERMIT EXPIRES, THE PERMIT HOLDER MAY RENEW THE PERMIT PERIODICALLY FOR AN ADDITIONAL 2-YEAR TERM IF THE HOLDER:

(1) OTHERWISE IS ENTITLED TO A PERMIT;

(2) PAYS TO THE BOARD A PERMIT FEE SET BY THE BOARD; AND

(3) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM THAT THE BOARD PROVIDES.

(D) THE RENEWAL APPLICATION FORM SHALL REQUIRE THE SAME INFORMATION REQUIRED ON THE ORIGINAL APPLICATION FORM UNDER § 14-404(B) OF THIS SUBTITLE.

(E) THE BOARD SHALL RENEW THE PERMIT OF EACH PERMIT HOLDER THAT MEETS THE REQUIREMENTS OF THIS SECTION.

(F) THE SECRETARY MAY DETERMINE THAT PERMITS ISSUED UNDER THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

14-408.

WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THE CHANGE OR OCCURRENCE, A PERMIT HOLDER SHALL NOTIFY THE BOARD IN WRITING IF THERE HAS BEEN A CHANGE IN:

(1) THE IDENTITY OF THE MANAGING AGENT; OR

(2) THE NAME OF THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY.

14-409.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 14-410 OF THIS SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN SERVING, MAY ~~DENY A PERMIT TO ANY APPLICANT, REPRIMAND A PERMIT HOLDER, OR SUSPEND OR REVOKE A PERMIT~~ IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION ~~DENY A PERMIT TO ANY APPLICANT, REPRIMAND A PERMIT HOLDER, OR SUSPEND OR REVOKE A PERMIT~~ IF:

(1) THE APPLICANT OR PERMIT HOLDER FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A PERMIT; OR

(2) THE PERMIT HOLDER FRAUDULENTLY OR DECEPTIVELY USES A PERMIT; ~~OR~~

~~(3) THE APPLICANT OR PERMIT HOLDER FAILS TO MEET OR CONTINUE TO MEET THE QUALIFICATIONS OR REQUIREMENTS SET FORTH IN THIS SUBTITLE.~~

(B) ~~(1) INSTEAD OF OR IN ADDITION TO REPRIMANDING THE PERMIT HOLDER OR SUSPENDING OR REVOKING A PERMIT UNDER SUBSECTION (A) OF THIS SECTION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.~~

(1) IN ADDITION TO A SANCTION IMPOSED UNDER SUBSECTION (A) OF THIS SECTION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH:

(I) VIOLATION FOR WHICH A DENIAL, REPRIMAND, SUSPENSION, OR REVOCATION WAS IMPOSED UNDER SUBSECTION (A) OF THIS SECTION; AND

(II) FAILURE TO MEET OR CONTINUE TO MEET THE QUALIFICATIONS OR REQUIREMENTS SET FORTH IN THIS SUBTITLE.

~~(2)~~ (2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER THIS ~~SUBSECTION~~ SECTION SUBSECTION, THE BOARD SHALL CONSIDER:

~~(1)~~ (1) THE SERIOUSNESS OF THE VIOLATION;

~~(II)~~ ~~(2)~~ (II) THE HARM CAUSED BY THE VIOLATION;

~~(III)~~ ~~(3)~~ (III) THE GOOD FAITH OF THE PERMIT HOLDER; AND

~~(IV)~~ ~~(4)~~ (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE PERMIT HOLDER.

(C) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER SUBSECTION (B) OF SUBSECTION (B) OF THIS SECTION INTO THE GENERAL FUND OF THE STATE.

14-410.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER § 14-409 OF THIS SUBTITLE, IT SHALL GIVE THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

(B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) AT LEAST 30 DAYS BEFORE THE HEARING, THE HEARING NOTICE AND A COPY OF THE COMPLAINT SHALL BE:

(1) SERVED PERSONALLY ON THE APPLICANT OR ON THE MANAGING AGENT OF THE ENTITY HOLDING THE PERMIT; OR

(2) MAILED TO THE LAST KNOWN BUSINESS ADDRESS OF THE APPLICANT OR THE ENTITY HOLDING THE PERMIT.

(D) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE BOARD MAY HEAR AND DETERMINE THE MATTER.

14-411.

(A) (1) FOR THE LIMITED PURPOSE SET FORTH IN PARAGRAPH (2) OF THIS SUBSECTION, A PERMIT SHALL REMAIN IN EFFECT AND DOES NOT EXPIRE BY OPERATION OF LAW WHILE THE PERMIT HOLDER IS UNDER INVESTIGATION BY THE BOARD OR AWAITING A HEARING OR DISPOSITION ON CHARGES SUBJECT TO DISCIPLINARY ACTION UNDER THIS SUBTITLE.

(2) AN EXTENSION OF A PERMIT TERM UNDER THIS SUBSECTION IS EFFECTIVE ONLY FOR THE PURPOSE OF RETAINING THE JURISDICTION OF THE BOARD OVER THE PERMIT HOLDER DURING THE COURSE OF DISCIPLINARY PROCEEDINGS AND DOES NOT PREVENT THE PERMIT FROM EXPIRING FOR ANY OTHER PURPOSE.

(B) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER, A PERMIT HOLDER MAY NOT SURRENDER A PERMIT WHILE THE HOLDER IS UNDER INVESTIGATION OR AWAITING A HEARING OR DISPOSITION ON CHARGES SUBJECT TO DISCIPLINARY ACTION UNDER THIS SUBTITLE.

14-412.

A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY WHOSE PERMIT HAS BEEN SUSPENDED OR REVOKED UNDER § 14-409 OF THIS SUBTITLE MAY NOT OFFER OR PROVIDE ENGINEERING SERVICES UNTIL THE SUSPENSION IS LIFTED OR THE PERMIT IS REINSTATED.

14-413.

(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD MAY REINSTATE:

(1) A PERMIT THAT HAS BEEN REVOKED; OR

(2) BEFORE FULFILLMENT OF THE CONDITIONS OF THE SUSPENSION, A PERMIT THAT HAS BEEN SUSPENDED.

(B) A PERMIT MAY BE REINSTATED UNDER THIS SECTION ONLY IF:

(1) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY WHOSE PERMIT HAS BEEN REVOKED OR SUSPENDED SUBMITS A WRITTEN REQUEST TO THE BOARD; AND

(2) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD.

(C) THE BOARD, BY AN AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN SERVING, SHALL VOTE ON THE REQUEST FOR REINSTATEMENT OR LIFTING OF THE SUSPENSION WITHIN 60 DAYS AFTER RECEIPT OF THE REQUEST.

14-414.

THE BOARD MAY REINSTATE THE PERMIT OF A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY THAT HAS FAILED TO RENEW THE PERMIT FOR ANY REASON IF THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY:

- (1) OTHERWISE IS ENTITLED TO A PERMIT; AND
- (2) PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD.

14-415.

AFTER THE BOARD REINSTATES A PERMIT, THE PERMIT HOLDER SHALL CONTINUE TO COMPLY WITH ALL APPLICABLE REQUIREMENTS SET FORTH IN THIS SUBTITLE.

~~14-412.~~

~~A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY WHOSE PERMIT HAS BEEN SUSPENDED OR REVOKED UNDER § 14-409 OF THIS SUBTITLE MAY NOT OFFER OR PROVIDE ENGINEERING SERVICES UNTIL THE SUSPENSION IS LIFTED OR THE PERMIT IS REINSTATED.~~

~~14-413.~~

~~(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD MAY REINSTATE:~~

- ~~(1) A PERMIT THAT HAS BEEN REVOKED; OR~~
- ~~(2) BEFORE FULFILLMENT OF THE CONDITIONS OF THE SUSPENSION, A PERMIT THAT HAS BEEN SUSPENDED.~~

~~(B) A PERMIT MAY BE REINSTATED UNDER THIS SECTION ONLY IF:~~

- ~~(1) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY WHOSE PERMIT HAS BEEN REVOKED OR SUSPENDED SUBMITS A WRITTEN REQUEST TO THE BOARD; AND~~
- ~~(2) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD.~~

~~(C) THE BOARD, BY AN AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN SERVING, SHALL VOTE ON THE REQUEST FOR REINSTATEMENT~~

~~OR LIFTING OF THE SUSPENSION WITHIN 60 DAYS AFTER RECEIPT OF THE REQUEST.~~

~~14-414.~~

~~THE BOARD MAY REINSTATE THE PERMIT OF A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY THAT HAS FAILED TO RENEW THE PERMIT FOR ANY REASON IF THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY:~~

~~(1) OTHERWISE IS ENTITLED TO A PERMIT; AND~~

~~(2) PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD.~~

~~14-415.~~

~~AFTER THE BOARD REINSTATES A PERMIT, THE PERMIT HOLDER SHALL CONTINUE TO COMPLY WITH ALL APPLICABLE REQUIREMENTS SET FORTH IN THIS SUBTITLE.~~

14-501.1.

EXCEPT FOR A PROFESSIONAL ENGINEER WHO OPERATES A BUSINESS AS A SOLE PRACTITIONER, A PERSON MAY NOT OPERATE A BUSINESS THROUGH WHICH ENGINEERING SERVICES ARE PERFORMED OR OFFERED TO BE PERFORMED UNLESS:

(1) THE BUSINESS IS A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY; AND

(2) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY HOLDS A PERMIT ISSUED BY THE BOARD.

14-502.1.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND UNLESS A PERSON HOLDS A PERMIT ISSUED BY THE BOARD, THE PERSON MAY NOT REPRESENT TO THE PUBLIC, BY THE USE OF A TITLE, INCLUDING "LICENSED PROFESSIONAL ENGINEERS", "PROFESSIONAL ENGINEERS", OR "REGISTERED ENGINEERS", BY THE USE OF THE TERM "PROFESSIONAL ENGINEERING" OR "ENGINEERING", BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON HOLDS A PERMIT OR OTHERWISE IS

AUTHORIZED TO OPERATE A BUSINESS THROUGH WHICH ENGINEERING IS PRACTICED IN THE STATE.

(B) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A PROFESSIONAL ENGINEER WHO OPERATES THE BUSINESS AS A SOLE PRACTITIONER.

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

Approved by the Governor, May 16, 2013.

Chapter 614

(House Bill 359)

AN ACT concerning

Militia – Maryland Defense Force – Enlistment Period

FOR the purpose of altering the enlistment period for the Maryland Defense Force to a period determined by the commanding officer based on the specialty of the recruit and the needs of the militia; and generally relating to the Maryland Defense Force.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 13–504
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

13–504.

(a) An officer or warrant officer commissioned or appointed in the Maryland Defense Force shall take the oath prescribed in § 13–509 of this subtitle.

(b) An individual who enlists in the Maryland Defense Force shall take an oath substantially in the form required for enlisted personnel of the National Guard, substituting “Maryland Defense Force” where necessary in the oath.

(c) (1) Except as provided in paragraph (2) of this subsection, the enlistment period in the Maryland Defense Force is [2 years] **DETERMINED BY THE COMMANDING OFFICER BASED ON THE SPECIALTY OF THE RECRUIT AND THE NEEDS OF THE MILITIA** and may be renewed.

(2) In the case that a state of war exists between the United States and any other nation, or that there is a federal or State declaration of emergency presently in force in the State, all enlistments shall continue until 3 months after said state of war or emergency ends, unless the enlisted individual is discharged sooner by proper authority.

(d) The Governor may accept the resignation of an officer or grant a discharge to an enlisted individual at any time.

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

Approved by the Governor, May 16, 2013.

Chapter 615

(House Bill 362)

AN ACT concerning

Public Ethics – Definition of “Interest” – Mutual Funds

FOR the purpose of altering the definition of “interest” in the Maryland Public Ethics Law to exclude certain mutual funds; and generally relating to the Maryland Public Ethics Law.

BY repealing and reenacting, with amendments,
Article – State Government
Section 15–102(t)
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

15–102.

(t) (1) “Interest” means a legal or equitable economic interest that is owned or held wholly or partly, jointly or severally, or directly or indirectly, whether or not the economic interest is subject to an encumbrance or condition.

(2) “Interest” does not include:

(i) an interest held in the capacity of agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter;

(ii) an interest in a time or demand deposit in a financial institution;

(iii) an interest in an insurance policy, endowment policy, or annuity contract by which an insurer promises to pay a fixed amount of money in a lump sum or periodically for life or a specified period; [or]

(iv) a common trust fund or a trust that forms part of a pension or a profit-sharing plan that:

1. has more than 25 participants; and
2. is determined by the Internal Revenue Service to be a qualified trust or college savings plan under the Internal Revenue Code; **OR**

(V) A MUTUAL FUND THAT IS PUBLICLY TRADED ON A NATIONAL SCALE UNLESS THE MUTUAL FUND IS COMPOSED PRIMARILY OF HOLDINGS OF STOCKS AND INTERESTS IN A SPECIFIC SECTOR OR AREA THAT IS REGULATED BY THE INDIVIDUAL’S GOVERNMENTAL UNIT.

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

Approved by the Governor, May 16, 2013.

Chapter 616

(House Bill 365)

AN ACT concerning

Harford County – Archery Hunting – Safety Zone

FOR the purpose of establishing for archery hunters in Harford County a safety zone of a certain size within which archery hunting may not take place except under certain circumstances; and generally relating to archery hunting in Harford County.

BY repealing and reenacting, with amendments,
 Article – Natural Resources
 Section 10–410(g)
 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.

(g) (1) Except as provided in paragraph (2) of this subsection, a person, other than the owner or occupant, while hunting for any wild bird or mammal may not shoot or discharge any firearm or other deadly weapon within 150 yards, known as the “safety zone,” of a dwelling house, residence, church, or other building or camp occupied by human beings, or shoot at any wild bird or mammal while it is within this area, without the specific advance permission of the owner or occupant.

(2) ~~(I) (H)~~ For archery hunters in Carroll County ~~or~~ or Frederick County, ~~OR HARFORD COUNTY,~~ the safety zone described in paragraph (1) of this subsection extends for 50 yards from a dwelling house, residence, church, or any other building or camp occupied by human beings.

(II) FOR ARCHERY HUNTERS IN HARFORD COUNTY, THE SAFETY ZONE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION EXTENDS FOR 100 YARDS FROM A DWELLING HOUSE, RESIDENCE, CHURCH, OR ANY OTHER BUILDING OR CAMP OCCUPIED BY HUMAN BEINGS.

~~**(H) FOR ARCHERY HUNTERS IN HARFORD COUNTY, THE SAFETY ZONE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION EXTENDS FOR 100 YARDS FROM A DWELLING HOUSE, RESIDENCE, CHURCH, OR ANY OTHER BUILDING OR CAMP OCCUPIED BY HUMAN BEINGS.**~~

(3) During any open hunting season, a person, other than the owner or occupant, may not hunt or chase willfully any wild bird or mammal within the safety zone without the specific advance permission of the owner or occupant.

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

Approved by the Governor, May 16, 2013.

Chapter 617

(House Bill 380)

AN ACT concerning

Income Tax – Joint Returns – Married Couples

FOR the purpose of establishing a presumption, for a certain purpose, that a married couple who does not file a joint federal income tax return or married filing separate federal income tax return has filed a certain federal income tax return; authorizing certain married individuals who meet certain requirements to use the head of household filing status for a certain purpose; requiring, except under certain circumstances, a married couple who files a joint federal income tax return to file a joint Maryland income tax return; making a technical correction; authorizing a married couple who does not file a joint federal income tax return to file a joint Maryland income tax return; providing for the application of this Act; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to filing income tax returns.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10-105(c) and 10-807

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

10-105.

(c) For a [husband and wife] MARRIED COUPLE filing a joint income tax return, the rates specified in subsection (a) of this section apply to the joint Maryland taxable income of the [husband and wife] MARRIED COUPLE.

10-807.

(A) (1) ~~A~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MARRIED COUPLE WHO DOES NOT FILE A JOINT FEDERAL INCOME TAX RETURN

OR MARRIED FILING SEPARATE FEDERAL INCOME TAX RETURN IS PRESUMED, FOR THE PURPOSE OF FILING A MARYLAND INCOME TAX RETURN, TO HAVE FILED A JOINT FEDERAL INCOME TAX RETURN OR MARRIED FILING SEPARATE FEDERAL INCOME TAX RETURN.

(2) A MARRIED INDIVIDUAL WHO MEETS THE REQUIREMENTS FOR HEAD OF HOUSEHOLD FILING STATUS UNDER § 2(B) AND (C) OF THE INTERNAL REVENUE CODE MAY USE THAT FILING STATUS FOR THE PURPOSE OF FILING A MARYLAND INCOME TAX RETURN.

~~(a)~~ ~~(1)~~ **(B)** Except as provided in subsection ~~(b)~~ **(C)** of this section, a [husband and wife] **MARRIED COUPLE** who [file] **FILES** a joint federal income tax return shall file a joint Maryland income tax return.

~~(2) A MARRIED COUPLE WHO DOES NOT FILE A JOINT FEDERAL INCOME TAX RETURN MAY FILE A JOINT MARYLAND INCOME TAX RETURN.~~

~~(b)~~ **(C)** A [husband and wife] **MARRIED COUPLE** who [file] **FILES** a joint federal income tax return may file separate State income tax returns if:

- (1) one spouse is a resident and the other spouse is a nonresident;
- (2) the spouses are domiciled, or maintain principal places of abode, in different counties on the last day of the taxable year;
- (3) the spouses have different taxable periods; or
- (4) the Comptroller determines circumstances warrant.

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

Article – Tax – General

10–807.

(a) Except as provided in subsection (b) of this section, a [husband and wife] **MARRIED COUPLE** who [file] **FILES** a joint federal income tax return shall file a joint Maryland income tax return.

(b) A [husband and wife] **MARRIED COUPLE** who [file] **FILES** a joint federal income tax return may file separate State income tax returns if:

- (1) one spouse is a resident and the other spouse is a nonresident;

(2) the spouses are domiciled, or maintain principal places of abode, in different counties on the last day of the taxable year;

(3) the spouses have different taxable periods; or

(4) the Comptroller determines circumstances warrant.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the recognition by the federal government of same-sex marriage for purposes of the federal income tax. Within 5 days after the federal government recognizes same-sex marriage for purposes of the federal income tax, the Office of the Comptroller shall notify the Department of Legislative Services. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect July 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2012.

Approved by the Governor, May 16, 2013.

Chapter 618

(House Bill 543)

AN ACT concerning

Carroll County – Deer Hunting – Sundays

FOR the purpose of authorizing the Department of Natural Resources to allow a person to hunt deer on private property on certain Sundays in Carroll County and subject to certain provisions of law; and generally relating to the regulation of deer hunting by the Department of Natural Resources.

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), AND (7) 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, 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, 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) (I) THIS PARAGRAPH APPLIES ONLY IN CARROLL COUNTY.

(II) SUBJECT TO §§ 10–411 AND 10–415 OF THIS SUBTITLE, THE DEPARTMENT MAY ALLOW A PERSON TO HUNT DEER ON A SUNDAY ON PRIVATE PROPERTY FROM THE FIRST SUNDAY IN OCTOBER THROUGH THE SECOND SUNDAY IN JANUARY OF THE FOLLOWING YEAR, INCLUSIVE.

[(6)] (7) 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 16, 2013.

Chapter 619**(House Bill 563)**

AN ACT concerning

Adoption – Payment of Expenses

FOR the purpose of authorizing the payment, by an interested person, of certain expenses in connection with a certain adoption; and generally relating to adoption.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–3A–45 and 5–3B–32
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

5–3A–45.

(a) Except as otherwise provided by law, a person may not charge or receive, from or for a parent or prospective adoptive parent, any compensation for a service in connection with:

- (1) placement of an individual to live with a preadoptive family; or
- (2) an agreement for custody in contemplation of adoption.

(b) (1) In this subsection, “Administration” means the Social Services Administration of the Department.

(2) This section does not:

(i) prohibit payment, by an interested person, of:

1. a customary and reasonable charge or fee for **ADOPTION COUNSELING**, hospital, legal, or medical services;

2. REASONABLE EXPENSES FOR TRANSPORTATION FOR MEDICAL CARE ASSOCIATED WITH THE PREGNANCY OR BIRTH OF THE CHILD;

3. REASONABLE EXPENSES FOR FOOD, CLOTHING, AND SHELTER FOR A BIRTH MOTHER IF, ON WRITTEN ADVICE OF A PHYSICIAN, THE BIRTH MOTHER IS UNABLE TO WORK OR OTHERWISE SUPPORT HERSELF BECAUSE OF MEDICAL REASONS ASSOCIATED WITH THE PREGNANCY OR BIRTH OF THE CHILD; OR

4. REASONABLE EXPENSES ASSOCIATED WITH ANY REQUIRED COURT APPEARANCE RELATING TO THE ADOPTION, INCLUDING TRANSPORTATION, FOOD, AND LODGING EXPENSES; or

(ii) prevent the Administration, or a person that the Administration licenses or supervises, from receiving and accepting reasonable reimbursement for costs of an adoptive service in connection with adoption, if:

1. the reimbursement is in accordance with standards set by regulation of the Administration; and

2. the ability to provide this reimbursement does not affect:

A. the acceptability of any individual for adoptive services; or

B. the choice of the most suitable prospective adoptive parent.

(c) Each State's Attorney shall enforce this section.

(d) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 or imprisonment not exceeding 3 months or both, for each offense.

5-3B-32.

(a) Except as otherwise provided by law, a person may not charge or receive, from or for a parent or prospective adoptive parent, any compensation for a service in connection with:

(1) placement of an individual to live with a preadoptive family; or

(2) an agreement for custody in contemplation of adoption.

(b) This section does not prohibit payment, by an interested person, of:

(1) a reasonable and customary charge or fee for adoption counseling, hospital, legal, or medical services;

(2) **REASONABLE EXPENSES FOR TRANSPORTATION FOR MEDICAL CARE ASSOCIATED WITH THE PREGNANCY OR BIRTH OF THE CHILD;**

(3) **REASONABLE EXPENSES FOR FOOD, CLOTHING, AND SHELTER FOR A BIRTH MOTHER IF, ON WRITTEN ADVICE OF A PHYSICIAN, THE BIRTH MOTHER IS UNABLE TO WORK OR OTHERWISE SUPPORT HERSELF BECAUSE OF MEDICAL REASONS ASSOCIATED WITH THE PREGNANCY OR BIRTH OF THE CHILD; OR**

(4) **REASONABLE EXPENSES ASSOCIATED WITH ANY REQUIRED COURT APPEARANCE RELATING TO THE ADOPTION, INCLUDING TRANSPORTATION, FOOD, AND LODGING EXPENSES.**

(c) Each State's Attorney shall enforce this section.

(d) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 or imprisonment not exceeding 3 months or both, for each offense.

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

Approved by the Governor, May 16, 2013.

Chapter 620

(House Bill 572)

AN ACT concerning

Natural Resources – Tree Expert License – Qualifications

FOR the purpose of reducing the number of years of a certain apprenticeship period that may qualify an individual for a tree expert license; requiring a licensed tree expert to complete a certain professional development curriculum to qualify for license renewal; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to tree expert license qualifications.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–418 and 5–419
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–419
Annotated Code of Maryland
(2012 Replacement Volume)
(As enacted by Chapter 20 of the Acts of the General Assembly of 2011)

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

Article – Natural Resources

5–418.

(a) The Department may examine an applicant for license as a tree expert and pass upon the competence of the applicant. It shall issue a “tree expert” license to any applicant, who:

(1) Pays the fee provided in § 5–419 of this subtitle;

(2) Has attained 18 years of age;

(3) (i) Has had 2 years of approved college education in forestry, arboriculture, horticulture, applied agricultural sciences, or the equivalent education and a minimum of 1 year of experience with a licensed tree expert in Maryland or with an acceptable tree expert company in another state; or

(ii) For at least [5] 3 years immediately preceding the date of application has been engaged continuously in practice as a tree expert with a licensed tree expert in Maryland or with an acceptable tree expert company in another state; and

(4) Has passed the examination given by the Department.

(b) Every licensee shall carry and show proof of liability and property damage insurance, in the form and amount required by the Department at the time it issues the license. The licensee shall maintain the insurance protection for the period the license is in effect.

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

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

Article – Natural Resources

5-419.

(a) An applicant shall pay to the Department at the time of making application, a fee set by the Department by regulation in an amount not to exceed the costs of processing the application.

(b) (1) A tree expert license shall be renewed in accordance with a timetable and procedure established by the Department by regulation.

(2) A person who holds a license and wishes to renew it shall pay a fee set by the Department by regulation in an amount not to exceed the costs of processing the license renewal.

(3) AFTER SEPTEMBER 1, 2017, TO QUALIFY FOR THE RENEWAL OF A TREE EXPERT LICENSE, A LICENSED TREE EXPERT SHALL COMPLETE THE PROFESSIONAL DEVELOPMENT CURRICULUM ESTABLISHED BY THE DEPARTMENT BY REGULATION.

(c) Fees the Department receives shall be paid into the State Treasury for the Department's use. The Secretary shall prepare an annual report on the number of licenses issued and the receipts and expenses under Part III of this subtitle during each fiscal year.

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

Article – Natural Resources

5-419.

(a) An applicant shall pay to the Department at the time of making application, a fee of \$30. An applicant who fails any examination, shall pay an additional fee of \$20 for each subsequent examination the applicant takes.

(b) (1) A tree expert license shall be renewed annually. A person who holds a license and wishes to renew it shall pay a \$10 annual renewal fee.

(2) AFTER SEPTEMBER 1, 2017, TO QUALIFY FOR THE RENEWAL OF A TREE EXPERT LICENSE, A LICENSED TREE EXPERT SHALL COMPLETE THE PROFESSIONAL DEVELOPMENT CURRICULUM ESTABLISHED BY THE DEPARTMENT BY REGULATION.

(c) Fees the Department receives shall be paid into the State Treasury for the Department's use. The Secretary shall prepare an annual report on the number of licenses issued and the receipts and expenses under Part III of this subtitle during each fiscal year.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2013. It shall remain effective until the taking effect of Section 3 of this Act. If Section 3 of this Act takes effect, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect October 1, 2016, ~~the effective date~~ on the taking effect of the termination of Chapter 20 of the Acts of the General Assembly of 2011. If the effective date of the termination of Chapter 20 is amended, Section 3 of this Act shall take effect on the taking effect of the termination of Chapter 20.

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of Sections 4 and 5 of this Act, this Act shall take effect October 1, 2013.

Approved by the Governor, May 16, 2013.

Chapter 621

(House Bill 591)

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 16, 2013.

Chapter 622

(House Bill 596)

AN ACT concerning

**Civil Actions – Interrogatories or Examination in Aid of Enforcement –
Procedure After Arrest for Failure to Appear to Show Cause**

FOR the purpose of requiring that an individual arrested for failure to appear in court to show cause why the individual should not be found in contempt for failure to answer interrogatories or to appear for an examination in aid of enforcement of a money judgment be taken immediately before a certain court or before a certain judicial officer for a ~~certain~~ determination of certain conditions of release; specifying the conditions of release that may be imposed under certain

circumstances; providing for the application of this Act; and generally relating to arrest for failure to appear in court in response to certain show cause orders.

BY adding to

Article – Courts and Judicial Proceedings

Section 6–411

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

6–411.

(A) AN INDIVIDUAL ARRESTED FOR FAILURE TO APPEAR IN COURT TO SHOW CAUSE WHY THE INDIVIDUAL SHOULD NOT BE FOUND IN CONTEMPT FOR FAILURE TO ANSWER INTERROGATORIES OR TO APPEAR FOR AN EXAMINATION IN AID OF ENFORCEMENT OF A MONEY JUDGMENT SHALL BE TAKEN IMMEDIATELY:

(1) IF THE COURT IS IN SESSION, BEFORE THE COURT THAT ISSUED THE ORDER THAT RESULTED IN THE ARREST; OR

(2) IF THE COURT IS NOT IN SESSION, BEFORE A JUDICIAL OFFICER OF THE DISTRICT COURT FOR A DETERMINATION OF APPROPRIATE CONDITIONS OF RELEASE TO ENSURE THE INDIVIDUAL'S APPEARANCE AT THE NEXT SESSION OF THE COURT THAT ISSUED THE ORDER THAT RESULTED IN THE ARREST.

(B) IF A JUDICIAL OFFICER DETERMINES THAT THE INDIVIDUAL SHOULD BE RELEASED ON OTHER THAN PERSONAL RECOGNIZANCE WITHOUT ANY ADDITIONAL CONDITIONS, THE JUDICIAL OFFICER SHALL IMPOSE ON THE INDIVIDUAL THE LEAST ONEROUS CONDITION OR COMBINATION OF CONDITIONS THAT WILL REASONABLY ENSURE THE APPEARANCE OF THE INDIVIDUAL AS REQUIRED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to any individual arrested for failure to respond to a show cause order for contempt for failure to answer interrogatories or to appear for an examination in aid of enforcement of a money judgment on or 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 16, 2013.

Chapter 623

(House Bill 598)

AN ACT concerning

Water and Sewer Service – Billing Period

FOR the purpose of authorizing a political subdivision to bill for water service on an every other month basis; authorizing the Washington Suburban Sanitary Commission to bill for water and sewer usage charges on an every other month basis; and generally relating to bills for water and sewer service.

BY repealing and reenacting, without amendments,
Article – Environment
Section 9–720
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–724(c)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 16–101(a) and (b)
Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 25–504(b)
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 – Environment

9-720.

In Part III of this subtitle, "political subdivision":

(1) Means any public body of this State that owns or operates any water or sewerage system, including:

- (i) A county;
- (ii) A commission;
- (iii) A district; or
- (iv) A municipal corporation; and

(2) Does not include the Washington Suburban Sanitary Commission.

9-724.

(c) (1) The political subdivision shall send bills for water service to the property, the property owner, or the property owner's designee for each property served on a monthly, **EVERY OTHER MONTH**, quarterly, or semiannual basis.

Article – Public Utilities

16-101.

- (a) In this division the following words have the meanings indicated.
- (b) "Commission" means the Washington Suburban Sanitary Commission.

25-504.

(b) (1) The Commission shall bill for the amount of water and sewer usage charges to each property served monthly, **EVERY OTHER MONTH**, four times a year, or twice a year, as the Commission determines.

(2) On receipt each bill is payable to the Commission.

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

Approved by the Governor, May 16, 2013.

Chapter 624**(House Bill 613)**

AN ACT concerning

Sustainable Communities – Designation and Financing

FOR the purpose of authorizing ~~municipal corporations~~ municipalities and certain counties to finance the cost of certain infrastructure improvements in a sustainable community in the same manner as a transit-oriented development under certain circumstances; authorizing a political subdivision to use certain alternative local tax revenues for tax increment financing in connection with a sustainable community under certain circumstances; providing that bonds can be used for certain purposes in sustainable communities under certain circumstances; authorizing a political subdivision to determine a certain base of a certain brownfields site in a sustainable community under certain circumstances; authorizing a political subdivision to pledge tax increment revenue to secure the payment of obligations to the Maryland Economic Development Corporation for infrastructure improvements located in a sustainable community; providing for the construction of this Act; providing that certain political subdivisions will get priority for State funding under certain circumstances; defining and altering certain terms; providing that the Mayor and City Council of Baltimore City may use certain authority granted under State law to a political subdivision for tax increment financing in a sustainable community for certain purposes; requiring the Department of Planning to produce a certain models and guidelines report on or before a certain date; requiring the Department to develop a certain online tax increment financing education course on or before a certain date; requiring certain officers of a local jurisdiction to complete a certain online tax increment financing education course before the local jurisdiction may use the tax increment financing authority under this Act; requiring the Department to create a certification for completion of a certain online tax increment financing education course and forward certain information about individuals who have received a certain certification to certain units of State government; and generally relating to sustainable communities.

~~BY repealing and reenacting, with amendments,
Article 23A – Corporations – Municipal
Section 44A(b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, without amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9 – 1301(e)(1)
Annotated Code of Maryland~~

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

~~BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9-1301(e)(2)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Local Government
Section 21-409(a) and 21-503(a)
Annotated Code of Maryland
(As enacted by Chapter 119 (H.B. 472) of the Acts of the General Assembly of
2013)

BY repealing and reenacting, with amendments,
Article – Local Government
Section 21-410 and 21-504
Annotated Code of Maryland
(As enacted by Chapter 119 (H.B. 472) of the Acts of the General Assembly of
2013)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 12-201, 12-203, and 12-207 through 12-211
Annotated Code of Maryland
(2008 Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Housing and Community Development
Section 6-201(l) and 6-205(a)
Annotated Code of Maryland
(2006 Volume and 2012 Supplement)

BY adding to
Article – Housing and Community Development
Section 6-214
Annotated Code of Maryland
(2006 Volume and 2012 Supplement)

BY adding to
The Charter of Baltimore City
Article II
Section (62)(k) and (62A)(t)
(2007 Replacement Volume, as amended)

WHEREAS, The revitalization of existing Maryland communities is a priority for achieving the State's statutory smart growth goals; and

WHEREAS, In 2010 the General Assembly passed the Sustainable Communities Act to refine its focus on and develop a coordinated approach to creating, enhancing, supporting, and revitalizing sustainable communities; and

WHEREAS, The State and local governments have created, through the Sustainable Communities Act, a shared geography of sustainable communities that have the necessary plans in place to revitalize these communities; and

WHEREAS, The State has targeted its redevelopment resources to these sustainable communities but more financing tools are necessary; and

WHEREAS, Creative and effective approaches to increasing private sector investment are critical to making revitalization progress in sustainable communities; and

WHEREAS, The use of bonds by local governments for infrastructure and tax increment financing is an effective and underutilized tool for increasing private sector investment in sustainable communities; now, therefore,

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

~~Article 23A – Corporations – Municipal~~

~~44A.~~

~~(b) (1) Subject to the provisions of this section, and for the purpose stated in paragraph (2) of this subsection, each municipal corporation in the State may:~~

- ~~(i) Create a special taxing district;~~
- ~~(ii) Levy ad valorem or special taxes; and~~
- ~~(iii) Issue bonds and other obligations.~~

~~(2) (i) The purpose of the authority granted under paragraph (1) of this subsection is to provide financing, refinancing, or reimbursement for the cost of the design, construction, establishment, extension, alteration, or acquisition of adequate storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting, parking, parks and recreation facilities, libraries, schools, and other infrastructure improvements as necessary, whether situated within the special taxing district or the municipal corporation or outside of the municipal corporation if notification is given to the governmental unit having jurisdiction over~~

~~the infrastructure improvement and if the infrastructure improvement is reasonably related to other infrastructure improvements within the special taxing district, for the development and utilization of the land, each with respect to any defined geographic region within the municipal corporation.~~

~~(ii) The authority granted under paragraph (1)(i) and (ii) of this subsection also makes available a source of funding for payment of costs of:~~

~~1. Infrastructure improvements located in or supporting a transit-oriented development or a State hospital redevelopment; and~~

~~2. Operation and maintenance of infrastructure improvements located in or supporting a transit-oriented development or a State hospital redevelopment.~~

~~(III) FOR THE PURPOSES OF THIS SECTION AND ANY AUTHORITY GRANTED BY THIS SECTION, A SUSTAINABLE COMMUNITY, AS DEFINED IN § 6-201 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE, SHALL BE CONSIDERED THE SAME AS A TRANSIT ORIENTED DEVELOPMENT.~~

~~Article 24 — Political Subdivisions — Miscellaneous Provisions~~

~~9-1301.~~

~~(e) (1) Subject to the provisions of this section, and for the purpose stated in paragraph (2) of this subsection, the county may:~~

~~(i) Create a special taxing district;~~

~~(ii) Levy ad valorem or special taxes; and~~

~~(iii) Issue bonds and other obligations.~~

~~(2) (i) The purpose of the authority granted under paragraph (1) of this subsection is to provide financing, refinancing, or reimbursement for the cost of the design, construction, establishment, extension, alteration, or acquisition of adequate storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting, parking, parks and recreation facilities, libraries, schools, transit facilities, solid waste facilities, and other infrastructure improvements as necessary, whether situated within the special taxing district or outside the special taxing district if the infrastructure improvement is reasonably related to other infrastructure improvements within the special taxing district, for the development and utilization of the land, each with respect to any defined geographic region within the county.~~

~~(ii) The authority granted under paragraph (1)(i) and (ii) of this subsection also makes available a source of funding for payment of costs of:~~

~~1. Infrastructure improvements located in or supporting a transit-oriented development or a State hospital redevelopment; and~~

~~2. Operation and maintenance of infrastructure improvements located in or supporting a transit-oriented development or a State hospital redevelopment.~~

~~(iii) FOR THE PURPOSES OF THIS SECTION AND ANY AUTHORITY GRANTED BY THIS SECTION, A SUSTAINABLE COMMUNITY, AS DEFINED IN § 6-201 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE, SHALL BE CONSIDERED THE SAME AS A TRANSIT-ORIENTED DEVELOPMENT.~~

Article – Local Government

21-409.

(a) For any purpose stated in § 21-410(a)(1) of this subtitle, a municipality may:

- (1) establish a special taxing district;
- (2) impose ad valorem or special taxes; and
- (3) issue bonds.

21-410.

(a) The purpose of the authority granted under this part is to:

(1) finance, refinance, or reimburse the cost of establishing, acquiring, designing, constructing, altering, or extending adequate infrastructure improvements as necessary for the development and use of land in any defined geographic region in the municipality, including storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, sidewalks, lighting, parking, parks and recreation facilities, libraries, and schools; and

(2) provide a source of funding for payment of costs of:

(i) infrastructure improvements located in or supporting a transit-oriented development or a State hospital redevelopment; and

(ii) operation and maintenance of infrastructure improvements located in or supporting a transit-oriented development or a State hospital redevelopment.

(b) An infrastructure improvement financed under subsection (a)(1) of this section may be located:

(1) in the special taxing district;

(2) in the municipality, outside the special taxing district if the infrastructure improvement is reasonably related to other infrastructure improvements in the special taxing district; or

(3) outside the municipality if:

(i) the infrastructure improvement is reasonably related to other infrastructure improvements in the special taxing district; and

(ii) notice is given to the governmental unit having jurisdiction over the infrastructure improvement.

(C) FOR THE PURPOSES OF THIS PART AND ANY AUTHORITY GRANTED BY THIS PART, A SUSTAINABLE COMMUNITY, AS DEFINED IN § 6-201 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE, SHALL BE CONSIDERED THE SAME AS A TRANSIT-ORIENTED DEVELOPMENT.

21-503.

(a) For any purpose stated in § 21-504(a)(1) of this subtitle, a county may:

(1) establish a special taxing district;

(2) impose ad valorem or special taxes; and

(3) issue bonds.

21-504.

(a) The purpose of the authority granted under this subtitle is to:

(1) finance, refinance, or reimburse the cost of establishing, acquiring, designing, constructing, altering, or extending adequate infrastructure improvements as necessary for the development and use of land in any defined geographic region in the county, including storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, sidewalks, lighting, parking, parks and recreation facilities, libraries, schools, transit facilities, and solid waste facilities; and

(2) provide a source of funding for payment of costs of:

(i) infrastructure improvements located in or supporting a transit-oriented development or a State hospital redevelopment; and

(ii) operating and maintaining infrastructure improvements located in or supporting a transit-oriented development or a State hospital redevelopment.

(b) An infrastructure improvement financed under subsection (a)(1) of this section may be located:

(1) in the special taxing district; or

(2) outside the special taxing district if the infrastructure improvement is reasonably related to other infrastructure improvements in the special taxing district.

(C) FOR THE PURPOSES OF THIS SUBTITLE AND ANY AUTHORITY GRANTED BY THIS SUBTITLE, A SUSTAINABLE COMMUNITY, AS DEFINED IN § 6-201 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE, SHALL BE CONSIDERED THE SAME AS A TRANSIT-ORIENTED DEVELOPMENT.

Article – Economic Development

12-201.

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

(b) “Adjusted assessable base” means the fair market value of real property that qualifies for a farm or agricultural use under § 8-209 of the Tax – Property Article, without regard to the agricultural use assessment for the property as of January 1 of the year preceding the effective date of the resolution creating the development district under § 12-203 of this subtitle.

(c) “Assessable base” means the total assessable base, as determined by the Supervisor of Assessments **OR THE GOVERNING BODY IN ACCORDANCE WITH § ~~12-203~~ 12-203(B) OF THIS SUBTITLE**, of all real property subject to taxation in a development district **OR IDENTIFYING THE A SUSTAINABLE COMMUNITY.**

(d) (1) “Assessment ratio” means a real property tax assessment ratio, however designated or calculated, that is used under applicable general law to determine the assessable base.

(2) “Assessment ratio” includes the assessment percentage specified under § 8-103(c) of the Tax – Property Article.

(e) “Bond” means a revenue bond, note, or other similar instrument issued in accordance with this subtitle by:

- (1) a political subdivision; or
- (2) the revenue authority of Prince George’s County.

(f) “Chief executive” means the president, chair, mayor, or other chief executive officer of a political subdivision or the revenue authority of Prince George’s County.

(g) “Development” includes new development, redevelopment, revitalization, and renovation.

(h) “Development district” means a contiguous area designated by a resolution.

(i) “Issuer” means a political subdivision or the revenue authority of Prince George’s County that issues a bond under this subtitle.

(j) “MEDCO obligation” means a bond, note, or other similar instrument that the Maryland Economic Development Corporation issues under authority other than this subtitle to finance the cost of infrastructure improvements located in or supporting a transit-oriented development, A SUSTAINABLE COMMUNITY, or a State hospital redevelopment.

(k) “Original [assessable] base” means the assessable base:

(1) as of January 1 of the year preceding the effective date of the resolution creating the development district under § 12-203 of this subtitle; OR

(2) ~~AFTER JANUARY 1 OF THE YEAR PRECEDING THE EFFECTIVE DATE OF THE RESOLUTION CREATING THE DEVELOPMENT DISTRICT,~~ IF THE POLITICAL SUBDIVISION DETERMINED THE ORIGINAL BASE IN ACCORDANCE WITH ~~§ 12-203~~ § 12-203(B) OF THIS SUBTITLE, THE BASE VALUE AS ESTABLISHED IN THE RESOLUTION.

(l) “Original full cash value” means the dollar amount that is determined by dividing the original [assessable] base by the assessment ratio used to determine the original [assessable] base.

(m) “Original taxable value” means for any tax year the dollar amount that is:

(1) the adjusted assessable base, if an adjusted assessable base applies; or

(2) in all other cases, the lesser of:

(i) the product of multiplying the original full cash value by the assessment ratio applicable to that tax year; and

(ii) the original [assessable] base.

(n) “Political subdivision” means a county or a municipal corporation.

(o) “State hospital redevelopment” means any combination of private or public commercial, residential, or recreational uses, improvements, and facilities that:

(1) is part of a comprehensive coordinated development plan or strategy involving:

(i) property that was occupied formerly by a State facility, as defined in § 10–101 of the Health – General Article, or a State residential center, as defined in § 7–101 of the Health – General Article; or

(ii) property that is adjacent or reasonably proximate to property that was occupied formerly by a State facility, as defined in § 10–101 of the Health – General Article, or a State residential center, as defined in § 7–101 of the Health – General Article;

(2) in accordance with design development principles, maximizes use of the property by those constituencies it is intended to serve; and

(3) is designated as a State hospital redevelopment by:

(i) the Smart Growth Subcabinet established under § 9–1406 of the State Government Article; and

(ii) the local government or multicounty agency with land use and planning responsibility for the relevant area.

(p) **(1)** “SUSTAINABLE COMMUNITY” HAS THE MEANING STATED IN § 6–201 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

(2) “SUSTAINABLE COMMUNITY” INCLUDES A PORTION OF A SUSTAINABLE COMMUNITY.

(q) “Tax increment” means for any tax year the amount by which the assessable base as of January 1 of the preceding tax year exceeds the original **BASE** ~~taxable value~~ divided by the assessment ratio used to determine the original taxable value.

[(q)] (R) “Tax year” means the period from July 1 of a calendar year through June 30 of the next calendar year.

[(r)] (S) “Transit-oriented development” has the meaning stated in § 7-101 of the Transportation Article.

12-203.

(a) Before issuing bonds, the governing body of the political subdivision shall:

(1) **[designate]** by resolution:

(I) DESIGNATE a contiguous area within its jurisdiction as a development district; **OR**

(II) IDENTIFY AN AREA THAT HAS BEEN DESIGNATED A SUSTAINABLE COMMUNITY;

(2) receive from the Supervisor of Assessments a certification of the amount of the original **[assessable]** base, or if applicable, the adjusted assessable base; and

(3) pledge that until the bonds are fully paid, or a longer period, the real property taxes in the development district **OR A SUSTAINABLE COMMUNITY** shall be divided as follows:

(i) the portion of the taxes that would be produced at the current tax rate on the original ~~taxable value~~ **BASE** shall be paid to the respective taxing authorities in the same manner as taxes on other property are paid; and

(ii) the portion of the taxes on the tax increment that normally would be paid into the general fund of the political subdivision shall be paid into the special fund established under § 12-208 of this subtitle and applied in accordance with § 12-209 of this subtitle.

(b) **(1) IN THIS SUBSECTION, “BROWNFIELDS SITE” HAS THE MEANING STATED IN § 5-301 OF THIS ARTICLE.**

(2) BEFORE ISSUING BONDS AND AS PART OF THE RESOLUTION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE GOVERNING BODY OF THE POLITICAL SUBDIVISION MAY DETERMINE THE ORIGINAL BASE OF A BROWNFIELDS SITE IN A SUSTAINABLE COMMUNITY.

(3) THE DETERMINATION OF THE ORIGINAL BASE OF A BROWNFIELDS SITE UNDER THIS SECTION:

(I) IS NOT A DETERMINATION OF THE VALUE OF THE BROWNFIELDS SITE; AND

(II) MAY NOT BE USED TO DETERMINE A PROPERTY TAX ASSESSMENT OR APPEAL OF A PROPERTY TAX ASSESSMENT UNDER THE TAX – PROPERTY ARTICLE.

(C) The establishment **OR IDENTIFICATION** by a county of a development district **OR A SUSTAINABLE COMMUNITY** that is wholly or partly in a municipal corporation shall also require a resolution approving the development district **OR SUSTAINABLE COMMUNITY** by the governing body of the municipal corporation.

12–207.

(a) **[Bond] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, BOND** proceeds may be used only:

(1) to buy, lease, condemn, or otherwise acquire property, or an interest in property:

(i) in the development district **OR A SUSTAINABLE COMMUNITY**; or

(ii) needed for a right-of-way or other easement to or from the development district **OR A SUSTAINABLE COMMUNITY**;

(2) for site removal;

(3) for surveys and studies;

(4) to relocate businesses or residents;

(5) to install utilities, construct parks and playgrounds, and for other needed improvements including:

(i) roads to, from, or in the development district;

(ii) parking; and

(iii) lighting;

(6) to construct or rehabilitate buildings for a governmental purpose or use;

(7) for reserves or capitalized interest;

(8) for necessary costs to issue bonds; and

(9) to pay the principal of and interest on loans, advances, or indebtedness that a political subdivision incurs for a purpose specified in this section.

(b) (1) THIS SUBSECTION APPLIES TO A SUSTAINABLE COMMUNITY IDENTIFIED UNDER § 12-203 OF THIS SUBTITLE.

(2) IN ADDITION TO THE PURPOSES UNDER SUBSECTION (A) OF THIS SECTION AND WITHOUT LIMITING THE PURPOSES IN SUBSECTION (A) OF THIS SECTION, BOND PROCEEDS MAY BE USED IN A SUSTAINABLE COMMUNITY FOR:

(I) HISTORIC PRESERVATION OR REHABILITATION;

(II) ENVIRONMENTAL REMEDIATION, DEMOLITION, AND SITE PREPARATION;

(III) PARKING LOTS, FACILITIES, OR STRUCTURES OF ANY TYPE WHETHER FOR PUBLIC OR PRIVATE USE;

(IV) HIGHWAYS AS DEFINED IN § 8-101 OF THE TRANSPORTATION ARTICLE OR TRANSIT SERVICE AS DEFINED IN § 7-101 OF THE TRANSPORTATION ARTICLE THAT SUPPORT SUSTAINABLE COMMUNITIES;

(V) SCHOOLS; ~~AND~~

(VI) AFFORDABLE OR MIXED INCOME HOUSING; AND

(VII) STORMWATER MANAGEMENT AND STORM DRAIN FACILITIES.

(C) (1) In addition to the purposes listed in subsection (a) of this section, the proceeds from bonds that Prince George's County or the revenue authority of Prince George's County issues may be used:

(i) for convention, conference, or visitors' centers;

(ii) to maintain infrastructure improvements and convention, conference, or visitors' centers;

(iii) to market development district facilities and other improvements; and

(iv) for the purpose of encouraging redevelopment in those areas listed in paragraph (2) of this subsection, to install infrastructure improvements, including:

1. streets;
2. parking structures of any type whether for public or private use;
3. utilities;
4. street lights;
5. stormwater management and storm drain facilities;
6. fencing;
7. noise walls;
8. retaining walls;
9. trails;
10. sidewalks;
11. pedestrian and vehicular bridges; and
12. park facilities.

(2) The purpose of the authority granted by paragraph (1)(iv) of this subsection is to encourage redevelopment in:

- (i) revitalization areas designated by the county;
- (ii) mixed use centers;
- (iii) blighted areas; and
- (iv) the Developed Tier, growth corridors, and growth centers, as defined in the county General Plan.

[(c)] (D) (1) In addition to the purposes listed in subsection (a) of this section, the proceeds from bonds that a municipal corporation issues may be used for

the purpose of encouraging redevelopment in those areas listed in paragraph (2) of this subsection, to install infrastructure improvements, including:

- (i) streets;
- (ii) parking structures of any type whether for public or private use;
- (iii) utilities;
- (iv) street lights;
- (v) stormwater management and storm drain facilities;
- (vi) fencing;
- (vii) noise walls;
- (viii) retaining walls;
- (ix) trails;
- (x) sidewalks;
- (xi) pedestrian and vehicular bridges; and
- (xii) park facilities.

(2) The purpose of the authority granted by paragraph (1) of this subsection is to encourage redevelopment in:

- (i) revitalization areas designated by a county or municipal corporation;
- (ii) mixed use centers;
- (iii) blighted areas; and
- (iv) developed areas and growth areas, as defined in a county or municipal corporation land use plan.

12-208.

(a) The governing body of a political subdivision may adopt a resolution creating a special fund for a development district **OR A SUSTAINABLE COMMUNITY** even though no bonds:

(1) have been issued for the development district **OR THE SUSTAINABLE COMMUNITY**; or

(2) are outstanding at the time of adoption.

(b) The taxes allocated to the special fund in accordance with § 12–203(a)(3)(ii) of this subtitle shall be deposited in the special fund while the resolution that created the special fund remains in effect.

(c) Other than tax revenues received from residential properties in Prince George’s County, the tax collected under § 12–203(a)(3)(ii) of this subtitle is not considered a tax of the political subdivision for the purposes of any constant yield limitation or State or local restriction.

(d) State real property taxes may not be paid into the special fund.

12–209.

(a) Subject to subsection (c) of this section, the special fund for the development district **OR THE SUSTAINABLE COMMUNITY** may be used for any of the following purposes as determined by the governing body of the political subdivision:

(1) a purpose specified in § 12–207 of this subtitle;

(2) accumulated to pay debt service on bonds to be issued later;

(3) payment or reimbursement of debt service, or payments under an agreement described in subsection (b) of this section, that the political subdivision is obliged under a general or limited obligation to pay, or has paid, on or relating to bonds issued by the State, a political subdivision, or the revenue authority of Prince George’s County if the proceeds were used for a purpose specified in § 12–207 of this subtitle; or

(4) payment to the political subdivision for any other legal purpose.

(b) (1) Subject to paragraph (2) of this subsection, the political subdivision that has created a special fund for a development district **OR A SUSTAINABLE COMMUNITY** may pledge under an agreement that amounts deposited to the special fund shall be paid over to secure payment on MEDCO obligations.

(2) The agreement shall:

(i) be in writing;

(ii) be executed by the political subdivision making the pledge, the Maryland Economic Development Corporation, and the other persons that the governing body of the political subdivision determines; and

(iii) run to the benefit of and be enforceable on behalf of the holders of the MEDCO obligations secured by the agreement.

(c) If bonds are outstanding with respect to a development district **OR A SUSTAINABLE COMMUNITY**, the special fund may be used as described in subsection (a) of this section in any fiscal year only if:

(1) the balance of the special fund exceeds the unpaid debt service payable on the bonds in the fiscal year; and

(2) the special fund is not restricted so as to prohibit the use.

(d) The issuance of bonds pledging the full faith and credit of the political subdivision shall comply with appropriate county or municipal charter requirements.

12-210.

(a) (1) Subject to paragraph (2) of this subsection, the governing body of a political subdivision that is not the issuer may pledge under an agreement that its property taxes levied on the tax increment shall be paid into the special fund for the development district **OR A SUSTAINABLE COMMUNITY**.

(2) The agreement shall:

(i) be in writing;

(ii) be executed by the governing bodies of the issuer and the political subdivision making the pledge; and

(iii) run to the benefit of and be enforceable on behalf of any bondholder.

(b) The governing body of Prince George's County may also pledge hotel rental tax revenues to the special fund.

(c) The governing body of a political subdivision, including the issuer, may pledge by or under a resolution, including by an agreement with the issuer, as applicable, that alternative local tax revenues generated within, or that are otherwise determined to be attributable to, a development district that is a transit-oriented development, **A SUSTAINABLE COMMUNITY**, or a State hospital redevelopment be paid, as provided in the resolution, into the special fund to:

(1) secure the payment of debt service on bonds or MEDCO obligations; or

(2) be applied to the other purposes stated in § 12–209 of this subtitle.

12–211.

(a) The principal amount of bonds, interest payable on bonds, the transfer of bonds, and income from bonds, including profit made in the sale or transfer of bonds, are exempt from State and local taxes.

(b) If a political subdivision leases as a lessor its property within a development district **OR A SUSTAINABLE COMMUNITY**:

(1) the property shall be assessed and taxed in the same manner as privately owned property; and

(2) the lease shall require the lessee to pay taxes or payments in lieu of taxes on the assessed value of the entire property and not only on the assessed value of the leasehold interest.

Article – Housing and Community Development

6–201.

(l) “Sustainable community” means the part of a priority funding area that:

(1) as determined by the Smart Growth Subcabinet, satisfies the requirements of § 6–205 of this subtitle;

(2) has been designated as a BRAC Revitalization and Incentive Zone under Title 5, Subtitle 13 of the Economic Development Article; or

(3) has been designated a transit-oriented development under § 7–101 of the Transportation Article.

6–205.

(a) The Smart Growth Subcabinet, on the recommendation of the Secretary, may designate an area as a sustainable community if the sponsor demonstrates that past and current trends in homeownership, property values, commercial and residential vacancy, and business or housing investment show a need for reinvestment in the area and if:

(1) entities in the community, such as local governments, employers, educational institutions, civic organizations, community organizations, or cultural

organizations, support the proposed sustainable community plan and have pledged resources to develop or implement it;

(2) the proposed sustainable community plan addresses the need for reinvestment in the area and will enhance the area, and give individuals of different incomes a range of housing options, employment opportunities, and other amenities;

(3) a community in the proposed area is culturally or historically significant;

(4) the proposed area is near a town center or a transportation center;

(5) the proposed sustainable community plan is consistent with and complements other existing or proposed projects for housing, commercial or community development, education, historic preservation, neighborhood revitalization, transportation, or other things significant to the comprehensive enhancement of the community; or

(6) there is a demonstrated need for financing assistance for small businesses, nonprofit organizations, or microenterprises.

6-214.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A SUSTAINABLE COMMUNITY SHALL RECEIVE PRIORITY FOR STATE FUNDING UNDER THE:

(1) COMMUNITY LEGACY PROGRAM UNDER THIS SUBTITLE;

(2) SUSTAINABLE COMMUNITIES TAX CREDIT PROGRAM FOR COMMERCIAL PROPERTIES UNDER TITLE 5A, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(3) NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM UNDER SUBTITLE 3 OF THIS TITLE;

(4) MARYLAND HISTORICAL TRUST GRANT PROGRAM UNDER TITLE 5A, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(5) AFRICAN AMERICAN HERITAGE GRANT PROGRAM UNDER TITLE 5A, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) PRIORITY FOR STATE FUNDING PROVIDED UNDER SUBSECTION (A) OF THIS SECTION IS AVAILABLE IN A SUSTAINABLE COMMUNITY ONLY IF:

(1) A POLITICAL SUBDIVISION ISSUES BONDS, NOTES, OR OTHER SIMILAR INSTRUMENTS FOR THAT SUSTAINABLE COMMUNITY UNDER:

(I) TITLE 21, SUBTITLE 4, PART II OF THE LOCAL GOVERNMENT ARTICLE;

(II) TITLE 21, SUBTITLE 5 OF THE LOCAL GOVERNMENT ARTICLE; OR

(III) TITLE 12, SUBTITLE 2 OF THE ECONOMIC DEVELOPMENT ARTICLE; OR

(2) A POLITICAL SUBDIVISION DEMONSTRATES TO THE APPROPRIATE UNIT OF STATE GOVERNMENT THAT THE POLITICAL SUBDIVISION HAS FUNDED INFRASTRUCTURE IMPROVEMENTS IN THAT SUSTAINABLE COMMUNITY.

The Charter of Baltimore City

Article II – General Powers

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(62)

(K) IN ADDITION TO THE POWERS IN THIS SECTION, THE MAYOR AND CITY COUNCIL OF BALTIMORE MAY USE THE AUTHORITY GRANTED TO A POLITICAL SUBDIVISION FOR TAX INCREMENT FINANCING IN A SUSTAINABLE COMMUNITY AS PROVIDED FOR IN TITLE 12, SUBTITLE 2 OF THE ECONOMIC DEVELOPMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(62A)

(T) IN ADDITION TO THE POWERS IN THIS SECTION, THE MAYOR AND CITY COUNCIL OF BALTIMORE MAY USE THE AUTHORITY GRANTED TO A POLITICAL SUBDIVISION FOR TAX INCREMENT FINANCING IN A SUSTAINABLE COMMUNITY AS PROVIDED FOR IN TITLE 12, SUBTITLE 2 OF THE ECONOMIC DEVELOPMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed or interpreted to limit the use outside of a sustainable community of tax increment financing as provided for in Title 12, Subtitle 2 of the Economic Development Article.

~~SECTION 3. AND BE IT FURTHER ENACTED, That a political subdivision that issues bonds, notes, or other similar instruments for a sustainable community as provided for in Article 23A, § 44A of the Code, Article 24, § 9-1301 of the Code, Title 21, Subtitle 4, Part II or Title 21, Subtitle 5 of the Local Government Article or Title 12, Subtitle 2 of the Economic Development Article, or demonstrates to the appropriate unit of State government that the political subdivision has funded infrastructure improvements in a sustainable community, shall receive priority for other State funding for that sustainable community in the following programs:~~

- ~~(1) Community Legacy Program;~~
- ~~(2) Sustainable Communities Tax Credit Program for commercial properties;~~
- ~~(3) Neighborhood Business Development Program;~~
- ~~(4) Maryland Historical Trust Grant Programs; and~~
- ~~(5) African American Heritage Grant Program.~~

~~SECTION 4. 3. AND BE IT FURTHER ENACTED, That:~~

~~(a) On or before October 1, 2013, the Department of Planning shall produce a models and guidelines report on the best practices for tax increment financing.~~

~~(b) The models and guidelines report shall include information on the services that the Maryland Economic Development Corporation can offer local jurisdictions relating to tax increment financing in sustainable communities.~~

~~SECTION 5. 4. AND BE IT FURTHER ENACTED, That:~~

~~(a) On or before October 1, 2013, the Department of Planning shall develop an online tax increment financing education course.~~

~~(b) The Department of Planning shall consult with the Maryland Economic Development Corporation when developing the online tax increment financing education course.~~

~~(c) The online tax increment financing education course shall include:~~

- ~~(1) the benefits and risks of tax increment financing; and~~

(2) information on the services that the Maryland Economic Development Corporation can offer local jurisdictions with regard to tax increment financing in sustainable communities.

(d) Before a local jurisdiction may use the tax increment financing authority for sustainable communities established under this Act, the chief administrative officer or the chief financial officer of the local jurisdiction shall complete the online tax increment financing education course.

(e) The Department of Planning shall create a certification for completion of the online tax increment financing education course and keep a record of individuals who receive the certification.

(f) The Department of Planning shall forward the list of individuals who have received the certification for completion of the online tax increment financing education course to the:

(1) units of State government that are required to grant priority funding under Section 3 of this Act; and

(2) the Maryland Economic Development Corporation.

SECTION ~~4~~ ~~6~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 16, 2013.

Chapter 625

(House Bill 621)

AN ACT concerning

Maryland Energy Administration – Regulated Sustainable Energy Contract Program

FOR the purpose of authorizing the Maryland Energy Administration to create a Regulated Sustainable Energy Contract Program to authorize qualified contractors to provide residential renewable energy installations and residential energy efficiency measures to residential property owners under certain regulated sustainable energy contracts; stating the intent of the General Assembly; requiring the Administration to manage, supervise, and administer a certain Program; requiring the Administration to adopt certain regulations under certain circumstances; authorizing the Administration to enter into certain contracts; authorizing the Administration to collect certain reasonable

fees from qualified contractors; authorizing the Administration to authorize certain qualified contractors to enter into certain regulated sustainable energy contracts with certain persons, directly bill certain persons, and enforce payment under a certain regulated sustainable energy contract according to certain provisions; authorizing the Administration to limit certain authorizations in a certain manner or to authorize more than one qualified contractor to operate in a certain territory or offer certain products; requiring the Administration to perform a certain study before developing and implementing a certain Program; authorizing the Administration to develop and implement a test or pilot program; requiring the Administration to ensure that financing authorized under this Act complies with certain provisions; requiring a regulated sustainable energy contract to meet certain requirements established by the Administration and to require certain actions; establishing a time period during which a certain person may object to a regulated sustainable energy contract; requiring that an objection made to a regulated sustainable energy contract be in writing and addressed to certain persons; prohibiting a regulated sustainable energy contract from becoming effective if certain requirements are met; requiring the Administration, by regulation or order, to establish certain requirements for a certain regulated sustainable energy contract; prohibiting a certain qualified contractor from entering into a certain regulated sustainable energy contract unless certain conditions have been met; authorizing a property owner to subject property to a certain regulated sustainable energy contract by recording or authorizing the recordation of the regulated sustainable energy contract in a certain manner; providing that a person that acquires property subject to a certain regulated sustainable energy contract assumes a certain obligation; requiring a certain person selling or transferring a certain property to provide written notice to the person acquiring the property that the person acquiring the property shall assume a certain obligation; authorizing the Administration to revoke a certain authorization if the Administration makes a certain determination; authorizing a certain qualified contractor to collect payments that are in arrears under a certain regulated sustainable energy contract, by the imposition of a lien on a certain property in accordance with the Maryland Contract Lien Act; prohibiting a lien imposed by a certain qualified contractor from taking priority over a lien, mortgage, deed of trust, or other security interest that is already attached to the property; prohibiting a party that holds a recorded mortgage or deed of trust on a certain property from being charged for any amount due on a certain regulated sustainable energy contract; requiring payment on a certain regulated sustainable energy contract to resume when the property subject to the regulated sustainable energy contract is sold or transferred to a certain person; adding a certain regulated sustainable energy contract recorded under a certain provision of law to the definition of a “contract” under the Maryland Contract Lien Act; requiring the Administration to report to the General Assembly on or before a certain date; defining certain terms; and generally relating to the Regulated Sustainable Energy Contract Program.

Article – State Government

Section 9–20C–01 through 9–20C–08 to be under the new subtitle “Subtitle 20C.
Regulated Sustainable Energy Contracts”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Real Property

Section 14–201(b)

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Real Property

Section 14–202

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 – State Government

SUBTITLE 20C. REGULATED SUSTAINABLE ENERGY CONTRACTS.

9–20C–01.

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

(B) “ADMINISTRATION” MEANS THE MARYLAND ENERGY ADMINISTRATION.

(C) “PROGRAM” MEANS THE REGULATED SUSTAINABLE ENERGY CONTRACT PROGRAM.

(D) “QUALIFIED CONTRACTOR” MEANS A PERSON AUTHORIZED BY THE ADMINISTRATION UNDER THIS SUBTITLE TO PROVIDE SUSTAINABLE ENERGY PRODUCTS TO RESIDENTIAL PROPERTY OWNERS UNDER A REGULATED SUSTAINABLE ENERGY CONTRACT.

(E) “REGULATED SUSTAINABLE ENERGY CONTRACT” MEANS A CONTRACT BETWEEN A RESIDENTIAL PROPERTY OWNER AND A QUALIFIED CONTRACTOR THAT:

(1) MEETS THE REQUIREMENTS OF § 9-20C-04 OF THIS SUBTITLE; AND

(2) DOES NOT EXCEED \$30,000.

(F) “RESIDENTIAL ENERGY EFFICIENCY MEASURE” MEANS A PRODUCT OR AN IMPROVEMENT TO A STRUCTURE THAT, WHEN INSTALLED, RESULTS IN A REDUCTION OF ENERGY USAGE IN THAT STRUCTURE.

(G) “RESIDENTIAL RENEWABLE ENERGY INSTALLATION” MEANS A PRODUCT THAT, WHEN INSTALLED ON RESIDENTIAL PROPERTY, PROVIDES ENERGY SAVINGS OR GENERATES ENERGY FROM A RENEWABLE SOURCE.

9-20C-02.

THIS SUBTITLE IS INTENDED TO PROMOTE ENERGY CONSERVATION AND THE USE OF RENEWABLE ENERGY BY PROVIDING A SECURE FORM OF LONG-TERM FINANCING TO FACILITATE THE IMPLEMENTATION OF RESIDENTIAL RENEWABLE ENERGY INSTALLATIONS AND RESIDENTIAL ENERGY EFFICIENCY MEASURES ON OR IN RESIDENTIAL PROPERTIES.

9-20C-03.

(A) THE ADMINISTRATION MAY CREATE A REGULATED SUSTAINABLE ENERGY CONTRACT PROGRAM TO AUTHORIZE QUALIFIED CONTRACTORS TO PROVIDE RESIDENTIAL RENEWABLE ENERGY INSTALLATIONS AND RESIDENTIAL ENERGY EFFICIENCY MEASURES TO RESIDENTIAL PROPERTY OWNERS UNDER REGULATED SUSTAINABLE ENERGY CONTRACTS IN ACCORDANCE WITH THIS SUBTITLE.

(B) THE ADMINISTRATION SHALL MANAGE, SUPERVISE, AND ADMINISTER A PROGRAM CREATED UNDER THIS SUBTITLE.

(C) IF THE ADMINISTRATION CREATES A PROGRAM UNDER THIS SUBTITLE, THE ADMINISTRATION SHALL ADOPT REGULATIONS THAT:

(1) ENSURE THAT FINANCING IS PROVIDED ONLY TO A PROJECT THAT CARRIES OUT THE PURPOSES STATED IN A REGULATED SUSTAINABLE ENERGY CONTRACT;

(2) ESTABLISH ELIGIBILITY CRITERIA FOR QUALIFIED CONTRACTORS, INCLUDING A REQUIRED MINIMUM LEVEL OF CAPITALIZATION;

(3) ESTABLISH ELIGIBILITY REQUIREMENTS FOR PROPERTY OWNERS THAT GIVE DUE REGARD TO THE OWNER'S ABILITY TO PAY IN A MANNER SUBSTANTIALLY SIMILAR TO THE REQUIREMENTS FOR A MORTGAGE LOAN UNDER §§ 12-127, 12-311, 12-409.1, 12-925, AND ~~12-1049~~ 12-1029 OF THE COMMERCIAL LAW ARTICLE;

(4) DEFINE AND PLACE LIMITS ON ELIGIBLE RESIDENTIAL RENEWABLE ENERGY INSTALLATIONS AND ELIGIBLE RESIDENTIAL ENERGY EFFICIENCY MEASURES;

(5) ESTABLISH COST-EFFECTIVENESS REQUIREMENTS FOR ELIGIBLE RESIDENTIAL RENEWABLE ENERGY INSTALLATIONS AND ELIGIBLE RESIDENTIAL ENERGY EFFICIENCY MEASURES;

(6) ESTABLISH PAYBACK REQUIREMENTS, RATE-OF-RETURN AND INTEREST RATE GUIDELINES, AND LIMITS FOR REGULATED SUSTAINABLE ENERGY CONTRACTS;

(7) ESTABLISH MECHANISMS FOR INDEPENDENT QUALITY CONTROL AND QUALITY ASSURANCE;

(8) MARKET THE PROGRAM TO PROPERTY OWNERS AND POTENTIAL QUALIFIED CONTRACTORS; AND

(9) PROVIDE A PROCESS FOR ADOPTING BRAND NAMES FOR THE PROGRAM AS WELL AS ELEMENTS OF THE PROGRAM.

(D) THE ADMINISTRATION MAY ENTER INTO CONTRACTS WITH THIRD PARTIES TO ENSURE THAT:

(1) FINANCING IS PROVIDED ONLY TO PROJECTS THAT CARRY OUT THE TERMS AND CONDITIONS OF REGULATED SUSTAINABLE ENERGY CONTRACTS; AND

(2) THE PURPOSES OF THE PROGRAM ARE FULFILLED.

(E) THE ADMINISTRATION MAY COLLECT REASONABLE FEES FROM QUALIFIED CONTRACTORS TO:

(1) ENSURE THAT THE PURPOSES OF THE PROGRAM ARE FULFILLED; AND

(2) CARRY OUT THE ADMINISTRATION'S DUTIES UNDER THIS SUBTITLE.

(F) THE ADMINISTRATION MAY AUTHORIZE QUALIFIED CONTRACTORS TO:

(1) ENTER INTO REGULATED SUSTAINABLE ENERGY CONTRACTS WITH INDIVIDUAL RESIDENTIAL PROPERTY OWNERS, GROUPS OF RESIDENTIAL PROPERTY OWNERS, OR THE BUILDER OF A NEW RESIDENTIAL STRUCTURE;

(2) DIRECTLY BILL, IN ACCORDANCE WITH THE RATE AND PAYMENT SCHEDULES PROVIDED IN THE REGULATED SUSTAINABLE ENERGY CONTRACT, EACH PROPERTY OWNER THAT:

(I) IS A PARTY TO A REGULATED SUSTAINABLE ENERGY CONTRACT; OR

(II) OWNS PROPERTY SUBJECT TO A REGULATED SUSTAINABLE ENERGY CONTRACT; AND

(3) ENFORCE PAYMENT UNDER A REGULATED SUSTAINABLE ENERGY CONTRACT IN ACCORDANCE WITH § 9-20C-08 OF THIS SUBTITLE.

(G) THE ADMINISTRATION MAY:

(1) LIMIT THE AUTHORIZATION OF A QUALIFIED CONTRACTOR TO A PARTICULAR TERRITORY OR SPECIFIED RESIDENTIAL RENEWABLE ENERGY INSTALLATION; AND

(2) AUTHORIZE MORE THAN ONE QUALIFIED CONTRACTOR TO OPERATE IN A PARTICULAR TERRITORY OR TO OFFER SPECIFIED RESIDENTIAL RENEWABLE ENERGY INSTALLATION.

(H) THE ADMINISTRATION:

(1) BEFORE DEVELOPING AND IMPLEMENTING A PROGRAM, SHALL PERFORM A STUDY TO ASSESS:

(I) THE FEASIBILITY OF THE PROGRAM; AND

(II) THE ADMINISTRATION'S ABILITIES TO FULFILL ITS DUTIES REGARDING THE PROGRAM UNDER THIS SUBTITLE; ~~AND~~

**(2) MAY DEVELOP AND IMPLEMENT A TEST OR PILOT PROGRAM;
AND**

(3) NOTWITHSTANDING THE PROVISIONS IN THIS SUBTITLE, SHALL ENSURE THAT ANY FINANCING AUTHORIZED UNDER THIS SUBTITLE SHALL COMPLY WITH APPLICABLE PROVISIONS IN TITLE 12, SUBTITLES 1, 3, 4, 6, 9, AND 10 OF THE COMMERCIAL LAW ARTICLE.

9-20C-04.

(A) UNDER A PROGRAM CREATED IN ACCORDANCE WITH § 9-20C-03(A) OF THIS SUBTITLE, A REGULATED SUSTAINABLE ENERGY CONTRACT SHALL:

(1) MEET THE REQUIREMENTS ESTABLISHED BY THE ADMINISTRATION UNDER SUBSECTION ~~(B)~~ (D) OF THIS SECTION; AND

(2) REQUIRE, FOR EACH PROPERTY EXPECTED TO BE SUBJECT TO THE REGULATED SUSTAINABLE ENERGY CONTRACT:

~~(I) THE REGULATED SUSTAINABLE ENERGY CONTRACT TO BE RECORDED IN THE LAND RECORDS IN THE COUNTY IN WHICH EACH PROPERTY IS LOCATED; AND~~

~~(H), THE QUALIFIED CONTRACTOR TO NOTIFY, BY FIRST-CLASS CERTIFIED MAIL, ANY PARTY THAT HOLDS A RECORDED MORTGAGE OR DEED OF TRUST ON PROPERTY AT THE TIME THAT THE REGULATED SUSTAINABLE ENERGY CONTRACT BECOMES EFFECTIVE OF:~~

1. THE EXPECTED EXISTENCE AND TERMS OF THE REGULATED SUSTAINABLE ENERGY CONTRACT; AND

2. THE RIGHT OF THE PARTY THAT HOLDS A RECORDED MORTGAGE OR DEED OF TRUST TO OBJECT TO THE CONTRACT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION.

(B) (1) A PARTY THAT HOLDS A RECORDED MORTGAGE OR DEED OF TRUST ON PROPERTY THAT WOULD BE SUBJECT TO A REGULATED SUSTAINABLE ENERGY CONTRACT HAS 30 DAYS FROM RECEIPT OF THE NOTICE REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION TO OBJECT TO THE CONTRACT.

(2) ANY OBJECTION TO THE CONTRACT ON THE PART OF A PARTY THAT HOLDS A RECORDED MORTGAGE OR DEED OF TRUST ON THE PROPERTY MUST BE IN WRITING AND ADDRESSED TO THE OWNER OF THE PROPERTY AND THE QUALIFIED CONTRACTOR.

(C) IF AN OBJECTION IS MADE UNDER SUBSECTION (B) OF THIS SECTION BY A PARTY THAT HOLDS A RECORDED MORTGAGE OR DEED OF TRUST

ON THE PROPERTY, THE REGULATED SUSTAINABLE ENERGY CONTRACT MAY NOT BECOME EFFECTIVE AND IF EXECUTED SHALL BE VOID.

(D) WHEN CREATING A PROGRAM UNDER THIS SUBTITLE, THE ADMINISTRATION SHALL, BY ORDER OR REGULATION, ESTABLISH SPECIFIC REQUIREMENTS FOR A REGULATED SUSTAINABLE ENERGY CONTRACT UNDER THIS SUBTITLE, INCLUDING:

(1) TERMS AND CONDITIONS, INCLUDING:

(I) INTEREST RATES, SCHEDULES, AND RATES FOR REPAYMENT;

(II) A REQUIREMENT THAT, IF THERE IS NO OBJECTION BY A PARTY THAT HOLDS A RECORDED MORTGAGE OR DEED OF TRUST, THE REGULATED SUSTAINABLE ENERGY CONTRACT BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED;

~~(III) TIME FRAMES FOR THE RECORDATION AND NOTICE REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION; AND~~

~~(IV)~~ (IV) ANY TERMS AND CONDITIONS REQUIRED TO CREATE AND ENFORCE A LIEN UNDER THE MARYLAND CONTRACT LIEN ACT, TITLE 14, SUBTITLE 2 OF THE REAL PROPERTY ARTICLE;

(2) ELIGIBILITY REQUIREMENTS FOR PROPERTY OWNERS THAT GIVE DUE REGARD TO THE OWNER'S ABILITY TO PAY IN A MANNER SUBSTANTIALLY SIMILAR TO THE REQUIREMENTS FOR A MORTGAGE LOAN UNDER §§ 12-127, 12-311, 12-409.1, 12-925, AND ~~12-1049~~ 12-1029 OF THE COMMERCIAL LAW ARTICLE; AND

(3) MECHANISMS:

(I) FOR QUALITY CONTROL; AND

(II) TO ENSURE THAT THE SAVINGS TO THE PROPERTY OWNER UNDER A REGULATED SUSTAINABLE ENERGY CONTRACT OUTWEIGH THE COST OF THE REGULATED SUSTAINABLE ENERGY CONTRACT.

9-20C-05.

A QUALIFIED CONTRACTOR MAY NOT ENTER INTO A REGULATED SUSTAINABLE ENERGY CONTRACT UNLESS, FOR EACH PROPERTY THAT WOULD BE SUBJECT TO THE REGULATED SUSTAINABLE ENERGY CONTRACT:

- (1) PROPERTY TAXES AND MORTGAGE DEBT ARE CURRENT;
- (2) THERE ARE NO OUTSTANDING OR UNSATISFIED LIENS; ~~AND~~
- (3) THERE ARE NO NOTICES OF DEFAULT OR OTHER EVIDENCE OF PROPERTY-BASED DEBT DELINQUENCY FOR THE LESSER OF:
 - (I) THE 3 YEARS IMMEDIATELY PRECEDING THE CONTRACT DATE; OR
 - (II) THE LENGTH OF TIME THAT THE PROPERTY OWNER HAS OWNED THE PROPERTY; AND
- (4) THE REGULATED SUSTAINABLE ENERGY CONTRACT HAS NOT BEEN OBJECTED TO UNDER § 9-20C-04(B) OF THIS SUBTITLE BY A PARTY THAT HOLDS A RECORDED MORTGAGE OR DEED OF TRUST ON THE PROPERTY THAT WOULD BE SUBJECT TO THE REGULATED SUSTAINABLE ENERGY CONTRACT.

9-20C-06.

(A) A PROPERTY OWNER MAY SUBJECT PROPERTY TO A REGULATED SUSTAINABLE ENERGY CONTRACT BY RECORDING OR AUTHORIZING THE RECORDATION OF THE REGULATED SUSTAINABLE ENERGY CONTRACT AMONG THE LAND RECORDS IN THE COUNTY WHERE THE PROPERTY IS LOCATED.

(B) (1) ~~A~~ SUBJECT TO § 9-20C-08 OF THIS SUBTITLE, A PERSON WHO ACQUIRES PROPERTY SUBJECT TO A REGULATED SUSTAINABLE ENERGY CONTRACT, WHETHER BY PURCHASE OR OTHER MEANS, ASSUMES THE OBLIGATION TO PAY THE QUALIFIED CONTRACTOR IN ACCORDANCE WITH THE RATE AND PAYMENT SCHEDULES IN THE REGULATED SUSTAINABLE ENERGY CONTRACT.

(2) A PERSON SELLING OR TRANSFERRING A PROPERTY SUBJECT TO A REGULATED SUSTAINABLE ENERGY CONTRACT SHALL PROVIDE WRITTEN NOTICE TO THE PERSON ACQUIRING THE PROPERTY THAT THE PERSON ACQUIRING THE PROPERTY SHALL ASSUME THE OBLIGATION TO PAY THE QUALIFIED CONTRACTOR IN ACCORDANCE WITH THE RATE AND PAYMENT SCHEDULES IN THE REGULATED SUSTAINABLE ENERGY CONTRACT.

9-20C-07.

THE ADMINISTRATION MAY REVOKE THE AUTHORIZATION OF A QUALIFIED CONTRACTOR UNDER THIS SUBTITLE IF THE ADMINISTRATION DETERMINES THAT:

(1) THE QUALIFIED CONTRACTOR IS NOT COMPLYING WITH THE TERMS OF THE AUTHORIZATION;

(2) THERE ~~ARE~~ IS AN EXCESSIVE NUMBER OF CONSUMER COMPLAINTS; OR

(3) THE AUTHORIZATION IS NO LONGER SERVING THE PURPOSE OF THIS SUBTITLE.

9-20C-08.

(A) (1) ~~A~~ SUBJECT TO SUBSECTION (C) OF THIS SECTION, A QUALIFIED CONTRACTOR MAY COLLECT PAYMENTS UNDER A REGULATED SUSTAINABLE ENERGY CONTRACT THAT ARE IN ARREARS, INCLUDING THE PRINCIPAL, INTEREST, LATE CHARGES, COSTS OF COLLECTION, AND REASONABLE ATTORNEY'S FEES, BY THE IMPOSITION OF A LIEN ON PROPERTY THAT IS SUBJECT TO THE CONTRACT IN ACCORDANCE WITH THE MARYLAND CONTRACT LIEN ACT, TITLE 14, SUBTITLE 2 OF THE REAL PROPERTY ARTICLE.

(2) A LIEN IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT TAKE PRIORITY OVER A LIEN, MORTGAGE, DEED OF TRUST, OR OTHER SECURITY INTEREST THAT IS ALREADY ATTACHED TO THE PROPERTY.

(B) IF A PROPERTY SUBJECT TO A REGULATED SUSTAINABLE ENERGY CONTRACT IS FORECLOSED UNDER TITLE 7, SUBTITLE 1 OF THE REAL PROPERTY ARTICLE, ANY DEFICIENCY DUE AS A RESULT OF A LIEN ARISING FROM THE REGULATED SUSTAINABLE ENERGY CONTRACT SHALL BE:

(1) ADDED TO THE TOTAL BALANCE DUE ON THE CONTRACT; AND

(2) SUBJECT TO PERIODIC PAYMENT AS PROVIDED IN THE CONTRACT.

(C) (1) IF A PARTY THAT HOLDS A RECORDED MORTGAGE OR DEED OF TRUST ON A PROPERTY SUBJECT TO A REGULATED SUSTAINABLE ENERGY CONTRACT ACQUIRES THE PROPERTY THROUGH FORECLOSURE, THE PARTY MAY NOT BE CHARGED FOR ANY AMOUNT DUE ON THE REGULATED SUSTAINABLE ENERGY CONTRACT.

(2) PAYMENT ON A REGULATED SUSTAINABLE ENERGY CONTRACT SHALL RESUME WHEN THE PROPERTY SUBJECT TO THE REGULATED SUSTAINABLE ENERGY CONTRACT IS SOLD OR TRANSFERRED TO A PERSON WHO IS NOT RELATED TO THE PERSON WHO HELD THE RECORDED MORTGAGE OR DEED OF TRUST WHEN THE PROPERTY WAS FORECLOSED.

Article – Real Property

14–201.

(b) (1) “Contract” means a real covenant running with the land or a contract recorded among the land records of a county or Baltimore City.

(2) “Contract” includes a [declaration]:

(I) **DECLARATION** or bylaws recorded under the provisions of the Maryland Condominium Act or the Maryland Real Estate Time–Sharing Act; **OR**

(II) **REGULATED SUSTAINABLE ENERGY CONTRACT RECORDED UNDER THE PROVISIONS OF TITLE 9, SUBTITLE 20C OF THE STATE GOVERNMENT ARTICLE.**

14–202.

(a) A lien on property may be created by a contract and enforced under this subtitle if:

(1) The contract expressly provides for the creation of a lien; and

(2) The contract expressly describes:

(i) The party entitled to establish and enforce the lien; and

(ii) The property against which the lien may be imposed.

(b) A lien may only secure the payment of:

(1) Damages;

(2) Costs of collection;

(3) Late charges permitted by law; and

(4) Attorney’s fees provided for in a contract or awarded by a court for breach of a contract.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2013, the Maryland Energy Administration shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the Administration's progress in carrying out the requirements of this Act.

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

Approved by the Governor, May 16, 2013.

Chapter 626

(House Bill 637)

AN ACT concerning

Maryland–National Capital Park and Planning Commission – High Performance Buildings

MC/PG 101–13

FOR the purpose of requiring certain buildings owned by the Maryland–National Capital Park and Planning Commission to be high performance buildings under certain circumstances; exempting certain building types from certain high performance building standards; authorizing the Commission to request a certain waiver from certain high performance building standards from a certain county; authorizing a certain county council, with approval of the county executive, to issue a certain waiver under certain circumstances; requiring the Commission to disclose a certain waiver in a certain capital improvements program; expressing a certain intent of the General Assembly; defining certain terms; and generally relating to the Maryland–National Capital Park and Planning Commission and high performance buildings.

BY adding to

Article – Land Use
Section 17–214
Annotated Code of Maryland
(2012 Volume)

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

Article – Land Use

17–214.

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

(2) “HIGH PERFORMANCE BUILDING” MEANS A BUILDING THAT:

(I) MEETS OR EXCEEDS THE CURRENT VERSION OF THE U.S. GREEN BUILDING COUNCIL’S LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) GREEN BUILDING RATING SYSTEM SILVER RATING; OR

(II) ACHIEVES AT LEAST A COMPARABLE NUMERIC RATING ACCORDING TO A NATIONALLY RECOGNIZED, ACCEPTED, AND APPROPRIATE NUMERIC SUSTAINABLE DEVELOPMENT RATING SYSTEM, GUIDELINE, OR STANDARD APPROVED BY THE SECRETARY OF BUDGET AND MANAGEMENT AND THE SECRETARY OF GENERAL SERVICES.

(3) “MAJOR RENOVATION” MEANS THE RENOVATION OF A BUILDING WHERE:

(I) THE BUILDING SHELL IS TO BE REUSED FOR THE NEW CONSTRUCTION;

(II) THE HEATING, VENTILATING, AND AIR-CONDITIONING (HVAC), ELECTRICAL, AND PLUMBING SYSTEMS ARE TO BE REPLACED; AND

(III) THE SCOPE OF THE RENOVATION IS 7,500 SQUARE FEET OR GREATER.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, TO THE EXTENT PRACTICABLE:

(1) THE COMMISSION SHALL EMPLOY GREEN BUILDING TECHNOLOGIES WHEN CONSTRUCTING OR RENOVATING A COMMISSION-OWNED BUILDING NOT SUBJECT TO THIS SECTION; AND

(2) HIGH PERFORMANCE BUILDINGS SHALL MEET THE CRITERIA AND STANDARDS ESTABLISHED UNDER THE “HIGH EFFICIENCY GREEN BUILDING PROGRAM” ADOPTED BY THE MARYLAND GREEN BUILDING COUNCIL.

(C) EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS SECTION, IF A CAPITAL PROJECT INCLUDES THE CONSTRUCTION OR MAJOR RENOVATION OF A BUILDING THAT IS 7,500 SQUARE FEET OR GREATER, THE

BUILDING SHALL BE CONSTRUCTED OR RENOVATED TO BE A HIGH PERFORMANCE BUILDING.

(D) THE FOLLOWING TYPES OF ~~UNOCCUPIED~~ BUILDINGS ARE NOT REQUIRED TO BE CONSTRUCTED OR RENOVATED TO BE HIGH PERFORMANCE BUILDINGS:

- (1) WAREHOUSE AND STORAGE FACILITIES;
- (2) GARAGES;
- (3) MAINTENANCE FACILITIES;
- (4) TRANSMITTER BUILDINGS;
- (5) PUMPING STATIONS CABINS, PAVILIONS, AND OTHER STRUCTURES INTENDED FOR OPEN AIR OR RUSTIC USES;
- (6) BUILDINGS OF HISTORIC SIGNIFICANCE; AND
- ~~(6)~~ (7) OTHER SIMILAR TYPES OF BUILDINGS, AS DETERMINED BY THE COMMISSION.

(E) (1) THE COMMISSION MAY REQUEST FROM THE COUNTY WHERE THE PROPOSED CAPITAL PROJECT IS LOCATED A WAIVER FROM COMPLYING WITH SUBSECTION (C) OF THIS SECTION.

(2) ON RECEIPT OF A WRITTEN REQUEST OF A WAIVER UNDER THIS SUBSECTION, WITH APPROVAL OF THE COUNTY EXECUTIVE, THE COUNTY COUNCIL OF THE COUNTY WHERE THE PROPOSED CAPITAL PROJECT IS LOCATED MAY ISSUE A WAIVER UNDER THIS SUBSECTION IF THE COUNTY COUNCIL DETERMINES THAT THE USE OF A HIGH PERFORMANCE BUILDING IN A PROPOSED CAPITAL PROJECT IS NOT PRACTICABLE.

(3) THE COMMISSION SHALL DISCLOSE ANY WAIVER ISSUED UNDER THIS SUBSECTION IN THE CAPITAL IMPROVEMENTS PROGRAM REQUIRED UNDER § 18-113 OF THIS ARTICLE.

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

Approved by the Governor, May 16, 2013.

Chapter 627**(House Bill 639)**

AN ACT concerning

**Maryland–Washington Metropolitan District and Regional District –
Boundaries – City of Laurel****MC/PG 111–13**

FOR the purpose of ~~altering a certain provision of law to provide that the boundaries of the Maryland–Washington Metropolitan District do not include certain property annexed by the City of Laurel during a certain time period;~~ altering a certain provision of law to provide that the boundaries of the Maryland–Washington Regional District include all of Prince George’s County except the City of Laurel as its boundaries are defined as of a certain date ~~and certain property annexed by the City of Laurel during a certain time period;~~ and generally relating to the boundaries of ~~the Maryland–Washington Metropolitan District and~~ the Maryland–Washington Regional District.

~~BY repealing and reenacting, without amendments,
Article – Land Use
Section 19–102
Annotated Code of Maryland
(2012 Volume)~~

BY repealing and reenacting, with amendments,
Article – Land Use
Section 20–101
Annotated Code of Maryland
(2012 Volume)

~~BY repealing and reenacting, with amendments,
Chapter 426 of the Acts of the General Assembly of 2012
Section 11–1(b)(3)~~

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

Article – Land Use~~19–102.~~

~~The boundaries of the metropolitan district are the same as existed on October 1, 2012, with the exclusion of any property annexed into the City of Rockville, the City~~

~~of Gaithersburg, or the Town of Washington Grove under Chapter 420 of the Acts of the General Assembly of 2007.~~

20-101.

(a) There is a Maryland-Washington Regional District.

(b) The regional district consists of:

(1) the entire area of Montgomery County, subject to the limitations in Subtitle 7, Part I of this title and Title 24, Subtitle 2 of this article; and

(2) the entire area of Prince George's County, except for the City of Laurel as it existed on ~~July 1, 2008, AND ANY SINGLE FAMILY REAL PROPERTY ANNEXED BY THE CITY OF LAUREL THROUGH JULY 1, 2013.~~

~~Chapter 426 of the Acts of 2012~~

~~SECTION 11. AND BE IT FURTHER ENACTED, That Section(s) 3-102 through 3-107 of Article 28 — Maryland National Capital Park and Planning Commission of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:~~

~~Maryland-Washington Metropolitan District Boundaries~~

~~1.~~

~~(b) (3) The Maryland-Washington Metropolitan District does not include the City of Laurel as its municipal corporate boundaries existed on July 1, 1997, AND ANY SINGLE FAMILY REAL PROPERTY ANNEXED BY THE CITY OF LAUREL THROUGH JULY 1, 2013.~~

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

Approved by the Governor, May 16, 2013.

Chapter 628

(House Bill 642)

AN ACT concerning

**Washington Suburban Sanitary Commission – Sewage Leaks – Posting
Requirements**

MC/PG 114–13

FOR the purpose of requiring the Washington Suburban Sanitary Commission to post warning signs at each public access point to a waterway that is contaminated by a sewage leak within a certain time period after a leak is reported under certain circumstances; requiring the Commission to post certain warning signs downstream from a certain leak in accordance with certain regulations; providing that the Commission is not required to post certain warning signs upstream from a certain leak; requiring the Commission to adopt regulations to implement this Act; defining a certain term; and generally relating to posting requirements about sewage leaks of the Washington Suburban Sanitary Commission.

BY adding to

Article – Public Utilities

Section 24–202 to be under the amended subtitle “Subtitle 2. Sewer Cleaning and Sewage Leaks”

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

Subtitle 2. Sewer Cleaning AND SEWAGE LEAKS.

24–202.

(A) IN THIS SECTION, “PUBLIC ACCESS POINT” INCLUDES A PARKING LOT, PLAYGROUND, PICNIC AREA, BOAT LAUNCHING RAMP, OR PARK.

(B) ~~THE~~ WITHIN 24 HOURS AFTER A LEAK IS REPORTED, THE COMMISSION SHALL POST WARNING SIGNS AT EACH PUBLIC ACCESS POINT TO A WATERWAY THAT BECOMES CONTAMINATED BY A LEAK IN A SANITARY SEWER LINE, PIPE, OR FIXTURE THAT IS CONNECTED TO THE SANITARY SEWER SYSTEM OF THE COMMISSION.

(C) A WARNING SIGN POSTED UNDER THIS SECTION SHALL INCLUDE:

(1) THE SOURCE AND DATE OF DISCOVERY OF THE LEAK; AND

(2) THE CONTACT INFORMATION, INCLUDING A TELEPHONE NUMBER, OF THE COMMISSION FOR MEMBERS OF THE GENERAL PUBLIC TO USE FOR OBTAINING ADDITIONAL INFORMATION.

(D) THE COMMISSION:

(1) SHALL POST THE WARNING SIGNS DOWNSTREAM FROM THE LEAK IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSION; AND

(2) IS NOT REQUIRED TO POST ANY WARNING SIGN UPSTREAM FROM A LEAK.

(E) THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION, INCLUDING REGULATIONS CONCERNING:

(1) THE MINIMUM DISTANCE FROM THE SOURCE OF A LEAK WITHIN WHICH WARNING SIGNS MUST BE POSTED; AND

(2) THE FORM AND CONTENT OF THE WARNING SIGNS.

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

Approved by the Governor, May 16, 2013.

Chapter 629

(House Bill 646)

AN ACT concerning

Gaming – Instant Ticket Lottery Machines – Veterans’ Organizations

MC 5–13

FOR the purpose of removing Montgomery County from a certain list of exempted counties so as to allow certain veterans’ organizations in the county to be licensed to sell certain lottery machine tickets under certain circumstances; authorizing veterans’ organizations in Montgomery County to be licensed to operate not more than a certain number of instant ticket lottery machines; specifying the manner in which the State Lottery and Gaming Control Agency shall ensure that the element of chance in the conduct of gaming through instant ticket lottery machines is consistent with a certain court decision; and generally relating to instant ticket lottery machines.

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–112
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

9–112.

(a) In this section, “veterans’ organization” means an organization that is tax exempt and organized as a veterans’ organization under § 501(c)(19) or § 501(c)(4) of the Internal Revenue Code.

(b) Except as provided in subsection (d) of this section, in accordance with the regulations of the Agency and this subtitle, the Director shall issue licenses to the persons and governmental units that will best serve the public convenience and promote the sale of State lottery tickets or shares.

(c) Before issuing a license to an applicant, the Director shall consider such factors as:

(1) the financial responsibility and security of the applicant and the business or activity of the applicant;

(2) the accessibility of the place of business or activity to the public;

(3) the sufficiency of existing licenses to serve the public convenience;

and

(4) the volume of expected sales.

(d) (1) This subsection does not apply in:

(i) Caroline County;

(ii) Cecil County;

(iii) Dorchester County;

(iv) Kent County;

(v) [Montgomery County;

- (vi)] Queen Anne's County;
- [(vii)] (VI) Somerset County;
- [(viii)] (VII) Talbot County;
- [(ix)] (VIII) Wicomico County; and
- [(x)] (IX) Worcester County.

(2) (i) Subject to subparagraph (ii) of this paragraph, the Director may issue a license under this subtitle for not more than five instant ticket lottery machines to an applicant that is a veterans' organization.

(ii) A veterans' organization that is issued a license under this subsection shall locate and operate its instant ticket lottery machines at its principal meeting hall in the county in which the veterans' organization is located.

(3) After deduction of any commission and validation prize payout as provided under § 9–117 of this subtitle, a veterans' organization issued a license under this subsection shall credit the remaining receipts from the sale of tickets from instant ticket lottery machines to the State Lottery Fund established under § 9–118 of this subtitle.

(4) (i) Subject to subparagraph (ii) of this paragraph, a veterans' organization issued a license under this subsection shall purchase or lease from the Agency the instant ticket lottery machines to be used by the veterans' organization.

(ii) An organization may not use receipts from the sale of tickets from instant ticket lottery machines that would otherwise be credited to the State Lottery Fund for the costs of purchasing or leasing instant ticket lottery machines.

(5) The Director may adopt regulations to implement the provisions of this subsection that included restricting the location of instant ticket lottery machines in areas of a veterans' organization's public meeting hall that is accessible to the public.

(6) The State Lottery and Gaming Control Agency shall ensure that the **ELEMENT OF CHANCE IN THE** conduct of the gaming [and the operation of] **THROUGH** the instant ticket lottery machines [as] established under this subsection [are] **IS** consistent with the holding in the case of *Chesapeake Amusements Inc. v. Riddle*, 363 Md. 16 (2001), **IN THAT THE ELEMENT OF CHANCE MUST BE WHOLLY WITHIN THE PRE-PRINTED INSTANT LOTTERY TICKET, AND THAT PLAYER ENHANCEMENTS IN AN INSTANT TICKET LOTTERY MACHINE MAY NOT AFFECT**

THE ELEMENT OF CHANCE BEING WHOLLY WITHIN THE PRE-PRINTED INSTANT LOTTERY TICKET.

- (e) The Director may not issue a license to:
- (1) a person or governmental unit to engage in business primarily as a licensed agent; or
 - (2) an individual who is under the age of 21 years.
- (f) The Commission may hear and decide an appeal of a denial of a license.

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

Approved by the Governor, May 16, 2013.

Chapter 630**(House Bill 650)**

AN ACT concerning

Washington Suburban Sanitary Commission – Prevailing Wage**MC/PG 112-13**

FOR the purpose of applying certain provisions *of law* relating to prevailing wage rates for public work contracts to certain contracts entered into by the Washington Suburban Sanitary Commission ~~under certain circumstances; by altering a certain~~ *the definition of “public body” to include the Commission;* and generally relating to the ~~prevailing wages for public work contracts entered into by~~ *applicability of the prevailing wage law to* the Washington Suburban Sanitary Commission.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 17-201(a) and (j) ~~and 17-202~~
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 17-201(i) ~~and 17-202~~
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.

(i) (1) “Public body” means:

(i) the State;

(ii) except as provided in paragraph (2)(i) 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% or more of the money used for construction is 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; **AND**

(V) THE WASHINGTON SUBURBAN SANITARY COMMISSION.

(2) “Public body” does not include:

(i) **EXCEPT AS PROVIDED IN PARAGRAPH (1)(V) OF THIS SUBSECTION**, 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% 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, 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) public supervision or direction; or
- (ii) payment wholly or partly from public money.

17–202.

(a) This subtitle does not limit:

- (1) the hours of work an employee may work in a particular period of time; or
- (2) the right of a contractor to pay an employee under a public work contract more than the prevailing wage rate.

(b) ~~(1)~~ This subtitle does not apply to:

~~[(1)] (1)~~ a public work contract of less than \$500,000, ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION~~; or

~~[(2)] (2)~~ the part of a public work contract for which the federal government provides money if, as to that part, the contractor is required to pay the prevailing wage rate as determined by the United States Secretary of Labor.

~~(2) THIS SUBTITLE APPLIES TO ANY PUBLIC WORK CONTRACT ENTERED INTO BY THE WASHINGTON SUBURBAN SANITARY COMMISSION OF AT LEAST \$2,000 FOR WHICH THE STATE OR THE FEDERAL GOVERNMENT PROVIDES ANY FUNDING.~~

(c) If this subtitle and the federal Davis–Bacon Act apply and the federal act is suspended, the Governor may declare this subtitle suspended for the same period for:

(1) the part of that public work contract for which the United States Secretary of Labor would have been required to make a determination of a prevailing wage rate; or

(2) that entire public work contract.

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

Approved by the Governor, May 16, 2013.

Chapter 631

(House Bill 653)

AN ACT concerning

Charles County – Building Code – Abatement of Violations

FOR the purpose of authorizing the County Commissioners of Charles County to abate a violation of the building code; authorizing the County Commissioners to assess the reasonable costs of an abatement of a building code violation against the property; requiring the assessment to be added to the annual tax bill, collected in a certain manner, and subject to the same interest and penalty for nonpayment as provided by law for the nonpayment of county taxes; providing that the assessment is a lien on the property from the date of assessment until paid; and generally relating to the abatement of violations of the building code in Charles County.

BY repealing and reenacting, with amendments,

~~Article 25 – County Commissioners
Section 10E
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)~~

Article – Local Government

Section 13-904

Annotated Code of Maryland

(As enacted by Chapter 119 (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~~

~~10E.~~

~~(a) (1) Not later than June 1, 1966, the County Commissioners of Charles County shall adopt a building code for the county which shall specify standards for the construction, maintenance and repair of all buildings and structures located in the county. The building code shall substantially conform to the basic building code adopted by the Building Officials Conference of America. The County Commissioners may from time to time amend the code, but only after a public hearing on the proposed changes.~~

~~(2) The County Commissioners are authorized to impose a fee for any permit issued under the building code.~~

~~(3) The Charles County Commissioners shall appoint a building inspector for the county and such assistant inspectors as may be required at the salaries fixed in the annual county budget. The inspectors shall enforce the building code and in addition shall enforce the rules and regulations adopted by the commission.~~

~~(b) The County Commissioners may [provide]:~~

~~(1) **PROVIDE** penalties for violations of the building code; AND~~

Article – Local Government

13-904.

(a) (1) The County Commissioners of Charles County shall adopt a building code that:

(i) specifies standards for constructing, maintaining, or repairing buildings and structures; and

(ii) substantially conforms to the basic building code adopted by the International Code Council.

(2) After a hearing on the proposed changes, the county commissioners may amend the code.

(b) In Charles County, the building code adopted under this section does not apply to any farm buildings or any other outbuilding with a cost of less than \$2,500.

(c) The County Commissioners of Charles County may impose a fee for a permit issued under the building code.

(d) (1) The County Commissioners of Charles County shall appoint a building inspector and assistant inspectors at salaries as provided in the county budget.

(2) The inspectors shall enforce the building code and the related regulations.

(e) The County Commissioners of Charles County may:

(1) provide penalties for a violation of the building code; AND

(2) ~~ABATE~~ ABATE A VIOLATION OF THE BUILDING CODE.

~~(e)~~ (F) (1) IF THE COUNTY COMMISSIONERS OF CHARLES COUNTY ABATE A VIOLATION OF THE BUILDING CODE, THE COUNTY COMMISSIONERS MAY ASSESS AGAINST THE PROPERTY THE REASONABLE COSTS OF THE ABATEMENT.

(2) THE ASSESSMENT SHALL BE:

(I) ~~ADDED~~ ADDED TO THE ANNUAL TAX BILL OF THE PROPERTY TO BE COLLECTED IN THE SAME MANNER AS ORDINARY TAXES ARE COLLECTED; AND

(II) ~~SUBJECT~~ SUBJECT TO THE SAME INTEREST AND PENALTY FOR NONPAYMENT AS PROVIDED BY LAW FOR THE NONPAYMENT OF COUNTY TAXES.

(3) THE ASSESSMENT IS A LIEN AGAINST THE PROPERTY FROM THE DATE OF ASSESSMENT UNTIL PAID.

~~(D) All farm buildings and all other outbuildings with a cost less than \$2,500.00 shall not be subject to the provisions of any building code adopted under this section.~~

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

Approved by the Governor, May 16, 2013.

Chapter 632

(House Bill 680)

AN ACT concerning

~~Vehicle Registration – Exception for All Terrain and Utility Terrain Vehicles
– Use in Public Service~~

Vehicle Laws – Unregistered Emergency Vehicles – Operating on Highways

FOR the purpose of ~~authorizing, under certain circumstances, the operation of certain all terrain and utility terrain vehicles in public service on highways without the vehicle being registered under the Maryland Vehicle Law; requiring a person operating an unregistered all terrain or utility terrain vehicle on a highway to maintain certain evidence of liability insurance in the vehicle; prohibiting a person from operating an unregistered all terrain or utility terrain vehicle on a highway for which the posted maximum speed limit exceeds a certain limit~~ providing that the Maryland Vehicle Law does not preclude a local authority from authorizing an ~~unregistered emergency vehicle~~ emergency vehicle not subject to registration to operate on a highway under its jurisdiction while performing an emergency service; and generally relating to the operation of ~~unregistered all terrain and utility terrain~~ emergency vehicles not subject to registration in public service on highways in the State.

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

~~Article – Transportation
Section 13–402(a) and (b)
Annotated Code of Maryland
(2012 Replacement Volume)~~

~~BY adding to~~

~~Article – Transportation
Section 13–402(h–1)
Annotated Code of Maryland
(2012 Replacement Volume)~~

BY repealing and reenacting, with amendments,

Article – Transportation
Section 25–102(a)(16) and (17)
Annotated Code of Maryland
(2012 Replacement Volume)

BY adding to

Article – Transportation
Section 25–102(a)(18)
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

~~13-402.~~

~~(a) (1) Except as otherwise provided in this section or elsewhere in the Maryland Vehicle Law, each motor vehicle, trailer, semitrailer, and pole trailer driven on a highway shall be registered under this subtitle.~~

~~(2) If a motor vehicle required to be registered under this subtitle is not registered, a person may not park the unregistered motor vehicle on any:~~

~~(i) Public alley, street, or highway; or~~

~~(ii) Private property used by the public in general, including parking lots of shopping centers, condominiums, apartments, or town house developments.~~

~~(3) The provisions of paragraph (2) of this subsection do not apply to a motor vehicle that is exempt from registration under this section or § 13-402.1 of this subtitle.~~

~~(b) Except as otherwise expressly authorized in this title, the Administration may not register or renew the registration of a vehicle unless the Administration has issued to the owner a certificate of title of the vehicle or has received an application for the certificate of title.~~

~~**(H-1) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN ALL TERRAIN OR A UTILITY TERRAIN VEHICLE THAT IS OPERATED ON A HIGHWAY NEED NOT BE REGISTERED IN THE STATE IF THE VEHICLE IS:**~~

~~**(I) OWNED BY A STATE OR LOCAL GOVERNMENT AGENCY OR A PUBLIC SAFETY ENTITY;**~~

~~**(II) OPERATED IN THE COURSE OF OFFICIAL DUTIES OR TRAINING BY AN OPERATOR APPROVED BY THE GOVERNMENT AGENCY OR PUBLIC SAFETY ENTITY; AND**~~

~~**(III) EQUIPPED WITH FRONT AND REAR LIGHTING AND AN AUDIBLE HORN.**~~

~~**(2) A PERSON:**~~

~~**(I) SHALL MAINTAIN EVIDENCE OF LIABILITY INSURANCE IN AN ALL TERRAIN OR UTILITY TERRAIN VEHICLE BEING OPERATED ON A HIGHWAY UNDER THIS SUBSECTION; AND**~~

~~(H) MAY NOT OPERATE AN UNREGISTERED ALL-TERRAIN OR UTILITY-TERRAIN VEHICLE UNDER THIS SUBSECTION ON A HIGHWAY FOR WHICH THE POSTED MAXIMUM SPEED LIMIT EXCEEDS 50 MILES PER HOUR.~~

25-102.

(a) The provisions of the Maryland Vehicle Law do not prevent a local authority, in the reasonable exercise of its police power, from exercising the following powers as to highways under its jurisdiction:

(16) In Allegany County, designating crossings on county highways where a person operating a golf cart may cross the highway for continued access to any portion of a golf course; [and]

(17) Restricting use of a low speed vehicle on a highway; AND

(18) AUTHORIZING AN UNREGISTERED EMERGENCY VEHICLE NOT SUBJECT TO REGISTRATION TO OPERATE ON A HIGHWAY WHILE PERFORMING AN EMERGENCY SERVICE AS DEFINED IN § 19-103 OF THIS ARTICLE.

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

Approved by the Governor, May 16, 2013.

Chapter 633

(House Bill 687)

AN ACT concerning

Commission on Child Custody Decision Making

FOR the purpose of establishing the Commission on Child Custody Decision Making; 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 perform certain duties; requiring the Commission to be appointed, organized, and meet by a certain date; requiring the Commission to submit 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 Commission on Child Custody Decision Making.

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

- (a) There is a Commission on Child Custody Decision Making.
- (b) The Commission consists of the following members:
 - (1) two members of the Senate Judicial Proceedings Committee, appointed by the President of the Senate;
 - (2) two members of the House Judiciary Committee, appointed by the Speaker of the House;
 - (3) two circuit court judges and one District Court judge from diverse geographical regions of the State, each of whom has experience hearing family law, domestic violence, or child custody cases, appointed by the Chief Judge of the Court of Appeals;
 - (4) one experienced family law master, appointed by the Chief Judge of the Court of Appeals; and
 - (5) the following members, appointed by the Governor in consultation with the President of the Senate and the Speaker of the House:
 - (i) two representatives of the Maryland State Bar Association Family Law Section from diverse geographical regions of the State, at least one of whom shall be from Baltimore City and have experience representing fathers in contested custody matters;
 - (ii) one representative of a domestic violence advocacy group;
 - (iii) one representative of a fathers' rights group;
 - (iv) one representative of the Women's Law Center;
 - (v) one educator on family law;
 - (vi) three licensed mental health workers who have experience with family law or child custody cases, at least one of whom shall be a psychologist and one of whom shall have expertise in the area of the study of the African American family;
 - (vii) one representative ~~from~~ of the Children's Rights Fund of Maryland; ~~and~~
 - (viii) one representative of the Maryland Commission on Disabilities; and

~~(viii)~~ (ix) one sociologist from the University of Maryland School of Social Work, recommended by the President of the University of Maryland, Baltimore.

(c) The Governor shall designate the chair of the Commission.

(d) The Department of Family Administration in the Administrative Office of the Courts 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 practice, principles, and process for child custody decision making in Maryland;

(2) by December 31, 2013, hold one hearing each in Baltimore City, Harford County, Prince George's County, Western Maryland, and the Eastern Shore to allow for public input and participation by interested persons on child custody decision making in Maryland;

(3) study how to make the establishment and modification of child custody orders more uniform, fair, and equitable;

(4) study how to reduce litigation in child custody proceedings;

(5) study and consider the adverse effects of child custody litigation and ways the court system can minimize those effects;

(6) study how to promote and ensure that children have ongoing relationships with each parent;

(7) study how to maximize the involvement of both parents in each child's life;

(8) study the advantages and disadvantages of joint physical custody and the impact of joint physical custody on the health and well-being of children;

(9) study whether or not there is any gender discrimination in custody decisions in Maryland and, if so, how to address such discrimination;

(10) study statutes from other states used for child custody determinations and assess whether those statutes improve the quality of decisions in child custody cases;

(11) study whether the Annotated Code of Maryland should contain a statute regarding child custody decision making that would include definitions and factors for consideration in such decisions;

(12) study case management systems for family law cases in Maryland and other states and study how to improve timely access to the court for temporary, pendente lite custody disputes, initial custody determinations, ~~and~~ custody modification proceedings, and emergency proceedings, and how to expedite denial of visitation proceedings;

(13) study the accountability of Maryland courts when using interventions such as protective orders, whether the courts should adopt processes to allow for compliance hearings, and the impact of domestic violence proceedings on temporary and final custody determinations;

(14) make recommendations regarding the most effective manner in which to facilitate cooperative decision making by parents involved in child custody proceedings as it relates to their children;

(15) study the training programs currently available to Maryland judges regarding child custody decision making and assess how to improve the training, including making it more culturally sensitive and diverse, and how to make the training more available to all judges on a consistent, ongoing basis;

(16) review the literature and research on decision-making responsibility and physical custody determinations, including child development literature and research on the effect of separation and divorce, and the literature and research on decision-making responsibility and physical custody determinations when the parents in the case were never married and may not have lived together;

(17) study standardization of the language used by courts in making child custody determinations for clarity and to eliminate exclusionary or discriminatory terms;

(18) study how to ensure that child custody determinations involving parents with mental health issues or sensory or physical disabilities are handled in a fair and even manner based on actual evidence and not presumed limitations;

~~(18)~~ (19) gather quantitative and qualitative data on the total number of contested custody cases per jurisdiction, including whether the court awarded joint physical custody to the parties or primary physical custody to the mother or the father over a 2-year period; and

~~(19)~~ (20) gather quantitative data on whether pro bono legal resources are equally available for petitioners and respondents in domestic violence protective order proceedings in Maryland.

(g) The Commission shall:

(1) be appointed, organized, and begin its deliberations no later than September 1, 2013;

(2) submit an interim report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on or before December 31, 2013; and

(3) submit a final report of its findings and any recommendations for legislation to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on or before December 1, 2014.

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 6 months and, at the end of December 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 16, 2013.

Chapter 634

(House Bill 697)

AN ACT concerning

Courts and Judicial Proceedings – Maryland Mediation Confidentiality Act – Applicability

FOR the purpose of altering the scope of the Maryland Mediation Confidentiality Act; authorizing a certain agreement to exclude certain mediation communications from the application of the Maryland Mediation Confidentiality Act; and generally relating to the Maryland Mediation Confidentiality Act.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–1802
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

3–1802.

(a) [Except as provided in subsection (b) of this section, this subtitle applies to a mediation in which:

(1) The parties:

(i) Are required to mediate by law or are referred to mediation by an administrative agency or arbitrator; or

(ii) Agree in writing that the mediation communications will remain confidential; and

(2) The mediator states in writing to any and all parties to the mediation that the mediator has read and, consistent with State law, will abide by the Maryland Standard of Conduct for Mediators during the mediation.] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE APPLIES TO A MEDIATION IN WHICH:**

(1) THE PARTIES ARE REQUIRED TO MEDIATE BY LAW;

(2) THE PARTIES ARE REFERRED TO MEDIATION BY AN ADMINISTRATIVE AGENCY OR ARBITRATOR; OR

(3) THE MEDIATOR STATES IN WRITING TO ANY AND ALL PARTIES AND POTENTIAL PARTIES TO THE MEDIATION AND PERSONS WITH WHOM THE MEDIATOR HAS ENGAGED IN MEDIATION COMMUNICATIONS THAT:

(I) THE MEDIATION COMMUNICATIONS WILL REMAIN CONFIDENTIAL IN ACCORDANCE WITH THIS SUBTITLE; AND

(II) THE MEDIATOR HAS READ AND, CONSISTENT WITH STATE LAW, WILL ABIDE BY THE MARYLAND ~~STANDARD~~ STANDARDS OF CONDUCT FOR ~~MEDIATORS~~ MEDIATORS DURING THE MEDIATION.

(b) This subtitle does not apply to a mediation:

(1) To which Title 17 of the Maryland Rules applies;

(2) Relating to the establishment, negotiation, administration, or termination of a collective bargaining relationship;

(3) Relating to a dispute that is pending under, or is part of the processes established by, a collective bargaining agreement unless the dispute has been filed with an administrative agency or court;

(4) Relating to an action to enforce an agreement to arbitrate under common law, the Federal Arbitration Act, the Maryland Uniform Arbitration Act under Subtitle 2 of this title, or the Maryland International Commercial Arbitration Act under Subtitle 2B of this title;

(5) Relating to an action to foreclose a lien against an owner-occupied residential property subject to foreclosure mediation conducted by the Office of Administrative Hearings under Maryland Rule 14-209.1;

(6) Arising from a referral of a matter to a master, examiner, auditor, or parenting coordinator under Maryland Rules 2-541, 2-542, 2-543, or 9-205.2; **OR**

(7) Conducted by a judge who might make a ruling on a case based on the dispute[; or].

[(8) (C)] [In which the] **THE** parties and the mediator, by a written and signed agreement made in advance of the mediation, **MAY** agree to exclude all or part of the mediation communications from the application of this subtitle.

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

Approved by the Governor, May 16, 2013.

Chapter 635

(House Bill 709)

AN ACT concerning

Criminal Law – Accessory After the Fact – Murder (The Sheddy-Bennett Act)

FOR the purpose of altering the maximum penalties for being an accessory after the fact to murder in the first and second degree; providing for the application of this Act; and generally relating to the crime of accessory after the fact.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 1-301

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

1–301.

(A) Unless otherwise provided by law **AND EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION**, a person who is convicted of being an accessory after the fact to a felony is guilty of a felony and on conviction is subject to the lesser of:

(1) imprisonment not exceeding 5 years; or

(2) a penalty not exceeding the maximum penalty provided by law for committing the underlying felony.

(B) (1) A PERSON WHO IS CONVICTED OF BEING AN ACCESSORY AFTER THE FACT TO MURDER IN THE FIRST DEGREE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING ~~20~~ 10 YEARS.

(2) A PERSON WHO IS CONVICTED OF BEING AN ACCESSORY AFTER THE FACT TO MURDER IN THE SECOND DEGREE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS.

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 offense committed 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 16, 2013.

Chapter 636

(House Bill 713)

AN ACT concerning

Criminal Procedure – Seizure and Forfeiture – Property Used in Human Trafficking

FOR the purpose of authorizing a State or local law enforcement agency, on process issued by a court of competent jurisdiction, to seize certain property used or intended for use in connection with a violation of certain criminal statutes; ~~creating an Anti-Human-Trafficking Fund to be administered by the Executive Director of the Governor's Office of Crime Control and Prevention;~~ specifying the revenue sources for the Fund; providing for certain disbursements from the Fund for certain purposes; specifying certain property that is subject to forfeiture; specifying certain conditions to exclude property from forfeiture; authorizing the seizure of certain property with or without a warrant under certain circumstances; requiring the seizing authority that seizes money to take certain actions; specifying certain standards and exceptions regarding the seizure of motor vehicles; requiring a certain law enforcement officer to recommend that a motor vehicle be forfeited under certain circumstances; requiring that a forfeiting authority surrender a motor vehicle on request to the owner under certain circumstances; specifying conditions under which an owner may obtain possession of seized property; specifying the time when seizure of real property occurs; authorizing an owner or owner's tenant to remain in possession of seized real property under certain circumstances; prohibiting an owner of certain real property from taking certain actions; specifying certain procedures for the conduct of forfeiture proceedings, including the filing of complaints and answers, posting and publishing of notice, and conducting hearings for real property and other property; specifying certain restrictions on forfeiture proceedings on property used as the principal family residence; specifying certain powers of a court in a certain forfeiture proceeding; requiring a court to issue a certain order after a full hearing under certain circumstances; authorizing the governing body where the property was seized to take certain actions; requiring certain proceeds to be used for certain expenses; ~~requiring that certain proceeds of the sale of forfeited property be distributed to the Fund for a certain purpose;~~ specifying the terms of sale of forfeited property; specifying the law governing the sale of certain collateral; requiring certain proceeds from the sale of certain property to be distributed in a certain manner; requiring lienholders to take certain actions before exercising the right to sell certain property and after the redemption of certain property; specifying the effect of this Act; defining certain terms; providing for the application of this Act; and generally relating to seizure and forfeiture of property used in connection with human trafficking.

~~BY repealing and reenacting, without amendments,
Article — Criminal Procedure
Section 11-910(d)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)~~

BY adding to

Article – Criminal Procedure

Section ~~11-920~~, and 13-501 through 13-536 to be under the new subtitle
“Subtitle 5. Violations of the Human Trafficking Law”

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

~~11-910.~~

~~(d) “Executive Director” means the Executive Director of the Governor’s Office of Crime Control and Prevention.~~

~~11-920.~~

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

~~(2) “FUND” MEANS THE ANTI-HUMAN TRAFFICKING FUND.~~

~~(3) “HUMAN TRAFFICKING” MEANS ANY VIOLATION OF § 3-324, § 11-207, § 11-303, § 11-304, OR § 11-305 OF THE CRIMINAL LAW ARTICLE.~~

~~(B) THERE IS AN ANTI-HUMAN TRAFFICKING FUND.~~

~~(C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING TO:~~

~~(1) AID VICTIMS OF HUMAN TRAFFICKING; AND~~

~~(2) ASSIST LAW ENFORCEMENT, NONPROFIT ORGANIZATIONS, AND GOVERNMENT AGENCIES THAT ENGAGE IN ACTIVITIES TO COMBAT HUMAN TRAFFICKING.~~

~~(D) THE EXECUTIVE DIRECTOR SHALL ADMINISTER THE FUND.~~

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

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

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

~~(1) REVENUE DISTRIBUTED TO THE FUND UNDER TITLE 13, SUBTITLE 5 OF THIS ARTICLE;~~

~~(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;~~
AND

~~(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.~~

~~(G) (1) AT LEAST 50% OF THE MONEY IN THE FUND SHALL BE GIVEN TO NONPROFIT ORGANIZATIONS AND GOVERNMENT AGENCIES THAT PROVIDE DIRECT SERVICES TO VICTIMS OF HUMAN TRAFFICKING.~~

~~(2) AFTER THE DISTRIBUTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BALANCE OF THE MONEY IN THE FUND SHALL BE GIVEN TO:~~

~~(I) NONPROFIT ORGANIZATIONS AND GOVERNMENT AGENCIES THAT CONDUCT PROGRAMS FOR THE PREVENTION OF HUMAN TRAFFICKING;~~

~~(II) NONPROFIT ORGANIZATIONS AND GOVERNMENT AGENCIES THAT CONDUCT EDUCATION, TRAINING, OR PUBLIC OUTREACH PROGRAMS ABOUT HUMAN TRAFFICKING; OR~~

~~(III) LAW ENFORCEMENT ORGANIZATIONS THAT RESPOND TO AND INVESTIGATE HUMAN TRAFFICKING VIOLATIONS.~~

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

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

~~(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.~~

~~(J) MONEY EXPENDED FROM THE FUND FOR VICTIMS OF HUMAN TRAFFICKING AND TO FINANCE ACTIVITIES THAT COMBAT HUMAN TRAFFICKING IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR VICTIMS OF HUMAN TRAFFICKING OR ACTIVITIES THAT COMBAT HUMAN TRAFFICKING.~~

SUBTITLE 5. VIOLATIONS OF THE HUMAN TRAFFICKING LAW.**13-501.**

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

(B) "CHIEF EXECUTIVE OFFICER" MEANS:

(1) FOR BALTIMORE CITY, THE MAYOR;

(2) FOR A CHARTER COUNTY, THE COUNTY EXECUTIVE OR, IF THERE IS NO COUNTY EXECUTIVE, THE COUNTY COUNCIL;

(3) FOR A CODE COUNTY, THE COUNTY COMMISSIONERS;

(4) FOR A COMMISSION COUNTY, THE COUNTY COMMISSIONERS;
OR

(5) FOR A MUNICIPAL CORPORATION, THE LEGISLATIVE BODY ESTABLISHED BY MUNICIPAL CHARTER.

(C) "CONVICTED" MEANS FOUND GUILTY.

(D) "FINAL DISPOSITION" MEANS DISMISSAL, ENTRY OF A NOLLE PROSEQUI, MARKING OF A CRIMINAL CHARGE "STET" ON THE DOCKET, ENTRY OF A NOT GUILTY VERDICT, PRONOUNCEMENT OF SENTENCE, OR IMPOSITION OF PROBATION UNDER § 6-220 OF THIS ARTICLE.

(E) "FORFEITING AUTHORITY" MEANS:

(1) THE UNIT OR PERSON DESIGNATED BY AGREEMENT BETWEEN THE STATE'S ATTORNEY FOR A COUNTY AND THE CHIEF EXECUTIVE OFFICER OF THE GOVERNING BODY HAVING JURISDICTION OVER ASSETS SUBJECT TO FORFEITURE TO ACT ON BEHALF OF THE GOVERNING BODY REGARDING THOSE ASSETS; OR

(2) IF THE SEIZING AUTHORITY IS A UNIT OF THE STATE, A UNIT OR PERSON THAT THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE DESIGNATES BY AGREEMENT WITH A STATE'S ATTORNEY, COUNTY ATTORNEY, OR MUNICIPAL ATTORNEY TO ACT ON BEHALF OF THE STATE REGARDING ASSETS SUBJECT TO FORFEITURE BY THE STATE.

(F) "GOVERNING BODY" INCLUDES:

(1) THE STATE, IF THE SEIZING AUTHORITY IS A UNIT OF THE STATE;

(2) A COUNTY, IF THE SEIZING AUTHORITY IS A UNIT OF A COUNTY;

(3) A MUNICIPAL CORPORATION, IF THE SEIZING AUTHORITY IS A UNIT OF A MUNICIPALITY; AND

(4) BALTIMORE CITY, IF THE SEIZING AUTHORITY IS THE BALTIMORE POLICE DEPARTMENT.

(G) “HUMAN TRAFFICKING LAW” MEANS § 3-324, § 11-207, § 11-303, § 11-304, AND § 11-305 OF THE CRIMINAL LAW ARTICLE.

(H) “LIEN” INCLUDES A MORTGAGE, A DEED OF TRUST, A PLEDGE, A SECURITY INTEREST, AN ENCUMBRANCE, AND A RIGHT OF SETOFF.

(I) “LIENHOLDER” MEANS A PERSON WHO HAS A LIEN OR A SECURED INTEREST ON PROPERTY CREATED BEFORE THE SEIZURE.

(J) “LOCAL FINANCIAL AUTHORITY” MEANS:

(1) IF THE SEIZING AUTHORITY IS A UNIT OF A COUNTY, THE TREASURER OR DIRECTOR OF FINANCE OF THE COUNTY; OR

(2) IF THE SEIZING AUTHORITY IS A UNIT OF A MUNICIPAL CORPORATION, THE TREASURER OR DIRECTOR OF FINANCE OF THE MUNICIPAL CORPORATION.

(K) (1) “OWNER” MEANS A PERSON HAVING A LEGAL, EQUITABLE, OR POSSESSORY INTEREST IN PROPERTY.

(2) “OWNER” INCLUDES:

(I) A CO-OWNER;

(II) A LIFE TENANT;

(III) A REMAINDERMAN TO A LIFE TENANCY IN REAL PROPERTY;

(IV) A HOLDER OF AN INCHOATE INTEREST IN REAL PROPERTY; AND

(V) A BONA FIDE PURCHASER FOR VALUE.

(L) "PROCEEDS" MEANS PROFITS DERIVED FROM A VIOLATION OF THE HUMAN TRAFFICKING LAW OR PROPERTY OBTAINED DIRECTLY OR INDIRECTLY FROM THOSE PROFITS.

~~(H)~~ (M) (1) "PROPERTY" INCLUDES:

(I) REAL PROPERTY AND ANYTHING GROWING ON OR ATTACHED TO REAL PROPERTY;

~~(H) TANGIBLE AND INTANGIBLE PERSONAL PROPERTY, INCLUDING:~~

~~1. SECURITIES;~~
~~2. NEGOTIABLE AND NONNEGOTIABLE INSTRUMENTS;~~

~~3. VEHICLES AND CONVEYANCES OF ANY TYPE;~~

~~4. PRIVILEGES;~~

~~5. INTERESTS;~~

~~6. CLAIMS; AND~~

~~7. RIGHTS;~~

~~(H) AN ITEM, AN OBJECT, A TOOL, A SUBSTANCE, A DEVICE, OR A WEAPON USED IN CONNECTION WITH A VIOLATION OF THE HUMAN TRAFFICKING LAW; AND~~

(II) MOTOR VEHICLES; AND

~~(IV)~~ (III) MONEY.

(2) "PROPERTY" DOES NOT INCLUDE:

(I) AN ITEM UNLAWFULLY IN THE POSSESSION OF A PERSON OTHER THAN THE OWNER WHEN USED IN CONNECTION WITH A VIOLATION OF THE HUMAN TRAFFICKING LAW; OR

(II) A LESSOR'S INTEREST IN PROPERTY SUBJECT TO A BONA FIDE LEASE, UNLESS THE FORFEITING AUTHORITY CAN SHOW THAT THE LESSOR PARTICIPATED IN A VIOLATION OF THE HUMAN TRAFFICKING LAW OR THAT THE PROPERTY WAS THE PROCEEDS OF A VIOLATION OF THE HUMAN TRAFFICKING LAW.

~~(M)~~ (N) (1) "REAL PROPERTY" MEANS LAND OR AN IMPROVEMENT TO LAND.

(2) "REAL PROPERTY" INCLUDES:

(I) A LEASEHOLD OR ANY OTHER LIMITED INTEREST IN PROPERTY;

(II) AN EASEMENT; AND

(III) A REVERSIONARY INTEREST IN A 99-YEAR GROUND LEASE RENEWABLE FOREVER.

~~(N)~~ (O) "SEIZING AUTHORITY" MEANS A LAW ENFORCEMENT UNIT IN THE STATE THAT IS AUTHORIZED TO INVESTIGATE VIOLATIONS OF THE HUMAN TRAFFICKING LAW AND THAT HAS SEIZED PROPERTY UNDER THIS SUBTITLE.

13-502.

THE FOLLOWING ARE SUBJECT TO FORFEITURE:

(1) EXCEPT AS PROVIDED IN § 13-503 OF THIS SUBTITLE, ~~CONVEYANCES, INCLUDING AIRCRAFT, VEHICLES, OR VESSELS USED OR INTENDED TO BE A MOTOR VEHICLE~~ USED IN CONNECTION WITH A VIOLATION OF THE HUMAN TRAFFICKING LAW AND CONVICTION UNDER § 11-303 OF THE CRIMINAL LAW ARTICLE;

~~(2) BOOKS, RECORDS, TELECOMMUNICATION EQUIPMENT, OR COMPUTERS USED OR INTENDED TO BE USED IN CONNECTION WITH A VIOLATION OF THE HUMAN TRAFFICKING LAW;~~

~~(3)~~ (2) ~~MONEY OR WEAPONS USED OR INTENDED TO BE USED~~ IN CONNECTION WITH A VIOLATION OF AND CONVICTION UNDER THE HUMAN TRAFFICKING LAW; FOUND IN CLOSE PROXIMITY TO OR AT THE SCENE OF THE ARREST FOR A VIOLATION OF THE HUMAN TRAFFICKING LAW; AND

~~(4)~~ (3) EXCEPT AS PROVIDED IN § 13-503 OF THIS SUBTITLE, REAL PROPERTY USED ~~OR INTENDED TO BE USED~~ IN CONNECTION WITH A VIOLATION OF ~~THE HUMAN TRAFFICKING LAW; AND~~ AND CONVICTION UNDER § 11-303 OF THE CRIMINAL LAW ARTICLE.

~~(5) EXCEPT AS PROVIDED IN § 13-503 OF THIS SUBTITLE, EVERYTHING OF VALUE FURNISHED OR INTENDED TO BE FURNISHED IN EXCHANGE FOR AN ACT IN VIOLATION OF THE HUMAN TRAFFICKING LAW, ALL PROCEEDS TRACEABLE TO THE EXCHANGE, AND ALL NEGOTIABLE INSTRUMENTS AND SECURITIES USED OR INTENDED TO BE USED TO FACILITATE A VIOLATION OF THE HUMAN TRAFFICKING LAW.~~

13-503.

(A) PROPERTY OR AN INTEREST IN PROPERTY DESCRIBED IN § 13-502(1), ~~(4), OR (5)~~ OR (3) OF THIS SUBTITLE MAY NOT BE FORFEITED IF THE OWNER ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE THAT THE VIOLATION OF THE HUMAN TRAFFICKING LAW WAS COMMITTED WITHOUT THE OWNER'S ACTUAL KNOWLEDGE.

(B) (1) ~~A CONVEYANCE USED AS A COMMON CARRIER OR MOTOR VEHICLE FOR HIRE IN THE TRANSACTION OF BUSINESS AS A COMMON CARRIER OR A MOTOR VEHICLE FOR HIRE~~ MAY NOT BE SEIZED OR FORFEITED UNDER THIS SUBTITLE UNLESS IT APPEARS THAT THE OWNER OR OTHER PERSON IN CHARGE OF THE ~~CONVEYANCE~~ MOTOR VEHICLE WAS A CONSENTING PARTY OR PRIVY TO A VIOLATION OF THE HUMAN TRAFFICKING LAW.

(2) ~~A CONVEYANCE~~ MOTOR VEHICLE MAY NOT BE FORFEITED UNDER THIS SUBTITLE FOR AN ACT OR OMISSION THAT THE OWNER SHOWS WAS COMMITTED OR OMITTED BY A PERSON OTHER THAN THE OWNER WHILE THE PERSON OTHER THAN THE OWNER POSSESSED THE ~~CONVEYANCE~~ MOTOR VEHICLE IN CRIMINAL VIOLATION OF FEDERAL LAW OR THE LAW OF ANY STATE.

(C) ~~(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND SUBJECT~~ SUBJECT TO SUBSECTION (D) OF THIS SECTION, REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE MAY NOT BE FORFEITED UNDER THIS SUBTITLE UNLESS ONE OF THE OWNERS OF THE REAL PROPERTY WAS CONVICTED OF A VIOLATION OF ~~THE HUMAN TRAFFICKING LAW~~ § 11-303 OF THE CRIMINAL LAW ARTICLE OR OF AN ATTEMPT OR CONSPIRACY TO VIOLATE ~~THE HUMAN TRAFFICKING LAW~~ § 11-303 OF THE CRIMINAL LAW ARTICLE.

~~(2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, WITHOUT A CONVICTION, A COURT MAY ORDER A FORFEITURE OF REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE IF THE OWNER OF THE FAMILY RESIDENCE:~~

~~(I) FAILS TO APPEAR FOR A REQUIRED COURT APPEARANCE; AND~~

~~(II) FAILS TO SURRENDER TO THE JURISDICTION OF THE COURT WITHIN 180 DAYS AFTER THE REQUIRED COURT APPEARANCE.~~

(D) REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE BY A HUSBAND AND WIFE AND HELD BY THE HUSBAND AND WIFE AS TENANTS BY THE ENTIRETY MAY NOT BE FORFEITED UNLESS:

(1) THE PROPERTY WAS USED IN CONNECTION WITH A VIOLATION OF ~~THE HUMAN TRAFFICKING LAW § 11-303 OF THE CRIMINAL LAW ARTICLE~~ OR WITH AN ATTEMPT OR A CONSPIRACY TO VIOLATE ~~THE HUMAN TRAFFICKING LAW § 11-303 OF THE CRIMINAL LAW ARTICLE~~; AND

(2) BOTH THE HUSBAND AND WIFE ARE CONVICTED OF A VIOLATION OF ~~THE HUMAN TRAFFICKING LAW § 11-303 OF THE CRIMINAL LAW ARTICLE~~ OR OF AN ATTEMPT OR CONSPIRACY TO VIOLATE ~~THE HUMAN TRAFFICKING LAW § 11-303 OF THE CRIMINAL LAW ARTICLE~~.

13-504.

~~PROPERTY~~ PERSONAL PROPERTY SUBJECT TO FORFEITURE UNDER THIS SUBTITLE MAY BE SEIZED:

(1) ON A WARRANT ISSUED BY A COURT THAT HAS JURISDICTION OVER THE PROPERTY; AND

(2) WITHOUT A WARRANT WHEN:

(I) THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH UNDER A SEARCH WARRANT;

(II) THE SEIZURE IS INCIDENT TO AN INSPECTION UNDER AN ADMINISTRATIVE INSPECTION WARRANT;

(III) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE SUBJECT OF A PRIOR JUDGMENT IN FAVOR OF THE STATE IN A CRIMINAL INJUNCTION OR FORFEITURE PROCEEDING UNDER THIS SUBTITLE; OR

(IV) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS DIRECTLY OR INDIRECTLY DANGEROUS TO HEALTH OR SAFETY.

13-505.

(A) A SEIZING AUTHORITY THAT SEIZES MONEY UNDER THIS SUBTITLE IMMEDIATELY SHALL:

(1) PHOTOGRAPH THE MONEY AND RECORD THE QUANTITY OF EACH DENOMINATION OF COIN OR CURRENCY SEIZED; AND

(2) DEPOSIT THE MONEY TO THE ACCOUNT OF THE APPROPRIATE LOCAL FINANCIAL AUTHORITY.

(B) A PHOTOGRAPH TAKEN UNDER SUBSECTION (A) OF THIS SECTION MAY BE SUBSTITUTED FOR MONEY AS EVIDENCE IN A CRIMINAL OR FORFEITURE PROCEEDING.

13-506.

(A) PROPERTY SEIZED UNDER THIS SUBTITLE:

(1) IS NOT REPLEVIABLE; BUT

(2) IS IN THE CUSTODY OF THE SEIZING AUTHORITY, SUBJECT ONLY TO THE ORDERS, JUDGMENTS, AND DECREES OF THE COURT OR THE OFFICIAL HAVING JURISDICTION OVER THE PROPERTY.

(B) A SEIZING AUTHORITY MAY PLACE SEIZED PROPERTY UNDER SEAL AND REMOVE THE PROPERTY TO A PLACE DESIGNATED BY THE COURT.

13-507.

(A) A SEIZING AUTHORITY ~~SHALL~~ MAY SEIZE A MOTOR VEHICLE USED IN VIOLATION OF ~~THE HUMAN TRAFFICKING LAW~~ § 11-303 OF THE CRIMINAL LAW ARTICLE AND RECOMMEND FORFEITURE TO THE FORFEITING AUTHORITY IF THE TOTAL CIRCUMSTANCES OF THE CASE AS LISTED IN SUBSECTION (B) OF THIS SECTION DICTATE THAT SEIZURE AND FORFEITURE ARE JUSTIFIED.

(B) CIRCUMSTANCES TO BE CONSIDERED IN DECIDING WHETHER SEIZURE AND FORFEITURE ARE JUSTIFIED INCLUDE:

~~(1) AN EXTENSIVE CRIMINAL RECORD OF THE VIOLATOR;~~

~~(2) A PREVIOUS CONVICTION OF THE VIOLATOR FOR AN OFFENSE THAT IS PART OF THE HUMAN TRAFFICKING LAW;~~

~~(3) (1) EVIDENCE THAT THE MOTOR VEHICLE WAS ACQUIRED BY USE OF PROCEEDS FROM A TRANSACTION INVOLVING A HUMAN TRAFFICKING CRIME VIOLATION OF § 11-303 OF THE CRIMINAL LAW ARTICLE;~~

~~(4) (2) THE CIRCUMSTANCES OF THE ARREST; AND~~

~~(5) (3) THE WAY IN WHICH THE MOTOR VEHICLE WAS USED.~~

13-508.

(A) THE CHIEF LAW ENFORCEMENT OFFICER OF THE SEIZING AUTHORITY THAT SEIZES A MOTOR VEHICLE USED IN VIOLATION OF ~~THE HUMAN TRAFFICKING LAW § 11-303 OF THE CRIMINAL LAW ARTICLE~~ ~~SHALL~~ MAY RECOMMEND TO THE APPROPRIATE FORFEITING AUTHORITY IN WRITING THAT THE MOTOR VEHICLE BE FORFEITED ONLY IF THE OFFICER:

(1) DETERMINES FROM THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION THE NAMES AND ADDRESSES OF ALL REGISTERED OWNERS AND SECURED PARTIES AS DEFINED IN THE CODE;

(2) PERSONALLY REVIEWS THE FACTS AND CIRCUMSTANCES OF THE SEIZURE; AND

(3) PERSONALLY DETERMINES, ACCORDING TO THE STANDARDS LISTED IN § 13-507 OF THIS SUBTITLE, AND REPRESENTS IN WRITING THAT FORFEITURE IS WARRANTED.

(B) ~~(1)~~ A SWORN AFFIDAVIT BY THE CHIEF LAW ENFORCEMENT OFFICER THAT THE OFFICER FOLLOWED THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION IS ADMISSIBLE IN EVIDENCE IN A PROCEEDING UNDER THIS SUBTITLE.

~~(2) THE CHIEF LAW ENFORCEMENT OFFICER MAY NOT BE SUBPOENAED OR COMPELLED TO APPEAR AND TESTIFY IF ANOTHER LAW ENFORCEMENT OFFICER WITH PERSONAL KNOWLEDGE OF THE FACTS AND CIRCUMSTANCES SURROUNDING THE SEIZURE AND THE RECOMMENDATION OF FORFEITURE APPEARS AND TESTIFIES AT THE PROCEEDING.~~

13-509.

(A) THE FORFEITING AUTHORITY SHALL SURRENDER THE MOTOR VEHICLE ON REQUEST TO THE OWNER IF THE FORFEITING AUTHORITY DETERMINES, INDEPENDENT OF THE DECISION OF THE SEIZING AUTHORITY, THAT THE TOTAL CIRCUMSTANCES OF THE CASE AS LISTED UNDER § 13-507(B) OF THIS SUBTITLE DO NOT JUSTIFY FORFEITURE.

(B) IN A PROCEEDING UNDER THIS SUBTITLE, THE COURT MAY DETERMINE, BASED ON THE CIRCUMSTANCES LISTED IN § 13-507(B) OF THIS SUBTITLE, WHETHER THE SEIZING AUTHORITY OR FORFEITING AUTHORITY ABUSED ITS DISCRETION OR WAS CLEARLY ERRONEOUS:

(1) IN RECOMMENDING THE FORFEITURE OF A MOTOR VEHICLE;
OR

(2) IN NOT SURRENDERING ON REQUEST A MOTOR VEHICLE TO AN OWNER.

13-510.

(A) (1) EXCEPT AS PROVIDED IN §§ 13-512 AND 13-513 OF THIS SUBTITLE, AN OWNER OF SEIZED PROPERTY WHO WISHES TO OBTAIN POSSESSION OF THE PROPERTY, TO CONVEY AN INTEREST IN REAL PROPERTY, OR TO REMOVE A BUILDING OR FIXTURE FROM REAL PROPERTY SHALL NOTIFY THE CLERK OF THE PROPER COURT.

(2) IF FORFEITURE PROCEEDINGS HAVE BEGUN, THE PROPER COURT IS THE COURT WHERE THE PROCEEDINGS HAVE BEGUN.

(3) IF CRIMINAL PROCEEDINGS HAVE BEGUN BUT FORFEITURE PROCEEDINGS HAVE NOT BEGUN, THE PROPER COURT IS THE COURT WHERE THE CRIMINAL PROCEEDINGS HAVE BEGUN.

(4) IF BOTH FORFEITURE PROCEEDINGS AND CRIMINAL PROCEEDINGS HAVE NOT BEGUN, THE PROPER COURT IS THE CIRCUIT COURT FOR THE COUNTY WHERE THE PROPERTY WAS SEIZED.

(B) (1) UNLESS THE FORFEITING AUTHORITY AND THE OWNER AGREE TO A BOND IN ANOTHER AMOUNT, IF A MOTOR VEHICLE IS NOT NEEDED FOR EVIDENTIARY PURPOSES IN A JUDICIAL PROCEEDING:

(I) THE COURT SHALL APPRAISE THE VALUE OF THE MOTOR VEHICLE ON THE BASIS OF THE AVERAGE VALUE OF THE MOTOR VEHICLE SET FORTH IN THE NATIONAL AUTOMOBILE DEALERS ASSOCIATION OFFICIAL USED CAR GUIDE; OR

(II) IF THE OWNER SHOWS THAT A LIEN IS ON THE MOTOR VEHICLE AND THE OWNER AGREES TO MAKE THE REQUIRED PAYMENTS TO THE LIENHOLDER, THE COURT SHALL REQUIRE A BOND IN AN AMOUNT OF THE AVERAGE VALUE OF THE MOTOR VEHICLE SET FORTH IN THE NATIONAL AUTOMOBILE DEALERS ASSOCIATION OFFICIAL USED CAR GUIDE, LESS THE AMOUNT OWED ON THE LIEN.

(2) FOR A MOTOR VEHICLE, THE COURT SHALL APPRAISE THE VALUE IN THE MANNER PROVIDED IN THIS SUBSECTION AND PROVIDE THE APPRAISAL IN WRITING TO THE CLERK OF THE COURT.

(C) (1) IF PROPERTY OTHER THAN A MOTOR VEHICLE IS NOT NEEDED FOR EVIDENTIARY PURPOSES IN A JUDICIAL PROCEEDING, THE CLERK SHALL OBTAIN AN INDEPENDENT APPRAISAL OF THE VALUE OF THE PROPERTY.

(2) THE SHERIFF OR OTHER PERSON RESPONSIBLE FOR AN APPRAISAL UNDER THIS SUBSECTION SHALL PROMPTLY:

(I) INSPECT AND APPRAISE THE VALUE OF THE PROPERTY;
AND

(II) RETURN THE APPRAISAL IN WRITING UNDER OATH TO THE CLERK OF THE COURT.

(D) NOTICE OF THE APPRAISAL SHALL BE SENT TO ALL LIENHOLDERS SHOWN IN THE RECORDS REQUIRED BY LAW FOR NOTICE OR THE PERFECTION OF THE LIEN.

(E) (1) ON THE FILING OF AN APPRAISAL, THE OWNER MAY GIVE BOND PAYABLE TO THE CLERK OF THE COURT IN AN AMOUNT EQUAL TO THE GREATER OF:

(I) THE APPRAISED VALUE OF THE PROPERTY PLUS ANY ACCRUED COSTS; OR

(II) THE AGGREGATE AMOUNT OF THE LIENS ON THE PROPERTY THAT ARE SHOWN IN THE RECORDS REQUIRED BY LAW FOR THE NOTICE OR PERFECTION OF LIENS.

(2) A PERSON MAY GIVE A BOND UNDER THIS SUBSECTION BY CASH, THROUGH A SURETY, THROUGH A LIEN ON REAL PROPERTY, OR BY OTHER MEANS THAT THE CLERK APPROVES.

(3) A BOND AUTHORIZED UNDER THIS SUBSECTION:

(I) SHALL BE CONDITIONED FOR PERFORMANCE ON FINAL JUDGMENT BY THE COURT;

(II) SHALL BE FILED IN THE DISTRICT COURT OR CIRCUIT COURT WHERE THE CRIMINAL ACTION THAT GAVE RISE TO THE SEIZURE IS PENDING; AND

(III) UNLESS A COMPLAINT FOR FORFEITURE HAS BEEN FILED, SHALL BE PART OF THE SAME CRIMINAL PROCEEDING.

(4) IF A CRIMINAL ACTION IS NOT PENDING OR A FORFEITURE COMPLAINT HAS NOT BEEN FILED, THE BOND SHALL BE FILED IN THE CIRCUIT COURT OR DISTRICT COURT WHERE THE PROPERTY WAS SEIZED.

(F) (1) IF THE COURT ORDERS THAT PROPERTY OR AN INTEREST OR EQUITY IN THE PROPERTY OR PROCEEDS BE FORFEITED UNDER THIS SUBTITLE, THE COURT SHALL ENTER JUDGMENT IN THE AMOUNT OF THE BOND AGAINST THE OBLIGORS ON THE BOND WITHOUT FURTHER PROCEEDINGS.

(2) PAYMENT OF THE AMOUNT OF THE BOND SHALL BE APPLIED AS PROVIDED UNDER ~~§ 13-528(D)(2)~~ § 13-528(C)(3) OF THIS SUBTITLE.

13-511.

SEIZURE OF REAL PROPERTY OCCURS ON THE EARLIER OF THE FILING:

(1) OF A COMPLAINT FOR FORFEITURE UNDER THIS SUBTITLE; OR

(2) OF A NOTICE OF PENDING LITIGATION IN THE CIRCUIT COURT OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.

13-512.

(A) SUBJECT TO THE RIGHTS OF A LIENHOLDER TO SELL THE REAL PROPERTY, AN OWNER OR AN OWNER'S TENANT MAY REMAIN IN POSSESSION OF SEIZED REAL PROPERTY UNTIL FORFEITURE IS ORDERED.

(B) THE FORFEITING AUTHORITY MAY APPLY TO THE COURT FOR THE APPOINTMENT OF A RECEIVER TO APPLY INCOME FROM INCOME-PRODUCING PROPERTY.

(C) IF A PERSON WHO IS AN OWNER OR AN OWNER'S TENANT REMAINS IN POSSESSION OF THE REAL PROPERTY AND THE PERSON'S INTEREST IN THE REAL PROPERTY IS FORFEITED, THE PERSON IMMEDIATELY SHALL SURRENDER THE REAL PROPERTY TO THE SEIZING AUTHORITY IN SUBSTANTIALLY THE SAME CONDITION AS WHEN SEIZED.

13-513.

(A) THIS SECTION DOES NOT APPLY IF:

(1) AN ACT IS AGREED TO BY A FORFEITING AUTHORITY OR IS ORDERED BY THE COURT; OR

(2) AN OWNER POSTS A BOND UNDER § 13-510 OF THIS SUBTITLE.

(B) UNTIL THE COURT ENTERS JUDGMENT IN FAVOR OF THE OWNER, AN OWNER MAY NOT ATTEMPT:

(1) TO CONVEY OR ENCUMBER AN INTEREST IN SEIZED REAL PROPERTY; OR

(2) TO REMOVE A BUILDING OR FIXTURE ON SEIZED REAL PROPERTY.

13-514.

EXCEPT AS PROVIDED IN § 13-517(C) OF THIS SUBTITLE, IF PROPERTY IS SEIZED UNDER § 13-504(2)(IV) OF THIS SUBTITLE BECAUSE THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS DIRECTLY OR INDIRECTLY DANGEROUS TO HEALTH OR SAFETY AND THAT THE PROPERTY WAS OR WILL BE USED TO VIOLATE ~~THE HUMAN TRAFFICKING LAW~~ § 11-303 OF THE CRIMINAL LAW ARTICLE, FORFEITURE PROCEEDINGS UNDER THIS SUBTITLE SHALL BE FILED PROMPTLY.

13-515.

EXCEPT AS PROVIDED IN § 13-516 OF THIS SUBTITLE, THE APPROPRIATE FORFEITING AUTHORITY SHALL FILE PROCEEDINGS UNDER THIS SUBTITLE IN THE CIRCUIT COURT.

13-516.

(A) TO APPLY FOR THE FORFEITURE OF MONEY, THE APPROPRIATE LOCAL FINANCIAL AUTHORITY OR THE ATTORNEY GENERAL SHALL FILE A

COMPLAINT AND AFFIDAVIT IN THE DISTRICT COURT OR THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE MONEY WAS SEIZED.

(B) THE COMPLAINT AND AFFIDAVIT SHALL BE SERVED IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

13-517.

(A) EXCEPT AS PROVIDED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION, A COMPLAINT SEEKING FORFEITURE SHALL BE FILED WITHIN THE EARLIER OF:

(1) 90 DAYS AFTER THE SEIZURE; OR

(2) 1 YEAR AFTER THE FINAL DISPOSITION OF THE CRIMINAL CHARGE FOR THE VIOLATION GIVING RISE TO THE FORFEITURE.

(B) A COMPLAINT FOR THE FORFEITURE OF A MOTOR VEHICLE SHALL BE FILED WITHIN 45 DAYS AFTER THE MOTOR VEHICLE IS SEIZED.

(C) (1) A PROCEEDING ABOUT MONEY SHALL BE FILED WITHIN 90 DAYS AFTER THE FINAL DISPOSITION OF CRIMINAL PROCEEDINGS THAT ARISE OUT OF THE HUMAN TRAFFICKING LAW.

(2) IF THE STATE OR A POLITICAL SUBDIVISION DOES NOT FILE PROCEEDINGS ABOUT MONEY WITHIN THE 90-DAY PERIOD, THE MONEY SEIZED UNDER THIS SUBTITLE SHALL BE RETURNED TO THE OWNER ON REQUEST BY THE OWNER.

(3) IF THE OWNER FAILS TO ASK FOR THE RETURN OF THE MONEY WITHIN 1 YEAR AFTER THE FINAL DISPOSITION OF CRIMINAL PROCEEDINGS, THE MONEY SHALL REVERT ~~TO THE ANTI HUMAN TRAFFICKING FUND UNDER § 11-920 OF THIS ARTICLE~~ TO:

(I) THE POLITICAL SUBDIVISION IN WHICH THE MONEY WAS SEIZED; OR

(II) THE STATE, IF THE MONEY WAS SEIZED BY STATE AUTHORITIES.

13-518.

(A) A COMPLAINT SEEKING FORFEITURE SHALL CONTAIN:

- (1) A DESCRIPTION OF THE PROPERTY SEIZED;
 - (2) THE DATE AND PLACE OF THE SEIZURE;
 - (3) THE NAME OF THE OWNER, IF KNOWN;
 - (4) THE NAME OF THE PERSON IN POSSESSION, IF KNOWN;
 - (5) THE NAME OF EACH LIENHOLDER, IF KNOWN OR REASONABLY SUBJECT TO DISCOVERY;
 - (6) AN ALLEGATION THAT THE PROPERTY IS SUBJECT TO FORFEITURE;
 - (7) IF THE FORFEITING AUTHORITY SEEKS TO FORFEIT A LIENHOLDER'S INTEREST IN PROPERTY, AN ALLEGATION THAT THE LIEN WAS CREATED WITH ACTUAL KNOWLEDGE THAT THE PROPERTY WAS BEING OR WAS TO BE USED IN VIOLATION OF ~~THE HUMAN TRAFFICKING LAW~~ § 11-303 OF THE CRIMINAL LAW ARTICLE;
 - (8) A STATEMENT OF THE FACTS AND CIRCUMSTANCES SURROUNDING THE SEIZURE;
 - (9) A STATEMENT SETTING FORTH THE SPECIFIC GROUNDS FOR FORFEITURE; AND
 - (10) AN OATH OR AFFIRMATION BY THE FORFEITING AUTHORITY THAT THE CONTENTS OF THE COMPLAINT ARE TRUE TO THE BEST OF THE FORFEITING AUTHORITY'S KNOWLEDGE, INFORMATION, AND BELIEF.
- (B) WITHIN 20 DAYS AFTER THE FILING OF THE COMPLAINT, COPIES OF THE SUMMONS AND COMPLAINT SHALL BE SENT BY CERTIFIED MAIL REQUESTING "RESTRICTED DELIVERY – SHOW TO WHOM, DATE, ADDRESS OF DELIVERY" AND FIRST-CLASS MAIL TO ALL KNOWN OWNERS AND LIENHOLDERS WHOSE IDENTITIES ARE REASONABLY SUBJECT TO DISCOVERY, INCLUDING ALL REAL PROPERTY OWNERS AND LIENHOLDERS SHOWN IN THE RECORDS REQUIRED BY LAW FOR NOTICE OR PERFECTION OF THE LIEN.

13-519.

- (A) A NOTICE SHALL BE SIGNED BY THE CLERK OF THE COURT AND SHALL:
- (1) INCLUDE THE CAPTION OF THE CASE;

(2) DESCRIBE THE SUBSTANCE OF THE COMPLAINT AND THE RELIEF SOUGHT;

(3) STATE THE LATEST DATE ON WHICH A RESPONSE MAY BE FILED;

(4) STATE THAT THE PROPERTY SHALL BE FORFEITED IF A RESPONSE IS NOT FILED ON TIME;

(5) STATE THAT THE OWNER OF THE PROPERTY MAY HAVE POSSESSION OF THE PROPERTY PENDING FORFEITURE BY POSTING A BOND AS PROVIDED IN § 13-510 OF THIS SUBTITLE; AND

(6) TELL WHERE TO FILE A RESPONSE AND WHOM TO CONTACT FOR MORE INFORMATION CONCERNING THE FORFEITURE.

(B) WITHIN 20 DAYS AFTER THE FILING OF THE COMPLAINT, THE NOTICE SHALL BE:

(1) POSTED BY THE SHERIFF ON THE DOOR OF THE COURTHOUSE WHERE THE ACTION IS PENDING OR ON A BULLETIN BOARD WITHIN THE IMMEDIATE VICINITY OF THE DOOR;

(2) POSTED BY THE SHERIFF IN A CONSPICUOUS PLACE ON THE LAND, IF FORFEITURE OF REAL PROPERTY IS SOUGHT; AND

(3) PUBLISHED AT LEAST ONCE A WEEK IN EACH OF 3 SUCCESSIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY IN WHICH THE ACTION IS PENDING, UNLESS THE PROPERTY IS A BOAT OR MOTOR VEHICLE.

13-520.

THE ANSWER TO A COMPLAINT SHALL:

(1) COMPLY WITH THE MARYLAND RULES;

(2) STATE THE NATURE AND EXTENT OF THE PERSON'S RIGHT IN, TITLE TO, OR INTEREST IN THE PROPERTY;

(3) STATE HOW AND WHEN THE PERSON ACQUIRED A RIGHT IN, TITLE TO, OR INTEREST IN THE PROPERTY; AND

(4) CONTAIN A REQUEST FOR RELIEF AND A REQUEST FOR A PROMPT HEARING.

13-521.

(A) IF AN ANSWER HAS BEEN FILED ON TIME, THE COURT SHALL SET A HEARING ON THE FORFEITURE CLAIM WITHIN 60 DAYS AFTER THE LATER OF:

(1) POSTING OF NOTICE UNDER § 13-519(B)(1) OR (2) OF THIS SUBTITLE; OR

(2) FINAL PUBLICATION OF NOTICE UNDER § 13-519(B)(3) OF THIS SUBTITLE.

(B) WITHOUT A HEARING, THE COURT MAY ORDER FORFEITURE OF THE PROPERTY INTEREST OF A PERSON WHO FAILS TO TIMELY FILE AN ANSWER.

13-522.

EXCEPT AS PROVIDED IN §§ 13-503 AND 13-524 OF THIS SUBTITLE, AN OWNER'S INTEREST IN REAL PROPERTY MAY BE FORFEITED IF ~~THE REAL PROPERTY WAS USED IN CONNECTION WITH A VIOLATION OF THE HUMAN TRAFFICKING LAW OR~~ THE OWNER OF THE REAL PROPERTY IS CONVICTED OF ~~AN ATTEMPT OR CONSPIRACY TO VIOLATE THE HUMAN TRAFFICKING LAW.~~ VIOLATING § 11-303 OF THE CRIMINAL LAW ARTICLE OR ATTEMPTING OR CONSPIRING TO VIOLATE § 11-303 OF THE CRIMINAL LAW ARTICLE.

13-523.

(A) FORFEITURE PROCEEDINGS FOR REAL PROPERTY MAY BE BROUGHT IN THE JURISDICTION WHERE:

(1) THE CRIMINAL CHARGES ARE PENDING;

(2) THE OWNER RESIDES; OR

(3) THE REAL PROPERTY IS LOCATED.

(B) (1) IF FORFEITURE PROCEEDINGS FOR REAL PROPERTY ARE BROUGHT IN A JURISDICTION OTHER THAN WHERE THE REAL PROPERTY IS LOCATED, A NOTICE OF PENDING LITIGATION SHALL BE FILED IN THE JURISDICTION WHERE THE PROPERTY IS LOCATED.

(2) A NOTICE OF PENDING LITIGATION REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE AT LEAST:

(I) THE NAME AND ADDRESS OF THE OWNER OF THE REAL PROPERTY;

(II) A DESCRIPTION OF THE REAL PROPERTY; AND

(III) A DESCRIPTION OF THE REASONS FOR THE FILING OF THE FORFEITURE PROCEEDINGS AND NOTICE OF PENDING LITIGATION.

13-524.

IF AN OWNER OF REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE IS CONVICTED UNDER ~~THE HUMAN TRAFFICKING LAW § 11-303 OF THE CRIMINAL LAW ARTICLE~~ OR IS CONVICTED OF AN ATTEMPT OR CONSPIRACY TO VIOLATE ~~THE HUMAN TRAFFICKING LAW § 11-303 OF THE CRIMINAL LAW ARTICLE~~ AND THE OWNER FILES AN APPEAL OF THE CONVICTION, THE COURT SHALL STAY FORFEITURE PROCEEDINGS UNDER § 13-503 OF THIS SUBTITLE AGAINST THE REAL PROPERTY DURING THE PENDENCY OF THE APPEAL.

13-525.

(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THERE IS A REBUTTABLE PRESUMPTION THAT PROPERTY OR PART OF A PROPERTY IN WHICH A PERSON HAS AN OWNERSHIP INTEREST IS SUBJECT TO FORFEITURE AS PROCEEDS, IF THE STATE ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT:

(I) THE PERSON ~~HAS VIOLATED~~ WAS CONVICTED OF VIOLATING ~~THE HUMAN TRAFFICKING LAW § 11-303 OF THE CRIMINAL LAW ARTICLE~~ OR ~~HAS ATTEMPTED OR CONSPIRED~~ ATTEMPTING OR CONSPIRING TO VIOLATE ~~THE HUMAN TRAFFICKING LAW § 11-303 OF THE CRIMINAL LAW ARTICLE~~;

(II) THE PROPERTY WAS ACQUIRED BY THE PERSON DURING THE VIOLATION OR WITHIN A REASONABLE TIME AFTER THE VIOLATION; AND

(III) THERE WAS NO OTHER LIKELY SOURCE FOR THE PROPERTY.

(2) A CLAIMANT OF THE PROPERTY HAS THE BURDEN OF PROOF TO REBUT THE PRESUMPTION IN PARAGRAPH (1) OF THIS SUBSECTION.

(B) REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE MAY NOT BE FORFEITED UNDER THIS SECTION UNLESS:

(1) AN OWNER OF THE REAL PROPERTY WAS CONVICTED OF A CRIME DESCRIBED UNDER SUBSECTION (A)(1)(I) OF THIS SECTION; OR

(2) § 13–503(D) OF THIS SUBTITLE APPLIES.

13–526.

(A) THE COURT MAY ORDER THE FORFEITURE OF OTHER PROPERTY OF THE OWNER UP TO THE VALUE OF ANY PROPERTY SEIZED UNDER THIS SUBTITLE, WITH THE EXCEPTION OF REAL PROPERTY, IF AS A RESULT OF AN ACT OR OMISSION OF THE OWNER THE PROPERTY TO BE FORFEITED:

(1) CANNOT BE LOCATED AFTER THE EXERCISE OF DUE DILIGENCE;

(2) HAS BEEN TRANSFERRED, SOLD TO OR DEPOSITED WITH A THIRD PARTY;

(3) HAS BEEN PLACED BEYOND THE JURISDICTION OF THE COURT;

(4) HAS BEEN SUBSTANTIALLY DIMINISHED IN VALUE; OR

(5) HAS BEEN COMMINGLED WITH OTHER PROPERTY AND CANNOT BE DIVIDED WITHOUT DIFFICULTY.

(B) THE COURT MAY ORDER THE OWNER TO RETURN PROPERTY TO THE JURISDICTION OF THE COURT.

13–527.

IN A PROCEEDING UNDER THIS SUBTITLE, A COURT:

(1) MAY GRANT REQUESTS FOR MITIGATION OR REMISSION OF FORFEITURE OR TAKE OTHER ACTION THAT PROTECTS THE RIGHTS OF INNOCENT PERSONS, IS CONSISTENT WITH THIS SUBTITLE, AND IS IN THE INTEREST OF JUSTICE;

(2) MAY RESOLVE CLAIMS ARISING UNDER THIS SUBTITLE; AND

(3) MAY TAKE APPROPRIATE MEASURES TO SAFEGUARD AND MAINTAIN PROPERTY FORFEITED UNDER THIS SUBTITLE PENDING THE DISPOSITION OF THE PROPERTY.

13-528.

(A) AFTER A FULL HEARING, IF THE COURT DETERMINES THAT THE PROPERTY SHOULD NOT BE FORFEITED, THE COURT SHALL ORDER THAT THE PROPERTY BE RELEASED.

(B) SUBJECT TO § 13-529 OF THIS SUBTITLE, IF THE COURT DETERMINES THAT THE PROPERTY SHOULD BE FORFEITED, THE COURT SHALL ORDER THAT THE PROPERTY BE FORFEITED TO THE APPROPRIATE GOVERNING BODY.

(C) (1) IF THE COURT DETERMINES THAT THE FORFEITED PROPERTY IS SUBJECT TO A VALID LIEN CREATED WITHOUT ACTUAL KNOWLEDGE OF THE LIENHOLDER THAT THE PROPERTY WAS BEING OR WAS TO BE USED IN VIOLATION OF ~~THE HUMAN TRAFFICKING LAW~~ § 11-303 OF THE CRIMINAL LAW ARTICLE, THE COURT SHALL ORDER THAT THE PROPERTY BE RELEASED WITHIN 5 DAYS TO THE FIRST PRIORITY LIENHOLDER.

(2) THE LIENHOLDER SHALL SELL THE PROPERTY IN A COMMERCIALY REASONABLE MANNER.

(3) THE PROCEEDS OF THE SALE SHALL BE APPLIED AS FOLLOWS:

(I) TO THE COURT COSTS OF THE FORFEITURE PROCEEDING;

(II) TO THE BALANCE DUE THE LIENHOLDER, INCLUDING ALL REASONABLE COSTS INCIDENT TO THE SALE;

(III) TO PAYMENT OF ALL OTHER EXPENSES OF THE PROCEEDINGS FOR FORFEITURE, INCLUDING EXPENSES OF SEIZURE OR MAINTENANCE OF CUSTODY; AND

(IV) ~~TO THE ANTI-HUMAN TRAFFICKING FUND UNDER § 11-920 OF THIS ARTICLE~~ TO THE GENERAL FUND OF THE STATE OR OF THE POLITICAL SUBDIVISION THAT SEIZED THE PROPERTY.

13-529.

IF PROPERTY IS FORFEITED UNDER THIS SUBTITLE, THE GOVERNING BODY WHERE THE PROPERTY WAS SEIZED MAY:

- (1) KEEP THE PROPERTY FOR OFFICIAL USE;
- (2) REQUIRE AN APPROPRIATE UNIT TO TAKE CUSTODY OF THE PROPERTY AND DESTROY OR OTHERWISE DISPOSE OF IT; OR
- (3) SELL THE PROPERTY IF:
 - (I) THE LAW DOES NOT REQUIRE THE PROPERTY TO BE DESTROYED; AND
 - (II) THE PROPERTY IS NOT HARMFUL TO THE PUBLIC.

13-530.

(A) THE PROCEEDS FROM A SALE OR THE RETENTION OF PROPERTY DECLARED TO BE FORFEITED AND ANY INTEREST ACCRUED SHALL BE APPLIED, FIRST, TO THE PROPER EXPENSES OF THE PROCEEDING FOR FORFEITURE AND RESULTING SALE, INCLUDING THE EXPENSE OF SEIZING AND MAINTAINING CUSTODY OF THE PROPERTY AND ADVERTISING.

(B) ANY BALANCE REMAINING AFTER THE DISTRIBUTION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE DISTRIBUTED TO THE ~~ANTI HUMAN TRAFFICKING FUND UNDER § 11-920 OF THIS ARTICLE.~~ GENERAL FUND OF THE STATE OR OF THE POLITICAL SUBDIVISION THAT SEIZED THE PROPERTY.

13-531.

A SALE OF PROPERTY ORDERED UNDER THIS SUBTITLE SHALL BE MADE FOR CASH AND GIVES THE PURCHASER CLEAR AND ABSOLUTE TITLE.

13-532.

(A) BEFORE EXERCISING THE RIGHT TO SELL PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE, A LIENHOLDER SHALL GIVE TO THE FORFEITING AUTHORITY:

- (1) WRITTEN NOTICE OF THE INTENTION TO SELL;
- (2) COPIES OF DOCUMENTS GIVING RISE TO THE LIEN; AND

(3) AN AFFIDAVIT UNDER OATH BY THE LIENHOLDER:

(I) STATING THAT THE UNDERLYING OBLIGATION IS IN DEFAULT; AND

(II) STATING THE REASONS FOR THE DEFAULT.

(B) ON REQUEST OF THE LIENHOLDER, THE FORFEITING AUTHORITY SHALL RELEASE THE PROPERTY TO THE LIENHOLDER.

13-533.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE LAW GOVERNING THE SALE OF COLLATERAL SECURING AN OBLIGATION IN DEFAULT GOVERNS A LIENHOLDER'S REPOSSESSION AND SALE OF PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE.

(B) A LIENHOLDER MAY NOT BE REQUIRED TO TAKE POSSESSION OF THE PROPERTY BEFORE THE SALE OF THE PROPERTY.

13-534.

(A) ANY PART OF THE PROCEEDS FROM A SALE OF PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE THAT WOULD BE PAID TO AN OWNER OF THE PROPERTY UNDER THE APPLICABLE LAW RELATING TO DISTRIBUTION OF PROCEEDS:

(1) SHALL BE PAID TO THE SEIZING AUTHORITY; AND

(2) SHALL BE PROPERTY SUBJECT TO FORFEITURE.

(B) IF AN ORDER OF FORFEITURE IS NOT ENTERED, THE STATE SHALL RETURN TO THE OWNER THAT PART OF THE PROCEEDS AND ANY COSTS OF THE FORFEITURE PROCEEDINGS PAID FROM THE PROCEEDS OF THE SALE.

13-535.

(A) IF THE INTEREST OF THE OWNER IN PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE IS REDEEMED, THE LIENHOLDER SHALL MAIL A NOTICE OF THE REDEMPTION TO THE FORFEITING AUTHORITY WITHIN 10 DAYS AFTER THE REDEMPTION.

(B) (1) IF PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE HAS BEEN REPOSSESSED OR OTHERWISE LAWFULLY TAKEN BY THE

LIENHOLDER, THE LIENHOLDER SHALL RETURN THE PROPERTY TO THE SEIZING AUTHORITY WITHIN 21 DAYS AFTER THE REDEMPTION.

(2) THE SEIZING AUTHORITY AND THE FORFEITING AUTHORITY MAY THEN PROCEED WITH THE FORFEITURE OF THE PROPERTY OR THE PROCEEDS FROM THE SALE OF THE PROPERTY.

(C) TIME LIMITATIONS REQUIRED UNDER THIS SUBTITLE FOR NOTICE AND FILING OF THE COMPLAINT FOR FORFEITURE RUN FROM THE DATE OF REDEMPTION OR PURCHASE OF THE PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE.

13-536.

THIS SUBTITLE DOES NOT PROHIBIT A LIENHOLDER FROM EXERCISING RIGHTS UNDER APPLICABLE LAW, INCLUDING THE RIGHT TO SELL PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE, IF A DEFAULT OCCURS IN THE OBLIGATION GIVING RISE TO THE LIEN.

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 offense committed 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 16, 2013.

Chapter 637

(House Bill 753)

AN ACT concerning

Motor Vehicles – Use of Wireless Communication Device – Prohibited Acts, Enforcement, and Penalties

FOR the purpose of repealing certain provisions of law that require enforcement as a secondary offense of certain violations involving the use of a wireless communication device while operating a motor vehicle; ~~repealing certain provisions of law that apply certain prohibitions involving the use of a wireless communication device to certain operators of certain motor vehicles only if the motor vehicle is in motion; providing that certain prohibitions against the use of~~

~~a wireless communication device while operating a motor vehicle apply only if the vehicle is in the travel portion of the roadway~~; altering the penalty imposed for a violation of a certain prohibition on the use of a handheld telephone while operating a motor vehicle; ~~repealing a certain provision of law~~ prohibiting, under certain circumstances, a certain assessment of points for a ~~first~~ *second or subsequent* violation of a certain prohibition on the use of a handheld telephone while operating a motor vehicle; and generally relating to the use of wireless communication devices while operating a motor vehicle.

BY repealing and reenacting, with amendments,

Article – Transportation
 Section 21–1124 and 21–1124.2
 Annotated Code of Maryland
 (2012 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Transportation
 Section 27–101(a) and (b)
 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

21–1124.

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

(2) “9–1–1 system” has the meaning stated in § 1–301 of the Public Safety Article.

(3) “Wireless communication device” means a handheld or hands–free device used to access a wireless telephone service.

(b) This section does not apply to the use of a wireless communication device:

(1) To contact a 9–1–1 system; or

(2) As a text messaging device as defined in § 21–1124.1 of this subtitle.

(c) An individual who is under the age of 18 years may not use a wireless communication device while operating a motor vehicle ~~IN THE TRAVEL PORTION OF THE ROADWAY~~.

(d) [A police officer may enforce this section only as a secondary action when the police officer detains a driver for a suspected violation of another provision of the Code.

(e) (1) If the Administration receives satisfactory evidence that an individual has violated this section, the Administration:

(i) May suspend the individual's driver's license for not more than 90 days; and

(ii) May issue a restricted license for the period of suspension that is limited to driving a motor vehicle:

1. In the course of the individual's employment;
2. For the purpose of driving to or from a place of employment; or
3. For the purpose of driving to or from school.

(2) An individual may request a hearing as provided for a suspension or revocation under Title 12, Subtitle 2 of this article.

21-1124.2.

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

(2) "Handheld telephone" means a handheld device used to access wireless telephone service.

(3) "9-1-1 system" has the meaning stated in § 1-301 of the Public Safety Article.

(b) This section does not apply to:

(1) Emergency use of a handheld telephone, including calls to:

- (i) A 9-1-1 system;
- (ii) A hospital;
- (iii) An ambulance service provider;
- (iv) A fire department;
- (v) A law enforcement agency; or

(vi) A first aid squad;

(2) Use of a handheld telephone by the following individuals when acting within the scope of official duty:

(i) Law enforcement personnel; and

(ii) Emergency personnel;

(3) Use of a handheld telephone as a text messaging device as defined in § 21-1124.1 of this subtitle; and

(4) Use of a handheld telephone as a communication device utilizing push-to-talk technology by an individual operating a commercial motor vehicle, as defined in 49 C.F.R. Part 390.5 of the Federal Motor Carrier Safety Regulations.

(c) The following individuals may not use a handheld telephone while operating a motor vehicle:

(1) A driver of a Class H (school) vehicle that is carrying passengers and in ~~motion~~ ~~THE TRAVEL PORTION OF THE ROADWAY~~; and

(2) A holder of a learner's instructional permit or a provisional driver's license who is 18 years of age or older.

(d) (1) This subsection does not apply to an individual specified in subsection (c) of this section.

(2) A driver of a motor vehicle that is in ~~motion~~ ~~THE TRAVEL PORTION OF THE ROADWAY~~ may not use the driver's hands to use a handheld telephone other than to initiate or terminate a wireless telephone call or to turn on or turn off the handheld telephone.

(e) [A police officer may enforce this section only as a secondary action when the police officer detains a driver for a suspected violation of another provision of the Code.

(f) (1) A person convicted of a violation of this section is subject to the following penalties:

(i) For a first offense, a fine of not more than ~~\$40~~ and **\$75**;

(ii) For a second ~~or subsequent~~ offense, a fine of ~~\$100~~ **OF NOT MORE THAN \$125; AND**

(III) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE OF NOT MORE THAN \$175.

(2) ~~For a first offense under this section, points~~ **POINTS** may not be assessed against the individual under § 16-402 of this article unless the offense contributes to an accident.

~~(e) (F)~~ The court may waive ~~fa~~ a penalty under subsection (f) ~~THE PENALTY FOR A VIOLATION~~ of this section for a person who:

(1) Is convicted of a first offense under this section; and

(2) Provides proof that the person has acquired a hands-free accessory, an attachment or add-on, a built-in feature, or an addition for the person's handheld telephone that will allow the person to operate a motor vehicle in accordance with this section.

27-101.

(a) It is a misdemeanor for any person to violate any of the provisions of the Maryland Vehicle Law unless the violation:

(1) Is declared to be a felony by the Maryland Vehicle Law or by any other law of this State; or

(2) Is punishable by a civil penalty under the applicable provision of the Maryland Vehicle Law.

(b) Except as otherwise provided in this section, any person convicted of a misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is subject to a fine of not more than \$500.

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

Approved by the Governor, May 16, 2013.

Chapter 638

(Senate Bill 339)

AN ACT concerning

**Motor Vehicles – Use of Wireless Communication Device – Prohibited Acts,
Enforcement, and Penalties**

FOR the purpose of repealing certain provisions of law that require enforcement as a secondary offense of certain violations involving the use of a wireless communication device while operating a motor vehicle; ~~repealing certain provisions of law that apply certain prohibitions involving the use of a wireless communication device to certain operators of certain motor vehicles only if the motor vehicle is in motion; providing that certain prohibitions against the use of a wireless communication device while operating a motor vehicle apply only if the vehicle is in the travel portion of the roadway;~~ altering the penalty imposed for a violation of a certain prohibition on the use of a handheld telephone while operating a motor vehicle; ~~repealing a certain provision of law~~ prohibiting, under certain circumstances, a certain assessment of points for a ~~first~~ second or subsequent violation of a certain prohibition on the use of a handheld telephone while operating a motor vehicle; and generally relating to the use of wireless communication devices while operating a motor vehicle.

BY repealing and reenacting, with amendments,

Article – Transportation
Section 21–1124 and 21–1124.2
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Transportation
Section 27–101(a) and (b)
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

21–1124.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “9–1–1 system” has the meaning stated in § 1–301 of the Public Safety Article.
- (3) “Wireless communication device” means a handheld or hands-free device used to access a wireless telephone service.
- (b) This section does not apply to the use of a wireless communication device:

(1) To contact a 9–1–1 system; or

(2) As a text messaging device as defined in § 21–1124.1 of this subtitle.

(c) An individual who is under the age of 18 years may not use a wireless communication device while operating a motor vehicle ~~IN THE TRAVEL PORTION OF THE ROADWAY.~~

(d) [A police officer may enforce this section only as a secondary action when the police officer detains a driver for a suspected violation of another provision of the Code.

(e)] (1) If the Administration receives satisfactory evidence that an individual has violated this section, the Administration:

(i) May suspend the individual’s driver’s license for not more than 90 days; and

(ii) May issue a restricted license for the period of suspension that is limited to driving a motor vehicle:

1. In the course of the individual’s employment;
2. For the purpose of driving to or from a place of employment; or
3. For the purpose of driving to or from school.

(2) An individual may request a hearing as provided for a suspension or revocation under Title 12, Subtitle 2 of this article.

21–1124.2.

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

(2) “Handheld telephone” means a handheld device used to access wireless telephone service.

(3) “9–1–1 system” has the meaning stated in § 1–301 of the Public Safety Article.

(b) This section does not apply to:

(1) Emergency use of a handheld telephone, including calls to:

(i) A 9–1–1 system;

- (ii) A hospital;
- (iii) An ambulance service provider;
- (iv) A fire department;
- (v) A law enforcement agency; or
- (vi) A first aid squad;

(2) Use of a handheld telephone by the following individuals when acting within the scope of official duty:

- (i) Law enforcement personnel; and
- (ii) Emergency personnel;

(3) Use of a handheld telephone as a text messaging device as defined in § 21-1124.1 of this subtitle; and

(4) Use of a handheld telephone as a communication device utilizing push-to-talk technology by an individual operating a commercial motor vehicle, as defined in 49 C.F.R. Part 390.5 of the Federal Motor Carrier Safety Regulations.

(c) The following individuals may not use a handheld telephone while operating a motor vehicle:

(1) A driver of a Class H (school) vehicle that is carrying passengers and in ~~motion~~ ~~THE TRAVEL PORTION OF THE ROADWAY~~; and

(2) A holder of a learner's instructional permit or a provisional driver's license who is 18 years of age or older.

(d) (1) This subsection does not apply to an individual specified in subsection (c) of this section.

(2) A driver of a motor vehicle that is in ~~motion~~ ~~THE TRAVEL PORTION OF THE ROADWAY~~ may not use the driver's hands to use a handheld telephone other than to initiate or terminate a wireless telephone call or to turn on or turn off the handheld telephone.

(e) [A police officer may enforce this section only as a secondary action when the police officer detains a driver for a suspected violation of another provision of the Code.]

(f) (1) A person convicted of a violation of this section is subject to the following penalties:

(i) For a first offense, a fine of not more than ~~\$40;~~ and **\$75;**

(ii) For a second ~~or subsequent~~ offense, a fine of ~~\$100~~ **OF NOT MORE THAN \$125; AND**

(III) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE OF NOT MORE THAN \$175.

(2) ~~For a first offense under this section, points~~ **POINTS** may not be assessed against the individual under § 16-402 of this article unless the offense contributes to an accident.

(g) ~~The court may waive [a penalty under subsection (f)]~~ **THE PENALTY FOR A VIOLATION** of this section for a person who:

(1) Is convicted of a first offense under this section; and

(2) Provides proof that the person has acquired a hands-free accessory, an attachment or add-on, a built-in feature, or an addition for the person's handheld telephone that will allow the person to operate a motor vehicle in accordance with this section.

27-101.

(a) It is a misdemeanor for any person to violate any of the provisions of the Maryland Vehicle Law unless the violation:

(1) Is declared to be a felony by the Maryland Vehicle Law or by any other law of this State; or

(2) Is punishable by a civil penalty under the applicable provision of the Maryland Vehicle Law.

(b) Except as otherwise provided in this section, any person convicted of a misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is subject to a fine of not more than \$500.

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

Approved by the Governor, May 16, 2013.

Chapter 639

(House Bill 786)

AN ACT concerning

Juvenile Law – ~~Jurisdiction and Detention~~ Task Force on Juvenile Court Jurisdiction

FOR the purpose of establishing ~~that the juvenile court has jurisdiction over a certain child alleged to have committed certain acts which, if committed by an adult, would be certain crimes, or over a certain child who has previously been convicted of a felony under certain circumstances; prohibiting a child from waiving the right to counsel at a certain waiver hearing; requiring a certain person to be transferred to a juvenile facility unless a certain finding has been made; prohibiting a child from being transported together with certain adults unless a certain finding has been made; repealing certain provisions of law governing the transfer of certain criminal cases to juvenile court; making stylistic and conforming changes; altering certain requirements relating to events that must be reported to the Criminal Justice Information System Central Repository; altering certain requirements relating to the fingerprinting of a child adjudicated delinquent; providing for the application of this Act; and generally relating to juvenile law~~ the Task Force on Juvenile Court Jurisdiction; 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; establishing the duties of the Task Force; 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 on Juvenile Court Jurisdiction.

~~BY repealing and reenacting, with amendments,
Article — Courts and Judicial Proceedings
Section 3-8A-03(d), 3-8A-16, and 3-8A-20(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)~~

~~BY repealing
Article — Criminal Procedure
Section 4-202 and 4-202.2
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article — Criminal Procedure
Section 4-202.1, 10-215(a)(20), and 10-216(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 – Courts and Judicial Proceedings~~

~~§ SA 03.~~

~~(d) The court does not have jurisdiction over:~~

~~(1) [A child at least 14 years old alleged to have done an act which, if committed by an adult, would be a crime punishable by death or life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article;~~

~~(2) A child at least 16 years old alleged to have done an act in violation of any provision of the Transportation Article or other traffic law or ordinance, except an act that prescribes a penalty of incarceration;~~

~~[(3)] (2) A child at least 16 years old alleged to have done an act in violation of any provision of law, rule, or regulation governing the use or operation of a boat, except an act that prescribes a penalty of incarceration; OR~~

~~[(4) A child at least 16 years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article:~~

~~(i) Abduction;~~

~~(ii) Kidnapping;~~

~~(iii) Second degree murder;~~

~~(iv) Manslaughter, except involuntary manslaughter;~~

~~(v) Second degree rape;~~

~~(vi) Robbery under § 3-403 of the Criminal Law Article;~~

~~(vii) Second degree sexual offense under § 3-306(a)(1) of the Criminal Law Article;~~

~~(viii) Third degree sexual offense under § 3-307(a)(1) of the Criminal Law Article;~~

~~(ix) A crime in violation of § 5-133, § 5-134, § 5-138, or § 5-203 of the Public Safety Article;~~

~~(x) Using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime under § 5-621 of the Criminal Law Article;~~

~~(xi) Use of a firearm under § 5-622 of the Criminal Law Article;~~

~~(xii) Carjacking or armed carjacking under § 3-405 of the Criminal Law Article;~~

~~(xiii) Assault in the first degree under § 3-202 of the Criminal Law Article;~~

~~(xiv) Attempted murder in the second degree under § 2-206 of the Criminal Law Article;~~

~~(xv) Attempted rape in the second degree under § 3-310 of the Criminal Law Article or attempted sexual offense in the second degree under § 3-312 of the Criminal Law Article;~~

~~(xvi) Attempted robbery under § 3-403 of the Criminal Law Article; or~~

~~(xvii) A violation of § 4-203, § 4-204, § 4-404, or § 4-405 of the Criminal Law Article;~~

~~(5) A child who previously has been convicted as an adult of a felony and is subsequently alleged to have committed an act that would be a felony if committed by an adult, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article; or]~~

~~[(6)] (3) A peace order proceeding in which the victim, as defined in § 3-8A-01(cc)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4-501 of the Family Law Article.~~

~~3-8A-16.~~

~~(a) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court or the intake officer immediately when a person, who is or appears to be under the age of 18 years, is received at the facility and shall deliver [him] THE PERSON to the court upon request~~

~~or transfer [him] THE PERSON to the JUVENILE facility designated by the intake officer or the court, unless [the]:~~

~~(1) THE court has waived its jurisdiction with respect to the person [and he];~~

~~(2) THE PERSON is being proceeded against as an adult; AND~~

~~(3) A FINDING HAS BEEN MADE, AFTER A HEARING AND BASED ON EVIDENCE OTHER THAN SOLELY THE ALLEGATIONS IN THE CHARGING DOCUMENT, THAT THE PERSON:~~

~~(i) CANNOT BE HELD IN A JUVENILE FACILITY; AND~~

~~(ii) IS A THREAT TO THE SAFETY OR SECURITY OF THE STAFF OR OTHER JUVENILES IN THE JUVENILE FACILITY.~~

~~(b) When a case is transferred to another court for criminal prosecution, the child shall promptly be transferred to the appropriate officer, JUVENILE FACILITY, or adult detention facility in accordance with the law governing the detention of persons charged with crime.~~

~~(c) A child may not be transported together with adults who have been charged with or convicted of a crime unless [the]:~~

~~(1) THE court has waived its jurisdiction [and the];~~

~~(2) THE child is being proceeded against as an adult; AND~~

~~(3) A FINDING HAS BEEN MADE, AFTER A HEARING AND BASED ON EVIDENCE OTHER THAN SOLELY THE ALLEGATIONS IN THE CHARGING DOCUMENT, THAT THE PERSON:~~

~~(i) CANNOT BE HELD IN A JUVENILE FACILITY; AND~~

~~(ii) IS A THREAT TO THE SAFETY OR SECURITY OF THE STAFF OR OTHER JUVENILES IN THE JUVENILE FACILITY.~~

~~§ 8A-20.~~

~~(b) (1) Except as provided in paragraph (3) of this subsection, a child may not waive the right to the assistance of counsel in a proceeding under this subtitle.~~

~~(2) A parent, guardian, or custodian of a child may not waive the child's right to the assistance of counsel.~~

~~(3) After a petition or citation has been filed with the court under this subtitle, if a child indicates a desire to waive the right to the assistance of counsel, the court may not accept the waiver unless:~~

~~(i) The child is in the presence of counsel and has consulted with counsel; and~~

~~(ii) The court determines that the waiver is knowing and voluntary.~~

~~(4) In determining whether the waiver is knowing and voluntary, the court shall consider, after appropriate questioning in open court and on the record, whether the child fully comprehends:~~

~~(i) The nature of the allegations and the proceedings, and the range of allowable dispositions;~~

~~(ii) That counsel may be of assistance in determining and presenting any defenses to the allegations of the petition, or other mitigating circumstances;~~

~~(iii) That the right to the assistance of counsel in a delinquency case, or a child in need of supervision case, includes the right to the prompt assignment of an attorney, without charge to the child if the child is financially unable to obtain private counsel;~~

~~(iv) That even if the child intends not to contest the charge or proceeding, counsel may be of substantial assistance in developing and presenting material that could affect the disposition; and~~

~~(v) That among the child's rights at any hearing are the right to call witnesses on the child's behalf, the right to confront and cross-examine witnesses, the right to obtain witnesses by compulsory process, and the right to require proof of any charges.~~

~~(5) NOTWITHSTANDING PARAGRAPH (3) OF THIS SUBSECTION, A CHILD MAY NOT WAIVE THE RIGHT TO THE ASSISTANCE OF COUNSEL IN A WAIVER HEARING HELD UNDER § 3-8A-06 OF THIS SUBTITLE.~~

~~Article—Criminal Procedure~~

~~[4-202.~~

~~(a) (1) In this section the following words have the meanings indicated:~~

~~(2) "Victim" has the meaning stated in § 11-104 of this article.~~

~~(3) “Victim’s representative” has the meaning stated in § 11-104 of this article.~~

~~(b) Except as provided in subsection (c) of this section, a court exercising criminal jurisdiction in a case involving a child may transfer the case to the juvenile court before trial or before a plea is entered under Maryland Rule 4-242 if:~~

~~(1) the accused child was at least 14 but not 18 years of age when the alleged crime was committed;~~

~~(2) the alleged crime is excluded from the jurisdiction of the juvenile court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and~~

~~(3) the court determines by a preponderance of the evidence that a transfer of its jurisdiction is in the interest of the child or society.~~

~~(c) The court may not transfer a case to the juvenile court under subsection (b) of this section if:~~

~~(1) the child previously has been transferred to juvenile court and adjudicated delinquent;~~

~~(2) the child was convicted in an unrelated case excluded from the jurisdiction of the juvenile court under § 3-8A-03(d)(1) or (4) of the Courts Article; or~~

~~(3) the alleged crime is murder in the first degree and the accused child was 16 or 17 years of age when the alleged crime was committed.~~

~~(d) In determining whether to transfer jurisdiction under subsection (b) of this section, the court shall consider:~~

~~(1) the age of the child;~~

~~(2) the mental and physical condition of the child;~~

~~(3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children;~~

~~(4) the nature of the alleged crime; and~~

~~(5) the public safety.~~

~~(e) In making a determination under this section, the court may order that a study be made concerning the child, the family of the child, the environment of the child, and other matters concerning the disposition of the case.~~

~~(f) The court shall make a transfer determination within 10 days after the date of a transfer hearing.~~

~~(g) If the court transfers its jurisdiction under this section, the court may order the child held for an adjudicatory hearing under the regular procedure of the juvenile court.~~

~~(h) (1) Pending a determination under this section to transfer its jurisdiction, the court may order a child to be held in a secure juvenile facility.~~

~~(2) A hearing on a motion requesting that a child be held in a juvenile facility pending a transfer determination shall be held not later than the next court day, unless extended by the court for good cause shown.~~

~~(i) (1) A victim or victim's representative shall be given notice of the transfer hearing as provided under § 11-104 of this article.~~

~~(2) (i) A victim or a victim's representative may submit a victim impact statement to the court as provided in § 11-402 of this article.~~

~~(ii) This paragraph does not preclude a victim or victim's representative who has not filed a notification request form under § 11-104 of this article from submitting a victim impact statement to the court.~~

~~(iii) The court shall consider a victim impact statement in determining whether to transfer jurisdiction under this section.~~

~~(j) At a bail review or preliminary hearing before the District Court involving a child whose case is eligible for transfer under subsection (b) of this section, the District Court may order that a study be made under the provisions of subsection (c) of this section, or that the child be held in a secure juvenile facility under the provisions of subsection (h) of this section, regardless of whether the District Court has criminal jurisdiction over the case.]~~

~~[4-202.1.] 4-202.~~

~~(a) In this section, "child" means a defendant who is under the age of 18 years [and whose case is eligible for transfer under the provisions of § 4-202(b)(1) and (2) and (c) of this subtitle].~~

~~(b) If a child remains in custody for any reason after a bail review hearing:~~

~~(1) in the case of a child charged with a felony that is not within the jurisdiction of the District Court, the District Court shall:~~

~~(i) clearly indicate on the case file and in computer records that the case involves a detained child; and~~

~~(ii) set a preliminary hearing to be held within 15 days after the bail review hearing; or~~

~~(2) in the case of a child charged with a crime in the District Court, the District Court:~~

~~(i) shall clearly indicate on the case file and in computer records that the case involves a detained child; AND~~

~~[(ii) shall set a transfer hearing under § 4-202 of this subtitle to be held within 30 days after the filing of the charging document;~~

~~(iii) may order that a study be made under § 4-202 of this subtitle; and]~~

~~[(iv)] (II) shall require that prompt notice be given to counsel for the child, or, if the child is not represented by counsel, to the Office of the Public Defender.~~

~~(e) On receipt of a District Court case file that indicates that the case involves a child who was detained after a bail review hearing under subsection (b) of this section, a circuit court]:~~

~~(1) unless previously set by the District Court under subsection (b)(2) of this section, shall set a transfer hearing under § 4-202 of this subtitle to be held within 30 days after the filing of the charging document in the circuit court;~~

~~(2) unless previously ordered by the District Court under subsection (b)(2) of this section, may order that a study be made under § 4-202 of this subtitle; and~~

~~(3)] shall require that prompt notice be given to counsel for the child, or, if the child is not represented by counsel, to the Office of the Public Defender.~~

~~§ 4-202.2.~~

~~(a) At sentencing, a court exercising criminal jurisdiction in a case involving a child shall determine whether to transfer jurisdiction to the juvenile court if:~~

~~(1) as a result of trial or a plea entered under Maryland Rule 4-242, all charges that excluded jurisdiction from the juvenile court under § 3-8A-03(d)(1) or (4) of the Courts Article do not result in a finding of guilty; and~~

~~(2) (i) pretrial transfer was prohibited under § 4-202(c)(3) of this subtitle; or~~

~~(ii) the court did not transfer jurisdiction after a hearing under § 4-202(b) of this subtitle.~~

~~(b) In determining whether to transfer jurisdiction under subsection (a) of this section, the court shall consider:~~

~~(1) the age of the child;~~

~~(2) the mental and physical condition of the child;~~

~~(3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children;~~

~~(4) the nature of the child's acts as proven in the trial or admitted to in a plea entered under Maryland Rule 4-242; and~~

~~(5) public safety.~~

~~(c) The court may not consider transferring jurisdiction to the juvenile court under this section if:~~

~~(1) under the terms of a plea agreement entered under Maryland Rule 4-243, the child agrees that jurisdiction is not to be transferred; or~~

~~(2) pretrial transfer was prohibited under § 4-202(c)(1) or (2) of this subtitle.~~

~~(d) (1) A victim or victim's representative shall be given notice of the transfer hearing as provided under § 11-104 of this article.~~

~~(2) (i) A victim or victim's representative may submit a victim impact statement to the court as provided in § 11-402 of this article.~~

~~(ii) This paragraph does not preclude a victim or victim's representative who has not filed a notification request form under § 11-104 of this article from submitting a victim impact statement to the court.~~

~~(iii) The court shall consider a victim impact statement in determining whether to transfer jurisdiction under this section.~~

~~(e) (1) If the court transfers its jurisdiction to the juvenile court, the court shall conduct a disposition under the regular procedures of the juvenile court.~~

~~(2) The record of the hearing and of the disposition shall be transferred to the juvenile court, subject to § 3-8A-27 of the Courts Article.]~~

~~10-215.~~

~~(a) The following events are reportable events under this subtitle that must be reported to the Central Repository in accordance with § 10-214 of this subtitle:~~

~~(20) an adjudication of a child as delinquent[;~~

~~(i) if the child is at least [14] 16 years old, for an act [described in § 3-8A-03(d)(1) of the Courts Article; or~~

~~(ii) if the child is at least 16 years old, for an act described in § 3-8A-03(d)(4) or (5) of the Courts Article;] THAT, IF COMMITTED BY AN ADULT, WOULD BE A CRIME PUNISHABLE BY DEATH, LIFE IMPRISONMENT, OR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE;~~

~~10-216.~~

~~(d) (1) This subsection only applies to an adjudication of delinquency of a child[;~~

~~(i) for an act described in § 3-8A-03(d)(1) of the Courts Article if the child is at least 14 years old; or~~

~~(ii) for an act [described in § 3-8A-03(d)(4) or (5) of the Courts Article] THAT, IF COMMITTED BY AN ADULT, WOULD BE A CRIME PUNISHABLE BY DEATH, LIFE IMPRISONMENT, OR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE if the child is at least 16 years old.~~

~~(2) If a child has not been previously fingerprinted as a result of arrest for the delinquent act, the court that held the disposition hearing of the child adjudicated delinquent shall order the child to be fingerprinted by the appropriate and available law enforcement unit.~~

~~(3) If the child cannot be fingerprinted at the time of the disposition hearing held under paragraph (2) of this subsection, the court shall order the child to report to a designated law enforcement unit to be fingerprinted within 3 days after making a disposition on an adjudication of delinquency.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies only to an action filed on or after the effective date of this Act.~~

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

(a) There is a Task Force on Juvenile Court Jurisdiction.

- (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 Juvenile Services, or the Secretary's designee;
 - (4) the Secretary of Public Safety and Correctional Services, or the Secretary's designee;
 - (5) the Secretary of State Police, or the Secretary's designee;
 - (6) the Maryland Public Defender, or the Public Defender's designee;
 - (7) a juvenile court judge, appointed by the Chief Judge of the Court of Appeals; and
 - (8) the following members, appointed by the Governor:
 - (i) one representative from the Governor's Office of Crime Control and Prevention;
 - (ii) a Maryland State's Attorney;
 - (iii) a representative of a local correctional facility;
 - (iv) a representative of a local law enforcement agency;
 - (v) a representative from a juvenile justice advocacy group;
 - (vi) a representative from a victims' rights advocacy group;
 - (vii) an ex-offender who was charged as an adult for an offense committed as a juvenile;
 - (viii) a youth services provider;
 - (ix) a mental health provider specializing in adolescent mental health; and
 - (x) a national expert on youth justice issues, or the expert's designee.
- (c) The Governor shall designate the chair of the Task Force.

(d) The Governor's Office of Crime Control and Prevention 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 current laws relating to the jurisdiction of the juvenile court;

(2) review current research on best practices for handling offenses committed by youth in the court system; and

(3) make recommendations regarding:

(i) whether or not to eliminate the existing exclusionary offenses that automatically result in adult charges for youth and restore juvenile court discretion;

(ii) the benefits of retaining youth under the jurisdiction of the juvenile court;

(iii) methods to reduce the number of youth in adult detention centers and prisons; and

(iv) the long-term fiscal impact of treating youth in the adult criminal system.

(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 16, 2013.

Chapter 640**(House Bill 794)**

AN ACT concerning

Manufactured Homes – Affixation to Real Property – Liens

FOR the purpose of altering certain lien information that must be included in certain statements that accompany the recordation of an affidavit of affixation for a manufactured home under certain circumstances; making stylistic changes; defining a certain term; and generally relating to the affixation to real property of manufactured homes.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 8B–101, 8B–102(a), and 8B–202(b) and (c)
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 – Real Property

8B–101.

- (a) In this title the following words have the meanings indicated.
- (b) “Attached to a permanent foundation” means anchored to real property by attachment to a permanent foundation and connected to utilities, including water, gas, electricity, or sewer or septic service.
- (c) “Certificate of origin” has the meaning stated in § 13–101 of the Transportation Article.
- (d) “Certificate of title” means a title issued by the Motor Vehicle Administration for a manufactured home under Title 13 of the Transportation Article.
- (e) “Convert” means to make a manufactured home that is attached to a permanent foundation considered as permanently affixed to a parcel of real property and treated as an integral part of the parcel.
- (f) **(1) “LIEN” MEANS AN INTEREST IN A MANUFACTURED HOME, WHETHER AS PERSONAL PROPERTY OR REAL PROPERTY, OR IN THE PARCEL OF REAL PROPERTY TO WHICH THE MANUFACTURED HOME IS OR WILL BE AFFIXED, THAT SECURES PAYMENT OF A DEBT OR PERFORMANCE OF AN OBLIGATION.**

(2) “LIEN” INCLUDES:

(I) A MORTGAGE, DEED OF TRUST, SECURITY AGREEMENT, OR OTHER INSTRUMENT CREATING AN ENCUMBRANCE ON THE PROPERTY; OR

(II) AN ENCUMBRANCE ARISING BY OPERATION OF LAW.

(G) “Manufactured home” has the meaning stated in § 9–102(a) of the Commercial Law Article.

[(g)] (H) “Owner” means a person that has an ownership interest in a manufactured home.

[(h)] (I) “Sever” means to separate a manufactured home that has been converted to real property from the parcel of real property to which it has been affixed.

8B–102.

(a) Except as provided in subsection (b) of this section, on satisfaction of the requirements of Subtitle 2 of this title:

(1) A manufactured home shall be:

(i) Converted to real property; and

(ii) Governed by the laws applicable to real property and not subject to Title 13 of the Transportation Article;

(2) Any [mortgage, deed of trust, lien, or security interest] **LIEN** that can attach to real property shall attach in the same manner to a manufactured home that is converted to real property as to the parcel of real property to which the manufactured home has been affixed; and

(3) The title and all rights to a manufactured home shall be transferred by deed with the transfer of the parcel of real property to which the manufactured home has been affixed.

8B–202.

(b) (1) Except as provided in paragraph (2) of this subsection, an affidavit of affixation shall be accompanied by:

(i) An original certificate of title issued by the Motor Vehicle Administration for the manufactured home that:

1. Has the word "surrendered" clearly written on its face; and

2. If the certificate of title indicates that there is a [lien, encumbrance, or other security interest for] **LIEN ON** the manufactured home, is accompanied by a release from each party that [has a security interest in] **IS INDICATED TO HAVE A LIEN ON** the manufactured home; or

(ii) A manufacturer's certificate of origin for the manufactured home that:

1. Has the word "surrendered" clearly written on its face; and

2. If the manufacturer's certificate of origin indicates that there is a [lien, encumbrance, or other security interest for] **LIEN ON** the manufactured home, is accompanied by a release from each party that [has a security interest in] **IS INDICATED TO HAVE A LIEN ON** the manufactured home.

(2) If the owner is unable to locate an original certificate of title or a manufacturer's certificate of origin, the affidavit of affixation shall be accompanied by a report prepared and acknowledged by an attorney licensed to practice in the State or a title insurance producer licensed to do business in the State that:

(i) Identifies the party preparing the report;

(ii) States that a search has been conducted of:

1. The land records of the county in which the parcel of real property to which the manufactured home is or will be affixed is located; and

2. The records maintained by the Motor Vehicle Administration; and

(iii) [States that no lien, encumbrance, or other security interest has been found for the manufactured home] **IDENTIFIES ALL LIENS ON THE MANUFACTURED HOME, INCLUDING FOR EACH LIEN:**

1. **THE NAME OF THE LIEN HOLDER;**

2. **THE NATURE OF THE LIEN;**

3. **THE DATE THE LIEN WAS CREATED; AND**

4. **THE AMOUNT OF THE LIEN.**

(c) (1) If an affidavit of affixation is accompanied by an original certificate of title, the affidavit shall be accompanied by:

(i) A statement that it is the intent of the owner to surrender the certificate of title; and

(ii) A statement that:

1. There is no [lien, encumbrance, or other security interest for] **LIEN ON** the manufactured home; or

2. Any [lien, encumbrance, or other security interest for] **LIEN ON** the manufactured home has been satisfied and the appropriate releases are attached and made a part of the affidavit of affixation.

(2) If an affidavit of affixation is accompanied by a manufacturer's certificate of origin, the affidavit shall be accompanied by:

(i) A statement that a certificate of title has not been issued for the manufactured home;

(ii) A statement that it is the intent of the owner to surrender the manufacturer's certificate of origin; and

(iii) A statement that:

1. There is no [lien, encumbrance, or other security interest for] **LIEN ON** the manufactured home; or

2. Any [lien, encumbrance, or other security interest for] **LIEN ON** the manufactured home has been satisfied and the appropriate releases are attached and made a part of the affidavit of affixation.

(3) If an affidavit of affixation is accompanied by a statement from an attorney or title insurance producer, the affidavit also shall be accompanied by:

(i) A statement that the owner is unable to locate a certificate of title or a manufacturer's certificate of origin for the manufactured home; and

(ii) A statement [that:

1. There is no lien, encumbrance, or other security interest for the manufactured home; or

2. Any lien, encumbrance, or other security interest for the manufactured home has been satisfied and the appropriate releases are attached and made a part of the affidavit of affixation] **THAT IDENTIFIES ALL LIENS ON THE MANUFACTURED HOME, INCLUDING FOR EACH LIEN:**

1. **THE NAME OF THE LIEN HOLDER;**
2. **THE NATURE OF THE LIEN;**
3. **THE DATE THE LIEN WAS CREATED; AND**
4. **THE AMOUNT OF THE LIEN.**

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

Approved by the Governor, May 16, 2013.

Chapter 641

(House Bill 801)

AN ACT concerning

Vehicle Laws – Unlawful Use of Off-Highway Recreational Vehicles – Administrative Penalties

FOR the purpose of requiring the clerk of the court to report to the Motor Vehicle Administration the adjudication of a minor as delinquent or a finding that a minor has committed a delinquent act for a certain highway violation involving the use of an off-highway recreational vehicle; requiring the Administration to suspend the driver's license of a minor for certain time periods if it receives a certain report from the clerk of the court; requiring the Administration to maintain certain records under certain circumstances; requiring a court to notify the Administration if a person is convicted of a certain highway violation involving the use of an off-highway recreational vehicle; requiring the Chief Judge of the District Court, in conjunction with the Administration, to adopt certain reporting procedures; requiring the Administration to suspend the driver's license of a person for certain time periods if it receives certain notice from a court; requiring the Administration to assess points against a minor if the minor is adjudicated as delinquent or has committed a delinquent act for a certain highway violation; and generally relating to administrative penalties for the unlawful use of off-highway recreational vehicles.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–8A–23(a)(3) and (5)
Annotated Code of Maryland
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–401(b) and 16–206(b)(2) and (4) and (c)(3) and (4)
Annotated Code of Maryland
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 16–206(b)(3) and (c)(5)
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 – Courts and Judicial Proceedings

3–8A–23.

(a) (3) Subject to paragraph (4) of this subsection, an adjudication of a child as delinquent by reason of the child's violation of the State vehicle laws, including a violation involving an unlawful taking or unauthorized use of a motor vehicle under § 7–105 or § 7–203 of the Criminal Law Article or § 14–102 of the Transportation Article **OR DRIVING AN OFF-HIGHWAY RECREATIONAL VEHICLE ON A HIGHWAY UNDER § 13–401(B)(2) OF THE TRANSPORTATION ARTICLE** shall be reported by the clerk of the court to the Motor Vehicle Administration, which shall assess points against the child under Title 16, Subtitle 4 of the Transportation Article, in the same manner and to the same effect as if the child had been convicted of the offense.

(5) (i) An adjudication of a child as delinquent by reason of the child's violation of **§ 13–401(B)(2)**, § 20–102, § 20–103, or § 21–904 of the Transportation Article or a finding that a child has committed a delinquent act by reason of the child's violation of **§ 13–401(B)(2)**, § 20–102, § 20–103, or § 21–904 of the Transportation Article, without an adjudication of the child as delinquent, shall be reported by the clerk of the court to the Motor Vehicle Administration that shall suspend the child's license to drive as provided in § 16–206(b) of the Transportation Article:

1. For 6 months for a first adjudication as delinquent or finding of a delinquent act for a violation of **§ 13-401(B)(2)**, § 20-102, § 20-103, or § 21-904 of the Transportation Article; and

2. For 1 year for a second or subsequent adjudication as delinquent or finding of a delinquent act for a violation of **§ 13-401(B)(2)**, § 20-102, § 20-103, or § 21-904 of the Transportation Article.

(ii) In the case of a finding, without an adjudication, that a child has violated **§ 13-401(B)(2)**, § 20-102, § 20-103, or § 21-904 of the Transportation Article, the Motor Vehicle Administration shall retain the report in accordance with § 16-117(b)(2) of the Transportation Article pertaining to records of licensees who receive a disposition of probation before judgment.

Article – Transportation

13-401.

(b) **(1)** If a vehicle is not registered, a person may not drive the vehicle on a highway in this State.

(2) (I) IF A PERSON IS CONVICTED OF A VIOLATION OF THIS SUBSECTION THAT INVOLVED THE USE OF AN OFF-HIGHWAY RECREATIONAL VEHICLE ON A HIGHWAY, THE COURT SHALL NOTIFY THE ADMINISTRATION OF THE VIOLATION.

(II) THE CHIEF JUDGE OF THE DISTRICT COURT, IN CONJUNCTION WITH THE ADMINISTRATION, SHALL ESTABLISH UNIFORM PROCEDURES FOR REPORTING CONVICTIONS DESCRIBED IN THIS PARAGRAPH.

16-206.

(b) **(2)** On notification by the clerk of the court that a child has been adjudicated delinquent for a violation of **§ 13-401(B)(2)**, § 20-102, § 20-103, or § 21-904 of this article, or that a finding has been made that a child violated **§ 13-401(B)(2)**, § 20-102, § 20-103, or § 21-904 of this article, the Administration shall suspend the child's license to drive in accordance with § 3-8A-23(a)(5) of the Courts Article.

(3) If a child subject to a suspension under this subsection does not hold a license to operate a motor vehicle on the date of the disposition, the suspension shall commence:

(i) If the child is at least 16 years old on the date of the disposition, on the date of the disposition; or

(ii) If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child's 16th birthday.

(4) A suspension imposed under this subsection shall:

(i) Be concurrent with any other suspension or revocation imposed by the Administration that arises out of the circumstances of the adjudication of delinquency or finding that the child is in violation of **§ 13-401(B)(2)**, § 20-102, § 20-103, § 21-902, or § 21-904 of this article as described in this subsection; and

(ii) Receive credit for any suspension period imposed under § 16-113(f) of this title or § 16-205.1 of this subtitle that arises out of the circumstances of the violation of § 21-902 of this article described in this subsection.

(c) (3) **(I)** On receipt of a notice described under ~~§ 13-401(B)(2) OF THIS ARTICLE OR~~ § 10-119(k) of the Criminal Law Article, the Administration shall suspend the license of an individual described under ~~§ 13-401(B)(2) OF THIS ARTICLE OR~~ § 10-119(k) of the Criminal Law Article:

~~(i)~~ **1.** For a first offense, for 6 months; and

~~(ii)~~ **2.** For a second or subsequent offense, until the individual is 21 years old or for a period of 1 year, whichever is longer.

(II) ON RECEIPT OF A NOTICE DESCRIBED UNDER § 13-401(B)(2) OF THIS ARTICLE, THE ADMINISTRATION SHALL SUSPEND THE LICENSE OF AN INDIVIDUAL DESCRIBED UNDER § 13-401(B)(2) OF THIS ARTICLE:

1. FOR A FIRST OFFENSE, FOR 6 MONTHS; AND

2. FOR A SECOND OR SUBSEQUENT OFFENSE, FOR 1 YEAR.

(4) If an individual subject to a suspension under paragraph (3) of this subsection does not hold a license to operate a motor vehicle on the date that the individual is found guilty of [a Code] **THE** violation, the suspension shall begin on the date that the license is issued, or after the individual applies and becomes qualified to receive a license, or on the individual's twenty-first birthday, whichever occurs first.

(5) The Administration may modify a suspension under this subsection or subsection (b) of this section or issue a restricted license if:

(i) The license is required for the purpose of attending an alcohol education or alcoholic prevention or treatment program;

(ii) The child or individual is required to drive a motor vehicle in the course of employment;

(iii) It finds that the individual's or child's employment would be adversely affected because the individual or child has no reasonable alternative means of transportation to or from a place of employment; or

(iv) It finds that the individual's or child's education would be adversely affected because the individual or child has no reasonable alternative means of transportation for educational purposes.

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

Approved by the Governor, May 16, 2013.

Chapter 642

(House Bill 828)

AN ACT concerning

Business Occupations – Oil and Gas Land Professionals – Registration

FOR the purpose of prohibiting a person from operating as an oil or gas land professional in the State unless the person registers with and obtains a registration certificate from the Department of Labor, Licensing, and Regulation; requiring a person to register as a land professional by submitting a certain form and a certain fee to the Department; requiring the Department to assign a registration number and issue a registration certificate to a certain person; providing for the expiration and renewal of a certain registration; requiring a land professional to provide certain proof to a property owner before obtaining any mineral rights in oil or gas from the property owner; requiring the Department to adopt certain regulations to implement this Act; requiring the Department to develop a means for providing public access to certain information; establishing certain penalties; defining certain terms; and generally relating to the registration of oil and gas land professionals in the State.

BY adding to

Article – Business Occupations and Professions

Section 10.5–101 through 10.5–107 to be under the new title “Title 10.5. Oil and Gas Land Professionals”

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

TITLE 10.5. OIL AND GAS LAND PROFESSIONALS.

10.5–101.

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

(B) (1) “LAND PROFESSIONAL” MEANS A PERSON THAT, ACTING ON THE PERSON’S OWN BEHALF OR ON BEHALF OF A PROSPECTIVE LESSEE OR BUYER, NEGOTIATES WITH A PROPERTY OWNER FOR THE ACQUISITION OF MINERAL RIGHTS IN OIL OR GAS IN THE STATE.

(2) “LAND PROFESSIONAL” DOES NOT INCLUDE A PERSON THAT NEGOTIATES FOR THE ACQUISITION OR DIVESTITURE OF A LESSEE’S INTEREST IN AN EXISTING LEASE FOR MINERAL RIGHTS IN OIL OR GAS.

(C) (1) “MINERAL RIGHTS IN OIL OR GAS” MEANS PROPERTY RIGHTS THAT ALLOW THE HOLDER OF THE RIGHTS TO ENTER ONTO OR UNDER THE PROPERTY OF ANOTHER PERSON FOR THE EXTRACTION OF CRUDE OIL, NATURAL GAS, OR THE CONSTITUENTS OF CRUDE OIL OR NATURAL GAS.

(2) “MINERAL RIGHTS IN OIL OR GAS” INCLUDES AN OIL OR GAS LEASE.

10.5–102.

A PERSON MAY NOT OPERATE AS A LAND PROFESSIONAL IN THE STATE UNLESS THE PERSON REGISTERS WITH THE DEPARTMENT AND IS ISSUED A REGISTRATION CERTIFICATE UNDER THIS TITLE.

10.5–103.

(A) A PERSON SHALL REGISTER AS A LAND PROFESSIONAL BY SUBMITTING TO THE DEPARTMENT:

(1) AN INITIAL REGISTRATION APPLICATION ON THE FORM REQUIRED BY THE DEPARTMENT; AND

(2) AN INITIAL REGISTRATION FEE SET BY THE DEPARTMENT.

(B) THE DEPARTMENT SHALL ASSIGN A REGISTRATION NUMBER AND ISSUE A REGISTRATION CERTIFICATE TO EACH PERSON THAT MEETS THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

(C) A REGISTRATION UNDER THIS TITLE IS VALID FOR 2 YEARS FROM THE EFFECTIVE DATE OF THE REGISTRATION AND MAY BE RENEWED BY SUBMITTING TO THE DEPARTMENT:

(1) A REGISTRATION RENEWAL APPLICATION ON THE FORM REQUIRED BY THE DEPARTMENT; AND

(2) A REGISTRATION RENEWAL FEE SET BY THE DEPARTMENT.

10.5-104.

BEFORE OBTAINING ANY MINERAL RIGHTS IN OIL OR GAS FROM A PROPERTY OWNER, A LAND PROFESSIONAL SHALL PROVIDE TO THE PROPERTY OWNER PROOF THAT THE LAND PROFESSIONAL IS REGISTERED UNDER THIS TITLE.

10.5-105.

THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:

(1) ESTABLISH A REGISTRATION FORM FOR THE INITIAL AND RENEWAL REGISTRATION OF A LAND PROFESSIONAL;

(2) SET FEES FOR THE ISSUANCE OF AN INITIAL REGISTRATION AND FOR A REGISTRATION RENEWAL;

(3) PROVIDE FOR THE ASSIGNMENT OF A REGISTRATION NUMBER AND THE ISSUANCE OF A REGISTRATION CERTIFICATE TO EACH REGISTERED LAND PROFESSIONAL; AND

(4) ESTABLISH ANY OTHER REQUIREMENTS AND PROCEDURES NECESSARY TO IMPLEMENT THIS TITLE.

10.5-106.

THE DEPARTMENT SHALL DEVELOP A MEANS FOR PROVIDING PUBLIC ACCESS TO RELEVANT INFORMATION RELATING TO EACH PERSON REGISTERED UNDER THIS TITLE.

10.5–107.

(A) A PERSON THAT VIOLATES ANY PROVISION OF THIS TITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) FOR A FIRST VIOLATION, A FINE OF NOT LESS THAN \$500 BUT NOT EXCEEDING \$1,000; AND

(2) FOR A SECOND OR SUBSEQUENT VIOLATION, A FINE OF NOT LESS THAN \$1,000 BUT NOT EXCEEDING \$2,000.

(B) ANY FINES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.

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

Approved by the Governor, May 16, 2013.

Chapter 643

(House Bill 854)

AN ACT concerning

Criminal Procedure – Expungement of Records – Not Criminally Responsible

FOR the purpose of authorizing a certain person to file a petition for expungement of certain records if the person was found not criminally responsible under any State or local law that prohibits certain acts; specifying that a petition for expungement based on a finding of not criminally responsible under this Act may not be filed within a certain period of time; providing that a person is not entitled to expungement if the petition is based on a finding of not criminally responsible and the person, since the finding of not criminally responsible, has been convicted of a certain crime or is a defendant in a pending criminal proceeding; and generally relating to expungement of criminal records.

BY repealing and reenacting, with amendments,

Article – Criminal Procedure
Section 10–105(a), (c)(7), and (e)(4)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding

Article – Criminal Procedure
Section 10–105(c)(7)
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

10–105.

(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, or who has been charged with a civil offense or infraction, except a juvenile offense, as a substitute for a criminal charge may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:

- (1) the person is acquitted;
- (2) the charge is otherwise dismissed;
- (3) a probation before judgment is entered, unless the person is charged with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211 of the Criminal Law Article;
- (4) a nolle prosequi or nolle prosequi with the requirement of drug or alcohol treatment is entered;
- (5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge “stet” or stet with the requirement of drug or alcohol abuse treatment on the docket;
- (6) the case is compromised under § 3–207 of the Criminal Law Article;
- (7) the charge was transferred to the juvenile court under § 4–202 of this article;
- (8) the person:

(i) is convicted of only one criminal act, and that act is not a crime of violence; and

(ii) is granted a full and unconditional pardon by the Governor;
[or]

(9) the person was convicted of a crime **OR FOUND NOT CRIMINALLY RESPONSIBLE** under any State or local law that prohibits:

(i) urination or defecation in a public place;

(ii) panhandling or soliciting money;

(iii) drinking an alcoholic beverage in a public place;

(iv) obstructing the free passage of another in a public place or a public conveyance;

(v) sleeping on or in park structures, such as benches or doorways;

(vi) loitering;

(vii) vagrancy;

(viii) riding a transit vehicle without paying the applicable fare or exhibiting proof of payment; or

(ix) except for carrying or possessing an explosive, acid, concealed weapon, or other dangerous article as provided in § 7–705(b)(6) of the Transportation Article, any of the acts specified in § 7–705 of the Transportation Article; **OR**

(10) THE PERSON WAS FOUND NOT CRIMINALLY RESPONSIBLE UNDER ANY STATE OR LOCAL LAW THAT PROHIBITS MISDEMEANOR:

(I) ASSAULT;

~~**(II) POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE;**~~

~~**(III) TRESPASS;**~~

~~**(IV)**~~ **(II) DISTURBING THE PEACE; OR**

~~(v)~~ (III) TELEPHONE MISUSE.

(c) (7) A PETITION FOR EXPUNGEMENT BASED ON A FINDING OF NOT CRIMINALLY RESPONSIBLE UNDER SUBSECTION (A)(9) OR (10) OF THIS SECTION MAY NOT BE FILED WITHIN 3 YEARS AFTER THE FINDING OF NOT CRIMINALLY RESPONSIBLE WAS MADE BY THE COURT.

[(7)](8) A court may grant a petition for expungement at any time on a showing of good cause.

(e) (4) The person is not entitled to expungement if:

(i) the petition is based on the entry of probation before judgment, a nolle prosequi, a stet, including a nolle prosequi with the requirement of drug or alcohol treatment or a stet with the requirement of drug or alcohol abuse treatment, a conviction for a crime specified in subsection (a)(9) of this section, A FINDING OF NOT CRIMINALLY RESPONSIBLE, or the grant of a pardon by the Governor; and

(ii) the person:

1. since the full and unconditional pardon, entry, FINDING OF NOT CRIMINALLY RESPONSIBLE, or conviction has been convicted of a crime other than a minor traffic violation; or

2. is a defendant in a pending criminal proceeding.

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

Approved by the Governor, May 16, 2013.

Chapter 644

(House Bill 857)

AN ACT concerning

Estates and Trusts – Posthumously Conceived Child

FOR the purpose of requiring copies of certain documents concerning posthumous conception and birth of a child to be filed with a certain register of wills within certain times *under certain circumstances*; providing that a person who

distributes or delivers certain property and a transferee of the property may not be liable under certain circumstances for certain claims by a child who is posthumously conceived; altering a certain definition; providing for the application of this Act; and generally relating to certain property and the posthumous conception and birth of a child.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 1–205(a) and 3–107(b)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Estates and Trusts
Section 11–112
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 20–111
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 – Estates and Trusts

1–205.

(a) A child includes:

(1) A legitimate child, an adopted child, and an illegitimate child to the extent provided in §§ 1–206 through 1–208 of this subtitle; and

(2) A child conceived from the genetic material of a person after the death of the person if:

(i) The person consented in a written record to use of the person's genetic material for posthumous conception in accordance with the requirements of § 20–111 of the Health – General Article; ~~and~~

(ii) The person consented in a written record to be the parent of a child posthumously conceived using the person's genetic material;

(III) THE CHILD IS BORN WITHIN 2 YEARS OF THE PERSON'S DEATH; AND

(IV) WITH RESPECT TO ANY TRUST, ~~IF~~ THE PERSON WAS THE CREATOR OF THE TRUST AND THE TRUST BECAME IRREVOCABLE ON OR AFTER OCTOBER 1, 2012.

3-107.

(b) No other after-born relation may be considered as entitled to distribution in the relation's own right unless:

(1) The decedent had consented in a written record to use of the decedent's genetic material for posthumous conception in accordance with the requirements of § 20-111 of the Health – General Article;

(2) The [person] DECEDENT consented in a written record to be the parent of a child posthumously conceived using the person's genetic material; and

(3) The child posthumously conceived using the decedent's genetic material is born within 2 years after the death of the decedent.

11-112.

(A) ~~THE~~ IF A DECEDENT CONSENTED IN A WRITTEN RECORD TO USE OF THE DECEDENT'S GENETIC MATERIAL FOR POSTHUMOUS CONCEPTION IN ACCORDANCE WITH THE REQUIREMENTS OF § 20-111 OF THE HEALTH – GENERAL ARTICLE, THE FOLLOWING SHALL BE FILED WITH THE REGISTER OF WILLS FOR THE COUNTY IN WHICH THE DECEDENT'S ESTATE IS PROBATED IN THE STATE OR, IF THERE IS NO PROBATE ESTATE FILED, WITH THE REGISTER OF WILLS FOR THE COUNTY IN WHICH THE DECEDENT WAS DOMICILED IN THE STATE AT THE DATE OF DEATH:

(1) A COPY OF ~~THE~~ A POSTHUMOUSLY CONCEIVED CHILD'S BIRTH RECORD; AND

(2) THE WRITTEN CONSENTS REQUIRED BY § 1-205(A)(2) OR § 3-107(B) OF THIS ARTICLE.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE WRITTEN CONSENTS REQUIRED BY § 1-205(A)(2) OR § 3-107(B) OF THIS ARTICLE SHALL BE FILED ~~AS DESCRIBED~~ UNDER SUBSECTION (A) OF THIS SECTION WITHIN 6 MONTHS ~~OF~~ AFTER THE DATE OF THE DECEDENT'S DEATH.

(2) WITH RESPECT TO A DECEDENT WHO DIES BETWEEN OCTOBER 1, 2012, AND MAY 30, 2013, INCLUSIVE, THE WRITTEN CONSENTS REQUIRED BY § 1-205(A)(2) OR § 3-107(B) OF THIS ARTICLE SHALL BE FILED ~~AS DESCRIBED~~ UNDER SUBSECTION (A) OF THIS SECTION BY DECEMBER 1, 2013.

(3) ~~THE~~ A COPY OF ~~THE~~ A POSTHUMOUSLY CONCEIVED CHILD'S BIRTH RECORD SHALL BE FILED WITHIN 2 YEARS AND 60 DAYS ~~OF~~ AFTER THE DATE OF THE DECEDENT'S DEATH.

(C) ABSENT THE FILING ~~OF~~ AS REQUIRED IN THIS SECTION OF ~~THE~~ A POSTHUMOUSLY CONCEIVED CHILD'S BIRTH RECORD AND THE WRITTEN CONSENTS REQUIRED BY § 1-205(A)(2) OR § 3-107(B) OF THIS ARTICLE:

(1) A PERSON HOLDING PROPERTY THAT PASSES BY REASON OF THE DEATH OF THE DECEDENT MAY DISTRIBUTE OR DELIVER THE PROPERTY WITHOUT LIABILITY FOR A CLAIM BY ANY POSTHUMOUSLY CONCEIVED CHILD UNKNOWN TO THE PERSON; AND

(2) THE TRANSFEREE OF ANY SUCH PROPERTY SHALL BE ENTITLED TO RECEIVE THE PROPERTY WITHOUT LIABILITY FOR A CLAIM BY ANY POSTHUMOUSLY CONCEIVED CHILD UNKNOWN TO THE TRANSFEREE.

Article – Health – General

20-111.

(a) (1) This section applies to the use of sperm or eggs from a donor known to the individual who intends to become a parent through the use of the sperm or eggs.

(2) This section does not apply to the use of sperm or eggs donated to a tissue bank or fertility clinic by a donor who intended to remain anonymous either indefinitely or until a child that results from the use of the sperm or eggs becomes an adult.

(b) A person may not use sperm or eggs from a known donor for the purpose of assisted reproduction, if:

(1) The person knows that the known donor died and did not give consent for the posthumous use of the sperm or eggs; or

(2) The donor or the individual who intends to become a parent through the use of the sperm or eggs receives any remuneration for the donation or use of the sperm or eggs.

(c) A donor's consent to the posthumous use of the donor's sperm or eggs given on or after October 1, 2012 is not valid unless it is:

(1) In writing; and

(2) Signed by the donor or by some other person for the donor, in the presence of the donor, and at the express direction of the donor.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) For a first offense, a fine not exceeding \$1,000; and

(2) For a second or subsequent offense, a fine not exceeding \$5,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only to a child of a decedent who dies on or after October 1, 2012, and may not be applied or interpreted to have any effect on or application to any cause of action arising 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 16, 2013.

Chapter 645

(House Bill 858)

AN ACT concerning

Estates and Trusts – Modified Administration and Inheritance Tax

FOR the purpose of altering the circumstances under which a personal representative of an estate may file for an election for modified administration; providing that, if a personal representative discovers certain property after the time for filing a certain verified final report, the representative shall file a certain report and make a final distribution of the property within certain time periods; providing that a certain application to prepay inheritance tax for a subsequent interest may be filed with the register of the county where a certain information report was filed; making conforming changes; providing for the application of this Act; and generally relating to the modified administration of trusts.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts

Section 5–702, 5–704, and 5–706
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 7–219
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 – Estates and Trusts

5–702.

An election for modified administration may be filed by a personal representative of an estate within 3 months from the date of appointment, if:

(1) All residuary legatees of a testate decedent and the heirs at law of an intestate decedent are limited to [the]:

(i) [Decedent's] **THE DECEDENT'S** personal representative;
[and]

(ii) Individuals or entities exempt from inheritance tax in the decedent's estate under § 7–203(b), (e), and (f) of the Tax – General Article; **AND**

(III) TRUSTS UNDER WHICH EACH PERSON WHO HAS A CURRENT INTEREST IN THE TRUST IS AN INDIVIDUAL OR ENTITY EXEMPT FROM INHERITANCE TAX IN THE DECEDENT'S ESTATE UNDER § 7–203(B), (E), AND (F) OF THE TAX – GENERAL ARTICLE;

[(2) All trustees of each trust that is a residuary legatee are limited to the decedent's:

(i) Personal representative;

(ii) Surviving spouse; and

(iii) Children;]

[(3) (2) The estate is solvent and sufficient assets exist to satisfy all testamentary gifts;

[(4)] (3) A verified final report under modified administration is filed within 10 months from the date of appointment;

[(5)] (4) Final distribution of the estate can occur within 12 months from the date of appointment; and

[(6)] (5) All residuary legatees of a testate decedent and the heirs at law of an intestate decedent consent to a modified administration as required under § 5-706 of this subtitle.

5-704.

(A) After filing an election for modified administration, the personal representative shall:

(1) File a verified final report under modified administration no later than 10 months from the date of appointment instead of filing a formal inventory and account; and

(2) On the request of any interested person, provide a formal inventory and account, as required under Title 7 of this article, to all interested persons.

(B) IF THE PERSONAL REPRESENTATIVE DISCOVERS PROPERTY OF THE DECEDENT AFTER THE TIME FOR FILING A VERIFIED FINAL REPORT REQUIRED BY SUBSECTION (A) OF THIS SECTION, THE PERSONAL REPRESENTATIVE SHALL:

(1) FILE A VERIFIED FINAL REPORT UNDER MODIFIED ADMINISTRATION WITH RESPECT TO THE AFTER-DISCOVERED PROPERTY WITHIN 60 DAYS OF THE DISCOVERY OF THE PROPERTY; AND

(2) MAKE FINAL DISTRIBUTION OF THE AFTER-DISCOVERED PROPERTY WITHIN 90 DAYS OF THE DISCOVERY OF THE PROPERTY.

5-706.

The consent required under [§ 5-702(6)] § 5-702(5) of this subtitle shall state that the subscribing person has notice that:

(1) Instead of filing a formal inventory and account, the personal representative shall file a verified final report under modified administration no later than 10 months from the date of appointment;

(2) On request by any legatee or heir not paid in full, a formal inventory and account shall be provided by the personal representative to the legatees or heirs;

(3) A written objection to modified administration by an interested person may be filed with the register of wills at any time during administration, which shall revoke the modified administration;

(4) By filing a written objection:

(i) The modified administration is revoked;

(ii) The estate shall be administered under administrative probate; and

(iii) The personal representative shall file a formal inventory and account as needed until the estate is closed;

(5) Unless an interested person waives notice of the verified final report under modified administration, the personal representative shall provide a copy to each interested person within 10 months from the date of the appointment; and

(6) Under modified administration, distribution to all legatees and heirs shall be made within 12 months from the date of appointment.

Article – Tax – General

7–219.

(a) Within a reasonable time after the valuation of a less than absolute interest in property that passes from a decedent, an application to prepay the inheritance tax for a subsequent interest in the same property may be filed with the register of the county where the [inventory] **INFORMATION REPORT** was filed under [§ 7–225] **§ 7–224** of this subtitle.

(b) (1) An application under subsection (a) of this section may be filed by or for a person or class of persons, whether or not then in being, in whom may vest a subsequent interest in the property valued.

(2) An application under subsection (a) of this section may not be made by or for a person who, under the instrument that created the property interests, has no interest other than the possibility of becoming an appointee by the exercise of a power of appointment.

(3) A person who only has the interest described in paragraph (2) of this subsection is entitled to receive the benefits of prepayment under § 7–210(b) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to an estate of a decedent who dies before October 1, 2013.

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

Approved by the Governor, May 16, 2013.

Chapter 646

(House Bill 859)

AN ACT concerning

Interests in Grantor and Qualified Terminable Interest Property Trusts

FOR the purpose of providing that an individual who creates a certain trust may not be considered the settlor of the trust under certain circumstances; providing that a creditor of an individual who creates a certain trust may not compel certain distributions; providing for the construction of this Act; and generally relating to interests in certain trusts.

BY adding to

Article – Estates and Trusts

Section 14–116

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

14–116.

(A) AN INDIVIDUAL WHO CREATES A TRUST MAY NOT BE CONSIDERED THE SETTLOR OF THAT TRUST WITH REGARD TO THE INDIVIDUAL’S INTEREST IN THE TRUST IF:

(1) THAT INTEREST IS THE AUTHORITY OF THE TRUSTEE UNDER THE TRUST INSTRUMENT OR ANY OTHER PROVISION OF LAW TO PAY OR REIMBURSE THE INDIVIDUAL FOR ANY TAX ON TRUST INCOME OR TRUST

PRINCIPAL THAT IS PAYABLE BY THE INDIVIDUAL UNDER THE LAW IMPOSING THAT TAX; OR

(2) ALL OF THE FOLLOWING APPLY:

(I) THE INDIVIDUAL CREATES OR HAS CREATED THE TRUST FOR THE BENEFIT OF THE INDIVIDUAL'S SPOUSE;

(II) THE TRUST IS TREATED AS QUALIFIED TERMINABLE INTEREST PROPERTY UNDER § 2523(F) OF THE INTERNAL REVENUE CODE OF 1986; AND

(III) THE INDIVIDUAL'S INTEREST IN THE TRUST INCOME, TRUST PRINCIPAL, OR BOTH FOLLOWS THE TERMINATION OF THE SPOUSE'S PRIOR INTEREST IN THE TRUST.

(B) A CREDITOR OF AN INDIVIDUAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY NOT ATTACH, EXERCISE, REACH, OR OTHERWISE COMPEL DISTRIBUTION OF:

(1) ANY PRINCIPAL OR INCOME OF THE TRUST;

(2) ANY PRINCIPAL OR INCOME OF ANY OTHER TRUST TO THE EXTENT THAT THE PROPERTY HELD IN THE OTHER TRUST IS ATTRIBUTABLE TO A TRUST DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION;

(3) THE INDIVIDUAL'S INTEREST IN THE TRUST; OR

(4) THE INDIVIDUAL'S INTEREST IN ANY OTHER TRUST TO THE EXTENT THAT THE PROPERTY HELD IN THE OTHER TRUST IS ATTRIBUTABLE TO A TRUST DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION.

(C) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT ANY STATE LAW WITH RESPECT TO A FRAUDULENT TRANSFER BY AN INDIVIDUAL TO A TRUSTEE.

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

Approved by the Governor, May 16, 2013.
