Vetoed Bills

and

Messages

from the

Governor of Maryland

A total of 92 bills were vetoed by the Governor following the 2019 Regular Session of the General Assembly. Of these vetoed bills, 44 originated in the Senate and 48 of them originated in the House of Delegates. Pursuant to the provisions of Article II, Section 17 of the Maryland Constitution, these bills will be returned to the General Assembly immediately after the Legislature has organized at the next Regular or Special Session to be reconsidered in order to determine whether the veto is sustained or overridden.

2019 Session

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Vetoed Senate Bills and Messages

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 35 – *State Personnel – Professional Service – Maryland School for the Deaf – Teachers*.

This bill establishes that teachers who are employed by the Maryland School for the Deaf are in the professional service in the State Personnel Management System.

House Bill 137, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 35.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 35

AN ACT concerning

State Personnel – Professional Service – Maryland School for the Deaf – Teachers

FOR the purpose of requiring that teachers employed by the Maryland School for the Deaf are in the professional service in the State Personnel Management System; and generally relating to the State Personnel Management System and teachers employed by the Maryland School for the Deaf.

BY repealing and reenacting, with amendments,
Article – Education
Section 8–3A–04
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

8–3A–04.

(a) There is a Maryland School for the Deaf.

(b) The governance of the Maryland School for the Deaf is vested in the Board of Trustees of the Maryland School for the Deaf.

(c) (1) The Board of Trustees shall consist of 19 members appointed by the Governor with the advice and consent of the Senate.

(2) Of the 19 members, at least 6 members shall be deaf.

(3) Each member of the Board shall:

(i) Be a resident of the State;

(ii) Be a member of the general public; and

(iii) Have demonstrated an active interest in the education of deaf children.

(4) Each geographic region of the State shall be represented by at least one member of the Board.

(d) (1) The term of a member is 6 years.

(2) The terms of the members are staggered as required by the terms provided for the members of the Board on October 1, 1992.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member may not serve more than two consecutive terms.

(e) The Board may:

(1) Apply for, accept, and spend any gift or grant from the federal government, any foundation, or any other person; and

(2) Maintain, manage, and invest any gifts or grants that it accepts.

(f) The Board shall establish an annual operating budget.

(g) (1) There is a branch of the Maryland School for the Deaf.

(2) This branch shall be located near the population center of the State.

(3) The branch shall be administered and operated as part of and is subject to the Maryland School for the Deaf.

(h) (1) The Maryland School for the Deaf shall adopt written standards for the admission of students.

(2) The standards shall define and distinguish between students who are bona fide Maryland residents and those who are out–of–state students, for purposes of admission and tuition.

(i) The Maryland School for the Deaf shall admit students free of charge who:

(1) Are bona fide Maryland residents; and

(2) Meet the admission standards of the Maryland School for the Deaf.

(j) (1) The Maryland School for the Deaf may admit out–of–state students for tuition who meet the admission standards of the Maryland School for the Deaf.

(2) The Maryland School for the Deaf shall establish tuition rates on an annual basis.

(K) EACH TEACHER WHO IS EMPLOYED BY THE MARYLAND SCHOOL FOR THE DEAF IS IN THE PROFESSIONAL SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 36 – *Health Insurance – Health Benefit Plans – Special Enrollment Period for Pregnancy*.

This bill requires 1) small employer and individual health benefit plans to provide a special enrollment period during which an individual who becomes pregnant, as confirmed by a health care practitioner, may enroll in a health benefit plan; 2) the special enrollment period to be open for 90 days and begin on the date a health care practitioner confirms the pregnancy; 3) coverage to be effective on the first day of the month in which the woman receives confirmation of pregnancy; and 4) that all health benefit plans issued, delivered, or renewed in the State on or after a certain date apply. This bill also requires the Maryland Health Benefit Exchange must report to specertain committees of the General Assembly on the use of the special enrollment period.

House Bill 127, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 36.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 36

AN ACT concerning

Health Insurance – Health Benefit Plans – Special Enrollment Period for Pregnancy

FOR the purpose of requiring certain health benefit plans and certain carriers to provide a special enrollment period during which certain individuals who become pregnant may enroll in a health benefit plan; establishing the duration of the special enrollment period; establishing certain effective dates of coverage for certain individuals enrolled in certain health benefit plans during the special enrollment period; defining a certain term; providing for the application of this Act; <u>requiring the Maryland Health Benefit Exchange to report to certain committees of the General Assembly on or before a certain date;</u> making conforming changes; and generally relating to health benefit plans offered to individuals and small employers.

BY renumbering
Article – Insurance
Section 15–1201(j) through (aa), respectively
to be Section 15–1201(k) through (bb), respectively
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Insurance
Section 15–1201(j)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–1208.1(c), (e), and (f) and 15–1316
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 15–1201(j) through (aa), respectively, of Article – Insurance of the Annotated Code of Maryland be renumbered to be Section(s) 15–1201(k) through (bb), respectively.

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

Article – Insurance

15–1201.

(J) "HEALTH CARE PRACTITIONER" HAS THE MEANING STATED IN § 1–301 OF THE HEALTH OCCUPATIONS ARTICLE.

15–1208.1.

(c) All small employer health benefit plans shall provide a special enrollment period during which the following individuals may be enrolled under the health benefit plan:

(1) an individual who becomes a dependent of the eligible employee through marriage, birth, adoption, placement for adoption, or placement for foster care;

(2) an eligible employee who acquires a new dependent through marriage, birth, adoption, placement for adoption, placement for foster care, or through a child support order or other court order;

(3) the spouse of an eligible employee at the birth or adoption of a child, placement of a child for foster care, or through a child support order or other court order, provided the spouse is otherwise eligible for coverage; **[**and**]**

(4) at the option of the SHOP Exchange, an enrollee who is the eligible employee or the spouse of the eligible employee, if:

(i) the enrollee loses a dependent or is no longer considered to be a dependent due to divorce or legal separation; or

(ii) the employee or the employee's dependent dies**; AND**

(5) (I) AN ELIGIBLE EMPLOYEE WHO BECOMES PREGNANT, AS ~~CERTIFIED~~ CONFIRMED BY A HEALTH CARE PRACTITIONER; AND

(II) AN ELIGIBLE EMPLOYEE'S SPOUSE OR DEPENDENT WHO BECOMES PREGNANT, AS ~~CERTIFIED~~ CONFIRMED BY A HEALTH CARE PRACTITIONER, PROVIDED THE SPOUSE OR DEPENDENT IS OTHERWISE ELIGIBLE FOR COVERAGE.

(e) **(1)** The special enrollment period under subsection **[**(c)**] (C)(1) THROUGH (4)** of this section shall be a period of not less than 31 days and shall begin on the later of:

[(1)**] (I)** the date dependent coverage is made available; or

[(2)**] (II)** the date of the marriage, birth, adoption, placement for adoption, placement for foster care, child support order or other court order, divorce, legal separation, or death, whichever is applicable.

(2) THE SPECIAL ENROLLMENT PERIOD UNDER SUBSECTION (C)(5) OF THIS SECTION SHALL:

~~(I) ALLOW FOR ENROLLMENT OF THE PREGNANT INDIVIDUAL IN A HEALTH BENEFIT PLAN AT ANY TIME AFTER THE COMMENCEMENT OF PREGNANCY, AS CERTIFIED BY A HEALTH CARE PRACTITIONER; AND~~

~~(II) REMAIN OPEN FOR THE DURATION OF THE PREGNANCY.~~

(I) BE OPEN FOR A PERIOD OF 90 DAYS; AND

(II) BEGIN ON THE DATE A HEALTH CARE PRACTITIONER CONFIRMS THE PREGNANCY.

(f) **(1)** If an eligible employee enrolls any of the individuals described in subsection **[**(c)**] (C)(1) THROUGH (4)** of this section during the first 31 days of the special enrollment period, the coverage shall become effective as follows:

[(1)**] (I)** in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

[(2)**] (II)** in the case of a dependent's birth, as of the date of the dependent's birth;

[(3)**] (III)** in the case of a dependent's adoption or placement for adoption, the date of adoption or placement for adoption, whichever occurs first;

[(4)**]** **(IV)** in the case of a dependent's placement for foster care, the date of placement; and

[(5)**]** **(V)** in the case of a dependent added due to a child support order or any other court order:

[(i)**]** **1.** the date the child support order or other court order is effective; or

[(ii)**]** **2.** for SHOP Exchange plans, if the SHOP Exchange permits the eligible employee to select an effective date based on the date the plan selection is received by the SHOP Exchange:

[1.**] A.** the first day of the month following receipt of the plan selection, if the plan selection is received between the first and fifteenth day, inclusive, of the month; and

[2.**] B.** the first day of the second month following receipt of the plan selection, if the plan selection is received between the sixteenth and the last day, inclusive, of the month.

(2) IF AN ELIGIBLE EMPLOYEE ENROLLS AN INDIVIDUAL DESCRIBED IN SUBSECTION (C)(5) OF THIS SECTION IN A HEALTH BENEFIT PLAN, THE COVERAGE SHALL BECOME EFFECTIVE ~~NOT LATER THAN~~ ON THE FIRST DAY OF THE MONTH IN WHICH THE INDIVIDUAL RECEIVES ~~CERTIFICATION~~ CONFIRMATION OF PREGNANCY.

15–1316.

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

(2) "Dependent" means an individual who is or who may become eligible for coverage under the terms of a health benefit plan because of a relationship with another individual.

(3) "HEALTH CARE PRACTITIONER" HAS THE MEANING STATED IN § 1–301 OF THE HEALTH OCCUPATIONS ARTICLE.

[(3)**] (4)** "Qualifying coverage in an eligible employer–sponsored plan" has the meaning stated in 45 C.F.R. § 155.300.

(b) (1) Beginning November 15, 2014, unless an alternative date is adopted by the federal Department of Health and Human Services, a carrier that sells health benefit plans to individuals in the State shall establish an annual open enrollment period.

(2) The annual open enrollment period for 2014 shall begin on November 15, 2014, and extend through January 15, 2015, unless alternative dates are adopted by the federal Department of Health and Human Services.

(3) The annual open enrollment period for years beginning on and after January 1, 2015, shall be the dates adopted by the federal Department of Health and Human Services.

(4) During the annual open enrollment period, an individual shall be permitted to:

(i) enroll in a health benefit plan offered by the carrier;

(ii) discontinue enrollment in a health benefit plan offered by the carrier; or

(iii) change enrollment in a health benefit plan offered by the carrier to a different health benefit plan offered by the carrier.

(5) If an individual enrolls in a health benefit plan offered by the carrier during the annual open enrollment period for 2014, the effective date of coverage shall be:

(i) January 1, 2015, if the application is received by the carrier on or before December 15, 2014, unless an alternative date is adopted by the federal Department of Health and Human Services;

(ii) February 1, 2015, if the application is received by the carrier from December 16, 2014, through January 15, 2015, unless an alternative date is adopted by the federal Department of Health and Human Services; and

(iii) March 1, 2015, if the application is received by the carrier from January 16, 2015, through February 15, 2015, unless an alternative date is adopted by the federal Department of Health and Human Services.

(6) If an individual enrolls in a health benefit plan offered by the carrier during the annual open enrollment period for years beginning on and after January 1, 2015, the effective date of coverage shall be the date adopted by the federal Department of Health and Human Services.

(c) A carrier participating in the Individual Exchange shall provide**:**

(1) the special enrollment periods specified in 45 C.F.R. § 155.420 for individuals who purchase coverage through the Individual Exchange**; AND**

(2) A SPECIAL ENROLLMENT PERIOD FOR AN INDIVIDUAL WHO PURCHASES COVERAGE THROUGH THE INDIVIDUAL EXCHANGE IF THE INDIVIDUAL

OR A DEPENDENT OF THE INDIVIDUAL BECOMES PREGNANT, AS ~~CERTIFIED~~ CONFIRMED BY A HEALTH CARE PRACTITIONER.

(d) A carrier shall provide**:**

(1) the special enrollment periods specified in 45 C.F.R. § 147.104(b)(2) for individuals who purchase coverage outside the Individual Exchange**; AND**

(2) A SPECIAL ENROLLMENT PERIOD FOR AN INDIVIDUAL WHO PURCHASES COVERAGE OUTSIDE THE INDIVIDUAL EXCHANGE IF THE INDIVIDUAL OR A DEPENDENT OF THE INDIVIDUAL BECOMES PREGNANT, AS ~~CERTIFIED~~ CONFIRMED BY A HEALTH CARE PRACTITIONER.

(E) ~~THE~~ A SPECIAL ENROLLMENT ~~PERIODS~~ PERIOD DESCRIBED IN ~~SUBSECTIONS~~ SUBSECTION (C)(2) ~~AND~~ OR (D)(2) OF THIS SECTION SHALL:

~~**(1) ALLOW FOR ENROLLMENT OF THE PREGNANT INDIVIDUAL IN A HEALTH BENEFIT PLAN AT ANY TIME AFTER THE COMMENCEMENT OF PREGNANCY, AS CERTIFIED BY A HEALTH CARE PRACTITIONER; AND**~~

~~**(2) REMAIN OPEN FOR THE DURATION OF THE PREGNANCY.**~~

(1) BE OPEN FOR A PERIOD OF 90 DAYS; AND

(2) BEGIN ON THE DATE THE HEALTH CARE PRACTITIONER CONFIRMS THE PREGNANCY.

[(e)**] (F) (1)** If an individual enrolls for coverage during one of the open enrollment **PERIODS DESCRIBED IN SUBSECTION (B) OF THIS SECTION** or **DURING ONE OF THE** special open enrollment periods described in **SUBSECTIONS (C)(1) AND (D)(1) OF** this section, coverage shall be effective in accordance with the requirements in 45 C.F.R. § 155.420.

(2) IF AN INDIVIDUAL ENROLLS FOR COVERAGE OR ENROLLS A DEPENDENT FOR COVERAGE DURING ~~ONE OF THE~~ A SPECIAL ENROLLMENT ~~PERIODS~~ PERIOD DESCRIBED IN ~~SUBSECTIONS~~ SUBSECTION (C)(2) ~~AND~~ OR (D)(2) OF THIS SECTION, THE COVERAGE SHALL BECOME EFFECTIVE ~~NOT LATER THAN~~ ON THE FIRST DAY OF THE MONTH IN WHICH THE INDIVIDUAL ~~ENROLLED IN COVERAGE~~ RECEIVES ~~CERTIFICATION~~ CONFIRMATION OF PREGNANCY.

[(f)**] (G)** (1) A health maintenance organization may:

(i) limit the individuals who may apply for coverage to those who live or reside in the health maintenance organization's service area; and

(ii) deny coverage to individuals if the health maintenance organization has demonstrated to the Commissioner that:

1. it will not have the capacity to deliver services adequately to any additional individuals because of its obligations to existing enrollees; and

2. it is applying the provisions of this paragraph uniformly to all individuals without regard to the claims experience of those individuals and their dependents or any health status–related factor relating to the individuals and their dependents.

(2) A health maintenance organization that denies coverage to an individual in accordance with paragraph (1) of this subsection may not offer coverage in the individual market within the service area to any individual for a period of 180 days after the date the coverage is denied.

(3) Paragraph (2) of this subsection does not:

(i) limit the health maintenance organization's ability to renew coverage already in force; or

(ii) relieve the health maintenance organization of the responsibility to renew coverage already in force.

[(g)**] (H)** (1) A carrier may deny a health benefit plan to an individual if the carrier has demonstrated to the Commissioner that:

(i) it does not have the financial reserves necessary to offer additional coverage; and

(ii) it is applying the provisions of this paragraph uniformly to all individuals in the individual market in the State without regard to the claims experience of those individuals and their dependents or any health status–related factor relating to the individuals and their dependents.

(2) A carrier that denies a health benefit plan to an individual in the State under paragraph (1) of this subsection may not offer coverage in the individual market before the later of:

(i) the 181st day after the date the carrier denies coverage; and

(ii) the date the carrier demonstrates to the Commissioner that the carrier has sufficient financial reserves to underwrite additional coverage.

(3) Paragraph (2) of this subsection does not:

(i) limit the carrier's ability to renew coverage already in force; or

(ii) relieve the carrier of the responsibility to renew coverage already in force.

(4) Health benefit plans offered after the time period described in paragraph (2) of this subsection are subject to the requirements of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to all health benefit plans issued, delivered, or renewed in the State on or after January 1, 2020.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1, 2022, the Maryland Health Benefit Exchange shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the use of the special enrollment periods as enacted by Section 1 of this Act.

SECTION ~~4.~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 41 – *Office of Legislative Audits – Audits of the Baltimore Police Department*.

This bill requires 1) the Office of Legislative Audits to conduct an audit of the Baltimore Police Department to evaluate the effectiveness and efficiency of its financial management practices; 2) the initial audit to be conducted by a certain date, and then at least once every six years thereafter; and 3) the Office of Legislative Audits to provide information regarding the audit process to the Baltimore Police Department before the audit is conducted.

House Bill 516, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 41.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 41

AN ACT concerning

Office of Legislative Audits – Audits of the Baltimore Police Department

FOR the purpose of requiring the Office of Legislative Audits to conduct a certain audit of the Baltimore Police Department within a certain time period and at certain intervals; requiring the Office of Legislative Audits to provide certain information to the Baltimore Police Department; and generally relating to the audits of the Baltimore Police Department by the Office of Legislative Audits.

BY adding to
Article – State Government
Section 2–1220(h)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – State Government

2–1220.

(H) (1) BEGINNING JULY 1, 2020, AND AT LEAST ONCE EVERY 6 YEARS THEREAFTER, THE OFFICE OF LEGISLATIVE AUDITS SHALL CONDUCT AN AUDIT OF THE BALTIMORE POLICE DEPARTMENT TO EVALUATE THE EFFECTIVENESS AND EFFICIENCY OF THE FINANCIAL MANAGEMENT PRACTICES OF THE BALTIMORE POLICE DEPARTMENT.

(2) THE OFFICE OF LEGISLATIVE AUDITS SHALL PROVIDE INFORMATION REGARDING THE AUDIT PROCESS TO THE BALTIMORE POLICE DEPARTMENT BEFORE THE AUDIT IS CONDUCTED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 132 – *Horse Racing at Fair Hill – Union Hospital Allocation – Repeal*.

This bill repeals the requirement that the Cecil County Breeders' Fair, Inc. allocate all profits earned from racing at Fair Hill, including money from pari–mutuel betting, admission charges, and other receipts, to the Union Hospital of Cecil County.

House Bill 80, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 132.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 132

AN ACT concerning

Horse Racing at Fair Hill – Union Hospital Allocation – Repeal

FOR the purpose of repealing a requirement that a certain licensee allocate the profits earned from horse racing at a certain location to a certain hospital; and generally relating to horse racing at Fair Hill.

BY repealing
Article – Business Regulation
Section 11–702(e)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Business Regulation

11–702.

[(e) The licensee shall allocate to the Union Hospital of Cecil County all profits earned under this subtitle, including money from pari–mutuel betting, admission charges,

and other receipts.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 143 – *Cownose Ray Fishery Management Plan and Moratorium on Contests*.

This bill extends the deadline by which the Department of Natural Resources must prepare a fishery management plan for the cownose ray by two years, subject to funding made available for that purpose. This bill also continues the prohibition against a person sponsoring, conducting, or participating in a cownose ray fishing contest in State waters until the Department of Natural Resources prepares the required fishery management plan.

House Bill 213, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 143.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 143

AN ACT concerning

Cownose Ray Fishery Management Plan and Moratorium on Contests

FOR the purpose of extending the date by which the Department of Natural Resources is required to prepare a certain fishery management plan for the cownose ray species, subject to available funding; ~~extending the termination date for~~ continuing the prohibition on a person sponsoring, conducting, or participating in a certain cownose ray fishing contest in State waters until the Department prepares a certain fishery

management plan for the cownose ray species; and generally relating to the cownose ray fishery.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4–215(b)(25)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, with amendments,
Chapter 398 of the Acts of the General Assembly of 2017
Section 2 and 3

BY repealing and reenacting, with amendments,
Chapter 399 of the Acts of the General Assembly of 2017
Section 2 and 3

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

Article – Natural Resources

4–215.

(b) The Department shall prepare fishery management plans for the following species:

(25) Cownose ray.

Chapter 398 of the Acts of 2017

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, **[**2018**]** **2020**, subject to funding made available to the Department of Natural Resources to implement Section 1 of this Act, the Department shall prepare the cownose ray fishery management plan required by § 4–215(b)(25) of the Natural Resources Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) In this section, "cownose ray fishing contest" means any competition, tournament or derby with the objective of catching or killing cownose rays for:

(1) prizes or other inducements; or

(2) entertainment purposes.

(b) Until ~~July 1, [2019]~~ **2021** **THE DEPARTMENT OF NATURAL RESOURCES PREPARES THE COWNOSE RAY FISHERY MANAGEMENT PLAN REQUIRED BY § 4–215(B)(25) OF THE NATURAL RESOURCES ARTICLE, AS ENACTED BY SECTION 1 OF THIS ACT**, a person may not sponsor, conduct, or participate in a cownose ray fishing contest in State waters.

(c) A person who violates subsection (b) of this section is guilty of a misdemeanor, and on conviction is subject to the penalties provided in § 4–1201(a) and (b) of the Natural Resources Article.

Chapter 399 of the Acts of 2017

SECTION 2. AND BE IT FURTHER ENACTED, That on or before December 31, **[**2018**]** **2020**, subject to funding made available to the Department of Natural Resources to implement Section 1 of this Act, the Department shall prepare the cownose ray fishery management plan required by § 4–215(b)(25) of the Natural Resources Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) In this section, "cownose ray fishing contest" means any competition, tournament, or derby with the objective of catching or killing cownose rays for:

(1) prizes or other inducements; or

(2) entertainment purposes.

(b) Until ~~July 1, [2019]~~ **2021** **THE DEPARTMENT OF NATURAL RESOURCES PREPARES THE COWNOSE RAY FISHERY MANAGEMENT PLAN REQUIRED BY § 4–215(B)(25) OF THE NATURAL RESOURCES ARTICLE, AS ENACTED BY SECTION 1 OF THIS ACT**, a person may not sponsor, conduct, or participate in a cownose ray fishing contest in State waters.

(c) A person who violates subsection (b) of this section is guilty of a misdemeanor, and on conviction is subject to the penalties provided in § 4–1201(a) and (b) of the Natural Resources Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 153 – *Alternate Contributory Pension Selection – Return to Employment*.

This bill 1) expands the pool of members of the Employees' Pension System or the Teachers' Pension System who can resume participation in the Alternate Contributory Pension Selection after a separation from employment to include all those who are vested in the Alternate Contributory Pension Selection, under certain circumstances; 2) and applies retroactively to any eligible individual who resumed employment in a position covered by the Employees' Pension System or the Teachers' Pension System on or after July 1, 2011.

House Bill 265, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 153.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 153

AN ACT concerning

Alternate Contributory Pension Selection – Return to Employment

FOR the purpose of allowing an individual to resume participation in the Alternate Contributory Pension Selection in the Employees' Pension System or Teachers' Pension System if the individual has been separated from employment and has accrued a certain amount of eligibility service; clarifying a period of time after which an individual may resume participation in the Alternate Contributory Pension Selection if the individual has been separated from employment for military service; providing for the application of this Act; requiring certain service credit earned in the Reformed Contributory Pension Benefit to be credited to the Alternate Contributory Pension Selection; and generally relating to participation in the Alternate Contributory Pension Selection in the Employees' Pension System and Teachers' Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 23–215.1(a)
Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 23–215.1(b)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – State Personnel and Pensions

23–215.1.

(a) This section applies to a member who:

(1) on or before June 30, 2011, is subject to the Alternate Contributory Pension Selection;

(2) (i) is separated from employment for 4 years or less;

(ii) 1. is separated from employment **[**for more than 4 years**]** for military service that meets the requirements of the federal Uniformed Services Employment and Reemployment Rights Act; and

2. resumes employment within 1 year of leaving military service in a position that is included in the Employees' Pension System or Teachers' Pension System; or

(iii) **[**1. is separated from employment for more than 4 years; and

2. on or before June 30, 2011, accrues**] IS SEPARATED FROM EMPLOYMENT WITH** the minimum eligibility service needed to be eligible for a vested allowance in the Alternate Contributory Pension Selection under Title 29, Subtitle 3 of this article;

(3) does not withdraw the member's accumulated contributions; and

(4) does not become a retiree.

(b) A member described in subsection (a) of this section who resumes employment in a position that is included in the Employees' Pension System or Teachers' Pension System, shall resume participation in the Alternate Contributory Pension Selection if the employer participates in the Alternate Contributory Pension Selection.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This Act shall be construed to apply retroactively and shall be applied to and interpreted to affect an individual who meets the requirements of this Act and who resumed employment in a position included in the Employees' Pension System or Teachers' Pension System on or after July 1, 2011.

(b) Any service credit earned under the Reformed Contributory Pension Benefit by an individual who meets the requirements of this Act shall be credited to the member or former member in the Alternate Contributory Pension Selection if the member or former member has not withdrawn the member's accumulated contributions.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 158 – *Maryland Department of Health – Community Dental Clinics Grant Program*.

This bill establishes the Community Dental Clinics Grant Program in the Maryland Department of Health, and requires the Governor to include an appropriation in the State operating or capital budget for the program, beginning in a certain fiscal year, and every fiscal year thereafter.

House Bill 332, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 158.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 158

AN ACT concerning

Maryland Department of Health – Community Dental Clinics Grant Program

FOR the purpose of establishing the Community Dental Clinics Grant Program; authorizing the Board of Public Works, on the recommendation of the Secretary of Health, to make grants under the Program to counties, municipal corporations, and nonprofit organizations for the purpose of supporting the provision of dental services by community dental clinics through certain actions; providing for the application process for a State grant under the Program; providing certain terms, conditions, and limitations on the allocations, use, and amount of State grants made under the Program; prohibiting any portion of the proceeds of a grant made under the Program from being used for certain religious purposes; requiring the Governor to include funding in the State operating budget bill or capital budget bill for the Program beginning in a certain fiscal year; requiring the Board to make certain allocations from certain funds in accordance with this Act; requiring the Board to make certain certifications; requiring the State Treasurer to make certain payments; authorizing the Board to adopt certain regulations; authorizing the State, under certain circumstances, to recover a certain portion of the State funds expended; providing for a certain judicial proceeding and liens to enforce the State's right of recovery and priority of the proceeding and lien; requiring the Maryland Department of Health to adopt certain regulations; defining certain terms; and generally relating to the Community Dental Clinics Grant Program.

BY adding to
Article – Health – General
Section 24–1601 through 24–1607 to be under the new subtitle "Subtitle 16. Community Dental Clinics Grant Program"
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

SUBTITLE 16. COMMUNITY DENTAL CLINICS GRANT PROGRAM.

24–1601.

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

(B) (1) "COMMUNITY DENTAL CLINIC" MEANS A NONPROFIT ORGANIZATION THAT PROVIDES DENTAL SERVICES AND IS:

(I) A HEALTH CARE CENTER OR PROGRAM THAT OFFERS DENTAL SERVICES:

1. FREE OF COST OR ON A SLIDING SCALE FEE SCHEDULE; AND

2. WITHOUT REGARD TO AN INDIVIDUAL'S ABILITY TO PAY; AND

(II) WHOLLY OWNED AND OPERATED UNDER THE AUTHORITY OF A COUNTY, MUNICIPAL CORPORATION, OR NONPROFIT ORGANIZATION.

(2) "COMMUNITY DENTAL CLINIC" DOES NOT INCLUDE A FEDERALLY QUALIFIED HEALTH CENTER OR A FEDERALLY QUALIFIED HEALTH CENTER LOOK–ALIKE.

(C) "NONPROFIT ORGANIZATION" MEANS:

(1) A BONA FIDE RELIGIOUS ORGANIZATION, NO PART OF THE EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY INDIVIDUAL OR IS USED FOR ANY PURPOSE OTHER THAN THE MAINTENANCE AND OPERATION OF A FACILITY, THE PURCHASE OF EQUIPMENT TO BE USED IN A FACILITY, OR THE EXPANSION OF A FACILITY; OR

(2) AN ORGANIZATION:

(I) THAT IS CHARTERED AS A NONPROFIT CORPORATION AND CLASSIFIED BY THE INTERNAL REVENUE SERVICE AS NONPROFIT; AND

(II) NO PART OF THE EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY INDIVIDUAL OR IS USED FOR ANY PURPOSE OTHER THAN THE MAINTENANCE AND OPERATION OF A FACILITY, THE PURCHASE OF EQUIPMENT TO BE USED IN A FACILITY, OR THE EXPANSION OF A FACILITY.

(D) "WHOLLY OWNED" INCLUDES LEASED, IF:

(1) (I) THE LEASE IS FOR A MINIMUM TERM OF 15 YEARS FOLLOWING PROJECT COMPLETION; OR

(II) THE LEASE AGREEMENT EXTENDS THE RIGHT OF PURCHASE TO THE LESSEE; AND

(2) THE LESSOR CONSENTS TO THE RECORDING, IN THE LAND RECORDS OF THE COUNTY OR BALTIMORE CITY WHERE THE FACILITY IS LOCATED, OF A NOTICE OF THE STATE'S RIGHT OF RECOVERY AS PROVIDED UNDER § 24–1606 OF THIS SUBTITLE.

24–1602.

(A) THERE IS A COMMUNITY DENTAL CLINICS GRANT PROGRAM.

(B) ON THE RECOMMENDATION OF THE SECRETARY, THE BOARD OF PUBLIC WORKS MAY MAKE GRANTS TO COUNTIES, MUNICIPAL CORPORATIONS, AND NONPROFIT ORGANIZATIONS FOR THE PURPOSE OF SUPPORTING THE PROVISION OF DENTAL SERVICES BY COMMUNITY DENTAL CLINICS THROUGH:

(1) THE CONVERSION OF PUBLIC BUILDINGS OR PARTS OF PUBLIC BUILDINGS TO COMMUNITY DENTAL CLINICS;

(2) THE ACQUISITION OF EXISTING BUILDINGS OR PARTS OF BUILDINGS FOR USE AS COMMUNITY DENTAL CLINICS;

(3) THE RENOVATION OF COMMUNITY DENTAL CLINICS;

(4) THE PURCHASE OF CAPITAL EQUIPMENT FOR COMMUNITY DENTAL CLINICS; OR

(5) THE PLANNING, DESIGN, AND CONSTRUCTION OF COMMUNITY DENTAL CLINICS.

24–1603.

(A) ANY COUNTY, MUNICIPAL CORPORATION, OR NONPROFIT ORGANIZATION SPONSORING A PROJECT INVOLVING WORK SPECIFIED IN § 24–1602 OF THIS SUBTITLE MAY APPLY TO THE SECRETARY FOR A STATE GRANT TO BE APPLIED TOWARD THE COST OF THAT PROJECT.

(B) THE APPLICATION FOR A GRANT SHALL INCLUDE:

(1) PROJECT PLANS FOR THE WORK TO BE CARRIED OUT;

(2) A STATEMENT LISTING THE PERSONNEL EMPLOYED OR TO BE EMPLOYED AT THE COMMUNITY DENTAL CLINIC, INCLUDING ALL REMUNERATION AND PERQUISITES FOR PERSONAL SERVICES AND ALL OTHER EXPENSES PAID OR TO BE PAID TO THE PERSONNEL;

(3) ALL OTHER EXPENSES INCURRED OR TO BE INCURRED IN OPERATING THE COMMUNITY DENTAL CLINIC; AND

(4) THE SCHEDULE OF RATES CHARGED OR TO BE CHARGED FOR SERVICES RENDERED.

(C) ON APPROVAL OF A PROJECT AND THE PROJECT PLANS, THE SECRETARY PROMPTLY SHALL REPORT THE APPLICATION TO THE BOARD OF PUBLIC WORKS, TOGETHER WITH THE SECRETARY'S RECOMMENDATION THAT THE BOARD MAKE FUNDS AVAILABLE AS PROVIDED IN THIS SUBTITLE.

24–1604.

(A) THE ALLOCATION AND USE OF STATE FUNDS UNDER THIS SUBTITLE ARE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THIS SECTION.

(B) STATE FUNDS MAY BE USED ONLY FOR THE PURPOSES LISTED UNDER § 24–1602 OF THIS SUBTITLE AND APPROVED BY THE SECRETARY UNDER § 24–1603 OF THIS SUBTITLE.

(C) THE ALLOCATION AND USE OF STATE FUNDS UNDER THIS SUBTITLE ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

(1) ANY FEDERAL OR OTHER GRANT THAT IS RECEIVED FOR AN ELIGIBLE PROJECT SHALL BE APPLIED FIRST TO THE COST OF THE PROJECT;

(2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A STATE GRANT MAY NOT EXCEED ~~50%~~ 75% OF THE COST OF ELIGIBLE WORK REMAINING UNPAID AFTER ALL FEDERAL GRANTS HAVE BEEN APPLIED; AND

(3) FOR PURPOSES OF THIS SUBTITLE, COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS SHALL BE CONSIDERED AS LOCAL MATCHING FUNDS AND MAY NOT BE CONSIDERED AS FEDERAL GRANT FUNDS.

(D) FOR A PROJECT DESIGNATED AS ELIGIBLE FOR POVERTY AREA FUNDING UNDER FEDERAL REGULATIONS, STATE PLANS, OR DEPARTMENTAL REGULATIONS, A STATE GRANT MAY COVER UP TO ~~75%~~ 90% OF THE COST OF ELIGIBLE WORK REMAINING UNPAID AFTER ALL FEDERAL GRANTS HAVE BEEN APPLIED.

(E) THE AMOUNT OF THE STATE GRANT RECOMMENDED TO THE BOARD OF PUBLIC WORKS FOR ANY PROJECT SHALL BE DETERMINED AFTER CONSIDERATION OF:

(1) ALL ELIGIBLE PROJECTS;

(2) THE TOTAL OF UNALLOCATED STATE FUNDS AVAILABLE AT THE TIME THE GRANT RECOMMENDATION IS MADE TO THE BOARD OF PUBLIC WORKS; AND

(3) THE PRIORITIES OF AREA NEED ESTABLISHED BY THE DEPARTMENT.

(F) (1) NO PORTION OF THE PROCEEDS OF A STATE GRANT MAY BE USED:

(I) TO FURTHER SECTARIAN RELIGIOUS INSTRUCTION;

(II) IN CONNECTION WITH THE DESIGN, ACQUISITION, OR CONSTRUCTION OF ANY BUILDING TO BE USED AS A PLACE OF SECTARIAN RELIGIOUS WORSHIP OR INSTRUCTION; OR

(III) IN CONNECTION WITH ANY PROGRAM OR DEPARTMENT OF DIVINITY FOR ANY RELIGIOUS DENOMINATION.

(2) ON THE REQUEST OF THE BOARD OF PUBLIC WORKS, THE APPLICANT SHALL SUBMIT EVIDENCE SATISFACTORY TO THE BOARD THAT THE PROCEEDS OF THE GRANT ARE NOT BEING USED FOR A PURPOSE PROHIBITED UNDER THIS SUBSECTION OR UNDER APPLICABLE FEDERAL LAW.

(G) BEGINNING IN FISCAL YEAR 2021 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE STATE OPERATING BUDGET BILL OR CAPITAL BUDGET BILL AN APPROPRIATION ~~IN THE STATE CAPITAL BUDGET~~ TO BE DISTRIBUTED AND MANAGED IN ACCORDANCE WITH THIS SUBTITLE.

24–1605.

(A) THE BOARD OF PUBLIC WORKS SHALL MAKE ALLOCATIONS FROM FUNDS AVAILABLE UNDER THIS SUBTITLE IN ACCORDANCE WITH THIS SUBTITLE.

(B) THE BOARD OF PUBLIC WORKS SHALL CERTIFY THE ALLOCATIONS TO THE PROPER STATE OFFICERS, AND THE STATE TREASURER SHALL MAKE PAYMENTS TO OR ON BEHALF OF THE APPLICANT, WHEN NEEDED, FOR THE APPROVED PROJECT.

(C) THE BOARD OF PUBLIC WORKS MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

24–1606.

(A) THE STATE MAY RECOVER FROM EITHER THE TRANSFEROR OR TRANSFEREE OR, IN THE CASE OF A PROPERTY THAT HAS CEASED TO BE A COMMUNITY DENTAL CLINIC, FROM THE OWNER, AN AMOUNT BEARING THE SAME RATIO TO THE THEN CURRENT VALUE OF SO MUCH OF THE PROPERTY AS CONSTITUTED AN APPROVED PROJECT AS THE AMOUNT OF THE STATE PARTICIPATION BORE TO THE TOTAL ELIGIBLE COST OF THE APPROVED PROJECT, TOGETHER WITH ALL COSTS AND REASONABLE ATTORNEY'S FEES INCURRED BY THE STATE IN THE RECOVERY PROCEEDINGS, IF, WITHIN 30 YEARS AFTER COMPLETION OF A PROJECT, A PROPERTY FOR WHICH FUNDS HAVE BEEN PAID UNDER THIS SUBTITLE:

(1) IS SOLD OR TRANSFERRED TO ANY PERSON, AGENCY, OR ORGANIZATION THAT WOULD NOT QUALIFY AS AN APPLICANT UNDER THIS SUBTITLE, OR THAT IS NOT APPROVED AS A TRANSFEREE BY THE BOARD OF PUBLIC WORKS; OR

(2) CEASES TO BE A COMMUNITY DENTAL CLINIC AS DEFINED IN THIS SUBTITLE.

(B) (1) BEFORE THE STATE MAKES ANY FUNDS AVAILABLE FOR AN APPROVED PROJECT, THE DEPARTMENT SHALL CAUSE A NOTICE OF THIS RIGHT OF RECOVERY TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY OR BALTIMORE CITY WHERE THE PROPERTY IS LOCATED.

(2) THE RECORDING OF THE NOTICE:

(I) DOES NOT CREATE A LIEN AGAINST THE PROPERTY; BUT

(II) SHALL CONSTITUTE NOTICE TO ANY POTENTIAL TRANSFEREE, POTENTIAL TRANSFEROR, POTENTIAL CREDITOR, OR OTHER INTERESTED PARTY OF THE POSSIBILITY THAT THE STATE MAY OBTAIN A LIEN UNDER THIS SUBTITLE.

(C) (1) (I) THE SECRETARY OF THE BOARD OF PUBLIC WORKS MAY FILE A CIVIL COMPLAINT AUTHORIZED UNDER SUBSECTION ~~(B)~~ (A) OF THIS SECTION, IN THE CIRCUIT COURT FOR THE COUNTY OR BALTIMORE CITY WHERE THE PROPERTY IS LOCATED, AGAINST THE OWNER OF THE PROPERTY AND ANY OTHER INTERESTED PARTIES, INCLUDING ANY TRANSFEROR THAT THE STATE WISHES TO MAKE A PARTY.

(II) THE COMPLAINT SHALL BE FILED WITH:

1. SWORN AFFIDAVITS STATING FACTS ON WHICH THE ALLEGATIONS OF DEFAULT ARE BASED; AND

2. A DETAILED JUSTIFICATION OF THE AMOUNT CLAIMED.

(2) IF THE CIRCUIT COURT DETERMINES FROM THE STATE'S INITIAL FILING THAT A DEFAULT HAS OCCURRED, PENDING FULL DETERMINATION OF THE STATE'S CLAIM, THE COURT SHALL AUTHORIZE A TEMPORARY LIEN ON THE PROPERTY:

(I) IN THE AMOUNT OF THE STATE'S COMPLAINT PLUS ANY ADDITIONAL AMOUNT ESTIMATED TO BE NECESSARY TO COVER THE COSTS AND REASONABLE ATTORNEY'S FEES INCURRED BY THE STATE; OR

(II) IN OTHER AMOUNTS THAT THE COURT DETERMINES TO BE REASONABLE.

(3) (I) A TEMPORARY LIEN SHALL TAKE EFFECT:

1. ON THE DATE OF THE COURT'S AUTHORIZATION, IF THE SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF TEMPORARY LIEN IN THE LAND RECORDS OF THE COUNTY OR BALTIMORE CITY WHERE THE PROPERTY IS LOCATED WITHIN 10 DAYS AFTER THE COURT'S AUTHORIZATION; OR

2. ON THE DATE A NOTICE OF TEMPORARY LIEN IS RECORDED.

(II) WHILE THE TEMPORARY LIEN IS IN EFFECT, NEITHER THE OWNER NOR ANY PERSON THAT ACQUIRED AN INTEREST IN THE PROPERTY AFTER THE STATE FIRST MADE FUNDS AVAILABLE IN CONNECTION WITH THE PROPERTY MAY, WITHOUT THE PRIOR WRITTEN CONSENT OF THE STATE:

1. TAKE ANY ACTION THAT WOULD AFFECT THE TITLE TO THE PROPERTY; OR

2. INSTITUTE ANY PROCEEDINGS TO ENFORCE A SECURITY INTEREST OR OTHER SIMILAR RIGHTS IN THE PROPERTY.

(4) (I) THE OWNER OF THE PROPERTY OR ANY OTHER INTERESTED PARTY MAY OBTAIN RELEASE OF A TEMPORARY LIEN AT ANY TIME BY FILING WITH THE COURT A BOND SECURING THE PAYMENT IN FULL OF THE STATE'S CLAIM AND ANY ADDITIONAL AMOUNT NECESSARY TO COVER THE COSTS AND REASONABLE ATTORNEY'S FEES INCURRED BY THE STATE.

(II) THE OWNER OR OTHER INTERESTED PARTY MAY CAUSE THE RELEASE TO BE RECORDED IN THE LAND RECORDS.

(D) PROCEEDINGS TO DETERMINE THE STATE'S RIGHT TO RECOVER AND THE AMOUNT OF THE STATE'S RECOVERY UNDER THIS SUBTITLE SHALL HAVE PRIORITY OVER OTHER CIVIL PROCEEDINGS IN THE CIRCUIT COURTS.

(E) (1) (I) AT THE CONCLUSION OF FULL ADVERSARY PROCEEDINGS ON THE ISSUE OF DEFAULT AND OF ANY DISPUTES OVER THE AMOUNT OF THE STATE'S RECOVERY, THE CIRCUIT COURT SHALL, IF IT FINDS THAT A DEFAULT HAS OCCURRED, ISSUE A FINAL JUDGMENT FOR THE AMOUNT THE CIRCUIT COURT FINDS TO BE RECOVERABLE BY THE STATE.

(II) ALL PARTIES INVOLVED IN THE DEFAULT, INCLUDING IN EVERY CASE THE OWNER OF THE PROPERTY, SHALL BE HELD JOINTLY AND SEVERALLY LIABLE TO THE STATE FOR THE AMOUNT OF THE JUDGMENT.

(2) (I) EXCEPT AS THE STATE MAY OTHERWISE PROVIDE BY A WRITTEN SUBORDINATION AGREEMENT, IF THE AMOUNT OF THE FINAL JUDGMENT REMAINS UNPAID AFTER 30 DAYS FOLLOWING THE COURT'S FINAL ORDER, THE FINAL JUDGMENT SHALL CONSTITUTE A LIEN ON THE PROPERTY, SUPERIOR TO THE LIEN OR OTHER INTEREST OF A MORTGAGEE, PLEDGEE, PURCHASER, OR JUDGMENT CREDITOR WHOSE INTEREST BECAME PERFECTED AGAINST THIRD PERSONS AFTER THE STATE FIRST MADE FUNDS AVAILABLE UNDER THIS SUBTITLE.

(II) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, A LIEN TAKES EFFECT ON THE DATE A NOTICE OF LIEN IS RECORDED.

2. A LIEN TAKES EFFECT ON THE 31ST DAY FOLLOWING THE COURT'S FINAL ORDER IF THE SECRETARY OF THE BOARD OF PUBLIC WORKS RECORDS A NOTICE OF LIEN IN THE LAND RECORDS OF THE COUNTY OR BALTIMORE CITY WHERE THE PROPERTY IS LOCATED ON OR BEFORE THE 41ST DAY FOLLOWING THE FINAL ORDER.

(III) 1. AT THE TIME THAT A LIEN TAKES EFFECT, ANY TEMPORARY LIEN THEN IN EFFECT SHALL BE AUTOMATICALLY AND FULLY RELEASED.

2. THE RECORDED NOTICE OF A LIEN SHALL CONSTITUTE NOTICE OF THE RELEASE OF A TEMPORARY LIEN.

(IV) A LIEN IMPOSED UNDER THIS SUBSECTION MAY BE ENFORCED AND FORECLOSED IN ACCORDANCE WITH THE PROCEDURES

PRESCRIBED IN THE MARYLAND RULES, EXCEPT THAT NEITHER THE STATE NOR ANY AGENT APPOINTED BY THE STATE TO SELL THE PROPERTY NEED FILE A BOND.

(3) (I) THE OWNER OR ANY OTHER INTERESTED PARTY MAY OBTAIN RELEASE OF A LIEN AT ANY TIME BY PAYING TO THE STATE THE FULL AMOUNT OF THE JUDGMENT RENDERED BY THE CIRCUIT COURT, TOGETHER WITH INTEREST FROM THE DATE OF JUDGMENT.

(II) ON PAYMENT IN FULL, THE SECRETARY OF THE BOARD OF PUBLIC WORKS SHALL CAUSE A RELEASE TO BE RECORDED IN THE LAND RECORDS.

(4) IF THE CIRCUIT COURT FINDS THAT THERE HAS BEEN NO DEFAULT OR IF THE FULL AMOUNT OF THE COURT'S JUDGMENT IS PAID TO THE STATE WITHIN 30 DAYS AFTER THE COURT'S FINAL ORDER, A TEMPORARY LIEN THEN IN EFFECT SHALL BE RELEASED IMMEDIATELY AND THE SECRETARY OF THE BOARD OF PUBLIC WORKS SHALL CAUSE THE RELEASE TO BE RECORDED IN THE LAND RECORDS.

(F) (1) ALL FUNDS RECOVERED AS A RESULT OF THIS RIGHT OF RECOVERY SHALL BE DEPOSITED IN THE ANNUITY BOND FUND AND APPLIED TO THE DEBT SERVICE REQUIREMENTS OF THE STATE.

(2) IF THE BOARD OF PUBLIC WORKS DETERMINES THAT THERE IS GOOD CAUSE FOR RELEASING THE TRANSFEROR, TRANSFEREE, OR OWNER FROM THE OBLIGATION IMPOSED UNDER THIS SUBTITLE, THE BOARD OF PUBLIC WORKS MAY WAIVE THE STATE'S RIGHT OF RECOVERY UNDER THIS SUBTITLE.

24–1607.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 179 – *Optional Retirement Program – Regulations*.

This bill requires the Board of Trustees of the State Retirement and Pension System to adopt and maintain a written plan document for the Optional Retirement Program; and authorizes the State Retirement and Pension System to adopt regulations to implement its Optional Retirement Program responsibilities.

House Bill 267, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 179.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 179

AN ACT concerning

Optional Retirement Program – Regulations

FOR the purpose of requiring the Board of Trustees for the State Retirement and Pension System to adopt and maintain a written plan document for the optional retirement program; authorizing the Board of Trustees to adopt certain regulations; and generally relating to the optional retirement program.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 30–201
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 30–203
Annotated Code of Maryland
(2015 Replacement Volume and 2018 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

30–201.

(a) There is an optional retirement program in which eligible employees may participate.

(b) Under the program, annuity contracts offered by a designated company that provide retirement and death benefits may be purchased for participating employees.

(c) (1) The Board of Trustees shall administer the program to the extent provided in this title.

(2) The State Retirement Agency shall carry out the administrative duties of the Board of Trustees.

(d) The program shall be offered by each employing institution.

30–203.

The Board of Trustees shall **ADOPT AND MAINTAIN A WRITTEN PLAN DOCUMENT FOR THE PROGRAM AND MAY** adopt regulations that **[**are**]** **IT DEEMS** necessary to carry out this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 185 – *Life Insurance – Life of a Minor – Statement on Disclosure*.

This bill 1) allows the statement that must be included on the first page of an application for a life insurance policy on the life of a minor, or an endorsement to the policy, to alternatively be provided on a separate disclosure provided to an applicant at the time of application; and 2) has a delayed effective date, and applies to all policies of life insurance on the life of a minor issued or delivered in the State on or after January 1, 2020.

House Bill 193, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 185.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 185

AN ACT concerning

Life Insurance – Life of a Minor – Statement on Disclosure

FOR the purpose of altering a certain requirement that a life insurer include, in a certain manner, a certain statement on an application or endorsement for a policy of life insurance on the life of a minor to allow the life insurer to include the statement on a certain disclosure; providing for the application of this Act; providing for a delayed effective date; and generally relating to policies of life insurance on the lives of minors.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 16–119(a)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Insurance

16–119.

(a) (1) A life insurer may refuse an application for a policy of life insurance on the life of a minor only if the refusal is consistent with § 27–501(a)(2) of this article.

(2) An application for a policy of life insurance on the life of a minor that is submitted for underwriting shall include:

(i) the signature of the applicant; and

(ii) unless the minor is emancipated or married, the consent and signature of the parent or legal guardian with whom the minor resides.

(3) The life insurer shall include on the first page of the application for a policy of life insurance on the life of a minor**, ON A DISCLOSURE PROVIDED TO THE**

APPLICANT AT THE TIME OF APPLICATION, or on an endorsement to the policy the following statement in 12 point bold type:

"A person who feloniously and intentionally kills, conspires to kill, or procures the killing of the insured and who is a named beneficiary of a life insurance policy on the insured is not entitled to a benefit under the policy.".

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies of life insurance on the life of a minor issued or delivered in the State on or after January 1, 2020.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2020.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 192 – *Estates and Trusts – Elective Share of Surviving Spouse*.

This bill alters the elective share for a surviving spouse by 1) establishing definitions and procedures for calculating the estate subject to election; 2) expanding and clarifying procedures by which the surviving spouse may elect to take an elective share; (3) establishing additional procedures for the payment of an elective share; and (4) establishing standards for court modification of an elective share. This bill also updates certain personal financial power of attorney and limited power of attorney forms contained in statute; makes technical, clarifying, and conforming changes; and applies prospectively.

House Bill 99, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 192.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 192

AN ACT concerning

Estates and Trusts – Elective Share of Surviving Spouse

FOR the purpose of repealing certain provisions of law relating to a surviving spouse making an election to take a certain share of the net estate of the decedent instead of the property left to the surviving spouse under the will; establishing certain purposes of this Act; providing that a surviving spouse may take a certain elective share amount of a certain estate subject to election; specifying the manner in which the value of certain qualifying lifetime transfers, augmented estate, and estate subject to election shall be calculated; recodifying certain provisions of law relating to the right of election of a surviving spouse and certain time limits for electing to take an elective share; providing that the right of election may be exercised by a certain guardian of the property of the surviving spouse or a certain agent of the surviving spouse under certain circumstances; requiring the guardian of the property or the agent to provide certain notice before exercising the right of election of a surviving spouse; providing that an exercise of the right of election by the guardian of the property or the agent is valid except under certain circumstances; establishing certain procedures and a certain form for an election to take an elective share; authorizing the waiver of a certain right of election; requiring certain fiduciaries to deliver certain information and provide certain notice relating to a certain elective share of a surviving spouse; requiring a certain trustee to provide certain notice relating to the trust within a certain period of time; requiring the surviving spouse to deliver certain information to certain fiduciaries under certain circumstances; establishing the priority to be used in determining the sources from which a certain elective share amount is payable; establishing the manner of payment of a certain elective share under certain circumstances; providing certain immunity for certain payors and other third parties who make certain payments or transfers before receiving notice of a certain election; establishing the effect of an election to take a certain elective share on the rights of the surviving spouse under a certain will and a certain revocable trust; requiring certain persons, on the payment of an elective share, to file with a certain register of wills a certain statement; requiring the register, on a certain request, to redact from the statement certain information; requiring the register, on receipt of a certain request, to certify in a certain manner the accuracy of the calculation and payment of the elective share; requiring certain persons to deliver to the register certain information and documentation; prohibiting the register from disclosing certain information or documentation; authorizing the orphans' court, or the court exercising jurisdiction of the orphans' court in a county, to pass orders that may be necessary to determine the value or sources of payment of a certain elective share; authorizing the court, in a certain action, to modify, under certain circumstances, certain calculations or sources of payment of a certain elective share, consider the circumstances of certain transfers or arrangements, award certain attorney's fees, pass certain orders requiring certain individuals to provide certain information to the court, and transmit certain issues of fact to a certain circuit court; providing that a personal

representative is entitled to certain reimbursement for certain commissions and attorney's fees in connection with an election to take an elective share; authorizing a court, with respect to a certain minor or disabled person, to authorize or direct an election to take an elective share without first appointing a guardian; altering certain provisions in certain statutory forms for a power of attorney relating to authority to elect to take an elective share in accordance with this Act; defining certain terms; making stylistic changes; providing for the application of this Act; providing for a delayed effective date; and generally relating to the elective share of a surviving spouse.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 2–102(a); the subtitle designation "Subtitle 2. Family Allowance; Dower and Curtesy" immediately preceding Section 3–201; and 7–603, 13–204(a), 17–202, and 17–203
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Estates and Trusts
Section 3–201(a)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing
Article – Estates and Trusts
Section 3–203 through 3–208
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Estates and Trusts
Section 3–401 through 3–413 to be under the new subtitle "Subtitle 4. Elective Share of Surviving Spouse"; and 14.5–606
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Estates and Trusts

2–102.

(a) **(1)** The court may **[**conduct judicial probate, direct the conduct of a personal representative, and pass orders which may be required in the course of the administration of an estate of a decedent. It may summon witnesses**]:**

(I) CONDUCT JUDICIAL PROBATE;

(II) DIRECT THE CONDUCT OF A PERSONAL REPRESENTATIVE;

(III) SUMMON WITNESSES; AND

(IV) ISSUE ORDERS THAT MAY BE:

1. REQUIRED IN THE COURSE OF THE ADMINISTRATION OF AN ESTATE OF A DECEDENT; OR

2. NECESSARY TO DETERMINE THE VALUE OR SOURCES OF PAYMENT OF AN ELECTIVE SHARE UNDER § 3–413 OF THIS ARTICLE.

(2) The court may not, under pretext of incidental power or constructive authority, exercise any jurisdiction not expressly conferred.

Subtitle 2. Family Allowance **[**and Statutory Share of Surviving Spouse**]; DOWER AND CURTESY**.

3–201.

(a) The surviving spouse is entitled to receive an allowance of $10,000 for personal use.

[3–203.

(a) In this section, "net estate" means the property of the decedent passing by testate succession, without a deduction for State or federal estate or inheritance taxes, and reduced by:

(1) Funeral and administration expenses;

(2) Family allowances; and

(3) Enforceable claims and debts against the estate.

(b) Instead of property left to the surviving spouse by will, the surviving spouse may elect to take a one–third share of the net estate if there is also a surviving issue, or a one–half share of the net estate if there is no surviving issue.

(c) The surviving spouse who makes this election may not take more than a one–half share of the net estate.

(d) For the purposes of this section, the net estate and the property allocable to a share of a surviving spouse shall be valued as of the date or dates of distribution.

(e) (1) For the purposes of this section, a surviving spouse who has elected to take against a will shall be entitled to the surviving spouse's portion of the income earned on the net estate during the period of administration based on a one–third or one–half share, whichever is applicable.

(2) If one or more distributions have been made to a surviving spouse or another person that require an adjustment in the relative interests of the beneficiaries, the applicable share shall be adjusted.**]**

[3–204.

The right of election of the surviving spouse is personal to him. It is not transferable and cannot be exercised subsequent to his death. If the surviving spouse is under 18 years of age or under disability, the election may be exercised by order of the court having jurisdiction of the person or property of the spouse or person under disability.**]**

[3–205.

The right of election of a surviving spouse may be waived before or after marriage by a written contract, agreement, or waiver signed by the party waiving the right of election. Unless it provides to the contrary, a waiver of "all rights" in the property or estate of a present or prospective spouse, or a complete property settlement entered into after or in anticipation of separation or divorce, is a waiver of any right to his family allowance as well as to his elective share by each spouse in the property of the spouse, his right to letters under § 5–104 of this article, and is an irrevocable renunciation of any benefit which would pass to him from the other by intestate succession, by statutory share, or by virtue of the provisions of a will executed before the waiver or property settlement.**]**

[3–206.

(a) (1) The election by a surviving spouse to take an elective share shall be made within the later of:

(i) Nine months after the date of the decedent's death; or

(ii) Six months after the first appointment of a personal representative under a will.

(2) (i) Within the period for making an election, the surviving spouse may file with the court a petition for an extension of time, with a copy given to the personal representative.

(ii) For good cause shown, the court may extend the time for election

for a period not to exceed three months at a time.

(b) The surviving spouse may withdraw the election at any time before the expiration of the time for making the election to take an elective share.**]**

[3–207.

(a) An election to take an elective share of an estate of a decedent shall be in writing and signed by the surviving spouse or other person entitled to make the election pursuant to § 3–204 of this subtitle, and shall be filed in the court in which the personal representative of the decedent was appointed.

(b) The election may be in this form.

I, A. B., surviving spouse of C. D., late of the County (City) of....., renounce all provisions in the will of C. D. and elect to take my elective share of the decedent's estate.

.....
(Signature)**]**

[3–208.

(a) (1) Upon the election of the surviving spouse to take the elective share of the property of the decedent, all property or other benefits which would have passed to the surviving spouse under the will shall be treated as if the surviving spouse had died before the execution of the will.

(2) The surviving spouse and a person claiming through the surviving spouse may not receive property under the will.

(b) (1) If there is an election to take an elective share, contribution to the payment of it shall be prorated among all legatees.

(2) Instead of contributing an interest in specific property to the elective share, a legatee or legatees, but not the personal representative, may pay the surviving spouse in cash, or other property acceptable to the spouse, an amount equal to the fair market value of the surviving spouse's interest in specific property on the date or dates of distribution.

(3) Unless specifically provided in the will, a legatee is not entitled to sequestration or compensation from another legatee, or from another part of the estate of the decedent, except that an interest renounced by the surviving spouse and not included in the share of the net estate received by the surviving spouse under this section may be subject to sequestration for the benefit of individuals who are the natural objects of the bounty of the decedent, in order to avoid a substantial distortion of the intended dispositions of the testator.**]**

SUBTITLE 4. ELECTIVE SHARE OF SURVIVING SPOUSE.

3–401.

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

(B) "AUGMENTED ESTATE" MEANS AN ESTATE AS CALCULATED UNDER § 3–404 OF THIS SUBTITLE.

(C) "COURT" MEANS:

(1) EXCEPT WITH RESPECT TO A PROCEEDING UNDER § 12–502 OF THE COURTS ARTICLE OR AS OTHERWISE PROVIDED UNDER THE MARYLAND RULES, THE ORPHANS' COURT, OR THE COURT EXERCISING THE JURISDICTION OF THE ORPHANS' COURT, FOR THE COUNTY IN WHICH THE ELECTION UNDER § 3–403 OF THIS SUBTITLE IS FILED; OR

(2) WITH RESPECT TO THE ENFORCEMENT OF PAYMENT OF AN ELECTIVE SHARE OR ANY PORTION THEREOF UNDER § 3–410 OF THIS SUBTITLE, THE COURT HAVING JURISDICTION OVER THE PROPERTY FROM WHICH THE PAYMENT IS TO BE MADE.

(D) "ESTATE SUBJECT TO ELECTION" MEANS THE PORTION OF AN AUGMENTED ESTATE THAT IS SUBJECT TO ELECTION AS CALCULATED UNDER § 3–404 OF THIS SUBTITLE.

(E) "MARITAL TRUST" MEANS ANY TRUST CREATED FOR THE EXCLUSIVE LIFETIME BENEFIT OF THE SPOUSE OF A DECEDENT OR OF THE SETTLOR OF THE TRUST IF:

(1) THE SPOUSE IS ENTITLED TO ALL INCOME FROM THE PROPERTY HELD BY THE TRUST, PAYABLE ANNUALLY OR AT MORE FREQUENT INTERVALS, OR HAS A USUFRUCT INTEREST FOR LIFE IN THE PROPERTY; AND

(2) THE SPOUSE HAS THE POWER TO COMPEL THE TRUSTEES OF THE TRUST TO CONVERT UNPRODUCTIVE ASSETS INTO INCOME–PRODUCING ASSETS.

(F) "PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN" MEANS THE PERSON RESPONSIBLE FOR FILING A MARYLAND ESTATE TAX RETURN FOR A DECEDENT UNDER § 7–305 OF THE TAX – GENERAL ARTICLE, REGARDLESS OF WHETHER A MARYLAND ESTATE TAX RETURN ACTUALLY IS REQUIRED TO BE FILED FOR THE DECEDENT.

(G) "PROBATE ESTATE" MEANS ALL PROPERTY PASSING BY TESTATE SUCCESSION.

(H) "QUALIFYING JOINT INTEREST" MEANS AN INTEREST IN PROPERTY HELD AS A JOINT TENANT WITH RIGHT OF SURVIVORSHIP OR EQUIVALENT, OR A TENANCY–BY–THE–ENTIRETIES EQUAL TO:

(1) IN THE CASE OF A JOINT TENANCY WITH RIGHT OF SURVIVORSHIP OR EQUIVALENT, THE GREATER OF:

(I) THE TENANT'S FRACTIONAL INTEREST IN THE PROPERTY; OR

(II) THE PERCENTAGE OF THE PROPERTY'S VALUE, EXCLUSIVE OF INCOME OR APPRECIATION, CONTRIBUTED BY THE TENANT; OR

(2) IN THE CASE OF A TENANCY–BY–THE–ENTIRETIES, ONE–HALF OF THE VALUE OF THE PROPERTY.

(I) (1) "QUALIFYING LIFETIME TRANSFER" MEANS:

(I) AN IRREVOCABLE TRANSFER MADE DURING THE LIFETIME OF THE TRANSFEROR IN WHICH THE TRANSFEROR RETAINED FOR A PERIOD ACTUALLY TERMINATING AT OR AFTER THE TRANSFEROR'S DEATH:

1. POSSESSION OF THE PROPERTY;

2. THE RIGHT TO RECEIVE THE INCOME FROM THE PROPERTY;

3. THE USE OR ENJOYMENT OF THE PROPERTY;

4. A QUALIFYING JOINT INTEREST;

5. A QUALIFYING POWER OF DISPOSITION; OR

6. THE RIGHT TO RECEIVE AN ANNUITY OR OTHER PERIODIC PAYMENT FROM THE PROPERTY, INCLUDING, WITHOUT LIMITATION, A PERIODIC PAYMENT BASED ON THE VALUE OF THE PROPERTY;

(II) AN IRREVOCABLE TRANSFER MADE DURING THE LIFETIME OF THE TRANSFEROR IN WHICH THE TRANSFEROR RETAINED AN INTEREST

DESCRIBED IN ITEM (I) OF THIS PARAGRAPH THAT ACTUALLY TERMINATED BEFORE THE TRANSFEROR'S DEATH, AND THE REMAINING VALUE OF THE PROPERTY TRANSFERRED THEN PASSED TO A RECIPIENT OTHER THAN THE TRANSFEROR OR THE TRANSFEROR'S SPOUSE; OR

(III) ANY OTHER IRREVOCABLE TRANSFER MADE DURING THE LIFETIME OF THE TRANSFEROR, OTHER THAN A TRANSFER TO THE TRANSFEROR'S SPOUSE.

(2) "QUALIFYING LIFETIME TRANSFER" DOES NOT INCLUDE A TRANSFER MADE IN ACCORDANCE WITH A BONA FIDE SALE FOR ADEQUATE CONSIDERATION IN MONEY OR MONEY'S WORTH.

(J) "QUALIFYING POWER OF DISPOSITION" MEANS A POWER, WHETHER OR NOT THE HOLDER HAS THE CAPACITY TO EXERCISE THAT POWER, BY WHICH THE HOLDER, DURING THE LIFE OF THE HOLDER OR ON THE HOLDER'S DEATH, MAY:

(1) APPOINT THE PROPERTY SUBJECT TO THE POWER TO THE HOLDER, THE HOLDER'S ESTATE, THE HOLDER'S CREDITORS, OR THE CREDITORS OF THE HOLDER'S ESTATE, UNLESS THE POWER OF APPOINTMENT IS NOT CREATED, DIRECTLY OR INDIRECTLY, BY THE HOLDER AND IS LIMITED BY AN ASCERTAINABLE STANDARD RELATING TO THE HOLDER'S HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE;

(2) DESIGNATE THE RECIPIENT OR RECIPIENTS OF THE PROPERTY ON THE HOLDER'S DEATH, INCLUDING IN ACCORDANCE WITH A BENEFICIARY DESIGNATION, A PAYABLE ON DEATH DESIGNATION, OR A TRANSFER ON DEATH DESIGNATION; OR

(3) DETERMINE, ALTER, OR AMEND THE POSSESSION OR ENJOYMENT OF, OR THE RIGHT TO INCOME FROM, THE PROPERTY SUBJECT TO THE POWER IF THE POWER WAS CREATED, DIRECTLY OR INDIRECTLY, BY THE HOLDER.

(K) "REVOCABLE" HAS THE MEANING STATED IN § 14.5–103 OF THIS ARTICLE.

(L) "REVOCABLE TRUST OF THE DECEDENT" MEANS ANY TRUST OF WHICH A DECEDENT WAS THE SETTLOR THAT WAS REVOCABLE BY THE DECEDENT BEFORE THE DECEDENT'S DEATH OR INCAPACITY.

(M) "SETTLOR" HAS THE MEANING STATED IN § 14.5–103 OF THIS ARTICLE.

(N) "SPOUSAL BENEFITS" MEANS THE AGGREGATE VALUE OF PROPERTY

PASSING TO OR IN TRUST FOR THE BENEFIT OF THE SURVIVING SPOUSE BY REASON OF A DECEDENT'S DEATH AND PROPERTY HELD FOR THE BENEFIT OF THE SURVIVING SPOUSE IN ANY TRUST CREATED DURING A DECEDENT'S LIFETIME OF WHICH THE DECEDENT WAS A SETTLOR, REDUCED BY:

(1) WITH RESPECT TO PROPERTY THAT THE DECEDENT OWNED JOINTLY WITH THE SURVIVING SPOUSE, THAT PORTION OF THE VALUE OF THE PROPERTY THAT IS NOT INCLUDED IN THE ESTATE SUBJECT TO ELECTION;

(2) THE VALUE OF ASSETS PASSING BY REASON OF THE DECEDENT'S DEATH TO ANY TRUST OF WHICH THE SURVIVING SPOUSE IS NOT THE SOLE BENEFICIARY DURING THE SURVIVING SPOUSE'S LIFETIME;

(3) THE VALUE OF ASSETS HELD IN ANY TRUST CREATED DURING THE DECEDENT'S LIFETIME OF WHICH:

(I) THE DECEDENT WAS A SETTLOR; AND

(II) THE SURVIVING SPOUSE IS NOT THE SOLE BENEFICIARY DURING THE SURVIVING SPOUSE'S LIFETIME;

(4) ONE–QUARTER OF THE AGGREGATE VALUE OF ASSETS PASSING BY REASON OF THE DECEDENT'S DEATH TO, OR HELD AT THE TIME OF THE DECEDENT'S DEATH IN, ANY MARITAL TRUST;

(5) ONE–THIRD OF THE AGGREGATE VALUE OF ASSETS PASSING BY REASON OF THE DECEDENT'S DEATH TO, OR HELD AT THE TIME OF THE DECEDENT'S DEATH IN, ANY TRUST, WHETHER TESTAMENTARY OR CREATED DURING THE DECEDENT'S LIFETIME:

(I) EXCLUDING A TRUST DESCRIBED UNDER ITEM (4) OF THIS SUBSECTION;

(II) OF WHICH THE DECEDENT WAS A SETTLOR, IF THE TRUST WAS CREATED DURING THE DECEDENT'S LIFETIME;

(III) THAT IS HELD FOR THE EXCLUSIVE LIFETIME BENEFIT OF THE SURVIVING SPOUSE; AND

(IV) FROM WHICH THE TRUSTEES MAY MAKE DISTRIBUTIONS TO OR FOR THE BENEFIT OF THE SURVIVING SPOUSE IN ACCORDANCE WITH A STANDARD NOT MORE RESTRICTIVE THAN THAT UNDER § 14–402(B)(3) OF THIS ARTICLE; AND

(6) THE ENTIRE VALUE OF ANY TRUST FOR THE EXCLUSIVE LIFETIME BENEFIT OF THE SURVIVING SPOUSE THAT IS NOT A MARITAL TRUST AND IS NOT DESCRIBED UNDER ITEM (5) OF THIS SUBSECTION.

(O) "VALUE" MEANS:

(1) FOR AN ASSET INCLUDED IN THE GROSS ESTATE OF A DECEDENT UNDER § 7–301(B) OF THE TAX – GENERAL ARTICLE, THE VALUE OF THE ASSET UNDER TITLE 7, SUBTITLE 3 OF THE TAX – GENERAL ARTICLE, IF A MARYLAND ESTATE TAX RETURN IS REQUIRED TO BE FILED WITH RESPECT TO THE DECEDENT; AND

(2) FOR ANY OTHER ASSET, THE VALUE OF THE ASSET UNDER § 7–202 OF THIS ARTICLE, REGARDLESS OF WHETHER THE ASSET IS REQUIRED TO BE REPORTED ON AN INVENTORY.

3–402.

THE PURPOSES OF THIS SUBTITLE ARE:

(1) TO ENSURE THAT A SURVIVING SPOUSE IS REASONABLY PROVIDED FOR DURING THE SURVIVING SPOUSE'S REMAINING LIFETIME; AND

(2) SUBJECT TO ITEM (1) OF THIS SECTION, TO PROVIDE A TESTATOR FLEXIBILITY IN ORDERING THE TESTATOR'S AFFAIRS.

3–403.

THE SURVIVING SPOUSE MAY ELECT TO TAKE AN ELECTIVE SHARE OF AN ESTATE SUBJECT TO ELECTION AS FOLLOWS:

(1) IF THERE IS SURVIVING ISSUE, THE ELECTIVE SHARE SHALL EQUAL ONE–THIRD OF THE VALUE OF THE ESTATE SUBJECT TO ELECTION, REDUCED BY THE VALUE OF ALL SPOUSAL BENEFITS; OR

(2) IF THERE IS NO SURVIVING ISSUE, THE ELECTIVE SHARE SHALL EQUAL ONE–HALF OF THE VALUE OF THE ESTATE SUBJECT TO ELECTION, REDUCED BY THE VALUE OF ALL SPOUSAL BENEFITS.

3–404.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE VALUE OF THE DECEDENT'S AUGMENTED ESTATE SHALL BE CALCULATED BY TOTALING THE

VALUE OF:

(I) THE PROBATE ESTATE OF THE DECEDENT;

(II) ALL REVOCABLE TRUSTS OF THE DECEDENT;

(III) ALL PROPERTY WITH RESPECT TO WHICH THE DECEDENT, IMMEDIATELY BEFORE DEATH, HELD A QUALIFYING POWER OF DISPOSITION;

(IV) ALL QUALIFYING JOINT INTERESTS OF THE DECEDENT; AND

(V) ALL QUALIFYING LIFETIME TRANSFERS OF THE DECEDENT.

(2) IF A PROPERTY INTEREST IS INCLUDED IN THE AUGMENTED ESTATE UNDER MORE THAN ONE ITEM OF PARAGRAPH (1) OF THIS SUBSECTION, ONLY THE ITEM RESULTING IN THE LARGEST AUGMENTED ESTATE SHALL APPLY.

(B) THE ESTATE SUBJECT TO ELECTION SHALL BE CALCULATED BY REDUCING THE VALUE OF THE DECEDENT'S AUGMENTED ESTATE BY:

(1) FUNERAL AND ADMINISTRATION EXPENSES PAYABLE FROM THE AUGMENTED ESTATE;

(2) FAMILY ALLOWANCES PAYABLE FROM THE AUGMENTED ESTATE;

(3) ENFORCEABLE CLAIMS AND DEBTS AGAINST ANY PART OF THE AUGMENTED ESTATE;

(4) THE VALUE OF ANY ASSETS INCLUDED IN THE AUGMENTED ESTATE THAT, AT THE TIME OF THE DECEDENT'S DEATH, WERE HELD IN A TRUST OF WHICH THE DECEDENT IS NOT A SETTLOR, IF:

(I) THE ASSETS WERE NOT PREVIOUSLY OWNED BY THE DECEDENT; OR

(II) THE ASSETS WERE PREVIOUSLY OWNED BY THE DECEDENT BUT WERE SOLD BY THE DECEDENT IN ACCORDANCE WITH A BONA FIDE SALE FOR ADEQUATE CONSIDERATION IN MONEY OR MONEY'S WORTH;

(5) THE VALUE OF ANY ASSETS INCLUDED IN THE AUGMENTED ESTATE UNDER SUBSECTION (A)(1)(III) OF THIS SECTION THAT, AT THE TIME OF THE DECEDENT'S DEATH, WERE HELD:

(I) IN A TRUST ESTABLISHED UNDER § 1917(C)(2)(B)(III), (C)(2)(B)(IV), (D)(4)(A), OR (D)(4)(C) OF THE SOCIAL SECURITY ACT;

(II) IN AN ACCOUNT ESTABLISHED UNDER § 529A OF THE INTERNAL REVENUE CODE; OR

(III) IN A SPECIAL NEEDS TRUST FOR THE BENEFIT OF AN INDIVIDUAL WHO IS DISABLED AS DEFINED IN § 1614(A)(3) OF THE SOCIAL SECURITY ACT;

(6) THE VALUE OF ANY PROPERTY INCLUDED IN THE AUGMENTED ESTATE UNDER SUBSECTION (A)(1)(III), (IV), OR (V) OF THIS SECTION, THE DISPOSITION OF WHICH THE SURVIVING SPOUSE OF THE DECEDENT CONSENTED TO IN WRITING DURING THE DECEDENT'S LIFETIME OTHER THAN BY MEANS OF SPOUSAL CONSENT TO SPLIT–GIFT TREATMENT UNDER THE FEDERAL GIFT TAX LAWS;

(7) THE VALUE OF ANY QUALIFYING LIFETIME TRANSFER OF THE DECEDENT DESCRIBED IN § 3–401(I)(1)(II) OF THIS SUBTITLE WHERE:

(I) THE INITIAL TRANSFER TOOK PLACE BEFORE THE DECEDENT'S MARRIAGE TO THE SURVIVING SPOUSE OF THE DECEDENT; OR

(II) THE DECEDENT'S INTEREST IN THE PROPERTY TRANSFERRED TERMINATED MORE THAN 2 YEARS BEFORE THE DECEDENT'S DEATH;

(8) THE VALUE OF ANY QUALIFYING LIFETIME TRANSFER OF THE DECEDENT DESCRIBED IN § 3–401(I)(1)(III) OF THIS SUBTITLE THAT OCCURRED BEFORE THE LATER OF:

(I) THE DECEDENT'S MARRIAGE TO THE SURVIVING SPOUSE OF THE DECEDENT; OR

(II) 2 YEARS BEFORE THE DECEDENT'S DEATH;

(9) THE VALUE OF ANY INTEREST IN REAL PROPERTY INCLUDED IN THE AUGMENTED ESTATE BY REASON OF THE DECEDENT'S RETENTION OF A LIFE ESTATE IN THE REAL PROPERTY IF:

(I) AT THE TIME OF THE DECEDENT'S DEATH, THE DECEDENT HELD NO QUALIFYING POWER OF DISPOSITION OVER THE REAL PROPERTY; AND

(II) THE DECEDENT'S LIFE ESTATE IN THE PROPERTY WAS

CREATED MORE THAN 2 YEARS BEFORE THE DECEDENT'S DEATH; AND

(10) THE VALUE OF THE PROCEEDS OF AN INSURANCE POLICY ON THE DECEDENT'S LIFE IN EXCESS OF THE NET CASH SURRENDER VALUE OF THE POLICY IMMEDIATELY BEFORE THE DECEDENT'S DEATH OR, IN THE CASE OF TERM INSURANCE, IN EXCESS OF THE TOTAL PREMIUMS PAID, IF:

(I) THE PROCEEDS ARE INCLUDED IN THE AUGMENTED ESTATE;

(II) THE PROCEEDS ARE PAYABLE TO A CHARITY OR TO OR FOR THE EXCLUSIVE LIFETIME BENEFIT OF AN ANCESTOR, A DESCENDANT, A STEP–DESCENDANT, OR A SIBLING OF THE DECEDENT; AND

(III) 1. THE POLICY WAS PURCHASED BEFORE THE DECEDENT'S MARRIAGE TO THE SURVIVING SPOUSE OF THE DECEDENT;

2. THE POLICY WAS PURCHASED MORE THAN 5 YEARS BEFORE THE DECEDENT'S DEATH; OR

3. THE SURVIVING SPOUSE OF THE DECEDENT CONSENTED IN WRITING DURING THE DECEDENT'S LIFETIME TO THE DISPOSITION OF THE PROCEEDS AS DESCRIBED IN ITEM (II) OF THIS ITEM.

(C) (1) THE VALUE OF A QUALIFYING LIFETIME TRANSFER DESCRIBED UNDER § 3–401(I)(1)(I) OF THIS SUBTITLE SHALL BE DETERMINED AS IF THE PROPERTY STILL WAS OWNED BY THE TRANSFEROR.

(2) THE VALUE OF A QUALIFYING LIFETIME TRANSFER DESCRIBED UNDER § 3–401(I)(1)(II) OF THIS SUBTITLE SHALL BE DETERMINED AS OF THE DATE OF THE TERMINATION OF THE TRANSFEROR'S INTEREST IN THE TRANSFERRED PROPERTY.

(3) THE VALUE OF A QUALIFYING LIFETIME TRANSFER DESCRIBED UNDER § 3–401(I)(1)(III) OF THIS SUBTITLE SHALL BE DETERMINED AS OF THE DATE OF THE TRANSFER.

3–405.

(A) THE RIGHT OF ELECTION OF A SURVIVING SPOUSE:

(1) IS PERSONAL TO THE SURVIVING SPOUSE;

(2) IS NOT TRANSFERABLE; AND

(3) CANNOT BE EXERCISED AFTER THE SURVIVING SPOUSE'S DEATH.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, IF THE SURVIVING SPOUSE IS A MINOR OR INCAPACITATED WITHIN THE MEANING OF § 17–101(C) OF THIS ARTICLE, THE ELECTION MAY BE EXERCISED BY:

(1) AN ORDER OF THE COURT HAVING JURISDICTION OF THE PERSON OR PROPERTY OF THE MINOR OR INCAPACITATED PERSON;

(2) A GUARDIAN OF THE PROPERTY OF THE SURVIVING SPOUSE WHO HAS BEEN SPECIFICALLY AUTHORIZED TO MAKE THE ELECTION BY ORDER OF THE COURT HAVING SUPERVISION OF THE GUARDIANSHIP; OR

(3) AN AGENT DESIGNATED BY THE SURVIVING SPOUSE UNDER A POWER OF ATTORNEY THAT SPECIFICALLY AUTHORIZES THE AGENT TO MAKE THE ELECTION.

(C) (1) BEFORE A GUARDIAN OF THE PROPERTY OF THE SURVIVING SPOUSE OR AN AGENT DESIGNATED BY THE SURVIVING SPOUSE UNDER A POWER OF ATTORNEY MAY EXERCISE A RIGHT OF ELECTION UNDER SUBSECTION (B) OF THIS SECTION, THE GUARDIAN OF THE PROPERTY OR THE AGENT SHALL DELIVER NOTICE OF THE ELECTION TO:

(I) ALL INTERESTED PERSONS IN THE DECEDENT'S ESTATE; AND

(II) ALL PERSONS WHO WOULD INHERIT FROM THE SURVIVING SPOUSE UNDER SUBTITLE 1 OF THIS TITLE IF THE SURVIVING SPOUSE DIED INTESTATE AND UNMARRIED AT THE TIME THE ELECTION IS MADE.

(2) AN EXERCISE OF A RIGHT OF ELECTION UNDER SUBSECTION (B) OF THIS SECTION IS VALID UNLESS:

(I) WITHIN 30 DAYS FOLLOWING THE DELIVERY OF NOTICE OF THE ELECTION IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, A PERSON MAKES AN OBJECTION TO THE ELECTION IN THE COURT IN WHICH THE ELECTION WAS FILED; AND

(II) FOLLOWING A HEARING ON THAT OBJECTION, THE COURT RULES THAT THE ELECTION IS NOT IN THE BEST INTERESTS OF THE SURVIVING SPOUSE.

3–406.

(A) THE RIGHT OF ELECTION OF A SURVIVING SPOUSE MAY BE WAIVED BEFORE OR AFTER MARRIAGE BY A WRITTEN CONTRACT, AGREEMENT, OR WAIVER SIGNED BY THE PARTY WAIVING THE RIGHT OF ELECTION.

(B) UNLESS THE WAIVER PROVIDES TO THE CONTRARY, A WAIVER OF "ALL RIGHTS", OR EQUIVALENT LANGUAGE, IN THE PROPERTY OR ESTATE OF A PRESENT OR PROSPECTIVE SPOUSE OR A COMPLETE PROPERTY SETTLEMENT ENTERED INTO AFTER OR IN ANTICIPATION OF SEPARATION OR DIVORCE IS A WAIVER OF ALL RIGHTS OF FAMILY ALLOWANCE AND ELECTIVE SHARE BY EACH SPOUSE IN THE PROPERTY OF THE OTHER AND THE RIGHT TO LETTERS UNDER § 5–104 OF THIS ARTICLE, AND IS AN IRREVOCABLE RENUNCIATION BY EACH SPOUSE OF ALL BENEFITS THAT WOULD OTHERWISE PASS TO THE SPOUSE FROM THE OTHER BY INTESTATE SUCCESSION, BY ELECTIVE SHARE, OR BY VIRTUE OF A WILL OR REVOCABLE TRUST OF THE PRESENT OR PROSPECTIVE SPOUSE EXECUTED BEFORE THE WAIVER OR PROPERTY SETTLEMENT.

3–407.

(A) (1) THE ELECTION BY A SURVIVING SPOUSE TO TAKE AN ELECTIVE SHARE SHALL BE MADE WITHIN THE LATER OF:

(I) 9 MONTHS AFTER THE DATE OF THE DECEDENT'S DEATH; OR

(II) 6 MONTHS AFTER THE FIRST APPOINTMENT OF A PERSONAL REPRESENTATIVE.

(2) (I) WITHIN THE PERIOD FOR MAKING AN ELECTION, THE SURVIVING SPOUSE MAY FILE WITH THE COURT A PETITION FOR AN EXTENSION OF TIME, WITH A COPY GIVEN TO THE PERSONAL REPRESENTATIVE.

(II) FOR GOOD CAUSE SHOWN, THE COURT MAY EXTEND THE TIME FOR ELECTION FOR A PERIOD NOT TO EXCEED 3 MONTHS AT A TIME.

(B) THE SURVIVING SPOUSE MAY WITHDRAW THE ELECTION AT ANY TIME BEFORE THE EXPIRATION OF THE TIME FOR MAKING THE ELECTION TO TAKE AN ELECTIVE SHARE.

3–408.

(A) (1) AN ELECTION TO TAKE AN ELECTIVE SHARE UNDER THIS SUBTITLE:

(I) SHALL BE IN WRITING AND SIGNED BY THE SURVIVING SPOUSE OR OTHER PERSON ENTITLED TO MAKE THE ELECTION UNDER § 3–405 OF THIS SUBTITLE; AND

(II) 1. SHALL BE FILED IN THE COURT IN WHICH THE PERSONAL REPRESENTATIVE OF THE DECEDENT WAS APPOINTED; OR

2. IF NO PERSONAL REPRESENTATIVE OF THE DECEDENT HAS BEEN APPOINTED, SHALL BE FILED IN THE COURT FOR THE JURISDICTION IN WHICH THE VENUE WOULD BE PROPER UNDER § 5–103 OF THIS ARTICLE.

(2) NOTICE OF THE FILING OF AN ELECTION TO TAKE AN ELECTIVE SHARE UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE DELIVERED TO:

(I) THE TRUSTEE OF EACH REVOCABLE TRUST OF THE DECEDENT; OR

(II) THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, IF DIFFERENT FROM THE TRUSTEE.

(B) THE ELECTION MAY BE IN THE FOLLOWING FORM:

"I, A. B., SURVIVING SPOUSE OF C. D., LATE OF THE COUNTY (CITY) OF....., ELECT TO TAKE MY ELECTIVE SHARE OF THE DECEDENT'S ESTATE SUBJECT TO ELECTION UNDER § 3–403 OF THE ESTATES AND TRUSTS ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

.....
(SIGNATURE)".

3–409.

(A) ON RECEIPT OF A WRITTEN REQUEST BY THE SURVIVING SPOUSE, ALL INFORMATION NECESSARY TO CALCULATE THE ELECTIVE SHARE UNDER THIS SUBTITLE SHALL BE DELIVERED TO THE SURVIVING SPOUSE BY, AS APPLICABLE:

(1) THE PERSONAL REPRESENTATIVE OF THE DECEDENT;

(2) THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT; OR

(3) THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN.

(B) (1) THE FILING OF AN ELECTION TO TAKE THE ELECTIVE SHARE UNDER § 3–407 OF THIS SUBTITLE IS DEEMED TO GIVE ADEQUATE NOTICE OF THE ELECTION TO, AS APPLICABLE:

(I) THE PERSONAL REPRESENTATIVE OF THE DECEDENT;

(II) THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT; OR

(III) THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN.

(2) THE PERSON RECEIVING NOTICE OF AN ELECTION TO TAKE THE ELECTIVE SHARE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROMPTLY DELIVER NOTICE OF THE ELECTION TO EACH PERSON FROM WHOM ANY PORTION OF THE ELECTIVE SHARE MAY BE PAYABLE.

(C) WITHIN 60 DAYS AFTER THE DATE A TRUSTEE OF A REVOCABLE TRUST OF THE DECEDENT ACQUIRES KNOWLEDGE OF THE DECEDENT'S DEATH, THE TRUSTEE SHALL NOTIFY THE SURVIVING SPOUSE OF THE EXISTENCE OF THE TRUST, OF THE IDENTITY OF THE TRUSTEES, AND OF THE SURVIVING SPOUSE'S RIGHT TO REQUEST A COPY OF THE TRUST INSTRUMENT.

(D) ON RECEIPT OF A WRITTEN REQUEST BY THE PERSONAL REPRESENTATIVE OF THE DECEDENT, THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT, OR THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, THE SURVIVING SPOUSE SHALL DELIVER TO THE PERSON MAKING THE REQUEST ALL INFORMATION RELEVANT TO THE CALCULATION OF THE ELECTIVE SHARE UNDER THIS SUBTITLE THAT IS IN THE POSSESSION OF THE SURVIVING SPOUSE AND NOT OTHERWISE AVAILABLE TO THE PERSON MAKING THE REQUEST.

3–410.

(A) THIS SECTION DOES NOT APPLY IF PAYMENT OF THE ELECTIVE SHARE OF A SURVIVING SPOUSE IS OTHERWISE PROVIDED FOR IN:

(1) (I) THE DECEDENT'S WILL; OR

(II) THE INSTRUMENT GOVERNING ANY TRUST OF WHICH THE DECEDENT WAS THE SETTLOR; OR

(2) A WRITTEN AGREEMENT BETWEEN THE PERSONS RESPONSIBLE FOR PAYING THE ELECTIVE SHARE THAT IS APPROVED BY THE COURT.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE ELECTIVE SHARE OF A SURVIVING SPOUSE SHALL BE PAID:

(I) FROM THE PORTION OF THE DECEDENT'S PROBATE ESTATE THAT IS INCLUDED IN THE ESTATE SUBJECT TO ELECTION AND DOES NOT CONSTITUTE ANY PART OF THE SPOUSAL BENEFITS;

(II) TO THE EXTENT THE ELECTIVE SHARE IS NOT FULLY PAID AS PROVIDED IN ITEM (I) OF THIS PARAGRAPH:

1. FROM THE PORTION OF ANY REVOCABLE TRUST OF THE DECEDENT THAT IS INCLUDED IN THE ESTATE SUBJECT TO ELECTION AND DOES NOT CONSTITUTE ANY PART OF THE SPOUSAL BENEFITS; AND

2. IF THERE IS MORE THAN ONE REVOCABLE TRUST OF THE DECEDENT THAT IS INCLUDED IN THE ESTATE SUBJECT TO ELECTION, BY APPORTIONMENT AMONG THE TRUSTS IN PROPORTION TO THE VALUE OF THE ASSETS OF EACH REVOCABLE TRUST THAT ARE AVAILABLE TO SATISFY THE ELECTIVE SHARE; AND

(III) TO THE EXTENT THE ELECTIVE SHARE IS NOT FULLY PAID AS PROVIDED IN ITEMS (I) AND (II) OF THIS PARAGRAPH, BY THE RECIPIENTS OF ANY OTHER PORTIONS OF THE ESTATE SUBJECT TO ELECTION THAT DO NOT CONSTITUTE ANY PART OF THE SPOUSAL BENEFITS, PRORATED AMONG THE RECIPIENTS IN PROPORTION TO THE VALUE OF THE ASSETS RECEIVED BY EACH RECIPIENT.

(2) IF ANY PAYMENT REQUIRED BY THIS SUBSECTION IS PREEMPTED BY FEDERAL LAW OR IS TO BE MADE FROM EITHER A TRUST ESTABLISHED UNDER § 1917(C)(2)(B)(III), (C)(2)(B)(IV), (D)(4)(A), OR (D)(4)(C) OF THE SOCIAL SECURITY ACT, AN ACCOUNT ESTABLISHED UNDER § 529A OF THE INTERNAL REVENUE CODE, OR A SPECIAL NEEDS TRUST FOR THE BENEFIT OF AN INDIVIDUAL WHO IS DISABLED AS DEFINED IN § 1614(A)(3) OF THE SOCIAL SECURITY ACT, THE PORTION OF THE ELECTIVE SHARE PAYABLE UNDER THIS SUBSECTION SHALL BE APPORTIONED AMONG THOSE RECIPIENTS WHOSE BENEFITS ARE NOT PREEMPTED UNDER FEDERAL LAW OR WHO ARE NOT BENEFICIARIES OF THOSE TRUSTS OR ACCOUNTS.

(C) UNLESS THE SURVIVING SPOUSE AND THE PAYOR AGREE OTHERWISE IN WRITING, EACH PERSON REQUIRED TO PAY A PORTION OF THE ELECTIVE SHARE UNDER THIS SECTION SHALL MAKE PAYMENT:

(1) IN A MANNER THAT IS DEEMED TO BE IN ACCORDANCE WITH THE TERMS AND PURPOSES OF ANY INSTRUMENT GOVERNING THE DISPOSITION OF THE PORTION OF THE ESTATE SUBJECT TO ELECTION FROM WHICH THE PORTION OF THE ELECTIVE SHARE IS TO BE PAID; AND

(2) (I) IN CASH;

(II) WITH A PRORATED SHARE OF EACH ITEM OF PROPERTY FROM WHICH THAT PORTION OF THE ELECTIVE SHARE CAN BE PAID; OR

(III) WITH OTHER PROPERTY ACCEPTABLE TO THE SURVIVING SPOUSE, IN AN AMOUNT EQUAL TO THE FAIR MARKET VALUE OF THAT PORTION OF THE ELECTIVE SHARE TO BE PAID BY THE PAYOR.

(D) A PAYOR OR ANY OTHER THIRD PARTY, OTHER THAN THE PERSONAL REPRESENTATIVE OF THE DECEDENT, THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT, OR THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, IS NOT LIABLE FOR HAVING MADE A PAYMENT OR TRANSFERRED AN ITEM OF PROPERTY, OR ANY OTHER BENEFIT FROM WHICH THE ELECTIVE SHARE MIGHT BE PAID, TO A BENEFICIARY DESIGNATED IN A GOVERNING INSTRUMENT OR BENEFICIARY DESIGNATION IF THE PAYMENT OR TRANSFER IS MADE:

(1) IN GOOD FAITH RELIANCE ON THE VALIDITY OF THE GOVERNING INSTRUMENT OR BENEFICIARY DESIGNATION ON REQUEST AND SATISFACTORY PROOF OF THE DEATH OF THE DECEDENT; AND

(2) BEFORE THE PAYOR OR OTHER THIRD PARTY RECEIVES WRITTEN NOTICE OF THE ELECTION BY THE SURVIVING SPOUSE TO RECEIVE THE ELECTIVE SHARE UNDER THIS SUBTITLE.

3–411.

(A) ON THE ELECTION OF THE SURVIVING SPOUSE TO TAKE AN ELECTIVE SHARE UNDER THIS SUBTITLE, ALL PROPERTY OR OTHER BENEFITS THAT WOULD HAVE PASSED TO THE SURVIVING SPOUSE UNDER THE WILL, OTHER THAN ANY PORTION OF THE SPOUSAL BENEFITS, SHALL BE TREATED AS IF THE SURVIVING SPOUSE HAD DIED BEFORE THE EXECUTION OF THE WILL.

(B) THE SURVIVING SPOUSE AND A PERSON CLAIMING THROUGH THE SURVIVING SPOUSE MAY NOT RECEIVE PROPERTY UNDER THE WILL, OTHER THAN PROPERTY FORMING ANY PORTION OF THE SPOUSAL BENEFITS.

3–412.

(A) (1) ON THE FINAL PAYMENT OF AN ELECTIVE SHARE, THE PERSONAL REPRESENTATIVE OF THE DECEDENT, THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT, OR THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, AS APPROPRIATE, SHALL FILE WITH THE REGISTER FOR THE COUNTY IN

WHICH THE ELECTION UNDER § 3–403 OF THIS SUBTITLE IS FILED A SIGNED STATEMENT, WHICH HAS BEEN VERIFIED BY THE SURVIVING SPOUSE, STATING THE VALUE OF THE ELECTIVE SHARE AND THAT THE ELECTIVE SHARE HAS BEEN PAID IN FULL.

(2) ON THE REQUEST OF THE SURVIVING SPOUSE, THE PERSONAL REPRESENTATIVE OF THE DECEDENT, THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT, OR THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, THE REGISTER SHALL REDACT FROM THE STATEMENT FILED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION THE VALUE OF THE ELECTIVE SHARE.

(B) (1) ON THE REQUEST OF THE SURVIVING SPOUSE, THE PERSONAL REPRESENTATIVE OF THE DECEDENT, THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT, THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, ANY PAYOR OF ANY PORTION OF THE ELECTIVE SHARE, OR ANY OTHER PERSON HAVING AN INTEREST IN THE ASSETS FROM WHICH THE ELECTIVE SHARE HAS BEEN PAID, THE REGISTER SHALL CERTIFY IN WRITING THE ACCURACY OF THE CALCULATION AND PAYMENT OF THE ELECTIVE SHARE.

(2) IF A CERTIFICATION IS REQUESTED UNDER THIS SUBSECTION, THE SURVIVING SPOUSE, THE PERSONAL REPRESENTATIVE OF THE DECEDENT, THE TRUSTEE OF ANY REVOCABLE TRUST OF THE DECEDENT, THE PERSON RESPONSIBLE FOR FILING THE ESTATE TAX RETURN, AND ANY PAYOR OF ANY PORTION OF THE ELECTIVE SHARE SHALL DELIVER TO THE REGISTER ANY INFORMATION AND DOCUMENTATION THAT THE REGISTER MAY DEEM NECESSARY TO VERIFY THE ACCURATE CALCULATION OF THE ELECTIVE SHARE AND THE PAYMENT OF THE ELECTIVE SHARE IN FULL.

(3) THE REGISTER MAY NOT DISCLOSE ANY INFORMATION OR DOCUMENTATION SUBMITTED TO THE REGISTER IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

3–413.

IN AN ACTION ARISING UNDER THIS SUBTITLE, A COURT MAY:

(1) ON A SHOWING OF CLEAR AND CONVINCING EVIDENCE, MODIFY:

(I) THE CALCULATION OF THE VALUE OF AN AUGMENTED ESTATE;

(II) THE CALCULATION OF THE VALUE OF AN ESTATE SUBJECT

TO ELECTION;

(III) THE CALCULATION OF THE VALUE OF SPOUSAL BENEFITS; OR

(IV) THE SOURCES OF PAYMENT OF AN ELECTIVE SHARE;

(2) CONSIDER THE CIRCUMSTANCES OF ANY TRANSFER OR ARRANGEMENT, INCLUDING:

(I) THE EXTENT OF CONTROL RETAINED BY THE DECEDENT;

(II) THE MOTIVATION FOR THE TRANSFER OR ARRANGEMENT;

(III) THE FAMILIAL RELATIONSHIP BETWEEN THE DECEDENT AND THE BENEFICIARY OF THE TRANSFER OR ARRANGEMENT;

(IV) THE DEGREE, IF ANY, TO WHICH THE TRANSFER OR ARRANGEMENT DEPRIVES THE SURVIVING SPOUSE OF PROPERTY THAT OTHERWISE MIGHT FORM PART OF THE VALUE OF THE AUGMENTED ESTATE, ESTATE SUBJECT TO ELECTION, OR SPOUSAL BENEFITS;

(V) THE DEGREE, IF ANY, TO WHICH THE TRANSFER OR ARRANGEMENT PROVIDES A BENEFIT TO THE SURVIVING SPOUSE BEYOND WHAT WOULD BE AVAILABLE TO THE SURVIVING SPOUSE AS PART OF THE ELECTIVE SHARE;

(VI) THE LENGTH AND NATURE OF THE RELATIONSHIP BETWEEN THE DECEDENT AND THE SURVIVING SPOUSE; ~~AND~~

(VII) THE NATURE AND VALUE OF THE SURVIVING SPOUSE'S ASSETS; AND

(VIII) THE RELATIONSHIP OF THE BENEFICIARY OF THE TRANSFER OR ARRANGEMENT TO ANY PREVIOUS OWNER OF THE PROPERTY SUBJECT TO THE TRANSFER OR ARRANGEMENT;

(3) AWARD REASONABLE ATTORNEY'S FEES;

(4) PASS ORDERS REQUIRING THE HOLDER OR RECIPIENT OF ANY PORTION OF AN AUGMENTED ESTATE, AN ESTATE SUBJECT TO ELECTION, OR SPOUSAL BENEFITS TO PROVIDE ANY INFORMATION THAT THE COURT CONSIDERS NECESSARY TO DETERMINE THE VALUE OR SOURCES OF PAYMENT OF AN ELECTIVE

SHARE; AND

(5) TRANSMIT ISSUES OF FACT RELATING TO THE VALUE OR SOURCES OF PAYMENT OF AN ELECTIVE SHARE TO THE CIRCUIT COURT OF THE COUNTY IN WHICH THE ELECTION UNDER § 3–403 OF THIS SUBTITLE IS FILED.

7–603.

(A) [When a**] A** personal representative or person nominated as personal representative **WHO** defends or prosecutes a proceeding in good faith and with just cause**[**, he**]** shall be entitled to receive **[**his**]** necessary expenses and disbursements from the estate regardless of the outcome of the proceeding.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN ADDITION TO THE COMPENSATION PROVIDED FOR IN THIS SUBTITLE, A PERSONAL REPRESENTATIVE IS ENTITLED TO REASONABLE COMMISSIONS OR ATTORNEY'S FEES, AS DETERMINED BY THE COURT, IN CONNECTION WITH AN ELECTION BY A SURVIVING SPOUSE TO TAKE AN ELECTIVE SHARE UNDER § 3–403 OF THIS ARTICLE.

(2) THE AMOUNT OF COMPENSATION OR ATTORNEY'S FEES CONSENTED TO BY ALL INTERESTED PERSONS IS PRESUMED TO BE REASONABLE.

13–204.

(a) **(1)** If a basis exists as described in § 13–201 of this subtitle for assuming jurisdiction over the property of a minor or disabled person, the circuit court, without appointing a guardian, may authorize or direct a transaction with respect to the property, service, or care arrangement of the minor or disabled person.

(2) [These**] THE** transactions **DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION** include **[**but are not limited to**]**:

[(1)**] (I)** Payment, delivery, deposit, or retention of funds or property;

[(2)**] (II)** Sale, mortgage, lease, or other transfer of property;

[(3)**] (III)** Purchase of contracts for an annuity, life care, training, or education; **[**or**]**

(IV) MAKING THE ELECTION TO TAKE AN ELECTIVE SHARE OF AN ESTATE SUBJECT TO ELECTION UNDER § 3–403 OF THIS ARTICLE; OR

[(4)**] (V)** Any other transaction described in:

[(i)**] 1.** § 13–203(c)(2) of this subtitle;

[(ii)**]** **2.** Title 9, Subtitle 2 of this article; or

[(iii)**]** **3.** § 15–102 of this article.

14.5–606.

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

(2) "ESTATE SUBJECT TO ELECTION" HAS THE MEANING STATED IN § 3–401 OF THIS ARTICLE.

(3) "SPOUSAL BENEFITS" HAS THE MEANING STATED IN § 3–401 OF THIS ARTICLE.

(B) AFTER THE FILING OF AN ELECTION TO TAKE AN ELECTIVE SHARE UNDER § 3–403 OF THIS ARTICLE BECOMES FINAL:

(1) ALL PROPERTY OR OTHER BENEFITS THAT WOULD HAVE PASSED TO THE SURVIVING SPOUSE UNDER THE TRUST INSTRUMENT, OTHER THAN ANY PORTION OF THE SPOUSAL BENEFITS, SHALL BE TREATED AS IF THE SURVIVING SPOUSE HAD DIED ON THE DAY BEFORE THE SETTLOR; AND

(2) THE SURVIVING SPOUSE OR A PERSON CLAIMING THROUGH THE SURVIVING SPOUSE MAY NOT RECEIVE PROPERTY, OTHER THAN PROPERTY FORMING ANY PORTION OF THE SPOUSAL BENEFITS, UNDER THE TRUST INSTRUMENT.

17–202.

"MARYLAND STATUTORY FORM

PERSONAL FINANCIAL POWER OF ATTORNEY

IMPORTANT INFORMATION AND WARNING

You should be very careful in deciding whether or not to sign this document. The powers granted by you (the principal) in this document are broad and sweeping. This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself.

You should select someone you trust to serve as your agent. Unless you specify otherwise,

generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

You need not grant all of the powers listed below. If you choose to grant less than all of the listed powers, you may instead use a Maryland Statutory Form Limited Power of Attorney and mark on that Maryland Statutory Form Limited Power of Attorney which powers you intend to delegate to your attorney–in–fact (the Agent) and which you do not want the Agent to exercise.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

You should obtain competent legal advice before you sign this power of attorney if you have any questions about the document or the authority you are granting to your agent.

DESIGNATION OF AGENT

This section of the form provides for designation of one agent.

If you wish to name coagents, skip this section and use the next section ("Designation of Coagents").

I, _____ ,

(Name of Principal)

Name the following person as my agent:

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

DESIGNATION OF COAGENTS (OPTIONAL)

This section of the form provides for designation of two or more coagents. Coagents are required to act together unanimously unless you otherwise provide in this form.

I, _____ ,

(Name of Principal)

Name the following persons as coagents: _____

Name of Coagent: _____

Coagent's Address: _____

Coagent's Telephone Number: _____

Name of Coagent: _____

Coagent's Address: _____

Coagent's Telephone Number: _____

Special Instructions Regarding Coagents: _____
_____
_____
_____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____

Successor Agent's
Address: _____

Successor Agent's
Telephone Number: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second
Successor Agent: _____

Second Successor
Agent's Address: _____

Second Successor Agent's
Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I ("the principal") grant my agent and any successor agent, with respect to each subject listed below, the authority to do all acts that I could do to:

(1) Contract with another person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the

principal;

(2) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction;

(3) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in this power of attorney;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(6) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation and communicate with representatives or employees of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal; and

(7) Do lawful acts with respect to the subject and all property related to the subject.

SUBJECTS AND AUTHORITY

My agent's authority shall include the authority to act as stated below with regard to each of the following subjects:

Real property – With respect to this subject, I authorize my agent to: demand, buy, sell, convey, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property; pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal, including a reverse mortgage; release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted; and manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including: (1) insuring against liability or casualty or other loss; (2) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise; (3) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and (4) purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property.

Stocks and bonds – With respect to this subject, I authorize my agent to: buy, sell, and exchange stocks and bonds; establish, continue, modify, or terminate an account with respect to stocks and bonds; pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal; receive certificates and other

evidences of ownership with respect to stocks and bonds; exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

Banks and other financial institutions – With respect to this subject, I authorize my agent to: continue, modify, transact all business in connection with, and terminate an account or other banking arrangement made by or on behalf of the principal; establish, modify, transact all business in connection with, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent; contract for services available from a financial institution, including renting a safe deposit box or space in a vault; deposit by check, money order, electronic funds transfer, or otherwise with, or leave in the custody of, a financial institution money or property of the principal; withdraw, by check, money order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution; receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them; enter a safe deposit box or vault and withdraw or add to the contents; borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal; make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions; and apply for, receive, and use credit cards and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution.

Insurance and annuities – With respect to this subject, I authorize my agent to: continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract; procure new, different, and additional contracts of insurance and annuities for the principal and select the amount, type of insurance or annuity, and mode of payment; pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent; apply for and receive a loan secured by a contract of insurance or annuity; surrender and receive the cash surrender value on a contract of insurance or annuity; exercise an election; exercise investment powers available under a contract of insurance or annuity; change the manner of paying premiums on a contract of insurance or annuity; change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section; apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal; collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity; select the form and timing of the payment of proceeds from a contract of insurance or annuity; pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or the proceeds or liability from the contract of insurance or annuity accruing by reason of

the tax or assessment.

Claims and litigation – With respect to this subject, I authorize my agent to: assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief; act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value; pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

Benefits from governmental programs or civil or military service (including any benefit, program, or assistance provided under a statute or regulation including Social Security, Medicare, and Medicaid) – With respect to this subject, I authorize my agent to: execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal; enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program; prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation; initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning a benefit or assistance the principal may be entitled to receive under a statute or regulation; and receive the financial proceeds of a claim described above and conserve, invest, disburse, or use for a lawful purpose anything so received.

Retirement plans (including a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code: (1) an individual retirement account under Internal Revenue Code Section 408, 26 U.S.C. § 408; (2) a Roth individual retirement account under Internal Revenue Code Section 408A, 26 U.S.C. § 408A; (3) a deemed individual retirement account under Internal Revenue Code Section 408(q), 26 U.S.C. § 408(q); (4) an annuity or mutual fund custodial account under Internal Revenue Code Section 403(b), 26 U.S.C. § 403(b); (5) a pension, profit–sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code Section 401(a), 26 U.S.C. § 401(a); (6) a plan under Internal Revenue Code Section 457(b), 26 U.S.C. § 457(b); and (7) a nonqualified deferred compensation plan under Internal Revenue Code Section 409A, 26 U.S.C. § 409A) – With respect to this subject, I authorize my agent to: select the form and timing of payments under a retirement plan and withdraw benefits from a plan; make a rollover, including a direct trustee–to–trustee rollover, of benefits from one retirement plan to another; establish a retirement plan in the principal's name; make contributions to a retirement plan; exercise investment powers available under a retirement plan; borrow from, sell assets to, or purchase assets from a retirement plan. I recognize that granting my agent the authority to create or change a beneficiary designation for a retirement plan

may affect the benefits that I may receive if that authority is exercised. If I grant my agent the authority to designate the agent, the agent's spouse, or a dependent of the agent as a beneficiary of a retirement plan, the grant may constitute a taxable gift by me and may make the property subject to that authority taxable as a part of the agent's estate. Therefore, if I wish to authorize my agent to create or change a beneficiary designation for any retirement plan, and in particular if I wish to authorize the agent to designate as my beneficiary the agent, the agent's spouse, or a dependent of the agent, I will explicitly state this authority in the Special Instructions section that follows or in a separate power of attorney.

Taxes – With respect to this subject, I authorize my agent to: prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, federal insurance contributions act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and other tax–related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code Section 2032(A), 26 U.S.C. § 2032(A), closing agreements, and other powers of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year on which the statute of limitations has not run and the following 25 tax years; pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority; exercise elections available to the principal under federal, state, local, or foreign tax law; and act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority.

Digital assets – With respect to this subject, in accordance with the Maryland Fiduciary Access to Digital Assets Act, my agent shall have authority over and the right to access: (1) the content of any of my electronic communications; (2) any catalogue of electronic communications sent or received by me; and (3) any other digital asset in which I have a right or interest.

SPECIAL INSTRUCTIONS (OPTIONAL)

YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:

_____
_____
_____
_____
_____
_____
_____
_____

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

TERMINATION DATE (OPTIONAL)

This power of attorney shall terminate on _____, 20_____.
(Use a specific calendar date)

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my property or guardian of my person, I nominate the following person(s) for appointment:

Name of nominee for guardian of my property: _____
Nominee's address: _____
Nominee's telephone number: _____
Name of nominee for guardian of my person: _____
Nominee's address: _____
Nominee's telephone number: _____

DESIGNATION OF AGENT TO MAKE ELECTION TO TAKE ELECTIVE SHARE (OPTIONAL)

IF I AM INCAPACITATED WITHIN THE MEANING OF § 17–101 OF THE ESTATES AND TRUSTS ARTICLE, I DESIGNATE THE FOLLOWING PERSON AS MY AGENT FOR PURPOSES OF MAKING THE ELECTION TO TAKE AN ELECTIVE SHARE OF AN ESTATE SUBJECT TO ELECTION UNDER § 3–403 OF THE ESTATES AND TRUSTS ARTICLE:

NAME OF DESIGNATED AGENT:_____
DESIGNATED AGENT'S ADDRESS:_____
DESIGNATED AGENT'S TELEPHONE NUMBER:_____

SIGNATURE AND ACKNOWLEDGMENT

_____ _____
Your Signature Date

_____
Your Name Printed

_____
_____
Your Address

_____
Your Telephone Number

STATE OF MARYLAND
(COUNTY) OF _____

This document was acknowledged before me on

_____
(Date)

By _____ to be his/her act.
(Name of Principal)

_____ (SEAL, IF ANY)
Signature of Notary
My commission expires: _____

WITNESS ATTESTATION

The foregoing power of attorney was, on the date written above, published and declared by

_____
(Name of Principal)

in our presence to be his/her power of attorney. We, in his/her presence and at his/her request, and in the presence of each other, have attested to the same and have signed our names as attesting witnesses.

_____
Witness #1 Signature

_____
Witness #1 Name Printed

_____

_____
Witness #1 Address

_____
Witness #1 Telephone Number

_____
Witness #2 Signature

_____
Witness #2 Name Printed

_____

_____
Witness #2 Address

_____
Witness #2 Telephone Number"

17–203.

"MARYLAND STATUTORY FORM LIMITED POWER OF ATTORNEY

PLEASE READ CAREFULLY

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). You need not give to your agent all the authorities listed below and may give the agent only those limited powers that you specifically indicate. This power of attorney gives your agent the right to make limited decisions for you. You should very carefully weigh your decision as to what powers you give your agent. Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself.

If you choose to make a grant of limited authority, you should check the boxes that identify the specific authorization you choose to give your agent.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is not entitled to compensation unless you indicate otherwise in the special instructions of this power of attorney. If you indicate that your agent is to receive compensation, your agent is entitled to reasonable compensation or compensation as specified in the Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are required to act together unanimously unless you specify otherwise in the Special Instructions.

If your agent is unavailable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

This section of the form provides for designation of one agent.

If you wish to name coagents, skip this section and use the next section ("Designation of Coagents").

I, _____, name the following person
(Name of Principal)

as my agent:

Name of
Agent: _____
Agent's
Address: _____
Agent's Telephone
Number: _____

DESIGNATION OF COAGENTS (OPTIONAL)

This section of the form provides for designation of two or more coagents. Coagents are required to act together unanimously unless you otherwise provide in this form.

I, _____ ,

(Name of Principal)

Name the following persons as coagents:

Name of Coagent: _____

Coagent's Address: _____

Coagent's Telephone Number: _____

Name of Coagent: _____

Coagent's Address: _____

Coagent's Telephone Number: _____

Special Instructions Regarding Coagents: _____
_____
_____
_____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____
Successor Agent's
Address: _____
Successor Agent's Telephone Number: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor

agent:

Name of Second Successor
Agent: _____
Second Successor Agent's
Address: _____
Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I ("the principal") grant my agent and any successor agent, with respect to each subject that I choose below, the authority to do all acts that I could do to:

(1) Demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

(2) Contract with another person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating a schedule contemporaneously or at a later time listing some or all of the principal's property and attaching the schedule to this power of attorney;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in this power of attorney;

(6) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(7) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) Communicate with representatives or employees of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal;

(9) Access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) Do lawful acts with respect to the subject and all property related to the subject.

(INITIAL each authority in any subject you want to include in the agent's general authority. Cross through each authority in any subject that you want to exclude. If you wish to grant general authority over an entire subject, you may initial "All of the above" instead of initialing each authority.)

SUBJECTS AND AUTHORITY

A. Real Property – With respect to this category, I authorize my agent to:

(___) Demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property

(___) Sell, exchange, convey with or without covenants, representations, or warranties, quitclaim, release, surrender, retain title for security, encumber, partition, consent to partitioning, subject to an easement or covenant, subdivide, apply for zoning or other governmental permits, plat or consent to platting, develop, grant an option concerning, lease, sublease, contribute to an entity in exchange for an interest in that entity, or otherwise grant or dispose of an interest in real property or a right incident to real property

(___) Pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal, including a reverse mortgage

(___) Release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted

(___) Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(1) Insuring against liability or casualty or other loss;

(2) Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(3) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and

(4) Purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property

(___) Use, develop, alter, replace, remove, erect, or install structures or other

improvements on real property in or incident to which the principal has, or claims to have, an interest or right

(___) Participate in a reorganization with respect to real property or an entity that owns an interest in or a right incident to real property and receive, hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(1) Selling or otherwise disposing of the stocks and bonds or other property;

(2) Exercising or selling an option, a right of conversion, or a similar right with respect to the stocks and bonds or other property; and

(3) Exercising voting rights in person or by proxy

(___) Change the form of title of an interest in or a right incident to real property

(___) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest

(___) All of the above

B. Tangible Personal Property – With respect to this subject, I authorize my agent to:

(___) Demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property

(___) Sell, exchange, convey with or without covenants, representations, or warranties, quitclaim, release, surrender, create a security interest in, grant options concerning, lease, sublease, or otherwise dispose of tangible personal property or an interest in tangible personal property

(___) Grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal

(___) Release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property

(___) Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(1) Insuring against liability or casualty or other loss;

(2) Obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(3) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(4) Moving the property from place to place;

(5) Storing the property for hire or on a gratuitous bailment; and

(6) Using and making repairs, alterations, or improvements to the property

(___) Change the form of title of an interest in tangible personal property

(___) All of the above

C. Stocks and Bonds – With respect to this subject, I authorize my agent to:

(___) Buy, sell, and exchange stocks and bonds

(___) Establish, continue, modify, or terminate an account with respect to stocks and bonds

(___) Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal

(___) Receive certificates and other evidences of ownership with respect to stocks and bonds

(___) Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote

(___) All of the above

D. Commodities – With respect to this subject, I authorize my agent to:

(___) Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange

(___) Establish, continue, modify, and terminate option accounts

(___) All of the above

E. Banks and Other Financial Institutions – With respect to this subject, I

authorize my agent to:

(___) Continue, modify, transact all business in connection with, and terminate an account or other banking arrangement made by or on behalf of the principal

(___) Establish, modify, transact all business in connection with, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent

(___) Contract for services available from a financial institution, including renting a safe deposit box or space in a vault

(___) Deposit by check, money order, electronic funds transfer, or otherwise with, or leave in the custody of, a financial institution money or property of the principal

(___) Withdraw, by check, money order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution

(___) Receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them

(___) Enter a safe deposit box or vault and withdraw or add to the contents

(___) Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal

(___) Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person on the principal and pay the draft when due

(___) Receive for the principal and act on a sight draft, warehouse receipt, other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument

(___) Apply for, receive, and use letters of credit, credit cards and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit

(___) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution

(___) All of the above

F. Operation of an Entity or a Business – With respect to this subject, I authorize my agent to:

(___) Operate, buy, sell, enlarge, reduce, or terminate an ownership interest

(___) Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or an option that the principal has, may have, or claims to have

(___) Enforce the terms of an ownership agreement

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest

(___) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or an option the principal has or claims to have as the holder of stocks and bonds

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds

(___) With respect to an entity or business owned solely by the principal:

(1) Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of this power of attorney;

(2) Determine:

(i) The location of the operation of the entity or business;

(ii) The nature and extent of the business of the entity or business;

(iii) The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in the operation of the entity or business;

(iv) The amount and types of insurance carried by the entity or business; and

(v) The mode of engaging, compensating, and dealing with the employees and accountants, attorneys, or other advisors of the entity or business;

(3) Change the name or form of organization under which the entity

or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(4) Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business

(___) Put additional capital into an entity or a business in which the principal has an interest

(___) Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business

(___) Sell or liquidate all or part of an entity or business

(___) Establish the value of an entity or a business under a buyout agreement to which the principal is a party

(___) Prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments

(___) Pay, compromise, or contest taxes, assessments, fines, or penalties and perform other acts to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or a business, including attempts to recover, as permitted by law, money paid before or after the execution of this power of attorney

(___) All of the above

G. Insurance and Annuities – With respect to this subject, I authorize my agent to:

(___) Continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract

(___) Procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents, and select the amount, type of insurance or annuity, and mode of payment

(___) Pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent

(___) Apply for and receive a loan secured by a contract of insurance or annuity

(___) Surrender and receive the cash surrender value on a contract of insurance or annuity

(___) Exercise an election

(___) Exercise investment powers available under a contract of insurance or annuity

(___) Change the manner of paying premiums on a contract of insurance or annuity

(___) Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section

(___) Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal

(___) Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity

(___) Select the form and timing of the payment of proceeds from a contract of insurance or annuity

(___) Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or the proceeds or liability from the contract of insurance or annuity accruing by reason of the tax or assessment

(___) All of the above

H. Estates, Trusts, and Other Beneficial Interests (including trusts, probate estates, guardianships, conservatorships, escrows, or custodianships or funds from which the principal is, may become, or claims to be entitled to a share or payment) – With respect to this subject, I authorize my agent to:

(___) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from the fund described above

(___) Demand or obtain money or another thing of value to which the principal is, may become, or claims to be entitled by reason of the fund described above, by litigation or otherwise

(___) Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal

(___) Initiate, participate in, submit to alternative dispute resolution, settle,

oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary

(___) Conserve, invest, disburse, or use anything received for an authorized purpose

(___) Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor

(___) Reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from the fund described above

(___) ELECT TO TAKE AN ELECTIVE SHARE OF AN ESTATE SUBJECT TO ELECTION UNDER § 3–403 OF THE ESTATES AND TRUSTS ARTICLE

(___) All of the above

I. Claims and Litigation – With respect to this subject, I authorize my agent to:

(___) Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief

(___) Bring an action to determine adverse claims or intervene or otherwise participate in litigation

(___) Seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree

(___) Make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation

(___) Submit to alternative dispute resolution, settle, and propose or accept a compromise

(___) Waive the issuance and service of process on the principal, accept service of process, appear for the principal, designate persons on which process directed to

the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation

(___) Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value

(___) Pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation

(___) Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation

(___) All of the above

J. Personal and Family Maintenance – With respect to this subject, I authorize my agent to:

(___) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when this power of attorney is executed or later born:

(1) The principal's children;

(2) Other individuals legally entitled to be supported by the principal; and

(3) The individuals whom the principal has customarily supported or indicated the intent to support;

(___) Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party

(___) Provide living quarters for the individuals described above by:

(1) Purchase, lease, or other contract; or

(2) Paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals

(___) Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described above

(___) Pay expenses for necessary health care and custodial care on behalf of the individuals described above

(___) Act as the principal's personal representative in accordance with the Health Insurance Portability and Accountability Act, §§ 1171 through 1179 of the Social Security Act, 42 U.S.C. § 1320d, and applicable regulations in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal

(___) Continue provisions made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing the means of transportation, for the individuals described above

(___) Maintain credit and debit accounts for the convenience of the individuals described above and open new accounts

(___) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations

(NOTE: Authority with respect to personal and family maintenance is neither dependent on, nor limited by, authority that an agent may or may not have with respect to gifts under this power of attorney.)

(___) All of the above

K. Benefits from Governmental Programs or Civil or Military Service (including any benefit, program, or assistance provided under a statute or regulation including Social Security, Medicare, and Medicaid) – With respect to this subject, I authorize my agent to:

(___) Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in "J. Personal and Family Maintenance" above, and for shipment of the household effects of those individuals

(___) Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose

(___) Enroll in, apply for, select, reject, change, amend, or discontinue, on the

principal's behalf, a benefit or program

(___) Prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation

(___) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning a benefit or assistance the principal may be entitled to receive under a statute or regulation

(___) Receive the financial proceeds of a claim described above and conserve, invest, disburse, or use for a lawful purpose anything so received

(___) All of the above

L. Retirement Plans (including a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code:

(1) An individual retirement account under Internal Revenue Code Section 408, 26 U.S.C. § 408;

(2) A Roth individual retirement account under Internal Revenue Code Section 408A, 26 U.S.C. § 408A;

(3) A deemed individual retirement account under Internal Revenue Code Section 408(q), 26 U.S.C. § 408(q);

(4) An annuity or mutual fund custodial account under Internal Revenue Code Section 403(b), 26 U.S.C. § 403(b);

(5) A pension, profit–sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code Section 401(a), 26 U.S.C. § 401(a);

(6) A plan under Internal Revenue Code Section 457(b), 26 U.S.C. § 457(b); and

(7) A nonqualified deferred compensation plan under Internal Revenue Code Section 409A, 26 U.S.C. § 409A) – With respect to this subject, I authorize my agent to:

(___) Select the form and timing of payments under a retirement plan and withdraw benefits from a plan

(___) Make a rollover, including a direct trustee–to–trustee rollover, of benefits from one retirement plan to another

(___) Establish a retirement plan in the principal's name

(___) Make contributions to a retirement plan

(___) Exercise investment powers available under a retirement plan

(___) Borrow from, sell assets to, or purchase assets from a retirement plan

(___) All of the above

M. Taxes – With respect to this subject, I authorize my agent to:

(___) Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and other tax–related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code Section 2032A, 26 U.S.C. § 2032A, closing agreements, and other powers of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year on which the statute of limitations has not run and the following 25 tax years

(___) Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority

(___) Exercise elections available to the principal under federal, state, local, or foreign tax law

(___) Act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority

(___) All of the above

N. Gifts (including gifts to a trust, an account under the Uniform Transfers to Minors Act, a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code Section 529, 26 U.S.C. § 529, and an ABLE account as defined under Internal Revenue Code Section 529A, 26 U.S.C. § 529A) – With respect to this subject, I authorize my agent to:

(___) Make outright to, or for the benefit of, a person, a gift of part or all of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount for each donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code Section 2503(b), 26 U.S.C. § 2503(b), without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to Internal Revenue Code Section 2513, 26 U.S.C. § 2513, in an amount for each donee not to exceed twice the

annual federal gift tax exclusion limit

(___) Consent, pursuant to Internal Revenue Code Section 2513, 26 U.S.C. § 2513, to the splitting of a gift made by the principal's spouse in an amount for each donee not to exceed the aggregate annual gift tax exclusions for both spouses

(NOTE: An agent may only make a gift of the principal's property as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:

(1) The value and nature of the principal's property;

(2) The principal's foreseeable obligations and need for maintenance;

(3) Minimization of taxes, including income, estate, inheritance, generation–skipping transfer, and gift taxes;

(4) Eligibility for a benefit, a program, or assistance under a statute or regulation; and

(5) The principal's personal history of making or joining in making gifts.)

(___) All of the above

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(Caution: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. In addition, granting your agent the authority to make gifts to, or to designate as the beneficiary of any retirement plan, the agent, the agent's spouse, or a dependent of the agent may constitute a taxable gift by you and may make the property subject to that authority taxable as part of the agent's estate. INITIAL ONLY the specific authority you WANT to give your agent.)

(___) Create an inter vivos trust, or amend, revoke, or terminate an existing inter vivos trust if the trust expressly authorizes that action by the agent

(___) Make a gift, subject to any special instructions in this power of attorney

(___) Create or change rights of survivorship

(___) Create or change a beneficiary designation, subject to any special instructions in this power of attorney; and, if I wish to authorize my agent to designate the agent, the

agent's spouse, or a dependent of the agent as a beneficiary, I will explicitly state this authority within the special instructions of this power of attorney or in a separate power of attorney

(___) Authorize another person to exercise the authority granted under this power of attorney

(___) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

(___) Exercise fiduciary powers that the principal has authority to delegate

(___) Disclaim or refuse an interest in property, including a power of appointment

(___) In accordance with the Maryland Fiduciary Access to Digital Assets Act, access and take control of (1) the content of any of my electronic communications, (2) any catalogue of electronic communications sent or received by me, and (3) any other digital asset in which I have a right or interest

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

_____
_____
_____
_____
_____
_____
_____

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

TERMINATION DATE (OPTIONAL)

This power of attorney shall terminate on _____, 20_____.
(Use a specific calendar date)

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my property or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for guardian of my property:

_____

Nominee's Address: _____

Nominee's Telephone Number: _____

Name of Nominee for guardian of my person:

_____

Nominee's Address: _____

Nominee's Telephone Number: _____

SIGNATURE AND ACKNOWLEDGMENT

_____ _____

Your Signature Date

_____

Your Name Printed

_____

_____

Your Address

_____

Your Telephone Number

STATE OF MARYLAND
(COUNTY) OF _____

This document was acknowledged before me on

_____ ,

(Date)

by _____ .

(Name of Principal)

_____ (Seal, if any)

Signature of Notary

My commission expires:_____

WITNESS ATTESTATION

The foregoing power of attorney was, on the date written above, published and declared by

_____

(Name of Principal)

in our presence to be his/her power of attorney. We, in his/her presence and at his/her request, and in the presence of each other, have attested to the same and have signed our names as attesting witnesses.

_____
Witness #1 Signature

_____
Witness #1 Name Printed

_____

_____
Witness #1 Address

_____
Witness #1 Telephone Number

_____
Witness #2 Signature

_____
Witness #2 Name Printed

_____

_____
Witness #2 Address

_____
Witness #2 Telephone Number

This document prepared by:

_____

_____

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;

(2) Act with care, competence, and diligence for the best interest of the principal;

(3) Do nothing beyond the authority granted in this power of attorney; and

(4) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

_____ _____

(Principal's Name) by (Your Signature) as Agent

Unless the Special Instructions in this power of attorney state otherwise, you must also:

(1) Act loyally for the principal's benefit;

(2) Avoid conflicts that would impair your ability to act in the principal's best interest;

(3) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(4) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and

(5) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) Death of the principal;

(2) The principal's revocation of the power of attorney or your authority;

(3) The occurrence of a termination event stated in the power of attorney;

(4) The purpose of the power of attorney is fully accomplished; or

(5) If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the Maryland Power of Attorney Act, Title 17 of the Estates and Trusts Article. If you violate the Maryland Power of Attorney Act, Title 17 of the Estates and Trusts Article, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice."

SECTION 2. AND BE IT FURTHER ENACTED, That 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 estate of a decedent who died before the effective date of this Act or any revocable trust of a decedent that became irrevocable by reason of the death or incapacity of the settlor before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, ~~2019~~ 2020.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 195 – *Public Health – Prescription Drug Monitoring Program – Revisions*.

This bill requires the Prescription Drug Monitoring Program to review prescription monitoring data for indications of possible misuse or abuse of a monitored prescription drug, or a possible violation of law or breach of professional standards by a prescriber or dispenser; and provides that if either is indicated, the Prescription Drug Monitoring Program must notify and provide education to the prescriber or dispenser.

This bill authorizes the Prescription Drug Monitoring Program to provide prescription monitoring data to the Office of Controlled Substances Administration for further investigation under certain circumstances 1) if there is a possible violation of law or breach of professional standards; and 2) provided that the Prescription Drug Monitoring Program takes specified actions.

Additionally, this bill requires the Prescription Drug Monitoring Program to consider certain factors regarding a possible violation of law or breach of professional standards; and

to include certain information regarding instances of possible violations of law or breaches of professional standards in its annual report.

House Bill 25, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 195.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 195

AN ACT concerning

Public Health – Prescription Drug Monitoring Program – Revisions

FOR the purpose of requiring, instead of authorizing, the Prescription Drug Monitoring Program to review prescription monitoring data for indications of a possible misuse or abuse of a monitored prescription drug; requiring, instead of authorizing, the Program to report the possible misuse or abuse to the prescriber or dispenser of the monitored prescription drug under certain circumstances; requiring the Program to provide education to the prescriber or dispenser of the monitored prescription drug under certain circumstances; requiring, instead of authorizing, the Program to review prescription monitoring data for indications of a possible violation of law or a possible breach of professional standards by a prescriber or a dispenser; requiring, instead of authorizing, the Program to notify the prescriber or dispenser of the possible violation of law or possible breach of professional standards and provide education to the prescriber or dispenser; authorizing the Program, under certain circumstances, to provide prescription monitoring data to the Office of Controlled Substances Administration for a certain purpose; requiring the Program, under certain circumstances, to provide a certain notification to certain prescribers or dispensers; requiring the Program to take into account certain factors in making a certain determination; ~~prohibiting the obtaining of certain guidance and interpretation from the technical advisory committee from delaying the reporting of a possible violation of law or a possible breach of professional standards to the Office of Controlled Substances Administration under certain circumstances;~~ authorizing the Program to refer a certain violation of law or a certain breach of professional standards to the Office of Controlled Substances Administration for a certain investigation under certain circumstances and under certain conditions; requiring the Office of Controlled Substances Administration, under certain circumstances, to conduct a certain review and to take certain action; altering a certain reporting requirement; specifying the intent of the General Assembly; defining a certain term; making ~~a~~ conforming ~~change~~ changes; and generally relating to the Prescription Drug Monitoring Program.

BY repealing and reenacting, with amendments,

Article – Health – General
Section 21–2A–01, 21–2A–05(f), and ~~21–2A–06(c) and (d)~~ *21–2A–06(b) through (d)*
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 21–2A–02(a), 21–2A–04, 21–2A–06(a) ~~and (b)~~, and 21–2A–07(a) and (b)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Health – General~~
~~Section 21–2A–06(c) and (d)~~
~~Annotated Code of Maryland~~
~~(2015 Replacement Volume and 2018 Supplement)~~

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

Article – Health – General

21–2A–01.

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

(b) "Board" means the Advisory Board on Prescription Drug Monitoring.

(c) (1) "Dispense" has the meaning stated in § 12–101 of the Health Occupations Article.

(2) "Dispense" does not include:

(i) Directly administering a monitored prescription drug to a patient; or

(ii) Giving out prescription drug samples.

(d) (1) "Dispenser" means a person authorized by law to dispense a monitored prescription drug to a patient or the patient's agent in the State.

(2) "Dispenser" includes a nonresident pharmacy.

(3) "Dispenser" does not include:

(i) A licensed hospital pharmacy that only dispenses a monitored prescription drug for direct administration to an inpatient of the hospital;

(ii) An opioid treatment services program;

(iii) A veterinarian licensed under Title 2, Subtitle 3 of the Agriculture Article when prescribing controlled substances for animals in the usual course of providing professional services;

(iv) A pharmacy issued a waiver permit under COMAR 10.34.17.03 that provides pharmaceutical specialty services exclusively to persons living in assisted living facilities, comprehensive care facilities, and developmental disabilities facilities; and

(v) A pharmacy that:

1. Dispenses medications to an inpatient hospice; and

2. Has been granted a waiver under § 21–2A–03(f) of this subtitle.

(e) "Licensing entity" means an entity authorized under the Health Occupations Article to license, regulate, or discipline a prescriber or dispenser.

(f) "Monitored prescription drug" means a prescription drug that contains a Schedule II, Schedule III, Schedule IV, or Schedule V controlled dangerous substance designated under Title 5, Subtitle 4 of the Criminal Law Article.

(G) "OFFICE" MEANS THE OFFICE OF CONTROLLED SUBSTANCES ADMINISTRATION IN THE DEPARTMENT.

[(g)**] (H)** "Opioid treatment services program" means a program that:

(1) Is certified in accordance with § 8–401 of this article or licensed by the State under § 7.5–401 of this article;

(2) Is authorized to treat patients with opioid dependence with a medication approved by the federal Food and Drug Administration for opioid dependence;

(3) Complies with:

(i) The Code of Federal Regulations 42, Part 8;

(ii) COMAR 10.47.02.11; and

(iii) Requirements for the secure storage and accounting of opioid medication imposed by the federal Drug Enforcement Administration and the **[**State**]** Office **[**of Controlled Substances Administration**]**; and

(4) Has been granted a certification for operation by the Department, the federal Substance Abuse and Mental Health Services Administration, and the federal Center for Substance Abuse Treatment.

[(h)**] (I)** "Pharmacist" means an individual who is licensed under Title 12 of the Health Occupations Article to dispense a monitored prescription drug.

[(i)**] (J)** "Pharmacist delegate" means an individual who is:

(1) Authorized by a registered pharmacist to request or access prescription monitoring data; and

(2) Employed by or under contract with the same professional practice as the registered pharmacist.

[(j)**] (K)** "Prescriber" means a licensed health care professional authorized by law to prescribe a monitored prescription drug.

[(k)**] (L)** "Prescriber delegate" means an individual who is:

(1) Authorized by a registered prescriber to request or access prescription monitoring data; and

(2) Employed by or under contract with the same professional practice as the prescriber.

[(l)**] (M)** "Prescription drug" has the meaning stated in § 21–201 of this title.

[(m)**] (N)** "Prescription monitoring data" means the information submitted to the Program for a monitored prescription drug.

[(n)**] (O)** "Program" means the Prescription Drug Monitoring Program established under this subtitle.

[(o)**] (P)** "Registered" means registered with the Program to request or access prescription monitoring data for clinical use.

[(p)**] (Q)** "Terminal illness" means a medical condition that, within reasonable medical judgment, involves a prognosis for a patient that likely will result in the patient's death within 6 months.

21–2A–02.

(a) There is a Prescription Drug Monitoring Program in the Department.

21–2A–04.

(a) The Secretary, in consultation with the Board, shall adopt regulations to carry out this subtitle.

(b) The regulations adopted by the Secretary shall:

(1) Specify the prescription monitoring data required to be submitted under § 21–2A–03 of this subtitle;

(2) Specify the electronic or other means by which information is to be submitted:

(i) Without unduly increasing the workload and expense on dispensers; and

(ii) In a manner as compatible as possible with existing data submission practices of dispensers;

(3) Specify that the information be submitted by dispensers once every 24 hours;

(4) Specify that the Program:

(i) Shall provide the information technology software to dispensers necessary to upload prescription drug monitoring data to the Program; and

(ii) May not impose any fees or other assessments on prescribers or dispensers to support the operation of the Program;

(5) Identify the mechanism by which prescription monitoring data are disclosed to a person, in accordance with § 21–2A–06 of this subtitle;

(6) Identify the circumstances under which a person may disclose prescription monitoring data received under the Program;

(7) Specify the process for the Program's review of prescription monitoring data and reporting of:

(i) Possible misuse or abuse of a monitored prescription drug under § 21–2A–06(c) of this subtitle; or

(ii) A possible violation of law or possible breach of professional standards under § 21–2A–06(d) of this subtitle;

(8) Establish requirements for Program retention of prescription monitoring data for 3 years; and

(9) Require that:

(i) Confidential or privileged patient information be kept confidential; and

(ii) Records or information protected by a privilege between a health care provider and a patient, or otherwise required by law to be held confidential, be filed in a manner that, except as otherwise provided in § 21–2A–06 of this subtitle, does not disclose the identity of the person protected.

21–2A–05.

(f) The Board shall:

(1) Meet not fewer than three times annually;

(2) Make recommendations to the Secretary relating to the design and implementation of the Program, including recommendations relating to:

(i) Regulations;

(ii) Legislation; and

(iii) Sources of funding, including grant funds under the Harold Rogers Prescription Drug Monitoring Program and other sources of federal, private, or State funds;

(3) Provide annually to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly a report that includes:

(i) The number of prescribers and prescriber delegates registered with and using the Program;

(ii) The number of pharmacists and pharmacist delegates registered with and using the Program;

(iii) The number of disclosures made to federal law enforcement agencies or State or local law enforcement agencies;

(iv) An analysis of the impact of the Program on patient access to pharmaceutical care and on curbing prescription drug diversion in the State; **[**and**]**

(V) 1. THE NUMBER OF PROVIDERS, BY PROVIDER TYPE, WHO RECEIVED OUTREACH AND EDUCATION FROM THE PROGRAM; AND

2. THE NUMBER OF CASES FOR WHICH THE PROVIDERS RECEIVED OUTREACH AND EDUCATION FROM THE PROGRAM;

(VI) 1. THE NUMBER OF CASES THAT WERE IDENTIFIED FOR TECHNICAL ADVISORY COMMITTEE REVIEW BEFORE REFERRAL TO THE OFFICE; AND

2. THE NUMBER OF PROVIDERS, BY PROVIDER TYPE, INVOLVED IN THE CASES;

(VII) 1. THE NUMBER OF CASES THAT WERE REFERRED TO THE OFFICE FOR FURTHER EVALUATION AND THE OUTCOMES OF THE OFFICE EVALUATIONS; AND

2. THE NUMBER OF PROVIDERS, BY PROVIDER TYPE, INVOLVED IN THE CASES; AND

[(v)**]** **(VIII)** Any recommendations related to modification or continuation of the Program; and

(4) Provide ongoing advice and consultation on the implementation and operation of the Program, including recommendations relating to:

(i) Changes in the Program to reflect advances in technology and best practices in the field of electronic health records and electronic prescription monitoring;

(ii) Changes to statutory requirements; and

(iii) The design and implementation of an ongoing evaluation component of the Program.

21–2A–06.

(a) Prescription monitoring data:

(1) Are confidential and privileged, and not subject to discovery, subpoena, or other means of legal compulsion in civil litigation;

(2) Are not public records; and

(3) Except as provided in subsections (b), (c), (d), and (f) of this section or as otherwise provided by law, may not be disclosed to any person.

(b) The Program shall disclose prescription monitoring data, in accordance with regulations adopted by the Secretary, to:

(1) A prescriber, or a licensed health care practitioner authorized by the prescriber, in connection with the medical care of a patient;

(2) A dispenser, or a licensed health care practitioner authorized by the dispenser, in connection with the dispensing of a monitored prescription drug;

(3) A federal law enforcement agency or a State or local law enforcement agency, on issuance of a subpoena, for the purpose of furthering an existing bona fide individual investigation;

(4) The State Board of Physicians, on issuance of an administrative subpoena voted on by a quorum of a disciplinary panel, as defined in § 14–101 of the Health Occupations Article, for the purposes of furthering an existing bona fide investigation of an individual;

(5) A licensing entity other than the State Board of Physicians, on issuance of an administrative subpoena voted on by a quorum of the board of the licensing entity, for the purposes of furthering an existing bona fide individual investigation;

(6) A rehabilitation program under a health occupations board, on issuance of an administrative subpoena;

(7) A patient with respect to prescription monitoring data about the patient;

(8) Subject to subsection (i) of this section, the authorized administrator of another state's prescription drug monitoring program;

(9) The following units of the Department, on approval of the Secretary, for the purpose of furthering an existing bona fide individual investigation:

(i) The Office of the Chief Medical Examiner;

(ii) The Maryland Medical Assistance Program;

(iii) The Office of the Inspector General;

(iv) The Office of Health Care Quality; and

(v) The Office ~~of Controlled Substances Administration~~;

(10) The technical advisory committee established under § 21–2A–07 of this subtitle for the purposes set forth in subsections (c), (d), and (e) of this section; or

(11) The following entities, on approval of the Secretary and for the purpose of furthering an existing bona fide individual case review:

(i) The State Child Fatality Review Team or a local child fatality review team established under Title 5, Subtitle 7 of this article, on request from the chair of the State or local team;

(ii) A local drug overdose fatality review team established under § 5–902 of this article, on request from the chair of the local team;

(iii) The Maternal Mortality Review Program established under § 13–1203 of this article, on request from the Program; and

(iv) A medical review committee described in § 1–401(b)(3) of the Health Occupations Article, on request from the committee.

(c) (1) In accordance with regulations adopted by the Secretary:

(i) The Program **[**may**]** **SHALL** review prescription monitoring data for indications of possible misuse or abuse of a monitored prescription drug; and

(ii) If the Program's review of prescription monitoring data indicates possible misuse or abuse of a monitored prescription drug, the Program **[**may report**]** **SHALL:**

1. REPORT the possible misuse or abuse to the prescriber or dispenser of the monitored prescription drug**; AND**

2. PROVIDE EDUCATION TO THE PRESCRIBER OR DISPENSER.

(2) Before the Program reports the possible misuse or abuse of a monitored prescription drug to a prescriber or dispenser under this subsection, the Program may obtain from the technical advisory committee:

(i) Clinical guidance regarding indications of possible misuse or abuse; and

(ii) Interpretation of the prescription monitoring data that indicates possible misuse or abuse.

(d) (1) In accordance with regulations adopted by the Secretary **AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION**, the Program **[**may**]** **SHALL** review prescription monitoring data for indications of a possible violation of law or a possible breach of professional standards by a prescriber or a dispenser.

(2) **[**Subject to paragraph (3) of this subsection, if**]** **IF** the Program's review indicates a possible violation of law or a possible breach of professional standards by a prescriber or a dispenser, the Program **[**may**]**:

(i) **1.** **[**Notify**]** **SHALL NOTIFY** the prescriber or dispenser of the possible violation of law or possible breach of professional standards; and

[(ii)**]** **2.** **[**Provide**]** **SHALL PROVIDE** education to the prescriber or dispenser**; AND**

(II) ~~**1.**~~ ~~**MAY**~~ **SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, MAY PROVIDE PRESCRIPTION MONITORING DATA TO THE OFFICE** ~~**OF CONTROLLED SUBSTANCES ADMINISTRATION**~~ **FOR FURTHER INVESTIGATION**~~**; AND**~~

~~**2. IF PRESCRIPTION MONITORING DATA IS PROVIDED TO THE OFFICE OF CONTROLLED SUBSTANCES ADMINISTRATION UNDER ITEM 1 OF THIS ITEM, SHALL NOTIFY THE PRESCRIBER OR DISPENSER THAT THE DATA HAS BEEN PROVIDED TO THE OFFICE OF CONTROLLED SUBSTANCES ADMINISTRATION FOR FURTHER INVESTIGATION**~~.

(3) **(I)** Before the Program provides notification of a possible violation of law or a possible breach of professional standards to a prescriber or a dispenser, the Program shall obtain from the technical advisory committee:

[(i)**]** **1.** Clinical guidance regarding ~~indications of~~ **METHODS USED TO IDENTIFY** a possible violation of law or a possible breach of professional standards; and

[(ii)**]** **2.** Interpretation of the prescription monitoring data **[**that indicates**]** ~~**SUFFICIENT TO ADVISE ON**~~ **ADVISING WHETHER THE METHOD IDENTIFIES** a possible violation of law or a possible breach of professional standards.

(II) IN DETERMINING WHETHER ITS REVIEW INDICATES A POSSIBLE VIOLATION OF LAW OR A POSSIBLE BREACH OF PROFESSIONAL STANDARDS BY A PRESCRIBER OR DISPENSER, THE PROGRAM SHALL TAKE INTO ACCOUNT TO THE EXTENT PRACTICABLE THE PARTICULAR SPECIALTY, CIRCUMSTANCES, PATIENT TYPE, AND LOCATION OF THE PRESCRIBER OR DISPENSER.

~~**(III) OBTAINING CLINICAL GUIDANCE AND INTERPRETATION OF PRESCRIPTION MONITORING DATA FROM THE TECHNICAL ADVISORY COMMITTEE MAY NOT DELAY REPORTING OF A POSSIBLE VIOLATION OF LAW OR A POSSIBLE BREACH OF PROFESSIONAL STANDARDS TO THE OFFICE OF CONTROLLED**~~

~~SUBSTANCES ADMINISTRATION IF, IN THE JUDGMENT OF THE PROGRAM, A DELAY COULD RESULT IN DANGER TO PUBLIC HEALTH OR PUBLIC SAFETY.~~

(4) (I) IF METHODS DEVELOPED UNDER PARAGRAPH (3)(I) OF THIS SUBSECTION INDICATE A POSSIBLE VIOLATION OF LAW OR A POSSIBLE BREACH OF PROFESSIONAL STANDARDS AND THE PROGRAM DETERMINES THAT OUTREACH AND EDUCATION TO THE PRESCRIBER OR DISPENSER IS INADEQUATE TO ADDRESS THE POSSIBLE BREACH OR VIOLATION, THE PROGRAM MAY REFER THE POSSIBLE VIOLATION OF LAW OR A POSSIBLE BREACH OF PROFESSIONAL STANDARDS ALONG WITH PRESCRIPTION MONITORING DATA TO THE OFFICE FOR FURTHER INVESTIGATION, PROVIDED THAT THE PROGRAM:

1. PROVIDES NOTICE AND AN OPPORTUNITY TO THE TECHNICAL ADVISORY COMMITTEE TO MAKE RECOMMENDATIONS WITHIN 10 BUSINESS DAYS REGARDING INTERPRETATION OF THE DATA;

2. PROVIDES THE RECOMMENDATIONS OF THE TECHNICAL ADVISORY COMMITTEE, IF ANY, TO THE OFFICE; AND

3. NOTIFIES THE PRESCRIBER OR THE DISPENSER THAT THE PRESCRIPTION MONITORING DATA WILL BE PROVIDED TO THE OFFICE FOR FURTHER INVESTIGATION.

~~(4)~~ (II) ON RECEIPT OF PRESCRIPTION MONITORING DATA AND RELEVANT RECORDS UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE OFFICE ~~OF CONTROLLED SUBSTANCES ADMINISTRATION~~ SHALL:

~~(I)~~ 1. REVIEW THE PRESCRIPTION MONITORING DATA AND RECORDS, ALONG WITH ANY ADDITIONAL INFORMATION THE OFFICE ~~OF CONTROLLED SUBSTANCES ADMINISTRATION~~ MAY OBTAIN AS PART OF ITS INVESTIGATION; AND

~~(II)~~ 2. IF IT DETERMINES THAT THERE HAS BEEN A VIOLATION OF LAW OR A BREACH OF PROFESSIONAL STANDARDS, TAKE ANY ACTION AUTHORIZED BY LAW REGARDING THE VIOLATION OR BREACH, INCLUDING PROVIDING THE PRESCRIPTION MONITORING DATA AND RECORDS TO THE APPROPRIATE LICENSING ENTITY FOR POSSIBLE DISCIPLINARY ACTION.

21–2A–07.

(a) There is a technical advisory committee to the Program.

(b) The purpose of the technical advisory committee is to:

(1) Review requests for information from the Program under § 21–2A–06(b)(3), (4), (5), (6), (8), or (9) of this subtitle; and

(2) Provide clinical guidance and interpretation to the Program regarding indications of possible misuse or abuse of a monitored prescription drug or a possible violation of law or a possible breach of professional standards by a prescriber or a dispenser under § 21–2A–06(c) and (d) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Prescription Drug Monitoring Program shall continue to work with the Program's technical advisory committee to further refine and enhance the quality of the algorithms and other data tools to identify possible ~~or probable~~ violations of law and breaches of professional standards.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 201 – *University of Maryland University College – Renaming*.

This bill renames the University of Maryland University College to be the University of Maryland Global Campus, and contains various provisions regarding the continuity of transactions, employment, entities, records, real property, and contracts.

House Bill 319, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 201.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

AN ACT concerning

University of Maryland University College – Renaming

FOR the purpose of renaming the University of Maryland University College to be the University of Maryland Global Campus; providing that the University of Maryland Global Campus is the successor of the University of Maryland University College; providing that certain names and titles of a certain unit and officials in laws and other documents mean the names and titles of the successor unit and officials; providing for the continuity of certain matters and persons; providing that letterhead, business cards, and other documents reflecting the renaming of the University may not be used until all letterhead, business cards, and other documents already in print and reflecting the name of the University before the effective date of this Act are used; requiring the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, to correct any cross–references or terminology rendered incorrect by this Act and to describe any corrections made in an editor's note following the section affected; and generally relating to the renaming of the University of Maryland University College.

BY repealing and reenacting, with amendments,
Article – Education
Section 13–101
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

13–101.

(a) It is the intent of the General Assembly that the University of Maryland **[**University College**]** **GLOBAL CAMPUS**:

(1) Operate as Maryland's open university serving nontraditional students who reside in Maryland, the United States, and throughout the world;

(2) Provide the citizens of Maryland with affordable, open access higher education; and

(3) Continue as a leader in distributed higher education.

(b) (1) There is a University of Maryland **[**University College**]** **GLOBAL CAMPUS** which is not a new constituent institution of the University System of Maryland.

(2) As a constituent institution of the University System of Maryland, the University of Maryland **[**University College**]** **GLOBAL CAMPUS** is an instrumentality of the State.

(3) The exercise by the University of Maryland **[**University College**]** **GLOBAL CAMPUS** of its powers, including its overseas operations, is the performance of an essential public function.

(c) The provisions of § 12–105(a) of this article do not apply to the overseas operations of the University of Maryland **[**University College**]** **GLOBAL CAMPUS**. The institution may spend the appropriation without the approval of the Board of Public Works and without submitting a detailed budget schedule to the Board of Public Works.

(d) The University of Maryland **[**University College**]** **GLOBAL CAMPUS** shall prepare an annual financial information statement for the next following fiscal year and shall submit the statement to the Department of Budget and Management each year before October 1. The annual financial information statement shall include for the next following fiscal year:

(1) An estimate of the total revenues of the University of Maryland **[**University College**]** **GLOBAL CAMPUS**, including revenues from tuitions, fees, gifts, grants, and interest income;

(2) An estimate of the value of services which the other units of the University System of Maryland and other State agencies provide to the University of Maryland **[**University College**]** **GLOBAL CAMPUS**; and

(3) An estimate of the total cost of salaries and personnel benefits for employees of the University of Maryland **[**University College**]** **GLOBAL CAMPUS**.

(e) (1) The interest or income from the investment of the funds of the University of Maryland **[**University College**]** **GLOBAL CAMPUS** by the State Treasurer shall be credited to the University of Maryland **[**University College**]** **GLOBAL CAMPUS**.

(2) Any unexpended or unencumbered balance of the annual appropriation for the University of Maryland **[**University College**]** **GLOBAL CAMPUS**, except any appropriation from the General Fund of the State, shall not revert to the General Fund of the State at the end of the State's fiscal year.

(f) The University of Maryland **[**University College**]** **GLOBAL CAMPUS** may:

(1) Purchase, lease, or rent motor vehicles for use in overseas programs; and

(2) Purchase, lease, or rent mechanical or electronic data or information processing equipment and related services for its overseas programs.

(g) (1) Each year the University of Maryland **[**University College**]** **GLOBAL CAMPUS** shall cause an independent certified public accountant to prepare audited financial statements of the University of Maryland **[**University College**]** **GLOBAL CAMPUS** in accordance with generally accepted auditing standards accompanied by the auditor's report on the statements.

(2) The provisions of § 12–105(f) of this article do not apply to the University of Maryland **[**University College**]** **GLOBAL CAMPUS** overseas programs.

SECTION 2. AND BE IT FURTHER ENACTED, That, as provided in this Act:

(a) The University of Maryland Global Campus is the successor of the University of Maryland University College.

(b) In every law, executive order, rule, regulation, policy, or document created by an official, an employee, or a unit of this State, the names and titles of those agencies and officials mean the names and titles of the successor agency or official.

SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 4. AND BE IT FURTHER ENACTED, That any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended by this Act as though the amendment had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(1) the continuity of every commission, office, department, agency, or other unit is retained; and

(2) the personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That letterhead, business cards, and other documents reflecting the renaming of the University of Maryland University

College to be the University of Maryland Global Campus may not be used until all letterhead, business cards, and other documents already in print and reflecting the name of the University before the effective date of this Act have been used.

SECTION 7. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross–references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2019 that affects provisions enacted by this Act. The publisher shall adequately describe any correction that is made in an editor's note following the section affected.

SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 252 and House Bill 66 – *Railroad Company – Movement of Freight – Required Crew*.

This legislation attempts to codify a private industry issue that should be negotiated between the employer and the employer's representatives and decided at the federal level since it involves interstate commerce and clearly falls within the federal government's regulatory purview.

For four years, I have made it my Administration's top priority to make sure Maryland is Open for Business. These bills attempt to circumvent the collective bargaining process in private industry and will ultimately kill job opportunities for the thousands of Maryland's citizens who depend on an economically viable Port of Baltimore, make our great state less competitive with our neighbors, burden our taxpayers, and bring confusion to the

Mid–Atlantic region's complex rail network. I simply cannot allow these bills to become law.

Senate Bill 252 and House Bill 66 put the Port of Baltimore, one of our State's major economic engines, at a competitive disadvantage with neighboring ports. Only three states in the nation – California, Colorado, and Wisconsin – have a two–person crew requirement. No state in the Mid–Atlantic region, or on the East Coast for that matter, has this requirement, which means that no port that competes directly with the Port of Baltimore currently has this requirement. Freight rail is America's backbone of interstate commerce. Mandating that carriers in the State of Maryland use a larger crew size than would be required of the same railroads operating out of Norfolk, Philadelphia, or New York will directly result in an increase in shipping costs and deter carriers from operating in the state resulting in the loss of jobs directly related to the Port. Those same jobs produce an average annual wage that is 9.5% higher than the state average.

During my administration, the Port of Baltimore and Seagirt Marine Terminal have grown significantly, breaking records in each of the last four years, adding jobs and economic activity in the process. Last year, the Port of Baltimore set a 44–year record for public and private cargo handled. Large volume surges can strain trucking resources. For this growth to continue, we need viable intermodal options to ensure cargo velocity remains at optimal levels. This includes rail connectivity to locations that are currently serviced only by truck. Tradepoint Atlantic is one such location that offers tremendous potential to increase cargo volume through the Port of Baltimore, however shipping cost is a serious challenge to fully realizing this potential. Carriers will always move cargo by the most efficient and economical means. As the Port is developing a rail shuttle solution, absorbing an additional layer of cost constitutes a serious burden in an industry that already operates on razor thin margins. In that respect, these bills send a disturbing message to the Port's private sector industry partners and would have a chilling effect on discussions with CSX as the Port continues to work towards modernizing the Howard Street Tunnel to allow for double–stack containers, essential to the future success of the Port of Baltimore.

In the three previous years that the General Assembly has considered crew size, no empirical data has been submitted that proves there is a link between railroad safety and the crew size. In fact, crew sizes have decreased over the years, and together with the implementation of advancements in technology we have seen a reduction in accident rates. The implementation of Positive Train Control will only contribute to this trend. Passing bills of this nature creates a false narrative that a larger crew size is the most critical factor to rail safety, which could deter future advancements in technology with the potential to have a far more significant impact on rail safety.

This legislation will also have a significant impact on the pending renewal of the State's access agreement with CSX for MARC Train Camden and Brunswick Line service, even more so this year than the year before. The net result of this will be as much as a $5.2 million impact that CSX would pass on to the State through the MARC contract, which will undoubtedly impact train service and the 12,000 daily riders on both lines.

Lastly, these bills are clearly preempted by federal law. The Regional Rail Reorganization Act of 1973, in a section of Code titled "Preemption" and codified at 45 U.S.C. 797(j) states that "[n]o State may adopt or continue in force any law, rule, regulation, order, or standard requiring the Corporation to employ any specified number of persons to perform any particular task, function, or operation…." In fact, the United States Code *specifically identifies Maryland* as a State within the region in which "no State in the Region may adopt or continue in force any such law, rule, regulation, order, or standard with respect to any railroad in the Region." These bills would be in direct conflict with federal law.

Maryland cannot afford to be at a competitive disadvantage to our neighboring states. The increased costs associated with this legislation, negative impact on the approximately 37,300 jobs generated by port activity, and potential to jeopardize the livelihood of Maryland workers who depend on a thriving Port of Baltimore is too harmful to allow these bills to become law.

For these reasons, I have vetoed Senate Bill 252 and House Bill 66.

Sincerely,

Lawrence J. Hogan Jr.
Governor

Senate Bill 252

AN ACT concerning

Railroad Company – Movement of Freight – Required Crew

FOR the purpose of prohibiting a train or light engine used in connection with the movement of freight from being operated in the State unless it has a certain number of crew members; providing for the application of this Act; establishing certain penalties; prohibiting a county or municipal corporation from enacting and enforcing more stringent measures regarding certain crew requirements; requiring the Commissioner of Labor and Industry to provide certain notice to the Department of Legislative Services under certain circumstances; providing for the termination of this Act under certain circumstances; and generally relating to the crew for a train or light engine used in connection with the movement of freight.

BY adding to
Article – Labor and Employment
Section 5.5–110(e)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Labor and Employment

5.5–110.

(E) (1) THIS SUBSECTION APPLIES TO A TRAIN OR LIGHT ENGINE USED IN CONNECTION WITH THE MOVEMENT OF RAILROAD FREIGHT THAT SHARES THE SAME RAIL CORRIDOR AS A HIGH–SPEED PASSENGER OR COMMUTER TRAIN.

(2) THIS SUBSECTION DOES NOT APPLY TO A TRAIN OR LIGHT ENGINE USED IN CONNECTION WITH THE MOVEMENT OF RAILROAD FREIGHT INVOLVING:

(I) HOSTLER SERVICE; OR

(II) UTILITY EMPLOYEES IN YARD SERVICE.

(3) A TRAIN OR LIGHT ENGINE USED IN CONNECTION WITH THE MOVEMENT OF RAILROAD FREIGHT MAY NOT BE OPERATED IN THE STATE UNLESS THE TRAIN OR LIGHT ENGINE HAS A CREW OF AT LEAST TWO INDIVIDUALS.

(4) (I) A PERSON WHO WILLFULLY VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

1. FOR A FIRST OFFENSE, A FINE OF $500; AND

2. FOR A SECOND OFFENSE AND ANY SUBSEQUENT OFFENSE COMMITTED WITHIN A PERIOD OF 3 YEARS OF THE SECOND OFFENSE, A FINE OF $1,000 FOR EACH OFFENSE.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, A RAILROAD COMPANY SHALL BE SOLELY RESPONSIBLE FOR THE ACTIONS OF ITS AGENTS OR EMPLOYEES IN VIOLATION OF THIS SUBSECTION.

(5) A COUNTY OR MUNICIPAL CORPORATION MAY NOT ENACT AND ENFORCE MORE STRINGENT MEASURES REGARDING THE CREW REQUIREMENTS AUTHORIZED UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, if the Federal Railroad Administration issues a rule requiring two–person train crews on crude oil trains and establishing minimum crew size standards for most main line freight and passenger rail operations, within 5 days after the issuance of the rule, the Commissioner of Labor and Industry shall notify the Department of Legislative Services. On the date the Department of Legislative Services receives such notification, this Act shall be abrogated and of no further force and effect.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 303 – *State Acupuncture Board – Practice of Acupuncture – Definition and Education Requirements*.

This bill alters the education requirement to become a licensed acupuncturist and modifies the definitions of "acupuncture" and "practice acupuncture."

House Bill 404, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 303.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 303

AN ACT concerning

State Acupuncture Board – Practice of Acupuncture – Definition and Education Requirements

FOR the purpose of requiring an applicant to have graduated from a certain program or its equivalent approved by certain entities to qualify for a license to practice acupuncture; ~~repealing~~ altering the authority of the State Acupuncture Board to find certain programs to be equivalent to ~~a certain course~~ certain courses for certain licensure requirements; altering certain definitions; providing for the application of this Act; and generally relating to the practice of acupuncture.

BY repealing and reenacting, with amendments,
Article – Health Occupations

Section 1A–101 and 1A–302
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

1A–101.

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

(b) "Acupuncture" means a form of health care**[**,**]** based on **[**a theory**]** **EAST ASIAN MEDICAL THEORIES** of energetic physiology**[**,**]** that **[**describes**]** **DESCRIBE** the interrelationship of the body organs **[**or**]** **AND** functions **[**with an associated point or combination of points**]**.

(c) "Auricular detoxification" means an acupuncture technique involving the needling of the external auricle of the human ear for the purpose of assisting a person who is undergoing detoxification to remove addictive substances from the body and restoring health.

(d) "Board" means the State Acupuncture Board.

(e) "License" means, unless the context requires otherwise, a license issued by the Board to practice acupuncture.

(f) (1) "Practice acupuncture" means the use of **[**oriental**]** **EAST ASIAN** medical therapies for the purpose of normalizing energetic physiological functions including pain control, and for the promotion, maintenance, and restoration of health.

(2) "Practice acupuncture" includes:

(i) Stimulation of **[**points of**]** the body by the insertion of **[**acupuncture**]** needles;

(ii) The application of moxibustion; and

(iii) Manual, mechanical, thermal, **[**or**]** electrical**,** ~~**LIGHT, COLD LASER, HERBAL, NUTRITIONAL, THERAPEUTIC EXERCISE, DRY NEEDLING,**~~ **OR OTHER EAST ASIAN MEDICAL** therapies only when performed in accordance with the principles of **[**oriental acupuncture**]** **EAST ASIAN** medical theories **AND PRACTICES**.

(g) "Supervision" means:

(1) A formalized professional relationship between a licensed acupuncturist and an individual performing auricular detoxification that provides evaluation and direction of the individual to adequately ensure the safety and welfare of clients during the course of treatment; and

(2) As defined by the Board in regulations:

(i) Periodic direct supervision where the licensed acupuncturist is present or on–site during treatment; and

(ii) General supervision where the licensed acupuncturist is neither present nor on–site during treatment.

1A–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall:

(1) Be of good moral character;

(2) Be at least 18 years old;

(3) Demonstrate competence in performing acupuncture by meeting one of the following standards for education or training:

(i) Graduation from **[**a course of training of at least 1,800 hours in acupuncture, including 300 clinical hours,**]** **AT LEAST A MASTER'S LEVEL PROGRAM** **OR ITS EQUIVALENT** **IN ACUPUNCTURE** that is:

1. Approved by the Maryland Higher Education Commission; ~~**OR**~~

2. Accredited by the Accreditation Commission for Acupuncture and Oriental Medicine; or

~~**[**~~3. Found by the Board to be equivalent to a course approved ~~by the Accreditation Commission for Acupuncture and Oriental Medicine~~ **OR ACCREDITED UNDER ITEM 1 OR 2 OF THIS ITEM**; or~~**]**~~

(ii) Achievement of a:

1. Diplomate in acupuncture from the National Certification Commission for Acupuncture and Oriental Medicine; or

2. Passing score on an examination that is determined by the Board to be equivalent to the examination given by the National Certification Commission for Acupuncture and Oriental Medicine;

(4) Demonstrate the ability to communicate in the English language; and

(5) Meet any other qualifications that the Board establishes in regulations.

SECTION 2. AND BE IT FURTHER ENACTED, That § 1A–302 of the Health Occupations Article, as enacted by Section 1 of 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 individual licensed to practice acupuncture by the State Acupuncture Board before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 306 – *State Retirement and Pension System – Maryland Pension Administration System – Member Contributions*.

This bill requires participating employers in the State Retirement and Pension System to submit simultaneously member contributions and payroll data supporting the contributions. This bill also maintains and makes conforming changes to existing penalties for failure to provide timely payments or supporting payroll information to the system.

House Bill 63, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 306.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 306

AN ACT concerning

State Retirement and Pension System – Maryland Pension Administration System – Member Contributions

FOR the purpose of requiring a participating employer to submit supporting payroll data to the State Retirement Agency regarding a member's contributions at the time contributions are paid to the Board of Trustees for the State Retirement and Pension System; clarifying certain penalty provisions; making conforming changes; making clarifying changes; and generally relating to providing member contributions and supporting payroll data to the State Retirement Agency.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–314(c) and (d)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 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

21–314.

(c) (1) In this subsection, "compensation" means a member's earnable compensation as provided in § 20–101 of this article and includes the amount earned by the member for all pay periods ending during a calendar year even if an amount is paid to the member after December 31 of the calendar year.

(2) **[**(i)**]** As each payroll is paid ~~or~~ **AND** in a manner that the Board of Trustees prescribes each participating employer shall**:**

(I) certify to the Board of Trustees, and the proper fiscal officer of the participating employer shall pay to the Board of Trustees, the member contributions deducted from the compensation of each member employed by the participating employer or made under an employer pickup program**[**.**]; AND**

(ii) **[**Within 5 working days after the payment of each payroll, each participating employer shall**]** submit to the State Retirement Agency supporting payroll data required by the State Retirement Agency in a format specified by the State Retirement Agency.

(d) (1) A participating employer that does not pay the member contributions certified under this section **AND SUBMIT THE SUPPORTING PAYROLL DATA** to the Board of Trustees **[**within the time required**]** **AS EACH PAYROLL IS PAID AND IN A MANNER PRESCRIBED BY THE BOARD OF TRUSTEES** is liable for:

(i) a penalty of 10% of the ~~amounts~~ **MEMBER CONTRIBUTIONS** due; ~~and~~

(ii) interest on delinquent ~~amounts~~ **MEMBER CONTRIBUTIONS** at 10% a year until paid~~.~~**;**

~~(2) A participating employer that does not submit supporting payroll data as required by the State Retirement Agency **[**within the time required**]** is liable for:~~

~~(i)~~ **(III)** a **[**late charge of**]** $250 **PENALTY** for each payroll for which the supporting data is **[**late**]** **NOT SUBMITTED**; and

~~(ii)~~ **(IV)** interest on **[**delinquent late charges**]** ~~**A PENALTY**~~ **THE PENALTY ASSESSED UNDER ITEM (III) OF THIS PARAGRAPH** at 10% per year if the **[**late charge**]** **PENALTY** is not paid by the date certified by the State Retirement Agency.

(3) The Secretary of the Board of Trustees may allow a grace period for payment of the amounts due or submission of supporting payroll data as required under this section not to exceed 10 working days.

(4) On notification by the Secretary of the Board of Trustees that a delinquency exists, the State Comptroller immediately shall set off the delinquent amount against any money due or coming due to the delinquent participating employer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 399 – *Consumer Protection – Private Career Schools and For–Profit Institutions of Higher Education – Disclosures*.

This bill adds several items to the list of specified information that a private career school or for–profit institution of higher education must provide to a prospective student prior to the student signing an enrollment agreement, completing registration, or making a financial commitment to the school or institution. This bill also requires all specified information to be prominently displayed on the website of the school or institution without the need for providing personal information.

House Bill 464, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 399.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 399

AN ACT concerning

Consumer Protection – Private Career Schools and For–Profit Institutions of Higher Education – Disclosures ~~and Regulation~~

FOR the purpose of requiring private career schools and certain for–profit institutions of higher education to provide certain students with certain information before the student signs an enrollment agreement, completes registration, or makes a financial commitment; requiring certain information to be displayed in a certain manner and on certain websites; ~~prohibiting certain schools and institutions from enrolling certain residents under certain circumstances; providing for the construction of this Act; requiring the Maryland Higher Education Commission to adopt certain regulations on or before a certain date; specifying that certain schools and institutions may not be required to comply with certain provisions until a certain fiscal year; defining a certain term;~~ and generally relating to ~~the regulation of~~ disclosures required to be made by private career schools and for–profit institutions of higher education.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–320(b)
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Education~~

~~Section 10–101(a), (c), (d), and (j) and 11–202.2(a) and (b)(1) and (2)~~
~~Annotated Code of Maryland~~
~~(2018 Replacement Volume and 2018 Supplement)~~

~~BY adding to~~
~~Article – Education~~
~~Section 11–210~~
~~Annotated Code of Maryland~~
~~(2018 Replacement Volume and 2018 Supplement)~~

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

Article – Commercial Law

13–320.

(b) (1) Before a prospective student signs an enrollment agreement, completes registration, or makes a financial commitment to a private career school, for–profit institution of higher education, or for–profit institution of higher education that is required to register with the Commission, the school or institution shall provide to the student the following information:

(i) The total cost of attendance for the program, as defined in 20 U.S.C. § 1087ll;

(ii) The length of the program;

(iii) The number of clock or credit hours, or the equivalent information;

(iv) The school or institution's cancellation and refund policy;

(v) The program's completion rates for both full–time and part–time students;

(vi) The program's withdrawal rates; **[**and**]**

(vii) The median combined loan debt for federal loans, institutional loans, and private loans certified by the school or institution, for all students who completed the program during the most recently completed award year**;**

(VIII) THE PLACEMENT RATE FOR THE PROGRAM, IF THE SCHOOL OR INSTITUTION IS REQUIRED BY ITS ACCREDITING AGENCY TO CALCULATE A PLACEMENT RATE FOR THE PROGRAM, OR THE SCHOOL OR INSTITUTION, OR BOTH, USING THE REQUIRED METHODOLOGY OF THE ACCREDITING AGENCY;

(IX) WHETHER THE PROGRAM SATISFIES THE APPLICABLE EDUCATIONAL PREREQUISITES FOR PROFESSIONAL LICENSURE OR CERTIFICATION IN THE STATE; AND

(X) THE MEDIAN EARNINGS OF FORMER STUDENTS OF THE SCHOOL OR INSTITUTION WHO RECEIVED FEDERAL FINANCIAL AID AT 10 YEARS AFTER ENTERING THE SCHOOL OR INSTITUTION, AS REPORTED ON THE COLLEGE SCORECARD, IF AVAILABLE~~; AND~~

~~(XI) WHETHER THE SCHOOL OR INSTITUTION HAS FAILED TO MEET THE REQUIREMENTS OF § 11–210 OF THE EDUCATION ARTICLE IN ANY OF THE 3 IMMEDIATELY PRECEDING FISCAL YEARS~~.

(2) **[**(i)**]** The information described under paragraph (1) of this subsection shall be prominently displayed **[**in**]:**

(I) **IN** a letter or e–mail to a prospective student **THAT DOES NOT CONTAIN:**

1. INFORMATION ABOUT A PROGRAM OTHER THAN THE PROGRAM IN WHICH THE STUDENT HAS EXPRESSED INTEREST; OR

2. ANY OTHER SUBSTANTIVE INFORMATION; AND

[(ii) The letter or e–mail may not contain any other substantive information from the school or institution.**]**

(II) ON THE WEBSITE OF EACH SCHOOL OR INSTITUTION THAT IS AVAILABLE TO A PROSPECTIVE STUDENT WITHOUT THE NECESSITY OF PROVIDING ANY PERSONAL INFORMATION ABOUT THE STUDENT.

(3) The school or institution shall maintain records of the school's or institution's efforts to provide the information described under paragraph (1) of this subsection to a prospective student for at least 5 years after the student enrolls at the school or institution.

~~Article – Education~~

~~10–101.~~

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

~~(c) "Commission" means the Maryland Higher Education Commission.~~

~~(d) "For–profit institution of higher education" means an institution of higher education that generally limits enrollment to graduates of secondary schools, awards degrees at the associate, baccalaureate, or graduate level, and is not a public or private nonprofit institution of higher education.~~

~~(j) "Private career school" means a privately owned and privately operated institution of postsecondary education other than an institution of higher education that furnishes or offers to furnish programs, whether or not requiring a payment of tuition or fee, for the purpose of training, retraining, or upgrading individuals for gainful employment as skilled or semiskilled workers or technicians in recognized occupations or in new and emerging occupations.~~

~~11–202.2.~~

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

~~(2) "Fully online distance education program in the State" means a program, originating outside the State, offered by an out–of–state institution in which:~~

~~(i) A student domiciled in Maryland enrolls;~~

~~(ii) 51% or more of the program is offered through electronic distribution; and~~

~~(iii) The Commission determines that the portion of the program offered at a location in the State, if any, does not require a certificate of approval under § 11–202 of this subtitle for the institution to operate in the State.~~

~~(3) "Out–of–state institution" means an institution of higher education whose primary campus exists outside Maryland and whose authority to grant degrees is conferred by another state.~~

~~(b) (1) An institution of higher education that enrolls Maryland students in a fully online distance education program in the State shall file an application to register with the Commission before or within 3 months of enrolling the first Maryland student.~~

~~(2) This section does not apply to an institution of higher education that enrolls Maryland students in a fully online distance education program in the State that:~~

~~(i) Is subject to program review by the Commission under § 11–206 or § 11–206.1 of this subtitle;~~

~~(ii) Participates in the Southern Regional Education Board's Electronic Campus; or~~

~~(iii) Participates in the State Authorization Reciprocity Agreement (SARA).~~

~~**11–210.**~~

~~**(A) IN THIS SECTION, "ANNUAL REVENUE" MEANS THE REVENUE GENERATED DURING A SCHOOL'S OR AN INSTITUTION'S FISCAL YEAR THAT CAN BE INCLUDED IN ITS CALCULATION RELATED TO COMPLIANCE WITH 20 U.S.C. § 1094(A)(24).**~~

~~**(B) THIS SECTION APPLIES TO A SCHOOL OR AN INSTITUTION THAT HAS ANNUAL REVENUE IN EXCESS OF $10,000,000 AND IS:**~~

~~**(1) A PRIVATE CAREER SCHOOL;**~~

~~**(2) A FOR–PROFIT INSTITUTION OF HIGHER EDUCATION APPROVED TO OPERATE IN THE STATE; OR**~~

~~**(3) A FOR–PROFIT INSTITUTION OF HIGHER EDUCATION THAT IS REQUIRED TO REGISTER UNDER § 11–202.2 OF THIS SUBTITLE.**~~

~~**(C) A SCHOOL OR AN INSTITUTION DESCRIBED UNDER SUBSECTION (B) OF THIS SECTION MAY NOT ENROLL NEW MARYLAND RESIDENTS IN A PROGRAM IF, IN 2 OUT OF 3 OF THE IMMEDIATELY PRECEDING FISCAL YEARS, LESS THAN 15% OF THE SCHOOL'S OR INSTITUTION'S ANNUAL REVENUE IS DERIVED FROM FUNDS DISBURSED TO THE SCHOOL OR INSTITUTION THROUGH:**~~

~~**(1) STATE OR FEDERAL FUNDING SOURCES RELATED TO TUITION, FEES, AND OTHER INSTITUTIONAL CHARGES FOR STUDENTS; OR**~~

~~**(2) LOANS AND GRANTS PROVIDED OR GUARANTEED BY THE SCHOOL OR INSTITUTION.**~~

~~**(D) A VIOLATION OF SUBSECTION (C) OF THIS SECTION MAY NOT BE CONSTRUED TO LIMIT A SCHOOL'S OR AN INSTITUTION'S ELIGIBILITY TO PROVIDE INSTRUCTION TO, AND COLLECT REVENUE FROM, STUDENTS WHO WERE ENROLLED BEFORE THE VIOLATION TAKES PLACE.**~~

~~**(E) ON OR BEFORE DECEMBER 1, 2019, THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That a private career school or for–profit institution of higher education subject to § 11–210 of the Education Article, as enacted by this Act, may not be required to comply with the provisions of this Act until the fiscal year of the school or institution that begins on or after July 1, 2019.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 400 – *Maryland Higher Education Commission – Private Nonprofit Institutions of Higher Education – Regulation (Private Nonprofit Institution of Higher Education Protection Act of 2019).*

This bill alters the definition of "private nonprofit institution of higher education" to mean, in addition to current criteria, that the institution 1) benefits no person through any part of its net earnings; 2) is legally authorized to operate as a nonprofit organization in each state in which it is physically located; and 3) is determined by the Internal Revenue Service to be an organization to which contributions are tax deductible.

This bill also requires the Maryland Higher Education Commission 1) to determine whether an incident constitutes private inurement if a private nonprofit institution of higher education engages in a reportable incident as defined by the bill; and 2) jointly with the Office of the Attorney General, develop a procedure for determining and enforcing the classification of institutions of higher education as enacted by the bill.

House Bill 461, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 400.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 400

AN ACT concerning

Maryland Higher Education Commission – Private Nonprofit Institutions of Higher Education – Regulation

(Private Nonprofit Institution of Higher Education Protection Act of 2019)

FOR the purpose of requiring the Maryland Higher Education Commission to make certain determinations under certain circumstances; requiring the Commission, jointly with the Office of the Attorney General, to develop a certain procedure for determining and enforcing certain classifications of institutions of higher education; requiring the Commission to adopt certain regulations; defining certain terms; and generally relating to the regulation of private nonprofit institutions of higher education.

BY repealing and reenacting, with amendments,
Article – Education
Section 10–101
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

BY adding to
Article – Education
Section 11–407.1
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

10–101.

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

(b) "Charter" means the Maryland Charter for Higher Education.

(c) "Commission" means the Maryland Higher Education Commission.

(d) "For–profit institution of higher education" means an institution of higher education that generally limits enrollment to graduates of secondary schools, awards degrees at the associate, baccalaureate, or graduate level, and is not a public or private nonprofit institution of higher education.

(e) "Governing board" means:

(1) The Board of Regents of the University System of Maryland;

(2) The Board of Regents of Morgan State University;

(3) The Board of Trustees of St. Mary's College of Maryland; and

(4) The Board of Trustees of Baltimore City Community College.

(f) "Governing body" means:

(1) A governing board;

(2) A board of trustees of a community college;

(3) The governing entity of private nonprofit institutions of higher education;

(4) The governing entity of a for–profit institution of higher education; or

(5) The governing entity of a regional higher education center.

(g) "Independent institution of higher education" means a private nonprofit institution of higher education that generally limits enrollment to graduates of secondary schools, serves a public purpose, and awards degrees at the associate, baccalaureate, or graduate level.

(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.

(i) (1) "Institution of postsecondary education" means a school or other institution that offers an educational program in the State for individuals who are at least 16 years old and who have graduated from or left elementary or secondary school.

(2) "Institution of postsecondary education" does not include:

(i) Any adult education, evening high school, or high school equivalence program conducted by a public school system of the State; or

(ii) Any apprenticeship or on–the–job training program subject to approval by the Apprenticeship and Training Council.

(j) "Private career school" means a privately owned and privately operated institution of postsecondary education other than an institution of higher education that furnishes or offers to furnish programs, whether or not requiring a payment of tuition or fee, for the purpose of training, retraining, or upgrading individuals for gainful employment as skilled or semiskilled workers or technicians in recognized occupations or in new and emerging occupations.

(k) (1) "Private nonprofit institution of higher education" means **[**a private nonprofit**]** **AN** institution of higher education **[**that generally**]** **THAT:**

(I) BENEFITS NO PERSON THROUGH ANY PART OF ITS NET EARNINGS;

(II) IS LEGALLY AUTHORIZED TO OPERATE AS A NONPROFIT ORGANIZATION BY EACH STATE IN WHICH IT IS PHYSICALLY LOCATED;

(III) IS DETERMINED BY THE INTERNAL REVENUE SERVICE TO BE AN ORGANIZATION TO WHICH CONTRIBUTIONS ARE TAX–DEDUCTIBLE IN ACCORDANCE WITH 26 U.S.C. 501(C)(3); AND

(IV) GENERALLY limits enrollment to graduates of secondary schools and awards degrees at the associate, baccalaureate, or graduate level.

(2) "Private nonprofit institution of higher education" includes an independent institution of higher education.

(3) "PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION" DOES NOT INCLUDE AN INSTITUTION ENGAGING IN A REPORTABLE INCIDENT UNLESS THE COMMISSION HAS DETERMINED THAT THE INCIDENT DOES NOT CONSTITUTE PRIVATE INUREMENT.

(l) "Program" or "educational program" means an organized course of study that leads to the award of a certificate, diploma, or degree.

(m) "Public senior higher education institution" means:

(1) The constituent institutions of the University System of Maryland and the University of Maryland Center for Environmental Science;

(2) Morgan State University; and

(3) St. Mary's College of Maryland.

(n) "Regional higher education center" means a higher education facility in the State that:

(1) Is operated by a public institution of higher education in the State or a private nonprofit institution of higher education operating under a charter granted by the General Assembly and includes participation by two or more institutions of higher education in the State;

(2) Consists of an array of program offerings from institutions of higher education approved to operate in the State by the Commission or by an act of the General Assembly that specifically satisfies the criteria set forth in § 10–212(b) of this title;

(3) Offers multiple degree levels; and

(4) Is either approved by the Commission to operate in the State or is established by statute.

(O) "REPORTABLE INCIDENT" MEANS ANY OF THE FOLLOWING AS REPORTABLE ON A PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION'S FORM 990 OF THE INTERNAL REVENUE SERVICE:

(1) THE ENGAGEMENT IN AN EXCESS BENEFIT TRANSACTION WITH A DISQUALIFIED PERSON;

(2) THE PROVIDING OF A GRANT OR OTHER ASSISTANCE BY THE INSTITUTION TO A MEMBER OF THE GOVERNING BODY;

(3) THE REPORTING OF RECEIVABLES FROM OR PAYABLES TO A MEMBER OF THE GOVERNING BODY;

(4) THE INSTITUTION WAS A PARTY TO A BUSINESS TRANSACTION CONNECTED TO A MEMBER OF THE INSTITUTION'S GOVERNING BODY;

(5) THE INSTITUTION WAS A PARTY TO A PROHIBITED TAX SHELTER TRANSACTION;

(6) THE INSTITUTION PARTICIPATED IN AN EQUITY–BASED COMPENSATION ARRANGEMENT; OR

(7) THE INSTITUTION PAID COMPENSATION CONTINGENT ON THE REVENUE OF THE INSTITUTION OR ANY RELATED ORGANIZATION.

[(o)**] (P)** "Secretary" means the Secretary of Higher Education.

[(p)**] (Q)** "State Plan for Higher Education" means the plan for postsecondary education and research required to be developed by the Maryland Higher Education Commission under § 11–105(b) of this article.

11–407.1.

IF A PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION ENGAGES IN A REPORTABLE INCIDENT, AS DEFINED UNDER § 10–101 OF THIS ARTICLE, THE

COMMISSION SHALL DETERMINE WHETHER THE INCIDENT CONSTITUTES PRIVATE INUREMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That on or before July 1, 2019, the Maryland Higher Education Commission, jointly with the Office of the Attorney General, shall develop a procedure for determining and enforcing the classifications of institutions of higher education as enacted by this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That on or before December 1, 2019, the Maryland Higher Education Commission shall adopt regulations relating to institutions of higher education that would be impacted by Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 404 – *State Department of Education and Maryland Department of Health – Maryland School–Based Health Center Standards – Revision*.

This bill requires the Maryland State Department of Education and the Maryland Department of Health, by a certain date, to revise Maryland school–based health center standards to (1) repeal current requirements that school–based health center standards have a medical director who is a physician and that a physician consultant be available to school–based health center standards staff to discuss clinical issues as needed and (2) authorize a licensed physician or nurse practitioner to serve as a clinical director or consultant of an school–based health center standards.

House Bill 47, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 404.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 404

AN ACT concerning

State Department of Education and Maryland Department of Health – Maryland School–Based Health Center Standards – Revision

FOR the purpose of requiring the State Department of Education and the Maryland Department of Health to revise certain standards regarding Maryland school–based health centers; and generally relating to standards for school–based health centers.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, on or before August 1, 2019, the State Department of Education and the Maryland Department of Health shall revise the Maryland School–Based Health Center Standards to:

(1) repeal requirements for:

(i) a school–based health center to have a medical director who is a physician; and

(ii) a physician consultant to be available to the staff of the school–based health center to discuss clinical issues as needed; and

(2) authorize a physician licensed under Title 14 of the Health Occupations Article, or a nurse practitioner licensed under Title 8 of the Health Occupations Article, to serve as a clinical director or a clinical consultant of a school–based health center.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 438 – *Security Systems Technicians – Sunset Extension*.

This bill extends by 10 years the termination date of the licensing and regulation of security systems agencies and technicians, requires the Department of Legislative Services to conduct a preliminary evaluation of the board by December 15, 2028.

House Bill 951, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 438.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 438

AN ACT concerning

Security Systems Technicians – Sunset Extension

FOR the purpose of continuing the licensing and regulation of security systems technicians in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Secretary of State Police to license and regulate security systems technicians; requiring that an evaluation of the licensing and regulation of security systems technicians be performed on or before a certain date; and generally relating to the licensing and regulation of security systems technicians.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 18–701
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(51)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 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

18–701.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no further force and effect after July 1, **[**2021**]** **2031**.

Article – State Government

8–403.

(a) On or before December 15 of the evaluation year specified, the Department shall:

(1) conduct a preliminary evaluation of each governmental activity or unit to be evaluated under this section; and

(2) prepare a report on each preliminary evaluation conducted.

(b) Each of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units are subject to preliminary evaluation in the evaluation year specified:

(51) security systems technicians, licensing and regulation of (§ 18–201 of the Business Occupations and Professions Article: **[**2018**]** **2028**);

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 440 – *State Board of Cosmetologists – Sunset Extension*.

This bill extends by three years the termination date for the State Board of Cosmetologists, and requires the Department of Legislative Services to conduct a preliminary evaluation of the board by December 15, 2021.

House Bill 952, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 440.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 440

AN ACT concerning

State Board of Cosmetologists – Sunset Extension

FOR the purpose of continuing the State Board of Cosmetologists in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; and generally relating to the State Board of Cosmetologists.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 5–702
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(13)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Business Occupations and Professions

5–702.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, **[**2021**]** **2024**.

Article – State Government

8–403.

(a) On or before December 15 of the evaluation year specified, the Department shall:

(1) conduct a preliminary evaluation of each governmental activity or unit to be evaluated under this section; and

(2) prepare a report on each preliminary evaluation conducted.

(b) Each of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units are subject to preliminary evaluation in the evaluation year specified:

(13) Cosmetologists, State Board of (§ 5–201 of the Business Occupations and Professions Article: **[**2018**]** **2021**);

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 447 – *Health Occupations – Requirements for the Practice of Optometry – Miscellaneous Revisions*.

This bill alters various provisions relating to the practice of optometry for therapeutically certified optometrists, including the circumstances under which a therapeutically certified optometrists may 1) administer and prescribe pharmaceutical agents; 2) treat glaucoma; 3) perform specified procedures; and 4) order specified tests. This bill also alters the definition of "practice optometry " and requires therapeutically certified optometrists to obtain specified additional training by a certain date.

House Bill 471, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 447.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 447

AN ACT concerning

Health Occupations – Requirements for the Practice of Optometry – Miscellaneous Revisions

FOR the purpose of ~~requiring that, in addition to being licensed, an individual be certified under certain provisions of law and this Act before practicing optometry in the State within the scope of the certification; providing that a certain provision of law does not apply to a certain student under the direct supervision of a physician; requiring certain optometrists to complete certain continuing education requirements; requiring that a certain course completed by a licensed optometrist be counted toward a certain number of hours of continuing education; requiring certain optometrists to refer certain patients to certain health care practitioners or a hospital emergency room under certain circumstances; authorizing an optometrist certified under certain provisions of this Act to use a certain title; requiring certain optometrists to be certified under certain provisions of law before administering certain pharmaceutical agents to a patient; altering the coursework requirements for certain certifications; prohibiting a certain optometrist certified under a certain provision of law from taking certain actions; replacing the requirement that the Maryland Department of Health collect and report certain statistical information with a requirement that certain optometrists report certain adverse events to the State Board of Examiners in Optometry; establishing a new level of certification for licensed optometrists; providing that certain restrictions do not apply to optometrists certified under certain provisions of this Act; requiring the Board to certify certain optometrists who submit certain evidence of certain certification or education, and completion of certain courses; requiring that certain courses be of a certain length, emphasize certain topics, and be given by certain associations or organizations; providing that certain optometrists are not subject to certain requirements for certain certification; prohibiting certain optometrists from administering or prescribing certain substances; providing that certain optometrists be held to certain~~

~~standards of care; requiring the Board, rather than a certain person, to recommend to the Secretary of Health certain quality assurance guidelines for certain optometrists; requiring the Secretary to adopt certain regulations~~ repealing certain provisions of law requiring a therapeutically certified optometrist to refer a certain patient to an ophthalmologist under certain circumstances; altering the types of therapeutic pharmaceutical agents a therapeutically certified optometrist is authorized to administer or prescribe; prohibiting therapeutically certified optometrists from administering or prescribing certain substances and agents except under certain circumstances; prohibiting therapeutically certified optometrists from administering or prescribing certain substances and agents to certain patients except under certain circumstances; altering the circumstances under which a therapeutically certified optometrist is authorized to administer and prescribe certain pharmaceutical agents for a certain type of glaucoma; authorizing therapeutically certified optometrists to order certain tests under certain conditions; altering the circumstances under which a therapeutically certified optometrist is authorized to remove certain foreign bodies from a human eye; requiring a therapeutically certified optometrist to comply with a certain notice requirement; altering and repealing certain definitions; defining ~~certain terms~~ a certain term; making certain clarifying and conforming changes; providing for the application of certain provisions of this Act; providing for a delayed effective date for certain provisions of this Act; and generally relating to requirements for the practice of optometry.

~~BY repealing and reenacting, without amendments,~~
~~Article – Health Occupations~~
~~Section 11–101(a)~~
~~Annotated Code of Maryland~~
~~(2014 Replacement Volume and 2018 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section ~~11–101(g) and (h), 11–301, 11–309, 11–402 through 11–404, 11–404.1,~~ 11–101, 11–404.2, and 11–404.3
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

~~BY adding to~~
~~Article – Health Occupations~~
~~Section 11–101(i) and 11–404.2~~
~~Annotated Code of Maryland~~
~~(2014 Replacement Volume and 2018 Supplement)~~

BY repealing
Article – Health Occupations
Section 11–503
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

~~11–101.~~

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

~~(g) (1) "Practice optometry" means:~~

~~(i) Subject to §§ 11–404~~**, 11–404.1,** ~~and 11–404.2 of this title, to use any means known in the science of optics or eye care, except surgery:~~

~~1. To detect, diagnose,~~ **[**~~and subject to §§ 11–404 and 11–404.2 of this title,~~**]** ~~treat,~~ **[**~~subject to this title,~~**]** **AND MANAGE** ~~any optical or diseased condition in the human eye~~ **AND THE ADNEXA OF THE EYE**~~; or~~

~~2. To prescribe eyeglasses, lenses, or contact lenses to correct any optical or visual condition in the human eye;~~

~~(ii) To give advice or direction on the fitness or adaptation of eyeglasses or lenses to any individual for the correction or relief of a condition for which eyeglasses or lenses are worn; or~~

~~(iii) To use or permit the use of any instrument, test card, test type, test eyeglasses, test lenses, or other device to aid in choosing eyeglasses or lenses for an individual to wear.~~

~~(2) Subject to §§ 11–404~~**, 11–404.1,** ~~and 11–404.2 of this title, "practice optometry" includes:~~

[~~(i) The administration of topical ocular diagnostic pharmaceutical agents;~~**]**

[~~(ii)~~**] (I)** ~~The administration and prescription of therapeutic pharmaceutical agents~~**, DEVICES, AND TREATMENTS;** **[**~~and~~**]**

[~~(iii)~~**] (II)** ~~The removal of~~ **[**~~superficial~~**]** ~~A foreign~~ **[**~~bodies from the cornea and conjunctiva~~**]** **BODY OR RESIDUAL PARTICULATE MATTER THAT:**

1. IS EMBEDDED IN THE CONJUNCTIVA OR CORNEA; AND

2. HAS NOT PENETRATED BEYOND THE MID STROMA;

~~(III) THE ORDERING, EVALUATION, OR PERFORMANCE OF BLOOD TESTS, CULTURES, AND IMAGING TESTS; AND~~

~~(IV) THE ASSESSMENT, DIAGNOSIS, OR TREATMENT FOR CONDITIONS OF THE VISUAL SYSTEM INCLUDING:~~

~~1. PATIENT CARE THAT REQUIRES VISION THERAPY, LIGHT THERAPY, VISUAL TRAINING, VISUAL REHABILITATION, ORTHOPTICS, OR EYE EXERCISES AS PART OF AN APPROPRIATE REHABILITATION OR TREATMENT PLAN OF PHYSICAL, PHYSIOLOGICAL, SENSORIMOTOR, NEUROMUSCULAR, OR PERCEPTUAL ANOMALY OF THE EYES OR VISION SYSTEM; AND~~

~~2. MANAGEMENT OF CARE FOR A PATIENT WHO HAS BEEN PRESCRIBED OR USES LENSES, PRISMS, FILTERS, OCCLUSION, OR OTHER DEVICES FOR THE ENHANCEMENT, REHABILITATION, OR TREATMENT OF THE VISUAL SYSTEM OR PREVENTION OF VISUAL DYSFUNCTION.~~

~~(h) "Therapeutically certified optometrist" means a licensed optometrist who is certified by the Board to practice optometry to the extent permitted under [§ 11–404.2] § 11–404.1 of this title.~~

~~(I) "THERAPEUTICALLY CERTIFIED OPTOMETRIST II" MEANS A LICENSED OPTOMETRIST WHO IS CERTIFIED BY THE BOARD TO PRACTICE OPTOMETRY TO THE EXTENT PERMITTED UNDER § 11–404.2 OF THIS TITLE.~~

~~11–301.~~

~~(a) (1) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice optometry in this State.~~

~~[(b)] (2) This [section] SUBSECTION does not apply to a student while participating in a residency training program under the direct supervision of a licensed optometrist OR A PHYSICIAN.~~

~~(B) A LICENSED OPTOMETRIST SHALL BE CERTIFIED UNDER § 11–404, § 11–404.1, OR § 11–404.2 OF THIS TITLE BEFORE THE LICENSED OPTOMETRIST MAY PRACTICE OPTOMETRY WITHIN THE SCOPE OF THE CERTIFICATION.~~

~~11–309.~~

~~(a) In addition to any other qualifications and requirements established by the Board, the Board shall establish continuing education requirements as a condition to the renewal of licenses and certificates under this title.~~

~~(b) (1) The continuing education required by the Board shall be in courses approved by the Board.~~

~~(2) The Board may not require a nontherapeutically certified optometrist to attend more than 50 hours in any licensing period.~~

~~(3) The Board shall require a therapeutically certified optometrist~~ **OR A THERAPEUTICALLY CERTIFIED OPTOMETRIST II** ~~to attend at least 50 hours of continuing education in a licensing period.~~

~~(4) (i) In each licensing period, a therapeutically certified optometrist~~ **OR A THERAPEUTICALLY CERTIFIED OPTOMETRIST II** ~~shall attend 30 hours of continuing education on~~ **[**~~the use and management of therapeutic pharmaceutical agents~~**]** ~~DISEASE TREATMENT AND MANAGEMENT.~~

~~(ii) The 30 hours of continuing education required under subparagraph (i) of this paragraph shall be counted toward the total number of required hours of continuing education in a licensing period.~~

~~(5) A COURSE COMPLETED BY A LICENSED OPTOMETRIST AS REQUIRED BY THE BOARD TO BE CERTIFIED UNDER § 11–404.1 OR § 11–404.2 OF THIS TITLE SHALL BE COUNTED TOWARD THE TOTAL NUMBER OF REQUIRED HOURS OF CONTINUING EDUCATION FOR THE LICENSING PERIOD IN WHICH THE COURSE WAS COMPLETED.~~

~~(c) At the time a licensee applies for license renewal, the licensee shall submit to the Board, on a form provided by the Board, a certification that the licensee has attended the required courses.~~

~~(d) The Board may refuse to renew the license of a licensee who has failed:~~

~~(1) To attend the required courses; or~~

~~(2) To submit certification of attendance at the required courses.~~

~~(e) The Board may waive the continuing education requirements in cases of illness or other undue hardship on the licensee.~~

~~(f) The Board may use any funds allocated to it for continuing education as State funds to match federal funds for providing continuing education.~~

~~11–402.~~

~~[~~~~(a)~~**~~]~~** ~~If, while providing optometric services to a patient,~~ **~~[~~**~~an~~**~~]~~** ~~A LICENSED optometrist~~ **~~[~~**~~or diagnostically certified optometrist~~**~~]~~** ~~detects or diagnoses an active eye~~

~~pathology which the optometrist is not [licensed or] certified to treat under [§ 11–404 or § 11–404.2 of] this subtitle, the optometrist shall, AS APPROPRIATE, refer the patient to:~~

~~(1) A LICENSED OPTOMETRIST WHO IS CERTIFIED UNDER THIS SUBTITLE TO TREAT THE ACTIVE EYE PATHOLOGY;~~

~~(2) An ophthalmologist [or a therapeutically certified optometrist, as appropriate];~~

~~[(2)] (3) The patient's physician;~~

~~[(3)] (4) A physician if required under a managed care contract; or~~

~~[(4)] (5) A hospital emergency room or ambulatory surgical center [if necessary].~~

~~[(b) If, while providing optometric services to a patient, a therapeutically certified optometrist diagnoses an active eye pathology that the optometrist is not certified to treat under § 11–404.2of this subtitle, the optometrist shall refer the patient to:~~

~~(1) An ophthalmologist;~~

~~(2) The patient's physician;~~

~~(3) A physician if required under a managed care contract; or~~

~~(4) A hospital emergency room if necessary.]~~

~~11–403.~~

~~(a) A licensed optometrist may:~~

~~(1) Use the title "optometrist";~~

~~(2) If the optometrist holds the degree of doctor of optics or doctor of optometry from a college or university authorized to give the degree, use the title "Doctor" or the abbreviations "Dr." or "O.D." with the optometrist's name;~~

~~(3) If the optometrist is certified under § 11–404 of this subtitle, use the title "diagnostically certified optometrist"; [and]~~

~~(4) If the optometrist is certified under § 11–404.1 of this subtitle, use the title "therapeutically certified optometrist"; AND~~

~~(5) IF THE OPTOMETRIST IS CERTIFIED UNDER § 11–404.2 OF THIS SUBTITLE, USE THE TITLE "THERAPEUTICALLY CERTIFIED OPTOMETRIST II".~~

~~(b) Except as otherwise provided in this section, a licensed optometrist may not attach to the optometrist's name or use as a title:~~

~~(1) The words or abbreviations "Doctor", "Dr.", "M.D.", "physician", or "surgeon", or any other word or abbreviation that suggests that the optometrist practices medicine; or~~

~~(2) Any word or abbreviation that suggests that the optometrist treats diseases or injuries of the human eye, including the words "eye specialist", "eyesight specialist", "oculist", or "ophthalmologist".~~

~~11–404.~~

~~(a) **[**Unless certified under this section**] EXCEPT AS PROVIDED IN §§ 11–404.1 AND 11–404.2 OF THIS SUBTITLE,** a licensed optometrist **SHALL BE CERTIFIED UNDER THIS SECTION BEFORE THE OPTOMETRIST** may **[**not**]** administer a topical ocular diagnostic pharmaceutical agent to a patient.~~

~~(b) The Board shall certify a licensed optometrist as qualified to administer topical ocular diagnostic pharmaceutical agents if the licensed optometrist submits to the Board evidence satisfactory to the Board that the licensed optometrist:~~

~~(1) Meets the educational requirements that the Board establishes for certification of qualification to administer topical ocular diagnostic pharmaceutical agents; and~~

~~(2) Has within **[**7**] 4** years before certification **UNDER THIS SECTION SUCCESSFULLY** completed **[**a course**] COURSEWORK** in pharmacology that meets the requirements of subsection (c) of this section.~~

~~(c) The **[**course**] COURSEWORK** in pharmacology required by subsection (b) of this section shall:~~

~~(1) Be of at least the length that the Board establishes but not less than **[**70**] 30** course hours;~~

~~(2) Place emphasis on:~~

~~(i) **[**Topical**] THE** application **AND ADMINISTRATION** of ocular diagnostic pharmaceutical agents for the purpose of examining and analyzing ocular functions; and~~

~~(ii) Allergic reactions to ocular diagnostic pharmaceutical agents; and~~

~~(3) Be given by an institution that is:~~

~~(i) Accredited by a regional or professional accrediting organization that is recognized or approved by the United States Commissioner of Education; and~~

~~(ii) Approved by the Board.~~

~~(d) The Board shall revoke the certification of qualification to administer topical ocular diagnostic pharmaceutical agents of any licensed optometrist who does not annually take a course of study, approved by the Board, that relates to the use of those agents.~~

~~(e) Certification of qualification under this section authorizes the licensed optometrist who is certified under this section to administer a topical ocular diagnostic pharmaceutical agent to a patient for diagnostic purposes but not for purposes of treatment.~~

~~[(f) Except as expressly authorized under this section for diagnostic purposes or under § 11–404.1 of this subtitle for therapeutic purposes, an optometrist may not administer drugs or medicine to any patient.]~~

~~(F) A LICENSED OPTOMETRIST WHO IS CERTIFIED UNDER THIS SECTION MAY NOT:~~

~~(1) ADMINISTER OR PRESCRIBE ANY THERAPEUTIC PHARMACEUTICAL AGENTS, DEVICES, OR TREATMENTS;~~

~~(2) REMOVE ANY FOREIGN BODIES OR RESIDUAL PARTICULATE MATTER FROM THE HUMAN EYE;~~

~~(3) ORDER, EVALUATE, OR PERFORM BLOOD TESTS, CULTURES, AND IMAGING TESTS; OR~~

~~(4) DIAGNOSE OR TREAT GLAUCOMA.~~

~~(g)~~ **[**~~The Department shall collect and report statistical information on the incidences of negative reactions to the administration by optometrists~~**] A LICENSED OPTOMETRIST WHO IS CERTIFIED UNDER THIS SECTION SHALL REPORT TO THE BOARD AN ADVERSE EVENT THAT OCCURS IN RESPONSE TO THE ADMINISTRATION** of topical ocular diagnostic pharmaceutical agents **BY THE LICENSED OPTOMETRIST.**

~~11–404.1.~~

~~(a)~~ **[**~~Unless certified under this section~~**] EXCEPT AS PROVIDED IN §§ 11–404 AND 11–404.2 OF THIS SUBTITLE,** a licensed optometrist **SHALL BE CERTIFIED UNDER THIS SECTION BEFORE THE OPTOMETRIST** may **[**~~not administer~~**]:**

~~**(1) ADMINISTER TOPICAL OCULAR DIAGNOSTIC PHARMACEUTICAL AGENTS;**~~

~~**(2) ADMINISTER** or prescribe any therapeutic pharmaceutical agents **IN ACCORDANCE WITH THIS SECTION;** or **[**remove superficial**]**~~

~~**(3) REMOVE** foreign bodies from a human eye, adnexa, or lacrimal system **IN ACCORDANCE WITH THIS SECTION.**~~

~~(b) (1) Except as provided in paragraph (2) of this subsection, the Board shall certify a licensed optometrist as a therapeutically certified optometrist if the licensed optometrist submits to the Board evidence satisfactory to the Board that the licensed optometrist:~~

~~(i) Has **WITHIN 6 YEARS BEFORE CERTIFICATION UNDER THIS SECTION** successfully completed at least **[110] 60** hours of **[**a**] COURSEWORK:**~~

~~**1. IN PHARMACOLOGY WITH AN EMPHASIS ON THE APPLICATION, ADMINISTRATION, AND USE OF** therapeutic pharmaceutical agents **[**course approved**]; AND**~~

~~**2. APPROVED** by the Board;~~

~~(ii) Has successfully passed a pharmacology examination relating to the treatment and management of ocular disease, which is prepared, administered, and graded by the National Board of Examiners in Optometry or any other nationally recognized optometric organization as approved by the Secretary; **AND**~~

~~(iii) Is currently certified by the Board to administer topical ocular diagnostic pharmaceutical agents under § 11–404 of this subtitle**[**; and~~

~~(iv) Has successfully completed an 8–hour course in the management of topical steroids approved by the Board**]**.~~

~~(2) (i) Except as provided in subparagraph (ii) of this paragraph, an optometrist who has graduated on or after July 1, 2005 from an accredited school of optometry recognized by the Board is not subject to the requirements of paragraph (1) of this subsection.~~

~~(ii) If an optometrist who has graduated on or after July 1, 2005 from an accredited school of optometry recognized by the Board is not certified under this section within 3 years of graduation, the optometrist shall successfully complete a therapeutic pharmaceutical agents course and successfully pass a pharmacology exam under paragraph (1) of this subsection before the Board may certify the optometrist.~~

[~~11–404.2.~~**]**

~~[(a) In this section, "refer" means that a therapeutically certified optometrist:~~

~~(1) Informs the patient that the patient should see an ophthalmologist and give the ophthalmologist an opportunity to physically examine the patient; and~~

~~(2) Refrains from rendering further treatment for the specific condition that is the basis for the referral until the patient has been physically examined by an ophthalmologist.]~~

~~[(b)] (C)~~ ~~(1) A therapeutically certified optometrist may administer and prescribe topical therapeutic pharmaceutical agents limited to:~~

~~(i) Ocular antihistamines, decongestants, and combinations thereof;~~

~~(ii) Ocular antiallergy pharmaceutical agents;~~

~~(iii) Ocular antibiotics and combinations of ocular antibiotics, excluding specially formulated or fortified antibiotics;~~

~~(iv) Anti-inflammatory agents;~~

~~(v) Ocular lubricants and artificial tears;~~

~~(vi) Tropicamide;~~

~~(vii) Homatropine;~~

~~(viii) Nonprescription drugs that are commercially available; and~~

~~(ix) Primary open-angle glaucoma medications, in accordance with subsection [(c)] (D) of this section.~~

~~(2) Except as provided in paragraph (4) of this subsection, if a therapeutically certified optometrist administers or prescribes a topical therapeutic pharmaceutical agent listed in paragraph (1)(i) through (vii) of this subsection, and the patient does not have the expected response within 72 hours:~~

~~(i) The therapeutically certified optometrist shall consult with an ophthalmologist; and~~

~~(ii) The ophthalmologist may determine that the ophthalmologist needs to physically examine the patient.~~

~~(3) Except as provided in paragraph (4) of this subsection, if a therapeutically certified optometrist administers or prescribes a topical therapeutic~~

~~pharmaceutical agent under paragraph (2) of this subsection, the therapeutically certified optometrist shall communicate with the patient to determine the response of the patient to the therapeutic pharmaceutical agent as soon as practicable after 72 hours of the time the agent was administered or prescribed.~~

~~(4) A therapeutically certified optometrist may administer or prescribe topical steroids in accordance with a practice protocol established by the Board.~~

~~(5) A therapeutically certified optometrist may not administer or prescribe:~~

~~(i) Antiviral agents;~~

~~(ii) Antifungal agents;~~

~~(iii) Antimetabolite agents; or~~

~~(iv) Antiparasitic agents.~~

~~(6) A therapeutically certified optometrist may dispense a topical therapeutic pharmaceutical agent listed in paragraph (1) of this subsection only if:~~

~~(i) No charge is imposed for the therapeutic pharmaceutical agent or for dispensing the agent; and~~

~~(ii) The amount dispensed does not exceed a 72–hour supply, except that if the minimum available quantity for dispensing is greater than a 72–hour supply, the minimum available quantity may be dispensed.~~

[~~(c)~~**] (D)** ~~(1) A therapeutically certified optometrist may administer and prescribe topical therapeutic pharmaceutical agents for glaucoma only:~~

~~(i) For patients with primary open–angle glaucoma;~~

~~(ii) After the optometrist refers the patient to an ophthalmologist; and~~

~~(iii) After the ophthalmologist and optometrist jointly and promptly develop a written individualized treatment plan that is signed by the ophthalmologist and optometrist and includes:~~

~~1. All tests and examinations that led to the diagnosis;~~

~~2. An initial schedule of all tests and examinations necessary to treat the patient's condition;~~

~~3. A medication plan;~~

~~4. A target intraocular pressure; and~~

~~5. Criteria for surgical intervention by the ophthalmologist.~~

~~(2) (i) A treatment plan developed under this subsection may be modified only after both the optometrist and the ophthalmologist consult together and consent to the modification.~~

~~(ii) Each modification shall be noted in the optometric record of the patient.~~

~~(3) A therapeutically certified optometrist who treats a patient with primary open–angle glaucoma in accordance with this section:~~

~~(i) Shall refer the patient to an ophthalmologist at least once a year after the initial mandatory referral under paragraph (1) of this subsection;~~

~~(ii) May continue to render treatment under the joint treatment plan until the patient is examined by an ophthalmologist;~~

~~(iii) Shall consult with an ophthalmologist if:~~

~~1. The patient does not have the expected response to treatment;~~

~~2. The target intraocular pressure is not reached; or~~

~~3. There is worsening in a patient's visual field or optic nerve head; and~~

~~(iv) May perform and evaluate visual field tests, nerve fiber layer photos, and optic disc photos. The tests or photos shall be provided to an ophthalmologist for review by the ophthalmologist.~~

~~[(d)] (E)~~ ~~(1) Except as provided in paragraphs (2) and (3) of this subsection, a therapeutically certified optometrist may not administer or prescribe any oral pharmaceutical agent for any purpose.~~

~~(2) (i) A therapeutically certified optometrist may administer and prescribe oral tetracycline and its derivatives only for the diagnosis and treatment of meibomitis and seborrheic blepharitis.~~

~~(ii) If a therapeutically certified optometrist administers or prescribes oral tetracycline or its derivatives to a patient in accordance with subparagraph (i) of this paragraph and the patient does not improve within 3 weeks of treatment, the optometrist shall refer the patient to an ophthalmologist.~~

~~(3) A therapeutically certified optometrist may administer or prescribe nonprescription drugs that are commercially available.~~

~~[(e)] (F)~~ ~~(1) Except as provided in paragraph (2) of this subsection, a therapeutically certified optometrist may not perform any procedure on the eyelid of a patient.~~

~~(2) A therapeutically certified optometrist may epilate with forceps an eyelash from the eyelid, adnexa, or lacrimal system of a patient.~~

~~[(f)] (G)~~ ~~A therapeutically certified optometrist may remove superficial foreign bodies from the human eye only if:~~

~~(1) The foreign body may be removed with a cotton–tipped applicator or blunt spatula; and~~

~~(2) The foreign body has not penetrated beyond the bowman's membrane of the cornea and is not within 2.5 millimeters of the visual axis.~~

~~[(g)] (H)~~ ~~(1) Except as provided in paragraph (2) of this subsection, a therapeutically certified optometrist may not order laboratory tests for a patient.~~

~~(2) A therapeutically certified optometrist may order a conjunctival culture.~~

~~[(h)] (I)~~ ~~A therapeutically certified optometrist may not provide any therapeutic treatment listed in this section for a child under the age of 1 year.~~

~~[(i)] (J)~~ ~~Unless the standard of care requires an earlier referral, if a therapeutically certified optometrist diagnoses a corneal ulcer or infiltrate, and the patient does not have the expected response within 48 hours, the optometrist immediately shall refer the patient to an ophthalmologist.~~

~~[(j)] (K)~~ ~~A therapeutically certified optometrist shall be held to the same standard of care as an ophthalmologist who is licensed under Title 14 of this article and who is providing similar services.~~

~~**11–404.2.**~~

~~**(A) (1) EXCEPT AS PROVIDED UNDER §§ 11–404 AND 11–404.1 OF THIS SUBTITLE AND SUBJECT TO SUBSECTIONS (E) AND (F) OF THIS SECTION, A LICENSED OPTOMETRIST SHALL BE CERTIFIED UNDER THIS SECTION BEFORE THE OPTOMETRIST MAY:**~~

~~**(I) ADMINISTER TOPICAL OCULAR DIAGNOSTIC PHARMACEUTICAL AGENTS;**~~

~~(II) ADMINISTER OR PRESCRIBE, AS APPROPRIATE, A DELIVERY MECHANISM, DRUG, THERAPY, DEVICE, OR TREATMENT FOR THE MANAGEMENT OF OCULAR DISEASES, CONDITIONS, AND ABNORMALITIES;~~

~~(III) REMOVE FOREIGN BODIES OR RESIDUAL PARTICULATE MATTER FROM THE HUMAN EYE OR THE ADNEXA OF THE EYE; OR~~

~~(IV) ORDER, EVALUATE, OR PERFORM BLOOD TESTS, CULTURES, AND IMAGING TESTS.~~

~~(2) THE RESTRICTIONS PROVIDED FOR THERAPEUTICALLY CERTIFIED OPTOMETRISTS UNDER § 11–404.1(C) THROUGH (I) OF THIS SUBTITLE DO NOT APPLY TO A LICENSED OPTOMETRIST CERTIFIED UNDER THIS SECTION.~~

~~(B) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE BOARD SHALL CERTIFY A LICENSED OPTOMETRIST AS A THERAPEUTICALLY CERTIFIED OPTOMETRIST II IF THE LICENSED OPTOMETRIST SUBMITS TO THE BOARD EVIDENCE SATISFACTORY TO THE BOARD THAT THE LICENSED OPTOMETRIST:~~

~~(1) (I) IS CURRENTLY CERTIFIED BY THE BOARD AS A THERAPEUTICALLY CERTIFIED OPTOMETRIST UNDER § 11–404.1 OF THIS SUBTITLE; OR~~

~~(II) CAN DEMONSTRATE TO THE BOARD THE EQUIVALENT EDUCATIONAL REQUIREMENTS OF A THERAPEUTICALLY CERTIFIED OPTOMETRIST UNDER § 11–404.1 OF THIS SUBTITLE;~~

~~(2) HAS SUCCESSFULLY COMPLETED A COURSE IN ADVANCED PHARMACOLOGY THAT MEETS THE REQUIREMENTS OF SUBSECTION (C)(1) OF THIS SECTION; AND~~

~~(3) HAS SUCCESSFULLY COMPLETED A COURSE IN THE TREATMENT AND MANAGEMENT OF PATIENTS WITH EYE DISEASES AND CONDITIONS THAT MEETS THE REQUIREMENTS OF SUBSECTION (C)(2) OF THIS SECTION.~~

~~(C) (1) A COURSE IN ADVANCED PHARMACOLOGY REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION SHALL:~~

~~(I) BE 10 HOURS;~~

~~(II) PLACE EMPHASIS ON THE USE OF TOPICAL AND ORAL PHARMACEUTICAL AGENTS AND OTHER THERAPEUTIC TREATMENTS AND DEVICES~~

~~THAT MANAGE OCULAR DISEASES, CONDITIONS, AND ABNORMALITIES, INCLUDING POSSIBLE SIDE EFFECTS AND ALLERGIC REACTIONS TO TOPICAL AND ORAL PHARMACEUTICAL AGENTS; AND~~

~~(III) BE GIVEN BY THE MARYLAND OPTOMETRIC ASSOCIATION OR ANOTHER STATEWIDE ASSOCIATION OR NONPROFIT ORGANIZATION APPROVED BY THE BOARD.~~

~~(2) A COURSE IN THE TREATMENT AND MANAGEMENT OF PATIENTS WITH EYE DISEASES AND CONDITIONS REQUIRED BY SUBSECTION (B)(3) OF THIS SECTION SHALL:~~

~~(I) BE 10 HOURS;~~

~~(II) PLACE EMPHASIS ON:~~

~~1. CURRENT BEST PRACTICES FOR THE DIAGNOSIS, MANAGEMENT, AND TREATMENT OF EYE DISEASES AND CONDITIONS;~~

~~2. THE MISDIAGNOSIS OF EYE DISEASES AND CONDITIONS; AND~~

~~3. MEDICALLY NECESSARY REFERRALS AND PERIOPERATIVE PATIENT COMANAGEMENT FOR EYE DISEASES AND CONDITIONS; AND~~

~~(III) BE GIVEN BY THE MARYLAND OPTOMETRIC ASSOCIATION OR ANOTHER STATEWIDE ASSOCIATION OR NONPROFIT ORGANIZATION APPROVED BY THE BOARD.~~

~~(D) AN OPTOMETRIST WHO HAS GRADUATED ON OR AFTER DECEMBER 31, 2019, FROM AN ACCREDITED SCHOOL OF OPTOMETRY RECOGNIZED BY THE BOARD IS NOT SUBJECT TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.~~

~~(E) A THERAPEUTICALLY CERTIFIED OPTOMETRIST II MAY NOT ADMINISTER OR PRESCRIBE CONTROLLED SUBSTANCES.~~

~~(F) A THERAPEUTICALLY CERTIFIED OPTOMETRIST II SHALL BE HELD TO THE SAME STANDARD OF CARE AS AN OPHTHALMOLOGIST WHO IS LICENSED UNDER TITLE 14 OF THIS ARTICLE AND PROVIDES SIMILAR SERVICES.~~

11–101.

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

(b) "Board" means the State Board of Examiners in Optometry.

(c) "Diagnostically certified optometrist" means a licensed optometrist who is certified by the Board to administer topical ocular diagnostic pharmaceutical agents to the extent permitted under § 11–404 of this title.

(d) "License" means, unless the context requires otherwise, a license issued by the Board to practice optometry.

(e) "Licensed optometrist" means, unless the context requires otherwise, an optometrist who is licensed by the Board to practice optometry.

(f) "Optometrist" means an individual who practices optometry.

(g) (1) "Practice optometry" means:

(i) Subject to §§ 11–404 and 11–404.2 of this title, to use any means known in the science of optics or eye care, except surgery:

1. To detect, diagnose, **MANAGE,** and **TREAT,** subject to §§ 11–404 and 11–404.2 of this title, **[**treat, subject to this title,**]** any optical or diseased condition in the human eye **AND THE ADNEXA OF THE EYE**; or

2. To prescribe eyeglasses, lenses, or contact lenses to correct any optical or visual condition in the human eye;

(ii) To give advice or direction on the fitness or adaptation of eyeglasses or lenses to any individual for the correction or relief of a condition for which eyeglasses or lenses are worn; or

(iii) To use or permit the use of any instrument, test card, test type, test eyeglasses, test lenses, or other device to aid in choosing eyeglasses or lenses for an individual to wear.

(2) Subject to §§ 11–404 and 11–404.2 of this title, "practice optometry" includes:

(i) The administration of **[**topical ocular diagnostic**]** pharmaceutical agents;

[(ii) The administration and prescription of therapeutic pharmaceutical agents; and**]**

[(iii)**] (II)** The removal of superficial foreign bodies from the cornea and conjunctiva**;**

(III) THE DIAGNOSIS, TREATMENT, AND MANAGEMENT OF OPEN–ANGLE GLAUCOMA;

(IV) THE ORDERING OF CULTURES AND BLOODWORK TESTING; AND

(V) THE ORDERING AND PERFORMING OF IN–OFFICE, NONINVASIVE, NONRADIOGRAPHIC IMAGING.

~~(h) "Therapeutically certified optometrist" means a licensed optometrist who is certified by the Board to practice optometry to the extent permitted under § 11–404.2 of this title.~~

~~(I)~~ ***(H)*** **(1) "SURGERY" MEANS A PROCEDURE USING ANY INSTRUMENTS, INCLUDING LASERS, SCALPELS, NEEDLES, CAUTERY, A CRYOPROBE, OR SUTURES IN WHICH HUMAN TISSUE IS CUT, BURNED, VAPORIZED, REMOVED, OR OTHERWISE PERMANENTLY ALTERED BY ANY MECHANICAL MEANS, LASER, IONIZING RADIATION, ULTRASOUND, OR OTHER MEANS.**

(2) "SURGERY" DOES NOT INCLUDE:

(I) PREOPERATIVE AND POSTOPERATIVE CARE PROVIDED IN ACCORDANCE WITH §§ 11–404 AND 11–404.2 OF THIS TITLE;

(II) NONSURGICAL LIGHT THERAPIES USED ONLY FOR THE TREATMENT OF MEIBOMIAN GLAND DISEASE AND VISION THERAPY BUT NOT FOR CORNEAL COLLAGEN CROSS LINKING;

(III) ORTHOKERATOLOGY;

(IV) A NONINVASIVE PROCEDURE TO REMOVE A SUPERFICIAL FOREIGN BODY IN ACCORDANCE WITH § 11–404.2(D) OF THIS TITLE;

(V) CORNEAL SCRAPING OR CONJUNCTIVAL SWABS FOR CULTURES IN ACCORDANCE WITH § 11–404.2(E) OF THIS TITLE;

(VI) EPILATING WITH FORCEPS AN EYELASH FROM THE EYELID, ADNEXA, OR LACRIMAL SYSTEM OF A PATIENT; OR

(VII) NONINVASIVE MEIBOMIAN GLAND EXPRESSION.

(I) "THERAPEUTICALLY CERTIFIED OPTOMETRIST" MEANS A LICENSED OPTOMETRIST WHO IS CERTIFIED BY THE BOARD TO PRACTICE OPTOMETRY TO THE EXTENT PERMITTED UNDER § 11–404.2 OF THIS TITLE.

11–404.2.

[(a) In this section, "refer" means that a therapeutically certified optometrist:

(1) Informs the patient that the patient should see an ophthalmologist and give the ophthalmologist an opportunity to physically examine the patient; and

(2) Refrains from rendering further treatment for the specific condition that is the basis for the referral until the patient has been physically examined by an ophthalmologist.**]**

[(b)**] (A)** (1) **[**A**] EXCEPT AS PROVIDED IN THIS SUBSECTION AND IN SUBSECTION (D) OF THIS SECTION FOR THE TREATMENT OF OPEN–ANGLE GLAUCOMA, A** therapeutically certified optometrist may administer and prescribe **[**topical therapeutic pharmaceutical agents limited to:

(i) Ocular antihistamines, decongestants, and combinations thereof;

(ii) Ocular antiallergy pharmaceutical agents;

(iii) Ocular antibiotics and combinations of ocular antibiotics, excluding specially formulated or fortified antibiotics;

(iv) Anti–inflammatory agents;

(v) Ocular lubricants and artificial tears;

(vi) Tropicamide;

(vii) Homatropine;

(viii) Nonprescription drugs that are commercially available; and

(ix) Primary open–angle glaucoma medications, in accordance with subsection (c) of this section**] THERAPEUTIC PHARMACEUTICAL AGENTS FOR THE PREVENTION, MANAGEMENT, OR TREATMENT OF CONDITIONS AND DISEASES OF THE EYE AND OCULAR ADNEXA**.

(2) (I) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY NOT ADMINISTER OR PRESCRIBE:

1. CONTROLLED DANGEROUS SUBSTANCES;

2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, NONTOPICAL SYSTEMIC IMMUNOSUPPRESSIVE AND IMMUNOMODULATORY AGENTS;

3. ORAL ANTIFUNGAL AGENTS; OR

4. ORAL AND TOPICAL ANTIMETABOLITE AGENTS.

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY ADMINISTER OR PRESCRIBE ORAL CORTICOSTEROIDS FOR NOT MORE THAN 1 MONTH UNLESS THE THERAPEUTICALLY CERTIFIED OPTOMETRIST CONSULTS WITH A PHYSICIAN.

(3) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY NOT ADMINISTER OR PRESCRIBE PHARMACEUTICAL AGENTS THAT ARE:

(I) DELIVERED INTRAVENOUSLY;

(II) GIVEN BY INJECTION, EXCEPT A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY GIVE AN INJECTION OF EPINEPHRINE IN THE APPROPRIATE DOSE FOR THE TREATMENT OF ACUTE ANAPHYLAXIS OR EMERGENCY RESUSCITATION;

(III) GIVEN OR DELIVERED BY A SUSTAINED DELIVERY DEVICE, EXCEPT FOR PUNCTAL PLUGS, CONTACT LENSES, OR OTHER EXTRAOCULAR DEVICES THAT RELEASE MEDICATION INTO THE TEAR FILM; OR

(IV) FOR THE TREATMENT OF A SYSTEMIC DISEASE UNLESS SPECIFIC TO THE TREATMENT OF AN OCULAR CONDITION OR DISEASE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY NOT ADMINISTER OR PRESCRIBE ANY ORAL PHARMACEUTICAL AGENT TO A PATIENT UNDER THE AGE OF 18 YEARS.

(2) (I) AFTER A THERAPEUTICALLY CERTIFIED OPTOMETRIST CONSULTS WITH A PHYSICIAN, THE THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY PRESCRIBE AND ADMINISTER ORAL ANTIBIOTICS TO A MINOR WHO IS AT LEAST 16 YEARS OLD AND UNDER THE AGE OF 18 YEARS.

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST SHALL PROVIDE THE PHYSICIAN CONSULTED IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH WITH A WRITTEN REPORT.

[(2) Except as provided in paragraph (4) of this subsection, if a therapeutically certified optometrist administers or prescribes a topical therapeutic pharmaceutical agent listed in paragraph (1)(i) through (vii) of this subsection, and the patient does not have the expected response within 72 hours:

(i) The therapeutically certified optometrist shall consult with an ophthalmologist; and

(ii) The ophthalmologist may determine that the ophthalmologist needs to physically examine the patient.

(3) Except as provided in paragraph (4) of this subsection, if a therapeutically certified optometrist administers or prescribes a topical therapeutic pharmaceutical agent under paragraph (2) of this subsection, the therapeutically certified optometrist shall communicate with the patient to determine the response of the patient to the therapeutic pharmaceutical agent as soon as practicable after 72 hours of the time the agent was administered or prescribed.

(4) A therapeutically certified optometrist may administer or prescribe topical steroids in accordance with a practice protocol established by the Board.

(5) A therapeutically certified optometrist may not administer or prescribe:

(i) Antiviral agents;

(ii) Antifungal agents;

(iii) Antimetabolite agents; or

(iv) Antiparasitic agents.

(6) A therapeutically certified optometrist may dispense a topical therapeutic pharmaceutical agent listed in paragraph (1) of this subsection only if:

(i) No charge is imposed for the therapeutic pharmaceutical agent or for dispensing the agent; and

(ii) The amount dispensed does not exceed a 72–hour supply, except that if the minimum available quantity for dispensing is greater than a 72–hour supply, the minimum available quantity may be dispensed.**]**

(c) (1) A therapeutically certified optometrist may administer and prescribe topical therapeutic pharmaceutical agents for glaucoma only**[**:

(i) For patients with primary**] FOR A PATIENT WHO:**

(I) IS AT LEAST 18 YEARS OLD; AND

(II) HAS open–angle glaucoma**[**;

(ii) After the optometrist refers the patient to an ophthalmologist; and

(iii) After the ophthalmologist and optometrist jointly and promptly develop a written individualized treatment plan that is signed by the ophthalmologist and optometrist and includes:

1. All tests and examinations that led to the diagnosis;

2. An initial schedule of all tests and examinations necessary to treat the patient's condition;

3. A medication plan;

4. A target intraocular pressure; and

5. Criteria for surgical intervention by the ophthalmologist**]**.

[(2) (i) A treatment plan developed under this subsection may be modified only after both the optometrist and the ophthalmologist consult together and consent to the modification.

(ii) Each modification shall be noted in the optometric record of the patient.**]**

[(3)**] (2) (I)** A therapeutically certified optometrist who treats a patient with **[**primary**]** open–angle glaucoma in accordance with this section**[**:

(i) Shall**] SHALL** refer the patient to an ophthalmologist **[**at least once a year after the initial mandatory referral under paragraph (1) of this subsection;**] FOR AN EXAMINATION WITHIN 3 MONTHS AFTER THE INITIAL DIAGNOSIS OR PRESENTATION TO THE THERAPEUTICALLY CERTIFIED OPTOMETRIST UNLESS THE INTRAOCULAR PRESSURE HAS BEEN REDUCED 20% OR MORE FROM THE INITIAL PRESSURE.**

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST WHO TREATS A PATIENT WITH OPEN–ANGLE GLAUCOMA IN ACCORDANCE WITH THIS SECTION SHALL REFER THE PATIENT TO AN OPHTHALMOLOGIST FOR AN EXAMINATION WITHIN 12 MONTHS AFTER THE INITIAL DIAGNOSIS OR PRESENTATION TO THE THERAPEUTICALLY CERTIFIED OPTOMETRIST UNLESS

CLINICAL STABILITY HAS BEEN DOCUMENTED BY VISUAL FIELD OR IMAGING OF THE OPTIC NERVE STRUCTURE.

(3) FOR A PATIENT ON GLAUCOMA MEDICATIONS AT THE TIME OF PRESENTATION TO A THERAPEUTICALLY CERTIFIED OPTOMETRIST, IF THE THERAPEUTICALLY CERTIFIED OPTOMETRIST IS UNABLE TO CONFIRM EITHER THE DATE OF INITIAL OPEN–ANGLE GLAUCOMA DIAGNOSIS OR THE INTRAOCULAR PRESSURE AT THE TIME THE PATIENT WAS INITIALLY DIAGNOSED, THE THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY RENDER TREATMENT TO A PATIENT WITH OPEN–ANGLE GLAUCOMA WITHOUT REFERRING THE PATIENT TO AN OPHTHALMOLOGIST IF:

(I) THE INTRAOCULAR PRESSURE OF THE PATIENT REMAINS STABLE; AND

(II) CLINICAL STABILITY IS DOCUMENTED BY VISUAL FIELD OR IMAGING OF THE OPTIC NERVE STRUCTURE WITHIN 12 MONTHS AFTER THE PATIENT IS FIRST EXAMINED BY THE OPTOMETRIST.

[(ii) May continue to render treatment under the joint treatment plan until the patient is examined by an ophthalmologist;

(iii) Shall consult with an ophthalmologist if:

1. The patient does not have the expected response to treatment;

2. The target intraocular pressure is not reached; or

3. There is worsening in a patient's visual field or optic nerve head; and

(iv) May perform and evaluate visual field tests, nerve fiber layer photos, and optic disc photos. The tests or photos shall be provided to an ophthalmologist for review by the ophthalmologist.

(d) (1) Except as provided in paragraphs (2) and (3) of this subsection, a therapeutically certified optometrist may not administer or prescribe any oral pharmaceutical agent for any purpose.

(2) (i) A therapeutically certified optometrist may administer and prescribe oral tetracycline and its derivatives only for the diagnosis and treatment of meibomitis and seborrheic blepharitis.

(ii) If a therapeutically certified optometrist administers or prescribes oral tetracycline or its derivatives to a patient in accordance with subparagraph

(i) of this paragraph and the patient does not improve within 3 weeks of treatment, the optometrist shall refer the patient to an ophthalmologist.

(3) A therapeutically certified optometrist may administer or prescribe nonprescription drugs that are commercially available.

(e) (1) Except as provided in paragraph (2) of this subsection, a therapeutically certified optometrist may not perform any procedure on the eyelid of a patient.

(2) A therapeutically certified optometrist may epilate with forceps an eyelash from the eyelid, adnexa, or lacrimal system of a patient.**]**

(4) (I) FOR A PATIENT WHO IS AT LEAST 18 YEARS OLD, A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY ONLY ADMINISTER OR PRESCRIBE ORAL GLAUCOMA MEDICATIONS FOR UP TO 24 HOURS AFTER THE PATIENT PRESENTS IN THE OFFICE WITH UNCONTROLLED INTRAOCULAR PRESSURE.

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST WHO ADMINISTERS OR PRESCRIBES ORAL GLAUCOMA MEDICATIONS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL IMMEDIATELY CONSULT WITH AN OPHTHALMOLOGIST AND REFER THE PATIENT TO AN OPHTHALMOLOGIST.

[(f)**] (D)** A therapeutically certified optometrist may remove superficial **CONJUNCTIVAL OR CORNEAL** foreign bodies from the human eye only if:

[(1) The foreign body may be removed with a cotton–tipped applicator or blunt spatula; and**]**

[(2)**] (1)** The foreign body **[**has**]:**

(I) HAS not penetrated beyond the bowman's membrane of the cornea and is **[**not**]** within 2.5 millimeters of the visual axis **OF THE CORNEA; OR**

(II) IS PERIPHERAL AND ANTERIOR TO THE MID–STROMA; AND

(2) REMOVAL WILL NOT REQUIRE PERMANENT ALTERATION OF TISSUE.

[(g)**] (E)** (1) Except as provided in **[**paragraph (2)**] PARAGRAPHS (2) AND (3)** of this subsection, a therapeutically certified optometrist may not order **ANY** laboratory tests**, GENETIC TESTS, EXTRAOCULAR IMAGING, OR OTHER TESTING** for a patient.

(2) **(I)** A therapeutically certified optometrist may order **[**a**]:**

1. **A** conjunctival **OR CORNEAL** culture**; OR**

2. **AFTER CONSULTING WITH A PHYSICIAN, A NONGENETIC BLOOD TEST**.

(II) A THERAPEUTICALLY CERTIFIED OPTOMETRIST WHO ORDERS NONGENETIC BLOOD TESTS SHALL SEND THE WRITTEN RESULTS TO THE PHYSICIAN CONSULTED IN ACCORDANCE WITH SUBPARAGRAPH (I)2 OF THIS PARAGRAPH.

(3) A THERAPEUTICALLY CERTIFIED OPTOMETRIST MAY ORDER AND PERFORM IN–OFFICE, NONINVASIVE, NONRADIOGRAPHIC IMAGING.

[(h)**] (F)** A therapeutically certified optometrist may not provide any therapeutic treatment listed in this section for a child under the age of 1 year.

[(i)**] (G)** Unless the standard of care requires an earlier referral, if a therapeutically certified optometrist diagnoses a corneal ulcer or infiltrate, and the patient does not have the expected response within 48 hours, the optometrist immediately shall refer the patient to an ophthalmologist.

[(j)**] (H)** A therapeutically certified optometrist shall be **[**held**]:**

(1) HELD to the same standard of care as an ophthalmologist who is licensed under Title 14 of this article and who is providing similar services**; AND**

(2) REQUIRED TO COMPLY WITH THE NOTICE REQUIREMENT UNDER § 14–508 OF THIS ARTICLE.

11–404.3.

(a) The **[**Maryland Optometric Association and the Maryland Society of Eye Physicians and Surgeons**] BOARD** shall recommend to the Secretary quality assurance guidelines for therapeutically certified optometrists~~, THERAPEUTICALLY CERTIFIED OPTOMETRISTS II,~~ and optometric care.

(b) **[**(1)**]** After considering the recommendations of the **[**Maryland Optometric Association and the Maryland Society of Eye Physicians and Surgeons**] BOARD**, the Secretary shall adopt regulations that establish**[**:

(i) Standards**] STANDARDS** of quality for therapeutically certified optometrists~~, THERAPEUTICALLY CERTIFIED OPTOMETRISTS II,~~ and optometric care**[**;

(ii) An ongoing quality assurance program that includes the monitoring and study of the joint management of primary open–angle glaucoma patients under § 11–404.2(c) of this subtitle;

(iii) A program to evaluate the cost of optometric care; and

(iv) A plan to monitor complaint investigation.

(2) The regulations shall require the Board to:

(i) Conduct a continuing study and investigation of therapeutically certified optometrists to ensure the quality of care they provide; and

(ii) Report to the Secretary, as the Secretary requires, on the results of the Board's study and investigation.

(3) The Board's study and investigation shall include:

(i) A peer review program; and

(ii) A review of patient optometric records that includes the collection and evaluation of data on the drugs being prescribed and administered and the appropriateness of treatment by therapeutically certified optometrists**]**.

[11–503.

An optometrist practicing in the State may not:

(1) Use surgical lasers;

(2) Perform any surgery, including cataract surgery or cryosurgery;

(3) Perform a radial keratotomy;

(4) Give an injection, except that an optometrist may give an injection of epinephrine in the appropriate dose for the treatment of acute anaphylaxis or emergency resuscitation; or

(5) Except as provided under this title, dispense a therapeutic pharmaceutical agent to any person.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(a) The requirements for certification under § 11–404(b) of the Health Occupations Article, as enacted by Section 1 of this Act, do not apply to a licensed optometrist certified under § 11–404 of the Health Occupations Article on or before July 1, 2019.~~

~~(b) The requirements for certification under § 11–404.1(b) of the Health Occupations Article, as enacted by Section 1 of this Act, do not apply to a licensed optometrist certified under § 11–404.1 of the Health Occupations Article on or before July 1, 2019.~~

(a) This section does not apply to an individual who graduates on or after July 1, 2019, from an accredited college of optometry, an accredited university school of optometry, or an equivalent program of education as determined by the State Board of Examiners in Optometry.

(b) (1) Before July 1, 2020, a therapeutically certified optometrist certified under Title 11 of the Health Occupations Article shall demonstrate to the State Board of Examiners in Optometry successful completion of a 10–hour course in advanced pharmacology with emphasis on the use of oral pharmaceutical agents in treating ocular diseases.

(2) To fulfill the requirement of paragraph (1) of this subsection, a therapeutically certified optometrist may complete a course given by the Maryland Optometric Association or any other statewide association or nonprofit association.

(3) A course completed by a therapeutically certified optometrist in accordance with this section shall be counted toward the total number of hours of continuing education required under § 11–309 of the Health Occupations Article for the licensing period in which the course was completed.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect March 1, 2020.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect ~~July~~ June 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 523 – *Insurance – Investments of Insurers Other Than Life Insurers – Real Estate*.

This bill expressly authorizes, under certain circumstances, the reserve investments of an insurer, other than a life insurer, to include fee simple or improved leasehold real estate, or interests in limited partnerships formed for the development or ownership of fee simple or improved leasehold real estate.

House Bill 602, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 523.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 523

AN ACT concerning

Insurance – Investments of Insurers Other Than Life Insurers – Real Estate

FOR the purpose of requiring that certain reserve investments serve a certain purpose; authorizing certain reserve investments to include fee simple or improved leasehold real estate or interests in limited partnerships formed for a certain purpose only under certain circumstances; prohibiting the cost of certain reserve investments, alone or in combination with the value of certain other real estate, from exceeding certain percentages of the admitted assets of a certain insurer; requiring that certain reserve investments be valued in a certain manner and at a certain rate except as otherwise required by the Maryland Insurance Commissioner; prohibiting the admitted value of certain reserve investments from exceeding the depreciated value of the property; and generally relating to real estate investments of insurers other than life insurers.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 5–605(a) and 5–608(n)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Insurance

5–605.

(a) In addition to investments otherwise excluded under this article, an insurer may not directly or indirectly invest in or lend its funds on security of:

(1) obligations, stock, or other securities of a corporation, association, or other business unit that is insolvent at the time of the acquisition or loan, except securities eligible for investment under § 5–608 of this subtitle;

(2) a mortgage or deed of trust, or real property or an interest in real property, that does not come within the class of investments specified in § 5–608(j), (k), (l), **[**and**]** (m)**, AND (N)** of this subtitle;

(3) the capital stock of the insurer;

(4) stocks, bonds, or other securities issued by a corporation, other than an insurer, if a majority of the stock having voting powers of the issuing corporation is owned directly or indirectly by or for the benefit of one or more officers or directors of the insurer; or

(5) an investment that the Commissioner finds is against public policy or designed to evade a prohibition of this section.

5–608.

(n) (1) **[**The**]** **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,** reserve investments of an insurer may include real estate **FOR THE ACCOMMODATION OF BUSINESS** only if the real estate:

(i) consists of the land and the building on the land in which the insurer has its principal office;

(ii) is necessary for the insurer's convenient accommodation in transacting business;

(iii) is acquired to satisfy loans, mortgages, liens, judgments, decrees, or other debts previously owed to the insurer in the course of business;

(iv) is acquired as partial payment of the consideration for the sale of real property owned by the insurer if the transaction causes a net reduction in the investment of the insurer in real property; or

(v) is additional real property and equipment incident to real property that is necessary or convenient to enhance the market value of real property previously acquired or held by the insurer under item (iii) or (iv) of this paragraph.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE RESERVE INVESTMENTS OF AN INSURER MAY INCLUDE FEE–SIMPLE OR IMPROVED LEASEHOLD REAL ESTATE, OR INTERESTS IN LIMITED PARTNERSHIPS FORMED FOR THE DEVELOPMENT OR OWNERSHIP OF FEE–SIMPLE OR IMPROVED LEASEHOLD

REAL ESTATE, ONLY IF THE INVESTMENT:

1. IS ACQUIRED AS AN INVESTMENT FOR THE PRODUCTION OF INCOME;

2. IS ACQUIRED TO BE IMPROVED OR DEVELOPED AS AN INVESTMENT FOR THE PRODUCTION OF INCOME; AND

3. DOES NOT INCLUDE PROPERTY TO BE USED PRIMARILY FOR MINING, RECREATIONAL, AMUSEMENT, HOTEL, OR CLUB PURPOSES.

(II) 1. THE COST OF EACH PARCEL OF FEE–SIMPLE OR IMPROVED LEASEHOLD REAL ESTATE OR LIMITED PARTNERSHIP INTEREST ACQUIRED UNDER THIS PARAGRAPH, INCLUDING THE COST TO THE INSURER OF IMPROVING OR DEVELOPING THE REAL ESTATE, MAY NOT EXCEED:

A. 1% OF THE ADMITTED ASSETS OF THE INSURER; AND

B. IN COMBINATION WITH THE VALUE OF ALL OF THE REAL ESTATE ACQUIRED OR HELD BY THE INSURER, 10% OF THE ADMITTED ASSETS OF THE INSURER.

2. EXCEPT AS OTHERWISE REQUIRED BY THE COMMISSIONER, EACH PARCEL OF FEE–SIMPLE OR IMPROVED LEASEHOLD REAL ESTATE HELD BY AN INSURER DIRECTLY OR THROUGH A LIMITED PARTNERSHIP UNDER THIS PARAGRAPH SHALL BE VALUED ON THE BOOKS OF THE INSURER AS OF DECEMBER 31 EACH YEAR AT AN AMOUNT THAT INCLUDES THE WRITE–DOWN COST OF THE PROPERTY, EXCLUSIVE OF LAND COST, BUT INCLUSIVE OF ALL IMPROVEMENTS OR DEVELOPMENT COSTS, AT A RATE THAT AVERAGES AT LEAST 2% PER YEAR OF THE COST OF THE PROPERTY FOR EACH YEAR OR PART OF A YEAR THAT THE PROPERTY IS HELD.

3. THE ADMITTED VALUE OF EACH PARCEL OF FEE–SIMPLE OR IMPROVED LEASEHOLD REAL ESTATE HELD UNDER THIS PARAGRAPH MAY NOT EXCEED THE DEPRECIATED VALUE OF THE PROPERTY.

[(2)**] (3)** Unless the Commissioner certifies that the interests of the insurer will suffer materially by a forced sale of the real property and the Commissioner extends the time for disposal of the real property in the certificate:

(i) real property acquired under paragraph (1)(i) and (ii) of this subsection must be disposed of within 5 years after the real property ceases to be necessary for the convenient accommodation of the insurer in transacting business; and

(ii) real property acquired under paragraph (1)(iii) and (iv) of this subsection must be disposed of within 5 years after the date of acquisition.

[(3)**] (4)** An insurer may not acquire real property under paragraph (1)(i), (ii), or (iv) or **[**(2)**] (3)** of this subsection except with the approval of the Commissioner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Maryland Senate
H–107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H–101 State House
Annapolis, MD 21401

Dear President Miller and Speaker Jones:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed *Senate Bill 537* and *House Bill 262 – Higher Education – Tuition Rates – Exemptions.*

Last year, our administration worked closely with legislative leaders to create the Community College Promise Scholarships Program, which helps students attend one of Maryland's public community colleges by providing tuition assistance for <u>any</u> qualifying student eligible for in–state tuition. To build on the success of that program, I proposed legislation to establish the Promise Plus Program, expanding available scholarships and giving <u>all</u> eligible Maryland students – United States citizens, permanent resident immigrants, and undocumented "Dreamers" alike – the opportunity to receive free tuition for the remaining two years at a public four–year institution.

Inexplicably, the General Assembly refused to support this common sense expansion to help <u>all</u> Maryland students. Instead, you adopted legislation that only narrowly expanded existing law to the <u>total exclusion</u> of all Maryland students holding U.S. citizenship or permanent resident ("Green Card") immigration status. This is unfair and unacceptable.

Higher education is a top priority of our administration. We have invested a record $7 billion in Maryland's colleges, universities, and community colleges. Our state is home to

one of the most highly educated populations in America—we are third in the nation in the percentage of the population with a bachelor's degree or higher and second in the nation in the percentage of the population with a graduate or professional degree. In addition, our administration has shown a strong commitment to making higher education accessible to more Marylanders by making college more affordable and providing much–needed relief to those who are struggling under the crushing weight of student debt.

Our three–year investment and initiative to limit tuition growth at Maryland's universities, colleges, and community colleges by buying down tuition rates has saved Maryland students $40 million. Still, the harsh reality remains that earning a degree often goes hand–in–hand with crippling college debt. Student loan debt is now second only to mortgage debt as the largest debt balance in America. Nearly 60% of Maryland college students graduate with an average of more than $27,000 in student debt.

To address this growing crisis, this year, I introduced our administration's Student Debt Relief Act. This proposal would have made 100% of student loan interest deductible and doubled the tax deduction under Maryland 529 Plans from $2,500 to $5,000. Sadly, the General Assembly failed to pass – or even vote on – this important measure. Instead, you chose to pass *Senate Bill 537* and *House Bill 262*, which fail to provide financial relief for all Maryland students.

Moving forward, our goals must be more broadly focused to ensure all Marylanders have access to a world–class education, instead of giving favorable treatment to just one small group. I remain committed to working with you to offer real, bipartisan solutions for higher education.

Sincerely,

Lawrence J. Hogan Jr.
Governor

Senate Bill 537

AN ACT concerning

Higher Education – Tuition Rates – Exemptions

FOR the purpose of altering the circumstances under which certain individuals are exempt from paying the out–of–state tuition rate at certain institutions of higher education; altering the circumstances under which certain individuals are eligible to pay a certain tuition rate at certain institutions of higher education; requiring certain individuals to retain a certain tuition status until the individual is awarded a certain degree under certain circumstances; making certain stylistic changes; and generally relating to tuition rates at public institutions of higher education.

BY repealing and reenacting, with amendments,
Article – Education

Section 15–106.8
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

15–106.8.

(a) In this section, "individual":

(1) Includes an undocumented immigrant individual; and

(2) Does not include a nonimmigrant alien within the meaning of 8 U.S.C. § 1101(a)(15).

(b) Notwithstanding any other provision of this article, an individual shall be exempt from paying the out–of–state tuition rate at **[**a community college**]** **A PUBLIC INSTITUTION OF HIGHER EDUCATION** in the State, **AND SHALL BE ELIGIBLE FOR THE TUITION RATES DESCRIBED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION,** if the individual:

(1) **[**Beginning with the 2005–2006 school year, attended**]** **ATTENDED** a public or nonpublic secondary school in the State **[**for at least 3 years**]**;

(2) **[**Beginning with the 2007–2008 school year, graduated**]** **GRADUATED** from a public or nonpublic secondary school in the State or received the equivalent of a high school diploma in the State;

(3) Registers as an entering student in **[**a community college**]** **A PUBLIC INSTITUTION OF HIGHER EDUCATION** in the State **[**not earlier than the 2011 fall semester**]** **NOT LATER THAN 6 YEARS AFTER GRADUATING FROM A PUBLIC OR NONPUBLIC SECONDARY SCHOOL IN THE STATE OR RECEIVING THE EQUIVALENT OF A HIGH SCHOOL DIPLOMA IN THE STATE**;

(4) Provides to the **[**community college**]** **PUBLIC INSTITUTION OF HIGHER EDUCATION** documentation that the individual or the individual's parent or legal guardian has filed a Maryland income tax return**[**:

(i) Annually for the 3 years while the individual attended a public or nonpublic secondary school in the State in accordance with item (1) of this subsection;

(ii) Annually during the period, if any, between graduation from a public or nonpublic secondary school in the State and registration at a community college

in the State; and

(iii) Annually during the period of attendance at the community college**] ANNUALLY FOR THE 3–YEAR PERIOD BEFORE THE ACADEMIC YEAR IN WHICH THE TUITION RATE EXEMPTION WOULD APPLY**;

(5) In the case of an individual who is not a permanent resident, provides to the **[**community college**] PUBLIC INSTITUTION OF HIGHER EDUCATION** an affidavit stating that the individual will file an application to become a permanent resident within 30 days after the individual becomes eligible to do so; **AND**

(6) In the case of an individual who is required to register with the Selective Service System, provides to the **[**community college**] PUBLIC INSTITUTION OF HIGHER EDUCATION** documentation that the individual has complied with the registration requirement**[**; and

(7) Registers in a community college in the State not later than 4 years after graduating from a public or nonpublic secondary school in the State or receiving the equivalent of a high school diploma in the State**]**.

(c) Notwithstanding any other provision of this article and subject to subsection **[**(h)**] (I)** of this section, an individual shall be eligible to pay a rate that is equivalent to the resident tuition rate at a public senior higher education institution, if the individual**[**:

(1) Attended a community college not earlier than the 2010 fall semester and met the requirements of subsection (b) of this section, except for the requirement set forth in subsection (b)(3) of this section;

(2) Was awarded an associate's degree by or achieved 60 credits at a community college in the State;

(3) Provides the public senior higher education institution a copy of the affidavit submitted under subsection (b)(5) of this section;

(4) Provides to the public senior higher education institution documentation that the individual or the individual's parent or legal guardian has filed a Maryland income tax return:

(i) Annually while the individual attended a community college in the State;

(ii) Annually during the period, if any, between graduation from or achieving 60 credits at a community college in the State and registration at a public senior higher education institution in the State; and

(iii) Annually during the period of attendance at the public senior

higher education institution; and

(5) Registers at a public senior higher education institution in the State not later than 4 years after graduating from or achieving 60 credits at a community college in the State**] MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION**.

(d) Notwithstanding any other provision of this article, an individual shall be eligible to pay a rate that is equivalent to the in–county tuition rate at a community college in the State if the individual:

(1) Meets the requirements of subsection (b) of this section; and

(2) Attends a community college supported by the county in which:

(i) **AN ADDRESS IN THE COUNTY IS USED ON THE MARYLAND INCOME TAX RETURN OF THE INDIVIDUAL OR THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN OF THE CALENDAR YEAR PRIOR TO THE ACADEMIC YEAR IN WHICH THE RATE WOULD APPLY;**

(II) The secondary school from which the individual graduated is located; or

[(ii)**] (III)** In the case of an individual who received the equivalent of a high school diploma in the State, the secondary school most recently attended by the individual is located.

(E) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, AN INDIVIDUAL SHALL RETAIN THE INDIVIDUAL'S TUITION STATUS AT A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE IF THE INDIVIDUAL:

(I) MEETS THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION; AND

(II) ON OR AFTER JUNE 15, 2012, WAS EXEMPT FROM PAYING THE OUT–OF–STATE OR OUT–OF–COUNTY TUITION RATE AT A PUBLIC INSTITUTION OF HIGHER EDUCATION.

(2) TO RETAIN TUITION STATUS UNDER THIS SUBSECTION, AN INDIVIDUAL SHALL USE AN ADDRESS IN THE STATE ON THE MARYLAND INCOME TAX RETURN OF THE INDIVIDUAL OR THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN ANNUALLY UNTIL THE INDIVIDUAL IS AWARDED A DEGREE FROM THE PUBLIC INSTITUTION OF HIGHER EDUCATION.

[(e)**] (F)** Information collected under this section as part of a student's registration shall remain confidential.

[(f)**] (G)** (1) **[**A community college or public senior higher education institution**]** **A PUBLIC INSTITUTION OF HIGHER EDUCATION** that admits an individual who qualifies for the tuition rate under this section shall:

(i) Keep a record of the number of individuals who pay the tuition rate in accordance with the requirements under **[**subsection (b), (c), or (d)**]** **SUBSECTIONS (C) AND (D)** of this section; and

(ii) Report the information required in item (i) of this paragraph to the Commission each year.

(2) The Commission shall submit to the General Assembly, in accordance with § 2–1246 of the State Government Article, an annual report consisting of a compilation of the reports submitted to the Commission under paragraph (1) of this subsection.

[(g)**] (H)** The governing board of each public institution of higher education shall adopt appropriate policies to implement the provisions of this section.

[(h)**] (I)** The students that are receiving the tuition rate **DESCRIBED** in subsection (c) of this section may not be counted as in–State students for the purposes of determining the number of Maryland undergraduate students enrolled at a public senior higher education institution.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 541 – *Education – Personnel Matters – Child Sexual Abuse and Sexual Misconduct Prevention*.

This bill establishes a process that includes requirements for specific documentation regarding whether an individual has ever been disciplined for allegations of "child sexual

abuse" or "sexual misconduct," for the hiring of public school and nonpublic school employees who have direct contact with minors.

House Bill 486, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 541.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 541

AN ACT concerning

Education – Personnel Matters – Child Sexual Abuse and Sexual Misconduct Prevention

FOR the purpose of requiring county boards of education, nonpublic schools, and certain contracting agencies to require an applicant for a position involving direct contact with minors to provide certain information; requiring the county board, nonpublic school, or contracting agency to conduct a certain review of the employment history of a certain applicant; requiring the county board, nonpublic school, or contracting agency to check certain eligibility of a certain applicant; requiring certain employers to disclose certain information within a certain time period; requiring certain employers to disclose certain supplemental information within a certain time period to certain parties; ~~authorizing a county board, nonpublic school, or contracting agency to hire an applicant on a certain provisional basis under certain circumstances;~~ requiring the county board, nonpublic school, or contracting agency to conduct a certain review of the employment history of a certain applicant for a substitute position; requiring a certain contracting agency to perform a certain review before making a certain assignment; requiring a certain contracting agency to maintain certain records; requiring a certain contracting agency to inform the county board or nonpublic school of certain information; prohibiting a certain contracting agency from assigning a certain employee to perform certain work under certain circumstances; providing that certain information received is not subject to the Maryland Public Information Act; authorizing a county board, nonpublic school, or contracting agency to use certain information and records received in a certain manner and to report certain information to certain entities under certain circumstances; prohibiting a county board, nonpublic school, or contracting agency from entering into a certain agreement under certain circumstances; providing that a certain agreement is void and unenforceable under certain circumstances; requiring the State Department of Education to notify certain entities within a certain time period if there is a lapse or suspension in the use of certain screening systems; providing that a certain applicant shall be subject to certain discipline under certain circumstances; providing for a certain immunity from criminal and civil liability; providing for the construction of this Act; authorizing the Department

to initiate certain disciplinary action under certain circumstances and to adopt certain regulations; defining certain terms; and generally relating to hiring school employees.

BY adding to
Article – Education
Section 6–113.2
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

6–113.2.

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

(2) "CHILD SEXUAL ABUSE" ~~MEANS AN ACT BY AN ADULT INVOLVING A MINOR OR A STUDENT THAT CONSTITUTES A SEXUAL OFFENSE UNDER THE LAWS OF THE STATE, OR ANY SEXUAL CONTACT BETWEEN AN ADULT AND A MINOR~~ HAS THE MEANING STATED IN § 6–113.1 OF THIS SUBTITLE.

(3) "CONTRACTING AGENCY" MEANS AN ENTITY THAT CONTRACTS WITH A COUNTY BOARD OR NONPUBLIC SCHOOL TO PROVIDE A SERVICE TO A SCHOOL OR THE STUDENTS OF A SCHOOL.

(4) "DIRECT CONTACT WITH MINORS" MEANS THE POSSIBILITY OF CARE, SUPERVISION, GUIDANCE, OR CONTROL OF A MINOR OR ROUTINE INTERACTION WITH A MINOR.

~~(5) "JOB PERFORMANCE" INCLUDES ABILITIES, ATTENDANCE, ATTITUDE, AWARDS, DEMOTIONS, DISCIPLINARY ACTIONS, DUTIES, EFFORT, KNOWLEDGE, PROMOTIONS, SKILLS, AND, IN THE CASE OF A FORMER SCHOOL EMPLOYEE, THE REASONS FOR SEPARATION.~~

~~(6)~~ (5) "SCHOOL" MEANS A PUBLIC OR NONPUBLIC SCHOOL.

~~(7)~~ (6) "SEXUAL MISCONDUCT" ~~MEANS AN ACT BY AN ADULT, INCLUDING AN ORAL, NONVERBAL, WRITTEN, OR ELECTRONIC COMMUNICATION, OR A PHYSICAL ACTIVITY DIRECTED TOWARD OR WITH A MINOR THAT IS DESIGNED TO PROMOTE A ROMANTIC OR SEXUAL RELATIONSHIP WITH THE MINOR, INCLUDING:~~

~~(I) SEXUAL OR ROMANTIC INVITATION;~~

~~(II) DATING OR SOLICITING DATES;~~

~~(III) ENGAGING IN SEXUALIZED OR ROMANTIC DIALOGUE;~~

~~(IV) MAKING SEXUALLY SUGGESTIVE COMMENTS;~~

~~(V) GROOMING BEHAVIORS;~~

~~(VI) SELF–DISCLOSURE OR PHYSICAL EXPOSURE OF A SEXUAL, ROMANTIC, OR EROTIC NATURE; AND~~

~~(VII) A SEXUAL, INDECENT, ROMANTIC, OR EROTIC CONTACT WITH THE MINOR~~ HAS THE MEANING STATED IN § 6–113.1 OF THIS SUBTITLE.

(B) A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY SHALL REQUIRE AN APPLICANT FOR A POSITION INVOLVING DIRECT CONTACT WITH MINORS TO SUBMIT:

(1) THE CONTACT INFORMATION OF THE FOLLOWING EMPLOYERS:

(I) THE CURRENT EMPLOYER;

(II) ALL FORMER SCHOOL EMPLOYERS; AND

(III) ALL FORMER EMPLOYERS OF THE APPLICANT IN WHICH THE APPLICANT WAS EMPLOYED IN A POSITION INVOLVING DIRECT CONTACT WITH MINORS;

(2) A WRITTEN CONSENT FORM, SIGNED BY THE APPLICANT, AUTHORIZING AN EMPLOYER LISTED UNDER ITEM (1) OF THIS SUBSECTION TO RELEASE ALL RECORDS RELATING TO ~~THE APPLICANT'S JOB PERFORMANCE~~ CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT; AND

(3) A WRITTEN STATEMENT OF WHETHER THE APPLICANT:

(I) HAS BEEN THE SUBJECT OF A CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT INVESTIGATION BY ANY EMPLOYER, ARBITRATOR, COUNTY BOARD, STATE LICENSING AGENCY, LAW ENFORCEMENT AGENCY, OR CHILD PROTECTIVE SERVICES AGENCY, UNLESS THE INVESTIGATION RESULTED IN A FINDING ~~THAT THE ALLEGATIONS WERE FALSE~~ BY:

1. THE EMPLOYER THAT ALLEGATIONS THAT THE APPLICANT ENGAGED IN SEXUAL MISCONDUCT LACKED SUFFICIENT EVIDENCE ACCORDING TO THE POLICIES OF THE COUNTY BOARD OR NONPUBLIC SCHOOL;

2. AN ARBITRATOR OR A COUNTY BOARD TO REJECT ANY DISCIPLINARY ACTION IN RESPONSE TO ALLEGATIONS THAT THE APPLICANT ENGAGED IN SEXUAL MISCONDUCT;

3. A STATE LICENSING AGENCY THAT ALLEGATIONS THAT THE APPLICANT ENGAGED IN SEXUAL MISCONDUCT LACKED SUFFICIENT EVIDENCE ACCORDING TO:

A. STATE LAW; OR

B. THE POLICIES OF THE COUNTY BOARD OR NONPUBLIC SCHOOL;

4. A LAW ENFORCEMENT AGENCY THAT ALLEGATIONS THAT THE APPLICANT ENGAGED IN CHILD SEXUAL ABUSE WERE UNFOUNDED; OR

5. A CHILD PROTECTIVE SERVICES AGENCY THAT ALLEGATIONS THAT THE APPLICANT ENGAGED IN CHILD SEXUAL ABUSE WERE RULED OUT;

(II) HAS EVER BEEN DISCIPLINED, DISCHARGED, NONRENEWED, OR ASKED TO RESIGN FROM EMPLOYMENT, OR HAS EVER RESIGNED FROM OR OTHERWISE SEPARATED FROM ANY EMPLOYMENT WHILE ALLEGATIONS OF CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT WERE PENDING OR WERE UNDER INVESTIGATION, OR DUE TO AN ADJUDICATION OR FINDINGS OF CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT; OR

(III) HAS EVER HAD A LICENSE, PROFESSIONAL LICENSE, OR CERTIFICATE SUSPENDED, SURRENDERED, OR REVOKED WHILE ALLEGATIONS OF CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT WERE PENDING OR UNDER INVESTIGATION, OR DUE TO AN ADJUDICATION OR FINDINGS OF CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT.

(C) BEFORE HIRING AN APPLICANT FOR A POSITION INVOLVING DIRECT CONTACT WITH MINORS, THE COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY SHALL:

(1) REVIEW AN APPLICANT'S EMPLOYMENT HISTORY BY CONTACTING THE EMPLOYERS LISTED BY THE APPLICANT UNDER SUBSECTION (B)(1) OF THIS SECTION AND REQUESTING THE FOLLOWING INFORMATION:

(I) THE DATES OF EMPLOYMENT OF THE APPLICANT; AND

(II) ANSWERS TO THE QUESTIONS REGARDING CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION; AND

(2) REQUEST A REPORT FROM THE DEPARTMENT REGARDING THE APPLICANT'S ELIGIBILITY FOR EMPLOYMENT OR CERTIFICATION STATUS TO DETERMINE WHETHER THE APPLICANT:

(I) HOLDS A VALID AND ACTIVE CERTIFICATION APPROPRIATE FOR THE POSITION AND IS OTHERWISE ELIGIBLE FOR EMPLOYMENT; AND

(II) HAS BEEN THE SUBJECT OF PROFESSIONAL DISCIPLINE <u>RELATED TO CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT</u>.

(D) (1) NOT LATER THAN 20 DAYS AFTER RECEIVING A REQUEST FOR INFORMATION UNDER SUBSECTION (C) OF THIS SECTION, AN EMPLOYER SHALL SEND TO THE COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY THE INFORMATION REQUESTED ON THE FORM PRESCRIBED BY THE DEPARTMENT.

(2) IF THE INFORMATION FROM AN EMPLOYER INCLUDES AN AFFIRMATIVE RESPONSE TO THE CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT QUESTIONS UNDER SUBSECTION (B)(3) OF THIS SECTION, AND THE COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY MAKES A DETERMINATION TO FURTHER CONSIDER THE APPLICANT FOR EMPLOYMENT, THE COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY SHALL REQUEST THAT THE FORMER EMPLOYER PROVIDE ADDITIONAL INFORMATION ABOUT THE INFORMATION PROVIDED, INCLUDING ALL ~~RELATED~~ RECORDS <u>RELATED TO CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT</u>.

(3) AN EMPLOYER THAT RECEIVES A REQUEST FOR ADDITIONAL INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE THE ADDITIONAL INFORMATION WITHIN 60 DAYS OF THE DATE OF THE PROSPECTIVE EMPLOYER'S REQUEST <u>TO:</u>

<u>(I) THE REQUESTING COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY; AND</u>

<u>(II) THE APPLICANT WHO IS UNDER CONSIDERATION FOR EMPLOYMENT</u>.

~~(E) A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY MAY HIRE AN APPLICANT ON A PROVISIONAL BASIS FOR A PERIOD NOT TO EXCEED 90 DAYS PENDING THE REVIEW OF INFORMATION AND RECORDS RECEIVED UNDER SUBSECTION (D) OF THIS SECTION, IF THE FOLLOWING CRITERIA ARE SATISFIED:~~

~~(1) THE APPLICANT HAS PROVIDED ALL THE INFORMATION AND SUPPORTING DOCUMENTATION REQUIRED;~~

~~(2) THE SCHOOL ADMINISTRATOR HAS NO KNOWLEDGE OF INFORMATION REGARDING THE APPLICANT THAT WOULD DISQUALIFY THE APPLICANT FROM EMPLOYMENT;~~

~~(3) THE APPLICANT SWEARS OR AFFIRMS THAT THE APPLICANT IS NOT DISQUALIFIED FROM EMPLOYMENT; AND~~

~~(4) THE APPLICANT IS NOT AUTHORIZED TO WORK ALONE WITH MINORS AND WORKS IN THE IMMEDIATE VICINITY OF A PERMANENT EMPLOYEE.~~

~~(F)~~ (E) (1) (I) A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY SHALL CONDUCT AN EMPLOYMENT HISTORY REVIEW OF AN APPLICANT FOR A SUBSTITUTE POSITION INVOLVING DIRECT CONTACT WITH MINORS AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION BEFORE THE INITIAL HIRING OF THE SUBSTITUTE EMPLOYEE OR PLACEMENT ON THE ~~SCHOOL'S~~ APPROVED SUBSTITUTE EMPLOYEE LIST OF THE COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY.

(II) AN EMPLOYMENT HISTORY REVIEW OF A SUBSTITUTE EMPLOYEE SHALL REMAIN VALID AS LONG AS THE SUBSTITUTE EMPLOYEE CONTINUES TO BE EMPLOYED BY THE SAME ~~SCHOOL~~ COUNTY BOARD OR REMAINS ON THE ~~SCHOOL'S~~ APPROVED SUBSTITUTE EMPLOYEE LIST OF THE NONPUBLIC SCHOOL OR CONTRACTING AGENCY.

(2) IF A SUBSTITUTE EMPLOYEE IS SEEKING TO BE ADDED TO ~~ANOTHER SCHOOL'S~~ THE SUBSTITUTE EMPLOYEE LIST OF ANOTHER COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY, A NEW EMPLOYMENT HISTORY REVIEW IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION IS REQUIRED.

(3) THE APPEARANCE OF A SUBSTITUTE EMPLOYEE ON ~~ONE SCHOOL'S~~ THE SUBSTITUTE EMPLOYEE LIST OF ONE COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY DOES NOT RELIEVE ANOTHER ~~SCHOOL~~ COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY OF THE DUTY OF COMPLIANCE WITH THIS SECTION.

(4) AN EMPLOYMENT HISTORY REVIEW CONDUCTED ON THE INITIAL HIRING OF A SUBSTITUTE EMPLOYEE BY A CONTRACTING AGENCY, AN INTERMEDIATE UNIT, OR ANY OTHER ENTITY THAT PROVIDES SUBSTITUTE STAFFING SERVICES TO ~~SCHOOLS~~ A COUNTY BOARD OR A NONPUBLIC SCHOOL SHALL SATISFY THE REQUIREMENTS OF THIS SECTION FOR ALL ~~SCHOOLS~~ SCHOOL ENTITIES USING THE SERVICES OF THAT CONTRACTING AGENCY, INTERMEDIATE UNIT, OR OTHER ENTITY.

(5) A CONTRACTING AGENCY, AN INTERMEDIATE UNIT, OR ANY OTHER ENTITY PROVIDING SUBSTITUTE STAFFING SERVICES TO ~~SCHOOLS~~ A SCHOOL ENTITY SHALL COMPLY WITH THE PROVISIONS OF THIS SECTION.

~~(G)~~ (F) (1) (I) A CONTRACTING AGENCY SHALL CONDUCT AN EMPLOYMENT HISTORY REVIEW OF AN APPLICANT FOR EMPLOYMENT WITH THE CONTRACTING AGENCY AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION:

1. AT THE TIME OF THE INITIAL HIRING OF THE EMPLOYEE; OR

2. BEFORE THE EMPLOYEE IS ASSIGNED TO WORK FOR A SCHOOL ENTITY IN A POSITION INVOLVING DIRECT CONTACT WITH MINORS.

(II) THE EMPLOYMENT HISTORY REVIEW UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL REMAIN VALID AS LONG AS THE EMPLOYEE CONTINUES TO BE EMPLOYED BY THE HIRING CONTRACTING AGENCY.

(III) A CONTRACTING AGENCY SHALL:

1. MAINTAIN A RECORD OF EACH EMPLOYEE'S EMPLOYMENT HISTORY REVIEW REQUIRED UNDER THIS SUBSECTION; AND

2. ON REQUEST OF THE SCHOOL ENTITY TO WHICH AN EMPLOYEE IS ASSIGNED, PROVIDE ACCESS TO THE CONTRACTING AGENCY'S RECORDS OF THAT EMPLOYEE.

(2) (I) BEFORE ASSIGNING AN EMPLOYEE TO PERFORM WORK FOR A SCHOOL ENTITY IN A POSITION INVOLVING DIRECT CONTACT WITH MINORS, A CONTRACTING AGENCY SHALL PROVIDE NOTICE TO THE SCHOOL ENTITY OF ANY AFFIRMATIVE RESPONSES TO THE CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT QUESTIONS REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION.

(II) A CONTRACTING AGENCY MAY NOT ASSIGN AN EMPLOYEE TO PERFORM WORK FOR A SCHOOL ENTITY IN A POSITION INVOLVING DIRECT CONTACT WITH MINORS IF THE SCHOOL ENTITY OBJECTS TO THE ASSIGNMENT

AFTER RECEIVING THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

~~(III)~~ (G) (1) INFORMATION AND RECORDS ABOUT AN APPLICANT RECEIVED BY A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY UNDER THIS SECTION ARE NOT A PUBLIC RECORD FOR THE PURPOSES OF THE MARYLAND PUBLIC INFORMATION ACT.

(2) A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY THAT RECEIVES INFORMATION AND RECORDS FROM AN EMPLOYER ABOUT AN APPLICANT UNDER THIS SECTION MAY:

(I) USE THE INFORMATION AND RECORDS FOR THE PURPOSE OF EVALUATING THE APPLICANT'S FITNESS TO BE HIRED OR FOR CONTINUED EMPLOYMENT; AND

(II) REPORT THE INFORMATION TO THE DEPARTMENT, A STATE LICENSING AGENCY, A LAW ENFORCEMENT AGENCY, A CHILD PROTECTIVE SERVICES AGENCY, ANOTHER SCHOOL ENTITY, OR ANY OTHER PROSPECTIVE EMPLOYER, AS APPROPRIATE.

~~(I)~~ (H) (1) A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY MAY NOT ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, AN EMPLOYMENT CONTRACT, AN AGREEMENT FOR RESIGNATION OR TERMINATION, A SEVERANCE AGREEMENT, OR ANY OTHER CONTRACT OR AGREEMENT THAT:

(I) HAS THE EFFECT OF SUPPRESSING INFORMATION RELATING TO AN INVESTIGATION ~~OF~~ OR DISCIPLINARY ACTION IN RESPONSE TO A REPORT OF SUSPECTED CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT BY A CURRENT OR FORMER EMPLOYEE;

(II) AFFECTS THE ABILITY OF THE COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY TO REPORT SUSPECTED CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT TO THE APPROPRIATE AUTHORITIES; OR

(III) REQUIRES THE COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY TO EXPUNGE INFORMATION ABOUT ALLEGATIONS OR FINDINGS OF SUSPECTED CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT FROM ANY DOCUMENT MAINTAINED BY THE EMPLOYER UNLESS ~~AFTER INVESTIGATION THE ALLEGATIONS ARE FOUND TO BE FALSE~~ THE INVESTIGATION RESULTED IN A FINDING BY:

1. THE EMPLOYER THAT ALLEGATIONS THAT THE APPLICANT ENGAGED IN SEXUAL MISCONDUCT LACKED SUFFICIENT EVIDENCE ACCORDING TO THE POLICIES OF THE COUNTY BOARD OR NONPUBLIC SCHOOL;

2. AN ARBITRATOR OR A COUNTY BOARD TO REJECT ANY DISCIPLINARY ACTION IN RESPONSE TO ALLEGATIONS THAT THE APPLICANT ENGAGED IN SEXUAL MISCONDUCT;

3. A STATE LICENSING AGENCY THAT ALLEGATIONS THAT THE APPLICANT ENGAGED IN SEXUAL MISCONDUCT LACKED SUFFICIENT EVIDENCE ACCORDING TO:

A. STATE LAW; OR

B. THE POLICIES OF THE COUNTY BOARD OR NONPUBLIC SCHOOL;

4. A LAW ENFORCEMENT AGENCY THAT ALLEGATIONS THAT THE APPLICANT ENGAGED IN CHILD SEXUAL ABUSE WERE UNFOUNDED; OR

5. A CHILD PROTECTIVE SERVICES AGENCY THAT ALLEGATIONS THAT THE APPLICANT ENGAGED IN CHILD SEXUAL ABUSE WERE RULED OUT.

(2) A PROVISION OF AN EMPLOYMENT CONTRACT, AN AGREEMENT FOR RESIGNATION OR TERMINATION, OR A SEVERANCE AGREEMENT THAT IS EXECUTED, AMENDED, OR ENTERED INTO ON OR AFTER JULY 1, 2019, AND THAT IS CONTRARY TO THIS SECTION IS VOID AND UNENFORCEABLE.

~~(J)~~ (I) IF THERE IS A LAPSE IN THE OPERATION OF OR THE DEPARTMENT SUSPENDS THE USE OF A SYSTEM OR DATABASE THAT THE DEPARTMENT USES TO CHECK AN APPLICANT'S ELIGIBILITY FOR EMPLOYMENT OR CERTIFICATION STATUS, THE DEPARTMENT SHALL NOTIFY THE COUNTY BOARDS, NONPUBLIC SCHOOLS, AND ANY CONTRACTING AGENCIES WITHIN 48 HOURS OF THE LAPSE OR THE SUSPENSION OF THE USE OF THE SYSTEM OR DATABASE.

~~(K)~~ (J) (1) A PERSON ACTING IN GOOD FAITH MAY NOT BE HELD LIABLE FOR DISCLOSING ANY INFORMATION OR RECORDS RELATED TO CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT~~, INCLUDING PERSONNEL RECORDS,~~ ABOUT A CURRENT OR FORMER EMPLOYEE'S ~~JOB PERFORMANCE,~~ PROFESSIONAL CONDUCT~~,~~ OR REASON FOR TERMINATION OF EMPLOYMENT TO A COUNTY BOARD, A NONPUBLIC SCHOOL, A CONTRACTING AGENCY, THE DEPARTMENT, OR ANY OTHER POTENTIAL EMPLOYER IN ACCORDANCE WITH THIS SECTION UNLESS THE PERSON:

(I) ACTED WITH ACTUAL MALICE TOWARD THE EMPLOYEE OR FORMER EMPLOYEE; OR

(II) INTENTIONALLY OR RECKLESSLY DISCLOSED FALSE INFORMATION ABOUT THE EMPLOYEE OR FORMER EMPLOYEE.

(2) THE IMMUNITY FROM LIABILITY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN addition TO, AND NOT A LIMITATION OF, ANY OTHER IMMUNITY PROVIDED BY LAW OR ANY ABSOLUTE OR CONDITIONAL PRIVILEGE APPLICABLE TO THE DISCLOSURE OF INFORMATION OR RECORDS OR THE APPLICANT'S CONSENT TO THE DISCLOSURE.

~~(L)~~ (K) (1) AN APPLICANT WHO PROVIDES FALSE INFORMATION OR WILLFULLY FAILS TO DISCLOSE MATERIAL INFORMATION REQUIRED UNDER THIS SECTION SHALL BE SUBJECT TO PROFESSIONAL DISCIPLINE, INCLUDING TERMINATION OR DENIAL OF EMPLOYMENT, AND MAY BE SUBJECT TO PROFESSIONAL DISCIPLINE IN ACCORDANCE WITH THE REGULATIONS OF THE DEPARTMENT.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE WILLFUL FAILURE OF AN EMPLOYER OR FORMER EMPLOYER TO RESPOND TO OR PROVIDE THE INFORMATION AND RECORDS REQUESTED BY A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY UNDER THIS SECTION MAY RESULT IN CIVIL PENALTIES OR PROFESSIONAL DISCIPLINE, IF APPROPRIATE.

(II) AN EMPLOYER OR A FORMER EMPLOYER MAY NOT BE HELD LIABLE FOR FAILURE TO RESPOND TO A REQUEST FOR INFORMATION ABOUT AN APPLICANT UNDER THIS SECTION IF:

1. THE LAWS OF THE STATE IN WHICH THE EMPLOYER OR FORMER EMPLOYER IS LOCATED PROHIBIT THE RELEASE OF THE INFORMATION OR RECORDS REQUESTED; OR

2. THE DISCLOSURE OF THE INFORMATION AND RECORDS REQUESTED IS RESTRICTED BY THE TERMS OF A CONTRACT ENTERED INTO ON OR BEFORE JUNE 30, 2019.

(3) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY INITIATE DISCIPLINARY ACTION BEFORE A HEARING OFFICER IN ACCORDANCE WITH THE DEPARTMENT'S REGULATIONS AGAINST AN APPLICANT, AN EMPLOYEE, A CONTRACTING AGENCY, OR A SCHOOL ADMINISTRATOR FOR WILLFUL VIOLATIONS OF THIS SECTION.

(II) THE DEPARTMENT MAY ADOPT REGULATIONS ESTABLISHING PROCEDURES FOR DISCIPLINARY PROCEEDINGS AND THE ASSESSMENT OF PENALTIES IN ACCORDANCE WITH THIS SECTION.

~~(M)~~ (L) NOTHING IN THIS SECTION SHALL BE CONSTRUED:

(1) TO PREVENT A COUNTY BOARD, NONPUBLIC SCHOOL, OR CONTRACTING AGENCY FROM:

(I) CONDUCTING FURTHER INVESTIGATIONS OF PROSPECTIVE EMPLOYEES;

(II) ~~REQUIRING~~ REQUESTING APPLICANTS TO PROVIDE ADDITIONAL BACKGROUND INFORMATION OR AUTHORIZATIONS BEYOND THE INFORMATION OR AUTHORIZATIONS REQUIRED UNDER THIS SECTION; OR

(III) REQUESTING THAT AN EMPLOYER OR A FORMER EMPLOYER PROVIDE MORE INFORMATION THAN IS REQUIRED UNDER THIS SECTION;

(2) TO RELIEVE A COUNTY BOARD, A NONPUBLIC SCHOOL, A CONTRACTING AGENCY, OR ANY OTHER MANDATED REPORTER OF THE LEGAL RESPONSIBILITY TO REPORT SUSPECTED INCIDENTS OF CHILD SEXUAL ABUSE OR SEXUAL MISCONDUCT IN ACCORDANCE WITH STATE LAW OR THE REPORTING REQUIREMENTS OF THE DEPARTMENT; OR

(3) TO PROHIBIT THE RIGHT OF AN EXCLUSIVE REPRESENTATIVE UNDER A COLLECTIVE BARGAINING AGREEMENT TO GRIEVE AND ARBITRATE THE VALIDITY OF AN EMPLOYEE'S TERMINATION OR DISCIPLINE FOR JUST CAUSE OR FOR THE CAUSES SET FORTH IN THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 652 – *Interstate Physical Therapy Licensure Compact*.

This bill enters Maryland into the Interstate Physical Therapy Licensure Compact for physical therapists and establishes 1) procedures and requirements for physical therapists to obtain and maintain a compact privilege to practice physical therapy in a member state; 20 the composition, powers, and responsibilities of the Physical Therapy Compact Commission; and 3) requirements related to the oversight, dispute resolution, and enforcement of the compact.

House Bill 648, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 652.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 652

AN ACT concerning

Interstate Physical Therapy Licensure Compact

FOR the purpose of entering into the Interstate Physical Therapy Licensure Compact; stating the purpose of the Compact; requiring a state to meet certain requirements to participate in the Compact; requiring the State *Board of Physical Therapy Examiners* to charge a certain fee; requiring a physical therapist to meet certain eligibility requirements to receive certain licensure and exercise a certain privilege; authorizing a licensee who is active duty military or the spouse of an individual who is active duty military to designate certain locations as the home state; establishing certain authority of home states and remote states with regard to certain adverse actions; establishing the Physical Therapy Compact Commission and its duties; providing for the election of an Executive Board of the Commission and establishing its duties; providing for the financing of the Commission; requiring the Commission to provide for the development, maintenance, and utilization of a coordinated database and reporting system; requiring member states to submit certain information to the data system; authorizing the Commission to adopt certain rules and amendments in a certain manner; providing for certain oversight, dispute resolution, and enforcement of the Compact; establishing certain requirements for withdrawal by member states from the Compact; providing for the dissolution of the Compact under certain circumstances; providing for the application of the Compact; providing for the binding effect of the Compact; establishing procedures for amending the Compact; making the provisions of the Compact severable; defining certain terms; and generally relating to the Interstate Physical Therapy Licensure Compact.

BY adding to
Article – Health Occupations
Section 13–3A–01 to be under the new subtitle "Subtitle 3A. Interstate Physical Therapy Licensure Compact"
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

SUBTITLE 3A. INTERSTATE PHYSICAL THERAPY LICENSURE COMPACT.

13–3A–01.

THE INTERSTATE PHYSICAL THERAPY LICENSURE COMPACT IS ENACTED INTO LAW AND ENTERED INTO WITH ALL OTHER STATES LEGALLY JOINING IN IT IN THE FORM SUBSTANTIALLY AS IT APPEARS IN THIS SECTION AS FOLLOWS:

SECTION 1. PURPOSE

THE PURPOSE OF THIS COMPACT IS TO FACILITATE INTERSTATE PRACTICE OF PHYSICAL THERAPY WITH THE GOAL OF IMPROVING PUBLIC ACCESS TO PHYSICAL THERAPY SERVICES. THE PRACTICE OF PHYSICAL THERAPY OCCURS IN THE STATE WHERE THE PATIENT/CLIENT IS LOCATED AT THE TIME OF THE PATIENT/CLIENT ENCOUNTER. THE COMPACT PRESERVES THE REGULATORY AUTHORITY OF STATES TO PROTECT PUBLIC HEALTH AND SAFETY THROUGH THE CURRENT SYSTEM OF STATE LICENSURE. THIS COMPACT IS DESIGNED TO ACHIEVE THE FOLLOWING OBJECTIVES:

(1) INCREASE PUBLIC ACCESS TO PHYSICAL THERAPY SERVICES BY PROVIDING FOR THE MUTUAL RECOGNITION OF OTHER MEMBER STATE LICENSES;

(2) ENHANCE THE STATES' ABILITY TO PROTECT THE PUBLIC'S HEALTH AND SAFETY;

(3) ENCOURAGE THE COOPERATION OF MEMBER STATES IN REGULATING MULTI–STATE PHYSICAL THERAPY PRACTICE;

(4) SUPPORT SPOUSES OF RELOCATING MILITARY MEMBERS;

(5) ENHANCE THE EXCHANGE OF LICENSURE, INVESTIGATIVE, AND DISCIPLINARY INFORMATION BETWEEN MEMBER STATES; AND

(6) ALLOW A REMOTE STATE TO HOLD A PROVIDER OF SERVICES WITH A COMPACT PRIVILEGE IN THAT STATE ACCOUNTABLE TO THAT STATE'S PRACTICE STANDARDS.

SECTION 2. DEFINITIONS

AS USED IN THIS COMPACT, AND EXCEPT AS OTHERWISE PROVIDED, THE FOLLOWING DEFINITIONS SHALL APPLY:

(1) "ACTIVE DUTY MILITARY" MEANS FULL–TIME DUTY STATUS IN THE ACTIVE UNIFORMED SERVICE OF THE UNITED STATES, INCLUDING MEMBERS OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY ORDERS PURSUANT TO 10 U.S.C. SECTION 1209 AND 1211.

(2) "ADVERSE ACTION" MEANS DISCIPLINARY ACTION TAKEN BY A PHYSICAL THERAPY LICENSING BOARD BASED UPON MISCONDUCT, UNACCEPTABLE PERFORMANCE, OR A COMBINATION OF BOTH.

(3) "ALTERNATIVE PROGRAM" MEANS A NONDISCIPLINARY MONITORING OR PRACTICE REMEDIATION PROCESS APPROVED BY A PHYSICAL THERAPY LICENSING BOARD. THIS INCLUDES, BUT IS NOT LIMITED TO, SUBSTANCE ABUSE ISSUES.

(4) "COMPACT PRIVILEGE" MEANS THE AUTHORIZATION GRANTED BY A REMOTE STATE TO ALLOW A LICENSEE FROM ANOTHER MEMBER STATE TO PRACTICE AS A PHYSICAL THERAPIST OR WORK AS A PHYSICAL THERAPIST ASSISTANT IN THE REMOTE STATE UNDER ITS LAWS AND RULES. THE PRACTICE OF PHYSICAL THERAPY OCCURS IN THE MEMBER STATE WHERE THE PATIENT/CLIENT IS LOCATED AT THE TIME OF THE PATIENT/CLIENT ENCOUNTER.

(5) "CONTINUING COMPETENCE" MEANS A REQUIREMENT, AS A CONDITION OF LICENSE RENEWAL, TO PROVIDE EVIDENCE OF PARTICIPATION IN, AND/OR COMPLETION OF, EDUCATIONAL AND PROFESSIONAL ACTIVITIES RELEVANT TO PRACTICE OR AREA OF WORK.

(6) "DATA SYSTEM" MEANS A REPOSITORY OF INFORMATION ABOUT LICENSEES, INCLUDING EXAMINATION, LICENSURE, INVESTIGATIVE, COMPACT PRIVILEGE, AND ADVERSE ACTION.

(7) "ENCUMBERED LICENSE" MEANS A LICENSE THAT A PHYSICAL THERAPY LICENSING BOARD HAS LIMITED IN ANY WAY.

(8) "EXECUTIVE BOARD" MEANS A GROUP OF DIRECTORS ELECTED OR APPOINTED TO ACT ON BEHALF OF, AND WITHIN THE POWERS GRANTED TO THEM BY, THE COMMISSION.

(9) "HOME STATE" MEANS THE MEMBER STATE THAT IS THE LICENSEE'S PRIMARY STATE OF RESIDENCE.

(10) "INVESTIGATIVE INFORMATION" MEANS INFORMATION, RECORDS, AND DOCUMENTS RECEIVED OR GENERATED BY A PHYSICAL THERAPY LICENSING BOARD PURSUANT TO AN INVESTIGATION.

(11) "JURISPRUDENCE REQUIREMENT" MEANS THE ASSESSMENT OF AN INDIVIDUAL'S KNOWLEDGE OF THE LAWS AND RULES GOVERNING THE PRACTICE OF PHYSICAL THERAPY IN A STATE.

(12) "LICENSEE" MEANS AN INDIVIDUAL WHO CURRENTLY HOLDS AN AUTHORIZATION FROM THE STATE TO PRACTICE AS A PHYSICAL THERAPIST OR TO WORK AS A PHYSICAL THERAPIST ASSISTANT.

(13) "MEMBER STATE" MEANS A STATE THAT HAS ENACTED THE COMPACT.

(14) "PARTY STATE" MEANS ANY MEMBER STATE IN WHICH A LICENSEE HOLDS A CURRENT LICENSE OR COMPACT PRIVILEGE OR IS APPLYING FOR A LICENSE OR COMPACT PRIVILEGE.

(15) "PHYSICAL THERAPIST" MEANS AN INDIVIDUAL WHO IS LICENSED BY A STATE TO PRACTICE PHYSICAL THERAPY.

(16) "PHYSICAL THERAPIST ASSISTANT" MEANS AN INDIVIDUAL WHO IS LICENSED/CERTIFIED BY A STATE AND WHO ASSISTS THE PHYSICAL THERAPIST IN SELECTED COMPONENTS OF PHYSICAL THERAPY.

(17) "PHYSICAL THERAPY," "PHYSICAL THERAPY PRACTICE," AND "THE PRACTICE OF PHYSICAL THERAPY" MEAN THE CARE AND SERVICES PROVIDED BY OR UNDER THE DIRECTION AND SUPERVISION OF A LICENSED PHYSICAL THERAPIST.

(18) "PHYSICAL THERAPY COMPACT COMMISSION" OR "COMMISSION" MEANS THE NATIONAL ADMINISTRATIVE BODY WHOSE MEMBERSHIP CONSISTS OF ALL STATES THAT HAVE ENACTED THE COMPACT.

(19) "PHYSICAL THERAPY LICENSING BOARD" OR "LICENSING BOARD" MEANS THE AGENCY OF A STATE THAT IS RESPONSIBLE FOR THE LICENSING AND REGULATION OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS.

(20) "REMOTE STATE" MEANS A MEMBER STATE OTHER THAN THE HOME STATE, WHERE A LICENSEE IS EXERCISING OR SEEKING TO EXERCISE THE COMPACT PRIVILEGE.

(21) "RULE" MEANS A REGULATION, PRINCIPLE, OR DIRECTIVE PROMULGATED BY THE COMMISSION THAT HAS THE FORCE OF LAW.

(22) "STATE" MEANS ANY STATE, COMMONWEALTH, DISTRICT, OR TERRITORY OF THE UNITED STATES OF AMERICA THAT REGULATES THE PRACTICE OF PHYSICAL THERAPY.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

(A) TO PARTICIPATE IN THE COMPACT, A STATE MUST:

(1) PARTICIPATE FULLY IN THE COMMISSION'S DATA SYSTEM, INCLUDING USING THE COMMISSION'S UNIQUE IDENTIFIER AS DEFINED IN RULES;

(2) HAVE A MECHANISM IN PLACE FOR RECEIVING AND INVESTIGATING COMPLAINTS ABOUT LICENSEES;

(3) NOTIFY THE COMMISSION, IN COMPLIANCE WITH THE TERMS OF THE COMPACT AND RULES, OF ANY ADVERSE ACTION OR THE AVAILABILITY OF INVESTIGATIVE INFORMATION REGARDING A LICENSEE;

(4) FULLY IMPLEMENT A CRIMINAL BACKGROUND CHECK REQUIREMENT, WITHIN A TIME FRAME ESTABLISHED BY RULE, BY RECEIVING THE RESULTS OF THE FEDERAL BUREAU OF INVESTIGATION RECORD SEARCH ON CRIMINAL BACKGROUND CHECKS AND USE THE RESULTS IN MAKING LICENSURE DECISIONS IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION;

(5) COMPLY WITH THE RULES OF THE COMMISSION;

(6) UTILIZE A RECOGNIZED NATIONAL EXAMINATION AS A REQUIREMENT FOR LICENSURE PURSUANT TO THE RULES OF THE COMMISSION; AND

(7) HAVE CONTINUING COMPETENCE REQUIREMENTS AS A CONDITION FOR LICENSE RENEWAL.

(B) UPON ADOPTION OF THIS STATUTE, THE MEMBER STATE SHALL HAVE THE AUTHORITY TO OBTAIN BIOMETRIC–BASED INFORMATION FROM EACH PHYSICAL THERAPY LICENSURE APPLICANT AND SUBMIT THIS INFORMATION TO THE FEDERAL BUREAU OF INVESTIGATION FOR A CRIMINAL BACKGROUND CHECK IN ACCORDANCE WITH 28 U.S.C. §534 AND 42 U.S.C. §14616.

(C) A MEMBER STATE SHALL GRANT THE COMPACT PRIVILEGE TO A LICENSEE HOLDING A VALID UNENCUMBERED LICENSE IN ANOTHER MEMBER STATE IN ACCORDANCE WITH THE TERMS OF THE COMPACT AND RULES.

(D) (1) ~~MEMBER~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, MEMBER STATES MAY CHARGE A FEE FOR GRANTING A COMPACT PRIVILEGE.

(2) ~~MARYLAND~~ *THE BOARD* SHALL CHARGE A FEE FOR GRANTING A COMPACT PRIVILEGE.

SECTION 4. COMPACT PRIVILEGE

(A) TO EXERCISE THE COMPACT PRIVILEGE UNDER THE TERMS AND PROVISIONS OF THE COMPACT, THE LICENSEE SHALL:

(1) HOLD A LICENSE IN THE HOME STATE;

(2) HAVE NO ENCUMBRANCE ON ANY STATE LICENSE;

(3) BE ELIGIBLE FOR A COMPACT PRIVILEGE IN ANY MEMBER STATE IN ACCORDANCE WITH SUBSECTIONS (D), (G), AND (H) OF THIS SECTION;

(4) HAVE NOT HAD ANY ADVERSE ACTION AGAINST ANY LICENSE OR COMPACT PRIVILEGE WITHIN THE PREVIOUS 2 YEARS;

(5) NOTIFY THE COMMISSION THAT THE LICENSEE IS SEEKING THE COMPACT PRIVILEGE WITHIN A REMOTE STATE(S);

(6) PAY ANY APPLICABLE FEES, INCLUDING ANY STATE FEE, FOR THE COMPACT PRIVILEGE;

(7) MEET ANY JURISPRUDENCE REQUIREMENTS ESTABLISHED BY THE REMOTE STATE(S) IN WHICH THE LICENSEE IS SEEKING A COMPACT PRIVILEGE; AND

(8) REPORT TO THE COMMISSION ADVERSE ACTION TAKEN BY ANY NONMEMBER STATE WITHIN 30 DAYS FROM THE DATE THE ADVERSE ACTION IS TAKEN.

(B) THE COMPACT PRIVILEGE IS VALID UNTIL THE EXPIRATION DATE OF THE HOME LICENSE. THE LICENSEE MUST COMPLY WITH THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION TO MAINTAIN THE COMPACT PRIVILEGE IN THE REMOTE STATE.

(C) A LICENSEE PROVIDING PHYSICAL THERAPY IN A REMOTE STATE UNDER THE COMPACT PRIVILEGE SHALL FUNCTION WITHIN THE LAWS AND REGULATIONS OF THE REMOTE STATE.

(D) A LICENSEE PROVIDING PHYSICAL THERAPY IN A REMOTE STATE IS SUBJECT TO THAT STATE'S REGULATORY AUTHORITY. A REMOTE STATE MAY, IN ACCORDANCE WITH DUE PROCESS AND THAT STATE'S LAWS, REMOVE A LICENSEE'S COMPACT PRIVILEGE IN THE REMOTE STATE FOR A SPECIFIC PERIOD OF TIME, IMPOSE FINES, AND/OR TAKE ANY OTHER NECESSARY ACTIONS TO PROTECT THE HEALTH AND SAFETY OF ITS CITIZENS. THE LICENSEE IS NOT ELIGIBLE FOR A COMPACT PRIVILEGE IN ANY STATE UNTIL THE SPECIFIC TIME FOR REMOVAL HAS PASSED AND ALL FINES ARE PAID.

(E) IF A HOME STATE LICENSE IS ENCUMBERED, THE LICENSEE SHALL LOSE THE COMPACT PRIVILEGE IN ANY REMOTE STATE UNTIL THE FOLLOWING OCCUR:

(1) THE HOME STATE LICENSE IS NO LONGER ENCUMBERED; AND

(2) TWO YEARS HAVE ELAPSED FROM THE DATE OF THE ADVERSE ACTION.

(F) ONCE AN ENCUMBERED LICENSE IN THE HOME STATE IS RESTORED TO GOOD STANDING, THE LICENSEE MUST MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION TO OBTAIN A COMPACT PRIVILEGE IN ANY REMOTE STATE.

(G) IF A LICENSEE'S COMPACT PRIVILEGE IN ANY REMOTE STATE IS REMOVED, THE INDIVIDUAL SHALL LOSE THE COMPACT PRIVILEGE IN ANY REMOTE STATE UNTIL THE FOLLOWING OCCUR:

(1) THE SPECIFIC PERIOD OF TIME FOR WHICH THE COMPACT PRIVILEGE WAS REMOVED HAS ENDED;

(2) ALL FINES HAVE BEEN PAID; AND

(3) TWO YEARS HAVE ELAPSED FROM THE DATE OF THE ADVERSE ACTION.

(H) ONCE THE REQUIREMENTS OF SUBSECTION (G) OF THIS SECTION HAVE BEEN MET, THE LICENSE MUST MEET THE REQUIREMENTS IN SUBSECTION (A) OF THIS SECTION TO OBTAIN A COMPACT PRIVILEGE IN A REMOTE STATE.

SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A LICENSEE WHO IS ACTIVE DUTY MILITARY OR IS THE SPOUSE OF AN INDIVIDUAL WHO IS ACTIVE DUTY MILITARY MAY DESIGNATE ONE OF THE FOLLOWING AS THE HOME STATE:

(1) HOME OF RECORD;

(2) PERMANENT CHANGE OF STATION (PCS); OR

(3) STATE OF CURRENT RESIDENCE IF IT IS DIFFERENT THAN THE PCS STATE OR HOME OF RECORD.

SECTION 6. ADVERSE ACTIONS

(A) A HOME STATE SHALL HAVE EXCLUSIVE POWER TO IMPOSE ADVERSE ACTION AGAINST A LICENSE ISSUED BY THE HOME STATE.

(B) A HOME STATE MAY TAKE ADVERSE ACTION BASED ON THE INVESTIGATIVE INFORMATION OF A REMOTE STATE, SO LONG AS THE HOME STATE FOLLOWS ITS OWN PROCEDURES FOR IMPOSING ADVERSE ACTION.

(C) NOTHING IN THIS COMPACT SHALL OVERRIDE A MEMBER STATE'S DECISION THAT PARTICIPATION IN AN ALTERNATIVE PROGRAM MAY BE USED IN LIEU OF ADVERSE ACTION AND THAT SUCH PARTICIPATION SHALL REMAIN NONPUBLIC IF REQUIRED BY THE MEMBER STATE'S LAWS. MEMBER STATES MUST REQUIRE LICENSEES WHO ENTER ANY ALTERNATIVE PROGRAMS IN LIEU OF DISCIPLINE TO AGREE NOT TO PRACTICE IN ANY OTHER MEMBER STATE DURING THE TERM OF THE ALTERNATIVE PROGRAM WITHOUT PRIOR AUTHORIZATION FROM SUCH OTHER MEMBER STATE.

(D) ANY MEMBER STATE MAY INVESTIGATE ACTUAL OR ALLEGED VIOLATIONS OF THE STATUTES AND RULES AUTHORIZING THE PRACTICE OF PHYSICAL THERAPY IN ANY OTHER MEMBER STATE IN WHICH A PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT HOLDS A LICENSE OR COMPACT PRIVILEGE.

(E) A REMOTE STATE SHALL HAVE THE AUTHORITY TO:

(1) TAKE ADVERSE ACTIONS AS SET FORTH IN SECTION 4(D) AGAINST A LICENSEE'S COMPACT PRIVILEGE IN THE STATE;

(2) ISSUE SUBPOENAS FOR BOTH HEARINGS AND INVESTIGATIONS THAT REQUIRE THE ATTENDANCE AND TESTIMONY OF WITNESSES, AND THE PRODUCTION OF EVIDENCE. SUBPOENAS ISSUED BY A PHYSICAL THERAPY LICENSING BOARD IN A PARTY STATE FOR THE ATTENDANCE AND TESTIMONY OF WITNESSES, AND/OR THE PRODUCTION OF EVIDENCE FROM ANOTHER PARTY STATE, SHALL BE ENFORCED IN THE LATTER STATE BY ANY COURT OF COMPETENT JURISDICTION, ACCORDING TO THE PRACTICE AND PROCEDURE OF THAT COURT APPLICABLE TO SUBPOENAS ISSUED IN PROCEEDINGS PENDING BEFORE IT. THE ISSUING AUTHORITY SHALL PAY ANY WITNESS FEES, TRAVEL EXPENSES, MILEAGE, AND OTHER FEES REQUIRED BY THE SERVICE STATUTES OF THE STATE WHERE THE WITNESSES AND/OR EVIDENCE ARE LOCATED; AND

(3) IF OTHERWISE PERMITTED BY STATE LAW, RECOVER FROM THE LICENSEE THE COSTS OF INVESTIGATIONS AND DISPOSITION OF CASES RESULTING FROM ANY ADVERSE ACTION TAKEN AGAINST THAT LICENSEE.

(F) (1) IN ADDITION TO THE AUTHORITY GRANTED TO A MEMBER STATE BY ITS RESPECTIVE PHYSICAL THERAPY PRACTICE ACT OR OTHER APPLICABLE STATE LAW, A MEMBER STATE MAY PARTICIPATE WITH OTHER MEMBER STATES IN JOINT INVESTIGATIONS OF LICENSEES.

(2) MEMBER STATES SHALL SHARE ANY INVESTIGATIVE, LITIGATION, OR COMPLIANCE MATERIALS IN FURTHERANCE OF ANY JOINT OR INDIVIDUAL INVESTIGATION INITIATED UNDER THE COMPACT.

SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

(A) THE COMPACT MEMBER STATES HEREBY CREATE AND ESTABLISH A JOINT PUBLIC AGENCY KNOWN AS THE PHYSICAL THERAPY COMPACT COMMISSION.

(1) THE COMMISSION IS AN INSTRUMENTALITY OF THE COMPACT STATES.

(2) VENUE IS PROPER AND JUDICIAL PROCEEDINGS BY OR AGAINST THE COMMISSION SHALL BE BROUGHT SOLELY AND EXCLUSIVELY IN A COURT OF COMPETENT JURISDICTION WHERE THE PRINCIPAL OFFICE OF THE COMMISSION IS LOCATED. THE COMMISSION MAY WAIVE VENUE AND JURISDICTIONAL DEFENSES TO THE EXTENT IT ADOPTS OR CONSENTS TO PARTICIPATE IN ALTERNATIVE DISPUTE RESOLUTION PROCEEDINGS.

(3) NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO BE A WAIVER OF SOVEREIGN IMMUNITY.

(B) (1) EACH MEMBER STATE SHALL HAVE AND BE LIMITED TO ONE DELEGATE SELECTED BY THAT MEMBER STATE'S LICENSING BOARD.

(2) THE DELEGATE SHALL BE A CURRENT MEMBER OF THE LICENSING BOARD, WHO IS A PHYSICAL THERAPIST, PHYSICAL THERAPIST ASSISTANT, PUBLIC MEMBER, OR THE BOARD ADMINISTRATOR.

(3) ANY DELEGATE MAY BE REMOVED OR SUSPENDED FROM OFFICE AS PROVIDED BY THE LAW OF THE STATE FROM WHICH THE DELEGATE IS APPOINTED.

(4) THE MEMBER STATE BOARD SHALL FILL ANY VACANCY OCCURRING IN THE COMMISSION.

(5) EACH DELEGATE SHALL BE ENTITLED TO ONE (1) VOTE WITH REGARD TO THE PROMULGATION OF RULES AND CREATION OF BYLAWS AND SHALL OTHERWISE HAVE AN OPPORTUNITY TO PARTICIPATE IN THE BUSINESS AND AFFAIRS OF THE COMMISSION.

(6) A DELEGATE SHALL VOTE IN PERSON OR BY SUCH OTHER MEANS AS PROVIDED IN THE BYLAWS. THE BYLAWS MAY PROVIDE FOR DELEGATES' PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER MEANS OF COMMUNICATION.

(7) THE COMMISSION SHALL MEET AT LEAST ONCE DURING EACH CALENDAR YEAR. ADDITIONAL MEETINGS SHALL BE HELD AS SET FORTH IN THE BYLAWS.

(C) THE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

(1) ESTABLISH THE FISCAL YEAR OF THE COMMISSION;

(2) ESTABLISH BYLAWS;

(3) MAINTAIN ITS FINANCIAL RECORDS IN ACCORDANCE WITH THE BYLAWS;

(4) MEET AND TAKE SUCH ACTIONS AS ARE CONSISTENT WITH THE PROVISIONS OF THIS COMPACT AND THE BYLAWS;

(5) PROMULGATE UNIFORM RULES TO FACILITATE AND COORDINATE IMPLEMENTATION AND ADMINISTRATION OF THIS COMPACT. THE RULES SHALL HAVE THE FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN ALL MEMBER STATES;

(6) BRING AND PROSECUTE LEGAL PROCEEDINGS OR ACTIONS IN THE NAME OF THE COMMISSION, PROVIDED THAT THE STANDING OF ANY STATE PHYSICAL THERAPY LICENSING BOARD TO SUE OR BE SUED UNDER APPLICABLE LAW SHALL NOT BE AFFECTED;

(7) PURCHASE AND MAINTAIN INSURANCE AND BONDS;

(8) BORROW, ACCEPT, OR CONTRACT FOR SERVICES OF PERSONNEL, INCLUDING, BUT NOT LIMITED TO, EMPLOYEES OF A MEMBER STATE;

(9) HIRE EMPLOYEES, ELECT OR APPOINT OFFICERS, FIX COMPENSATION, DEFINE DUTIES, GRANT SUCH INDIVIDUALS APPROPRIATE AUTHORITY TO CARRY OUT THE PURPOSES OF THE COMPACT, AND TO ESTABLISH THE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO CONFLICTS OF INTEREST, QUALIFICATIONS OF PERSONNEL, AND OTHER RELATED PERSONNEL MATTERS;

(10) ACCEPT ANY AND ALL APPROPRIATE DONATIONS AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS AND SERVICES, AND TO RECEIVE, UTILIZE AND DISPOSE OF THE SAME; PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL AVOID ANY APPEARANCE OF IMPROPRIETY AND/OR CONFLICT OF INTEREST;

(11) LEASE, PURCHASE, ACCEPT APPROPRIATE GIFTS OR DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE OR USE, ANY PROPERTY, REAL, PERSONAL OR MIXED; PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL AVOID ANY APPEARANCE OF IMPROPRIETY;

(12) SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON, OR OTHERWISE DISPOSE OF ANY PROPERTY REAL, PERSONAL, OR MIXED;

(13) ESTABLISH A BUDGET AND MAKE EXPENDITURES;

(14) BORROW MONEY;

(15) APPOINT COMMITTEES, INCLUDING STANDING COMMITTEES COMPOSED OF MEMBERS, STATE REGULATORS, STATE LEGISLATORS OR THEIR REPRESENTATIVES, AND CONSUMER REPRESENTATIVES, AND SUCH OTHER INTERESTED PERSONS AS MAY BE DESIGNATED IN THIS COMPACT AND THE BYLAWS;

(16) PROVIDE AND RECEIVE INFORMATION FROM, AND COOPERATE WITH, LAW ENFORCEMENT AGENCIES;

(17) ESTABLISH AND ELECT AN EXECUTIVE BOARD; AND

(18) PERFORM SUCH OTHER FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE TO ACHIEVE THE PURPOSES OF THIS COMPACT CONSISTENT WITH THE STATE REGULATION OF PHYSICAL THERAPY LICENSURE AND PRACTICE.

(D) THE EXECUTIVE BOARD SHALL HAVE THE POWER TO ACT ON BEHALF OF THE COMMISSION ACCORDING TO THE TERMS OF THIS COMPACT.

(1) THE EXECUTIVE BOARD SHALL BE COMPOSED OF NINE MEMBERS:

(I) SEVEN VOTING MEMBERS WHO ARE ELECTED BY THE COMMISSION FROM THE CURRENT MEMBERSHIP OF THE COMMISSION;

(II) ONE EX–OFFICIO, NONVOTING MEMBER FROM THE RECOGNIZED NATIONAL PHYSICAL THERAPY PROFESSIONAL ASSOCIATION; AND

(III) ONE EX–OFFICIO, NONVOTING MEMBER FROM THE RECOGNIZED MEMBERSHIP ORGANIZATION OF THE PHYSICAL THERAPY LICENSING BOARDS.

(2) THE EX–OFFICIO MEMBERS WILL BE SELECTED BY THEIR RESPECTIVE ORGANIZATIONS.

(3) THE COMMISSION MAY REMOVE ANY MEMBER OF THE EXECUTIVE BOARD AS PROVIDED IN BYLAWS.

(4) THE EXECUTIVE BOARD SHALL MEET AT LEAST ANNUALLY.

(5) THE EXECUTIVE BOARD SHALL HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES:

(I) RECOMMEND TO THE ENTIRE COMMISSION CHANGES TO THE RULES OR BYLAWS, CHANGES TO THIS COMPACT LEGISLATION, FEES PAID BY COMPACT MEMBER STATES SUCH AS ANNUAL DUES, AND ANY COMMISSION COMPACT FEE CHARGED TO LICENSEES FOR THE COMPACT PRIVILEGE;

(II) ENSURE COMPACT ADMINISTRATION SERVICES ARE APPROPRIATELY PROVIDED, CONTRACTUAL OR OTHERWISE;

(III) PREPARE AND RECOMMEND THE BUDGET;

(IV) MAINTAIN FINANCIAL RECORDS ON BEHALF OF THE COMMISSION;

(V) MONITOR COMPACT COMPLIANCE OF MEMBER STATES AND PROVIDE COMPLIANCE REPORTS TO THE COMMISSION;

(VI) ESTABLISH ADDITIONAL COMMITTEES AS NECESSARY; AND

(VII) OTHER DUTIES AS PROVIDED IN RULES OR BYLAWS.

(E) (1) ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, AND PUBLIC NOTICE OF MEETINGS SHALL BE GIVEN IN THE SAME MANNER AS REQUIRED UNDER THE RULEMAKING PROVISIONS IN SECTION 9.

(2) THE COMMISSION, THE EXECUTIVE BOARD, OR OTHER COMMITTEES OF THE COMMISSION MAY CONVENE IN A CLOSED, NON–PUBLIC MEETING IF THE COMMISSION, EXECUTIVE BOARD, OR OTHER COMMITTEES OF THE COMMISSION MUST DISCUSS:

(I) NONCOMPLIANCE OF A MEMBER STATE WITH ITS OBLIGATIONS UNDER THE COMPACT;

(II) THE EMPLOYMENT, COMPENSATION, DISCIPLINE OR OTHER MATTERS, PRACTICES, OR PROCEDURES RELATED TO SPECIFIC EMPLOYEES OR OTHER MATTERS RELATED TO THE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND PROCEDURES;

(III) CURRENT, THREATENED, OR REASONABLY ANTICIPATED LITIGATION;

(IV) NEGOTIATION OF CONTRACTS FOR THE PURCHASE, LEASE, OR SALE OF GOODS, SERVICES, OR REAL ESTATE;

(V) ACCUSING ANY PERSON OF A CRIME OR FORMALLY CENSURING ANY PERSON;

(VI) DISCLOSURE OF TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION THAT IS PRIVILEGED OR CONFIDENTIAL;

(VII) DISCLOSURE OF INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;

(VIII) DISCLOSURE OF INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES;

(IX) DISCLOSURE OF INFORMATION RELATED TO ANY INVESTIGATIVE REPORTS PREPARED BY, ON BEHALF OF, OR FOR USE OF THE COMMISSION OR OTHER COMMITTEE CHARGED WITH RESPONSIBILITY OF INVESTIGATION OR DETERMINATION OF COMPLIANCE ISSUES PURSUANT TO THE COMPACT; OR

(X) MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL OR MEMBER STATE STATUTE.

(3) IF A MEETING, OR PORTION OF A MEETING, IS CLOSED PURSUANT TO THIS PROVISION, THE COMMISSION'S LEGAL COUNSEL OR DESIGNEE SHALL CERTIFY THAT THE MEETING MAY BE CLOSED AND SHALL REFERENCE EACH RELEVANT EXEMPTING PROVISION.

(4) THE COMMISSION SHALL KEEP MINUTES THAT FULLY AND CLEARLY DESCRIBE ALL MATTERS DISCUSSED IN A MEETING AND SHALL PROVIDE A FULL AND ACCURATE SUMMARY OF ACTIONS TAKEN, AND THE REASONS THEREFORE, INCLUDING A DESCRIPTION OF THE VIEWS EXPRESSED. ALL DOCUMENTS CONSIDERED IN CONNECTION WITH AN ACTION SHALL BE IDENTIFIED IN SUCH MINUTES. ALL MINUTES AND DOCUMENTS OF A CLOSED MEETING SHALL REMAIN UNDER SEAL, SUBJECT TO RELEASE BY A MAJORITY VOTE OF THE COMMISSION OR ORDER OF A COURT OF COMPETENT JURISDICTION.

(F) (1) THE COMMISSION SHALL PAY, OR PROVIDE FOR THE PAYMENT OF, THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION, AND ONGOING ACTIVITIES.

(2) THE COMMISSION MAY ACCEPT ANY AND ALL APPROPRIATE REVENUE SOURCES, DONATIONS, AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES.

(3) THE COMMISSION MAY LEVY ON AND COLLECT AN ANNUAL ASSESSMENT FROM EACH MEMBER STATE OR IMPOSE FEES ON OTHER PARTIES TO COVER THE COST OF THE OPERATIONS AND ACTIVITIES OF THE COMMISSION AND ITS STAFF, WHICH MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER ITS ANNUAL BUDGET AS APPROVED EACH YEAR FOR WHICH REVENUE IS NOT PROVIDED BY OTHER SOURCES. THE AGGREGATE ANNUAL ASSESSMENT AMOUNT SHALL BE

ALLOCATED BASED UPON A FORMULA TO BE DETERMINED BY THE COMMISSION, WHICH SHALL PROMULGATE A RULE BINDING UPON ALL MEMBER STATES.

(4) THE COMMISSION SHALL NOT INCUR OBLIGATIONS OF ANY KIND PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME; NOR SHALL THE COMMISSION PLEDGE THE CREDIT OF ANY OF THE MEMBER STATES, EXCEPT BY AND WITH THE AUTHORITY OF THE MEMBER STATE.

(5) THE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS OF FUNDS HANDLED BY THE COMMISSION SHALL BE AUDITED YEARLY BY A CERTIFIED OR LICENSED PUBLIC ACCOUNTANT, AND THE REPORT OF THE AUDIT SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE COMMISSION.

(G) (1) THE MEMBERS, OFFICERS, EXECUTIVE DIRECTOR, EMPLOYEES AND REPRESENTATIVES OF THE COMMISSION SHALL BE IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR ANY CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED BY OR ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES; PROVIDED THAT NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PROTECT ANY SUCH PERSON FROM SUIT AND/OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT OF THAT PERSON.

(2) THE COMMISSION SHALL DEFEND ANY MEMBER, OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE OR REPRESENTATIVE OF THE COMMISSION IN ANY CIVIL ACTION SEEKING TO IMPOSE LIABILITY ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS MADE HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES; PROVIDED THAT NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT THAT PERSON FROM RETAINING HIS OR HER OWN COUNSEL; AND PROVIDED FURTHER, THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM THAT PERSON'S INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT.

(3) THE COMMISSION SHALL INDEMNIFY AND HOLD HARMLESS ANY MEMBER, OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE, OR REPRESENTATIVE OF THE COMMISSION FOR THE AMOUNT OF ANY SETTLEMENT OR JUDGMENT OBTAINED AGAINST THAT PERSON ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM THE INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT OF THAT PERSON.

SECTION 8. DATA SYSTEM

(A) THE COMMISSION SHALL PROVIDE FOR THE DEVELOPMENT, MAINTENANCE, AND UTILIZATION OF A COORDINATED DATABASE AND REPORTING SYSTEM CONTAINING LICENSURE, ADVERSE ACTION, AND INVESTIGATIVE INFORMATION ON ALL LICENSED INDIVIDUALS IN MEMBER STATES.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW TO THE CONTRARY, A MEMBER STATE SHALL SUBMIT A UNIFORM DATA SET TO THE DATA SYSTEM ON ALL INDIVIDUALS TO WHOM THIS COMPACT IS APPLICABLE AS REQUIRED BY THE RULES OF THE COMMISSION, INCLUDING:

(1) IDENTIFYING INFORMATION;

(2) LICENSURE DATA;

(3) ADVERSE ACTIONS AGAINST A LICENSE OR COMPACT PRIVILEGE;

(4) NONCONFIDENTIAL INFORMATION RELATED TO ALTERNATIVE PROGRAM PARTICIPATION;

(5) ANY DENIAL OF APPLICATION FOR LICENSURE, AND THE REASON(S) FOR SUCH DENIAL; AND

(6) OTHER INFORMATION THAT MAY FACILITATE THE ADMINISTRATION OF THIS COMPACT, AS DETERMINED BY THE RULES OF THE COMMISSION.

(C) INVESTIGATIVE INFORMATION PERTAINING TO A LICENSEE IN ANY MEMBER STATE WILL ONLY BE AVAILABLE TO OTHER PARTY STATES.

(D) THE COMMISSION SHALL PROMPTLY NOTIFY ALL MEMBER STATES OF ANY ADVERSE ACTION TAKEN AGAINST A LICENSEE OR AN INDIVIDUAL APPLYING

FOR A LICENSE. ADVERSE ACTION INFORMATION PERTAINING TO A LICENSEE IN ANY MEMBER STATE WILL BE AVAILABLE TO ANY OTHER MEMBER STATE.

(E) MEMBER STATES CONTRIBUTING INFORMATION TO THE DATA SYSTEM MAY DESIGNATE INFORMATION THAT MAY NOT BE SHARED WITH THE PUBLIC WITHOUT THE EXPRESS PERMISSION OF THE CONTRIBUTING STATE.

(F) ANY INFORMATION SUBMITTED TO THE DATA SYSTEM THAT IS SUBSEQUENTLY REQUIRED TO BE EXPUNGED BY THE LAWS OF THE MEMBER STATE CONTRIBUTING THE INFORMATION SHALL BE REMOVED FROM THE DATA SYSTEM.

SECTION 9. RULEMAKING

(A) THE COMMISSION SHALL EXERCISE ITS RULEMAKING POWERS PURSUANT TO THE CRITERIA SET FORTH IN THIS SECTION AND THE RULES ADOPTED THEREUNDER. RULES AND AMENDMENTS SHALL BECOME BINDING AS OF THE DATE SPECIFIED IN EACH RULE OR AMENDMENT.

(B) IF A MAJORITY OF THE LEGISLATURES OF THE MEMBER STATES REJECTS A RULE, BY ENACTMENT OF A STATUTE OR RESOLUTION IN THE SAME MANNER USED TO ADOPT THE COMPACT WITHIN 4 YEARS OF THE DATE OF ADOPTION OF THE RULE, THEN SUCH RULE SHALL HAVE NO FURTHER FORCE AND EFFECT IN ANY MEMBER STATE.

(C) RULES OR AMENDMENTS TO THE RULES SHALL BE ADOPTED AT A REGULAR OR SPECIAL MEETING OF THE COMMISSION.

(D) PRIOR TO PROMULGATION AND ADOPTION OF A FINAL RULE OR RULES BY THE COMMISSION, AND AT LEAST 30 DAYS IN ADVANCE OF THE MEETING AT WHICH THE RULE WILL BE CONSIDERED AND VOTED UPON, THE COMMISSION SHALL FILE A NOTICE OF PROPOSED RULEMAKING ON THE WEBSITE OF:

(I) THE COMMISSION OR OTHER PUBLICLY ACCESSIBLE PLATFORM; AND

(II) EACH MEMBER STATE PHYSICAL THERAPY LICENSING BOARD OR OTHER PUBLICLY ACCESSIBLE PLATFORM OR THE PUBLICATION IN WHICH EACH STATE WOULD OTHERWISE PUBLISH PROPOSED RULES.

(E) THE NOTICE OF PROPOSED RULEMAKING SHALL INCLUDE:

(1) THE PROPOSED TIME, DATE, AND LOCATION OF THE MEETING IN WHICH THE RULE WILL BE CONSIDERED AND VOTED UPON;

(2) THE TEXT OF THE PROPOSED RULE OR AMENDMENT AND THE REASON FOR THE PROPOSED RULE;

(3) A REQUEST FOR COMMENTS ON THE PROPOSED RULE FROM ANY INTERESTED PERSON; AND

(4) THE MANNER IN WHICH INTERESTED PERSONS MAY SUBMIT NOTICE TO THE COMMISSION OF THEIR INTENTION TO ATTEND THE PUBLIC HEARING AND ANY WRITTEN COMMENTS.

(F) PRIOR TO ADOPTION OF A PROPOSED RULE, THE COMMISSION SHALL ALLOW PERSONS TO SUBMIT WRITTEN DATA, FACTS, OPINIONS, AND ARGUMENTS, WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC.

(G) THE COMMISSION SHALL GRANT AN OPPORTUNITY FOR A PUBLIC HEARING BEFORE IT ADOPTS A RULE OR AMENDMENT IF A HEARING IS REQUESTED BY:

(1) AT LEAST 25 PERSONS;

(2) A STATE OR FEDERAL GOVERNMENTAL SUBDIVISION OR AGENCY; OR

(3) AN ASSOCIATION HAVING AT LEAST 25 MEMBERS.

(H) IF A HEARING IS HELD ON THE PROPOSED RULE OR AMENDMENT, THE COMMISSION SHALL PUBLISH THE PLACE, TIME, AND DATE OF THE SCHEDULED PUBLIC HEARING. IF THE HEARING IS HELD VIA ELECTRONIC MEANS, THE COMMISSION SHALL PUBLISH THE MECHANISM FOR ACCESS TO THE ELECTRONIC HEARING.

(1) ALL PERSONS WISHING TO BE HEARD AT THE HEARING SHALL NOTIFY THE EXECUTIVE DIRECTOR OF THE COMMISSION OR OTHER DESIGNATED MEMBER IN WRITING OF THEIR DESIRE TO APPEAR AND TESTIFY AT THE HEARING NOT LESS THAN 5 BUSINESS DAYS BEFORE THE SCHEDULED DATE OF THE HEARING.

(2) HEARINGS SHALL BE CONDUCTED IN A MANNER PROVIDING EACH PERSON WHO WISHES TO COMMENT A FAIR AND REASONABLE OPPORTUNITY TO COMMENT ORALLY OR IN WRITING.

(3) ALL HEARINGS WILL BE RECORDED. A COPY OF THE RECORDING WILL BE MADE AVAILABLE ON REQUEST.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS REQUIRING A SEPARATE HEARING ON EACH RULE. RULES MAY BE GROUPED FOR THE CONVENIENCE OF THE COMMISSION AT HEARINGS REQUIRED BY THIS SECTION.

(I) FOLLOWING THE SCHEDULED HEARING DATE, OR BY THE CLOSE OF BUSINESS ON THE SCHEDULED HEARING DATE IF THE HEARING WAS NOT HELD, THE COMMISSION SHALL CONSIDER ALL WRITTEN AND ORAL COMMENTS RECEIVED.

(J) IF NO WRITTEN NOTICE OF INTENT TO ATTEND THE PUBLIC HEARING BY INTERESTED PARTIES IS RECEIVED, THE COMMISSION MAY PROCEED WITH PROMULGATION OF THE PROPOSED RULE WITHOUT A PUBLIC HEARING.

(K) THE COMMISSION SHALL, BY MAJORITY VOTE OF ALL MEMBERS, TAKE FINAL ACTION ON THE PROPOSED RULE AND SHALL DETERMINE THE EFFECTIVE DATE OF THE RULE, IF ANY, BASED ON THE RULEMAKING RECORD AND THE FULL TEXT OF THE RULE.

(L) UPON DETERMINATION THAT AN EMERGENCY EXISTS, THE COMMISSION MAY CONSIDER AND ADOPT AN EMERGENCY RULE WITHOUT PRIOR NOTICE, OPPORTUNITY FOR COMMENT, OR HEARING, PROVIDED THAT THE USUAL RULEMAKING PROCEDURES PROVIDED IN THE COMPACT AND IN THIS SECTION SHALL BE RETROACTIVELY APPLIED TO THE RULE AS SOON AS REASONABLY POSSIBLE, IN NO EVENT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF THE RULE. FOR THE PURPOSES OF THIS PROVISION, AN EMERGENCY RULE IS ONE THAT MUST BE ADOPTED IMMEDIATELY IN ORDER TO:

(1) MEET AN IMMINENT THREAT TO PUBLIC HEALTH, SAFETY, OR WELFARE;

(2) PREVENT A LOSS OF COMMISSION OR MEMBER STATE FUNDS;

(3) MEET A DEADLINE FOR THE PROMULGATION OF AN ADMINISTRATIVE RULE THAT IS ESTABLISHED BY FEDERAL LAW OR RULE; OR

(4) PROTECT PUBLIC HEALTH AND SAFETY.

(M) THE COMMISSION OR AN AUTHORIZED COMMITTEE OF THE COMMISSION MAY DIRECT REVISIONS TO A PREVIOUSLY ADOPTED RULE OR AMENDMENT FOR PURPOSES OF CORRECTING TYPOGRAPHICAL ERRORS, ERRORS IN FORMAT, ERRORS IN CONSISTENCY, OR GRAMMATICAL ERRORS. PUBLIC NOTICE OF ANY REVISIONS SHALL BE POSTED ON THE WEBSITE OF THE COMMISSION. THE REVISION SHALL BE SUBJECT TO CHALLENGE BY ANY PERSON FOR A PERIOD OF 30 DAYS AFTER POSTING. THE REVISION MAY BE CHALLENGED ONLY ON GROUNDS THAT THE REVISION RESULTS IN A MATERIAL CHANGE TO A RULE. A CHALLENGE

SHALL BE MADE IN WRITING, AND DELIVERED TO THE CHAIR OF THE COMMISSION PRIOR TO THE END OF THE NOTICE PERIOD. IF NO CHALLENGE IS MADE, THE REVISION WILL TAKE EFFECT WITHOUT FURTHER ACTION. IF THE REVISION IS CHALLENGED, THE REVISION MAY NOT TAKE EFFECT WITHOUT THE APPROVAL OF THE COMMISSION.

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

(A) (1) THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF STATE GOVERNMENT IN EACH MEMBER STATE SHALL ENFORCE THIS COMPACT AND TAKE ALL ACTIONS NECESSARY AND APPROPRIATE TO EFFECTUATE THE COMPACT'S PURPOSES AND INTENT. THE PROVISIONS OF THIS COMPACT AND THE RULES PROMULGATED HEREUNDER SHALL HAVE STANDING AS STATUTORY LAW.

(2) ALL COURTS SHALL TAKE JUDICIAL NOTICE OF THE COMPACT AND THE RULES IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING IN A MEMBER STATE PERTAINING TO THE SUBJECT MATTER OF THIS COMPACT WHICH MAY AFFECT THE POWERS, RESPONSIBILITIES OR ACTIONS OF THE COMMISSION.

(3) THE COMMISSION SHALL BE ENTITLED TO RECEIVE SERVICE OF PROCESS IN ANY SUCH PROCEEDING, AND SHALL HAVE STANDING TO INTERVENE IN SUCH A PROCEEDING FOR ALL PURPOSES. FAILURE TO PROVIDE SERVICE OF PROCESS TO THE COMMISSION SHALL RENDER A JUDGMENT OR ORDER VOID AS TO THE COMMISSION, THIS COMPACT, OR PROMULGATED RULES.

(B) (1) IF THE COMMISSION DETERMINES THAT A MEMBER STATE HAS DEFAULTED IN THE PERFORMANCE OF ITS OBLIGATIONS OR RESPONSIBILITIES UNDER THIS COMPACT OR THE PROMULGATED RULES, THE COMMISSION SHALL:

(I) PROVIDE WRITTEN NOTICE TO THE DEFAULTING STATE AND OTHER MEMBER STATES OF THE NATURE OF THE DEFAULT, THE PROPOSED MEANS OF CURING THE DEFAULT AND/OR ANY OTHER ACTION TO BE TAKEN BY THE COMMISSION; AND

(II) PROVIDE REMEDIAL TRAINING AND SPECIFIC TECHNICAL ASSISTANCE REGARDING THE DEFAULT.

(2) IF A STATE IN DEFAULT FAILS TO CURE THE DEFAULT, THE DEFAULTING STATE MAY BE TERMINATED FROM THE COMPACT UPON AN AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBER STATES, AND ALL RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THIS COMPACT MAY BE TERMINATED ON THE EFFECTIVE DATE OF TERMINATION. A CURE OF THE DEFAULT DOES NOT RELIEVE THE OFFENDING STATE OF OBLIGATIONS OR LIABILITIES INCURRED DURING THE PERIOD OF DEFAULT.

(3) TERMINATION OF MEMBERSHIP IN THE COMPACT SHALL BE IMPOSED ONLY AFTER ALL OTHER MEANS OF SECURING COMPLIANCE HAVE BEEN EXHAUSTED. NOTICE OF INTENT TO SUSPEND OR TERMINATE SHALL BE GIVEN BY THE COMMISSION TO THE GOVERNOR, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND EACH OF THE MEMBER STATES.

(4) A STATE THAT HAS BEEN TERMINATED IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF TERMINATION, INCLUDING OBLIGATIONS THAT EXTEND BEYOND THE EFFECTIVE DATE OF TERMINATION.

(5) THE COMMISSION SHALL NOT BEAR ANY COSTS RELATED TO A STATE THAT IS FOUND TO BE IN DEFAULT OR THAT HAS BEEN TERMINATED FROM THE COMPACT, UNLESS AGREED UPON IN WRITING BETWEEN THE COMMISSION AND THE DEFAULTING STATE.

(6) THE DEFAULTING STATE MAY APPEAL THE ACTION OF THE COMMISSION BY PETITIONING THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR THE FEDERAL DISTRICT WHERE THE COMMISSION HAS ITS PRINCIPAL OFFICES. THE PREVAILING MEMBER SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION, INCLUDING REASONABLE ATTORNEY'S FEES.

(C) (1) UPON REQUEST BY A MEMBER STATE, THE COMMISSION SHALL ATTEMPT TO RESOLVE DISPUTES RELATED TO THE COMPACT THAT ARISE AMONG MEMBER STATES AND BETWEEN MEMBER AND NONMEMBER STATES.

(2) THE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES AS APPROPRIATE.

(D) (1) THE COMMISSION, IN THE REASONABLE EXERCISE OF ITS DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS COMPACT.

(2) BY MAJORITY VOTE, THE COMMISSION MAY INITIATE LEGAL ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR THE FEDERAL DISTRICT WHERE THE COMMISSION HAS ITS PRINCIPAL OFFICES AGAINST A MEMBER STATE IN DEFAULT TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THE COMPACT AND ITS PROMULGATED RULES AND BYLAWS. THE RELIEF SOUGHT MAY INCLUDE BOTH INJUNCTIVE RELIEF AND DAMAGES. IN THE EVENT JUDICIAL ENFORCEMENT IS NECESSARY, THE PREVAILING MEMBER SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION, INCLUDING REASONABLE ATTORNEY'S FEES.

(3) THE REMEDIES HEREIN SHALL NOT BE THE EXCLUSIVE REMEDIES OF THE COMMISSION. THE COMMISSION MAY PURSUE ANY OTHER REMEDIES AVAILABLE UNDER FEDERAL OR STATE LAW.

SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

(A) THE COMPACT SHALL COME INTO EFFECT ON THE DATE ON WHICH THE COMPACT STATUTE IS ENACTED INTO LAW IN THE TENTH MEMBER STATE. THE PROVISIONS, WHICH BECOME EFFECTIVE AT THAT TIME, SHALL BE LIMITED TO THE POWERS GRANTED TO THE COMMISSION RELATING TO ASSEMBLY AND THE PROMULGATION OF RULES. THEREAFTER, THE COMMISSION SHALL MEET AND EXERCISE RULEMAKING POWERS NECESSARY TO THE IMPLEMENTATION AND ADMINISTRATION OF THE COMPACT.

(B) ANY STATE THAT JOINS THE COMPACT SUBSEQUENT TO THE COMMISSION'S INITIAL ADOPTION OF THE RULES SHALL BE SUBJECT TO THE RULES AS THEY EXIST ON THE DATE ON WHICH THE COMPACT BECOMES LAW IN THAT STATE. ANY RULE THAT HAS BEEN PREVIOUSLY ADOPTED BY THE COMMISSION SHALL HAVE THE FULL FORCE AND EFFECT OF LAW ON THE DAY THE COMPACT BECOMES LAW IN THAT STATE.

(C) ANY MEMBER STATE MAY WITHDRAW FROM THIS COMPACT BY ENACTING A STATUTE REPEALING THE SAME.

(1) A MEMBER STATE'S WITHDRAWAL SHALL NOT TAKE EFFECT UNTIL 6 MONTHS AFTER ENACTMENT OF THE REPEALING STATUTE.

(2) WITHDRAWAL SHALL NOT AFFECT THE CONTINUING REQUIREMENT OF THE WITHDRAWING STATE'S PHYSICAL THERAPY LICENSING BOARD TO COMPLY WITH THE INVESTIGATIVE AND ADVERSE ACTION REPORTING REQUIREMENTS OF THIS ACT PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL.

(D) NOTHING CONTAINED IN THIS COMPACT SHALL BE CONSTRUED TO INVALIDATE OR PREVENT ANY PHYSICAL THERAPY LICENSURE AGREEMENT OR OTHER COOPERATIVE ARRANGEMENT BETWEEN A MEMBER STATE AND A NON–MEMBER STATE THAT DOES NOT CONFLICT WITH THE PROVISIONS OF THIS COMPACT.

(E) THIS COMPACT MAY BE AMENDED BY THE MEMBER STATES. NO AMENDMENT TO THIS COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON ANY MEMBER STATE UNTIL IT IS ENACTED INTO THE LAWS OF ALL MEMBER STATES.

SECTION 12. CONSTRUCTION AND SEVERABILITY

THIS COMPACT SHALL BE LIBERALLY CONSTRUED SO AS TO EFFECTUATE THE PURPOSES THEREOF. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND IF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS COMPACT IS DECLARED TO BE CONTRARY TO THE CONSTITUTION OF ANY PARTY STATE OR OF THE UNITED STATES OR THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE SHALL NOT BE AFFECTED THEREBY. IF THIS COMPACT SHALL BE HELD CONTRARY TO THE CONSTITUTION OF ANY PARTY STATE, THE COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE REMAINING PARTY STATES AND IN FULL FORCE AND EFFECT AS TO THE PARTY STATE AFFECTED AS TO ALL SEVERABLE MATTERS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 694 – *Commercial Law – Credit Card Processors – Merchant Processing Agreements*.

This bill prohibits a credit card processor from 1) assessing or charging a fee, fine, or penalty of more than $500 if a business entity cancels a "merchant processing agreement" before the expiration of the initial term; or 2) assessing a fee, fine, or penalty if a business entity terminates the merchant processing agreement after the expiration of the initial term unless the parties enter into a separate renewal agreement.

This bill requires a merchant processing agreement to disclose specified information, and authorizes the Commissioner of Financial Regulation to investigate any complaints received.

House Bill 777, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 694.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 694

AN ACT concerning

Commercial Law – Credit Card Processors – ~~Service~~ Merchant Processing Agreements

FOR the purpose of ~~requiring~~ prohibiting a credit card processor ~~to send a summary of a certain services agreement to certain businesses; requiring a business to acknowledge a certain services agreement by signing, dating, and returning a copy of the summary of the services agreement to a certain credit card processor before entering into a services agreement with the credit card processor~~ from assessing or charging certain fees under certain circumstances; requiring ~~the summary~~ a merchant processing agreement to include certain information; requiring ~~a credit card processor to provide a certain notice regarding a services agreement renewal before a certain date; requiring the notice to disclose certain information~~ that certain information be provided in a certain manner in the merchant processing agreement; authorizing the Commissioner of Financial Regulation to take certain actions; ~~establishing certain civil penalties for a violation of this Act;~~ providing for the application of this Act; defining certain terms; and generally relating to credit card processors and ~~service~~ merchant processing agreements.

BY adding to
Article – Commercial Law
Section 12–1401 through ~~12–1405~~ 12–1404 to be under the new subtitle "Subtitle 14. Credit Card Processors"
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

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

Article – Commercial Law

SUBTITLE 14. CREDIT CARD PROCESSORS.

12–1401.

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

(B) (1) "CREDIT CARD PROCESSOR" MEANS A PERSON THAT PROCESSES CREDIT CARD OR ELECTRONIC COMMERCE TRANSACTIONS ON BEHALF OF A BUSINESS ENTITY FOR A FEE.

(2) "CREDIT CARD PROCESSOR" INCLUDES:

(I) A MERCHANT SERVICES PROVIDER;

(II) A FINANCIAL INSTITUTION;

(III) AN INDEPENDENT SALES ORGANIZATION; AND

(IV) ANY SUBSIDIARY OR AFFILIATE OF AN ENTITY LISTED IN ITEMS (I) THROUGH (III) OF THIS PARAGRAPH.

(C) "~~SERVICES~~ MERCHANT PROCESSING AGREEMENT" MEANS A CONTRACT BETWEEN A CREDIT CARD PROCESSOR AND A BUSINESS ENTITY UNDER WHICH THE BUSINESS ENTITY AGREES TO PAY THE CREDIT CARD PROCESSOR FOR PROCESSING CREDIT CARD OR ELECTRONIC COMMERCE TRANSACTIONS ON BEHALF OF THE BUSINESS ENTITY.

12–1402.

THIS SUBTITLE DOES NOT APPLY TO A ~~SERVICES~~ MERCHANT PROCESSING AGREEMENT BETWEEN A CREDIT CARD PROCESSOR AND A BUSINESS ENTITY ~~THAT~~:

(1) THAT MAY BE TERMINATED WITHOUT ASSESSMENT OF FEES, FINES, PENALTIES, OR LIQUIDATED DAMAGES; OR

(2) IF AT THE TIME OF ENTRY INTO THE MERCHANT PROCESSING AGREEMENT, THE BUSINESS ENTITY EMPLOYS 50 OR MORE EMPLOYEES OR REASONABLY ESTIMATES THAT IT WILL GENERATE MORE THAN $2,000,000 IN CREDIT CARD OR ELECTRONIC COMMERCE TRANSACTIONS EACH YEAR.

12–1403.

(A) ~~(1) A CREDIT CARD PROCESSOR SHALL SEND TO EACH BUSINESS WITH WHOM IT HAS, OR INTENDS TO HAVE, A SERVICES AGREEMENT A SUMMARY OF THE SERVICES AGREEMENT.~~

~~(2) BEFORE ENTERING INTO A SERVICES AGREEMENT WITH A CREDIT CARD PROCESSOR, THE BUSINESS SHALL ACKNOWLEDGE THE SERVICES AGREEMENT BY SIGNING, DATING, AND RETURNING A COPY OF THE SUMMARY OF THE SERVICES AGREEMENT TO THE CREDIT CARD PROCESSOR~~ IF A BUSINESS

ENTITY CANCELS A MERCHANT PROCESSING AGREEMENT BEFORE THE EXPIRATION OF THE INITIAL TERM AGREED ON BY THE CREDIT CARD PROCESSOR AND THE BUSINESS ENTITY, THE CREDIT CARD PROCESSOR MAY NOT ASSESS OR CHARGE A FEE, FINE, OR PENALTY THAT EXCEEDS $500.

(B) ~~THE SUMMARY REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:~~

~~(1) THE INTEREST RATE AUTHORIZED UNDER THE SERVICES AGREEMENT;~~

~~(2) THE AMOUNT AND PURPOSE OF EACH FEE, FINE, OR PENALTY THAT THE CREDIT CARD PROCESSOR MAY CHARGE OR ASSESS UNDER THE SERVICES AGREEMENT;~~

~~(3) THE EXPIRATION DATE OF THE SERVICES AGREEMENT;~~

~~(4) THE SERVICES AGREEMENT RENEWAL DATE; AND~~

~~(5) THE NAME, TELEPHONE NUMBER, MAILING ADDRESS, AND E–MAIL ADDRESS OF AN AUTHORIZED REPRESENTATIVE OF THE CREDIT CARD PROCESSOR~~ **IF A BUSINESS ENTITY TERMINATES THE MERCHANT PROCESSING AGREEMENT AFTER THE EXPIRATION OF THE INITIAL TERM AGREED ON BY A CREDIT CARD PROCESSOR AND A BUSINESS ENTITY, THE CREDIT CARD PROCESSOR MAY NOT ASSESS A FEE, FINE, OR PENALTY, UNLESS A CREDIT CARD PROCESSOR AND A BUSINESS ENTITY HAVE ENTERED INTO A SEPARATE RENEWAL MERCHANT PROCESSING AGREEMENT.**

(C) ~~(1) AT LEAST 90 DAYS BEFORE A BUSINESS ENTITY MUST CANCEL A SERVICES AGREEMENT TO PREVENT AUTOMATIC RENEWAL OF THE AGREEMENT, A CREDIT CARD PROCESSOR SHALL PROVIDE WRITTEN NOTICE TO THE BUSINESS ENTITY THAT THE SERVICES AGREEMENT WILL AUTOMATICALLY RENEW.~~

~~(2) THE REQUIRED NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL DISCLOSE:~~

~~(I) THAT THE SERVICES AGREEMENT WILL AUTOMATICALLY RENEW UNLESS THE BUSINESS ENTITY CANCELS THE AGREEMENT;~~

~~(II) THE DATE BY WHICH THE BUSINESS ENTITY MUST CANCEL THE SERVICES AGREEMENT TO PREVENT THE AGREEMENT FROM RENEWING;~~

~~(III) PROCEDURES FOR CANCELING THE SERVICES AGREEMENT; AND~~

~~(IV) THAT THE SERVICES AGREEMENT HAS CHANGED, IF APPLICABLE~~ **SUBJECT TO SUBSECTION (D) OF THIS SECTION, A MERCHANT PROCESSING AGREEMENT SHALL DISCLOSE CLEARLY AND CONSPICUOUSLY IN BOLD, 12 POINT FONT THE FOLLOWING INFORMATION:**

(1) THE AMOUNT OF ANY EARLY TERMINATION FEE, FINE, PENALTY, OR LIQUIDATED DAMAGES THAT MAY BE ASSESSED BY THE CREDIT CARD PROCESSOR FOR TERMINATION OF A MERCHANT PROCESSING AGREEMENT BEFORE THE EXPIRATION OF THE INITIAL TERM;

(2) THE EXPIRATION DATE OF THE MERCHANT PROCESSING AGREEMENT;

(3) THE RENEWAL DATE OF THE MERCHANT PROCESSING AGREEMENT; AND

(4) THE CUSTOMER SERVICE CONTACT INFORMATION OF THE CREDIT CARD PROCESSOR, INCLUDING TELEPHONE NUMBER, MAILING ADDRESS, AND E–MAIL ADDRESS.

(D) THE INFORMATION REQUIRED UNDER SUBSECTION (C) OF THIS SECTION SHALL BE:

(1) PROVIDED ON THE SIGNATURE PAGE OF A MERCHANT ~~SERVICES~~ *PROCESSING* AGREEMENT; AND

(2) INITIALED SEPARATELY BY THE BUSINESS ENTITY.

(E) THE CREDIT CARD PROCESSOR SHALL PROVIDE A COPY OF THE MERCHANT PROCESSING AGREEMENT IN ELECTRONIC OR PAPER FORM TO THE BUSINESS ENTITY AT THE TIME THE BUSINESS ENTITY SIGNS THE MERCHANT PROCESSING AGREEMENT.

12–1404.

IF A COMPLAINT ABOUT A VIOLATION OF § 12–1403 OF THIS SUBTITLE IS FILED WITH THE COMMISSIONER OF FINANCIAL REGULATION, THE COMMISSIONER MAY INVESTIGATE THE COMPLAINT AND USE ANY OF THE INVESTIGATIVE AND ENFORCEMENT POWERS PROVIDED UNDER TITLE 2, SUBTITLE 1 OF THE FINANCIAL INSTITUTIONS ARTICLE.

~~**12–1405.**~~

~~(A) A PERSON THAT VIOLATES § 12–1403 OF THIS SUBTITLE IS SUBJECT TO A FINE NOT EXCEEDING $100 FOR EACH VIOLATION.~~

~~(B) A PERSON THAT HAS BEEN FOUND TO HAVE VIOLATED THIS SUBTITLE AND THAT SUBSEQUENTLY REPEATS THE SAME VIOLATION IS SUBJECT TO A FINE OF NOT MORE THAN $500 FOR EACH SUBSEQUENT VIOLATION.~~

~~(C) THE FINES PROVIDED FOR IN SUBSECTIONS (A) AND (B) OF THIS SECTION ARE CIVIL PENALTIES AND ARE RECOVERABLE BY THE COMMISSIONER OF FINANCIAL REGULATION IN A CIVIL ACTION OR AN ADMINISTRATIVE CEASE AND DESIST ACTION UNDER § 2–115 OF THE FINANCIAL INSTITUTIONS ARTICLE.~~

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 merchant processing agreement entered into or renewed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 695 – *Maryland Commercial Receivership Act*.

This bill establishes a comprehensive process for the appointment, powers, and duties of a receiver for commercial real estate and related personal property.

House Bill 1065, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 695.

Sincerely,

Lawrence J. Hogan, Jr.

Governor

Senate Bill 695

AN ACT concerning

Maryland Commercial Receivership Act

FOR the purpose of authorizing a court to appoint a receiver under certain circumstances; providing that a certain mortgagee is entitled to appointment of a receiver; requiring a court to appoint a receiver under certain circumstances; authorizing a court to condition appointment of a receiver on the giving of certain security under certain circumstances; authorizing a court to appoint a certain person as an ancillary receiver for certain property; specifying certain requirements an ancillary receiver must meet; authorizing a court to issue a certain order; establishing the rights, powers, and duties of an ancillary receiver; prohibiting a court from appointing a certain person as a receiver; providing that a person is disqualified from appointment as a receiver under certain circumstances; authorizing a certain person to nominate a person to serve as receiver; specifying that a court is not bound by a certain nomination; authorizing a court to determine whether or not a receiver must post a certain bond or security with the court; providing that a certain bond may meet certain requirements; establishing the authority of a court that appoints a receiver under this Act; establishing the powers, duties, and rights of a receiver; requiring a certain claim submitted by a creditor to meet certain requirements; providing for the effectiveness of a certain assignment of a certain claim; requiring the court to respond to a certain claim and authorizing the court to order certain actions; requiring that a certain distribution of receivership property be made in a certain manner; prohibiting a receiver from engaging certain professionals without court approval; requiring a certain request to disclose certain information to the court; providing that a certain person is not disqualified from certain engagement under certain circumstances; authorizing a court to disqualify a certain person if the court makes a certain determination about a conflict of interest; providing that this Act does not prevent a receiver from serving in the receivership in a certain capacity; requiring a certain person or a receiver to file a certain itemized statement with the court; requiring a court to set a certain hearing under certain circumstances; authorizing a court to order a certain sale; providing that a certain transfer of property may be free and clear of a certain lien or other interest in the property under certain circumstances; providing that a certain lien or other interest attaches to certain proceeds in a certain manner; authorizing a certain purchase of property by a creditor under certain circumstances; providing that a certain reversal or modification of a certain order does not have certain effects; authorizing a court to condition assumption or rejection of a certain contract on certain terms and conditions; providing that a certain performance of a certain contract does not constitute a certain assumption or agreement or prevent a certain action; authorizing a court to order a receiver to assume or reject a certain contract under certain circumstances; providing that a certain obligation or liability must be treated in a certain manner; providing that a certain rejection of a certain contract shall be

effective at a certain time and treated in a certain manner; providing that a certain right to possess or use property shall terminate on rejection of a certain contract; requiring a certain claim for damages to be submitted before the later of the time for submitting a certain claim or a certain number of days after entry of a certain order; providing for the effects of a certain rejection of a certain contract; prohibiting a receiver from assuming or assigning a certain contract under certain circumstances; authorizing a receiver to assign a certain contract under certain circumstances; prohibiting a receiver from rejecting a certain lease under certain circumstances; providing that a certain entry of an order appointing a receiver shall operate as a stay of a certain act; authorizing a court to order a certain stay under certain circumstances; prohibiting a court from ordering a certain stay under certain circumstances; providing that certain matters are not stayed under certain circumstances; authorizing a certain person to apply to the court for relief from a stay under certain circumstances; providing for the termination of a certain stay under certain circumstances; authorizing a court to void a certain act and take certain actions against a person who violates a certain stay under certain circumstances; requiring a person who has certain possession, custody, or control of certain property to turn the property over to the receiver under certain circumstances; authorizing a certain creditor to retain possession, custody, or control of certain property under certain circumstances; providing that a certain person may not satisfy a certain debt in a certain manner; authorizing a court to sanction as civil contempt a certain failure; requiring a certain owner to take certain actions under certain circumstances; providing for the application of certain provisions of this Act regarding the duties of a certain owner; authorizing a court to take certain actions after a certain failure to perform a certain duty; providing that certain property is subject to a certain security agreement; providing that a certain request or application by a mortgagee does not have certain effects; requiring that a certain assignee for the benefit of creditors be treated as a certain receiver; requiring certain property to be treated in a certain manner; authorizing the court to issue a certain order under certain circumstances; requiring a certain motion to be served in a certain manner and on certain persons; ~~authorizing a certain party to file a certain appeal under certain circumstances and in a certain manner~~ authorizing a court to direct an entry of a final order under certain circumstances; establishing certain reporting requirements; authorizing a court to award certain fees and expenses and order a certain person to pay certain fees and expenses; providing that a receiver is entitled to certain defenses and immunities; requiring a person to receive certain approval from a court before taking certain actions; authorizing a court to remove a receiver under certain circumstances; requiring a court to replace a certain receiver; providing that a receiver is discharged under certain circumstances; requiring a receivership to terminate automatically under certain circumstances; authorizing a court to discharge a receiver and terminate the court's administration of the receivership under certain circumstances; repealing certain provisions of law regarding an assignee for the benefit of creditors; establishing a certain short title; providing for the application of this Act; defining certain terms; and generally relating to the Maryland Commercial Receivership Act.

BY repealing and reenacting, without amendments,

Article – Commercial Law
Section 15–101 and 15–102
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY repealing
Article – Commercial Law
Section 15–103
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY adding to
Article – Commercial Law
Section 24–101 through 24–801 to be under the new title "Title 24. Maryland Commercial Receivership Act"
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 3–416
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Commercial Law

15–101.

(a) (1) For purposes of this section the following words, as used in federal bankruptcy laws, have the meanings indicated.

(2) "The case" means the assignment for the benefit of creditors proceeding or the receivership proceeding, whichever is applicable;

(3) "Commencement of the case" means commencement of the assignment for the benefit of creditors proceeding or receivership proceeding;

(4) "The court" means the court in which the assignment for the benefit of creditors proceeding or receivership proceeding is filed;

(5) "Date of the filing of the petition" means the date of the commencement of the assignment for the benefit of creditors proceeding or receivership proceeding;

(6) "Debtor" means the insolvent as that term is defined in subsection (b) of this section;

(7) (i) "The estate" means the estate that is created when an assignee for the benefit of creditors or a receiver of the assets of an insolvent is appointed;

(ii) "The estate" includes all property, assets, interests, and rights with respect to which the assignee or receiver is acting as a fiduciary;

(8) "Order for relief" means the order appointing the assignee for the benefit of creditors or the receiver of the assets of an insolvent;

(9) "Petition" means the pleading filed to commence the assignment for the benefit of creditors proceeding or receivership proceeding;

(10) "Trustee" means the assignee for the benefit of creditors or receiver of the assets of an insolvent; and

(11) Other words, including "insolvent" and "insider", when used in federal bankruptcy law shall have the meanings set forth in the definition section of the federal bankruptcy law or as interpreted by the federal courts applying federal bankruptcy law.

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

(2) "Insolvent" means the assignor in an assignment for the benefit of creditors proceeding or the insolvent with respect to whose affairs a receiver has been appointed.

(3) "Judicial lien" means a lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding.

(c) Any assignee for the benefit of creditors or receiver of the assets of an insolvent shall be vested with full title to all the property and assets of the insolvent and with full power to enforce obligations or liabilities in favor of the insolvent.

(d) All preferences, payments, transfers, and obligations made or suffered by the insolvent which are fraudulent, void, or voidable under any act of the Congress of the United States relating to bankruptcy are fraudulent, void, or voidable, respectively, under this subtitle to the same extent that they would be fraudulent, void, or voidable under applicable federal bankruptcy law.

(e) Any assignee for the benefit of creditors or receiver of the assets of an insolvent may set aside any:

(1) Fraudulent conveyance as defined in Subtitle 2 of this title; and

(2) Preference, payment, transfer, or obligation that is fraudulent, void, or voidable under subsection (d) of this section.

(f) Any assignee for the benefit of creditors or receiver of the assets of an insolvent has, as of the date of the commencement of the proceeding, the rights:

(1) Of a creditor that extends credit to the insolvent at the time of the commencement of the proceeding and that obtains, at such time and with respect to such credit, a judicial lien on all property on which a creditor on a simple contract could have obtained such a judicial lien, whether or not such a creditor exists;

(2) Of a creditor that extends credit to the insolvent at the time of the commencement of the proceeding and obtains, at such time and with respect to such credit, an execution against the insolvent that is returned unsatisfied at such time, whether or not such a creditor exists;

(3) Of a bona fide purchaser of real property, other than fixtures, from the insolvent, against whom applicable law permits such transfer to be perfected, that obtains the status of a bona fide purchaser and has perfected such transfer at the time of the commencement of the proceeding, whether or not such a purchaser exists; and

(4) To avoid any preference, payment, transfer, or obligation that is fraudulent, void, or voidable under subsection (d) of this section.

15–102.

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

(2) "Person" includes an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(3) "Wages" means all remuneration paid to any employee for his employment, including the cash value of all remuneration paid in any medium other than cash.

(b) The property of an insolvent who makes an assignment for the benefit of creditors or who has his property taken by a receiver under a decree of a court in an insolvency proceeding shall be applied to the following, in the order stated:

(1) Costs and expenses of the administration of the trust or insolvency proceeding which the court approves;

(2) Wages of an employee and health, welfare, and pension contributions contracted for in place of wages, earned not more than three months before the assignment or institution of the insolvency proceeding;

(3) Lien claims of the State, a county, municipal corporation, or other political subdivision of the State perfected or recorded before the assignment or institution of the insolvency proceeding, and claims of persons having judicial liens on property of the insolvent recorded more than four months before the assignment or institution of the insolvency proceeding;

(4) Unsecured claims of individuals, to the extent of $900 for each individual, arising from the deposit, before the commencement of the case, of money in connection with the purchase, lease, or rental of property, or the purchase of services, for the personal, family, or household use of the individuals, that were not delivered or provided;

(5) Rent for any interest in real property in the State due not more than three months before the execution of the assignment or institution of the insolvency proceeding;

(6) Charges in connection with the transportation of goods advanced by one common carrier to another on behalf of a consignor or consignee not more than three months before the assignment or institution of the insolvency proceeding;

(7) Taxes not included in paragraph (3) of this subsection; and

(8) Claims of unsecured creditors.

(c) For the purpose of subsection (b)(1) of this section, the landlord's claim for rent for any interest in real property in this State due not more than three months before the execution of the assignment or institution of the insolvency proceeding shall be considered a perfected lien on the distrainable property of the insolvent to the same extent as if distress for rent was levied by the landlord before the assignment or the institution of the insolvency proceeding.

[15–103.

(a) Title to property may not pass to an assignee for the benefit of creditors until the assignee files a bond as required by the Maryland Rules. If the assignee makes a sale before filing a bond, the sale is not valid and does not pass title to the property sold.

(b) If all other legal requirements were met, a conveyance made by an assignee for the benefit of creditors when two sureties on the bond were required is valid even though a bond was given with only one surety.

(c) A sale by an assignee for the benefit of creditors is not valid unless ratified by the court.**]**

TITLE 24. MARYLAND COMMERCIAL RECEIVERSHIP ACT.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

24–101.

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

(B) "AFFILIATE" MEANS:

(1) WITH RESPECT TO AN INDIVIDUAL:

(I) THE SPOUSE OF THE INDIVIDUAL;

(II) A LINEAL ANCESTOR OR DESCENDANT, WHETHER BY BLOOD OR ADOPTION, OF:

1. THE INDIVIDUAL; OR

2. THE SPOUSE OF THE INDIVIDUAL;

(III) THE SPOUSE OF AN ANCESTOR OR A DESCENDANT DESCRIBED IN ITEM (II) OF THIS ITEM;

(IV) A SIBLING, AN AUNT, AN UNCLE, A GREAT AUNT, A GREAT UNCLE, A FIRST COUSIN, A NIECE, A NEPHEW, A GRANDNIECE, OR A GRANDNEPHEW OF THE INDIVIDUAL, WHETHER RELATED BY THE WHOLE OR THE HALF BLOOD OR ADOPTION, OR A SPOUSE OF ANY OF THE LISTED INDIVIDUALS; OR

(V) ANY OTHER INDIVIDUAL OCCUPYING THE RESIDENCE OF THE INDIVIDUAL; OR

(2) WITH RESPECT TO A PERSON OTHER THAN AN INDIVIDUAL:

(I) ANOTHER PERSON THAT, DIRECTLY OR INDIRECTLY, CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH THE PERSON;

(II) AN OFFICER, A DIRECTOR, A MANAGER, A MEMBER, A PARTNER, AN EMPLOYEE, OR A TRUSTEE OR ANY OTHER FIDUCIARY OF THE PERSON; OR

(III) A SPOUSE OF, OR AN INDIVIDUAL OCCUPYING THE RESIDENCE OF, AN INDIVIDUAL DESCRIBED IN ITEM (I) OR (II) OF THIS ITEM.

(C) "COUNTERPARTY" MEANS ANY OTHER PARTY TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE WITH THE OWNER.

(D) "COURT" MEANS THE COURT IN WHICH A RECEIVERSHIP IS FILED.

(E) "EXECUTORY CONTRACT" MEANS A CONTRACT, INCLUDING A LEASE, UNDER WHICH:

(1) THE OBLIGATIONS OF ALL PARTIES ARE NOT FULLY PERFORMED; AND

(2) THE FAILURE OF A PARTY TO COMPLETE PERFORMANCE OF THE PARTY'S OBLIGATIONS WOULD CONSTITUTE A MATERIAL BREACH.

(F) "GOVERNMENTAL UNIT" MEANS AN OFFICE, A DEPARTMENT, A DIVISION, A BUREAU, A BOARD, A COMMISSION, OR ANY OTHER UNIT OF THE STATE OR SUBDIVISION OF THE STATE.

(G) "INTELLECTUAL PROPERTY" MEANS, TO THE EXTENT PROTECTED BY APPLICABLE LAW:

(1) A TRADE SECRET;

(2) AN INVENTION, PROCESS, DESIGN, OR PLANT;

(3) A PATENT APPLICATION;

(4) A PLANT VARIETY;

(5) A WORK OF AUTHORSHIP;

(6) A MASK WORK; OR

(7) A TRADEMARK OR SERVICE MARK.

(H) "LIEN" MEANS AN INTEREST IN PROPERTY THAT SECURES PAYMENT OR PERFORMANCE OF AN OBLIGATION.

(I) "MASTER SERVICE LIST" MEANS THE LIST A RECEIVER IS REQUIRED TO FILE WITH THE COURT UNDER § 24–501(C) OF THIS TITLE.

(J) (1) "MORTGAGE" MEANS A RECORD, BY ANY TITLE, THAT CREATES OR PROVIDES FOR A CONSENSUAL LIEN ON REAL PROPERTY OR RENT, EVEN IF THE RECORD ALSO CREATES OR PROVIDES FOR A LIEN ON PERSONAL PROPERTY.

(2) "MORTGAGE" INCLUDES:

(I) AN INDEMNITY MORTGAGE;

(II) A DEED OF TRUST; AND

(III) AN INDEMNITY DEED OF TRUST.

(K) "MORTGAGEE" MEANS A PERSON ENTITLED TO ENFORCE AN OBLIGATION SECURED BY A MORTGAGE.

(L) "MORTGAGOR" MEANS A PERSON THAT GRANTS A MORTGAGE OR A SUCCESSOR IN OWNERSHIP OF THE REAL PROPERTY DESCRIBED IN THE MORTGAGE.

(M) "OWNER" MEANS THE PERSON FOR WHOSE PROPERTY OR BUSINESS A RECEIVER IS APPOINTED.

(N) "PERSON" INCLUDES AN INDIVIDUAL, AN ESTATE, A BUSINESS, A NONPROFIT ENTITY, A PUBLIC CORPORATION, A GOVERNMENTAL UNIT, AN INSTRUMENTALITY, AND ANY OTHER LEGAL ENTITY.

(O) "PROCEEDS" MEANS:

(1) WHATEVER IS ACQUIRED ON THE SALE, LEASE, LICENSE, EXCHANGE, OR OTHER DISPOSITION OF RECEIVERSHIP PROPERTY;

(2) WHATEVER IS COLLECTED ON, OR DISTRIBUTED ON ACCOUNT OF, RECEIVERSHIP PROPERTY;

(3) RIGHTS ARISING OUT OF RECEIVERSHIP PROPERTY;

(4) TO THE EXTENT OF THE VALUE OF RECEIVERSHIP PROPERTY, CLAIMS ARISING OUT OF THE LOSS, NONCONFORMITY, OR INTERFERENCE WITH THE USE OF, DEFECTS OR INFRINGEMENT OF RIGHTS IN, OR DAMAGE TO THE PROPERTY; OR

(5) TO THE EXTENT OF THE VALUE OF RECEIVERSHIP PROPERTY AND TO THE EXTENT PAYABLE TO THE OWNER OR MORTGAGEE, INSURANCE PAYABLE BY REASON OF:

(I) THE LOSS OR NONCONFORMITY OF THE PROPERTY;

(II) DEFECTS OR INFRINGEMENT OF RIGHTS IN THE PROPERTY; OR

(III) DAMAGE TO THE PROPERTY.

(P) (1) "PROPERTY" MEANS ALL OF A PERSON'S RIGHT, TITLE, AND INTEREST, BOTH LEGAL AND EQUITABLE, IN REAL AND PERSONAL PROPERTY, TANGIBLE AND INTANGIBLE, WHEREVER LOCATED AND HOWEVER ACQUIRED.

(2) "PROPERTY" INCLUDES PROCEEDS, PRODUCTS, OFFSPRING, RENT, AND PROFITS OF OR FROM THE PROPERTY.

(3) "PROPERTY" DOES NOT INCLUDE:

(I) ANY POWER THAT THE OWNER MAY EXERCISE SOLELY FOR THE BENEFIT OF ANOTHER PERSON; OR

(II) PROPERTY IMPRESSED WITH A TRUST, EXCEPT TO THE EXTENT THAT THE OWNER HAS A RESIDUAL INTEREST.

(Q) "RECEIVER" MEANS A PERSON APPOINTED BY THE COURT UNDER § 24–201(A) OF THIS TITLE, AND SUBJECT TO THE COURT'S AUTHORITY, TO TAKE POSSESSION OF, MANAGE, AND, IF AUTHORIZED BY THIS TITLE OR COURT ORDER, TRANSFER, SELL, LEASE, LICENSE, EXCHANGE, COLLECT, OR OTHERWISE DISPOSE OF RECEIVERSHIP PROPERTY.

(R) "RECEIVERSHIP" MEANS A PROCEEDING IN WHICH A RECEIVER IS APPOINTED.

(S) (1) "RECEIVERSHIP PROPERTY" MEANS THE PROPERTY OR BUSINESS OF AN OWNER THAT IS DESCRIBED IN THE ORDER APPOINTING A RECEIVER OR A SUBSEQUENT ORDER.

(2) "RECEIVERSHIP PROPERTY" INCLUDES ANY PRODUCTS, OFFSPRING, PROFITS, AND PROCEEDS OF THE PROPERTY.

(T) "RECORD" MEANS INFORMATION THAT IS:

(1) (I) WRITTEN ON A TANGIBLE MEDIUM; OR

(II) STORED ON AN ELECTRONIC OR ANY OTHER MEDIUM; AND

(2) RETRIEVABLE IN PERCEIVABLE FORM.

(U) "RENT" MEANS:

(1) A SUM PAYABLE FOR THE RIGHT TO POSSESS OR OCCUPY, OR FOR THE ACTUAL POSSESSION OR OCCUPATION OF, REAL PROPERTY OF ANOTHER PERSON;

(2) A SUM PAYABLE TO A MORTGAGOR OR AN OWNER UNDER A POLICY OF RENTAL–INTERRUPTION INSURANCE COVERING REAL PROPERTY;

(3) A CLAIM ARISING OUT OF A DEFAULT IN THE PAYMENT OF A SUM PAYABLE FOR THE RIGHT TO POSSESS OR OCCUPY REAL PROPERTY OF ANOTHER PERSON;

(4) A SUM PAYABLE TO TERMINATE AN AGREEMENT TO POSSESS OR OCCUPY REAL PROPERTY OF ANOTHER PERSON;

(5) A SUM PAYABLE TO A MORTGAGOR OR AN OWNER FOR PAYMENT OR REIMBURSEMENT OF EXPENSES INCURRED IN OWNING, OPERATING, AND MAINTAINING REAL PROPERTY, OR CONSTRUCTING OR INSTALLING IMPROVEMENTS ON REAL PROPERTY; OR

(6) ANOTHER SUM PAYABLE UNDER AN AGREEMENT RELATING TO THE REAL PROPERTY OF ANOTHER PERSON THAT CONSTITUTES RENT UNDER STATE LAW.

(V) "SECURED OBLIGATION" MEANS AN OBLIGATION THE PAYMENT OR PERFORMANCE OF WHICH IS SECURED BY A SECURITY AGREEMENT.

(W) "SECURITY AGREEMENT" MEANS AN AGREEMENT THAT CREATES OR PROVIDES FOR A LIEN ON REAL OR PERSONAL PROPERTY.

(X) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR ADOPT A RECORD:

(1) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

(2) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SOUND, A SYMBOL, OR A PROCESS.

(Y) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, "STATE" MEANS:

(I) A STATE, POSSESSION, TERRITORY, OR COMMONWEALTH OF THE UNITED STATES; OR

(II) THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

(2) WHEN CAPITALIZED, "STATE" MEANS MARYLAND.

(Z) "TIMESHARE INTEREST" MEANS AN INTEREST THAT:

(1) HAS A DURATION OF MORE THAN 3 YEARS;

(2) GRANTS THE HOLDER OF THE INTEREST THE RIGHT TO USE AND OCCUPY AN ACCOMMODATION, A FACILITY, OR A RECREATIONAL SITE, WHETHER IMPROVED OR NOT; AND

(3) ENDURES FOR A SPECIFIC PERIOD THAT IS LESS THAN A FULL YEAR DURING ANY GIVEN YEAR.

24–102.

UNLESS DISPLACED BY A PARTICULAR PROVISION OF THIS TITLE, THE PRINCIPLES OF LAW AND EQUITY SUPPLEMENT THIS TITLE.

24–103.

(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OR (C) OF THIS SECTION, THIS TITLE APPLIES TO:

(1) A RECEIVERSHIP FOR AN INTEREST IN REAL PROPERTY AND ANY PERSONAL PROPERTY THAT IS:

(I) RELATED TO THE REAL PROPERTY; OR

(II) USED IN OPERATING THE REAL PROPERTY;

(2) A RECEIVERSHIP ESTABLISHED UNDER § 3–411 OR § 3–415 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; OR

(3) ANY OTHER RECEIVERSHIP IN WHICH A RECEIVER IS APPOINTED TO TAKE POSSESSION AND CONTROL OF ALL OR SUBSTANTIALLY ALL OF A PERSON'S PROPERTY WITH AUTHORITY TO LIQUIDATE THE PROPERTY AND, IN THE CASE OF A BUSINESS FOR WHICH THE RECEIVER IS APPOINTED, WIND UP THE AFFAIRS OF THE BUSINESS.

(B) THIS TITLE DOES NOT APPLY TO A RECEIVERSHIP FOR AN INTEREST IN REAL PROPERTY IMPROVED BY ONE TO FOUR DWELLING UNITS UNLESS:

(1) THE INTEREST IS USED FOR AGRICULTURAL, COMMERCIAL, INDUSTRIAL, OR MINERAL EXTRACTION PURPOSES, OTHER THAN INCIDENTAL USES BY AN OWNER OCCUPYING THE PROPERTY AS THE OWNER'S PRIMARY RESIDENCE;

(2) THE INTEREST SECURES AN OBLIGATION INCURRED AT A TIME WHEN THE PROPERTY WAS USED OR PLANNED FOR USE FOR AGRICULTURAL, COMMERCIAL, INDUSTRIAL, OR MINERAL EXTRACTION PURPOSES;

(3) THE OWNER PLANNED OR IS PLANNING TO DEVELOP THE PROPERTY INTO ONE OR MORE DWELLING UNITS TO BE SOLD OR LEASED IN THE ORDINARY COURSE OF THE OWNER'S BUSINESS; OR

(4) THE OWNER IS COLLECTING OR HAS THE RIGHT TO COLLECT RENT OR ANY OTHER INCOME FROM THE PROPERTY FROM A PERSON OTHER THAN AN AFFILIATE OF THE OWNER.

(C) THIS TITLE DOES NOT APPLY TO A RECEIVERSHIP AUTHORIZED BY A LOCAL LAW OR A STATE LAW OTHER THAN THIS TITLE IN WHICH THE RECEIVER IS A GOVERNMENTAL UNIT ~~OR,~~ A PERSON ACTING IN AN OFFICIAL CAPACITY ON BEHALF OF THE GOVERNMENTAL UNIT, OR A PERSON APPOINTED AS RECEIVER AT THE REQUEST OF THE GOVERNMENTAL UNIT, UNLESS:

(1) THE GOVERNMENTAL UNIT ~~OR,~~ THE PERSON ACTING IN AN OFFICIAL CAPACITY ON BEHALF OF THE UNIT, OR THE PERSON APPOINTED AS RECEIVER AT THE REQUEST OF THE GOVERNMENTAL UNIT ELECTS TO HAVE THE PROVISIONS OF THIS TITLE APPLY TO THE RECEIVERSHIP;

(2) A COURT, FOR GOOD CAUSE, ORDERS THAT THE PROVISIONS OF THIS TITLE APPLY TO THE RECEIVERSHIP; OR

(3) THE LAW AUTHORIZING THE RECEIVERSHIP IN WHICH THE RECEIVER IS A GOVERNMENTAL UNIT OR A PERSON ACTING IN AN OFFICIAL CAPACITY ON BEHALF OF THE GOVERNMENTAL UNIT PROVIDES THAT THIS TITLE APPLIES TO THE RECEIVERSHIP.

(D) SUBSECTION (C)(2) OF THIS SECTION DOES NOT APPLY TO A DELINQUENCY PROCEEDING INITIATED BY THE MARYLAND INSURANCE COMMISSIONER UNDER TITLE 9, SUBTITLE 2 OF THE INSURANCE ARTICLE.

SUBTITLE 2. APPOINTMENT OF RECEIVER.

24–201.

(A) A COURT MAY APPOINT A RECEIVER:

(1) BEFORE JUDGMENT, TO PROTECT A PARTY THAT DEMONSTRATES AN APPARENT RIGHT TO PROPERTY THAT IS THE SUBJECT OF THE ACTION, IF THE PROPERTY OR THE REVENUE–PRODUCING POTENTIAL OF THE PROPERTY:

(I) IS BEING SUBJECTED TO OR IS IN DANGER OF WASTE, LOSS, DISSIPATION, OR IMPAIRMENT; OR

(II) HAS BEEN OR IS ABOUT TO BE THE SUBJECT OF A FRAUDULENT CONVEYANCE VOIDABLE UNDER TITLE 15, SUBTITLE 2 OF THIS ARTICLE;

(2) AFTER JUDGMENT, TO:

(I) CARRY THE JUDGMENT INTO EFFECT; OR

(II) PRESERVE NONEXEMPT PROPERTY:

1. PENDING APPEAL; OR

2. WHEN AN EXECUTION HAS BEEN RETURNED UNSATISFIED AND THE OWNER REFUSES TO APPLY THE PROPERTY IN SATISFACTION OF THE JUDGMENT;

(3) IN AN ACTION SEEKING DISSOLUTION OF A CORPORATION UNDER § 3–411 OR § 3–415 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; OR

(4) TO A RECEIVERSHIP UNDER § 24–103(A)(3) OF THIS TITLE.

(B) (1) IN CONNECTION WITH OR ANTICIPATION OF A FORECLOSURE OR ANY OTHER ENFORCEMENT OF A MORTGAGE, A MORTGAGEE IS ENTITLED TO THE APPOINTMENT OF A RECEIVER.

(2) ON REQUEST, A COURT SHALL APPOINT A RECEIVER FOR THE MORTGAGED PROPERTY IF:

(I) THERE IS A DEFAULT UNDER THE MORTGAGE; AND

(II) 1. APPOINTMENT OF A RECEIVER IS NECESSARY TO PROTECT THE PROPERTY FROM WASTE, LOSS, TRANSFER, DISSIPATION, OR IMPAIRMENT;

2. THE MORTGAGOR AGREED IN A SIGNED RECORD, INCLUDING THE MORTGAGE OR AN ASSIGNMENT OF LEASES AND RENTS, TO THE APPOINTMENT OF A RECEIVER ON DEFAULT;

3. THE OWNER AGREED, AFTER DEFAULT AND IN A SIGNED RECORD, TO THE APPOINTMENT OF A RECEIVER;

4. THE PROPERTY AND ANY OTHER COLLATERAL HELD BY THE MORTGAGEE ARE NOT SUFFICIENT TO SATISFY THE SECURED OBLIGATION;

5. THE OWNER FAILS TO TURN OVER TO THE MORTGAGEE PROCEEDS OR RENT THE MORTGAGEE WAS ENTITLED TO COLLECT; OR

6. THE HOLDER OF A SUBORDINATE LIEN OBTAINS THE APPOINTMENT OF A RECEIVER FOR THE PROPERTY.

(C) (1) A COURT MAY CONDITION APPOINTMENT OF A RECEIVER WITHOUT PRIOR NOTICE UNDER § 24–501(B)(1) OF THIS TITLE, OR WITHOUT A PRIOR HEARING UNDER § 24–501(B)(2) OF THIS TITLE, ON THE GIVING OF SECURITY BY THE PERSON SEEKING THE APPOINTMENT FOR:

(I) THE PAYMENT OF DAMAGES;

(II) REASONABLE ATTORNEY'S FEES; OR

(III) IF THE COURT CONCLUDES THAT THE APPOINTMENT WAS NOT JUSTIFIED, COSTS INCURRED BY ANY PERSON.

(2) IF THE COURT LATER CONCLUDES THAT THE APPOINTMENT WAS JUSTIFIED, THE COURT SHALL RELEASE THE SECURITY.

24–202.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A COURT MAY APPOINT AS AN ANCILLARY RECEIVER FOR PROPERTY LOCATED IN THE STATE OR SUBJECT TO THE JURISDICTION OF THE COURT FOR WHICH A RECEIVER COULD BE APPOINTED UNDER THIS TITLE:

(1) A RECEIVER APPOINTED IN ANOTHER STATE; OR

(2) A NOMINEE OF THE RECEIVER IN THE OTHER STATE.

(B) AN ANCILLARY RECEIVER UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) BE ELIGIBLE TO SERVE AS A RECEIVER UNDER § 24–203 OF THIS SUBTITLE; AND

(2) FURTHER THE PERSON'S POSSESSION, CUSTODY, CONTROL, OR DISPOSITION OF PROPERTY SUBJECT TO THE RECEIVERSHIP IN THE OTHER STATE.

(C) A COURT MAY ISSUE AN ORDER THAT GIVES EFFECT TO AN ORDER ENTERED IN ANOTHER STATE APPOINTING OR DIRECTING A RECEIVER.

(D) UNLESS THE COURT ORDERS OTHERWISE, AN ANCILLARY RECEIVER APPOINTED UNDER SUBSECTION (A) OF THIS SECTION HAS THE RIGHTS, POWERS, AND DUTIES OF A RECEIVER APPOINTED UNDER THIS TITLE.

24–203.

(A) A COURT MAY NOT APPOINT A PERSON AS A RECEIVER UNLESS THE PERSON PROVIDES A STATEMENT UNDER PENALTY OF PERJURY THAT THE PERSON IS NOT DISQUALIFIED UNDER SUBSECTION (B) OF THIS SECTION.

(B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PERSON IS DISQUALIFIED FROM APPOINTMENT AS A RECEIVER IF THE PERSON:

(1) IS AN AFFILIATE OF A PARTY;

(2) HAS A MATERIAL FINANCIAL INTEREST IN THE OUTCOME OF THE ACTION, OTHER THAN COMPENSATION THE COURT MAY ALLOW THE RECEIVER;

(3) HAS A DEBTOR–CREDITOR RELATIONSHIP WITH A PARTY;

(4) HOLDS AN EQUITY INTEREST IN A PARTY, OTHER THAN A NONCONTROLLING INTEREST IN A PUBLICLY TRADED COMPANY;

(5) IS OR WAS A DIRECTOR, AN OFFICER, OR AN EMPLOYEE OF THE OWNER WITHIN 2 YEARS IMMEDIATELY PRECEDING THE APPOINTMENT OF THE RECEIVER;

(6) (I) HAS BEEN CONVICTED OF A FELONY OR ANY OTHER CRIME INVOLVING MORAL TURPITUDE; OR

(II) IS SUPERVISED BY OR AN EMPLOYEE OF A PERSON WHO HAS BEEN CONVICTED OF A FELONY OR ANY OTHER CRIME OF MORAL TURPITUDE;

(7) (I) HAS BEEN FOUND LIABLE IN CIVIL COURT FOR FRAUD, BREACH OF FIDUCIARY DUTY, THEFT, OR SIMILAR MISCONDUCT; OR

(II) IS CONTROLLED BY A PERSON WHO HAS BEEN FOUND LIABLE IN CIVIL COURT FOR FRAUD, BREACH OF FIDUCIARY DUTY, THEFT, OR SIMILAR MISCONDUCT; OR

(8) OTHERWISE HAS AN INTEREST MATERIALLY ADVERSE TO AN INTEREST OF A PARTY OR THE RECEIVERSHIP ESTATE, OR OF ANY CREDITOR OR EQUITY SECURITY HOLDER, BY REASON OF ANY DIRECT OR INDIRECT RELATIONSHIP TO, CONNECTION WITH, OR INTEREST IN THE OWNER.

(C) (1) A PERSON IS NOT DISQUALIFIED FROM APPOINTMENT AS A RECEIVER SOLELY BECAUSE THE PERSON:

(I) WAS APPOINTED AS A RECEIVER OF ANOTHER RECEIVERSHIP;

(II) IS OWED COMPENSATION IN AN UNRELATED MATTER INVOLVING A PARTY;

(III) WAS ENGAGED BY A PARTY IN A MATTER UNRELATED TO THE RECEIVERSHIP;

(IV) IS AN INDIVIDUAL OBLIGATED TO A PARTY ON A DEBT THAT:

1. IS NOT IN DEFAULT; AND

2. WAS INCURRED PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES; OR

(V) MAINTAINS WITH A PARTY A DEPOSIT ACCOUNT AS DEFINED IN § 9–102(A)(29) OF THIS ARTICLE.

(2) NOTWITHSTANDING SUBSECTION (B)(5) OF THIS SECTION, A PERSON WHO IS OR WAS A DIRECTOR, AN OFFICER, OR AN EMPLOYEE OF THE OWNER WITHIN 2 YEARS IMMEDIATELY PRECEDING THE APPOINTMENT OF THE RECEIVER IS NOT DISQUALIFIED FROM APPOINTMENT AS A RECEIVER IF THE COURT:

(I) APPOINTS THE PERSON AS A RECEIVER; AND

(II) DETERMINES THAT:

1. THE APPOINTMENT WOULD BE IN THE BEST INTEREST OF THE RECEIVERSHIP ESTATE; AND

2. THE PERSON IS NOT DISQUALIFIED FOR A REASON LISTED IN SUBSECTION (B)(1) THROUGH (4) OR (B)(6) THROUGH (8) OF THIS SECTION.

(D) (1) A PERSON SEEKING APPOINTMENT OF A RECEIVER MAY NOMINATE A PERSON TO SERVE AS RECEIVER.

(2) A COURT IS NOT BOUND BY A NOMINATION RECEIVED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

24–204.

(A) THE COURT MAY:

(1) REQUIRE A RECEIVER TO POST A BOND OR SECURITY WITH THE COURT;

(2) AUTHORIZE A RECEIVER TO ACT WITHOUT POSTING A BOND OR OTHER SECURITY; OR

(3) AUTHORIZE A RECEIVER TO ACT BEFORE THE RECEIVER POSTS ANY BOND REQUIRED BY THE COURT.

(B) IF A COURT REQUIRES A BOND TO BE POSTED UNDER SUBSECTION (A) OF THIS SECTION, THE BOND SHALL BE:

(1) CONDITIONED ON THE FAITHFUL DISCHARGE OF THE RECEIVER'S DUTIES;

(2) WITH ONE OR MORE SURETIES APPROVED BY THE COURT;

(3) IN AN AMOUNT THE COURT SPECIFIES; AND

(4) EFFECTIVE AS OF THE DATE OF THE RECEIVER'S APPOINTMENT.

(C) THE COURT MAY ALSO AUTHORIZE A RECEIVER TO ACT WITHOUT POSTING A BOND OR OTHER SECURITY.

24–205.

(A) A COURT THAT APPOINTS A RECEIVER UNDER THIS TITLE:

(1) HAS EXCLUSIVE JURISDICTION TO DIRECT THE RECEIVER AND DETERMINE ANY CONTROVERSY RELATED TO THE RECEIVERSHIP OR RECEIVERSHIP PROPERTY WHEREVER LOCATED WITHIN THE STATE, INCLUDING ALL CONTROVERSIES RELATING TO:

(I) THE COLLECTION, PRESERVATION, IMPROVEMENT, DISPOSITION, AND DISTRIBUTION OF RECEIVERSHIP PROPERTY;

(II) THE EXERCISE OF THE RECEIVER'S POWERS; OR

(III) THE PERFORMANCE OF THE RECEIVER'S DUTIES; AND

(2) MAY, ON MOTION BY A PARTY IN INTEREST OR ON ITS OWN INITIATIVE, ASSIGN THE RECEIVERSHIP TO A JUDGE WHO SHALL BE RESPONSIBLE FOR THE ENTIRE CASE DURING THE COURSE OF THE RECEIVERSHIP.

SUBTITLE 3. RIGHTS, POWERS, AND DUTIES OF A RECEIVER.

24–301.

(A) EXCEPT AS LIMITED BY COURT ORDER OR A LAW OF THE STATE OTHER THAN THIS TITLE, A RECEIVER MAY:

(1) COLLECT, CONTROL, MANAGE, CONSERVE, AND PROTECT RECEIVERSHIP PROPERTY;

(2) OPERATE A BUSINESS CONSTITUTING RECEIVERSHIP PROPERTY, INCLUDING PRESERVATION, USE, SALE, LEASE, LICENSE, EXCHANGE, COLLECTION, OR DISPOSITION OF THE PROPERTY IN THE ORDINARY COURSE OF BUSINESS;

(3) IN THE ORDINARY COURSE OF BUSINESS:

(I) INCUR UNSECURED DEBT FOR THE RECEIVER'S PRESERVATION, USE, SALE, LEASE, LICENSE, EXCHANGE, COLLECTION, OR DISPOSITION OF THE BUSINESS OR RECEIVERSHIP PROPERTY; OR

(II) PAY ORDINARY, REASONABLE, AND NECESSARY EXPENSES FOR THE RECEIVER'S PRESERVATION, USE, SALE, LEASE, LICENSE, EXCHANGE, COLLECTION, OR DISPOSITION OF THE BUSINESS OR RECEIVERSHIP PROPERTY;

(4) EMPLOY AND DISCHARGE AGENTS, CONTRACTORS, AND EMPLOYEES THAT ARE NECESSARY TO MANAGE, OPERATE, PRESERVE, IMPROVE, SECURE, AND MARKET THE BUSINESS OR RECEIVERSHIP PROPERTY;

(5) ASSERT A RIGHT, CLAIM, CAUSE OF ACTION, PRIVILEGE, OR DEFENSE OF THE OWNER THAT RELATES TO THE BUSINESS OR RECEIVERSHIP PROPERTY, AND, IN THE CASE OF A RECEIVERSHIP UNDER § 24–103(A) OF THIS TITLE, THE CLAIM, CAUSE OF ACTION, PRIVILEGE, OR DEFENSE SHALL NOT BE BARRED BY THE DOCTRINE OF PARI DELICTO;

(6) SEEK AND OBTAIN INSTRUCTION FROM THE COURT REGARDING:

(I) MANAGING OR DISPOSING OF THE BUSINESS OR RECEIVERSHIP PROPERTY;

(II) EXERCISING THE POWERS OF THE RECEIVER; OR

(III) PERFORMING THE DUTIES OF THE RECEIVER;

(7) AFTER BEING ISSUED A SUBPOENA, WITH RESPECT TO THE RECEIVERSHIP PROPERTY OR ANY OTHER MATTER THAT MAY AFFECT ADMINISTRATION OF THE RECEIVERSHIP, COMPEL A PERSON TO:

(I) SUBMIT TO EXAMINATION UNDER OATH; OR

(II) PRODUCE AND ALLOW INSPECTION AND COPYING OF RECORDS OR OTHER TANGIBLE PROPERTY;

(8) ENGAGE A PROFESSIONAL AS PROVIDED IN § 24–303 OF THIS SUBTITLE;

(9) APPLY TO A COURT OF ANOTHER STATE FOR APPOINTMENT AS ANCILLARY RECEIVER WITH RESPECT TO RECEIVERSHIP PROPERTY LOCATED IN THAT STATE;

(10) IN A RECEIVERSHIP UNDER § 24–103(A)(2) OR (3) OF THIS TITLE, EXERCISE ANY RIGHTS OR POWERS PROVIDED FOR IN § 15–101 OF THIS ARTICLE; OR

(11) EXERCISE ANY OTHER POWER CONFERRED BY COURT ORDER, THIS TITLE, OR A LAW OF THE STATE OTHER THAN THIS TITLE.

(B) WITH COURT APPROVAL, A RECEIVER MAY:

(1) INCUR DEBT ON AN UNSECURED OR SECURED BASIS FOR THE USE OR BENEFIT OF THE BUSINESS OR RECEIVERSHIP PROPERTY, OTHER THAN IN THE ORDINARY COURSE OF BUSINESS, AND ANY SECURED DEBT SHALL BE SUBJECT TO EXISTING LIENS;

(2) PAY OBLIGATIONS INCURRED BEFORE THE RECEIVER'S APPOINTMENT IF AND TO THE EXTENT THAT:

(I) THE PAYMENT IS DETERMINED TO BE REASONABLE AND NECESSARY FOR THE PRESERVATION OF THE BUSINESS OR RECEIVERSHIP PROPERTY; AND

(II) THE FUNDS USED UNDER THIS ITEM ARE NOT SUBJECT TO ANY LIEN IN FAVOR OF A CREDITOR WHO HAS NOT CONSENTED TO THE PAYMENT, OR WHOSE INTEREST IS NOT ADEQUATELY PROTECTED;

(3) MAKE IMPROVEMENTS TO RECEIVERSHIP PROPERTY;

(4) USE OR TRANSFER RECEIVERSHIP PROPERTY, OTHER THAN IN THE ORDINARY COURSE OF BUSINESS, UNDER § 24–304 OF THIS SUBTITLE;

(5) ASSUME, REJECT, OR ASSUME AND ASSIGN AN EXECUTORY CONTRACT OF THE OWNER UNDER § 24–305 OF THIS SUBTITLE;

(6) PAY COMPENSATION TO:

(I) THE RECEIVER UNDER § 24–601 OR § 24–602 OF THIS TITLE; OR

(II) TO EACH PROFESSIONAL ENGAGED BY THE RECEIVER UNDER § 24–303 OF THIS SUBTITLE;

(7) RECOMMEND ALLOWANCE OR DISALLOWANCE OF A CLAIM OF A CREDITOR UNDER § 24–302 OF THIS SUBTITLE;

(8) ABANDON ANY PROPERTY THAT IS BURDENSOME OR NOT OF MATERIAL VALUE TO THE RECEIVERSHIP; AND

(9) MAKE A DISTRIBUTION OF RECEIVERSHIP PROPERTY UNDER § 24–302 OF THIS SUBTITLE.

(C) A RECEIVER SHALL:

(1) PREPARE AND RETAIN APPROPRIATE BUSINESS RECORDS, INCLUDING A RECORD OF EACH RECEIPT, DISBURSEMENT, AND DISPOSITION OF THE BUSINESS OR RECEIVERSHIP PROPERTY;

(2) ACCOUNT FOR THE BUSINESS OR RECEIVERSHIP PROPERTY, INCLUDING THE PROCEEDS OF A SALE, A LEASE, A LICENSE, AN EXCHANGE, A COLLECTION, OR ANY OTHER DISPOSITION OF THE RECEIVERSHIP PROPERTY;

(3) IF THE RECEIVERSHIP INCLUDES REAL PROPERTY, FILE IN THE LAND RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED A COPY OF THE ORDER APPOINTING THE RECEIVER, AND IF A LEGAL DESCRIPTION IS NOT INCLUDED IN THE ORDER, INCLUDE A LEGAL DESCRIPTION OF THE REAL PROPERTY;

(4) DISCLOSE TO THE COURT ANY FACT ARISING DURING THE RECEIVERSHIP THAT WOULD DISQUALIFY THE RECEIVER UNDER § 24–203 OF THIS TITLE; AND

(5) PERFORM ANY DUTY IMPOSED BY COURT ORDER, THIS TITLE, OR A LAW OF THE STATE OTHER THAN THIS TITLE.

(D) THE POWERS AND DUTIES OF A RECEIVER MAY BE EXPANDED, MODIFIED, OR LIMITED BY COURT ORDER.

24–302.

(A) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, A RECEIVER SHALL GIVE NOTICE OF THE APPOINTMENT OF THE RECEIVER TO CREDITORS OF THE OWNER IF:

(1) THE RECEIVERSHIP IS A RECEIVERSHIP UNDER § 24–103(A)(2) OR (3) OF THIS TITLE; OR

(2) ORDERED BY A COURT.

(B) (1) THE RECEIVER SHALL PROVIDE THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION:

(I) TO EACH CREDITOR HOLDING A CLAIM AGAINST THE OWNER THAT AROSE BEFORE THE APPOINTMENT OF THE RECEIVER; AND

(II) BY:

1. FIRST–CLASS MAIL OR OTHER COMMERCIALLY REASONABLE DELIVERY METHOD TO THE LAST KNOWN ADDRESS OF THE CREDITOR AND THE CREDITOR'S ATTORNEY, IF KNOWN; AND

2. PUBLICATION AS DIRECTED BY THE COURT.

(2) (I) THE NOTICE SHALL SPECIFY THE DATE BY WHICH THE CREDITOR MUST SUBMIT THE CLAIM TO THE RECEIVER.

(II) UNLESS THE COURT EXTENDS THE PERIOD FOR SUBMITTING A CLAIM, THE DATE SPECIFIED IN THE NOTICE SHALL BE AT LEAST 120 DAYS AFTER THE LATER OF THE DATE OF:

1. THE NOTICE; OR

2. THE MOST RECENT PUBLICATION AS DIRECTED BY THE COURT UNDER PARAGRAPH (1)(II)2 OF THIS SUBSECTION.

(III) UNLESS THE COURT ORDERS OTHERWISE, A CLAIM THAT IS NOT SUBMITTED WITHIN THE APPROPRIATE TIME PERIOD UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH IS NOT ENTITLED TO A DISTRIBUTION FROM THE RECEIVERSHIP PROPERTY.

(C) A CLAIM SUBMITTED BY A CREDITOR UNDER THIS SECTION SHALL:

(1) STATE THE NAME AND ADDRESS OF THE CREDITOR;

(2) STATE THE AMOUNT AND BASIS OF THE CREDITOR'S CLAIM;

(3) IDENTIFY ANY PROPERTY SECURING THE CREDITOR'S CLAIM;

(4) BE SIGNED BY THE CREDITOR UNDER PENALTY OF PERJURY; AND

(5) INCLUDE A COPY OF ANY RECORD ON WHICH THE CREDITOR'S CLAIM IS BASED.

(D) AN ASSIGNMENT BY A CREDITOR OF A CLAIM AGAINST THE OWNER IS EFFECTIVE AGAINST THE RECEIVER ONLY IF THE ASSIGNEE GIVES TIMELY NOTICE OF THE ASSIGNMENT TO THE RECEIVER IN A SIGNED RECORD.

(E) (1) AT ANY TIME BEFORE ENTRY OF AN ORDER APPROVING A RECEIVER'S FINAL REPORT, THE RECEIVER MAY FILE WITH THE COURT AN OBJECTION TO A CLAIM OF A CREDITOR, STATING THE BASIS FOR THE OBJECTION.

(2) THE COURT SHALL ALLOW OR DISALLOW THE CLAIM.

(F) IF THE COURT CONCLUDES THAT RECEIVERSHIP PROPERTY IS LIKELY TO BE INSUFFICIENT TO SATISFY CLAIMS OF EACH CREDITOR HOLDING A PERFECTED LIEN ON THE PROPERTY, THE COURT MAY ORDER THAT:

(1) THE RECEIVER DOES NOT NEED TO GIVE NOTICE OF THE APPOINTMENT UNDER SUBSECTION (A) OF THIS SECTION TO ALL UNSECURED CREDITORS OF THE OWNER, BUT ONLY TO THE UNSECURED CREDITORS AS THE COURT DIRECTS; AND

(2) AN UNSECURED CREDITOR DOES NOT NEED TO SUBMIT A CLAIM UNDER THIS SECTION.

(G) (1) SUBJECT TO § 24–701 OF THIS TITLE, A DISTRIBUTION OF RECEIVERSHIP PROPERTY TO A CREDITOR HOLDING A PERFECTED LIEN ON THE PROPERTY SHALL BE MADE IN ACCORDANCE WITH THE CREDITOR'S PRIORITY UNDER APPLICABLE LAW.

(2) A DISTRIBUTION OF RECEIVERSHIP PROPERTY TO A CREDITOR WITH AN ALLOWED UNSECURED CLAIM SHALL BE MADE AS THE COURT DIRECTS.

24–303.

(A) (1) A RECEIVER SHALL OBTAIN COURT APPROVAL BEFORE ENGAGING ANY ATTORNEY, ACCOUNTANT, APPRAISER, AUCTIONEER, BROKER, OR OTHER PROFESSIONAL TO ASSIST THE RECEIVER IN PERFORMING THE RECEIVER'S DUTIES AND ADMINISTERING RECEIVERSHIP PROPERTY.

(2) THE RECEIVER MAY REQUEST APPOINTMENT OF A PROFESSIONAL TO PROVIDE SERVICES TO THE RECEIVERSHIP.

(3) A REQUEST UNDER THIS SECTION SHALL DISCLOSE TO THE COURT:

(I) THE IDENTITY AND QUALIFICATIONS OF THE PROFESSIONAL;

(II) THE SCOPE AND NATURE OF THE PROPOSED ENGAGEMENT;

(III) ANY POTENTIAL CONFLICT OF INTEREST; AND

(IV) THE PROPOSED COMPENSATION.

(B) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE AGREEMENT IS DISCLOSED TO THE COURT, A PERSON IS NOT DISQUALIFIED FROM ENGAGEMENT UNDER THIS SECTION SOLELY BECAUSE OF THE PERSON'S ENGAGEMENT BY, REPRESENTATION OF, OR OTHER RELATIONSHIP WITH THE RECEIVER, A CREDITOR, OR ANY OTHER PARTY.

(II) THE COURT MAY DISQUALIFY A PERSON UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE COURT DETERMINES THAT THERE IS AN ACTUAL CONFLICT OF INTEREST.

(2) THIS TITLE DOES NOT PREVENT A RECEIVER FROM SERVING IN THE RECEIVERSHIP AS AN ATTORNEY, AN ACCOUNTANT, AN AUCTIONEER, OR A BROKER WHEN PROVIDING THE SERVICES THAT WILL BE IN THE BEST INTEREST OF THE RECEIVERSHIP ESTATE.

(C) (1) UNLESS OTHERWISE ORDERED BY THE COURT, A RECEIVER OR A PROFESSIONAL ENGAGED UNDER SUBSECTION (A) OF THIS SECTION SHALL FILE WITH THE COURT AN ITEMIZED STATEMENT OF:

(I) THE TIME SPENT;

(II) THE WORK PERFORMED;

(III) THE BILLING RATE OF EACH PERSON WHO PERFORMED THE WORK; AND

(IV) AN ITEMIZED LIST OF EXPENSES.

(2) UNLESS OBJECTIONS ARE FILED WITH THE COURT WITHIN THE TIME SPECIFIED IN THE MARYLAND RULES, OR UNLESS OTHERWISE ORDERED BY THE COURT, THE RECEIVER MAY PAY THE FEES AND EXPENSES RELATED TO THE SERVICES OF THE PROFESSIONAL OR THE RECEIVER.

(3) THE COURT SHALL SET A HEARING FOR ANY TIMELY FILED OBJECTIONS AS THE COURT CONSIDERS APPROPRIATE.

(D) (1) TO THE EXTENT FUNDS ARE AVAILABLE, THE RECEIVER SHALL PAY THE AMOUNT AUTHORIZED IN ACCORDANCE WITH THIS SECTION.

(2) IN A RECEIVERSHIP ESTABLISHED UNDER § 24–103(A)(1) OF THIS TITLE IN WHICH THE PROPERTY IS SUBJECT TO A SINGLE MORTGAGE, A RECEIVER MAY PAY FEES AND EXPENSES AGREED TO AND STIPULATED BY THE MORTGAGOR.

24–304.

(A) A RECEIVER MAY USE RECEIVERSHIP PROPERTY OTHER THAN IN THE ORDINARY COURSE OF BUSINESS IF:

(1) THE RECEIVER FILES A MOTION WITH THE COURT TO USE RECEIVERSHIP PROPERTY OTHER THAN IN THE COURSE OF ORDINARY BUSINESS; AND

(2) THE COURT GRANTS THE MOTION.

(B) (1) A RECEIVER MAY TRANSFER RECEIVERSHIP PROPERTY OTHER THAN IN THE ORDINARY COURSE OF BUSINESS BY SALE, LEASE, LICENSE, EXCHANGE, OR OTHER DISPOSITION OF THE RECEIVERSHIP PROPERTY IF:

(I) THE RECEIVER FILES A MOTION WITH THE COURT TO TRANSFER RECEIVERSHIP PROPERTY OTHER THAN IN THE ORDINARY COURSE OF BUSINESS; AND

(II) THE COURT GRANTS THE MOTION.

(2) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, UNLESS THE AGREEMENT OF SALE PROVIDES OTHERWISE, THE COURT MAY ORDER A SALE UNDER THIS SECTION TO BE FREE AND CLEAR OF A LIEN OR OTHER INTEREST, INCLUDING:

(I) THE LIEN OF A PERSON THAT OBTAINED APPOINTMENT OF THE RECEIVER;

(II) ANY SUBORDINATE LIEN;

(III) ANY RIGHT OF REDEMPTION; OR

(IV) ANY OTHER LEGAL OR EQUITABLE INTEREST.

(3) A TRANSFER UNDER THIS SUBSECTION MAY OCCUR BY MEANS OTHER THAN A PUBLIC AUCTION SALE.

(C) (1) THIS SUBSECTION APPLIES TO A RECEIVERSHIP UNDER § 24–103(A)(1) OF THIS TITLE.

(2) A RECEIVER MAY TRANSFER RECEIVERSHIP PROPERTY UNDER SUBSECTION (B) OF THIS SECTION FREE AND CLEAR OF ANY LIEN OF THE PERSON THAT OBTAINED THE APPOINTMENT OF THE RECEIVER AND ANY SENIOR LIEN ONLY

IF IN EACH CASE THE RECEIVER OBTAINS THE CONSENT OF THE HOLDER OF THE LIEN.

(3) A TRANSFER UNDER THIS SUBSECTION SHALL BE SUBJECT TO:

(I) IF THE RECEIVER DOES NOT OBTAIN THE CONSENT OF THE HOLDER OF THE LIEN, ANY SENIOR LIEN;

(II) ANY RESIDENTIAL LEASE; AND

(III) NOTWITHSTANDING § 7–105.6(C) OF THE REAL PROPERTY ARTICLE, ANY NONRESIDENTIAL LEASE THAT WOULD NOT BE TERMINATED BY A FORECLOSURE SALE OF THE LIEN OF THE PERSON THAT OBTAINED THE APPOINTMENT OF THE RECEIVER.

(D) (1) THIS SUBSECTION APPLIES TO A RECEIVERSHIP UNDER § 24–103(A)(2) OR (3) OF THIS TITLE.

(2) A RECEIVER MAY TRANSFER RECEIVERSHIP PROPERTY UNDER SUBSECTION (B) OF THIS SECTION FREE AND CLEAR OF ANY LIEN ONLY IF:

(I) THE RECEIVER OBTAINS THE CONSENT OF:

1. THE HOLDER OF ANY LIEN OF THE PERSON THAT OBTAINED THE APPOINTMENT OF THE RECEIVER; AND

2. THE CONSENT OF ANY SENIOR LIENHOLDER; OR

(II) THE PRICE AT WHICH THE RECEIVERSHIP PROPERTY IS TO BE SOLD IS GREATER THAN THE AMOUNT SECURED BY ANY LIEN HELD BY THE PERSON THAT OBTAINED THE APPOINTMENT OF THE RECEIVER, PLUS THE AMOUNT OF ANY SENIOR LIEN.

(3) A TRANSFER OF RECEIVERSHIP PROPERTY MAY BE FREE AND CLEAR OF A NONRESIDENTIAL LEASE IF THE TENANT OF THE NONRESIDENTIAL LEASE HAS THE RIGHTS PROVIDED TO THE TENANT UNDER § 24–305(H)(2) OF THIS TITLE.

(E) (1) THIS SUBSECTION APPLIES TO THE SALE OR EXCHANGE OF RECEIVERSHIP PROPERTY UNDER SUBSECTION (B) OF THIS SECTION.

(2) BEFORE FILING A MOTION TO SELL OR EXCHANGE RECEIVERSHIP PROPERTY, THE RECEIVER SHALL PERFORM OR OBTAIN A COMPLETE SEARCH OF

THE PUBLIC RECORDS TO DETERMINE THE HOLDERS OF LIENS AND OTHER INTERESTS IN THE RECEIVERSHIP PROPERTY.

(3) IF THE REQUESTED SALE OR EXCHANGE IS FOR REAL PROPERTY, THE SEARCH SHALL:

(I) COVER A TIME PERIOD OF AT LEAST 40 YEARS IMMEDIATELY BEFORE THE MOTION IS FILED; AND

(II) BE IN ACCORDANCE WITH GENERALLY ACCEPTED STANDARDS OF TITLE EXAMINATION.

(4) THE MOTION SHALL INCLUDE AN AFFIDAVIT BY THE PERSON MAKING THE SEARCH IDENTIFYING THE HOLDERS OF LIENS AND OTHER INTERESTS.

(5) THE RECEIVER SHALL UPDATE THE MASTER SERVICE LIST BASED ON THE SEARCH TO INCLUDE ANY PERSON NOT PREVIOUSLY INCLUDED.

(6) (I) IF THE RECEIVER RECEIVES ACTUAL NOTICE AT ANY TIME BEFORE THE SALE THAT THERE IS A PERSON HOLDING A LIEN OR OTHER INTEREST IN THE PROPERTY WHO IS NOT INCLUDED ON THE MASTER SERVICE LIST AND WHOSE IDENTITY AND ADDRESS ARE REASONABLY ASCERTAINABLE, THE RECEIVER SHALL GIVE NOTICE OF THE TIME, PLACE, AND TERMS OF SALE TO THE PERSON AS PROMPTLY AS REASONABLY PRACTICABLE.

(II) THE NOTICE MAY BE GIVEN IN ANY MANNER REASONABLY CALCULATED TO INFORM THE PERSON OF THE SALE, INCLUDING BY TELEPHONE OR ELECTRONIC TRANSMISSION.

(F) A LIEN OR OTHER INTEREST IN RECEIVERSHIP PROPERTY THAT IS EXTINGUISHED BY A TRANSFER UNDER SUBSECTION (B) OF THIS SECTION ATTACHES TO THE PROCEEDS OF THE TRANSFER WITH THE SAME VALIDITY, PERFECTION, AND PRIORITY AS THE LIEN OR OTHER INTEREST IN THE PROPERTY IMMEDIATELY BEFORE THE TRANSFER, EVEN IF THE PROCEEDS ARE NOT SUFFICIENT TO SATISFY ALL OBLIGATIONS SECURED BY THE LIEN OR OTHER INTEREST.

(G) A CREDITOR HOLDING A VALID LIEN ON THE RECEIVERSHIP PROPERTY TO BE TRANSFERRED MAY PURCHASE THE RECEIVERSHIP PROPERTY AND OFFSET AGAINST THE PURCHASE PRICE ALL OR PART OF THE ALLOWED AMOUNT SECURED BY THE LIEN IF:

(1) THE CREDITOR TENDERS FUNDS SUFFICIENT TO SATISFY IN FULL THE REASONABLE EXPENSES OF THE TRANSFER; AND

(2) THE OBLIGATION IS SECURED BY A SENIOR LIEN THAT IS EXTINGUISHED BY THE TRANSFER.

(H) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THIS SUBSECTION APPLIES TO A REVERSAL OR MODIFICATION OF AN ORDER APPROVING A TRANSFER UNDER SUBSECTION (B) OF THIS SECTION.

(II) THIS SUBSECTION DOES NOT APPLY IF THE COURT STAYED THE ORDER BEFORE THE TRANSFER.

(2) REGARDLESS OF WHETHER A PERSON KNEW BEFORE THE TRANSFER OF THE REQUEST FOR REVERSAL OR MODIFICATION, A REVERSAL OR MODIFICATION OF AN ORDER APPROVING A TRANSFER DOES NOT:

(I) AFFECT THE VALIDITY OF THE TRANSFER TO A PERSON THAT ACQUIRED THE RECEIVERSHIP PROPERTY IN GOOD FAITH; OR

(II) REVIVE AGAINST THE PERSON ANY LIEN OR OTHER INTEREST EXTINGUISHED BY THE TRANSFER.

24–305.

(A) (1) (I) AT ANY TIME BEFORE A COURT'S APPROVAL OF A FINAL REPORT UNDER § 24–602 OF THIS TITLE, A RECEIVER MAY ASSUME OR REJECT AN EXECUTORY CONTRACT OF THE OWNER IF THE RECEIVER HAS PROVIDED NOTICE OF THE CONTRACT AND AN OPPORTUNITY FOR A HEARING TO THE COUNTERPARTY TO THE CONTRACT.

(II) IF THE REQUIREMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS NOT SATISFIED, THE EXECUTORY CONTRACT SHALL BE DEEMED REJECTED.

(2) (I) THE COURT MAY CONDITION THE ASSUMPTION OR REJECTION OF AN EXECUTORY CONTRACT ON THE TERMS AND CONDITIONS THAT THE COURT DETERMINES ARE JUST AND PROPER UNDER THE PARTICULAR CIRCUMSTANCES OF THE CASE, EXCEPT THAT A CONDITION TO ASSUMPTION SHALL BE A PROMPT CURE OF ALL EXISTING MONETARY DEFAULTS.

(II) A RECEIVER'S PERFORMANCE OF AN EXECUTORY CONTRACT BEFORE A COURT ORDER AUTHORIZING THE ASSUMPTION OR REJECTION OF THE CONTRACT DOES NOT CONSTITUTE AN ASSUMPTION OF THE CONTRACT OR AN AGREEMENT TO ASSUME OR OTHERWISE PREVENT THE RECEIVER FROM SEEKING THE COURT'S AUTHORITY TO REJECT THE CONTRACT.

(B) NOTWITHSTANDING THE TIME PERIOD FOR ASSUMPTION OR REJECTION OF AN EXECUTORY CONTRACT UNDER SUBSECTION (A) OF THIS SECTION, THE COURT, FOR CAUSE, MAY ORDER THE RECEIVER TO ASSUME OR REJECT AN EXECUTORY CONTRACT AT ANY TIME AFTER THE RECEIVER'S APPOINTMENT.

(C) ANY OBLIGATION OR LIABILITY INCURRED BY A RECEIVER AS A RESULT OF THE RECEIVER'S ASSUMPTION OF AN EXECUTORY CONTRACT SHALL BE TREATED AS AN EXPENSE OF THE RECEIVERSHIP.

(D) (1) A RECEIVER'S REJECTION OF AN EXECUTORY CONTRACT SHALL BE:

(I) EFFECTIVE ON ENTRY OF AN ORDER OF REJECTION; AND

(II) TREATED AS A BREACH OF THE CONTRACT OCCURRING IMMEDIATELY BEFORE THE ENTRY OF THE ORDER APPOINTING THE RECEIVER.

(2) THE RECEIVER'S RIGHT TO POSSESS OR USE RECEIVERSHIP PROPERTY UNDER AN EXECUTORY CONTRACT SHALL TERMINATE ON REJECTION OF THE CONTRACT.

(3) A CLAIM FOR DAMAGES FOR REJECTION OF AN EXECUTORY CONTRACT SHALL BE SUBMITTED BEFORE THE LATER OF:

(I) THE TIME FOR SUBMITTING A CLAIM IN THE RECEIVERSHIP CASE; OR

(II) 30 DAYS AFTER ENTRY OF THE ORDER APPROVING THE REJECTION.

(E) A RECEIVER MAY NOT ASSUME AN EXECUTORY CONTRACT OF THE OWNER WITHOUT THE CONSENT OF THE COUNTERPARTY TO THE CONTRACT IF:

(1) NOTWITHSTANDING THE ABSENCE OF ANY PROVISION IN THE CONTRACT EXPRESSLY RESTRICTING OR PROHIBITING AN ASSIGNMENT OF THE OWNER'S RIGHTS OR THE PERFORMANCE OF THE OWNER'S DUTIES, APPLICABLE LAW WOULD EXCUSE A PARTY, OTHER THAN THE OWNER, FROM ACCEPTING PERFORMANCE FROM OR RENDERING PERFORMANCE TO ANYONE OTHER THAN THE OWNER;

(2) THE CONTRACT IS A CONTRACT TO:

(I) MAKE A LOAN TO OR FOR THE BENEFIT OF THE OWNER;

(II) EXTEND CREDIT OR FINANCIAL ACCOMMODATION TO OR FOR THE BENEFIT OF THE OWNER; OR

(III) ISSUE A SECURITY; OR

(3) THE CONTRACT EXPIRES BEFORE THE RECEIVER'S ASSUMPTION OF THE CONTRACT BY THE CONTRACT'S OWN TERMS OR UNDER APPLICABLE LAW.

(F) A RECEIVER MAY NOT ASSIGN AN EXECUTORY CONTRACT WITHOUT ASSUMING THE CONTRACT, ABSENT THE CONSENT OF THE COUNTERPARTY TO THE CONTRACT.

(G) (1) THIS SUBSECTION APPLIES TO A REJECTION BY THE RECEIVER OF AN EXECUTORY CONTRACT FOR:

(I) THE SALE OF REAL PROPERTY UNDER WHICH THE OWNER IS THE SELLER AND THE PURCHASER IS IN POSSESSION OF THE REAL PROPERTY;

(II) THE SALE OF A REAL PROPERTY TIMESHARE INTEREST UNDER WHICH THE OWNER IS THE SELLER;

(III) THE LICENSE OF INTELLECTUAL PROPERTY RIGHTS UNDER WHICH THE OWNER IS THE LICENSOR; OR

(IV) THE LEASE OF REAL PROPERTY IN WHICH THE OWNER IS THE LANDLORD.

(2) IF THE RECEIVER REJECTS AN EXECUTORY CONTRACT:

(I) A PURCHASER, LICENSEE, OR TENANT:

1. MAY TREAT THE REJECTION AS A TERMINATION OF THE CONTRACT, LICENSE AGREEMENT, OR LEASE; OR

2. A. MAY REMAIN IN POSSESSION IN ACCORDANCE WITH THE TERMS OF THE CONTRACT, LICENSE AGREEMENT, OR LEASE, AND FOR A LEASE, ANY RENEWAL OR EXTENSION OF THE LEASE IN ACCORDANCE WITH THE TERMS OF THE LEASE; AND

B. SHALL CONTINUE TO PERFORM ALL OBLIGATIONS ARISING UNDER THE CONTRACT, LICENSE AGREEMENT, OR LEASE AS AND WHEN

THEY BECOME DUE, BUT MAY OFFSET AGAINST ANY PAYMENTS FOR ANY DAMAGES OCCURRING AS A RESULT OF THE REJECTION AFTER THE REJECTION OCCURS;

(II) A PURCHASER OF REAL PROPERTY:

1. IS ENTITLED TO RECEIVE FROM THE RECEIVER ANY DEED OR OTHER INSTRUMENT OF CONVEYANCE THAT THE OWNER IS OBLIGATED TO DELIVER UNDER THE EXECUTORY CONTRACT WHEN THE PURCHASER BECOMES ENTITLED TO RECEIVE THE DEED OR OTHER INSTRUMENT OF CONVEYANCE; AND

2. THE DEED OR OTHER INSTRUMENT OF CONVEYANCE HAS THE SAME FORCE AND EFFECT AS IF DELIVERED BY THE OWNER;

(III) A PURCHASER, LICENSEE, OR TENANT THAT ELECTS TO REMAIN IN POSSESSION UNDER THE TERMS OF THIS SUBSECTION HAS NO RIGHTS AGAINST THE RECEIVER ON ACCOUNT OF ANY DAMAGES ARISING FROM THE RECEIVER'S REJECTION EXCEPT AS EXPRESSLY PROVIDED IN THIS SUBSECTION; AND

(IV) A PURCHASER OF REAL PROPERTY THAT ELECTS TO TREAT REJECTION OF ANY EXECUTORY CONTRACT AS A TERMINATION HAS A LIEN AGAINST THE OWNER'S INTEREST IN THE REAL PROPERTY FOR THE RECOVERY OF ANY PORTION OF THE PURCHASE PRICE THAT THE PURCHASER HAS PAID.

(H) IF AT THE TIME A RECEIVER IS APPOINTED THE OWNER HAS THE RIGHT TO ASSIGN AN EXECUTORY CONTRACT RELATING TO RECEIVERSHIP PROPERTY, THE RECEIVER MAY ASSIGN THE CONTRACT WITH COURT APPROVAL IF THE RECEIVER:

(1) ASSUMES THE CONTRACT; AND

(2) PROMPTLY CURES ALL MONETARY DEFAULTS UNDER THE CONTRACT.

(I) A RECEIVER MAY NOT REJECT AN UNEXPIRED LEASE OF REAL PROPERTY UNDER WHICH THE OWNER IS THE LANDLORD IF:

(1) THE TENANT OCCUPIES THE LEASED PREMISES AS THE TENANT'S PRIMARY RESIDENCE;

(2) THE RECEIVER WAS APPOINTED AT THE REQUEST OF A PERSON OTHER THAN A MORTGAGEE; OR

(3) (I) THE RECEIVER WAS APPOINTED AT THE REQUEST OF A MORTGAGEE; AND

(II) 1. THE LEASE IS SUPERIOR TO THE LIEN OF THE MORTGAGE;

2. THE TENANT HAS AN ENFORCEABLE AGREEMENT WITH THE MORTGAGEE OR THE HOLDER OF A SENIOR LIEN UNDER WHICH THE TENANT'S OCCUPANCY WILL NOT BE DISTURBED AS LONG AS THE TENANT PERFORMS THE TENANT'S OBLIGATIONS UNDER THE LEASE;

3. THE MORTGAGEE HAS CONSENTED TO THE LEASE, EITHER IN A SIGNED RECORD OR BY THE MORTGAGEE'S FAILURE TO TIMELY OBJECT THAT THE LEASE VIOLATED A PROVISION OF THE MORTGAGE; OR

4. A. THE TERMS OF THE LEASE WERE COMMERCIALLY REASONABLE AT THE TIME THE LEASE WAS AGREED TO BY THE TENANT AND THE LANDLORD; AND

B. THE TENANT DID NOT KNOW OR HAVE REASON TO KNOW THAT THE LEASE VIOLATED A PROVISION OF THE MORTGAGE.

(J) SECTION 4A–606 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE MAY NOT BE AFFECTED BY A RECEIVER'S REJECTION OF AN EXECUTORY CONTRACT UNDER THIS SECTION.

SUBTITLE 4. EFFECT OF RECEIVERSHIP.

24–401.

(A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION OR ORDERED BY THE COURT, THE ENTRY OF AN ORDER APPOINTING A RECEIVER UNDER § 24–103(A)(2) OR (3) OF THIS TITLE SHALL OPERATE AS A STAY OF AN ACT TO:

(1) COMMENCE OR CONTINUE A JUDICIAL, ADMINISTRATIVE, OR OTHER ACTION OR PROCEEDING AGAINST THE OWNER THAT WAS OR COULD HAVE BEEN COMMENCED BEFORE ENTRY OF THE ORDER;

(2) COLLECT, ASSESS, OR RECOVER A CLAIM AGAINST THE OWNER THAT AROSE BEFORE ENTRY OF THE ORDER;

(3) OBTAIN POSSESSION OF, EXERCISE CONTROL OVER, OR ENFORCE A JUDGMENT AGAINST THE RECEIVERSHIP PROPERTY OBTAINED BEFORE ENTRY OF THE ORDER; OR

(4) CREATE, PERFECT, OR ENFORCE A LIEN OR OTHER CLAIM AGAINST THE RECEIVERSHIP PROPERTY THAT AROSE BEFORE ENTRY OF THE ORDER.

(B) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COURT MAY ORDER A STAY OF AN ACT AGAINST OR RELATING TO AN OWNER IF THE STAY IS NECESSARY TO:

~~(1)~~ (I) PROTECT THE RECEIVERSHIP PROPERTY OR BUSINESS; OR

~~(2)~~ (II) FACILITATE ADMINISTRATION OF THE RECEIVERSHIP.

(2) A COURT MAY NOT ORDER A STAY UNDER PARAGRAPH (1) OF THIS SUBSECTION, WITH RESPECT TO A GOVERNMENTAL UNIT COMMENCING OR CONTINUING AN ACTION OR PROCEEDING TO ENFORCE ITS POLICE OR REGULATORY POWER, THAT INCLUDES ENFORCING A NONMONETARY JUDGMENT.

(C) UNLESS AN ORDER IS ENTERED UNDER SUBSECTION (B) OF THIS SECTION, THE FOLLOWING MATTERS ARE NOT STAYED:

(1) AN ACT TO FORECLOSE OR OTHERWISE ENFORCE A MORTGAGE BY THE PERSON SEEKING APPOINTMENT OF THE RECEIVER;

(2) AN ACT TO PERFECT, MAINTAIN, OR CONTINUE THE PERFECTION OF AN INTEREST IN RECEIVERSHIP PROPERTY;

(3) COMMENCEMENT OR CONTINUATION OF A CRIMINAL PROCEEDING;

(4) COMMENCEMENT OR CONTINUATION OF AN ACTION OR A PROCEEDING BY A GOVERNMENTAL UNIT TO ENFORCE ITS POLICE OR REGULATORY POWER;

(5) ENFORCEMENT OF A JUDGMENT OTHER THAN A MONEY JUDGMENT IN AN ACTION OR A PROCEEDING BY A GOVERNMENTAL UNIT TO ENFORCE ITS POLICE OR REGULATORY POWER;

(6) ESTABLISHMENT BY A GOVERNMENTAL UNIT OF A TAX LIABILITY AGAINST THE OWNER OR RECEIVERSHIP PROPERTY OR AN APPEAL OF THE LIABILITY;

(7) THE EXERCISE OF THE RIGHT OF SETOFF OR RECOUPMENT;

(8) THE COMMENCEMENT OF A BANKRUPTCY CASE UNDER TITLE 11 OF THE UNITED STATES CODE; OR

(9) ANY OTHER MATTER PROVIDED UNDER 11 U.S.C. § 362(B) TO THE EXTENT NOT INCONSISTENT WITH ANY PROVISION OF THIS SECTION.

(D) A PERSON WHOSE ACT IS STAYED UNDER THIS SECTION MAY APPLY TO THE COURT FOR RELIEF FROM THE STAY FOR CAUSE SHOWN.

(E) EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS SECTION, THE STAY SHALL TERMINATE AS TO RECEIVERSHIP PROPERTY WHEN:

(1) THE PROPERTY IS NO LONGER RECEIVERSHIP PROPERTY; OR

(2) THE COURT ENTERS:

(I) AN ORDER APPROVING THE FINAL REPORT; OR

(II) AN ORDER DISMISSING THE CASE.

(F) THE COURT MAY VOID AN ACT THAT VIOLATES A STAY UNDER THIS SECTION.

(G) IF A PERSON WILLFULLY VIOLATES A STAY UNDER THIS SECTION, THE COURT MAY:

(1) AWARD THE RECEIVER ACTUAL DAMAGES CAUSED BY THE VIOLATION, INCLUDING REASONABLE FEES AND COSTS; AND

(2) SANCTION THE VIOLATION AS CIVIL CONTEMPT.

24–402.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AND UNLESS OTHERWISE ORDERED BY A COURT, A PERSON THAT HAS POSSESSION, CUSTODY, OR CONTROL OF RECEIVERSHIP PROPERTY SHALL TURN THE RECEIVERSHIP PROPERTY OVER TO THE RECEIVER ON DEMAND OF THE RECEIVER.

(2) IF A CREDITOR HAS POSSESSION, CUSTODY, OR CONTROL OF RECEIVERSHIP PROPERTY AND THE VALIDITY, PERFECTION, OR PRIORITY OF THE CREDITOR'S LIEN ON THE RECEIVERSHIP PROPERTY DEPENDS ON THE CREDITOR'S POSSESSION, CUSTODY, OR CONTROL, SUBJECT TO § 24–401(C)(2) OF THIS SUBTITLE, THE CREDITOR MAY RETAIN POSSESSION, CUSTODY, OR CONTROL UNTIL

THE COURT ENTERS AN ORDER PROVIDING ADEQUATE PROTECTION OF THE CREDITOR'S LIEN.

(B) A PERSON THAT HAS NOTICE OF THE APPOINTMENT OF A RECEIVER AND OWES A DEBT THAT IS RECEIVERSHIP PROPERTY MAY NOT SATISFY THE DEBT BY PAYMENT TO THE OWNER.

(C) IN THE ABSENCE OF A BONA FIDE DISPUTE WITH RESPECT TO THE RECEIVER'S OR THE RESPONDENT'S RIGHT TO POSSESSION, CUSTODY, OR CONTROL OF RECEIVERSHIP PROPERTY, THE COURT MAY SANCTION AS CIVIL CONTEMPT A PERSON'S FAILURE TO TURN THE PROPERTY OVER WHEN REQUIRED BY THIS SECTION.

24–403.

(A) EXCEPT AS PROVIDED BY COURT ORDER, AN OWNER SHALL:

(1) ASSIST AND COOPERATE WITH THE RECEIVER IN ADMINISTERING THE RECEIVERSHIP AND DISCHARGING THE RECEIVER'S DUTIES;

(2) PRESERVE AND TURN OVER TO THE RECEIVER ALL RECEIVERSHIP PROPERTY IN THE OWNER'S POSSESSION, CUSTODY, OR CONTROL, INCLUDING ALL DEPOSITORY AND INVESTMENT ACCOUNTS;

(3) IDENTIFY AND TURN OVER ALL RECORDS AND OTHER INFORMATION RELATING TO RECEIVERSHIP PROPERTY, INCLUDING ALL PASSWORDS, KEYS, ALARM CODES, AUTHORIZATIONS, OR OTHER INFORMATION NEEDED TO OBTAIN OR MAINTAIN ACCESS TO OR CONTROL OF RECEIVERSHIP PROPERTY;

(4) MAKE AVAILABLE AND TURN OVER TO THE RECEIVER THE RECORDS AND INFORMATION IN THE OWNER'S POSSESSION, CUSTODY, OR CONTROL, INCLUDING ALL FINANCIAL RECORDS, ACCOUNTING RECORDS, BANK STATEMENTS, LEASES, AND CONTRACTS;

(5) AFTER BEING ISSUED A SUBPOENA, SUBMIT TO EXAMINATION BY THE RECEIVER THAT IS UNDER OATH REGARDING THE ACTS, CONDUCT, PROPERTY, LIABILITIES, AND FINANCIAL CONDITION OF THE OWNER OR ANY MATTER RELATING TO RECEIVERSHIP PROPERTY OR THE RECEIVERSHIP;

(6) REFRAIN FROM ENTERING THE RECEIVERSHIP PROPERTY AT ANY TIME WITHOUT THE PRIOR EXPRESS WRITTEN CONSENT OF THE RECEIVER;

(7) REFRAIN FROM INTERFERING WITH, OBSTRUCTING, OR PREVENTING IN ANY WAY THE RECEIVER'S ACTIONS REGARDING THE RECEIVERSHIP PROPERTY; AND

(8) PERFORM ANY DUTY IMPOSED BY COURT ORDER, THIS TITLE, OR A LAW OF THE STATE OTHER THAN THIS TITLE.

(B) IF AN OWNER IS A PERSON OTHER THAN AN INDIVIDUAL, THIS SECTION APPLIES TO:

(1) ANY PERSON ACTING IN CONCERT WITH THE OWNER AND THE OWNER'S AGENTS; AND

(2) EACH OFFICER, DIRECTOR, MANAGER, MEMBER, PARTNER, TRUSTEE, AFFILIATE, SUBSIDIARY, OR OTHER PERSON EXERCISING OR HAVING THE POWER TO EXERCISE CONTROL OVER THE AFFAIRS OF THE OWNER.

(C) IF A PERSON KNOWINGLY FAILS TO PERFORM A DUTY IMPOSED BY THIS SECTION, THE COURT MAY:

(1) AWARD THE RECEIVER:

(I) ACTUAL DAMAGES CAUSED BY THE PERSON'S FAILURE;

(II) REASONABLE ATTORNEY'S FEES; AND

(III) COSTS; OR

(2) SANCTION THE FAILURE AS CIVIL CONTEMPT.

24–404.

EXCEPT AS OTHERWISE PROVIDED BY A LAW OF THE STATE OTHER THAN THIS TITLE, PROPERTY THAT A RECEIVER OR AN OWNER ACQUIRES AFTER APPOINTMENT OF THE RECEIVER IS SUBJECT TO A SECURITY AGREEMENT ENTERED INTO BEFORE THE APPOINTMENT TO THE SAME EXTENT AS IF THE COURT HAD NOT APPOINTED THE RECEIVER.

24–405.

A REQUEST BY A MORTGAGEE FOR THE APPOINTMENT OF A RECEIVER, THE APPOINTMENT OF A RECEIVER, OR THE APPLICATION BY A MORTGAGEE OF RECEIVERSHIP PROPERTY OR PROCEEDS TO THE SECURED OBLIGATION DOES NOT:

(1) MAKE THE MORTGAGEE A MORTGAGEE IN POSSESSION OF THE REAL PROPERTY;

(2) MAKE THE MORTGAGEE AN AGENT OF THE OWNER;

(3) CONSTITUTE AN ELECTION OF REMEDIES THAT PRECLUDES A LATER ACTION TO ENFORCE THE SECURED OBLIGATION;

(4) MAKE THE SECURED OBLIGATION UNENFORCEABLE; OR

(5) LIMIT ANY RIGHT AVAILABLE TO THE MORTGAGEE WITH RESPECT TO THE SECURED OBLIGATION.

24–406.

(A) AN ASSIGNEE FOR THE BENEFIT OF CREDITORS SHALL BE TREATED AS A RECEIVER APPOINTED UNDER § 24–201(A)(3) OF THIS TITLE.

(B) THE PROPERTY ASSIGNED SHALL BE TREATED AS RECEIVERSHIP PROPERTY.

(C) EXCEPT FOR § 24–201 OF THIS TITLE, THIS TITLE SHALL GOVERN ALL PROCEEDINGS FOLLOWING THE FILING OF THE ASSIGNMENT.

SUBTITLE 5. AUTHORITY OF THE COURT.

24–501.

(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE COURT MAY ISSUE AN ORDER UNDER THIS TITLE ONLY AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING.

(B) THE COURT MAY ISSUE AN ORDER UNDER THIS TITLE:

(1) IF THE CIRCUMSTANCES REQUIRE ISSUANCE OF AN ORDER BEFORE NOTICE IS GIVEN, WITHOUT PRIOR NOTICE;

(2) IF THE CIRCUMSTANCES REQUIRE ISSUANCE OF AN ORDER BEFORE A HEARING IS HELD, AFTER NOTICE AND WITHOUT A PRIOR HEARING; OR

(3) IF NO INTERESTED PARTY TIMELY REQUESTS A HEARING, AFTER NOTICE AND WITHOUT A HEARING.

(C) THE RECEIVER SHALL FILE PERIODICALLY WITH THE COURT A MASTER SERVICE LIST CONSISTING OF THE NAMES, MAILING ADDRESSES, AND, WHERE AVAILABLE, FACSIMILE NUMBERS AND E–MAIL ADDRESSES OF:

(1) THE RESPONDENT;

(2) THE RECEIVER;

(3) ALL PERSONS JOINED AS PARTIES IN THE RECEIVERSHIP;

(4) ALL PERSONS KNOWN BY THE RECEIVER TO HAVE ASSERTED ANY OWNERSHIP OF OR LIEN IN RECEIVERSHIP PROPERTY;

(5) ALL PERSONS THAT HAVE FILED A NOTICE OF APPEARANCE IN ACCORDANCE WITH THIS SECTION; AND

(6) ANY ATTORNEY OF RECORD.

(D) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AND UNLESS THE COURT ORDERS OTHERWISE, A MOTION SHALL BE SERVED IN ACCORDANCE WITH THE MARYLAND RULES ON:

(1) ALL PERSONS ON THE MASTER SERVICE LIST;

(2) ALL PERSONS THAT HAVE ASSERTED AN OWNERSHIP INTEREST OR LIEN IN RECEIVERSHIP PROPERTY THAT IS THE SUBJECT OF THE MOTION;

(3) ALL PERSONS THAT ARE IDENTIFIED IN THE MOTION AS DIRECTLY AFFECTED BY THE RELIEF REQUESTED; AND

(4) ANY OTHER PERSON AS THE COURT MAY DIRECT.

24–502.

~~**(A) A PARTY MAY FILE AN APPEAL FROM AN INTERLOCUTORY ORDER WITH THE COURT OF SPECIAL APPEALS FROM ANY COURT ORDER IN A RECEIVERSHIP PROCEEDING BY FILING AN APPLICATION FOR LEAVE TO APPEAL UNDER THE PROCEDURE SET FORTH IN MARYLAND RULE 8–204.**~~

~~**(B) THE COURT, ON REQUEST OF THE COURT OF SPECIAL APPEALS, SHALL SUBMIT TO THE COURT OF SPECIAL APPEALS A WRITTEN CERTIFICATION STATING WHETHER, IN ITS OPINION:**~~

~~(1) THE INTERLOCUTORY ORDER INVOLVES A CONTROLLING QUESTION OF LAW AS TO WHICH THERE IS A SUBSTANTIAL GROUND FOR DIFFERENCE OF OPINION; AND~~

~~(2) WHETHER AN IMMEDIATE APPEAL OF THE INTERLOCUTORY ORDER MAY MATERIALLY ADVANCE THE ULTIMATE CONCLUSION OF THE RECEIVERSHIP PROCEEDING.~~

~~(C) AFTER RECEIVING A WRITTEN CERTIFICATION FROM THE COURT, THE COURT OF SPECIAL APPEALS SHALL DETERMINE WHETHER TO GRANT OR DENY THE APPLICATION FOR LEAVE TO APPEAL.~~

IF AN ORDER ENTERED IN A PROCEEDING UNDER THIS TITLE IS NOT A FINAL ORDER AND THE COURT DETERMINES IN A WRITTEN ORDER THAT THERE IS NO JUST REASON FOR DELAY, THE COURT MAY DIRECT THE ENTRY OF A FINAL ORDER AS SET FORTH IN MARYLAND RULE 2–602(B).

SUBTITLE 6. REPORTING.

24–601.

(A) A RECEIVER:

(1) MAY FILE AN INTERIM REPORT; OR

(2) IF ORDERED BY THE COURT, SHALL FILE AN INTERIM REPORT.

(B) THE INTERIM REPORT UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) THE ACTIVITIES OF THE RECEIVER SINCE APPOINTMENT OR A PREVIOUS INTERIM REPORT;

(2) RECEIPTS AND DISBURSEMENTS, INCLUDING ANY PAYMENT MADE OR PROPOSED TO BE MADE TO A PROFESSIONAL ENGAGED BY THE RECEIVER;

(3) RECEIPTS AND DISPOSITIONS OF RECEIVERSHIP PROPERTY;

(4) FEES AND EXPENSES OF THE RECEIVER AND, IF NOT FILED SEPARATELY, A REQUEST FOR APPROVAL OF PAYMENT OF THE FEES AND EXPENSES; AND

(5) ANY OTHER INFORMATION REQUIRED BY THE COURT.

24–602.

(A) ON COMPLETION OF A RECEIVER'S DUTIES, THE RECEIVER SHALL FILE A FINAL REPORT THAT INCLUDES:

(1) A DESCRIPTION OF THE ACTIVITIES OF THE RECEIVER DURING THE COURSE OF THE RECEIVERSHIP;

(2) A LIST OF RECEIVERSHIP PROPERTY AT THE COMMENCEMENT OF THE RECEIVERSHIP AND ANY RECEIVERSHIP PROPERTY RECEIVED DURING THE RECEIVERSHIP;

(3) A LIST OF DISBURSEMENTS, INCLUDING PAYMENTS TO PROFESSIONALS ENGAGED BY THE RECEIVER;

(4) A LIST OF DISPOSITIONS OF RECEIVERSHIP PROPERTY;

(5) A LIST OF DISTRIBUTIONS MADE OR PROPOSED TO BE MADE FROM THE RECEIVERSHIP PROPERTY FOR CREDITOR CLAIMS;

(6) IF NOT FILED SEPARATELY, A REQUEST FOR APPROVAL OF THE PAYMENT OF FEES AND EXPENSES OF THE RECEIVER; AND

(7) ANY OTHER INFORMATION REQUIRED BY THE COURT.

(B) THE RECEIVER IS DISCHARGED IF:

(1) A COURT APPROVES A FINAL REPORT FILED UNDER SUBSECTION (A) OF THIS SECTION; AND

(2) THE RECEIVER DISTRIBUTES ALL RECEIVERSHIP PROPERTY.

SUBTITLE 7. ACTIONS AGAINST RECEIVER AND TERMINATION OF RECEIVERSHIP.

24–701.

(A) A COURT MAY AWARD TO A RECEIVER FROM RECEIVERSHIP PROPERTY OR PROCEEDS THE REASONABLE AND NECESSARY FEES AND EXPENSES OF PERFORMING THE DUTIES AND EXERCISING THE POWERS OF THE RECEIVER.

(B) A COURT MAY ORDER ONE OR MORE OF THE FOLLOWING PERSONS TO PAY THE REASONABLE AND NECESSARY FEES AND EXPENSES OF THE RECEIVERSHIP, INCLUDING REASONABLE ATTORNEY'S FEES AND COSTS:

(1) A PERSON THAT REQUESTED THE APPOINTMENT OF THE RECEIVER, IF THE RECEIVERSHIP DOES NOT PRODUCE SUFFICIENT FUNDS TO PAY THE FEES AND EXPENSES; OR

(2) A PERSON WHOSE CONDUCT WOULD HAVE JUSTIFIED THE APPOINTMENT OF THE RECEIVER UNDER § 24–201(A)(1) OF THIS TITLE.

24–702.

(A) A RECEIVER IS ENTITLED TO ALL DEFENSES AND IMMUNITIES UNDER APPLICABLE STATE LAW FOR AN ACT OR OMISSION WITHIN THE SCOPE OF THE RECEIVER'S APPOINTMENT.

(B) A PERSON SHALL RECEIVE APPROVAL FROM THE COURT THAT APPOINTED THE RECEIVER BEFORE TAKING THE FOLLOWING ACTIONS:

(1) AN ACTION AGAINST THE RECEIVER PERSONALLY BASED ON AN ACT OR OMISSION IN ADMINISTERING RECEIVERSHIP PROPERTY; AND

(2) AN ACTION BY A PERSON OTHER THAN THE RECEIVER AGAINST A PROFESSIONAL PERSON THAT HAS PROVIDED SERVICES TO THE RECEIVER BASED ON AN ACT OR OMISSION IN PERFORMING THE SERVICES.

24–703.

(A) A COURT MAY REMOVE A RECEIVER FOR CAUSE ON ITS OWN MOTION OR THE MOTION OF AN INTERESTED PARTY.

(B) A COURT SHALL REPLACE A RECEIVER THAT DIES, RESIGNS, OR IS REMOVED.

(C) A RECEIVER REPLACED UNDER SUBSECTION (B) OF THIS SECTION IS DISCHARGED IF A COURT FINDS THAT A RECEIVER THAT RESIGNS OR IS REMOVED, OR THE REPRESENTATIVE OF A DECEASED RECEIVER, HAS:

(1) ACCOUNTED FULLY FOR AND TURNED OVER TO THE SUCCESSOR RECEIVER ALL RECEIVERSHIP PROPERTY; AND

(2) FILED A REPORT OF ALL RECEIPTS AND DISBURSEMENTS DURING THE SERVICE OF THE REPLACED RECEIVER.

(D) ON THE TRANSFER OF TITLE TO ANY RECEIVERSHIP PROPERTY, THE RECEIVERSHIP SHALL TERMINATE AUTOMATICALLY AS TO RECEIVERSHIP PROPERTY SUBJECT TO THE REQUIREMENTS OF § 24–602 OF THIS TITLE.

(E) A COURT MAY DISCHARGE A RECEIVER AND TERMINATE THE COURT'S ADMINISTRATION OF THE RECEIVERSHIP PROPERTY IF THE COURT FINDS THAT:

(1) APPOINTMENT OF THE RECEIVER WAS IMPROVIDENT; OR

(2) THE CIRCUMSTANCES NO LONGER WARRANT CONTINUATION OF THE RECEIVERSHIP.

SUBTITLE 8. SHORT TITLE.

24–801.

THIS TITLE MAY BE CITED AS THE MARYLAND COMMERCIAL RECEIVERSHIP ACT.

Article – Corporations and Associations

3–416.

[The**] EXCEPT AS PROVIDED IN § 24–203 OF THE COMMERCIAL LAW ARTICLE, THE** court may appoint any person as receiver, including an officer, director, or stockholder of the corporation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 701 – *Transportation Network Companies – Insurance*.

This bill authorizes the Motor Vehicle Administration to accept another form of security, in place of an insurance policy, for vehicles operating for a transportation network company if 1) the other form of security adequately provides the benefits required under current law;

and 2) the transportation network company is an affiliate of a company that provides taxicab services and has between 26 and 300 transportation network operators. This bill also requires a transportation network company that maintains another form of security to provide the Public Service Commission with evidence of the required security.

House Bill 1072, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 701.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 701

AN ACT concerning

Transportation Network Companies – Insurance

FOR the purpose of authorizing the Motor Vehicle Administration to accept, under certain circumstances, certain forms of security from a transportation network company in place of a certain insurance policy; requiring transportation network companies to provide evidence of certain security to the Public Service Commission under certain circumstances; defining certain terms; making ~~a~~ conforming ~~change~~ changes; and generally relating to insurance for transportation network companies.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section ~~10–405(e)~~ 10–405(a), (b), (c), (d), and (e)
Annotated Code of Maryland
(2010 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 17–103
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Public Utilities

10–405.

(a) (1) An operator, a transportation network company on behalf of the operator, or a combination of both shall maintain primary motor vehicle insurance**, OR OTHER SECURITY UNDER § 17–103(A)(3) OF THE TRANSPORTATION ARTICLE,** that:

(i) recognizes that the operator is a transportation network operator or otherwise uses a motor vehicle to transport passengers for hire; and

(ii) covers the operator while the operator is providing transportation network services.

(2) (i) The following motor vehicle insurance requirements shall apply while an operator is providing transportation network services:

1. security of at least:

A. for the payment of claims for bodily injury or death arising from an accident, up to $50,000 for any one person and up to $100,000 for any two or more persons, in addition to interest and costs; and

B. for the payment of claims for property of others damaged or destroyed in an accident, up to $25,000, in addition to interest and costs;

2. uninsured motorist insurance coverage required under § 19–509 of the Insurance Article; and

3. personal injury protection coverage required under § 19–505 of the Insurance Article; and

(ii) The coverage requirements under this paragraph may be satisfied by motor vehicle insurance maintained by:

1. an operator;

2. a transportation network company; or

3. both an operator and a transportation network company.

(b) If insurance **OR OTHER SECURITY** is provided by both the transportation network company and the operator under subsection (a) of this section, the insurance maintained by the transportation network operator is primary.

(c) The insurance **OR OTHER SECURITY** maintained by a transportation network company shall provide the coverage required under subsection (a) of this section from the first dollar of a claim and provide for the duty to defend the claim in the event the insurance maintained by an operator under subsection (a) of this section has coverage that has been canceled or has lapsed or is otherwise not in force.

(d) (1) A transportation network company **THAT PROCURES INSURANCE FROM AN ADMITTED *INSURER* OR *A* NONADMITTED INSURER** shall:

(i) verify that the coverage required under subsection (a) of this section is maintained at all times; and

(ii) provide to the Commission and the Insurance Commissioner, annually upon each renewal:

1. a valid certificate of insurance coverage that meets the requirements of subsection (a) of this section and that:

A. is prepared by the insurer;

B. is signed by an officer of the insurer;

C. is in a form acceptable to the Commission;

D. states the name and home office address of the insurer providing coverage to the transportation network company;

E. states the effective dates of the coverage;

F. states a general description of the coverage; and

G. includes a certification of a policy provision that will notify the Commission and the Insurance Commissioner of any termination of coverage at least 60 days in advance of the effective date of the termination; and

2. the underlying policy for the coverage required under subsection (a) of this section.

(2) (i) The Commission may consult with the Insurance Commissioner concerning the provisions of the underlying policy provided to the Commission and the Insurance Commissioner under paragraph (1)(ii)2 of this subsection.

(ii) 1. Records provided to the Commission by a transportation network company under this section are not subject to release under the Maryland Public Information Act or any other law.

2. The Commission and the Insurance Commissioner may not disclose records or information provided to the Commission and the Insurance Commissioner under this section to any person unless the disclosure is required by subpoena or court order.

3. If a subpoena or court order requires the Commission or the Insurance Commissioner to disclose information provided to the Commission or the

Insurance Commissioner under this section, the Commission or the Insurance Commissioner, as appropriate, promptly shall notify the transportation network company before disclosing the information.

(3) A TRANSPORTATION NETWORK COMPANY THAT MAINTAINS SECURITY UNDER § 17–103 OF THE TRANSPORTATION ARTICLE SHALL PROVIDE THE COMMISSION WITH EVIDENCE OF THE REQUIRED SECURITY.

(e) **[**Insurance**]** **SUBJECT TO § 17–103(A) OF THE TRANSPORTATION ARTICLE, INSURANCE** required under subsection (a) of this section shall be issued by:

(1) an insurer authorized to do business in the State; or

(2) solely with respect to insurance maintained by a transportation network company, an eligible surplus lines insurer:

(i) in accordance with the requirements of Title 3, Subtitle 3 of the Insurance Article; and

(ii) having an A.M. Best financial strength rating of A– or better.

Article – Transportation

17–103.

(a) (1) Except as provided in paragraph (2) **OR (3)** of this subsection, the form of security required under this subtitle is a vehicle liability insurance policy written by an insurer authorized to write these policies in this State.

(2) The Administration may accept another form of security in place of a vehicle liability insurance policy if it finds that the other form of security adequately provides the benefits required by subsection (b) of this section.

(3) (I) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

2. "AFFILIATE" MEANS ANY COMPANY THAT CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER COMPANY.

3. "PROVIDE TAXICAB SERVICES", "TRANSPORTATION NETWORK COMPANY", AND "TRANSPORTATION NETWORK OPERATOR" HAVE THE MEANINGS STATED IN § 10–101 OF THE PUBLIC UTILITIES ARTICLE.

(II) THE ADMINISTRATION MAY ACCEPT ANOTHER FORM OF SECURITY FROM A TRANSPORTATION NETWORK COMPANY IN PLACE OF AN INSURANCE POLICY REQUIRED BY § 10–405 OF THE PUBLIC UTILITIES ARTICLE IF:

1. THE OTHER FORM OF SECURITY ADEQUATELY PROVIDES THE BENEFITS REQUIRED BY § 10–405 OF THE PUBLIC UTILITIES ARTICLE; AND

2. THE TRANSPORTATION NETWORK COMPANY IS AN AFFILIATE OF A COMPANY THAT PROVIDES TAXICAB SERVICES AND HAS NO FEWER THAN 26 NOR MORE THAN 300 TRANSPORTATION NETWORK OPERATORS.

[(3)**] (4)** The Administration shall, by regulation, assess each self–insurer an annual sum which may not exceed $750, and which shall be used for actuarial studies and audits to determine financial solvency.

(b) The security required under this subtitle shall provide for at least:

(1) The payment of claims for bodily injury or death arising from an accident of up to $30,000 for any one person and up to $60,000 for any two or more persons, in addition to interest and costs;

(2) The payment of claims for property of others damaged or destroyed in an accident of up to $15,000, in addition to interest and costs;

(3) Unless waived under § 19–506 of the Insurance Article or rejected under § 19–506.1 of the Insurance Article, the benefits described under § 19–505 of the Insurance Article as to basic required primary coverage;

(4) The benefits required under § 19–509 or § 19–509.1 of the Insurance Article as to required additional coverage; and

(5) For vehicles subject to the provisions of § 25–111.1 of this article, the security requirements adopted under 49 C.F.R., Part 387.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 704 – *Alcoholic Beverages – Beer Franchise Agreements – Notice of Nonrenewal or Termination*.

This bill reduces, from 180 to 45, the number of days that a brewery must wait after notifying a distributor of its intent to terminate, or refuse to renew, a beer franchise agreement before terminating the agreement, if the brewery produces 20,000 or fewer barrels of beer per year.

This bill also 1) authorizes such a brewery to terminate, or refuse to continue or renew, a franchise agreement without good cause and is no longer required to give its franchisee an opportunity to correct a deficiency if that is the reason the agreement is being terminated; and 2) requires a specified termination agreement and arbitration.

House Bill 1080, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 704.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 704

AN ACT concerning

Alcoholic Beverages – Beer Franchise Agreements – Notice of Nonrenewal or Termination

FOR the purpose of ~~limiting the application of the time frame for nonrenewal or termination of a beer franchise agreement to a large franchisor;~~ specifying a certain time frame within which a ~~small~~ certain franchisor is required to notify a franchisee of an intention to terminate or refuse to renew a beer franchise agreement; ~~establishing certain other notice requirements for franchisees; specifying that only a large franchisor is prohibited from~~ exempting certain franchisors from a prohibition against terminating or refusing to continue or renew a beer franchise agreement without good cause under certain circumstances; requiring a ~~small~~ certain franchisor to ~~buy back certain beer at a certain price from~~ *pay a certain amount in a certain manner to* a certain franchisee under certain circumstances; *providing for the submission of a certain matter to arbitration and for its application and enforcement in a certain manner; requiring certain support for certain products to continue in a certain manner;* providing for the application of this Act; *making a technical change; defining certain terms;* ~~*providing that existing obligations or contract rights may not*~~

~~*be impaired by this Act;*~~ *providing for a delayed effective date;* ~~making a technical change; defining certain terms;~~ and generally relating to alcoholic beverages.

BY repealing and reenacting, with amendments,
Article – Alcoholic Beverages
Section *5–101,* ~~5–101,~~ 5–107, 5–108, and 5–109~~, and 5–201~~
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

BY adding to
Article – Alcoholic Beverages
Section 5–109
Annotated Code of Maryland
(2016 Volume and 2018 Supplement)

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

Article – Alcoholic Beverages

~~5–101.~~

~~(a) In this **[**section**]** **SUBTITLE** the following words have the meanings indicated.~~

~~(b) "Beer distributor" means a person that imports or causes to be imported into the State, or purchases or causes to be purchased in the State, beer for sale or resale to a retail dealer licensed under this article without regard to whether the business of the person is conducted under a beer franchise agreement or another form of agreement with a beer manufacturer.~~

~~(c) "Beer franchise agreement" means:~~

~~(1) a commercial relationship between a beer distributor and beer manufacturer that:~~

~~(i) is of a definite or indefinite duration; and~~

~~(ii) is not required to be in writing;~~

~~(2) a relationship in which a beer manufacturer grants a beer distributor the right to offer and sell the brands of beer offered by the beer manufacturer;~~

~~(3) a relationship in which a beer distributor, as an independent business, constitutes a component of a beer manufacturer's distribution system;~~

~~(4) a relationship in which a beer distributor's business is substantially associated with a beer manufacturer's brand, advertising, or another commercial symbol that designates the beer manufacturer;~~

~~(5) a relationship in which a beer distributor's business relies substantially on a beer manufacturer for the continued supply of beer; or~~

~~(6) a written or oral arrangement of definite or indefinite duration in which:~~

~~(i) a beer manufacturer grants to a beer distributor the right to use a trade name, trademark, service mark, or related characteristic; and~~

~~(ii) there is a community of interest in the marketing of goods or services at wholesale or retail, by lease, or by another method.~~

~~(d) "Beer manufacturer" means:~~

~~(1) a brewer, fermenter, processor, bottler, or packager of beer located in or outside the State; or~~

~~(2) a person located in or outside the State that enters into a beer franchise agreement with a beer distributor doing business in the State.~~

~~(e) "Franchisee" means:~~

~~(1) a beer distributor to whom a beer franchise agreement is granted or offered; or~~

~~(2) a beer distributor that is a party to a beer franchise agreement.~~

~~(f) "Franchisor" means a beer manufacturer that:~~

~~(1) enters into a beer franchise agreement with a beer distributor; or~~

~~(2) is a party to a beer franchise agreement.~~

~~(g) **"LARGE FRANCHISOR" MEANS A BEER MANUFACTURER THAT, IN CONJUNCTION WITH ANY AFFILIATE:**~~

~~**(1) ANNUALLY PRODUCES MORE THAN 300,000 BARRELS OF BEER IN AGGREGATE; OR**~~

~~**(2) REPRESENTS MORE THAN 10% OF A FRANCHISEE'S TOTAL ANNUAL SALES VOLUME.**~~

~~(II) "Sales territory" means the area of sales responsibility designated by a beer franchise agreement for the brand or brands of beer of a beer manufacturer.~~

~~(I) "SMALL FRANCHISOR" MEANS A BEER MANUFACTURER THAT, IN CONJUNCTION WITH ANY AFFILIATE:~~

~~(1) ANNUALLY PRODUCES 300,000 OR FEWER BARRELS OF BEER IN AGGREGATE; AND~~

~~(2) ACCOUNTS FOR 10% OR LESS OF A FRANCHISEE'S TOTAL ANNUAL SALES VOLUME.~~

5–101.

(a) In this ***[****section****]*** ***SUBTITLE*** *the following words have the meanings indicated.*

(b) "Beer distributor" means a person that imports or causes to be imported into the State, or purchases or causes to be purchased in the State, beer for sale or resale to a retail dealer licensed under this article without regard to whether the business of the person is conducted under a beer franchise agreement or another form of agreement with a beer manufacturer.

(c) "Beer franchise agreement" means:

(1) a commercial relationship between a beer distributor and beer manufacturer that:

(i) is of a definite or indefinite duration; and

(ii) is not required to be in writing;

(2) a relationship in which a beer manufacturer grants a beer distributor the right to offer and sell the brands of beer offered by the beer manufacturer;

(3) a relationship in which a beer distributor, as an independent business, constitutes a component of a beer manufacturer's distribution system;

(4) a relationship in which a beer distributor's business is substantially associated with a beer manufacturer's brand, advertising, or another commercial symbol that designates the beer manufacturer;

(5) a relationship in which a beer distributor's business relies substantially on a beer manufacturer for the continued supply of beer; or

(6) a written or oral arrangement of definite or indefinite duration in which:

(i) a beer manufacturer grants to a beer distributor the right to use a trade name, trademark, service mark, or related characteristic; and

(ii) there is a community of interest in the marketing of goods or services at wholesale or retail, by lease, or by another method.

(d) "Beer manufacturer" means:

(1) a brewer, fermenter, processor, bottler, or packager of beer located in or outside the State; or

(2) a person located in or outside the State that enters into a beer franchise agreement with a beer distributor doing business in the State.

(E) "FAIR MARKET VALUE" MEANS THE PRICE AT WHICH AN ASSET WOULD CHANGE HANDS BETWEEN A WILLING SELLER AND A WILLING BUYER WHEN:

(1) NEITHER IS ACTING UNDER ANY COMPULSION; AND

(2) BOTH HAVE KNOWLEDGE OF ALL OF THE RELEVANT FACTS.

***[**(e)**] (F)** "Franchisee" means:*

(1) a beer distributor to whom a beer franchise agreement is granted or offered; or

(2) a beer distributor that is a party to a beer franchise agreement.

***[**(f)**] (G)** "Franchisor" means a beer manufacturer that:*

(1) enters into a beer franchise agreement with a beer distributor; or

(2) is a party to a beer franchise agreement.

***[**(g)**] (H)** "Sales territory" means the area of sales responsibility designated by a beer franchise agreement for the brand or brands of beer of a beer manufacturer.*

5–107.

(a) This section does not apply to a temporary delivery agreement under § 2–209(c) of this article for a beer festival or a wine and beer festival.

~~(b) (1) Except as provided in subsection (d) of this section, at least 180 days before a **[**beer manufacturer**]** **LARGE FRANCHISOR** intends to terminate or refuse to renew a beer franchise agreement, the **[**beer manufacturer**]** **LARGE FRANCHISOR** shall notify the franchisee in writing of its intent.~~

~~(2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AT LEAST 15 DAYS BEFORE A SMALL FRANCHISOR INTENDS TO TERMINATE OR REFUSE TO RENEW A BEER FRANCHISE AGREEMENT, THE SMALL FRANCHISOR SHALL NOTIFY THE FRANCHISEE IN WRITING OF ITS INTENT.~~

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, IF A FRANCHISOR INTENDS TO TERMINATE OR REFUSES TO RENEW A BEER FRANCHISE AGREEMENT, THE FRANCHISOR SHALL NOTIFY THE FRANCHISEE IN WRITING OF ITS INTENT:

(I) AT LEAST 45 DAYS BEFORE THE TERMINATION OR REFUSAL TO RENEW TAKES EFFECT, FOR A FRANCHISOR THAT ANNUALLY PRODUCES ~~30,000~~ *20,000* OR FEWER BARRELS OF BEER IN AGGREGATE, IN CONJUNCTION WITH ANY AFFILIATE; AND

(II) AT LEAST 180 DAYS BEFORE THE TERMINATION OR REFUSAL TO RENEW TAKES EFFECT, FOR ALL OTHER FRANCHISORS.

~~(3)~~ (2) The **[**notice**]** **NOTICES REQUIRED BY THIS SECTION** shall state all the reasons for the intended termination or nonrenewal.

(c) (1) If a deficiency is claimed in the notice provided under subsection **[**(b)**]** **~~(B)(1)~~ (B)(1)(II)** of this section, the franchisee has 180 days to rectify the deficiency.

(2) If the franchisee rectifies the deficiency within 180 days after the notice **PROVIDED UNDER SUBSECTION ~~(B)(1)~~ (B)(1)(II) OF THIS SECTION** is received, the intended termination or nonrenewal of the beer franchise agreement is void.

(d) The notice requirement of subsection (b) of this section does not apply if the reason for the intended termination or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors, or bankruptcy.

~~(E) (1) ON A DATE DESIGNATED BY A FRANCHISEE EVERY CALENDAR YEAR, THE FRANCHISEE SHALL PROVIDE WRITTEN NOTICE TO A SMALL FRANCHISOR OF THE PERCENTAGE OF THE TOTAL ANNUAL SALES VOLUME THAT THE SMALL FRANCHISOR ACCOUNTS FOR IN COMPARISON TO ALL OTHER FRANCHISORS THAT THE FRANCHISEE IS IN AGREEMENT WITH AT THAT TIME.~~

~~(2) DURING THE COURSE OF THE CALENDAR YEAR, IF A CHANGE IN THE PERCENTAGE OF TOTAL ANNUAL SALES VOLUME TRIGGERS A CHANGE IN STATUS OF A SMALL FRANCHISOR OR A LARGE FRANCHISOR, A FRANCHISEE SHALL PROVIDE WRITTEN NOTICE TO A SMALL FRANCHISOR OR A LARGE FRANCHISOR ABOUT THE CHANGE IN STATUS.~~

5–108.

(a) This section does not apply to a temporary delivery agreement under § 2–209(c) of this article for a beer festival or a wine and beer festival.

(b) (1) **(I) THIS PARAGRAPH DOES NOT APPLY TO A FRANCHISOR THAT ANNUALLY PRODUCES ~~30,000~~ *20,000* OR FEWER BARRELS OF BEER IN AGGREGATE, IN CONJUNCTION WITH ANY AFFILIATE.**

(II) Notwithstanding the terms of a beer franchise agreement, ~~[~~a franchisor~~]~~ ~~A LARGE FRANCHISOR~~ may not terminate or refuse to continue or renew a beer franchise agreement, or cause a franchisee to resign from a beer franchise agreement, without good cause.

(2) For purposes of paragraph (1) of this subsection, good cause includes the revocation of a franchisee's license to do business in the State.

5–109.

(A) ***THIS SECTION APPLIES ONLY TO A FRANCHISOR THAT ANNUALLY PRODUCES 20,000 OR FEWER BARRELS OF BEER IN AGGREGATE, IN CONJUNCTION WITH ANY AFFILIATE.*** ~~THIS SECTION DOES NOT APPLY TO A LARGE FRANCHISOR.~~

~~(B)~~ ***(B) (1)*** **SUBJECT TO § 5–107 OF THIS SUBTITLE,** ***AND EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,*** **BEFORE TERMINATION OF** ***OR REFUSAL TO RENEW*** **A BEER FRANCHISE AGREEMENT, A ~~SMALL~~ FRANCHISOR SHALL ~~BUY BACK AT FAIR MARKET VALUE ALL THE BEER THAT THE FRANCHISEE PURCHASED FROM THE SMALL FRANCHISOR AND RETAINS IN INVENTORY~~** ***ENTER INTO A TERMINATION AGREEMENT WITH THE TERMINATED FRANCHISEE.***

(2) THE TERMINATION AGREEMENT SHALL:

(I) COMPENSATE THE TERMINATED FRANCHISEE FOR THE FAIR MARKET VALUE OF THE TERMINATED FRANCHISE; AND

(II) PROVIDE FOR THE REPURCHASE OF ALL THE FRANCHISOR'S BEER AT AN AMOUNT EQUAL TO THE LAID–IN COST OF THE FRANCHISEE'S INVENTORY OF THE ~~FRANCHISER'S~~ FRANCHISOR'S PRODUCTS THAT ARE IN THE WAREHOUSE OR IN TRANSIT TO THE FRANCHISEE.

(C) (1) IF AN AGREEMENT ON THE COMPENSATION AUTHORIZED UNDER SUBSECTION (B)(2)(I) OF THIS SECTION IS NOT REACHED WITHIN 45 DAYS AFTER THE FRANCHISOR PROVIDES THE NOTICE REQUIRED BY § 5–107(B)(1)(I) OF THIS SUBTITLE, THE MATTER SHALL BE SUBMITTED TO BINDING ARBITRATION FOR THE PURPOSE OF DETERMINING THE COMPENSATION.

(2) THE BINDING ARBITRATION SHALL:

(I) BE ADMINISTERED UNDER THE RULES OF THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION;

(II) TAKE PLACE IN THE STATE; ~~AND~~

(III) BE HEARD BY ONE ARBITRATOR WHO SHALL BE APPOINTED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES; AND

(IV) BE LIMITED TO 45 DAYS, UNLESS OTHERWISE AGREED TO BY THE PARTIES.

(3) DURING THE PERIOD OF ARBITRATION, THE BEER FRANCHISE AGREEMENT SHALL REMAIN IN EFFECT AND MAY TERMINATE ONLY ON THE DECISION OF THE ARBITRATOR.

(4) THE ARBITRATOR SHALL BE GOVERNED BY THE LAWS OF THE STATE, THE MARYLAND RULES, AND THE COMMERCIAL ARBITRATION RULES.

(5) IN DETERMINING THE FAIR MARKET VALUE OF THE TERMINATED FRANCHISE, THE ARBITRATOR:

(I) MAY CONSIDER ONLY THE PERIOD BEFORE THE FRANCHISOR PROVIDED THE NOTICE REQUIRED BY § 5–107(B)(1)(I) OF THIS SUBTITLE; AND

(II) MAY NOT CONSIDER ANY PERIOD FOLLOWING THE PROVIDING OF THAT NOTICE.

(6) THE RULING OF THE ARBITRATOR SHALL BE FINAL AND SUBJECT TO ENFORCEMENT IN THE COURTS OF THE STATE.

(7) THE COST OF THE ARBITRATION SHALL BE SHARED EQUALLY BY THE PARTIES.

(D) BY WRITTEN MUTUAL AGREEMENT, THE FRANCHISOR AND THE FRANCHISEE MAY DETERMINE ANOTHER METHOD OF TERMINATING THE FRANCHISE AGREEMENT AND PROVIDING COMPENSATION TO THE TERMINATED FRANCHISEE.

(E) UNTIL RESOLUTION REGARDING FAIR MARKET VALUE IS REACHED UNDER SUBSECTION (B) OR (C) OF THIS SECTION AND THE TERMINATED

FRANCHISEE HAS RECEIVED PAYMENT IN ACCORDANCE WITH THE DETERMINATION OF FAIR MARKET VALUE:

(1) THE FRANCHISOR AND THE TERMINATED FRANCHISEE SHALL SUPPORT THE FRANCHISOR'S PRODUCTS TO AT LEAST THE SAME EXTENT THAT THE PRODUCTS HAD BEEN PREVIOUSLY SUPPORTED IMMEDIATELY BEFORE THE FRANCHISOR PROVIDED THE NOTICE REQUIRED BY § 5–107(B)(1)(I) OF THIS SUBTITLE; AND

***(2) THE TERMINATED FRANCHISEE SHALL CONTINUE TO DISTRIBUTE THE PRODUCTS*.**

~~**(B) THE FRANCHISOR SHALL BUY BACK THE BEER:**~~

~~**(1) AT THE PRICE THE FRANCHISEE PAID WHEN PURCHASING THE BEER, IF THE FRANCHISOR ANNUALLY PRODUCES 15,000 OR FEWER BARRELS OF BEER IN AGGREGATE, IN CONJUNCTION WITH ANY AFFILIATE; OR**~~

~~**(2) AT FAIR MARKET VALUE, IF THE FRANCHISOR ANNUALLY PRODUCES MORE THAN 15,000 BARRELS OF BEER IN AGGREGATE, IN CONJUNCTION WITH ANY AFFILIATE.**~~

[5–109.**] 5–110.**

(a) (1) A beer distributor or franchisee may bring an action in a court of general jurisdiction to recover damages against a beer manufacturer, franchisor, or franchisee for violation of this subtitle.

(2) If appropriate, the beer distributor or franchisee is entitled to injunctive relief.

(b) In an action for violation of this subtitle, the prevailing beer distributor or franchisee is entitled to the costs of the action including reasonable attorney's fees.

~~5–201.~~

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

~~(2) "Agreement" means oral or written evidence between a beer manufacturer and a beer wholesaler granting the beer wholesaler the right to offer and sell the brands of beer offered by the beer manufacturer.~~

~~(3) **(I)** "Beer manufacturer" means:~~

~~[(i)] 1. a [brewer] LARGE FRANCHISOR AS DEFINED IN § 5–101 OF THIS TITLE, fermenter, processor, bottler, or packager of beer located in or outside the State; or~~

~~[(ii)] 2. a person located in or outside the State that enters into an agreement with a beer wholesaler doing business in the State.~~

~~(II) "BEER MANUFACTURER" DOES NOT INCLUDE A SMALL FRANCHISOR AS DEFINED IN § 5–101 OF THIS TITLE.~~

~~(4) "Fair market value" means the price at which an asset would change hands between a willing seller and a willing buyer when neither is acting under any compulsion and when both have knowledge of all of the relevant facts.~~

~~(5) "Successor beer manufacturer" includes a person or license holder who replaces a beer manufacturer with the right to sell, distribute, or import a brand of beer.~~

~~(b) Except for the discontinuance of a brand of beer or for good cause shown as provided under § 5–108 of this title, a successor beer manufacturer that continues in the business is obligated under all the terms and conditions of the agreement made between the previous beer manufacturer and the existing beer wholesaler that were in effect on the date of change of beer manufacturers.~~

~~(c) A successor beer manufacturer that terminates any agreement provision required to be continued under subsection (b) of this section shall remunerate the beer wholesaler a sum equal to the fair market value for the sale of the subject brand or brands of beer calculated from the date of termination.~~

~~(d) (1) Before a successor beer manufacturer may terminate any agreement provision required to be continued under subsection (b) of this section and designate another beer wholesaler to replace the existing beer wholesaler, the successor beer manufacturer shall give notice of termination to the beer wholesaler to be replaced.~~

~~(2) On receipt of the notice, the beer wholesaler to be replaced and the designated beer wholesaler shall negotiate in good faith to determine the fair market value of the affected distribution rights.~~

~~(3) If an agreement is reached, the designated beer wholesaler promptly shall pay the fair market value as compensation to the beer wholesaler to be replaced.~~

~~(4) If an agreement is not reached within 30 days after the beer wholesaler to be replaced receives notice, the designated beer wholesaler and the beer wholesaler to be replaced shall enter into nonbinding mediation with a mediator in the State who practices in accordance with Title 17 of the Maryland Rules.~~

~~(5) If an agreement is not reached within 45 days after mediation begins, the beer wholesaler to be replaced shall within 90 days bring an action in a court of general jurisdiction against a successor beer manufacturer to determine and award fair market value of the terminated brand or brands.~~

~~(c) Until resolution regarding fair market value is reached under subsection (d) of this section and the beer wholesaler to be replaced has received payment in accordance with the determination of fair market value:~~

~~(1) the beer wholesaler to be replaced and the successor beer manufacturer shall support the brand to at least the same extent that the brand had been previously supported immediately before the successor beer manufacturer acquired rights to the brand; and~~

~~(2) the beer wholesaler to be replaced shall continue to distribute the brand.~~

SECTION 2. AND BE IT FURTHER ENACTED, That for a ~~small~~ franchisor that annually produces ~~30,000~~ *20,000* or fewer barrels of beer in aggregate, in conjunction with any affiliate, and that is a party to a *written* franchise agreement existing before ~~July 1, 2019.~~

~~(1) the law in effect on June 30, 2019, continues to apply until expiring on December 31, 2019; and~~

~~(2) this Act shall apply beginning on~~ January 1, 2020, *the terms of the agreement relating to compensation and repurchase of inventory shall continue in force and effect unless otherwise mutually agreed by the parties*.

~~*SECTION 3. AND BE IT FURTHER ENACTED, That a presently existing obligation or contract right may not be impaired in any way by this Act.*~~

~~*SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply to a beer franchise agreement in existence on or entered into on or after January 1, 2020.*~~

SECTION ~~3.~~ ~~*5.*~~ *3.* AND BE IT FURTHER ENACTED, That~~, subject to Section 2 of this Act,~~ this Act shall take effect ~~July 1, 2019~~ *January 1, 2020*.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate

H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 705 – *Organ Donation – Prohibition on Discrimination by Insurer and Unpaid Leave*.

This bill entitles an eligible employee to unpaid organ donation leave for 1) up to 60 business days in any 12–month period to serve as an organ donor and 2) up to 30 business days in any 12–month period to donate bone marrow. This bill applies to employers with at least 15 employees, and requires the Commissioner of Labor and Industry within the Department of Labor, Licensing, and Regulation to enforce the organ donation leave provisions.

This bill also prohibits 1) an insurer of life, disability, or long–term care insurance from taking specified actions based solely on an applicant or individual's status as an organ donor; 2) an insurer from prohibiting an applicant or individual from donating all or part of an organ as a condition of insurance.

House Bill 1284, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 705.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 705

AN ACT concerning

Organ Donation – Prohibition on Discrimination by Insurer and Unpaid Leave

FOR the purpose of prohibiting certain insurers, based <u>solely</u> on the status of an applicant or individual as an organ donor, from taking certain actions relating to certain insurance policies; prohibiting certain insurers from prohibiting an applicant or individual from donating an organ as a condition of insurance; <u>providing that, with respect to all other medical conditions, a certain applicant or individual is subject to certain standards as an applicant or individual who is not an organ donor;</u> providing that certain employees are entitled to a certain number of business days of unpaid organ donation leave in a certain period; requiring an eligible employee to provide certain written physician verification to the employer to receive organ donation leave; prohibiting organ donation leave from being taken concurrently with any leave taken under the federal Family and Medical Leave Act; prohibiting an employer from considering any period of organ donation leave to be a break in the eligible employee's

continuous service for certain purposes; requiring, except under certain circumstances, that an eligible employee returning to work after taking organ donation leave be restored to a certain position of employment; requiring an employer to maintain in a certain manner certain health coverage for the duration of the eligible employee's organ donation leave; requiring an employer to pay certain commissions to certain employees during any period of organ donation leave; requiring the Commissioner of Labor and Industry to adopt certain regulations; requiring the Commissioner to take certain actions regarding certain violations of certain provisions of law; authorizing the Attorney General to bring a certain action; prohibiting an employer from committing certain acts; authorizing the Commissioner to conduct, under certain circumstances, an investigation regarding whether a certain provision of law has been violated; providing for the construction of certain provisions of this Act; prohibiting certain rights for employees from being diminished by a collective bargaining agreement or an employment benefit program or plan; providing for a delayed effective date for certain provisions of this Act; providing for the application of certain provisions of this Act; and generally relating to organ donation.

BY adding to
Article – Insurance
Section 27–501(s)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Labor and Employment
Section 3–103(l); and 3–1401 through 3–1409 to be under the new subtitle "Subtitle 14. Organ Donation Leave"
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Insurance

27–501.

(S) (1) THIS SUBSECTION APPLIES ONLY TO LIFE INSURANCE, DISABILITY INSURANCE, OR LONG–TERM CARE INSURANCE.

(2) AN INSURER MAY NOT, BASED <u>SOLELY</u> ON THE STATUS OF AN APPLICANT OR INDIVIDUAL AS AN ORGAN DONOR:

(I) CANCEL, REFUSE TO UNDERWRITE OR RENEW, OR REFUSE TO ISSUE AN INSURANCE POLICY;

(II) REFUSE TO PAY A CLAIM, CANCEL, OR OTHERWISE TERMINATE AN INSURANCE POLICY;

(III) INCREASE PREMIUM RATES FOR AN INSURANCE POLICY; OR

(IV) ADD A SURCHARGE, APPLY A RATING FACTOR, OR USE ANY OTHER UNDERWRITING PRACTICE THAT ADVERSELY TAKES THE INFORMATION INTO ACCOUNT.

(3) WITH RESPECT TO ALL OTHER MEDICAL CONDITIONS, AN APPLICANT OR INDIVIDUAL WHO IS AN ORGAN DONOR SHALL BE SUBJECT TO THE SAME STANDARDS OF SOUND ACTUARIAL PRINCIPLES OR ACTUAL OR REASONABLY ANTICIPATED EXPERIENCE AS AN APPLICANT OR INDIVIDUAL WHO IS NOT AN ORGAN DONOR.

~~(3)~~ (4) AN INSURER MAY NOT PROHIBIT AN APPLICANT OR INDIVIDUAL FROM DONATING ALL OR PART OF AN ORGAN AS A CONDITION OF INSURANCE.

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

Article – Labor and Employment

3–103.

(L) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE WHETHER SUBTITLE 14 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE.

SUBTITLE 14. ORGAN DONATION LEAVE.

3–1401.

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

(B) "ELIGIBLE EMPLOYEE" MEANS AN INDIVIDUAL WHO HAS REQUESTED THAT AN EMPLOYER PROVIDE ORGAN DONATION LEAVE AND WHO, AS OF THE DATE THAT THE REQUESTED ORGAN DONATION LEAVE BEGINS, WILL HAVE BEEN EMPLOYED BY THAT EMPLOYER FOR AT LEAST:

(1) A 12–MONTH PERIOD; AND

(2) 1,250 HOURS DURING THE PREVIOUS 12 MONTHS.

(C) "EMPLOYER" MEANS A PERSON THAT EMPLOYS AT LEAST 15 INDIVIDUALS IN THE STATE.

(D) "ORGAN DONATION LEAVE" MEANS LEAVE DESCRIBED IN § 3–1402(A) OF THIS SUBTITLE.

3–1402.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, AN ELIGIBLE EMPLOYEE IS ENTITLED TO THE FOLLOWING UNPAID ORGAN DONATION LEAVE:

(1) UP TO 60 BUSINESS DAYS IN ANY 12–MONTH PERIOD TO SERVE AS AN ORGAN DONOR; AND

(2) UP TO 30 BUSINESS DAYS IN ANY 12–MONTH PERIOD TO SERVE AS A BONE MARROW DONOR.

(B) TO RECEIVE ORGAN DONATION LEAVE, THE ELIGIBLE EMPLOYEE SHALL PROVIDE WRITTEN PHYSICIAN VERIFICATION TO THE EMPLOYER THAT:

(1) THE ELIGIBLE EMPLOYEE IS AN ORGAN DONOR OR A BONE MARROW DONOR; AND

(2) THERE IS A MEDICAL NECESSITY FOR THE DONATION OF THE ORGAN OR BONE MARROW.

(C) ORGAN DONATION LEAVE MAY NOT BE TAKEN CONCURRENTLY WITH ANY LEAVE TAKEN UNDER THE FEDERAL FAMILY AND MEDICAL LEAVE ACT.

3–1403.

(A) AN EMPLOYER MAY NOT CONSIDER ANY PERIOD OF TIME DURING WHICH AN ELIGIBLE EMPLOYEE TAKES ORGAN DONATION LEAVE TO BE A BREAK IN THE ELIGIBLE EMPLOYEE'S CONTINUOUS SERVICE FOR THE PURPOSE OF THE ELIGIBLE EMPLOYEE'S RIGHT TO SALARY ADJUSTMENTS, SICK LEAVE, VACATION, PAID TIME OFF, ANNUAL LEAVE, OR SENIORITY.

(B) AN ELIGIBLE EMPLOYEE WHO RETURNS TO WORK AFTER TAKING ORGAN DONATION LEAVE IS ENTITLED TO BE RESTORED BY AN EMPLOYER:

(1) TO THE POSITION OF EMPLOYMENT HELD BY THE ELIGIBLE EMPLOYEE WHEN THE ORGAN DONATION LEAVE BEGAN; OR

(2) TO AN EQUIVALENT POSITION WITH EQUIVALENT EMPLOYMENT BENEFITS, PAY, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

(C) AN EMPLOYER MAY DENY RESTORATION OF THE ELIGIBLE EMPLOYEE'S POSITION OF EMPLOYMENT UNDER SUBSECTION (B) OF THIS SECTION BECAUSE OF CONDITIONS UNRELATED TO THE EXERCISE OF RIGHTS ESTABLISHED UNDER THIS SUBTITLE.

3–1404.

(A) DURING ANY PERIOD THAT AN ELIGIBLE EMPLOYEE TAKES ORGAN DONATION LEAVE, AN EMPLOYER SHALL MAINTAIN COVERAGE OF A GROUP HEALTH PLAN FOR THE DURATION OF THE ORGAN DONATION LEAVE AND IN THE SAME MANNER THAT COVERAGE WOULD HAVE BEEN PROVIDED IF THE ELIGIBLE EMPLOYEE HAD CONTINUED IN EMPLOYMENT CONTINUOUSLY FOR THE DURATION OF THE ORGAN DONATION LEAVE.

(B) IF AN ELIGIBLE EMPLOYEE WORKS ON A COMMISSION BASIS, AN EMPLOYER SHALL PAY TO THE ELIGIBLE EMPLOYEE DURING ANY PERIOD OF ORGAN DONATION LEAVE ANY COMMISSION THAT BECOMES DUE BECAUSE OF WORK THE ELIGIBLE EMPLOYEE PERFORMED BEFORE TAKING ORGAN DONATION LEAVE.

3–1405.

THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

3–1406.

(A) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SUBTITLE HAS BEEN VIOLATED, THE COMMISSIONER SHALL:

(1) TRY TO RESOLVE INFORMALLY BY MEDIATION ANY ISSUE INVOLVED IN THE VIOLATION; OR

(2) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE ELIGIBLE EMPLOYEE.

(B) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SECTION FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED.

3–1407.

(A) AN EMPLOYER MAY NOT:

(1) VIOLATE ANY PROVISION OF THIS SUBTITLE;

(2) HINDER, DELAY, OR OTHERWISE INTERFERE WITH THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER IN THE ENFORCEMENT OF THIS SUBTITLE; OR

(3) DISCHARGE OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE HAS:

(I) REQUESTED OR TAKEN ORGAN DONATION LEAVE AUTHORIZED UNDER THIS SUBTITLE;

(II) MADE A COMPLAINT TO THE EMPLOYER, THE COMMISSIONER, OR ANOTHER PERSON; OR

(III) TESTIFIED OR WILL TESTIFY IN AN ACTION UNDER THIS SUBTITLE OR A PROCEEDING THAT RELATES TO THE SUBJECT OF THIS SUBTITLE.

(B) THE COMMISSIONER MAY BRING AN ACTION FOR INJUNCTIVE RELIEF AND DAMAGES AGAINST A PERSON WHO VIOLATES SUBSECTION (A)(1) OR (3) OF THIS SECTION.

3–1408.

(A) THIS SUBTITLE MAY NOT BE CONSTRUED TO DIMINISH THE OBLIGATION OF AN EMPLOYER TO COMPLY WITH A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYMENT BENEFIT PROGRAM OR PLAN THAT PROVIDES GREATER ORGAN DONATION LEAVE RIGHTS TO EMPLOYEES THAN THE RIGHTS ESTABLISHED UNDER THIS SUBTITLE.

(B) THE RIGHTS ESTABLISHED FOR EMPLOYEES UNDER THIS SUBTITLE MAY NOT BE DIMINISHED BY A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYMENT BENEFIT PROGRAM OR PLAN.

3–1409.

THIS SUBTITLE MAY NOT BE CONSTRUED TO DISCOURAGE EMPLOYERS FROM ADOPTING OR RETAINING LEAVE POLICIES MORE GENEROUS THAN POLICIES THAT COMPLY WITH THIS SUBTITLE.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect January 1, 2020, and shall apply to all life insurance, disability insurance, and long–term care insurance policies issued, delivered, or renewed in the State on or after January 1, 2020.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 728 – *Taxation of Online Sales – Marketplace Facilitators and Sellers of Other Tobacco Products.*

This bill requires a marketplace facilitator and a marketplace seller to collect and remit the State sales and use tax under certain circumstances, and establishes tax collection and licensing requirements for marketplace facilitators and marketplace sellers.

This bill also alters the distribution of sales and use tax revenues by requiring that for each fiscal year 1) the first $100 million in sales taxes collected from marketplace facilitators and certain out–of–state vendors be distributed to the general fund; and 2) revenues in excess of $100 million from these sales taxes be distributed to the Blueprint for Maryland's Future Fund. Additionally, this bill requires specified out–of–state sellers to pay the tobacco tax on pipe tobacco and premium cigars on which the tobacco tax has not been paid.

House Bill 1301, which was passed by the General Assembly and will become law without my signature, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 728.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 728

AN ACT concerning

~~**Sales and Use Tax – Collection by Marketplace Facilitators**~~
Taxation of Online Sales – Marketplace Facilitators and Sellers of Other Tobacco Products

FOR the purpose of altering the distribution of certain sales and use tax revenue; altering the definition of "vendor", under the sales and use tax, to include certain marketplace facilitators and marketplace sellers; requiring a marketplace facilitator, under certain circumstances, to collect the sales and use tax on certain sales by a marketplace seller to a buyer in this State; authorizing a refund of the sales and use tax paid by a buyer under certain circumstances; requiring a marketplace facilitator to report the sales and use tax collected in a certain manner; prohibiting a class action from being brought against a marketplace facilitator in a court of this State under certain circumstances; providing that a marketplace facilitator is not liable for a failure to collect certain sales and use taxes except under certain circumstances; authorizing the Comptroller, under certain circumstances, to waive the requirement that certain marketplace facilitators collect the sales and use tax on certain transactions; requiring a marketplace facilitator to complete and file with the Comptroller a certain sales and use tax return within a certain period of time; specifying the contents of the return; authorizing a marketplace facilitator to file a certain consolidated return under certain circumstances; requiring a person to be licensed by the Comptroller before the person may engage in the business of a marketplace facilitator; prohibiting a person from engaging in the business of a marketplace facilitator without a certain license; *requiring certain out–of–state sellers to pay the tobacco tax on pipe tobacco or certain premium cigars under certain circumstances;* defining certain terms; making certain conforming changes; providing for the construction and application of this Act; prohibiting the Comptroller, under certain circumstances, from imposing certain penalties and interest; *making the provisions of this Act severable;* and generally relating to the collection of the sales and use tax *and payment of the tobacco tax*.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 11–101(a), 11–701(a), and 13–901(a)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

BY adding to
Article – Tax – General
Section 11–101(c–2) and (c–3), 11–403.1, ~~and 11–502.1~~ *11–502.1, and 12–302(e)*
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General
Section 2–1303, 11–101(o), 11–501(a), 11–502(a), 11–701(d), 11–702, 11–703, 11–705, 11–712, *12–101*, and 13–901(g)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Tax – General

2–1303.

(A) After making the distributions required under §§ 2–1301 through 2–1302.1 of this subtitle, the Comptroller shall pay:

(1) revenues from the hotel surcharge into the Dorchester County Economic Development Fund established under § 10–130 of the Economic Development Article; **[**and**]**

(2) **SUBJECT TO SUBSECTION (B) OF THIS SECTION,** ***TO THE BLUEPRINT FOR MARYLAND'S FUTURE FUND ESTABLISHED UNDER § 5–219 OF THE EDUCATION ARTICLE,*** **REVENUES COLLECTED AND REMITTED ~~BY A MARKETPLACE FACILITATOR OR~~** ***BY:***

(I) A MARKETPLACE FACILITATOR; OR

(II) **A PERSON THAT ENGAGES IN THE BUSINESS OF AN OUT–OF–STATE VENDOR AND** ***WHO*** **IS REQUIRED TO COLLECT AND REMIT SALES AND USE TAX ~~UNDER 03.06.01.33B(5) OF THE CODE OF MARYLAND REGULATIONS INTO THE COMMISSION ON INNOVATION AND EXCELLENCE IN EDUCATION FUND ESTABLISHED UNDER § 5–219 OF THE EDUCATION ARTICLE~~** ***AS SPECIFIED IN COMAR 03.06.01.33B(5)*****; AND**

(3) the remaining sales and use tax revenue into the General Fund of the State.

(B) FOR EACH FISCAL YEAR, THE COMPTROLLER SHALL PAY ***INTO THE GENERAL FUND OF THE STATE*** **THE FIRST $100,000,000 OF REVENUES COLLECTED AND REMITTED ~~BY A MARKETPLACE FACILITATOR OR~~** ***BY:***

(1) A MARKETPLACE FACILITATOR; OR

(2) **A PERSON THAT ENGAGES IN THE BUSINESS OF AN OUT–OF–STATE VENDOR AND** ***WHO*** **IS REQUIRED TO COLLECT AND REMIT SALES AND USE TAX ~~UNDER~~**

~~**03.06.01.33B(5) OF THE CODE OF MARYLAND REGULATIONS INTO THE GENERAL FUND OF THE STATE** *AS SPECIFIED IN COMAR 03.06.01.33B(5).*~~

11–101.

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

~~**(C–2) "MARKETPLACE FACILITATOR" MEANS A PERSON THAT:**~~

~~**(1) FACILITATES FOR CONSIDERATION, REGARDLESS OF WHETHER THE CONSIDERATION IS DEDUCTED AS FEES FROM THE TRANSACTION, THE SALE OF A VENDOR'S PRODUCTS THROUGH A PHYSICAL OR ELECTRONIC MARKETPLACE OPERATED BY THE PERSON;**~~

~~**(2) ENGAGES, DIRECTLY OR INDIRECTLY, THROUGH ONE OR MORE AFFILIATES OF THE PERSON, IN ANY OF THE FOLLOWING ACTIVITIES:**~~

~~**(I) TRANSMITTING OR OTHERWISE COMMUNICATING THE OFFER OR ACCEPTANCE BETWEEN A BUYER AND VENDOR;**~~

~~**(II) OWNING, RENTING, LICENSING, LEASING, MAKING AVAILABLE, OR OPERATING ANY ELECTRONIC OR PHYSICAL INFRASTRUCTURE OR ANY PROPERTY, PROCESS, METHOD, COPYRIGHT, TRADEMARK, OR PATENT THAT CONNECTS MARKETPLACE SELLERS TO PURCHASERS FOR THE PURPOSE OF MAKING RETAIL SALES;**~~

~~**(III) PROVIDING A VIRTUAL CURRENCY THAT BUYERS ARE ALLOWED OR REQUIRED TO USE TO PURCHASE PRODUCTS FROM THE MARKETPLACE SELLER; OR**~~

~~**(IV) PROVIDING SOFTWARE DEVELOPMENT, RESEARCH, OR DEVELOPMENT ACTIVITIES RELATED TO ANY OF THE ACTIVITIES DESCRIBED UNDER ITEMS (I) THROUGH (III) OF THIS ITEM, IF THE ACTIVITIES ARE DIRECTLY RELATED TO A PHYSICAL OR ELECTRONIC MARKETPLACE OPERATED BY THE PERSON OR AN AFFILIATED PERSON; AND**~~

~~**(3) ENGAGES IN ANY OF THE FOLLOWING ACTIVITIES WITH RESPECT TO THE MARKETPLACE SELLER'S PRODUCTS:**~~

~~**(I) PAYMENT PROCESSING SERVICES;**~~

~~**(II) FULFILLMENT OR STORAGE ACTIVITIES;**~~

~~**(III) LISTING PRODUCTS FOR SALE;**~~

~~(IV) SETTING PRICES;~~

~~(V) BRANDING SALES AS THOSE OF THE MARKETPLACE FACILITATOR;~~

~~(VI) ORDER TAKING;~~

~~(VII) ADVERTISING OR PROMOTION; OR~~

~~(VIII) PROVIDING CUSTOMER SERVICE OR ACCEPTING OR ASSISTING WITH RETURNS OR EXCHANGES.~~

(C–2) (1) "MARKETPLACE FACILITATOR" MEANS A PERSON THAT:

(I) FACILITATES A RETAIL SALE BY A MARKETPLACE SELLER BY LISTING OR ADVERTISING FOR SALE IN A MARKETPLACE TANGIBLE PERSONAL PROPERTY; AND

(II) REGARDLESS OF WHETHER THE PERSON RECEIVES COMPENSATION OR OTHER CONSIDERATION IN EXCHANGE FOR THE PERSON'S SERVICES, DIRECTLY OR INDIRECTLY THROUGH AGREEMENTS WITH THIRD PARTIES, COLLECTS PAYMENT FROM A BUYER AND TRANSMITS THE PAYMENT TO THE MARKETPLACE SELLER.

(2) "MARKETPLACE FACILITATOR" DOES NOT INCLUDE:

(I) A PLATFORM OR FORUM THAT EXCLUSIVELY PROVIDES INTERNET ADVERTISING SERVICES, INCLUDING LISTING PRODUCTS FOR SALE, IF THE PLATFORM OR FORUM DOES NOT ALSO ENGAGE, DIRECTLY OR INDIRECTLY, IN COLLECTING PAYMENT FROM A BUYER AND TRANSMITTING THAT PAYMENT TO THE VENDOR;

(II) A PAYMENT PROCESSOR BUSINESS APPOINTED BY A VENDOR TO HANDLE PAYMENT TRANSACTIONS FROM CLIENTS, INCLUDING CREDIT CARDS AND DEBIT CARDS, WHOSE ONLY ACTIVITY WITH RESPECT TO MARKETPLACE SALES IS TO HANDLE TRANSACTIONS BETWEEN TWO PARTIES;

(III) A PEER–TO–PEER CAR SHARING PROGRAM, AS DEFINED IN § 19–520 OF THE INSURANCE ARTICLE; OR

(IV) A DELIVERY SERVICE COMPANY THAT DELIVERS TANGIBLE PERSONAL PROPERTY ON BEHALF OF A MARKETPLACE SELLER THAT IS ENGAGED

IN THE BUSINESS OF A RETAIL VENDOR AND HOLDS A LICENSE ISSUED UNDER SUBTITLE 7 OF THIS TITLE.

(C–3) "MARKETPLACE SELLER" MEANS A PERSON THAT MAKES A RETAIL SALE OR SALE FOR USE THROUGH A PHYSICAL OR ELECTRONIC MARKETPLACE OPERATED BY A MARKETPLACE FACILITATOR.

(o) (1) "Vendor" means a person who:

(i) engages in the business of an out–of–state vendor, as defined in § 11–701 of this title;

(ii) engages in the business of a retail vendor, as defined in § 11–701 of this title;

(iii) holds a special license issued under § 11–707 of this title; **[**or**]**

(iv) is an accommodations intermediary**;**

(V) ENGAGES IN THE BUSINESS OF A MARKETPLACE FACILITATOR; OR

(VI) ENGAGES IN THE BUSINESS OF A MARKETPLACE SELLER.

(2) "Vendor" includes, for an out–of–state vendor, a salesman, representative, peddler, or canvasser whom the Comptroller, for the efficient administration of this title, elects to treat as an agent jointly responsible with the dealer, distributor, employer, or supervisor:

(i) under whom the agent operates; or

(ii) from whom the agent obtains the tangible personal property or taxable service for sale.

11–403.1.

(A) (1) A MARKETPLACE FACILITATOR SHALL COLLECT THE APPLICABLE SALES AND USE TAX DUE ON A RETAIL SALE OR SALE FOR USE BY A MARKETPLACE SELLER TO A BUYER IN THIS STATE.

(2) A MARKETPLACE SELLER IS NOT REQUIRED TO COLLECT THE APPLICABLE SALES AND USE TAX UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE EXTENT THAT THE MARKETPLACE FACILITATOR COLLECTS THE APPLICABLE SALES AND USE TAX.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, UNLESS A BUYER IS OTHERWISE REQUIRED BY REGULATION TO PAY THE SALES AND USE TAX DIRECTLY TO THE COMPTROLLER, THE BUYER SHALL PAY THE SALES AND USE TAX TO THE MARKETPLACE FACILITATOR AT THE TIME OF THE TAXABLE SALE DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION.

(C) A MARKETPLACE FACILITATOR, OR OTHER APPROPRIATE PARTY, SHALL REFUND TO A BUYER THE PROPORTIONATE AMOUNT OF SALES AND USE TAX THAT THE BUYER HAS PAID IF:

(1) (I) A SALE IS RESCINDED OR CANCELED; OR

(II) THE PROPERTY SOLD IS RETURNED TO THE MARKETPLACE FACILITATOR OR MARKETPLACE SELLER; AND

(2) THE PURCHASE PRICE IS WHOLLY OR PARTIALLY REPAID OR CREDITED.

(D) A MARKETPLACE FACILITATOR SHALL REPORT THE SALES AND USE TAX COLLECTED UNDER THIS SECTION SEPARATELY FROM THE SALES AND USE TAX COLLECTED BY THE MARKETPLACE FACILITATOR ON TAXABLE SALES MADE DIRECTLY BY THE MARKETPLACE FACILITATOR, OR AN AFFILIATE OF THE MARKETPLACE FACILITATOR, TO BUYERS IN THIS STATE.

(E) (1) A CLASS ACTION MAY NOT BE BROUGHT AGAINST A MARKETPLACE FACILITATOR IN A COURT OF THIS STATE ON BEHALF OF BUYERS ARISING FROM OR IN ANY WAY RELATED TO AN OVERPAYMENT OF SALES OR USE TAX COLLECTED ON SALES FACILITATED BY THE MARKETPLACE FACILITATOR, REGARDLESS OF WHETHER THAT CLAIM IS CHARACTERIZED AS A TAX REFUND CLAIM.

(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO AFFECT A BUYER'S RIGHT TO SEEK A REFUND UNDER SUBSECTION (C) OF THIS SECTION OR TITLE 13, SUBTITLE 9 OF THIS ARTICLE.

(F) (1) THIS SUBSECTION DOES NOT APPLY IF A MARKETPLACE FACILITATOR AND A MARKETPLACE SELLER ARE RELATED ENTITIES.

(2) A MARKETPLACE FACILITATOR IS NOT LIABLE FOR A FAILURE TO COLLECT THE CORRECT AMOUNT OF SALES AND USE TAX DUE UNDER THIS SECTION IF THE MARKETPLACE FACILITATOR DEMONSTRATES TO THE SATISFACTION OF THE COMPTROLLER THAT THE FAILURE WAS THE RESULT OF INSUFFICIENT OR INCORRECT INFORMATION PROVIDED BY THE MARKETPLACE SELLER.

~~(F)~~ (G) NOTHING IN THIS SECTION AFFECTS THE OBLIGATION OF A BUYER TO REMIT THE APPLICABLE SALES AND USE TAX FOR ANY TAXABLE SALE FOR WHICH A MARKETPLACE FACILITATOR FAILS TO COLLECT AND REMIT THE APPLICABLE SALES AND USE TAX.

(H) (1) A MARKETPLACE FACILITATOR AND MARKETPLACE SELLER MAY APPLY TO THE COMPTROLLER FOR A WAIVER OF THE COLLECTION REQUIREMENT UNDER THIS SECTION IF:

(I) THE MARKETPLACE SELLER IS A COMMUNICATIONS COMPANY THAT IS PUBLICLY TRADED OR IS CONTROLLED, DIRECTLY OR INDIRECTLY, BY A COMPANY THAT IS PUBLICLY TRADED;

(II) THE MARKETPLACE FACILITATOR AND MARKETPLACE SELLER ENTER INTO AN AGREEMENT THAT THE MARKETPLACE SELLER WILL COLLECT AND REMIT ALL APPLICABLE SALES AND USE TAXES IMPOSED UNDER THIS TITLE; AND

(III) THE MARKETPLACE SELLER PROVIDES EVIDENCE TO THE MARKETPLACE FACILITATOR THAT THE MARKETPLACE SELLER IS LICENSED UNDER § 11–702 OF THIS TITLE TO ENGAGE IN THE BUSINESS OF AN OUT–OF–STATE VENDOR IN THE STATE OR A RETAIL VENDOR IN THE STATE.

(2) IF THE WAIVER UNDER PARAGRAPH (1) OF THIS SUBSECTION IS AUTHORIZED:

(I) THE MARKETPLACE SELLER SUBJECT TO THE AGREEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL COLLECT AND REMIT THE SALES AND USE TAX IMPOSED UNDER THIS TITLE;

(II) THE MARKETPLACE FACILITATOR IS NOT REQUIRED TO COLLECT OR REMIT THE SALES AND USE TAX IMPOSED UNDER THIS TITLE; AND

(III) THE MARKETPLACE FACILITATOR IS NOT LIABLE FOR THE FAILURE OF A MARKETPLACE SELLER TO COLLECT AND REMIT ANY SALES AND USE TAX IMPOSED UNDER THIS TITLE.

(3) THE COMPTROLLER SHALL ADOPT REGULATIONS THAT ESTABLISH:

(I) THE CRITERIA FOR OBTAINING A WAIVER UNDER THIS SUBSECTION; AND

(II) THE PROCESS AND PROCEDURE TO APPLY FOR A WAIVER.

(I) (1) IF THE COMPTROLLER CONDUCTS AN AUDIT FOR COMPLIANCE WITH THIS SECTION, THE COMPTROLLER MAY AUDIT ONLY THE MARKETPLACE FACILITATOR FOR SALES MADE BY A MARKETPLACE SELLER THAT ARE FACILITATED BY THE MARKETPLACE FACILITATOR.

(2) THE COMPTROLLER MAY NOT AUDIT THE MARKETPLACE SELLER FOR SALES FACILITATED BY THE MARKETPLACE FACILITATOR FOR WHICH THE MARKETPLACE FACILITATOR COLLECTED OR SHOULD HAVE COLLECTED THE SALES AND USE TAX DUE.

11–501.

(a) A buyer who fails to pay the sales and use tax on a purchase or use subject to the tax to the vendor as required in § 11–403 of this title **OR TO A MARKETPLACE FACILITATOR AS REQUIRED IN § 11–403.1 OF THIS TITLE** or who is required by regulation to file a return for a purchase or use subject to the tax shall complete, under oath, and file with the Comptroller a sales and use tax return:

(1) on or before the 20th day of the month that follows the month in which the buyer makes that purchase or use; and

(2) for other periods and on other dates that the Comptroller specifies, by regulation, including periods in which the buyer does not make any purchase or use subject to the sales and use tax.

11–502.

(a) **[**Each**] EXCEPT AS PROVIDED IN § 11–403.1(A) OF THIS TITLE AND § 11–502.1 OF THIS SUBTITLE, EACH** vendor shall complete, under oath, and file with the Comptroller a sales and use tax return:

(1) on or before the 20th day of the month that follows the month in which the vendor makes any retail sale or sale for use; and

(2) for other periods and on other dates that the Comptroller specifies by regulation, including periods in which the vendor does not make any retail sale or sale for use.

11–502.1.

(A) EACH MARKETPLACE FACILITATOR SHALL COMPLETE, UNDER OATH, AND FILE WITH THE COMPTROLLER A SALES AND USE TAX RETURN:

(1) ON OR BEFORE THE 20TH DAY OF THE MONTH THAT FOLLOWS THE MONTH IN WHICH A MARKETPLACE SELLER MAKES ANY RETAIL SALE OR SALE FOR USE THROUGH THE MARKETPLACE FACILITATOR; AND

(2) FOR OTHER PERIODS AND ON OTHER DATES THAT THE COMPTROLLER SPECIFIES BY REGULATION, INCLUDING PERIODS IN WHICH A MARKETPLACE SELLER DOES NOT MAKE ANY RETAIL SALE OR SALE FOR USE THROUGH THE MARKETPLACE FACILITATOR.

(B) A RETURN SHALL STATE, FOR THE PERIOD THAT THE RETURN COVERS:

(1) FOR A MARKETPLACE FACILITATOR FACILITATING A RETAIL SALE OR A SALE FOR USE:

(I) THE MARKETPLACE FACILITATOR'S GROSS REVENUES FROM THE SALES OF MARKETPLACE SELLERS THAT THE MARKETPLACE FACILITATOR HAS FACILITATED AND DELIVERED IN THE STATE;

(II) THE TAXABLE PRICE OF SALES OF THOSE MARKETPLACE SELLERS ON WHICH THE SALES AND USE TAX IS COMPUTED; AND

(III) THE SALES AND USE TAX DUE; AND

(2) FOR A MARKETPLACE FACILITATOR FACILITATING A SALE FOR USE:

(I) THE TOTAL VALUE OF THE TANGIBLE PERSONAL PROPERTY OR TAXABLE SERVICE SOLD BY MARKETPLACE SELLERS THE USE OF WHICH BECAME SUBJECT TO THE SALES AND USE TAX; AND

(II) THE SALES AND USE TAX DUE.

(C) IF THE COMPTROLLER APPROVES, A MARKETPLACE FACILITATOR ENGAGING IN MORE THAN ONE BUSINESS IN WHICH THE MARKETPLACE FACILITATOR FACILITATES RETAIL SALES OR SALES FOR USE MAY FILE A CONSOLIDATED RETURN COVERING THE ACTIVITIES OF THE BUSINESSES.

11–701.

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

(d) (1) "License" means a license issued by the Comptroller:

(i) to engage in the business of an out–of–state vendor; **[**or**]**

(ii) to engage in the business of a retail vendor**; OR**

(III) TO ENGAGE IN THE BUSINESS OF A MARKETPLACE FACILITATOR.

(2) "License" includes a special license issued under § 11–707 of this subtitle.

11–702.

A person shall be licensed by the Comptroller before the person may:

(1) engage in the business of an out–of–state vendor in the State; **[**or**]**

(2) engage in the business of a retail vendor in the State**; OR**

(3) ENGAGE IN THE BUSINESS OF A MARKETPLACE FACILITATOR.

11–703.

An applicant for a license to engage in the business of an out–of–state vendor **[**or**],** to engage in the business of a retail vendor**, OR TO ENGAGE IN THE BUSINESS OF A MARKETPLACE FACILITATOR** shall submit an application to the Comptroller:

(1) for each place of business in the State where the applicant sells tangible personal property or a taxable service;

(2) if the applicant has no fixed place of business and sells from 1 or more vehicles, for each vehicle; or

(3) if the applicant has no fixed place of business and does not sell from a vehicle, for the place designated as the address to which notices are to be mailed.

11–705.

While it is effective, and except as provided under § 11–707(b) of this subtitle, a license authorizes the licensee:

(1) to engage in the business of an out–of–state vendor; **[**or**]**

(2) to engage in the business of a retail vendor**; OR**

(3) TO ENGAGE IN THE BUSINESS OF A MARKETPLACE FACILITATOR.

11–712.

A person may not engage in the business of a retail vendor **[**or**],** engage in the business of an out–of–state vendor**, OR ENGAGE IN THE BUSINESS OF A MARKETPLACE FACILITATOR** without a license issued by the Comptroller under this subtitle.

12–101.

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

(b) "Cigarette" means any size or shaped roll for smoking that is made of tobacco or tobacco mixed with another ingredient and wrapped in paper or in any other material except tobacco.

(c) "Manufacturer" means a person who acts as a manufacturer as defined in § 16–201 of the Business Regulation Article or as an other tobacco products manufacturer as defined in § 16.5–101 of the Business Regulation Article.

(d) "Other tobacco product" means:

(1) any cigar or roll for smoking, other than a cigarette, made in whole or in part of tobacco; or

(2) any other tobacco or product made primarily from tobacco, other than a cigarette, that is intended for consumption by smoking or chewing or as snuff.

(e) "Other tobacco products retailer" means a person authorized under § 16.5–205(b) of the Business Regulation Article to purchase other tobacco products on which the tobacco tax has not been paid.

(F) "OUT–OF–STATE SELLER" MEANS A PERSON LOCATED OUTSIDE THE STATE THAT SELLS, HOLDS FOR SALE, SHIPS, OR DELIVERS PREMIUM CIGARS OR PIPE TOBACCO TO CONSUMERS IN THE STATE IF, DURING THE PREVIOUS CALENDAR YEAR OR THE CURRENT CALENDAR YEAR:

(1) THE PERSON'S GROSS REVENUE FROM THE SALE OF PREMIUM CIGARS OR PIPE TOBACCO IN THE STATE EXCEEDS $100,000; OR

(2) THE PERSON SOLD PREMIUM CIGARS OR PIPE TOBACCO INTO THE STATE IN 200 OR MORE SEPARATE TRANSACTIONS.

(G) "PIPE TOBACCO" HAS THE MEANING STATED IN § 16.5–101 OF THE BUSINESS REGULATION ARTICLE.

(H) "PREMIUM CIGARS" HAS THE MEANING STATED IN § 16.5–101 OF THE BUSINESS REGULATION ARTICLE.

[(f)] (I) *"Sell" means to exchange or transfer, or to make an agreement to exchange or transfer, title or possession of property, in any manner or by any means, for consideration.*

[(g)] (J) *"Tax stamp" means a device in the design and denomination that the Comptroller authorizes by regulation for the purpose of being affixed to a package of cigarettes as evidence that the tobacco tax is paid.*

[(h)] (K) *"Tobacconist" means a person authorized under § 16.5–205(e) of the Business Regulation Article to purchase other tobacco products on which the tobacco tax has not been paid.*

[(i)] (L) *"Unstamped cigarettes" means a package of cigarettes to which tax stamps are not affixed in the amount and manner required in § 12–304 of this title.*

[(j)] (M) *"Wholesale price" means the price for which a wholesaler buys other tobacco products, exclusive of any discount, trade allowance, rebate, or other reduction.*

[(k)] (N) *"Wholesaler" means, unless the context requires otherwise, a person who acts as a wholesaler as defined in § 16–201 of the Business Regulation Article or as an other tobacco products wholesaler as defined in § 16.5–101 of the Business Regulation Article.*

12–302.

(E) AN OUT–OF–STATE SELLER SHALL PAY THE TOBACCO TAX ON PIPE TOBACCO OR PREMIUM CIGARS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID.

13–901.

(a) A claim for refund may be filed with the tax collector who collects the tax, fee, or charge by a claimant who:

(1) erroneously pays to the State a greater amount of tax, fee, charge, interest, or penalty than is properly and legally payable;

(2) pays to the State a tax, fee, charge, interest, or penalty that is erroneously, illegally, or wrongfully assessed or collected in any manner; or

(3) pays a tax qualifying for refund under subsections (b) through (h) of this section.

(g) A claim for refund of sales and use tax may be filed by a claimant who:

(1) pays the tax on a sale exempt under § 11–216 of this article;

(2) refunds the tax to a buyer in a canceled or rescinded sale under § 11–403(c) **OR § 11–403.1(C)** of this article;

(3) pays the tax in a canceled or rescinded sale for which the vendor **OR MARKETPLACE FACILITATOR** refuses to refund the tax as required under § 11–403(c) **OR § 11–403.1(C)** of this article; or

(4) pays the tax under § 11–408(c) of this article on a cash sale or sale for use that is not a retail sale.

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 sales of tangible personal property or taxable services for delivery in the State before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Comptroller may not impose any penalty or interest on a marketplace facilitator that fails to collect and remit the sales and use tax as required by this Act if the marketplace facilitator demonstrates, to the satisfaction of the Comptroller, a hardship implementing the computer programs necessary to collect the sales and use tax.

(b) This section applies only to transactions completed on or before January 1, 2020.

SECTION 4. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~3.~~ ~~4.~~ *5.* AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect ~~July~~ October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 733 – *State Board of Physicians – Registered Cardiovascular Invasive Specialists*.

This bill authorizes 1) a licensed physician to delegate duties to a "registered cardiovascular invasive specialist" assisting in a fluoroscopy under certain conditions; and 2) the State Board of Physicians to impose a civil penalty of up to $5,000 for each instance of a hospital's failure to comply with specified requirements This bill also requires the Maryland Health Care Commission to 1) conduct a review of hospital cardiac care catheterization laboratories in the State that includes specified information; and 2) and submit its findings to the Governor and the General Assembly by a certain date.

House Bill 924, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 733.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 733

AN ACT concerning

State Board of Physicians – Registered Cardiovascular Invasive Specialists

FOR the purpose of authorizing a licensed physician, under certain circumstances and in accordance with certain regulations, to delegate certain duties to a registered cardiovascular invasive specialist assisting in the physician's performance of a fluoroscopy; establishing that the hospital in which a certain laboratory is located and the physician delegating the acts are responsible for ensuring that certain requirements are met; authorizing the State Board of Physicians to impose a certain civil penalty for each instance of a hospital's failure to comply with certain requirements; defining "registered cardiovascular invasive specialist"; requiring the Maryland Health Care Commission to conduct a certain review, work with the Maryland Hospital Association to gather certain information, and submit its findings to the Governor and the General Assembly on or before a certain date; providing for the termination of certain provisions of this Act; and generally relating to registered cardiovascular invasive specialists.

BY renumbering
Article – Health Occupations
Section 14–101(p)
to be Section 14–101(q)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY adding to

Article – Health Occupations
Section 14–101(p)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–306
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 14–101(p) of Article – Health Occupations of the Annotated Code of Maryland be renumbered to be Section(s) 14–101(q).

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

Article – Health Occupations

14–101.

(P) "REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST" MEANS AN INDIVIDUAL WHO IS CREDENTIALED BY CARDIOVASCULAR CREDENTIALING INTERNATIONAL OR ANOTHER CREDENTIALING BODY APPROVED BY THE BOARD TO ASSIST IN CARDIAC CATHETERIZATION PROCEDURES UNDER THE DIRECT, IN–PERSON SUPERVISION OF A LICENSED PHYSICIAN.

14–306.

(a) To the extent permitted by the rules, regulations, and orders of the Board, an individual to whom duties are delegated by a licensed physician may perform those duties without a license as provided in this section.

(b) The individuals to whom duties may be delegated under this section include any individual authorized to practice any other health occupation regulated under this article or § 13–516 of the Education Article.

(c) The Board shall adopt rules and regulations to delineate the scope of this section. Before it adopts any rule or regulation under this section, the Board shall invite and consider proposals from any individual or health group that could be affected by the rule or regulation.

(d) (1) If a duty that is to be delegated under this section is a part of the practice of a health occupation that is regulated under this article by another board, any rule or regulation concerning that duty shall be adopted jointly by the Board of Physicians

and the board that regulates the other health occupation.

(2) If the two boards cannot agree on a proposed rule or regulation, the proposal shall be submitted to the Secretary for a final decision.

(e) Except as otherwise provided in this section, an individual may perform X–ray duties without a license only if the duties:

(1) Do not include:

(i) Computerized or noncomputerized tomography;

(ii) Fluoroscopy;

(iii) Invasive radiology;

(iv) Mammography;

(v) Nuclear medicine;

(vi) Radiation therapy; or

(vii) Xerography;

(2) Are limited to X–ray procedures of the:

(i) Chest, anterior–posterior and lateral;

(ii) Spine, anterior–posterior and lateral; or

(iii) Extremities, anterior–posterior and lateral, not including the head; and

(3) Are performed:

(i) By an individual who is not employed primarily to perform X–ray duties;

(ii) In the medical office of the physician who delegates the duties; and

(iii) 1. By an individual who, before October 1, 2002, has:

A. Taken a course consisting of at least 30 hours of training in performing X–ray procedures approved by the Maryland Radiological Society in consultation with the Maryland Society of Radiologic Technologists; and

B. Successfully passed an examination based on that course that has been approved by the Maryland Radiological Society in consultation with the Maryland Society of Radiologic Technologists; or

2. By a licensed physician assistant who has completed a course that includes anterior–posterior and lateral radiographic studies of extremities on at least 20 separate patients under the direct supervision of the delegating physician or radiologist using a mini C–arm or similar low–level radiation machine to perform nonfluoroscopic X–ray procedures, if the duties:

A. Include only the X–ray procedures described in paragraph (2)(iii) of this subsection; and

B. Are performed pursuant to a Board–approved delegation agreement that includes a request to perform advanced duties under § 15–302(c)(2) of this article.

(F) (1) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD, A LICENSED PHYSICIAN MAY DELEGATE DUTIES TO A REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST ASSISTING IN THE PHYSICIAN'S PERFORMANCE OF FLUOROSCOPY IF:

(I) THE DELEGATED DUTIES ARE LIMITED TO A CARDIAC CATHETERIZATION PROCEDURE PERFORMED IN A HOSPITAL CARDIAC CATHETERIZATION LABORATORY;

(II) THE PHYSICIAN IS PHYSICALLY PRESENT AND PERSONALLY DIRECTS EACH ACT PERFORMED BY THE REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST;

(III) THE REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST HAS COMPLETED THE TRAINING AND EDUCATION AND HAS THE EXPERIENCE REQUIRED BY REGULATIONS ADOPTED BY THE BOARD; AND

(IV) THE HOSPITAL IN WHICH THE CARDIAC CATHETERIZATION LABORATORY IS LOCATED HAS VERIFIED AND DOCUMENTED THAT THE REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST HAS COMPLETED THE TRAINING AND EDUCATION AND HAS THE EXPERIENCE REQUIRED BY REGULATIONS ADOPTED BY THE BOARD.

(2) THE HOSPITAL IN WHICH THE CARDIAC CATHETERIZATION LABORATORY IS LOCATED AND THE PHYSICIAN DELEGATING DUTIES TO A REGISTERED CARDIOVASCULAR INVASIVE SPECIALIST UNDER THIS SUBSECTION ARE RESPONSIBLE FOR ENSURING THAT ALL REQUIREMENTS OF THIS SUBSECTION ARE MET FOR EACH PROCEDURE.

(3) THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO $5,000 FOR EACH INSTANCE OF A HOSPITAL'S FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION.

SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Health Care Commission shall:

(1) conduct a review of hospital cardiac catheterization laboratories in the State that includes:

(i) the number and nature of radiation injuries that have occurred in a hospital cardiac catheterization laboratory in the period from October 1, 2016, through September 1, 2022, both inclusive;

(ii) the number and nature of instances in which the State Board of Physicians has imposed a civil penalty on a hospital under § 14–306(f)(3) of the Health Occupations Article since October 1, 2019; and

(iii) working with the Maryland Hospital Association to gather information on the number of registered cardiovascular invasive specialists employed by hospitals and the number of vacant positions for technicians in hospital cardiac catheterization laboratories; and

(2) on or before October 1, 2023, submit its findings to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019. It shall remain effective for a period of 5 years and, at the end of September 30, 2024, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 747 – *Education – Removal of County Superintendents – Procedures*.

This bill authorizes a local board of education, with the exception of Baltimore City, to remove a local superintendent of schools for the same reasons that the State Superintendent of Schools may remove a local superintendent under current law. This bill also provides that the local superintendent may appeal the decision of the State Superintendent or the local board to the State Board of Education.

House Bill 238, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 747.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 747

AN ACT concerning

Education – Removal of County Superintendents – Procedures

FOR the purpose of requiring the State Superintendent of Schools to provide a county superintendent of schools with certain information if the State Superintendent intends to remove the county superintendent; authorizing a county board of education to ~~file a complaint with the State Superintendent of Schools requesting the removal of~~ remove a county superintendent ~~of schools~~ in a certain manner; authorizing a county superintendent to appeal a certain decision by the State Superintendent to the State Board of Education; authorizing a county superintendent to appeal a certain decision by the county board to the State Board; ~~specifying the manner in which a county board may file a certain complaint; requiring the State Superintendent to make a decision to remove or retain a county superintendent within a certain period of time; requiring the State Superintendent to provide a county board with a written explanation of a certain decision; altering the period of time within which a county superintendent may request a hearing after being removed; establishing a period of time during which the State Superintendent may hold a certain hearing under certain circumstances; authorizing a county superintendent to request arbitration under certain circumstances; authorizing the county superintendent to appeal a certain decision to the State Board of Education or an arbitrator; specifying the procedures for arbitration; assigning responsibility for certain costs; providing that an arbitrator's decision and award is final and binding on the parties, subject to review by a circuit court; authorizing the county superintendent or, under certain circumstances, the county board to appeal a certain decision to the State Board of Education;~~ making stylistic changes; and generally relating to the procedures for removing a county superintendent of schools.

BY repealing and reenacting, with amendments,
Article – Education

Section 4–201
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

4–201.

(a) (1) This section does not apply to Baltimore City.

(2) Subsections (b), (c), (d), and (f) of this section do not apply in Prince George's County.

(b) (1) The term of a county superintendent is 4 years beginning on July 1. A county superintendent continues to serve until a successor is appointed and qualifies.

(2) By February 1 of the year in which a term ends, the county superintendent shall notify the county board whether the superintendent is a candidate for reappointment.

(3) In the year in which a term begins, the county board shall appoint a county superintendent between February 1 and June 30. However, if the county board decides to reappoint the incumbent superintendent, the county board shall take final action at a public meeting no later than March 1 of that year.

(4) If a county board is unable to appoint a county superintendent by July 1 of a year in which a term begins, the provisions of subsection (d) of this section apply.

(c) (1) An individual may not be appointed as county superintendent unless the individual:

(i) Is eligible to be issued a certificate for the office by the State Superintendent;

(ii) Has graduated from an accredited college or university; and

(iii) Has completed 2 years of graduate work at an accredited college or university, including public school administration, supervision, and methods of teaching.

(2) The appointment of a county superintendent is not valid unless approved in writing by the State Superintendent.

(3) If the State Superintendent disapproves an appointment, **[**he**]** **THE STATE SUPERINTENDENT** shall give **[**his**]** **THE** reasons for disapproval in writing to the county board.

(d) If a vacancy occurs in the office of county superintendent, the county board shall appoint an interim county superintendent who serves until July 1 after **[**his**]** **THE INTERIM COUNTY SUPERINTENDENT'S** appointment.

(e) (1) **[**The**]** **SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE** State Superintendent **OR A COUNTY BOARD** may remove a county superintendent for:

(i) Immorality;

(ii) Misconduct in office;

(iii) Insubordination;

(iv) Incompetency; or

(v) Willful neglect of duty.

~~**(2) (I) A COUNTY BOARD MAY FILE A COMPLAINT WITH THE STATE SUPERINTENDENT REQUESTING THE REMOVAL OF THE COUNTY SUPERINTENDENT UNDER THIS SUBSECTION.**~~

~~**(II) IN FILING A COMPLAINT UNDER THIS PARAGRAPH, THE COUNTY BOARD SHALL PROVIDE, IN A MANNER PRESCRIBED BY THE STATE SUPERINTENDENT:**~~

~~**1. THE REASON FOR REMOVAL, CHOSEN FROM ONE OR MORE OF THE ITEMS IN PARAGRAPH (1) OF THIS SUBSECTION; AND**~~

~~**2. DOCUMENTATION SUPPORTING THE CASE FOR REMOVAL.**~~

~~**(III) WITHIN 90 DAYS OF RECEIVING A COMPLAINT UNDER THIS PARAGRAPH, THE STATE SUPERINTENDENT SHALL MAKE A DECISION TO REMOVE OR RETAIN THE COUNTY SUPERINTENDENT.**~~

~~**(IV) THE STATE SUPERINTENDENT SHALL PROVIDE THE COUNTY BOARD WITH A WRITTEN EXPLANATION OF THE REASON FOR THE STATE SUPERINTENDENT'S DECISION.**~~

~~**[**(2)**]** **(3)** Before removing a county superintendent, the State Superintendent shall send the county superintendent a copy of the charges against the~~

~~county superintendent and give the county superintendent an opportunity within [10] 30 days to request[a]:~~

~~(I) A hearing BEFORE THE STATE SUPERINTENDENT; OR~~

~~(II) A HEARING BEFORE AN ARBITRATOR IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION~~

(I) THE STATE SUPERINTENDENT MAY REMOVE A COUNTY SUPERINTENDENT UNDER THIS SUBSECTION IF THE STATE SUPERINTENDENT PROVIDES THE COUNTY SUPERINTENDENT WITH:

~~(I)~~ **1. THE REASON FOR REMOVAL, CHOSEN FROM ONE OR MORE OF THE ITEMS IN PARAGRAPH (1) OF THIS SUBSECTION;**

~~(II)~~ **2. DOCUMENTATION SUPPORTING THE CASE FOR REMOVAL; AND**

~~(III)~~ **3. THE OPPORTUNITY TO REQUEST A HEARING WITHIN 10 DAYS BEFORE THE STATE SUPERINTENDENT IN ACCORDANCE WITH THIS SUBSECTION**.

(II) THE COUNTY SUPERINTENDENT MAY APPEAL THE DECISION OF THE STATE SUPERINTENDENT TO THE STATE BOARD.

~~[~~(3)~~]~~ ~~(4)~~ If the county superintendent requests a hearing **BEFORE THE STATE SUPERINTENDENT** within the ~~[~~10–day~~]~~ ~~30–DAY~~ period:

(i) The State Superintendent promptly shall hold a hearing~~[~~, but a hearing may not be set within 10~~] THAT SHALL BE SET:~~

~~1. NOT EARLIER THAN 11~~ days after the State Superintendent sends the county superintendent a notice of the hearing~~; AND~~

~~2. IF THE DECISION FOR REMOVAL ORIGINATED FROM A COMPLAINT UNDER PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 90 DAYS OF RECEIVING A COMPLAINT FROM THE COUNTY BOARD~~; and

(ii) The county superintendent shall have an opportunity to be heard publicly before the State Superintendent in the county superintendent's own defense, in person or by counsel.

(4) (I) A COUNTY BOARD MAY REMOVE A COUNTY SUPERINTENDENT UNDER THIS SUBSECTION IF THE COUNTY BOARD PROVIDES THE COUNTY SUPERINTENDENT WITH:

~~(I)~~ 1. THE REASON FOR REMOVAL, CHOSEN FROM ONE OR MORE OF THE ITEMS IN PARAGRAPH (1) OF THIS SUBSECTION; ~~AND~~

~~(II)~~ 2. DOCUMENTATION SUPPORTING THE CASE FOR REMOVAL~~; AND~~; AND

3. THE OPPORTUNITY TO REQUEST A HEARING WITHIN 10 DAYS BEFORE THE COUNTY BOARD IN ACCORDANCE WITH THIS SUBSECTION.

(II) THE COUNTY SUPERINTENDENT MAY APPEAL THE DECISION OF THE COUNTY BOARD TO THE STATE BOARD.

~~**(III) THE OPPORTUNITY TO REQUEST A HEARING WITHIN 10 DAYS BEFORE THE COUNTY BOARD IN ACCORDANCE WITH THIS SUBSECTION.**~~

~~**(5) IF A COUNTY SUPERINTENDENT REQUESTS A HEARING BEFORE THE COUNTY BOARD WITHIN THE 10–DAY PERIOD:**~~

~~**(I) THE COUNTY BOARD PROMPTLY SHALL HOLD A HEARING, BUT A HEARING MAY NOT BE SET WITHIN 10 DAYS AFTER THE COUNTY BOARD SENDS THE COUNTY SUPERINTENDENT A NOTICE OF THE HEARING; AND**~~

~~**(II) THE COUNTY SUPERINTENDENT SHALL HAVE AN OPPORTUNITY TO BE HEARD PUBLICLY BEFORE THE COUNTY BOARD IN THE COUNTY SUPERINTENDENT'S OWN DEFENSE, IN PERSON OR BY COUNSEL.**~~

~~**(6) THE COUNTY SUPERINTENDENT MAY APPEAL THE DECISION OF THE STATE SUPERINTENDENT OR THE COUNTY BOARD TO:**~~

~~**(I) THE STATE BOARD; OR**~~

~~**(II) AN ARBITRATOR IN ACCORDANCE WITH PARAGRAPH (7) OF THIS SUBSECTION.**~~

~~**(5)**~~ **(7) ~~(I) IF THE COUNTY SUPERINTENDENT REQUESTS A HEARING BEFORE AN ARBITRATOR WITHIN THE 30–DAY PERIOD, THE HEARING APPEALS THE DECISION OF THE STATE SUPERINTENDENT OR THE COUNTY BOARD TO AN ARBITRATOR, THE HEARING BEFORE THE ARBITRATOR SHALL BE CONDUCTED IN ACCORDANCE WITH THIS PARAGRAPH.~~**

~~(II) 1. AN ARBITRATOR SHALL BE SELECTED AS PROVIDED IN THIS SUBPARAGRAPH.~~

~~2. IF THE STATE SUPERINTENDENT~~ OR COUNTY BOARD ~~AND THE COUNTY SUPERINTENDENT AGREE ON AN ARBITRATOR, THE ARBITRATOR SHALL BE CHOSEN BY MUTUAL AGREEMENT OF THE PARTIES.~~

~~3. IF THE STATE SUPERINTENDENT~~ OR COUNTY BOARD ~~AND THE COUNTY SUPERINTENDENT CANNOT AGREE ON AN ARBITRATOR:~~

~~A. THE~~ STATE SUPERINTENDENT OR ~~COUNTY BOARD SHALL REQUEST FROM THE AMERICAN ARBITRATION ASSOCIATION A LIST OF THE ARBITRATORS THAT ARE AVAILABLE TO HEAR THIS TYPE OF DISPUTE AND MAKE A DECISION IN A TIMELY MANNER; AND~~

~~B. THE PARTIES ALTERNATELY SHALL STRIKE ARBITRATORS FROM THE LIST.~~

~~(III) A STENOGRAPHIC RECORD SHALL BE MADE OF THE PROCEEDINGS BEFORE THE ARBITRATOR.~~

~~(IV) 1. THE ARBITRATOR SHALL DETERMINE WHETHER THE STATE SUPERINTENDENT~~ OR COUNTY BOARD ~~HAS SUFFICIENT CAUSE FOR REMOVAL OF THE COUNTY SUPERINTENDENT.~~

~~2. A LESSER PENALTY THAN REMOVAL MAY BE IMPOSED BY THE ARBITRATOR ONLY TO THE EXTENT THAT EITHER PARTY PROPOSES THE LESSER PENALTY IN THE PROCEEDING.~~

~~(V) 1. THE STATE SUPERINTENDENT~~ OR COUNTY BOARD ~~AND THE COUNTY SUPERINTENDENT SHALL PAY THEIR OWN RESPECTIVE COSTS AND EXPENSES ASSOCIATED WITH ANY WITNESS OR EVIDENCE PRODUCED BY THE RESPECTIVE PARTIES.~~

~~2. IF THE ARBITRATOR DETERMINES THAT THE STATE SUPERINTENDENT~~ OR COUNTY BOARD ~~HAD SUFFICIENT CAUSE TO REMOVE THE COUNTY SUPERINTENDENT, THE COUNTY SUPERINTENDENT SHALL PAY THE FEES AND EXPENSES INCURRED OR CHARGED BY THE ARBITRATOR AND THE ADMINISTRATIVE FEES, IF ANY, OF THE AMERICAN ARBITRATION ASSOCIATION.~~

~~3. IF THE ARBITRATOR DETERMINES THAT THE STATE SUPERINTENDENT~~ OR COUNTY BOARD ~~DID NOT HAVE SUFFICIENT CAUSE TO REMOVE THE COUNTY SUPERINTENDENT, THE STATE~~ SUPERINTENDENT OR COUNTY BOARD ~~SHALL PAY THE FEES AND EXPENSES INCURRED OR CHARGED BY~~

~~THE ARBITRATOR AND THE ADMINISTRATIVE FEES, IF ANY, OF THE AMERICAN ARBITRATION ASSOCIATION.~~

~~(VI) 1. THE DECISION AND AWARD BY THE ARBITRATOR ARE FINAL AND BINDING ON THE PARTIES.~~

~~2. AN INDIVIDUAL~~ A PARTY ~~MAY REQUEST JUDICIAL REVIEW BY A CIRCUIT COURT, WHICH SHALL BE GOVERNED BY THE MARYLAND UNIFORM ARBITRATION ACT.~~

~~(6) THE COUNTY SUPERINTENDENT OR, IN CASES ORIGINATING FROM A COMPLAINT OF THE COUNTY BOARD UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY BOARD MAY APPEAL THE DECISION OF THE STATE SUPERINTENDENT TO THE STATE BOARD.~~

(f) On notification of pending criminal charges against a county superintendent as provided under § 4–206 of this subtitle, the county board may suspend the county superintendent with pay until the final disposition of the criminal charges.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 751 – *Governor's Appointments Office, Appointing Authorities, and the Secretary of Budget and Management – Duties and Reports*.

This bill would require that the Governor's Appointments Office engage in an invasive reporting process while vetting candidates for positions in State government, including candidates for Cabinet positions and people seeking appointment to be my closest advisors. This interferes with that office's most basic duties and flies in the face of the Maryland Declaration of Rights, Article 8, which provides that "the Legislative, Executive and Judicial powers of Government ought to be forever separate and distinct from each other" and Article II, § 1 of the Maryland Constitution, which provides that "the executive power

of the State shall be vested in a Governor." These provisions, in addition to others, confer on the Governor "a significant role in setting policies to govern the management and supervision of State employees." *McCulloch v. Glendening*, 347 Md. 272, 273 (1997).

This flawed and unnecessary legislation is yet another, in a long line of legislative overreach and blatant usurpations of executive privilege. By my count, this is the 103rd time that the Maryland General Assembly has taken power from the executive branch to score a cynical political purpose, not that of the public's. The constitution is very clear on separation of powers, for very good reasons, you have once again demonstrated a lack of understanding of this important principle in passing this legislation.

This unconstitutional law will impede the Executive Branch's ability to do business and have a chilling effect on our efforts to recruit qualified candidates. Personnel matters are confidential by law for a reason. Applicants for jobs trust their potential employer to be discreet and professional in every way. Having every movement logged and reported will have a detrimental effect on applicants for positions that affect every Marylander.

During consideration of this legislation, my staff shared with the General Assembly details of how the Appointments Office operates generally. I believe that such information is helpful for the General Assembly to know. The information sought by Senate Bill 751, on the other hand, is unnecessary and an unconstitutional intrusion by the Legislature into the operations of the Executive Branch.

My job as Governor is to appoint the most capable and qualified people to positions who will execute the vision that I have articulated to the people of the State. This legislation undermines that effort.

For these reasons, I have vetoed Senate Bill 751.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 751

AN ACT concerning

Governor's Appointments ~~Office~~ Office, Appointing Authorities, and the Secretary of Budget and Management – ~~At-Will Employees –~~ Duties and Reports

FOR the purpose of ~~specifying that the Appointments Office in the Office of the Governor is prohibited from interfering with, influencing, superseding, or assisting in any decision made by certain appointing authorities, the Secretary of Budget and Management, or certain units of the Department of Budget and Management on certain decisions regarding certain employees~~ prohibiting certain appointing authorities from delegating the authority to make certain decisions on the

appointment of certain employees; requiring the Appointments Office, on or before a certain date and annually thereafter, to submit a certain report regarding certain activities of the Appointments Office to a certain committee of the General Assembly; requiring the Office of the Attorney General to operate or provide for a certain hotline or e–mail address for certain purposes; authorizing the Office of the Attorney General to contact certain complainants under certain circumstances; requiring the Office of the Attorney General to submit a certain report to a certain committee of the General Assembly on or before a certain date each year; requiring the Secretary of Budget and Management to submit a certain annual report to a certain committee of the General Assembly for each fiscal year; altering the contents of a certain report; requiring that a certain position description include certain information about at–will employment under certain circumstances; and generally relating to the Appointments Office in the Office of the Governor, the Secretary of Budget and Management, and at–will employment.

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–3A–01
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 4–302 and 7–102(a)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – State Government

8–3A–01.

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

(2) "Appointing authority" has the meaning stated in § 1–101(b) of the State Personnel and Pensions Article.

(3) "Office" means the Appointments Office in the Office of the Governor that performs the function of recommending to the Governor the appointment or nomination of an individual to serve as a member of a State or local board, commission, council, committee, authority, task force, or other entity that by law requires the membership to be appointed in whole or in part by the Governor, whether or not the appointment or nomination is with the advice and consent of the Senate or House of Delegates.

(b) The Office may not direct, overrule, ~~**INTERFERE WITH, INFLUENCE, SUPERSEDE, ASSIST IN ANY DECISION MADE BY,**~~ or otherwise take any action regarding the decision of an appointing authority, the Secretary of Budget and Management, or any unit of the Department of Budget and Management to appoint, promote, transfer, reassign, discipline, or terminate an employee under the jurisdiction of the appointing authority.

(c) Only an appointing authority may delegate in writing the authority to act on the appointing authority's behalf, but only to an employee or officer under the jurisdiction of the appointing authority.

(d) An appointing authority may not delegate the authority to make the final decision on the **APPOINTMENT OR** termination of an employee.

(e) An appointing authority shall notify the Secretary of Budget and Management of any delegation of authority authorized under this section by providing the Secretary a copy of the delegation.

(F) (1) ON OR BEFORE DECEMBER 31, 2019, AND EACH DECEMBER 31 THEREAFTER, THE OFFICE SHALL, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, SUBMIT A REPORT TO THE JOINT COMMITTEE ON FAIR PRACTICES AND STATE PERSONNEL OVERSIGHT ON THE OFFICE'S ACTIVITIES REGARDING EMPLOYEES THAT ARE UNDER THE JURISDICTION OF AN APPOINTING AUTHORITY.

(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE NUMBER OF REFERRALS OR REQUESTS MADE FROM ANY APPOINTING AUTHORITY TO THE OFFICE ON EMPLOYEE APPOINTMENTS, PROMOTIONS, REASSIGNMENTS, DISCIPLINARY ACTIONS, OR TERMINATIONS;

(II) THE REASONS FOR THE REFERRALS OR REQUESTS SPECIFIED UNDER ITEM (I) OF THIS PARAGRAPH, CATEGORIZED BY APPOINTING AUTHORITY;

(III) THE TYPE OF INFORMATION PROVIDED BY THE OFFICE TO AN APPOINTING AUTHORITY AS A RESULT OF A REFERRAL OR REQUEST MADE UNDER ITEM (I) OF THIS PARAGRAPH, COMPILED BY TYPE AND NUMBER OF INSTANCES USING THE FOLLOWING CATEGORIES:

1. CRIMINAL BACKGROUND INFORMATION;

2. PERSONAL FINANCIAL INFORMATION;

3. ORGANIZATIONAL OR POLITICAL AFFILIATIONS;

4. CONTROVERSIAL STATEMENTS OR PERSPECTIVES; AND

5. OTHER CONFLICTS OF INTEREST;

(IV) THE WRITTEN POLICY OF THE OFFICE ON PROVIDING INFORMATION TO AN APPOINTING AUTHORITY REGARDING AN EMPLOYEE APPOINTMENT, PROMOTION, REASSIGNMENT, DISCIPLINARY ACTION, OR TERMINATION:

1. ON REQUEST OR REFERRAL OF AN APPOINTING AUTHORITY; AND

2. WHEN NOT REQUESTED BY AN APPOINTING AUTHORITY;

(V) THE NUMBER OF APPLICANTS AND EMPLOYEES REQUIRED TO COMPLETE A FORM FROM THE OFFICE THAT COLLECTS PERSONAL INFORMATION AND THE TYPE OF FORMS THAT ARE REQUIRED TO BE SUBMITTED;

(VI) THE NUMBER OF APPLICANTS AND EMPLOYEES THAT ARE REQUIRED TO COMMUNICATE WITH THE OFFICE REGARDING A PERSONNEL DECISION; AND

(VII) A STATEMENT THAT THE OFFICE IS IN COMPLIANCE WITH THIS SECTION.

(G) (1) THE OFFICE OF THE ATTORNEY GENERAL SHALL OPERATE OR PROVIDE FOR A HOTLINE OR AN E–MAIL ADDRESS TO RECEIVE AND RECORD INFORMATION ABOUT ALLEGED VIOLATIONS OF THIS SECTION.

(2) THE OFFICE OF THE ATTORNEY GENERAL MAY CONTACT THE COMPLAINANT TO GATHER ADDITIONAL INFORMATION.

(3) (I) ON OR BEFORE DECEMBER 1 EACH YEAR, THE OFFICE OF THE ATTORNEY GENERAL SHALL, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, SUBMIT A REPORT TO THE JOINT COMMITTEE ON FAIR PRACTICES AND STATE PERSONNEL OVERSIGHT ON, IN AGGREGATED OR ANONYMOUS FORM, THE NUMBER OF COMPLAINTS RECEIVED EACH YEAR.

(II) THE REPORT MAY INCLUDE A RESPONSE FROM THE OFFICE TO EACH COMPLAINT.

Article – State Personnel and Pensions

4–302.

(a) This section does not apply to the University System of Maryland.

(b) The Secretary shall submit to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly **AND THE JOINT COMMITTEE ON FAIR PRACTICES AND STATE PERSONNEL OVERSIGHT** an annual report covering all units of the Executive Branch of State government, including a unit with an independent personnel system, for each fiscal year that:

(1) provides information about:

(i) employee performance and efficiency;

(ii) use of leave by State employees;

(iii) incentive awards;

(iv) whistleblower proceedings;

(v) each denial of a pay increase, each disciplinary suspension, each grievance, each involuntary demotion, and each rejection on probation; and

(vi) a summary of the equal employment opportunity report required under § 5–204 of this article, including hiring, firing, promotions, terminations, and rejections on probation, by race, sex, and age;

(2) provides statistics and rankings that compare minority group State employees to all State employees in all job categories;

(3) provides information about part–time work and, in the Secretary's discretion, alternate work schedules, work days, and work locations;

(4) provides information on the total number of positions designated as special appointments, including special appointments designated with regard to political affiliation, belief, or opinion**, INCLUDING:**

(I) THE POSITION CLASSIFICATIONS AND DESCRIPTIONS OF THE SPECIAL APPOINTMENT POSITIONS;

(II) THE GRADES AND STEPS OF THE SPECIAL APPOINTMENT POSITIONS; AND

(III) AGGREGATE DEMOGRAPHIC DETAILS OF THE SPECIAL APPOINTMENT POSITIONS; and

(5) makes any recommendations about conditions in State employment that the Secretary considers advisable.

(c) The report required by this section shall be submitted on or before January 1 following the fiscal year to which it applies.

7–102.

(a) (1) **(I) [**Each**]** **SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH** employee in the skilled service, professional service, and management service, including special appointments in each classification of each of those services, shall be provided with a written position description which describes the essential duties and responsibilities the employee is expected to perform and the standards for satisfactory performance on a form approved by the Secretary.

(II) FOR SPECIAL APPOINTMENTS, THE WRITTEN POSITION DESCRIPTION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE A NOTICE THAT THE SPECIAL APPOINTMENT POSITION IS AN AT–WILL POSITION THAT IS NOT AFFORDED THE MERIT PROTECTIONS OF OTHER POSITIONS IN THE SKILLED AND PROFESSIONAL SERVICES.

(2) A successful applicant for a position in the skilled service, professional service, or management service**, INCLUDING SPECIAL APPOINTMENTS,** shall be provided with a position description for review before accepting appointment to the position.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 752 – *Food Supplement Program – Restaurant Meals Program*.

This bill requires the Department of Human Services to create a Restaurant Meals Program to expand food access to eligible individuals who do not have a place to store and cook food, may not be able to prepare food, or do not have access to a grocery store. This bill also renames the Food Stamp Program as the Food Supplement Program.

House Bill 838, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 752.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 752

AN ACT concerning

Food Supplement Program – Restaurant Meals Program

FOR the purpose of renaming the food stamp program to be the food supplement program; establishing a Restaurant Meals Program (RMP) within the food supplement program in the Department of Human Services; providing for the purpose of the RMP; authorizing a certain household eligible to participate in the RMP to purchase certain foods at certain restaurants using a certain food supplement benefit; providing for household eligibility requirements for the RMP; requiring a restaurant to meet certain criteria before participating in the RMP; requiring each local department of social services to administer the RMP in accordance with certain laws; requiring the Department to adopt certain regulations; requiring the Department to submit a certain report on progress toward implementing the RMP to certain committees of the General Assembly on or before a certain date each year; requiring the Department to submit a certain report of certain findings to certain committees of the General Assembly on or before a certain date; providing for the termination of a certain provision of this Act; making conforming changes; defining a certain term; and generally relating to the food supplement program and the Restaurant Meals Program.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 5–501, 5–503, and 5–504(a) and (b)
Annotated Code of Maryland
(2007 Volume and 2018 Supplement)

BY adding to
Article – Human Services
Section 5–505
Annotated Code of Maryland
(2007 Volume and 2018 Supplement)

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

Article – Human Services

5–501.

(a) **(1)** The Department may implement a food **[**stamp**]** **SUPPLEMENT** program in accordance with the federal **[**Food Stamp Act**]** **SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**.

(2) THE FOOD SUPPLEMENT PROGRAM SHALL INCLUDE A RESTAURANT MEALS PROGRAM IN ACCORDANCE WITH § 5–505 OF THIS SUBTITLE.

(b) The State shall bear the nonfederal portion of the administrative costs of the food **[**stamp**]** **SUPPLEMENT** program for each county.

(c) Each local department shall administer the food **[**stamp**]** **SUPPLEMENT** program:

(1) under the supervision and control of the Department; and

(2) in accordance with the regulations of the Department and federal law.

(d) If a household includes an individual who is at least 62 years old and receives a federally funded benefit in an amount less than $30 per month under the food **[**stamp**]** **SUPPLEMENT** program, the State shall provide a supplement to increase the total benefit to $30 per month.

5–503.

Subject to the State budget, the Department shall provide food **[**stamp**]** **SUPPLEMENT** benefits to a legal immigrant who:

(1) is a minor;

(2) is ineligible for federally funded **[**food stamp**]** **SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM** benefits because of immigration status;

(3) meets all other food **[**stamp**]** **SUPPLEMENT** program eligibility requirements; and

(4) meets any other requirements of the State.

5–504.

(a) A person may not sell or purchase food **[**stamp**]** **SUPPLEMENT** program benefits unless otherwise authorized by law.

(b) A person may not knowingly buy or sell merchandise that has been purchased with food **[**stamp**]** **SUPPLEMENT** program benefits.

5–505.

(A) IN THIS SECTION, "RMP" MEANS THE RESTAURANT MEALS PROGRAM.

(B) (1) THERE IS A RESTAURANT MEALS PROGRAM WITHIN THE FOOD SUPPLEMENT PROGRAM IN THE DEPARTMENT.

(2) THE PURPOSE OF THE RMP IS TO EXPAND FOOD ACCESS TO INDIVIDUALS WHO:

(I) DO NOT HAVE A PLACE TO STORE AND COOK FOOD;

(II) MAY NOT BE ABLE TO PREPARE FOOD; OR

(III) DO NOT HAVE ACCESS TO A GROCERY STORE.

(C) A HOUSEHOLD ELIGIBLE UNDER SUBSECTION (D) OF THIS SECTION TO PARTICIPATE IN THE RMP MAY PURCHASE HOT PREPARED FOODS AT PARTICIPATING RESTAURANTS USING A FOOD SUPPLEMENT PROGRAM BENEFIT.

(D) A HOUSEHOLD IS ELIGIBLE TO PARTICIPATE IN THE RMP IF THE HOUSEHOLD IS ELIGIBLE TO RECEIVE FOOD SUPPLEMENT PROGRAM BENEFITS UNDER STATE AND FEDERAL LAW, AND THE HOUSEHOLD:

(1) LACKS A FIXED, REGULAR, AND ADEQUATE NIGHTTIME RESIDENCE;

(2) INCLUDES ONLY INDIVIDUALS WHO ARE:

(I) 60 YEARS OF AGE OR OLDER; OR

(II) DESIGNATED DISABLED BY A GOVERNMENT ENTITY;

(3) INCLUDES ONLY AN INDIVIDUAL AND THE INDIVIDUAL'S SPOUSE IF THE INDIVIDUAL IS:

(I) 60 YEARS OF AGE OR OLDER; OR

(II) DESIGNATED DISABLED BY A GOVERNMENT ENTITY; OR

(4) INCLUDES ONLY:

(I) INDIVIDUALS WHO ARE 60 YEARS OF AGE OR OLDER; AND

(II) INDIVIDUALS WHO ARE DESIGNATED DISABLED BY A GOVERNMENT ENTITY.

(E) BEFORE PARTICIPATING IN THE PROGRAM, A RESTAURANT SHALL:

(1) SUBMIT AN APPLICATION AND BE APPROVED UNDER A PROCESS DETERMINED BY THE DEPARTMENT;

(2) BECOME A SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PROVIDER LICENSED BY THE U.S. DEPARTMENT OF AGRICULTURE; AND

(3) BE ABLE TO PROCESS ELECTRONIC BENEFIT TRANSACTION CARD PAYMENTS AT THE POINT OF SALE.

(F) (1) EACH LOCAL DEPARTMENT SHALL ADMINISTER THE RMP AS PART OF THE FOOD SUPPLEMENT PROGRAM AUTHORIZED UNDER § 5–501 OF THIS SUBTITLE, IN ACCORDANCE WITH FEDERAL LAW.

(2) THE DEPARTMENT SHALL ADOPT REGULATIONS:

(I) TO VERIFY HOUSEHOLD ELIGIBILITY FOR PARTICIPATION IN THE RMP;

(II) TO ESTABLISH ELIGIBILITY STANDARDS, AN APPLICATION PROCESS, AND AN APPROVAL PROCESS FOR RESTAURANTS TO PARTICIPATE IN THE RMP; AND

(III) OTHERWISE NECESSARY TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2019, and each year thereafter, the Department of Human Services shall report to the Senate Finance Committee and the House Appropriations Committee, in accordance with § 2–1246 of the State Government Article, on progress toward establishing a Restaurant Meals Program, including:

(1) the names and addresses of all approved restaurants;

(2) the number of food supplement program recipients participating in the program by county;

(3) a plan to expand the number of restaurants participating in the program, particularly in areas of high demand; and

(4) barriers to program expansion, including availability of equipment necessary to process electronic benefit transaction card payments at the point of sale.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Human Services shall:

(1) evaluate the feasibility and cost of:

(i) implementing mobile **[**and**]** web–based technology for recertification of food supplement program benefits; ~~and~~

(ii) implementing a "Heat and Eat" program to determine food supplement program benefit levels for eligible households; and

(iii) exempting veterans from veteran time limits applicable to able–bodied adults without dependents under the food supplement program; and

(2) on or before December 1, 2019, report the findings made under item (1) of this section to the Senate Finance Committee and the House Appropriations Committee, in accordance with § 2–1246 of the State Government Article.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019. Section 2 of this Act shall remain effective for a period of 3 years and, at the end of June 30, 2022, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 770 – *Vehicle Laws – Electric Low Speed Scooters*.

This bill 1) establishes a definition for an "electric low speed scooter" under the Maryland Vehicle Law; 2) expands the definition of "bicycle" as it applies to the Maryland Vehicle Law to include an electric low speed scooter; and 3) specifies that the operator of an electric low speed scooter may ride by standing on a platform designed to carry the operator. This bill also 1) specifies that an electric low speed scooter is not considered a motorized minibike, motor scooter, or motor vehicle for purposes of the Maryland Vehicle Law; and 2) alters the definition of "scooter" to exclude motorized vehicles.

House Bill 748, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 770.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 770

AN ACT concerning

Vehicle Laws – Electric Low Speed Scooters

FOR the purpose of establishing that an electric low speed scooter is considered to be a bicycle for the purposes of the Maryland Vehicle Law; defining the term "electric low speed scooter"; providing that an electric low speed scooter is not considered to be a motorized minibike, a motor scooter, or a motor vehicle for the purposes of the Maryland Vehicle Law; altering the defined term "scooter" by limiting the term to nonmotorized vehicles; establishing that the operator of an electric low speed scooter may ride by standing on a platform designed to carry the operator; and generally relating to electric low speed scooters.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 11–104
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)
(As enacted by ~~Chapter 294~~ *Chapters 294 and 392* of the Acts of the General Assembly of 2014)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 11–134.4(b), 11–134.5(b), 11–135(b), 11–154.1, and 21–1203
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY adding to
Article – Transportation

Section 11–117.2
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 21–1202 *and 25–102(a)(8)*
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Transportation

11–104.

"Bicycle" means:

(1) A vehicle that:

(i) Is designed to be operated by human power;

(ii) Has two or three wheels, of which one is more than 14 inches in diameter; and

(iii) Has a drive mechanism other than by pedals directly attached to a drive wheel;

(2) An electric bicycle; **[**or**]**

(3) A moped**; OR**

(4) AN ELECTRIC LOW SPEED SCOOTER.

11–117.2.

(A) "ELECTRIC LOW SPEED SCOOTER" MEANS A VEHICLE THAT:

(1) IS DESIGNED TO TRANSPORT ONLY THE OPERATOR;

(2) WEIGHS LESS THAN 100 POUNDS;

(3) HAS SINGLE WHEELS IN TANDEM OR A COMBINATION OF ONE OR TWO WHEELS AT THE FRONT AND REAR OF THE VEHICLE;

(4) IS EQUIPPED WITH HANDLEBARS AND A PLATFORM DESIGNED TO BE STOOD ON WHILE RIDING;

(5) IS SOLELY POWERED BY AN ELECTRIC MOTOR AND HUMAN POWER; AND

(6) IS CAPABLE OF OPERATING AT A SPEED OF UP TO ~~25~~ 20 MILES PER HOUR ~~ON A SMOOTH LEVEL SURFACE BY AN OPERATOR WEIGHING 175 POUNDS~~.

(B) "ELECTRIC LOW SPEED SCOOTER" DOES NOT INCLUDE:

(1) AN ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE; OR

(2) AN ELECTRIC WHEELCHAIR OR OTHER MOBILITY AID USED BY A DISABLED INDIVIDUAL.

11–134.4.

(b) "Motorized minibike" does not include:

(1) A motor scooter;

(2) A moped;

(3) A farm tractor; **[**or**]**

(4) An electric bicycle**; OR**

(5) AN ELECTRIC LOW SPEED SCOOTER.

11–134.5.

(b) "Motor scooter" does not include **[**a**]:**

(1) AN ELECTRIC LOW SPEED SCOOTER; OR

(2) A vehicle that has been manufactured for off–road use, including a motorcycle and an all–terrain vehicle.

11–135.

(b) "Motor vehicle" does not include:

(1) A moped, as defined in § 11–134.1 of this subtitle;

(2) A motor scooter, as defined in § 11–134.5 of this subtitle; **[**or**]**

(3) An electric bicycle, as defined in § 11–117.1 of this subtitle**; OR**

(4) AN ELECTRIC LOW SPEED SCOOTER, AS DEFINED IN § 11–117.2 OF THIS SUBTITLE.

11–154.1.

"Scooter" means a two–wheeled **NONMOTORIZED** vehicle that:

(1) Has handlebars; and

(2) Is designed to be stood on by the operator.

21–1202.

(a) Every person operating a bicycle or a motor scooter in a public bicycle area has all the rights granted to and is subject to all the duties required of the driver of a vehicle by this title, including the duties set forth in § 21–504 of this title, except:

(1) As otherwise provided in this subtitle; and

(2) For those provisions of this title that by their very nature cannot apply.

(b) (1) Subject to paragraphs (2) and (3) of this subsection, a person has the rights and is subject to the restrictions applicable to pedestrians under this title while the person is lawfully operating a bicycle, play vehicle, or unicycle:

(i) On a sidewalk or sidewalk area; or

(ii) In or through a crosswalk.

(2) At an intersection, a person operating a bicycle, play vehicle, or unicycle is subject to all traffic control signals, as provided in §§ 21–202 and 21–203 of this title.

(3) Section 21–506 of this title does not apply to a person operating a bicycle, play vehicle, or unicycle.

21–1203.

(a) The operator of a bicycle or a motor scooter may ride the bicycle or motor scooter only **[**on**]:**

(1) ON or astride a permanent and regular seat securely attached to it**; OR**

(2) FOR AN ELECTRIC LOW SPEED SCOOTER, BY STANDING ON A PLATFORM DESIGNED TO CARRY THE OPERATOR.

(b) A bicycle may not carry any passenger unless it is designed for and equipped with a seat securely attached to it for each passenger.

(c) A motor scooter may not carry any passenger unless it is designed for and equipped with a seat securely attached to it and footrests for each passenger.

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:

(8) Regulating the operation of bicycles, requiring them to be registered, and imposing a registration fee;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 807 – *State Real Estate Commission – Real Estate Brokerage Relationships, Continuing Education, and Disclosures*.

This bill prohibits an individual licensed by the State Real Estate Commission from disclosing confidential information obtained from a prospective client in anticipation of forming a brokerage relationship, unless the prospective client consents in writing to the disclosure. This bill also 1) makes a clarifying change to the definition of "brokerage relationship"; 2) repeals the "agency relationship" defined term; and 3) makes conforming changes.

House Bill 1228, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 807.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 807

AN ACT concerning

State Real Estate Commission – Real Estate Brokerage Relationships, Continuing Education, and Disclosures

FOR the purpose of altering the subject matter of a certain continuing education course required by the State Real Estate Commission to include the principles of real estate brokerage relationships and disclosures; prohibiting a licensee from disclosing confidential information obtained from a prospective client except under certain circumstances; specifying that certain licensees may not be deemed to have a certain relationship under certain circumstances; altering certain definitions; repealing the definition of "agency relationship"; defining a certain term; making certain stylistic and conforming changes; and generally relating to real estate brokerage relationships and disclosures.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 17–315(b)(1)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 17–315(b)(2)(v), 17–528, 17–532, 17–534(a), and 17–535(a)
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Business Occupations and Professions

17–315.

(b) (1) The Commission shall approve the form, substance, and, as provided under paragraph (2) of this subsection, subject matter of all continuing education courses.

(2) The subject matter approved by the Commission shall:

(v) every 2 years, include at least one 3 clock hour course that includes the principles of **[**agency and agency disclosure**]** **REAL ESTATE BROKERAGE RELATIONSHIPS AND DISCLOSURES**; and

17–528.

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

(b) **[**"Agency relationship" means each relationship in which a licensee acts for or represents another person with the person's authority in a residential real estate transaction.

(c)**]** "Broker" means a licensed real estate broker, including a corporation, limited liability company, partnership, or sole proprietorship through which a licensed real estate broker provides real estate brokerage services under § 17–321 of this title.

[(d)**]** **(C)** "Brokerage agreement" means a written agreement between a broker and a client to provide real estate brokerage services under a brokerage relationship.

[(e)**]** **(D)** "Brokerage relationship" means ~~**[**an agency~~ **A** relationship under a brokerage agreement between a client and a broker who has been ~~engaged~~ **AUTHORIZED** by the client to provide real estate brokerage services in a residential real estate transaction~~**] A RELATIONSHIP IN WHICH A LICENSEE ACTS FOR OR REPRESENTS ANOTHER PERSON WITH THE PERSON'S AUTHORITY IN A RESIDENTIAL REAL ESTATE TRANSACTION**~~.

[(f)**]** **(E)** "Buyer's agent" means a licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson who, in accordance with a written brokerage agreement, represents a prospective buyer or lessee in the acquisition of real estate for sale or for lease.

[(g)**]** **(F)** "Client" means a person who has entered into a brokerage agreement with a broker under a brokerage relationship.

[(h)**]** **(G)** (1) "Common source information company" means any person that is a source, compiler, or supplier of information regarding residential real estate for sale or lease or other data.

(2) "Common source information company" includes a multiple listing service.

[(i)**]** **(H)** "Confidential information" includes information that:

(1) the seller or lessor will accept a price or rent less than the price or rent as set forth in the brokerage agreement or will accept terms other than those contained in the brokerage agreement;

(2) the buyer or lessee is willing to pay a price or rent higher than the price or rent the buyer or lessee offered or will accept terms other than those contained in the offer of the buyer or lessee;

(3) discloses the motivation of a buyer, lessee, seller, or lessor or the need or urgency of a seller to sell, a buyer to buy, a lessee to lease, or a lessor to lease;

(4) discloses any facts that led the seller to sell, the buyer to buy, the lessee to lease, or the lessor to lease; or

(5) relates to the negotiating strategy of a client.

(I) "DUAL AGENCY" MEANS EACH RELATIONSHIP IN WHICH A LICENSED REAL ESTATE BROKER OR BRANCH OFFICE MANAGER ACTS AS A DUAL AGENT.

(j) "Dual agent" means a licensed real estate broker who acts as, or a branch office manager described in § 17–518(d) of this subtitle who has been designated by the licensed real estate broker to act as, an agent for both the seller and the buyer or the lessor and the lessee in the same real estate transaction.

(k) "Intra–company agent" means a licensed associate real estate broker or licensed real estate salesperson who has been designated by a dual agent to act on behalf of a seller or lessor or buyer or lessee in the purchase, sale, or lease of real estate.

(l) "Ministerial act" means an act that:

(1) a licensee performs on behalf of a client before and after the execution of a contract of sale or lease;

(2) assists another person to complete or fulfill a contract of sale or lease with the client of the licensee; and

(3) does not involve discretion or the exercise of the licensee's own judgment.

(m) "Seller's agent" means a licensed real estate broker who, in accordance with a written brokerage agreement, acts as the listing broker for real estate, or a licensed associate real estate broker or licensed real estate salesperson who is affiliated with the listing broker.

(n) "Subagent" means a licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson who:

(1) is not affiliated with or acting as the listing real estate broker for a property;

(2) is not a buyer's agent;

(3) has **[**an agency**]** **A BROKERAGE** relationship with the seller or lessor; and

(4) assists a prospective buyer or lessee in the acquisition of real estate for sale or for lease in a nonagency capacity.

(o) "Timely" means a reasonable time under the particular facts and circumstances.

17–532.

(a) A licensee shall comply with the provisions of this section when providing real estate brokerage services.

(b) (1) A licensee shall:

(i) act in accordance with the terms of the brokerage agreement;

(ii) promote the interests of the client by:

1. seeking a sale or lease of real estate at a price or rent specified in the brokerage agreement or at a price or rent acceptable to the client;

2. seeking a sale or lease of real estate on terms specified in the brokerage agreement or on terms acceptable to the client; and

3. unless otherwise specified in the brokerage agreement, presenting in a timely manner all written offers or counteroffers to and from the client, even if the real estate is subject to an existing contract of sale or lease;

(iii) disclose to the client all material facts as required under § 17–322 of this title;

(iv) treat all parties to the transaction honestly and fairly and answer all questions truthfully;

(v) in a timely manner account for all trust money received;

(vi) exercise reasonable care and diligence; and

(vii) comply with all:

1. requirements of this title;

2. applicable federal, State, and local fair housing laws and regulations; and

3. other applicable laws and regulations.

(2) Unless the client consents in writing to the disclosure, a licensee may not disclose confidential information received from or about a client to any other party or licensee acting as the agent of that party or other representative of that party.

(3) Unless the client to whom the confidential information relates consents in writing to a disclosure of that confidential information, a licensee who receives confidential information from or about the licensee's own past or present client or a past or present client of the licensee's broker may not disclose that information to:

(i) any of the licensee's other clients;

(ii) any of the clients of the licensee's broker;

(iii) any other party;

(iv) any licensee acting as an agent for another party; or

(v) any representative of another party.

(4) Unless otherwise specified in the brokerage agreement, a licensee is not required to seek additional offers to purchase or lease real estate while the real estate is subject to an existing contract of sale or lease.

(5) An intra–company agent may disclose confidential information to the broker or dual agent for whom the intra–company agent works but the broker or dual agent may not disclose that confidential information to the other party or the intra–company agent for the other party, as provided in § 17–530.1(b) of this subtitle.

(c) A licensee does not breach any duty or obligation to the client by:

(1) showing other available properties to prospective buyers or lessees;

(2) representing other clients who have or are looking for similar properties for sale or lease;

(3) representing other sellers or lessors who have similar properties to that sought by the buyer or lessee;

(4) showing the buyer or lessee other available properties; and

(5) during an open house, discussing other properties with prospective buyers or lessees, if the licensee has the written consent of the seller or lessor to do so.

(D) A LICENSEE MAY NOT DISCLOSE CONFIDENTIAL INFORMATION OBTAINED FROM A PROSPECTIVE CLIENT IN ANTICIPATION OF FORMING A BROKERAGE RELATIONSHIP, UNLESS THE PROSPECTIVE CLIENT CONSENTS IN WRITING TO THE DISCLOSURE.

[(d)**] (E)** This title does not limit the applicability of § 10–702 of the Real Property Article.

[(e)**] (F)** The requirements of this section are in addition to any other duties required of the agent by law that are not inconsistent with these duties.

[(f)**] (G)** The duties specified in this section may not be waived or modified.

[(g)**] (H)** A licensee who performs ministerial acts for a person may not be construed to:

(1) violate the licensee's duties to the client, provided that the client has consented in the brokerage agreement to the licensee's provision of ministerial acts; or

(2) form **[**an agency**] A BROKERAGE** relationship between the licensee and the person for whom the ministerial acts are performed.

17–534.

(a) **[**Except as provided in § 17–533 of this subtitle, a**] A** brokerage relationship commences at the time that a client enters into a brokerage agreement and shall continue until:

(1) the completion of performance in accordance with the brokerage agreement; or

(2) the earlier of:

(i) any date of expiration as agreed on by the parties in the brokerage agreement or in any amendments to the brokerage agreement;

(ii) any mutually agreed on termination of the brokerage relationship;

(iii) a default by any party under the terms of the brokerage agreement; or

(iv) a termination under § 17–530 of this subtitle.

17–535.

(a) A licensee may not be deemed to be an agent or subagent of or to have **[**an agency**]** **A BROKERAGE** relationship with a common source information company solely by reason of a licensee's participation in a common source information company.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 827 – *State Police Retirement System – Employment of Retirees – Clarifications*.

This bill makes clarifying changes to provisions related to the reemployment of retirees of the State Police Retirement System.

House Bill 862, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 827.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 827

AN ACT concerning

State Police Retirement System – Employment of Retirees – Clarifications

FOR the purpose of clarifying certain provisions of law related to the employment of certain ~~retirees~~ individuals who are receiving certain ~~retirement~~ allowances from the State

Police Retirement System; making conforming changes; and generally relating to the employment of certain retirees of the State Police Retirement System.

BY repealing
Article – State Personnel and Pensions
Section 24–405 and 24–405.1
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 24–405
Annotated Code of Maryland
(2015 Replacement Volume and 2018 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

[24–405.

(a) Except as provided in § 24–405.1 of this subtitle and subject to subsections (b) and (c) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a temporary basis, if:

(1) the employment is not in a regularly allocated position; and

(2) the individual immediately notifies the Board of Trustees:

(i) of the individual's intention to accept the employment; and

(ii) of the compensation that the individual will receive.

(b) (1) This subsection does not apply to:

(i) an individual who has been retired for 5 years, beginning on January 1, after the date the individual retires; or

(ii) an individual who participates in the Deferred Retirement Option Program established under § 24–401.1 of this subtitle.

(2) (i) Subject to subparagraph (ii) of this paragraph, the Board of Trustees shall reduce an individual's allowance by the amount that the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.

(ii) 1. Any reduction taken to a retiree's allowance under this subsection may not exceed an amount that would reduce the retiree's allowance to less than what is required to be deducted for the retiree's monthly State–approved medical insurance premiums.

2. If a reduction for a calendar year taken under subsubparagraph 1 of this subparagraph is less than the reduction required under subparagraph (i) of this paragraph, the Board of Trustees shall recover from the retiree an amount equal to the reduction required under subparagraph (i) of this paragraph less the reduction taken under subsubparagraph 1 of this subparagraph.

(c) For purposes of this section, employment is not on a temporary basis if, in any 12–month period, an individual works:

(1) full time for more than 6 months; or

(2) part time for the equivalent of more than 6 months of full–time work.**]**

24–405.

(A) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AND EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, ~~A RETIREE~~ AN INDIVIDUAL WHO IS RECEIVING A SERVICE RETIREMENT ALLOWANCE OR A VESTED ~~RETIREMENT~~ ALLOWANCE MAY ACCEPT EMPLOYMENT WITH A PARTICIPATING EMPLOYER ON A PERMANENT, CONTRACTUAL, OR TEMPORARY BASIS IF THE ~~RETIREE~~ INDIVIDUAL IMMEDIATELY NOTIFIES THE BOARD OF TRUSTEES:

(1) OF THE ~~RETIREE'S~~ INDIVIDUAL'S INTENTION TO ACCEPT THE EMPLOYMENT; AND

(2) OF THE COMPENSATION THAT THE ~~RETIREE~~ INDIVIDUAL WILL RECEIVE.

(B) ~~A RETIREE~~ AN INDIVIDUAL WHO ACCEPTS EMPLOYMENT ON A PERMANENT OR CONTRACTUAL BASIS IS NOT SUBJECT TO A REDUCTION TO THE ~~RETIREE'S~~ INDIVIDUAL'S ~~RETIREMENT~~ ALLOWANCE.

(C) (1) (I) FOR PURPOSES OF THIS SECTION, EMPLOYMENT IS NOT ON A TEMPORARY BASIS IF, IN ANY 12–MONTH PERIOD, ~~A RETIREE~~ AN INDIVIDUAL WORKS:

1. FULL TIME FOR MORE THAN 6 MONTHS; OR

2. PART TIME FOR THE EQUIVALENT OF MORE THAN 6 MONTHS OF FULL–TIME WORK.

(II) ~~A RETIREE~~ AN INDIVIDUAL MAY ACCEPT EMPLOYMENT UNDER THIS SECTION ON A TEMPORARY BASIS ONLY IF THE EMPLOYMENT IS NOT IN A REGULARLY ALLOCATED POSITION.

(2) THE ~~RETIREMENT~~ ALLOWANCE OF ~~A RETIREE~~ AN INDIVIDUAL WHO ACCEPTS EMPLOYMENT ON A TEMPORARY BASIS IS SUBJECT TO A REDUCTION AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION.

(3) THE BOARD OF TRUSTEES SHALL REDUCE THE ALLOWANCE OF ~~A~~ AN ~~RETIREE~~ INDIVIDUAL WHO ACCEPTS EMPLOYMENT ON A TEMPORARY BASIS BY THE AMOUNT BY WHICH THE SUM OF THE ~~RETIREE'S~~ INDIVIDUAL'S INITIAL ANNUAL BASIC ALLOWANCE AND THE ~~RETIREE'S~~ INDIVIDUAL'S ANNUAL COMPENSATION EXCEEDS THE AVERAGE FINAL COMPENSATION USED TO COMPUTE THE BASIC ALLOWANCE.

(4) (I) ANY REDUCTION TAKEN TO ~~A RETIREE'S~~ AN ALLOWANCE UNDER PARAGRAPH (3) OF THIS SUBSECTION MAY NOT REDUCE THE ~~RETIREE'S~~ ALLOWANCE TO LESS THAN THE AMOUNT REQUIRED TO BE DEDUCTED FOR THE ~~RETIREE'S~~ INDIVIDUAL'S MONTHLY STATE–APPROVED MEDICAL INSURANCE PREMIUMS.

(II) IF A REDUCTION FOR A CALENDAR YEAR TAKEN UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS LESS THAN THE REDUCTION REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL RECOVER FROM THE ~~RETIREE~~ INDIVIDUAL AN AMOUNT EQUAL TO THE REDUCTION REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION LESS THE REDUCTION TAKEN UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

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

(I) ~~A RETIREE~~ AN INDIVIDUAL WHO HAS BEEN RETIRED FOR 5 YEARS, BEGINNING ON JANUARY 1, AFTER THE DATE THE INDIVIDUAL RETIRES; OR

(II) ~~A RETIREE~~ AN INDIVIDUAL WHO PARTICIPATES IN THE DEFERRED RETIREMENT OPTION PROGRAM ESTABLISHED UNDER § 24–401.1 OF THIS SUBTITLE.

(D) A RETIREE WHO IS RECEIVING A SERVICE RETIREMENT ALLOWANCE UNDER THIS TITLE MAY NOT BE EMPLOYED BY THE STATE OR OTHER

PARTICIPATING EMPLOYER ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS WITHIN 45 DAYS OF THE DATE THE RETIREE RETIRED.

[24–405.1.

An individual who is receiving a service retirement allowance under this title may not be employed by the State or other participating employer on a permanent, temporary, or contractual basis within 45 days of the date the individual retired.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 829 – *State Retirement and Pension System – Service Credit for Unused Sick Leave*.

This bill entitles certain members of the Correctional Officers' Retirement System to receive creditable service for the total amount of unused sick leave accrued by the member at the time of retirement. This bill also includes a retroactive provision that requires, for specified Correctional Officers' Retirement System retirees, an adjustment to their retirement benefit to reflect credit for unused sick leave.

House Bill 861, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 829.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 829

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 unused sick leave accrued by the member in certain systems in the State Retirement and Pension System under certain circumstances; providing for the calculation of the creditable service for unused sick leave accrued by certain members in certain systems; requiring a certain adjustment to a certain retirement benefit for certain retirees; and generally relating to creditable service for unused sick leave in the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 20–206
Annotated Code of Maryland
(2015 Replacement Volume and 2018 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:

(1) has not been used before retirement; and

(2) was available to the member to be used as sick leave during employment.

(b) This section does not apply to:

(1) the Judges' Retirement System; or

(2) the Legislative Pension Plan.

(c) Except as provided in **[**subsection**]** **SUBSECTIONS** (f) **AND (G)** 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 paragraphs (2) and (3) of this subsection, for 22 days of unused sick leave a member is entitled to receive 1 month of creditable service.

(2) (i) If a member has at least 11 days but less than 22 days of unused sick leave, the member is entitled to receive 1 month of creditable service.

(ii) If a member has at least 22 days of unused sick leave, and 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) in determining the amount of unused sick leave a member is eligible to use as creditable service at retirement, the Board of Trustees shall use the lesser of:

1. the member's number of years of creditable service, not including credit for unused sick leave, multiplied by 15; or

2. the member's cumulative number of unused sick leave days reported by the participating employer.

(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.

(G) (1) THIS SUBSECTION APPLIES TO A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM WHO:

(I) WAS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM AND WAS TRANSFERRED FROM THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM TO THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM AS A RESULT OF A CHANGE IN MEMBERSHIP WITHIN THE SEVERAL SYSTEMS THAT RENDERED THE INDIVIDUAL INELIGIBLE FOR MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM OR THE EMPLOYEES' RETIREMENT SYSTEM;

(II) DID NOT TRANSFER SERVICE CREDIT FROM THE EMPLOYEES' PENSION SYSTEM OR THE EMPLOYEES' RETIREMENT SYSTEM TO THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM; AND

(III) 1. RETIRES UNDER § 25–401 OF THIS ARTICLE, AND RECEIVES A VESTED BENEFIT FROM THE EMPLOYEES' PENSION SYSTEM OR THE EMPLOYEES' RETIREMENT SYSTEM;

2. RETIRES UNDER §§ 22–401, 22–402, 23–401, OR 23–402 OF THIS ARTICLE, AND RECEIVES A VESTED BENEFIT FROM THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM FOR SERVICE EARNED ON OR AFTER JULY 1, 2016; OR

3. RETIRES WITH A VESTED BENEFIT FROM THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM, AND EARNED SERVICE IN THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2016, FOR WHICH THE INDIVIDUAL IS NOT ELIGIBLE FOR A BENEFIT.

(2) SUBJECT TO PARAGRAPHS (3) AND (4) 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) (I) THIS PARAGRAPH APPLIES TO AN INDIVIDUAL DESCRIBED UNDER ITEM (1)(III)1 OR 2 OF THIS SUBSECTION.

(II) 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:

1. THE NUMERATOR OF WHICH IS THE CREDITABLE SERVICE EARNED IN THE STATE SYSTEM, NOT INCLUDING THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE; AND

2. THE DENOMINATOR OF WHICH IS THE TOTAL CREDITABLE SERVICE EARNED IN BOTH STATE SYSTEMS, NOT INCLUDING THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE.

(4) (I) THIS PARAGRAPH APPLIES TO AN INDIVIDUAL DESCRIBED UNDER ITEM (1)(III)3 OF THIS SUBSECTION.

(II) AN INDIVIDUAL'S RETIREMENT BENEFIT FROM THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM SHALL BE ADJUSTED TO INCLUDE ANY CREDIT FOR UNUSED SICK LEAVE THAT THE INDIVIDUAL ACCRUED IN THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM PRIOR TO BECOMING A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM:

1. ON OR AFTER JULY 1, 2016, IN A POSITION INCLUDED UNDER § 25–201(A)(7) OF THIS ARTICLE;

2. ON OR AFTER JULY 1, 2017, IN A POSITION INCLUDED UNDER § 25–201(A)(8) OR (9) OF THIS ARTICLE; OR

3. ON OR AFTER JULY 1, 2018, IN A POSITION INCLUDED UNDER § 25–201(A)(10) OR (11) OF THIS ARTICLE.

[(g)**] (H)** 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.

[(h)**] (I)** 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:

(a) This section applies to an individual who:

(1) retired from a position:

(i) affected by Chapter 218 or 219 of the Acts of the General Assembly of 2016 and did not transfer service credit from the Employees' Pension System or Employees' Retirement System to the Correctional Officers' Retirement System prior to retirement;

(ii) affected by Chapter 688, 689, or 690 of the Acts of the General Assembly of 2017 and did not transfer service credit from the Employees' Pension System or Employees' Retirement System to the Correctional Officers' Retirement System prior to retirement; or

(iii) affected by Chapter 579 or 580 of the Acts of the General Assembly of 2018 and did not transfer service credit from the Employees' Pension System or Employees' Retirement System to the Correctional Officers' Retirement System prior to retirement; and

(2) retired from the Employees' Pension System before July 1, 2019, and was not eligible for a vested benefit from the Correctional Officers' Retirement System at the time of retirement.

(b) An individual described under subsection (a) of this section shall have the individual's retirement benefit from the Employees' Pension System or Employees' Retirement System adjusted to include any credit for unused sick leave that the individual accrued in the Employees' Pension System or Employees' Retirement System prior to becoming a member of the Correctional Officers' Retirement System, subject to the restrictions of § 20–206(e) of the State Personnel and Pensions Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 830 and House Bill 720 – *Natural Resources – Fishery Management Plans – Oysters*.

Under my leadership as governor and as chairman of the regional Chesapeake Executive Council, we have made tremendous strides in restoring the Bay by making record investments and fighting to protect critical federal funding. The result has been the healthiest ecosystem the state has seen in over three decades. In fact, the most recent Bay Barometer from the Chesapeake Bay Program reported that the Bay is now experiencing the highest water quality score since monitoring began more than 30 years ago. We must continue to take swift action on the health of the Chesapeake Bay.

The foundation of our success over the past five years has been a reliance on scientifically–supported, evidence–based policies that take into account the views of all stakeholders. Every partner in the process wants a cleaner, healthier Bay, and I have always believed that we can achieve that goal through respect, cooperation, and honest and transparent dialogue. The Department of Natural Resources has worked very carefully, in a balanced way, to create an inclusive process that has maximized stakeholder input and developed a consensus approach to the stewardship of oysters in the Chesapeake Bay and its tributaries.

Senate Bill 830 and House Bill 720 are intended to resemble the OysterFutures consensus process led by the University of Maryland Center for Environmental Science in which the department participated between 2016 and 2018 alongside industry and environmental advocacy representatives. The intent was to craft oyster restoration policy on a bilateral basis with meaningful stakeholder input. I believe strongly that the OysterFutures model is an effective governance tool that could be utilized to create balanced policy for one of our state's most precious resources. However, for all of the positive outcomes delivered thus far by the OysterFutures model, this legislation fails significantly in both its spirit and its substance.

At their core, HB 720 and SB 830 fly in the face of the goodwill, cooperation, and trust that characterized the original OysterFutures effort. Following on the heels of the three–year statutory delay that prevented the revision of oyster management practices until the

completion of an oyster stock assessment earlier this year, the same group of legislative and environmental advocates is again making an end run. Under this bill, the department's implementation of thoughtful and science–based management practices is forbidden for at least another two years or until the cumbersome, reconstituted Oyster Advisory Commission – nearly double in size from the original OysterFutures workgroup – is able to develop a statewide consensus package.

Not only are the goal posts on oyster restoration continually being moved, but the legislation also delays the implementation of several key recommendations of the original OysterFutures effort pertaining to the Choptank and Little Choptank rivers. To obstruct the unanimous consensus recommendations from the original workgroup chills trust critical to the process, leading to the question of whether the bill and its proponents are ultimately setting this latest stakeholder group up for failure.

While highly ambiguous in its language, the intent of HB 720 and SB 840 – through committee and floor debate – appears to allow the reconstituted Oyster Advisory Commission to create a new Oyster Fishery Management Plan that the department is required to implement verbatim, which poses serious constitutional questions. The legislation is also far from clear on what extent the department is able to execute the full range of strategies in its 2019 Oyster Management Plan before the bill's new OysterFutures process is constituted, potentially hamstringing the department from efforts to rebuild stock and ensure a sustainable harvest. With the department's ambitious goal of achieving a sustainable fishery in eight to 10 years, they must be allowed to take action now. Furthermore, it evades transparency in the oyster policy process and instead would statutorily exempt the group from public scrutiny and accountability.

The lack of regard for others, for the process, and for oysters that pervades this legislation is apparent in the actions of the Chesapeake Bay Foundation. My administration strongly opposes secret backroom dealmaking that will endanger the State's long–term oyster restoration efforts, especially at a time when we are just making measurable progress.

For these reasons, I have vetoed Senate Bill 830 and House Bill 720.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 830

AN ACT concerning

Natural Resources – Fishery Management Plans – Oysters

FOR the purpose of <u>requiring the Department of Natural Resources to convene the Oyster Advisory Commission, in coordination with the University of Maryland Center for Environmental Science, on or before a certain date; providing for the membership of</u>

the Commission; requiring certain persons to provide information to the Commission under certain circumstances but prohibiting certain persons from participating as voting members; establishing certain requirements for the fishery management plan for oysters; requiring the Department ~~of Natural Resources~~, in coordination with the University of Maryland Center for Environmental ~~Science, to convene a certain stakeholder workgroup~~ Science and the Commission, to develop a certain package of consensus recommendations for enhancing and implementing the fishery management plan for oysters; ~~providing for the membership of the stakeholder workgroup;~~ requiring the ~~stakeholder workgroup~~ Commission, with certain assistance, to develop certain recommendations based on a certain process, ~~review certain oyster management actions and~~ recommend certain oyster management actions to achieve certain goals, and review certain results for certain oyster management actions; *prohibiting the Department from using certain funds for a certain purpose;* ~~prohibiting the Department from using certain funds for a certain purpose;~~ authorizing the Commission to meet and deliberate in closed session for a certain purpose *under certain circumstances*, notwithstanding a certain provision of law; requiring the Department to submit certain interim reports and a final report by certain dates to the Governor and General Assembly; requiring the Department to perform certain reviews of the oyster stock and, with certain input, implement certain management actions; providing for the termination of the terms of certain members of the Commission; requiring the Secretary of Natural Resources to convene the Commission in a certain manner; requiring the Department to implement a certain Fishery Management Plan for Oysters subject to certain requirements; and generally relating to a fishery management plan for oysters.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–204(c) and 4–215(e)(4)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4–215(b)(6)
Annotated Code of Maryland
(2018 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~
~~Article – Natural Resources~~
~~Section 4–215(e)(4)~~
~~Annotated Code of Maryland~~
~~(2018 Replacement Volume)~~

BY adding to
Article – Natural Resources
Section 4–215(e)(5)
Annotated Code of Maryland

(2018 Replacement Volume)

Preamble

WHEREAS, Large connected oyster populations provide a number of environmental benefits to the Chesapeake Bay ecosystem, including reef habitat for finfish, shellfish, and other marine life, improved water quality, reduced sedimentation, carbon storage, and increased shellfish propagation; and

WHEREAS, The oyster population in the Bay is languishing at ~~1% of historic populations~~ a historic low; and

WHEREAS, The oyster resource is a valuable resource to Maryland; and

WHEREAS, Chapter 703 of the Acts of the General Assembly of 2016 required the Department of Natural Resources to conduct a stock assessment and, based on this assessment, identify management strategies to address the maintenance of a sustainable oyster population and fishery; and

WHEREAS, With the completion of the oyster stock assessment, new regulations and policies for oyster management in Maryland are needed to sustain and grow the oyster resource, industry, and ecosystem; and

WHEREAS, A consensus–based process, as demonstrated by the OysterFutures model which utilizes a 60–40 balance of stakeholders, can be used to develop regulations and policies for oyster management that have broad stakeholder support and are informed by the oyster stock assessment, stakeholder knowledge, and scientific evidence; ~~now, therefore,~~ and

WHEREAS, It is the intent of the General Assembly that the recommendations of this Commission be the fishery management plan for oysters; now, therefore,

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

Article – Natural Resources

4–204.

(c) (1) There is an Oyster Advisory Commission in the Department.

(2) **(I)** **[**The Commission consists of members appointed by the Secretary**]** **ON OR BEFORE JUNE 1, 2019, AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT SHALL, IN COORDINATION WITH THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE, CONVENE THE MEMBERS OF THE COMMISSION**.

(II) THE COMMISSION SHALL ~~ONLY INCLUDE~~ *INCLUDE ONLY*:

1. A REPRESENTATIVE FROM EACH COUNTY OYSTER COMMITTEE ESTABLISHED UNDER § 4–1106(B) OF THIS TITLE DESIGNATED BY THE COMMITTEE;

2. A REPRESENTATIVE FROM THE MARYLAND WATERMEN'S ~~ASSOCIATION~~ *ASSOCIATION*, DESIGNATED BY THE ASSOCIATION;

3. A REPRESENTATIVE FROM THE MARYLAND OYSTERMEN'S ~~ASSOCIATION~~ *ASSOCIATION*, DESIGNATED BY THE ASSOCIATION;

4. *A REPRESENTATIVE FROM THE BLACKS OF THE CHESAPEAKE FOUNDATION, DESIGNATED BY THE FOUNDATION;*

***5.* A REPRESENTATIVE FROM THE AQUACULTURE ~~INDUSTRY~~ *INDUSTRY*, DESIGNATED BY THE AQUACULTURE COORDINATING COUNCIL;**

~~5.~~ *6.* A REPRESENTATIVE FROM THE COMMERCIAL SEAFOOD BUYER ~~INDUSTRY~~ *INDUSTRY*, DESIGNATED BY THE SECRETARY;

~~6.~~ *7.* A REPRESENTATIVE FROM THE COASTAL CONSERVATION ASSOCIATION OF ~~MARYLAND~~ *MARYLAND*, DESIGNATED BY THE ASSOCIATION;

~~7.~~ *8.* A REPRESENTATIVE FROM THE CHESAPEAKE BAY ~~FOUNDATION~~ *FOUNDATION*, DESIGNATED BY THE FOUNDATION;

~~8.~~ *9.* A REPRESENTATIVE FROM THE NATURE ~~CONSERVANCY~~ *CONSERVANCY*, DESIGNATED BY THE CONSERVANCY;

~~9.~~ *10.* A REPRESENTATIVE FROM THE SHORERIVERS RIVERKEEPER ~~ASSOCIATION~~ *ASSOCIATION*, DESIGNATED BY THE ASSOCIATION;

~~10.~~ *11.* A REPRESENTATIVE FROM THE ARUNDEL RIVERS ~~FEDERATION~~ *FEDERATION*, DESIGNATED BY THE FEDERATION;

~~11.~~ *12.* A REPRESENTATIVE FROM THE OYSTER RECOVERY PARTNERSHIP, DESIGNATED BY THE PARTNERSHIP;

~~12.~~ *13.* A REPRESENTATIVE FROM THE CHESAPEAKE BAY ~~COMMISSION~~ *COMMISSION*, DESIGNATED BY THE CHESAPEAKE BAY COMMISSION;

~~13.~~ *14.* **A REPRESENTATIVE FROM BLUE OYSTER ~~ENVIRONMENTAL~~ *ENVIRONMENTAL*, DESIGNATED BY BLUE OYSTER ENVIRONMENTAL;**

15. A REPRESENTATIVE FROM THE CHESAPEAKE BAYSAVERS, DESIGNATED BY THE CHESAPEAKE BAYSAVERS;

~~14.~~ *16.* **A REPRESENTATIVE FROM THE NATIONAL ~~AQUARIUM~~ *AQUARIUM*, DESIGNATED BY THE NATIONAL AQUARIUM; ~~AND~~**

~~15.~~ *17.* **A REPRESENTATIVE FROM THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL ~~SCIENCE~~ *SCIENCE*, DESIGNATED BY THE CENTER*; AND***

18. A REPRESENTATIVE FROM THE PATUXENT ENVIRONMENTAL AND AQUATIC RESEARCH LABORATORY, MORGAN STATE UNIVERSITY, DESIGNATED BY THE RESEARCH LABORATORY.

(3) THE FOLLOWING PERSONS SHALL PROVIDE INFORMATION TO THE COMMISSION AT THE REQUEST OF THE COMMISSION BUT MAY NOT PARTICIPATE AS VOTING MEMBERS:

(I) STATE AND FEDERAL AGENCIES TASKED WITH OYSTER MANAGEMENT AND RESTORATION RESPONSIBILITIES, INCLUDING THE DEPARTMENT, THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND THE U.S. ARMY CORPS OF ENGINEERS;

(II) TWO MEMBERS OF THE SENATE, ONE FROM EACH POLITICAL PARTY, APPOINTED BY THE PRESIDENT OF THE SENATE; AND

(III) TWO MEMBERS OF THE HOUSE OF DELEGATES, ONE FROM EACH POLITICAL PARTY, APPOINTED BY THE SPEAKER OF THE HOUSE.

[(3)**] (4)** The Commission shall:

(i) Provide the Department with advice on matters related to oysters in the Chesapeake Bay;

(ii) Review the best possible science and recommend changes to the framework and strategies for rebuilding and managing the oyster population in the Chesapeake Bay under the Chesapeake Bay Oyster Management Plan;

(iii) Review the latest findings relevant to the Environmental Impact Statement evaluating oyster restoration alternatives for the Chesapeake Bay;

(iv) Review any other scientific, economic, or cultural information relevant to oysters in the Chesapeake Bay; **[**and**]**

(V) DEVELOP A PACKAGE OF CONSENSUS RECOMMENDATIONS, IN COORDINATION WITH THE DEPARTMENT, FOR ENHANCING AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS UNDER § 4–215 OF THIS SUBTITLE; AND

[(v)**] (VI)** By December 31, 2007 and to the extent reasonably appropriate, report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on:

1. Strategies to minimize the impact of oyster disease, including the State repletion program and bar cleaning;

2. The framework and effectiveness of the oyster sanctuary, harvest reserve, and repletion programs, and the overall management of natural oyster bars, after performing a cost–benefit analysis that considers biological, ecological, economic, and cultural issues;

3. Strategies to maximize the ecological benefits of natural oyster bars; and

4. Strategies to improve enforcement of closed oyster areas.

(5) THE DEPARTMENT MAY NOT USE FUNDS ALLOCATED TO A COUNTY OYSTER COMMITTEE FOR THE COMMISSION ESTABLISHED UNDER THIS SUBSECTION.

~~**(5) THE DEPARTMENT MAY NOT USE FUNDS ALLOCATED TO A COUNTY OYSTER COMMITTEE FOR THE COMMISSION ESTABLISHED UNDER THIS SUBSECTION.**~~

4–215.

(b) The Department shall prepare fishery management plans for the following species:

(6) Oysters;

(e) (4) (i) Subject to subparagraph (ii) of this paragraph, the Department may not take any action to reduce or alter the boundaries of the oyster sanctuaries established in "Oyster Sanctuaries of the Chesapeake Bay and its Tidal Tributaries (September 2010)" until the Department has developed a fisheries management plan for the scientific management of the oyster stock **[**following the completion of its reports in

accordance with paragraph (3) of this subsection**] BASED ON MANAGEMENT STRATEGIES AND MEASUREMENTS RECOMMENDED BY THE OYSTER ADVISORY COMMISSION UNDER PARAGRAPH (5) OF THIS SUBSECTION AND DETERMINED BY THE DEPARTMENT IN CONSULTATION WITH THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE**.

(ii) **THE FISHERY MANAGEMENT PLAN DEVELOPED IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION SHALL:**

1. END THE OVERFISHING OF OYSTERS IN ALL AREAS AND REGIONS OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES WHERE OVERFISHING HAS OCCURRED ACCORDING TO BIOLOGICAL REFERENCE POINTS ESTABLISHED BY THE MOST RECENT OYSTER STOCK ASSESSMENT WHILE MAINTAINING A HARVEST IN THE FISHERY;

2. ACHIEVE FISHING MORTALITY RATES AT TARGET LEVELS;

3. INCREASE OYSTER ABUNDANCE;

4. INCREASE OYSTER HABITAT; AND

5. FACILITATE THE LONG–TERM SUSTAINABLE HARVEST OF OYSTERS, *INCLUDING THE PUBLIC FISHERY*.

(III) This paragraph may not be construed to prevent the Department from:

1. Selecting the final two tributaries for tributary–scale oyster restoration sanctuary projects in accordance with the 2014 Chesapeake Bay Agreement; or

2. Establishing, in the discretion of the Department, any dimensions for a tributary–scale oyster restoration sanctuary project.

(5) (I) THE DEPARTMENT SHALL:

1. IN COORDINATION WITH THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE AND THE OYSTER ADVISORY COMMISSION, ~~CONVENE A STAKEHOLDER WORKGROUP TO~~ DEVELOP A PACKAGE OF CONSENSUS RECOMMENDATIONS FOR ENHANCING AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS THAT WILL BE INFORMED BY A COLLABORATIVELY DEVELOPED, SCIENCE–BASED MODELING TOOL TO QUANTIFY THE LONG–TERM IMPACTS OF IDENTIFIED MANAGEMENT ACTIONS AND POSSIBLE COMBINATIONS OF MANAGEMENT ACTIONS ON:

A. OYSTER ABUNDANCE;

B. OYSTER HABITAT;

C. OYSTER HARVEST;

D. OYSTER HARVEST REVENUE; AND

E. NITROGEN REMOVAL; AND

2. HOLD PUBLIC LISTENING SESSIONS THROUGHOUT THE STATE TO IDENTIFY POSSIBLE MANAGEMENT ACTIONS FOR USE IN THE PUBLIC OYSTER FISHERY.

~~(II) THE STAKEHOLDER WORKGROUP SHALL INCLUDE:~~

~~1. A REPRESENTATIVE FROM EACH COUNTY WATERMAN'S ASSOCIATION;~~

~~2. A REPRESENTATIVE FROM THE MARYLAND WATERMAN'S ASSOCIATION;~~

~~3. A REPRESENTATIVE FROM THE COASTAL CONSERVATION ASSOCIATION OF MARYLAND;~~

~~4. A REPRESENTATIVE FROM THE CHESAPEAKE BAY FOUNDATION;~~

~~5. A REPRESENTATIVE FROM THE NATURE CONSERVANCY;~~

~~6. A REPRESENTATIVE OF A COMMERCIAL SEAFOOD ORGANIZATION;~~

~~7. A REPRESENTATIVE FROM THE AQUACULTURE INDUSTRY; AND~~

~~8. STATE AND FEDERAL AGENCIES TASKED WITH OYSTER MANAGEMENT AND RESTORATION RESPONSIBILITIES.~~

~~(III)~~ **(II) THE** ~~STAKEHOLDER WORKGROUP~~ **OYSTER ADVISORY COMMISSION, WITH THE ASSISTANCE OF EXTERNAL CONFLICT RESOLUTION AND FACILITATION SPECIALISTS, SHALL:**

1. DEVELOP A PACKAGE OF CONSENSUS RECOMMENDATIONS THROUGH A FACILITATED CONSENSUS SOLUTIONS PROCESS, BASED ON A 75% MAJORITY AGREEMENT LEVEL FOR EACH RECOMMENDATION;

2. ~~REVIEW CURRENT AND PROPOSED MANAGEMENT ACTIONS FOR COMPLETENESS AND RECOMMEND ADDITIONAL~~ RECOMMEND MANAGEMENT ACTIONS OR COMBINATIONS OF MANAGEMENT ACTIONS TO ACHIEVE THE TARGETS IDENTIFIED IN THE OYSTER STOCK ASSESSMENT WITH THE GOAL OF INCREASING OYSTER ABUNDANCE; AND

3. REVIEW MODEL RESULTS FOR EACH MANAGEMENT ACTION OR COMBINATION OF MANAGEMENT ACTIONS TO INFORM ~~STAKEHOLDER WORKGROUP~~ ITS RECOMMENDATIONS.

(III) NOTWITHSTANDING § 3–305 OF THE GENERAL PROVISIONS ARTICLE, *AND WITH THE CONSENT OF A 75% MAJORITY OF ITS MEMBERS*, THE OYSTER ADVISORY COMMISSION MAY MEET AND DELIBERATE IN CLOSED SESSION TO DEVELOP THE PACKAGE OF CONSENSUS RECOMMENDATIONS FOR ENHANCING AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS UNDER THIS PARAGRAPH.

(IV) 1. THE DEPARTMENT SHALL SUBMIT INTERIM REPORTS ON THE DEVELOPMENT OF THE PACKAGE OF CONSENSUS RECOMMENDATIONS BY DECEMBER 1, 2019, AUGUST 1, 2020, AND DECEMBER 1, 2020, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

2. THE DEPARTMENT SHALL PROVIDE A FINAL REPORT BY JULY 1, 2021, WHICH WILL INCLUDE AN IMPLEMENTATION SCHEDULE FOR THE CONSENSUS RECOMMENDATIONS, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(V) TO BE RESPONSIVE TO CHANGES IN THE OYSTER RESOURCE DUE TO ENVIRONMENTAL CONDITIONS, THE DEPARTMENT SHALL:

1. REVIEW THE STATUS OF THE STOCK RELATIVE TO REFERENCE POINTS EVERY 2 YEARS AND CONDUCT A BENCHMARK STOCK ASSESSMENT EVERY 6 YEARS WITH CONSIDERATION OF NEW METHODS AND WITH EXTERNAL PEER REVIEW; AND

2. WITH THE INPUT OF INTERESTED STAKEHOLDERS, IMPLEMENT MANAGEMENT ACTIONS THAT INCREASE OYSTER HABITAT, MAINTAIN HARVEST, AND GROW THE OYSTER STOCK.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The terms of the members serving on the Oyster Advisory Commission established under § 4–204(c) of the Natural Resources Article before the effective date of this Act shall terminate on the effective date of this Act.

(b) The Secretary of Natural Resources shall convene the new members of the Oyster Advisory Commission in accordance with the provisions of Section 1 of this Act.

(c) The terms of the new members convened under subsection (b) of this section shall begin on the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department *of Natural Resources* shall implement the 2019 Fishery Management Plan for Oysters pending the development of consensus recommendations in accordance with this Act.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller
President of the Senate
H–107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 839 and House Bill 994 – *Labor and Employment – Criminal Record Screening Practices (Ban the Box).*

Hiring the right team is one of the most critical activities a business does. Employers have the right, and often the need, to know the criminal history of applicants they may hire. Senate Bill 839/House Bill 994 prohibits businesses from requiring an applicant to disclose this important information until the first in–person interview. This would result in costly and time–consuming human resources work that ultimately goes nowhere.

Delaying an employer's ability to require an applicant to disclose their criminal history until late in the process would cause hiring delays and waste time and resources. By the point an employer discovers a potential employee has a criminal background, alternative candidates may no longer be available for hire, forcing employers to restart the entire process. This will have a particularly negative impact on employers in industries with high employee turnover or where positions must be filled quickly.

Senate Bill 839/House Bill 994 would impose additional costs on employers without commensurate returns in terms of opportunities for ex–offenders. By prohibiting an employer from requiring an applicant to disclose their criminal history until the first in–person interview, Senate Bill 839/House Bill 994 would force businesses to pay for background checks or refer to often incomplete, inaccurate, or outdated online criminal history websites. This would add tremendous costs to businesses but yield no positive impact on job opportunities for those with a criminal history.

Further, Senate Bill 839/House Bill 994 contains dangerous preemption language that explicitly allows for more restrictive laws in each county and municipality across Maryland. This would result in a patchwork of dozens of different laws across the state, creating an even larger burden as businesses operating across jurisdictional lines attempt to navigate the intricacies of each set of rules.

Opportunities for individuals involved in the criminal justice system to make amends and rebuild after committing a crime are an important part of any just and effective criminal justice system. Over the past several years, working together with the General Assembly, we have been able to shield minor offenses from public view, create a process for certificates of rehabilitation to improve employment prospects, and dramatically expand expungement opportunities. Additionally, a growing number of businesses, including Target, Walmart, and Starbucks, support these goals and have decided not to inquire about criminal history on their job applications. However, when and how an employer asks about criminal history is a decision that should be left to employers, not dictated by the legislature and micro–managed in the annotated code.

Finally, and perhaps most importantly, Senate Bill 839/House Bill 994 endangers safety. The legislation includes an exclusion for employers who work with children or vulnerable adults. This exemption acknowledges the risk posed by not asking about an applicant's criminal history. However, the legislation does not make any further differentiations between serious, potentially violent, felony offenses and less serious misdemeanors. It also does not include exemptions for occupations related to applicant's criminal conviction.

For these reasons, I have vetoed Senate Bill 839 and House Bill 994.

Sincerely,

Lawrence J. Hogan Jr.
Governor

Senate Bill 839

AN ACT concerning

Labor and Employment – Criminal Record Screening Practices (Ban the Box)

FOR the purpose of authorizing the Commissioner of Labor and Industry to conduct an investigation to determine whether certain provisions of this Act have been violated on receipt of a certain written complaint; prohibiting certain employers from requiring an applicant for employment to disclose certain information regarding the criminal record of the applicant except under certain circumstances~~, conducting a certain criminal history records check, or taking certain other action~~ before ~~a conditional offer for employment has been extended~~ the ~~conclusion of a first~~ first in–person interview; providing that certain provisions of this Act do not prohibit an employer from making a certain inquiry or taking certain other action; providing that certain provisions of this Act do not apply to certain employers; ~~authorizing requiring the Commissioner on a certain determination to resolve certain issues informally by mediation; authorizing the Commissioner to ask the Attorney General to bring a certain action on behalf of certain applicants under certain circumstances; authorizing the Attorney General to bring a certain action in a certain county under certain circumstances for injunctive relief, damages, or other relief;~~ prohibiting employers from taking or refusing to take certain actions against certain applicants and employees under certain circumstances; ~~establishing a certain civil penalty;~~ *requiring the Commissioner to issue a certain order under certain circumstances; authorizing the Commissioner to assess a certain civil penalty for certain violations of this Act under certain circumstances; requiring the Commissioner to consider certain factors in determining the amount of a certain penalty; subjecting the assessment of a certain penalty to certain requirements; providing for the construction of this Act;* defining certain terms; providing for a delayed effective date; and generally relating to criminal record screening practices of employers.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–103
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

BY adding to
Article – Labor and Employment
Section 3–1401 through ~~3–1406~~ *3–1405* to be under the new subtitle "Subtitle 14. Criminal History Screening"
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Labor and Employment

3–103.

(a) Except as otherwise provided in this section, the Commissioner may conduct an investigation to determine whether a provision of this title has been violated on the Commissioner's own initiative or may require a written complaint.

(b) The Commissioner may conduct an investigation under Subtitle 3 of this title, on the Commissioner's own initiative or on receipt of a written complaint of an employee.

(c) The Commissioner may conduct an investigation to determine whether Subtitle 5 of this title has been violated on receipt of a written complaint of an employee.

(d) The Commissioner may conduct an investigation to determine whether Subtitle 6 of this title has been violated on receipt of a written complaint of a sales representative.

(e) (1) The Commissioner may investigate whether § 3–701 of this title has been violated on receipt of a written complaint of an applicant for employment.

(2) The Commissioner may investigate whether § 3–702 of this title has been violated on receipt of a written complaint of an applicant for employment or an employee.

(3) The Commissioner may investigate whether § 3–704 of this title has been violated on receipt of a written complaint of an employee.

(4) The Commissioner may investigate whether § 3–710 of this title has been violated on receipt of a written complaint of an employee as provided in § 3–710(d)(1) of this title.

(5) The Commissioner may investigate whether § 3–711 of this title has been violated on receipt of a written complaint of an employee as provided in § 3–711(d)(1) of this title.

(6) The Commissioner may investigate whether § 3–712 of this title has been violated on receipt of a written complaint of an employee or applicant.

(f) (1) The Commissioner may investigate whether § 3–801 of this title has been violated on receipt of a written complaint of an employee.

(2) The Commissioner may investigate whether § 3–802 of this title has been violated on receipt of a written complaint of an employee.

(g) The Commissioner may investigate whether Subtitle 9 of this title has been violated:

(1) on the Commissioner's own initiative;

(2) on receipt of a written complaint signed by the person submitting the complaint; or

(3) on referral from another unit of State government.

(h) The Commissioner may conduct an investigation to determine whether Subtitle 10 of this title has been violated on receipt of a written complaint of an employee.

(i) The Commissioner may conduct an investigation to determine whether Subtitle 12 of this title has been violated on receipt of a written complaint of an employee.

(J) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE WHETHER SUBTITLE 14 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN APPLICANT OR EMPLOYEE.

[(j)**] (K)** The Commissioner, on the Commissioner's own initiative or on receipt of a written complaint, may conduct an investigation of whether a local minimum wage law has been violated.

[(k)**] (L)** (1) The Commissioner may conduct an investigation to determine whether Subtitle 13 of this title has been violated on receipt of a written complaint by an employee.

(2) To the extent practicable, the Commissioner shall keep confidential the identity of an employee who has filed a written complaint alleging a violation of Subtitle 13 of this title unless the employee waives confidentiality.

SUBTITLE 14. CRIMINAL HISTORY SCREENING.

3–1401.

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

(B) "CRIMINAL RECORD" MEANS:

(1) AN ARREST;

(2) A PLEA OR VERDICT OF GUILTY;

(3) A PLEA OF NOLO CONTENDERE;

(4) THE MARKING OF A CHARGE "STET" ON THE DOCKET;

(5) A DISPOSITION OF PROBATION BEFORE JUDGMENT; OR

~~(5)~~ (6) A DISPOSITION OF NOT CRIMINALLY RESPONSIBLE.

(C) (1) "EMPLOYER" MEANS A PERSON WHO EMPLOYS 15 OR MORE FULL–TIME EMPLOYEES.

(2) "EMPLOYER" INCLUDES A PERSON WHO ACTS, DIRECTLY OR INDIRECTLY, IN THE INTEREST OF AN EMPLOYER WITH RESPECT TO AN EMPLOYEE OF THE EMPLOYER.

(D) (1) "EMPLOYMENT" MEANS ANY WORK FOR PAY AND ANY FORM OF VOCATIONAL OR EDUCATIONAL TRAINING, WITH OR WITHOUT PAY.

(2) "EMPLOYMENT" INCLUDES:

(I) CONTRACTUAL, TEMPORARY, SEASONAL, OR CONTINGENT WORK; AND

(II) WORK THROUGH THE SERVICES OF A TEMPORARY OR OTHER EMPLOYMENT AGENCY.

3–1402.

(A) **THIS SUBTITLE DOES NOT:**

(1) PROHIBIT AN EMPLOYER FROM MAKING AN INQUIRY OR TAKING OTHER ACTION THAT THE EMPLOYER IS REQUIRED TO TAKE OR IS EXPRESSLY AUTHORIZED TO TAKE BY ANOTHER APPLICABLE ~~FEDERAL, STATE, OR LOCAL LAW~~ *FEDERAL OR STATE LAW*; OR

(2) APPLY TO AN EMPLOYER THAT PROVIDES PROGRAMS, SERVICES, OR DIRECT CARE TO MINORS OR TO VULNERABLE ADULTS.

(B) THIS SUBTITLE MAY NOT BE CONSTRUED TO PREEMPT A LOCAL JURISDICTION FROM ENACTING OR ENFORCING A LAW THAT IS MORE RESTRICTIVE WITH RESPECT TO CRIMINAL RECORD SCREENING PRACTICES OF EMPLOYERS IN THE LOCAL JURISDICTION.

3–1403.

(A) ~~AN~~ EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN EMPLOYER MAY NOT, AT ANY TIME BEFORE ~~A CONDITIONAL OFFER OF EMPLOYMENT HAS BEEN EXTENDED~~ THE ~~CONCLUSION OF A FIRST~~ FIRST IN–PERSON INTERVIEW,~~:~~

~~(1)~~ ~~EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,~~ REQUIRE AN APPLICANT TO DISCLOSE WHETHER THE APPLICANT HAS A CRIMINAL RECORD OR HAS HAD CRIMINAL ACCUSATIONS BROUGHT AGAINST THE APPLICANT~~;~~.

~~(2) CONDUCT A CRIMINAL HISTORY RECORDS CHECK ON THE APPLICANT; OR~~

~~(3) OTHERWISE INQUIRE OF THE APPLICANT OR OTHERS ABOUT WHETHER THE APPLICANT HAS A CRIMINAL RECORD OR HAS HAD CRIMINAL ACCUSATIONS BROUGHT AGAINST THE APPLICANT.~~

(B) AN EMPLOYER MAY REQUIRE AN APPLICANT TO DISCLOSE DURING THE FIRST *IN–PERSON* ~~IN PERSON~~ INTERVIEW WITH THE APPLICANT WHETHER THE APPLICANT HAS A CRIMINAL RECORD OR HAS HAD CRIMINAL ACCUSATIONS BROUGHT AGAINST THE APPLICANT.

3–1404.

~~(A) (1) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SUBTITLE HAS BEEN VIOLATED, THE COMMISSIONER MAY:~~

~~(1) SHALL TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION INFORMALLY BY MEDIATION; OR.~~

~~(2) IF MEDIATION UNDER PARAGRAPH (1) OF THIS SUBSECTION IS UNSUCCESSFUL, THE COMMISSIONER MAY ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE APPLICANT OR EMPLOYEE.~~

~~(B) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SECTION IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED, FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.~~

~~3–1405.~~

AN EMPLOYER MAY NOT TAKE OR REFUSE TO TAKE A PERSONNEL ACTION OR OTHERWISE RETALIATE OR DISCRIMINATE AGAINST AN APPLICANT OR EMPLOYEE AS A REPRISAL FOR THE APPLICANT OR EMPLOYEE HAVING CLAIMED A VIOLATION OF THIS SUBTITLE.

~~**3–1406.**~~ ***3–1405.***

~~**AN EMPLOYER WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $500 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH SUBJECT TO A CIVIL FINE NOT EXCEEDING $500 FOR EACH VIOLATION.**~~

(A) IF THE COMMISSIONER DETERMINES THAT AN EMPLOYER HAS VIOLATED ANY PROVISION OF THIS SUBTITLE, THE COMMISSIONER:

(1) SHALL ISSUE AN ORDER COMPELLING COMPLIANCE; AND

(2) FOR A SUBSEQUENT VIOLATION, MAY, IN THE COMMISSIONER'S DISCRETION, ASSESS A CIVIL PENALTY OF UP TO $300 FOR EACH APPLICANT FOR EMPLOYMENT OR EMPLOYEE WITH RESPECT TO WHOM THE EMPLOYER VIOLATED ANY PROVISION OF THIS SUBTITLE.

(B) IN DETERMINING THE AMOUNT OF THE PENALTY, IF ASSESSED, THE COMMISSIONER SHALL CONSIDER:

(1) THE GRAVITY OF THE VIOLATION;

(2) THE SIZE OF THE EMPLOYER'S BUSINESS;

(3) THE EMPLOYER'S GOOD FAITH; AND

(4) THE EMPLOYER'S HISTORY OF VIOLATIONS UNDER THIS SUBTITLE.

(C) THE ASSESSMENT OF A PENALTY UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL BE SUBJECT TO THE NOTICE AND HEARING REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2020.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House

Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 916 – *Physicians – Dispensing Permit Exemption – Topical Medication*.

This bill authorizes a licensed physician to dispense a topical medication approved by the U.S. Food and Drug Administration for the treatment of hypotrichosis if the physician complies with specified sections of the Maryland Pharmacy Act and receives a special class of written permit from the Maryland Board of Physicians.

House Bill 1288, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 916.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 916

AN ACT concerning

Physicians – Dispensing Permit Exemption – ~~Prepackaged~~ Topical Medication

FOR the purpose of providing that certain provisions of law do not prohibit a certain physician from ~~personally~~ dispensing a ~~prepackaged~~ certain topical medication; ~~establishing a certain exception to the requirement to receive a certain written permit;~~ authorizing a physician to dispense a certain topical medication if the physician meets certain requirements; authorizing the State Board of Physicians to issue a certain written permit to certain physicians under certain circumstances; defining a certain term; and generally relating to the dispensing of a ~~prepackaged topical~~ topical medication by a physician.

BY renumbering
Article – Health Occupations
Section 12–102(c)(2)(iii) and (iv), respectively
to be Section 12–102(c)(2)(iv) and (v), respectively
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, ~~with~~ without amendments,
Article – Health Occupations
Section 12–102(c)(2)(ii)1.C. and ~~(k) through (m)~~ 4.M.
Annotated Code of Maryland

(2014 Replacement Volume and 2018 Supplement)

BY adding to
Article – Health Occupations
Section ~~12–102(k)~~ 12–102(c)(2)(iii) and 14–509
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 12–102(c)(2)(iii) and (iv), respectively, of Article – Health Occupations of the Annotated Code of Maryland be renumbered to be Section(s) 12–102(c)(2)(iv) and (v), respectively.

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

Article – Health Occupations

12–102.

(c) (2) This title does not prohibit:

~~(ii) A licensed dentist, physician, or podiatrist from personally preparing and dispensing the dentist's, physician's, or podiatrist's prescriptions when:~~

~~1. The dentist, physician, or podiatrist:~~

~~C. Has received a written permit from that board to dispense prescription drugs or devices except that a written permit is not required in order to dispense starter dosages or samples without charge **OR FOR A PHYSICIAN TO DISPENSE A PREPACKAGED TOPICAL UNDER SUBSECTION (K) OF THIS SECTION**; and~~

(ii) A licensed dentist, physician, or podiatrist from personally preparing and dispensing the dentist's, physician's, or podiatrist's prescriptions when:

1. The dentist, physician, or podiatrist:

C. Has received a written permit from that board to dispense prescription drugs or devices except that a written permit is not required in order to dispense starter dosages or samples without charge; and

4. The dentist, physician, or podiatrist:

M. Completes ten continuing education credits over a 5–year period relating to the preparing and dispensing of prescription drugs, offered by the Accreditation Council for Pharmacy Education (ACPE) or as approved by the Secretary, in consultation with each respective board of licensure, as a condition of permit renewal;

(III) A LICENSED PHYSICIAN FROM DISPENSING A TOPICAL MEDICATION WITHOUT OBTAINING THE PERMIT REQUIRED UNDER ITEM (II)1C OF THIS PARAGRAPH OR COMPLETING THE CONTINUING EDUCATION REQUIRED UNDER ITEM (II)4M OF THIS PARAGRAPH WHEN THE PHYSICIAN:

1. OTHERWISE COMPLIES WITH ITEM (II) OF THIS PARAGRAPH; AND

2. HAS OBTAINED A SPECIAL WRITTEN PERMIT UNDER § 14–509 OF THIS ARTICLE;

14–509.

~~(K)~~ ~~(1)~~ (A) IN THIS ~~SUBSECTION, "PREPACKAGED TOPICAL" MEANS A PRESCRIPTION–STRENGTH CREAM, LOTION, OR SOLUTION THAT:~~

~~(I) IS PACKAGED AT THE SITE OF PRODUCTION; AND~~

~~(II) REQUIRES NO PREPARATION PRIOR TO DISPENSING.~~

~~(2) THIS TITLE DOES NOT PROHIBIT A PHYSICIAN FROM PERSONALLY DISPENSING A PREPACKAGED TOPICAL.~~ SECTION, "ACCME" MEANS THE ACCREDITING COUNCIL FOR CONTINUING MEDICAL EDUCATION.

(B) A PHYSICIAN MAY DISPENSE A TOPICAL MEDICATION THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF HYPOTICHOSIS WITHOUT OBTAINING A DISPENSING PERMIT OR COMPLETING THE CONTINUING EDUCATION REQUIRED UNDER § 12–102(C)(2)(II) OF THIS ARTICLE IF THE PHYSICIAN:

(1) OTHERWISE COMPLIES WITH THE REQUIREMENTS OF § 12–102(C)(2)(II) OF THIS ARTICLE; AND

(2) HAS RECEIVED A SPECIAL CLASS OF WRITTEN PERMIT FROM THE BOARD.

(C) THE BOARD MAY ISSUE A SPECIAL CLASS OF WRITTEN PERMIT TO A PHYSICIAN UNDER SUBSECTION (B) OF THIS SECTION IF THE PHYSICIAN:

(1) COMPLETES 1 HOUR OF CONTINUING MEDICAL EDUCATION PER YEAR ON THE DISPENSING OF TOPICAL MEDICATIONS DEVELOPED BY AN ACCME–ACCREDITED MARYLAND NONPROFIT OR GOVERNMENTAL ENTITY; AND

(2) PAYS TO THE BOARD A $100 PERMIT FEE.

~~**[**(k)**] (L)** This title does not limit the right of a general merchant to sell:~~

~~(1) Any nonprescription drug or device;~~

~~(2) Any commonly used household or domestic remedy; or~~

~~(3) Any farm remedy or ingredient for a spraying solution, in bulk or otherwise.~~

~~**[**(l)**] (M)** The Board of Pharmacy, the Board of Dental Examiners, the Board of Physicians, and the Board of Podiatric Medical Examiners annually shall report to the Office of Controlled Substances Administration:~~

~~(1) The names and addresses of its licensees who are authorized to personally prepare and dispense prescription drugs; and~~

~~(2) The names and addresses of its licensees who have reported, in accordance with subsection (e)(2)(ii)4L of this section, that they have personally prepared and dispensed prescription drugs within the previous year.~~

~~**[**(m)**] (N)** A dentist, physician, or podiatrist who fails to comply with the provisions of this section governing the dispensing of prescription drugs or devices shall:~~

~~(1) Have the dispensing permit revoked; and~~

~~(2) Be subject to disciplinary actions by the appropriate licensing board.~~

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller
President of the Senate
H–107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the House
H–101State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 1000 and House Bill 1343 – *Public Safety – Handgun Permit Review Board – Repeal*.

Protecting Marylanders is my highest responsibility as governor. People have a right to be safe at home, work, school, and as they go about their lives. Ensuring firearms do not fall into the hands of criminals or mentally ill persons is a crucial part of this duty. Unfortunately, Senate Bill 1000/House Bill 1343 fails to do anything to improve public safety. Instead of protecting Marylanders, it threatens the ability of law–abiding citizens to appeal decisions regarding handgun permits.

This measure does nothing to prevent guns from getting into the hands of dangerous people. The majority of cases overturned or modified by the Handgun Permit Review Board were merely appeals of restrictions on permits. These were cases in which the Maryland State Police had already determined the applicants – all law–abiding citizens – did not have any concerning criminal nor mental health factors in their background. The Board itself, it is worth noting, was created by the General Assembly in 1972, and it has worked well ever since that date. This legislation appears to be just a solution in search of a problem. The General Assembly's efforts would be better focused on initiatives to target violent, repeat offenders who use guns to commit crimes. The senseless violence in Baltimore City is heartbreaking. We need solutions, such as the Repeat Firearms Act of 2019, that would ensure those who repeatedly victimize our communities are held accountable. When given an opportunity this year to adopt tougher sentences for repeat violent gun offenders, the legislature refused to act. However, abolishing the Handgun Permit Review Board is not a solution to violent crime problems. It is just another in a long series of politically–motivated and ill–conceived power grabs.

Not only would this legislation fail to improve public safety, it would impose costly barriers for law–abiding individuals who wish to exercise their due process appeal rights. Rather than allowing applicants to appeal to the long–standing citizen–led Handgun Permit Review Board that was created by the General Assembly in 1972, the legislation would have required applicants to appeal to the Office of Administrative Hearings. This move would reasonably require applicants to retain an attorney to effectively pursue this review, significantly exacerbating the cost and ability of citizens to pursue their legal rights.

Current law already provides an appropriate check on the Handgun Permit Review Board. Should either party want to appeal a decision of the Board, the law allows for the decision to be appealed to the Office of Administrative Hearings, and ultimately to Circuit Court.

Senate Bill 1000/House Bill 1343 does nothing to prevent firearms from getting into the hands of violent criminals or seriously mentally ill persons, nor would it protect Marylanders from gun violence or lower the unacceptable level of violent crime. As we have done in the past, efforts should be focused on real, substantive solutions to prevent gun violence.

For these reasons, I have vetoed Senate Bill 1000 and House Bill 1343.

Sincerely,

Lawrence J. Hogan Jr.
Governor

Senate Bill 1000

AN ACT concerning

Public Safety – Handgun Permit Review Board – Repeal

FOR the purpose of altering the process by which a person who is denied a certain handgun permit or renewal of a permit or whose permit is revoked or limited by the Secretary of State Police or the Secretary's designee may appeal the decision; repealing provisions of law relating to the Handgun Permit Review Board; providing that appeals from a certain decision by the Secretary or the Secretary's designee may be made to the Office of Administrative Hearings in a certain manner; providing that a person whose application for a certain permit or renewal of a permit is not acted on by the Secretary within a certain period of time may request a certain hearing before the Office of Administrative Hearings; requiring the Office of Administrative Hearings to make a certain annual report to the Governor and the General Assembly; making conforming changes; requiring the Department of Public Safety and Correctional Services, within a certain period of time, to provide certain notice to certain individuals; authorizing certain individuals to file a certain request for a hearing before the Office of Administrative Hearings under certain circumstances; requiring the Office of Administrative Hearings to schedule a certain hearing within a certain period of time under certain circumstances; making this Act an emergency measure; and generally relating to handgun permits.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5–301 and 5–312
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing
Article – Public Safety
Section 5–302
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 5–311
Annotated Code of Maryland

(2018 Replacement Volume)

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

Article – Public Safety

5–301.

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

[(b) "Board" means the Handgun Permit Review Board.**]**

[(c)**] (B)** "Handgun" has the meaning stated in § 4–201 of the Criminal Law Article.

[(d)**] (C)** "Permit" means a permit issued by the Secretary to carry, wear, or transport a handgun.

[(e)**] (D)** "Qualified handgun instructor" has the meaning stated in § 5–101 of this title.

[(f)**] (E)** "Secretary" means the Secretary of State Police or the Secretary's designee.

[5–302.

(a) There is a Handgun Permit Review Board in the Department of Public Safety and Correctional Services.

(b) The Board consists of five members appointed from the public by the Governor with the advice and consent of the Senate.

(c) (1) The term of a member is 3 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on October 1, 2003.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member of the Board is eligible for reappointment.

(d) A member of the Board is entitled to:

(1) compensation in accordance with the State budget for each day that the member actually is engaged in the discharge of the member's official duties; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.**]**

5–311.

(a) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request the Secretary to conduct an informal review by filing a written request within 10 days after receipt of written notice of the Secretary's initial action.

(b) An informal review:

(1) may include a personal interview of the person who requested the informal review; and

(2) is not subject to Title 10, Subtitle 2 of the State Government Article.

(c) In an informal review, the Secretary shall sustain, reverse, or modify the initial action taken and notify the person who requested the informal review of the decision in writing within 30 days after receipt of the request for informal review.

(d) A person need not file a request for an informal review under this section before requesting review under § 5–312 of this subtitle.

5–312.

(a) (1) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request **[**the Board to review**]** **TO APPEAL** the decision of the Secretary **TO THE OFFICE OF ADMINISTRATIVE HEARINGS** by filing a written request with the **[**Board**]** **SECRETARY AND THE OFFICE OF ADMINISTRATIVE HEARINGS** within 10 days after receipt of written notice of the Secretary's final action.

(2) A person whose application for a permit or renewal of a permit is not acted on by the Secretary within 90 days after submitting the application to the Secretary may request a hearing before the **[**Board**]** **OFFICE OF ADMINISTRATIVE HEARINGS** by filing a written request with the **[**Board**]** **SECRETARY AND THE OFFICE OF ADMINISTRATIVE HEARINGS**.

~~**[**(b) Within 90 days after receiving a request to review a decision of the Secretary, the Board shall:~~

~~(1) review the record developed by the Secretary; and~~

~~(2) conduct a hearing.~~

~~(c) The Board may receive and consider additional evidence submitted by a party in conducting a review of the decision of the Secretary.~~

~~(d) (1) Based on the Board's consideration of the record and any additional evidence, the Board shall sustain, reverse, or modify the decision of the Secretary.~~

~~(2) Within 60 days after the last hearing in the matter conducted by the Board, the Board shall submit in writing to the applicant, the holder of the permit, and the Secretary the reasons for the decision of the Board.~~

~~(e) (1) The applicant, the holder of the permit, or the Secretary may appeal the decision of the Board to the Office of Administrative Hearings within 30 days after the issuance of the Board's reasons under subsection (d)(2) of this section.~~

~~(2)~~ **(B) (1)** Within 60 days after the receipt of a request **UNDER SUBSECTION (A) OF THIS SECTION** from the applicant~~,~~ **OR** the holder of the permit, ~~or the Secretary,~~ the Office of Administrative Hearings shall schedule and conduct a de novo hearing on the ~~appeal~~ **MATTER**, at which witness testimony and other evidence may be provided.

~~(3)~~ **(2)** Within 90 days after the conclusion of the last hearing on the matter, the Office of Administrative Hearings shall issue a finding of facts and a decision.

~~(4)~~ **(3)** A party that is aggrieved by the decision of the Office of Administrative Hearings may appeal the decision to the circuit court.~~]~~

[(f)**]** ~~(B)~~ **(C)** (1) **[**Subject to subsections (d) and (e) of this section, any**]** ~~ANY~~ **SUBJECT TO SUBSECTION (B) OF THIS SECTION, ANY** hearing and any subsequent proceedings of judicial review shall be conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

(2) Notwithstanding paragraph (1) of this subsection, a court may not order the issuance or renewal of a permit or alter a limitation on a permit pending a final determination of the proceeding.

~~[~~(g)~~]~~ **(D)** On or before ~~December~~ **JANUARY** 1 ~~each year~~**, 2019, 2020, 2021, AND 2022**, the ~~Board~~ **OFFICE OF ADMINISTRATIVE HEARINGS** shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly:

(1) the number of appeals of decisions by the Secretary that have been filed with the ~~Board~~ **OFFICE OF ADMINISTRATIVE HEARINGS** within the previous year;

(2) the number of decisions by the Secretary that have been sustained, modified, or reversed by the ~~Board~~ **OFFICE OF ADMINISTRATIVE HEARINGS** within the previous year;

(3) the number of appeals that are pending; and

(4) the number of appeals that have been withdrawn within the previous year.

[(h) The Board is subject to Title 3 (Open Meetings Act) of the General Provisions Article.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) Subject to paragraph (2) of this subsection, within 30 days after this Act takes effect, the Department of Public Safety and Correctional Services shall provide written notice to each individual whose request to review a decision of the Secretary of State Police under § 5–312 of the Public Safety Article remains pending before the Handgun Permit Review Board on the taking effect of this Act.

(2) The notice required under paragraph (1) of this subsection shall inform the individual that the individual, within 30 days of receipt of the notice, may file an amended request that the matter pending before the Handgun Permit Review Board be heard by the Office of Administrative Hearings in accordance with § 5–312(b) of the Public Safety Article, as enacted by Section 1 of this Act.

(b) Within 30 days after receiving the notice described under subsection (a) of this section, the individual may file an amended request that the matter be heard by the Office of Administrative Hearings in accordance with § 5–312(b) of the Public Safety Article, as enacted by Section 1 of this Act.

(c) Notwithstanding § 5–312(b)(1) of the Public Safety Article, as enacted by Section 1 of this Act, within 45 days after the receipt of an amended request under this section, the Office of Administrative Hearings shall schedule and conduct a de novo hearing on the matter, at which witness testimony and other evidence may be provided.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.~~

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.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 1012 – *Public Health – Death Certificates – Completion and Cause of Death Report*.

This bill authorizes a physician designated by the State Anatomy Board to complete a death certificate under certain circumstances. This bill also requires 1) if a physician designated by the State Anatomy Board completes a death certificate, the physician must enter "unspecified natural causes" as the cause of death; and 2) the State Anatomy Board must send a specified report to the Secretary of Health should it receive additional information regarding the cause of death.

House Bill 1400, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 1012.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 1012

AN ACT concerning

Public Health – Death Certificates – Completion and Cause of Death Report

FOR the purpose of authorizing a physician designated by the State Anatomy Board to complete a death certificate under certain circumstances; requiring a certain physician to enter certain information in a certain section of a death certificate; requiring the State Anatomy Board, under certain circumstances, to send to the Secretary of Health a report of the cause of death for entry on a certain death certificate; and generally relating to death certificates.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 4–212
Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

4–212.

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

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

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

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

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

(i) The name of the deceased;

(ii) The cause of death and medical certification;

(iii) The date and hour of death; and

(iv) The place where death occurred.

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

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

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

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

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

(i) The attending physician's associate;

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

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

(IV) A PHYSICIAN DESIGNATED BY THE STATE ANATOMY BOARD, ONLY IF WITHIN 72 HOURS AFTER THE STATE ANATOMY BOARD TAKES CHARGE OF THE BODY, THE STATE ANATOMY BOARD HAS FAILED AFTER A GOOD FAITH EFFORT TO MAKE CONTACT WITH ANY OF THE INDIVIDUALS DESCRIBED IN ITEMS (I), (II), OR (III) OF THIS PARAGRAPH OR PARAGRAPH (4) OF THIS SUBSECTION.

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

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

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

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

(2) The cause of death is unknown; or

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

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

(ii) Homicide;

(iii) Suicide;

(iv) Other external manner of death;

(v) Alcoholism; or

(vi) Criminal or suspected criminal abortion.

(d) (1) **(I)** If, within 24 hours after taking charge of a body, the medical examiner has not determined the cause of death, the medical examiner shall enter "investigation pending" in the cause of death section of the death certificate.

[(2)**]** **(II)** As soon as the medical examiner determines the cause of death, the medical examiner shall send to the Secretary a report of the cause of death, for entry on the certificate.

(2) (I) A PHYSICIAN WHO COMPLETES A DEATH CERTIFICATE UNDER SUBSECTION (B)(5)(IV) OF THIS SECTION SHALL ENTER "UNSPECIFIED NATURAL CAUSES" IN THE CAUSE OF DEATH SECTION OF THE DEATH CERTIFICATE.

(II) THE STATE ANATOMY BOARD SHALL SEND TO THE SECRETARY A REPORT OF THE CAUSE OF DEATH FOR ENTRY ON A DEATH CERTIFICATE COMPLETED UNDER SUBSECTION (B)(5)(IV) OF THIS SECTION IF THE STATE ANATOMY BOARD RECEIVES INFORMATION ABOUT THE CAUSE OF DEATH FROM AN INDIVIDUAL DESCRIBED IN SUBSECTION (B)(4) OR (5)(I), (II), OR (III) OF THIS SECTION.

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

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

(f) (1) If a death occurs on a common carrier in the United States and the body is removed from the carrier in this State, the death shall be registered in this State, and the place where it is first removed shall be considered the place of death. When a death occurs on a common carrier while in international waters or air space or in a foreign country or its air space and the body is first removed from the carrier in this State, the death shall be registered in this State, but the certificate shall show the actual place of death insofar as can be determined.

(2) The individual in charge or the owner of the common carrier or a designee shall file a certificate of death within 24 hours after the body is removed from the carrier.

(3) If the death occurred under any of the conditions or circumstances set forth in subsection (c) of this section, the medical examiner shall be notified.

(g) A mortician who obtains a certificate of death under this section shall file the certificate within 72 hours after the death.

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Vetoed House Bills and Messages

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 64 – *State Retirement and Pension System – Designation of Beneficiary*.

This bill authorizes a member of the State Retirement and Pension System to designate a beneficiary either by submitting a notarized written designation to the State Retirement Agency; or electronically through the State Retirement Agency's secure access portal. This bill also makes clarifying changes regarding the designation of beneficiaries by participants in the Deferred Retirement Option Program.

Senate Bill 120, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 64.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 64

AN ACT concerning

State Retirement and Pension System – Designation of Beneficiary

FOR the purpose of altering a requirement for designating a beneficiary of a member, former member, or retiree of the State Retirement and Pension System; providing an option for a member, former member, or retiree to designate a beneficiary through an electronic process; altering a certain definition; making conforming changes; and generally relating to designation of a beneficiary with the State Retirement and Pension System.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 20–101(a), 24–401.1(i)(1), and 26–401.1(i)(1)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 20–101(n), 24–401.1(i)(2), and 26–401.1(i)(2)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 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

20–101.

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

(n) "Designated beneficiary" means a person named as beneficiary **[**in an acknowledged written designation filed with the Board of Trustees**]** by a member, former member, or a retiree **BY FILING:**

(1) AN ACKNOWLEDGED WRITTEN DESIGNATION WITH THE STATE RETIREMENT AGENCY; OR

(2) A PROPERLY COMPLETED FORM SUBMITTED THROUGH THE STATE RETIREMENT AGENCY'S SECURE ACCESS PARTICIPANT PORTAL WITH AN ELECTRONIC SIGNATURE AFFIXED IN THE REQUIRED MANNER AND FORMAT.

24–401.1.

(i) (1) Subject to paragraphs (2), (3), and (4) of this subsection, on termination of a DROP member's participation in the DROP, the Board of Trustees shall pay to the DROP member or, if the DROP member has died, the designated beneficiary of the DROP member, the amount accrued in the DROP for the DROP member under subsection (h)(2) of this section, reduced by any withholding taxes remitted to the Internal Revenue Service or other taxing authority, in a lump sum.

(2) The designated beneficiary of a DROP member is:

(i) the DROP member's surviving spouse;

(ii) if there is not a surviving spouse or if the surviving spouse dies before the youngest child is 18 years old, each child of the deceased DROP member who is under 18 years old; or

(iii) if there is not a surviving spouse or a child who is under 18 years old, the **[**person named as a beneficiary in an acknowledged written designation filed with

the Board of Trustees by the DROP member**]** **DROP MEMBER'S DESIGNATED BENEFICIARY**.

26–401.1.

(i) (1) Subject to paragraphs (2), (3), and (4) of this subsection, on termination of a DROP member's participation in the DROP, the Board of Trustees shall pay to the DROP member or, if the DROP member has died, the designated beneficiary of the DROP member, the amount accrued in the DROP for the DROP member under subsection (h)(2) of this section, reduced by any withholding taxes remitted to the Internal Revenue Service or other taxing authority, in a lump sum.

(2) The designated beneficiary of a DROP member is:

(i) the DROP member's surviving spouse;

(ii) if there is not a surviving spouse or if the surviving spouse dies before the youngest child is 18 years old, each child of the deceased DROP member who is under 18 years old; or

(iii) if there is not a surviving spouse or a child who is under 18 years old, the **[**person named as a beneficiary in an acknowledged written designation filed with the Board of Trustees by the DROP member**]** **DROP MEMBER'S DESIGNATED BENEFICIARY**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 252 and House Bill 66 – *Railroad Company – Movement of Freight – Required Crew*.

This legislation attempts to codify a private industry issue that should be negotiated between the employer and the employer's representatives and decided at the federal level since it involves interstate commerce and clearly falls within the federal government's regulatory purview.

For four years, I have made it my Administration's top priority to make sure Maryland is Open for Business. These bills attempt to circumvent the collective bargaining process in private industry and will ultimately kill job opportunities for the thousands of Maryland's citizens who depend on an economically viable Port of Baltimore, make our great state less competitive with our neighbors, burden our taxpayers, and bring confusion to the Mid–Atlantic region's complex rail network. I simply cannot allow these bills to become law.

Senate Bill 252 and House Bill 66 put the Port of Baltimore, one of our State's major economic engines, at a competitive disadvantage with neighboring ports. Only three states in the nation – California, Colorado, and Wisconsin – have a two–person crew requirement. No state in the Mid–Atlantic region, or on the East Coast for that matter, has this requirement, which means that no port that competes directly with the Port of Baltimore currently has this requirement. Freight rail is America's backbone of interstate commerce. Mandating that carriers in the State of Maryland use a larger crew size than would be required of the same railroads operating out of Norfolk, Philadelphia, or New York will directly result in an increase in shipping costs and deter carriers from operating in the state resulting in the loss of jobs directly related to the Port. Those same jobs produce an average annual wage that is 9.5% higher than the state average.

During my administration, the Port of Baltimore and Seagirt Marine Terminal have grown significantly, breaking records in each of the last four years, adding jobs and economic activity in the process. Last year, the Port of Baltimore set a 44–year record for public and private cargo handled. Large volume surges can strain trucking resources. For this growth to continue, we need viable intermodal options to ensure cargo velocity remains at optimal levels. This includes rail connectivity to locations that are currently serviced only by truck. Tradepoint Atlantic is one such location that offers tremendous potential to increase cargo volume through the Port of Baltimore, however shipping cost is a serious challenge to fully realizing this potential. Carriers will always move cargo by the most efficient and economical means. As the Port is developing a rail shuttle solution, absorbing an additional layer of cost constitutes a serious burden in an industry that already operates on razor thin margins. In that respect, these bills send a disturbing message to the Port's private sector industry partners and would have a chilling effect on discussions with CSX as the Port continues to work towards modernizing the Howard Street Tunnel to allow for double–stack containers, essential to the future success of the Port of Baltimore.

In the three previous years that the General Assembly has considered crew size, no empirical data has been submitted that proves there is a link between railroad safety and the crew size. In fact, crew sizes have decreased over the years, and together with the

implementation of advancements in technology we have seen a reduction in accident rates. The implementation of Positive Train Control will only contribute to this trend. Passing bills of this nature creates a false narrative that a larger crew size is the most critical factor to rail safety, which could deter future advancements in technology with the potential to have a far more significant impact on rail safety.

This legislation will also have a significant impact on the pending renewal of the State's access agreement with CSX for MARC Train Camden and Brunswick Line service, even more so this year than the year before. The net result of this will be as much as a $5.2 million impact that CSX would pass on to the State through the MARC contract, which will undoubtedly impact train service and the 12,000 daily riders on both lines.

Lastly, these bills are clearly preempted by federal law. The Regional Rail Reorganization Act of 1973, in a section of Code titled "Preemption" and codified at 45 U.S.C. 797(j) states that "[n]o State may adopt or continue in force any law, rule, regulation, order, or standard requiring the Corporation to employ any specified number of persons to perform any particular task, function, or operation…." In fact, the United States Code *specifically identifies Maryland* as a State within the region in which "no State in the Region may adopt or continue in force any such law, rule, regulation, order, or standard with respect to any railroad in the Region." These bills would be in direct conflict with federal law.

Maryland cannot afford to be at a competitive disadvantage to our neighboring states. The increased costs associated with this legislation, negative impact on the approximately 37,300 jobs generated by port activity, and potential to jeopardize the livelihood of Maryland workers who depend on a thriving Port of Baltimore is too harmful to allow these bills to become law.

For these reasons, I have vetoed Senate Bill 252 and House Bill 66.

Sincerely,

Lawrence J. Hogan Jr.
Governor

House Bill 66

AN ACT concerning

Railroad Company – Movement of Freight – Required Crew

FOR the purpose of prohibiting a train or light engine used in connection with the movement of freight from being operated in the State unless it has a certain number of crew members; providing for the application of this Act; establishing certain penalties; prohibiting a county or municipal corporation from enacting and enforcing more stringent measures regarding certain crew requirements; requiring the Commissioner of Labor and Industry to provide certain notice to the Department of Legislative Services under certain circumstances; providing for the termination of

this Act under certain circumstances; and generally relating to the crew for a train or light engine used in connection with the movement of freight.

BY adding to
Article – Labor and Employment
Section 5.5–110(e)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Labor and Employment

5.5–110.

(E) (1) THIS SUBSECTION APPLIES TO A TRAIN OR LIGHT ENGINE USED IN CONNECTION WITH THE MOVEMENT OF RAILROAD FREIGHT THAT SHARES THE SAME RAIL CORRIDOR AS A HIGH–SPEED PASSENGER OR COMMUTER TRAIN.

(2) THIS SUBSECTION DOES NOT APPLY TO A TRAIN OR LIGHT ENGINE USED IN CONNECTION WITH THE MOVEMENT OF RAILROAD FREIGHT INVOLVING:

(I) HOSTLER SERVICE; OR

(II) UTILITY EMPLOYEES IN YARD SERVICE.

(3) A TRAIN OR LIGHT ENGINE USED IN CONNECTION WITH THE MOVEMENT OF RAILROAD FREIGHT MAY NOT BE OPERATED IN THE STATE UNLESS THE TRAIN OR LIGHT ENGINE HAS A CREW OF AT LEAST TWO INDIVIDUALS.

(4) (I) A PERSON WHO WILLFULLY VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

1. FOR A FIRST OFFENSE, A FINE OF $500; AND

2. FOR A SECOND OFFENSE AND ANY SUBSEQUENT OFFENSE COMMITTED WITHIN A PERIOD OF 3 YEARS OF THE SECOND OFFENSE, A FINE OF $1,000 FOR EACH OFFENSE.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, A RAILROAD COMPANY SHALL BE SOLELY RESPONSIBLE FOR THE ACTIONS OF ITS AGENTS OR EMPLOYEES IN VIOLATION OF THIS SUBSECTION.

(5) A COUNTY OR MUNICIPAL CORPORATION MAY NOT ENACT AND ENFORCE MORE STRINGENT MEASURES REGARDING THE CREW REQUIREMENTS AUTHORIZED UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, if the Federal Railroad Administration issues a rule requiring two–person train crews on crude oil trains and establishing minimum crew size standards for most main line freight and passenger rail operations, within 5 days after the issuance of the rule, the Commissioner of Labor and Industry shall notify the Department of Legislative Services. On the date the Department of Legislative Services receives such notification, this Act shall be abrogated and of no further force and effect.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 71 – *State Board of Elections – Open Meetings – Video Streaming and Recording (State Board of Elections Transparency Act.)*

This bill requires the State Board of Elections, in consultation with the Department of Information Technology, to make publicly available on the Internet (1) each meeting agenda, at least 24 hours in advance of each meeting; (2) live video streaming of each open meeting of the State Board of Elections; and (3) a complete, unedited archived video recording of each open meeting for a minimum of four years after the date of the meeting.

This bill also requires the State Board of Elections to prepare written minutes of each meeting as soon as practicable after the meeting; and the Department of Information Technology to provide the technical staff, support, and equipment necessary to stream live video of the open meetings of the State Board of Elections.

Senate Bill 184, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 71.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 71

AN ACT concerning

State Board of Elections – Open Meetings – Video Streaming and Recording (State Board of Elections Transparency Act)

FOR the purpose of requiring the State Board of Elections, in consultation with the Department of Information Technology, to make publicly available on the Internet <u>each meeting agenda, made available a certain amount of time in advance of each meeting,</u> live video streaming<u>,</u> and complete, unedited archived video recordings of open meetings; requiring the State Board to make the archived video recordings available for a certain minimum period of time; <u>requiring the State Board to prepare certain minutes as soon as practicable after certain meetings; requiring the Department to provide certain staff, support, and equipment to the State Board;</u> and generally relating to open meetings of the State Board of Elections.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 2–102
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

Preamble

WHEREAS, The General Assembly has determined that it is essential to the maintenance of a democratic society that public business be performed in an open and accessible manner; and

WHEREAS, The Internet and other technological developments have increased the ways governmental bodies can provide public access to their open meetings, including live streaming or recording the meetings; and

WHEREAS, The Board of Public Works uses a multicamera unit, a computer, and a subscription to a live video platform service to broadcast and record its meetings; and

WHEREAS, The State Board of Elections would improve public access to its meetings by using a broadcast system similar to the system used by the Board of Public Works; now, therefore,

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

Article – Election Law

2–102.

(a) The State Board shall manage and supervise elections in the State and ensure compliance with the requirements of this article and any applicable federal law by all persons involved in the elections process.

(b) In exercising its authority under this article and in order to ensure compliance with this article and with any requirements of federal law, the State Board shall:

(1) supervise the conduct of elections in the State;

(2) direct, support, monitor, and evaluate the activities of each local board;

(3) have a staff sufficient to perform its functions;

(4) adopt regulations to implement its powers and duties;

(5) receive, or in its discretion audit, campaign finance reports, account books and records kept under § 13–221 of this article, independent expenditure reports filed and records kept under § 13–306 of this article, electioneering communication reports filed and records kept under § 13–307 of this article, and statements filed and records kept under § 14–105 of this article;

(6) appoint a State Administrator in accordance with § 2–103 of this subtitle;

(7) maximize the use of technology in election administration, including the development of a plan for a comprehensive computerized elections management system;

(8) canvass and certify the results of elections as prescribed by law;

(9) make available to the general public, in a timely and efficient manner, information on the electoral process, including a publication that includes the text of this article, relevant portions of the Maryland Constitution, and information gathered and maintained regarding elections;

(10) subject to § 2–106 of this subtitle and § 13–341 of this article, receive, maintain, and serve as a depository for elections documents, materials, records, statistics, reports, certificates, proclamations, and other information prescribed by law or regulation;

(11) prescribe all forms required under this article; and

(12) serve as the official designated office in accordance with the Uniformed and Overseas Citizens Absentee Voting Act for providing information regarding voter

registration and absentee ballot procedures for absent uniformed services voters and overseas voters with respect to elections for federal office.

(c) The powers and duties assigned to the State Board under this article shall be exercised in accordance with an affirmative vote by a supermajority of the members of the State Board.

(D) (1) THE STATE BOARD SHALL PREPARE WRITTEN MINUTES OF EACH MEETING OF THE STATE BOARD AS SOON AS PRACTICABLE AFTER THE MEETING.

(2) THE STATE BOARD, IN CONSULTATION WITH THE DEPARTMENT OF INFORMATION TECHNOLOGY, SHALL MAKE PUBLICLY AVAILABLE ON THE INTERNET:

(I) EACH MEETING AGENDA, MADE AVAILABLE AT LEAST 24 HOURS IN ADVANCE OF EACH MEETING;

~~(1)~~ (II) LIVE VIDEO STREAMING OF EACH OPEN MEETING OF THE STATE BOARD; AND

~~(2)~~ (III) A COMPLETE, UNEDITED ARCHIVED VIDEO RECORDING OF EACH OPEN MEETING FOR A MINIMUM OF 4 YEARS AFTER THE DATE OF THE MEETING.

(3) THE DEPARTMENT OF INFORMATION TECHNOLOGY SHALL PROVIDE TO THE STATE BOARD THE TECHNICAL STAFF, SUPPORT, AND EQUIPMENT NECESSARY TO STREAM LIVE VIDEO OF THE OPEN MEETINGS OF THE STATE BOARD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 78 – *Correctional Services – Inmates – Labor*.

This bill requires the Commissioner of Correction Annual Report and the Division of Correction Financial and Operational Report to include information relating to inmate employment and wages.

Senate Bill 527, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 78.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 78

AN ACT concerning

Correctional Services – Inmates – Labor

FOR the purpose of requiring the Commissioner of Correction to include in a certain report certain statistics related to inmate employment and wages at certain facilities; requiring the Division of Correction to include in a certain report regarding Maryland Correctional Enterprises certain statistics regarding inmate employment and wages; and generally relating to inmates.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 3–207 and 3–509
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Correctional Services

3–207.

(a) On or before October 31 of each year, the Commissioner shall submit an annual report to the Secretary and the Governor that states, for each correctional facility in the Division:

(1) its expenses, receipts, disbursements, condition, and progress;

(2) the number of inmates and each inmate's age, sex, race, place of birth and conviction, crime, and term of confinement;

(3) the number of inmates who escape, are pardoned, or discharged; **[**and**]**

(4) THE JOB CLASSIFICATIONS FOR INMATE LABOR IN EACH DEPARTMENT AND FACILITY UNDER THE AUTHORITY OF THE DIVISION;

(5) THE DAILY WAGE SCALE AT EACH PRISON FOR EACH JOB CLASSIFICATION UNDER THE AUTHORITY OF THE DIVISION;

(6) THE TOTAL NUMBER OF INMATES CURRENTLY EMPLOYED AT FACILITIES UNDER THE AUTHORITY OF THE DIVISION, DISAGGREGATED BY FACILITY; AND

[(4)**] (7)** any remarks and suggestions the Commissioner considers necessary to advance the interests of the correctional facility.

(b) The Commissioner shall submit with the report required by subsection (a) of this section a statement similar to the statement that is required to be submitted under § 3–206 of this subtitle.

(c) The Commissioner shall verify the report and statement required by this section.

(d) Subject to § 2–1246 of the State Government Article, the Governor shall submit to the General Assembly the report and statement required under this section and any recommendations that the Governor considers expedient.

3–509.

(a) Annually, the Division shall submit a complete financial and operational report of Maryland Correctional Enterprises and the Maryland Correctional Enterprises revolving fund to:

(1) the Governor;

(2) the Secretary; and

(3) the Secretary of Budget and Management.

(b) The report required under subsection (a) of this section shall:

(1) be in the same general form as a report by the Division on its operations and programs; **[**and**]**

(2) include information about present and projected personnel and compensation requirements of Maryland Correctional Enterprises**;**

(3) LIST THE JOB CLASSIFICATIONS FOR INMATE LABOR IN EACH DEPARTMENT AND FACILITY UNDER THE AUTHORITY OF MARYLAND CORRECTIONAL ENTERPRISES;

(4) LIST THE DAILY WAGE SCALE AT EACH PRISON FOR EACH JOB CLASSIFICATION UNDER THE AUTHORITY OF MARYLAND CORRECTIONAL ENTERPRISES; AND

(5) LIST THE TOTAL NUMBER OF INMATES CURRENTLY EMPLOYED AT FACILITIES UNDER THE AUTHORITY OF MARYLAND CORRECTIONAL ENTERPRISES, DISAGGREGATED BY FACILITY.

(c) The Governor, the Secretary, and the Secretary of Budget and Management may include data from the report submitted under this section in the preparation of the budget and capital improvement bill.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 81 – *Property Tax Credit – Surviving Spouse of Veteran*.

This bill changes the eligibility criteria of a local option property tax credit for certain members of the U.S. Armed Forces and surviving spouses by requiring the surviving spouse to be at least 65 years old. This bill also allows a surviving spouse who is under age 65 to continue to receive the property tax credit if the surviving spouse qualified for and received the property tax credit before June 1, 2019.

Senate Bill 816, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 81.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 81

AN ACT concerning

Property Tax Credit – Surviving Spouse of Veteran

FOR the purpose of altering eligibility for a credit authorized against the county or municipal corporation property tax for the surviving spouses of certain <u>retired</u> veterans; <u>providing that certain surviving spouses who are under a certain age may continue to receive the tax credit if the surviving spouses qualified for and received the tax credit before a certain date;</u> providing for the application of this Act; and generally relating to eligibility for a property tax credit for the surviving spouses of certain veterans.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–258
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Tax – Property

9–258.

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

(2) "Dwelling" has the meaning stated in § 9–105 of this title.

(3) "Eligible individual" means:

(i) an individual who is at least 65 years old and has lived in the same dwelling for at least the preceding 40 years;

(ii) an individual who is at least 65 years old and is a retired member of the uniformed services of the United States as defined in 10 U.S.C. § 101, the military reserves, or the National Guard; or

(iii) a surviving spouse, who **IS AT LEAST 65 YEARS OLD AND** has not remarried, of **[**an individual described in item (ii) of this paragraph**]** **A <u>RETIRED</u> MEMBER OF THE UNIFORMED SERVICES OF THE UNITED STATES AS DEFINED IN 10 U.S.C. § 101, THE MILITARY RESERVES, OR THE NATIONAL GUARD**.

(b) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may grant, by law, a property tax credit under this section against the county or municipal corporation property tax imposed on the dwelling of an eligible individual.

(c) The property tax credit allowed under this section may:

(1) not exceed 20% of the county or municipal corporation property tax imposed on the property; and

(2) be granted for a period of up to 5 years.

(d) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may provide, by law, for:

(1) the maximum assessed value of a dwelling that is eligible for the tax credit under this section;

(2) additional eligibility criteria for the tax credit under this section;

(3) regulations and procedures for the application and uniform processing of requests for the tax credit; and

(4) any other provision necessary to carry out the tax credit under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That a surviving spouse, who is under the age of 65 years and has not remarried, of a retired member of the uniformed services of the United States as defined in 10 U.S.C. § 101, the military reserves, or the National Guard, may continue to receive the tax credit under § 9–258 of the Tax – Property Article as enacted by Section 1 of this Act if the surviving spouse qualified for and received the tax credit before June 1, 2019.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019, and shall be applicable to all taxable years beginning after June 30, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 113 – *Criminal Law – Gaming – Civil Offense*.

This bill changes the classifications of, or penalties for, several offenses related to betting, wagering, and gambling.

Senate Bill 842, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 113.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 113

AN ACT concerning

Criminal Law – Gaming – Civil Offense

FOR the purpose of altering the penalty for certain conduct relating to betting, wagering, or gambling; making certain conduct relating to betting, wagering, or gambling a civil offense; establishing that adjudication of a violation under a certain provision of this Act is not a criminal conviction for any purpose and does not impose any of the civil disabilities that may result from a criminal conviction; altering certain penalties; ~~requiring a court to order the Maryland Department of Health, or a certain designee, to conduct a certain assessment of a certain individual under certain circumstances; authorizing a court to order the Department, or a certain designee, to conduct a certain assessment of a certain individual under certain circumstances; authorizing a defendant to request a certain assessment; requiring a court to state the basis of its decision on the record if the court denies a certain request; requiring the Department, or a certain designee, to conduct an assessment and provide certain information to certain persons under certain circumstances; authorizing a court, under certain circumstances, to hold a case sub curia pending certain receipt of proof of completed treatment;~~ authorizing a certain police officer to issue a certain citation under certain circumstances; establishing certain requirements for a citation issued under this Act; requiring the form of a certain citation to be uniform throughout the State and to be prescribed by the District Court; requiring the Chief Judge of the District Court to establish a schedule for the prepayment of a certain fine; requiring a certain issuing jurisdiction to forward a copy of a certain citation and request for trial to a certain court; providing that a person may request a trial in a certain manner within a certain time period after the issuance of a citation; providing that the District Court may impose a certain fine and costs and find a person guilty of a certain violation under certain circumstances; providing that a certain defendant is

liable for certain costs of a certain proceeding; specifying the costs of a certain proceeding; providing that the State has the burden to prove the guilt of a certain defendant by a certain standard; requiring a court to apply certain evidentiary standards; requiring a court to ensure that a certain defendant has received a copy of certain charges and that the defendant understands those charges; providing that a certain defendant is entitled to take certain actions under certain circumstances; providing that a certain defendant is entitled to be represented by a certain counsel at the expense of the defendant; authorizing a certain defendant to enter a certain plea; specifying a certain verdict; authorizing a certain State's Attorney to prosecute a certain Code violation in a certain manner; providing that a certain person under a certain age who is issued a citation for a certain violation is subject to certain procedures and dispositions; making certain conforming changes; and generally relating to gaming.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 12–102 and 12–103
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

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

Article – Criminal Law

12–102.

(a) A person may not:

(1) **[**bet, wager, or gamble;

(2)**]** make or sell a book or pool on the result of a race, contest, or contingency;

[(3)**] (2)** establish, keep, rent, use, or occupy, or knowingly allow to be established, kept, rented, used, or occupied, all or a part of a building, vessel, or place, on land or water, within the State, for the purpose of:

(i) betting, wagering, or gambling; or

(ii) making, selling, or buying books or pools on the result of a race, contest, or contingency; or

[(4)**] (3)** receive, become the depository of, record, register, or forward, or propose, agree, or pretend to forward, money or any other thing or consideration of value, to be bet, wagered, or gambled on the result of a race, contest, or contingency.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment **[**for not less than 6 months and**]** not exceeding **[**1 year or a fine of not less than $200 and not exceeding $1,000 or both**]** **6 MONTHS OR A FINE NOT EXCEEDING $5,000 OR BOTH**.

(c) (1) The provisions of this subsection apply only in Baltimore City.

(2) A person who violates this section may be charged by a citation.

(3) A citation for a violation of this section may be issued to a person by a police officer authorized to make arrests in Baltimore City if there is probable cause to believe that the person is committing or has committed a violation of this section.

(4) A citation issued under this subsection shall contain:

(i) the name and address of the person charged;

(ii) the statute allegedly violated;

(iii) the location, date, and time that the violation occurred;

(iv) the fine or term of imprisonment that may be imposed;

(v) a notice stating that prepayment of a fine is not allowed;

(vi) a notice that the court shall promptly send the person charged a summons to appear for trial; and

(vii) the signature of the police officer issuing the citation.

(5) (i) The police officer who issued the citation shall forward to the appropriate court a copy of the citation.

(ii) The court shall promptly schedule the case for trial and summon the defendant to appear.

(iii) Willful failure of the defendant to respond to the summons is contempt of court.

12–103.

(a) For money or any other thing or consideration of value, a person may not **[**play**]**:

(1) **[**the game called "thimbles";

(2) the game called "little joker";

(3) dice or the game commonly called "craps"**] BET, WAGER, OR GAMBLE**; or

[(4)**] (2)** **PLAY** any other gaming device or fraudulent trick.

[(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment for not less than 6 months and not exceeding 2 years or a fine not exceeding $100 or both.**]**

(B) (1) ~~A~~ ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,~~ ~~A~~ ***A*** **VIOLATION OF THIS SECTION IS A CIVIL OFFENSE PUNISHABLE BY A FINE NOT EXCEEDING:**

(I) $500, IF THE VIOLATION INVOLVES MONEY OR ANY OTHER THING OR CONSIDERATION OF VALUE NOT EXCEEDING $100; OR

(II) $1,000, IF THE VIOLATION INVOLVES MONEY OR ANY OTHER THING OR CONSIDERATION OF VALUE THAT EXCEEDS $100.

~~**(2) (I) IF AN INDIVIDUAL UNDER THE AGE OF 21 YEARS IS CONVICTED OF VIOLATING THIS SECTION FOR THE FIRST TIME, INSTEAD OF IMPOSING A FINE A COURT SHALL ORDER THE MARYLAND DEPARTMENT OF HEALTH OR A CERTIFIED AND LICENSED DESIGNEE TO:**~~

~~**1. CONDUCT AN ASSESSMENT OF THE DEFENDANT FOR A PROBLEM GAMBLING DISORDER; AND**~~

~~**2. DETERMINE WHETHER THE DEFENDANT IS IN NEED OF OR MAY BENEFIT FROM TREATMENT FOR A PROBLEM GAMBLING DISORDER.**~~

~~**(II) IF AN INDIVIDUAL AT LEAST 21 YEARS OLD IS CONVICTED OF VIOLATING THIS SECTION FOR THE FIRST TIME, INSTEAD OF IMPOSING A FINE A COURT MAY ORDER THE MARYLAND DEPARTMENT OF HEALTH OR A CERTIFIED AND LICENSED DESIGNEE TO:**~~

~~**1. CONDUCT AN ASSESSMENT OF THE DEFENDANT FOR A PROBLEM GAMBLING DISORDER; AND**~~

~~**2. DETERMINE WHETHER THE DEFENDANT IS IN NEED OF OR MAY BENEFIT FROM TREATMENT FOR A PROBLEM GAMBLING DISORDER.**~~

~~(III) AN ASSESSMENT FOR PROBLEM GAMBLING DISORDER MAY BE REQUESTED BY A DEFENDANT CHARGED WITH VIOLATING THIS SECTION.~~

~~(IV) IF A COURT DENIES THE REQUEST UNDER SUBPARAGRAPH (III) OF THE PARAGRAPH, THE COURT SHALL STATE ON THE RECORD THE BASIS FOR THE DENIAL.~~

~~(3) ON RECEIVING AN ORDER UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE MARYLAND DEPARTMENT OF HEALTH, OR THE DESIGNEE, SHALL CONDUCT AN ASSESSMENT OF THE DEFENDANT FOR A PROBLEM GAMBLING DISORDER AND PROVIDE THE RESULTS TO THE COURT, THE DEFENDANT OR DEFENDANT'S ATTORNEY, AND THE STATE IDENTIFYING THE DEFENDANT'S PROBLEM GAMBLING TREATMENT NEEDS.~~

~~(4) A COURT THAT ORDERS A PERSON TO A PROBLEM GAMBLING ASSESSMENT TREATMENT UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY HOLD THE CASE SUB CURIA PENDING RECEIPT OF PROOF OF COMPLETION OF THE ASSESSMENT OR TREATMENT.~~

~~(5)~~ **ADJUDICATION OF A VIOLATION UNDER THIS SECTION:**

(I) IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE; AND

(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES THAT MAY RESULT FROM A CRIMINAL CONVICTION.

(C) (1) A CITATION FOR A VIOLATION OF THIS SECTION MAY BE ISSUED TO A PERSON BY A POLICE OFFICER AUTHORIZED TO MAKE ARRESTS IF THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PERSON IS COMMITTING OR HAS COMMITTED A VIOLATION OF THIS SECTION.

(2) A CITATION ISSUED UNDER THIS SUBSECTION SHALL CONTAIN:

(I) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE PERSON CHARGED;

(II) THE STATUTE ALLEGEDLY VIOLATED;

(III) THE DATE AND TIME THAT THE VIOLATION OCCURRED;

(IV) THE LOCATION AT WHICH THE VIOLATION OCCURRED;

(V) THE FINE THAT MAY BE IMPOSED;

(VI) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS ALLOWED;

(VII) A NOTICE IN BOLDFACE TYPE THAT STATES THAT THE PERSON SHALL:

1. PAY THE FULL AMOUNT OF THE PRESET FINE; OR

2. REQUEST A TRIAL DATE AT THE DATE, TIME, AND PLACE ESTABLISHED BY THE DISTRICT COURT BY WRIT OR TRIAL NOTICE; AND

(VIII) THE SIGNATURE OF THE POLICE OFFICER ISSUING THE CITATION.

(3) THE FORM OF THE CITATION SHALL BE UNIFORM THROUGHOUT THE STATE AND SHALL BE PRESCRIBED BY THE DISTRICT COURT.

(4) (I) THE CHIEF JUDGE OF THE DISTRICT COURT SHALL ESTABLISH A SCHEDULE FOR THE PREPAYMENT OF A FINE.

(II) PREPAYMENT OF A FINE SHALL BE CONSIDERED A PLEA OF GUILTY TO A CODE VIOLATION.

(5) THE ISSUING JURISDICTION SHALL FORWARD A COPY OF THE CITATION AND A REQUEST FOR TRIAL TO THE DISTRICT COURT IN THE DISTRICT HAVING VENUE.

(6) A PERSON MAY REQUEST A TRIAL BY SENDING A REQUEST FOR TRIAL TO THE DISTRICT COURT IN THE JURISDICTION WHERE THE CITATION WAS ISSUED WITHIN 30 DAYS AFTER THE ISSUANCE OF THE CITATION.

(7) IF A PERSON DOES NOT REQUEST A TRIAL OR PREPAY THE FINE WITHIN 30 DAYS AFTER THE ISSUANCE OF THE CITATION, THE DISTRICT COURT MAY IMPOSE THE MAXIMUM FINE AND COSTS AGAINST THE PERSON AND FIND THE PERSON GUILTY OF A CODE VIOLATION FOR THE PURPOSES OF THIS SECTION.

(8) (I) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE PROCEEDINGS IN THE DISTRICT COURT.

(II) THE COURT COSTS IN A CODE VIOLATION CASE UNDER THIS SECTION IN WHICH COSTS ARE IMPOSED ARE $5.

(D) IN ANY PROCEEDING FOR A CODE VIOLATION UNDER THIS SECTION:

(1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE DEFENDANT BY A PREPONDERANCE OF THE EVIDENCE;

(2) THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF A CRIMINAL CASE;

(3) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT UNDERSTANDS THOSE CHARGES;

(4) THE DEFENDANT IS ENTITLED TO CROSS–EXAMINE ALL WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR WITNESSES ON BEHALF OF THE DEFENDANT, AND TO TESTIFY ON THE DEFENDANT'S OWN BEHALF, IF THE DEFENDANT CHOOSES TO DO SO;

(5) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY COUNSEL OF THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE DEFENDANT; AND

(6) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY, AND THE VERDICT OF THE COURT IN THE CASE SHALL BE:

(I) GUILTY OF A CODE VIOLATION;

(II) NOT GUILTY OF A CODE VIOLATION; OR

(III) PROBATION BEFORE JUDGMENT, IMPOSED BY THE COURT IN THE SAME MANNER AND TO THE SAME EXTENT AS IS ALLOWED BY LAW IN THE TRIAL OF A CRIMINAL CASE.

(E) (1) THE STATE'S ATTORNEY FOR ANY COUNTY MAY PROSECUTE A CODE VIOLATION UNDER THIS SECTION IN THE SAME MANNER AS PROSECUTION OF A VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

(2) IN A CODE VIOLATION CASE UNDER THIS SECTION, THE STATE'S ATTORNEY MAY:

(I) ENTER A NOLLE PROSEQUI OR MOVE TO PLACE THE CASE ON THE STET DOCKET; AND

(II) EXERCISE AUTHORITY IN THE SAME MANNER AS PRESCRIBED BY LAW FOR VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

(F) A PERSON ISSUED A CITATION FOR A VIOLATION OF THIS SECTION WHO IS UNDER THE AGE OF 18 YEARS SHALL BE SUBJECT TO THE PROCEDURES AND DISPOSITIONS PROVIDED IN TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 132 – *Education – Robotics Grant Program – Alterations*.

This bill makes nonprofit organizations eligible to receive funding through the Robotics Grant Program if the organization 1) provides youth with an out–of–school–time experience that focuses on personal and workforce development; (2) serves public school students as a majority of its participating youth; and 3) is associated with a public school.

This bill also requires that 1) grants awarded through the Robotics Grant Program must ensure geographic diversity among all program grantees, to the greatest extent practicable; and 2) the Governor increase funding to a certain amount within the annual State budget, beginning in Fiscal Year 2021.

Senate Bill 180, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 132.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 132

AN ACT concerning

Education – Robotics Grant Program – Alterations

FOR the purpose of expanding eligibility requirements for the Robotics Grant Program to include certain ~~nonprofit~~ organizations ~~and community clubs~~; ~~repealing the requirement for existing nonprofit robotics clubs to be associated with a public school to be eligible for the Program;~~ requiring the Governor to increase a certain appropriation to the Program in the State budget; requiring the State Department of Education to award grants in a certain manner; defining a certain term; and generally relating to the Robotics Grant Program.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–123
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

7–123.

(A) IN THIS SECTION, "ELIGIBLE ORGANIZATION" MEANS A NONPROFIT ORGANIZATION THAT:

(1) PROVIDES YOUTH WITH AN OUT–OF–SCHOOL TIME EXPERIENCE THAT FOCUSES ON PERSONAL AND WORKFORCE DEVELOPMENT; AND

(2) SERVES PUBLIC SCHOOL STUDENTS AS A MAJORITY OF ITS PARTICIPATING YOUTH.

~~(a)~~ **(B)** (1) There is a Robotics Grant Program in the State.

(2) The purpose of the Program is to provide grants to public schools **[**and**]**~~, nonprofit~~ **ELIGIBLE [**robotics**] ORGANIZATIONS**~~, AND COMMUNITY clubs~~ in the State to support existing robotics programs and to increase the number of robotics programs in the State.

~~(b)~~ **(C)** **[**~~(1)~~**]** A school~~, A NONPROFIT ORGANIZATION, OR A COMMUNITY CLUB~~ **OR AN ELIGIBLE ORGANIZATION** is eligible to receive a grant under this section if the school~~, NONPROFIT ORGANIZATION, OR COMMUNITY CLUB~~ **OR ELIGIBLE ORGANIZATION** is proposing a new robotics program or club or has an existing robotics program or club.

~~[~~(2) An ~~existing nonprofit robotics club~~ **ELIGIBLE ORGANIZATION** is eligible to receive a grant under this section **ONLY** if the ~~nonprofit robotics club~~ **ELIGIBLE ORGANIZATION** is associated with a public school.~~]~~

~~(c)~~ **(D)** The Governor shall include in the State budget an annual appropriation of at least **[**$250,000**]** ~~**$500,000**~~ **$350,000** to the Program.

~~(d)~~ **(E)** **(1)** The Department shall implement and administer the Program in accordance with this section.

(2) TO THE EXTENT PRACTICABLE, THE DEPARTMENT SHALL AWARD GRANTS TO ENSURE GEOGRAPHIC DIVERSITY AMONG THE GRANTEES.

~~(e)~~ **(F)** The Department may adopt regulations to implement the requirements of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 138 – *Law Enforcement – Federal Military Surplus Program – Equipment Acquisition.*

This bill requires the Department of State Police to report on an annual basis, to the Governor and the General Assembly, on the acquisition of equipment by law enforcement agencies through "surplus programs" within the preceding calendar year.

This bill also requires the Department of State Police to include in a prominent location on its website a link to the Defense Logistics Agency's report listing excess Department of Defense property transfers to law enforcement agencies through the Law Enforcement Support Office.

Senate Bill 210, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 138.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 138

AN ACT concerning

Law Enforcement – Federal Military Surplus Program – Equipment Acquisition

FOR the purpose of ~~requiring certain law enforcement agencies to post notice of the acquisition of certain equipment from a federal military surplus program within a certain period of time; requiring a certain law enforcement agency~~ requiring the Department of State Police to submit a certain report to the Governor and the General Assembly on or before a certain date each year relating to the acquisition of equipment by law enforcement agencies through surplus programs; requiring the Department of State Police to include on its public website in a certain location a link to a certain report; *providing for the termination of this Act;* and generally relating to local law enforcement agencies and the acquisition of equipment from a federal military surplus program.

BY adding to
Article – Public Safety
Section 3–521
Annotated Code of Maryland
(2011 Replacement Volume and 2018 Supplement)

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

Article – Public Safety

3–521.

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

(2) "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN § 3–201 OF THIS TITLE.

(3) "SURPLUS PROGRAM" MEANS A PROGRAM OPERATED BY THE FEDERAL GOVERNMENT FOR THE TRANSFER OF SURPLUS MILITARY EQUIPMENT TO A LAW ENFORCEMENT AGENCY.

~~**(B) WITHIN 14 DAYS AFTER A LAW ENFORCEMENT AGENCY ACQUIRES EQUIPMENT FROM A SURPLUS PROGRAM, THE LAW ENFORCEMENT AGENCY SHALL POST NOTICE OF THE ACQUISITION ON A PUBLICLY ACCESSIBLE WEBSITE.**~~

~~**(C) ON OR BEFORE FEBRUARY 1 EACH YEAR, A LAW ENFORCEMENT AGENCY THAT HAS ACQUIRED EQUIPMENT FROM A SURPLUS PROGRAM WITHIN THE PRECEDING CALENDAR YEAR SHALL REPORT THE ACQUISITION OF THE EQUIPMENT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**~~

(B) ON OR BEFORE FEBRUARY 1 EACH YEAR, THE DEPARTMENT OF STATE POLICE SHALL SUBMIT A REPORT ON THE ACQUISITION OF EQUIPMENT BY LAW ENFORCEMENT AGENCIES THROUGH SURPLUS PROGRAMS WITHIN THE PRECEDING CALENDAR YEAR TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(C) THE DEPARTMENT OF STATE POLICE SHALL INCLUDE IN A PROMINENT LOCATION ON ITS PUBLIC WEBSITE A LINK TO THE DEFENSE LOGISTICS AGENCY'S REPORT LISTING EXCESS DEPARTMENT OF DEFENSE PROPERTY TRANSFERS TO LAW ENFORCEMENT AGENCIES THROUGH THE LAW ENFORCEMENT SUPPORT OFFICE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019. *It shall remain effective for a period of 3 years and, at the end of September 30, 2022, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.*

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 161 – *Baltimore City – Tax Sales of Real Property – Water Liens (Water Taxpayer Protection Act of 2019).*

This bill 1) permanently limits the authority of the Mayor and Baltimore City Council to conduct tax sale proceedings on properties to enforce liens for unpaid water and sewer service charges; 2) continues the exclusion of residential property from such a sale; and 3) newly excludes from such a sale real property that is exempt under certain provisions applicable to property used exclusively for public religious worship; or a parsonage or convent.

This bill also clarifies that the Mayor and Baltimore City Council may not conduct a tax sale proceeding to enforce another lien if the real property is residential or exempt from taxation under certain provisions as noted above.

Senate Bill 96, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 161.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 161

AN ACT concerning

Baltimore City – Tax Sales of Real Property – Water Liens
(Water Taxpayer Protection Act of 2019)

FOR the purpose of requiring the collector in Baltimore City to withhold from tax sale certain places of worship if the taxes on the property consist only of a lien for unpaid charges for water and sewer service; repealing the authority of the Mayor and City Council of Baltimore City to sell certain properties to enforce a lien for unpaid charges for water and sewer service if the properties are also being sold to enforce another lien; repealing the authority of the Mayor and City Council of Baltimore City to sell certain ~~places of worship~~ real property owned by religious groups or organizations to enforce a lien for unpaid charges for water and sewer service; repealing the authority of Baltimore City to enforce a water and sewer service lien on residential property if the property is being sold to enforce another lien; providing that this Act does not affect other rights or remedies of Baltimore City to collect unpaid charges for water and sewer service~~, subject to a certain exception~~; ~~prohibiting Baltimore City from acquiring residential property and places of worship by means of execution of a judgment under certain circumstances;~~ repealing a certain termination provision relating to the authority of Baltimore City to sell real property to enforce a water and sewer service lien; providing for the application of certain provisions of this Act; and generally relating to tax sales of real property in Baltimore City.

BY repealing and reenacting, with amendments,
Article – Tax – Property

Section 14–811(b) and 14–849.1
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Chapter 714 of the Acts of the General Assembly of 2018
Section 3

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

Article – Tax – Property

14–811.

(b) (1) The collector may withhold from sale any residential property, when the total taxes on the property, including interest and penalties, amount to less than $750.

(2) In Baltimore City, the collector shall withhold from sale owner–occupied residential property, when the total taxes on the property, including interest and penalties, amount to less than $750.

(3) In Baltimore City, the collector shall withhold from sale residential property **OR PROPERTY THAT IS EXEMPT FROM TAXATION UNDER § 7–204(1) OR (2) OF THIS ARTICLE**, if the taxes on the property consist only of a lien for unpaid charges for water and sewer service.

14–849.1.

(a) In Baltimore City, the Mayor and City Council may not sell a property **[**solely**]** to enforce a lien for unpaid charges for water and sewer service unless:

(1) the lien is for at least $350;

(2) the property is not**:**

(I) a residential property; **OR**

(II) REAL PROPERTY ~~USED EXCLUSIVELY AS A PLACE OF WORSHIP~~ THAT IS EXEMPT FROM TAXATION UNDER § 7–204(1) OR (2) OF THIS ARTICLE; and

(3) the unpaid charges for water and sewer service are at least 3 quarters in arrears.

(b) **[**(1)**]** Notwithstanding subsection (a) of this section, the Mayor and City Council may enforce a lien on a property other than residential property **OR REAL PROPERTY ~~USED EXCLUSIVELY AS A PLACE OF WORSHIP~~ THAT IS EXEMPT FROM TAXATION UNDER § 7–204(1) OR (2) OF THIS ARTICLE** for unpaid water and sewer service that is less than $350 if the property is being sold to enforce another lien.

[(2) Notwithstanding subsection (a) of this section, the Mayor and City Council may enforce a lien on residential property for unpaid water and sewer service if the property is being sold to enforce another lien.**]**

(C) ~~(1)~~ ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS~~ THIS SECTION DOES NOT AFFECT ANY OTHER RIGHT OR REMEDY OF BALTIMORE CITY FOR THE COLLECTION OF A WATER AND SEWER SERVICE CHARGE.

~~(2) BALTIMORE CITY MAY NOT ACQUIRE RESIDENTIAL PROPERTY OR REAL PROPERTY USED EXCLUSIVELY AS A PLACE OF WORSHIP BY MEANS OF EXECUTION OF A JUDGMENT FOR FAILURE BY THE OWNER, ON WHOM THE WATER AND SEWER SERVICE CHARGE WAS ORIGINALLY MADE, TO PAY THE WATER AND SEWER SERVICE CHARGE.~~

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

Chapter 714 of the Acts of 2018

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018. **[**It shall remain effective for a period of 1 year and 3 months and, at the end of December 31, 2019, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.**]**

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of 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 liens attached to real property before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House

Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 191 – *Homeowner's Insurance – Discrimination in Underwriting and Rating – Status as Surviving Spouse.*

This bill prohibits an insurer from increasing a homeowner's insurance premium, based solely on a change in marital status, for an insured who becomes a surviving spouse.

Senate Bill 607, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 191.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 191

AN ACT concerning

Homeowner's Insurance – Discrimination in Underwriting and Rating – Status as Surviving Spouse

FOR the purpose of prohibiting an insurer, with respect to homeowner's insurance, from increasing the premium of an insured who becomes a surviving spouse based solely on the insured's change in marital status; providing for a delayed effective date; and generally relating to homeowner's insurance.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 27–501(e–2)(1) and (2)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY ~~repealing and reenacting, with amendments,~~ adding to
Article – Insurance
Section ~~27–501(e–2)(2)~~ 27–501(e–2)(7)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Insurance

27–501.

(e–2) (1) In this subsection, "credit history" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, or credit capacity that is used or expected to be used, or collected in whole or in part, for the purpose of determining personal lines insurance premiums or eligibility for coverage.

(2) With respect to homeowner's insurance, an insurer may not:

(i) refuse to underwrite, cancel, or refuse to renew a risk based, in whole or in part, on the credit history of an applicant or insured;

(ii) rate a risk based, in whole or in part, on the credit history of an applicant or insured in any manner, including:

1. the provision or removal of a discount;

2. assigning the insured or applicant to a rating tier; or

3. placing an insured or applicant with an affiliated company; ~~[~~or~~]~~

(iii) require a particular payment plan based, in whole or in part, on the credit history of the insured or applicant~~; OR~~.

~~(IV)~~ **(7) WITH RESPECT TO HOMEOWNER'S INSURANCE, AN INSURER MAY NOT INCREASE THE PREMIUM FOR AN INSURED WHO BECOMES A SURVIVING SPOUSE BASED SOLELY ON THE INSURED'S CHANGE IN MARITAL STATUS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ January 1, ~~2019~~ 2020.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 201 – *Maryland Transit Administration – State Employees – Free Ridership (Transit Benefit for State Employees).*

This bill requires the Maryland Transit Administration to offer free transit ridership to all permanent Executive Branch State employees, and authorizes the Maryland Transit Administration to adopt regulations to implement the program. This bill also requires the Maryland Department of Transportation and the Department of Budget and Management to submit a report to certain legislative committees on the cost and feasibility of expanding the transit ridership program to include other transit services.

Senate Bill 319, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 201.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 201

AN ACT concerning

Maryland Transit Administration – State Employees ~~Subject to Collective Bargaining~~ – Free Ridership
(Transit Benefit for State Employees)

FOR the purpose of requiring the Maryland Transit Administration to provide certain ridership services to certain ~~State~~ permanent employees of the Executive Branch of State government on certain transit vehicles; prohibiting the Administration from seeking certain fees or reimbursement; authorizing the Administration to adopt certain regulations; requiring the Maryland Department of Transportation and the Department of Budget and Management to report to certain committees of the General Assembly on or before a certain date; ~~defining a certain term;~~ and generally relating to the Maryland Transit Administration and ridership for State employees.

BY adding to
Article – Transportation
Section 7–711
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Transportation

7–711.

(A) ~~IN THIS SECTION, "ELIGIBLE STATE EMPLOYEE" MEANS A STATE EMPLOYEE SUBJECT TO COLLECTIVE BARGAINING UNDER TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE OR § 7–601 OF THIS TITLE.~~

~~(B)~~ (1) THE ADMINISTRATION SHALL PROVIDE RIDERSHIP ON TRANSIT VEHICLES TO ANY ~~ELIGIBLE STATE~~ PERMANENT EMPLOYEE IN ANY UNIT OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT, INCLUDING A UNIT WITH AN INDEPENDENT PERSONNEL SYSTEM.

(2) THE SERVICES PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION APPLY TO TRANSIT VEHICLES THAT ARE PART OF THE ADMINISTRATION'S:

(I) LIGHT RAIL TRANSIT SYSTEM;

(II) METRO SUBWAY;

(III) LOCAL BUS SERVICE;

(IV) COMMUTER BUS SERVICE IN THE BALTIMORE REGION; AND

(V) ANY OTHER SYSTEMS AND SERVICES SPECIFIED BY THE ADMINISTRATION.

~~(C)~~ (B) THE ADMINISTRATION MAY NOT COLLECT FEES OR REIMBURSEMENT FROM AN ~~ELIGIBLE STATE~~ EMPLOYEE FOR SERVICES PROVIDED UNDER THIS SECTION.

~~(D)~~ (C) THE ADMINISTRATION MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2020, the Maryland Department of Transportation and the Department of Budget and Management shall report to the Senate Budget and Taxation Committee, the Senate Finance Committee, and the House Appropriations Committee, in accordance with § 2–1246 of the State Government Article, on the cost and feasibility of expanding the State employee transit ridership program to~~:~~

~~(1)~~ include ridership on the Maryland Area Regional Commuter (MARC) Train Service and the Washington Metropolitan Area Transit Authority (WMATA)~~; and~~

~~(2) employees of the Legislative and Judicial Branches of State government~~.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 215 – *Public Information Act – 9–1–1 Communications – Denial of Part of a Public Record*.

This bill requires that prior to granting inspection under the Maryland Public Information Act of the part of a 9–1–1 communications record that depicts a victim of certain crimes, a custodian must 1) notify the victim or the victim's representative; and 2) consider any response received from the victim or representative before granting or denying the inspection. This bill also requires a custodian to grant or deny an application for inspection of such a record within 50 days after receiving an application to inspect the record. Additionally, this bill requires a custodian to allow inspection by the person in interest.

Senate Bill 5, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 215.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 215

AN ACT concerning

Public Information Act – 9–1–1 Communications – Denial of Part of a Public Record

FOR the purpose of ~~requiring~~ authorizing a certain custodian of records to deny inspection of ~~the~~ part of a 9–1–1 communications record ~~that depicts certain information,~~

~~subject to a certain exception~~ under certain circumstances after providing certain notice and considering certain information; requiring a custodian to grant or deny a certain application within a certain period of time; authorizing a custodian to redact certain information under certain circumstances; requiring a certain custodian to allow inspection of a certain public record by the person in interest; providing for the application of this Act; providing that this Act may not be construed to affect the discovery or evidentiary rights of certain parties or to create a certain right of civil action; defining ~~a certain term~~ certain terms; and generally relating to the denial of part of a 9–1–1 communications record.

BY repealing and reenacting, with amendments,
Article – General Provisions
Section 4–203(a)
Annotated Code of Maryland
(2014 Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – General Provisions
Section ~~4–328~~ 4–343
Annotated Code of Maryland
(2014 Volume and 2018 Supplement)

BY adding to
Article – General Provisions
Section ~~4–342~~ 4–356
Annotated Code of Maryland
(2014 Volume and 2018 Supplement)

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

Article – General Provisions

~~4–328.~~

4–203.

(a) **(1) [**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** custodian shall grant or deny the application promptly, but not more than 30 days after receiving the application.

(2) THE CUSTODIAN SHALL GRANT OR DENY AN APPLICATION THAT IS THE SUBJECT OF § 4–356 OF THIS TITLE NOT MORE THAN 50 DAYS AFTER RECEIVING THE APPLICATION.

~~Unless otherwise provided by law, a custodian shall deny inspection of a part of a public record, as provided in this part.~~

4–343.

Unless otherwise provided by law, if a custodian believes that inspection of a part of a public record by the applicant would be contrary to the public interest, the custodian may deny inspection by the applicant of that part of the record, as provided in this part.

~~**4–342.**~~

~~**(A) IN THIS SECTION, "GORY OR GRUESOME" MEANS SCENES SHOWING SEVERE BODILY INJURY, INCLUDING PROFUSE BLEEDING, SEVERE LACERATIONS, DISFIGUREMENT, AND TRAUMATIC INJURIES.**~~

4–356.

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

(2) "VICTIM" MEANS:

(I) A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED UNDER § 4–701 OF THE FAMILY LAW ARTICLE;

(II) A VICTIM OF A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE; OR

(III) A VICTIM OF A VIOLATION OF TITLE 3, SUBTITLE 6 OF THE CRIMINAL LAW ARTICLE, EXCEPT FOR A VIOLATION OF § 3–607 OF THE CRIMINAL LAW ARTICLE WHERE THE VICTIM IS AN ADULT.

(3) (I) "VICTIM'S REPRESENTATIVE" HAS THE MEANING STATED IN § 11–104 OF THE CRIMINAL PROCEDURE ARTICLE.

(II) "VICTIM'S REPRESENTATIVE" DOES NOT INCLUDE A PERSON ACTING IN CONCERT WITH A PERSON ALLEGED TO HAVE COMMITTED THE CRIME AGAINST THE VICTIM.

(B) (1) THIS SECTION DOES NOT APPLY TO A PUBLIC RECORD THAT HAS BEEN ENTERED INTO EVIDENCE IN A COURT PROCEEDING.

(2) THIS SECTION MAY NOT BE CONSTRUED TO:

(I) CREATE A RIGHT OF CIVIL ACTION FOR A VICTIM OR VICTIM'S REPRESENTATIVE; OR

(II) AFFECT THE DISCOVERY OR EVIDENTIARY RIGHTS OF A PARTY TO A CIVIL SUIT OR CRIMINAL PROSECUTION.

~~**(C) SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A 9–1–1 COMMUNICATIONS RECORD THAT DEPICTS:**~~

~~**(1) A VICTIM OR INFORMATION THAT COULD IDENTIFY A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN § 4–701 OF THE FAMILY LAW ARTICLE;**~~

~~**(2) A VICTIM OR INFORMATION THAT COULD IDENTIFY A VICTIM OF A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;**~~

~~**(3) A VICTIM OR INFORMATION THAT COULD IDENTIFY A VICTIM OF, EXCEPT FOR A VIOLATION OF § 3–607 OF THE CRIMINAL LAW ARTICLE WHERE THE VICTIM IS AN ADULT, A VIOLATION OF TITLE 3, SUBTITLE 6 OF THE CRIMINAL LAW ARTICLE;**~~

~~**(4) PERSONALLY RELEVANT INFORMATION THAT MAY IDENTIFY THE INDIVIDUAL'S MEDICAL HISTORY;**~~

~~**(5) IF THE CUSTODIAN IS AWARE THAT INFORMATION WAS PROVIDED VOLUNTARILY TO THE FILE BY A THIRD PARTY, THE THIRD PARTY INFORMATION; OR**~~

~~**(6) IMAGES THAT MAY BE CONSIDERED GORY OR GRUESOME OR CONVEY SCENES OF MURDER OR SUICIDE.**~~

(C) SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, BEFORE GRANTING INSPECTION OF THE PART OF A 9–1–1 COMMUNICATIONS RECORD THAT DEPICTS A VICTIM, A CUSTODIAN SHALL:

(1) WITHIN 30 DAYS AFTER RECEIVING THE REQUEST AND IF THE CUSTODIAN HAS CONTACT INFORMATION FOR THE VICTIM OR VICTIM'S REPRESENTATIVE, NOTIFY THE VICTIM OR VICTIM'S REPRESENTATIVE OF THE REQUEST;

(2) ALLOW 10 DAYS FOR A RESPONSE FROM THE VICTIM OR VICTIM'S REPRESENTATIVE INDICATING THAT INSPECTION MAY BE CONTRARY TO THE PUBLIC INTEREST; AND

(3) CONSIDER ANY RESPONSE RECEIVED UNDER ITEM (2) OF THIS SUBSECTION IN DETERMINING WHETHER TO GRANT OR DENY THE INSPECTION.

(D) A CUSTODIAN MAY REDACT THE INFORMATION DESCRIBED UNDER SUBSECTION (C) OF THIS SECTION IF A FAILURE TO DO SO WOULD RESULT IN A CONSTRUCTIVE DENIAL OF THE ENTIRE PUBLIC RECORD.

(E) A CUSTODIAN SHALL ALLOW INSPECTION BY THE PERSON IN INTEREST.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Maryland Senate
H–107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H–101 State House
Annapolis, MD 21401

Dear President Miller and Speaker Jones:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed *Senate Bill 537* and *House Bill 262 – Higher Education – Tuition Rates – Exemptions.*

Last year, our administration worked closely with legislative leaders to create the Community College Promise Scholarships Program, which helps students attend one of Maryland's public community colleges by providing tuition assistance for any qualifying student eligible for in–state tuition. To build on the success of that program, I proposed legislation to establish the Promise Plus Program, expanding available scholarships and giving all eligible Maryland students United States citizens, permanent resident immigrants, and undocumented "Dreamers" alike – the opportunity to receive free tuition for the remaining two years at a public four–year institution.

Inexplicably, the General Assembly refused to support this common sense expansion to help all Maryland students. Instead, you adopted legislation that only narrowly expanded existing law to the total exclusion of all Maryland students holding U.S. citizenship or permanent resident ("Green Card") immigration status. This is unfair and unacceptable.

Higher education is a top priority of our administration. We have invested a record $7 billion in Maryland's colleges, universities, and community colleges. Our state is home to one of the most highly educated populations in America—we are third in the nation in the percentage of the population with a bachelor's degree or higher and second in the nation in the percentage of the population with a graduate or professional degree. In addition, our administration has shown a strong commitment to making higher education accessible to more Marylanders by making college more affordable and providing much–needed relief to those who are struggling under the crushing weight of student debt.

Our three–year investment and initiative to limit tuition growth at Maryland's universities, colleges, and community colleges by buying down tuition rates has saved Maryland students $40 million. Still, the harsh reality remains that earning a degree often goes hand–in–hand with crippling college debt. Student loan debt is now second only to mortgage debt as the largest debt balance in America. Nearly 60% of Maryland college students graduate with an average of more than $27,000 in student debt.

To address this growing crisis, this year, I introduced our administration's Student Debt Relief Act. This proposal would have made 100% of student loan interest deductible and doubled the tax deduction under Maryland 529 Plans from $2,500 to $5,000. Sadly, the General Assembly failed to pass – or even vote on – this important measure. Instead, you chose to pass *Senate Bill 537* and *House Bill 262*, which fail to provide financial relief for all Maryland students.

Moving forward, our goals must be more broadly focused to ensure all Marylanders have access to a world–class education, instead of giving favorable treatment to just one small group. I remain committed to working with you to offer real, bipartisan solutions for higher education.

Sincerely,

Lawrence J. Hogan Jr.
Governor

House Bill 262

AN ACT concerning

Higher Education – Tuition Rates – Exemptions

FOR the purpose of altering the circumstances under which certain individuals are exempt from paying the out–of–state tuition rate at certain institutions of higher education; altering the circumstances under which certain individuals are eligible to pay a certain tuition rate at certain institutions of higher education; requiring certain individuals to retain a certain tuition status until the individual is awarded a certain degree under certain circumstances; making certain stylistic changes; and generally relating to tuition rates at public institutions of higher education.

BY repealing and reenacting, with amendments,
Article – Education
Section 15–106.8
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

15–106.8.

(a) In this section, "individual":

(1) Includes an undocumented immigrant individual; and

(2) Does not include a nonimmigrant alien within the meaning of 8 U.S.C. § 1101(a)(15).

(b) Notwithstanding any other provision of this article, an individual shall be exempt from paying the out–of–state tuition rate at **[**a community college**]** **A PUBLIC INSTITUTION OF HIGHER EDUCATION** in the State, **AND SHALL BE ELIGIBLE FOR THE TUITION RATES DESCRIBED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION,** if the individual:

(1) **[**Beginning with the 2005–2006 school year, attended**]** **ATTENDED** a public or nonpublic secondary school in the State **[**for at least 3 years**]**;

(2) **[**Beginning with the 2007–2008 school year, graduated**]** **GRADUATED** from a public or nonpublic secondary school in the State or received the equivalent of a high school diploma in the State;

(3) Registers as an entering student in **[**a community college**]** **A PUBLIC INSTITUTION OF HIGHER EDUCATION** in the State **[**not earlier than the 2011 fall semester**]** **NOT LATER THAN 6 YEARS AFTER GRADUATING FROM A PUBLIC OR NONPUBLIC SECONDARY SCHOOL IN THE STATE OR RECEIVING THE EQUIVALENT OF A HIGH SCHOOL DIPLOMA IN THE STATE**;

(4) Provides to the **[**community college**]** **PUBLIC INSTITUTION OF HIGHER EDUCATION** documentation that the individual or the individual's parent or legal guardian has filed a Maryland income tax return**[**:

(i) Annually for the 3 years while the individual attended a public or nonpublic secondary school in the State in accordance with item (1) of this subsection;

(ii) Annually during the period, if any, between graduation from a public or nonpublic secondary school in the State and registration at a community college in the State; and

(iii) Annually during the period of attendance at the community college**] ANNUALLY FOR THE 3–YEAR PERIOD BEFORE THE ACADEMIC YEAR IN WHICH THE TUITION RATE EXEMPTION WOULD APPLY**;

(5) In the case of an individual who is not a permanent resident, provides to the **[**community college**] PUBLIC INSTITUTION OF HIGHER EDUCATION** an affidavit stating that the individual will file an application to become a permanent resident within 30 days after the individual becomes eligible to do so; **AND**

(6) In the case of an individual who is required to register with the Selective Service System, provides to the **[**community college**] PUBLIC INSTITUTION OF HIGHER EDUCATION** documentation that the individual has complied with the registration requirement**[**; and

(7) Registers in a community college in the State not later than 4 years after graduating from a public or nonpublic secondary school in the State or receiving the equivalent of a high school diploma in the State**]**.

(c) Notwithstanding any other provision of this article and subject to subsection **[**(h)**] (I)** of this section, an individual shall be eligible to pay a rate that is equivalent to the resident tuition rate at a public senior higher education institution, if the individual**[**:

(1) Attended a community college not earlier than the 2010 fall semester and met the requirements of subsection (b) of this section, except for the requirement set forth in subsection (b)(3) of this section;

(2) Was awarded an associate's degree by or achieved 60 credits at a community college in the State;

(3) Provides the public senior higher education institution a copy of the affidavit submitted under subsection (b)(5) of this section;

(4) Provides to the public senior higher education institution documentation that the individual or the individual's parent or legal guardian has filed a Maryland income tax return:

(i) Annually while the individual attended a community college in the State;

(ii) Annually during the period, if any, between graduation from or achieving 60 credits at a community college in the State and registration at a public senior

higher education institution in the State; and

(iii) Annually during the period of attendance at the public senior higher education institution; and

(5) Registers at a public senior higher education institution in the State not later than 4 years after graduating from or achieving 60 credits at a community college in the State**] MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION**.

(d) Notwithstanding any other provision of this article, an individual shall be eligible to pay a rate that is equivalent to the in–county tuition rate at a community college in the State if the individual:

(1) Meets the requirements of subsection (b) of this section; and

(2) Attends a community college supported by the county in which:

(i) **AN ADDRESS IN THE COUNTY IS USED ON THE MARYLAND INCOME TAX RETURN OF THE INDIVIDUAL OR THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN OF THE CALENDAR YEAR PRIOR TO THE ACADEMIC YEAR IN WHICH THE RATE WOULD APPLY;**

(II) The secondary school from which the individual graduated is located; or

[(ii)**] (III)** In the case of an individual who received the equivalent of a high school diploma in the State, the secondary school most recently attended by the individual is located.

(E) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, AN INDIVIDUAL SHALL RETAIN THE INDIVIDUAL'S TUITION STATUS AT A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE IF THE INDIVIDUAL:

(I) MEETS THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION; AND

(II) ON OR AFTER JUNE 15, 2012, WAS EXEMPT FROM PAYING THE OUT–OF–STATE OR OUT–OF–COUNTY TUITION RATE AT A PUBLIC INSTITUTION OF HIGHER EDUCATION.

(2) TO RETAIN TUITION STATUS UNDER THIS SUBSECTION, AN INDIVIDUAL SHALL USE AN ADDRESS IN THE STATE ON THE MARYLAND INCOME TAX RETURN OF THE INDIVIDUAL OR THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN ANNUALLY UNTIL THE INDIVIDUAL IS AWARDED A DEGREE FROM THE PUBLIC INSTITUTION OF HIGHER EDUCATION.

[(e)**] (F)** Information collected under this section as part of a student's registration shall remain confidential.

[(f)**] (G)** (1) **[**A community college or public senior higher education institution**]** **A PUBLIC INSTITUTION OF HIGHER EDUCATION** that admits an individual who qualifies for the tuition rate under this section shall:

(i) Keep a record of the number of individuals who pay the tuition rate in accordance with the requirements under **[**subsection (b), (c), or (d)**]** **SUBSECTIONS (C) AND (D)** of this section; and

(ii) Report the information required in item (i) of this paragraph to the Commission each year.

(2) The Commission shall submit to the General Assembly, in accordance with § 2–1246 of the State Government Article, an annual report consisting of a compilation of the reports submitted to the Commission under paragraph (1) of this subsection.

[(g)**] (H)** The governing board of each public institution of higher education shall adopt appropriate policies to implement the provisions of this section.

[(h)**] (I)** The students that are receiving the tuition rate **DESCRIBED** in subsection (c) of this section may not be counted as in–State students for the purposes of determining the number of Maryland undergraduate students enrolled at a public senior higher education institution.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 266 – *State Retirement and Pension System – Designated Beneficiary Change – Rescission*.

This bill allows certain retirees of the State Retirement and Pension System to rescind a request to change their designated beneficiary before a certain monthly allowance is paid. This bill also provides that if a retiree rescinds the change of beneficiary, the benefit payment amount for the next payment is restored to the amount paid before the change in beneficiary; and that no retroactive adjustment will be made.

Senate Bill 186, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 266.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 266

AN ACT concerning

State Retirement and Pension System – Designated Beneficiary Change – Rescission

FOR the purpose of authorizing certain retirees of the State Retirement and Pension System to rescind a request to change a designated beneficiary by sending certain notice to the State Retirement Agency before a certain allowance payment normally becomes due; allowing a retiree who rescinds a certain change of designated beneficiary in a timely manner to receive the allowance payable prior to the change of designated beneficiary, without a certain retroactive adjustment; making conforming changes; and generally relating to designation of a beneficiary with the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–404
Annotated Code of Maryland
(2015 Replacement Volume and 2018 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

21–404.

(a) This section does not apply to the Judges' Retirement System.

(b) To change a designated beneficiary, a retiree shall:

(1) complete the appropriate form that the Board of Trustees provides; and

(2) file the form with the Board of Trustees.

(c) Subject to **[**subsection (d)**]** **SUBSECTIONS (D) AND (E)** of this section, if a retiree changes a designated beneficiary, the Board of Trustees shall recompute the allowance for the election based on the value of the balance in the retiree's annuity reserve and pension reserve when the change is made.

(D) (1) THIS SUBSECTION APPLIES ONLY TO A RETIREE WHO ELECTED THE OPTIONAL FORM OF ALLOWANCE PAYABLE UNDER § 21–403(B) (OPTION 2), § 21–403(C) (OPTION 3), § 21–403(E) (OPTION 5), OR § 21–403(F) (OPTION 6) OF THIS SUBTITLE.

(2) A RETIREE MAY RESCIND A REQUEST TO CHANGE THE DESIGNATED BENEFICIARY AND RESTORE THE RETIREE'S PRIOR DESIGNATION OF BENEFICIARY BY SENDING WRITTEN NOTICE TO THE STATE RETIREMENT AGENCY THAT IS RECEIVED BY THE STATE RETIREMENT AGENCY BEFORE THE SECOND ALLOWANCE PAYMENT NORMALLY BECOMES DUE AFTER THE CHANGE OF BENEFICIARY.

(3) A RETIREE WHO RESCINDS A CHANGE OF DESIGNATED BENEFICIARY IN A TIMELY MANNER UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL RECEIVE, AFTER THE RESCISSION, THE ALLOWANCE PAYABLE PRIOR TO THE CHANGE OF DESIGNATED BENEFICIARY, WITHOUT RETROACTIVE ADJUSTMENT OF ANY ALLOWANCE PAYMENT MADE WHILE THE RESCINDED DESIGNATION OF BENEFICIARY WAS IN EFFECT.

[(d)**] (E)** (1) This subsection applies to a retiree if:

(i) the retiree elected the optional form of allowance payable under § 21–403(e) (Option 5) or § 21–403(f) (Option 6) of this subtitle;

(ii) the retiree's designated beneficiary dies before the retiree; and

(iii) after the death of the designated beneficiary, the retiree elects to change the designated beneficiary.

(2) The Board of Trustees shall recompute the reduced allowance payable to a retiree and the retiree's new designated beneficiary using:

(i) the retiree's basic allowance at the time of the new beneficiary designation;

(ii) the retiree's age at the time of the new beneficiary designation; and

(iii) the age of the new designated beneficiary.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 268 – *Maryland Community College Promise Scholarship Program – Alterations to the Award of Scholarship Funds*.

This bill clarifies that if a recipient is eligible for a local promise scholarship, a Maryland Community College Promise Scholarship award must be credited to the recipient's tuition before the award of the local promise scholarship.

Senate Bill 240, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 268.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 268

AN ACT concerning

Maryland Community College Promise Scholarship Program – Alterations to the Award of Scholarship Funds

FOR the purpose of ~~requiring the Office of Student Financial Assistance in the Maryland Higher Education Commission to select eligible applicants for the Maryland Community College Promise Scholarship program, to the extent practicable, at each~~

~~community college based on each community college's proportionate share of a certain number of students;~~ specifying that if an award recipient is eligible for a local promise scholarship, an award under the program shall be credited to the tuition of a scholarship recipient before the award of a local promise scholarship; defining a certain term; and generally relating to the award of scholarship funds under the Maryland Community College Promise Scholarship program.

BY repealing and reenacting, with amendments,
Article – Education
Section 18–3601~~, 18–3603,~~ and ~~18–3604~~ 18–3604(b)
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 18–3602(a) and (b)
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

18–3601.

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

(b) "Annual adjusted gross income" means the total of the combined adjusted gross income of the applicant and the applicant's parents, or the applicant and the applicant's spouse if the applicant is married, as reported on the most recent federal or State income tax return.

(c) "Community college" includes Baltimore City Community College.

(D) "LOCAL PROMISE SCHOLARSHIP" MEANS A COMMUNITY COLLEGE SCHOLARSHIP PROGRAM IN EFFECT ON JULY 1, 2018, THAT PROVIDES A SCHOLARSHIP TO ANY HIGH SCHOOL SENIOR WHO IS ELIGIBLE FOR ENROLLMENT AT THE COMMUNITY COLLEGE.

[(d)**] (E)** (1) "Tuition" means the basic instructional charge for courses offered at a community college.

(2) "Tuition" includes any fees for:

(i) Registration;

(ii) Application;

(iii) Administration;

(iv) Laboratory work; and

(v) Other mandatory fees.

18–3602.

(a) There is a program of Maryland Community College Promise Scholarships in the State that are awarded under this subtitle.

(b) The purpose of the program is to provide tuition assistance for students to attend a community college in the State.

~~18–3603.~~

~~(a) (1) A student must apply annually to the Commission to receive a Maryland Community College Promise Scholarship award.~~

~~(2) The Office annually shall select eligible applicants and offer a Maryland Community College Promise Scholarship award to each selected applicant to be used for tuition at a community college of the applicant's choice.~~

~~(3) TO THE EXTENT PRACTICABLE, THE OFFICE SHALL SELECT ELIGIBLE APPLICANTS AT EACH COMMUNITY COLLEGE BASED ON EACH COMMUNITY COLLEGE'S PROPORTIONATE SHARE OF THE FULL–TIME EQUIVALENT ENROLLMENT OF STUDENTS AT ALL COMMUNITY COLLEGES DURING THE PREVIOUS ACADEMIC YEAR.~~

~~(b) An applicant is eligible for a Maryland Community College Promise Scholarship if the applicant:~~

~~(1) Is eligible for in–State tuition;~~

~~(2) Enrolls as a candidate for a vocational certificate, a certificate, or an associate's degree at a community college in the State within 2 years after graduating from a high school or successfully completing a GED in the State;~~

~~(3) Has earned an overall high school grade point average of at least 2.3 on a 4.0 scale or its equivalent;~~

~~(4) Has an annual adjusted gross income of not more than:~~

~~(i) $100,000 if the applicant is single or resides in a single–parent household; or~~

~~(ii) $150,000 if the applicant is married or resides in a two–parent household;~~

~~(5) Enrolls in at least 12 credits per semester at the community college; and~~

~~(6) (i) Timely submits a Free Application for Federal Student Aid (FAFSA) or any other applications for any State or federal student financial aid, other than a student loan, for which the applicant may qualify; or~~

~~(ii) Is ineligible to submit a FAFSA, qualifies for in–State tuition under § 15–106.8 of this article, and timely submits an application for any State student financial aid, other than a student loan, for which the applicant may qualify.~~

~~(c) (1) An applicant who receives any other educational grants or scholarships that cover the applicant's full cost of attendance at the community college is ineligible to receive an award under this subtitle.~~

~~(2) An applicant who has earned a bachelor's degree or an associate's degree is ineligible to receive an award under this subtitle.~~

~~(d) On request the community college shall assist an applicant to submit a FAFSA or any other applications for State or federal student financial aid.~~

18–3604.

~~(a) Beginning in the 2019–2020 academic year, the annual scholarship award shall be not more than $5,000 per recipient, or actual tuition, whichever is less.~~

(b) (1) **[**Any**]** **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, ANY** student financial aid, other than a student loan, received by the recipient shall be credited to the recipient's tuition before the calculation of any award amount provided under this subtitle.

(2) (i) 1. Initial awards shall be provided to recipients based on greatest demonstrated financial need.

2. Priority for awards in subsequent years shall be given to prior year recipients who remain eligible for the program.

(ii) Eligible applicants who do not receive an award under this subtitle shall be notified and placed on a waiting list.

(3) IF A RECIPIENT IS ELIGIBLE FOR A LOCAL PROMISE SCHOLARSHIP, AN AWARD PROVIDED UNDER THIS SUBTITLE SHALL BE CREDITED TO THE RECIPIENT'S TUITION BEFORE THE AWARD OF THE LOCAL PROMISE SCHOLARSHIP.

~~(c) An award under this subtitle may be made only if a recipient signs an agreement at the time of the initial award to:~~

~~(1) Use an address in the State on the recipient's State income tax return and commence full–time employment in the State within 1 year after completion of the vocational certificate, certificate, or associate's degree;~~

~~(2) Continue to use an address in the State on the recipient's State income tax return and maintain employment in the State for at least 1 year for each year that the scholarship was awarded; and~~

~~(3) Have the scholarship award converted into a student loan payable to the State if the recipient fails to fulfill the service obligation required in items (1) and (2) of this subsection.~~

~~(d) (1) Subject to paragraphs (2) and (3) of this subsection, each recipient may hold the award until the earlier of:~~

~~(i) 3 years after first enrolling as a candidate for a vocational certificate, a certificate, or an associate's degree at a community college in the State; or~~

~~(ii) The date that the individual is awarded an associate's degree.~~

~~(2) The Office may extend the duration of an award for an allowable interruption of study if the recipient provides to the Office satisfactory evidence of extenuating circumstances that prevent the recipient from continuous enrollment.~~

~~(3) Each recipient may hold the award in accordance with paragraph (1) of this subsection only if the recipient:~~

~~(i) Continues to be eligible for in–State tuition;~~

~~(ii) Continues to enroll in and complete at least 12 credits per semester or its equivalent as determined by the Office;~~

~~(iii) Maintains a cumulative grade point average of at least 2.5 on a 4.0 scale or its equivalent for the remainder of the award or, failing to do so, provides to the Office satisfactory evidence of extenuating circumstances;~~

~~(iv) Makes satisfactory progress toward a vocational certificate, a certificate, or an associate's degree;~~

~~(v) Continues to meet the income limitations under § 18–3603(b)(4) of this subtitle; and~~

~~(vi) Continues to timely submit an application under § 18–3603(b)(6) of this subtitle.~~

~~(c) (1) If the recipient does not perform the service obligation required under subsection (c) of this section, the scholarship award shall be converted into a student loan.~~

~~(2) The Office may waive or defer repayment of the student loan if the recipient provides satisfactory evidence of extenuating circumstances that prevent the recipient from fulfilling the service obligation.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 343 – *School Bus Monitoring Cameras – Civil Penalty – Sunset Repeal*.

This bill repeals a termination date and makes permanent a provision of law that increases the maximum civil penalty for a violation, recorded by a school bus monitoring camera, for failure to stop for a school vehicle alternately flashing red lights.

Senate Bill 464, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 343.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 343

AN ACT concerning

School Bus Monitoring Cameras – Civil Penalty – Sunset Repeal

FOR the purpose of repealing the termination date for a provision of law that increased the maximum civil penalty for a violation recorded by a school bus monitoring camera for failure to stop for a school vehicle operating alternately flashing red lights; and generally relating to civil penalties for violations recorded by school bus monitoring cameras.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 21–706 and 21–706.1(a)(6) and (e)
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Chapter 744 of the Acts of the General Assembly of 2017
Section 3

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

Article – Transportation

21–706.

(a) If a school vehicle has stopped on a roadway and is operating the alternately flashing red lights specified in § 22–228 of this article, the driver of any other vehicle meeting or overtaking the school vehicle shall stop at least 20 feet from the rear of the school vehicle, if approaching the school vehicle from its rear, or at least 20 feet from the front of the school vehicle, if approaching the school vehicle from its front.

(b) If a school vehicle has stopped on a roadway and is operating the alternately flashing red lights specified in § 22–228 of this article, the driver of any other vehicle meeting or overtaking the school vehicle may not proceed until the school vehicle resumes motion or the alternately flashing red lights are deactivated.

(c) This section does not apply to the driver of a vehicle on a divided highway, if the school vehicle is on a different roadway.

(d) A person convicted of a violation of this section is subject to a fine not exceeding $1,000.

21–706.1.

(a) (6) "Violation" means a violation of § 21–706 of this subtitle.

(e) (1) Unless the driver of the motor vehicle received a citation from a police officer at the time of the violation, the owner or, in accordance with subsection (h)(5) of this section, the driver of a motor vehicle is subject to a civil penalty if the motor vehicle is recorded by a school bus monitoring camera during the commission of a violation.

(2) A civil penalty under this subsection may not exceed $500.

(3) For purposes of this section, the District Court shall prescribe:

(i) A uniform citation form consistent with subsection (f)(1) of this section and § 7–302 of the Courts Article; and

(ii) A civil penalty, which shall be indicated on the citation, to be paid by persons who choose to prepay the civil penalty without appearing in District Court.

Chapter 744 of the Acts of 2017

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017. **[**It shall remain effective for a period of 2 years and, at the end of June 30, 2019, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 364 – *Health Care Practitioners – Medical Examinations on Anesthetized or Unconscious Patients*.

This bill prohibits a health care practitioner, or a student or trainee in a program to become a health care practitioner, from performing a pelvic, prostate, or rectal examination on a patient who is under anesthesia or unconscious unless 1) the patient has given informed consent for the examination; 2) the examination is within the standard of care for the patient; 3) the patient is unconscious and the examination is required for diagnostic or treatment purposes; or 4) an emergency exists, it is impractical to obtain the patient's

consent, and the examination is required for diagnostic or treatment purposes. This bill also authorizes a health occupations board, in accordance with existing hearing procedures, to discipline a health care practitioner under its authority for any violation of this prohibition.

Senate Bill 909, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 364.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 364

AN ACT concerning

Health Care Practitioners – Medical Examinations on Anesthetized or Unconscious Patients

FOR the purpose of prohibiting health care practitioners and certain students and trainees from performing certain examinations on a patient who is under anesthesia or unconscious unless the health care practitioner, student, or trainee obtained informed consent from the patient for the examination, the performance of the examination is within the ~~scope~~ standard of care for the patient, ~~or~~ the patient is unconscious and the examination is required for diagnostic or treatment purposes, or an emergency exists, it is impractical to obtain the patient's consent, and the examination is required for diagnostic or treatment purposes; authorizing certain health occupations boards to take certain actions against certain health care practitioners under certain circumstances and in accordance with certain hearing provisions; defining a certain term; and generally relating to medical examinations on anesthetized or unconscious patients.

BY adding to
Article – Health Occupations
Section 1–221.1
Annotated Code of Maryland
~~(2015~~ (2014 Replacement Volume and 2018 Supplement)

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

Article – Health Occupations

1–221.1.

(A) IN THIS SECTION, "HEALTH CARE PRACTITIONER" MEANS A PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER ~~THE HEALTH OCCUPATIONS ARTICLE~~ THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.

(B) A HEALTH CARE PRACTITIONER, OR A STUDENT OR TRAINEE IN AN EDUCATIONAL OR TRAINING PROGRAM TO BECOME A HEALTH CARE PRACTITIONER, MAY NOT PERFORM A PELVIC, PROSTATE, OR RECTAL EXAMINATION ON A PATIENT WHO IS UNDER ANESTHESIA OR UNCONSCIOUS UNLESS:

(1) THE HEALTH CARE PRACTITIONER, STUDENT, OR TRAINEE OBTAINED INFORMED CONSENT FROM THE PATIENT FOR THE EXAMINATION;

(2) THE PERFORMANCE OF THE EXAMINATION IS WITHIN THE ~~SCOPE~~ STANDARD OF CARE FOR THE PATIENT; ~~OR~~

(3) THE PATIENT IS UNCONSCIOUS AND THE EXAMINATION IS REQUIRED FOR DIAGNOSTIC OR TREATMENT PURPOSES; OR

(4) AN EMERGENCY EXISTS, IT IS IMPRACTICAL TO OBTAIN THE PATIENT'S CONSENT, AND THE EXAMINATION IS REQUIRED FOR DIAGNOSTIC OR TREATMENT PURPOSES.

(C) A HEALTH OCCUPATIONS BOARD, IN ACCORDANCE WITH THE HEARING PROCEDURES THAT GOVERN THE DISCIPLINE OF THE HEALTH CARE PRACTITIONER UNDER THE BOARD'S JURISDICTION, MAY REPRIMAND, PLACE ON PROBATION, OR SUSPEND OR REVOKE A LICENSE OR CERTIFICATE OF A HEALTH CARE PRACTITIONER UNDER THE BOARD'S JURISDICTION WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 380 – *Income Tax Subtraction Modification – Mortgage Forgiveness Debt Relief – Extension*.

This bill repeals the termination date of the State income tax subtraction modification for qualified mortgage debt relief.

Senate Bill 265, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 380.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 380

AN ACT concerning

Income Tax Subtraction Modification – Mortgage Forgiveness Debt Relief – Extension

FOR the purpose of repealing the termination of a certain subtraction modification under the Maryland income tax for income from the discharge of certain indebtedness related to costs incurred with respect to a principal residence; and generally relating to an income tax subtraction modification for income from the discharge of indebtedness.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–207(a) and (ee)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Chapter 231 of the Acts of the General Assembly of 2017
Section 3

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.

(ee) (1) The subtraction under subsection (a) of this section includes the amount that would have been allowed for indebtedness discharged for qualified principal residence indebtedness under the federal Mortgage Forgiveness Debt Relief Act of 2007, as amended, prior to its expiration on December 31, 2012, and without regard to the date limitation in § 108(a)(1)(e) of the Internal Revenue Code.

(2) The subtraction under paragraph (1) of this subsection applies only to an owner–occupied principal residence.

(3) The subtraction under paragraph (1) of this subsection may not exceed:

(i) $100,000 for an individual; or

(ii) $200,000 for a married couple filing a joint return or an individual described in § 2 of the Internal Revenue Code as a head of household or as a surviving spouse.

Chapter 231 of the Acts of 2017

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2017, and shall be applicable to all taxable years beginning after December 31, 2016**[**, but before January 1, 2019. It shall remain effective for a period of 2 years and, at the end of June 30, 2019, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect**]**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 416 – *Atlantic States Marine Fisheries Compact – Amendment I – Adoption*.

This bill repeals contingency language in Chapter 123 of 1978, which enacts Amendment I to the Atlantic States Marine Fisheries Compact; and allows Amendment I, which permits two or more states that participate in the compact, to designate the Atlantic States Marine Fisheries Commission as a joint regulatory agency to regulate specific fisheries in which the states have a common interest, to take effect with respect to the states that have adopted the amendment. This bill also restricts withdrawal from the amendment.

Senate Bill 393, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 416.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 416

AN ACT concerning

Atlantic States Marine Fisheries Compact – Amendment I – Adoption

FOR the purpose of repealing a certain contingency relating to the adoption of a certain amendment to the Atlantic States Marine Fisheries Compact; entering the State into a certain amendment to the Atlantic States Marine Fisheries Compact; providing for the withdrawal of the State from the amendment; and generally relating to the Atlantic States Marine Fisheries Compact.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4–301 Amendment I
Annotated Code of Maryland
(2018 Replacement Volume)
(As enacted by Chapter 123 of the Acts of the General Assembly of 1978)

BY repealing
Chapter 123 of the Acts of the General Assembly of 1978
Section 2

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

Article – Natural Resources

4–301.

Amendment I

The states consenting to this amendment agree that any two or more of them may designate the Atlantic States Marine Fisheries Commission as a joint regulatory agency with such powers as they may jointly confer from time to time for the regulation of the fishing operations of the citizens and vessels of such designating states with respect to specific fisheries in which such states have a common interest. The representatives of such states on the Atlantic States Marine Fisheries Commission shall constitute a separate section of such commission for the exercise of the additional powers so granted provided that the states so acting shall appropriate additional funds for this purpose. The creation of such section as a joint regulatory agency shall not deprive the states participating therein of any of their privileges or powers or responsibilities in the Atlantic States Marine Fisheries Commission under the general compact (consented to by Public Law 721, 81st Congress, 2nd Session, approved August 19, 1950).

Chapter 123 of the Acts of 1978

[SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not take effect until a similar Act is passed by the states participating in the Atlantic States Marine Fisheries Compact; that those states are requested to concur in this Act of the General Assembly of Maryland by the passage of a similar Act; and that upon that event the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That the State of Maryland hereby enters into an amendment of the Atlantic States Marine Fisheries Compact with any one or more of the states of Maine, New Hampshire, Connecticut, Rhode Island, New York, New Jersey, Delaware, Virginia, North Carolina, South Carolina, Georgia, Massachusetts, Florida, and such other states as may become party to the compact for the purpose of authorizing the states that ratify this amendment to establish joint regulations of specific fisheries common to those states through the Atlantic States Marine Fisheries Commission and their representatives on that body. Notice of intention to withdraw from this amendment shall be:

(1) executed and transmitted by the Governor;

(2) in accordance with Article XII of the Atlantic States Marine Fisheries Compact; and

(3) effective as to this State with those states that similarly ratify this amendment.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones

Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 488 – *Forestry – Mel Noland Fellowship Program – Establishment*.

This bill 1) establishes the Mel Noland Fellowship Program within the Department of Natural Resources to support students seeking careers in fields relating to natural resources; and 2) renames the Mel Noland Woodlands Incentive Fund and expands its uses to include funding the fellowship program.

This bill also requires that, beginning in Fiscal Year 2021, the Governor must appropriate, and the Department of Natural Resources must direct, certain funds on an annual basis. Additionally, this bill requires that the Department of Natural Resources, and a managing organization, must select two fellows in support of their matriculation in a higher education natural resources field; and that each fellow must receive from the fund an annual stipend of a certain amount.

Senate Bill 467, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 488.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 488

AN ACT concerning

Forestry – Mel Noland Fellowship Program – Establishment

FOR the purpose of establishing the Mel Noland Fellowship Program in the Department of Natural Resources; establishing the purpose of the Fellowship Program; requiring the Department to develop criteria for the selection of fellows and ~~receiving~~ managing organizations; requiring the Department to select a certain managing organization; requiring the Department and managing organization to select a certain number of fellows and ~~place them in receiving organizations working in certain areas~~ support them in their matriculation in certain fields of study at an institution of higher education; authorizing the Department or managing organization to require a fellow to complete certain tasks; requiring a fellow to receive a certain stipend ~~in addition to a certain salary~~; providing for the use of certain funds; renaming a certain special fund to be the Mel Noland Woodland Incentives and Fellowship Fund; expanding the authorized uses of the Fund to

include funding the Fellowship Program; expanding the sources of the Fund; requiring the Governor to appropriate a certain amount to the Fund for certain fiscal years; requiring the Department to direct a certain amount from the Fund to the Fellowship Program for certain purposes in certain fiscal years; defining certain terms; altering certain definitions; and generally relating to the Mel Noland Fellowship Program.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 5–301(a)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–301(g) and 5–307 to be under the amended subtitle "Subtitle 3. Woodland Incentives and Mel Noland Fellowship Programs"
Annotated Code of Maryland
(2018 Replacement Volume)

BY adding to
Article – Natural Resources
Section 5–308
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Natural Resources

Subtitle 3. Woodland Incentives **[**Program**]** **AND MEL NOLAND FELLOWSHIP PROGRAMS**.

5–301.

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

(g) "Mel Noland Woodland Incentives **AND FELLOWSHIP** Fund" means the special fund established in the State Treasury under § 5–307 of this subtitle.

5–307.

(a) In this section, "Fund" means the Mel Noland Woodland Incentives **AND FELLOWSHIP** Fund.

(b) There is a Mel Noland Woodland Incentives **AND FELLOWSHIP** Fund in the Department.

(c) The purpose of the Fund is to finance **[**the**]:**

(1) THE Woodland Incentives Program and the cost–share assistance established under this subtitle**; AND**

(2) THE MEL NOLAND FELLOWSHIP PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

(d) The Department 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 Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(f) **(1)** The Fund consists of:

[(1)**] (I)** As provided in § 13–306 of the Tax – Property Article, up to $200,000 annually of the proceeds of the tax imposed by § 13–302 of the Tax – Property Article that are attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland;

[(2)**] (II)** Revenues collected by the Department from the payment of charges imposed for Department assistance in implementation of an approved practice;

[(3)**] (III)** Money distributed from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund under § 8–2A–04 of this article; **[**and**]**

[(4)**] (IV)** Subject to approval by the Secretary and the Board of Public Works, a portion of the revenues derived from the forestry practices on designated lands owned and managed by the Department, that are conducted in accordance with applicable State law and regulation**; AND**

(V) MONEY APPROPRIATED TO THE FUND UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(2) FOR FISCAL YEAR 2021 AND EACH SUBSEQUENT FISCAL YEAR, THE GOVERNOR SHALL APPROPRIATE $50,000 TO THE FUND.

(g) The Department shall use the Fund:

(1) To help fund the Woodland Incentives Program and the cost–share assistance established under this subtitle;

(2) **TO FUND THE MEL NOLAND FELLOWSHIP PROGRAM ESTABLISHED UNDER THIS SUBTITLE;**

(3) For administrative costs calculated in accordance with § 1–103(b)(2) of this article;

[(3)**] (4)** To offset the costs of the Forest and Park Service for developing and approving forest stewardship plans on privately owned forest lands;

[(4)**] (5)** To provide annual grants to the forest conservancy district boards under § 5–605 of this title, to help facilitate their respective outreach efforts to encourage forest land owners to develop forest stewardship and other forest conservation management plans;

[(5)**] (6)** To establish a forest health emergency contingency program to help:

(i) Maintain the health and vitality of publicly owned and privately owned forest lands; and

(ii) Prevent or control large degradation caused by natural threats;

[(6)**] (7)** To provide financial assistance, as provided in the State budget, for the administration of an urban and community forestry program established under § 5–426 of this title, including:

(i) Increasing the number of communities with tree canopy goals;

(ii) Facilitating compliance with the Chesapeake Bay Program's forestry targets;

(iii) Supporting the use of urban tree canopy expansion for air quality improvement purposes; and

(iv) Helping achieve implementation of Regional Greenhouse Gas Initiative offset opportunities in urban areas;

[(7)**] (8)** To help fund a forest marketing and utilization program in the Department to provide financial assistance to help support, stimulate, and market innovative and creative ways to enhance the production of value–added wood products;

[(8)**] (9)** To help the Department, in cooperation with appropriate public and private sector entities, develop and expand:

(i) A forest mitigation banking system;

(ii) A carbon credit or carbon sequestration program;

(iii) A clean water credit trading system;

(iv) An environmental services credit trading program; and

(v) A renewable energy credit trading system; and

[(9)**] (10)** To help offset administrative costs for providing staff assistance to the Sustainable Forestry Council established under § 5–204 of this title.

(h) The amount of revenues collected under subsection **[**(f)(1)**] (F)(1)(I)** of this section shall be included in the report required under § 16–103 of the Local Government Article.

(i) **(1)** The amount of the grants under subsection **[**(g)(4)**] (G)(5)** of this section shall be determined by the Department and eligibility for the grants shall be contingent on each board providing an in–kind match as certified by the Secretary.

(2) FOR FISCAL YEAR 2021 AND EACH SUBSEQUENT FISCAL YEAR, THE DEPARTMENT SHALL DIRECT $50,000 FROM THE FUND TO THE MEL NOLAND FELLOWSHIP PROGRAM FOR THE PURPOSE OF:

(I) PAYING STIPENDS TO FELLOWS, IN ACCORDANCE WITH § 5–308 OF THIS SUBTITLE; AND

(II) OFFSETTING THE COST ~~TO THE DEPARTMENT~~ OF ADMINISTERING THE MEL NOLAND FELLOWSHIP PROGRAM, INCLUDING THE COST OF RECRUITING, SELECTING, AND ~~MANAGING~~ *SUPERVISING* FELLOWS.

(j) On or before September 30 of each year, the Department shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Environment and Transportation Committee, in accordance with § 2–1246 of the State Government Article, on the use of funds credited to the Fund, including an identification of and the reasons for those revenues derived from forestry practices on designated lands owned and managed by the Department that were not credited to the Fund.

(k) (1) The 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.

(l) Expenditures from the Fund may be made only in accordance with the State budget.

5–308.

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

(2) "FELLOW" MEANS AN INDIVIDUAL SELECTED TO PARTICIPATE IN THE FELLOWSHIP PROGRAM.

(3) "FELLOWSHIP PROGRAM" MEANS THE MEL NOLAND FELLOWSHIP PROGRAM.

(4) "~~RECEIVING~~ MANAGING ORGANIZATION" MEANS AN ORGANIZATION ~~WHERE A FELLOW IS PLACED~~ SELECTED BY THE DEPARTMENT TO COORDINATE THE ADMINISTRATION OF THE FELLOWSHIP PROGRAM WITH THE DEPARTMENT.

(B) THERE IS A MEL NOLAND FELLOWSHIP PROGRAM IN THE DEPARTMENT.

(C) THE PURPOSE OF THE FELLOWSHIP PROGRAM IS TO SUPPORT ~~THE PROFESSIONAL DEVELOPMENT OF INDIVIDUALS BEGINNING A CAREER IN FORESTRY MANAGEMENT~~ STUDENTS SEEKING A CAREER IN FIELDS RELATING TO NATURAL RESOURCES AS THEY MATRICULATE AND GRADUATE FROM AN INSTITUTION OF HIGHER EDUCATION.

(D) THE DEPARTMENT SHALL DEVELOP CRITERIA FOR THE SELECTION OF:

(1) FELLOWS; AND

(2) ~~RECEIVING~~ MANAGING ORGANIZATIONS.

(E) THE DEPARTMENT SHALL SELECT A MANAGING ORGANIZATION WITH WHICH THE DEPARTMENT SHALL COORDINATE TO ADMINISTER THE FELLOWSHIP PROGRAM UNDER THIS SECTION.

~~(E)~~ (F) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, EACH YEAR, THE DEPARTMENT AND THE MANAGING ORGANIZATION SHALL SELECT TWO FELLOWS AND ~~PLACE THEM IN RECEIVING ORGANIZATIONS~~ SUPPORT THEM IN THEIR MATRICULATION IN A NATURAL RESOURCES FIELD AT AN INSTITUTION OF HIGHER EDUCATION.

(2) ONE FELLOW SHALL BE ~~PLACED AT A RECEIVING ORGANIZATION WORKING IN THE AREA OF FORESTRY MANAGEMENT~~ SEEKING A DEGREE TO WORK IN THE FIELD OF NATURAL RESOURCES MANAGEMENT.

(3) ONE FELLOW SHALL BE ~~PLACED AT A RECEIVING ORGANIZATION WORKING IN THE AREA OF~~ SEEKING A DEGREE TO WORK IN THE FIELD OF URBAN AND COMMUNITY FORESTRY.

(G) THE DEPARTMENT OR THE MANAGING ORGANIZATION MAY REQUIRE A FELLOW TO COMPLETE TASKS RELATED TO THE FELLOWSHIP PROGRAM IN ADDITION TO THE FELLOW'S COURSE OF STUDY.

~~(F)~~ (H) (1) ~~IN ADDITION TO ANY SALARY PROVIDED BY THE RECEIVING ORGANIZATION, A~~ A FELLOW SHALL RECEIVE AN ANNUAL STIPEND OF $20,000 PAID FROM THE MEL NOLAND WOODLAND INCENTIVES AND FELLOWSHIP FUND.

(2) ANY FUNDS REMAINING AFTER THE STIPENDS UNDER PARAGRAPH (1) OF THIS SUBSECTION ARE DISTRIBUTED FROM THE GOVERNOR'S APPROPRIATION REQUIRED UNDER § 5–307 OF THIS SUBTITLE SHALL BE USED FOR THE ADMINISTRATION OF THE FELLOWSHIP PROGRAM, INCLUDING THE RECRUITMENT, SELECTION, AND SUPERVISION OF THE FELLOWS BY THE DEPARTMENT AND THE MANAGING ORGANIZATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 528 – *Baltimore City – Police Districts – Redistricting*.

This bill requires that after each decennial census of the United States, the Police Commissioner of Baltimore City must prepare a plan for the adjustment of the geographic boundaries and composition of each Baltimore City police district; and the reallocation of

the resources and personnel of the Baltimore City Police Department among the districts, as specified.

This bill also requires 1) the Commissioner to present the plan to the Mayor and the Baltimore City Council within one year from the issuance of the decennial census population and housing data by the U.S. Census Bureau; 2) the Mayor and Baltimore City Council to approve the plan by resolution within 180 days from presentation or the plan becomes effective on the one hundred eighty–first day; 3) that a plan approved by the Mayor and City Council becomes effective immediately; and 3) the Commissioner must implement any plan in effect, as specified.

Senate Bill 39, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 528.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 528

AN ACT concerning

Baltimore City – Police Districts – Redistricting

FOR the purpose of requiring the Police Commissioner of Baltimore City, following each decennial census of the United States, to prepare a plan for the adjustment of the geographic boundaries and composition of each Baltimore City police district and the reallocation of the resources and personnel of the Baltimore City Police Department among the districts using certain information; requiring the Commissioner to present the plan to the Mayor and City Council of Baltimore City within a certain time period; requiring the plan to be approved by resolution of the Mayor and City Council within a certain time frame; authorizing the Mayor to propose amendments to the plan; requiring any amendments proposed by the Mayor to be approved by resolution of the City Council; requiring the plan to go into effect without the approval of the Mayor and City Council under certain circumstances; requiring the Commissioner to implement any plan made effective under this Act; providing for the construction of this Act; and generally relating to the Baltimore City police districts.

BY repealing and reenacting, without amendments,
The Public Local Laws of Baltimore City
Section 16–1(2) and (3) and 16–7(1), (2), and (4)
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement and 2000 Supplement, as amended)

BY repealing and reenacting, without amendments,

The Public Local Laws of Baltimore City
Section 16–7(3)
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement and 2000 Supplement, as amended)
(As enacted by Chapter 70 of the Acts of the General Assembly of 2012)

BY adding to
The Public Local Laws of Baltimore City
Section 16–55
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement and 2000 Supplement, as amended)

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

Article 4 – Baltimore City

16–1.

The following words and phrases as used in this subtitle shall have or include the following meanings.

(2) "Department" shall mean the Police Department of Baltimore City as constituted and established by this subtitle.

(3) "Commissioner" or "Commissioner of Police" shall mean the Police Commissioner of Baltimore City.

16–7.

In directing and supervising the operations and affairs of the Department, the Commissioner shall, subject to the provisions of this subtitle, and subject to the provisions of Article VI and Sections 4–14 both inclusive, of Article VII of the Charter of Baltimore City (1964 Revision) as amended from time to time, be vested with all the powers, rights and privileges attending the responsibility of management, and may exercise the same, where appropriate, by rule, regulation, order or other departmental directive which shall be binding on all members of the Department when duly promulgated. In the event of a conflict between the provisions of Article VI and Sections 4–14, both inclusive, of Article VII of the Charter, and the provisions of this subtitle, the provisions of Article VI and Sections 4–14 of Article VII shall control. The authority herein vested in the Police Commissioner shall specifically include, but not be limited to, the following:

(1) To determine and establish the form of organization of the Department.

(2) To create bureaus, divisions, districts, sections, units, squads or other subordinate organizational subdivisions or segments within the Department, including departmental boards and commissions, and to determine and define the functions, duties

and responsibilities of each.

(3) To appoint without examination and to serve at his pleasure during satisfactory performance, Deputy Commissioners and other ranks and positions above the rank of Lieutenant which the Commissioner has determined require the experience of a Lieutenant as a prerequisite in order to insure the effective and efficient staffing and operation of the major functional subdivisions of the Department.

(4) To assign, reassign, allocate and reallocate members of the Department to those duties, and to those organizational subdivisions of the Department as the Commissioner in his judgment may deem necessary to best serve the interests of the public and the Department.

16–55.

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

(2) "DISTRICT" MEANS A POLICE DISTRICT OF THE DEPARTMENT.

(3) "PLAN" MEANS THE PLAN PREPARED BY THE COMMISSIONER UNDER SUBSECTION (B)(1) OF THIS SECTION.

(B) IN ORDER TO ENSURE THAT THE RESOURCES OF THE DEPARTMENT ARE EFFICIENTLY ALLOCATED, FOLLOWING EACH DECENNIAL CENSUS OF THE UNITED STATES, THE COMMISSIONER SHALL:

(1) PREPARE A PLAN FOR THE ADJUSTMENT OF THE GEOGRAPHIC BOUNDARIES AND COMPOSITION OF EACH DISTRICT AND THE REALLOCATION OF THE RESOURCES AND PERSONNEL OF THE DEPARTMENT AMONG THE DISTRICTS USING:

(I) DECENNIAL CENSUS POPULATION AND HOUSING DATA OF THE UNITED STATES CENSUS BUREAU;

(II) DISTRICT CALL VOLUME TRENDS;

(III) DISTRICT RESPONSE TIMES; AND

(IV) ANY OTHER INFORMATION DEEMED NECESSARY BY THE COMMISSIONER; AND

(2) WITHIN 1 YEAR FROM THE ISSUANCE OF THE DECENNIAL CENSUS POPULATION AND HOUSING DATA BY THE UNITED STATES CENSUS BUREAU, PRESENT THE PLAN TO THE MAYOR AND CITY COUNCIL.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE PLAN MUST BE APPROVED BY RESOLUTION OF THE MAYOR AND CITY COUNCIL WITHIN 180 DAYS FROM THE PRESENTATION OF THE PLAN.

(2) (I) THE MAYOR MAY PROPOSE AMENDMENTS TO THE PLAN DURING THE TIME PERIOD SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION.

(II) AMENDMENTS PROPOSED BY THE MAYOR IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH MUST BE APPROVED BY RESOLUTION OF THE CITY COUNCIL.

(3) A PLAN APPROVED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION IS EFFECTIVE IMMEDIATELY.

(4) IF THE PLAN IS NOT APPROVED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THEN THE PLAN, AS PRESENTED BY THE COMMISSIONER TO THE MAYOR AND CITY COUNCIL, WILL GO INTO EFFECT ON THE DAY AFTER THE EXPIRATION OF THE TIME PERIOD SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION.

(D) THE COMMISSIONER SHALL IMPLEMENT ANY PLAN MADE EFFECTIVE UNDER SUBSECTION (C) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to limit the authority of the Commissioner under Subtitle 16 of the Public Local Laws of Baltimore City.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 529 – *Insurance – Formation of Domestic Insurers – Number of Directors*.

This bill authorizes a domestic financial guaranty insurance company that is prohibited from issuing new policies of financial guaranty insurance to have only five members on its board of directors instead of nine members.

Senate Bill 532, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 529.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 529

AN ACT concerning

Insurance – Formation of Domestic Insurers – Number of Directors

FOR the purpose of reducing the minimum number of members that a certain type of domestic insurance company is required to have on its board of directors; and generally relating to the formation of a domestic insurance company.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 3–103
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Insurance

3–103.

(a) A domestic insurer may be formed for insurance purposes under Title 2 of the Corporations and Associations Article.

(b) A domestic insurer may be formed either as a mutual insurer or stock insurer, as stated in its articles of incorporation.

(c) (1) Each policyholder of a domestic mutual insurer, other than a holder of a reinsurance contract, is a member of the mutual insurer, with each right and obligation of membership.

(2) Each policy shall state the provisions of paragraph (1) of this subsection.

(3) Any person, government, governmental unit, state, or political subdivision may be a member of a domestic, foreign, or alien mutual insurer.

(4) An officer, stockholder, trustee, or legal representative of a member:

(i) may be recognized as acting in a representative capacity for or on behalf of the member for the purpose of the membership; and

(ii) is not personally liable on the insurance contract for acting in that representative capacity.

(5) A Maryland corporation may participate as a member of a mutual insurer incidentally to the purpose for which the corporation is organized.

(d) (1) Each member of a domestic mutual insurer is entitled to one vote, or to the number of votes the bylaws provide, based on:

(i) the insurance in force;

(ii) the number of policies held; or

(iii) the amount of premium paid.

(2) Only the policyholder under a group policy is a member of the mutual insurer and is entitled to vote at the meetings of the mutual insurer.

(e) **(1) [**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** board of directors of a domestic insurer shall have at least nine members.

(2) THE BOARD OF DIRECTORS OF A DOMESTIC FINANCIAL GUARANTY INSURANCE COMPANY THAT IS PROHIBITED FROM ISSUING NEW POLICIES OF FINANCIAL GUARANTY INSURANCE SHALL HAVE AT LEAST FIVE MEMBERS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 540 – *Cecil County – Correctional Deputy Sheriffs – Collective Bargaining*.

This bill authorizes full–time sworn correctional deputy sheriffs at the rank of lieutenant and below, in the Office of the Sheriff of Cecil County, to engage in specified collective bargaining activities; and extends applicability of numerous provisions regarding collective bargaining rights of law enforcement deputy sheriffs in Cecil County to correctional deputy sheriffs.

Senate Bill 511, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 540.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 540

AN ACT concerning

Cecil County – Correctional Deputy Sheriffs – Collective Bargaining

FOR the purpose of authorizing certain correctional deputy sheriffs in the Office of the Sheriff of Cecil County to take part in or refrain from taking part in forming, joining, supporting, or participating in a labor organization and certain activities relating to the labor organization for the purpose of engaging in collective bargaining with the Sheriff and the County Executive of Cecil County; authorizing a certain labor organization to engage in collective bargaining with the Sheriff and the County Executive on behalf of certain correctional deputy sheriffs; making technical and conforming changes; 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 collective bargaining and certain sworn correctional deputy sheriffs in the Office of the Sheriff of Cecil County.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–309(i)(4)

Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 2–321(a)
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)
(As enacted by Chapter ____ (S.B. 206) of the Acts of the General Assembly of 2019)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–321(h)
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)
(As enacted by Chapter ____ (S.B. 206) of the Acts of the General Assembly of 2019)

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

Article – Courts and Judicial Proceedings

2–309.

(i) (4) (i) 1. Except as provided in subsubparagraph 2 of this subparagraph, this paragraph applies only to all full–time sworn law enforcement deputy sheriffs in the Office of the Sheriff of Cecil County at the rank of **[**Captain**]** **CAPTAIN** and below **AND TO ALL FULL–TIME SWORN CORRECTIONAL DEPUTY SHERIFFS IN THE OFFICE OF THE SHERIFF OF CECIL COUNTY AT THE RANK OF LIEUTENANT AND BELOW**.

2. This paragraph does not apply to the chief deputy sheriff, community corrections director, detention center director, detention center deputy director, or law enforcement director in the Office of the Sheriff of Cecil County.

(ii) **1.** A full–time sworn law enforcement deputy sheriff at the rank of **[**Captain**]** **CAPTAIN** and below may:

[1.**] A.** Take part in or refrain from taking part in forming, joining, supporting, or participating in a labor organization or its lawful activities;

[2.**] B.** Select a labor organization as the exclusive representative of the **LAW ENFORCEMENT** deputy sheriffs subject to this paragraph;

[3.**] C.** Engage in collective bargaining with the Sheriff and the County Executive of Cecil County, or the designee of the Sheriff and the County

Executive, concerning wages, benefits, and any working conditions that are not included in subparagraph (v)4A of this paragraph through a labor organization certified as the exclusive representative of the **LAW ENFORCEMENT** deputy sheriffs subject to this paragraph;

[4.**] D.** Subject to item **[**2**] B** of this **[**subparagraph**]** **SUBSUBPARAGRAPH**, enter into a collective bargaining agreement, through the exclusive representative of the **LAW ENFORCEMENT** deputy sheriffs subject to this paragraph, covering the wages, benefits, and other working conditions of the **LAW ENFORCEMENT** deputy sheriffs subject to this paragraph, to the extent that the agreement does not impair the rights of the Sheriff set forth in subparagraph (v)4 of this paragraph; and

[5.**] E.** Decertify a labor organization as the exclusive representative of the **LAW ENFORCEMENT** deputy sheriffs subject to this paragraph.

2. A FULL–TIME SWORN CORRECTIONAL DEPUTY SHERIFF AT THE RANK OF LIEUTENANT AND BELOW MAY:

A. TAKE PART IN OR REFRAIN FROM TAKING PART IN FORMING, JOINING, SUPPORTING, OR PARTICIPATING IN A LABOR ORGANIZATION OR ITS LAWFUL ACTIVITIES;

B. SELECT A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;

C. ENGAGE IN COLLECTIVE BARGAINING WITH THE SHERIFF AND THE COUNTY EXECUTIVE OF CECIL COUNTY, OR THE DESIGNEE OF THE SHERIFF AND THE COUNTY EXECUTIVE, CONCERNING WAGES, BENEFITS, AND ANY WORKING CONDITIONS THAT ARE NOT INCLUDED IN SUBPARAGRAPH (V)4A OF THIS PARAGRAPH THROUGH A LABOR ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;

D. SUBJECT TO ITEM B OF THIS SUBSUBPARAGRAPH, ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, THROUGH THE EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, COVERING THE WAGES, BENEFITS, AND OTHER WORKING CONDITIONS OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, TO THE EXTENT THAT THE AGREEMENT DOES NOT IMPAIR THE RIGHTS OF THE SHERIFF SET FORTH IN SUBPARAGRAPH (V)4 OF THIS PARAGRAPH; AND

E. DECERTIFY A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT

TO THIS PARAGRAPH.

(iii) 1. **A.** A labor organization seeking certification as an exclusive representative **OF THE SWORN LAW ENFORCEMENT DEPUTY SHERIFFS** must submit a petition to the Sheriff and the County Executive that is signed by more than 50% of the sworn law enforcement deputy sheriffs at the rank of **[**Captain**]** **CAPTAIN** and below indicating the desire of the **LAW ENFORCEMENT** deputy sheriffs subject to this paragraph to be represented exclusively by the labor organization for the purpose of collective bargaining.

B. A LABOR ORGANIZATION SEEKING CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL DEPUTY SHERIFFS MUST SUBMIT A PETITION TO THE SHERIFF AND THE COUNTY EXECUTIVE THAT IS SIGNED BY MORE THAN 50% OF THE SWORN CORRECTIONAL DEPUTY SHERIFFS AT THE RANK OF LIEUTENANT AND BELOW INDICATING THE DESIRE OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH TO BE REPRESENTED EXCLUSIVELY BY THE LABOR ORGANIZATION FOR THE PURPOSE OF COLLECTIVE BARGAINING.

2. If the Sheriff and the County Executive do not challenge the validity of the petition within 20 calendar days following the receipt of the petition, the labor organization shall be deemed certified as the exclusive representative.

3. If the Sheriff or the County Executive challenge the validity of the petition, the American Arbitration Association shall appoint a neutral third party to conduct an election and to certify whether the labor organization has been selected as the exclusive representative by a majority of the votes cast in the election.

4. The costs associated with the appointment of a neutral third party shall be shared equally by the parties.

5. **A.** A labor organization shall be deemed decertified if a petition is submitted to the Sheriff and the County Executive that is signed by more than 50% of the full–time sworn law enforcement deputy sheriffs at the rank of **[**Captain**]** **CAPTAIN** and below indicating the desire of the **LAW ENFORCEMENT** deputy sheriffs to decertify the labor organization as the exclusive representative of the **LAW ENFORCEMENT** deputy sheriffs subject to this paragraph.

B. A LABOR ORGANIZATION SHALL BE DEEMED DECERTIFIED IF A PETITION IS SUBMITTED TO THE SHERIFF AND THE COUNTY EXECUTIVE THAT IS SIGNED BY MORE THAN 50% OF THE FULL–TIME SWORN CORRECTIONAL DEPUTY SHERIFFS AT THE RANK OF LIEUTENANT AND BELOW INDICATING THE DESIRE OF THE CORRECTIONAL DEPUTY SHERIFFS TO DECERTIFY THE LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH.

(iv) 1. Following certification of an exclusive representative as provided in subparagraph (iii) of this paragraph, the certified labor organization and the Sheriff and the County Executive shall meet at reasonable times and engage in collective bargaining in good faith.

2. The certified labor organization, the Sheriff, and the County Executive shall make every reasonable effort to conclude negotiations on or before February 15 of the year in which a collective bargaining agreement is to take effect to allow for inclusion by the Sheriff of matters agreed **[**upon**]** **ON** in its budget request to the County Council.

3. A. If the certified labor organization and the Sheriff and the County Executive are unable to reach an agreement before the date set forth in subsubparagraph 2 of this subparagraph, either the certified labor organization or the Sheriff and the County Executive may seek nonbinding mediation through the Federal Mediation and Conciliation Service.

B. A party seeking nonbinding mediation under subsubsubparagraph A of this subsubparagraph shall give written notice to the other party and to the Federal Mediation and Conciliation Service at least 15 days prior to the start of the first mediation meeting.

C. The costs associated with the mediator or mediation process shall be shared equally by the parties.

D. The certified labor organization, the Sheriff, and the County Executive shall engage in nonbinding mediation for at least 30 days unless they mutually agree in writing to termination or extension of the mediation or reach an agreement.

E. The contents of the mediation proceedings may not be disclosed by any of the parties or the mediator.

4. The County Council shall enact a local ordinance that allows for nonbinding arbitration if the certified labor organization, the Sheriff, and the County Executive are unable to reach an agreement through mediation under subsubparagraph 3 of this subparagraph.

(v) 1. A collective bargaining agreement shall contain all matters of agreement reached in the collective bargaining process.

2. A collective bargaining agreement may contain a grievance procedure providing for binding arbitration of grievances in reference to a labor contract, including grievances related to interpretation or breach of contract.

3. A collective bargaining agreement reached in accordance

with this paragraph shall be in writing and signed by the certified representatives of the parties involved in the collective bargaining negotiations.

4. Except as provided in the code and regulations of Cecil County, the provisions of this subparagraph and any agreement made under it may not impair the right and the responsibility of the Sheriff to:

A. Determine the mission, budget, organization, numbers, types, classes, grades, and ranks of deputy sheriffs assigned, the services to be rendered, operations to be performed, and the technology to be used;

B. Set the standards of service and exercise control over operations, including the rights to determine work shifts and the number of deputy sheriffs on each shift;

C. Assign and retain deputy sheriffs in positions within the office;

D. Determine and set work projects, tours of duty, schedules, assignments, and methods, means, and personnel by which operations are conducted;

E. Determine and set technology needs, internal security practices, equipment, and the location of facilities;

F. Maintain and improve the efficiency and effectiveness of operations;

G. Hire, direct, supervise, promote, demote, discipline, assign, and with reasonable cause discharge full–time sworn law enforcement deputy sheriffs, with the exception that the promotional process for **LAW ENFORCEMENT** deputy sheriffs up to the rank of **[**Captain**]** **CAPTAIN** and the number and composition of trial boards for the discipline process for **LAW ENFORCEMENT** deputy sheriffs at the rank of **[**Captain**]** **CAPTAIN** and below are subject to collective bargaining;

H. **HIRE, DIRECT, SUPERVISE, PROMOTE, DEMOTE, DISCIPLINE, ASSIGN, AND WITH REASONABLE CAUSE DISCHARGE FULL–TIME SWORN CORRECTIONAL DEPUTY SHERIFFS, WITH THE EXCEPTION THAT THE PROMOTIONAL PROCESS FOR CORRECTIONAL DEPUTY SHERIFFS UP TO THE RANK OF LIEUTENANT AND THE NUMBER AND COMPOSITION OF TRIAL BOARDS FOR THE DISCIPLINE PROCESS FOR DEPUTY SHERIFFS AT THE RANK OF LIEUTENANT AND BELOW ARE SUBJECT TO COLLECTIVE BARGAINING;**

I. Determine and set the qualifications of deputy sheriffs for appointment and promotions; and

[I.**]** **J.** Determine and set the standards of conduct, and with

consultation and input from the certified labor organization, adopt rules, orders, policies, regulations, and procedures on mutually agreed on subjects.

5. A collective bargaining agreement is not effective until it is ratified by the majority of votes cast by the deputy sheriffs in the bargaining unit and approved by the Sheriff, the County Executive, and the County Council.

(vi) Nothing in this paragraph may be construed to:

1. Authorize or otherwise allow a deputy sheriff to engage in a strike as defined in § 3–303 of the State Personnel and Pensions Article; and

2. Authorize the collection of mandatory membership fees from nonmembers of the employee organization.

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

Article – Courts and Judicial Proceedings

2–321.

(a) This section applies only in Cecil County.

(h) (1) (i) Except as provided in subparagraph (ii) of this paragraph, this subsection applies only to all full–time sworn law enforcement deputy sheriffs in the Office of the Sheriff of Cecil County at the rank of **[**Captain**]** **CAPTAIN** and below **AND TO ALL FULL–TIME SWORN CORRECTIONAL DEPUTY SHERIFFS IN THE OFFICE OF THE SHERIFF OF CECIL COUNTY AT THE RANK OF LIEUTENANT AND BELOW**.

(ii) This subsection does not apply to the chief deputy sheriff, community corrections director, detention center director, detention center deputy director, or law enforcement director in the Office of the Sheriff of Cecil County.

(2) **(I)** A full–time sworn law enforcement deputy sheriff at the rank of **[**Captain**]** **CAPTAIN** and below may:

[(i)**]** **1.** Take part in or refrain from taking part in forming, joining, supporting, or participating in a labor organization or its lawful activities;

[(ii)**]** **2.** Select a labor organization as the exclusive representative of the **LAW ENFORCEMENT** deputy sheriffs subject to this subsection;

[(iii)**]** **3.** Engage in collective bargaining with the Sheriff and the County Executive of Cecil County, or the designee of the Sheriff and the County Executive, concerning wages, benefits, and any working conditions that are not included in paragraph

(5)(iv)1 of this subsection through a labor organization certified as the exclusive representative of the **LAW ENFORCEMENT** deputy sheriffs subject to this subsection;

[(iv)**]** **4.** Subject to item **[**(ii)**]** **2** of this **[**paragraph**]** **SUBPARAGRAPH**, enter into a collective bargaining agreement, through the exclusive representative of the deputy sheriffs subject to this subsection, covering the wages, benefits, and other working conditions of the **LAW ENFORCEMENT** deputy sheriffs subject to this subsection, to the extent that the agreement does not impair the rights of the Sheriff set forth in paragraph (5)(iv) of this subsection; and

[(v)**]** **5.** Decertify a labor organization as the exclusive representative of the **LAW ENFORCEMENT** deputy sheriffs subject to this subsection.

(II) A FULL–TIME SWORN CORRECTIONAL DEPUTY SHERIFF AT THE RANK OF LIEUTENANT AND BELOW MAY:

1. TAKE PART IN OR REFRAIN FROM TAKING PART IN FORMING, JOINING, SUPPORTING, OR PARTICIPATING IN A LABOR ORGANIZATION OR ITS LAWFUL ACTIVITIES;

2. SELECT A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;

3. ENGAGE IN COLLECTIVE BARGAINING WITH THE SHERIFF AND THE COUNTY EXECUTIVE OF CECIL COUNTY, OR THE DESIGNEE OF THE SHERIFF AND THE COUNTY EXECUTIVE, CONCERNING WAGES, BENEFITS, AND ANY WORKING CONDITIONS THAT ARE NOT INCLUDED IN PARAGRAPH (5)(IV)1 OF THIS SUBSECTION THROUGH A LABOR ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;

4. SUBJECT TO ITEM 2 OF THIS SUBPARAGRAPH, ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, THROUGH THE EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, COVERING THE WAGES, BENEFITS, AND OTHER WORKING CONDITIONS OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, TO THE EXTENT THAT THE AGREEMENT DOES NOT IMPAIR THE RIGHTS OF THE SHERIFF SET FORTH IN PARAGRAPH (5)(IV)1 OF THIS SUBSECTION; AND

5. DECERTIFY A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH.

(3) (i) **1.** A labor organization seeking certification as an exclusive representative **OF THE SWORN LAW ENFORCEMENT DEPUTY SHERIFFS** must submit a petition to the Sheriff and the County Executive that is signed by more than 50% of the sworn law enforcement deputy sheriffs at the rank of **[**Captain**]** **CAPTAIN** and below indicating the desire of the deputy sheriffs subject to this subsection to be represented exclusively by the labor organization for the purpose of collective bargaining.

2. A LABOR ORGANIZATION SEEKING CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL DEPUTY SHERIFFS MUST SUBMIT A PETITION TO THE SHERIFF AND THE COUNTY EXECUTIVE THAT IS SIGNED BY MORE THAN 50% OF THE SWORN CORRECTIONAL DEPUTY SHERIFFS AT THE RANK OF LIEUTENANT AND BELOW INDICATING THE DESIRE OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS SUBSECTION TO BE REPRESENTED EXCLUSIVELY BY THE LABOR ORGANIZATION FOR THE PURPOSE OF COLLECTIVE BARGAINING.

(ii) If the Sheriff and the County Executive do not challenge the validity of the petition within 20 calendar days following the receipt of the petition, the labor organization shall be deemed certified as the exclusive representative.

(iii) If the Sheriff or the County Executive challenge the validity of the petition, the American Arbitration Association shall appoint a neutral third party to conduct an election and to certify whether the labor organization has been selected as the exclusive representative by a majority of the votes cast in the election.

(iv) The costs associated with the appointment of a neutral third party shall be shared equally by the parties.

(v) **1.** A labor organization shall be deemed decertified if a petition is submitted to the Sheriff and the County Executive that is signed by more than 50% of the full–time sworn law enforcement deputy sheriffs at the rank of **[**Captain**]** **CAPTAIN** and below indicating the desire of the **LAW ENFORCEMENT** deputy sheriffs to decertify the labor organization as the exclusive representative of the **LAW ENFORCEMENT** deputy sheriffs subject to this subsection.

2. A LABOR ORGANIZATION SHALL BE DEEMED DECERTIFIED IF A PETITION IS SUBMITTED TO THE SHERIFF AND THE COUNTY EXECUTIVE THAT IS SIGNED BY MORE THAN 50% OF THE FULL–TIME SWORN CORRECTIONAL DEPUTY SHERIFFS AT THE RANK OF LIEUTENANT AND BELOW INDICATING THE DESIRE OF THE CORRECTIONAL DEPUTY SHERIFFS TO DECERTIFY THE LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE CORRECTIONAL DEPUTY SHERIFFS SUBJECT TO THIS SUBSECTION.

(4) (i) Following certification of an exclusive representative as provided in paragraph (3) of this subsection, the certified labor organization and the Sheriff and the

County Executive shall meet at reasonable times and engage in collective bargaining in good faith.

(ii) The certified labor organization, the Sheriff, and the County Executive shall make every reasonable effort to conclude negotiations on or before February 15 of the year in which a collective bargaining agreement is to take effect to allow for inclusion by the Sheriff of matters agreed on in its budget request to the County Council.

(iii) 1. If the certified labor organization and the Sheriff and the County Executive are unable to reach an agreement before the date set forth in subparagraph (ii) of this paragraph, either the certified labor organization or the Sheriff and the County Executive may seek nonbinding mediation through the Federal Mediation and Conciliation Service.

2. A party seeking nonbinding mediation under subsubparagraph 1 of this subparagraph shall give written notice to the other party and to the Federal Mediation and Conciliation Service at least 15 days prior to the start of the first mediation meeting.

3. The costs associated with the mediator or mediation process shall be shared equally by the parties.

4. The certified labor organization, the Sheriff, and the County Executive shall engage in nonbinding mediation for at least 30 days unless they mutually agree in writing to termination or extension of the mediation or reach an agreement.

5. The contents of the mediation proceedings may not be disclosed by any of the parties or the mediator.

(iv) The County Council shall enact a local ordinance that allows for nonbinding arbitration if the certified labor organization, the Sheriff, and the County Executive are unable to reach an agreement through mediation under subparagraph (iii) of this paragraph.

(5) (i) A collective bargaining agreement shall contain all matters of agreement reached in the collective bargaining process.

(ii) A collective bargaining agreement may contain a grievance procedure providing for binding arbitration of grievances in reference to a labor contract, including grievances related to interpretation or breach of contract.

(iii) A collective bargaining agreement reached in accordance with this subsection shall be in writing and signed by the certified representatives of the parties involved in the collective bargaining negotiations.

(iv) Except as provided in the code and regulations of the county, the

provisions of this paragraph and any agreement made under it may not impair the right and the responsibility of the Sheriff to:

1. Determine the mission, budget, organization, numbers, types, classes, grades, and ranks of deputy sheriffs assigned, the services to be rendered, operations to be performed, and the technology to be used;

2. Set the standards of service and exercise control over operations, including the rights to determine work shifts and the number of deputy sheriffs on each shift;

3. Assign and retain deputy sheriffs in positions within the office;

4. Determine and set work projects, tours of duty, schedules, assignments, and methods, means, and personnel by which operations are conducted;

5. Determine and set technology needs, internal security practices, equipment, and the location of facilities;

6. Maintain and improve the efficiency and effectiveness of operations;

7. Hire, direct, supervise, promote, demote, discipline, assign, and with reasonable cause discharge full–time sworn law enforcement deputy sheriffs, with the exception that the promotional process for **LAW ENFORCEMENT** deputy sheriffs up to the rank of **[**Captain**]** **CAPTAIN** and the number and composition of trial boards for the discipline process for **LAW ENFORCEMENT** deputy sheriffs at the rank of **[**Captain**]** **CAPTAIN** and below are subject to collective bargaining;

8. **HIRE, DIRECT, SUPERVISE, PROMOTE, DEMOTE, DISCIPLINE, ASSIGN, AND WITH REASONABLE CAUSE DISCHARGE FULL–TIME SWORN CORRECTIONAL DEPUTY SHERIFFS, WITH THE EXCEPTION THAT THE PROMOTIONAL PROCESS FOR CORRECTIONAL DEPUTY SHERIFFS UP TO THE RANK OF LIEUTENANT AND THE NUMBER AND COMPOSITION OF TRIAL BOARDS FOR THE DISCIPLINE PROCESS FOR DEPUTY SHERIFFS AT THE RANK OF LIEUTENANT AND BELOW ARE SUBJECT TO COLLECTIVE BARGAINING;**

9. Determine and set the qualifications of deputy sheriffs for appointment and promotions; and

[9.**]** **10.** Determine and set the standards of conduct, and with consultation and input from the certified labor organization, adopt rules, orders, policies, regulations, and procedures on mutually agreed on subjects.

(v) A collective bargaining agreement is not effective until it is

ratified by the majority of votes cast by the deputy sheriffs in the bargaining unit and approved by the Sheriff, the County Executive, and the County Council.

(6) Nothing in this subsection may be construed to:

(i) Authorize or otherwise allow a deputy sheriff to engage in a strike as defined in § 3–303 of the State Personnel and Pensions Article; and

(ii) Authorize the collection of mandatory membership fees from nonmembers of the employee organization.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of Chapter _____ (S.B. 206) of the Acts of the General Assembly of 2019. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 574 – *Carroll County – Public Facilities Bonds*.

This bill authorizes the Carroll County Commissioners to issue general obligation bonds, up to a certain amount, for the acquisition, construction, improvement, or renovation of public buildings, facilities, and public works projects; and clarifies that the date of maturity of the bonds shall not exceed 30 years.

Senate Bill 376, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 574.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 574

AN ACT concerning

Carroll County – Public Facilities Bonds

FOR the purpose of authorizing and empowering the County Commissioners of Carroll County, from time to time, to borrow not more than $28,500,000 in order to finance the construction, improvement, or development of certain public facilities in Carroll County, including water and sewer projects, to finance loans for fire or emergency–related equipment, buildings, and other facilities of volunteer fire departments in the County, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; providing that such borrowing may be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring agricultural land and woodland preservation easements; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, County, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and generally relating to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Carroll County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, public works projects such as roads, bridges and storm drains, public school buildings and facilities, landfills, Carroll Community College buildings and facilities, public operational buildings and facilities such as buildings and facilities for County administrative use, public safety, health and social services, libraries, refuse disposal buildings and facilities, water and sewer infrastructure facilities, easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland, and parks and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the construction, improvements or development of public facilities described in Section 1 of this Act, to make loans to each and every volunteer fire department in the County upon such terms and conditions as may be determined by the County for the purpose of financing certain fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments, and to borrow money and incur indebtedness for those purposes, at one time or from time to time, in an amount not exceeding, in the aggregate, $28,500,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities, including water and sewer projects, the fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of § 19–204 of the Local Government Article, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Carroll County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions of any loans made to volunteer fire departments; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or State securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. The bonds may be issued in registered form, and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until such delivery. The

bonds and the issuance and sale thereof shall be exempt from the provisions of §§ 19–205 and 19–206 of the Local Government Article, as amended.

The borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural or woodland. The form of installment purchase obligations, the manner of accomplishing the acquisition of easements, which may be the direct exchange of installment purchase obligations for easement, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term "bonds" used in this Act shall include installment purchase obligations and matters pertaining to the bonds under this Act, such as the security for the payment of the bonds, the exemption of the bonds from State, County, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Comptroller of Carroll County or such other official of Carroll County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities, including water and sewer projects, to make loans to volunteer fire departments for the financing of fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the

projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, including water and sewer projects, or to the making of loans for fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it as loan repayments from volunteer fire departments and any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act, including the water and sewer projects or the making of loans for the aforementioned fire or emergency–related equipment, buildings, or other facilities for volunteer fire departments in the County and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner herein above described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued

hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, County, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Carroll County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 608 – *Insurance – Principle–Based Reserves*.

This bill repeals the statutory criteria that allow an insurer to be exempt from certain requirements in the National Association of Insurance Commissioners' valuation manual; and allows an insurer to be exempt from those requirements if it meets the exemption criteria published in the valuation manual itself.

Senate Bill 227, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 608.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 608

AN ACT concerning

Insurance – Principle–Based Reserves

FOR the purpose of altering the exemptions that the Maryland Insurance Commissioner may provide to certain domestic insurance companies from certain reserve requirements; authorizing the Commissioner to exempt a certain domestic insurance company from certain requirements if the company meets certain principle–based reserve exemption criteria; repealing certain exemptions to certain reserve requirements; and generally relating to insurance companies and required reserves.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 5–317
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Insurance

5–317.

(a) The Commissioner may exempt a specific product form or product line of a domestic company that holds a certificate of authority issued by the Commissioner and is doing business only in the State from the requirements of § 5–313 of this subtitle if:

(1) the Commissioner has issued an exemption in writing to the company;

(2) the exemption has not been revoked in writing by the Commissioner; and

(3) the company computes reserves:

(i) using assumptions and methods used before the operative date of the valuation manual; and

(ii) in accordance with any requirements established by the Commissioner by regulation.

(b) (1) A company that is granted an exemption under subsection (a) of this section is subject to § 5–201 of this title and §§ 5–302 through 5–312 of this subtitle.

(2) With respect to a company that is granted an exemption under subsection (a) of this section, any reference to § 5–313 of this subtitle found in § 5–201.1 of this title and §§ 5–302 through 5–312 of this subtitle is not applicable.

(c) The Commissioner may exempt a domestic company that holds a certificate of authority issued by the Commissioner and is doing business in the State from the requirements of §§ 5–314 and 5–315 of this subtitle if**[**:

(1) the domestic company has less than $500,000,000 of ordinary life premiums and, if the domestic company is a member of a group of life insurers, the group has combined ordinary life premiums of less than $1,000,000,000;

(2) (i) the domestic company reported total adjusted capital of at least 450% of the authorized control level risk–based capital in the most recent risk–based capital report; and

(ii) the appointed actuary has provided an unqualified opinion on the reserves for the prior calendar year; and

(3) any universal life insurance policies with secondary guarantees issued or assumed by the domestic company with an issue date on or after the operative date of the valuation manual do not exceed 5% of the total in–force reserves for the domestic company**] THE COMPANY MEETS THE LIFE PRINCIPLE–BASED RESERVES EXEMPTION CRITERIA IN THE VALUATION MANUAL**.

(d) For purposes of subsection (c) of this section, ordinary life premiums are measured as direct premium plus reinsurance assumed from an unaffiliated company, as reported in the annual statement for the prior calendar year.

(e) (1) A domestic company that meets the requirements of subsection (c) of this section shall:

(i) compute reserves:

1. using assumptions and methods used before the operative date of the valuation manual; and

2. in accordance with any requirements established by the Commissioner in regulation; and

(ii) file, before July 1 of each year, a statement with the Commissioner certifying that the domestic company meets the requirements of subsection (c) of this section for the current calendar year based on premiums and other values from the financial statements for the prior calendar year.

(2) Before September 1 of each year, the Commissioner may reject a statement filed under paragraph (1)(ii) of this subsection and require a domestic company to comply with the valuation manual requirements for life insurance reserves.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 650 – *Energy Storage Pilot Project Act*.

This bill requires the Public Service Commission to establish an Energy Storage Pilot Program by a certain date; and that certain program implementation and evaluation steps must be met within certain timeframes.

This bill also requires the Public Service Commission to evaluate the program and submit both interim and final reports to the General Assembly by certain dates. Additionally, the bill clarifies that the pilot program may not preclude any other investment by a public service company in energy storage, and that the termination of the pilot program may not affect the cost recovery by an investor–owned electric company for the lifetime of an energy storage project.

Senate Bill 573, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 650.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 650

AN ACT concerning

Energy Storage Pilot Project Act

FOR the purpose of requiring the Public Service Commission to establish an energy storage pilot program; providing for the structure and operation of the program; requiring the Commission to require each investor–owned electric company to solicit offers to develop energy storage projects for certain commercial and regulatory models; requiring each investor–owned electric company to submit ~~an application~~ applications for projects from a certain number of models; establishing that a proposed project must be able to meet reasonably the program's timelines and data collection requirements; requiring an investor–owned electric company to prioritize projects that defer or replace certain needs under certain circumstances; requiring an investor–owned electric company to describe in a project application whether a project demonstrates certain attributes; requiring an investor–owned electric company to include certain information in a project application; authorizing the Commission, for a certain purpose, to determine how to address cost recovery for certain models; authorizing the Commission, for a certain purpose, to allow certain program activity on a project–by–project basis; providing for the beginning and termination of the pilot program; requiring an investor–owned electric company to solicit proposals and apply for Commission approval of certain projects on or before certain dates; requiring the Commission to make a certain determination on or before a certain date; requiring the Commission to solicit comments from certain stakeholders and hold a hearing on certain applications; requiring the Commission to approve, approve with modification, or reject a certain application; requiring an investor–owned electric company to submit a certain amended application within a certain time period; requiring the Commission to approve, approve with modifications, or reject a certain amended application within a certain period of time; authorizing the Commission to establish certain interim deadlines; requiring an

investor–owned electric company to submit certain information or data on or before ~~a certain date;~~ certain dates; requiring an investor–owned electric company to make certain data available to the public; requiring certain data to be seasonally adjusted; ~~authorizing an investor–owned electric company, under certain circumstances, to apply for an extension of the pilot program on or before a certain date;~~ requiring the Commission to determine which data related to the projects may be made available only to certain persons and which data related to the projects may be made available to the public; authorizing the Commission to extend the pilot program and delay by a corresponding amount of time a certain evaluation and report under certain circumstances; requiring the Commission to submit a certain interim report to the General Assembly on or before a certain date; requiring the Commission to evaluate certain matters and report certain findings and recommendations to the General Assembly on or before a certain date under certain circumstances; establishing that the pilot program does not preclude any other investments in energy storage by a public service company; providing that the termination of the pilot program does not affect certain cost recovery by an investor–owned electric company; defining certain terms; and generally relating to pilot energy storage projects.

BY adding to
Article – Public Utilities
Section 7–216
Annotated Code of Maryland
(2010 Replacement Volume and 2018 Supplement)

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

Article – Public Utilities

7–216.

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

(2) (I) "ENERGY STORAGE DEVICE" MEANS A RESOURCE CAPABLE OF ABSORBING ELECTRICAL ENERGY, STORING IT FOR A PERIOD OF TIME, AND ~~DISPATCHING~~ DELIVERING THE ENERGY FOR USE AT A LATER TIME AS NEEDED, REGARDLESS OF WHERE THE RESOURCE IS LOCATED ON THE ELECTRIC DISTRIBUTION SYSTEM.

(II) "ENERGY STORAGE DEVICE" INCLUDES ALL TYPES OF ELECTRIC STORAGE TECHNOLOGIES, REGARDLESS OF THEIR SIZE, STORAGE MEDIUM, OR OPERATIONAL PURPOSE.

(3) "INVESTOR–OWNED ELECTRIC COMPANY" MEANS AN ELECTRIC COMPANY THAT IS NOT A MUNICIPAL ELECTRIC UTILITY OR AN ELECTRIC COOPERATIVE.

(B) (1) THE COMMISSION SHALL ESTABLISH AN ENERGY STORAGE PILOT PROGRAM.

(2) THE CUMULATIVE SIZE OF THE PILOT PROJECTS UNDER THE PROGRAM SHALL BE BETWEEN 5 AND 10 MEGAWATTS, WITH A MINIMUM OF 15 MEGAWATT–HOURS.

(C) THE COMMISSION SHALL REQUIRE EACH INVESTOR–OWNED ELECTRIC COMPANY TO SOLICIT OFFERS TO DEVELOP ENERGY STORAGE PROJECTS FOR EACH OF THE FOLLOWING COMMERCIAL AND REGULATORY MODELS:

(1) A "UTILITY–ONLY" MODEL UNDER WHICH THE ELECTRIC COMPANY WOULD OWN THE PROJECT, CONTROL THE PROJECT FOR GRID RELIABILITY, AND OPERATE THE PROJECT IN WHOLESALE MARKETS OR OTHER APPLICATIONS WHEN NOT PROVIDING GRID SERVICES;

(2) A "UTILITY AND THIRD–PARTY" MODEL UNDER WHICH THE ELECTRIC COMPANY WOULD OWN THE PROJECT AND CONTROL THE PROJECT FOR GRID RELIABILITY, AND A THIRD PARTY WOULD OPERATE THE PROJECT IN WHOLESALE MARKETS OR OTHER APPLICATIONS WHEN THE PROJECT IS NOT PROVIDING GRID SERVICES;

(3) A "THIRD–PARTY OWNERSHIP" MODEL UNDER WHICH THE ELECTRIC COMPANY WOULD:

(I) CONTRACT WITH A PROJECT OWNED BY A THIRD PARTY FOR GRID RELIABILITY; AND

(II) ALLOW THE THIRD PARTY TO OPERATE THE PROJECT IN WHOLESALE MARKETS OR OTHER APPLICATIONS WHEN THE PROJECT IS NOT PROVIDING GRID SERVICES; AND

(4) A "VIRTUAL POWER PLANT" MODEL UNDER WHICH:

(I) THE ELECTRIC COMPANY WOULD AGGREGATE OR USE A THIRD–PARTY AGGREGATOR TO RECEIVE GRID SERVICES FROM DISTRIBUTED ENERGY STORAGE PROJECTS OWNED BY CUSTOMERS OR A THIRD PARTY; AND

(II) THE PROJECTS WOULD BE USED BY THE CUSTOMERS OR THIRD PARTY FOR OTHER APPLICATIONS WHEN THE PROJECTS ARE NOT PROVIDING GRID SERVICES.

(D) (1) EACH INVESTOR–OWNED ELECTRIC COMPANY SHALL SUBMIT ~~AN APPLICATION~~ APPLICATIONS FOR COMMISSION APPROVAL TO DEPLOY ENERGY STORAGE PROJECTS FROM AT LEAST TWO OF THE MODELS DESCRIBED UNDER SUBSECTION (C) OF THIS SECTION, ONE OF WHICH MUST BE FROM A MODEL DESCRIBED IN SUBSECTION (C)(3) OR (4) OF THIS SECTION.

(2) A PROPOSED PROJECT MUST BE ABLE TO MEET REASONABLY THE PROGRAM'S TIMELINES AND DATA COLLECTION REQUIREMENTS.

(3) AN INVESTOR–OWNED ELECTRIC COMPANY SHALL GIVE PRIORITY TO PROJECTS THAT DIRECTLY DEFER OR REPLACE AN EXISTING OR ANTICIPATED DISTRIBUTION NEED.

(4) AN INVESTOR–OWNED ELECTRIC COMPANY MAY PROPOSE A PROJECT THAT DOES NOT DIRECTLY DEFER OR REPLACE AN EXISTING OR ANTICIPATED DISTRIBUTION NEED IF THE PROJECT INCLUDES GRID BENEFITS, RATEPAYER BENEFITS, OR OTHERWISE HELPS MEET THE STATE'S POLICY GOALS.

(5) AN INVESTOR–OWNED ELECTRIC COMPANY SHALL DESCRIBE IN THE COMPANY'S APPLICATION WHETHER A PROJECT DEMONSTRATES AN OPPORTUNITY TO REDUCE SYSTEM COSTS ~~OR OTHERWISE OFFERS NET SOCIETAL BENEFITS~~.

(E) AN APPLICATION UNDER SUBSECTION (D) OF THIS SECTION SHALL INCLUDE INFORMATION CONCERNING:

(1) BEST ESTIMATES OF COSTS AND SAVINGS FOR ~~EACH~~ THE PROJECT, INCLUDING:

(I) ESTIMATED PERMITTING AND INTERCONNECTION COSTS;

(II) AN APPROXIMATION OF THE POTENTIAL BENEFITS, INCLUDING COST SAVINGS;

(III) AN ESTIMATE OF FUNDS EXPECTED TO BE RECEIVED FROM WHOLESALE MARKET TRANSACTIONS;

(IV) AN ESTIMATE OF THE VALUE OF ANY DISTRIBUTION INVESTMENT DEFERRAL OR REPLACEMENT DUE TO THE PROJECT, SUCH AS THE

PRESENT VALUE OF THE COSTS AVOIDED BY INSTALLING THE STORAGE SYSTEM; ~~AND~~

(V) ESTIMATES OF OTHER SOCIETAL BENEFITS ACHIEVED BY THE PROJECT, SUCH AS INCREMENTAL RELIABILITY AND RESILIENCY, GREENHOUSE GAS EMISSION REDUCTIONS, AND LEARNING BENEFITS; AND

(VI) THE ESTIMATED IMPACT OF EACH PROJECT ON THE INVESTOR–OWNED ELECTRIC COMPANY'S RATES FOR EACH CLASS OF CUSTOMER;

(2) PROJECT LOCATION;

(3) PROJECT SIZE IN WATTS AND DURATION IN WATT–HOURS;

(4) PRIMARY AND SECONDARY APPLICATIONS;

(5) THE BUSINESS MODEL SELECTED FOR THE PROJECT UNDER SUBSECTION (C) OF THIS SECTION;

(6) THE PROJECT DEVELOPER OR ENGINEERING, PROCUREMENT, AND CONSTRUCTION FIRM SELECTED FOR THE PROJECT;

(7) THE TYPE OF ENERGY STORAGE TECHNOLOGY;

(8) THE PROCESS THE INVESTOR–OWNED ELECTRIC COMPANY USED TO SOLICIT OFFERS FOR THE PROJECT, INCLUDING FEEDBACK ON MODELS NOT SELECTED AND AN EXPLANATION FOR WHY THE CHOSEN MODEL WAS SELECTED; AND

(9) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

(F) FOR PURPOSES OF THE PILOT PROGRAM ONLY, THE COMMISSION MAY DETERMINE HOW TO ADDRESS COST RECOVERY FOR THE MODELS DESCRIBED UNDER SUBSECTION (C)(3) AND (4) OF THIS SECTION.

(G) FOR PURPOSES OF THE PILOT PROGRAM ONLY, THE COMMISSION MAY, ON A PROJECT–BY–PROJECT BASIS, ALLOW:

(1) AN INVESTOR–OWNED ELECTRIC COMPANY TO OWN OR OPERATE AN ENERGY STORAGE DEVICE;

(2) AN ENERGY STORAGE DEVICE OWNED OR OPERATED BY AN INVESTOR–OWNED ELECTRIC COMPANY TO PARTICIPATE IN ALL AVAILABLE PJM

WHOLESALE REVENUE MARKETS IN ORDER TO REALIZE BENEFITS FOR INVESTOR–OWNED ELECTRIC COMPANY CUSTOMERS;

(3) FULL AND TIMELY COST RECOVERY BY THE INVESTOR–OWNED ELECTRIC COMPANY, AT THE RATE OF RETURN AUTHORIZED BY THE COMMISSION IN THE MOST RECENT BASE RATE PROCEEDING FOR THE INVESTOR–OWNED ELECTRIC COMPANY, TAKING INTO ACCOUNT ANY USE OF AN ASSET THAT MAY NOT BE INCLUDED IN BASE RATES;

(4) AN INVESTOR–OWNED ELECTRIC COMPANY TO COORDINATE THE USE OF AN ENERGY STORAGE DEVICE;

(5) AN INVESTOR–OWNED ELECTRIC COMPANY TO USE FULLY UNTIL THE END OF THE DEVICE'S USEFUL LIFE, AN ENERGY STORAGE DEVICE OWNED OR OPERATED BY THE INVESTOR–OWNED ELECTRIC COMPANY; AND

(6) AN INVESTOR–OWNED ELECTRIC COMPANY TO OFFER REBATES OR OTHER INCENTIVES FOR ENERGY STORAGE DEVICES BEHIND OR IN FRONT OF THE METER THAT CAN BE CONFIGURED TO PROVIDE TEMPORARY BACKUP POWER TO A CUSTOMER.

(H) (1) THE PILOT PROGRAM SHALL BEGIN ON OR BEFORE ~~FEBRUARY 28, 2020~~ JUNE 1, 2019.

(2) (I) ON OR BEFORE ~~FEBRUARY 28, 2021:~~

~~(I)~~ APRIL 15, 2020, EACH INVESTOR–OWNED ELECTRIC COMPANY SHALL SOLICIT PROPOSALS AND APPLY FOR COMMISSION APPROVAL~~;~~ FOR THE FIRST ENERGY STORAGE PROJECT REQUIRED UNDER SUBSECTION (D)(1) OF THIS SECTION.

(II) ON OR BEFORE SEPTEMBER 15, 2020, EACH INVESTOR–OWNED ELECTRIC COMPANY SHALL SOLICIT PROPOSALS AND APPLY FOR COMMISSION APPROVAL FOR THE SECOND ENERGY STORAGE PROJECT REQUIRED UNDER SUBSECTION (D)(1) OF THIS SECTION.

~~(II)~~ (3) ON OR BEFORE APRIL 15, 2021:

(I) THE COMMISSION SHALL DETERMINE WHICH PROJECTS TO APPROVE; AND

~~(III)~~ (II) EACH INVESTOR–OWNED ELECTRIC COMPANY SHALL NEGOTIATE CONTRACTS TO IMPLEMENT PROJECTS.

(4) (I) THE COMMISSION SHALL SOLICIT COMMENTS FROM THE MARYLAND ENERGY ADMINISTRATION, THE OFFICE OF PEOPLE'S COUNSEL, AND OTHER STAKEHOLDERS AND HOLD A HEARING ON EACH APPLICATION SUBMITTED UNDER SUBSECTION (D) OF THIS SECTION.

(II) THE COMMISSION SHALL APPROVE, APPROVE WITH MODIFICATIONS, OR REJECT AN APPLICATION SUBMITTED UNDER SUBSECTION (D) OF THIS SECTION AFTER:

1. RECEIVING COMMENTS FROM THE MARYLAND ENERGY ADMINISTRATION, THE OFFICE OF PEOPLE'S COUNSEL, AND OTHER STAKEHOLDERS AND HOLDING A HEARING;

2. CONSIDERING THE PROJECTED COSTS AND BENEFITS OF THE PROJECTS PROPOSED FOR INCLUSION IN THE PILOT PROGRAM; AND

3. DETERMINING WHETHER THE PROJECT IS IN THE PUBLIC AND RATEPAYER INTEREST.

(5) (I) IF THE COMMISSION REJECTS AN APPLICATION, WITHIN 3 MONTHS AFTER RECEIVING NOTICE OF THE REJECTION OF AN APPLICATION, THE INVESTOR–OWNED ELECTRIC COMPANY SHALL SUBMIT AN AMENDED APPLICATION FOR COMMISSION APPROVAL.

(II) THE COMMISSION SHALL APPROVE, APPROVE WITH MODIFICATIONS, OR REJECT AN AMENDED APPLICATION WITHIN 3 MONTHS AFTER RECEIPT OF THE AMENDED APPLICATION.

~~(3)~~ **(6) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ON OR BEFORE FEBRUARY 28, 2022, ALL APPROVED PROJECTS SHALL BECOME OPERATIONAL.**

(II) THE COMMISSION MAY, FOR GOOD CAUSE SHOWN, GRANT AN EXTENSION FROM THE DEADLINE ESTABLISHED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR UNANTICIPATED PROJECT DEVELOPMENT DELAYS.

(III) THE COMMISSION MAY ESTABLISH ADDITIONAL INTERIM DEADLINES.

~~(4)~~ **(7) (I) ON OR BEFORE ~~FEBRUARY 28, 2023,~~ JULY 1 OF 2023, 2024, AND 2025, AN INVESTOR–OWNED ELECTRIC COMPANY SHALL SUBMIT TO THE COMMISSION, THE MARYLAND ENERGY ADMINISTRATION, AND THE OFFICE OF PEOPLE'S COUNSEL INFORMATION OR DATA CONCERNING:**

1. ESTIMATED PROJECT COSTS;

2. FINAL PROJECT COSTS;

3. THE NUMBER OF DAYS NECESSARY TO ACHIEVE PROJECT INTERCONNECTION;

4. THE TOTAL COST OF PROJECT INTERCONNECTION;

5. THE NUMBER OF DAYS NECESSARY TO ACHIEVE PROJECT PERMITTING;

6. THE TOTAL COST OF PROJECT PERMITTING;

7. THE CONTRACTUAL OR COMMITTED COMMERCIAL OPERATION DATE;

8. THE ACTUAL COMMERCIAL OPERATION DATE;

9. THE NAME AND ADDRESS OF THE PROJECT DEVELOPER;

10. THE LOCATION AND ADDRESS OF THE PROJECT;

11. THE SIZE OF THE ENERGY STORAGE PROJECT IN WATTS;

12. THE DURATION OF THE ENERGY STORAGE PROJECT IN WATT–HOURS;

13. THE TYPE OF ENERGY STORAGE TECHNOLOGY;

14. THE IDENTITIES OF ANY PROJECT OWNERS OR LESSORS;

15. ANY PROJECT FINANCING METHODS;

16. THE IDENTITY OF ANY ENTITY THAT PROVIDES FINANCING FOR THE PROJECT;

17. THE LENGTH OF ANY PROJECT CONTRACT;

18. ANY INVERTERS USED FOR THE PROJECT, INCLUDING THE TYPE AND MANUFACTURER;

19. ANY MANUFACTURER WARRANTY, INCLUDING ITS DURATION;

20. ANY DEVELOPER WARRANTY, INCLUDING ITS DURATION;

21. ANY TECHNOLOGY WITH WHICH THE PROJECT IS PAIRED;

22. HOW METERS AND INVERTERS ASSOCIATED WITH THE PROJECT ARE CONFIGURED;

23. ANY SYSTEM INTEGRATOR ASSOCIATED WITH THE PROJECT;

24. PROJECT SAFETY, INCLUDING BATTERY TYPE AND CHEMISTRY;

25. ANY ENERGY MANAGEMENT SYSTEM ASSOCIATED WITH THE PROJECT;

26. ANY ENERGY STORAGE POWER CONVERSION SYSTEM ASSOCIATED WITH THE PROJECT;

27. THE BUSINESS MODEL SELECTED FOR THE PROJECT UNDER SUBSECTION (C) OF THIS SECTION;

28. THE COST RECOVERY MECHANISM FOR THE PROJECT;

29. THE RATE OF RETURN APPLIED TO THE PROJECT;

30. FOR A VIRTUAL POWER PLANT PROJECT UNDER SUBSECTION (C)(4) OF THIS SECTION, THE NUMBER AND TYPE OF CUSTOMERS PARTICIPATING;

31. FOR A VIRTUAL POWER PLANT PROJECT UNDER SUBSECTION (C)(4) OF THIS SECTION, THE IDENTITY OF THE AGGREGATOR;

32. OPERATIONAL CHALLENGES RELATED TO MULTIPLE STAKEHOLDER OR THIRD–PARTY USE OF THE STORAGE ASSET;

33. THE TYPES OF REVENUE EXPECTED FROM THE PROJECT, INCLUDING ANY WHOLESALE MARKET REVENUES;

34. THE TYPES OF REVENUE PROVIDED BY THE PROJECT, INCLUDING ANY WHOLESALE MARKET REVENUES;

35. THE DISTRIBUTION NEED THE PROJECT ADDRESSED;

36. THE AMOUNT OF TIME THE PROJECT IS EXPECTED TO DEFER THE NEED FOR AN ALTERNATIVE INVESTMENT;

37. ANY VALUE OF OPTIONALITY ASSOCIATED WITH THE AMOUNT OF TIME THE PROJECT IS EXPECTED TO DEFER THE NEED FOR AN ALTERNATIVE INVESTMENT;

38. THE EXPECTED LOAD PROJECTION BEFORE THE PROJECT WAS INSTALLED;

39. ENHANCED GRID RELIABILITY AS A RESULT OF THE PROJECT;

40. FOR A UTILITY AND THIRD–PARTY PROJECT UNDER SUBSECTION (C)(2) OF THIS SECTION, THE DOLLAR VALUE OF THE LEASE PAYMENTS FROM THE THIRD PARTY TO THE UTILITY;

41. FOR A UTILITY AND THIRD–PARTY PROJECT UNDER SUBSECTION (C)(2) OF THIS SECTION, THE DURATION OF THE LEASE AGREEMENT BETWEEN THE THIRD PARTY AND THE UTILITY;

42. ANY OTHER IDENTIFIED BENEFITS, INCLUDING RESILIENCY AND SOCIAL BENEFITS;

43. EXPECTED AND ACTUAL STORAGE SYSTEM CYCLING;

44. THE PROJECT'S SUCCESS IN SWITCHING BETWEEN APPLICATIONS WITHOUT CHALLENGES OR PROBLEMS;

45. OCCASIONS WHEN THE PROJECT WAS UNABLE TO SERVE AN APPLICATION;

46. ANY PROJECT DELAYS AND THE CAUSES FOR THE DELAYS;

47. ANY EMISSIONS REDUCTIONS EXPECTED AS A RESULT OF THE PROJECT; AND

48. ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

(II) ~~AN~~ SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, AN INVESTOR–OWNED ELECTRIC COMPANY SHALL MAKE ALL DATA PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT IS NOT PROPRIETARY OR CONFIDENTIAL AVAILABLE TO THE PUBLIC.

(III) TO THE EXTENT POSSIBLE, ANY ANNUALIZED DATA PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE SEASONALLY ADJUSTED.

(IV) AFTER RECEIVING COMMENTS FROM ALL PARTIES, THE COMMISSION SHALL DETERMINE:

1. WHICH DATA RELATED TO THE PROJECTS SHALL BE MADE AVAILABLE ONLY TO THE TECHNICAL STAFF OF THE COMMISSION AND THE OFFICE OF PEOPLE'S COUNSEL; AND

2. WHICH DATA RELATED TO THE PROJECTS SHALL BE MADE AVAILABLE TO THE PUBLIC.

(I) ON OR BEFORE APRIL 1, ~~2023~~ 2026, IF AN INVESTOR–OWNED ELECTRIC COMPANY DETERMINES THAT ADDITIONAL TIME TO GATHER DATA WOULD PROVIDE ADDITIONAL OPPORTUNITIES FOR LEARNING AND JUSTIFY CONTINUING THE PILOT ~~PROGRAM, THE ELECTRIC COMPANY MAY APPLY FOR AN EXTENSION OF THE PILOT PROGRAM FROM THE COMMISSION.~~ PROGRAM, THE COMMISSION MAY EXTEND THE PILOT PROGRAM AND DELAY BY A CORRESPONDING AMOUNT OF TIME THE EVALUATION AND REPORT REQUIRED UNDER SUBSECTION (K) OF THIS SECTION.

(J) ~~ON OR BEFORE DECEMBER 31, 2023,~~ ON OR BEFORE JULY 1, 2024, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE COMMISSION SHALL SUBMIT AN INTERIM REPORT TO THE GENERAL ASSEMBLY THAT PROVIDES AN INITIAL EVALUATION OF THE PROJECTS APPROVED UNDER THIS SECTION BASED ON:

(1) PROJECT COSTS;

(2) VALUE STREAMS;

(3) ANY REDUCTION IN SYSTEM COSTS;

(4) ANY ISSUES ENCOUNTERED IN THE EARLY IMPLEMENTATION PHASE; AND

(5) AN ANALYSIS OF ANY FUNDS GENERATED FROM THE WHOLE MARKET.

(K) (1) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, ON OR BEFORE JULY 1, 2026, IN CONSULTATION WITH THE MARYLAND ENERGY ADMINISTRATION AND THE OFFICE OF PEOPLE'S COUNSEL, THE COMMISSION SHALL EVALUATE THE PROJECTS APPROVED UNDER THIS SECTION BASED ON:

~~(1)~~ (I) THE OVERALL COST OF THE PROJECT;

~~(2)~~ (II) WHETHER THE PROJECT WAS OPTIMIZED THROUGH MULTIPLE APPLICATIONS;

~~(3)~~ (III) WHETHER THE PROJECT MANAGED TO CAPTURE DIFFERENT VALUE STREAMS;

~~(4)~~ (IV) WHETHER THE PROJECT REDUCED SYSTEM COSTS;

~~(5)~~ (V) WHETHER THE PROJECT DEFERRED OR REPLACED ENTIRELY A TRADITIONAL INVESTMENT ON THE DISTRIBUTION SYSTEM, AND ANY VALUE OF SUCH A DEFERRAL OR REPLACEMENT;

~~(6)~~ (VI) AN ANALYSIS OF ANY FUNDS GENERATED FROM THE WHOLESALE MARKET;

~~(7)~~ (VII) OTHER BENEFITS PROVIDED AS A RESULT OF THE PROJECT;

~~(8)~~ (VIII) ISSUES THAT THE PROJECT ENCOUNTERED IN IMPLEMENTATION; AND

~~(9)~~ (IX) WHETHER THE PROJECT ALTERED THE QUALITY OR AVAILABILITY OF ELECTRICITY SUPPLY.

~~(K)~~ (2) ON OR BEFORE DECEMBER 31, ~~2023~~ 2026, THE COMMISSION SHALL REPORT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON ITS FINDINGS UNDER ~~SUBSECTION (J) OF THIS SECTION~~ PARAGRAPH (1) OF THIS SUBSECTION AND ITS RECOMMENDATIONS FOR THE CONTINUED DEVELOPMENT OF ENERGY STORAGE IN THE STATE.

(L) THE PILOT PROGRAM MAY NOT PRECLUDE ANY OTHER INVESTMENT BY A PUBLIC SERVICE COMPANY IN ENERGY STORAGE.

(M) (1) UNLESS THE COMMISSION EXTENDS THE PILOT PROGRAM IN ACCORDANCE WITH SUBSECTION (I) OF THIS SECTION, THE PILOT PROGRAM SHALL TERMINATE ON DECEMBER 31, 2026.

(2) THE TERMINATION OF THE PILOT PROGRAM MAY NOT AFFECT THE COST RECOVERY BY AN INVESTOR–OWNED ELECTRIC COMPANY FOR THE LIFETIME OF AN ENERGY STORAGE PROJECT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 689 – *Public Utilities – Electricity and Natural Gas Suppliers – Information*.

This bill requires the Public Service Commission to establish residential customer choice shopping websites for electricity and natural gas, each of which must include specified related information and links to other resources; and add to specified educational information related to electric customer choice on its website. This bill also contains implementation and reporting deadlines and requirements.

Senate Bill 517, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 689.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 689

AN ACT concerning

~~**Electricity – Customer Choice – Education**~~

Public Utilities – Electricity and Natural Gas Suppliers – Information

FOR the purpose of requiring the Public Service Commission to establish ~~a~~ certain customer choice ~~website~~ websites for electric and natural gas customers; specifying the contents of ~~the website~~ certain websites; requiring the Commission to use certain information to maintain the information on ~~the website~~ certain websites; requiring the Commission to include certain information on a certain customer education webpage; requiring each electricity or natural gas supplier that is actively seeking customers in a service territory in the State to maintain at least one open offer on the Commission's website at all times; requiring the Commission to recover certain costs in accordance with a certain provision of law; stating the intent of the General Assembly; requiring the Commission to include certain information in certain reports to the General Assembly and certain committees; encouraging the Commission to review and consult with certain entities for certain purposes; making stylistic changes; and generally relating to the Public Service Commission and ~~electric customer choice~~ *electricity and natural gas supplier information*.

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 7–501(a), (e), and (f)
Annotated Code of Maryland
(2010 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7–510.1
Annotated Code of Maryland
(2010 Replacement Volume and 2018 Supplement)

BY adding to
Article – Public Utilities
Section 7–510.2 and 7–604.1
Annotated Code of Maryland
(2010 Replacement Volume and 2018 Supplement)

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

Article – Public Utilities

7–501.

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

(e) "Consumer" and "customer" each means a retail electric customer.

(f) "Customer choice" means the right of electricity suppliers and customers to utilize and interconnect with the electric distribution system on a nondiscriminatory basis at rates, terms, and conditions of service comparable to the electric company's own use of the system to distribute electricity from an electricity supplier to a customer, under which a customer has the opportunity to purchase electricity from the customer's choice of licensed electricity suppliers.

7–510.1.

(a) The Commission shall educate customers about customer choice in accordance with this section.

(b) (1) The Commission shall:

(i) host and regularly update a user–friendly customer choice education section on its **[**Web site**]** **WEBSITE** that complies with standards issued under § 508 of the federal Rehabilitation Act of 1973; and

(ii) prominently display a link to that section of the Commission's **[**Web site**]** **WEBSITE** on the home page of the Commission's **[**Web site**]** **WEBSITE**.

(2) The customer choice education section of the Commission's **[**Web site**]** **WEBSITE** shall include:

(i) a clear and simple description of:

1. customer choice;

2. how customers can shop for an electricity supplier;

3. what kinds of competitive electricity supply options customers have, including:

A. renewable energy supply;

B. fixed and variable pricing; and

C. other common contract terms;

4. the current price of standard offer service in the service territory of each electric company; and

5. the continuing role of the electric company in delivering electricity to a customer that chooses an electricity supplier;

(ii) fact sheets that:

1. answer common questions about customer choice;

2. advise customers about the questions customers should ask when choosing an electricity supplier; **[**and**]**

3. list the kinds of disclosures that electricity suppliers must make to customers;

4. DESCRIBE COMMON ISSUES ABOUT CONTRACTS FOR ELECTRICITY SUPPLY AND AVAILABLE OPTIONS; AND

5. DESCRIBE CONSUMER RIGHTS AND PROTECTIONS THAT ARE AVAILABLE AND THE MEANS OF MAKING USE OF THEM;

(iii) a list of all electricity suppliers that have open offers to supply electricity in a customer's service area, searchable by service territory or jurisdiction; **[**and**]**

(iv) a statement indicating that customers who have entered into a contract with a competitive electricity supplier for electricity supply should be aware of the ending date of the contract so that they may determine, before being placed into a renewal contract with the current electricity supplier, whether they would like to:

1. shop for an alternative electricity supplier;

2. renew with the current electricity supplier; or

3. return to the standard offer service which may be offered at a price that is less than the renewal price offered by the current electricity supplier**; AND**

(V) A LINK TO THE CUSTOMER CHOICE SHOPPING ~~WEBSITE~~ WEBSITES ESTABLISHED UNDER § 7–510.2 OF THIS SUBTITLE AND § 7–604.1 OF THIS TITLE.

(3) To the extent practicable, the list of electricity suppliers required under paragraph (2)(iii) of this subsection shall include:

(i) the terms of any open offers to supply electricity, including:

1. the duration of the contract;

2. the cost of electricity per kilowatt–hour; and

3. any cancellation fees; and

(ii) a link to the **[**Web site**]** **WEBSITE** of each electricity supplier with an open offer to supply electricity.

(c) (1) To ensure the currency and accuracy of information required under subsection (b)(2)(iii) of this section, the Commission shall maintain a secure portal on its **[**Web site**]** **WEBSITE** to receive information about offers to supply electricity from electricity suppliers.

(2) **EACH ELECTRICITY SUPPLIER THAT IS ACTIVELY SEEKING RESIDENTIAL CUSTOMERS IN A SERVICE TERRITORY IN THE STATE SHALL MAINTAIN AT LEAST ONE OPEN OFFER TO SUPPLY ELECTRICITY TO RESIDENTIAL CUSTOMERS ON THE COMMISSION'S WEBSITE AT ALL TIMES.**

(3) At least once each month, each electricity supplier with an open offer to supply electricity shall submit detailed information about the offer to the Commission through a secure portal maintained by the Commission on the Commission's **[**Web site**]** **WEBSITE** for this purpose.

(d) The Commission shall work with media outlets in the State to develop and air public service announcements publicizing customer choice and directing customers to the Commission's **[**Web site**]** **WEBSITE** for additional information.

(e) The Commission shall recover the cost of complying with this section in accordance with § 2–110 of this article.

(f) On or before December 31 of each year, the Commission shall report, in accordance with § 2–1246 of the State Government Article, to the General Assembly on the status and success of the Commission's efforts to educate customers about customer choice under this section.

7–510.2.

(A) THE COMMISSION SHALL ESTABLISH A CUSTOMER CHOICE SHOPPING WEBSITE THAT ALLOWS A CUSTOMER TO:

~~(1)~~ SORT ELECTRICITY SUPPLIERS THAT HAVE OPEN OFFERS TO SUPPLY ELECTRICITY TO RESIDENTIAL CUSTOMERS IN THE CUSTOMER'S SERVICE AREA~~; AND~~

~~(2) INITIATE THE TRANSITION FROM ONE ELECTRICITY SUPPLIER TO ANOTHER ELECTRICITY SUPPLIER~~.

(B) THE WEBSITE SHALL INCLUDE:

(1) A LIST OF ALL ELECTRICITY SUPPLIERS THAT HAVE OPEN OFFERS TO SUPPLY ELECTRICITY TO RESIDENTIAL CUSTOMERS IN A CUSTOMER'S SERVICE AREA, SORTABLE BY:

(I) COST OF SERVICE;

(II) COST OF ELECTRICITY PER KILOWATT–HOUR;

(III) RATE STRUCTURE;

(IV) DURATION OF THE CONTRACT;

(V) CANCELLATION FEE; AND

(VI) ANY OTHER ASPECT OF SERVICE THAT THE COMMISSION CONSIDERS NECESSARY;

(2) A WAY TO COMPARE ELECTRICITY SUPPLIERS BASED ON THE SORTABLE ITEMS SPECIFIED UNDER ITEM (1) OF THIS SUBSECTION;

(3) A LINK TO THE WEBSITE OF EACH ELECTRICITY SUPPLIER WITH AN OPEN OFFER TO SUPPLY ELECTRICITY TO RESIDENTIAL CUSTOMERS;

(4) A LINK TO THE CUSTOMER EDUCATION WEBPAGE ESTABLISHED UNDER § 7–510.1 OF THIS SUBTITLE;

~~**(5) A WAY FOR A CUSTOMER TO INITIATE THE TRANSITION FROM THE CUSTOMER'S CURRENT ELECTRICITY SUPPLIER TO ANOTHER ELECTRICITY SUPPLIER;**~~

~~**(6)**~~ **(5) A LINK TO** ~~**AN INFORMAL**~~ **A COMPLAINT PROCESS THAT PROVIDES ACCESS FOR THE CUSTOMER TO PROTECT THE CUSTOMER'S RIGHTS AND MAKE USE OF CONSUMER PROTECTIONS THROUGH THE COMMISSION; AND**

~~**(7)**~~ **(6) FACT SHEETS ON THE PROCESS FOR:**

~~**(I)**~~ **COMPARING OFFERS FROM ELECTRICITY SUPPLIERS ON THE WEBSITE, INCLUDING RELEVANT CONTRACT TERMS, REQUIREMENTS, LIMITATIONS, AND FEES~~**; AND**~~

~~**(II) EMPLOYING THE WEBSITE TO TRANSITION FROM THE CUSTOMER'S CURRENT ELECTRICITY SUPPLIER TO ANOTHER ELECTRICITY SUPPLIER**~~**.**

(C) THE COMMISSION SHALL USE THE INFORMATION RECEIVED FROM AN ELECTRICITY SUPPLIER UNDER § 7–510.1 OF THIS SUBTITLE TO MAINTAIN THE INFORMATION ON THE WEBSITE.

(D) THE COMMISSION SHALL RECOVER THE COST OF COMPLYING WITH THIS SECTION IN ACCORDANCE WITH § 2–110 OF THIS ARTICLE.

7–604.1.

(A) THE COMMISSION SHALL ESTABLISH A CUSTOMER CHOICE SHOPPING WEBSITE THAT ALLOWS A CUSTOMER TO SORT NATURAL GAS SUPPLIERS THAT HAVE OPEN OFFERS TO SUPPLY NATURAL GAS TO RESIDENTIAL CUSTOMERS IN THE CUSTOMER'S SERVICE AREA.

(B) THE WEBSITE SHALL INCLUDE:

(1) A LIST OF ALL NATURAL GAS SUPPLIERS THAT HAVE OPEN OFFERS TO SUPPLY NATURAL GAS TO RESIDENTIAL CUSTOMERS IN A CUSTOMER'S SERVICE AREA, SORTABLE BY:

(I) COST OF SERVICE;

(II) COST OF NATURAL GAS PER THERM;

(III) RATE STRUCTURE;

(IV) DURATION OF THE CONTRACT;

(V) CANCELLATION FEE; AND

(VI) ANY OTHER ASPECT OF SERVICE THAT THE COMMISSION CONSIDERS NECESSARY;

(2) A WAY TO COMPARE NATURAL GAS SUPPLIERS BASED ON THE SORTABLE ITEMS SPECIFIED UNDER ITEM (1) OF THIS SUBSECTION;

(3) A LINK TO THE WEBSITE OF EACH NATURAL GAS SUPPLIER WITH AN OPEN OFFER TO SUPPLY NATURAL GAS TO RESIDENTIAL CUSTOMERS;

(4) A LINK TO A COMPLAINT PROCESS THAT PROVIDES ACCESS FOR THE CUSTOMER TO PROTECT THE CUSTOMER'S RIGHTS AND MAKE USE OF CONSUMER PROTECTIONS THROUGH THE COMMISSION; AND

(5) FACT SHEETS ON THE PROCESS FOR COMPARING OFFERS FROM NATURAL GAS SUPPLIERS ON THE WEBSITE, INCLUDING RELEVANT CONTRACT TERMS, REQUIREMENTS, LIMITATIONS, AND FEES.

(C) (1) TO ENSURE THE CURRENCY AND ACCURACY OF INFORMATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL MAINTAIN A SECURE PORTAL ON ITS WEBSITE TO RECEIVE INFORMATION ABOUT OFFERS TO SUPPLY NATURAL GAS FROM NATURAL GAS SUPPLIERS.

(2) AT LEAST ONCE A MONTH, EACH NATURAL GAS SUPPLIER WITH AN OPEN OFFER TO SUPPLY NATURAL GAS SHALL SUBMIT DETAILED INFORMATION ABOUT THE OFFER TO THE COMMISSION THROUGH A SECURE PORTAL MAINTAINED BY THE COMMISSION ON THE COMMISSION'S WEBSITE FOR THIS PURPOSE.

(D) THE COMMISSION SHALL RECOVER THE COST OF COMPLYING WITH THIS SECTION IN ACCORDANCE WITH § 2–110 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) It is the intent of the General Assembly that the Public Service Commission shall fully implement this ~~Act and~~ Act, revamp ~~its~~ the customer education ~~and customer choice shopping websites under §§ 7–510.1 and 7–510.2 of the Public Utilities Article~~ section on its website, and establish the customer choice shopping websites required under §§ 7–510.2 and 7–604.1 of the Public Utilities Article, as enacted by this Act, no later than October 1, 2020.

(b) The Commission shall include information on its compliance with this Act in:

(1) its annual reports on the customer choice website required under § 7–510.1(f) of the Public Utilities Article in 2019 and 2020; and

(2) an interim report to the Senate Finance Committee and the House Economic Matters Committee no later than June 30, 2020.

(c) In revising and expanding its customer choice education website and creating ~~a~~ customer choice shopping ~~website~~ websites under this Act, the Commission is encouraged to review and consult with the utility regulatory commissions of other jurisdictions that have adopted customer choice, particularly reviewing for guidance the commission customer choice websites in Pennsylvania and Texas.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.

President of the Senate
H–107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 830 and House Bill 720 – *Natural Resources – Fishery Management Plans – Oysters*.

Under my leadership as governor and as chairman of the regional Chesapeake Executive Council, we have made tremendous strides in restoring the Bay by making record investments and fighting to protect critical federal funding. The result has been the healthiest ecosystem the state has seen in over three decades. In fact, the most recent Bay Barometer from the Chesapeake Bay Program reported that the Bay is now experiencing the highest water quality score since monitoring began more than 30 years ago. We must continue to take swift action on the health of the Chesapeake Bay.

The foundation of our success over the past five years has been a reliance on scientifically–supported, evidence–based policies that take into account the views of all stakeholders. Every partner in the process wants a cleaner, healthier Bay, and I have always believed that we can achieve that goal through respect, cooperation, and honest and transparent dialogue. The Department of Natural Resources has worked very carefully, in a balanced way, to create an inclusive process that has maximized stakeholder input and developed a consensus approach to the stewardship of oysters in the Chesapeake Bay and its tributaries.

Senate Bill 830 and House Bill 720 are intended to resemble the OysterFutures consensus process led by the University of Maryland Center for Environmental Science in which the department participated between 2016 and 2018 alongside industry and environmental advocacy representatives. The intent was to craft oyster restoration policy on a bilateral basis with meaningful stakeholder input. I believe strongly that the OysterFutures model is an effective governance tool that could be utilized to create balanced policy for one of our state's most precious resources. However, for all of the positive outcomes delivered thus far by the OysterFutures model, this legislation fails significantly in both its spirit and its substance.

At their core, HB 720 and SB 830 fly in the face of the goodwill, cooperation, and trust that characterized the original OysterFutures effort. Following on the heels of the three–year statutory delay that prevented the revision of oyster management practices until the completion of an oyster stock assessment earlier this year, the same group of legislative and environmental advocates is again making an end run. Under this bill, the department's implementation of thoughtful and science–based management practices is forbidden for at

least another two years or until the cumbersome, reconstituted Oyster Advisory Commission – nearly double in size from the original OysterFutures workgroup – is able to develop a statewide consensus package.

Not only are the goal posts on oyster restoration continually being moved, but the legislation also delays the implementation of several key recommendations of the original OysterFutures effort pertaining to the Choptank and Little Choptank rivers. To obstruct the unanimous consensus recommendations from the original workgroup chills trust critical to the process, leading to the question of whether the bill and its proponents are ultimately setting this latest stakeholder group up for failure.

While highly ambiguous in its language, the intent of HB 720 and SB 840 – through committee and floor debate – appears to allow the reconstituted Oyster Advisory Commission to create a new Oyster Fishery Management Plan that the department is required to implement verbatim, which poses serious constitutional questions. The legislation is also far from clear on what extent the department is able to execute the full range of strategies in its 2019 Oyster Management Plan before the bill's new OysterFutures process is constituted, potentially hamstringing the department from efforts to rebuild stock and ensure a sustainable harvest. With the department's ambitious goal of achieving a sustainable fishery in eight to 10 years, they must be allowed to take action now. Furthermore, it evades transparency in the oyster policy process and instead would statutorily exempt the group from public scrutiny and accountability.

The lack of regard for others, for the process, and for oysters that pervades this legislation is apparent in the actions of the Chesapeake Bay Foundation. My administration strongly opposes secret backroom dealmaking that will endanger the State's long–term oyster restoration efforts, especially at a time when we are just making measurable progress.

For these reasons, I have vetoed Senate Bill 830 and House Bill 720.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 720

AN ACT concerning

Natural Resources – Fishery Management Plans – Oysters

FOR the purpose of <u>requiring the Department of Natural Resources to convene the Oyster Advisory Commission, in coordination with the University of Maryland Center for Environmental Science, on or before a certain date; providing for the membership of the Commission; requiring certain persons to provide information to the Commission under certain circumstances but prohibiting certain persons from participating as voting members; establishing certain requirements for the fishery management plan</u>

for oysters; requiring the Department ~~of Natural Resources~~, in coordination with the University of Maryland Center for Environmental ~~Science, to convene a certain stakeholder workgroup~~ Science and the Commission, to develop a certain package of consensus recommendations for enhancing and implementing the fishery management plan for oysters; ~~providing for the membership of the stakeholder workgroup;~~ requiring the ~~stakeholder workgroup~~ Commission, with certain assistance, to develop certain recommendations based on a certain process, ~~review certain oyster management actions and~~ recommend certain oyster management actions to achieve certain goals, and review certain results for certain oyster management actions; *prohibiting the Department from using certain funds for a certain purpose;* authorizing the Commission to meet and deliberate in closed session for a certain purpose under certain circumstances, notwithstanding a certain provision of law; requiring the Department to submit a certain interim report and a final report by certain dates to the Governor and General Assembly; requiring the Department to perform certain reviews of the oyster stock and, with certain input, implement certain management actions; providing for the termination of the terms of certain members of the Commission; requiring the Secretary of Natural Resources to convene the Commission in a certain manner; requiring the Department to implement a certain Fishery Management Plan for Oysters subject to certain requirements; and generally relating to a fishery management plan for oysters.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–204(c) and 4–215(e)(4)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4–215(b)(6)
Annotated Code of Maryland
(2018 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~
~~Article – Natural Resources~~
~~Section 4–215(e)(4)~~
~~Annotated Code of Maryland~~
~~(2018 Replacement Volume)~~

BY adding to
Article – Natural Resources
Section 4–215(e)(5)
Annotated Code of Maryland
(2018 Replacement Volume)

Preamble

WHEREAS, Large connected oyster populations provide a number of environmental benefits to the Chesapeake Bay ecosystem, including reef habitat for finfish, shellfish, and other marine life, improved water quality, reduced sedimentation, carbon storage, and increased shellfish propagation; and

WHEREAS, The oyster population in the Bay is languishing at ~~1% of historic populations~~ a historic low; and

WHEREAS, The oyster resource is a valuable resource to the State of Maryland; and

WHEREAS, Chapter 703 of the Acts of the General Assembly of 2016 required the Department of Natural Resources to conduct a stock assessment and, based on this assessment, identify management strategies to address the maintenance of a sustainable oyster population and fishery; and

WHEREAS, With the completion of the oyster stock assessment, new regulations and policies for oyster management in Maryland are needed to sustain and grow the oyster resource, industry, and ecosystem; and

WHEREAS, A consensus–based process, as demonstrated by the OysterFutures model which utilizes a 60–40 balance of stakeholders, can be used to develop regulations and policies for oyster management that have broad stakeholder support and are informed by the oyster stock assessment, stakeholder knowledge, and scientific evidence; ~~now, therefore,~~ and

WHEREAS, It is the intent of the General Assembly that the recommendations of this Commission be the fishery management plan for oysters; now, therefore,

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

Article – Natural Resources

4–204.

(c) (1) There is an Oyster Advisory Commission in the Department.

(2) **(I)** **[**The Commission consists of members appointed by the Secretary**]** **ON OR BEFORE JUNE 1, 2019, AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT SHALL, IN COORDINATION WITH THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE, CONVENE THE MEMBERS OF THE COMMISSION**.

(II) THE COMMISSION SHALL INCLUDE ONLY:

1. A REPRESENTATIVE FROM EACH COUNTY OYSTER COMMITTEE ESTABLISHED UNDER § 4–1106(B) OF THIS TITLE DESIGNATED BY THE COMMITTEE;

2. A REPRESENTATIVE FROM THE MARYLAND WATERMEN'S ASSOCIATION, DESIGNATED BY THE ASSOCIATION;

3. A REPRESENTATIVE FROM THE MARYLAND OYSTERMEN'S ASSOCIATION, DESIGNATED BY THE ASSOCIATION;

4. A REPRESENTATIVE FROM THE BLACKS OF THE CHESAPEAKE FOUNDATION, DESIGNATED BY THE FOUNDATION;

5. A REPRESENTATIVE FROM THE AQUACULTURE INDUSTRY, DESIGNATED BY THE AQUACULTURE COORDINATING COUNCIL;

6. A REPRESENTATIVE FROM THE COMMERCIAL SEAFOOD BUYER INDUSTRY, DESIGNATED BY THE SECRETARY;

7. A REPRESENTATIVE FROM THE COASTAL CONSERVATION ASSOCIATION OF MARYLAND, DESIGNATED BY THE ASSOCIATION;

8. A REPRESENTATIVE FROM THE CHESAPEAKE BAY FOUNDATION, DESIGNATED BY THE FOUNDATION;

9. A REPRESENTATIVE FROM THE NATURE CONSERVANCY, DESIGNATED BY THE CONSERVANCY;

10. A REPRESENTATIVE FROM THE SHORERIVERS RIVERKEEPER ASSOCIATION, DESIGNATED BY THE ASSOCIATION;

11. A REPRESENTATIVE FROM THE ARUNDEL RIVERS FEDERATION, DESIGNATED BY THE FEDERATION;

12. A REPRESENTATIVE FROM THE OYSTER RECOVERY PARTNERSHIP, DESIGNATED BY THE PARTNERSHIP;

13. A REPRESENTATIVE FROM THE CHESAPEAKE BAY COMMISSION, DESIGNATED BY THE CHESAPEAKE BAY COMMISSION;

14. A REPRESENTATIVE FROM BLUE OYSTER ENVIRONMENTAL, DESIGNATED BY BLUE OYSTER ENVIRONMENTAL;

15. A REPRESENTATIVE FROM THE CHESAPEAKE BAYSAVERS, ~~APPOINTED~~ *DESIGNATED* BY THE CHESAPEAKE BAYSAVERS;

16. A REPRESENTATIVE FROM THE NATIONAL AQUARIUM, DESIGNATED BY THE NATIONAL AQUARIUM; ~~AND~~

17. A REPRESENTATIVE FROM THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE, DESIGNATED BY THE CENTER*; AND*

18. A REPRESENTATIVE FROM THE PATUXENT ENVIRONMENTAL AND AQUATIC RESEARCH LABORATORY, MORGAN STATE UNIVERSITY, DESIGNATED BY THE RESEARCH LABORATORY.

(3) THE FOLLOWING PERSONS SHALL PROVIDE INFORMATION TO THE COMMISSION AT THE REQUEST OF THE COMMISSION BUT MAY NOT PARTICIPATE AS VOTING MEMBERS:

(I) STATE AND FEDERAL AGENCIES TASKED WITH OYSTER MANAGEMENT AND RESTORATION RESPONSIBILITIES, INCLUDING THE DEPARTMENT, THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND THE U.S. ARMY CORPS OF ENGINEERS;

~~(II) THE PATUXENT ENVIRONMENTAL AND AQUATIC RESEARCH LABORATORY, MORGAN STATE UNIVERSITY;~~

~~(III)~~ *(II)* TWO MEMBERS OF THE SENATE, ONE FROM EACH POLITICAL PARTY, APPOINTED BY THE PRESIDENT OF THE SENATE; AND

~~(IV)~~ *(III)* TWO MEMBERS OF THE HOUSE OF DELEGATES, ONE FROM EACH POLITICAL PARTY, APPOINTED BY THE SPEAKER OF THE HOUSE.

[(3)**] (4)** The Commission shall:

(i) Provide the Department with advice on matters related to oysters in the Chesapeake Bay;

(ii) Review the best possible science and recommend changes to the framework and strategies for rebuilding and managing the oyster population in the Chesapeake Bay under the Chesapeake Bay Oyster Management Plan;

(iii) Review the latest findings relevant to the Environmental Impact Statement evaluating oyster restoration alternatives for the Chesapeake Bay;

(iv) Review any other scientific, economic, or cultural information relevant to oysters in the Chesapeake Bay; **[**and**]**

(V) DEVELOP A PACKAGE OF CONSENSUS RECOMMENDATIONS, IN COORDINATION WITH THE DEPARTMENT, FOR ENHANCING AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS UNDER § 4–215 OF THIS SUBTITLE; AND

[(v)**] (VI)** By December 31, 2007 and to the extent reasonably appropriate, report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on:

1. Strategies to minimize the impact of oyster disease, including the State repletion program and bar cleaning;

2. The framework and effectiveness of the oyster sanctuary, harvest reserve, and repletion programs, and the overall management of natural oyster bars, after performing a cost–benefit analysis that considers biological, ecological, economic, and cultural issues;

3. Strategies to maximize the ecological benefits of natural oyster bars; and

4. Strategies to improve enforcement of closed oyster areas.

(5) THE DEPARTMENT MAY NOT USE FUNDS ALLOCATED TO A COUNTY OYSTER COMMITTEE FOR THE COMMISSION ESTABLISHED UNDER THIS SUBSECTION.

4–215.

(b) The Department shall prepare fishery management plans for the following species:

(6) Oysters;

(e) (4) (i) Subject to subparagraph (ii) of this paragraph, the Department may not take any action to reduce or alter the boundaries of the oyster sanctuaries established in "Oyster Sanctuaries of the Chesapeake Bay and its Tidal Tributaries (September 2010)" until the Department has developed a fisheries management plan for the scientific management of the oyster stock **[**following the completion of its reports in accordance with paragraph (3) of this subsection**]** **BASED ON MANAGEMENT STRATEGIES AND MEASUREMENTS RECOMMENDED BY THE OYSTER ADVISORY COMMISSION UNDER PARAGRAPH (5) OF THIS SUBSECTION AND DETERMINED BY THE DEPARTMENT IN CONSULTATION WITH THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE**.

(ii) **THE FISHERY MANAGEMENT PLAN DEVELOPED IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION SHALL:**

1. END THE OVERFISHING OF OYSTERS IN ALL AREAS AND REGIONS OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES WHERE OVERFISHING HAS OCCURRED ACCORDING TO BIOLOGICAL REFERENCE POINTS ESTABLISHED BY THE MOST RECENT OYSTER STOCK ASSESSMENT WHILE MAINTAINING A HARVEST IN THE FISHERY;

2. ACHIEVE FISHING MORTALITY RATES AT TARGET LEVELS;

3. INCREASE OYSTER ABUNDANCE;

4. INCREASE OYSTER HABITAT; AND

5. FACILITATE THE LONG–TERM SUSTAINABLE HARVEST OF OYSTERS, INCLUDING THE PUBLIC FISHERY.

(III) This paragraph may not be construed to prevent the Department from:

1. Selecting the final two tributaries for tributary–scale oyster restoration sanctuary projects in accordance with the 2014 Chesapeake Bay Agreement; or

2. Establishing, in the discretion of the Department, any dimensions for a tributary–scale oyster restoration sanctuary project.

(5) (I) THE DEPARTMENT SHALL:

1. IN COORDINATION WITH THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE AND THE OYSTER ADVISORY COMMISSION, ~~CONVENE A STAKEHOLDER~~ WORKGROUP TO DEVELOP A PACKAGE OF CONSENSUS RECOMMENDATIONS FOR ENHANCING AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS THAT WILL BE INFORMED BY A COLLABORATIVELY DEVELOPED, SCIENCE–BASED MODELING TOOL TO QUANTIFY THE LONG–TERM IMPACTS OF IDENTIFIED MANAGEMENT ACTIONS AND POSSIBLE COMBINATIONS OF MANAGEMENT ACTIONS ON:

A. OYSTER ABUNDANCE;

B. OYSTER HABITAT;

C. OYSTER HARVEST;

D. OYSTER HARVEST REVENUE; AND

E. NITROGEN REMOVAL; AND

2. HOLD PUBLIC LISTENING SESSIONS THROUGHOUT THE STATE TO IDENTIFY POSSIBLE MANAGEMENT ACTIONS FOR USE IN THE PUBLIC OYSTER FISHERY.

~~(II) THE STAKEHOLDER WORKGROUP SHALL INCLUDE:~~

~~1. A REPRESENTATIVE FROM EACH COUNTY WATERMEN'S ASSOCIATION;~~

~~2. A REPRESENTATIVE FROM THE MARYLAND WATERMEN'S ASSOCIATION;~~

~~3. A REPRESENTATIVE FROM THE COASTAL CONSERVATION ASSOCIATION OF MARYLAND;~~

~~4. A REPRESENTATIVE FROM THE CHESAPEAKE BAY FOUNDATION;~~

~~5. A REPRESENTATIVE FROM THE NATURE CONSERVANCY;~~

~~6. A REPRESENTATIVE OF A COMMERCIAL SEAFOOD ORGANIZATION;~~

~~7. A REPRESENTATIVE FROM THE AQUACULTURE INDUSTRY; AND~~

~~8. STATE AND FEDERAL AGENCIES TASKED WITH OYSTER MANAGEMENT AND RESTORATION RESPONSIBILITIES.~~

~~(III)~~ **(II) THE ~~STAKEHOLDER WORKGROUP~~ OYSTER ADVISORY COMMISSION, WITH THE ASSISTANCE OF EXTERNAL CONFLICT RESOLUTION AND FACILITATION SPECIALISTS, SHALL:**

1. DEVELOP A PACKAGE OF CONSENSUS RECOMMENDATIONS THROUGH A FACILITATED CONSENSUS SOLUTIONS PROCESS, BASED ON A 75% MAJORITY AGREEMENT LEVEL FOR EACH RECOMMENDATION;

2. ~~REVIEW CURRENT AND PROPOSED MANAGEMENT ACTIONS FOR COMPLETENESS AND RECOMMEND ADDITIONAL~~ RECOMMEND MANAGEMENT ACTIONS OR COMBINATIONS OF MANAGEMENT ACTIONS TO ACHIEVE THE TARGETS IDENTIFIED IN THE OYSTER STOCK ASSESSMENT WITH THE GOAL OF INCREASING OYSTER ABUNDANCE; AND

3. REVIEW MODEL RESULTS FOR EACH MANAGEMENT ACTION OR COMBINATION OF MANAGEMENT ACTIONS TO INFORM ~~STAKEHOLDER WORKGROUP~~ ITS RECOMMENDATIONS.

(III) NOTWITHSTANDING § 3–305 OF THE GENERAL PROVISIONS ARTICLE, AND WITH THE CONSENT OF A 75% MAJORITY OF ITS MEMBERS, THE OYSTER ADVISORY COMMISSION MAY MEET AND DELIBERATE IN CLOSED SESSION TO DEVELOP THE PACKAGE OF CONSENSUS RECOMMENDATIONS FOR ENHANCING AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS UNDER THIS PARAGRAPH.

(IV) 1. THE DEPARTMENT SHALL SUBMIT INTERIM REPORTS ON THE DEVELOPMENT OF THE PACKAGE OF CONSENSUS RECOMMENDATIONS BY DECEMBER 1, 2019, AUGUST 1, 2020, AND DECEMBER 1, 2020, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

2. THE DEPARTMENT SHALL PROVIDE A FINAL REPORT BY JULY 1, 2021, WHICH WILL INCLUDE AN IMPLEMENTATION SCHEDULE FOR THE CONSENSUS RECOMMENDATIONS, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(V) TO BE RESPONSIVE TO CHANGES IN THE OYSTER RESOURCE DUE TO ENVIRONMENTAL CONDITIONS, THE DEPARTMENT SHALL:

1. REVIEW THE STATUS OF THE STOCK RELATIVE TO REFERENCE POINTS EVERY 2 YEARS AND CONDUCT A BENCHMARK STOCK ASSESSMENT EVERY 6 YEARS WITH CONSIDERATION OF NEW METHODS AND WITH EXTERNAL PEER REVIEW; AND

2. WITH THE INPUT OF INTERESTED STAKEHOLDERS, IMPLEMENT MANAGEMENT ACTIONS THAT INCREASE OYSTER HABITAT, MAINTAIN HARVEST, AND GROW THE OYSTER STOCK.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The terms of the members serving on the Oyster Advisory Commission established under § 4–204(c) of the Natural Resources Article before the effective date of this Act shall terminate on the effective date of this Act.

(b) The Secretary of Natural Resources shall convene the new members of the Oyster Advisory Commission in accordance with the provisions of Section 1 of this Act.

(c) The terms of the new members convened under subsection (b) of this section shall begin on the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Natural Resources shall implement the 2019 Fishery Management Plan for Oysters pending the development of consensus recommendations in accordance with this Act.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 735 – *Technical Study on Changes in Forest Cover and Tree Canopy in Maryland*.

This bill requires the Harry R. Hughes Center for Agro–Ecology, in consultation with the Department of Natural Resources, the Maryland Department of the Environment, the Maryland Department of Planning, the Maryland Department of Agriculture, and the Chesapeake Bay Program, as appropriate, to conduct a specified technical study to review changes in forest cover and tree canopy in the State. This bill also requires that the Harry R. Hughes Center for Agro–Ecology report its findings, by a certain date, to the Governor and the General Assembly.

Senate Bill 729, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 735.

Sincerely,

Lawrence J. Hogan, Jr.

Governor

House Bill 735

AN ACT concerning

~~**Task Force on Forest Conservation in Maryland**~~
Technical Study on Changes in Forest Cover and Tree Canopy in Maryland

FOR the purpose of requiring the Harry R. Hughes Center for Agro–Ecology, in consultation with the Department of Natural Resources, the Department of the Environment, the Department of Planning, the Department of Agriculture, and the Chesapeake Bay Program, to conduct a technical study to review changes in forest cover and tree canopy in the State; providing for the scope of the technical study; requiring the Harry R. Hughes Center for Agro–Ecology to submit a report of its findings to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to a technical study to review changes in forest cover and tree canopy in Maryland. ~~establishing the Task Force on Forest Conservation in Maryland; providing for the composition, chair, and staffing of the Task Force; authorizing the Task Force to establish subcommittees; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force on Forest Conservation in Maryland.~~

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

~~(a) There is a Task Force on Forest Conservation in Maryland.~~

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

~~(1) the State Forester;~~

~~(2) one member of the Senate of Maryland, appointed by the President of the Senate;~~

~~(3) one member of the House of Delegates, appointed by the Speaker of the House;~~

~~(4) two representatives of county government, designated by the Maryland Association of Counties;~~

~~(5) two representatives of municipal government, designated by the Maryland Municipal League; and~~

~~(6) the following members, appointed jointly by the President of the Senate and the Speaker of the House:~~

~~(i) one representative of the Sustainable Forestry Council;~~

~~(ii) one representative of the Chesapeake Bay Program Office within the University of Maryland College of Agriculture and Natural Resources;~~

~~(iii) one representative of the Department of Agricultural and Resource Economics within the University of Maryland College of Agriculture and Natural Resources;~~

~~(iv) one representative of the Chesapeake Bay Commission;~~

~~(v) two representatives from environmental organizations;~~

~~(vi) one representative from a land preservation organization;~~

~~(vii) two representatives from the commercial and residential development industries;~~

~~(viii) one representative from an environmental restoration business involved in forest mitigation banking;~~

~~(ix) one representative from a public utility; and~~

~~(x) one representative from a public health organization.~~

~~(c) The President of the Senate and the Speaker of the House shall jointly select the chair or cochairs of the Task Force.~~

~~(d) The Harry R. Hughes Center for Agro–Ecology shall:~~

~~(1) provide staff for the Task Force under contract with the Department of Natural Resources; and~~

~~(2) facilitate the meetings of the Task Force and the preparation of its final report with assistance, as required by the Task Force, from the Department of Legislative Services, the Department of Natural Resources, the Department of the Environment, the Department of Planning, and the Department of Agriculture.~~

~~(e) The Task Force may establish subcommittees as necessary to fulfill its duties.~~

~~(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.~~

~~(g) The Task Force shall:~~

~~(1) undertake a technical review that includes, to the extent practicable:~~

(a) (1) The Harry R. Hughes Center for Agro–Ecology, in consultation with the Department of Natural Resources, the Department of the Environment, the Department of Planning, the Department of Agriculture, and the Chesapeake Bay Program, as appropriate, shall conduct a technical study to review changes in forest cover and tree canopy in the State.

(2) The technical study required under paragraph (1) of this subsection shall, to the extent practicable, include:

(i) a survey and mapping of:

1. existing forest cover and tree canopy in the State; and

2. potential afforestation and reforestation locations in the State;

(ii) an analysis of the health and quality of forests in the State;

(iii) an analysis of the progress toward the State's commitments to expand urban tree canopy acres and plant riparian forest buffers under the 2014 Chesapeake Bay Agreement;

~~(iii)~~ (iv) an analysis of observed and projected changes in land cover and the amount of forest cover in the State due to development or other causes, using the Chesapeake Bay Phase 6 Model, Chesapeake Assessment Scenario Tool (CAST), and county and municipal forest conservation annual reports and land use plans, including the extent and nature of:

1. mitigation activities involving existing forest conserved, tree planting, reforestation, or afforestation under the Forest Conservation Act;

2. forest clearing, planting, and mitigation activity inside and outside priority funding areas and locally designated growth areas; and

3. the clearing and mitigation of forest considered to be a priority for retention and protection under § 5–1607(c) of the Natural Resources Article and in State–identified targeted ecological areas and greenways, hubs, and corridors, and the zoned density and sewer status of those areas; ~~and~~

~~(iv)~~ (v) an analysis of observed and projected changes in the amount of forest cover in the State based on:

1. relevant State or local programs involving tree planting, reforestation, or afforestation; and

2. the amount of forest preserved through federal, State, and local programs, including agricultural preservation, open space, conservation easement, and other land preservation programs;

(vi) a review of forest mitigation banking in the State, including:

1. capacity and location of active banks;

2. regulation of ~~citing~~ *siting* and creation of new banks;

3. geographic limitations on the use of mitigation banks;

4. the relationship between fee–in–lieu rates under the Forest Conservation Act and the market for forest mitigation banks; and

5. whether expanding the use of forest mitigation banks could provide water quality improvements and other beneficial results; and

(vii) a programmatic and funding review of federal, State, and local tree and forest planting programs such as:

1. Marylanders Plant Trees;

2. Lawn to Woodland;

3. Backyard Buffers;

4. Conservation Reserve Enhance Program; and

5. other programs used to further TMDL Watershed Implementation Plans and MS4 permit compliance.

(b) On or before December 1, 2019, the Harry R. Hughes Center for Agro–Ecology shall submit a report of its findings of the technical study required under subsection (a) of this section to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019. It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2020, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

~~(2) consider the findings and recommendations of the Task Force to Study a No Net Loss of Forest Policy's Final Report of 2009 and the Sustainable Forestry Council's Report on Policies to Achieve a No Net Loss of Forests in Maryland in 2011;~~

~~(3) on or before October 1, 2019, conduct a public hearing to gather information to assist in making recommendations; and~~

~~(4) draft a report on the findings of the technical review and make recommendations regarding the statutory, regulatory, or policy changes needed to achieve the policy goals established under § 5–102(b) of the Natural Resources Article.~~

~~(h) On or before December 1, 2019, the Task Force shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019. It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2020, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.~~

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 761 – *Health – Sickle Cell Disease – Steering Committee and Services*.

This bill alters the membership of the Statewide Steering Committee on Services for Adults with Sickle Cell Disease and expands the intent of the Sickle Cell Anemia Subtitle within the Health–General Article to include 1) providing resources for detecting sickle cell disease; and 2) supporting individuals with sickle cell disease. This bill also authorizes the Maryland Department of Health, in consultation with the steering committee, to provide specified services related to sickle cell disease in the State.

Senate Bill 600, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 761.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 761

AN ACT concerning

Health – Sickle Cell Disease – Steering Committee~~,~~ and Services~~, Testing, and Funding~~
~~(Sickle Cell Treatment Act of 2019)~~

FOR the purpose of altering the intent of certain provisions of law regarding sickle cell anemia to include the provision of certain resources; altering the representatives required to be included on the Statewide Steering Committee on Services for Adults with Sickle Cell Disease; altering the duties of the Steering Committee; ~~requiring~~ authorizing the Maryland Department of Health to provide certain services relating to sickle cell disease in consultation with the Steering Committee; requiring the Department to provide certain services through community–based organizations to the extent practicable; ~~requiring a local health department to provide sickle cell disease testing and counseling at no cost to any individual referred by certain health care providers; requiring a local health department to notify an individual if certain testing is positive for sickle cell disease; requiring the Maryland Public Health Laboratory, under certain circumstances, to provide an individual's sickle cell screening test results to a local health department or entity contracting with the local health department providing certain services to the individual;~~ and generally relating to sickle cell disease.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–501 and 18–506
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY adding to
Article – Health – General
Section 18–507 ~~and 18–508~~
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Health – General

18–501.

The intent of this subtitle is:

(1) To educate parents and physicians regarding homozygous sickle cell anemia; **[**and**]**

(2) To monitor each affected infant's health in that regard**; AND**

(3) TO PROVIDE RESOURCES FOR DETECTING SICKLE CELL DISEASE AND SUPPORTING INDIVIDUALS WITH SICKLE CELL DISEASE.

18–506.

(a) In this section, "Steering Committee" means the Statewide Steering Committee on Services for Adults with Sickle Cell Disease.

(b) There is a Statewide Steering Committee on Services for Adults with Sickle Cell Disease.

(c) The Steering Committee shall include representatives from:

(1) Local and national groups that advocate for individuals with sickle cell disease;

(2) Interest and support groups for individuals with sickle cell disease;

[(3) The Genetic Alliance;

(4) Faith–based organizations;**]**

[(5)**] (3)** Community and consumer groups;

[(6)**] (4)** Academic and private clinical settings with knowledge and experience caring for adults with sickle cell disease;

[(7)**] (5)** Area hospitals caring for individuals with sickle cell disease; and

[(8)**] (6)** Pediatric clinics that care for children with sickle cell disease.

(d) The Steering Committee shall:

(1) Establish institution and community partnerships;

(2) Establish a statewide network of stakeholders who care for individuals with sickle cell disease;

(3) Educate individuals with sickle cell disease, the public, and health care providers about the State options for care of sickle cell disease; and

[(4) Seek grant funding to:

(i) Develop and establish a case management system for adults with sickle cell disease;

(ii) Establish an adult sickle cell disease day infusion center;

(iii) Develop, implement, and lead a State comprehensive education and treatment program for adults with sickle cell disease; and

(iv) Develop and implement a health care provider awareness and education campaign to increase provider awareness of health disparities, community dynamics, cultural practice, behavioral and psychosocial issues, and the use of standardized treatment and emergency room protocols.**]**

(4) IDENTIFY FUNDING SOURCES FOR IMPLEMENTING OR SUPPORTING THE ACTIONS, STUDIES, POLICIES, REGULATIONS, OR LAWS RECOMMENDED BY THE STEERING COMMITTEE, INCLUDING FUNDING FROM:

(I) STATE, FEDERAL, AND LOCAL GOVERNMENT SOURCES; AND

(II) PRIVATE SOURCES.

18–507.

(A) THE DEPARTMENT ~~SHALL~~ MAY, IN CONSULTATION WITH THE STATEWIDE STEERING COMMITTEE ON SERVICES FOR ADULTS WITH SICKLE CELL DISEASE, PROVIDE SERVICES RELATING TO SICKLE CELL DISEASE, INCLUDING:

(1) EDUCATIONAL PROGRAMS ON SICKLE CELL DISEASE FOR INDIVIDUALS AFFECTED BY THE DISEASE, INCLUDING:

(I) INDIVIDUALS WITH SICKLE CELL DISEASE;

(II) FAMILIES OF INDIVIDUALS WITH SICKLE CELL DISEASE;

(III) CAREGIVERS OF INDIVIDUALS WITH SICKLE CELL DISEASE;

(IV) EMPLOYEES AT PRIMARY AND SECONDARY SCHOOLS; AND

(V) HEALTH CARE PROVIDERS;

(2) SOCIAL SERVICES SUPPORT TO INDIVIDUALS WITH SICKLE CELL DISEASE, INCLUDING SUPPORT FROM SOCIAL WORKERS AND COMMUNITY HEALTH WORKERS TO PROVIDE INFORMATION ON SERVICES THAT MAY BE AVAILABLE TO THE INDIVIDUAL;

(3) TESTING;

(4) GENETIC COUNSELING;

~~**(5) BY ESTABLISHING SICKLE CELL DISEASE INFUSION CENTERS IN THE STATE;**~~

~~**(6)**~~ **(5) ASSISTANCE WITH ANY AVAILABLE REIMBURSEMENT FOR MEDICAL EXPENSES RELATED TO SICKLE CELL DISEASE;**

~~**(7)**~~ **(6) EDUCATION AND COUNSELING SERVICES AFTER THE RECEIPT OF SICKLE CELL TRAIT TEST RESULTS FROM THE STATE'S NEWBORN SCREENING PROGRAM; AND**

~~**(8)**~~ **(7) ANY OTHER PROGRAMS OR SERVICES THAT ARE NECESSARY TO DECREASE THE USE OF ACUTE CARE SERVICES BY INDIVIDUALS WHO HAVE SICKLE CELL DISEASE.**

(B) THE DEPARTMENT SHALL PROVIDE THE SERVICES IN SUBSECTION (A) OF THIS SECTION THROUGH COMMUNITY–BASED ORGANIZATIONS TO THE EXTENT PRACTICABLE.

~~**18–508.**~~

~~**(A) (1) A LOCAL HEALTH DEPARTMENT SHALL PROVIDE SICKLE CELL DISEASE TESTING AND COUNSELING AT NO COST TO ANY INDIVIDUAL WHO IS REFERRED BY:**~~

~~**(I) A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE;**~~

~~**(II) A PHYSICIAN ASSISTANT LICENSED UNDER TITLE 15 OF THE HEALTH OCCUPATIONS ARTICLE; OR**~~

~~**(III) A NURSE PRACTITIONER LICENSED TO PRACTICE REGISTERED NURSING IN THE STATE WHO IS CERTIFIED AS A NURSE PRACTITIONER BY THE STATE BOARD OF NURSING UNDER TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE.**~~

~~**(2) A LOCAL HEALTH DEPARTMENT SHALL NOTIFY AN INDIVIDUAL IF ANY TESTING CONDUCTED BY THE DEPARTMENT IS POSITIVE FOR SICKLE CELL DISEASE.**~~

~~**(B) THE MARYLAND PUBLIC HEALTH LABORATORY SHALL PROVIDE AN INDIVIDUAL'S SICKLE CELL SCREENING TEST RESULTS TO ANY LOCAL HEALTH DEPARTMENT OR ENTITY CONTRACTING WITH THE LOCAL HEALTH DEPARTMENT THAT IS PROVIDING SICKLE CELL SERVICES TO THE INDIVIDUAL UNDER SUBSECTION (A) OF THIS SECTION:**~~

~~**(1) ON REQUEST; AND**~~

~~**(2) WITH THE INDIVIDUAL'S AUTHORIZATION.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 809 – *Sales and Use Tax – Taxable Services – Telephone Answering Service*.

This bill defines a telephone answering service for purposes of the State sales and use tax as a service provided to a customer that consists exclusively of the taking of messages, either by an automated system or by a live operator, and transmitting the messages to the customer. This bill clarifies that a telephone answering service does not include the physical act of answering a telephone on behalf of a customer, if the act is incidental to and less than 5% of the service provider's total gross receipts in a calendar year.

Senate Bill 945, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 809.

Sincerely,

Lawrence J. Hogan, Jr.

Governor

House Bill 809

AN ACT concerning

Sales and Use Tax – Taxable Services – Telephone Answering Service

FOR the purpose of defining "telephone answering service" for the purpose of establishing that the service is taxable under the sales and use tax only if the service is provided in a certain manner; establishing that a telephone answering service is not a taxable service if certain acts are only incidental to and a certain percentage of certain gross receipts; making this Act an emergency measure; and generally relating to the sales and use tax.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 11–101(a) and (m)(7)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

BY adding to
Article – Tax – General
Section 11–101(m–1)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Tax – General

11–101.

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

(m) "Taxable service" means:

(7) a telephone answering service;

(M–1) (1) "TELEPHONE ANSWERING SERVICE" MEANS A SERVICE PROVIDED TO A CUSTOMER THAT CONSISTS EXCLUSIVELY OF THE TAKING OF MESSAGES, EITHER BY AN AUTOMATED SYSTEM OR BY A LIVE OPERATOR, AND TRANSMITTING THE MESSAGES TO THE CUSTOMER.

(2) "TELEPHONE ANSWERING SERVICE" DOES NOT INCLUDE THE

PHYSICAL ACT OF ANSWERING A TELEPHONE ON BEHALF OF A CUSTOMER, IF THE ACT IS INCIDENTAL TO AND LESS THAN 5% OF THE SERVICE PROVIDER'S TOTAL GROSS RECEIPTS IN A CALENDAR YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 810 – *Income Tax – Child and Dependent Care Tax Credit – Alterations*.

This bill expands the existing child and dependent care tax credit by 1) increasing the current phase–out that reduces or eliminates the benefit for an individual whose income exceeds specified amounts; and 2) making the credit refundable for taxpayers with federal adjusted gross income beneath a certain amount. This bill also requires that, beginning in tax year 2020, the applicable income phase–outs will be indexed based on the annual change in the cost of living.

Senate Bill 870, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 810.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 810

AN ACT concerning

Income Tax – Child and Dependent Care Tax Credit – Alterations

FOR the purpose of altering the maximum income limits for eligibility for a certain credit against the State income tax for certain child and dependent care expenses; altering the phase–out of the tax credit; making the credit refundable, subject to certain income limits; increasing, each taxable year, certain income eligibility and refundability thresholds by a certain cost–of–living adjustment; providing for the application of this Act; and generally relating to a credit against the State income tax for child and dependent care expenses.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–716
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Tax – General

10–716.

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

(2) "Federal child and dependent care credit" means the child and dependent care credit properly claimed by an individual for the taxable year under § 21 of the Internal Revenue Code.

(3) "Qualifying individual" means a qualifying individual within the meaning of § 21(b) of the Internal Revenue Code.

(b) An individual **[**whose federal adjusted gross income for the taxable year does not exceed $50,000, or $25,000 in the case of a married individual filing a separate return,**]** **OR A MARRIED COUPLE FILING A JOINT *INCOME TAX* RETURN** may claim a credit against the State income tax as provided in this section for expenses paid by the individual **OR MARRIED COUPLE** during **[**the**]** **A** taxable year for the care of a qualifying individual **IF THE FEDERAL ADJUSTED GROSS INCOME OF THE INDIVIDUAL OR MARRIED COUPLE FOR THE TAXABLE YEAR DOES NOT EXCEED:**

(1) ~~$110,000~~ $92,000, IN THE CASE OF AN INDIVIDUAL; OR

(2) ~~$141,000~~ $143,000, IN THE CASE OF A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN.

(c) ~~[~~Subject to subsection (d) of this section ***AND EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION***, the~~]~~ ~~THE~~ credit allowed under **SUBSECTION (B) OF** this section equals the lesser of:

~~[~~(1) ~~32.5%~~ **32%** of the federal child and dependent care credit; or~~]~~

~~**(1) (I) 35% OF THE FEDERAL CHILD AND DEPENDENT CARE CREDIT FOR:**~~

~~**1. AN INDIVIDUAL WHOSE FEDERAL ADJUSTED GROSS INCOME DOES NOT EXCEED $50,000; OR**~~

~~**2. A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN WHOSE FEDERAL ADJUSTED GROSS INCOME DOES NOT EXCEED $75,000;**~~

~~**(II) 30% OF THE FEDERAL CHILD AND DEPENDENT CARE CREDIT FOR:**~~

~~**1. AN INDIVIDUAL WHOSE FEDERAL ADJUSTED GROSS INCOME EXCEEDS $50,000 BUT IS NOT GREATER THAN $75,000; OR**~~

~~**2. A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN WHOSE FEDERAL ADJUSTED GROSS INCOME EXCEEDS $75,000 BUT IS NOT GREATER THAN $110,000;**~~

~~**(III) 20% OF THE FEDERAL CHILD AND DEPENDENT CARE CREDIT FOR:**~~

~~**1. AN INDIVIDUAL WHOSE FEDERAL ADJUSTED GROSS INCOME EXCEEDS $75,000 BUT IS NOT GREATER THAN $91,000; OR**~~

~~**2. A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN WHOSE FEDERAL ADJUSTED GROSS INCOME EXCEEDS $110,000 BUT IS NOT GREATER THAN $125,000; OR**~~

~~**(IV) 10% OF THE FEDERAL CHILD AND DEPENDENT CARE CREDIT FOR:**~~

~~**1. AN INDIVIDUAL WHOSE FEDERAL ADJUSTED GROSS INCOME EXCEEDS $91,000 BUT IS NOT GREATER THAN $110,000; OR**~~

~~**2. A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN WHOSE FEDERAL ADJUSTED GROSS INCOME EXCEEDS $125,000 BUT IS NOT GREATER THAN $141,000; OR**~~

(2) the State income tax for the taxable year.

~~[~~(d) (1) If an individual's federal adjusted gross income for the taxable year exceeds ~~$41,000~~ **$30,000**, the credit otherwise allowed under this section shall be reduced by ~~10%~~ **1%** for each ~~$1,000~~ **$2,000** or fraction of ~~$1,000~~ **$2,000** by which the individual's federal adjusted gross income exceeds ~~$41,000~~ **$30,000**.

(2) In the case of a married ~~individual filing a separate return~~ ***COUPLE FILING A JOINT INCOME TAX RETURN***, if the individual's federal adjusted gross income for the taxable year exceeds ~~$20,500~~ **$50,000**, the credit otherwise allowed under this section shall be reduced by ~~10%~~ **1%** for each ~~$500~~ **$3,000** or fraction of ~~$500~~ **$3,000** by which the individual's federal adjusted gross income exceeds ~~$20,500~~ **$50,000**.~~]~~

~~(D)~~ **(E) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE INDIVIDUAL OR MARRIED COUPLE MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS IF THE INDIVIDUAL'S OR MARRIED COUPLE'S FEDERAL ADJUSTED GROSS INCOME DOES NOT EXCEED:**

(1) $50,000 IN THE CASE OF AN INDIVIDUAL; OR

(2) $75,000 IN THE CASE OF A MARRIED COUPLE FILING A JOINT INCOME TAX RETURN.

~~(E)~~ **(F) (1) ~~(I)~~ FOR EACH TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2019, THE MAXIMUM INCOME THRESHOLDS UNDER SUBSECTION ~~(C)(1)(II)~~ (B) OF THIS SECTION AND THE MAXIMUM INCOME THRESHOLDS UNDER SUBSECTION ~~(D)~~ (E) OF THIS SECTION SHALL BE INCREASED BY AN AMOUNT EQUAL TO THE PRODUCT OF THE MAXIMUM INCOME THRESHOLDS AND THE COST–OF–LIVING ADJUSTMENT SPECIFIED IN THIS SUBSECTION.**

~~**(II) EACH MINIMUM AND MAXIMUM THRESHOLD AMOUNT UNDER SUBSECTION (C)(1) OF THIS SECTION SHALL BE INCREASED BY THE SAME DOLLAR AMOUNT AS THE INCREASE DETERMINED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**~~

(2) FOR PURPOSES OF THIS SUBSECTION, THE COST–OF–LIVING ADJUSTMENT IS THE COST–OF–LIVING ADJUSTMENT WITHIN THE MEANING OF § 1(F)(3) OF THE INTERNAL REVENUE CODE FOR THE CALENDAR YEAR IN WHICH A TAXABLE YEAR BEGINS, AS DETERMINED BY THE COMPTROLLER, BY SUBSTITUTING "CALENDAR YEAR 2018" FOR "CALENDAR YEAR 2016" IN § 1(F)(3)(A) OF THE INTERNAL REVENUE CODE.

(3) IF ANY INCREASE DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT A MULTIPLE OF $50, THE INCREASE SHALL BE ROUNDED DOWN TO THE NEXT LOWEST MULTIPLE OF $50.

[(e)**]** ~~**(F)**~~ **(G)** The credit allowed under this section does not affect the treatment under this title of any deduction or exclusion allowed under this title or allowed for federal income tax purposes for expenses paid by the individual for the care of a qualifying individual.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019, and shall be applicable to all taxable years beginning after December 31, 2018.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 860 – *Employees', Teachers', and Correctional Officers' Systems – Active Members – Death Benefits*.

This bill provides that if there is no surviving spouse, certain surviving children of specified deceased members of State retirement and pension plans may receive a survivor benefit equal to 50% of the basic allowance that would have been paid to the deceased member. This bill also allows disabled surviving children receiving an allowance, or surviving children under the age of 26 receiving an allowance, to enroll in the State Employee and Retiree Health and Welfare Benefits Program.

Senate Bill 828, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 860.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 860

AN ACT concerning

Employees', Teachers', and Correctional Officers' Systems – Active Members – Death Benefits

FOR the purpose of allowing a certain surviving child of a member of the Employees' Retirement System, Employees' Pension System, Teachers' Retirement System, or Teachers' Pension System to participate in the State Employee and Retiree Health and Welfare Benefits program if the child receives a certain allowance; prohibiting a certain death benefit from being paid if a certain allowance is paid for a death; requiring a certain death benefit to be paid if certain individuals waive the payment of a certain allowance; providing certain survivor benefits to surviving children of certain members of the State Retirement and Pension System; providing for the payment of a certain allowance to surviving children of a member when there is no surviving spouse; providing for the distribution of a certain allowance to surviving children; making conforming changes; and generally relating to death benefits for active members in the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–507(e), 29–202, 29–205, and 29–206
Annotated Code of Maryland
(2015 Replacement Volume and 2018 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

2–507.

(e) The surviving child or dependent parent of a State employee who at the time of death was a member of the Employees' Retirement System, Employees' Pension System, Teachers' Retirement System, or Teachers' Pension System and who was killed **OR DIED** while employed by the State may enroll and participate in the health insurance benefit options established under the Program as long as the child or parent is receiving an allowance under Title 29, Subtitle 2 of this article.

29–202.

(a) (1) (i) Subject to subparagraph (ii) of this paragraph, when the Board of Trustees receives proof of death of an individual who died while employed as a member, the Board of Trustees shall pay to the designated beneficiary or, if there is no designated beneficiary, to the member's estate the amounts specified in this subsection.

(ii) If a member designates more than one beneficiary, on the death of the member, the Board of Trustees shall pay the amounts specified in this subsection in equal shares to each of the designated beneficiaries.

(2) Subject to paragraph (1) of this subsection, the Board of Trustees shall pay the member's accumulated contributions.

(3) Subject to paragraph (1) of this subsection, the Board of Trustees shall pay an amount equal to the member's annual earnable compensation at death if the member dies in the course of the performance of duty or the member has at least 1 year of eligibility service.

(b) (1) A death benefit under this section may not be paid for the death of a member of the State Police Retirement System if a special death benefit under § 29–204 of this subtitle is paid for that death.

(2) A death benefit under this section may not be paid for the death of a member of the Correctional Officers' Retirement System if a special death benefit under § 29–204.1 of this subtitle is paid for that death.

(3) A death benefit under this section may not be paid for the death of a member of the Employees' Retirement System, Employees' Pension System, Teachers' Retirement System, or Teachers' Pension System if a special death benefit under § 29–204.2 of this subtitle is paid for that death.

(4) A death benefit under this section may not be paid for the death of a member of the Law Enforcement Officers' Pension System if a special death benefit under § 29–203 of this subtitle is paid for that death.

(5) **A DEATH BENEFIT UNDER THIS SECTION MAY NOT BE PAID FOR THE DEATH OF A MEMBER IF A RETIREMENT ALLOWANCE UNDER § 29–205 OR § 29–206 OF THIS SUBTITLE IS PAID FOR THAT DEATH.**

(6) (I) If all individuals who are eligible for a special death benefit under § 29–203, § 29–204, § 29–204.1, or § 29–204.2 elect to waive the payment of a special death benefit, a benefit shall be paid in accordance with subsection (a) of this section.

(II) IF ALL INDIVIDUALS WHO ARE ELIGIBLE FOR AN ALLOWANCE UNDER § 29–205 OR § 29–206 OF THIS SUBTITLE ELECT TO WAIVE THE PAYMENT OF AN ALLOWANCE, A BENEFIT SHALL BE PAID IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

(c) The Board of Trustees may provide the death benefit as group life insurance if the Board of Trustees finds that the designated beneficiaries would receive a more favorable tax treatment of the death benefit.

29–205.

(a) This section applies to **[**the surviving spouse of**]** an individual who died while employed as a member **[**of**]**:

(1) **(I)** **OF** the Correctional Officers' Retirement System;

[(2)**]** **(II)** **OF** the Employees' Retirement System;

[(3)**]** **(III)** **OF** the Local Fire and Police System, if the member had transferred from the Employees' Retirement System; or

[(4)**]** **(IV)** **OF** the Teachers' Retirement System**; AND**

(2) **(I)** **WHO WAS ELIGIBLE TO RETIRE; OR**

(II) **WHO WAS AT LEAST 55 YEARS OLD WITH AT LEAST 15 YEARS OF ELIGIBILITY SERVICE**.

(b) Except as provided in subsections ~~(c) and (d)~~ **(D) AND (E)** of this section, a **MEMBER'S** surviving spouse~~, CHILD UNDER THE AGE OF 26 YEARS, OR DISABLED CHILD~~ may elect to receive one of the following~~, IN ACCORDANCE WITH SUBSECTIONS (E) THROUGH (G) OF THIS SECTION~~:

(1) the death benefit, under § 29–202 of this subtitle; or

(2) an allowance equal to the amount payable under Option 2 as described in § 21–403 of this article**[**, if:

(i) the spouse is the sole primary designated beneficiary; and

(ii) the member:

1. was eligible to retire; or

2. was at least 55 years old with at least 15 years of eligibility service**]**.

(C) (1) EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS SECTION, WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF A DEATH OF A MEMBER DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION AND THERE IS NO SURVIVING SPOUSE, A CHILD UNDER THE AGE OF 26 YEARS OR A DISABLED CHILD OF THE MEMBER MAY ELECT TO RECEIVE AN ALLOWANCE IN ACCORDANCE WITH THIS SUBSECTION.

(2) IF AN ELECTION IS MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL PAY, IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION, AN ALLOWANCE EQUAL TO 50% OF THE BASIC ALLOWANCE THE MEMBER WAS ELIGIBLE TO RECEIVE UNDER DIVISION II OF THIS ARTICLE TO ANY CHILDREN OF THE DECEASED MEMBER WHO ARE UNDER THE AGE

OF 26 YEARS OR DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, IF THE BOARD OF TRUSTEES PAYS AN ALLOWANCE UNDER THIS SUBSECTION TO MORE THAN ONE CHILD, THE BOARD OF TRUSTEES SHALL DIVIDE THE ALLOWANCE AMONG THE CHILDREN IN A MANNER THAT PROVIDES FOR PAYMENTS TO CONTINUE UNTIL:

1. EACH CHILD HAS DIED; OR

2. EACH CHILD BECOMES 26 YEARS OLD.

(II) NOTWITHSTANDING SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, A SURVIVING CHILD WHO IS DISABLED SHALL CONTINUE TO RECEIVE AN ALLOWANCE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH PAST THE AGE OF 26 YEARS, IF THE CHILD CONTINUES TO BE DISABLED.

(III) 1. IF A SURVIVING CHILD RECEIVING AN ALLOWANCE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, THE BOARD OF TRUSTEES SHALL PAY TO THE DISABLED SURVIVING CHILD AN ALLOWANCE EQUAL TO THE TOTAL OF THE ALLOWANCES PAID UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH AFTER:

A. ALL OTHER NONDISABLED SURVIVING CHILDREN HAVE DIED; OR

B. THE YOUNGEST NONDISABLED SURVIVING CHILD BECOMES 26 YEARS OLD.

2. IF MORE THAN ONE SURVIVING CHILD IS DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, THE RETIREMENT ALLOWANCE PAYABLE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL BE DIVIDED EQUALLY AMONG THE DISABLED CHILDREN.

(4) BEFORE THE PAYMENT OF AN ALLOWANCE UNDER THIS SUBSECTION, IF ALL INDIVIDUALS WHO ARE ELIGIBLE TO RECEIVE A DEATH BENEFIT UNDER THIS SUBSECTION ELECT TO WAIVE THE PAYMENT OF AN ALLOWANCE, A BENEFIT SHALL BE PAID IN ACCORDANCE WITH § 29–202(A) OF THIS SUBTITLE.

~~(c)~~ **(D)** A death benefit under this section may not be paid for the death of a member of the Correctional Officers' Retirement System if a special death benefit under § 29–204.1 of this subtitle is payable or has been paid for that death.

~~(d)~~ **(E)** A death benefit under this section may not be paid for the death of a member of the Employees' Retirement System or Teachers' Retirement System if a special death benefit under § 29–204.2 of this subtitle is payable or has been paid for that death.

~~**(E) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH OF A MEMBER DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, AND AN ELECTION FOR AN ALLOWANCE IS MADE UNDER SUBSECTION (B) OF THIS SECTION, THE BOARD OF TRUSTEES SHALL PAY AN ALLOWANCE EQUAL TO THE AMOUNT PAYABLE UNDER OPTION 2 AS DESCRIBED IN § 21–403 OF THIS ARTICLE:**~~

~~**(1) TO THE SURVIVING SPOUSE; OR**~~

~~**(2) IF THERE IS NO SURVIVING SPOUSE, TO ANY CHILDREN OF THE DECEASED MEMBER WHO ARE UNDER THE AGE OF 26 YEARS OR DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.**~~

~~**(F) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, IF THE BOARD OF TRUSTEES PAYS AN ALLOWANCE UNDER THIS SECTION TO MORE THAN ONE CHILD, THE BOARD OF TRUSTEES SHALL DIVIDE THE ALLOWANCE AMONG THE CHILDREN IN A MANNER THAT PROVIDES FOR PAYMENTS TO CONTINUE UNTIL:**~~

~~**(I) EACH CHILD HAS DIED; OR**~~

~~**(II) EACH CHILD BECOMES 26 YEARS OLD.**~~

~~**(2) NOTWITHSTANDING PARAGRAPH (1)(II) OF THIS SUBSECTION, A SURVIVING CHILD WHO IS DISABLED SHALL CONTINUE TO RECEIVE AN ALLOWANCE UNDER PARAGRAPH (1) OF THIS SUBSECTION PAST THE AGE OF 26 YEARS, IF THE CHILD CONTINUES TO BE DISABLED.**~~

~~**(3) (I) IF A SURVIVING CHILD RECEIVING AN ALLOWANCE UNDER PARAGRAPH (1) OF THIS SUBSECTION IS DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, THE BOARD OF TRUSTEES SHALL PAY TO THE DISABLED SURVIVING CHILD AN ALLOWANCE EQUAL TO THE TOTAL OF THE ALLOWANCES PAID UNDER PARAGRAPH (1) OF THIS SUBSECTION AFTER:**~~

~~**1. ALL OTHER NONDISABLED SURVIVING CHILDREN HAVE DIED; OR**~~

~~**2. THE YOUNGEST NONDISABLED SURVIVING CHILD BECOMES 26 YEARS OLD.**~~

~~**(II) IF MORE THAN ONE SURVIVING CHILD IS DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, THE RETIREMENT ALLOWANCE PAYABLE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DIVIDED EQUALLY AMONG THE DISABLED CHILDREN.**~~

~~**(G) BEFORE THE PAYMENT OF AN ALLOWANCE UNDER THIS SECTION, IF ALL INDIVIDUALS WHO ARE ELIGIBLE TO RECEIVE A DEATH BENEFIT UNDER THIS SECTION ELECT TO WAIVE THE PAYMENT OF AN ALLOWANCE, A BENEFIT SHALL BE PAID IN ACCORDANCE WITH § 29–202(A) OF THIS SUBTITLE.**~~

29–206.

(a) This section applies to **[**the surviving spouse of**]** an individual who died while employed as a member **[**of**]**:

(1) **(I) OF** the Employees' Pension System;

[(2)**]** **(II) OF** the Teachers' Pension System; or

[(3)**]** **(III) OF** the Local Fire and Police System, if the member had not transferred from the Employees' Retirement System**; AND**

(2) (I) WHO WAS ELIGIBLE TO RETIRE;

(II) WHO HAD AT LEAST 25 YEARS OF ELIGIBILITY SERVICE; OR

(III) WHO:

1. WAS NOT SUBJECT TO THE REFORMED CONTRIBUTORY PENSION BENEFIT AND WAS AT LEAST 55 YEARS OLD WITH AT LEAST 15 YEARS OF ELIGIBILITY SERVICE; OR

2. WAS SUBJECT TO THE REFORMED CONTRIBUTORY PENSION BENEFIT AND WAS AT LEAST 60 YEARS OLD WITH AT LEAST 15 YEARS OF ELIGIBILITY SERVICE.

(b) Except as provided in subsection ~~(c)~~ **(D)** of this section, a **MEMBER'S** surviving spouse~~, CHILD UNDER THE AGE OF 26 YEARS, OR DISABLED CHILD~~ may elect to receive one of the following~~, IN ACCORDANCE WITH SUBSECTIONS (D) THROUGH (F) OF THIS SECTION~~:

(1) the death benefit under § 29–202 of this subtitle; or

(2) an allowance equal to the amount payable under Option 2 as described in § 21–403 of this article**[**, if:

(i) the spouse is the sole primary designated beneficiary; and

(ii) the member:

1. was eligible to retire;

2. had at least 25 years of eligibility service; or

3. was at least 55 years old with at least 15 years of eligibility service**]**.

(C) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF A DEATH OF A MEMBER DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION AND THERE IS NO SURVIVING SPOUSE, A CHILD UNDER THE AGE OF 26 YEARS OR A DISABLED CHILD OF THE MEMBER MAY ELECT TO RECEIVE AN ALLOWANCE IN ACCORDANCE WITH THIS SUBSECTION.

(2) IF AN ELECTION IS MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL PAY, IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION, AN ALLOWANCE EQUAL TO 50% OF THE BASIC ALLOWANCE THE MEMBER WAS ELIGIBLE TO RECEIVE UNDER DIVISION II OF THIS ARTICLE TO ANY CHILDREN OF THE DECEASED MEMBER WHO ARE UNDER THE AGE OF 26 YEARS OR DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, IF THE BOARD OF TRUSTEES PAYS AN ALLOWANCE UNDER THIS SUBSECTION TO MORE THAN ONE CHILD, THE BOARD OF TRUSTEES SHALL DIVIDE THE ALLOWANCE AMONG THE CHILDREN IN A MANNER THAT PROVIDES FOR PAYMENTS TO CONTINUE UNTIL:

1. EACH CHILD HAS DIED; OR

2. EACH CHILD BECOMES 26 YEARS OLD.

(II) NOTWITHSTANDING SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, A SURVIVING CHILD WHO IS DISABLED SHALL CONTINUE TO RECEIVE AN ALLOWANCE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH PAST THE AGE OF 26 YEARS, IF THE CHILD CONTINUES TO BE DISABLED.

(III) 1. IF A SURVIVING CHILD RECEIVING AN ALLOWANCE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, THE BOARD OF TRUSTEES SHALL PAY TO THE DISABLED SURVIVING CHILD AN ALLOWANCE EQUAL TO THE TOTAL OF THE ALLOWANCES PAID UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH AFTER:

A. ALL OTHER NONDISABLED SURVIVING CHILDREN HAVE DIED; OR

B. THE YOUNGEST NONDISABLED SURVIVING CHILD BECOMES 26 YEARS OLD.

2. IF MORE THAN ONE SURVIVING CHILD IS DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, THE RETIREMENT ALLOWANCE PAYABLE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL BE DIVIDED EQUALLY AMONG THE DISABLED CHILDREN.

(4) BEFORE THE PAYMENT OF AN ALLOWANCE UNDER THIS SUBSECTION, IF ALL INDIVIDUALS WHO ARE ELIGIBLE TO RECEIVE A DEATH BENEFIT UNDER THIS SUBSECTION ELECT TO WAIVE THE PAYMENT OF AN ALLOWANCE, A BENEFIT SHALL BE PAID IN ACCORDANCE WITH § 29–202(A) OF THIS SUBTITLE.

~~(c)~~ **(D)** A death benefit under this section may not be paid for the death of a member of the Employees' Pension System or Teachers' Pension System if a special death benefit under § 29–204.2 of this subtitle is payable or has been paid for that death.

~~**(D) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH OF A MEMBER DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, AND AN ELECTION FOR AN ALLOWANCE IS MADE UNDER SUBSECTION (B) OF THIS SECTION, THE BOARD OF TRUSTEES SHALL PAY AN ALLOWANCE EQUAL TO THE AMOUNT PAYABLE UNDER OPTION 2 AS DESCRIBED IN § 21–403 OF THIS ARTICLE:**~~

~~**(1) TO THE SURVIVING SPOUSE; OR**~~

~~**(2) IF THERE IS NO SURVIVING SPOUSE, TO ANY CHILDREN OF THE DECEASED MEMBER WHO ARE UNDER THE AGE OF 26 YEARS OR DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION.**~~

~~**(E) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, IF THE BOARD OF TRUSTEES PAYS AN ALLOWANCE UNDER THIS SECTION TO MORE THAN ONE CHILD, THE BOARD OF TRUSTEES SHALL DIVIDE THE**~~

~~ALLOWANCE AMONG THE CHILDREN IN A MANNER THAT PROVIDES FOR PAYMENTS TO CONTINUE UNTIL:~~

~~(I) EACH CHILD HAS DIED; OR~~

~~(II) EACH CHILD BECOMES 26 YEARS OLD.~~

~~(2) NOTWITHSTANDING PARAGRAPH (1)(II) OF THIS SUBSECTION, A SURVIVING CHILD WHO IS DISABLED SHALL CONTINUE TO RECEIVE AN ALLOWANCE UNDER PARAGRAPH (1) OF THIS SUBSECTION PAST THE AGE OF 26 YEARS, IF THE CHILD CONTINUES TO BE DISABLED.~~

~~(3) (I) IF A SURVIVING CHILD RECEIVING AN ALLOWANCE UNDER PARAGRAPH (1) OF THIS SUBSECTION IS DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, THE BOARD OF TRUSTEES SHALL PAY TO THE DISABLED SURVIVING CHILD AN ALLOWANCE EQUAL TO THE TOTAL OF THE ALLOWANCES PAID UNDER PARAGRAPH (1) OF THIS SUBSECTION AFTER:~~

~~1. ALL OTHER NONDISABLED SURVIVING CHILDREN HAVE DIED; OR~~

~~2. THE YOUNGEST NONDISABLED SURVIVING CHILD BECOMES 26 YEARS OLD.~~

~~(II) IF MORE THAN ONE SURVIVING CHILD IS DISABLED, AS DEFINED UNDER § 72(M)(7) OF THE INTERNAL REVENUE CODE, THE RETIREMENT ALLOWANCE PAYABLE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DIVIDED EQUALLY AMONG THE DISABLED CHILDREN.~~

~~(F) BEFORE THE PAYMENT OF AN ALLOWANCE UNDER THIS SECTION, IF ALL INDIVIDUALS WHO ARE ELIGIBLE TO RECEIVE A DEATH BENEFIT UNDER THIS SECTION ELECT TO WAIVE THE PAYMENT OF AN ALLOWANCE, A BENEFIT SHALL BE PAID IN ACCORDANCE WITH § 29–202(A) OF THIS SUBTITLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House

H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 863 – *State Retirement and Pension System – Workers' Compensation Offset*.

This bill requires the Board of Trustees of the State Retirement and Pension System 1) to adjust its offset of an accidental or special disability retirement benefit if the retiree was originally awarded an ordinary disability retirement benefit that was later converted to an accidental or special disability benefit; and 2) the adjusted offset must reflect any offset awarded to the retiree's employer by the Workers' Compensation Commission, and it is retroactive.

Senate Bill 486, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 863.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 863

AN ACT concerning

State Retirement and Pension System – Workers' Compensation Offset

FOR the purpose of requiring the Board of Trustees for the State Retirement and Pension System to adjust a certain reduction of a retiree's accidental or special disability retirement benefit to reflect any offset awarded to the retiree's employer by the Workers' Compensation Commission; making conforming changes; and generally relating to the effect of workers' compensation benefits on retirement benefits.

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 9–610(a)
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 29–118
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Labor and Employment

9–610.

(a) (1) Except for benefits subject to an offset under § 29–118 of the State Personnel and Pensions Article, if a statute, charter, ordinance, resolution, regulation, or policy, regardless of whether part of a pension system, provides a benefit to a covered employee of a governmental unit or a quasi–public corporation that is subject to this title under § 9–201(2) of this title or, in case of death, to the dependents of the covered employee, payment of the benefit by the employer satisfies, to the extent of the payment, the liability of the employer and the Subsequent Injury Fund for payment of similar benefits under this title.

(2) If a benefit paid under paragraph (1) of this subsection is less than the benefits provided under this title, the employer, the Subsequent Injury Fund, or both shall provide an additional benefit that equals the difference between the benefit paid under paragraph (1) of this subsection and the benefits provided under this title.

(3) The computation of an additional benefit payable under paragraph (2) of this section shall be done at the time of the initial award and may not include any cost of living adjustment after the initial award.

Article – State Personnel and Pensions

29–118.

(a) (1) Except as otherwise provided in this subsection, this section applies to a retiree and any designated beneficiary.

(2) (i) This section does not apply to:

1. a retiree of a participating governmental unit, or a designated beneficiary of that retiree; or

2. a retiree of the Employees' Pension System or the Employees' Retirement System who receives a disability retirement benefit as a former employee of a county board of education or the Board of School Commissioners of Baltimore City, or a designated beneficiary of that retiree.

(ii) A retiree described in subparagraph (i) of this paragraph, or a designated beneficiary of that retiree is subject to § 9–610 of the Labor and Employment Article.

(b) (1) **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,** the Board of

Trustees shall reduce an accidental or special disability retirement benefit by any related workers' compensation benefits paid or payable after the effective date of retirement if the workers' compensation benefits:

(i) are paid or payable while a pension is paid or payable; and

(ii) are for an accidental personal injury arising out of and in the course of the retiree's employment by a participating employer.

(2) (I) THIS PARAGRAPH APPLIES TO A RETIREE WHO WAS ORIGINALLY AWARDED AN ORDINARY DISABILITY RETIREMENT BENEFIT, BUT WHOSE BENEFIT WAS LATER CONVERTED TO AN ACCIDENTAL OR SPECIAL DISABILITY RETIREMENT BENEFIT BY THE BOARD OF TRUSTEES.

(II) IF THE RETIREE WAS AWARDED RELATED WORKERS' COMPENSATION BENEFITS PAID OR PAYABLE AFTER THE EFFECTIVE DATE OF RETIREMENT, THE BOARD OF TRUSTEES SHALL ADJUST ITS REDUCTION OF THE RETIREE'S ACCIDENTAL OR SPECIAL DISABILITY RETIREMENT BENEFIT UNDER PARAGRAPH (1) OF THIS SUBSECTION TO REFLECT ANY OFFSET AWARDED TO THE RETIREE'S EMPLOYER BY THE WORKERS' COMPENSATION COMMISSION FOR THE ORIGINAL ORDINARY DISABILITY RETIREMENT BENEFIT.

[(2)**] (3)** A retirement allowance may not be reduced:

(i) to be less than the sum of the retiree's annuity and the amount authorized to be deducted for health insurance premiums; or

(ii) for workers' compensation benefits that are reimbursements for legal fees, medical expenses, or other payments made to third parties and not to the retiree.

(c) The retirement allowance to be reduced under this section is the retirement allowance at retirement without any cost–of–living adjustment **[**and is retroactive**]**.

(D) SUBJECT TO SUBSECTION (B)(2) OF THIS SECTION, THE RETIREMENT ALLOWANCE TO BE REDUCED UNDER THIS SECTION IS RETROACTIVE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones

Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 891 – *State Personnel – Grievance Procedures*. Last year, I vetoed this exact same legislation, and I am perplexed by the General Assembly, once again choosing to pass such a flawed piece of legislation, with no changes or amendments.

Once again, House Bill 891 would ignore those collectively bargained provisions that are in the existing MOUs and instead would allow for an employee to file their grievance with the Office of Administrative Hearings and appeal to the circuit court. This would shift the cost of the grievance proceeding from the negotiated process, which shares the cost between the State and unions, to one which would be borne entirely by the State.

This is yet another ill–advised attempt by the General Assembly to insert themselves into the collective bargaining process and to interfere with the good faith efforts by our Administration to negotiate an agreed upon grievance process with the state employee unions.

Our Administration worked for a number of years to collectively bargain a MOU with state employee unions, and to allow this legislation to undercut the hard work of our negotiating team, by overruling and explicitly negotiated process, degrades the spirit of the collective bargaining process.

The State's negotiating position is completely undermined when state employee unions can rely on the General Assembly to overrule the provisions of a negotiated MOU, and if legislation such as this were allowed to stand and continue, there would be no reason for either the State or unions to return to the bargaining table. Actions such as these create a breach of trust between the two parties, confuse and stymie the collective bargaining process, and undermine the balance of the collective bargaining process.

For these reasons, I have once again vetoed House Bill 891.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 891

AN ACT concerning

State Personnel – Grievance Procedures

FOR the purpose of expanding the application of certain provisions of law governing grievance procedures for certain employees ~~in the State Personnel Management System~~; requiring a grievant to complete certain forms in a certain manner for a certain purpose; applying a certain definition of "grievance" to a certain requirement that the Department of Transportation adopt certain regulations relating to employee grievance procedures; altering a certain definition; defining a certain term; making a conforming change; and generally relating to grievance procedures and State employees.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 12–101, 12–102, and 12–108
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 2–103.4(d)(2)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 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

12–101.

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

(b) "Employer" means one or more of the following:

(1) an employee's appointing authority;

(2) an employee's principal unit; or

(3) the Department of Budget and Management.

(C) "EXCLUSIVE REPRESENTATIVE" HAS THE MEANING STATED IN § 3–101 OF THIS ARTICLE.

[(c)**]** **(D)** (1) "Grievance" means a dispute between an employee and the employee's employer about the interpretation of and application to the employee of:

(i) a personnel policy or regulation adopted by the Secretary; **[**or**]**

(ii) any other policy or regulation over which management has control**; OR**

(III) ANY TERM OR CONDITION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE STATE AND THE EXCLUSIVE REPRESENTATIVE.

(2) "Grievance" does not include a dispute about:

(i) a pay grade or range for a class;

(ii) the amount or the effective date of a statewide pay increase;

(iii) the establishment of a class;

(iv) the assignment of a class to a service category;

(v) the establishment of classification standards;

(vi) a mid–year performance appraisal; or

(vii) an oral reprimand or counseling.

12–102.

(a) Except as otherwise provided by law, this title applies to all employees in the State Personnel Management System within the Executive Branch **AND INDEPENDENT PERSONNEL SYSTEMS**.

(b) This title does not apply to:

(1) an employee who is appointed by the Governor whose appointment requires the Governor's approval;

(2) an employee in the executive service of the State Personnel Management System;

(3) a temporary employee;

(4) an attorney in the Office of the Attorney General or the Office of the Public Defender;

(5) a State Police officer;

(6) ~~[~~an employee ***UNDER § 7–601 OF THE TRANSPORTATION ARTICLE*** who is subject to a collective bargaining agreement that contains another grievance procedure;

(7)**]** an employee, including a member of a faculty, who is subject to a contract or regulation governing teacher tenure;

[(8)**]** ~~(7)~~ a member of the faculty, an officer, or an administrative employee of Baltimore City Community College;

[(9)**]** ~~(8)~~ a student employee;

[(10)**]** ~~(9)~~ an individual who, as an inmate or patient in an institution, is employed by the State; or

[(11)**]** ~~(10)~~ an administrative law judge in the Office of Administrative Hearings.

12–108.

(A) The Secretary shall:

(1) provide for forms for initiating and processing grievances; and

(2) make the forms available on the Department's **[**Web site**]** **WEBSITE**.

(B) THE GRIEVANT SHALL COMPLETE THE FORMS PROVIDED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION IN SUFFICIENT DETAIL THAT WILL ALLOW FOR THE EXPEDITIOUS RESOLUTION OF THE GRIEVANCE.

Article – Transportation

2–103.4.

(d) (2) The regulations shall address procedures for leave, appointment, hiring, promotion, layoff, removal, termination, redress of grievances**, AS DEFINED IN § 12–101 OF THE STATE PERSONNEL AND PENSIONS ARTICLE**, and reinstatement of employees and shall be presented to the Joint Committee on Administrative, Executive, and Legislative Review under Title 10, Subtitle 1 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 898 – *Trusts – Maryland Trust Act – Methods of Notice*.

This bill expands the methods of communication that may be used to provide certain notice under the Maryland Trust Act. This bill also makes technical, conforming, and stylistic changes.

Senate Bill 381, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 898.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 898

AN ACT concerning

Trusts – Maryland Trust Act – Methods of Notice

FOR the purpose of authorizing a trustee to provide notice to a person under the Maryland Trust Act by certain methods; requiring a trustee to receive authorization in writing from a person entitled to receive notice before providing notice by certain alternative methods; authorizing a person to revoke a trustee's authorization to provide notice by an alternative method; authorizing a trustee to provide notice by an alternative method until the trustee's authorization to provide notice by an alternative method is revoked; requiring a trustee to provide notice to a person by a certain method if the trustee knows or should know that the person did not receive notice; authorizing a trustee to provide a person certain notice in a certain manner; making conforming changes; making a technical correction; defining a certain term; and generally relating to notice under the Maryland Trust Act.

BY renumbering
Article – Estates and Trusts
Section 14.5–103(f) through (bb), respectively
to be Section 14.5–103(g) through (cc), respectively
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Estates and Trusts
Section 14.5–103(a)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY adding to
Article – Estates and Trusts
Section 14.5–103(f)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 14.5–109 and 14.5–813
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 14.5–103(f) through (bb), respectively, of Article – Estates and Trusts of the Annotated Code of Maryland be renumbered to be Section(s) 14.5–103(g) through (cc), respectively.

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

Article – Estates and Trusts

14.5–103.

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

(F) "DELIVERY ADDRESS" MEANS:

(1) THE LAST KNOWN PLACE OF RESIDENCE OR PLACE OF BUSINESS OF A PERSON;

(2) A FACSIMILE NUMBER PROVIDED BY A PERSON FOR THE PURPOSE OF RECEIVING NOTICE; OR

(3) AN E–MAIL ADDRESS PROVIDED BY A PERSON FOR THE PURPOSE OF RECEIVING NOTICE.

14.5–109.

(a) (1) Notice to a person under this title or the sending of a document to a person under this title shall be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document.

(2) Permissible methods of notice to a person or for sending a document to a person under this title include first–class mail, personal delivery, or delivery to the **[**last known place of residence or place of business of the person**]** **PERSON'S DELIVERY ADDRESS**.

(3) (i) This paragraph applies to:

1. The proposed termination of a trust;

2. The proposed modification of the administrative or dispositive terms of a trust;

3. The proposed combination of two or more trusts into a single trust;

4. The proposed division of a trust into two or more separate trusts;

5. The proposed resignation of a trustee or cotrustee; ~~or~~

6. The proposed transfer of the principal place of administration of a trust**; OR**

7. THE NOTICE REQUIRED TO BE GIVEN TO A QUALIFIED BENEFICIARY UNDER § 14.5–813 OF THIS TITLE.

(ii) Notwithstanding paragraphs (1) and (2) of this subsection, a trustee shall provide notice to a person under this title:

1. By personal service; **[**or**]**

2. By certified mail **OR FIRST–CLASS MAIL**, postage prepaid, return receipt requested**;**

3. BY COURIER DELIVERY SERVICE, DELIVERY SERVICE PREPAID, DELIVERY CONFIRMATION REQUESTED; OR

4. IF A PERSON ENTITLED TO RECEIVE NOTICE UNDER THIS TITLE AGREES, IN WRITING, TO ACCEPT AN ALTERNATIVE METHOD OF NOTICE:

A. BY FIRST–CLASS MAIL, POSTAGE PREPAID; ~~OR~~

B. BY FACSIMILE TRANSMISSION FROM A FACSIMILE DEVICE THAT PRODUCES A CONFIRMATION PAGE THAT SPECIFIES THE DATE AND TIME OF A SUCCESSFUL FACSIMILE TRANSMISSION; OR

C. BY E–MAIL, ACKNOWLEDGMENT REQUESTED.

(III) 1. A PERSON MAY REVOKE THE TRUSTEE'S AUTHORIZATION TO PROVIDE NOTICE BY AN ALTERNATIVE METHOD UNDER SUBPARAGRAPH (II)4 OF THIS PARAGRAPH BY PROVIDING NOTICE TO THE TRUSTEE IN A METHOD SPECIFIED UNDER SUBPARAGRAPH (II)1 THROUGH 3 OF THIS PARAGRAPH.

2. A TRUSTEE AUTHORIZED TO PROVIDE NOTICE BY AN ALTERNATIVE METHOD UNDER SUBPARAGRAPH (II)4 OF THIS PARAGRAPH MAY CONTINUE TO PROVIDE NOTICE BY AN ALTERNATIVE METHOD UNTIL THE PERSON ENTITLED TO RECEIVE NOTICE REVOKES AUTHORIZATION.

(IV) IF A TRUSTEE WHO PROVIDES NOTICE BY AN ALTERNATIVE METHOD UNDER SUBPARAGRAPH (II)4 OF THIS PARAGRAPH KNOWS OR SHOULD KNOW THAT THE PERSON DID NOT RECEIVE NOTICE, THE TRUSTEE SHALL PROVIDE NOTICE TO THE PERSON BY A METHOD SPECIFIED UNDER SUBPARAGRAPH (II)1 THROUGH 3 OF THIS PARAGRAPH.

(b) **[**Notice otherwise**]** **EXCEPT AS EXPRESSLY PROVIDED IN THIS TITLE, NOTICE** required under this title or a document **[**otherwise**]** required to be sent under this title need not be provided:

(1) To a person whose identity **[**or**],** location**, OR DELIVERY ADDRESS** is unknown to and not reasonably ascertainable by the trustee; or

(2) By a person to himself or herself.

(c) Notice under this title or the sending of a document under this title may be waived in writing by the person to be notified or sent the document.

(d) Notice of a judicial proceeding under this title shall be given as provided in the applicable rules of civil procedure.

14.5–813.

(a) Unless unreasonable under the circumstances, a trustee shall promptly respond to the request of a qualified beneficiary for information related to the administration of the trust, including a copy of the trust instrument.

(b) (1) A trustee:

(i) Within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number; and

(ii) Within 90 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report as provided in subsection (c) of this section.

(2) **[**Notwithstanding § 14.5–109 of this title, notice**]** **NOTICE** required under this subsection shall be:

(i) To the extent the names and locations **OR DELIVERY ADDRESSES** of the qualified beneficiaries are known to the trustee:

1. By delivery of the notice to the qualified beneficiaries personally; or

2. By sending the notice to the qualified beneficiaries at their **[**last known address by certified mail, postage prepaid, return receipt requested**]** **DELIVERY ADDRESS BY A METHOD OF NOTICE SPECIFIED IN § 14.5–109(A)(3)(II) OF THIS TITLE**; and

(ii) If the name, location **OR DELIVERY ADDRESS**, or both of a qualified beneficiary is not known to the trustee, by publication in a newspaper of general circulation in the county where the trust property is located once a week for 3 successive weeks.

(c) (1) On request by a qualified beneficiary, a trustee shall send to the qualified beneficiary annually and at the termination of the trust a report of the trust property, liabilities, receipts, and disbursements, including the source and amount of the compensation of the trustee, a listing of the trust assets, and, if feasible, the respective market values of the trust assets.

(2) On a vacancy in a trusteeship, unless a cotrustee remains in office, the former trustee shall send a report to the qualified beneficiaries that request the report.

(3) A personal representative, a guardian, or an attorney–in–fact may send the qualified beneficiaries a report on behalf of the former trustee.

(d) (1) A qualified beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section.

(2) A qualified beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

(3) If a trustee is a qualified beneficiary of the trust for which the trustee is serving, the trustee is not required to provide himself or herself a trustee's report or other information required to be furnished under this section.

(e) Subsection (b) of this section does not apply to a trustee that accepts a trusteeship before January 1, 2015, to an irrevocable trust created before January 1, 2015, or to a revocable trust that becomes irrevocable before January 1, 2015.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 931– *Health Care Facilities – Certificate of Need – Modifications*.

This bill modifies certificate of need requirements regarding changes in health care services offered and capital expenditures related to a healthcare facility other than a hospital.

This bill also requires a specified certificate of need filed after October 1, 2019, to be deemed approved if (1) the certificate of need is uncontested; and (2) final action by the Maryland Health Care Commission does not occur within 120 days after the application for a certificate of need was docketed. Additionally, this bill alters the definition of "ambulatory surgical facility" and repeals an associated certificate of need exemption.

Senate Bill 940, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 931.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 931

AN ACT concerning

Health Care Facilities – Certificate of Need – Modifications

FOR the purpose of ~~altering~~ repealing a provision of law exempting certain offices from certificate of need requirements under certain circumstances; providing that a certificate of need is required before the type or scope of any health care service is changed if the health care service results in a change in operating room capacity in ~~a~~ certain ~~hospital~~ health care facilities; altering the circumstances under which a certificate of need is required before certain capital expenses are made by or on behalf of a certain health care facility; ~~authorizing the Maryland Health Care Commission to establish an abbreviated review process for certain applications for a certificate of need;~~ repealing a provision of law authorizing a hospital to acquire a freestanding ambulatory surgical facility or a certain office or group practice under certain circumstances; providing that a certain certificate of need application is deemed approved under certain circumstances; repealing a provision of law providing for the construction of certain provisions of law governing certificates of need; providing for the application of certain provisions of this Act; altering a certain definition; and generally relating to certificates of need.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 19–114(a)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–114(b), 19–120(j)(1) and (k)(2), and 19–126
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing
Article – Health – General
Section 19–120(k)(8) and (9)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 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.

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

(b) **[**(1)**]** "Ambulatory surgical facility" means any center, service, office, facility, or office of one or more health care practitioners or a group practice~~, as defined in § 1–301 of the Health Occupations Article,~~ that:

[(i)**] (1)** Has **[**two**] THREE** or more operating rooms;

[(ii)**] (2)** Operates primarily for the purpose of providing surgical services to patients who do not require overnight hospitalization; and

[(iii)**] (3)** Seeks reimbursement from payors as an ambulatory surgical facility.

~~(2) For purposes of this subtitle, the office of one or more health care practitioners or a group practice with **[**two**] THREE** operating rooms may be exempt from the certificate of need requirements under this subtitle if the Commission finds, in its sole discretion, that:~~

~~(i) A **[**second**] THIRD** operating room is necessary to promote the efficiency, safety, and quality of the surgical services offered; and~~

~~(ii) The office meets the criteria for exemption from the certificate of need requirements as an ambulatory surgical facility in accordance with regulations adopted by the Commission.~~

19–120.

(j) (1) A certificate of need is required before the type or scope of any health care service is changed if the health care service **[**is**]:**

(I) IS offered:

[(i)**] 1.** By a health care facility;

[(ii)**] 2.** In space that is leased from a health care facility; or

[(iii)**] 3.** In space that is on land leased from a health care facility**;**

OR

(II) RESULTS IN A CHANGE IN OPERATING ROOM CAPACITY IN A ~~GENERAL~~ HOSPITAL, A FREESTANDING MEDICAL FACILITY, OR AN AMBULATORY SURGICAL FACILITY.

(k) (2) A certificate of need is required before any of the following capital expenditures are made by or on behalf of a health care facility other than a hospital:

(i) Any expenditure that, under generally accepted accounting principles, is not properly chargeable as an operating or maintenance expense, if:

1. **[**The expenditure is made as part of an acquisition, improvement, or expansion, and, after adjustment for inflation as provided in the regulations of the Commission, the total expenditure, including the cost of each study, survey, design, plan, working drawing, specification, and other essential activity, is more than $5,000,000;

2. The expenditure is made as part of a replacement of any plant and equipment of the health care facility other than a hospital and is more than $5,000,000 after adjustment for inflation as provided in the regulations of the Commission;

3.**]** The expenditure results in a substantial change in the bed capacity of the health care facility other than a hospital; or

[4.**] 2.** The expenditure results in the establishment of a new medical service in a health care facility other than a hospital that would require a certificate of need under subsection (i) of this section; or

(ii) Any expenditure that is made to lease or, by comparable arrangement, obtain any plant or equipment for the health care facility other than a hospital, if:

1. **[**The expenditure is made as part of an acquisition, improvement, or expansion, and, after adjustment for inflation as provided in the regulations of the Commission, the total expenditure, including the cost of each study, survey, design, plan, working drawing, specification, and other essential activity, is more than $5,000,000;

2. The expenditure is made as part of a replacement of any plant and equipment and is more than $5,000,000 after adjustment for inflation as provided in the regulations of the Commission;

3.**]** The expenditure results in a substantial change in the bed capacity of the health care facility other than a hospital; or

[4.**] 2.** The expenditure results in the establishment of a new medical service in a health care facility other than a hospital that would require a certificate of need under subsection (i) of this section.

[(8) Subject to the notice requirements of paragraph (6)(ii) of this subsection, a hospital may acquire a freestanding ambulatory surgical facility or office of

one or more health care practitioners or a group practice with one or more operating rooms used primarily for the purpose of providing ambulatory surgical services if the facility, office, or group practice:

(i) Has obtained a certificate of need;

(ii) Has obtained an exemption from certificate of need requirements; or

(iii) Did not require a certificate of need in order to provide ambulatory surgical services after June 1, 1995.

(9) Nothing in this subsection may be construed to permit a hospital to build or expand its ambulatory surgical capacity in any setting owned or controlled by the hospital without obtaining a certificate of need from the Commission if the building or expansion would increase the surgical capacity of the State's health care system.**]**

19–126.

(a) If the Commission receives an application for a certificate of need for a change in the bed capacity of a health care facility, as required under § 19–120 of this subtitle, or for a health care project that would create a new health care service or abolish an existing health care service, the Commission shall give notice of the filing by publication in the Maryland Register and give the following notice to:

(1) Each member of the General Assembly in whose district the action is planned;

(2) Each member of the governing body for the county where the action is planned;

(3) The county executive, mayor, or chief executive officer, if any, in whose county or city the action is planned; and

(4) Any health care provider, third party payor, local planning agency, or any other person the Commission knows has an interest in the application.

(b) Failure to give notice shall not adversely affect the application.

(c) (1) All decisions of the Commission on an application for a certificate of need, except in emergency circumstances posing a threat to public health, shall be consistent with the State health plan and the standards for review established by the Commission.

(2) The mere failure of the State health plan to address any particular project or health care service shall not alone be deemed to render the project inconsistent with the State health plan.

(3) Unless the Commission finds that the facility or service for which the proposed expenditure is to be made is not needed or is not consistent with the State health plan, the Commission shall approve an application for a certificate of need required under § 19–120(k) of this subtitle to the extent that the expenditure is to be made to:

(i) Eliminate or prevent an imminent safety hazard, as defined by federal, State, or local fire, building, or life safety codes or regulations;

(ii) Comply with State licensing standards; or

(iii) Comply with accreditation standards for reimbursement under Title XVIII of the Social Security Act or under the State Medical Assistance Program approved under Title XIX of the Social Security Act.

(d) (1) ~~(I)~~ The Commission alone shall have final nondelegable authority to act upon an application for a certificate of need, except as provided in this subsection.

~~(II) THE COMMISSION MAY ESTABLISH AN ABBREVIATED REVIEW PROCESS FOR UNCONTESTED APPLICATIONS FOR A CERTIFICATE OF NEED THAT DO NOT INVOLVE:~~

~~1. THE ESTABLISHMENT OF A HEALTH CARE FACILITY;~~

~~2. THE RELOCATION OF A HEALTH CARE FACILITY; OR~~

~~3. THE INTRODUCTION BY A HOSPITAL OF CARDIAC SURGERY OR ORGAN TRANSPLANTATION.~~

(2) A majority of the full authorized membership of the Commission shall be a quorum to act on an application for a certificate of need.

(3) After an application is filed, the staff of the Commission:

(i) Shall review the application for completeness within 10 working days of the filing of the application; and

(ii) May request further information from the applicant.

(4) The Commission may delegate to a reviewer the responsibility for review of an application for a certificate of need, including:

(i) The holding of an evidentiary hearing if the Commission, in accordance with criteria it has adopted by regulation, considers an evidentiary hearing appropriate due to the magnitude of the impact the proposed project may have on the health care delivery system; and

(ii) Preparation of a recommended decision for consideration by the full Commission.

(5) The Commission shall designate a single Commissioner to act as a reviewer for the application and any competing applications.

(6) The Commission shall delegate to its staff the responsibility for an initial review of an application, including, in the event that no written comments on an application are submitted by any interested party other than the staff of the Commission, the preparation of a recommended decision for consideration by the full Commission.

(7) Any "interested party" may submit written comments on the application in accordance with procedural regulations adopted by the Commission.

(8) The Commission shall define the term "interested party" to include, at a minimum:

(i) The staff of the Commission;

(ii) Any applicant who has submitted a competing application;

(iii) Any other person who can demonstrate that the person would be adversely affected by the decision of the Commission on the application;

(iv) A local health planning agency for a jurisdiction or region in which the proposed facility or service will be located; and

(v) In the review of a replacement acute general hospital project proposed by or on behalf of a regional health system that serves multiple contiguous jurisdictions, a jurisdiction within the region served by the regional health system that does not contain the proposed replacement acute general hospital project.

(9) The reviewer shall review the application, any written comments on the application, and any other materials permitted by this section or by the Commission's regulations, and present a recommended decision on the application to the full Commission.

(10) (i) An applicant and any interested party may request the opportunity to present oral argument to the reviewer, in accordance with regulations adopted by the Commission, before the reviewer prepares a recommended decision on the application for consideration by the full Commission.

(ii) The reviewer may grant, deny, or impose limitations on an interested party's request to present oral argument to the reviewer.

(11) Any interested party who has submitted written comments under paragraph (7) of this subsection may submit written exceptions to the proposed decision

and make oral argument to the Commission, in accordance with regulations adopted by the Commission, before the Commission takes final action on the application.

(12) The Commission shall, after determining that the recommended decision is complete, vote to approve, approve with conditions, or deny the application on the basis of the recommended decision, the record before the staff or the reviewer, and exceptions and arguments, if any, before the Commission.

(13) The decision of the Commission shall be by a majority of the quorum present and voting.

(e) Where the State health plan identifies a need for additional hospital bed capacity in a region or subregion, in a comparative review of 2 or more applicants for hospital bed expansion projects, a certificate of need shall be granted to 1 or more applicants in that region or subregion that:

(1) Have satisfactorily met all applicable standards;

(2) (i) Have within the preceding 10 years voluntarily delicensed the greater of 10 beds or 10 percent of total licensed bed capacity to the extent of the beds that are voluntarily delicensed; or

(ii) Have been previously granted a certificate of need which was not recertified by the Commission within the preceding 10 years; and

(3) The Commission finds at least comparable to all other applicants.

(f) (1) If any party or interested person requests an evidentiary hearing with respect to a certificate of need application for any health care facility other than an ambulatory surgical facility and the Commission, in accordance with criteria it has adopted by regulation, considers an evidentiary hearing appropriate due to the magnitude of the impact that the proposed project may have on the health care delivery system, the Commission or a committee of the Commission shall hold the hearing in accordance with the contested case procedures of the Administrative Procedure Act.

(2) Except as provided in this section or in regulations adopted by the Commission to implement the provisions of this section, the review of an application for a certificate of need for an ambulatory surgical facility is not subject to the contested case procedures of Title 10, Subtitle 2 of the State Government Article.

(g) (1) An application for a certificate of need shall be acted upon by the Commission no later than 150 days after the application was docketed.

(2) If an evidentiary hearing is not requested, the Commission's decision on an application shall be made no later than 90 days after the application was docketed.

(h) (1) The applicant or any aggrieved party, as defined in § 19–128(a) of this subtitle, may petition the Commission within 15 days for a reconsideration.

(2) The Commission shall decide whether or not it will reconsider its decision within 30 days of receipt of the petition for reconsideration.

(3) The Commission shall issue its reconsideration decision within 30 days of its decision on the petition.

(i) **(1) [**If**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF** the Commission does not act on an application within the required period, the applicant may file with a court of competent jurisdiction within 60 days after expiration of the period a petition to require the Commission to act on the application.

~~**(2) FOR UNCONTESTED APPLICATIONS FOR A CERTIFICATE OF NEED ELIGIBLE FOR AN ABBREVIATED PROJECT REVIEW PROCESS UNDER SUBSECTION (D)(1)(II) OF THIS SECTION, IF FINAL ACTION BY THE COMMISSION DOES NOT OCCUR WITHIN 90 DAYS AFTER THE APPLICATION WAS DOCKETED, THE APPLICATION FOR THE CERTIFICATE OF NEED SHALL BE DEEMED APPROVED.**~~

(2) (I) THIS PARAGRAPH DOES NOT APPLY TO AN APPLICATION FOR A CERTIFICATE OF NEED INVOLVING:

1. THE ESTABLISHMENT OF A HEALTH CARE FACILITY;

2. THE RELOCATION OF A HEALTH CARE FACILITY; OR

3. THE INTRODUCTION BY A HOSPITAL OF CARDIAC SURGERY OR ORGAN TRANSPLANTATION.

(II) A CERTIFICATE OF NEED FILED AFTER OCTOBER 1, 2019, SHALL BE DEEMED APPROVED IF:

1. THE CERTIFICATE OF NEED IS UNCONTESTED; AND

2. FINAL ACTION BY THE COMMISSION DOES NOT OCCUR WITHIN 120 DAYS AFTER THE APPLICATION FOR THE CERTIFICATE OF NEED WAS DOCKETED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 934 – *Consumer Protection – Resale of Tickets – Disclosures and Refunds*.

This bill defines a "speculative ticket" as a ticket that is not in the actual or constructive possession of the reseller at the time of sale; and prohibits a ticket reseller from selling, or offering to sell, a speculative ticket unless the reseller discloses certain information to a prospective purchaser at the outset of the sales transaction.

This bill also requires a ticket reseller to refund any consideration or deposit paid for tickets if the reseller fails to obtain the tickets (1) within 24 hours after the approximate date of specified delivery, but before the commencement of the event; or (2) in conformity with the disclosures required by the bill. Additionally, the bill requires that a reseller must make any refund required by the bill within 10 days after the final day of the event for which the tickets were sold; and provides that a violation of this bill is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act, subject to its civil and criminal penalty provisions.

Senate Bill 891, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 934.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 934

AN ACT concerning

Consumer Protection – Resale of Tickets – Disclosures and Refunds

FOR the purpose of prohibiting a ticket reseller from selling or offering to sell ~~tickets that are not currently in the possession of the reseller~~ speculative tickets unless the reseller makes certain disclosures; requiring a reseller to refund a certain deposit or other consideration within a certain period of time, under certain circumstances; defining certain terms; and generally relating to the resale of tickets.

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 13–310
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY adding to
Article – Commercial Law
Section 13–310.1
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

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

Article – Commercial Law

13–310.

(a) This section does not apply to nonprofit organizations.

(b) A person who sells reserved seat tickets for an athletic, recreational, cultural, or entertainment event shall display prominently at the ticket–sale location a seating plan which clearly shows the location of every reserved seat and every physical obstruction to the viewing of the event.

13–310.1.

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

(2) (I) "RESALE" MEANS THE ~~SALE OF A TICKET BY A PERSON OTHER THAN THE ISSUER OF THE TICKET OR A PERSON EXPRESSLY AUTHORIZED TO MAKE THE FIRST SALE OF THE TICKET~~ SECOND OR SUBSEQUENT SALE OF A TICKET.

(II) "RESALE" INCLUDES A SALE BY ANY MEANS, INCLUDING IN PERSON, BY TELEPHONE, BY MAIL, BY E–MAIL, BY FACSIMILE, OR THROUGH A WEBSITE OR OTHER ELECTRONIC MEANS.

(3) "RESELLER" MEANS A PERSON WHO OFFERS A TICKET FOR RESALE.

(4) (I) "SPECULATIVE TICKET" MEANS A TICKET THAT IS NOT IN THE ACTUAL OR CONSTRUCTIVE POSSESSION OF A RESELLER AT THE TIME OF SALE.

(II) "SPECULATIVE TICKET" INCLUDES A TICKET SOLD BY A RESELLER THAT, AT THE TIME OF RESALE:

1. IS NOT IN THE PHYSICAL POSSESSION OF THE RESELLER;

2. IS NOT OWNED BY THE RESELLER; OR

3. IS NOT UNDER CONTRACT TO BE TRANSFERRED TO THE RESELLER.

~~(4)~~ (5) "TICKET" MEANS PHYSICAL, ELECTRONIC, OR OTHER EVIDENCE, THAT GRANTS THE POSSESSOR OF THE EVIDENCE PERMISSION TO ENTER A PLACE OF ENTERTAINMENT FOR ONE OR MORE EVENTS AT A SPECIFIED DATE AND TIME.

~~**(B) A RESELLER MAY NOT SELL OR OFFER TO SELL TICKETS THAT ARE NOT CURRENTLY IN THE POSSESSION OF THE RESELLER UNLESS THE RESELLER**~~

(B) A RESELLER MAY NOT SELL OR OFFER TO SELL SPECULATIVE TICKETS UNLESS THE RESELLER, CLEARLY AND CONSPICUOUSLY, DISCLOSES TO A PROSPECTIVE PURCHASER AT THE OUTSET OF THE SALES TRANSACTION:

(1) THAT THE TICKETS ARE SPECULATIVE TICKETS, AND THE RESELLER IS NOT IN POSSESSION OF THE TICKETS;

(2) THAT THE RESELLER IS MAKING AN OFFER TO PROCURE THE TICKETS FOR THE PROSPECTIVE PURCHASER;

~~(2)~~ (3) AN APPROXIMATE DATE ON WHICH THE TICKETS WILL BE DELIVERED TO THE PURCHASER;

~~(3)~~ (4) THE NAME OR A DESCRIPTION OF THE EVENT FOR WHICH THE TICKETS WILL PERMIT ENTRY;

~~(4)~~ (5) THE TOTAL NUMBER OF TICKETS INCLUDED IN THE TRANSACTION;

~~(5)~~ (6) THE NUMBER OF TICKETS FOR SEATS THAT ARE TOGETHER;

~~(6)~~ (7) THE ZONE OR SECTION NUMBER OF THE TICKETS, TO THE EXTENT APPLICABLE TO THE VENUE; AND

~~(7)~~ (8) FOR RESERVED SEAT TICKETS~~, THE~~:

(I) THE SEAT NUMBERS OF THE TICKETS; OR

(II) IF APPLICABLE, THAT THE RESELLER CANNOT GUARANTEE THE SPECIFIC SEATS BECAUSE THE TICKETS ARE SPECULATIVE TICKETS.

(C) (1) A RESELLER SHALL REFUND TO A PURCHASER ANY CONSIDERATION OR DEPOSIT PAID FOR TICKETS SOLD UNDER THIS SECTION IF THE RESELLER FAILS TO OBTAIN THE TICKETS:

(I) WITHIN 24 HOURS AFTER THE APPROXIMATE DATE OF DELIVERY SPECIFIED IN SUBSECTION (B)(2) OF THIS SECTION, BUT BEFORE THE COMMENCEMENT OF THE EVENT FOR WHICH THE TICKETS WERE SOLD; OR

(II) IN CONFORMITY WITH THE DISCLOSURES REQUIRED UNDER THIS SECTION.

(2) A RESELLER SHALL MAKE A REFUND REQUIRED UNDER THIS SUBSECTION NOT LATER THAN 10 DAYS AFTER THE FINAL DAY OF THE EVENT FOR WHICH THE TICKETS WERE SOLD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 953 – *State Board of Barbers – Sunset Extension*.

This bill extends by three years the termination date for the State Board of Barbers, and requires the Department of Legislative Services to conduct a preliminary evaluation of the board by a certain date.

Senate Bill 439, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 953.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 953

AN ACT concerning

State Board of Barbers – Sunset Extension

FOR the purpose of continuing the State Board of Barbers in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; and generally relating to the State Board of Barbers.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 4–702
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(7)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 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

4–702.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, **[**2021**]** **2024**.

Article – State Government

8–403.

(a) On or before December 15 of the evaluation year specified, the Department shall:

(1) conduct a preliminary evaluation of each governmental activity or unit to be evaluated under this section; and

(2) prepare a report on each preliminary evaluation conducted.

(b) Each of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units are subject to preliminary evaluation in the evaluation year specified:

(7) Barbers, State Board of (§ 4–201 of the Business Occupations and Professions Article: **[**2018**]** **2021**);

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller
President of the Senate
H–107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 839 and House Bill 994 – *Labor and Employment – Criminal Record Screening Practices (Ban the Box).*

Hiring the right team is one of the most critical activities a business does. Employers have the right, and often the need, to know the criminal history of applicants they may hire.

Senate Bill 839/House Bill 994 prohibits businesses from requiring an applicant to disclose this important information until the first in–person interview. This would result in costly and time–consuming human resources work that ultimately goes nowhere.

Delaying an employer's ability to require an applicant to disclose their criminal history until late in the process would cause hiring delays and waste time and resources. By the point an employer discovers a potential employee has a criminal background, alternative candidates may no longer be available for hire, forcing employers to restart the entire process. This will have a particularly negative impact on employers in industries with high employee turnover or where positions must be filled quickly.

Senate Bill 839/House Bill 994 would impose additional costs on employers without commensurate returns in terms of opportunities for ex–offenders. By prohibiting an employer from requiring an applicant to disclose their criminal history until the first in–person interview, Senate Bill 839/House Bill 994 would force businesses to pay for background checks or refer to often incomplete, inaccurate, or outdated online criminal history websites. This would add tremendous costs to businesses but yield no positive impact on job opportunities for those with a criminal history.

Further, Senate Bill 839/House Bill 994 contains dangerous preemption language that explicitly allows for more restrictive laws in each county and municipality across Maryland. This would result in a patchwork of dozens of different laws across the state, creating an even larger burden as businesses operating across jurisdictional lines attempt to navigate the intricacies of each set of rules.

Opportunities for individuals involved in the criminal justice system to make amends and rebuild after committing a crime are an important part of any just and effective criminal justice system. Over the past several years, working together with the General Assembly, we have been able to shield minor offenses from public view, create a process for certificates of rehabilitation to improve employment prospects, and dramatically expand expungement opportunities. Additionally, a growing number of businesses, including Target, Walmart, and Starbucks, support these goals and have decided not to inquire about criminal history on their job applications. However, when and how an employer asks about criminal history is a decision that should be left to employers, not dictated by the legislature and micro–managed in the annotated code.

Finally, and perhaps most importantly, Senate Bill 839/House Bill 994 endangers safety. The legislation includes an exclusion for employers who work with children or vulnerable adults. This exemption acknowledges the risk posed by not asking about an applicant's criminal history. However, the legislation does not make any further differentiations between serious, potentially violent, felony offenses and less serious misdemeanors. It also does not include exemptions for occupations related to applicant's criminal conviction.

For these reasons, I have vetoed Senate Bill 839 and House Bill 994.

Sincerely,

Lawrence J. Hogan Jr.
Governor

House Bill 994

AN ACT concerning

Labor and Employment – Criminal Record Screening Practices (Ban the Box)

FOR the purpose of authorizing the Commissioner of Labor and Industry to conduct an investigation to determine whether certain provisions of this Act have been violated on receipt of a certain written complaint; prohibiting certain employers from ~~requiring an applicant for employment to disclose certain information regarding the criminal record of the applicant except under certain circumstances, conducting a certain criminal history records check, or taking certain other action before a conditional offer for employment has been extended; providing that certain provisions of this Act do not prohibit an employer from making a certain inquiry or taking certain other action; including on certain application forms a question or other request for information regarding whether the applicant for employment has a criminal record or has had criminal accusations brought against the applicant~~ *requiring an applicant for employment to disclose certain information regarding the criminal record of the applicant except under certain circumstances before the first in–person interview; providing that certain provisions of this Act do not prohibit an employer from making a certain inquiry or taking certain other action*; providing that certain provisions of this Act do not apply to certain employers; ~~authorizing the Commissioner on a certain determination to resolve certain issues informally by mediation; authorizing the Commissioner to ask the Attorney General to bring a certain action on behalf of certain applicants under certain circumstances; authorizing the Attorney General to bring a certain action in a certain county under certain circumstances for injunctive relief, damages, or other relief;~~ prohibiting employers from taking or refusing to take certain actions against certain applicants and employees under certain circumstances; ~~establishing certain penalties;~~ requiring the Commissioner to issue a certain order under certain circumstances; authorizing the Commissioner to assess a certain civil penalty for certain violations of this Act under certain circumstances; requiring the Commissioner to consider certain factors in determining the amount of a certain penalty; subjecting the assessment of a certain penalty to certain requirements; providing for the construction of this Act; defining certain terms; providing for a delayed effective date; and generally relating to criminal record screening practices of employers.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–103
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

BY adding to
Article – Labor and Employment
Section 3–1401 through ~~3–1406~~ 3–1405 to be under the new subtitle "Subtitle 14. Criminal History Screening"
Annotated Code of Maryland
(2016 Replacement Volume and 2018 Supplement)

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

Article – Labor and Employment

3–103.

(a) Except as otherwise provided in this section, the Commissioner may conduct an investigation to determine whether a provision of this title has been violated on the Commissioner's own initiative or may require a written complaint.

(b) The Commissioner may conduct an investigation under Subtitle 3 of this title, on the Commissioner's own initiative or on receipt of a written complaint of an employee.

(c) The Commissioner may conduct an investigation to determine whether Subtitle 5 of this title has been violated on receipt of a written complaint of an employee.

(d) The Commissioner may conduct an investigation to determine whether Subtitle 6 of this title has been violated on receipt of a written complaint of a sales representative.

(e) (1) The Commissioner may investigate whether § 3–701 of this title has been violated on receipt of a written complaint of an applicant for employment.

(2) The Commissioner may investigate whether § 3–702 of this title has been violated on receipt of a written complaint of an applicant for employment or an employee.

(3) The Commissioner may investigate whether § 3–704 of this title has been violated on receipt of a written complaint of an employee.

(4) The Commissioner may investigate whether § 3–710 of this title has been violated on receipt of a written complaint of an employee as provided in § 3–710(d)(1) of this title.

(5) The Commissioner may investigate whether § 3–711 of this title has been violated on receipt of a written complaint of an employee as provided in § 3–711(d)(1) of this title.

(6) The Commissioner may investigate whether § 3–712 of this title has been violated on receipt of a written complaint of an employee or applicant.

(f) (1) The Commissioner may investigate whether § 3–801 of this title has been violated on receipt of a written complaint of an employee.

(2) The Commissioner may investigate whether § 3–802 of this title has been violated on receipt of a written complaint of an employee.

(g) The Commissioner may investigate whether Subtitle 9 of this title has been violated:

(1) on the Commissioner's own initiative;

(2) on receipt of a written complaint signed by the person submitting the complaint; or

(3) on referral from another unit of State government.

(h) The Commissioner may conduct an investigation to determine whether Subtitle 10 of this title has been violated on receipt of a written complaint of an employee.

(i) The Commissioner may conduct an investigation to determine whether Subtitle 12 of this title has been violated on receipt of a written complaint of an employee.

(J) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE WHETHER SUBTITLE 14 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN APPLICANT OR EMPLOYEE.

[(j)**] (K)** The Commissioner, on the Commissioner's own initiative or on receipt of a written complaint, may conduct an investigation of whether a local minimum wage law has been violated.

[(k)**] (L)** (1) The Commissioner may conduct an investigation to determine whether Subtitle 13 of this title has been violated on receipt of a written complaint by an employee.

(2) To the extent practicable, the Commissioner shall keep confidential the identity of an employee who has filed a written complaint alleging a violation of Subtitle 13 of this title unless the employee waives confidentiality.

SUBTITLE 14. CRIMINAL HISTORY SCREENING.

3–1401.

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

(B) "CRIMINAL RECORD" MEANS:

(1) AN ARREST;

(2) A PLEA OR VERDICT OF GUILTY;

(3) A PLEA OF NOLO CONTENDERE;

(4) *THE MARKING OF A CHARGE "STET" ON THE DOCKET*;

***(5)* A DISPOSITION OF PROBATION BEFORE JUDGMENT; OR**

~~(5)~~ *(6)* A DISPOSITION OF NOT CRIMINALLY RESPONSIBLE.

(C) (1) "EMPLOYER" MEANS A PERSON WHO EMPLOYS 15 OR MORE FULL–TIME EMPLOYEES.

(2) "EMPLOYER" INCLUDES:

~~(I) A UNIT OF STATE OR LOCAL GOVERNMENT; AND~~

~~(II)~~ A PERSON WHO ACTS, DIRECTLY OR INDIRECTLY, IN THE INTEREST OF AN EMPLOYER WITH RESPECT TO AN EMPLOYEE OF THE EMPLOYER.

(D) (1) "EMPLOYMENT" MEANS ANY WORK FOR PAY AND ANY FORM OF VOCATIONAL OR EDUCATIONAL TRAINING, WITH OR WITHOUT PAY.

(2) "EMPLOYMENT" INCLUDES:

(I) CONTRACTUAL, TEMPORARY, SEASONAL, OR CONTINGENT WORK; AND

(II) WORK THROUGH THE SERVICES OF A TEMPORARY OR OTHER EMPLOYMENT AGENCY.

3–1402.

(A) THIS SUBTITLE DOES NOT:

(1) PROHIBIT AN EMPLOYER FROM MAKING AN INQUIRY OR TAKING OTHER ACTION THAT THE EMPLOYER IS REQUIRED TO TAKE OR IS EXPRESSLY

AUTHORIZED TO TAKE BY ANOTHER APPLICABLE ~~FEDERAL, STATE, OR LOCAL~~ FEDERAL OR STATE LAW; OR

(2) APPLY TO AN EMPLOYER THAT PROVIDES PROGRAMS, SERVICES, OR DIRECT CARE TO MINORS OR TO VULNERABLE ADULTS.

(B) THIS SUBTITLE MAY NOT BE CONSTRUED TO PREEMPT A LOCAL JURISDICTION FROM ENACTING OR ENFORCING A LAW THAT IS MORE RESTRICTIVE WITH RESPECT TO CRIMINAL RECORD SCREENING PRACTICES OF EMPLOYERS IN THE LOCAL JURISDICTION.

3–1403.

~~(A)~~ *(A)* ~~AN~~ *EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN* EMPLOYER MAY NOT~~, AT ANY TIME BEFORE A CONDITIONAL OFFER OF EMPLOYMENT HAS BEEN EXTENDED:~~

~~(1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, REQUIRE AN APPLICANT TO DISCLOSE WHETHER THE APPLICANT HAS A CRIMINAL RECORD OR HAS HAD CRIMINAL ACCUSATIONS BROUGHT AGAINST THE APPLICANT;~~

~~(2) CONDUCT A CRIMINAL HISTORY RECORDS CHECK ON THE APPLICANT; OR~~

~~(3) OTHERWISE INQUIRE OF THE APPLICANT OR OTHERS ABOUT WHETHER THE APPLICANT HAS A CRIMINAL RECORD OR HAS HAD CRIMINAL ACCUSATIONS BROUGHT AGAINST THE APPLICANT.~~

**~~(B) AN EMPLOYER MAY REQUIRE AN APPLICANT TO DISCLOSE DURING THE FIRST IN–PERSON INTERVIEW WITH THE APPLICANT WHETHER THE APPLICANT HAS A CRIMINAL RECORD OR HAS HAD CRIMINAL ACCUSATIONS BROUGHT AGAINST THE APPLICANT~~ ~~INCLUDE ON A PAPER OR ELECTRONIC APPLICATION FORM A QUESTION OR OTHER REQUEST FOR INFORMATION REGARDING WHETHER THE APPLICANT HAS A CRIMINAL RECORD OR HAS HAD CRIMINAL ACCUSATIONS BROUGHT AGAINST THE APPLICANT~~, *AT ANY TIME BEFORE THE FIRST IN–PERSON INTERVIEW, REQUIRE AN APPLICANT TO DISCLOSE WHETHER THE APPLICANT HAS A CRIMINAL RECORD OR HAS HAD CRIMINAL ACCUSATIONS BROUGHT AGAINST THE APPLICANT.*

***(B) AN EMPLOYER MAY REQUIRE AN APPLICANT TO DISCLOSE DURING THE FIRST IN–PERSON INTERVIEW WITH THE APPLICANT WHETHER THE APPLICANT HAS A CRIMINAL RECORD OR HAS HAD CRIMINAL ACCUSATIONS BROUGHT AGAINST THE APPLICANT*.**

3–1404.

~~(A) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SUBTITLE HAS BEEN VIOLATED, THE COMMISSIONER MAY:~~

~~(1) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION INFORMALLY BY MEDIATION; OR~~

~~(2) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE APPLICANT OR EMPLOYEE.~~

~~(B) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SECTION IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED, FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.~~

~~3–1405.~~

AN EMPLOYER MAY NOT TAKE OR REFUSE TO TAKE A PERSONNEL ACTION OR OTHERWISE RETALIATE OR DISCRIMINATE AGAINST AN APPLICANT OR EMPLOYEE AS A REPRISAL FOR THE APPLICANT OR EMPLOYEE HAVING CLAIMED A VIOLATION OF THIS SUBTITLE.

~~3–1406.~~ **3–1405.**

~~AN EMPLOYER WHO VIOLATES ANY PROVISION UNDER THIS SUBTITLE:~~

~~(1) FOR A FIRST VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF $250;~~

~~(2) FOR A SECOND VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF $500;~~

~~(3) FOR A THIRD VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF $750; AND~~

~~(4) FOR A FOURTH OR SUBSEQUENT VIOLATION, IS SUBJECT TO A CIVIL PENALTY NOT LESS THAN $1,000.~~

(A) IF THE COMMISSIONER DETERMINES THAT AN EMPLOYER HAS VIOLATED ANY PROVISION OF THIS SUBTITLE, THE COMMISSIONER:

(1) SHALL ISSUE AN ORDER COMPELLING COMPLIANCE; AND

(2) FOR A SUBSEQUENT VIOLATION, MAY, IN THE COMMISSIONER'S DISCRETION, ASSESS A CIVIL PENALTY OF UP TO $300 FOR EACH APPLICANT FOR

EMPLOYMENT OR EMPLOYEE WITH RESPECT TO WHOM THE EMPLOYER VIOLATED ANY PROVISION OF THIS SUBTITLE.

(B) IN DETERMINING THE AMOUNT OF THE PENALTY, IF ASSESSED, THE COMMISSIONER SHALL CONSIDER:

(1) THE GRAVITY OF THE VIOLATION;

(2) THE SIZE OF THE EMPLOYER'S BUSINESS;

(3) THE EMPLOYER'S GOOD FAITH; AND

(4) THE EMPLOYER'S HISTORY OF VIOLATIONS UNDER THIS SUBTITLE.

(C) THE ASSESSMENT OF A PENALTY UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL BE SUBJECT TO THE NOTICE AND HEARING REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2020.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1099 – *State Athletic Commission – Sunset Extension*.

This bill extends by 10 years the termination date for the State Athletic Commission, and requires the Department of Legislative Services to conduct a preliminary evaluation of the commission by a certain date.

Senate Bill 347, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1099.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1099

AN ACT concerning

State Athletic Commission – Sunset Extension

FOR the purpose of continuing the State Athletic Commission in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Commission; requiring that an evaluation of the Commission and the statutes and regulations that relate to the Commission be performed on or before a certain date; and generally relating to the State Athletic Commission.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 4–208
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(5)
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

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

Article – Business Regulation

4–208.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this subtitle and Subtitle 3 of this title and all regulations adopted under this subtitle and Subtitle 3 of this title shall terminate on July 1, **[**2021**]** **2031**.

Article – State Government

8–403.

(a) On or before December 15 of the evaluation year specified, the Department shall:

(1) conduct a preliminary evaluation of each governmental activity or unit to be evaluated under this section; and

(2) prepare a report on each preliminary evaluation conducted.

(b) Each of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units are subject to preliminary evaluation in the evaluation year specified:

(5) Athletic Commission, State (§ 4–201 of the Business Regulation Article: **[**2018**] 2028**);

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1115 – *Community Colleges – Workforce Readiness Grant Program – Established*.

This bill establishes a Workforce Readiness Grant Program to provide matching grants to each community college in order to improve the community college's technology. This bill also authorizes the Governor to include matching grants of up to $250,000 for each community college campus in certain years; and clarifies that the funding is supplemental, and in addition to, operating support provided to community colleges by the State.

Additionally, this bill requires that, by certain dates, the Maryland Higher Education Commission must submit reports to the Governor and the General Assembly on the total amount of funds raised for the program through donations, as well as on how those funds were spent. Finally, this bill terminates June 30, 2025.

Senate Bill 515, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1115.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1115

AN ACT concerning

Community Colleges – Workforce Readiness Grant Program – Established

FOR the purpose of establishing the Workforce Readiness Grant Program; specifying the purpose of the Program; authorizing each community college campus to accept certain donations that further the purpose of the Program; ~~requiring~~ authorizing the Governor to appropriate a certain amount of supplemental funding in certain fiscal years for certain community colleges; requiring a certain appropriation to be used to further the purpose of the Program; authorizing the Governor to make a certain appropriation; requiring that certain funding be in addition to certain State funding provided for certain community colleges; requiring the Governor, in certain fiscal years, to identify in the annual budget how certain revenue is being used to supplement certain spending for certain community colleges; requiring the Maryland Higher Education Commission to adopt certain regulations; requiring the Commission to submit a certain report in a certain manner to the Governor and the General Assembly; defining certain terms; providing for the termination of this Act; and generally relating to the Workforce Readiness Grant Program.

BY adding to
Article – Education
Section 16–321
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

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

Article – Education

16–321.

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

(2) "COMMUNITY COLLEGE" INCLUDES BALTIMORE CITY COMMUNITY COLLEGE.

(3) "ELIGIBLE DONOR" MEANS A PERSON OTHER THAN A LOCAL, STATE, FEDERAL, OR FOREIGN GOVERNMENT.

(4) "PROGRAM" MEANS THE WORKFORCE READINESS GRANT PROGRAM.

(B) THERE IS A WORKFORCE READINESS GRANT PROGRAM.

(C) THE PURPOSE OF THE PROGRAM IS TO PROVIDE MATCHING GRANTS TO A COMMUNITY COLLEGE TO IMPROVE THE COMMUNITY COLLEGE'S TECHNOLOGY.

(D) EACH COMMUNITY COLLEGE CAMPUS MAY ACCEPT DONATIONS FROM ELIGIBLE DONORS THAT FURTHER THE PURPOSE OF THE PROGRAM.

(E) (1) (I) IN FISCAL YEAR 2022, THE GOVERNOR ~~SHALL~~ MAY INCLUDE IN THE STATE BUDGET FOR EACH COMMUNITY COLLEGE SUPPLEMENTAL FUNDING IN AN AMOUNT EQUAL TO THE LESSER OF $250,000 FOR EACH CAMPUS OF EACH COMMUNITY COLLEGE OR THE AMOUNT DONATED UNDER SUBSECTION (D) OF THIS SECTION IN FISCAL YEARS 2020 AND 2021.

(II) IN FISCAL YEAR 2024, THE GOVERNOR ~~SHALL~~ MAY INCLUDE IN THE STATE BUDGET FOR EACH COMMUNITY COLLEGE SUPPLEMENTAL FUNDING IN AN AMOUNT EQUAL TO THE LESSER OF $250,000 FOR EACH CAMPUS OF EACH COMMUNITY COLLEGE OR THE AMOUNT DONATED UNDER SUBSECTION (D) OF THIS SECTION IN FISCAL YEARS 2022 AND 2023.

(2) FOR PURPOSES OF CALCULATING THE GOVERNOR'S APPROPRIATION UNDER THIS SUBSECTION, AN AMOUNT DONATED BY AN ELIGIBLE DONOR MAY BE COUNTED ONLY FOR THE FISCAL YEAR IN WHICH IT WAS PLEDGED.

(3) THE GOVERNOR'S APPROPRIATION SHALL BE USED TO FURTHER THE PURPOSE OF THE PROGRAM.

(4) THE SUPPLEMENTAL FUNDING ~~REQUIRED~~ AUTHORIZED UNDER THIS SUBSECTION ~~SHALL BE~~ IS IN ADDITION TO THE STATE FUNDING PROVIDED TO EACH COMMUNITY COLLEGE UNDER § 16–305 OF THIS SUBTITLE OR SUBTITLE 5 OF THIS TITLE.

(5) FOR FISCAL YEARS 2022 AND 2024, THE GOVERNOR SHALL IDENTIFY IN THE ANNUAL BUDGET HOW THE REVENUE ~~REQUIRED~~ AUTHORIZED

UNDER THIS SUBSECTION IS BEING USED TO SUPPLEMENT AND NOT SUPPLANT THE APPROPRIATION FOR EACH COMMUNITY COLLEGE.

(F) THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM.

(G) (1) ON OR BEFORE SEPTEMBER 1, 2022, AND ON OR BEFORE SEPTEMBER 1, 2024, THE COMMISSION SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(2) THE REPORT SUBMITTED UNDER THIS SUBSECTION SHALL SUMMARIZE FOR EACH COMMUNITY COLLEGE THE TOTAL AMOUNT OF FUNDS RAISED FOR THE PROGRAM AND HOW THOSE FUNDS WERE SPENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019. It shall remain effective for a period of 6 years and, at the end of June 30, 2025, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1186 – *Nonpublic Schools – Fire Drill Requirements – State Fire Prevention Code*.

This bill requires each nonpublic school in the State to (1) hold fire drills in accordance with the State Fire Prevention Code; (2) keep records of each fire drill; and (3) send a copy of the records to the State Board of Education.

Senate Bill 465, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1186.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1186

AN ACT concerning

Nonpublic Schools – Fire Drill Requirements – State Fire Prevention Code

FOR the purpose of requiring each nonpublic school in the State to hold fire drills in accordance with the State Fire Prevention Code, keep records of the fire drills, and send copies of the records to the State Board of Education; and generally relating to fire drills in nonpublic schools.

BY adding to
Article – Education
Section 7–408.1
Annotated Code of Maryland
(2018 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 6–206(a)(1) and (d)
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Education

7–408.1.

(A) EACH NONPUBLIC SCHOOL IN THE STATE SHALL HOLD FIRE DRILLS IN ACCORDANCE WITH THE STATE FIRE PREVENTION CODE ESTABLISHED UNDER § 6–206 OF THE PUBLIC SAFETY ARTICLE.

(B) EACH NONPUBLIC SCHOOL SHALL:

(1) KEEP RECORDS OF THESE FIRE DRILLS; AND

(2) SEND A COPY OF THE RECORDS TO THE STATE BOARD.

Article – Public Safety

6–206.

(a) (1) (i) To protect life and property from the hazards of fire and explosion, the Commission shall adopt comprehensive regulations as a State Fire Prevention Code.

(ii) The State Fire Prevention Code shall comply with standard safe practice as embodied in widely recognized standards of good practice for fire prevention and fire protection.

(iii) The State Fire Prevention Code has the force and effect of law in the political subdivisions of the State.

(d) (1) The State Fire Prevention Code establishes the minimum requirements to protect life and property from the hazards of fire and explosion.

(2) If a State or local law or regulation is more stringent than the State Fire Prevention Code, the more stringent law or regulation governs if the more stringent law or regulation is:

(i) not inconsistent with the State Fire Prevention Code; and

(ii) not contrary to recognized standards and good engineering practices.

(3) If there is a question whether a State or local law or regulation governs, the decision of the Commission determines:

(i) which law or regulation governs; and

(ii) whether State and local officials have complied with the State Fire Prevention Code.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1249 – *Pilot Program – Alleged Rape, Sexual Offense, or Child Sexual Abuse – HIV Postexposure Prophylaxis*.

This bill establishes the Pilot Program for Preventing HIV for Rape Victims to prevent HIV infection for victims of an alleged rape or sexual offense; or victims of alleged child sexual abuse. This bill requires the Governor's Office of Crime Control & Prevention to administer the program.

This bill also requires 1) a qualifying victim to be provided with a full course of treatment and follow–up care for postexposure prophylaxis for the prevention of HIV, at the victim's request, and as prescribed; 2) treatment to be provided free of charge under specified circumstances; 3) the Criminal Injuries Compensation Board to reimburse a physician, qualified healthcare provider, or hospital for services and treatments provided; and 4) that the total amount paid by the Criminal Injuries Compensation Board may not exceed $750,000 annually. Finally, this bill terminates September 30, 2022.

Senate Bill 657, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1249.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1249

AN ACT concerning

Pilot Program – Alleged Rape, Sexual Offense, or Child Sexual Abuse – HIV Postexposure Prophylaxis

FOR the purpose of establishing the Pilot Program for Preventing HIV Infection for Rape Victims; establishing the purpose of the pilot program; requiring the Governor's Office of Crime Control and Prevention to administer the pilot program; requiring that a victim of an alleged rape or sexual offense or a victim of alleged child sexual abuse be provided with a full course of treatment and follow–up care for postexposure prophylaxis for the prevention of HIV infection at the request of the victim and as prescribed by a health care provider; authorizing a victim who receives treatment under a certain provision of this Act to decline to provide certain information under certain circumstances; requiring the physician, qualified health care provider, or hospital providing a victim with certain treatment to inform the victim of a certain right; requiring that the treatment and follow–up care be provided without charge to the victim under certain circumstances; providing that the physician, qualified health care provider, or hospital providing the treatment or follow–up care is entitled

to be paid by the Criminal Injuries Compensation Board under certain circumstances; providing for a certain immunity for certain persons; requiring the Governor's Office of Crime Control and Prevention to report to the Governor and General Assembly on or before a certain date; defining certain terms; providing for the termination of this Act; and generally relating to the Pilot Program for Preventing HIV Infection for Rape Victims.

BY adding to
Article – Criminal Procedure
Section 11–1008
Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Criminal Procedure

11–1008.

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

(2) "CHILD" MEANS ANY INDIVIDUAL UNDER THE AGE OF 18 YEARS.

(3) "HIV" MEANS THE HUMAN IMMUNODEFICIENCY VIRUS THAT CAUSES ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(4) "PHYSICIAN" HAS THE MEANING STATED IN § 11–1007 OF THIS SUBTITLE.

(5) "QUALIFIED HEALTH CARE PROVIDER" HAS THE MEANING STATED IN § 11–1007 OF THIS SUBTITLE.

(6) "SEXUAL ABUSE" HAS THE MEANING STATED IN § 11–1007 OF THIS SUBTITLE.

(B) (1) THERE IS A PILOT PROGRAM FOR PREVENTING HIV INFECTION FOR RAPE VICTIMS.

(2) THE PURPOSE OF THE PILOT PROGRAM IS TO PREVENT HIV INFECTION FOR VICTIMS OF AN ALLEGED RAPE OR SEXUAL OFFENSE OR VICTIMS OF ALLEGED CHILD SEXUAL ABUSE.

(3) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL ADMINISTER THE PILOT PROGRAM.

(C) (1) TO ACCOMPLISH THE PURPOSE OF THE PILOT PROGRAM, A VICTIM OF AN ALLEGED RAPE OR SEXUAL OFFENSE OR A VICTIM OF ALLEGED CHILD SEXUAL ABUSE SHALL BE PROVIDED WITH A FULL COURSE OF TREATMENT AND FOLLOW–UP CARE FOR POSTEXPOSURE PROPHYLAXIS FOR THE PREVENTION OF HIV INFECTION AT THE REQUEST OF THE VICTIM AND AS PRESCRIBED BY A HEALTH CARE PROVIDER.

(2) (I) A VICTIM WHO RECEIVES TREATMENT UNDER THIS SUBSECTION MAY DECLINE TO PROVIDE HEALTH INSURANCE INFORMATION OR SUBMIT PERSONAL INFORMATION TO A PAYMENT ASSISTANCE PROGRAM IF THE VICTIM BELIEVES THAT PROVIDING THE INFORMATION WOULD INTERFERE WITH PERSONAL PRIVACY OR SAFETY.

(II) THE PHYSICIAN, QUALIFIED HEALTH CARE PROVIDER, OR HOSPITAL PROVIDING A VICTIM WITH TREATMENT AND FOLLOW–UP CARE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INFORM THE VICTIM OF THE VICTIM'S RIGHT TO DECLINE TO PROVIDE HEALTH INSURANCE INFORMATION OR SUBMIT PERSONAL INFORMATION TO A PAYMENT ASSISTANCE PROGRAM.

(III) IF A VICTIM DECLINES TO PROVIDE HEALTH INSURANCE INFORMATION OR TO SUBMIT PERSONAL INFORMATION TO A PAYMENT ASSISTANCE PROGRAM:

1. THE TREATMENT AND FOLLOW–UP CARE SHALL BE PROVIDED WITHOUT CHARGE TO THE VICTIM; AND

2. SUBJECT TO THE LIMITATION ESTABLISHED UNDER SUBPARAGRAPH (IV) OF THIS PARAGRAPH, THE PHYSICIAN, QUALIFIED HEALTH CARE PROVIDER, OR HOSPITAL PROVIDING THE TREATMENT OR FOLLOW–UP CARE IS ENTITLED TO BE PAID BY THE CRIMINAL INJURIES COMPENSATION BOARD AS PROVIDED UNDER SUBTITLE 8 OF THIS TITLE FOR THE COSTS OF PROVIDING THE SERVICES.

(IV) THE TOTAL AMOUNT PAID TO PHYSICIANS, QUALIFIED HEALTH CARE PROVIDERS, AND HOSPITALS FROM THE CRIMINAL INJURIES COMPENSATION BOARD UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH MAY NOT EXCEED $750,000 ANNUALLY.

(D) (1) A PHYSICIAN OR A QUALIFIED HEALTH CARE PROVIDER WHO EXAMINES A VICTIM OF ALLEGED CHILD SEXUAL ABUSE UNDER THE PROVISIONS OF THIS SECTION IS IMMUNE FROM CIVIL LIABILITY THAT MAY RESULT FROM THE

FAILURE OF THE PHYSICIAN OR QUALIFIED HEALTH CARE PROVIDER TO OBTAIN CONSENT FROM THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN FOR THE EXAMINATION OR TREATMENT OF THE CHILD.

(2) THE IMMUNITY PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION EXTENDS TO:

(I) ANY HOSPITAL WITH WHICH THE PHYSICIAN OR QUALIFIED HEALTH CARE PROVIDER IS AFFILIATED OR TO WHICH THE CHILD IS BROUGHT; AND

(II) ANY INDIVIDUAL WORKING UNDER THE CONTROL OR SUPERVISION OF THE HOSPITAL.

(E) ON OR BEFORE DECEMBER 1, 2021, THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE OPERATION AND RESULTS OF THE PILOT PROGRAM, INCLUDING:

(1) THE NUMBER OF PATIENTS THAT QUALIFIED TO RECEIVE POSTEXPOSURE PROPHYLAXIS UNDER THE PILOT PROGRAM;

(2) THE NUMBER OF PATIENTS THAT CHOSE TO RECEIVE POSTEXPOSURE PROPHYLAXIS;

(3) THE TOTAL AMOUNT REIMBURSED TO PROVIDERS FOR THE POSTEXPOSURE PROPHYLAXIS; AND

(4) THE COST OF THE POSTEXPOSURE PROPHYLAXIS TREATMENT AND FOLLOW–UP CARE PROVIDED UNDER THE PILOT PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019. It shall remain effective for a period of 3 years and, at the end of September 30, 2022, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, Maryland 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1281 *Transportation – Bikeways Network Program and Central Maryland Regional Transit Plan*.

In the final days of the legislative session, language was unfortunately added to House Bill 1281 that fundamentally and inexplicably changes the scope of the Central Maryland Regional Transit Plan, creates unnecessary and costly bureaucratic hurdles, risks federal funding, and impedes our progress to improve transit services in the Central Maryland region.

Less than a year after the original 2018 legislation took effect, House Bill 1281 significantly changes the course of the Central Maryland Regional Transit Plan by requiring entirely new analyses and details that interfere with the industry standard planning process. These new requirements risk jeopardizing future federal funding for projects that are identified in the final plan. The changes required by House Bill 1281 would also increase the cost of developing the plan by $1 million for no discernible reason.

The Maryland Transit Administration (MTA) has expended significant resources establishing and preparing the existing Commission, which is comprised of a dozen local government, business, planning, citizen, and regional partnership representatives. These volunteers have already begun their work, meeting several times in 2019. By the effective date of HB 1281, they would be well into their work developing the Plan required by the legislation passed just last year.

My objections to this legislation do not extend to the items related to the Bikeways program. MDOT's Consolidated Transportation Program (CTP) contains $167 million over the next six years for bicycle and pedestrian infrastructure projects. The Bikeways program is one of several programs, each provides assistance to local governments at various stages of project development.

I have made it a top priority for my Administration to deliver a high–quality statewide multimodal transportation network that serves all Marylanders. To that end, I have pledged to repair or replace all structurally deficient bridges, I have approved the largest P3 transit project in the nation, I continue to look for innovative transit and highway solutions for the traveling public, and have moved forward on long–delayed transportation projects in all parts of the State. MDOT under my Administration has more projects under construction than at any other time in Maryland's history.

We cannot afford to subject stewardship of transportation funds and complex, forward–thinking regional planning to the inconsistent and volatile whims of a process that risks federal funding, fails to solicit input from transportation professionals, and disregards the existing work of dedicated volunteer commissions.

For these reasons, I have vetoed House Bill 1281.

Sincerely,

Lawrence J. Hogan Jr.
Governor

House Bill 1281

AN ACT concerning

Transportation – Bikeways Network Program ~~– Funding~~ *and Central Maryland Regional Transit Plan*

FOR the purpose of codifying the Bikeways Network Program; specifying the purpose of the Program; requiring the Department of Transportation to establish application and eligibility criteria for the Program; requiring the Governor to provide in the State budget a certain appropriation for the Program; requiring that a certain amount of the appropriation be distributed for a certain purpose; *specifying that the Maryland Transit Administration must regularly consult with certain entities regarding the compilation and submission of the Central Maryland Regional Transit Plan; requiring the Maryland Transit Administration to submit a draft Central Maryland Regional Transit Plan to certain entities at least a certain period of time before the finalization of the Plan; altering the contents and elements of the Plan; altering the time frame within which the Plan must be reviewed, revised, and updated; altering the time frame that the Plan must address;* and generally relating to the Bikeways Network Program *and the Central Maryland Regional Transit Plan*.

BY adding to
Article – Transportation
Section 2–608 *and 7–301.1*
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Transportation

2–608.

(A) IN THIS SECTION, "PROGRAM" MEANS THE BIKEWAYS NETWORK PROGRAM.

(B) THERE IS A BIKEWAYS NETWORK PROGRAM IN THE DEPARTMENT.

(C) THE PURPOSE OF THE PROGRAM IS TO PROVIDE GRANT SUPPORT FOR BICYCLE NETWORK DEVELOPMENT ACTIVITIES.

(D) THE DEPARTMENT SHALL ESTABLISH APPLICATION AND ELIGIBILITY CRITERIA FOR THE PROGRAM.

(E) ~~THE~~ EACH YEAR, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET AN APPROPRIATION OF AT LEAST $3,800,000 FROM THE TRANSPORTATION TRUST FUND FOR THE OPERATION OF THE PROGRAM ~~OF AT LEAST:~~

~~(1) FOR FISCAL YEAR 2021, $4,500,000;~~

~~(2) FOR FISCAL YEAR 2022, $5,300,000;~~

~~(3) FOR FISCAL YEAR 2023, $6,100,000;~~

~~(4) FOR FISCAL YEAR 2024, $6,900,000; AND~~

~~(5) FOR FISCAL YEAR 2025 AND EACH FISCAL YEAR THEREAFTER, $7,700,000~~.

(F) AT LEAST $100,000 OF THE APPROPRIATION REQUIRED UNDER SUBSECTION (E) OF THIS SECTION SHALL BE DISTRIBUTED TO THE MARYLAND ASSOCIATION OF COUNTIES AND THE MARYLAND MUNICIPAL LEAGUE TO PROVIDE TECHNICAL ASSISTANCE TO COUNTIES AND MUNICIPALITIES WITH THE DRAFTING AND SUBMISSION OF GRANT PROPOSALS.

7–301.1.

(a) In this section, "core service area" means:

(1) An area in Anne Arundel County, Baltimore City, Baltimore County, Harford County, and Howard County that is served by light rail, metro, or fixed bus route service; and

(2) As determined by the Department, any other area in which the population commutes to an area described in item (1) of this subsection in order to use light rail, metro, or fixed bus route service.

*(b) In addition to the requirements of §§ 7–301 and 7–302 of this subtitle, on or before October 1, 2020, the Administration shall**[**, in**]:***

(1) IN REGULAR *consultation with the Central Maryland Regional Transit Plan Commission and the Baltimore Metropolitan Council, prepare a Central Maryland Regional Transit Plan to meet the transit needs of the core service area****; AND***

(2) SUBMIT A DRAFT PLAN TO THE CENTRAL MARYLAND REGIONAL TRANSIT PLAN COMMISSION AND THE BALTIMORE METROPOLITAN COUNCIL FOR REVIEW AND COMMENT AT LEAST 45 DAYS BEFORE THE DRAFT PLAN IS FINALIZED.

(c) The Central Maryland Regional Transit Plan shall ***INCLUDE AT LEAST THE FOLLOWING ELEMENTS:***

(1) ***[****Define goals****] GOALS*** *for outcomes to be achieved through the provision of public transportation****, INCLUDING PROVIDING RELIABLE AND SAFE PUBLIC TRANSPORTATION SERVICE TO ENABLE RESIDENTS OF THE CORE SERVICE AREA TO ACCESS JOB OPPORTUNITIES THROUGHOUT THE AREA****;*

[*(2) In order to best achieve the goals defined in item (1) of this subsection, identify options for:*

(i) Improvements to existing transportation assets;

(ii) Improvements to leverage non–Administration transportation options available to public transportation; and

(iii) Corridors for new public transportation assets;

(3) Prioritize corridors for planning of new public transportation assets;

(4) Evaluate the Plan's consistency with local land use and transportation plans and the Maryland Transportation Plan and identify opportunities for achieving greater consistency;

(5) Be reviewed, revised, and updated at least every 5 years; and

*(6) Address a 25–year time frame.****]***

(2) SPECIFIC IMPROVEMENTS TO PUBLIC TRANSPORTATION SERVICES AND ASSETS;

(3) AN ANALYSIS OF OPPORTUNITIES TO LEVERAGE NON–ADMINISTRATION TRANSPORTATION OPTIONS AVAILABLE FOR PUBLIC TRANSPORTATION; AND

(4) CORRIDORS FOR ESTABLISHING NEW PUBLIC TRANSPORTATION SERVICES AND ASSETS.

(D) IN ORDER TO BEST ADDRESS THE ELEMENTS SPECIFIED IN SUBSECTION (C) OF THIS SECTION, THE PLAN SHALL INCLUDE:

(1) CORRIDORS THROUGHOUT THE CORE SERVICE AREA WITH SPECIFIC GEOGRAPHIC BOUNDARIES, PRIORITIZED ACCORDING TO EACH CORRIDOR'S POTENTIAL TO ACHIEVE THE GOALS;

(2) THROUGHOUT THE CORE SERVICE AREA, SPECIFIC IMPROVEMENTS TO PUBLIC TRANSPORTATION SERVICES AND ASSETS;

(3) A LISTING OF THE SPECIFIC IMPROVEMENTS IDENTIFIED UNDER ITEM (2) OF THIS SUBSECTION IN THE ORDER OF THE PLANNED IMPLEMENTATION OF THE IMPROVEMENTS AND A METHODOLOGY FOR DETERMINING THE ORDER;

(4) AN ANALYSIS OF THE FUNDING AVAILABLE FOR THE IMPLEMENTATION OF THE SPECIFIC IMPROVEMENTS IDENTIFIED UNDER ITEM (2) OF THIS SUBSECTION AND POTENTIAL SOURCES OF ADDITIONAL FUNDING;

(5) ONE OR MORE MAPS THAT INCLUDE EXISTING SERVICES AND PROPOSED CORRIDORS AND IMPROVEMENTS; AND

(6) AN ANALYSIS OF THE PLAN'S CONSISTENCY WITH COUNTY AND MUNICIPAL LAND USE AND TRANSPORTATION PLANS AND THE MARYLAND TRANSPORTATION PLAN AND THE IDENTIFICATION OF OPPORTUNITIES FOR ACHIEVING GREATER CONSISTENCY.

(E) THE CENTRAL MARYLAND REGIONAL TRANSIT PLAN SHALL:

(1) BE REVIEWED, REVISED, AND UPDATED AT LEAST EVERY 6 YEARS; AND

(2) ADDRESS A 25–YEAR PERIOD FROM THE YEAR THE REVIEW IS UNDERTAKEN.

[(d)] (F) *(1) There is a Central Maryland Regional Transit Plan Commission.*

(2) The Commission consists of the following members:

(i) The County Executive of Anne Arundel County, or the County Executive's designee;

(ii) The Mayor of Baltimore City, or the Mayor's designee;

(iii) The County Executive of Baltimore County, or the County Executive's designee;

(iv) The County Executive of Harford County, or the County Executive's designee;

(v) The County Executive of Howard County, or the County Executive's designee;

(vi) One representative from a Central Maryland business or transportation organization, appointed by the President of the Senate;

(vii) One representative from a Central Maryland business or transportation organization, appointed by the Speaker of the House; and

(viii) The following individuals appointed by the Governor:

1. One representative from a Central Maryland business organization;

2. One representative from the Citizen Advisory Council;

3. One representative from a disabled riders group; and

4. One representative from the MARC Riders Advisory Council.

(3) The Commission shall participate in the development of:

(i) A strategy for meaningful public involvement in the Central Maryland Regional Transit Plan; and

(ii) The goals for outcomes of the Central Maryland Regional Transit Plan.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House

Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1305 – *Estates and Trusts – Administration of Estates – Waiver of Fees – Required*.

This bill requires a register of wills to waive the fees for administration of an estate if (1) the real property of the decedent is to be transferred to an heir of the decedent who resides on the property or is encumbered by a lien and subject to a tax sale; and (2) the estate is unable to pay the fees by reason of poverty.

Senate Bill 261, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1305.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1305

AN ACT concerning

Estates and Trusts – Administration of Estates – Waiver of Fees – Required

FOR the purpose of requiring, rather than authorizing, a register of wills to waive certain fees for the administration of an estate if certain real property subject to administration in this State is to be transferred to a certain individual or is encumbered by a lien and subject to sale under certain provisions of law, and the estate is unable to pay the fees by reason of poverty; providing for the prospective application of this Act; and generally relating to fees for estate administration.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 2–206(a)
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Estates and Trusts

2–206.

(a) (1) In this subsection, "poverty" means:

(i) At the time of the decedent's death, the decedent's family household income was less than 50% of the median family income for the State as reported in the Federal Register; or

(ii) The personal representative is represented by an attorney retained through the Maryland Legal Services Corporation.

(2) The registers of wills are entitled to charge and collect for the performance of their duties the fees in this section.

(3) A register of wills **[**may**]** **SHALL** waive any fees under this section for the administration of an estate if:

(i) The real property of the decedent subject to administration in the State is:

1. To be transferred to an heir of the decedent who resides on the property; or

2. Encumbered by a lien against the property and subject to sale under Title 14, Subtitle 8 of the Tax – Property Article; and

(ii) The estate is unable to pay the fees by reason of poverty.

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 estate opened before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

May 24, 2019

The Honorable Thomas V. Mike Miller
President of the Senate
H–107 State House
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House

Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 1000 and House Bill 1343 – *Public Safety – Handgun Permit Review Board – Repeal*.

Protecting Marylanders is my highest responsibility as governor. People have a right to be safe at home, work, school, and as they go about their lives. Ensuring firearms do not fall into the hands of criminals or mentally ill persons is a crucial part of this duty. Unfortunately, Senate Bill 1000/House Bill 1343 fails to do anything to improve public safety. Instead of protecting Marylanders, it threatens the ability of law–abiding citizens to appeal decisions regarding handgun permits.

This measure does nothing to prevent guns from getting into the hands of dangerous people. The majority of cases overturned or modified by the Handgun Permit Review Board were merely appeals of restrictions on permits. These were cases in which the Maryland State Police had already determined the applicants – all law–abiding citizens – did not have any concerning criminal nor mental health factors in their background. The Board itself, it is worth noting, was created by the General Assembly in 1972, and it has worked well ever since that date. This legislation appears to be just a solution in search of a problem. The General Assembly's efforts would be better focused on initiatives to target violent, repeat offenders who use guns to commit crimes. The senseless violence in Baltimore City is heartbreaking. We need solutions, such as the Repeat Firearms Act of 2019, that would ensure those who repeatedly victimize our communities are held accountable. When given an opportunity this year to adopt tougher sentences for repeat violent gun offenders, the legislature refused to act. However, abolishing the Handgun Permit Review Board is not a solution to violent crime problems. It is just another in a long series of politically–motivated and ill–conceived power grabs.

Not only would this legislation fail to improve public safety, it would impose costly barriers for law–abiding individuals who wish to exercise their due process appeal rights. Rather than allowing applicants to appeal to the long–standing citizen–led Handgun Permit Review Board that was created by the General Assembly in 1972, the legislation would have required applicants to appeal to the Office of Administrative Hearings. This move would reasonably require applicants to retain an attorney to effectively pursue this review, significantly exacerbating the cost and ability of citizens to pursue their legal rights.

Current law already provides an appropriate check on the Handgun Permit Review Board. Should either party want to appeal a decision of the Board, the law allows for the decision to be appealed to the Office of Administrative Hearings, and ultimately to Circuit Court.

Senate Bill 1000/House Bill 1343 does nothing to prevent firearms from getting into the hands of violent criminals or seriously mentally ill persons, nor would it protect Marylanders from gun violence or lower the unacceptable level of violent crime. As we have done in the past, efforts should be focused on real, substantive solutions to prevent gun violence.

For these reasons, I have vetoed Senate Bill 1000 and House Bill 1343.

Sincerely,

Lawrence J. Hogan Jr.
Governor

House Bill 1343

AN ACT concerning

Public Safety – Handgun Permit Review Board – Repeal

FOR the purpose of altering the process by which a person who is denied a certain handgun permit or renewal of a permit or whose permit is revoked or limited by the Secretary of State Police or the Secretary's designee may appeal the decision; repealing provisions of law relating to the Handgun Permit Review Board; providing that appeals from a certain decision by the Secretary or the Secretary's designee may be made to the Office of Administrative Hearings in a certain manner; providing that a person whose application for a certain permit or renewal of a permit is not acted on by the Secretary within a certain period of time may request a certain hearing before the Office of Administrative Hearings; requiring the Office of Administrative Hearings to make a certain annual report to the Governor and the General Assembly; making conforming changes; requiring the Department of Public Safety and Correctional Services, within a certain period of time, to provide certain notice to certain individuals; authorizing certain individuals to file a certain request for a hearing before the Office of Administrative Hearings under certain circumstances; requiring the Office of Administrative Hearings to schedule a certain hearing within a certain period of time under certain circumstances; making this Act an emergency measure; and generally relating to handgun permits.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5–301 and 5–312
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing
Article – Public Safety
Section 5–302
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 5–311

Annotated Code of Maryland
(2018 Replacement Volume)

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

Article – Public Safety

5–301.

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

[(b) "Board" means the Handgun Permit Review Board.**]**

[(c)**] (B)** "Handgun" has the meaning stated in § 4–201 of the Criminal Law Article.

[(d)**] (C)** "Permit" means a permit issued by the Secretary to carry, wear, or transport a handgun.

[(e)**] (D)** "Qualified handgun instructor" has the meaning stated in § 5–101 of this title.

[(f)**] (E)** "Secretary" means the Secretary of State Police or the Secretary's designee.

[5–302.

(a) There is a Handgun Permit Review Board in the Department of Public Safety and Correctional Services.

(b) The Board consists of five members appointed from the public by the Governor with the advice and consent of the Senate.

(c) (1) The term of a member is 3 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on October 1, 2003.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member of the Board is eligible for reappointment.

(d) A member of the Board is entitled to:

(1) compensation in accordance with the State budget for each day that the member actually is engaged in the discharge of the member's official duties; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.**]**

5–311.

(a) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request the Secretary to conduct an informal review by filing a written request within 10 days after receipt of written notice of the Secretary's initial action.

(b) An informal review:

(1) may include a personal interview of the person who requested the informal review; and

(2) is not subject to Title 10, Subtitle 2 of the State Government Article.

(c) In an informal review, the Secretary shall sustain, reverse, or modify the initial action taken and notify the person who requested the informal review of the decision in writing within 30 days after receipt of the request for informal review.

(d) A person need not file a request for an informal review under this section before requesting review under § 5–312 of this subtitle.

5–312.

(a) (1) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request **[**the Board to review**]** **TO APPEAL** the decision of the Secretary **TO THE OFFICE OF ADMINISTRATIVE HEARINGS** by filing a written request with the **[**Board**]** **SECRETARY** **AND THE OFFICE OF ADMINISTRATIVE HEARINGS** within 10 days after receipt of written notice of the Secretary's final action.

(2) A person whose application for a permit or renewal of a permit is not acted on by the Secretary within 90 days after submitting the application to the Secretary may request a hearing before the **[**Board**]** **OFFICE OF ADMINISTRATIVE HEARINGS** by filing a written request with the **[**Board**]** **SECRETARY** **AND THE OFFICE OF ADMINISTRATIVE HEARINGS**.

~~**[**(b) Within 90 days after receiving a request to review a decision of the Secretary, the Board shall:~~

~~(1) review the record developed by the Secretary; and~~

~~(2) conduct a hearing.~~

~~(c) The Board may receive and consider additional evidence submitted by a party in conducting a review of the decision of the Secretary.~~

~~(d) (1) Based on the Board's consideration of the record and any additional evidence, the Board shall sustain, reverse, or modify the decision of the Secretary.~~

~~(2) Within 60 days after the last hearing in the matter conducted by the Board, the Board shall submit in writing to the applicant, the holder of the permit, and the Secretary the reasons for the decision of the Board.~~

~~(e) (1) The applicant, the holder of the permit, or the Secretary may appeal the decision of the Board to the Office of Administrative Hearings within 30 days after the issuance of the Board's reasons under subsection (d)(2) of this section.~~

~~(2)~~ **(B) (1)** Within 60 days after the receipt of a request **UNDER SUBSECTION (A) OF THIS SECTION** from the applicant~~,~~ **OR** the holder of the permit, ~~or the Secretary,~~ the Office of Administrative Hearings shall schedule and conduct a de novo hearing on the ~~appeal~~ **MATTER**, at which witness testimony and other evidence may be provided.

~~(3)~~ **(2)** Within 90 days after the conclusion of the last hearing on the matter, the Office of Administrative Hearings shall issue a finding of facts and a decision.

~~(4)~~ **(3)** A party that is aggrieved by the decision of the Office of Administrative Hearings may appeal the decision to the circuit court.~~]~~

[(f)**]** ~~(B)~~ **(C)** (1) **[**Subject to subsections (d) and (e) of this section, any**]** ~~ANY~~ **SUBJECT TO SUBSECTION (B) OF THIS SECTION, ANY** hearing and any subsequent proceedings of judicial review shall be conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

(2) Notwithstanding paragraph (1) of this subsection, a court may not order the issuance or renewal of a permit or alter a limitation on a permit pending a final determination of the proceeding.

~~[~~(g)~~]~~ **(D)** On or before ~~December 1 each year~~ **JANUARY 1, 2019, 2020, 2021, AND 2022**, the ~~Board~~ **OFFICE OF ADMINISTRATIVE HEARINGS** shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly:

(1) the number of appeals of decisions by the Secretary that have been filed with the ~~Board~~ **OFFICE OF ADMINISTRATIVE HEARINGS** within the previous year;

(2) the number of decisions by the Secretary that have been sustained, modified, or reversed by the ~~Board~~ **OFFICE OF ADMINISTRATIVE HEARINGS** within the previous year;

(3) the number of appeals that are pending; and

(4) the number of appeals that have been withdrawn within the previous year.

~~(h) The Board is subject to Title 3 (Open Meetings Act) of the General Provisions Article.~~]

SECTION 2. AND BE IT FURTHER ENACTED, That ~~this Act shall take effect October 1, 2019~~:

(a) (1) Subject to paragraph (2) of this subsection, within 30 days after this Act takes effect, the Department of Public Safety and Correctional Services shall provide written notice to each individual whose request to review a decision of the Secretary of State Police under § 5–312 of the Public Safety Article remains pending before the Handgun Permit Review Board on the taking effect of this Act.

(2) The notice required under paragraph (1) of this subsection shall inform the individual that the individual, within 30 days of receipt of the notice, may file an amended request that the matter pending before the Handgun Permit Review Board be heard by the Office of Administrative Hearings in accordance with § 5–312(b) of the Public Safety Article, as enacted by Section 1 of this Act.

(b) Within 30 days after receiving the notice described under subsection (a) of this section, the individual may file an amended request that the matter be heard by the Office of Administrative Hearings in accordance with § 5–312(b) of the Public Safety Article, as enacted by Section 1 of this Act.

(c) Notwithstanding § 5–312(b)(1) of the Public Safety Article, as enacted by Section 1 of this Act, within 45 days after the receipt of an amended request under this section, the Office of Administrative Hearings shall schedule and conduct a de novo hearing on the matter, at which witness testimony and other evidence may be provided.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

May 24, 2019

The Honorable Adrienne A. Jones
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1388 – *Long–Term Care Insurance – Annual Notice*.

This bill requires each carrier of long–term care insurance to provide each insured an annual notice containing the insured's policy form number and the carrier's customer service telephone number; and provides that such notification may be written or electronic.

Senate Bill 415, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1388.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1388

AN ACT concerning

Long–Term Care Insurance – Annual Notice

FOR the purpose of requiring certain carriers to provide each insured under a policy or contract of long–term care insurance in the State an annual notice, in a certain manner, containing certain information; and generally relating to long–term care insurance.

BY adding to
Article – Insurance
Section 18–117.1
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

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

Article – Insurance

18–117.1.

EACH CARRIER SHALL PROVIDE TO EACH INSURED UNDER A POLICY OR CONTRACT OF LONG–TERM CARE INSURANCE IN THE STATE AN ANNUAL NOTICE, IN WRITING OR ELECTRONICALLY, CONTAINING THE INSURED'S POLICY FORM NUMBER AND THE CARRIER'S CUSTOMER SERVICE TELEPHONE NUMBER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.