LAWS

OF THE

STATE OF MARYLAND

ENACTED

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

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CHAPTER 392

(Senate Bill 375)

AN ACT concerning

State Retirement and Pension System – Imposition of Administrative Fees on Employers

FOR the purpose of authorizing the Board of Trustees of the State Retirement and Pension System to adopt regulations to impose certain fees on certain participating employers that fail to provide certain information to the State Retirement Agency with regard to the enrollment of eligible employees in the State Retirement and Pension System; and generally relating to the imposition of administrative fees on employers participating in the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–110(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

21–110.

(a) The Board of Trustees shall adopt regulations providing for:

(1) the administration of the several systems;

(2) the management of the assets of the several systems; **[**and**]**

(3) the transaction of its business**; AND**

(4) THE IMPOSITION OF AN ADMINISTRATIVE FEE ON ANY PARTICIPATING EMPLOYER THAT FAILS TO PROVIDE THE INFORMATION REQUIRED BY THE STATE RETIREMENT AGENCY TO PROPERLY ENROLL ELIGIBLE EMPLOYEES IN THE SEVERAL SYSTEMS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 393

(Senate Bill 387)

AN ACT concerning

Criminal Law – Possessing Stolen Property

FOR the purpose of providing that in a prosecution for theft by possessing stolen property, it is not a defense that the property was ~~obtained by certain means~~ provided by law enforcement as part of an investigation under certain circumstances; and generally relating to theft by possessing stolen property.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 7–104(c)
Annotated Code of Maryland
(2002 Volume and 2007 Supplement)

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

Article – Criminal Law

7–104.

(c) (1) A person may not possess stolen personal property knowing that it has been stolen, or believing that it probably has been stolen, if the person:

(i) intends to deprive the owner of the property;

(ii) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(iii) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) In the case of a person in the business of buying or selling goods, the knowledge required under this subsection may be inferred if:

(i) the person possesses or exerts control over property stolen from more than one person on separate occasions;

(ii) during the year preceding the criminal possession charged, the person has acquired stolen property in a separate transaction; or

(iii) being in the business of buying or selling property of the sort possessed, the person acquired it for a consideration that the person knew was far below a reasonable value.

(3) In a prosecution for theft by possession of stolen property under this subsection, it is not a defense that:

(i) the person who stole the property has not been convicted, apprehended, or identified;

(ii) the defendant stole or participated in the stealing of the property; **[**or**]**

(III) THE PROPERTY WAS ~~OBTAINED BY MEANS OTHER THAN THE COMMISSION OF THEFT~~ PROVIDED BY LAW ENFORCEMENT AS PART OF AN INVESTIGATION, IF THE PROPERTY WAS ~~EXPLICITLY~~ DESCRIBED TO THE DEFENDANT AS BEING OBTAINED THROUGH THE COMMISSION OF THEFT; OR

[(iii)**](IV)** the stealing of the property did not occur in the State.

(4) Unless the person who criminally possesses stolen property participated in the stealing, the person who criminally possesses stolen property and a person who has stolen the property are not accomplices in theft for the purpose of any rule of evidence requiring corroboration of the testimony of an accomplice.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 394

(House Bill 282)

AN ACT concerning

Criminal Law – Possessing Stolen Property

FOR the purpose of providing that in a prosecution for theft by possessing stolen property, it is not a defense that the property was ~~obtained by certain means~~ *provided by law enforcement as part of an investigation* under certain circumstances; and generally relating to theft by possessing stolen property.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 7–104(c)
Annotated Code of Maryland
(2002 Volume and 2007 Supplement)

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

Article – Criminal Law

7–104.

(c) (1) A person may not possess stolen personal property knowing that it has been stolen, or believing that it probably has been stolen, if the person:

(i) intends to deprive the owner of the property;

(ii) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(iii) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) In the case of a person in the business of buying or selling goods, the knowledge required under this subsection may be inferred if:

(i) the person possesses or exerts control over property stolen from more than one person on separate occasions;

(ii) during the year preceding the criminal possession charged, the person has acquired stolen property in a separate transaction; or

(iii) being in the business of buying or selling property of the sort possessed, the person acquired it for a consideration that the person knew was far below a reasonable value.

(3) In a prosecution for theft by possession of stolen property under this subsection, it is not a defense that:

(i) the person who stole the property has not been convicted, apprehended, or identified;

(ii) the defendant stole or participated in the stealing of the property; **[**or**]**

(III) THE PROPERTY WAS ~~OBTAINED BY MEANS OTHER THAN THE COMMISSION OF THEFT~~ *PROVIDED BY LAW ENFORCEMENT AS PART OF AN INVESTIGATION*, IF THE PROPERTY WAS ~~EXPLICITLY~~ DESCRIBED TO THE DEFENDANT AS BEING OBTAINED THROUGH THE COMMISSION OF THEFT; OR

[(iii)**](IV)** the stealing of the property did not occur in the State.

(4) Unless the person who criminally possesses stolen property participated in the stealing, the person who criminally possesses stolen property and a person who has stolen the property are not accomplices in theft for the purpose of any rule of evidence requiring corroboration of the testimony of an accomplice.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 395

(Senate Bill 392)

AN ACT concerning

Domestic Violence – Enforcement of Protective Order

FOR the purpose of authorizing a judge to order a law enforcement officer to use all reasonable and necessary force to enforce a temporary custody provision of a final protective order; and generally relating to domestic violence.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 4–506(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Family Law
Section 4–506(e)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–506(e), (f), and (g) and 4–507(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Family Law

4–506.

(d) The final protective order may include any or all of the following relief:

(1) order the respondent to refrain from abusing or threatening to abuse any person eligible for relief;

(2) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(3) order the respondent to refrain from entering the residence of any person eligible for relief;

(4) where the person eligible for relief and the respondent are residing together at the time of the abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the

home or the person eligible for relief has shared the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(5) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

(6) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider;

(7) award temporary custody of a minor child of the respondent and a person eligible for relief;

(8) establish temporary visitation with a minor child of the respondent and a person eligible for relief on a basis which gives primary consideration to the welfare of the minor child and the safety of any other person eligible for relief. If the court finds that the safety of a person eligible for relief will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of any person eligible for relief;

(9) award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support under this article, including an immediate and continuing withholding order on all earnings of the respondent in the amount of the ordered emergency family maintenance in accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

(10) award temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief if necessary for the employment of the person eligible for relief or for the care of a minor child of the respondent or a person eligible for relief;

(11) direct the respondent or any or all of the persons eligible for relief to participate in professionally supervised counseling or a domestic violence program;

(12) order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession for the duration of the protective order; or

(13) order the respondent to pay filing fees and costs of a proceeding under this subtitle.

(E) IF THE JUDGE AWARDS TEMPORARY CUSTODY OF A MINOR CHILD UNDER SUBSECTION (D)(7) OF THIS SECTION, THE JUDGE MAY ORDER A LAW ENFORCEMENT OFFICER TO USE ALL REASONABLE AND NECESSARY FORCE TO

RETURN THE MINOR CHILD TO THE CUSTODIAL PARENT AT THE TIME OF SERVICE OR AS SOON AS POSSIBLE AFTER ENTRY OF THE FINAL PROTECTIVE ORDER.

[(e)**] (F)** In determining whether to order the respondent to vacate the home under § 4–505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the judge shall consider the following factors:

(1) the housing needs of any minor child living in the home;

(2) the duration of the relationship between the respondent and any person eligible for relief;

(3) title to the home;

(4) pendency and type of criminal charges against the respondent;

(5) the history and severity of abuse in the relationship between the respondent and any person eligible for relief;

(6) the existence of alternative housing for the respondent and any person eligible for relief; and

(7) the financial resources of the respondent and the person eligible for relief.

[(f)**] (G)** (1) A copy of the final protective order shall be served on the petitioner, the respondent, any affected person eligible for relief, the appropriate law enforcement agency, and any other person the judge determines is appropriate, in open court or, if the person is not present at the final protective order hearing, by first–class mail to the person's last known address.

(2) A copy of the final protective order served on the respondent in accordance with paragraph (1) of this subsection constitutes actual notice to the respondent of the contents of the final protective order. Service is complete upon mailing.

[(g)**] (H)** (1) Except as provided in paragraph (2) of this subsection, all relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 12 months.

(2) A subsequent circuit court order pertaining to any of the provisions included in the final protective order shall supersede those provisions in the final protective order.

4–507.

(a) (1) A protective order may be modified or rescinded during the term of the protective order after:

(i) giving notice to all affected persons eligible for relief and the respondent; and

(ii) a hearing.

(2) For good cause shown, a judge may extend the term of the protective order for 6 months beyond the period specified in **[**§ 4–506(g)**] § 4–506(H)** of this subtitle, after:

(i) giving notice to all affected persons eligible for relief and the respondent; and

(ii) a hearing.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 396

(House Bill 183)

AN ACT concerning

Domestic Violence – Enforcement of Protective Order

FOR the purpose of authorizing a judge to order a law enforcement officer to use all reasonable and necessary force to enforce a temporary custody provision of a final protective order; and generally relating to domestic violence.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 4–506(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Family Law
Section 4–506(e)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–506(e), (f), and (g) and 4–507(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Family Law

4–506.

(d) The final protective order may include any or all of the following relief:

(1) order the respondent to refrain from abusing or threatening to abuse any person eligible for relief;

(2) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(3) order the respondent to refrain from entering the residence of any person eligible for relief;

(4) where the person eligible for relief and the respondent are residing together at the time of the abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has shared the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(5) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

(6) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider;

(7) award temporary custody of a minor child of the respondent and a person eligible for relief;

(8) establish temporary visitation with a minor child of the respondent and a person eligible for relief on a basis which gives primary consideration to the welfare of the minor child and the safety of any other person eligible for relief. If the court finds that the safety of a person eligible for relief will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of any person eligible for relief;

(9) award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support under this article, including an immediate and continuing withholding order on all earnings of the respondent in the amount of the ordered emergency family maintenance in accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

(10) award temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief if necessary for the employment of the person eligible for relief or for the care of a minor child of the respondent or a person eligible for relief;

(11) direct the respondent or any or all of the persons eligible for relief to participate in professionally supervised counseling or a domestic violence program;

(12) order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession for the duration of the protective order; or

(13) order the respondent to pay filing fees and costs of a proceeding under this subtitle.

(E) IF THE JUDGE AWARDS TEMPORARY CUSTODY OF A MINOR CHILD UNDER SUBSECTION (D)(7) OF THIS SECTION, THE JUDGE MAY ORDER A LAW ENFORCEMENT OFFICER TO USE ALL REASONABLE AND NECESSARY FORCE TO RETURN THE MINOR CHILD TO THE CUSTODIAL PARENT AT THE TIME OF SERVICE OR AS SOON AS POSSIBLE AFTER ENTRY OF THE FINAL PROTECTIVE ORDER.

[(e)**] (F)** In determining whether to order the respondent to vacate the home under § 4–505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the judge shall consider the following factors:

(1) the housing needs of any minor child living in the home;

(2) the duration of the relationship between the respondent and any person eligible for relief;

(3) title to the home;

(4) pendency and type of criminal charges against the respondent;

(5) the history and severity of abuse in the relationship between the respondent and any person eligible for relief;

(6) the existence of alternative housing for the respondent and any person eligible for relief; and

(7) the financial resources of the respondent and the person eligible for relief.

[(f)**] (G)** (1) A copy of the final protective order shall be served on the petitioner, the respondent, any affected person eligible for relief, the appropriate law enforcement agency, and any other person the judge determines is appropriate, in open court or, if the person is not present at the final protective order hearing, by first–class mail to the person's last known address.

(2) A copy of the final protective order served on the respondent in accordance with paragraph (1) of this subsection constitutes actual notice to the respondent of the contents of the final protective order. Service is complete upon mailing.

[(g)**] (H)** (1) Except as provided in paragraph (2) of this subsection, all relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 12 months.

(2) A subsequent circuit court order pertaining to any of the provisions included in the final protective order shall supersede those provisions in the final protective order.

4–507.

(a) (1) A protective order may be modified or rescinded during the term of the protective order after:

(i) giving notice to all affected persons eligible for relief and the respondent; and

(ii) a hearing.

(2) For good cause shown, a judge may extend the term of the protective order for 6 months beyond the period specified in **[**§ 4–506(g)**] § 4–506(H)** of this subtitle, after:

(i) giving notice to all affected persons eligible for relief and the respondent; and

(ii) a hearing.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 397

(Senate Bill 393)

AN ACT concerning

Domestic Violence – Permanent Protective Order After Conviction and Imprisonment

FOR the purpose of ~~providing that a protective order is permanent if a respondent is convicted and sentenced to imprisonment for a certain act of abuse~~ requiring the court to issue a new final protective order against an individual under certain circumstances; limiting the relief that a court is authorized to grant in a final protective order issued under this Act; establishing that a final protective order issued under this Act is permanent unless terminated at the request of the victim; and generally relating to protective orders.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–506
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Family Law

4–506.

(a) A respondent under § 4–505 of this subtitle shall have an opportunity to be heard on the question of whether the judge should issue a final protective order.

(b) (1) (i) The temporary protective order shall state the date and time of the final protective order hearing.

(ii) Unless continued for good cause, the final protective order hearing shall be held no later than 7 days after the temporary protective order is served on the respondent.

(2) The temporary protective order shall include notice to the respondent:

(i) in at least 10–point bold type, that if the respondent fails to appear at the final protective order hearing, the respondent may be served by first–class mail at the respondent's last known address with the final protective order and all other notices concerning the final protective order;

(ii) specifying all the possible forms of relief under subsection (d) of this section that the final protective order may contain;

(iii) that the final protective order shall be effective for the period stated in the order, not to exceed 12 months, unless the judge extends the term of the order, under § 4–507(a)(2) of this subtitle **OR THE ~~RESPONDENT IS CONVICTED AND SENTENCED TO IMPRISONMENT AS DESCRIBED IN SUBSECTION (G)(3)~~ COURT ISSUES A PERMANENT ORDER UNDER SUBSECTION (H) OF THIS SECTION**; and

(iv) in at least 10–point bold type, that the respondent must notify the court in writing of any change of address.

(c) (1) If the respondent appears before the court at a protective order hearing or has been served with an interim or temporary protective order, or the court otherwise has personal jurisdiction over the respondent, the judge:

(i) may proceed with the final protective order hearing; and

(ii) if the judge finds by clear and convincing evidence that the alleged abuse has occurred, or if the respondent consents to the entry of a protective

order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

(2) A final protective order may be issued only to a person who has filed a petition under § 4–504 of this subtitle.

(3) (i) Subject to the provisions of subparagraph (ii) of this paragraph, in cases where both parties file a petition under § 4–504 of this subtitle, the judge may issue mutual protective orders if the judge finds by clear and convincing evidence that mutual abuse has occurred.

(ii) The judge may issue mutual final protective orders only if the judge makes a detailed finding of fact that:

1. both parties acted primarily as aggressors; and

2. neither party acted primarily in self–defense.

(d) The final protective order may include any or all of the following relief:

(1) order the respondent to refrain from abusing or threatening to abuse any person eligible for relief;

(2) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(3) order the respondent to refrain from entering the residence of any person eligible for relief;

(4) where the person eligible for relief and the respondent are residing together at the time of the abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has shared the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(5) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

(6) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider;

(7) award temporary custody of a minor child of the respondent and a person eligible for relief;

(8) establish temporary visitation with a minor child of the respondent and a person eligible for relief on a basis which gives primary consideration to the welfare of the minor child and the safety of any other person eligible for relief. If the court finds that the safety of a person eligible for relief will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of any person eligible for relief;

(9) award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support under this article, including an immediate and continuing withholding order on all earnings of the respondent in the amount of the ordered emergency family maintenance in accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

(10) award temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief if necessary for the employment of the person eligible for relief or for the care of a minor child of the respondent or a person eligible for relief;

(11) direct the respondent or any or all of the persons eligible for relief to participate in professionally supervised counseling or a domestic violence program;

(12) order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession for the duration of the protective order; or

(13) order the respondent to pay filing fees and costs of a proceeding under this subtitle.

(e) In determining whether to order the respondent to vacate the home under § 4–505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the judge shall consider the following factors:

(1) the housing needs of any minor child living in the home;

(2) the duration of the relationship between the respondent and any person eligible for relief;

(3) title to the home;

(4) pendency and type of criminal charges against the respondent;

(5) the history and severity of abuse in the relationship between the respondent and any person eligible for relief;

(6) the existence of alternative housing for the respondent and any person eligible for relief; and

(7) the financial resources of the respondent and the person eligible for relief.

(f) (1) A copy of the final protective order shall be served on the petitioner, the respondent, any affected person eligible for relief, the appropriate law enforcement agency, and any other person the judge determines is appropriate, in open court or, if the person is not present at the final protective order hearing, by first–class mail to the person's last known address.

(2) A copy of the final protective order served on the respondent in accordance with paragraph (1) of this subsection constitutes actual notice to the respondent of the contents of the final protective order. Service is complete upon mailing.

(g) (1) Except as provided in **[**paragraph (2)**]** ~~**PARAGRAPHS (2) AND (3)**~~ of this subsection, all relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 12 months.

(2) A subsequent circuit court order pertaining to any of the provisions included in the final protective order shall supersede those provisions in the final protective order.

~~**(3) IF A RESPONDENT IS CONVICTED AND SENTENCED TO IMPRISONMENT UNDER § 2–205, § 2–206, § 3–202, OR § 3–203 OF THE CRIMINAL LAW ARTICLE FOR THE UNDERLYING ACT OF ABUSE, ALL RELIEF GRANTED IN THE FINAL PROTECTIVE ORDER SHALL BE PERMANENT.**~~

(H) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE COURT SHALL ISSUE A NEW FINAL PROTECTIVE ORDER AGAINST AN INDIVIDUAL IF:

(I) THE INDIVIDUAL WAS PREVIOUSLY A RESPONDENT UNDER THIS SUBTITLE AGAINST WHOM A FINAL PROTECTIVE ORDER WAS ISSUED;

(II) THE INDIVIDUAL WAS CONVICTED AND SERVED A TERM OF IMPRISONMENT OF AT LEAST 5 YEARS UNDER § 2–205, § 2–206, § 3–202, § 3–303, § 3–304, § 3–305, § 3–306, § 3–309, § 3–310, § 3–311, OR § 3–312 OF THE CRIMINAL LAW ARTICLE FOR THE ACT OF ABUSE THAT LED TO THE ISSUANCE OF THE FINAL PROTECTIVE ORDER; AND

(III) THE VICTIM OF THE ABUSE WHO WAS THE PERSON ELIGIBLE FOR RELIEF IN THE ORIGINAL FINAL PROTECTIVE ORDER REQUESTS THE ISSUANCE OF A NEW FINAL PROTECTIVE ORDER.

(2) IN A FINAL PROTECTIVE ORDER ISSUED UNDER THIS SUBSECTION, THE COURT MAY GRANT ONLY THE RELIEF THAT WAS GRANTED IN THE ORIGINAL PROTECTIVE ORDER UNDER SUBSECTION (D)(1) OR (2) OF THIS SECTION.

(3) UNLESS TERMINATED AT THE REQUEST OF THE VICTIM, A FINAL PROTECTIVE ORDER ISSUED UNDER THIS SUBSECTION SHALL BE PERMANENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 398

(House Bill 182)

AN ACT concerning

Domestic Violence – Permanent Protective Order After Conviction and Imprisonment

FOR the purpose of ~~providing that a protective order is permanent if a respondent is convicted and sentenced to imprisonment for a certain act of abuse~~ requiring the court to issue a new final protective order against an individual under certain circumstances; limiting the relief that a court is authorized to grant in a final protective order issued under this Act; establishing that a final protective order issued under this Act is permanent unless terminated at the request of the victim; and generally relating to protective orders.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–506
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Family Law

4–506.

(a) A respondent under § 4–505 of this subtitle shall have an opportunity to be heard on the question of whether the judge should issue a final protective order.

(b) (1) (i) The temporary protective order shall state the date and time of the final protective order hearing.

(ii) Unless continued for good cause, the final protective order hearing shall be held no later than 7 days after the temporary protective order is served on the respondent.

(2) The temporary protective order shall include notice to the respondent:

(i) in at least 10–point bold type, that if the respondent fails to appear at the final protective order hearing, the respondent may be served by first–class mail at the respondent's last known address with the final protective order and all other notices concerning the final protective order;

(ii) specifying all the possible forms of relief under subsection (d) of this section that the final protective order may contain;

(iii) that the final protective order shall be effective for the period stated in the order, not to exceed 12 months, unless the judge extends the term of the order, under § 4–507(a)(2) of this subtitle **OR THE ~~RESPONDENT IS CONVICTED AND SENTENCED TO IMPRISONMENT AS DESCRIBED IN SUBSECTION (G)(3)~~ <u>COURT ISSUES A PERMANENT ORDER UNDER SUBSECTION (H)</u> OF THIS SECTION**; and

(iv) in at least 10–point bold type, that the respondent must notify the court in writing of any change of address.

(c) (1) If the respondent appears before the court at a protective order hearing or has been served with an interim or temporary protective order, or the court otherwise has personal jurisdiction over the respondent, the judge:

(i) may proceed with the final protective order hearing; and

(ii) if the judge finds by clear and convincing evidence that the alleged abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

(2) A final protective order may be issued only to a person who has filed a petition under § 4–504 of this subtitle.

(3) (i) Subject to the provisions of subparagraph (ii) of this paragraph, in cases where both parties file a petition under § 4–504 of this subtitle, the judge may issue mutual protective orders if the judge finds by clear and convincing evidence that mutual abuse has occurred.

(ii) The judge may issue mutual final protective orders only if the judge makes a detailed finding of fact that:

1. both parties acted primarily as aggressors; and

2. neither party acted primarily in self–defense.

(d) The final protective order may include any or all of the following relief:

(1) order the respondent to refrain from abusing or threatening to abuse any person eligible for relief;

(2) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(3) order the respondent to refrain from entering the residence of any person eligible for relief;

(4) where the person eligible for relief and the respondent are residing together at the time of the abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the

home or the person eligible for relief has shared the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(5) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

(6) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider;

(7) award temporary custody of a minor child of the respondent and a person eligible for relief;

(8) establish temporary visitation with a minor child of the respondent and a person eligible for relief on a basis which gives primary consideration to the welfare of the minor child and the safety of any other person eligible for relief. If the court finds that the safety of a person eligible for relief will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of any person eligible for relief;

(9) award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support under this article, including an immediate and continuing withholding order on all earnings of the respondent in the amount of the ordered emergency family maintenance in accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

(10) award temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief if necessary for the employment of the person eligible for relief or for the care of a minor child of the respondent or a person eligible for relief;

(11) direct the respondent or any or all of the persons eligible for relief to participate in professionally supervised counseling or a domestic violence program;

(12) order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession for the duration of the protective order; or

(13) order the respondent to pay filing fees and costs of a proceeding under this subtitle.

(e) In determining whether to order the respondent to vacate the home under § 4–505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the judge shall consider the following factors:

(1) the housing needs of any minor child living in the home;

(2) the duration of the relationship between the respondent and any person eligible for relief;

(3) title to the home;

(4) pendency and type of criminal charges against the respondent;

(5) the history and severity of abuse in the relationship between the respondent and any person eligible for relief;

(6) the existence of alternative housing for the respondent and any person eligible for relief; and

(7) the financial resources of the respondent and the person eligible for relief.

(f) (1) A copy of the final protective order shall be served on the petitioner, the respondent, any affected person eligible for relief, the appropriate law enforcement agency, and any other person the judge determines is appropriate, in open court or, if the person is not present at the final protective order hearing, by first–class mail to the person's last known address.

(2) A copy of the final protective order served on the respondent in accordance with paragraph (1) of this subsection constitutes actual notice to the respondent of the contents of the final protective order. Service is complete upon mailing.

(g) (1) Except as provided in ~~[~~paragraph (2)~~]~~ ~~PARAGRAPHS (2) AND (3)~~ of this subsection, all relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 12 months.

(2) A subsequent circuit court order pertaining to any of the provisions included in the final protective order shall supersede those provisions in the final protective order.

~~(3) IF A RESPONDENT IS CONVICTED AND SENTENCED TO IMPRISONMENT UNDER § 2–205, § 2–206, § 3–202, OR § 3–203 OF THE CRIMINAL LAW ARTICLE FOR THE UNDERLYING ACT OF ABUSE, ALL RELIEF GRANTED IN THE FINAL PROTECTIVE ORDER SHALL BE PERMANENT.~~

(H) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE COURT SHALL ISSUE A NEW FINAL PROTECTIVE ORDER AGAINST AN INDIVIDUAL IF:

(I) THE INDIVIDUAL WAS PREVIOUSLY A RESPONDENT UNDER THIS SUBTITLE AGAINST WHOM A FINAL PROTECTIVE ORDER WAS ISSUED;

(II) THE INDIVIDUAL WAS CONVICTED AND SERVED A TERM OF IMPRISONMENT OF AT LEAST 5 YEARS UNDER § 2–205, § 2–206, § 3–202, § 3–303, § 3–304, § 3–305, § 3–306, § 3–309, § 3–310, § 3–311, OR § 3–312 OF THE CRIMINAL LAW ARTICLE FOR THE ACT OF ABUSE THAT LED TO THE ISSUANCE OF THE FINAL PROTECTIVE ORDER; AND

(III) THE VICTIM OF THE ABUSE WHO WAS THE PERSON ELIGIBLE FOR RELIEF IN THE ORIGINAL FINAL PROTECTIVE ORDER REQUESTS THE ISSUANCE OF A NEW FINAL PROTECTIVE ORDER ~~WITHIN A REASONABLE TIME AFTER THE RELEASE OF THE INDIVIDUAL FROM THE TERM OF IMPRISONMENT~~.

(2) IN A FINAL PROTECTIVE ORDER ISSUED UNDER THIS SUBSECTION, THE COURT MAY GRANT ONLY THE RELIEF THAT WAS GRANTED IN THE ORIGINAL PROTECTIVE ORDER UNDER SUBSECTION (D)(1) OR (2) OF THIS SECTION.

(3) UNLESS TERMINATED AT THE REQUEST OF THE VICTIM, A FINAL PROTECTIVE ORDER ISSUED UNDER THIS SUBSECTION SHALL BE PERMANENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 399

(Senate Bill 422)

AN ACT concerning

Deferred Retirement Option Program Participants – Application of Line of Duty Disability Benefits

FOR the purpose of limiting the circumstances under which certain retirees of the State Police Retirement System or the Law Enforcement Officers' Pension System who are participating in the Deferred Retirement Option Program may apply for certain disability retirements; providing for the application of this Act; and generally relating to retirees receiving a line of duty disability retirement benefit while participating in the Deferred Retirement Option Program.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 24–401.1(k), 26–401.1(k), and 29–111
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

24–401.1.

(k) (1) A DROP member is eligible to apply for a special disability retirement allowance under § 29–111 of this article **IF AFTER THE DROP MEMBER** ~~**IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT THAT OCCURRED:**~~

~~**(I) IN THE ACTUAL PERFORMANCE OF DUTY AT A DEFINITE TIME AND PLACE WITHOUT WILLFUL NEGLIGENCE BY THE DROP MEMBER; AND**~~

~~**(II) AFTER THE DROP MEMBER COMMENCED PARTICIPATION IN THE DROP.**~~ **COMMENCES PARTICIPATION IN THE DROP:**

(I) THE MEMBER IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY ARISING OUT OF OR IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY THAT OCCURS WHILE PARTICIPATING IN DROP, AND WITHOUT WILLFUL NEGLIGENCE OF THE MEMBER; AND

(II) THE MEDICAL BOARD CERTIFIES THAT:

1. THE MEMBER IS TOTALLY INCAPACITATED, EITHER MENTALLY OR PHYSICALLY, FOR THE FURTHER PERFORMANCE OF DUTY BY THE OCCURRENCE DESCRIBED UNDER ITEM (I) OF THIS PARAGRAPH;

2. THE INCAPACITY IS LIKELY TO BE PERMANENT; AND

3. THE MEMBER SHOULD BE RETIRED.

(2) If the Board of Trustees grants a DROP member a special disability retirement allowance, the DROP member may elect to receive the special disability retirement allowance or continue to participate in the DROP.

(3) (i) If a DROP member elects to receive a special disability retirement allowance instead of continuing to participate in the DROP, the DROP member shall:

1. submit an application to the Board of Trustees, on the form the Board of Trustees provides, to receive payment of the amount accrued in the DROP in accordance with subsection (i) of this section;

2. execute a written waiver of any benefits to which the DROP member may be entitled under the DROP; and

3. submit an application to retire with a special disability retirement allowance, on the form the Board of Trustees provides, stating the effective date of the DROP member's retirement as a special disability retiree.

(ii) On acceptance of the application for payment and application to retire, the Board of Trustees shall commence payment of a special disability allowance to the DROP member as provided in § 29–111(c) of this article, except that the DROP member's average final compensation shall be computed as of the effective date of the DROP member's application for a special disability retirement allowance.

26–401.1.

(k) (1) A DROP member is eligible to apply for an accidental disability retirement allowance under § 29–109 of this article **IF AFTER THE DROP MEMBER** ~~**IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT THAT OCCURRED:**~~

~~**(I) IN THE ACTUAL PERFORMANCE OF DUTY AT A DEFINITE TIME AND PLACE WITHOUT WILLFUL NEGLIGENCE BY THE DROP MEMBER; AND**~~

~~**(II) AFTER THE DROP MEMBER COMMENCED PARTICIPATION IN THE DROP.**~~ **COMMENCES PARTICIPATION IN THE DROP:**

(I) THE MEMBER IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY ARISING OUT OF OR IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY THAT OCCURS WHILE PARTICIPATING IN DROP, AND WITHOUT WILLFUL NEGLIGENCE OF THE MEMBER; AND

(II) THE MEDICAL BOARD CERTIFIES THAT:

1. THE MEMBER IS TOTALLY INCAPACITATED, EITHER MENTALLY OR PHYSICALLY, FOR THE FURTHER PERFORMANCE OF DUTY BY THE OCCURRENCE DESCRIBED UNDER ITEM (I) OF THIS PARAGRAPH;

2. THE INCAPACITY IS LIKELY TO BE PERMANENT; AND

3. THE MEMBER SHOULD BE RETIRED.

(2) If the Board of Trustees grants a DROP member an accidental disability retirement allowance, the DROP member may elect to receive the accidental disability retirement allowance or continue to participate in the DROP.

(3) (i) If a DROP member elects to receive a disability retirement allowance instead of continuing to participate in the DROP, the DROP member shall:

1. submit an application to the Board of Trustees, on the form the Board of Trustees provides, to receive payment of the amount accrued in the DROP in accordance with subsection (i) of this section;

2. execute a written waiver of any benefits to which the DROP member may be entitled under the DROP; and

3. submit an application to retire with an accidental disability retirement allowance, on the form the Board of Trustees provides, stating the effective date of the DROP member's retirement as an accidental disability retiree.

(ii) On acceptance of the application for payment and application to retire, the Board of Trustees shall commence payment of an accidental disability allowance to the DROP member as provided in § 29–110 of this article, except that the DROP member's average final compensation shall be computed as of the effective date of the DROP member's application for an accidental disability retirement allowance.

29–111.

(a) This section applies to the State Police Retirement System.

(b) **[**The**] EXCEPT AS PROVIDED IN § 24–401.1(K) OF THIS ARTICLE, THE** Board of Trustees shall grant a special disability retirement allowance to a member if:

(1) the member is totally and permanently incapacitated for duty arising out of or in the course of the actual performance of duty without willful negligence by the member; and

(2) the medical board certifies that:

(i) the member is totally incapacitated, either mentally or physically, for the further performance of duty;

(ii) the incapacity is likely to be permanent; and

(iii) the member should be retired.

(c) Except as provided in subsection (d) of this section, a special disability retirement allowance equals the lesser of:

(1) the member's average final compensation; or

(2) the sum of:

(i) an annuity that is the actuarial equivalent of the member's accumulated contributions at retirement; and

(ii) a pension equal to two–thirds of the member's average final compensation.

(d) (1) This subsection applies to a member who is at least normal retirement age.

(2) A special disability retirement allowance equals the greater of:

(i) a normal service retirement allowance; or

(ii) a special disability retirement allowance computed in accordance with subsection (c) of this section.

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 individual who on or before June 30, 2008, commenced participation in the Deferred Retirement Option Program under either § 24–401.1 or § 26–401.1 of the State Personnel and Pensions Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 400

(Senate Bill 437)

AN ACT concerning

State Designations – Walking as the State Exercise

FOR the purpose of designating walking as the State exercise.

BY adding to
Article – State Government
Section 13–320
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Heart disease is the number one cause of death each year in Maryland, and thousands of Maryland citizens suffer from disease and other health problems as a result of a lack of physical activity; and

WHEREAS, Mortality rates from coronary artery disease in Maryland rank in the top one–third in the nation with more than 12,000 people dying annually; and

WHEREAS, Physical inactivity and unhealthy eating are leading risk factors that contribute to at least 400,000 preventable deaths each year in the United States; and

WHEREAS, In 2004, approximately 23% of Americans and 31% of Marylanders engaged in no leisure time physical activity; and

WHEREAS, In 2004, the obesity rate in Maryland was greater than 23%; and

WHEREAS, Maryland ranks in the top 50% of the heaviest states in the nation, with an adult obesity rate of 23.4%; and

WHEREAS, In the United States, the number of adults and children who are overweight has risen sharply during the past 25 years, and the percentage of adults and children who made trips on foot dropped during that same period; and

WHEREAS, Health care costs related to cardiovascular disease in Maryland are $2.25 billion yearly, and the annual cost of heaviness and obesity in the United States is $122.9 billion with $64.1 billion in direct costs and $58.8 billion in indirect costs; and

WHEREAS, If all inactive Americans were to participate in physical activity, an estimated $76.6 billion in direct health costs would be saved; and

WHEREAS, One in five children are overweight or at risk of being overweight, and encouraging children to walk more can establish more physically active and healthy lifestyles; and

WHEREAS, Suicide is the third leading cause of death among children and young people and the eighth leading cause of death overall, and physical activity reduces feeling of depression and anxiety; and

WHEREAS, The U.S. Surgeon General recommends that all Americans walk at least 30 minutes per day, 5 days a week; and

WHEREAS, Walking is one of the best forms of exercise because it helps reduce cholesterol, improve cardiovascular fitness, improve blood pressure, reduce the risk of heart attack, and prevent colon cancer, breast cancer, osteoporosis, and diabetes; and

WHEREAS, More than 300,000 Maryland residents have diabetes, and an estimated one–third of the population remains undiagnosed, and walking 30 minutes a day cuts the risk of developing Type 2 diabetes by 58%; and

WHEREAS, Walking is ideally suited for rehabilitation after illness, surgery, or injury by strengthening the heart, lungs, and circulatory system; and

WHEREAS, The risk of injury while walking is less than with other forms of physical activity, and injuries incurred while walking are less severe than with many other exercises; and

WHEREAS, Walking is a fun activity that friends and family can do together; and

WHEREAS, Walking promotes informal interactions between people and strengthens community, and many neighborhoods lack any social contact between neighbors; and

WHEREAS, Walking is a natural activity that does not require any specialized equipment or training and is an inexpensive physical activity that most Maryland citizens can do easily, at any time during the day; and

WHEREAS, Walking is as close to a universal physical activity as there is and can be easily integrated into the daily routine of most Marylanders; and

WHEREAS, Most people in Maryland already walk every day and a person can engage in other activities while walking, such as meeting and greeting neighbors, talking with friends and family, observing nature or the community, and running errands or shopping; and

WHEREAS, Environments that encourage walking help to promote tourism and commerce; and

WHEREAS, Increased walking is an important facet of livable and sustainable communities; and

WHEREAS, Walking is an environmentally friendly method of transportation, which helps to reduce reliance on automobiles while cutting traffic congestion and air pollution; and

WHEREAS, Walking as a symbol for Maryland will benefit individual citizens and Maryland as a whole; now, therefore,

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

Article – State Government

13–320.

WALKING IS THE STATE EXERCISE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 401

(House Bill 1311)

AN ACT concerning

State Designations – Walking as the State Exercise

FOR the purpose of designating walking as the State exercise.

BY adding to
Article – State Government
Section 13–320
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Heart disease is the number one cause of death each year in Maryland, and thousands of Maryland citizens suffer from disease and other health problems as a result of a lack of physical activity; and

WHEREAS, Mortality rates from coronary artery disease in Maryland rank in the top one–third in the nation with more than 12,000 people dying annually; and

WHEREAS, Physical inactivity and unhealthy eating are leading risk factors that contribute to at least 400,000 preventable deaths each year in the United States; and

WHEREAS, In 2004, approximately 23% of Americans and 31% of Marylanders engaged in no leisure time physical activity; and

WHEREAS, In 2004, the obesity rate in Maryland was greater than 23%; and

WHEREAS, Maryland ranks in the top 50% of the heaviest states in the nation, with an adult obesity rate of 23.4%; and

WHEREAS, In the United States, the number of adults and children who are overweight has risen sharply during the past 25 years, and the percentage of adults and children who made trips on foot dropped during that same period; and

WHEREAS, Health care costs related to cardiovascular disease in Maryland are $2.25 billion yearly, and the annual cost of heaviness and obesity in the United States is $122.9 billion with $64.1 billion in direct costs and $58.8 billion in indirect costs; and

WHEREAS, If all inactive Americans were to participate in physical activity, an estimated $76.6 billion in direct health costs would be saved; and

WHEREAS, One in five children are overweight or at risk of being overweight, and encouraging children to walk more can establish more physically active and healthy lifestyles; and

WHEREAS, Suicide is the third leading cause of death among children and young people and the eighth leading cause of death overall, and physical activity reduces feeling of depression and anxiety; and

WHEREAS, The U.S. Surgeon General recommends that all Americans walk at least 30 minutes per day, 5 days a week; and

WHEREAS, Walking is one of the best forms of exercise because it helps reduce cholesterol, improve cardiovascular fitness, improve blood pressure, reduce the risk of heart attack, and prevent colon cancer, breast cancer, osteoporosis, and diabetes; and

WHEREAS, More than 300,000 Maryland residents have diabetes, and an estimated one–third of the population remains undiagnosed, and walking 30 minutes a day cuts the risk of developing Type 2 diabetes by 58%; and

WHEREAS, Walking is ideally suited for rehabilitation after illness, surgery, or injury by strengthening the heart, lungs, and circulatory system; and

WHEREAS, The risk of injury while walking is less than with other forms of physical activity, and injuries incurred while walking are less severe than with many other exercises; and

WHEREAS, Walking is a fun activity that friends and family can do together; and

WHEREAS, Walking promotes informal interactions between people and strengthens community, and many neighborhoods lack any social contact between neighbors; and

WHEREAS, Walking is a natural activity that does not require any specialized equipment or training and is an inexpensive physical activity that most Maryland citizens can do easily, at any time during the day; and

WHEREAS, Walking is as close to a universal physical activity as there is and can be easily integrated into the daily routine of most Marylanders; and

WHEREAS, Most people in Maryland already walk every day and a person can engage in other activities while walking, such as meeting and greeting neighbors, talking with friends and family, observing nature or the community, and running errands or shopping; and

WHEREAS, Environments that encourage walking help to promote tourism and commerce; and

WHEREAS, Increased walking is an important facet of livable and sustainable communities; and

WHEREAS, Walking is an environmentally friendly method of transportation, which helps to reduce reliance on automobiles while cutting traffic congestion and air pollution; and

WHEREAS, Walking as a symbol for Maryland will benefit individual citizens and Maryland as a whole; now, therefore,

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

Article – State Government

13–320.

WALKING IS THE STATE EXERCISE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 402

(Senate Bill 457)

AN ACT concerning

~~**Interstate Compact on Educational Opportunity for Military Children**~~
Task Force on Educational Issues Affecting Military Children

FOR the purpose of establishing~~, through a certain Interstate Compact with certain other member states, the Interstate Compact on Educational Opportunity for Military Children for certain purposes; providing for the transfer of certain educational records and enrollment of certain children in certain schools; providing for the placement of certain children in certain courses, educational~~

~~programs, and special education services on transfer; establishing certain eligibility criteria for certain school programs; establishing certain procedures to facilitate the graduation of certain students from high school; establishing a certain State Council for coordinating certain services; establishing the Interstate Commission on Educational Opportunity for Military Children; providing for the composition, meetings, and powers and duties of the Interstate Commission; providing for the organization and operation and the rulemaking functions of the Interstate Commission; providing for the oversight and enforcement of the Interstate Compact and the resolution of disputes between certain member states; providing for the financing of the Interstate Commission; establishing procedures for amending the Interstate Compact; establishing certain withdrawal and dissolution procedures for certain members of the Interstate Compact; defining certain terms; making this Act subject to a certain contingency; providing for the termination of this Act, subject to a certain contingency; and generally relating to the Interstate Compact on Educational Opportunity for Military Children~~ *a Task Force on Educational Issues Affecting Military Children; establishing the membership and staffing of the Task Force; providing for the designation of the chair of the Task Force; requiring the Task Force to evaluate and make recommendations regarding certain issues; requiring the Task Force to submit a certain report to the Governor and General Assembly by a certain date; prohibiting a member of the Task Force from receiving certain compensation; authorizing a member of the Task Force to receive certain reimbursements; providing for the termination of this Act; and generally relating to the Task Force on Educational Issues Affecting Military Children*.

~~BY adding to~~
~~Article – Education~~
~~Section 7–1301 through 7–1303 to be under the new subtitle "Subtitle 13. Interstate Compact on Educational Opportunity for Military Children"~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

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

~~**Article – Education**~~

~~**SUBTITLE 13. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.**~~

~~**7–1301.**~~

~~**(A) THE DEFINITIONS IN § 1–101 OF THIS ARTICLE DO NOT APPLY TO THE INTERSTATE COMPACT SET FORTH IN § 7–1303 OF THIS SUBTITLE.**~~

~~(B) IN THE INTERSTATE COMPACT SET FORTH IN § 7–1303 OF THIS SUBTITLE, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE, "ARTICLE", "SECTION", AND "SUBSECTION" MEAN AN ARTICLE, SECTION, AND SUBSECTION, RESPECTIVELY, OF THE INTERSTATE COMPACT.~~

~~7–1302.~~

~~ON BEHALF OF THIS STATE, THE GOVERNOR SHALL EXECUTE, WITH THE OTHER MEMBER STATES, THE INTERSTATE COMPACT SUBSTANTIALLY AS IT APPEARS IN § 7–1303 OF THIS SUBTITLE.~~

~~7–1303.~~

~~THE STATE OF MARYLAND AND OTHER STATES, HEREINAFTER "MEMBER STATES", HEREBY ENTER INTO AN INTERSTATE COMPACT, AS SET FORTH BELOW, FOR THE PURPOSE OF FACILITATING THE TIMELY ENROLLMENT AND TRANSFER OF CHILDREN OF MILITARY FAMILIES IN ELEMENTARY AND SECONDARY SCHOOLS DUE TO THE FREQUENT MOVEMENT AND DEPLOYMENT OF THEIR PARENTS. THIS INTERSTATE COMPACT SHALL BE KNOWN AND MAY BE CITED AS THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.~~

~~ARTICLE I~~

~~PURPOSE~~

~~IT IS THE PURPOSE OF THIS COMPACT TO REMOVE BARRIERS TO EDUCATIONAL SUCCESS IMPOSED ON CHILDREN OF MILITARY FAMILIES BECAUSE OF FREQUENT MOVES AND DEPLOYMENT OF THEIR PARENTS BY:~~

~~A. FACILITATING THE TIMELY ENROLLMENT OF CHILDREN OF MILITARY FAMILIES AND ENSURING THAT THEY ARE NOT PLACED AT A DISADVANTAGE DUE TO DIFFICULTY IN THE TRANSFER OF EDUCATION RECORDS FROM THE PREVIOUS SCHOOL DISTRICT OR VARIATIONS IN ENTRANCE OR AGE REQUIREMENTS;~~

~~B. FACILITATING THE STUDENT PLACEMENT PROCESS THROUGH WHICH CHILDREN OF MILITARY FAMILIES ARE NOT DISADVANTAGED BY VARIATIONS IN ATTENDANCE REQUIREMENTS, SCHEDULING, SEQUENCING, GRADING, COURSE CONTENT, OR ASSESSMENT;~~

~~C. FACILITATING THE QUALIFICATION AND ELIGIBILITY FOR ENROLLMENT, EDUCATIONAL PROGRAMS, AND PARTICIPATION IN EXTRACURRICULAR ACADEMIC, ATHLETIC, AND SOCIAL ACTIVITIES;~~

~~D. FACILITATING THE ON-TIME GRADUATION OF CHILDREN OF MILITARY FAMILIES;~~

~~E. PROVIDING FOR THE PROMULGATION AND ENFORCEMENT OF ADMINISTRATIVE RULES IMPLEMENTING THE PROVISIONS OF THIS COMPACT;~~

~~F. PROVIDING FOR THE UNIFORM COLLECTION AND SHARING OF INFORMATION BETWEEN AND AMONG MEMBER STATES, SCHOOLS, AND MILITARY FAMILIES UNDER THIS COMPACT;~~

~~G. PROMOTING COORDINATION BETWEEN THIS COMPACT AND OTHER COMPACTS AFFECTING MILITARY CHILDREN; AND~~

~~H. PROMOTING FLEXIBILITY AND COOPERATION BETWEEN THE EDUCATIONAL SYSTEM, PARENTS, AND THE STUDENT IN ORDER TO ACHIEVE EDUCATIONAL SUCCESS FOR THE STUDENT.~~

~~ARTICLE II~~

~~DEFINITIONS~~

~~AS USED IN THIS COMPACT, UNLESS THE CONTEXT CLEARLY REQUIRES A DIFFERENT CONSTRUCTION:~~

~~A. "ACTIVE DUTY" 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. SECTIONS 1209 AND 1211;~~

~~B. "CHILDREN OF MILITARY FAMILIES" MEANS SCHOOL-AGED CHILDREN, ENROLLED IN KINDERGARTEN THROUGH 12TH GRADE, IN THE HOUSEHOLD OF AN ACTIVE DUTY MEMBER;~~

~~C. "COMPACT COMMISSIONER" MEANS THE VOTING REPRESENTATIVE OF EACH COMPACTING STATE APPOINTED PURSUANT TO ARTICLE VIII OF THIS COMPACT;~~

~~D. "DEPLOYMENT" MEANS THE PERIOD 1 MONTH PRIOR TO THE SERVICE MEMBERS' DEPARTURE FROM THEIR HOME STATION ON MILITARY ORDERS THROUGH 6 MONTHS AFTER RETURN TO THEIR HOME STATION;~~

~~E. "EDUCATIONAL RECORDS" MEANS THOSE OFFICIAL RECORDS, FILES, AND DATA DIRECTLY RELATED TO A STUDENT AND MAINTAINED BY THE SCHOOL OR LOCAL EDUCATION AGENCY, INCLUDING BUT NOT LIMITED TO RECORDS ENCOMPASSING ALL THE MATERIAL KEPT IN THE STUDENT'S CUMULATIVE FOLDER SUCH AS GENERAL IDENTIFYING DATA, RECORDS OF ATTENDANCE AND OF ACADEMIC WORK COMPLETED,~~

~~RECORDS OF ACHIEVEMENT AND RESULTS OF EVALUATIVE TESTS, HEALTH DATA, DISCIPLINARY STATUS, TEST PROTOCOLS, AND INDIVIDUALIZED EDUCATION PROGRAMS;~~

~~F. "EXTRACURRICULAR ACTIVITIES" MEANS A VOLUNTARY ACTIVITY SPONSORED BY THE SCHOOL OR LOCAL EDUCATION AGENCY OR AN ORGANIZATION SANCTIONED BY THE LOCAL EDUCATION AGENCY. EXTRACURRICULAR ACTIVITIES INCLUDE, BUT ARE NOT LIMITED TO, PREPARATION FOR AND INVOLVEMENT IN PUBLIC PERFORMANCES, CONTESTS, ATHLETIC COMPETITIONS, DEMONSTRATIONS, DISPLAYS, AND CLUB ACTIVITIES;~~

~~G. "INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN" MEANS THE COMMISSION THAT IS CREATED UNDER ARTICLE IX OF THIS COMPACT, WHICH IS GENERALLY REFERRED TO AS THE INTERSTATE COMMISSION;~~

~~H. "LOCAL EDUCATION AGENCY" MEANS A PUBLIC AUTHORITY LEGALLY CONSTITUTED BY THE STATE AS AN ADMINISTRATIVE AGENCY TO PROVIDE CONTROL OF AND DIRECTION FOR KINDERGARTEN THROUGH 12TH–GRADE PUBLIC EDUCATIONAL INSTITUTIONS;~~

~~I. "MEMBER STATE" MEANS A STATE THAT HAS ENACTED THIS COMPACT;~~

~~J. "MILITARY INSTALLATION" MEANS A BASE, CAMP, POST, 1 STATION, YARD, CENTER, HOME PORT FACILITY FOR ANY SHIP, OR OTHER ACTIVITY UNDER THE JURISDICTION OF THE DEPARTMENT OF DEFENSE, INCLUDING ANY LEASED FACILITY THAT IS LOCATED WITHIN ANY OF THE SEVERAL STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, THE NORTHERN MARIANAS ISLANDS AND ANY OTHER U.S. TERRITORY. SUCH TERM DOES NOT INCLUDE ANY FACILITY USED PRIMARILY FOR CIVIL WORKS, RIVERS, HARBOR PROJECTS, OR FLOOD CONTROL PROJECTS;~~

~~K. "NONMEMBER STATE" MEANS A STATE THAT HAS NOT ENACTED THIS COMPACT;~~

~~L. "RECEIVING STATE" MEANS THE STATE TO WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT;~~

~~M. "RULE" MEANS A WRITTEN STATEMENT BY THE INTERSTATE COMMISSION PROMULGATED PURSUANT TO ARTICLE XII OF THIS COMPACT THAT IS OF GENERAL APPLICABILITY, IMPLEMENTS, INTERPRETS OR PRESCRIBES A POLICY OR PROVISION OF THE COMPACT, OR AN ORGANIZATIONAL, PROCEDURAL, OR PRACTICE REQUIREMENT OF THE INTERSTATE COMMISSION, AND HAS THE FORCE AND EFFECT OF STATUTORY LAW IN A MEMBER STATE, AND INCLUDES THE AMENDMENT, REPEAL, OR SUSPENSION OF AN EXISTING RULE;~~

~~N. "SENDING STATE" MEANS THE STATE FROM WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT;~~

~~O. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, THE NORTHERN MARIANAS ISLANDS AND ANY OTHER U.S. TERRITORY;~~

~~P. "STUDENT" MEANS THE CHILD OF A MILITARY FAMILY FOR WHOM THE LOCAL EDUCATION AGENCY RECEIVES PUBLIC FUNDING AND WHO IS FORMALLY ENROLLED IN KINDERGARTEN THROUGH 12TH GRADE;~~

~~Q. "TRANSITION" MEANS:~~

~~1. THE FORMAL AND PHYSICAL PROCESS OF TRANSFERRING FROM SCHOOL TO SCHOOL; OR~~

~~2. THE PERIOD OF TIME IN WHICH A STUDENT MOVES FROM ONE SCHOOL IN THE SENDING STATE TO ANOTHER SCHOOL IN THE RECEIVING STATE;~~

~~R. "UNIFORMED SERVICES" MEANS THE ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD AS WELL AS THE COMMISSIONED CORPS OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND PUBLIC HEALTH SERVICES; AND~~

~~S. "VETERAN" MEANS A PERSON WHO SERVED IN THE UNIFORMED SERVICES AND WHO WAS DISCHARGED OR RELEASED THERE FROM UNDER CONDITIONS OTHER THAN DISHONORABLE.~~

~~ARTICLE III~~

~~APPLICABILITY~~

~~A. EXCEPT AS OTHERWISE PROVIDED IN SECTION B, THIS COMPACT SHALL APPLY TO THE CHILDREN OF:~~

~~1. ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES AS DEFINED IN THIS COMPACT, INCLUDING MEMBERS OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY ORDERS PURSUANT TO 10 U.S.C. SECTIONS 1209 AND 1211;~~

~~2. MEMBERS OR VETERANS OF THE UNIFORMED SERVICES WHO ARE SEVERELY INJURED AND MEDICALLY DISCHARGED OR RETIRED FOR A PERIOD OF 1 YEAR AFTER MEDICAL DISCHARGE OR RETIREMENT; AND~~

~~3. MEMBERS OF THE UNIFORMED SERVICES WHO DIE ON ACTIVE DUTY OR AS A RESULT OF INJURIES SUSTAINED ON ACTIVE DUTY FOR A PERIOD OF 1 YEAR AFTER DEATH.~~

~~B. THE PROVISIONS OF THIS INTERSTATE COMPACT SHALL ONLY APPLY TO LOCAL EDUCATION AGENCIES AS DEFINED IN THIS COMPACT.~~

~~C. THE PROVISIONS OF THIS COMPACT SHALL NOT APPLY TO THE CHILDREN OF:~~

~~1. INACTIVE MEMBERS OF THE NATIONAL GUARD AND MILITARY RESERVES;~~

~~2. MEMBERS OF THE UNIFORMED SERVICES NOW RETIRED, EXCEPT AS PROVIDED IN SECTION A;~~

~~3. VETERANS OF THE UNIFORMED SERVICES, EXCEPT AS PROVIDED IN SECTION A; AND~~

~~4. OTHER U.S. DEPARTMENT OF DEFENSE PERSONNEL AND OTHER FEDERAL AGENCY CIVILIAN AND CONTRACT EMPLOYEES NOT DEFINED AS ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.~~

~~ARTICLE IV~~

~~EDUCATIONAL RECORDS AND ENROLLMENT~~

~~A. UNOFFICIAL OR "HAND-CARRIED" EDUCATION RECORDS – IN THE EVENT THAT OFFICIAL EDUCATION RECORDS CANNOT BE RELEASED TO THE PARENTS FOR THE PURPOSE OF TRANSFER, THE CUSTODIAN OF THE RECORDS IN THE SENDING STATE SHALL PREPARE AND FURNISH TO THE PARENT A COMPLETE SET OF UNOFFICIAL EDUCATIONAL RECORDS CONTAINING UNIFORM INFORMATION AS DETERMINED BY THE INTERSTATE COMMISSION. UPON RECEIPT OF THE UNOFFICIAL EDUCATION RECORDS BY A SCHOOL IN THE RECEIVING STATE, THE SCHOOL SHALL ENROLL AND APPROPRIATELY PLACE THE STUDENT BASED ON THE INFORMATION PROVIDED IN THE UNOFFICIAL RECORDS PENDING VALIDATION BY THE OFFICIAL RECORDS AS QUICKLY AS POSSIBLE.~~

~~B. OFFICIAL EDUCATION RECORDS/TRANSCRIPTS – SIMULTANEOUS WITH THE ENROLLMENT AND CONDITIONAL PLACEMENT OF THE STUDENT, THE SCHOOL IN THE RECEIVING STATE SHALL REQUEST THE STUDENT'S OFFICIAL EDUCATION RECORD FROM THE SCHOOL IN THE SENDING STATE. UPON RECEIPT OF THIS REQUEST, THE SCHOOL IN THE SENDING STATE WILL PROCESS AND FURNISH THE OFFICIAL EDUCATION RECORDS TO THE SCHOOL IN THE RECEIVING STATE WITHIN 10 DAYS OR WITHIN SUCH~~

~~TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION.~~

~~C. IMMUNIZATIONS — COMPACTING STATES SHALL GIVE 30 DAYS FROM THE DATE OF ENROLLMENT OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION, FOR STUDENTS TO OBTAIN ANY IMMUNIZATION(S) REQUIRED BY THE RECEIVING STATE. FOR A SERIES OF IMMUNIZATIONS, INITIAL VACCINATIONS MUST BE OBTAINED WITHIN 30 DAYS OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION.~~

~~D. KINDERGARTEN AND FIRST-GRADE ENTRANCE AGE — STUDENTS SHALL BE ALLOWED TO CONTINUE THEIR ENROLLMENT AT GRADE LEVEL IN THE RECEIVING STATE COMMENSURATE WITH THEIR GRADE LEVEL (INCLUDING KINDERGARTEN) FROM A LOCAL EDUCATION AGENCY IN THE SENDING STATE AT THE TIME OF TRANSITION, REGARDLESS OF AGE. A STUDENT WHO HAS SATISFACTORILY COMPLETED THE PREREQUISITE GRADE LEVEL IN THE LOCAL EDUCATION AGENCY IN THE SENDING STATE SHALL BE ELIGIBLE FOR ENROLLMENT IN THE NEXT HIGHEST GRADE LEVEL IN THE RECEIVING STATE, REGARDLESS OF AGE. A STUDENT TRANSFERRING AFTER THE START OF THE SCHOOL YEAR IN THE RECEIVING STATE SHALL ENTER THE SCHOOL IN THE RECEIVING STATE ON THE STUDENT'S VALIDATED LEVEL FROM AN ACCREDITED SCHOOL IN THE SENDING STATE.~~

~~ARTICLE V~~

~~PLACEMENT AND ATTENDANCE~~

~~A. COURSE PLACEMENT — WHEN THE STUDENT TRANSFERS BEFORE OR DURING THE SCHOOL YEAR, THE RECEIVING STATE SCHOOL SHALL INITIALLY HONOR PLACEMENT OF THE STUDENT IN EDUCATIONAL COURSES BASED ON THE STUDENT'S ENROLLMENT IN THE SENDING STATE SCHOOL AND/OR EDUCATIONAL ASSESSMENTS CONDUCTED AT THE SCHOOL IN THE SENDING STATE IF THE COURSES ARE OFFERED. COURSE PLACEMENT INCLUDES BUT IS NOT LIMITED TO HONORS, INTERNATIONAL BACCALAUREATE, ADVANCED PLACEMENT, VOCATIONAL, TECHNICAL AND CAREER PATHWAYS COURSES. CONTINUING THE STUDENT'S ACADEMIC PROGRAM FROM THE PREVIOUS SCHOOL AND PROMOTING PLACEMENT IN ACADEMICALLY AND CAREER CHALLENGING COURSES SHOULD BE PARAMOUNT WHEN CONSIDERING PLACEMENT. THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT AND CONTINUED ENROLLMENT OF THE STUDENT IN THE COURSES.~~

~~B. EDUCATIONAL PROGRAM PLACEMENT — THE RECEIVING STATE SCHOOL SHALL INITIALLY HONOR PLACEMENT OF THE STUDENT IN EDUCATIONAL PROGRAMS BASED ON CURRENT EDUCATIONAL ASSESSMENTS CONDUCTED AT THE SCHOOL IN THE~~

~~SENDING STATE OR PARTICIPATION/PLACEMENT IN LIKE PROGRAMS IN THE SENDING STATE. SUCH PROGRAMS INCLUDE, BUT ARE NOT LIMITED TO:~~

~~1. GIFTED AND TALENTED PROGRAMS; AND~~

~~2. ENGLISH AS A SECOND LANGUAGE (ESL).~~

~~THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT OF THE STUDENT.~~

~~C. SPECIAL EDUCATION SERVICES –~~

~~1. IN COMPLIANCE WITH THE FEDERAL REQUIREMENTS OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA), 20 U.S.C.A. SECTION 1400 ET SEQ., THE RECEIVING STATE SHALL INITIALLY PROVIDE COMPARABLE SERVICES TO A STUDENT WITH DISABILITIES BASED ON THE STUDENT'S CURRENT INDIVIDUALIZED EDUCATION PROGRAM (IEP).~~

~~2. IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 504 OF THE REHABILITATION ACT, 29 U.S.C.A. SECTION 794, AND WITH TITLE II OF THE AMERICANS WITH DISABILITIES ACT, 42 U.S.C.A. SECTIONS 12131–12165, THE RECEIVING STATE SHALL MAKE REASONABLE ACCOMMODATIONS AND MODIFICATIONS TO ADDRESS THE NEEDS OF INCOMING STUDENTS WITH DISABILITIES, SUBJECT TO AN EXISTING 504 OR TITLE II PLAN, TO PROVIDE THE STUDENT WITH EQUAL ACCESS TO EDUCATION. THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT OF THE STUDENT.~~

~~D. PLACEMENT FLEXIBILITY – LOCAL EDUCATION AGENCY ADMINISTRATIVE OFFICIALS SHALL HAVE FLEXIBILITY IN WAIVING COURSE/PROGRAM PREREQUISITES OR OTHER PRECONDITIONS FOR PLACEMENT IN COURSES/PROGRAMS OFFERED UNDER THE JURISDICTION OF THE LOCAL EDUCATION AGENCY.~~

~~E. ABSENCE AS RELATED TO DEPLOYMENT ACTIVITIES – A STUDENT WHOSE PARENT OR LEGAL GUARDIAN IS AN ACTIVE DUTY MEMBER OF THE UNIFORMED SERVICES, AS DEFINED BY THE COMPACT, AND HAS BEEN CALLED TO DUTY FOR, IS ON LEAVE FROM, OR IMMEDIATELY RETURNED FROM DEPLOYMENT TO A COMBAT ZONE OR COMBAT SUPPORT POSTING, SHALL BE GRANTED ADDITIONAL EXCUSED ABSENCES AT THE DISCRETION OF THE LOCAL EDUCATION AGENCY SUPERINTENDENT TO VISIT WITH HIS OR HER PARENT OR LEGAL GUARDIAN RELATIVE TO SUCH LEAVE OR DEPLOYMENT OF THE PARENT OR GUARDIAN.~~

~~ARTICLE VI~~

~~ELIGIBILITY~~

~~A. ELIGIBILITY FOR ENROLLMENT –~~

~~1. SPECIAL POWER OF ATTORNEY RELATIVE TO THE GUARDIANSHIP OF A CHILD OF A MILITARY FAMILY AND EXECUTED UNDER APPLICABLE LAW SHALL BE SUFFICIENT FOR THE PURPOSES OF ENROLLMENT AND ALL OTHER ACTIONS REQUIRING PARENTAL PARTICIPATION AND CONSENT.~~

~~2. A LOCAL EDUCATION AGENCY SHALL BE PROHIBITED FROM CHARGING LOCAL TUITION TO A TRANSITIONING MILITARY CHILD PLACED IN THE CARE OF A NONCUSTODIAL PARENT OR OTHER PERSON STANDING IN LOCO PARENTIS WHO LIVES IN A JURISDICTION OTHER THAN THAT OF THE CUSTODIAL PARENT.~~

~~3. A TRANSITIONING MILITARY CHILD PLACED IN THE CARE OF A NONCUSTODIAL PARENT OR OTHER PERSON STANDING IN LOCO PARENTIS WHO LIVES IN A JURISDICTION OTHER THAN THAT OF THE CUSTODIAL PARENT MAY CONTINUE TO ATTEND THE SCHOOL IN WHICH THE CHILD WAS ENROLLED WHILE RESIDING WITH THE CUSTODIAL PARENT.~~

~~B. ELIGIBILITY FOR EXTRACURRICULAR PARTICIPATION – STATE AND LOCAL EDUCATION AGENCIES SHALL FACILITATE THE OPPORTUNITY FOR TRANSITIONING MILITARY CHILDREN'S INCLUSION IN EXTRACURRICULAR ACTIVITIES, REGARDLESS OF APPLICATION DEADLINES, TO THE EXTENT THEY ARE OTHERWISE QUALIFIED.~~

~~ARTICLE VII~~

~~GRADUATION~~

~~IN ORDER TO FACILITATE THE ON–TIME GRADUATION OF CHILDREN OF MILITARY FAMILIES, STATES AND LOCAL EDUCATION AGENCIES SHALL INCORPORATE THE FOLLOWING PROCEDURES:~~

~~A. WAIVER REQUIREMENTS – LOCAL EDUCATION AGENCY ADMINISTRATIVE OFFICIALS SHALL WAIVE SPECIFIC COURSES REQUIRED FOR GRADUATION IF SIMILAR COURSE WORK HAS BEEN SATISFACTORILY COMPLETED IN ANOTHER LOCAL EDUCATION AGENCY OR SHALL PROVIDE REASONABLE JUSTIFICATION FOR DENIAL. SHOULD A WAIVER NOT BE GRANTED TO A STUDENT WHO WOULD QUALIFY TO GRADUATE FROM THE SENDING SCHOOL, THE LOCAL EDUCATION AGENCY SHALL PROVIDE AN ALTERNATIVE MEANS OF ACQUIRING REQUIRED COURSE WORK SO THAT GRADUATION MAY OCCUR ON TIME;~~

~~B. EXIT EXAMS –~~

~~1. STATES SHALL ACCEPT:~~

~~I. EXIT OR END-OF-COURSE EXAMS REQUIRED FOR GRADUATION FROM THE SENDING STATE;~~

~~II. NATIONAL NORM-REFERENCED ACHIEVEMENT TESTS; OR~~

~~III. ALTERNATIVE TESTING, IN LIEU OF TESTING REQUIREMENTS FOR GRADUATION IN THE RECEIVING STATE; AND~~

~~2. IN THE EVENT THE ABOVE ALTERNATIVES CANNOT BE ACCOMMODATED BY THE RECEIVING STATE FOR A STUDENT TRANSFERRING IN HIS OR HER SENIOR YEAR, THEN THE PROVISIONS OF ARTICLE VII, SECTION C SHALL APPLY; AND~~

~~C. TRANSFERS DURING SENIOR YEAR — SHOULD A MILITARY STUDENT TRANSFERRING AT THE BEGINNING OR DURING HIS OR HER SENIOR YEAR BE INELIGIBLE TO GRADUATE FROM THE RECEIVING LOCAL EDUCATION AGENCY AFTER ALL ALTERNATIVES HAVE BEEN CONSIDERED, THE SENDING AND RECEIVING LOCAL EDUCATION AGENCIES SHALL ENSURE THE RECEIPT OF A DIPLOMA FROM THE SENDING LOCAL EDUCATION AGENCY IF THE STUDENT MEETS THE GRADUATION REQUIREMENTS OF THE SENDING LOCAL EDUCATION AGENCY. IN THE EVENT THAT ONE OF THE STATES IN QUESTION IS NOT A MEMBER OF THIS COMPACT, THE MEMBER STATE SHALL USE BEST EFFORTS TO FACILITATE THE ON-TIME GRADUATION OF THE STUDENT IN ACCORDANCE WITH SECTIONS A AND B OF THIS ARTICLE.~~

~~ARTICLE VIII~~

~~STATE COORDINATION~~

~~A. EACH MEMBER STATE SHALL, THROUGH THE CREATION OF A STATE COUNCIL OR USE OF AN EXISTING BODY OR BOARD, PROVIDE FOR THE COORDINATION AMONG ITS AGENCIES OF GOVERNMENT, LOCAL EDUCATION AGENCIES, AND MILITARY INSTALLATIONS CONCERNING THE STATE'S PARTICIPATION IN AND COMPLIANCE WITH THIS COMPACT AND INTERSTATE COMMISSION ACTIVITIES. WHILE EACH MEMBER STATE MAY DETERMINE THE MEMBERSHIP OF ITS OWN STATE COUNCIL, ITS MEMBERSHIP MUST INCLUDE AT LEAST THE STATE SUPERINTENDENT OF SCHOOLS, A SUPERINTENDENT OF A SCHOOL DISTRICT WITH A HIGH CONCENTRATION OF MILITARY CHILDREN, A REPRESENTATIVE FROM A MILITARY INSTALLATION, ONE REPRESENTATIVE EACH FROM THE LEGISLATIVE AND EXECUTIVE BRANCHES OF GOVERNMENT, AND REPRESENTATIVES OF OTHER OFFICES AND STAKEHOLDER GROUPS THE STATE COUNCIL DEEMS APPROPRIATE. A MEMBER STATE THAT DOES NOT HAVE A SCHOOL DISTRICT DEEMED TO CONTAIN A HIGH CONCENTRATION OF MILITARY CHILDREN MAY APPOINT A SUPERINTENDENT FROM ANOTHER SCHOOL DISTRICT TO REPRESENT LOCAL EDUCATION AGENCIES ON THE STATE COUNCIL.~~

~~**B.** THE STATE COUNCIL OF EACH MEMBER STATE SHALL APPOINT OR DESIGNATE A MILITARY FAMILY EDUCATION LIAISON TO ASSIST MILITARY FAMILIES AND THE STATE IN FACILITATING THE IMPLEMENTATION OF THIS COMPACT.~~

~~**C.** THE COMPACT COMMISSIONER RESPONSIBLE FOR THE ADMINISTRATION AND MANAGEMENT OF THE STATE'S PARTICIPATION IN THE COMPACT SHALL BE APPOINTED BY THE GOVERNOR OR AS OTHERWISE DETERMINED BY EACH MEMBER STATE.~~

~~**D.** THE COMPACT COMMISSIONER AND THE MILITARY FAMILY EDUCATION LIAISON DESIGNATED HEREIN SHALL BE EX OFFICIO MEMBERS OF THE STATE COUNCIL, UNLESS EITHER IS ALREADY A FULL VOTING MEMBER OF THE STATE COUNCIL.~~

~~ARTICLE IX~~

~~INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN~~

~~**A.** THE MEMBER STATES HEREBY CREATE THE "INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN." THE ACTIVITIES OF THE INTERSTATE COMMISSION ARE THE FORMATION OF PUBLIC POLICY AND ARE A DISCRETIONARY STATE FUNCTION.~~

~~**B.** THE INTERSTATE COMMISSION SHALL:~~

~~**1.** BE A BODY CORPORATE AND JOINT AGENCY OF THE MEMBER STATES AND SHALL HAVE ALL THE RESPONSIBILITIES, POWERS, AND DUTIES SET FORTH HEREIN, AND SUCH ADDITIONAL POWERS AS MAY BE CONFERRED UPON IT BY A SUBSEQUENT CONCURRENT ACTION OF THE RESPECTIVE LEGISLATURES OF THE MEMBER STATES IN ACCORDANCE WITH THE TERMS OF THIS COMPACT; AND~~

~~**2.** CONSIST OF ONE INTERSTATE COMMISSION VOTING REPRESENTATIVE FROM EACH MEMBER STATE WHO SHALL BE THAT STATE'S COMPACT COMMISSIONER.~~

~~**C.** **1.** EACH MEMBER STATE REPRESENTED AT A MEETING OF THE INTERSTATE COMMISSION IS ENTITLED TO ONE VOTE.~~

~~**2.** A MAJORITY OF THE TOTAL MEMBER STATES SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS UNLESS A LARGER QUORUM IS REQUIRED BY THE BYLAWS OF THE INTERSTATE COMMISSION.~~

~~**3.** A REPRESENTATIVE SHALL NOT DELEGATE A VOTE TO ANOTHER MEMBER STATE. IN THE EVENT THE COMPACT COMMISSIONER IS UNABLE TO ATTEND A MEETING OF THE INTERSTATE COMMISSION, THE GOVERNOR OR STATE COUNCIL MAY~~

~~DELEGATE VOTING AUTHORITY TO ANOTHER PERSON FROM THEIR STATE FOR A SPECIFIED MEETING.~~

~~4. THE BYLAWS MAY PROVIDE FOR MEETINGS OF THE INTERSTATE COMMISSION TO BE CONDUCTED BY TELECOMMUNICATION OR ELECTRONIC COMMUNICATION.~~

~~D. THE INTERSTATE COMMISSION SHALL:~~

~~1. CONSIST OF EX OFFICIO, NONVOTING REPRESENTATIVES WHO ARE MEMBERS OF INTERESTED ORGANIZATIONS. SUCH EX OFFICIO MEMBERS, AS DEFINED IN THE BYLAWS, MAY INCLUDE BUT NOT BE LIMITED TO, MEMBERS OF THE REPRESENTATIVE ORGANIZATIONS OF MILITARY FAMILY ADVOCATES, LOCAL EDUCATION AGENCY OFFICIALS, PARENT AND TEACHER GROUPS, THE U.S. DEPARTMENT OF DEFENSE, THE EDUCATION COMMISSION OF THE STATES, THE INTERSTATE AGREEMENT ON THE QUALIFICATION OF EDUCATIONAL PERSONNEL, AND OTHER INTERSTATE COMPACTS AFFECTING THE EDUCATION OF CHILDREN OF MILITARY MEMBERS;~~

~~2. MEET AT LEAST ONCE EACH CALENDAR YEAR. THE CHAIRPERSON MAY CALL ADDITIONAL MEETINGS AND, UPON THE REQUEST OF A SIMPLE MAJORITY OF THE MEMBER STATES, SHALL CALL ADDITIONAL MEETINGS;~~

~~3. ESTABLISH AN EXECUTIVE COMMITTEE, WHOSE MEMBERS SHALL INCLUDE THE OFFICERS OF THE INTERSTATE COMMISSION AND SUCH OTHER MEMBERS OF THE INTERSTATE COMMISSION AS DETERMINED BY THE BYLAWS. MEMBERS OF THE EXECUTIVE COMMITTEE SHALL SERVE A 1-YEAR TERM. MEMBERS OF THE EXECUTIVE COMMITTEE SHALL BE ENTITLED TO ONE VOTE EACH. THE EXECUTIVE COMMITTEE SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION, WITH THE EXCEPTION OF RULEMAKING, DURING PERIODS WHEN THE INTERSTATE COMMISSION IS NOT IN SESSION. THE EXECUTIVE COMMITTEE SHALL OVERSEE THE DAY-TO-DAY ACTIVITIES OF THE ADMINISTRATION OF THE COMPACT INCLUDING ENFORCEMENT AND COMPLIANCE WITH THE PROVISIONS OF THE COMPACT, ITS BYLAWS AND RULES, AND OTHER SUCH DUTIES AS DEEMED NECESSARY. THE U.S. DEPARTMENT OF DEFENSE SHALL SERVE AS AN EX OFFICIO, NONVOTING MEMBER OF THE EXECUTIVE COMMITTEE;~~

~~4. ESTABLISH BYLAWS AND RULES THAT PROVIDE FOR CONDITIONS AND PROCEDURES UNDER WHICH THE INTERSTATE COMMISSION SHALL MAKE ITS INFORMATION AND OFFICIAL RECORDS AVAILABLE TO THE PUBLIC FOR INSPECTION OR COPYING. THE INTERSTATE COMMISSION MAY EXEMPT FROM DISCLOSURE INFORMATION OR OFFICIAL RECORDS TO THE EXTENT THEY WOULD ADVERSELY AFFECT PERSONAL PRIVACY RIGHTS OR PROPRIETARY INTERESTS;~~

~~5. GIVE PUBLIC NOTICE OF ALL MEETINGS AND ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, EXCEPT AS SET FORTH IN THE RULES OR AS OTHERWISE PROVIDED IN THE COMPACT. THE INTERSTATE COMMISSION AND ITS COMMITTEES MAY CLOSE A MEETING, OR PORTION THEREOF, WHERE IT DETERMINES BY TWO-THIRDS VOTE THAT AN OPEN MEETING WOULD BE LIKELY TO:~~

~~I. RELATE SOLELY TO THE INTERSTATE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND PROCEDURES;~~

~~II. DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL AND STATE STATUTE;~~

~~III. DISCLOSE TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION WHICH IS PRIVILEGED OR CONFIDENTIAL;~~

~~IV. INVOLVE ACCUSING A PERSON OF A CRIME OR FORMALLY CENSURING A PERSON;~~

~~V. DISCLOSE INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;~~

~~VI. DISCLOSE INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES; OR~~

~~VII. SPECIFICALLY RELATE TO THE INTERSTATE COMMISSION'S PARTICIPATION IN A CIVIL ACTION OR OTHER LEGAL PROCEEDING;~~

~~6. CAUSE ITS LEGAL COUNSEL OR DESIGNEE TO CERTIFY THAT A MEETING MAY BE CLOSED AND SHALL REFERENCE EACH RELEVANT EXEMPTIBLE PROVISION FOR ANY MEETING, OR PORTION OF A MEETING, THAT IS CLOSED PURSUANT TO THIS PROVISION. THE INTERSTATE COMMISSION SHALL KEEP MINUTES THAT SHALL 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 AND THE RECORD OF A ROLL CALL VOTE. 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 INTERSTATE COMMISSION;~~

~~7. COLLECT STANDARDIZED DATA CONCERNING THE EDUCATIONAL TRANSITION OF THE CHILDREN OF MILITARY FAMILIES UNDER THIS COMPACT AS DIRECTED THROUGH ITS RULES THAT SHALL SPECIFY THE DATA TO BE COLLECTED, THE MEANS OF COLLECTION, AND DATA EXCHANGE AND REPORTING REQUIREMENTS. SUCH METHODS OF DATA COLLECTION, EXCHANGE AND REPORTING SHALL, IN SO FAR AS IS~~

~~REASONABLY POSSIBLE, CONFORM TO CURRENT TECHNOLOGY AND COORDINATE ITS INFORMATION FUNCTIONS WITH THE APPROPRIATE CUSTODIAN OF RECORDS AS IDENTIFIED IN THE BYLAWS AND RULES; AND~~

~~8. CREATE A PROCESS THAT PERMITS MILITARY OFFICIALS, EDUCATION OFFICIALS, AND PARENTS TO INFORM THE INTERSTATE COMMISSION IF AND WHEN THERE ARE ALLEGED VIOLATIONS OF THE COMPACT OR ITS RULES OR WHEN ISSUES SUBJECT TO THE JURISDICTION OF THE COMPACT OR ITS RULES ARE NOT ADDRESSED BY THE STATE OR LOCAL EDUCATION AGENCY. THIS SECTION SHALL NOT BE CONSTRUED TO CREATE A PRIVATE RIGHT OF ACTION AGAINST THE INTERSTATE COMMISSION OR ANY MEMBER STATE.~~

~~ARTICLE X~~

~~POWERS AND DUTIES OF THE INTERSTATE COMMISSION~~

~~THE INTERSTATE COMMISSION SHALL HAVE THE FOLLOWING POWERS:~~

~~A. TO PROVIDE FOR DISPUTE RESOLUTION AMONG MEMBER STATES;~~

~~B. TO PROMULGATE RULES AND TAKE ALL NECESSARY ACTIONS TO EFFECT THE GOALS, PURPOSES, AND OBLIGATIONS AS ENUMERATED IN THIS COMPACT. THE RULES SHALL HAVE THE FORCE AND EFFECT OF STATUTORY LAW AND SHALL BE BINDING IN THE COMPACT STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THIS COMPACT;~~

~~C. TO ISSUE, UPON REQUEST OF A MEMBER STATE, ADVISORY OPINIONS CONCERNING THE MEANING OR INTERPRETATION OF THE INTERSTATE COMPACT, ITS BYLAWS, RULES, AND ACTIONS;~~

~~D. TO ENFORCE COMPLIANCE WITH THE COMPACT PROVISIONS, THE RULES PROMULGATED BY THE INTERSTATE COMMISSION, AND THE BYLAWS, USING ALL NECESSARY AND PROPER MEANS, INCLUDING BUT NOT LIMITED TO THE USE OF JUDICIAL PROCESS;~~

~~E. TO ESTABLISH AND MAINTAIN OFFICES THAT SHALL BE LOCATED WITHIN ONE OR MORE OF THE MEMBER STATES;~~

~~F. TO PURCHASE AND MAINTAIN INSURANCE AND BONDS;~~

~~G. TO BORROW, ACCEPT, HIRE, OR CONTRACT FOR SERVICES OF PERSONNEL;~~

~~H. TO ESTABLISH AND APPOINT COMMITTEES, INCLUDING BUT NOT LIMITED TO AN EXECUTIVE COMMITTEE AS REQUIRED BY ARTICLE IX, SECTION D, THAT SHALL~~

~~HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION IN CARRYING OUT ITS POWERS AND DUTIES HEREUNDER;~~

~~I. TO ELECT OR APPOINT SUCH OFFICERS, ATTORNEYS, EMPLOYEES, AGENTS, OR CONSULTANTS, AND TO FIX THEIR COMPENSATION, DEFINE THEIR DUTIES, DETERMINE THEIR QUALIFICATIONS, AND TO ESTABLISH THE INTERSTATE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO CONFLICTS OF INTEREST, RATES OF COMPENSATION, AND QUALIFICATIONS OF PERSONNEL;~~

~~J. TO ACCEPT ANY AND ALL DONATIONS AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES, AND TO RECEIVE, UTILIZE, AND DISPOSE OF THEM;~~

~~K. TO LEASE, PURCHASE, ACCEPT CONTRIBUTIONS OR DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE, OR USE ANY PROPERTY, REAL, PERSONAL, OR MIXED;~~

~~L. TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON, OR OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL OR MIXED;~~

~~M. TO ESTABLISH A BUDGET AND MAKE EXPENDITURES;~~

~~N. TO ADOPT A SEAL AND BYLAWS GOVERNING THE MANAGEMENT AND OPERATION OF THE INTERSTATE COMMISSION;~~

~~O. TO REPORT ANNUALLY TO THE LEGISLATURES, GOVERNORS, JUDICIARY, AND STATE COUNCILS OF THE MEMBER STATES CONCERNING THE ACTIVITIES OF THE INTERSTATE COMMISSION DURING THE PRECEDING YEAR. SUCH REPORTS SHALL ALSO INCLUDE ANY RECOMMENDATIONS THAT MAY HAVE BEEN ADOPTED BY THE INTERSTATE COMMISSION;~~

~~P. TO COORDINATE EDUCATION, TRAINING AND PUBLIC AWARENESS REGARDING THE COMPACT, ITS IMPLEMENTATION, AND OPERATION FOR OFFICIALS AND PARENTS INVOLVED IN SUCH ACTIVITY;~~

~~Q. TO ESTABLISH UNIFORM STANDARDS FOR THE REPORTING, COLLECTING, AND EXCHANGING OF DATA;~~

~~R. TO MAINTAIN CORPORATE BOOKS AND RECORDS IN ACCORDANCE WITH THE BYLAWS;~~

~~S. TO PERFORM SUCH FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE TO ACHIEVE THE PURPOSES OF THIS COMPACT; AND~~

~~T. TO PROVIDE FOR THE UNIFORM COLLECTION AND SHARING OF INFORMATION BETWEEN AND AMONG MEMBER STATES, SCHOOLS, AND MILITARY FAMILIES UNDER THIS COMPACT.~~

~~ARTICLE XI~~

~~ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION~~

~~A. THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS PRESENT AND VOTING, WITHIN 12 MONTHS AFTER THE FIRST INTERSTATE COMMISSION MEETING, ADOPT BYLAWS TO GOVERN ITS CONDUCT AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES OF THE COMPACT, INCLUDING BUT NOT LIMITED TO:~~

~~1. ESTABLISHING THE FISCAL YEAR OF THE INTERSTATE COMMISSION;~~

~~2. ESTABLISHING AN EXECUTIVE COMMITTEE AND SUCH OTHER COMMITTEES AS MAY BE NECESSARY;~~

~~3. PROVIDING FOR THE ESTABLISHMENT OF COMMITTEES AND FOR GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF AUTHORITY OR FUNCTION OF THE INTERSTATE COMMISSION;~~

~~4. PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEETINGS OF THE INTERSTATE COMMISSION AND ENSURING REASONABLE NOTICE OF EACH SUCH MEETING;~~

~~5. ESTABLISHING THE TITLES AND RESPONSIBILITIES OF THE OFFICERS AND STAFF OF THE INTERSTATE COMMISSION;~~

~~6. PROVIDING A MECHANISM FOR CONCLUDING THE OPERATIONS OF THE INTERSTATE COMMISSION AND THE RETURN OF SURPLUS FUNDS THAT MAY EXIST UPON THE TERMINATION OF THE COMPACT AFTER THE PAYMENT AND RESERVING OF ALL OF ITS DEBTS AND OBLIGATIONS; AND~~

~~7. PROVIDING "START–UP" RULES FOR INITIAL ADMINISTRATION OF THE COMPACT.~~

~~B. THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS, ELECT ANNUALLY FROM AMONG ITS MEMBERS A CHAIRPERSON, A VICE–CHAIRPERSON, AND A TREASURER, EACH OF WHOM SHALL HAVE SUCH AUTHORITY AND DUTIES AS MAY BE SPECIFIED IN THE BYLAWS. THE CHAIRPERSON OR, IN THE CHAIRPERSON'S ABSENCE OR DISABILITY, THE VICE–CHAIRPERSON, SHALL PRESIDE AT ALL MEETINGS OF THE INTERSTATE COMMISSION. THE OFFICERS SO ELECTED SHALL SERVE WITHOUT~~

~~COMPENSATION OR REMUNERATION FROM THE INTERSTATE COMMISSION, PROVIDED THAT, SUBJECT TO THE AVAILABILITY OF BUDGETED FUNDS, THE OFFICERS SHALL BE REIMBURSED FOR ORDINARY AND NECESSARY COSTS AND EXPENSES INCURRED BY THEM IN THE PERFORMANCE OF THEIR RESPONSIBILITIES AS OFFICERS OF THE INTERSTATE COMMISSION.~~

~~C. EXECUTIVE COMMITTEE, OFFICERS, AND PERSONNEL –~~

~~1. THE EXECUTIVE COMMITTEE SHALL HAVE SUCH AUTHORITY AND DUTIES AS MAY BE SET FORTH IN THE BYLAWS, INCLUDING BUT NOT LIMITED TO:~~

~~I. MANAGING THE AFFAIRS OF THE INTERSTATE COMMISSION IN A MANNER CONSISTENT WITH THE BYLAWS AND PURPOSES OF THE INTERSTATE COMMISSION;~~

~~II. OVERSEEING AN ORGANIZATIONAL STRUCTURE WITHIN, AND APPROPRIATE PROCEDURES FOR THE INTERSTATE COMMISSION TO PROVIDE FOR THE CREATION OF RULES, OPERATING PROCEDURES, AND ADMINISTRATIVE AND TECHNICAL SUPPORT FUNCTIONS; AND~~

~~III. PLANNING, IMPLEMENTING, AND COORDINATING COMMUNICATIONS AND ACTIVITIES WITH OTHER STATE, FEDERAL, AND LOCAL GOVERNMENT ORGANIZATIONS IN ORDER TO ADVANCE THE GOALS OF THE INTERSTATE COMMISSION.~~

~~2. THE EXECUTIVE COMMITTEE MAY, SUBJECT TO THE APPROVAL OF THE INTERSTATE COMMISSION, APPOINT OR RETAIN AN EXECUTIVE DIRECTOR FOR SUCH PERIOD, UPON SUCH TERMS AND CONDITIONS AND FOR SUCH COMPENSATION, AS THE INTERSTATE COMMISSION MAY DEEM APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL SERVE AS SECRETARY TO THE INTERSTATE COMMISSION, BUT SHALL NOT BE A MEMBER OF THE INTERSTATE COMMISSION. THE EXECUTIVE DIRECTOR SHALL HIRE AND SUPERVISE SUCH OTHER PERSONS AS MAY BE AUTHORIZED BY THE INTERSTATE COMMISSION.~~

~~D. THE INTERSTATE COMMISSION'S EXECUTIVE DIRECTOR AND ITS EMPLOYEES SHALL BE IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR A CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED OR ARISING OUT OF OR RELATING TO AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED, OR THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED, WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT SUCH PERSON SHALL NOT BE PROTECTED FROM SUIT OR LIABILITY FOR DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF SUCH PERSON.~~

~~1. THE LIABILITY OF THE INTERSTATE COMMISSION'S EXECUTIVE DIRECTOR AND EMPLOYEES OR INTERSTATE COMMISSION REPRESENTATIVES, ACTING WITHIN THE SCOPE OF SUCH PERSON'S EMPLOYMENT OR DUTIES FOR ACTS, ERRORS, OR OMISSIONS OCCURRING WITHIN SUCH PERSON'S STATE MAY NOT EXCEED THE LIMITS OF LIABILITY SET FORTH UNDER THE CONSTITUTION AND LAWS OF THAT STATE FOR STATE OFFICIALS, EMPLOYEES, AND AGENTS. THE INTERSTATE COMMISSION IS CONSIDERED TO BE AN INSTRUMENTALITY OF THE STATES FOR THE PURPOSES OF ANY SUCH ACTION. NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO PROTECT SUCH PERSON FROM SUIT OR LIABILITY FOR DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF SUCH PERSON.~~

~~2. THE INTERSTATE COMMISSION SHALL DEFEND THE EXECUTIVE DIRECTOR AND ITS EMPLOYEES AND, SUBJECT TO THE APPROVAL OF THE ATTORNEY GENERAL OR OTHER APPROPRIATE LEGAL COUNSEL OF THE MEMBER STATE REPRESENTED BY AN INTERSTATE COMMISSION REPRESENTATIVE, SHALL DEFEND SUCH INTERSTATE COMMISSION REPRESENTATIVE IN ANY CIVIL ACTION SEEKING TO IMPOSE LIABILITY ARISING OUT OF AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT THE DEFENDANT HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF SUCH PERSON.~~

~~3. TO THE EXTENT NOT COVERED BY THE STATE INVOLVED, MEMBER STATE, OR THE INTERSTATE COMMISSION, THE REPRESENTATIVES OR EMPLOYEES OF THE INTERSTATE COMMISSION SHALL BE HELD HARMLESS IN THE AMOUNT OF A SETTLEMENT OR JUDGMENT, INCLUDING ATTORNEY'S FEES AND COSTS, OBTAINED AGAINST SUCH PERSONS ARISING OUT OF AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT SUCH PERSONS HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF SUCH PERSONS.~~

~~ARTICLE XII~~

~~RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION~~

~~A. RULEMAKING AUTHORITY. THE INTERSTATE COMMISSION SHALL PROMULGATE REASONABLE RULES IN ORDER TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES OF THIS COMPACT. NOTWITHSTANDING THE FOREGOING, IN THE EVENT THE INTERSTATE COMMISSION EXERCISES ITS RULEMAKING AUTHORITY IN~~

~~A MANNER THAT IS BEYOND THE SCOPE OF THE PURPOSES OF THIS ACT, OR THE POWERS GRANTED HEREUNDER, THEN SUCH AN ACTION BY THE INTERSTATE COMMISSION SHALL BE INVALID AND HAVE NO FORCE AND EFFECT.~~

~~B. RULEMAKING PROCEDURE. RULES SHALL BE MADE PURSUANT TO A RULEMAKING PROCESS THAT SUBSTANTIALLY CONFORMS TO THE "MODEL STATE ADMINISTRATIVE PROCEDURE ACT" OF 1981, UNIFORM LAWS ANNOTATED, VOL. 15, P.1 (2000), AS AMENDED, AS MAY BE APPROPRIATE TO THE OPERATIONS OF THE INTERSTATE COMMISSION.~~

~~C. JUDICIAL REVIEW. NOT LATER THAN 30 DAYS AFTER A RULE IS PROMULGATED, ANY PERSON MAY FILE A PETITION FOR JUDICIAL REVIEW OF THE RULE, PROVIDED THAT THE FILING OF SUCH A PETITION SHALL NOT STAY OR OTHERWISE PREVENT THE RULE FROM BECOMING EFFECTIVE UNLESS THE COURT FINDS THAT THE PETITIONER HAS A SUBSTANTIAL LIKELIHOOD OF SUCCESS. THE COURT SHALL GIVE DEFERENCE TO THE ACTIONS OF THE INTERSTATE COMMISSION CONSISTENT WITH APPLICABLE LAW AND SHALL NOT FIND THE RULE TO BE UNLAWFUL IF THE RULE REPRESENTS A REASONABLE EXERCISE OF THE INTERSTATE COMMISSION'S AUTHORITY.~~

~~D. REJECTION OF RULES. IF A MAJORITY OF THE LEGISLATURES OF THE COMPACTING STATES REJECTS A RULE BY ENACTMENT OF A STATUTE OR RESOLUTION IN THE SAME MANNER USED TO ADOPT THE COMPACT, THEN SUCH RULE SHALL HAVE NO FURTHER FORCE AND EFFECT IN ANY COMPACTING STATE.~~

~~ARTICLE XIII~~

~~OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION~~

~~A. OVERSIGHT.~~

~~1. THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF STATE GOVERNMENT IN EACH MEMBER STATE SHALL ENFORCE THIS COMPACT AND SHALL 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 THAT MAY AFFECT THE POWERS, RESPONSIBILITIES, OR ACTIONS OF THE INTERSTATE COMMISSION.~~

~~3. THE INTERSTATE COMMISSION SHALL BE ENTITLED TO RECEIVE ALL SERVICE OF PROCESS IN ANY SUCH PROCEEDING AND SHALL HAVE STANDING TO INTERVENE IN THE PROCEEDING FOR ALL PURPOSES. FAILURE TO PROVIDE SERVICE OF~~

~~PROCESS TO THE INTERSTATE COMMISSION SHALL RENDER A JUDGMENT OR ORDER VOID AS TO THE INTERSTATE COMMISSION, THIS COMPACT, OR ITS PROMULGATED RULES.~~

~~B. DEFAULT, TECHNICAL ASSISTANCE, SUSPENSION AND TERMINATION. IF THE INTERSTATE COMMISSION DETERMINES THAT A MEMBER STATE HAS DEFAULTED IN THE PERFORMANCE OF ITS OBLIGATIONS OR RESPONSIBILITIES UNDER THIS COMPACT OR ITS BYLAWS OR PROMULGATED RULES, THE INTERSTATE COMMISSION SHALL:~~

~~1. PROVIDE WRITTEN NOTICE TO THE DEFAULTING STATE AND OTHER MEMBER STATES OF THE NATURE OF THE DEFAULT, THE MEANS OF CURING THE DEFAULT, AND ANY ACTION TAKEN BY THE INTERSTATE COMMISSION. THE INTERSTATE COMMISSION SHALL SPECIFY THE CONDITIONS BY WHICH THE DEFAULTING STATE MUST CURE ITS DEFAULT; AND~~

~~2. PROVIDE REMEDIAL TRAINING AND SPECIFIC TECHNICAL ASSISTANCE REGARDING THE DEFAULT.~~

~~C. IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT, THE DEFAULTING STATE SHALL 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 SHALL BE TERMINATED FROM 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 THE DEFAULT.~~

~~D. SUSPENSION OR 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 INTERSTATE COMMISSION TO THE GOVERNOR, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND EACH OF THE MEMBER STATES.~~

~~E. THE STATE THAT HAS BEEN SUSPENDED OR TERMINATED IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF SUSPENSION OR TERMINATION INCLUDING OBLIGATIONS, THE PERFORMANCE OF WHICH EXTENDS BEYOND THE EFFECTIVE DATE OF SUSPENSION OR TERMINATION.~~

~~F. THE INTERSTATE COMMISSION SHALL NOT BEAR ANY COSTS RELATING TO ANY STATE THAT HAS BEEN FOUND TO BE IN DEFAULT OR THAT HAS BEEN SUSPENDED OR TERMINATED FROM THE COMPACT, UNLESS OTHERWISE MUTUALLY AGREED UPON IN WRITING BETWEEN THE INTERSTATE COMMISSION AND THE DEFAULTING STATE.~~

~~G. THE DEFAULTING STATE MAY APPEAL THE ACTION OF THE INTERSTATE COMMISSION BY PETITIONING THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR THE FEDERAL DISTRICT WHERE THE INTERSTATE COMMISSION HAS ITS PRINCIPAL OFFICES. THE PREVAILING PARTY SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION INCLUDING REASONABLE ATTORNEY'S FEES.~~

~~H. DISPUTE RESOLUTION.~~

~~1. THE INTERSTATE COMMISSION SHALL ATTEMPT, UPON THE REQUEST OF A MEMBER STATE, TO RESOLVE DISPUTES THAT ARE SUBJECT TO THE COMPACT AND THAT MAY ARISE AMONG MEMBER STATES AND BETWEEN MEMBER AND NONMEMBER STATES.~~

~~2. THE INTERSTATE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES AS APPROPRIATE.~~

~~I. ENFORCEMENT.~~

~~1. THE INTERSTATE COMMISSION, IN THE REASONABLE EXERCISE OF ITS DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS COMPACT.~~

~~2. THE INTERSTATE COMMISSION MAY, BY MAJORITY VOTE OF THE MEMBERS, INITIATE LEGAL ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR, AT THE DISCRETION OF THE INTERSTATE COMMISSION, IN THE FEDERAL DISTRICT WHERE THE INTERSTATE COMMISSION HAS ITS PRINCIPAL OFFICES, TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THE COMPACT AND ITS PROMULGATED RULES AND BYLAWS, AGAINST A MEMBER STATE IN DEFAULT. THE RELIEF SOUGHT MAY INCLUDE BOTH INJUNCTIVE RELIEF AND DAMAGES. IN THE EVENT JUDICIAL ENFORCEMENT IS NECESSARY THE PREVAILING PARTY 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 INTERSTATE COMMISSION. THE INTERSTATE COMMISSION MAY AVAIL ITSELF OF ANY OTHER REMEDIES AVAILABLE UNDER STATE LAW OR THE REGULATION OF A PROFESSION.~~

~~ARTICLE XIV~~

~~FINANCING OF THE INTERSTATE COMMISSION~~

~~A. THE INTERSTATE COMMISSION SHALL PAY, OR PROVIDE FOR THE PAYMENT OF THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION, AND ONGOING ACTIVITIES.~~

~~**B.** THE INTERSTATE COMMISSION MAY LEVY AND COLLECT AN ANNUAL ASSESSMENT FROM EACH MEMBER STATE TO COVER THE COST OF THE OPERATIONS AND ACTIVITIES OF THE INTERSTATE COMMISSION AND ITS STAFF THAT MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER THE INTERSTATE COMMISSION'S ANNUAL BUDGET AS APPROVED EACH YEAR. THE AGGREGATE ANNUAL ASSESSMENT AMOUNT SHALL BE ALLOCATED BASED UPON A FORMULA TO BE DETERMINED BY THE INTERSTATE COMMISSION, WHICH SHALL PROMULGATE A RULE BINDING UPON ALL MEMBER STATES.~~

~~**C.** THE INTERSTATE COMMISSION SHALL NOT INCUR OBLIGATIONS OF ANY KIND PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME, NOR SHALL THE INTERSTATE COMMISSION PLEDGE THE CREDIT OF ANY OF THE MEMBER STATES, EXCEPT BY AND WITH THE AUTHORITY OF THE MEMBER STATE.~~

~~**D.** THE INTERSTATE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE INTERSTATE COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS OF FUNDS HANDLED BY THE INTERSTATE COMMISSION SHALL BY 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 INTERSTATE COMMISSION.~~

~~ARTICLE XV~~

~~MEMBER STATES, EFFECTIVE DATE AND AMENDMENT~~

~~**A.** ANY STATE IS ELIGIBLE TO BECOME A MEMBER STATE.~~

~~**B.** THE COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON LEGISLATIVE ENACTMENT OF THE COMPACT INTO LAW BY NO LESS THAN TEN OF THE STATES. THE EFFECTIVE DATE SHALL BE NO EARLIER THAN DECEMBER 1, 2007. THEREAFTER IT SHALL BECOME EFFECTIVE AND BINDING AS TO ANY OTHER MEMBER STATE UPON ENACTMENT OF THE COMPACT INTO LAW BY THAT STATE. THE GOVERNORS OF NONMEMBER STATES OR THEIR DESIGNEES SHALL BE INVITED TO PARTICIPATE IN THE ACTIVITIES OF THE INTERSTATE COMMISSION ON A NONVOTING BASIS PRIOR TO ADOPTION OF THE COMPACT BY ALL STATES.~~

~~**C.** THE INTERSTATE COMMISSION MAY PROPOSE AMENDMENTS TO THE COMPACT FOR ENACTMENT BY THE MEMBER STATES. NO AMENDMENT SHALL BECOME EFFECTIVE AND BINDING UPON THE INTERSTATE COMMISSION AND THE MEMBER STATES UNLESS AND UNTIL IT IS ENACTED INTO LAW BY UNANIMOUS CONSENT OF THE MEMBER STATES.~~

~~ARTICLE XVI~~

~~WITHDRAWAL AND DISSOLUTION~~

~~A. WITHDRAWAL.~~

~~1. ONCE EFFECTIVE, THE COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON EACH AND EVERY MEMBER STATE, PROVIDED THAT A MEMBER STATE MAY WITHDRAW FROM THE COMPACT BY SPECIFICALLY REPEALING THE STATUTE WHICH ENACTED THE COMPACT INTO LAW.~~

~~2. WITHDRAWAL FROM THIS COMPACT SHALL BE BY THE ENACTMENT OF A STATUTE REPEALING THE SAME, BUT SHALL NOT TAKE EFFECT UNTIL 1 YEAR AFTER THE EFFECTIVE DATE OF SUCH STATUTE AND UNTIL WRITTEN NOTICE OF THE WITHDRAWAL HAS BEEN GIVEN BY THE WITHDRAWING STATE TO THE GOVERNOR OF EACH OTHER MEMBER JURISDICTION.~~

~~3. THE WITHDRAWING STATE SHALL IMMEDIATELY NOTIFY THE CHAIRPERSON OF THE INTERSTATE COMMISSION IN WRITING UPON THE INTRODUCTION OF LEGISLATION REPEALING THIS COMPACT IN THE WITHDRAWING STATE. THE INTERSTATE COMMISSION SHALL NOTIFY THE OTHER MEMBER STATES OF THE WITHDRAWING STATE'S INTENT TO WITHDRAW WITHIN 60 DAYS OF ITS RECEIPT THEREOF.~~

~~4. THE WITHDRAWING STATE IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF WITHDRAWAL, INCLUDING OBLIGATIONS THE PERFORMANCE OF WHICH EXTEND BEYOND THE EFFECTIVE DATE OF WITHDRAWAL.~~

~~5. REINSTATEMENT FOLLOWING WITHDRAWAL OF A MEMBER STATE SHALL OCCUR UPON THE WITHDRAWING STATE REENACTING THE COMPACT OR UPON SUCH LATER DATE AS DETERMINED BY THE INTERSTATE COMMISSION.~~

~~B. DISSOLUTION OF COMPACT.~~

~~1. THIS COMPACT SHALL DISSOLVE EFFECTIVE UPON THE DATE OF THE WITHDRAWAL OR DEFAULT OF THE MEMBER STATE WHICH REDUCES THE MEMBERSHIP IN THE COMPACT TO ONE MEMBER STATE.~~

~~2. UPON THE DISSOLUTION OF THIS COMPACT, THE COMPACT BECOMES NULL AND VOID AND SHALL BE OF NO FURTHER FORCE AND EFFECT, AND THE BUSINESS AND AFFAIRS OF THE INTERSTATE COMMISSION SHALL BE CONCLUDED AND SURPLUS FUNDS SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE BYLAWS.~~

~~ARTICLE XVII~~

~~**SEVERABILITY AND CONSTRUCTION**~~

~~**A. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND, IF ANY PHRASE, CLAUSE, SENTENCE, OR PROVISION IS DEEMED UNENFORCEABLE, THE REMAINING PROVISIONS OF THE COMPACT SHALL BE ENFORCEABLE.**~~

~~**B. THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSES.**~~

~~**C. NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO PROHIBIT THE APPLICABILITY OF OTHER INTERSTATE COMPACTS TO WHICH THE STATES ARE MEMBERS.**~~

~~**ARTICLE XVIII**~~

~~**BINDING EFFECT OF COMPACT AND OTHER LAWS**~~

~~**A. OTHER LAWS.**~~

~~**1. NOTHING HEREIN PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A MEMBER STATE THAT IS NOT INCONSISTENT WITH THIS COMPACT.**~~

~~**2. ALL MEMBER STATES' LAWS CONFLICTING WITH THIS COMPACT ARE SUPERSEDED TO THE EXTENT OF THE CONFLICT.**~~

~~**B. BINDING EFFECT OF THE COMPACT.**~~

~~**1. ALL LAWFUL ACTIONS OF THE INTERSTATE COMMISSION, INCLUDING ALL RULES AND BYLAWS PROMULGATED BY THE INTERSTATE COMMISSION, ARE BINDING UPON THE MEMBER STATES.**~~

~~**2. ALL AGREEMENTS BETWEEN THE INTERSTATE COMMISSION AND THE MEMBER STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.**~~

~~**3. IN THE EVENT ANY PROVISION OF THIS COMPACT EXCEEDS THE CONSTITUTIONAL LIMITS IMPOSED ON THE LEGISLATURE OF ANY MEMBER STATE, SUCH PROVISION SHALL BE INEFFECTIVE TO THE EXTENT OF THE CONFLICT WITH THE CONSTITUTIONAL PROVISION IN QUESTION IN THAT MEMBER STATE.**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not take effect until the enactment of a similar Act by no fewer than 10 of the states; that no fewer than 10 states are requested to concur in this Act of the General Assembly of Maryland by the passage of a similar Act; that the Department of Legislative Services shall notify the appropriate officials of the passage of this Act; and that upon concurrence in this Act by no fewer than 10 states, the Governor of the State of~~

~~Maryland shall issue a proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Executive Director of the Department of Legislative Services.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That, if the Governor of the State of Maryland does not issue a proclamation under Section 2 of this Act on or before June 30, 2013, declaring this Act valid and effective, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

~~SECTION 3. 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 Sections 2 and 3 of this Act, this Act shall take effect July 1, 2008.~~

(a) There is a Task Force on Educational Issues Affecting Military Children.

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

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

(2) One member of the House of Delegates, appointed by the Speaker of the House;

(3) The State Superintendent of Schools, or the Superintendent's designee; and

(4) The following members appointed by the Governor:

(i) One representative from the Maryland Association of Boards of Education;

(ii) One local superintendent, as a representative from the Public School Superintendents Association of Maryland;

(iii) Two school principals from school systems significantly affected by the federal Base Realignment and Closure (BRAC);

(iv) One representative from an organization that represents military families; and

(v) Two military school liaison officers.

(c) The members of the Task Force shall elect a chair from among the members of the Task Force.

(d) The Department of Education shall provide staff support for the Task Force.

(e) A member of the Task Force:

(1) May not receive compensation as a member of the Task Force; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) Identify and examine educational issues that affect military children;

(2) Identify and examine existing efforts in the State to ease the transition of children of military families to Maryland schools;

(3) Make recommendations on efforts that would ease the transition of children of military families to Maryland schools, including recommendations concerning:

(i) The awarding of credit for previously completed work;

(ii) The timely receipt of paperwork necessary for local school systems to facilitate transfers of children of military families into Maryland schools;

(iii) The opportunity for children of military families transitioning to Maryland schools to graduate on time and the effect of the State's graduation requirements on children in military families;

(iv) The transition of children in military families with disabilities; and

(v) The participation of children in military families in extracurricular activities; and

(4) Examine and make recommendations on issues surrounding the feasibility of the State joining the Interstate Compact on Educational Opportunities for Military Children.

(g) On or before December 1, 2008, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 1 year and, at the end of May 31, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 403

(House Bill 784)

AN ACT concerning

~~Interstate Compact on Educational Opportunity for Military Children~~
Task Force on Educational Issues Affecting Military Children

FOR the purpose of establishing~~, through a certain Interstate Compact with certain other member states, the Interstate Compact on Educational Opportunity for Military Children for certain purposes; providing for the transfer of certain educational records and enrollment of certain children in certain schools; providing for the placement of certain children in certain courses, educational programs, and special education services on transfer; establishing certain eligibility criteria for certain school programs; establishing certain procedures to facilitate the graduation of certain students from high school; establishing a certain State Council for coordinating certain services; establishing the Interstate Commission on Educational Opportunity for Military Children; providing for the composition, meetings, and powers and duties of the Interstate Commission; providing for the organization and operation and the rulemaking functions of the Interstate Commission; providing for the oversight and enforcement of the Interstate Compact and the resolution of disputes between certain member states; providing for the financing of the Interstate Commission; establishing procedures for amending the Interstate Compact; establishing certain withdrawal and dissolution procedures for certain members of the Interstate Compact; defining certain terms; making this Act subject to a certain contingency; and generally relating to the Interstate Compact on Educational Opportunity for Military Children~~ a Task Force on Educational Issues Affecting Military Children; establishing the membership and staffing of the Task Force; providing for the designation of the chair of the Task Force; requiring the Task Force to evaluate and make recommendations regarding certain issues; requiring the Task Force to submit a certain report to the

Governor and General Assembly by a certain date; prohibiting a member of the Task Force from receiving certain compensation; authorizing a member of the Task Force to receive certain reimbursements; providing for the termination of this Act; and generally relating to the Task Force on Educational Issues Affecting Military Children.

~~BY adding to~~
~~Article – Education~~
~~Section 7–1301 through 7–1303 to be under the new subtitle "Subtitle 13. Interstate Compact on Educational Opportunity for Military Children"~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

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

~~**Article – Education**~~

~~**SUBTITLE 13. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.**~~

~~**7–1301.**~~

~~**(A) THE DEFINITIONS IN § 1–101 OF THIS ARTICLE DO NOT APPLY TO THE INTERSTATE COMPACT SET FORTH IN § 7–1303 OF THIS SUBTITLE.**~~

~~**(B) IN THE INTERSTATE COMPACT SET FORTH IN § 7–1303 OF THIS SUBTITLE, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE, "ARTICLE", "SECTION", AND "SUBSECTION" MEAN AN ARTICLE, SECTION, AND SUBSECTION, RESPECTIVELY, OF THE INTERSTATE COMPACT.**~~

~~**7–1302.**~~

~~**ON BEHALF OF THIS STATE, THE GOVERNOR SHALL EXECUTE, WITH THE OTHER MEMBER STATES, THE INTERSTATE COMPACT SUBSTANTIALLY AS IT APPEARS IN § 7–1303 OF THIS SUBTITLE.**~~

~~**7–1303.**~~

~~**THE STATE OF MARYLAND AND OTHER STATES, HEREINAFTER "MEMBER STATES", HEREBY ENTER INTO AN INTERSTATE COMPACT, AS SET FORTH BELOW, FOR THE PURPOSE OF FACILITATING THE TIMELY ENROLLMENT AND TRANSFER OF CHILDREN OF MILITARY FAMILIES IN ELEMENTARY AND SECONDARY SCHOOLS DUE TO THE FREQUENT MOVEMENT AND DEPLOYMENT OF THEIR PARENTS. THIS INTERSTATE**~~

~~COMPACT SHALL BE KNOWN AND MAY BE CITED AS THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.~~

~~ARTICLE I~~

~~PURPOSE~~

~~IT IS THE PURPOSE OF THIS COMPACT TO REMOVE BARRIERS TO EDUCATIONAL SUCCESS IMPOSED ON CHILDREN OF MILITARY FAMILIES BECAUSE OF FREQUENT MOVES AND DEPLOYMENT OF THEIR PARENTS BY:~~

~~A. FACILITATING THE TIMELY ENROLLMENT OF CHILDREN OF MILITARY FAMILIES AND ENSURING THAT THEY ARE NOT PLACED AT A DISADVANTAGE DUE TO DIFFICULTY IN THE TRANSFER OF EDUCATION RECORDS FROM THE PREVIOUS SCHOOL DISTRICT OR VARIATIONS IN ENTRANCE OR AGE REQUIREMENTS;~~

~~B. FACILITATING THE STUDENT PLACEMENT PROCESS THROUGH WHICH CHILDREN OF MILITARY FAMILIES ARE NOT DISADVANTAGED BY VARIATIONS IN ATTENDANCE REQUIREMENTS, SCHEDULING, SEQUENCING, GRADING, COURSE CONTENT, OR ASSESSMENT;~~

~~C. FACILITATING THE QUALIFICATION AND ELIGIBILITY FOR ENROLLMENT, EDUCATIONAL PROGRAMS, AND PARTICIPATION IN EXTRACURRICULAR ACADEMIC, ATHLETIC, AND SOCIAL ACTIVITIES;~~

~~D. FACILITATING THE ON-TIME GRADUATION OF CHILDREN OF MILITARY FAMILIES;~~

~~E. PROVIDING FOR THE PROMULGATION AND ENFORCEMENT OF ADMINISTRATIVE RULES IMPLEMENTING THE PROVISIONS OF THIS COMPACT;~~

~~F. PROVIDING FOR THE UNIFORM COLLECTION AND SHARING OF INFORMATION BETWEEN AND AMONG MEMBER STATES, SCHOOLS, AND MILITARY FAMILIES UNDER THIS COMPACT;~~

~~G. PROMOTING COORDINATION BETWEEN THIS COMPACT AND OTHER COMPACTS AFFECTING MILITARY CHILDREN; AND~~

~~H. PROMOTING FLEXIBILITY AND COOPERATION BETWEEN THE EDUCATIONAL SYSTEM, PARENTS, AND THE STUDENT IN ORDER TO ACHIEVE EDUCATIONAL SUCCESS FOR THE STUDENT.~~

~~ARTICLE II~~

~~DEFINITIONS~~

~~As used in this Compact, unless the context clearly requires a different construction:~~

~~A. "Active duty" 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. Sections 1209 and 1211;~~

~~B. "Children of military families" means school-aged children, enrolled in kindergarten through 12th grade, in the household of an active duty member;~~

~~C. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this Compact;~~

~~D. "Deployment" means the period 1 month prior to the service members' departure from their home station on military orders through 6 months after return to their home station;~~

~~E. "Educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs;~~

~~F. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities;~~

~~G. "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created under Article IX of this Compact, which is generally referred to as the Interstate Commission;~~

~~H. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through ?!8 12th-grade public educational institutions;~~

~~I. "MEMBER STATE" MEANS A STATE THAT HAS ENACTED THIS COMPACT;~~

~~J. "MILITARY INSTALLATION" MEANS A BASE, CAMP, POST, 1 STATION, YARD, CENTER, HOME PORT FACILITY FOR ANY SHIP, OR OTHER ACTIVITY UNDER THE JURISDICTION OF THE DEPARTMENT OF DEFENSE, INCLUDING ANY LEASED FACILITY THAT IS LOCATED WITHIN ANY OF THE SEVERAL STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, THE NORTHERN MARIANAS ISLANDS AND ANY OTHER U.S. TERRITORY. SUCH TERM DOES NOT INCLUDE ANY FACILITY USED PRIMARILY FOR CIVIL WORKS, RIVERS, HARBOR PROJECTS, OR FLOOD CONTROL PROJECTS;~~

~~K. "NONMEMBER STATE" MEANS A STATE THAT HAS NOT ENACTED THIS COMPACT;~~

~~L. "RECEIVING STATE" MEANS THE STATE TO WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT;~~

~~M. "RULE" MEANS A WRITTEN STATEMENT BY THE INTERSTATE COMMISSION PROMULGATED PURSUANT TO ARTICLE XII OF THIS COMPACT THAT IS OF GENERAL APPLICABILITY, IMPLEMENTS, INTERPRETS OR PRESCRIBES A POLICY OR PROVISION OF THE COMPACT, OR AN ORGANIZATIONAL, PROCEDURAL, OR PRACTICE REQUIREMENT OF THE INTERSTATE COMMISSION, AND HAS THE FORCE AND EFFECT OF STATUTORY LAW IN A MEMBER STATE, AND INCLUDES THE AMENDMENT, REPEAL, OR SUSPENSION OF AN EXISTING RULE;~~

~~N. "SENDING STATE" MEANS THE STATE FROM WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT;~~

~~O. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, THE NORTHERN MARIANAS ISLANDS AND ANY OTHER U.S. TERRITORY;~~

~~P. "STUDENT" MEANS THE CHILD OF A MILITARY FAMILY FOR WHOM THE LOCAL EDUCATION AGENCY RECEIVES PUBLIC FUNDING AND WHO IS FORMALLY ENROLLED IN KINDERGARTEN THROUGH 12TH GRADE;~~

~~Q. "TRANSITION" MEANS:~~

~~1. THE FORMAL AND PHYSICAL PROCESS OF TRANSFERRING FROM SCHOOL TO SCHOOL; OR~~

~~2. THE PERIOD OF TIME IN WHICH A STUDENT MOVES FROM ONE SCHOOL IN THE SENDING STATE TO ANOTHER SCHOOL IN THE RECEIVING STATE;~~

~~R. "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and public health services; and~~

~~S. "Veteran" means a person who served in the uniformed services and who was discharged or released there from under conditions other than dishonorable.~~

~~ARTICLE III~~

~~APPLICABILITY~~

~~A. Except as otherwise provided in Section B, this Compact shall apply to the children of:~~

~~1. Active duty members of the uniformed services as defined in this Compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;~~

~~2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of 1 year after medical discharge or retirement; and~~

~~3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of 1 year after death.~~

~~B. The provisions of this Interstate Compact shall only apply to local education agencies as defined in this Compact.~~

~~C. The provisions of this Compact shall not apply to the children of:~~

~~1. Inactive members of the National Guard and military reserves;~~

~~2. Members of the uniformed services now retired, except as provided in Section A;~~

~~3. Veterans of the uniformed services, except as provided in Section A; and~~

~~4. OTHER U.S. DEPARTMENT OF DEFENSE PERSONNEL AND OTHER FEDERAL AGENCY CIVILIAN AND CONTRACT EMPLOYEES NOT DEFINED AS ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.~~

~~ARTICLE IV~~

~~EDUCATIONAL RECORDS AND ENROLLMENT~~

~~A. UNOFFICIAL OR "HAND-CARRIED" EDUCATION RECORDS – IN THE EVENT THAT OFFICIAL EDUCATION RECORDS CANNOT BE RELEASED TO THE PARENTS FOR THE PURPOSE OF TRANSFER, THE CUSTODIAN OF THE RECORDS IN THE SENDING STATE SHALL PREPARE AND FURNISH TO THE PARENT A COMPLETE SET OF UNOFFICIAL EDUCATIONAL RECORDS CONTAINING UNIFORM INFORMATION AS DETERMINED BY THE INTERSTATE COMMISSION. UPON RECEIPT OF THE UNOFFICIAL EDUCATION RECORDS BY A SCHOOL IN THE RECEIVING STATE, THE SCHOOL SHALL ENROLL AND APPROPRIATELY PLACE THE STUDENT BASED ON THE INFORMATION PROVIDED IN THE UNOFFICIAL RECORDS PENDING VALIDATION BY THE OFFICIAL RECORDS AS QUICKLY AS POSSIBLE.~~

~~B. OFFICIAL EDUCATION RECORDS/TRANSCRIPTS – SIMULTANEOUS WITH THE ENROLLMENT AND CONDITIONAL PLACEMENT OF THE STUDENT, THE SCHOOL IN THE RECEIVING STATE SHALL REQUEST THE STUDENT'S OFFICIAL EDUCATION RECORD FROM THE SCHOOL IN THE SENDING STATE. UPON RECEIPT OF THIS REQUEST, THE SCHOOL IN THE SENDING STATE WILL PROCESS AND FURNISH THE OFFICIAL EDUCATION RECORDS TO THE SCHOOL IN THE RECEIVING STATE WITHIN 10 DAYS OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION.~~

~~C. IMMUNIZATIONS – COMPACTING STATES SHALL GIVE 30 DAYS FROM THE DATE OF ENROLLMENT OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION, FOR STUDENTS TO OBTAIN ANY IMMUNIZATION(S) REQUIRED BY THE RECEIVING STATE. FOR A SERIES OF IMMUNIZATIONS, INITIAL VACCINATIONS MUST BE OBTAINED WITHIN 30 DAYS OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION.~~

~~D. KINDERGARTEN AND FIRST-GRADE ENTRANCE AGE – STUDENTS SHALL BE ALLOWED TO CONTINUE THEIR ENROLLMENT AT GRADE LEVEL IN THE RECEIVING STATE COMMENSURATE WITH THEIR GRADE LEVEL (INCLUDING KINDERGARTEN) FROM A LOCAL EDUCATION AGENCY IN THE SENDING STATE AT THE TIME OF TRANSITION, REGARDLESS OF AGE. A STUDENT WHO HAS SATISFACTORILY COMPLETED THE PREREQUISITE GRADE LEVEL IN THE LOCAL EDUCATION AGENCY IN THE SENDING STATE SHALL BE ELIGIBLE FOR ENROLLMENT IN THE NEXT HIGHEST GRADE LEVEL IN THE RECEIVING STATE, REGARDLESS OF AGE. A STUDENT TRANSFERRING AFTER THE START OF THE SCHOOL YEAR IN THE RECEIVING STATE SHALL ENTER THE SCHOOL IN~~

~~THE RECEIVING STATE ON THE STUDENT'S VALIDATED LEVEL FROM AN ACCREDITED SCHOOL IN THE SENDING STATE.~~

~~ARTICLE V~~

~~PLACEMENT AND ATTENDANCE~~

~~A. COURSE PLACEMENT — WHEN THE STUDENT TRANSFERS BEFORE OR DURING THE SCHOOL YEAR, THE RECEIVING STATE SCHOOL SHALL INITIALLY HONOR PLACEMENT OF THE STUDENT IN EDUCATIONAL COURSES BASED ON THE STUDENT'S ENROLLMENT IN THE SENDING STATE SCHOOL AND/OR EDUCATIONAL ASSESSMENTS CONDUCTED AT THE SCHOOL IN THE SENDING STATE IF THE COURSES ARE OFFERED. COURSE PLACEMENT INCLUDES BUT IS NOT LIMITED TO HONORS, INTERNATIONAL BACCALAUREATE, ADVANCED PLACEMENT, VOCATIONAL, TECHNICAL AND CAREER PATHWAYS COURSES. CONTINUING THE STUDENT'S ACADEMIC PROGRAM FROM THE PREVIOUS SCHOOL AND PROMOTING PLACEMENT IN ACADEMICALLY AND CAREER CHALLENGING COURSES SHOULD BE PARAMOUNT WHEN CONSIDERING PLACEMENT. THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT AND CONTINUED ENROLLMENT OF THE STUDENT IN THE COURSES.~~

~~B. EDUCATIONAL PROGRAM PLACEMENT — THE RECEIVING STATE SCHOOL SHALL INITIALLY HONOR PLACEMENT OF THE STUDENT IN EDUCATIONAL PROGRAMS BASED ON CURRENT EDUCATIONAL ASSESSMENTS CONDUCTED AT THE SCHOOL IN THE SENDING STATE OR PARTICIPATION/PLACEMENT IN LIKE PROGRAMS IN THE SENDING STATE. SUCH PROGRAMS INCLUDE, BUT ARE NOT LIMITED TO:~~

~~1. GIFTED AND TALENTED PROGRAMS; AND~~

~~2. ENGLISH AS A SECOND LANGUAGE (ESL).~~

~~THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT OF THE STUDENT.~~

~~C. SPECIAL EDUCATION SERVICES —~~

~~1. IN COMPLIANCE WITH THE FEDERAL REQUIREMENTS OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA), 20 U.S.C.A. SECTION 1400 ET SEQ., THE RECEIVING STATE SHALL INITIALLY PROVIDE COMPARABLE SERVICES TO A STUDENT WITH DISABILITIES BASED ON THE STUDENT'S CURRENT INDIVIDUALIZED EDUCATION PROGRAM (IEP).~~

~~2. IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 504 OF THE REHABILITATION ACT, 29 U.S.C.A. SECTION 794, AND WITH TITLE II OF THE~~

~~AMERICANS WITH DISABILITIES ACT, 42 U.S.C.A. SECTIONS 12131–12165, THE RECEIVING STATE SHALL MAKE REASONABLE ACCOMMODATIONS AND MODIFICATIONS TO ADDRESS THE NEEDS OF INCOMING STUDENTS WITH DISABILITIES, SUBJECT TO AN EXISTING 504 OR TITLE II PLAN, TO PROVIDE THE STUDENT WITH EQUAL ACCESS TO EDUCATION. THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT OF THE STUDENT.~~

~~D. PLACEMENT FLEXIBILITY – LOCAL EDUCATION AGENCY ADMINISTRATIVE OFFICIALS SHALL HAVE FLEXIBILITY IN WAIVING COURSE/PROGRAM PREREQUISITES OR OTHER PRECONDITIONS FOR PLACEMENT IN COURSES/PROGRAMS OFFERED UNDER THE JURISDICTION OF THE LOCAL EDUCATION AGENCY.~~

~~E. ABSENCE AS RELATED TO DEPLOYMENT ACTIVITIES – A STUDENT WHOSE PARENT OR LEGAL GUARDIAN IS AN ACTIVE DUTY MEMBER OF THE UNIFORMED SERVICES, AS DEFINED BY THE COMPACT, AND HAS BEEN CALLED TO DUTY FOR, IS ON LEAVE FROM, OR IMMEDIATELY RETURNED FROM DEPLOYMENT TO A COMBAT ZONE OR COMBAT SUPPORT POSTING, SHALL BE GRANTED ADDITIONAL EXCUSED ABSENCES AT THE DISCRETION OF THE LOCAL EDUCATION AGENCY SUPERINTENDENT TO VISIT WITH HIS OR HER PARENT OR LEGAL GUARDIAN RELATIVE TO SUCH LEAVE OR DEPLOYMENT OF THE PARENT OR GUARDIAN.~~

~~ARTICLE VI~~

~~ELIGIBILITY~~

~~A. ELIGIBILITY FOR ENROLLMENT –~~

~~1. SPECIAL POWER OF ATTORNEY RELATIVE TO THE GUARDIANSHIP OF A CHILD OF A MILITARY FAMILY AND EXECUTED UNDER APPLICABLE LAW SHALL BE SUFFICIENT FOR THE PURPOSES OF ENROLLMENT AND ALL OTHER ACTIONS REQUIRING PARENTAL PARTICIPATION AND CONSENT.~~

~~2. A LOCAL EDUCATION AGENCY SHALL BE PROHIBITED FROM CHARGING LOCAL TUITION TO A TRANSITIONING MILITARY CHILD PLACED IN THE CARE OF A NONCUSTODIAL PARENT OR OTHER PERSON STANDING IN LOCO PARENTIS WHO LIVES IN A JURISDICTION OTHER THAN THAT OF THE CUSTODIAL PARENT.~~

~~3. A TRANSITIONING MILITARY CHILD PLACED IN THE CARE OF A NONCUSTODIAL PARENT OR OTHER PERSON STANDING IN LOCO PARENTIS WHO LIVES IN A JURISDICTION OTHER THAN THAT OF THE CUSTODIAL PARENT MAY CONTINUE TO ATTEND THE SCHOOL IN WHICH THE CHILD WAS ENROLLED WHILE RESIDING WITH THE CUSTODIAL PARENT.~~

~~**B. ELIGIBILITY FOR EXTRACURRICULAR PARTICIPATION — STATE AND LOCAL EDUCATION AGENCIES SHALL FACILITATE THE OPPORTUNITY FOR TRANSITIONING MILITARY CHILDREN'S INCLUSION IN EXTRACURRICULAR ACTIVITIES, REGARDLESS OF APPLICATION DEADLINES, TO THE EXTENT THEY ARE OTHERWISE QUALIFIED.**~~

~~ARTICLE VII~~

~~GRADUATION~~

~~**IN ORDER TO FACILITATE THE ON–TIME GRADUATION OF CHILDREN OF MILITARY FAMILIES, STATES AND LOCAL EDUCATION AGENCIES SHALL INCORPORATE THE FOLLOWING PROCEDURES:**~~

~~**A. WAIVER REQUIREMENTS — LOCAL EDUCATION AGENCY ADMINISTRATIVE OFFICIALS SHALL WAIVE SPECIFIC COURSES REQUIRED FOR GRADUATION IF SIMILAR COURSE WORK HAS BEEN SATISFACTORILY COMPLETED IN ANOTHER LOCAL EDUCATION AGENCY OR SHALL PROVIDE REASONABLE JUSTIFICATION FOR DENIAL. SHOULD A WAIVER NOT BE GRANTED TO A STUDENT WHO WOULD QUALIFY TO GRADUATE FROM THE SENDING SCHOOL, THE LOCAL EDUCATION AGENCY SHALL PROVIDE AN ALTERNATIVE MEANS OF ACQUIRING REQUIRED COURSE WORK SO THAT GRADUATION MAY OCCUR ON TIME;**~~

~~**B. EXIT EXAMS —**~~

~~**1. STATES SHALL ACCEPT:**~~

~~**I. EXIT OR END–OF–COURSE EXAMS REQUIRED FOR GRADUATION FROM THE SENDING STATE;**~~

~~**II. NATIONAL NORM–REFERENCED ACHIEVEMENT TESTS; OR**~~

~~**III. ALTERNATIVE TESTING, IN LIEU OF TESTING REQUIREMENTS FOR GRADUATION IN THE RECEIVING STATE; AND**~~

~~**2. IN THE EVENT THE ABOVE ALTERNATIVES CANNOT BE ACCOMMODATED BY THE RECEIVING STATE FOR A STUDENT TRANSFERRING IN HIS OR HER SENIOR YEAR, THEN THE PROVISIONS OF ARTICLE VII, SECTION C SHALL APPLY; AND**~~

~~**C. TRANSFERS DURING SENIOR YEAR — SHOULD A MILITARY STUDENT TRANSFERRING AT THE BEGINNING OR DURING HIS OR HER SENIOR YEAR BE INELIGIBLE TO GRADUATE FROM THE RECEIVING LOCAL EDUCATION AGENCY AFTER ALL ALTERNATIVES HAVE BEEN CONSIDERED, THE SENDING AND RECEIVING LOCAL EDUCATION AGENCIES SHALL ENSURE THE RECEIPT OF A DIPLOMA FROM THE SENDING LOCAL EDUCATION AGENCY IF THE STUDENT MEETS THE GRADUATION REQUIREMENTS**~~

~~OF THE SENDING LOCAL EDUCATION AGENCY. IN THE EVENT THAT ONE OF THE STATES IN QUESTION IS NOT A MEMBER OF THIS COMPACT, THE MEMBER STATE SHALL USE BEST EFFORTS TO FACILITATE THE ON-TIME GRADUATION OF THE STUDENT IN ACCORDANCE WITH SECTIONS A AND B OF THIS ARTICLE.~~

~~ARTICLE VIII~~

~~STATE COORDINATION~~

~~A. EACH MEMBER STATE SHALL, THROUGH THE CREATION OF A STATE COUNCIL OR USE OF AN EXISTING BODY OR BOARD, PROVIDE FOR THE COORDINATION AMONG ITS AGENCIES OF GOVERNMENT, LOCAL EDUCATION AGENCIES, AND MILITARY INSTALLATIONS CONCERNING THE STATE'S PARTICIPATION IN AND COMPLIANCE WITH THIS COMPACT AND INTERSTATE COMMISSION ACTIVITIES. WHILE EACH MEMBER STATE MAY DETERMINE THE MEMBERSHIP OF ITS OWN STATE COUNCIL, ITS MEMBERSHIP MUST INCLUDE AT LEAST THE STATE SUPERINTENDENT OF SCHOOLS, A SUPERINTENDENT OF A SCHOOL DISTRICT WITH A HIGH CONCENTRATION OF MILITARY CHILDREN, A REPRESENTATIVE FROM A MILITARY INSTALLATION, ONE REPRESENTATIVE EACH FROM THE LEGISLATIVE AND EXECUTIVE BRANCHES OF GOVERNMENT, AND REPRESENTATIVES OF OTHER OFFICES AND STAKEHOLDER GROUPS THE STATE COUNCIL DEEMS APPROPRIATE. A MEMBER STATE THAT DOES NOT HAVE A SCHOOL DISTRICT DEEMED TO CONTAIN A HIGH CONCENTRATION OF MILITARY CHILDREN MAY APPOINT A SUPERINTENDENT FROM ANOTHER SCHOOL DISTRICT TO REPRESENT LOCAL EDUCATION AGENCIES ON THE STATE COUNCIL.~~

~~B. THE STATE COUNCIL OF EACH MEMBER STATE SHALL APPOINT OR DESIGNATE A MILITARY FAMILY EDUCATION LIAISON TO ASSIST MILITARY FAMILIES AND THE STATE IN FACILITATING THE IMPLEMENTATION OF THIS COMPACT.~~

~~C. THE COMPACT COMMISSIONER RESPONSIBLE FOR THE ADMINISTRATION AND MANAGEMENT OF THE STATE'S PARTICIPATION IN THE COMPACT SHALL BE APPOINTED BY THE GOVERNOR OR AS OTHERWISE DETERMINED BY EACH MEMBER STATE.~~

~~D. THE COMPACT COMMISSIONER AND THE MILITARY FAMILY EDUCATION LIAISON DESIGNATED HEREIN SHALL BE EX OFFICIO MEMBERS OF THE STATE COUNCIL, UNLESS EITHER IS ALREADY A FULL VOTING MEMBER OF THE STATE COUNCIL.~~

~~ARTICLE IX~~

~~INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN~~

~~A. THE MEMBER STATES HEREBY CREATE THE "INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN." THE ACTIVITIES OF THE~~

~~INTERSTATE COMMISSION ARE THE FORMATION OF PUBLIC POLICY AND ARE A DISCRETIONARY STATE FUNCTION.~~

~~B. THE INTERSTATE COMMISSION SHALL:~~

~~1. BE A BODY CORPORATE AND JOINT AGENCY OF THE MEMBER STATES AND SHALL HAVE ALL THE RESPONSIBILITIES, POWERS, AND DUTIES SET FORTH HEREIN, AND SUCH ADDITIONAL POWERS AS MAY BE CONFERRED UPON IT BY A SUBSEQUENT CONCURRENT ACTION OF THE RESPECTIVE LEGISLATURES OF THE MEMBER STATES IN ACCORDANCE WITH THE TERMS OF THIS COMPACT; AND~~

~~2. CONSIST OF ONE INTERSTATE COMMISSION VOTING REPRESENTATIVE FROM EACH MEMBER STATE WHO SHALL BE THAT STATE'S COMPACT COMMISSIONER.~~

~~C. 1. EACH MEMBER STATE REPRESENTED AT A MEETING OF THE INTERSTATE COMMISSION IS ENTITLED TO ONE VOTE.~~

~~2. A MAJORITY OF THE TOTAL MEMBER STATES SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS UNLESS A LARGER QUORUM IS REQUIRED BY THE BYLAWS OF THE INTERSTATE COMMISSION.~~

~~3. A REPRESENTATIVE SHALL NOT DELEGATE A VOTE TO ANOTHER MEMBER STATE. IN THE EVENT THE COMPACT COMMISSIONER IS UNABLE TO ATTEND A MEETING OF THE INTERSTATE COMMISSION, THE GOVERNOR OR STATE COUNCIL MAY DELEGATE VOTING AUTHORITY TO ANOTHER PERSON FROM THEIR STATE FOR A SPECIFIED MEETING.~~

~~4. THE BYLAWS MAY PROVIDE FOR MEETINGS OF THE INTERSTATE COMMISSION TO BE CONDUCTED BY TELECOMMUNICATION OR ELECTRONIC COMMUNICATION.~~

~~D. THE INTERSTATE COMMISSION SHALL:~~

~~1. CONSIST OF EX OFFICIO, NONVOTING REPRESENTATIVES WHO ARE MEMBERS OF INTERESTED ORGANIZATIONS. SUCH EX OFFICIO MEMBERS, AS DEFINED IN THE BYLAWS, MAY INCLUDE BUT NOT BE LIMITED TO, MEMBERS OF THE REPRESENTATIVE ORGANIZATIONS OF MILITARY FAMILY ADVOCATES, LOCAL EDUCATION AGENCY OFFICIALS, PARENT AND TEACHER GROUPS, THE U.S. DEPARTMENT OF DEFENSE, THE EDUCATION COMMISSION OF THE STATES, THE INTERSTATE AGREEMENT ON THE QUALIFICATION OF EDUCATIONAL PERSONNEL, AND OTHER INTERSTATE COMPACTS AFFECTING THE EDUCATION OF CHILDREN OF MILITARY MEMBERS;~~

~~**2.** **MEET AT LEAST ONCE EACH CALENDAR YEAR. THE CHAIRPERSON MAY CALL ADDITIONAL MEETINGS AND, UPON THE REQUEST OF A SIMPLE MAJORITY OF THE MEMBER STATES, SHALL CALL ADDITIONAL MEETINGS;**~~

~~**3.** **ESTABLISH AN EXECUTIVE COMMITTEE, WHOSE MEMBERS SHALL INCLUDE THE OFFICERS OF THE INTERSTATE COMMISSION AND SUCH OTHER MEMBERS OF THE INTERSTATE COMMISSION AS DETERMINED BY THE BYLAWS. MEMBERS OF THE EXECUTIVE COMMITTEE SHALL SERVE A 1-YEAR TERM. MEMBERS OF THE EXECUTIVE COMMITTEE SHALL BE ENTITLED TO ONE VOTE EACH. THE EXECUTIVE COMMITTEE SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION, WITH THE EXCEPTION OF RULEMAKING, DURING PERIODS WHEN THE INTERSTATE COMMISSION IS NOT IN SESSION. THE EXECUTIVE COMMITTEE SHALL OVERSEE THE DAY-TO-DAY ACTIVITIES OF THE ADMINISTRATION OF THE COMPACT INCLUDING ENFORCEMENT AND COMPLIANCE WITH THE PROVISIONS OF THE COMPACT, ITS BYLAWS AND RULES, AND OTHER SUCH DUTIES AS DEEMED NECESSARY. THE U.S. DEPARTMENT OF DEFENSE SHALL SERVE AS AN EX OFFICIO, NONVOTING MEMBER OF THE EXECUTIVE COMMITTEE;**~~

~~**4.** **ESTABLISH BYLAWS AND RULES THAT PROVIDE FOR CONDITIONS AND PROCEDURES UNDER WHICH THE INTERSTATE COMMISSION SHALL MAKE ITS INFORMATION AND OFFICIAL RECORDS AVAILABLE TO THE PUBLIC FOR INSPECTION OR COPYING. THE INTERSTATE COMMISSION MAY EXEMPT FROM DISCLOSURE INFORMATION OR OFFICIAL RECORDS TO THE EXTENT THEY WOULD ADVERSELY AFFECT PERSONAL PRIVACY RIGHTS OR PROPRIETARY INTERESTS;**~~

~~**5.** **GIVE PUBLIC NOTICE OF ALL MEETINGS AND ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, EXCEPT AS SET FORTH IN THE RULES OR AS OTHERWISE PROVIDED IN THE COMPACT. THE INTERSTATE COMMISSION AND ITS COMMITTEES MAY CLOSE A MEETING, OR PORTION THEREOF, WHERE IT DETERMINES BY TWO-THIRDS VOTE THAT AN OPEN MEETING WOULD BE LIKELY TO:**~~

~~**I.** **RELATE SOLELY TO THE INTERSTATE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND PROCEDURES;**~~

~~**II.** **DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL AND STATE STATUTE;**~~

~~**III.** **DISCLOSE TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION WHICH IS PRIVILEGED OR CONFIDENTIAL;**~~

~~**IV.** **INVOLVE ACCUSING A PERSON OF A CRIME OR FORMALLY CENSURING A PERSON;**~~

~~v. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;~~

~~vi. Disclose investigative records compiled for law enforcement purposes; or~~

~~vii. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding;~~

~~6. Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, that is closed pursuant to this provision. The Interstate Commission shall keep minutes that shall 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 and the record of a roll call vote. 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 Interstate Commission;~~

~~7. Collect standardized data concerning the educational transition of the children of military families under this Compact as directed through its rules that shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules; and~~

~~8. Create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the Compact or its rules or when issues subject to the jurisdiction of the Compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.~~

~~ARTICLE X~~

~~POWERS AND DUTIES OF THE INTERSTATE COMMISSION~~

~~The Interstate Commission shall have the following powers:~~

~~A. TO PROVIDE FOR DISPUTE RESOLUTION AMONG MEMBER STATES;~~

~~B. TO PROMULGATE RULES AND TAKE ALL NECESSARY ACTIONS TO EFFECT THE GOALS, PURPOSES, AND OBLIGATIONS AS ENUMERATED IN THIS COMPACT. THE RULES SHALL HAVE THE FORCE AND EFFECT OF STATUTORY LAW AND SHALL BE BINDING IN THE COMPACT STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THIS COMPACT;~~

~~C. TO ISSUE, UPON REQUEST OF A MEMBER STATE, ADVISORY OPINIONS CONCERNING THE MEANING OR INTERPRETATION OF THE INTERSTATE COMPACT, ITS BYLAWS, RULES, AND ACTIONS;~~

~~D. TO ENFORCE COMPLIANCE WITH THE COMPACT PROVISIONS, THE RULES PROMULGATED BY THE INTERSTATE COMMISSION, AND THE BYLAWS, USING ALL NECESSARY AND PROPER MEANS, INCLUDING BUT NOT LIMITED TO THE USE OF JUDICIAL PROCESS;~~

~~E. TO ESTABLISH AND MAINTAIN OFFICES THAT SHALL BE LOCATED WITHIN ONE OR MORE OF THE MEMBER STATES;~~

~~F. TO PURCHASE AND MAINTAIN INSURANCE AND BONDS;~~

~~G. TO BORROW, ACCEPT, HIRE, OR CONTRACT FOR SERVICES OF PERSONNEL;~~

~~H. TO ESTABLISH AND APPOINT COMMITTEES, INCLUDING BUT NOT LIMITED TO AN EXECUTIVE COMMITTEE AS REQUIRED BY ARTICLE IX, SECTION D, THAT SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION IN CARRYING OUT ITS POWERS AND DUTIES HEREUNDER;~~

~~I. TO ELECT OR APPOINT SUCH OFFICERS, ATTORNEYS, EMPLOYEES, AGENTS, OR CONSULTANTS, AND TO FIX THEIR COMPENSATION, DEFINE THEIR DUTIES, DETERMINE THEIR QUALIFICATIONS, AND TO ESTABLISH THE INTERSTATE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO CONFLICTS OF INTEREST, RATES OF COMPENSATION, AND QUALIFICATIONS OF PERSONNEL;~~

~~J. TO ACCEPT ANY AND ALL DONATIONS AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES, AND TO RECEIVE, UTILIZE, AND DISPOSE OF THEM;~~

~~K. TO LEASE, PURCHASE, ACCEPT CONTRIBUTIONS OR DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE, OR USE ANY PROPERTY, REAL, PERSONAL, OR MIXED;~~

~~L. TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON, OR OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL OR MIXED;~~

~~**M.** To establish a budget and make expenditures;~~

~~**N.** To adopt a seal and bylaws governing the management and operation of the Interstate Commission;~~

~~**O.** To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission;~~

~~**P.** To coordinate education, training and public awareness regarding the Compact, its implementation, and operation for officials and parents involved in such activity;~~

~~**Q.** To establish uniform standards for the reporting, collecting, and exchanging of data;~~

~~**R.** To maintain corporate books and records in accordance with the bylaws;~~

~~**S.** To perform such functions as may be necessary or appropriate to achieve the purposes of this Compact; and~~

~~**T.** To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this Compact.~~

~~ARTICLE XI~~

~~ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION~~

~~**A.** The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including but not limited to:~~

~~**1.** Establishing the fiscal year of the Interstate Commission;~~

~~**2.** Establishing an executive committee and such other committees as may be necessary;~~

~~3. PROVIDING FOR THE ESTABLISHMENT OF COMMITTEES AND FOR GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF AUTHORITY OR FUNCTION OF THE INTERSTATE COMMISSION;~~

~~4. PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEETINGS OF THE INTERSTATE COMMISSION AND ENSURING REASONABLE NOTICE OF EACH SUCH MEETING;~~

~~5. ESTABLISHING THE TITLES AND RESPONSIBILITIES OF THE OFFICERS AND STAFF OF THE INTERSTATE COMMISSION;~~

~~6. PROVIDING A MECHANISM FOR CONCLUDING THE OPERATIONS OF THE INTERSTATE COMMISSION AND THE RETURN OF SURPLUS FUNDS THAT MAY EXIST UPON THE TERMINATION OF THE COMPACT AFTER THE PAYMENT AND RESERVING OF ALL OF ITS DEBTS AND OBLIGATIONS; AND~~

~~7. PROVIDING "START–UP" RULES FOR INITIAL ADMINISTRATION OF THE COMPACT.~~

~~B. THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS, ELECT ANNUALLY FROM AMONG ITS MEMBERS A CHAIRPERSON, A VICE–CHAIRPERSON, AND A TREASURER, EACH OF WHOM SHALL HAVE SUCH AUTHORITY AND DUTIES AS MAY BE SPECIFIED IN THE BYLAWS. THE CHAIRPERSON OR, IN THE CHAIRPERSON'S ABSENCE OR DISABILITY, THE VICE–CHAIRPERSON, SHALL PRESIDE AT ALL MEETINGS OF THE INTERSTATE COMMISSION. THE OFFICERS SO ELECTED SHALL SERVE WITHOUT COMPENSATION OR REMUNERATION FROM THE INTERSTATE COMMISSION, PROVIDED THAT, SUBJECT TO THE AVAILABILITY OF BUDGETED FUNDS, THE OFFICERS SHALL BE REIMBURSED FOR ORDINARY AND NECESSARY COSTS AND EXPENSES INCURRED BY THEM IN THE PERFORMANCE OF THEIR RESPONSIBILITIES AS OFFICERS OF THE INTERSTATE COMMISSION.~~

~~C. EXECUTIVE COMMITTEE, OFFICERS, AND PERSONNEL –~~

~~1. THE EXECUTIVE COMMITTEE SHALL HAVE SUCH AUTHORITY AND DUTIES AS MAY BE SET FORTH IN THE BYLAWS, INCLUDING BUT NOT LIMITED TO:~~

~~I. MANAGING THE AFFAIRS OF THE INTERSTATE COMMISSION IN A MANNER CONSISTENT WITH THE BYLAWS AND PURPOSES OF THE INTERSTATE COMMISSION;~~

~~II. OVERSEEING AN ORGANIZATIONAL STRUCTURE WITHIN, AND APPROPRIATE PROCEDURES FOR THE INTERSTATE COMMISSION TO PROVIDE FOR THE CREATION OF RULES, OPERATING PROCEDURES, AND ADMINISTRATIVE AND TECHNICAL SUPPORT FUNCTIONS; AND~~

~~III. PLANNING, IMPLEMENTING, AND COORDINATING COMMUNICATIONS AND ACTIVITIES WITH OTHER STATE, FEDERAL, AND LOCAL GOVERNMENT ORGANIZATIONS IN ORDER TO ADVANCE THE GOALS OF THE INTERSTATE COMMISSION.~~

~~2. THE EXECUTIVE COMMITTEE MAY, SUBJECT TO THE APPROVAL OF THE INTERSTATE COMMISSION, APPOINT OR RETAIN AN EXECUTIVE DIRECTOR FOR SUCH PERIOD, UPON SUCH TERMS AND CONDITIONS AND FOR SUCH COMPENSATION, AS THE INTERSTATE COMMISSION MAY DEEM APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL SERVE AS SECRETARY TO THE INTERSTATE COMMISSION, BUT SHALL NOT BE A MEMBER OF THE INTERSTATE COMMISSION. THE EXECUTIVE DIRECTOR SHALL HIRE AND SUPERVISE SUCH OTHER PERSONS AS MAY BE AUTHORIZED BY THE INTERSTATE COMMISSION.~~

~~D. THE INTERSTATE COMMISSION'S EXECUTIVE DIRECTOR AND ITS EMPLOYEES SHALL BE IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR A CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED OR ARISING OUT OF OR RELATING TO AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED, OR THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED, WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT SUCH PERSON SHALL NOT BE PROTECTED FROM SUIT OR LIABILITY FOR DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF SUCH PERSON.~~

~~1. THE LIABILITY OF THE INTERSTATE COMMISSION'S EXECUTIVE DIRECTOR AND EMPLOYEES OR INTERSTATE COMMISSION REPRESENTATIVES, ACTING WITHIN THE SCOPE OF SUCH PERSON'S EMPLOYMENT OR DUTIES FOR ACTS, ERRORS, OR OMISSIONS OCCURRING WITHIN SUCH PERSON'S STATE MAY NOT EXCEED THE LIMITS OF LIABILITY SET FORTH UNDER THE CONSTITUTION AND LAWS OF THAT STATE FOR STATE OFFICIALS, EMPLOYEES, AND AGENTS. THE INTERSTATE COMMISSION IS CONSIDERED TO BE AN INSTRUMENTALITY OF THE STATES FOR THE PURPOSES OF ANY SUCH ACTION. NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO PROTECT SUCH PERSON FROM SUIT OR LIABILITY FOR DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF SUCH PERSON.~~

~~2. THE INTERSTATE COMMISSION SHALL DEFEND THE EXECUTIVE DIRECTOR AND ITS EMPLOYEES AND, SUBJECT TO THE APPROVAL OF THE ATTORNEY GENERAL OR OTHER APPROPRIATE LEGAL COUNSEL OF THE MEMBER STATE REPRESENTED BY AN INTERSTATE COMMISSION REPRESENTATIVE, SHALL DEFEND SUCH INTERSTATE COMMISSION REPRESENTATIVE IN ANY CIVIL ACTION SEEKING TO IMPOSE LIABILITY ARISING OUT OF AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT THE DEFENDANT HAD A REASONABLE BASIS~~

~~FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF SUCH PERSON.~~

~~3. TO THE EXTENT NOT COVERED BY THE STATE INVOLVED, MEMBER STATE, OR THE INTERSTATE COMMISSION, THE REPRESENTATIVES OR EMPLOYEES OF THE INTERSTATE COMMISSION SHALL BE HELD HARMLESS IN THE AMOUNT OF A SETTLEMENT OR JUDGMENT, INCLUDING ATTORNEY'S FEES AND COSTS, OBTAINED AGAINST SUCH PERSONS ARISING OUT OF AN ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT SUCH PERSONS HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION DID NOT RESULT FROM INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT ON THE PART OF SUCH PERSONS.~~

~~ARTICLE XII~~

~~RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION~~

~~A. RULEMAKING AUTHORITY. THE INTERSTATE COMMISSION SHALL PROMULGATE REASONABLE RULES IN ORDER TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES OF THIS COMPACT. NOTWITHSTANDING THE FOREGOING, IN THE EVENT THE INTERSTATE COMMISSION EXERCISES ITS RULEMAKING AUTHORITY IN A MANNER THAT IS BEYOND THE SCOPE OF THE PURPOSES OF THIS ACT, OR THE POWERS GRANTED HEREUNDER, THEN SUCH AN ACTION BY THE INTERSTATE COMMISSION SHALL BE INVALID AND HAVE NO FORCE AND EFFECT.~~

~~B. RULEMAKING PROCEDURE. RULES SHALL BE MADE PURSUANT TO A RULEMAKING PROCESS THAT SUBSTANTIALLY CONFORMS TO THE "MODEL STATE ADMINISTRATIVE PROCEDURE ACT" OF 1981, UNIFORM LAWS ANNOTATED, VOL. 15, P.1 (2000), AS AMENDED, AS MAY BE APPROPRIATE TO THE OPERATIONS OF THE INTERSTATE COMMISSION.~~

~~C. JUDICIAL REVIEW. NOT LATER THAN 30 DAYS AFTER A RULE IS PROMULGATED, ANY PERSON MAY FILE A PETITION FOR JUDICIAL REVIEW OF THE RULE, PROVIDED THAT THE FILING OF SUCH A PETITION SHALL NOT STAY OR OTHERWISE PREVENT THE RULE FROM BECOMING EFFECTIVE UNLESS THE COURT FINDS THAT THE PETITIONER HAS A SUBSTANTIAL LIKELIHOOD OF SUCCESS. THE COURT SHALL GIVE DEFERENCE TO THE ACTIONS OF THE INTERSTATE COMMISSION CONSISTENT WITH APPLICABLE LAW AND SHALL NOT FIND THE RULE TO BE UNLAWFUL IF THE RULE REPRESENTS A REASONABLE EXERCISE OF THE INTERSTATE COMMISSION'S AUTHORITY.~~

~~**D. Rejection of Rules. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any compacting state.**~~

~~ARTICLE XIII~~

~~OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION~~

~~**A. Oversight.**~~

~~**1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and shall 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 that may affect the powers, responsibilities, or actions of the Interstate Commission.**~~

~~**3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this Compact, or its promulgated rules.**~~

~~**B. Default, Technical Assistance, Suspension and Termination. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or its bylaws or promulgated rules, the Interstate Commission shall:**~~

~~**1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; and**~~

~~**2. Provide remedial training and specific technical assistance regarding the default.**~~

~~C. IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT, THE DEFAULTING STATE SHALL 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 SHALL BE TERMINATED FROM 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 THE DEFAULT.~~

~~D. SUSPENSION OR 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 INTERSTATE COMMISSION TO THE GOVERNOR, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND EACH OF THE MEMBER STATES.~~

~~E. THE STATE THAT HAS BEEN SUSPENDED OR TERMINATED IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF SUSPENSION OR TERMINATION INCLUDING OBLIGATIONS, THE PERFORMANCE OF WHICH EXTENDS BEYOND THE EFFECTIVE DATE OF SUSPENSION OR TERMINATION.~~

~~F. THE INTERSTATE COMMISSION SHALL NOT BEAR ANY COSTS RELATING TO ANY STATE THAT HAS BEEN FOUND TO BE IN DEFAULT OR THAT HAS BEEN SUSPENDED OR TERMINATED FROM THE COMPACT, UNLESS OTHERWISE MUTUALLY AGREED UPON IN WRITING BETWEEN THE INTERSTATE COMMISSION AND THE DEFAULTING STATE.~~

~~G. THE DEFAULTING STATE MAY APPEAL THE ACTION OF THE INTERSTATE COMMISSION BY PETITIONING THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR THE FEDERAL DISTRICT WHERE THE INTERSTATE COMMISSION HAS ITS PRINCIPAL OFFICES. THE PREVAILING PARTY SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION INCLUDING REASONABLE ATTORNEY'S FEES.~~

~~H. DISPUTE RESOLUTION.~~

~~1. THE INTERSTATE COMMISSION SHALL ATTEMPT, UPON THE REQUEST OF A MEMBER STATE, TO RESOLVE DISPUTES THAT ARE SUBJECT TO THE COMPACT AND THAT MAY ARISE AMONG MEMBER STATES AND BETWEEN MEMBER AND NONMEMBER STATES.~~

~~2. THE INTERSTATE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES AS APPROPRIATE.~~

~~I. ENFORCEMENT.~~

~~**1.** THE INTERSTATE COMMISSION, IN THE REASONABLE EXERCISE OF ITS DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS COMPACT.~~

~~**2.** THE INTERSTATE COMMISSION MAY, BY MAJORITY VOTE OF THE MEMBERS, INITIATE LEGAL ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR, AT THE DISCRETION OF THE INTERSTATE COMMISSION, IN THE FEDERAL DISTRICT WHERE THE INTERSTATE COMMISSION HAS ITS PRINCIPAL OFFICES, TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THE COMPACT AND ITS PROMULGATED RULES AND BYLAWS, AGAINST A MEMBER STATE IN DEFAULT. THE RELIEF SOUGHT MAY INCLUDE BOTH INJUNCTIVE RELIEF AND DAMAGES. IN THE EVENT JUDICIAL ENFORCEMENT IS NECESSARY THE PREVAILING PARTY 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 INTERSTATE COMMISSION. THE INTERSTATE COMMISSION MAY AVAIL ITSELF OF ANY OTHER REMEDIES AVAILABLE UNDER STATE LAW OR THE REGULATION OF A PROFESSION.~~

~~ARTICLE XIV~~

~~FINANCING OF THE INTERSTATE COMMISSION~~

~~**A.** THE INTERSTATE COMMISSION SHALL PAY, OR PROVIDE FOR THE PAYMENT OF THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION, AND ONGOING ACTIVITIES.~~

~~**B.** THE INTERSTATE COMMISSION MAY LEVY AND COLLECT AN ANNUAL ASSESSMENT FROM EACH MEMBER STATE TO COVER THE COST OF THE OPERATIONS AND ACTIVITIES OF THE INTERSTATE COMMISSION AND ITS STAFF THAT MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER THE INTERSTATE COMMISSION'S ANNUAL BUDGET AS APPROVED EACH YEAR. THE AGGREGATE ANNUAL ASSESSMENT AMOUNT SHALL BE ALLOCATED BASED UPON A FORMULA TO BE DETERMINED BY THE INTERSTATE COMMISSION, WHICH SHALL PROMULGATE A RULE BINDING UPON ALL MEMBER STATES.~~

~~**C.** THE INTERSTATE COMMISSION SHALL NOT INCUR OBLIGATIONS OF ANY KIND PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME, NOR SHALL THE INTERSTATE COMMISSION PLEDGE THE CREDIT OF ANY OF THE MEMBER STATES, EXCEPT BY AND WITH THE AUTHORITY OF THE MEMBER STATE.~~

~~**D.** THE INTERSTATE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE INTERSTATE COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS OF FUNDS HANDLED BY THE INTERSTATE COMMISSION SHALL BY~~

~~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 INTERSTATE COMMISSION.~~

~~ARTICLE XV~~

~~MEMBER STATES, EFFECTIVE DATE AND AMENDMENT~~

~~A. ANY STATE IS ELIGIBLE TO BECOME A MEMBER STATE.~~

~~B. THE COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON LEGISLATIVE ENACTMENT OF THE COMPACT INTO LAW BY NO LESS THAN TEN OF THE STATES. THE EFFECTIVE DATE SHALL BE NO EARLIER THAN DECEMBER 1, 2007. THEREAFTER IT SHALL BECOME EFFECTIVE AND BINDING AS TO ANY OTHER MEMBER STATE UPON ENACTMENT OF THE COMPACT INTO LAW BY THAT STATE. THE GOVERNORS OF NONMEMBER STATES OR THEIR DESIGNEES SHALL BE INVITED TO PARTICIPATE IN THE ACTIVITIES OF THE INTERSTATE COMMISSION ON A NONVOTING BASIS PRIOR TO ADOPTION OF THE COMPACT BY ALL STATES.~~

~~C. THE INTERSTATE COMMISSION MAY PROPOSE AMENDMENTS TO THE COMPACT FOR ENACTMENT BY THE MEMBER STATES. NO AMENDMENT SHALL BECOME EFFECTIVE AND BINDING UPON THE INTERSTATE COMMISSION AND THE MEMBER STATES UNLESS AND UNTIL IT IS ENACTED INTO LAW BY UNANIMOUS CONSENT OF THE MEMBER STATES.~~

~~ARTICLE XVI~~

~~WITHDRAWAL AND DISSOLUTION~~

~~A. WITHDRAWAL.~~

~~1. ONCE EFFECTIVE, THE COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON EACH AND EVERY MEMBER STATE, PROVIDED THAT A MEMBER STATE MAY WITHDRAW FROM THE COMPACT BY SPECIFICALLY REPEALING THE STATUTE WHICH ENACTED THE COMPACT INTO LAW.~~

~~2. WITHDRAWAL FROM THIS COMPACT SHALL BE BY THE ENACTMENT OF A STATUTE REPEALING THE SAME, BUT SHALL NOT TAKE EFFECT UNTIL 1 YEAR AFTER THE EFFECTIVE DATE OF SUCH STATUTE AND UNTIL WRITTEN NOTICE OF THE WITHDRAWAL HAS BEEN GIVEN BY THE WITHDRAWING STATE TO THE GOVERNOR OF EACH OTHER MEMBER JURISDICTION.~~

~~3. THE WITHDRAWING STATE SHALL IMMEDIATELY NOTIFY THE CHAIRPERSON OF THE INTERSTATE COMMISSION IN WRITING UPON THE INTRODUCTION OF LEGISLATION REPEALING THIS COMPACT IN THE WITHDRAWING STATE. THE~~

~~INTERSTATE COMMISSION SHALL NOTIFY THE OTHER MEMBER STATES OF THE WITHDRAWING STATE'S INTENT TO WITHDRAW WITHIN 60 DAYS OF ITS RECEIPT THEREOF.~~

~~4. THE WITHDRAWING STATE IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF WITHDRAWAL, INCLUDING OBLIGATIONS THE PERFORMANCE OF WHICH EXTEND BEYOND THE EFFECTIVE DATE OF WITHDRAWAL.~~

~~5. REINSTATEMENT FOLLOWING WITHDRAWAL OF A MEMBER STATE SHALL OCCUR UPON THE WITHDRAWING STATE REENACTING THE COMPACT OR UPON SUCH LATER DATE AS DETERMINED BY THE INTERSTATE COMMISSION.~~

~~B. DISSOLUTION OF COMPACT.~~

~~1. THIS COMPACT SHALL DISSOLVE EFFECTIVE UPON THE DATE OF THE WITHDRAWAL OR DEFAULT OF THE MEMBER STATE WHICH REDUCES THE MEMBERSHIP IN THE COMPACT TO ONE MEMBER STATE.~~

~~2. UPON THE DISSOLUTION OF THIS COMPACT, THE COMPACT BECOMES NULL AND VOID AND SHALL BE OF NO FURTHER FORCE AND EFFECT, AND THE BUSINESS AND AFFAIRS OF THE INTERSTATE COMMISSION SHALL BE CONCLUDED AND SURPLUS FUNDS SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE BYLAWS.~~

~~ARTICLE XVII~~

~~SEVERABILITY AND CONSTRUCTION~~

~~A. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND, IF ANY PHRASE, CLAUSE, SENTENCE, OR PROVISION IS DEEMED UNENFORCEABLE, THE REMAINING PROVISIONS OF THE COMPACT SHALL BE ENFORCEABLE.~~

~~B. THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSES.~~

~~C. NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO PROHIBIT THE APPLICABILITY OF OTHER INTERSTATE COMPACTS TO WHICH THE STATES ARE MEMBERS.~~

~~ARTICLE XVIII~~

~~BINDING EFFECT OF COMPACT AND OTHER LAWS~~

~~A. OTHER LAWS.~~

~~**1. NOTHING HEREIN PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A MEMBER STATE THAT IS NOT INCONSISTENT WITH THIS COMPACT.**~~

~~**2. ALL MEMBER STATES' LAWS CONFLICTING WITH THIS COMPACT ARE SUPERSEDED TO THE EXTENT OF THE CONFLICT.**~~

~~**B. BINDING EFFECT OF THE COMPACT.**~~

~~**1. ALL LAWFUL ACTIONS OF THE INTERSTATE COMMISSION, INCLUDING ALL RULES AND BYLAWS PROMULGATED BY THE INTERSTATE COMMISSION, ARE BINDING UPON THE MEMBER STATES.**~~

~~**2. ALL AGREEMENTS BETWEEN THE INTERSTATE COMMISSION AND THE MEMBER STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.**~~

~~**3. IN THE EVENT ANY PROVISION OF THIS COMPACT EXCEEDS THE CONSTITUTIONAL LIMITS IMPOSED ON THE LEGISLATURE OF ANY MEMBER STATE, SUCH PROVISION SHALL BE INEFFECTIVE TO THE EXTENT OF THE CONFLICT WITH THE CONSTITUTIONAL PROVISION IN QUESTION IN THAT MEMBER STATE.**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not take effect until the enactment of a similar Act by no fewer than 10 of the states; that no fewer than 10 states are requested to concur in this Act of the General Assembly of Maryland by the passage of a similar Act; that the Department of Legislative Services shall notify the appropriate officials of the passage of this Act; and that upon concurrence in this Act by no fewer than 10 states, the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Director of the Department of Legislative Services.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act, this Act shall take effect July 1, 2008.~~

(a) There is a Task Force on Educational Issues Affecting Military Children.

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

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

(2) One member of the House of Delegates, appointed by the Speaker of the House;

(3) The State Superintendent of Schools, or the Superintendent's designee; and

(4) The following members appointed by the Governor:

(i) One representative from the Maryland Association of Boards of Education;

(ii) One local superintendent, as a representative from the Public School Superintendents Association of Maryland;

(iii) Two school principals from school systems significantly affected by the federal Base Realignment and Closure (BRAC);

(iv) One representative from an organization that represents military families; and

(v) Two military school liaison officers.

(c) The members of the Task Force shall elect a chair from among the members of the Task Force.

(d) The Department of Education shall provide staff support for the Task Force.

(e) A member of the Task Force:

(1) May not receive compensation as a member of the Task Force; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) Identify and examine educational issues that affect military children;

(2) Identify and examine existing efforts in the State to ease the transition of children of military families to Maryland schools;

(3) Make recommendations on efforts that would ease the transition of children of military families to Maryland schools, including recommendations concerning:

(i) The awarding of credit for previously completed work;

(ii) The timely receipt of paperwork necessary for local school systems to facilitate transfers of children of military families into Maryland schools;

(iii) The opportunity for children of military families transitioning to Maryland schools to graduate on time and the effect of the State's graduation requirements on children in military families;

(iv) The transition of children in military families with disabilities; and

(v) The participation of children in military families in extracurricular activities; and

(4) Examine and make recommendations on issues surrounding the feasibility of the State joining the Interstate Compact on Educational Opportunities for Military Children.

(g) On or before December 1, 2008, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 1 year and, at the end of May 31, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 404

(Senate Bill 473)

AN ACT concerning

Public Schools – Youth Risk Behavior Surveillance System – Passive Parental Consent

FOR the purpose of requiring the State Department of Education to require local school systems to utilize passive parental consent before administering a certain survey; requiring local school systems to provide parents with certain statements and forms; requiring certain forms to be part of a certain card that requests certain information in certain years; and generally relating to the

administration of the Centers for Disease Control and Prevention Youth Risk Behavior Surveillance System survey in the public schools of the State.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–420
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Many factors contributing to crippling or fatal injuries, asthma, obesity, and other health problems of children and youth are associated with environmental or behavioral risk factors; and

WHEREAS, Reliable data on risk factors contributing to child and adolescent deaths and illnesses enable public health personnel to develop programs to mitigate these factors; and

WHEREAS, The United States Centers for Disease Control and Prevention have created the Youth Risk Behavior Surveillance System (YRBSS), which is a tool to measure these factors and to monitor the effectiveness of risk reduction programs; and

WHEREAS, The United States Centers for Disease Control and Prevention recommend the use of passive consent for the administration of the YRBSS survey, in order to obtain a completely representative and statistically valid number of survey participants; now, therefore,

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

Article – Education

7–420.

(a) The Department shall establish procedures for the administration of the Centers for Disease Control and Prevention Youth Risk Behavior Surveillance System survey.

(b) The Department may omit up to a maximum of one–third of the survey questions if the Department considers the content of the questions inappropriate.

(c) (1) The Department shall require a local school system to **[**obtain parental consent using a parental consent form**]** **UTILIZE PASSIVE PARENTAL CONSENT** before administering the survey.

(2) The **[**parental consent form shall include**]** **LOCAL SCHOOL SYSTEM SHALL PROVIDE EACH PARENT WITH:**

(I) **[**a**]** **A** statement that ~~explains~~**:**

1. **NOTIFIES THE PARENT THAT:**

A. **THE SURVEY IS CONFIDENTIAL;**

B. **THE ANSWERS WILL BE KEPT PRIVATE;**

C. **THE STUDENT'S NAME WILL NOT BE REQUIRED ON THE SURVEY RESPONSE SHEET; AND**

D. **THE SURVEY IS DESIGNED TO IDENTIFY RISK BEHAVIORS THAT MAY INCLUDE SAFETY BEHAVIORS SUCH AS USE OF HELMETS AND SEAT BELTS, DEPRESSION AND MENTAL HEALTH, USE OF TOBACCO, ALCOHOL, OR OTHER DRUGS, NUTRITION AND PHYSICAL ACTIVITY, AND SEXUAL BEHAVIOR; AND**

2. **EXPLAINS** how a parent can obtain a copy of the survey questions that will be administered and more information regarding the survey, including the mailing address, telephone number, and website address of the Centers for Disease Control and Prevention**; AND**

(II) **A DENIAL OF PERMISSION FORM THAT MAY BE RETURNED BY THE PARENT TO THE SCHOOL**.

(D) **FOR THE YEAR DURING WHICH THE SURVEY WILL BE CONDUCTED, THE DENIAL OF PERMISSION FORM SHALL BE A PART OF THE CARD REQUESTING EMERGENCY CONTACT INFORMATION THAT IS DISTRIBUTED BY THE PUBLIC SCHOOL TO EACH STUDENT OR PARENT OR GUARDIAN OF THE STUDENT.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 405

(House Bill 536)

AN ACT concerning

Public Schools – Youth Risk Behavior Surveillance System – Passive Parental Consent

FOR the purpose of requiring the State Department of Education to require local school systems to utilize passive parental consent before administering a certain survey; requiring local school systems to provide parents with certain statements and forms; requiring certain forms to be part of a certain ~~card that requests~~ *request for* certain information in certain years *to certain students or the parent or guardian of certain students*; and generally relating to the administration of the Centers for Disease Control and Prevention Youth Risk Behavior Surveillance System survey in the public schools of the State.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–420
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Many factors contributing to crippling or fatal injuries, asthma, obesity, and other health problems of children and youth are associated with environmental or behavioral risk factors; and

WHEREAS, Reliable data on risk factors contributing to child and adolescent deaths and illnesses enable public health personnel to develop programs to mitigate these factors; and

WHEREAS, The United States Centers for Disease Control and Prevention have created the Youth Risk Behavior Surveillance System (YRBSS), which is a tool to measure these factors and to monitor the effectiveness of risk reduction programs; and

WHEREAS, The United States Centers for Disease Control and Prevention recommend the use of passive consent for the administration of the YRBSS survey, in order to obtain a completely representative and statistically valid number of survey participants; now, therefore,

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

Article – Education

7–420.

(a) The Department shall establish procedures for the administration of the Centers for Disease Control and Prevention Youth Risk Behavior Surveillance System survey.

(b) The Department may omit up to a maximum of one–third of the survey questions if the Department considers the content of the questions inappropriate.

(c) (1) The Department shall require a local school system to **[**obtain parental consent using a parental consent form**]** **UTILIZE PASSIVE PARENTAL CONSENT** before administering the survey.

(2) The **[**parental consent form shall include**]** **LOCAL SCHOOL SYSTEM SHALL PROVIDE EACH PARENT WITH:**

(I) **[**a**]** **A** statement that ~~explains~~**:**

1. **NOTIFIES THE PARENT THAT:**

A. **THE SURVEY IS CONFIDENTIAL;**

B. **THE ANSWERS WILL BE KEPT PRIVATE;**

C. **THE STUDENT'S NAME WILL NOT BE REQUIRED ON THE SURVEY RESPONSE SHEET; AND**

D. **THE SURVEY IS DESIGNED TO IDENTIFY RISK BEHAVIORS THAT MAY INCLUDE SAFETY BEHAVIORS SUCH AS USE OF HELMETS AND SEAT BELTS, DEPRESSION AND MENTAL HEALTH, USE OF TOBACCO, ALCOHOL, OR OTHER DRUGS, NUTRITION AND PHYSICAL ACTIVITY, AND SEXUAL BEHAVIOR; AND**

2. **EXPLAINS** how a parent can obtain a copy of the survey questions that will be administered and more information regarding the survey, including the mailing address, telephone number, and website address of the Centers for Disease Control and Prevention**; AND**

(II) ~~**A**~~ ***SUBJECT TO SUBSECTION (D) OF THIS SECTION, A*** **DENIAL OF PERMISSION FORM THAT MAY BE RETURNED BY THE PARENT TO THE SCHOOL**.

(D) ***(1)*** **FOR THE** ***ACADEMIC*** **YEAR DURING WHICH THE SURVEY WILL BE CONDUCTED, THE DENIAL OF PERMISSION FORM SHALL BE A PART OF THE ~~CARD REQUESTING~~** ***REQUEST FOR*** **EMERGENCY CONTACT INFORMATION THAT IS DISTRIBUTED BY THE PUBLIC SCHOOL TO EACH STUDENT OR PARENT OR GUARDIAN OF THE STUDENT.**

(2) THE DENIAL OF PERMISSION FORM SHALL BE DISTRIBUTED ONLY TO A STUDENT OR THE PARENT OR GUARDIAN OF A STUDENT WHO MAY BE SUBJECT TO THE SURVEY ADMINISTERED UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 406

(Senate Bill 476)

AN ACT concerning

Department of Budget and Management – Health and Welfare Benefits Program – Information from and Liability of Health Insurance Carriers

FOR the purpose of requiring certain health insurance carriers to provide certain information in a certain manner to the Department of Budget and Management, at the request of the Department, about individuals who are eligible for benefits under the State Employee and Retiree Health and Welfare Benefits Program or are Program recipients; requiring certain health insurance carriers to accept the Program's right of recovery and the assignment to the Program of certain rights under certain circumstances; prohibiting certain health insurance carriers from denying or otherwise affecting a health insurance policy or contract due to the eligibility of an individual for Program benefits or receipt by an individual of benefits under the Program; *providing that certain provisions of this Act do not apply to certain health insurance policies and contracts;* defining a certain term; and generally relating to health insurance carriers and the State Employee and Retiree Health and Welfare Benefits Program.

BY adding to
Article – Health – General
Section 19–706(ppp)

Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 2–517
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – Health – General

19–706.

(PPP) THE PROVISIONS OF § 2–517 OF THE STATE PERSONNEL AND PENSIONS ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – State Personnel and Pensions

2–517.

(A) IN THIS SECTION, "CARRIER" MEANS:

(1) A HEALTH INSURER;

(2) A NONPROFIT HEALTH SERVICE PLAN;

(3) A HEALTH MAINTENANCE ORGANIZATION; AND

(4) A DENTAL PLAN ORGANIZATION.

(B) THIS SECTION DOES NOT APPLY TO A FIXED INDEMNITY HEALTH INSURANCE POLICY OR CONTRACT IF THE PREMIUMS ARE PAID SOLELY BY AN INDIVIDUAL.

~~(B)~~ *(C)* (1) A CARRIER SHALL PROVIDE, AT THE REQUEST OF THE DEPARTMENT, INFORMATION ABOUT INDIVIDUALS WHO ARE ELIGIBLE FOR BENEFITS UNDER THE PROGRAM OR ARE PROGRAM RECIPIENTS SO THAT THE DEPARTMENT MAY DETERMINE WHETHER THE INDIVIDUAL IS RECEIVING HEALTH CARE COVERAGE FROM THE CARRIER AND THE NATURE OF THAT COVERAGE.

(2) A CARRIER SHALL PROVIDE THE INFORMATION REQUIRED UNDER THIS SUBSECTION IN A MANNER PRESCRIBED BY THE DEPARTMENT, IN ACCORDANCE WITH THE STANDARD DATA ELEMENTS FOR STANDARD TRANSACTIONS REQUIRED UNDER 42 U.S.C. § 1320D–4 AS ADOPTED BY THE SECRETARY OF HEALTH AND HUMAN SERVICES.

~~(C)~~ *(D)* A CARRIER SHALL ACCEPT THE PROGRAM'S RIGHT OF RECOVERY AND THE ASSIGNMENT TO THE PROGRAM OF ANY RIGHT OF AN INDIVIDUAL OR OTHER ENTITY TO PAYMENT FROM THE CARRIER FOR AN ITEM OR SERVICE FOR WHICH PAYMENT HAS BEEN MADE UNDER THE PROGRAM IF THE CARRIER HAS A LEGAL OBLIGATION TO MAKE PAYMENT FOR THE ITEM OR SERVICE.

~~(D)~~ *(E)* A CARRIER MAY NOT REJECT, DENY, LIMIT, CANCEL, REFUSE TO RENEW, INCREASE THE RATES OF, AFFECT THE TERMS OR CONDITIONS OF, OR OTHERWISE AFFECT A HEALTH INSURANCE POLICY OR CONTRACT FOR A REASON BASED WHOLLY OR PARTLY ON:

(1) THE ELIGIBILITY OF AN INDIVIDUAL TO RECEIVE BENEFITS UNDER THE PROGRAM; OR

(2) THE RECEIPT BY AN INDIVIDUAL OF BENEFITS UNDER THE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 407

(House Bill 1045)

AN ACT concerning

Department of Budget and Management – Health and Welfare Benefits Program – Information from and Liability of Health Insurance Carriers

FOR the purpose of requiring certain health insurance carriers to provide certain information in a certain manner to the Department of Budget and Management, at the request of the Department, about individuals who are eligible for benefits

under the State Employee and Retiree Health and Welfare Benefits Program or are Program recipients; requiring certain health insurance carriers to accept the Program's right of recovery and the assignment to the Program of certain rights under certain circumstances; prohibiting certain health insurance carriers from denying or otherwise affecting a health insurance policy or contract due to the eligibility of an individual for Program benefits or receipt by an individual of benefits under the Program; *providing that certain provisions of this Act do not apply to certain health insurance policies and contracts;* defining a certain term; and generally relating to health insurance carriers and the State Employee and Retiree Health and Welfare Benefits Program.

BY adding to
Article – Health – General
Section 19–706(ppp)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 2–517
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – Health – General

19–706.

(PPP) THE PROVISIONS OF § 2–517 OF THE STATE PERSONNEL AND PENSIONS ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – State Personnel and Pensions

2–517.

(A) IN THIS SECTION, "CARRIER" MEANS:

(1) A HEALTH INSURER;

(2) A NONPROFIT HEALTH SERVICE PLAN;

(3) A HEALTH MAINTENANCE ORGANIZATION; AND

(4) A DENTAL PLAN ORGANIZATION.

(B) THIS SECTION DOES NOT APPLY TO A FIXED INDEMNITY HEALTH INSURANCE POLICY OR CONTRACT IF THE PREMIUMS ARE PAID SOLELY BY AN INDIVIDUAL.

~~(B)~~ *(C)* (1) A CARRIER SHALL PROVIDE, AT THE REQUEST OF THE DEPARTMENT, INFORMATION ABOUT INDIVIDUALS WHO ARE ELIGIBLE FOR BENEFITS UNDER THE PROGRAM OR ARE PROGRAM RECIPIENTS SO THAT THE DEPARTMENT MAY DETERMINE WHETHER THE INDIVIDUAL IS RECEIVING HEALTH CARE COVERAGE FROM THE CARRIER AND THE NATURE OF THAT COVERAGE.

(2) A CARRIER SHALL PROVIDE THE INFORMATION REQUIRED UNDER THIS SUBSECTION IN A MANNER PRESCRIBED BY THE DEPARTMENT, IN ACCORDANCE WITH THE STANDARD DATA ELEMENTS FOR STANDARD TRANSACTIONS REQUIRED UNDER 42 U.S.C. § 1320D–4 AS ADOPTED BY THE SECRETARY OF HEALTH AND HUMAN SERVICES.

~~(C)~~ *(D)* A CARRIER SHALL ACCEPT THE PROGRAM'S RIGHT OF RECOVERY AND THE ASSIGNMENT TO THE PROGRAM OF ANY RIGHT OF AN INDIVIDUAL OR OTHER ENTITY TO PAYMENT FROM THE CARRIER FOR AN ITEM OR SERVICE FOR WHICH PAYMENT HAS BEEN MADE UNDER THE PROGRAM IF THE CARRIER HAS A LEGAL OBLIGATION TO MAKE PAYMENT FOR THE ITEM OR SERVICE.

~~(D)~~ *(E)* A CARRIER MAY NOT REJECT, DENY, LIMIT, CANCEL, REFUSE TO RENEW, INCREASE THE RATES OF, AFFECT THE TERMS OR CONDITIONS OF, OR OTHERWISE AFFECT A HEALTH INSURANCE POLICY OR CONTRACT FOR A REASON BASED WHOLLY OR PARTLY ON:

(1) THE ELIGIBILITY OF AN INDIVIDUAL TO RECEIVE BENEFITS UNDER THE PROGRAM; OR

(2) THE RECEIPT BY AN INDIVIDUAL OF BENEFITS UNDER THE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 408

(Senate Bill 480)

AN ACT concerning

~~Correctional Officers' Retirement System – Membership~~
State Retirement and Pension System – Membership and System Study

FOR the purpose of altering certain criteria for consideration by a certain actuarial consulting firm for a certain study of the State Retirement and Pension System; altering the membership of the Correctional Officers' Retirement System; providing that certain members of the Correctional Officers' Retirement System may receive a normal service retirement or a deferred vested retirement allowance under certain circumstances; requiring the transfer of certain member contributions to the annuity savings fund of the Correctional Officers' Retirement System; providing for a refund of certain member contributions under certain circumstances; providing that certain transfers of credit between the Employees' Retirement and Pension Systems and the Correctional Officers' Retirement System are not governed by certain provisions of law; and generally relating to membership in the Correctional Officers' Retirement System and a study of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–125.1, 25–201, 25–401, and 29–302(c)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

21–125.1.

(a) Beginning on or before September 1, 2008, and every 5 years thereafter, the Joint Committee on Pensions shall commission an actuarial consulting firm to conduct a study of the several systems in addition to the actuarial investigation and valuation performed by the actuary under § 21–125 of this subtitle and a comparison of the several systems with other similarly situated public pension plans.

(b) The actuarial consulting firm shall consider the following issues with regard to the several systems and other similarly situated public pension plans:

(1) the funding status of the State Retirement and Pension System, including its current unfunded accrued liability;

(2) the composition of the several systems, including:

(i) the number of active members, retirees, disability retirees, and beneficiaries of all retirees;

(ii) the average annual salaries of the active members in the various plans in the State Retirement and Pension System;

(iii) the average annual benefits of the retirees and beneficiaries of the State Retirement and Pension System; and

(iv) the average [age] **AGE, LIFE EXPECTANCY,** and years of service of active members retiring from the various plans in the State Retirement and Pension System; and

(3) the benefit levels provided by the various State systems, including a comparison of member contribution rates and the accrual rates.

(c) The findings of the actuarial consulting firm shall be submitted to the Joint Committee on Pensions on or before December 31, of the year of study, in accordance with § 2–1246 of the State Government Article.

25–201.

(a) Except as provided in subsection (b) of this section, this subtitle applies only to:

(1) correctional officers serving in any of the first six job classifications;

(2) security attendants at Clifton T. Perkins Hospital Center;

(3) a detention center officer employed by a participating governmental unit that on or after July 1, 2006, has elected to participate in the Correctional Officers' Retirement System; [and]

(4) an individual serving as a correctional dietary, maintenance, **LAUNDRY,** or supply officer**; AND**

(5) AN INDIVIDUAL SERVING AS A MARYLAND CORRECTIONAL ENTERPRISES OFFICER, OFFICER TRAINEE, PLANT SUPERVISOR, PLANT MANAGER, OR REGIONAL MANAGER.

(b) This subtitle does not apply to:

(1) an employee of the Baltimore City Jail as of June 30, 1991, who:

(i) became an employee of the Baltimore City Detention Center on July 1, 1991; and

(ii) did not elect to become a member of the Correctional Officers' Retirement System on that date; or

(2) a detention center officer employed by a participating governmental unit as a local detention center officer on the effective date of participation on or after July 1, 2006, who did not elect to become a member of the Correctional Officers' Retirement System within 6 months of the effective date of participation.

25–401.

(a) A member may retire with a normal service retirement allowance if:

(1) on or before the date of retirement, the member has at least 20 years of eligibility service;

(2) for at least 5 years immediately before retirement, the member was:

(i) a security attendant at Clifton T. Perkins Hospital Center;

(ii) a correctional officer in any of the first six job classifications;

(iii) a detention center officer employed by a participating governmental unit that has elected to participate in the Correctional Officers' Retirement System;

(iv) an individual serving as a correctional dietary, maintenance, **LAUNDRY,** or supply officer;

(V) AN INDIVIDUAL SERVING AS A MARYLAND CORRECTIONAL ENTERPRISES OFFICER, OFFICER TRAINEE, PLANT SUPERVISOR, PLANT MANAGER, OR REGIONAL MANAGER; or

[(v)**] (VI)** in a combination of these positions; and

(3) the member completes and submits a written application to the Board of Trustees stating the date when the member desires to retire.

(b) On retirement under this section, a member is entitled to receive a normal service retirement allowance that equals one fifty–fifth of the member's average final compensation multiplied by the number of years of creditable service.

29–302.

(c) A vested allowance is a deferred allowance starting at:

(1) normal retirement age for members of:

(i) the Employees' Retirement System;

(ii) the State Police Retirement System; and

(iii) the Teachers' Retirement System;

(2) age 55 for a member of the Correctional Officers' Retirement System who is:

(i) a correctional officer in the first six job classifications;

(ii) a detention center officer employed by a participating governmental unit who has elected to participate in the Correctional Officers' Retirement System; **[**or**]**

(iii) an individual serving as a correctional dietary, maintenance, **LAUNDRY,** or supply officer; or

(IV) AN INDIVIDUAL SERVING AS A MARYLAND CORRECTIONAL ENTERPRISES OFFICER, OFFICER TRAINEE, PLANT SUPERVISOR, PLANT MANAGER, OR REGIONAL MANAGER; OR

(3) age 60 for a member of the Correctional Officers' Retirement System who is a maximum security attendant at the Clifton T. Perkins Hospital Center.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This section applies to an individual who is:

(1) a correctional laundry officer; or

(2) serving as a Maryland Correctional Enterprises officer, officer trainee, plant supervisor, plant manager, or regional manager.

(b) The transfer of creditable service for an individual described in subsection (a) of this section who is a member of either the Employees' Retirement System or Employees' Pension System on June 30, 2008, who transfers to the Correctional Officers' Retirement System under this Act, is not governed by Title 37 of the State Personnel and Pensions Article.

(c) The Board of Trustees shall transfer the total member contributions to the individual's credit in either the Employees' Retirement System or Employees' Pension System, plus regular interest, to the annuity savings fund of the Correctional Officers' Retirement System.

(d) (1) (i) This section applies to an individual who, on June 30, 2008, is:

1. a correctional laundry officer; or

2. serving as a Maryland Correctional Enterprises officer, officer trainee, plant supervisor, plant manager, or regional manager;

(ii) transfers to the Correctional Officers' Retirement System under this Act; and

(iii) at the time of transferring to the Correctional Officers' Retirement System is a member of the Employees' Retirement System making member contributions at the rate of 7% of the individual's earnable compensation.

(2) An individual described under paragraph (1) of this subsection shall receive the difference between the member contributions at the rate provided for in the Correctional Officers' Retirement System, including interest on those contributions, and the total accumulated member contributions to the individual's credit, plus interest on those contributions, in the annuity savings fund of the Employees' Retirement System.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 409

(House Bill 554)

AN ACT concerning

~~Correctional Officers' Retirement System – Membership~~
State Retirement and Pension System – Membership and System Study

FOR the purpose of altering certain criteria for consideration by a certain actuarial consulting firm for a certain study of the State Retirement and Pension System; altering the membership of the Correctional Officers' Retirement System; providing that certain members of the Correctional Officers' Retirement System may receive a normal service retirement or a deferred vested retirement allowance under certain circumstances; requiring the transfer of certain member contributions to the annuity savings fund of the Correctional Officers' Retirement System; providing for a refund of certain member contributions under certain circumstances; providing that certain transfers of credit between the Employees' Retirement and Pension Systems and the Correctional Officers' Retirement System are not governed by certain provisions of law; and generally relating to membership in the Correctional Officers' Retirement System and a study of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–125.1, 25–201, 25–401, and 29–302(c)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

21–125.1.

(a) Beginning on or before September 1, 2008, and every 5 years thereafter, the Joint Committee on Pensions shall commission an actuarial consulting firm to conduct a study of the several systems in addition to the actuarial investigation and valuation performed by the actuary under § 21–125 of this subtitle and a comparison of the several systems with other similarly situated public pension plans.

(b) The actuarial consulting firm shall consider the following issues with regard to the several systems and other similarly situated public pension plans:

(1) the funding status of the State Retirement and Pension System, including its current unfunded accrued liability;

(2) the composition of the several systems, including:

(i) the number of active members, retirees, disability retirees, and beneficiaries of all retirees;

(ii) the average annual salaries of the active members in the various plans in the State Retirement and Pension System;

(iii) the average annual benefits of the retirees and beneficiaries of the State Retirement and Pension System; and

(iv) the average [age] **AGE, LIFE EXPECTANCY,** and years of service of active members retiring from the various plans in the State Retirement and Pension System; and

(3) the benefit levels provided by the various State systems, including a comparison of member contribution rates and the accrual rates.

(c) The findings of the actuarial consulting firm shall be submitted to the Joint Committee on Pensions on or before December 31, of the year of study, in accordance with § 2–1246 of the State Government Article.

25–201.

(a) Except as provided in subsection (b) of this section, this subtitle applies only to:

(1) correctional officers serving in any of the first six job classifications;

(2) security attendants at Clifton T. Perkins Hospital Center;

(3) a detention center officer employed by a participating governmental unit that on or after July 1, 2006, has elected to participate in the Correctional Officers' Retirement System; [and]

(4) an individual serving as a correctional dietary, maintenance, **LAUNDRY,** or supply officer**; AND**

(5) AN INDIVIDUAL SERVING AS A MARYLAND CORRECTIONAL ENTERPRISES OFFICER, OFFICER TRAINEE, PLANT SUPERVISOR, PLANT MANAGER, OR REGIONAL MANAGER.

(b) This subtitle does not apply to:

(1) an employee of the Baltimore City Jail as of June 30, 1991, who:

(i) became an employee of the Baltimore City Detention Center on July 1, 1991; and

(ii) did not elect to become a member of the Correctional Officers' Retirement System on that date; or

(2) a detention center officer employed by a participating governmental unit as a local detention center officer on the effective date of participation on or after July 1, 2006, who did not elect to become a member of the Correctional Officers' Retirement System within 6 months of the effective date of participation.

25–401.

(a) A member may retire with a normal service retirement allowance if:

(1) on or before the date of retirement, the member has at least 20 years of eligibility service;

(2) for at least 5 years immediately before retirement, the member was:

(i) a security attendant at Clifton T. Perkins Hospital Center;

(ii) a correctional officer in any of the first six job classifications;

(iii) a detention center officer employed by a participating governmental unit that has elected to participate in the Correctional Officers' Retirement System;

(iv) an individual serving as a correctional dietary, maintenance, **LAUNDRY,** or supply officer;

(V) AN INDIVIDUAL SERVING AS A MARYLAND CORRECTIONAL ENTERPRISES OFFICER, OFFICER TRAINEE, PLANT SUPERVISOR, PLANT MANAGER, OR REGIONAL MANAGER; or

[(v)**] (VI)** in a combination of these positions; and

(3) the member completes and submits a written application to the Board of Trustees stating the date when the member desires to retire.

(b) On retirement under this section, a member is entitled to receive a normal service retirement allowance that equals one fifty–fifth of the member's average final compensation multiplied by the number of years of creditable service.

29–302.

(c) A vested allowance is a deferred allowance starting at:

(1) normal retirement age for members of:

(i) the Employees' Retirement System;

(ii) the State Police Retirement System; and

(iii) the Teachers' Retirement System;

(2) age 55 for a member of the Correctional Officers' Retirement System who is:

(i) a correctional officer in the first six job classifications;

(ii) a detention center officer employed by a participating governmental unit who has elected to participate in the Correctional Officers' Retirement System; **[**or**]**

(iii) an individual serving as a correctional dietary, maintenance, **LAUNDRY,** or supply officer; or

(IV) AN INDIVIDUAL SERVING AS A MARYLAND CORRECTIONAL ENTERPRISES OFFICER, OFFICER TRAINEE, PLANT SUPERVISOR, PLANT MANAGER, OR REGIONAL MANAGER; OR

(3) age 60 for a member of the Correctional Officers' Retirement System who is a maximum security attendant at the Clifton T. Perkins Hospital Center.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This section applies to an individual who is:

(1) a correctional laundry officer; or

(2) serving as a Maryland Correctional Enterprises officer, officer trainee, plant supervisor, plant manager, or regional manager.

(b) The transfer of creditable service for an individual described in subsection (a) of this section who is a member of either the Employees' Retirement System or Employees' Pension System on June 30, 2008, who transfers to the Correctional Officers' Retirement System under this Act, is not governed by Title 37 of the State Personnel and Pensions Article.

(c) The Board of Trustees shall transfer the total member contributions to the individual's credit in either the Employees' Retirement System or Employees' Pension System, plus regular interest, to the annuity savings fund of the Correctional Officers' Retirement System.

(d) (1) (i) This section applies to an individual who, on June 30, 2008, is:

1. a correctional laundry officer; or

2. serving as a Maryland Correctional Enterprises officer, officer trainee, plant supervisor, plant manager, or regional manager;

(ii) transfers to the Correctional Officers' Retirement System under this Act; and

(iii) at the time of transferring to the Correctional Officers' Retirement System is a member of the Employees' Retirement System making member contributions at the rate of 7% of the individual's earnable compensation.

(2) An individual described under paragraph (1) of this subsection shall receive the difference between the member contributions at the rate provided for in the Correctional Officers' Retirement System, including interest on those contributions, and the total accumulated member contributions to the individual's credit, plus interest on those contributions, in the annuity savings fund of the Employees' Retirement System.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 410

(Senate Bill 493)

AN ACT concerning

Lawyers – Payment of Taxes and Unemployment Insurance Contributions

FOR the purpose of repealing a requirement that the Client Protection Fund verify that a lawyer has paid or provided for payment of all undisputed taxes and unemployment insurance contributions before accepting a certain annual fee from the lawyer; requiring the Fund to provide a certain list of lawyers to the Comptroller; authorizing the Comptroller to take certain action if the Comptroller determines that a lawyer has not paid certain taxes and unemployment insurance contributions and the lawyer does not make payment or provide for payment in a certain manner within a certain time after receiving notice from the Comptroller; and generally relating to verifying that certain lawyers have paid or provided for payment of all undisputed taxes and unemployment insurance contributions.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 10–313
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 3 of the Acts of the General Assembly of the 2007 Special Session)

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

Article – Business Occupations and Professions

10–313.

(a) By August 31 of each year, the Fund shall provide **[**to the Department of Assessments and Taxation**]** a list of lawyers who have paid an annual fee to the Fund during the previous fiscal year**[**,**]** **TO:**

(1) THE DEPARTMENT OF ASSESSMENTS AND TAXATION, to assist the Department **[**of Assessments and Taxation**]** in identifying new businesses within the State**; AND**

(2) THE COMPTROLLER, TO ASSIST THE COMPTROLLER IN DETERMINING WHETHER EACH LAWYER ON THE LIST HAS PAID ALL UNDISPUTED TAXES AND UNEMPLOYMENT INSURANCE CONTRIBUTIONS PAYABLE TO THE COMPTROLLER OR THE SECRETARY OF LABOR, LICENSING, AND REGULATION.

(b) The list provided under this section shall:

(1) be provided free of charge; and

(2) include, for each person on the list:

(i) the name and mailing address of the person; and

(ii) the federal tax identification number of the person or, if the person does not have a federal tax identification number, the Social Security number of the person.

(c) **[**Before any annual fee required under this part is accepted from a lawyer and is deemed paid, the Fund shall verify through the office of the Comptroller that the lawyer has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor, Licensing, and Regulation or that the lawyer has provided for payment in a manner satisfactory to the unit responsible for collection.**] IF THE COMPTROLLER DETERMINES THAT A LAWYER HAS NOT PAID ALL UNDISPUTED TAXES AND UNEMPLOYMENT INSURANCE CONTRIBUTIONS PAYABLE TO THE COMPTROLLER OR THE SECRETARY OF LABOR, LICENSING, AND REGULATION AND THE LAWYER DOES NOT MAKE PAYMENT OR PROVIDE FOR PAYMENT IN A MANNER SATISFACTORY TO THE UNIT RESPONSIBLE FOR COLLECTION WITHIN 60 DAYS AFTER RECEIVING NOTICE OF THE DELINQUENCY FROM THE COMPTROLLER, OR WITHIN ANY LONGER PERIOD AUTHORIZED FOR GOOD CAUSE BY THE UNIT RESPONSIBLE FOR COLLECTION, THE COMPTROLLER MAY REFER THE MATTER TO BAR COUNSEL UNDER MARYLAND RULE 16–731.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 411

(Senate Bill 506)

AN ACT concerning

Task Force on the Preservation of Heritage Language Skills in Maryland

FOR the purpose of establishing a Task Force on the Preservation of *Heritage* Language Skills in Maryland; providing for the membership and duties of the Task Force; ~~requiring the election~~ providing for the selection of a chair of the Task Force; requiring the State Department of Education to provide staff for the Task Force; prohibiting members of the Task Force from receiving certain compensation; authorizing a member to receive certain reimbursement; 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; requiring the Task Force to continue to advise the Governor and the General Assembly on certain matters until a certain time; and generally relating to the Task Force on the Preservation of Heritage Language Skills in Maryland.

Preamble

WHEREAS, While it is important for new Americans to learn and master English, there is also a critical shortage of Americans proficient in languages other than English; and

WHEREAS, The need for world language skills is increasingly important in national security, defense, education, and in maintaining a competitive edge in business and trade; and

WHEREAS, The language fluency level required for success in national security and in a global economy often far exceeds that previously considered sufficient; and

WHEREAS, Since business partners in Maryland's top foreign export markets speak over a dozen different languages, including Arabic, Spanish, German, Italian, French, Russian, Chinese, Japanese, and Korean, better command of those and other international trading languages is essential to furthering commerce and enhancing Maryland's economic health; and

WHEREAS, Native English speakers in traditional American academic programs generally do not study foreign languages for extensive periods; and

WHEREAS, Of those native English speakers who study the most difficult, high–interest languages, few reach the federal standard for "limited proficiency level,"

with only 9% attaining limited proficiency in listening, 11% in speaking, and 35% in reading, and many fewer ever become proficient at the federal "professional" standard; and

WHEREAS, Maryland's heritage language speakers, descendants of immigrants to Maryland, who are raised in homes in which foreign languages are spoken but are educated in English, comprise a valuable and vastly underutilized linguistic resource for the United States; and

WHEREAS, According to figures from the U.S. Census Bureau's Current Population Survey of 2005, more than 735,000 individuals in Maryland who are at least 6 years old, or nearly 14.5% of the State's population, speak foreign languages at home; and

WHEREAS, Students in Maryland public school systems speak at least 150 different languages; and

WHEREAS, Among the State's heritage language speakers, many are fluent in languages of high interest for national security, defense, business, and trade industries, including more than 12,000 speakers of Persian, nearly 9,000 speakers of Urdu, more than 8,000 speakers of Arabic, nearly 49,000 speakers of Chinese, nearly 34,000 speakers of Korean, nearly 15,000 speakers of Hindi, and more than 19,000 speakers of Russian; and

WHEREAS, Such valuable heritage language skills tend to diminish rapidly as individuals and families are assimilated; and

WHEREAS, The speakers of heritage languages ought to be encouraged and assisted in maintaining, developing, and improving their native language abilities while improving their English skills; and

WHEREAS, Because the United Nations General Assembly has proclaimed 2008 the International Year of Languages, promoting diversity and international understanding worldwide, it is a particularly good time to make full use of the many and varied language resources in our State; now, therefore,

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

(a) There is a Task Force on the Preservation of Heritage Language Skills in Maryland.

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

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

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Business and Economic Development, or the Secretary's designee;

(4) the Secretary of Education, or the Secretary's designee;

(5) the Secretary of Human Resources, or the Secretary's designee;

(6) the Secretary of the Maryland Higher Education Commission, or the Secretary's designee;

(7) the Executive Director of the Governor's Office of Community Initiatives, or the Executive Director's designee;

~~(7)~~ (8) the following eight members, appointed by the Secretary of Education:

(i) four members from the business community, including representatives of the Fort Meade Alliance and the Maryland Chamber of Commerce, or similar organizations; and

(ii) four members who are familiar with heritage language programs and who are members of ethnic community groups;

~~(8)~~ (9) the following three members as representatives of the University System of Maryland:

(i) one representative of the National Foreign Language Center at the University of Maryland; and

(ii) two other members to be designated by the Chancellor of the University System of Maryland; and

~~(9)~~ (10) one member who is a representative of Maryland community colleges, appointed by the Maryland Association of Community Colleges.

~~(c) The Task Force shall elect a chair from among its members.~~

(c) The President of the Senate and the Speaker of the House shall jointly select the chair of the Task Force from among its members.

(d) The State Department of Education shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) study methods of advancing and preserving heritage language skills in Maryland;

(2) consult with educators and other experts in the field of world language training and development;

(3) review and identify the best practices of heritage language programs that are being or will be conducted by government, schools, community groups, religious groups, and ethnic groups in the State, across the U.S., and internationally;

(4) compile data on the number of actual and potential heritage language speakers in Maryland;

(5) develop a process to identify priority heritage languages that is flexible enough to meet current and future national security and international business requirements;

(6) consider new, cost–effective, and innovative ways to encourage and facilitate heritage language learning while also encouraging new citizens of the U.S. to learn and master English; and

(7) recommend actions and programs that ensure maximum preservation of heritage language skills and identify measures of success for each.

(g) On or before January 1, 2009, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(h) The Task Force shall continue to advise the Governor and the General Assembly on the implementation of its recommendations until this Act is abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of 1 year and 1 month and, at the end of July 31, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 412

(House Bill 610)

AN ACT concerning

Task Force on the Preservation of Heritage Language Skills in Maryland

FOR the purpose of establishing a Task Force on the Preservation of Heritage Language Skills in Maryland; providing for the membership and duties of the Task Force; ~~requiring the election~~ providing for the selection of a chair of the Task Force; requiring the State Department of Education to provide staff for the Task Force; prohibiting members of the Task Force from receiving certain compensation; authorizing a member to receive certain reimbursement; 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; requiring the Task Force to continue to advise the Governor and the General Assembly on certain matters until a certain time; and generally relating to the Task Force on the Preservation of Heritage Language Skills in Maryland.

Preamble

WHEREAS, While it is important for new Americans to learn and master English, there is also a critical shortage of Americans proficient in languages other than English; and

WHEREAS, The need for world language skills is increasingly important in national security, defense, education, and in maintaining a competitive edge in business and trade; and

WHEREAS, The language fluency level required for success in national security and in a global economy often far exceeds that previously considered sufficient; and

WHEREAS, Native English speakers in traditional American academic programs generally do not study foreign languages for extensive periods; and

WHEREAS, Of those native English speakers who study the most difficult, high–interest languages, few reach the federal standard for "limited proficiency level," with only 9% attaining limited proficiency in listening, 11% in speaking, and 35% in reading, and many fewer ever become proficient at the federal "professional" standard; and

WHEREAS, Maryland's heritage language speakers, descendants of immigrants to Maryland, who are raised in homes in which foreign languages are spoken but are educated in English, comprise a valuable and vastly underutilized linguistic resource for the United States; and

WHEREAS, According to figures from the U.S. Census Bureau's Current Population Survey of 2005, more than 735,000 individuals in Maryland who are at least 6 years old, or nearly 14.5% of the State's population, speak foreign languages at home; and

WHEREAS, Students in Maryland public school systems speak at least 150 different languages; and

WHEREAS, Among the State's heritage language speakers, many are fluent in languages of high interest for national security, defense, business, and trade industries, including more than 12,000 speakers of Persian, nearly 9,000 speakers of Urdu, more than 8,000 speakers of Arabic, nearly 49,000 speakers of Chinese, nearly 34,000 speakers of Korean, nearly 15,000 speakers of Hindi, and more than 19,000 speakers of Russian; and

WHEREAS, Such valuable heritage language skills tend to diminish rapidly as individuals and families are assimilated; and

WHEREAS, The speakers of heritage languages ought to be encouraged and assisted in maintaining, developing, and improving their native language abilities while improving their English skills; and

WHEREAS, Because the United Nations General Assembly has proclaimed 2008 the International Year of Languages, promoting diversity and international understanding worldwide, it is a particularly good time to make full use of the many and varied language resources in our State; now, therefore,

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

(a) There is a Task Force on the Preservation of Heritage Language Skills in Maryland.

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

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

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Business and Economic Development, or the Secretary's designee;

(4) the Secretary of Education, or the Secretary's designee;

(5) the Secretary of Human Resources, or the Secretary's designee;

(6) the Secretary of the Maryland Higher Education Commission, or the Secretary's designee;

(7) the Executive Director of the Governor's Office of Community Initiatives, or the Executive Director's designee;

~~(7)~~ (8) the following eight members, appointed by the Secretary of Education:

(i) four members from the business community, including representatives of the Fort Meade Alliance and the Maryland Chamber of Commerce, or similar organizations; and

(ii) four members who are familiar with heritage language programs and who are members of ethnic community groups; ~~and~~

~~(8)~~ (9) the following three members as representatives of the University System of Maryland:

(i) one representative of the National Foreign Language Center; and

(ii) two other members to be designated by the Chancellor of the University System of Maryland; and

(10) one member who is a representative of Maryland community colleges, appointed by the Maryland Association of Community Colleges.

~~(c) The Task Force shall elect a chair from among its members.~~

(c) The President of the Senate and the Speaker of the House shall jointly select the chair of the Task Force from among its members.

(d) The State Department of Education shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) study methods of advancing and preserving heritage language skills in Maryland;

(2) consult with educators and other experts in the field of world language training and development;

(3) review and identify the best practices of heritage language programs that are being or will be conducted by government, schools, community groups, religious groups, and ethnic groups in the State, across the U.S., and internationally;

(4) compile data on the number of actual and potential heritage language speakers in Maryland;

(5) develop a process to identify priority heritage languages that is flexible enough to meet current and future national security and international business requirements;

(6) consider new, cost–effective, and innovative ways to encourage and facilitate heritage language learning while also encouraging new citizens of the U.S. to learn and master English; and

(7) recommend actions and programs that ensure maximum preservation of heritage language skills and identify measures of success for each.

(g) On or before January 1, 2009, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(h) The Task Force shall continue to advise the Governor and the General Assembly on the implementation of its recommendations until this Act is abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of 1 year and 1 month and, at the end of July 31, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 413

(Senate Bill 514)

AN ACT concerning

State Board of Law Examiners – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Law Examiners 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; increasing the maximum Bar examination fee that the Court of Appeals may impose on an applicant; ~~requiring the Court of Appeals to implement the initial increase of certain fees in a certain manner; requiring the Court of Appeals to report to certain committees of the General Assembly on or before a certain date;~~ *stating the intent of the General Assembly concerning certain fee revenue and certain expenditures;* and generally relating to the State Board of Law Examiners.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 10–208 and 10–218
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(38)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – Business Occupations and Professions

10–208.

(a) An applicant for admission to the Bar shall submit to the Board a petition to the Court of Appeals on the form that the Board provides.

(b) An applicant shall pay to the Board:

(1) an examination fee ~~not exceeding~~ **[**~~$150~~**] $400**, as set by the Court of Appeals***, NOT EXCEEDING:***

(I) $250 FOR FISCAL YEAR 2009; AND

(II) $400 FOR FISCAL YEAR 2010 AND THEREAFTER; and

(2) any other fee set by the Court of Appeals.

10–218.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this subtitle shall terminate and be of no effect after July 1, **[**2010**] 2020**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(38) Law Examiners, State Board of (§ 10–201 of the Business Occupations and Professions Article: July 1, **[**2009**] 2019**);

~~SECTION 2. AND BE IT FURTHER ENACTED, That the initial increase in the Bar examination fee, authorized under Section 1 of this Act, shall be limited to an amount that will allow the State Board of Law Examiners to cover expenses associated with the administration of the Bar examination. To ensure that expenses associated with the State Board of Law Examiners are covered by fee revenue, the Court of Appeals shall increase other fees, such as application fees.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Court of Appeals shall phase in subsequent increases in fees established by the Court of Appeals and associated with the State Board of Law Examiners in a manner such that fee revenues of the Board recover at least 90 percent of its operating costs in fiscal 2014.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That, on or before October 1, 2008, the Court of Appeals shall report to the Senate Judicial Proceedings Committee and the House Judiciary Committee, in accordance with § 2–1246 of the State Government Article, on a plan to increase fees and generate fee revenue for the general fund sufficient to cover the expenditures associated with the State Board of Law Examiners.~~

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the expenditures associated with the State Board of Law Examiners be covered by fee revenue to the extent possible.

SECTION ~~5.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 414

(Senate Bill 527)

AN ACT concerning

Spending Mandate and Revenue Dedication Relief Act

FOR the purpose of altering a requirement that the State budget include a certain appropriation to pay rent to counties for certain space occupied by clerks of the circuit courts; ~~altering the calculation of certain State aid to private institutions of higher education;~~ altering the calculation of certain State aid to libraries; repealing a requirement that the Governor provide funds in the budget in a certain amount for a certain interagency pool of funds to provide certain services; altering the distribution of the motor fuel tax revenue for *a* certain fiscal ~~years~~ *year*; altering the distribution of the sales and use tax revenue for certain fiscal years; *requiring the Governor to appropriate at least a certain amount before a certain date for the purchase of certain helicopters;* and generally relating to certain State spending mandates and dedicated revenues.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 1–504
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section ~~17–104(a), 23–205(c),~~ 23–205(c) and 23–503(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–139(c) and (d)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 2–1104~~,~~ *and* 2–1302.1~~, and 2–1302.2~~
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 6 of the Acts of the General Assembly of the 2007 Special Session)

BY repealing and reenacting, with amendments,
Chapter 6 of the Acts of the General Assembly of the 2007 Special Session
Section 6

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

Article – Courts and Judicial Proceedings

1–504.

(a) **[**There**]** **THE CHIEF JUDGE OF THE COURT OF APPEALS** shall **CERTIFY TO THE GOVERNOR FOR INCLUSION WITHOUT REVISION** **[**be included**]** in each State budget an appropriation **[**to the Department of General Services in the total amount necessary**]** **NOT TO EXCEED $500,000** to pay rent directly to counties for space occupied in county facilities by clerks of the circuit courts, as provided in this section.

(b) To the extent provided in the State budget the rent shall be calculated per net usable square foot, with no additional reimbursement of maintenance and utility cost**[**:

(1) For fiscal year 2007, at a rate not to exceed $2.50;

(2) For fiscal year 2008, at a rate not to exceed $5.00; and

(3) For fiscal year 2009 and each fiscal year thereafter, at a rate of $10**]**.

(c) Unless the Administrative Office of the Courts and a county agree otherwise, the county may not decrease the net usable square footage allocated to the clerk of the circuit court for the county below the net usable square footage allotted for fiscal year 2002.

Article – Education

~~17–104.~~

~~(a) The Maryland Higher Education Commission shall compute the amount of the annual apportionment for each institution that qualifies under this subtitle by multiplying:~~

~~(1) The number of full–time equivalent students enrolled at the institution during the fall semester of the fiscal year preceding the fiscal year for which the aid apportionment is made, as determined by the Maryland Higher Education Commission times;~~

~~(2) (i) In each of fiscal years 2003 and 2004, an amount not less than 14.3% of the State's General Fund per full–time equivalent student appropriation~~

~~to the 4–year public institutions of higher education in this State for the preceding fiscal year;~~

~~(ii) In fiscal year 2005, an amount not less than 15.2% of the State's General Fund per full–time equivalent student appropriation to the 4–year public institutions of higher education in this State for the preceding fiscal year;~~ **[**and**]**

~~**(III) IN FISCAL YEAR 2009, AN AMOUNT EQUAL TO $56,051,065;**~~

~~**(IV) IN FISCAL YEAR 2010, AN AMOUNT NOT LESS THAN 15.25% OF THE STATE'S GENERAL FUND PER FULL–TIME EQUIVALENT STUDENT APPROPRIATION TO THE 4–YEAR PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THIS STATE FOR THE PRECEDING FISCAL YEAR; AND**~~

[(iii)**] (V)** ~~In fiscal year~~ **[**2006**] 2011** ~~and each fiscal year thereafter, an amount not less than 16% of the State's General Fund per full–time equivalent student appropriation to the 4–year public institutions of higher education in this State for the preceding fiscal year.~~

23–205.

(c) (1) Each year each participating regional resource center shall receive a minimum amount of funding for each resident of the area served, to be used for operating and capital expenses.

(2) The allocation shall be calculated as follows:

(i) For fiscal year 2006.....$4.50 per each resident of the area served;

(ii) For fiscal year 2007.....$5.50 per each resident of the area served;

(iii) For fiscal year 2008.....$6.50 per each resident of the area served;

(iv) For fiscal year 2009.....**[**$7.50**] $6.50** per each resident of the area served; **[**and**]**

(v) **FOR FISCAL YEAR 2010.....$7.50 PER EACH RESIDENT OF THE AREA SERVED; AND**

(VI) For fiscal year **[**2010**]** **2011** and each fiscal year thereafter..... $8.50 per each resident of the area served.

23–503.

(b) (1) Each county public library system that participates in the minimum library program shall be provided for each resident of the county, to be used for operating and capital expenses:

(i) For fiscal year 2006 – $12.00;

(ii) For fiscal year 2007 – $13.00;

(iii) For fiscal year 2008 – $14.00;

(iv) For fiscal year 2009 – **[**$15.00; and**]** **$14.00;**

(v) For fiscal year 2010 **– $15.00; AND**

(VI) FOR FISCAL YEAR 2011 and each fiscal year thereafter – $16.00.

(2) (i) The State shall share in this amount.

(ii) Any county may provide an amount greater than its share under the cooperative program, but the State may not share in the excess.

Article – Health – General

15–139.

(c) (1) For **[**fiscal year 2004 and each subsequent**]** **EACH** fiscal year, the Governor **[**shall**]** **MAY** provide funds in the budget for the Children's Cabinet Fund established under Title 8, Subtitle 5 of the Human Services Article **[**in an amount equal to the amount of federal funds received under subsection (a) of this section during the most recently completed fiscal year:

(i) Less any administrative costs incurred by the Department, the Department of Juvenile Services, and the Department of Human Resources in implementing the programs required under this section; and

(ii) Subject to adjustment in accordance with subsection (e) of this section.

(2) The funds provided under paragraph (1) of this subsection shall**], TO** be used by the Children's Cabinet to create an interagency pool of funds to provide services to children with disabilities.

[(3)**] (2)** The pool of interagency funds established under this subsection shall be used to fund the community–based services and community–based out–of–home placements needed by children with mental or developmental disabilities not in State custody, regardless of eligibility for the State Medical Assistance Program, if:

(i) The child is in an out–of–home placement and has been recommended for discharge but the child's family is unwilling or unable to have the child return home; or

(ii) The child remains in the home but the child's family is unable to provide appropriate care for the child without additional services and the child is either at risk of requiring an out–of–home placement or the treating professionals have recommended an out–of–home placement.

(d) (1) The Governor's Office for Children, Youth, and Families shall adopt regulations to carry out the provisions of subsection **[**(c)(3)**] (C)(2)** of this section.

Article – Tax – General

2–1104.

(A) **[**After**] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AFTER** making the distributions required under §§ 2–1101 through 2–1103 of this subtitle, from the remaining motor fuel tax revenue, the Comptroller shall distribute:

(1) 2.3% to the Chesapeake Bay 2010 Trust Fund; and

(2) any remaining balance to the Gasoline and Motor Vehicle Revenue Account of the Transportation Trust Fund.

(B) FOR ~~EACH OF THE FISCAL YEARS~~ *THE FISCAL YEAR* BEGINNING JULY 1, 2008, ~~AND JULY 1, 2009,~~ INSTEAD OF THE DISTRIBUTION REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION, THE COMPTROLLER SHALL DISTRIBUTE 2.3% OF THE REMAINING MOTOR FUEL TAX REVENUE AS FOLLOWS:

(1) $6,500,000 TO THE GENERAL FUND OF THE STATE; AND

(2) THE BALANCE TO THE CHESAPEAKE BAY 2010 TRUST FUND.

2–1302.1.

(A) [After] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AFTER** making the distributions required under §§ 2–1301 and 2–1302 of this subtitle, of the sales and use tax collected on short–term vehicle rentals under § 11–104(c) of this article the Comptroller shall distribute:

(1) 45% to the Transportation Trust Fund established under § 3–216 of the Transportation Article; and

(2) the remainder to the Chesapeake Bay 2010 Trust Fund.

(B) FOR ~~EACH OF THE FISCAL YEARS~~ *THE FISCAL YEAR* BEGINNING JULY 1, 2008, ~~AND JULY 1, 2009,~~ AFTER THE DISTRIBUTION REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION, THE COMPTROLLER SHALL DISTRIBUTE THE REMAINDER OF THE SALES AND USE TAX COLLECTED ON SHORT–TERM VEHICLE RENTALS UNDER § 11–104(C) OF THIS ARTICLE AS FOLLOWS:

(1) $18,500,000 TO THE GENERAL FUND OF THE STATE; AND

(2) THE REMAINDER TO THE CHESAPEAKE BAY 2010 TRUST FUND.

~~2–1302.2.~~

~~**(A)** [After] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AFTER** making the distributions required under §§ 2–1301 through 2–1302.1 of this subtitle, the Comptroller shall pay 6.5% of the remaining sales and use tax revenue into the Transportation Trust Fund established under § 3–216 of the Transportation Article.~~

~~**(B) FOR EACH OF THE FISCAL YEARS BEGINNING JULY 1, 2008, AND JULY 1, 2009, THE COMPTROLLER SHALL DEDUCT FROM THE AMOUNT SPECIFIED TO BE DISTRIBUTED TO THE TRANSPORTATION TRUST FUND UNDER SUBSECTION (A) OF THIS SECTION AND DISTRIBUTE TO THE STATE POLICE HELICOPTER REPLACEMENT FUND ESTABLISHED UNDER § 2–801 OF THE PUBLIC SAFETY ARTICLE AN AMOUNT EQUAL TO $35,000,000.**~~

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

Chapter 6 of the Acts of the 2007 Special Session

SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, from the sales and use tax revenue collected from January 1, 2008, through the end of June 30, 2008, the Comptroller shall distribute **[**$110,000,000**]** **$50,000,000** to the State Police Helicopter Replacement Fund established under § 2–801 of the Public Safety Article. It is the intent of the General Assembly that the Governor include in the annual budget bill in fiscal years 2009 through 2012, an amount sufficient from the Fund, to purchase 3 helicopters each fiscal year. It is the further intent of the General Assembly that the State Police purchase a flight simulator to use for helicopter pilot training.

SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law:

(a) To replace funds diverted from the State Police Helicopter Replacement Fund as provided in Section 2 of this Act, from the revenues collected from the sales and use tax, the Governor shall appropriate in the State budgets for fiscal 2010, fiscal 2011, and fiscal 2012, amounts totaling in the aggregate at least $70,000,000 for the purchase of Med–Evac helicopters, on a schedule compatible with procurement of 12 helicopters on or before June 30, 2012. The appropriations required under this section may be made from any budgetary fund to which proceeds of the sales and use tax are credited.

(b) The amount required to be appropriated under subsection (a) of this section shall be reduced on a dollar for dollar basis by:

(1) The amount that capital debt is authorized before June 30, 2012, to purchase Med–Evac helicopters; or

(2) Contributions, transfers, or other financing acquired from the Maryland Automobile Insurance Fund for the procurement of Med–Evac helicopters, as authorized by an Act of the General Assembly.

SECTION ~~2.~~ ~~3.~~ *4.* AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect July 1, 2008.

SECTION ~~4.~~ *5.* AND BE IT FURTHER ENACTED, That, except as provided in Section ~~3~~ *4* of this Act, this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 415

(Senate Bill 531)

AN ACT concerning

Courts – Immunity from Liability – Leaving Unharmed Newborn – Time Period

FOR the purpose of altering the time period within which a person may leave an unharmed newborn with a responsible adult and be immune from civil liability or criminal prosecution for the act; and generally relating to immunity from liability for leaving an unharmed newborn with a responsible adult.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–641(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Courts and Judicial Proceedings

5–641.

(a) (1) A person who leaves an unharmed newborn with a responsible adult within **[**3**]** **10** days after the birth of the newborn, as determined within a reasonable degree of medical certainty, and does not express an intent to return for the newborn shall be immune from civil liability or criminal prosecution for the act.

(2) If the person leaving a newborn under this subsection is not the mother of the newborn, the person shall have the approval of the mother to do so.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 416

(House Bill 1394)

AN ACT concerning

Courts – Immunity from Liability – Leaving Unharmed Newborn – Time Period

FOR the purpose of altering the time period within which a person may leave an unharmed newborn with a responsible adult and be immune from civil liability or criminal prosecution for the act; and generally relating to immunity from liability for leaving an unharmed newborn with a responsible adult.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–641(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Courts and Judicial Proceedings

5–641.

(a) (1) A person who leaves an unharmed newborn with a responsible adult within **[**3**]** **10** days after the birth of the newborn, as determined within a reasonable degree of medical certainty, and does not express an intent to return for the newborn shall be immune from civil liability or criminal prosecution for the act.

(2) If the person leaving a newborn under this subsection is not the mother of the newborn, the person shall have the approval of the mother to do so.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 417

(Senate Bill 540)

AN ACT concerning

~~Central Collection Unit –~~ Transfer of Special Fund Balances

FOR the purpose of ~~providing that certain balances in the Central Collection Fund at the end of each fiscal year revert to the General Fund; authorizing~~ requiring the Governor to transfer to the General Fund certain amounts from ~~the Central Collection Fund~~ certain special funds for a certain fiscal year; repealing the Joseph Fund Account within the State Reserve Fund, the Joseph Fund Board, and related provisions of law; requiring that certain balances in the Joseph Fund Account be transferred to a certain special fund; ~~providing for the application of certain provisions of this Act;~~ and generally relating to the ~~Central Collection Fund~~ transfer of certain special fund balances to certain funds.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section ~~3–306 and~~ 7–309(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing
Article – State Finance and Procurement
Section 7–327
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

~~Article – State Finance and Procurement~~

~~3–306.~~

~~(a) There is a Central Collection Fund.~~

~~(b) The Central Collection Fund is a continuing, nonlapsing fund that is not subject to § 7–302 of this article.~~

~~(c) The Fund shall consist of all fees collected under § 3–304(a)(2) of this subtitle.~~

~~(d) Subject to the appropriation process in the State budget **AND SUBJECT TO SUBSECTION (II) OF THIS SECTION**, the Department shall use the Fund for the expenses of operating the Central Collection Unit.~~

~~(e) The State Treasurer shall hold and the State Comptroller shall account for the Fund.~~

~~(f) The Fund shall be invested and reinvested in the same manner as other State funds.~~

~~(g) Investment earnings accrue to the benefit of the Fund.~~

~~**(II) ANY BALANCE IN THE FUND AT THE END OF JUNE 30 OF EACH FISCAL YEAR IN EXCESS OF 10% OF THE ACTUAL EXPENSES OF OPERATING THE CENTRAL COLLECTION UNIT FOR THAT FISCAL YEAR REVERTS TO THE GENERAL FUND.**~~

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

Article – State Finance and Procurement

7–309.

(b) The State Reserve Fund comprises:

(1) the Dedicated Purpose Account;

(2) the Revenue Stabilization Account;

(3) the Economic Development Opportunities Program Account; **AND**

(4) the Catastrophic Event Account**[**; and

(5) the Joseph Fund Account**]**.

SECTION ~~3.~~ *2.* AND BE IT FURTHER ENACTED, That Section(s) 7–327 of Article – State Finance and Procurement of the Annotated Code of Maryland be repealed.

SECTION ~~4.~~ *3.* AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, any balance remaining at the end of May 31, 2008, in the Joseph Fund Account established under § 7–237 of the State Finance and

Procurement Article shall be transferred to the Revenue Stabilization Account of the State Reserve Fund.

SECTION ~~5.~~ *4.* AND BE IT FURTHER ENACTED, That, notwithstanding § 34–101 of the State Personnel and Pensions Article or any other provision of law, on or before June 1, 2008, from the funds deposited in the Dedicated Purpose Account for the purpose of defraying the future costs associated with retirement benefits for State employees, the Governor shall transfer ~~$50,000,000~~ *$100,000,000* to the General Fund.

SECTION ~~2.~~ ~~6.~~ *5.* AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, on or before June 30, 2009, the Governor ~~may~~ shall transfer to the General Fund $25,000,000 of the funds in the Central Collection Fund established under § 3–306 of the State Finance and Procurement Article.

~~SECTION 3. 7. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be applicable to all fiscal years beginning on or after July 1, 2009.~~

SECTION ~~4.~~ ~~8.~~ *6.* AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 418

(Senate Bill 548)

AN ACT concerning

Real Estate Investment Trusts – Definition and Share Information

FOR the purpose of altering the definition of "real estate investment trust" to clarify that the term means an unincorporated "business" trust or association formed under certain provisions of law; establishing that a real estate investment trust, on request of the shareholder, shall send a written statement containing certain information for shares issued without certificates without charge; and generally relating to real estate investment trust law.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 8–101 and 8–203(f)
Annotated Code of Maryland

(2007 Replacement Volume)

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

Article – Corporations and Associations

8–101.

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

(b) "Real estate investment trust" means an unincorporated **BUSINESS** trust or association formed under this title in which property is acquired, held, managed, administered, controlled, invested, or disposed of for the benefit and profit of any person who may become a shareholder.

(c) "Share" means a transferable unit of beneficial interest in a real estate investment trust.

8–203.

(f) Unless the declaration of trust provides otherwise, the trustees of a real estate investment trust may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the real estate investment trust. **[**At the time of issuance or transfer of shares without certificates,**] FOR SHARES ISSUED WITHOUT CERTIFICATES, ON REQUEST OF THE SHAREHOLDER,** the real estate investment trust shall send **WITHOUT CHARGE TO** the shareholder a written statement of the information required on certificates by subsection (d) or (e) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 419

(House Bill 154)

AN ACT concerning

Real Estate Investment Trusts – Definition and Share Information

FOR the purpose of altering the definition of "real estate investment trust" to clarify that the term means an unincorporated "business" trust or association formed under certain provisions of law; establishing that a real estate investment trust, on request of the shareholder, shall send a written statement containing certain information for shares issued without certificates without charge; and generally relating to real estate investment trust law.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 8–101 and 8–203(f)
Annotated Code of Maryland
(2007 Replacement Volume)

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

Article – Corporations and Associations

8–101.

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

(b) "Real estate investment trust" means an unincorporated **BUSINESS** trust or association formed under this title in which property is acquired, held, managed, administered, controlled, invested, or disposed of for the benefit and profit of any person who may become a shareholder.

(c) "Share" means a transferable unit of beneficial interest in a real estate investment trust.

8–203.

(f) Unless the declaration of trust provides otherwise, the trustees of a real estate investment trust may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the real estate investment trust. **[**At the time of issuance or transfer of shares without certificates,**]** **FOR SHARES ISSUED WITHOUT CERTIFICATES, ON REQUEST OF THE SHAREHOLDER,** the real estate investment trust shall send **WITHOUT CHARGE TO** the shareholder a written statement of the information required on certificates by subsection (d) or (e) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 420

(Senate Bill 557)

AN ACT concerning

Lead Poisoning Prevention Act of 2008

FOR the purpose of requiring a certain application form for a contractor license to require a certain lead paint abatement accreditation number and accreditation expiration date if the applicant provides certain lead paint abatement services; requiring a certain licensee applying for a license renewal to submit to the Maryland Home Improvement Commission a certain lead paint abatement accreditation number and expiration date if the licensee performs certain lead paint abatement services; prohibiting a certain licensee from violating certain lead paint abatement accreditation requirements; requiring an owner of a certain property who fails to comply with certain standards, on written request of a tenant, under certain circumstances to release a tenant from a certain lease and pay to the tenant certain relocation expenses not to exceed a certain amount; providing that an owner may provide certain information to a tenant in response to a certain request; providing a tenant with a certain action in district court under certain circumstances; providing that certain actions, inaction, or findings may not be construed to have any effect on any civil action or any administrative proceeding brought under certain provision of law; altering certain definitions; and generally relating to eliminating lead risk in housing.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 8–301, 8–303(a), and 8–620
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 8–303(b), 8–308, and 8–611
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–801(m)
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY adding to
Article – Real Property
Section 8–215
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Childhood lead poisoning is a major public health threat in Maryland, poisoning over 1,300 children in Maryland as of 2005; and

WHEREAS, Lead poisoning severely and irreversibly impacts the cognitive and physical development of young children; and

WHEREAS, The Governor and the State have endorsed plans to meet the federal strategy to eliminate childhood lead poisoning by 2010; and

WHEREAS, Children are exposed to lead through ingesting and inhaling lead dust, eating lead paint chips, or absorbing lead while in utero; and

WHEREAS, Most of the exposures to lead can be eliminated by removing lead hazards and reducing exposure to toxic lead dust in the home; and

WHEREAS, Although the number of cases of childhood lead poisoning in Maryland has decreased significantly over the past few years, lead paint remains a significant health issue; now, therefore,

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

Article – Business Regulation

8–301.

(a) Except as otherwise provided in this title, a person must have a contractor license whenever the person acts as a contractor in the State.

(b) Except as otherwise provided in this title, a person must have a subcontractor license or contractor license whenever the person acts as a subcontractor in the State.

(c) Except as otherwise provided in this title, a person must have a salesperson license or contractor license whenever the person sells a home improvement in the State.

(d) This section does not apply to:

(1) an individual who works for a contractor or subcontractor for a salary or wages but who is not a salesperson for the contractor;

(2) a clerical employee, retail clerk, or other employee of a licensed contractor who is not a salesperson, as to a transaction on the premises of the licensed contractor;

(3) a solicitor for a contractor who calls an owner by telephone only;

(4) an architect, electrician, plumber, heating, ventilation, air–conditioning, or refrigeration contractor, or other person who:

(i) is required by State or local law to meet standards of competency or experience before engaging in an occupation or profession;

(ii) currently is licensed in that occupation or profession under State or local law; and

(iii) is:

1. acting only within the scope of that occupation or profession; or

2. installing a central heating or air–conditioning system;

(5) a security systems technician licensed under Title 18 of the Business Occupations and Professions Article; or

(6) a person who is selling a home improvement to be performed by a person described in item (4) of this subsection.

8–303.

(a) (1) An applicant for a license shall:

(i) submit to the Commission an application on the form that the Commission provides;

(ii) submit to the Commission with the license application proof of compliance with the insurance requirement of § 8–302.1 of this subtitle, if the applicant is applying for a contractor license;

(iii) pay into the Fund the fee required under § 8–404(a) of this title, if the applicant is applying for a contractor license; and

(iv) pay to the Commission an application fee.

(2) The application fee:

(i) for a contractor license is $225 for each place of business of the contractor;

(ii) for a subcontractor license is $125; or

(iii) for a salesperson license is $75.

(3) To cover the cost of processing an application, $15 of the application fee is nonrefundable.

(b) In addition to any other information required on an application form, the form shall require:

(1) for an individual applicant, the name and address of the applicant;

(2) for a corporate applicant, the name and address of each officer;

(3) for a partnership applicant, the name and address of each partner;

(4) for a joint venture applicant, the name and address of each party to the joint venture;

(5) if the applicant acts as a contractor or subcontractor through a corporation or limited partnership, the name and address of the resident agent of the corporation or limited partnership in the State;

(6) if the applicant is applying for a contractor license or subcontractor license, a complete description of the nature of the contracting business of the applicant;

(7) if the applicant is applying for a salesperson license, a complete description of the duties of the applicant;

(8) a record of the applicant's experience in the field of home improvement or other construction work, including dates when and addresses where the applicant has resided and done business;

(9) IF THE APPLICANT PROVIDES LEAD PAINT ABATEMENT SERVICES, THE DEPARTMENT OF THE ENVIRONMENT LEAD PAINT ABATEMENT ACCREDITATION NUMBER AND ACCREDITATION EXPIRATION DATE;

[(9)**] (10)** whether the applicant has ever held a professional or vocational license in this or any other state; and

[(10)**] (11)** whether the applicant has had a professional or vocational license denied, suspended, or revoked.

8–308.

(a) The Secretary may stagger the terms of licenses.

(b) Unless a license is renewed for a 2–year term as provided in this section, the license expires:

(1) if the Secretary staggers the terms of licenses, on the date that the Secretary sets; or

(2) if the Secretary does not stagger the terms of licenses, on the first June 30 that comes after the effective date of the license in an odd–numbered year.

(c) At least 1 month before a license expires, the Commission shall mail to the licensee, at the last known address of the licensee:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current license expires;

(ii) the date by which the Commission must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(iii) the amount of the renewal fee.

(d) (1) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(i) otherwise is entitled to be licensed;

(ii) submits to the Commission a renewal application on the form that the Commission provides;

(iii) submits to the Commission proof of compliance with the insurance requirement of § 8–302.1 of this subtitle, if the licensee is renewing a contractor license; **[**and**]**

(IV) SUBMITS TO THE COMMISSION THE DEPARTMENT OF THE ENVIRONMENT LEAD PAINT ABATEMENT ACCREDITATION NUMBER AND ACCREDITATION EXPIRATION DATE, IF THE LICENSEE PROVIDES LEAD PAINT ABATEMENT SERVICES; AND

[(iv)**] (V)** pays to the Commission a renewal fee.

(2) The renewal fee:

(i) for a contractor license is $225 for each place of business of the contractor;

(ii) for a subcontractor license is $125; or

(iii) for a salesperson license is $75.

(3) Notwithstanding paragraph (2) of this subsection, a licensee that is incorporated or has its principal office in another state shall pay to the Commission the fee imposed in that state on a similar nonresident business if that fee is higher than the renewal fee under paragraph (2) of this subsection.

(e) For renewal of a contractor license, the licensee shall:

(1) submit to the Commission, by a credit reporting agency approved by the Commission, a credit report that contains the information required by the Commission; or

(2) pay to the Commission or the Commission's designee a credit report fee in an amount not to exceed the cost charged by a credit reporting agency approved by the Commission to obtain a credit report that contains the information required by the Commission for renewal of a contractor license.

(f) (1) The Commission shall renew the license of each licensee who meets the requirements of this section.

(2) The Commission may not renew a contractor license unless the contractor submits proof of compliance with the insurance requirement of § 8–302.1 of this subtitle.

(g) A licensed contractor shall give the Commission notice of the cancellation of insurance required under § 8–302.1 of this subtitle at least 10 days before the effective date of the cancellation.

8–611.

A licensee may not violate:

(1) a building law of the State or a political subdivision of the State;

(2) a safety or labor law of the State; **[**or**]**

(3) the Maryland Workers' Compensation Act**; OR**

(4) THE LEAD PAINT ABATEMENT ACCREDITATION REQUIREMENT UNDER § 6–1002 OF THE ENVIRONMENT ARTICLE OR ANY REGULATION ADOPTED UNDER THAT SECTION.

8–620.

(a) The Commission may impose on a person who violates this title, including § 8–607(4) of this subtitle, a civil penalty not exceeding $5,000 for each violation, whether or not the person is licensed under this title.

(b) In setting the amount of a civil penalty, the Commission shall consider:

(1) the seriousness of the violation;

(2) the good faith of the violator;

(3) any previous violations;

(4) the harmful effect of the violation on the complainant, the public, and the business of home improvement;

(5) the assets of the violator; and

(6) any other relevant factors.

Article – Environment

6–801.

(m) "Lead–safe housing" means a rental dwelling unit that:

(1) Is certified to be lead–free in accordance with § 6–804 of this subtitle;

(2) Was constructed after 1978;

(3) Is deemed to be lead–safe by the Department in accordance with criteria established by the Department by regulation; or

(4) Is certified to be in compliance with § 6–815(a) of this subtitle and:

(i) In which all windows are either lead–free or have been treated so that all friction surfaces are lead–free;

(ii) In which lead **[**particulate**]** **CONTAMINATED DUST** levels are determined to be within abatement clearance levels established by the Department by regulation, **[**within 15 days prior to the relocation of a person at risk to the rental dwelling unit in accordance with a qualified offer made under Part V of this subtitle**]** **WITHIN A TIME FRAME ESTABLISHED BY THE DEPARTMENT BY REGULATION**; and

(iii) Which is subject to ongoing maintenance and testing as specified by the Department by regulation.

Article – Real Property

8–215.

(A) IN THIS SECTION, "AFFECTED PROPERTY" AND "OWNER" HAVE THE MEANINGS STATED IN § 6–801 OF THE ENVIRONMENT ARTICLE.

(B) (1) IF AN OWNER OF AN AFFECTED PROPERTY FAILS TO COMPLY WITH THE APPLICABLE RISK REDUCTION ~~STANDARDS UNDER §§ 6–815 AND 6–819~~ STANDARD UNDER § 6–815 OR § 6–819 OF THE ENVIRONMENT ARTICLE, THE OWNER, ON THE WRITTEN REQUEST OF THE TENANT, SHALL:

(I) IMMEDIATELY RELEASE THE TENANT FROM THE TERMS OF THE LEASE OR RENTAL AGREEMENT FOR THAT PROPERTY; AND

(II) PAY TO THE TENANT ALL REASONABLE RELOCATION EXPENSES, NOT TO EXCEED $2,500, DIRECTLY RELATED TO THE PERMANENT RELOCATION OF THE TENANT TO A LEAD–FREE DWELLING UNIT OR ANOTHER DWELLING UNIT THAT HAS SATISFIED THE RISK REDUCTION STANDARD IN ACCORDANCE WITH § 6–815 OF THE ENVIRONMENT ARTICLE.

(2) A TENANT'S WRITTEN REQUEST TO THE LANDLORD UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE ANY RISK REDUCTION CERTIFICATION INFORMATION PROVIDED BY THE DEPARTMENT OF THE ENVIRONMENT.

(3) WITHIN 3 BUSINESS DAYS OF RECEIPT OF A TENANT'S WRITTEN REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION, AN OWNER MAY PROVIDE TO THE TENANT:

(I) A CURRENT AND VALID RISK REDUCTION CERTIFICATE;

(II) A LEAD–FREE CERTIFICATE;

(III) A STATEMENT OF VERIFICATION BY THE OWNER AND TENANT OF WORK PERFORMED IN ACCORDANCE WITH § 6–819(F)(1) OF THE ENVIRONMENT ARTICLE FOR THE AFFECTED PROPERTY; OR

(IV) THE FINAL REPORT OF AN INSPECTOR VERIFYING THAT WORK WAS PERFORMED ON THE AFFECTED PROPERTY IN ACCORDANCE WITH § 6–819(F)(2) OF THE ENVIRONMENT ARTICLE.

(C) (1) IF AN OWNER FAILS TO PROVIDE INFORMATION IN ACCORDANCE WITH SUBSECTION (B)(3) OF THIS SECTION OR TO COMPLY WITH THE TENANT'S WRITTEN REQUEST UNDER SUBSECTION (B)(1) OF THIS SECTION WITHIN 3 BUSINESS DAYS OF RECEIPT OF THE REQUEST, THE TENANT MAY BRING AN ACTION IN DISTRICT COURT FOR THE:

(I) LEASE TERMINATION;

(II) REIMBURSEMENT OF REASONABLE RELOCATION EXPENSES; AND

(III) REASONABLE ATTORNEY'S FEES.

(2) A TENANT DOES NOT HAVE A CAUSE OF ACTION UNDER THIS SUBSECTION IF THE OWNER OF AN AFFECTED PROPERTY PROVIDES INFORMATION IN ACCORDANCE WITH SUBSECTION(B)(3) OF THIS SECTION.

(D) THE RIGHT OF A TENANT TO REQUEST RELEASE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION DOES NOT PRECLUDE THE TENANT FROM PURSUING ANY OTHER RIGHT OR REMEDY AVAILABLE TO THE TENANT AT LAW OR EQUITY AND IS IN ADDITION TO THEM.

(E) ANY ACTION OR INACTION OF THE OWNER OF AN AFFECTED PROPERTY OR TENANT UNDER THIS SECTION OR ANY FINDING IN A PROCEEDING UNDER THIS SECTION MAY NOT BE CONSTRUED TO HAVE ANY EFFECT ON:

(1) ANY CIVIL ACTION; OR

(2) ANY ADMINISTRATIVE PROCEEDING BROUGHT UNDER THIS TITLE OR TITLE 6 OF THE ENVIRONMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 421

(House Bill 589)

AN ACT concerning

Lead Poisoning Prevention Act of 2008

FOR the purpose of requiring a certain application form for a contractor license to require a certain lead paint abatement accreditation number and accreditation expiration date if the applicant provides certain lead paint abatement services; requiring a certain licensee applying for a license renewal to submit to the Maryland Home Improvement Commission a certain lead paint abatement accreditation number and expiration date if the licensee performs certain lead paint abatement services; prohibiting a certain licensee from violating certain lead paint abatement accreditation requirements; requiring an owner of a certain property who fails to comply with certain standards, on written request

of a tenant, under certain circumstances to release a tenant from a certain lease and pay to the tenant certain relocation expenses not to exceed a certain amount; providing that an owner may provide certain information to a tenant in response to a certain request; providing a tenant with a certain action in district court under certain circumstances; providing that certain actions, inaction, or findings may not be construed to have any effect on any civil action or any administrative proceeding brought under certain provision of law; altering certain definitions; and generally relating to eliminating lead risk in housing.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 8–301, 8–303(a), and 8–620
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 8–303(b), 8–308, and 8–611
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–801(m)
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY adding to
Article – Real Property
Section 8–215
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Childhood lead poisoning is a major public health threat in Maryland, poisoning over 1,300 children in Maryland as of 2005; and

WHEREAS, Lead poisoning severely and irreversibly impacts the cognitive and physical development of young children; and

WHEREAS, The Governor and the State have endorsed plans to meet the federal strategy to eliminate childhood lead poisoning by 2010; and

WHEREAS, Children are exposed to lead through ingesting and inhaling lead dust, eating lead paint chips, or absorbing lead while in utero; and

WHEREAS, Most of the exposures to lead can be eliminated by removing lead hazards and reducing exposure to toxic lead dust in the home; and

WHEREAS, Although the number of cases of childhood lead poisoning in Maryland has decreased significantly over the past few years, lead paint remains a significant health issue; now, therefore,

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

Article – Business Regulation

8–301.

(a) Except as otherwise provided in this title, a person must have a contractor license whenever the person acts as a contractor in the State.

(b) Except as otherwise provided in this title, a person must have a subcontractor license or contractor license whenever the person acts as a subcontractor in the State.

(c) Except as otherwise provided in this title, a person must have a salesperson license or contractor license whenever the person sells a home improvement in the State.

(d) This section does not apply to:

(1) an individual who works for a contractor or subcontractor for a salary or wages but who is not a salesperson for the contractor;

(2) a clerical employee, retail clerk, or other employee of a licensed contractor who is not a salesperson, as to a transaction on the premises of the licensed contractor;

(3) a solicitor for a contractor who calls an owner by telephone only;

(4) an architect, electrician, plumber, heating, ventilation, air–conditioning, or refrigeration contractor, or other person who:

(i) is required by State or local law to meet standards of competency or experience before engaging in an occupation or profession;

(ii) currently is licensed in that occupation or profession under State or local law; and

(iii) is:

1. acting only within the scope of that occupation or profession; or

2. installing a central heating or air–conditioning system;

(5) a security systems technician licensed under Title 18 of the Business Occupations and Professions Article; or

(6) a person who is selling a home improvement to be performed by a person described in item (4) of this subsection.

8–303.

(a) (1) An applicant for a license shall:

(i) submit to the Commission an application on the form that the Commission provides;

(ii) submit to the Commission with the license application proof of compliance with the insurance requirement of § 8–302.1 of this subtitle, if the applicant is applying for a contractor license;

(iii) pay into the Fund the fee required under § 8–404(a) of this title, if the applicant is applying for a contractor license; and

(iv) pay to the Commission an application fee.

(2) The application fee:

(i) for a contractor license is $225 for each place of business of the contractor;

(ii) for a subcontractor license is $125; or

(iii) for a salesperson license is $75.

(3) To cover the cost of processing an application, $15 of the application fee is nonrefundable.

(b) In addition to any other information required on an application form, the form shall require:

(1) for an individual applicant, the name and address of the applicant;

(2) for a corporate applicant, the name and address of each officer;

(3) for a partnership applicant, the name and address of each partner;

(4) for a joint venture applicant, the name and address of each party to the joint venture;

(5) if the applicant acts as a contractor or subcontractor through a corporation or limited partnership, the name and address of the resident agent of the corporation or limited partnership in the State;

(6) if the applicant is applying for a contractor license or subcontractor license, a complete description of the nature of the contracting business of the applicant;

(7) if the applicant is applying for a salesperson license, a complete description of the duties of the applicant;

(8) a record of the applicant's experience in the field of home improvement or other construction work, including dates when and addresses where the applicant has resided and done business;

(9) IF THE APPLICANT PROVIDES LEAD PAINT ABATEMENT SERVICES, THE DEPARTMENT OF THE ENVIRONMENT LEAD PAINT ABATEMENT ACCREDITATION NUMBER AND ACCREDITATION EXPIRATION DATE;

[(9)**] (10)** whether the applicant has ever held a professional or vocational license in this or any other state; and

[(10)**] (11)** whether the applicant has had a professional or vocational license denied, suspended, or revoked.

8–308.

(a) The Secretary may stagger the terms of licenses.

(b) Unless a license is renewed for a 2–year term as provided in this section, the license expires:

(1) if the Secretary staggers the terms of licenses, on the date that the Secretary sets; or

(2) if the Secretary does not stagger the terms of licenses, on the first June 30 that comes after the effective date of the license in an odd–numbered year.

(c) At least 1 month before a license expires, the Commission shall mail to the licensee, at the last known address of the licensee:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current license expires;

(ii) the date by which the Commission must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(iii) the amount of the renewal fee.

(d) (1) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(i) otherwise is entitled to be licensed;

(ii) submits to the Commission a renewal application on the form that the Commission provides;

(iii) submits to the Commission proof of compliance with the insurance requirement of § 8–302.1 of this subtitle, if the licensee is renewing a contractor license; **[**and**]**

(IV) SUBMITS TO THE COMMISSION THE DEPARTMENT OF THE ENVIRONMENT LEAD PAINT ABATEMENT ACCREDITATION NUMBER AND ACCREDITATION EXPIRATION DATE, IF THE LICENSEE PROVIDES LEAD PAINT ABATEMENT SERVICES; AND

[(iv)**] (V)** pays to the Commission a renewal fee.

(2) The renewal fee:

(i) for a contractor license is $225 for each place of business of the contractor;

(ii) for a subcontractor license is $125; or

(iii) for a salesperson license is $75.

(3) Notwithstanding paragraph (2) of this subsection, a licensee that is incorporated or has its principal office in another state shall pay to the Commission the fee imposed in that state on a similar nonresident business if that fee is higher than the renewal fee under paragraph (2) of this subsection.

(e) For renewal of a contractor license, the licensee shall:

(1) submit to the Commission, by a credit reporting agency approved by the Commission, a credit report that contains the information required by the Commission; or

(2) pay to the Commission or the Commission's designee a credit report fee in an amount not to exceed the cost charged by a credit reporting agency approved by the Commission to obtain a credit report that contains the information required by the Commission for renewal of a contractor license.

(f) (1) The Commission shall renew the license of each licensee who meets the requirements of this section.

(2) The Commission may not renew a contractor license unless the contractor submits proof of compliance with the insurance requirement of § 8–302.1 of this subtitle.

(g) A licensed contractor shall give the Commission notice of the cancellation of insurance required under § 8–302.1 of this subtitle at least 10 days before the effective date of the cancellation.

8–611.

A licensee may not violate:

(1) a building law of the State or a political subdivision of the State;

(2) a safety or labor law of the State; **[**or**]**

(3) the Maryland Workers' Compensation Act**; OR**

(4) THE LEAD PAINT ABATEMENT ACCREDITATION REQUIREMENT UNDER § 6–1002 OF THE ENVIRONMENT ARTICLE OR ANY REGULATION ADOPTED UNDER THAT SECTION.

8–620.

(a) The Commission may impose on a person who violates this title, including § 8–607(4) of this subtitle, a civil penalty not exceeding $5,000 for each violation, whether or not the person is licensed under this title.

(b) In setting the amount of a civil penalty, the Commission shall consider:

(1) the seriousness of the violation;

(2) the good faith of the violator;

(3) any previous violations;

(4) the harmful effect of the violation on the complainant, the public, and the business of home improvement;

(5) the assets of the violator; and

(6) any other relevant factors.

Article – Environment

6–801.

(m) "Lead–safe housing" means a rental dwelling unit that:

(1) Is certified to be lead–free in accordance with § 6–804 of this subtitle;

(2) Was constructed after 1978;

(3) Is deemed to be lead–safe by the Department in accordance with criteria established by the Department by regulation; or

(4) Is certified to be in compliance with § 6–815(a) of this subtitle and:

(i) In which all windows are either lead–free or have been treated so that all friction surfaces are lead–free;

(ii) In which lead **[**particulate**]** **CONTAMINATED DUST** levels are determined to be within abatement clearance levels established by the Department by regulation, **[**within 15 days prior to the relocation of a person at risk to the rental dwelling unit in accordance with a qualified offer made under Part V of this subtitle**]** **WITHIN A TIME FRAME ESTABLISHED BY THE DEPARTMENT BY REGULATION**; and

(iii) Which is subject to ongoing maintenance and testing as specified by the Department by regulation.

Article – Real Property

8–215.

(A) IN THIS SECTION, "AFFECTED PROPERTY" AND "OWNER" HAVE THE MEANINGS STATED IN § 6–801 OF THE ENVIRONMENT ARTICLE.

(B) (1) IF AN OWNER OF AN AFFECTED PROPERTY FAILS TO COMPLY WITH THE APPLICABLE RISK REDUCTION ~~STANDARDS UNDER §§ 6–815 AND 6–819~~ STANDARD UNDER § 6–815 OR § 6–819 OF THE ENVIRONMENT ARTICLE, THE OWNER, ON THE WRITTEN REQUEST OF THE TENANT, SHALL:

(I) IMMEDIATELY RELEASE THE TENANT FROM THE TERMS OF THE LEASE OR RENTAL AGREEMENT FOR THAT PROPERTY; AND

(II) PAY TO THE TENANT ALL REASONABLE RELOCATION EXPENSES, NOT TO EXCEED $2,500, DIRECTLY RELATED TO THE PERMANENT RELOCATION OF THE TENANT TO A LEAD–FREE DWELLING UNIT OR ANOTHER DWELLING UNIT THAT HAS SATISFIED THE RISK REDUCTION STANDARD IN ACCORDANCE WITH § 6–815 OF THE ENVIRONMENT ARTICLE.

(2) A TENANT'S WRITTEN REQUEST TO THE LANDLORD UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE ANY RISK REDUCTION CERTIFICATION INFORMATION PROVIDED BY THE DEPARTMENT OF THE ENVIRONMENT.

(3) WITHIN 3 BUSINESS DAYS OF RECEIPT OF A TENANT'S WRITTEN REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION, AN OWNER MAY PROVIDE TO THE TENANT:

(I) A CURRENT AND VALID RISK REDUCTION CERTIFICATE;

(II) A LEAD–FREE CERTIFICATE;

(III) A STATEMENT OF VERIFICATION BY THE OWNER AND TENANT OF WORK PERFORMED IN ACCORDANCE WITH § 6–819(F)(1) OF THE ENVIRONMENT ARTICLE FOR THE AFFECTED PROPERTY; OR

(IV) THE FINAL REPORT OF AN INSPECTOR VERIFYING THAT WORK WAS PERFORMED ON THE AFFECTED PROPERTY IN ACCORDANCE WITH § 6–819(F)(2) OF THE ENVIRONMENT ARTICLE.

(C) (1) IF AN OWNER FAILS TO PROVIDE INFORMATION IN ACCORDANCE WITH SUBSECTION (B)(3) OF THIS SECTION OR TO COMPLY WITH THE TENANT'S WRITTEN REQUEST UNDER SUBSECTION (B)(1) OF THIS SECTION WITHIN 3 BUSINESS DAYS OF RECEIPT OF THE REQUEST, THE TENANT MAY BRING AN ACTION IN DISTRICT COURT FOR THE:

(I) LEASE TERMINATION;

(II) REIMBURSEMENT OF REASONABLE RELOCATION EXPENSES; AND

(III) REASONABLE ATTORNEY'S FEES.

(2) A TENANT DOES NOT HAVE A CAUSE OF ACTION UNDER THIS SUBSECTION IF THE OWNER OF AN AFFECTED PROPERTY PROVIDES INFORMATION IN ACCORDANCE WITH SUBSECTION(B)(3) OF THIS SECTION.

(D) THE RIGHT OF A TENANT TO REQUEST RELEASE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION DOES NOT PRECLUDE THE TENANT FROM PURSUING ANY OTHER RIGHT OR REMEDY AVAILABLE TO THE TENANT AT LAW OR EQUITY AND IS IN ADDITION TO THEM.

(E) ANY ACTION OR INACTION OF THE OWNER OF AN AFFECTED PROPERTY OR TENANT UNDER THIS SECTION OR ANY FINDING IN A PROCEEDING UNDER THIS SECTION MAY NOT BE CONSTRUED TO HAVE ANY EFFECT ON:

(1) ANY CIVIL ACTION; OR

(2) ANY ADMINISTRATIVE PROCEEDING BROUGHT UNDER THIS TITLE OR TITLE 6 OF THE ENVIRONMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 422

(Senate Bill 568)

AN ACT concerning

Motor Vehicles – Certificates of Title ~~– Rebuilt Salvage~~ *and Salvage Certificates*

FOR the purpose of ~~requiring that a certificate of title to a vehicle contain a conspicuous notation that the vehicle is "rebuilt salvage" whenever an insurance company's application for a salvage certificate for the vehicle contains a statement that the cost to repair the vehicle for highway operation was equal to or less than the fair market value of the vehicle prior to the vehicle sustaining damage~~ *altering the statements that describe the condition of a salvaged vehicle that certain entities are required to include with an application for a salvage certificate; expanding the categories of vehicle title brands that the Motor Vehicle Administration may apply to a salvage vehicle to include brands for flood and cosmetic damage; altering certain vehicle title brands; prohibiting the Administration from issuing a certificate of title for a vehicle if the salvage certificate for the vehicle bears a certain brand; requiring the Administration to issue an unbranded vehicle title if an insurance company makes a claim settlement on a vehicle that has sustained less than a certain amount of damage; expanding the application of certain procedures and requirements related to salvage certificates and certificates of title to vehicles older than a certain number of model years; altering the standard for determining whether the Administration is required to issue a salvage certificate or a certificate of title to an insurance company that has settled a claim on a recovered stolen vehicle; expanding the information on a certificate of title that, if altered, requires the owner to obtain a corrected certificate of title; altering certain fee provisions related to corrected certificates of title; authorizing the Administration to issue a salvage certificate to an authorized agent of an insurance company; requiring an insurance company or its agent to apply electronically for a salvage certificate for an out–of–State vehicle; clarifying the procedures for issuing a salvage certificate or a certificate of title to a vehicle owner who retains a salvaged vehicle after settling an insurance claim; authorizing the Administration to establish a fee for corrected salvage certificates; repealing a certain obsolete provision of law; authorizing the Administration to adopt certain regulations; altering a certain definition*; and generally relating to ~~salvaged vehicles~~ *certificates of title and salvage certificates*.

~~BY repealing and reenacting, without amendments,~~
~~Article – Transportation~~
~~Section 13–506(c)~~

~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Transportation
Section *11–152, 13–117, 13–506, and* 13–507
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Transportation
Section 13–506.1
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

11–152.

(a) "Salvage" means any vehicle that:

(1) Has been damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that the cost to repair the vehicle for legal operation on a highway exceeds ***75% OF*** *the fair market value of the vehicle prior to sustaining the damage;*

(2) Has been acquired by an insurance company as a result of a claim settlement; or

(3) Has been acquired by an automotive dismantler and recycler:

(i) As an abandoned vehicle, as defined under § 25–201 of this article; or

(ii) For rebuilding or for use as parts only.

(b) For purposes of this section, a vehicle has not been acquired by an insurance company if an owner retains possession of the vehicle upon settlement of a claim concerning the vehicle by the insurance company.

13–117.

(a) If the [type of body of any] vehicle ***INFORMATION*** *is changed from that set forth in its certificate of title, the owner of the vehicle immediately shall notify the Administration of the change on the form that the Administration requires.*

(b) If the [type of body of any] vehicle ***INFORMATION*** *is changed from that set forth in the certificate of title for the vehicle, the owner of the vehicle immediately shall apply for a corrected certificate of title on the form that the Administration requires* ***AND PAY ANY REQUIRED FEE****.*

(c) On receipt of the application, the Administration [shall] ***MAY*** *issue a corrected certificate of title [without charge].*

(D) THE ADMINISTRATION MAY ADOPT REGULATIONS NECESSARY TO GOVERN THE ISSUANCE OF CORRECTED CERTIFICATES OF TITLE.

13–506.

(a) (1) A salvage certificate shall be issued in accordance with the provisions of this section.

(2) A salvage certificate issued under this section shall:

(i) Be issued in the name of the applicant; and

(ii) Serve as an ownership document.

(a–1) For purposes of this section, a vehicle has not been acquired by an insurance company if an owner retains possession of the vehicle upon settlement of a claim concerning the vehicle by the insurance company ***IN ACCORDANCE WITH § 13–506.1 OF THIS SUBTITLE****.*

(b) The Administration shall issue a salvage certificate:

(1) To an insurance company ***OR ITS AUTHORIZED AGENT*** *that:*

(i) Is licensed to insure automobiles in this State;

(ii) Acquires a vehicle as the result of a claim settlement; and

(iii) Within 10 days after the date of settlement, applies for a salvage certificate as provided in subsection (c) of this section;

(2) To an automotive dismantler and recycler that:

(i) Acquires a salvage vehicle from a source other than an insurance company licensed to insure automobiles in this State;

(ii) Acquires a salvage vehicle by a means other than a transfer of a salvage certificate; and

(iii) Applies for a salvage certificate as provided in subsection (d) of this section; or

(3) To any other person who:

(i) Acquires or retains ownership of a vehicle that is salvage, as defined in § 11–152 of this article;

(ii) Applies for a salvage certificate on a form provided by the Administration; and

(iii) Pays a fee established by the Administration.

(c) (1) ~~An insurance company shall apply for~~ ***EXCEPT AS PROVIDED IN § 13–507(B)(5) OF THIS SUBTITLE, FOR EACH VEHICLE THAT IS ACQUIRED AS A RESULT OF A CLAIM SETTLEMENT ARISING FROM AN ACCIDENT THAT OCCURRED IN THE STATE, AN INSURANCE COMPANY OR ITS AUTHORIZED AGENT SHALL APPLY:***

(I) FOR a salvage certificate on a form provided by the Administration for ~~each~~ ***A*** vehicle titled in the ~~State that is~~ ***STATE; OR***

(II) ELECTRONICALLY FOR A SALVAGE CERTIFICATE FOR A VEHICLE TITLED IN A FOREIGN JURISDICTION ~~acquired as a result of a claim settlement arising from an accident that occurred in the State~~.

(2) The application under paragraph (1) of this subsection shall be accompanied by:

(i) The certificate of title of the vehicle;

(ii) A statement by the insurance company that:

1. The cost to repair the vehicle for highway operation is greater than ***75% OF*** the fair market value of the vehicle prior to sustaining the damage for which the claim was paid ***AND THE VEHICLE IS REPAIRABLE***;

2. The cost to repair the vehicle for highway operation is ~~equal to or less than~~ ***GREATER THAN 75% OF*** the fair market value of the vehicle prior to sustaining the damage for which the claim was paid ***AND THE DAMAGE TO THE VEHICLE IS COSMETIC ONLY***;

3. The vehicle is not rebuildable, will be used for parts only, and is not to be retitled; ~~or~~

4. The vehicle has been stolen; ***OR***

5. THE VEHICLE HAS SUSTAINED FLOOD DAMAGE; and

(iii) A fee established by the Administration.

(3) Subject to the provisions of § 13–507(c)(2) of this subtitle, a salvage certificate issued under this paragraph shall contain a conspicuous notation by the Administration that describes which of the statements under paragraph (2)(ii) of this subsection applies to the vehicle.

(d) (1) An automotive dismantler and recycler may apply for a salvage certificate on a form provided by the Administration.

(2) The application under paragraph (1) of this subsection shall be accompanied by:

(i) The document through which ownership of the vehicle was acquired; and

(ii) A fee established by the Administration.

(e) [(1) An insurance company shall promptly notify the Administration when the company makes a claim settlement on a vehicle that is salvage if:

(i) The vehicle is 7 model years old or newer; and

(ii) The owner retains possession of the vehicle.

(2) The notice under paragraph (1) of this subsection shall be accompanied by the title to the vehicle and a fee established by the Administration and shall include:

(i) The name of the vehicle's owner and a description of the vehicle; and

(ii) A statement by the insurance company that:

1. The cost to repair the vehicle for highway operation is greater than the fair market value of the vehicle prior to sustaining the damage for which the claim was paid; or

2. The vehicle is not rebuildable, will be used for parts only, and is not to be retitled.

(3) On receipt of the notice under paragraph (1) of this subsection, the Administration shall:

(i) Record that the vehicle has been declared salvage; and

(ii) 1. In the case of a vehicle described in paragraph (2)(ii)1 of this subsection, send a notice to the owner of the vehicle that the vehicle registration will be suspended unless the owner submits proof satisfactory to the Administration that the vehicle has been inspected for safety, in compliance with Title 23 of this article, within 90 days of the date of the notice; or

2. In the case of a vehicle described in paragraph (2)(ii)2 of this subsection:

A. Issue a salvage certificate to the owner of the vehicle; and

B. Send a notice to the owner of the vehicle that the vehicle registration has been suspended and directing that the vehicle's registration plates be returned immediately to the Administration.

(4) In accordance with § 13–507 of this subtitle, after a vehicle described in paragraph (2)(ii)1 of this subsection has been inspected for safety in accordance with Title 23 of this article, the Administration shall send a new title for the vehicle to the owner.

*(f)***]** *The Administration shall maintain records to indicate that a vehicle:*

(1) Was transferred as salvage; and

(2) May not be titled or registered for operation in this State except in accordance with ***§ 13–506.1 AND*** *§ 13–507 of this subtitle.*

[*(g)****] (F)*** *The Administration shall establish a fee* ***[****for a****] FOR:***

(1) A *duplicate salvage certificate****; AND***

(2) A CORRECTED SALVAGE CERTIFICATE.

13–506.1.

(A) AN INSURANCE COMPANY SHALL PROMPTLY NOTIFY THE ADMINISTRATION IF:

(1) THE COMPANY MAKES A CLAIM SETTLEMENT ON A VEHICLE THAT IS SALVAGE; AND

(2) THE OWNER RETAINS POSSESSION OF THE VEHICLE.

(B) THE NOTICE UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) BE ACCOMPANIED BY THE TITLE TO THE VEHICLE AND A FEE ESTABLISHED BY THE ADMINISTRATION UNDER § 13–117 OF THIS TITLE FOR A CORRECTED TITLE;

(2) INCLUDE THE NAME OF THE VEHICLE'S OWNER AND A DESCRIPTION OF THE VEHICLE; AND

(3) INCLUDE A STATEMENT BY THE INSURANCE COMPANY THAT THE SALVAGE CERTIFICATE BEARS A NOTATION UNDER § 13–506(C)(2)(II)1, 2, 3, 4, OR 5 OF THIS SUBTITLE.

(C) ON RECEIPT OF THE NOTICE UNDER SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION SHALL:

(1) RECORD THAT THE VEHICLE HAS BEEN DECLARED SALVAGE; AND

(2) (I) IN THE CASE OF A REPAIRABLE VEHICLE DESCRIBED IN § 13– 506(C)(2)(II)1, 2, OR 5 OF THIS SUBTITLE, SEND A NOTICE TO THE OWNER OF THE VEHICLE THAT THE VEHICLE REGISTRATION WILL BE SUSPENDED UNLESS THE OWNER SUBMITS PROOF SATISFACTORY TO THE ADMINISTRATION THAT THE VEHICLE HAS BEEN INSPECTED FOR SAFETY, IN COMPLIANCE WITH TITLE 23 OF THIS ARTICLE, WITHIN 90 DAYS OF THE DATE OF THE NOTICE; OR

(II) IN THE CASE OF A VEHICLE DESCRIBED IN § 13–506(C)(2)(II)3 OF THIS SUBTITLE:

1. ISSUE A SALVAGE CERTIFICATE TO THE OWNER OF THE VEHICLE; AND

2. SEND A NOTICE TO THE OWNER OF THE VEHICLE THAT THE VEHICLE REGISTRATION HAS BEEN SUSPENDED AND DIRECTING THAT THE VEHICLE'S REGISTRATION PLATES BE RETURNED IMMEDIATELY TO THE ADMINISTRATION.

(D) IN ACCORDANCE WITH § 13–507 OF THIS SUBTITLE, AFTER A VEHICLE DESCRIBED IN § 13–506(C)(2)(II)1, 2, OR 5 OF THIS SUBTITLE HAS BEEN INSPECTED FOR SAFETY IN ACCORDANCE WITH TITLE 23 OF THIS ARTICLE, THE ADMINISTRATION SHALL ISSUE TO THE OWNER A NEW CERTIFICATE OF TITLE FOR THE VEHICLE.

13–507.

(a) (1) An application for a certificate of title of a vehicle for which a salvage certificate has been issued shall be made by the owner of the vehicle on a form that the Administration requires.

(2) An application under paragraph (1) of this subsection shall be accompanied by:

(i) Except as provided in subsection (c)(3) of this section, the salvage certificate for the vehicle;

(ii) A certificate of inspection issued by a county police department or the Department of State Police; and

(iii) A certificate of inspection as required under Title 23 of this article.

(3) (i) The Administration may establish a fee for an inspection under paragraph (2)(ii) of this subsection.

(ii) The fees collected under this paragraph shall be paid to the Auto Theft Unit of the Department of State Police for the purpose of recovering the cost of administering the salvage inspection program and may not be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8–403 or § 8–404 of this article.

(b) (1) The certificate of title issued by the Administration shall be:

(i) Issued in the name of the applicant; and

(ii) In a form as provided in this subsection.

(2) ***(I)*** The Administration shall issue a certificate of title that contains a conspicuous notation that the vehicle is "rebuilt salvage" if the salvage certificate accompanying the application~~:~~

~~(i)~~ ~~Bears~~ ***BEARS*** a notation under § 13–506(c)(2)(ii)1 ~~**OR 2**~~ of this ~~subtitle; or~~

~~(ii)~~ **[**~~Does not bear a notation under § 13–506(c)(2)(ii)2 of this subtitle~~**] WAS ISSUED BEFORE OCTOBER 1, 1992, AND THE APPLICATION IS ACCOMPANIED BY A STATEMENT IN WRITING FROM THE INSURANCE COMPANY THAT THE COST TO REPAIR THE VEHICLE WAS EQUAL TO OR LESS THAN THE FAIR MARKET VALUE OF THE VEHICLE PRIOR TO THE VEHICLE SUSTAINING DAMAGE** ***SUBTITLE.***

(II) THE ADMINISTRATION MAY NOT ISSUE A CERTIFICATE OF TITLE FOR A VEHICLE IF THE SALVAGE CERTIFICATE FOR THE VEHICLE BEARS A NOTATION UNDER § 13–506(C)(2)(II)3 OF THIS SUBTITLE.

(3) The Administration shall issue a certificate of title that ~~does not contain a notation under paragraph (2) of this subsection~~ ***CONTAINS A CONSPICUOUS NOTATION THAT THE VEHICLE SUSTAINED COSMETIC DAMAGE*** if the salvage certificate accompanying the application**[**:

(i) Bears a notation under § 13–506(c)(2)(ii)2 of this subtitle;

(ii) Is issued before October 1, 1992 and the application is accompanied by a statement in writing from an insurance company that the cost to repair the vehicle was equal to or less than the fair market value of the vehicle prior to the vehicle sustaining damage; or

(iii) Is**]** ~~**IS** issued for a vehicle that is more than 7 model years old~~ ***BEARS A NOTATION UNDER § 13–506(C)(2)(II)2 OF THIS SUBTITLE***.

(4) THE ADMINISTRATION SHALL ISSUE A CERTIFICATE OF TITLE THAT CONTAINS A CONSPICUOUS NOTATION THAT THE VEHICLE IS "FLOOD DAMAGED" IF THE SALVAGE CERTIFICATE ACCOMPANYING THE APPLICATION BEARS A NOTATION UNDER § 13–506(C)(2)(II)5 OF THIS SUBTITLE.

(5) EXCEPT FOR A FLOOD DAMAGED VEHICLE, THE ADMINISTRATION SHALL ISSUE A CERTIFICATE OF TITLE THAT DOES NOT BEAR A NOTATION OR OTHER SIMILAR STATEMENT UNDER THIS SECTION IF AN

INSURANCE COMPANY MAKES A CLAIM SETTLEMENT ON A VEHICLE THAT HAS SUSTAINED DAMAGE THAT COSTS 75% OR LESS THAN THE FAIR MARKET VALUE OF THE VEHICLE TO REPAIR.

(c) (1) When an insurance company makes a claim settlement on a vehicle that has been stolen, the company shall apply for a salvage certificate as provided in § 13–506(c) of this subtitle.

(2) On receipt of an application under this subsection, the Administration:

(i) Shall make the appropriate notation in its records; and

(ii) May not issue the salvage certificate until the vehicle is recovered.

(3) When a vehicle that has been stolen is recovered, the Administration shall:

(i) Issue a salvage certificate for the vehicle if the insurance company submits a certification under § 13–506(c)(2)(ii)1, 2, ~~or 3~~ ***3, OR 5*** of this subtitle; or

(ii) Issue a certificate of title ***IN THE NAME OF THE INSURANCE COMPANY*** in lieu of a salvage certificate if the insurance company states that the vehicle has ~~not~~ sustained damage ~~or has sustained only minor damage~~***, EXCEPT FOR FLOOD DAMAGE, THAT COSTS 75% OR LESS THAN THE FAIR MARKET VALUE OF THE VEHICLE TO REPAIR***.

(4) The provisions of subsection (b) of this section apply to a certificate of title issued under this subsection.

(5) A vehicle for which a certificate of title was issued under paragraph (3)(ii) of this subsection is exempt from the vehicle excise tax as provided in § 13–810(a)(9) of this title.

(d) If the Administration receives an application for a certificate of title for a vehicle accompanied by an ownership document issued by another state containing a notation under the laws of the issuing state that the vehicle is in a condition that is substantially similar to a vehicle that is rebuilt salvage under Maryland law, the certificate of title issued by the Administration shall contain a similar notation.

(E) THE ADMINISTRATION MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 423

(Senate Bill 578)

AN ACT concerning

Vehicle Laws – Medical Advisory Board – ~~Confidentiality~~ Use of Confidential Records and Reports

FOR the purpose of authorizing the ~~Medical Advisory Board appointed by the Motor Vehicle Administrator to disclose certain information for certain purposes~~ Motor Vehicle Administration to use certain information in certain confidential reports and records for driver safety research subject to a certain restriction; authorizing the Administration to contract with third parties to assist with driver safety research; and generally relating to the ~~disclosure of information by the Medical Advisory Board~~ use of certain confidential reports and records.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 16–118 and 16–119
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

16–118.

(a) (1) The Administrator may appoint a Medical Advisory Board of qualified physicians and optometrists to enable the Administration to comply properly with the provisions of this title regarding the physical and mental condition of individuals who seek to drive on highways in this State.

(2) The Administrator also may appoint a medical secretary to serve the Board.

(b) Each member of the Medical Advisory Board is entitled to compensation for each meeting that the member attends. The compensation shall be paid out of funds appropriated to the Administration.

(c) (1) The Administrator may refer to the Medical Advisory Board, for an advisory opinion, the case of any licensee or applicant for a license, if the Administrator has good cause to believe that the driving of a vehicle by him would be contrary to public safety and welfare because of an existing or suspected mental or physical disability.

(2) The Board shall meet at the pleasure of the Administrator.

(d) (1) **[**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** records of the Medical Advisory Board:

(i) Are confidential;

(ii) May be disclosed only on court order; and

(iii) May be used only to determine the qualifications of an individual to drive.

~~(2) THE MEDICAL ADVISORY BOARD MAY DISCLOSE INFORMATION IN ITS RECORDS FOR THE PURPOSE OF MEDICAL RESEARCH OR STATISTICAL REPORTING, AS DETERMINED BY THE BOARD, PROVIDED THAT THE INFORMATION DISCLOSED DOES NOT IDENTIFY ANY INDIVIDUAL WHO IS A SUBJECT OF OR IS NAMED IN THE RECORDS.~~

(2) THE ADMINISTRATION MAY USE INFORMATION IN ITS RECORDS FOR THE PURPOSE OF DRIVER SAFETY RESEARCH, PROVIDED THAT PERSONAL INFORMATION IS NOT PUBLISHED OR DISCLOSED.

(3) THE ADMINISTRATION MAY CONTRACT WITH THIRD PARTIES TO ASSIST WITH DRIVER SAFETY RESEARCH.

~~(3)~~ (4) A person may not use these records for any other purpose.

16–119.

(a) The Department of Health and Mental Hygiene, together with the Medical and Chirurgical Faculty and the State Board of Examiners in Optometry, shall define:

(1) Disorders characterized by lapses of consciousness; and

(2) Disorders that result in a corrected visual acuity that fails to comply with the vision requirements of this subtitle.

(b) (1) Except as provided in paragraph (2) of this subsection, any physician and any other person authorized to diagnose, detect, or treat disorders defined under subsection (a) of this section may report to the Medical Advisory Board and to the subject of the report, in writing, the full name, date of birth, and address of each individual 15 years old or older who has any such disorder.

(2) Unless authorized by the individual in writing, a report may not be made from information derived from the diagnosis or treatment of any individual on whom a confidential or privileged relationship is conferred by law.

(c) On receipt of a report under this section, the Administration shall:

(1) As soon as practicable, arrange for an examination of each reported individual who holds a driver's license; and

(2) If the individual fails to meet the requirements of this subtitle, cancel his license.

(d) (1) The reports made to the Administration under this section:

(i) Are confidential;

(ii) May be disclosed only on court order; and

(iii) May be used only to determine the qualifications of an individual to drive.

~~(2) THE MEDICAL ADVISORY BOARD MAY DISCLOSE INFORMATION IN THE REPORTS IT RECEIVES FOR THE PURPOSE OF MEDICAL RESEARCH OR STATISTICAL REPORTING, AS DETERMINED BY THE BOARD, PROVIDED THAT THE INFORMATION DISCLOSED DOES NOT IDENTIFY ANY INDIVIDUAL WHO IS A SUBJECT OF OR IS NAMED IN THE REPORTS.~~

(2) THE ADMINISTRATION MAY USE INFORMATION IN THE REPORTS IT RECEIVES FOR THE PURPOSE OF DRIVER SAFETY RESEARCH, PROVIDED THAT PERSONAL INFORMATION IS NOT PUBLISHED OR DISCLOSED.

(3) THE ADMINISTRATION MAY CONTRACT WITH THIRD PARTIES TO ASSIST WITH DRIVER SAFETY RESEARCH.

~~(3)~~ **(4)** A person may not use these reports for any other purpose.

(e) A civil or criminal action may not be brought against any person who makes a report under this section and who does not violate any confidential or privileged relationship conferred by law.

(f) A report made under this section may not be used as evidence in any civil or criminal trial, except in a legal action involving an alleged violation of a confidential or privileged relationship conferred by law.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 424

(House Bill 766)

AN ACT concerning

Vehicle Laws – Medical Advisory Board – ~~Confidentiality~~ *Use of Confidential Records and Reports*

FOR the purpose of authorizing the ~~Medical Advisory Board appointed by the Motor Vehicle Administrator to disclose~~ Motor Vehicle Administration to ~~use, whether unilaterally or in certain collaboration, certain information of the Medical Advisory Board for certain purposes subject to a certain restriction; and generally relating to the disclosure use of information of the Medical Advisory Board by the Medical Advisory Board Motor Vehicle Administration~~ *use certain information in certain confidential reports and records for driver safety research subject to a certain restriction; authorizing the Administration to contract with third parties to assist with driver safety research; and generally relating to the use of certain confidential reports and records*.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 16–118 and 16–119
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

16–118.

(a) (1) The Administrator may appoint a Medical Advisory Board of qualified physicians and optometrists to enable the Administration to comply properly with the provisions of this title regarding the physical and mental condition of individuals who seek to drive on highways in this State.

(2) The Administrator also may appoint a medical secretary to serve the Board.

(b) Each member of the Medical Advisory Board is entitled to compensation for each meeting that the member attends. The compensation shall be paid out of funds appropriated to the Administration.

(c) (1) The Administrator may refer to the Medical Advisory Board, for an advisory opinion, the case of any licensee or applicant for a license, if the Administrator has good cause to believe that the driving of a vehicle by him would be contrary to public safety and welfare because of an existing or suspected mental or physical disability.

(2) The Board shall meet at the pleasure of the Administrator.

(d) (1) **[**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** records of the Medical Advisory Board:

(i) Are confidential;

(ii) May be disclosed only on court order; and

(iii) May be used only to determine the qualifications of an individual to drive.

(2) **THE** ~~**MEDICAL ADVISORY BOARD MAY DISCLOSE**~~ **ADMINISTRATION MAY USE INFORMATION IN** ~~**ITS RECORDS**~~ ~~**THE RECORDS OF THE MEDICAL ADVISORY BOARD**~~ ***ITS RECORDS*** **FOR THE PURPOSE OF** ~~**MEDICAL RESEARCH OR STATISTICAL REPORTING, AS DETERMINED BY THE BOARD, PROVIDED THAT THE INFORMATION DISCLOSED DOES NOT IDENTIFY ANY INDIVIDUAL WHO IS A SUBJECT OF OR IS NAMED IN THE RECORDS**~~ **DRIVER SAFETY RESEARCH,** ~~**WHETHER PERFORMED UNILATERALLY OR IN**~~

~~**COLLABORATION WITH ANOTHER MEDICAL RESEARCH ENTITY,**~~ **PROVIDED THAT PERSONAL INFORMATION IS NOT *PUBLISHED OR* DISCLOSED.**

(3) ***THE ADMINISTRATION MAY CONTRACT WITH THIRD PARTIES TO ASSIST WITH DRIVER SAFETY RESEARCH.***

(4) A person may not use these records for any other purpose.

16–119.

(a) The Department of Health and Mental Hygiene, together with the Medical and Chirurgical Faculty and the State Board of Examiners in Optometry, shall define:

(1) Disorders characterized by lapses of consciousness; and

(2) Disorders that result in a corrected visual acuity that fails to comply with the vision requirements of this subtitle.

(b) (1) Except as provided in paragraph (2) of this subsection, any physician and any other person authorized to diagnose, detect, or treat disorders defined under subsection (a) of this section may report to the Medical Advisory Board and to the subject of the report, in writing, the full name, date of birth, and address of each individual 15 years old or older who has any such disorder.

(2) Unless authorized by the individual in writing, a report may not be made from information derived from the diagnosis or treatment of any individual on whom a confidential or privileged relationship is conferred by law.

(c) On receipt of a report under this section, the Administration shall:

(1) As soon as practicable, arrange for an examination of each reported individual who holds a driver's license; and

(2) If the individual fails to meet the requirements of this subtitle, cancel his license.

(d) (1) ~~The~~ **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** reports made to the Administration under this section:

(i) Are confidential;

(ii) May be disclosed only on court order; and

(iii) May be used only to determine the qualifications of an individual to drive.

(2) **THE ~~MEDICAL ADVISORY BOARD MAY DISCLOSE~~ ADMINISTRATION MAY USE INFORMATION IN THE REPORTS IT RECEIVES FOR THE PURPOSE OF ~~MEDICAL RESEARCH OR STATISTICAL REPORTING, AS DETERMINED BY THE BOARD, PROVIDED THAT THE INFORMATION DISCLOSED DOES NOT IDENTIFY ANY INDIVIDUAL WHO IS A SUBJECT OF OR IS NAMED IN THE REPORTS~~ DRIVER SAFETY RESEARCH, ~~WHETHER PERFORMED SOLELY BY THE ADMINISTRATION OR IN COLLABORATION WITH ANOTHER MEDICAL RESEARCH ENTITY,~~ PROVIDED THAT PERSONAL INFORMATION IS NOT *PUBLISHED OR* DISCLOSED.**

(3) *THE ADMINISTRATION MAY CONTRACT WITH THIRD PARTIES TO ASSIST WITH DRIVER SAFETY RESEARCH.*

(4) A person may not use these reports for any other purpose.

(e) A civil or criminal action may not be brought against any person who makes a report under this section and who does not violate any confidential or privileged relationship conferred by law.

(f) A report made under this section may not be used as evidence in any civil or criminal trial, except in a legal action involving an alleged violation of a confidential or privileged relationship conferred by law.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 425

(Senate Bill 584)

AN ACT concerning

Baltimore City – Alcoholic Beverages Act of 2008

FOR the purpose of altering certain alcoholic beverages license fees and establishing new alcoholic beverages license fees in Baltimore City; revising and restating

certain alcoholic beverages provisions concerning the issuance and transfer of certain licenses in certain areas of the City; clarifying certain exemptions from the prohibitions against the issuance of new licenses and the transfer of licenses in certain areas of the City; clarifying that certain alcoholic beverages districts be coterminous with ~~the current~~ a certain legislative districting plan; updating certain obsolete references to certain districts, wards, and precincts; requiring the Board of Liquor License Commissioners for Baltimore City to obtain criminal records of applicants for licenses from a certain agency and to forward certain fingerprints to a certain agency; altering the annual salary of the chairman and other members of the Board; specifying that the chairman and other members of the Board are eligible to receive certain health benefits; altering the number of permanent part–time inspectors that the Board is required to employ; changing the positions and altering the salary grade level for certain Board staff; creating new positions on the Board staff; authorizing each inspector of the Board to examine certain identification used as proof of age; altering certain provisions regarding the registration of bottle clubs by the Board; providing for a registration fee; prohibiting the Board from accepting a renewal of a registration without a hearing under certain circumstances; providing that this Act does not apply to the salary or compensation of the incumbent chairman of the Board of Liquor License Commissioners for Baltimore City or other members of the Board; defining a certain term; and generally relating to alcoholic beverages in Baltimore City.

BY repealing
Article 2B – Alcoholic Beverages
Section 9–204.1 ~~and 8–403.1(d)(1)~~
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section ~~5–101(a)(1), 5–201(a)(1), 5–301(a)(1), 5–401(a)(1),~~ 6–101(a)(1), 6–102(a) and (c), 6–201(a)(1) and (d)(1)(i)~~,~~ and (2)(i), ~~and (4)(i), 6–301(a)(1),~~ 6–401(a)(1), ~~8–203(d)(1), 8–403.1(a),~~ 8–508(a), 10–503(d)(1), ~~11–503(b)(2)(iii),~~ and 15–112(a)(3) and (d)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section ~~5–101(d), 5–201(d), 5–301(d), 5–401(d),~~ 6–101(d), 6–102(d), 6–201(d)(1)(ii), (2)(iii), and (3)(viii), ~~and (4)(ii), 6–301(d),~~ 6–401(d)(1), ~~8–203(d)(7), 8–403.1(d)(1),~~ 8–508(c), 9–204.3, 10–301(j)(2), 10–503(d)(3)(i), 11–403(a)(3), ~~11–503(b)(2)(i) and (ii), 15–109(d)(1)~~ 15–109(d), 15–112(d)(9), (11)(vi), and (13), and 20–102

Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 6–201(d)(5) and (6), ~~8–403.1(d)(1),~~ 9–204.1, 10–103(b)(13)(xiv), 10–502(c), and 15–112(d)(14)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9–204.1 of Article 2B – Alcoholic Beverages of the Annotated Code of Maryland be repealed.

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

Article 2B – Alcoholic Beverages

~~5–101.~~

~~(a) (1) A Class A beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer and light wines at retail, in any quantity to any consumers, at the place described in the license. The holder shall deliver the beer and light wines in a sealed package or container, which package or container may not be opened nor its contents consumed on the premises where sold.~~

~~(d) In Baltimore City the annual license fee is~~ **[**$110**] $132**~~.~~

~~5–201.~~

~~(a) (1) A Class B beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder may keep for sale and sell beer and light wines at retail at any hotel or restaurant, at the place described in the license, for consumption on the premises or elsewhere.~~

~~(d) In Baltimore City the annual license fee is~~ **[**$165**] $198**~~.~~

~~5–301.~~

~~(a) (1) Except as provided in subsection (n) of this section, a Class C beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and~~

~~sell beer and light wines at retail to bona fide members and their guests, at any club, at the place described in the license, for consumption on the premises only.~~

~~(d) In Baltimore City the annual license fee is~~ **[**~~$82.50~~**] $99**~~.~~

~~5–401.~~

~~(a) (1) A Class D beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes its holder to keep for sale and to sell beer and light wines at retail, at the place described in the license, for consumption on the premises or elsewhere. The license may not be issued for any drugstore.~~

~~(d) In Baltimore City the annual license fee is~~ **[**~~$165~~**] $198**~~.~~

6–101.

(a) (1) A Class A beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes the holder to keep for sale and to sell all alcoholic beverages at retail, in any quantity, at the place described in the license. The licensee shall deliver the alcoholic beverages in a sealed package or container and the package or container may not be opened nor its contents consumed on the premises where sold.

(d) In Baltimore City the annual license fee is **[**$715**] $858**.

6–102.

(a) This section applies only in Baltimore City.

(c) A Class A–2 beer, wine and liquor off–sale package goods license authorizes the holder to:

(1) Keep for sale and sell beer, wine, and liquor at retail; and

(2) Deliver alcoholic beverages in sealed packages or containers. The package or container may not be opened nor its contents be consumed on the premises where it is sold.

(d) The annual license fee is **[**$715**] $858**.

6–201.

(a) (1) A Class B beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located, and

the license authorizes its holder to keep for sale and sell all alcoholic beverages at retail at any hotel or restaurant at the place described, for consumption on the premises or elsewhere, or as provided in this section.

(d) (1) (i) This subsection applies only in Baltimore City.

(ii) Except as otherwise provided by this subsection, the annual license fee is **[**$1,100**]** ~~**$1,320**~~**:**

1. $1,320 FOR A LICENSED ESTABLISHMENT WITH A SEATING CAPACITY OF 200 OR FEWER; AND

2. $1,800 FOR A LICENSED ESTABLISHMENT WITH A SEATING CAPACITY OF MORE THAN 200.

(2) (i) There is a Class B–BWL (H–M) license.

(iii) The annual license fee is **[**$5,500**]** ~~**$6,600**~~ **$6,500**.

(3) (viii) The annual license fee for the arena license is **[**$10,000**] $12,000**.

~~(4) (i) The owner or owners of any regularly licensed racing establishment, or the concessionaire or catering organization at such place, whether an individual, association or corporation, without additional residential, voting or locative qualifications may procure a license for the sale of beer, wine and liquor within the confines of its racing park.~~

~~(ii) The license fee is **[**$55**] $66** per day.~~

(5) A LICENSEE THAT IS ISSUED A LICENSE FOR ROOM SERVICE FOR AN ESTABLISHMENT WITH FEWER THAN 100 ROOMS SHALL PAY AN ANNUAL ROOM SERVICE FEE OF $1,000 IN ADDITION TO THE LICENSE FEE.

(6) IN ADDITION TO THE ANNUAL LICENSE FEE, A LICENSEE ISSUED A LICENSE UNDER THIS SUBSECTION SHALL PAY ANNUALLY:

(I) $500, IF THE LICENSEE PROVIDES ~~**DISK JOCKEY, KARAOKE, OR**~~ **LIVE ENTERTAINMENT**~~**; OR**~~**; AND**

(II) $200, IF THE LICENSEE PROVIDES OUTDOOR TABLE OR CAFE SERVICE.

~~6–301.~~

~~(a) (1) Except as provided in subsection (n) of this section, a Class C beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at any club, at the place described in the license, for consumption on the premises only.~~

~~(d) In Baltimore City the annual license fee is~~ **[**~~$550~~**] $660**~~.~~

6–401.

(a) (1) A Class D beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at the place described in it, for consumption on the premises or elsewhere. A license may not be issued for any drugstore.

(d) (1) Subject to § 11–503(b)(2) of this article, in Baltimore City the annual license fee is **[**$687.50**] $825**.

~~8–203.~~

~~(d) (1) There is a Class B–D–7 license.~~

~~(7) All such licenses shall be issued by the Board of Liquor License Commissioners upon certification of the Board. The annual license fee is~~ **[**~~$1,320~~**] $1,584**~~.~~

~~8–403.1.~~

~~(a) The Baltimore City Board of License Commissioners may issue a 1–day Class BWT beer and wine (on–premises) tasting license.~~

~~(d)~~ **[**~~(1) The Board shall set a fee for a Class BWT license~~**]**

~~**(1) THE FEE FOR A CLASS BWT LICENSE IS $50 FOR EACH TASTING EVENT.**~~

8–508.

(a) This section applies only to a golf course that is:

(1) Located on land that is owned by Baltimore City; and

(2) Operated by a Baltimore City golf course manager or a golf course manager under a management agreement with Baltimore City.

(c) The annual license fee is **[**$500**] $600**.

9–204.1.

(A) IN THIS SECTION, "BOARD" MEANS THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY.

(B) THIS SECTION APPLIES ONLY IN BALTIMORE CITY.

(C) THE ALCOHOLIC BEVERAGES DISTRICTS DESCRIBED IN THIS SECTION AT ALL TIMES SHALL BE COTERMINOUS WITH THE ~~CURRENT LEGISLATIVE DISTRICTING PLAN~~ LEGISLATIVE DISTRICTS IN THE LEGISLATIVE DISTRICTING PLAN OF 2002 AS ORDERED BY THE MARYLAND COURT OF APPEALS ON JUNE 21, 2002.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, NEW LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES MAY NOT BE ISSUED IN THE FOLLOWING AREAS:

(I) THE 40TH ALCOHOLIC BEVERAGES DISTRICT (ENTIRE DISTRICT);

(II) THE 41ST ALCOHOLIC BEVERAGES DISTRICT (ENTIRE DISTRICT);

(III) THE 43RD ALCOHOLIC BEVERAGES DISTRICT (ENTIRE DISTRICT);

(IV) THE 44TH ALCOHOLIC BEVERAGES DISTRICT (ENTIRE DISTRICT);

(V) THE 45TH ALCOHOLIC BEVERAGES DISTRICT (ENTIRE DISTRICT); AND

(VI) THE 46TH ALCOHOLIC BEVERAGES DISTRICT (ENTIRE DISTRICT).

(2) THE BOARD MAY ISSUE:

(I) SPECIAL 1–DAY LICENSES; OR

(II) CLASS B BEER, WINE AND LIQUOR RESTAURANT LICENSES TO BONA FIDE RESTAURANTS HAVING:

1. A MINIMUM CAPITAL INVESTMENT, NOT INCLUDING THE COST OF LAND AND BUILDINGS, OF $200,000 FOR RESTAURANT FACILITIES EXCEPT IN THE 46TH ALCOHOLIC BEVERAGES DISTRICT;

2. A MINIMUM SEATING CAPACITY OF 75 PERSONS; AND

3. ADDITIONAL REQUIREMENTS FOR CLASS B BEER, WINE AND LIQUOR LICENSES ISSUED IN THE 46TH ALCOHOLIC BEVERAGES DISTRICT AS PROVIDED IN § 6–201(D) OF THIS ARTICLE.

(3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, NEW CLASS B BEER, WINE AND LIQUOR RESTAURANT LICENSES MAY NOT BE ISSUED:

(I) IN THE 46TH ALCOHOLIC BEVERAGES DISTRICT, THE AREA COVERED BY THE KEY HIGHWAY EAST INDUSTRIAL AREA URBAN RENEWAL PLAN, AS ADOPTED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY IN ORDINANCE 986 ON JUNE 29, 1987;

(II) IN THE 46TH ALCOHOLIC BEVERAGES DISTRICT, THE AREA COVERED BY THE KEY HIGHWAY URBAN RENEWAL PLAN, AS ADOPTED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY IN ORDINANCE 622 ON MARCH 12, 1986; AND

(III) IN THE 46TH ALCOHOLIC BEVERAGES DISTRICT, WARD 23, PRECINCT 1, WARD 1, PRECINCT 4 OR 5, AND WARD 24, PRECINCT 5; AND

(IV) IN THE AREA KNOWN AS PEN LUCY, WARD 9, PRECINCTS 1 AND 2.

(E) (1) EXCEPT AS PROVIDED IN ~~PARAGRAPHS (2) AND (3)~~ PARAGRAPH (2) OF THIS SUBSECTION, LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES OF ANY CLASS MAY NOT BE TRANSFERRED INTO THE AREAS COVERED BY THIS SECTION.

(2) A LICENSED DRUGSTORE MAY TRANSFER THE LICENSE INTO THE 45TH ALCOHOLIC BEVERAGES DISTRICT.

~~(3) (I) NOTWITHSTANDING ANY REGULATION OF THE BOARD, A CLASS B BEER AND WINE LICENSE MAY BE ISSUED IN OR TRANSFERRED INTO THE 43RD ALCOHOLIC BEVERAGES DISTRICT OR THE 44TH ALCOHOLIC BEVERAGES DISTRICT FOR USE IN CONJUNCTION WITH A RETAIL SEAFOOD FACILITY THAT IS A PERMANENT, BONA FIDE RAW BAR.~~

~~(II) IF A LICENSE ISSUED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS ISSUED IN OR TRANSFERRED INTO THE 43RD ALCOHOLIC BEVERAGES DISTRICT OR THE 44TH ALCOHOLIC BEVERAGES DISTRICT, THE LICENSE MAY NOT BE TRANSFERRED TO ANY OTHER LOCATION.~~

(F) (1) THIS SUBSECTION APPLIES ONLY IN THE 46TH ALCOHOLIC BEVERAGES DISTRICT.

(2) NOTWITHSTANDING § 6–201(D)(1)(VII) OF THIS ARTICLE, THE BOARD MAY ISSUE A CLASS B BEER, WINE AND LIQUOR LICENSE:

(I) FOR A RESTAURANT IN WARD 26, PRECINCT 8, IF THE RESTAURANT HAS A MINIMUM CAPITAL INVESTMENT OF $700,000, A SEATING CAPACITY EXCEEDING 150 PERSONS, AND AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD THAT ARE AT LEAST 65% OF THE TOTAL DAILY RECEIPTS OF THE RESTAURANT;

(II) FOR A RESTAURANT IN WARD 4, PRECINCT 1 OR WARD 22, PRECINCT 1, IF THE RESTAURANT HAS A MINIMUM CAPITAL INVESTMENT OF ~~$750,000~~ $700,000, A SEATING CAPACITY THAT EXCEEDS ~~70~~ 75 PERSONS, AVERAGE DAILY RECEIPTS FOR THE SALE OF FOOD THAT ARE AT LEAST 65% OF THE TOTAL DAILY RECEIPTS OF THE RESTAURANT, AND NO SALES FOR OFF–PREMISES CONSUMPTION; AND

(III) FOR NOT MORE THAN THREE RESTAURANTS IN A RESIDENTIAL PLANNED UNIT DEVELOPMENT FOR SILO POINT AS APPROVED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY IN ORDINANCE 04–697 ON JUNE 23, 2004, IF THE RESTAURANT HAS A MINIMUM CAPITAL INVESTMENT OF ~~$600,000~~ $700,000, A SEATING CAPACITY THAT EXCEEDS ~~70~~ 75 PERSONS, AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD THAT ARE AT LEAST 65% OF THE TOTAL DAILY RECEIPTS OF THE RESTAURANT, AND NO SALES FOR OFF–PREMISES CONSUMPTION.

(3) THE BOARD MAY NOT ISSUE AN ALCOHOLIC BEVERAGES LICENSE OR TRANSFER A LICENSE INTO WARD 1, PRECINCTS 4 AND 5, WARD 23, PRECINCT 1, OR WARD 24, PRECINCT 5.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A NEW CLASS B BEER, WINE AND LIQUOR LICENSE MAY NOT BE TRANSFERRED TO ANOTHER LOCATION OR DOWNGRADED WITHIN THE 46TH ALCOHOLIC BEVERAGES DISTRICT.

(5) A NEW CLASS B LICENSED RESTAURANT MUST HAVE AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD THAT ARE AT LEAST 51% OF THE TOTAL DAILY RECEIPTS OF THE RESTAURANT.

(6) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE BOARD MAY NOT TRANSFER OR ISSUE A LICENSE IF THE TRANSFER OR ISSUANCE WOULD RESULT IN:

1. THE LICENSED PREMISES BEING LOCATED WITHIN 300 FEET OF THE NEAREST POINT OF A CHURCH OR A SCHOOL; OR

2. THE LICENSED PREMISES BEING LOCATED CLOSER TO THE NEAREST POINT OF A CHURCH OR A SCHOOL THAN THE LICENSED PREMISES WAS ON JUNE 1, 2004.

(II) THIS PARAGRAPH DOES NOT APPLY TO A LICENSED RESTAURANT IN:

1. WARD 4, PRECINCT 1;

2. WARD 22, PRECINCT 1; OR

3. A RESIDENTIAL PLANNED UNIT DEVELOPMENT FOR SILO POINT AS APPROVED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY IN ORDINANCE 04–697 ON JUNE 23, 2004.

(7) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A LICENSE FOR THE SALE OF ALCOHOLIC BEVERAGES MAY NOT BE TRANSFERRED INTO, OR TRANSFERRED TO A DIFFERENT LOCATION WITHIN, THE FOLLOWING AREAS:

1. WARD 1, PRECINCTS 2 AND 3;

2. WARD 2 IN ITS ENTIRETY;

3. WARD 3, PRECINCT 3; AND

4. WARD 26, PRECINCTS 3 AND 10.

(II) THIS PARAGRAPH DOES NOT APPLY TO AN APPLICATION FOR A NEW LICENSE OR A TRANSFER FROM WITHIN THE AREAS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE NEW LICENSE OR TRANSFER IS FOR:

1. A HOTEL;

2. AN ESTABLISHMENT LOCATED IN A PLANNED UNIT DEVELOPMENT IF THE APPLICATION FOR THE PLANNED UNIT DEVELOPMENT WAS FILED OR APPROVED BEFORE DECEMBER 31, 1995;

3. AN ESTABLISHMENT LOCATED IN AN AREA GOVERNED BY THE INNER HARBOR EAST URBAN RENEWAL PLAN; OR

4. AN ESTABLISHMENT THAT HAS A SEATING CAPACITY OF FEWER THAN 150 PERSONS OR IN WHICH THE AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD ARE AT LEAST 51% OF THE TOTAL DAILY RECEIPTS OF THE ESTABLISHMENT.

~~(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LICENSE OF ANY CLASS FOR THE SALE OF ALCOHOLIC BEVERAGES MAY NOT BE TRANSFERRED INTO, OR TRANSFERRED TO A DIFFERENT LOCATION WITHIN, THE 3RD AND 4TH PRECINCTS OF THE 16TH WARD OF THE 44TH ALCOHOLIC BEVERAGES DISTRICT.~~

~~(2) THIS SUBSECTION DOES NOT APPLY TO:~~

~~(I) CLASS C LICENSES;~~

~~(II) CLASS B (ON–SALE) HOTEL AND RESTAURANT LICENSES;~~

~~(III) CLASS A (OFF–SALE) LICENSES;~~

~~(IV) A LICENSED PREMISES, IF THE LAND ON WHICH THE LICENSED PREMISES EXISTS IS TAKEN BY RIGHT OF EMINENT DOMAIN; AND~~

~~(V) A HOLDER OF ANY CLASS OF LICENSE WHOSE LICENSED PREMISES ARE DESTROYED BY AN ACT OF GOD IF:~~

~~1. THE PREMISES ARE DECLARED BY THE BOARD TO BE UNUSABLE FOR PURPOSES OF THE LICENSE; AND~~

~~**2. THE HOLDER HAS NOT BEEN CITED FOR ANY LICENSE VIOLATION WITHIN A 2–YEAR PERIOD PRIOR TO THE DATE THE BOARD DECLARES THE LICENSED PREMISES UNUSABLE.**~~

~~**(H)**~~ **(G)** ~~**EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, THE BOARD MAY NOT ISSUE ANY NEW CLASS A (OFF–SALE) OR CLASS D (ON– AND OFF–SALE) ALCOHOLIC BEVERAGES LICENSES WITHIN OR TRANSFER ANY**~~ **A CLASS A (OFF–SALE) OR CLASS D (ON– AND OFF–SALE) ALCOHOLIC BEVERAGES** ~~**LICENSES**~~ **LICENSE MAY NOT BE ISSUED WITHIN OR TRANSFERRED INTO THE AREA BOUNDED ON THE NORTH BY 39TH STREET, THEN FOLLOWING ELLERSLIE AVENUE, THEN FOLLOWING CHESTNUT HILL AVENUE, ON THE EAST BY LOCH RAVEN BOULEVARD, THEN FOLLOWING WALPERT AVENUE, THEN FOLLOWING HOMEWOOD AVENUE, ON THE SOUTH BY NORTH AVENUE, AND ON THE WEST BY HOWARD STREET, THEN FOLLOWING ART MUSEUM DRIVE, THEN FOLLOWING NORTH CHARLES STREET.**

~~**(I) THE PROHIBITIONS OF THIS SECTION DO NOT APPLY TO CLASS C BEER, WINE AND LIQUOR LICENSES ISSUED FOR USE ON THE PREMISES LOCATED AT 3920 BUENA VISTA AVENUE.**~~

~~**(J) THE PROHIBITIONS OF THIS SECTION DO NOT APPLY TO CLASS C BEER, WINE AND LIQUOR LICENSES ISSUED FOR USE ON THE PREMISES OF A MUNICIPAL GOLF COURSE IN THE 41ST LEGISLATIVE DISTRICT.**~~

9–204.3.

(a) In Baltimore City, **[**in the 2nd, 3rd, 4th, and 5th Legislative Districts as they existed on January 1, 1972, and 46th and 47th Legislative Districts as listed in the Baltimore Directory of 1986 issued by the Board of Supervisors of Elections of Baltimore City,**]** no new license, or removal of an existing license, shall be granted to sell alcoholic beverages in any building located within 300 feet of the nearest point of the buildings of a church or school, but the license of any person now holding a license for any building located within such distance of the building grounds of a church or school may be renewed or extended for the same building.

(b) The restrictions regarding distance do not apply to the following licenses, which may be issued within the 300 feet limitation:

(1) Except in the 46th **[**and 47th Legislative Districts as listed in the Baltimore Directory of 1986 issued by the Board of Supervisors of Elections of Baltimore City**]** **LEGISLATIVE DISTRICT**, Class B beer and wine;

(2) Except in the 46th **[**and 47th Legislative Districts as listed in the Baltimore Directory of 1986 issued by the Board of Supervisors of Elections of Baltimore City**]** **LEGISLATIVE DISTRICT**, Class B beer, wine and liquor;

(3) Class C beer and wine; **AND**

(4) Class C beer, wine and liquor~~; and~~

~~(5) A Class A license that is transferred from ward 12, precinct 1 to a property within a block surrounded by Elm Avenue, Berry Street, Paine Street and West 37th Street, if:~~

~~(i) The transfer has the written support of the Hampden Community Council, the Hampden Village Merchant's Association, and Hampden Main Street; and~~

~~(ii) The transfer is consistent with the Hampden Urban Renewal Plan~~.

(c) Except in the 46th **[**and 47th Legislative Districts as listed in the Baltimore Directory of 1986 issued by the Board of Supervisors of Elections of Baltimore City**]** **LEGISLATIVE DISTRICT**, the governing body of any church in writing may waive the restrictions of this section regarding licenses not specified in subsection (b) with respect to cafes or restaurants located within 250 feet of a theater having a capacity of not less than 300 seats, which theater is operated by a nonprofit theater association.

10–103.

(b) (13) **(XIV) IN BALTIMORE CITY:**

1. THE BOARD OF LIQUOR LICENSE COMMISSIONERS SHALL:

A. OBTAIN CRIMINAL RECORDS OF ALCOHOLIC BEVERAGES LICENSE APPLICANTS FROM THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;

B. REQUIRE APPLICANTS FOR ALCOHOLIC BEVERAGES LICENSES IN ~~THE COUNTY~~ BALTIMORE CITY TO BE FINGERPRINTED; AND

C. FORWARD THE FINGERPRINTS THROUGH THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES FOR TRANSMITTAL TO THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK; AND

2. APPLICANTS FOR LICENSE RENEWAL MAY NOT BE SUBJECT TO THE PROVISIONS OF THIS SUBPARAGRAPH.

10–301.

(j) (2) (i) Each year, between March 1 and March 31, both inclusive, each licensee shall file an application for license renewal with the Board.

(II) AN APPLICANT FOR A RENEWAL OF A LICENSE ISSUED BY THE BOARD SHALL PAY A RENEWAL APPLICATION FEE OF $50 TO THE DIRECTOR OF FINANCE.

[(ii)**] (III)** A license renewal application received by the Board after March 31 may be subject to:

1. Rejection; or

2. A late charge of $50 for each day the application is filed late, not to exceed $1,500.

10–502.

(C) (1) THIS SUBSECTION APPLIES ONLY IN BALTIMORE CITY.

(2) AN ESTABLISHMENT WITH MULTIPLE PUBLIC AREAS IN WHICH ALCOHOLIC BEVERAGES ARE SOLD SHALL DISPLAY A DUPLICATE LICENSE IN EACH AREA.

(3) THE FEE FOR A DUPLICATE LICENSE IS $20.

10–503.

(d) (1) This subsection applies only in Baltimore City.

(3) (i) Subject to subparagraph (ii) of this paragraph, the fee for transfer or assignment of a license is **[**$100**] $200** in addition to the cost of publication and notice and any hearing fees required.

11–403.

(a) (3) (i) Except for the Class B Sunday off–sale license prohibition in the 47th alcoholic beverages district in Baltimore City as provided for in § 6–201(d) of this article, in Baltimore City a Class B and a Class C beer and light wine or beer, wine and liquor licensee may sell alcoholic beverages at a bar or counter on Sunday.

(ii) 1. Subject to the conditions provided in this subparagraph, in Baltimore City, a holder of a Class A retail alcoholic beverages license may exercise the off–sale license privilege on the Sundays that fall between Thanksgiving Day and New Year's Day from 1 p.m. to 9 p.m.

2. The holder of a Class A retail off–sale license may exercise the additional privilege authorized by this subparagraph in any year in which a supplementary license fee of **[**$50**]** ~~**$60**~~ **$75** has been paid prior to October 1 for each day the additional privilege is to be exercised.

~~11–503.~~

~~(b) (2) (i) The Board may issue a supplemental license no more than **[**two**] FOUR** times during any calendar year to a holder of a Class D beer, wine and liquor license authorizing the holder to sell alcoholic beverages between the hours of 6 a.m. on Sunday and 1 a.m. the following day.~~

~~(ii) The fee for the supplemental license is **[**$75**] $100** per issuance, which fee is in addition to the annual fee for the underlying Class D beer, wine and liquor license.~~

~~(iii) A holder of a supplemental license under this paragraph shall notify the Board at least 2 weeks in advance of exercising the privileges under the supplemental license.~~

15–109.

(d) In Baltimore City:

(1) The chairman of the Board shall receive an annual salary of **[**$18,500**] $28,500**, and the other members of the Board shall receive an annual salary of **[**$18,000**] $28,000**.

(2) THE CHAIRMAN AND THE OTHER MEMBERS OF THE BOARD ARE ELIGIBLE TO RECEIVE THE SAME HEALTH BENEFITS THAT FULL–TIME LIQUOR INSPECTORS OF THE BOARD RECEIVE.

[(2)**]** **(3)** The Board shall appoint an executive secretary and a deputy executive secretary whose salaries shall be fixed by the Board, subject to approval by the State Comptroller.

[(3)**]** **(4)** The executive secretary and the deputy executive secretary shall be residents of Baltimore City and of high character and integrity.

[(4)**]** **(5)** The executive secretary and the deputy executive secretary shall be appointed upon the basis of their executive skill and ability and once appointed shall hold office during good behavior regardless of changes in members constituting the Board. They shall be removed only for incompetency or immorality upon charges furnished in writing by the Board setting forth the grounds for dismissal and after opportunity for hearing.

[(5)**]** **(6)** Either the executive secretary or the deputy executive secretary shall be a member of the Bar of this State.

15–112.

(a) (3) In this section, "Board" means the Board of License Commissioners, unless otherwise noted.

(d) (1) This subsection applies only in Baltimore City.

(9) The Board shall:

(i) Employ **[**18**]** **12** permanent part–time inspectors; and

(ii) Set the annual salary for permanent part–time inspectors at not less than ~~$1,200~~ **$3,600**.

(11) (vi) As of October 1, 1998:

1. The inspector supervisor, assistant inspector supervisor, office assistant, accounting assistant, secretary III, and office supervisor are part of the classified civil service of Baltimore City.

2. There shall be an **[**administrative coordinator**]** ~~**ADMINISTRATIVE**~~ **ASSISTANT EXECUTIVE SECRETARY** which position shall replace the position of **[**applications investigator**]** **ADMINISTRATIVE COORDINATOR**. The **[**administrative coordinator**]** **ASSISTANT EXECUTIVE SECRETARY** shall be part of the classified civil service of Baltimore City.

(13) The following is the schedule of City Union of Baltimore (CUB) salary grade levels for employees of the Board:

(i) Office Assistant – Grade 082;

(ii) Inspector I – Grade 082;

(III) INSPECTION DIVISION OFFICE ASSISTANT – GRADE 082;

[(iii)**] (IV)** Inspector II – Grade 085;

[(iv)**] (V)** Accounting Assistant II – Grade 085;

[(v)**] (VI)** Secretary III – Grade 086;

[(vi)**] (VII) [**Office Supervisor**] 311 CALL CENTER SUPERVISOR** – Grade **[**087**]** ~~088~~ **093**;

(VIII) INSPECTOR III – GRADE 088;

[(vii)**] (IX) [**Administrative Coordinator**] ASSISTANT EXECUTIVE SECRETARY** – Grade **[**090**]** ~~095~~ **099**;

[(viii)**] (X)** Assistant Chief Inspector – Grade **[**090**]** ~~093~~ **097**; and

[(ix)**] (XI)** Chief Inspector – Grade **[**093**]** ~~095~~ **099**.

(14) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH INSPECTOR EMPLOYED BY THE BOARD MAY EXAMINE ANY IDENTIFICATION USED AS PROOF OF AGE BY A PERSON FOR THE PURCHASE OF ALCOHOLIC BEVERAGES IN THE CITY.

(II) AN EXAMINATION SHALL BE MADE ON THE PREMISES OF THE LICENSED ESTABLISHMENT WHERE THE PURCHASE IS ATTEMPTED.

20–102.

(a) (1) In this section, "bottle club" means any establishment that serves, gives, or allows alcoholic beverages to be consumed by patrons from supplies that the patrons previously purchased or reserved.

(2) "Bottle club" does not include any establishment if a license for the premises had been issued under the provisions of this article.

(b) This section applies only in Baltimore City.

(c) A bottle club may not give, serve, dispense, keep, or allow to be consumed on its premises, or on premises under its control or possession, any alcoholic beverages, setups, or other component parts of mixed alcoholic drinks after legal closing hours for establishments under § 8–203(d) of this article.

(d) (1) Any person who owns or operates a bottle club shall **[**register the establishment with**]** ~~**HAVE THE ESTABLISHMENT REGISTERED BY**~~ the Board of License Commissioners for Baltimore City **AND PAY THE APPLICATION FEE THAT THE BOARD SETS**.

(2) The registration shall include:

(i) The name of the establishment; **[**and**]**

(ii) The address where the establishment is doing business**; AND**

(III) EVIDENCE OF ALL INSPECTIONS REQUIRED OF THE ESTABLISHMENT AND BUSINESS LICENSES ISSUED TO THE PERSON BY THE STATE OR ~~**THE BOARD**~~ **BALTIMORE CITY**.

(3) (I) THE BOARD SHALL MEET THE SAME NOTICE AND HEARING REQUIREMENTS FOR THE APPLICATION FOR REGISTRATION THAT APPLY TO AN APPLICATION FOR AN ALCOHOLIC BEVERAGES LICENSE.

(II) BEFORE THE BOARD MAY APPROVE AN APPLICATION AND ACCEPT THE REGISTRATION, THE APPLICANT SHALL PROVIDE COPIES OF ALL INSPECTIONS BY THE APPROPRIATE AGENCIES, A TRADER'S LICENSE, A SALES AND USE TAX LICENSE, AND A USE AND OCCUPANCY PERMIT.

~~**(II)**~~ **(III)** ~~**AFTER**~~ **AT THE HEARING, THE BOARD SHALL DETERMINE WHETHER TO REGISTER THE ESTABLISHMENT, USING THE STANDARDS LISTED UNDER** ~~**§ 10–202(A)(2)**~~ **§ 10–202(A)(2)(II) OF THIS ARTICLE.**

(IV) 1. A REGISTRATION OF A BOTTLE CLUB UNDER THIS SUBSECTION REMAINS IN EFFECT FOR 1 YEAR.

2. SUBJECT TO SUBPARAGRAPH (V) OF THIS PARAGRAPH, A REGISTRATION THAT IS ACCEPTED BY THE BOARD MAY BE RENEWED EACH YEAR IN ACCORDANCE WITH THE SAME RENEWAL PROCEDURES USED FOR LIQUOR LICENSES.

3. A PERSON THAT SEEKS TO RENEW A REGISTRATION SHALL PAY THE RENEWAL FEE THAT THE BOARD ESTABLISHES.

(V) 1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE BOARD MAY NOT ACCEPT A RENEWAL OF A REGISTRATION WITHOUT A HEARING IF A PROTEST HAS BEEN FILED AGAINST THE RENEWAL AT LEAST 30 DAYS BEFORE THE EXPIRATION OF THE REGISTRATION.

2. A PROTEST SHALL BE:

A. INSTITUTED BY THE BOARD; OR

B. SIGNED BY AT LEAST 10 RESIDENTS, COMMERCIAL TENANTS WHO ARE NOT HOLDERS OF OR APPLICANTS FOR ANY LICENSE ISSUED UNDER THIS ARTICLE, OR REAL ESTATE OWNERS IN THE IMMEDIATE VICINITY IN WHICH THE BOTTLE CLUB IS LOCATED.

(VI) THE BOARD MAY REVOKE OR REFUSE TO RENEW A REGISTRATION.

(e) A violation of this section is a misdemeanor, and upon conviction, the court shall impose a fine of up to $10,000 or imprisonment for up to 2 years, or both.

SECTION 3. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the chairman of the Board of Liquor License Commissioners for Baltimore City and the other members of the Board in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the chairman of the Board of Liquor License Commissioners for Baltimore City and the other members of the Board shall take effect at the beginning of the next following term of office.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 426

(Senate Bill 600)

AN ACT concerning

Schools – Early Intervention – Hearing and Vision Screenings

FOR the purpose of altering a certain timeframe for when county boards of education and county health departments are required to provide hearing and vision screenings to certain students; authorizing certain screenings in accordance with certain policies; requiring county boards of education and county health departments to provide certain forms; requiring certain parents or guardians to report certain information; and generally relating to the provision of hearing and vision screenings in public schools, private schools, and nonpublic educational facilities.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–404
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Education

7–404.

(a) (1) Each county board or county health department shall provide hearing and vision screenings for all students in the public schools.

(2) Each county health department shall provide and fund hearing and vision screenings for all students:

(i) In any private school that has received a certificate of approval under § 2–206 of this article; and

(ii) In any nonpublic educational facility in this State approved as a special education facility by the Department.

(b) (1) Unless evidence is presented that a student has been tested within the past year, the screenings required under subsection (a) of this section shall be given in the year that a student enters a school system, enters the **[**fourth, fifth, or sixth**]** **FIRST** grade, and enters the **[**ninth**]** ~~**THIRD**~~ **EIGHTH OR NINTH** grade.

(2) Further screening shall be done in accordance with ~~the~~**:**

(I) **THE** bylaws adopted by the State Board**; OR**

(II) **POLICIES ADOPTED BY A COUNTY BOARD OR A COUNTY HEALTH DEPARTMENT**.

(c) The results of the hearing and vision screenings required by this section shall be:

(1) Made a part of the permanent record file of each student;

(2) Given to the parents of any student who fails the screenings; and

(3) Reported to the county board or the county health department.

(D) ON A FORM PROVIDED BY THE COUNTY BOARD OR THE COUNTY HEALTH DEPARTMENT, A PARENT OR GUARDIAN SHALL REPORT TO THE COUNTY BOARD OR THE COUNTY HEALTH DEPARTMENT ON THE RECOMMENDED SERVICES RECEIVED BY A STUDENT WHO FAILED THE SCREENINGS.

[(d)**] (E)** The county board or the county health department shall report to the Department of Health and Mental Hygiene the results of the hearing and vision screenings and, to the extent practicable, the number of students receiving the recommended services.

[(e)**] (F)** In cooperation with the Department of Health and Mental Hygiene, the Department of Education shall adopt standards, rules, and regulations to carry out the provisions of this section.

[(f)**] (G)** A student whose parent or guardian objects in writing to hearing and vision screening on the ground that it conflicts with the tenets and practice of a recognized church or religious denomination of which he is an adherent or member may not be required to take these screenings.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 427

(House Bill 653)

AN ACT concerning

Schools – Early Intervention – Hearing and Vision Screenings

FOR the purpose of altering a certain timeframe for when county boards of education and county health departments are required to provide hearing and vision screenings to certain students; authorizing certain screenings in accordance with certain policies; requiring county boards of education and county health departments to provide certain forms; requiring certain parents or guardians to report certain information; and generally relating to the provision of hearing and vision screenings in public schools, private schools, and nonpublic educational facilities.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–404
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Education

7–404.

(a) (1) Each county board or county health department shall provide hearing and vision screenings for all students in the public schools.

(2) Each county health department shall provide and fund hearing and vision screenings for all students:

(i) In any private school that has received a certificate of approval under § 2–206 of this article; and

(ii) In any nonpublic educational facility in this State approved as a special education facility by the Department.

(b) (1) Unless evidence is presented that a student has been tested within the past year, the screenings required under subsection (a) of this section shall be

given in the year that a student enters a school system, enters the **[**fourth, fifth, or sixth**]** **FIRST** grade, and enters the **[**ninth**]** ~~**THIRD**~~ **EIGHTH OR NINTH** grade.

(2) Further screening shall be done in accordance with ~~the~~**:**

(I) **THE** bylaws adopted by the State Board**; OR**

(II) **POLICIES ADOPTED BY A COUNTY BOARD OR A COUNTY HEALTH DEPARTMENT**.

(c) The results of the hearing and vision screenings required by this section shall be:

(1) Made a part of the permanent record file of each student;

(2) Given to the parents of any student who fails the screenings; and

(3) Reported to the county board or the county health department.

(D) ON A FORM PROVIDED BY THE COUNTY BOARD OR THE COUNTY HEALTH DEPARTMENT, A PARENT OR GUARDIAN SHALL REPORT TO THE COUNTY BOARD OR THE COUNTY HEALTH DEPARTMENT ON THE RECOMMENDED SERVICES RECEIVED BY A STUDENT WHO FAILED THE SCREENINGS.

[(d)**] (E)** The county board or the county health department shall report to the Department of Health and Mental Hygiene the results of the hearing and vision screenings and, to the extent practicable, the number of students receiving the recommended services.

[(e)**] (F)** In cooperation with the Department of Health and Mental Hygiene, the Department of Education shall adopt standards, rules, and regulations to carry out the provisions of this section.

[(f)**] (G)** A student whose parent or guardian objects in writing to hearing and vision screening on the ground that it conflicts with the tenets and practice of a recognized church or religious denomination of which he is an adherent or member may not be required to take these screenings.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 428

(Senate Bill 613)

AN ACT concerning

City of Hagerstown – Fire and Explosives Investigators – Authority

FOR the purpose of providing that under certain circumstances, a City of Hagerstown fire and explosive investigator operating in the City of Hagerstown has the same authority as the State Fire Marshal and a full–time investigative and inspection assistant in the Office of the State Fire Marshal to make arrests without a warrant and to exercise certain powers of arrest; authorizing a City of Hagerstown fire and explosive investigator to exercise certain authority while operating outside the City of Hagerstown under certain circumstances; authorizing the City of Hagerstown Fire Chief to limit certain authority of a fire and explosive investigator to make an arrest without a warrant or exercise certain powers of arrest; requiring the City of Hagerstown Fire Chief to express the limitation in writing; excluding a City of Hagerstown fire and explosive investigator from the definition of "law enforcement officer" under the law relating to the Law Enforcement Officers' Bill of Rights; including a City of Hagerstown fire and explosive investigator in the definition of "police officer" in connection with provisions of law relating to the Maryland Police Training Commission and in the definition of "law enforcement official" in connection with the authorized carrying of a handgun by a person engaged in law enforcement; defining certain terms; requiring the Maryland Police Training Commission to certify certain fire and explosive investigators as police officers by a certain date under certain circumstances; and generally relating to the authority of the City of Hagerstown fire and explosive investigators.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 4–201(a)
Annotated Code of Maryland
(2002 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 4–201(d)
Annotated Code of Maryland
(2002 Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure

Section 2–208
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

BY adding to
Article – Criminal Procedure
Section 2–208.5
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 3–101(a) and 3–201(a)
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3–101(e)(2) and 3–201(e)(2)
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

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

Article – Criminal Law

4–201.

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

(d) "Law enforcement official" means:

(1) a full–time member of a police force or other unit of the United States, a state, a county, a municipal corporation, or other political subdivision of a state who is responsible for the prevention and detection of crime and the enforcement of the laws of the United States, a state, a county, a municipal corporation, or other political subdivision of a state;

(2) a part–time member of a police force of a county or municipal corporation who is certified by the county or municipal corporation as being trained and qualified in the use of handguns;

(3) a fire and explosive investigator of the Prince George's County Fire/EMS Department as defined in § 2–208.3 of the Criminal Procedure Article;

(4) a Montgomery County fire and explosive investigator as defined in § 2–208.1 of the Criminal Procedure Article;

(5) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article; **[**or**]**

(6) a Worcester County fire and explosive investigator as defined in § 2–208.4 of the Criminal Procedure Article**; OR**

(7) A CITY OF HAGERSTOWN FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2–208.5 OF THE CRIMINAL PROCEDURE ARTICLE.

Article – Criminal Procedure

2–208.

(a) (1) The State Fire Marshal or a full–time investigative and inspection assistant of the Office of the State Fire Marshal may arrest a person without a warrant if the State Fire Marshal or assistant has probable cause to believe:

(i) a felony that is a crime listed in paragraph (2) of this subsection has been committed or attempted; and

(ii) the person to be arrested has committed or attempted to commit the felony whether or not in the presence or within the view of the State Fire Marshal or assistant.

(2) The powers of arrest set forth in paragraph (1) of this subsection apply only to the crimes listed in this paragraph and to attempts, conspiracies, and solicitations to commit these crimes:

(i) murder under § 2–201(4) of the Criminal Law Article;

(ii) setting fire to a dwelling or occupied structure under § 6–102 of the Criminal Law Article;

(iii) setting fire to a structure under § 6–103 of the Criminal Law Article;

(iv) a crime that relates to destructive devices under § 4–503 of the Criminal Law Article; and

(v) making a false statement or rumor as to a destructive device under § 9–504 of the Criminal Law Article.

(b) (1) The State Fire Marshal or a full–time investigative and inspection assistant of the Office of the State Fire Marshal may arrest a person without a warrant if the State Fire Marshal or assistant has probable cause to believe:

(i) the person has committed a crime listed in paragraph (2) of this subsection; and

(ii) unless the person is arrested immediately, the person:

1. may not be apprehended;

2. may cause physical injury or property damage to another; or

3. may tamper with, dispose of, or destroy evidence.

(2) The crimes referred to in paragraph (1) of this subsection are:

(i) a crime that relates to a device that is constructed to represent a destructive device under § 9–505 of the Criminal Law Article;

(ii) malicious burning in the first or second degree under § 6–104 or § 6–105 of the Criminal Law Article;

(iii) burning the contents of a trash container under § 6–108 of the Criminal Law Article;

(iv) making a false alarm of fire under § 9–604 of the Criminal Law Article;

(v) a crime that relates to burning or attempting to burn property as part of a religious or ethnic crime under § 10–304 or § 10–305 of the Criminal Law Article;

(vi) a crime that relates to interference, obstruction, or false representation of fire and safety personnel under § 6–602 or § 7–402 of the Public Safety Article; and

(vii) threatening arson or attempting, causing, aiding, counseling, or procuring arson in the first or second degree or malicious burning in the first or second degree under Title 6, Subtitle 1 of the Criminal Law Article.

(c) (1) The State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal may act under the authority granted

by § 2–102 of this title to police officers as provided under paragraph (2) of this subsection.

(2) When acting under the authority granted by § 2–102 of this title, the State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal has the powers of arrest set forth in §§ 2–202, 2–203, and 2–204 of this subtitle.

(d) (1) The State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal who acts under the authority granted by this section shall notify the following persons of an investigation or enforcement action:

(i) 1. the chief of police, if any, or chief's designee, when in a municipal corporation;

2. the Police Commissioner or Police Commissioner's designee, when in Baltimore City;

3. the chief of police or chief's designee, when in a county with a county police department, except Baltimore City;

4. the sheriff or sheriff's designee, when in a county without a county police department;

5. the Secretary of Natural Resources or Secretary's designee, when on property owned, leased, operated by, or under the control of the Department of Natural Resources; or

6. the respective chief of police or chief's designee, when on property owned, leased, operated by, or under the control of the Maryland Transportation Authority, Maryland Aviation Administration, or Maryland Port Administration; and

(ii) the Department of State Police barrack commander or commander's designee, unless there is an agreement otherwise with the Department of State Police.

(2) When the State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal participates in a joint investigation with officials from another state, federal, or local law enforcement unit, the State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal shall give the notice required under paragraph (1) of this subsection reasonably in advance.

(e) A State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal who acts under the authority granted by this section:

(1) has the same immunities from liability and exemptions as a State Police officer in addition to any other immunities and exemptions to which the State Fire Marshal or full–time investigative and inspection assistant is otherwise entitled; and

(2) remains at all times and for all purposes an employee of the employing unit.

(f) (1) This section does not impair a right of arrest otherwise existing under the Code.

(2) This section does not deprive a person of the right to receive a citation for a traffic violation as provided in the Maryland Vehicle Law or a criminal violation as provided by law or the Maryland Rules.

2–208.5.

(A) IN THIS SECTION, "FIRE AND EXPLOSIVE INVESTIGATOR" MEANS AN INDIVIDUAL WHO:

(1) IS ASSIGNED FULL TIME TO THE FIRE AND EXPLOSIVE INVESTIGATIONS SECTION OF THE CITY OF HAGERSTOWN FIRE MARSHAL'S OFFICE AND IS A PAID EMPLOYEE;

(2) HAS ~~ATTAINED THE POSITION OF DEPUTY FIRE MARSHAL OR HIGHER; AND~~ BEEN EMPLOYED BY THE CITY OF HAGERSTOWN FIRE DEPARTMENT AS A FIREFIGHTER FOR AT LEAST 5 YEARS;

(3) HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM FROM A POLICE TRAINING SCHOOL APPROVED BY THE POLICE TRAINING COMMISSION ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE PUBLIC SAFETY ARTICLE; AND

(4) AT ALL TIMES MAINTAINS ACTIVE CERTIFICATION BY THE POLICE TRAINING COMMISSION.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A FIRE AND EXPLOSIVE INVESTIGATOR HAS THE SAME AUTHORITY GRANTED TO THE STATE FIRE MARSHAL OR A FULL–TIME INVESTIGATIVE AND INSPECTION

ASSISTANT OF THE OFFICE OF THE STATE FIRE MARSHAL UNDER § 2–208 OF THIS SUBTITLE:

(1) WHILE OPERATING IN THE CITY OF HAGERSTOWN; AND

(2) WHILE OPERATING OUTSIDE THE CITY OF HAGERSTOWN WHEN:

(I) THE FIRE AND EXPLOSIVE INVESTIGATOR IS PARTICIPATING IN A JOINT INVESTIGATION WITH OFFICIALS FROM ANOTHER STATE, FEDERAL, OR LOCAL LAW ENFORCEMENT UNIT, AT LEAST ONE OF WHICH HAS LOCAL JURISDICTION;

(II) THE FIRE AND EXPLOSIVE INVESTIGATOR IS RENDERING ASSISTANCE TO ANOTHER LAW ENFORCEMENT OFFICER;

(III) THE FIRE AND EXPLOSIVE INVESTIGATOR IS ACTING AT THE REQUEST OF A LAW ENFORCEMENT OFFICER OR STATE LAW ENFORCEMENT OFFICER; OR

(IV) AN EMERGENCY EXISTS.

(C) THE CITY OF HAGERSTOWN FIRE CHIEF:

(1) MAY LIMIT THE AUTHORITY OF A FIRE AND EXPLOSIVE INVESTIGATOR UNDER THIS SECTION; AND

(2) SHALL EXPRESS THE LIMITATION IN A WRITTEN POLICY.

Article – Public Safety

3–101.

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

(e) (2) "Law enforcement officer" does not include:

(i) an individual who serves at the pleasure of the Police Commissioner of Baltimore City;

(ii) an individual who serves at the pleasure of the appointing authority of a charter county;

(iii) the police chief of a municipal corporation;

(iv) an officer who is in probationary status on initial entry into the law enforcement agency except if an allegation of brutality in the execution of the officer's duties is made;

(v) a Montgomery County fire and explosive investigator as defined in § 2–208.1 of the Criminal Procedure Article;

(vi) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article;

(vii) a Prince George's County fire and explosive investigator as defined in § 2–208.3 of the Criminal Procedure Article; **[**or**]**

(viii) a Worcester County fire and explosive investigator as defined in § 2–208.4 of the Criminal Procedure Article**; OR**

(IX) A CITY OF HAGERSTOWN FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2–208.5 OF THE CRIMINAL PROCEDURE ARTICLE.

3–201.

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

(e) (2) "Police officer" includes:

(i) a member of the Field Enforcement Bureau of the Comptroller's Office;

(ii) the State Fire Marshal or a deputy State fire marshal;

(iii) an investigator of the Internal Investigative Unit of the Department;

(iv) a Montgomery County fire and explosive investigator as defined in § 2–208.1 of the Criminal Procedure Article;

(v) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article;

(vi) a Prince George's County fire and explosive investigator as defined in § 2–208.3 of the Criminal Procedure Article; **[**and**]**

(vii) a Worcester County fire and explosive investigator as defined in § 2–208.4 of the Criminal Procedure Article**; AND**

(VIII) A CITY OF HAGERSTOWN FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2–208.5 OF THE CRIMINAL PROCEDURE ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That on July 1, 2008, the Maryland Police Training Commission shall certify as a police officer each City of Hagerstown fire and explosive investigator who meets the requirements of § 2–208.5 of the Criminal Procedure Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 429

(House Bill 745)

AN ACT concerning

City of Hagerstown – Fire and Explosives Investigators – Authority

FOR the purpose of providing that under certain circumstances, a City of Hagerstown fire and explosive investigator operating in the City of Hagerstown has the same authority as the State Fire Marshal and a full–time investigative and inspection assistant in the Office of the State Fire Marshal to make arrests without a warrant and to exercise certain powers of arrest; authorizing a City of Hagerstown fire and explosive investigator to exercise certain authority while operating outside the City of Hagerstown under certain circumstances; authorizing the City of Hagerstown Fire Chief to limit certain authority of a fire and explosive investigator to make an arrest without a warrant or exercise certain powers of arrest; requiring the City of Hagerstown Fire Chief to express the limitation in writing; excluding a City of Hagerstown fire and explosive investigator from the definition of "law enforcement officer" under the law relating to the Law Enforcement Officers' Bill of Rights; including a City of Hagerstown fire and explosive investigator in the definition of "police officer" in connection with provisions of law relating to the Maryland Police Training Commission and in the definition of "law enforcement official" in connection with the authorized carrying of a handgun by a person engaged in law

enforcement; defining certain terms; requiring the Maryland Police Training Commission to certify certain fire and explosive investigators as police officers by a certain date under certain circumstances; and generally relating to the authority of the City of Hagerstown fire and explosive investigators.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 4–201(a)
Annotated Code of Maryland
(2002 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 4–201(d)
Annotated Code of Maryland
(2002 Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 2–208
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

BY adding to
Article – Criminal Procedure
Section 2–208.5
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 3–101(a) and 3–201(a)
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3–101(e)(2) and 3–201(e)(2)
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

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

Article – Criminal Law

4–201.

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

(d) "Law enforcement official" means:

(1) a full–time member of a police force or other unit of the United States, a state, a county, a municipal corporation, or other political subdivision of a state who is responsible for the prevention and detection of crime and the enforcement of the laws of the United States, a state, a county, a municipal corporation, or other political subdivision of a state;

(2) a part–time member of a police force of a county or municipal corporation who is certified by the county or municipal corporation as being trained and qualified in the use of handguns;

(3) a fire and explosive investigator of the Prince George's County Fire/EMS Department as defined in § 2–208.3 of the Criminal Procedure Article;

(4) a Montgomery County fire and explosive investigator as defined in § 2–208.1 of the Criminal Procedure Article;

(5) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article; **[**or**]**

(6) a Worcester County fire and explosive investigator as defined in § 2–208.4 of the Criminal Procedure Article**; OR**

(7) A CITY OF HAGERSTOWN FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2–208.5 OF THE CRIMINAL PROCEDURE ARTICLE.

Article – Criminal Procedure

2–208.

(a) (1) The State Fire Marshal or a full–time investigative and inspection assistant of the Office of the State Fire Marshal may arrest a person without a warrant if the State Fire Marshal or assistant has probable cause to believe:

(i) a felony that is a crime listed in paragraph (2) of this subsection has been committed or attempted; and

(ii) the person to be arrested has committed or attempted to commit the felony whether or not in the presence or within the view of the State Fire Marshal or assistant.

(2) The powers of arrest set forth in paragraph (1) of this subsection apply only to the crimes listed in this paragraph and to attempts, conspiracies, and solicitations to commit these crimes:

(i) murder under § 2–201(4) of the Criminal Law Article;

(ii) setting fire to a dwelling or occupied structure under § 6–102 of the Criminal Law Article;

(iii) setting fire to a structure under § 6–103 of the Criminal Law Article;

(iv) a crime that relates to destructive devices under § 4–503 of the Criminal Law Article; and

(v) making a false statement or rumor as to a destructive device under § 9–504 of the Criminal Law Article.

(b) (1) The State Fire Marshal or a full–time investigative and inspection assistant of the Office of the State Fire Marshal may arrest a person without a warrant if the State Fire Marshal or assistant has probable cause to believe:

(i) the person has committed a crime listed in paragraph (2) of this subsection; and

(ii) unless the person is arrested immediately, the person:

1. may not be apprehended;

2. may cause physical injury or property damage to another; or

3. may tamper with, dispose of, or destroy evidence.

(2) The crimes referred to in paragraph (1) of this subsection are:

(i) a crime that relates to a device that is constructed to represent a destructive device under § 9–505 of the Criminal Law Article;

(ii) malicious burning in the first or second degree under § 6–104 or § 6–105 of the Criminal Law Article;

(iii) burning the contents of a trash container under § 6–108 of the Criminal Law Article;

(iv) making a false alarm of fire under § 9–604 of the Criminal Law Article;

(v) a crime that relates to burning or attempting to burn property as part of a religious or ethnic crime under § 10–304 or § 10–305 of the Criminal Law Article;

(vi) a crime that relates to interference, obstruction, or false representation of fire and safety personnel under § 6–602 or § 7–402 of the Public Safety Article; and

(vii) threatening arson or attempting, causing, aiding, counseling, or procuring arson in the first or second degree or malicious burning in the first or second degree under Title 6, Subtitle 1 of the Criminal Law Article.

(c) (1) The State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal may act under the authority granted by § 2–102 of this title to police officers as provided under paragraph (2) of this subsection.

(2) When acting under the authority granted by § 2–102 of this title, the State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal has the powers of arrest set forth in §§ 2–202, 2–203, and 2–204 of this subtitle.

(d) (1) The State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal who acts under the authority granted by this section shall notify the following persons of an investigation or enforcement action:

(i) 1. the chief of police, if any, or chief's designee, when in a municipal corporation;

2. the Police Commissioner or Police Commissioner's designee, when in Baltimore City;

3. the chief of police or chief's designee, when in a county with a county police department, except Baltimore City;

4. the sheriff or sheriff's designee, when in a county without a county police department;

5. the Secretary of Natural Resources or Secretary's designee, when on property owned, leased, operated by, or under the control of the Department of Natural Resources; or

6. the respective chief of police or chief's designee, when on property owned, leased, operated by, or under the control of the Maryland Transportation Authority, Maryland Aviation Administration, or Maryland Port Administration; and

(ii) the Department of State Police barrack commander or commander's designee, unless there is an agreement otherwise with the Department of State Police.

(2) When the State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal participates in a joint investigation with officials from another state, federal, or local law enforcement unit, the State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal shall give the notice required under paragraph (1) of this subsection reasonably in advance.

(e) A State Fire Marshal or a full–time investigative and inspection assistant in the Office of the State Fire Marshal who acts under the authority granted by this section:

(1) has the same immunities from liability and exemptions as a State Police officer in addition to any other immunities and exemptions to which the State Fire Marshal or full–time investigative and inspection assistant is otherwise entitled; and

(2) remains at all times and for all purposes an employee of the employing unit.

(f) (1) This section does not impair a right of arrest otherwise existing under the Code.

(2) This section does not deprive a person of the right to receive a citation for a traffic violation as provided in the Maryland Vehicle Law or a criminal violation as provided by law or the Maryland Rules.

2–208.5.

(A) IN THIS SECTION, "FIRE AND EXPLOSIVE INVESTIGATOR" MEANS AN INDIVIDUAL WHO:

(1) IS ASSIGNED FULL TIME TO THE FIRE AND EXPLOSIVE INVESTIGATIONS SECTION OF THE CITY OF HAGERSTOWN FIRE MARSHAL'S OFFICE AND IS A PAID EMPLOYEE;

(2) HAS ~~ATTAINED THE POSITION OF DEPUTY FIRE MARSHAL OR HIGHER; AND~~ BEEN EMPLOYED BY THE CITY OF HAGERSTOWN FIRE DEPARTMENT AS A FIREFIGHTER FOR AT LEAST 5 YEARS;

(3) HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM FROM A POLICE TRAINING SCHOOL APPROVED BY THE POLICE TRAINING COMMISSION ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE PUBLIC SAFETY ARTICLE; AND

(4) AT ALL TIMES MAINTAINS ACTIVE CERTIFICATION BY THE POLICE TRAINING COMMISSION.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A FIRE AND EXPLOSIVE INVESTIGATOR HAS THE SAME AUTHORITY GRANTED TO THE STATE FIRE MARSHAL OR A FULL–TIME INVESTIGATIVE AND INSPECTION ASSISTANT OF THE OFFICE OF THE STATE FIRE MARSHAL UNDER § 2–208 OF THIS SUBTITLE:

(1) WHILE OPERATING IN THE CITY OF HAGERSTOWN; AND

(2) WHILE OPERATING OUTSIDE THE CITY OF HAGERSTOWN WHEN:

(I) THE FIRE AND EXPLOSIVE INVESTIGATOR IS PARTICIPATING IN A JOINT INVESTIGATION WITH OFFICIALS FROM ANOTHER STATE, FEDERAL, OR LOCAL LAW ENFORCEMENT UNIT, AT LEAST ONE OF WHICH HAS LOCAL JURISDICTION;

(II) THE FIRE AND EXPLOSIVE INVESTIGATOR IS RENDERING ASSISTANCE TO ANOTHER LAW ENFORCEMENT OFFICER;

(III) THE FIRE AND EXPLOSIVE INVESTIGATOR IS ACTING AT THE REQUEST OF A LAW ENFORCEMENT OFFICER OR STATE LAW ENFORCEMENT OFFICER; OR

(IV) AN EMERGENCY EXISTS.

(C) THE CITY OF HAGERSTOWN FIRE CHIEF:

(1) MAY LIMIT THE AUTHORITY OF A FIRE AND EXPLOSIVE INVESTIGATOR UNDER THIS SECTION; AND

(2) SHALL EXPRESS THE LIMITATION IN A WRITTEN POLICY.

Article – Public Safety

3–101.

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

(e) (2) "Law enforcement officer" does not include:

(i) an individual who serves at the pleasure of the Police Commissioner of Baltimore City;

(ii) an individual who serves at the pleasure of the appointing authority of a charter county;

(iii) the police chief of a municipal corporation;

(iv) an officer who is in probationary status on initial entry into the law enforcement agency except if an allegation of brutality in the execution of the officer's duties is made;

(v) a Montgomery County fire and explosive investigator as defined in § 2–208.1 of the Criminal Procedure Article;

(vi) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article;

(vii) a Prince George's County fire and explosive investigator as defined in § 2–208.3 of the Criminal Procedure Article; **[**or**]**

(viii) a Worcester County fire and explosive investigator as defined in § 2–208.4 of the Criminal Procedure Article**; OR**

(IX) A CITY OF HAGERSTOWN FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2–208.5 OF THE CRIMINAL PROCEDURE ARTICLE.

3–201.

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

(e) (2) "Police officer" includes:

(i) a member of the Field Enforcement Bureau of the Comptroller's Office;

(ii) the State Fire Marshal or a deputy State fire marshal;

(iii) an investigator of the Internal Investigative Unit of the Department;

(iv) a Montgomery County fire and explosive investigator as defined in § 2–208.1 of the Criminal Procedure Article;

(v) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article;

(vi) a Prince George's County fire and explosive investigator as defined in § 2–208.3 of the Criminal Procedure Article; **[**and**]**

(vii) a Worcester County fire and explosive investigator as defined in § 2–208.4 of the Criminal Procedure Article**; AND**

(VIII) A CITY OF HAGERSTOWN FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2–208.5 OF THE CRIMINAL PROCEDURE ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That on July 1, 2008, the Maryland Police Training Commission shall certify as a police officer each City of Hagerstown fire and explosive investigator who meets the requirements of § 2–208.5 of the Criminal Procedure Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 430

(Senate Bill 614)

AN ACT concerning

Death Penalty – Maryland Commission on Capital Punishment

FOR the purpose of establishing a Maryland Commission on Capital Punishment; providing for the membership of the Commission; providing for the chair of the Commission; authorizing the Commission to hold public hearings; providing for the staffing of the Commission; requiring certain entities to cooperate with the Commission; providing for the funding of the Commission; providing that a member of the Commission may not receive compensation but is entitled to certain reimbursement; establishing the duties of the Commission; requiring the Commission to make a certain report by a certain date; defining a certain term; providing for the construction of this Act; providing for the termination of this Act; and generally relating to the death penalty.

BY adding to
Article – Correctional Services
Section 3–910
Annotated Code of Maryland
(1999 Volume and 2007 Supplement)

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

Article – Correctional Services

3–910.

(A) IN THIS SECTION, "COMMISSION" MEANS THE MARYLAND COMMISSION ON CAPITAL PUNISHMENT.

(B) THERE IS A MARYLAND COMMISSION ON CAPITAL PUNISHMENT.

(C) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE <u>AND REFLECTING THE BROAD DIVERSITY OF VIEWS ON CAPITAL PUNISHMENT</u>;

(2) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE <u>AND REFLECTING THE BROAD DIVERSITY OF VIEWS ON CAPITAL PUNISHMENT</u>;

(3) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;

(4) ONE *FORMER* MEMBER OF THE JUDICIARY, APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;

(5) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(6) THE STATE PUBLIC DEFENDER, OR THE STATE PUBLIC DEFENDER'S DESIGNEE;

(7) A STATE'S ATTORNEY~~, RECOMMENDED~~ DESIGNATED BY THE PRESIDENT OF THE MARYLAND STATE'S ATTORNEYS' ASSOCIATION ~~AND~~ WHO ~~SUPPORTS THE DEATH PENALTY AND~~ HAS PROSECUTED A DEATH PENALTY CASE; AND

(8) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR AND REFLECTING THE BROAD DIVERSITY OF VIEWS ON CAPITAL PUNISHMENT, *AND THE RACIAL, ETHNIC, GENDER, AND GEOGRAPHIC DIVERSITY OF THE STATE*:

(I) A REPRESENTATIVE OF THE MARYLAND CHIEFS OF POLICE ASSOCIATION;

(II) A REPRESENTATIVE OF THE MARYLAND STATE LODGE FRATERNAL ORDER OF POLICE;

~~(II)~~ (III) ~~A REPRESENTATIVE OF THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES WHO IS ALSO EMPLOYED AS~~ A CORRECTIONAL OFFICER IN A STATE PRISON;

~~(III)~~ (IV) A FORMER STATE PRISONER WHO HAS BEEN EXONERATED OF THE CRIME FOR WHICH THE INDIVIDUAL WAS INCARCERATED;

~~(IV)~~ (V) ~~ONE REPRESENTATIVE~~ THREE REPRESENTATIVES OF THE RELIGIOUS COMMUNITY; AND

~~(V)~~ (VI) ~~THREE~~ *SIX* REPRESENTATIVES OF THE GENERAL PUBLIC, TO INCLUDE AT LEAST ~~ONE~~ *THREE* FAMILY ~~MEMBER~~ *MEMBERS* OF A MURDER VICTIM.

(D) THE GOVERNOR, *THE PRESIDENT OF THE SENATE OF MARYLAND, AND THE SPEAKER OF THE HOUSE OF DELEGATES JOINTLY* SHALL APPOINT THE CHAIR OF THE COMMISSION.

(E) THE COMMISSION SHALL HOLD PUBLIC HEARINGS.

(F) (1) THE MARYLAND ~~JUSTICE~~ *STATISTICAL* ANALYSIS CENTER ~~OF THE DEPARTMENT OF CRIMINOLOGY AT THE UNIVERSITY OF MARYLAND~~ IN THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL PROVIDE STAFF FOR THE COMMISSION.

(2) ALL STATE, COUNTY, AND MUNICIPAL AGENCIES, DEPARTMENTS, BOARDS, BUREAUS, AND COMMISSIONS SHALL COOPERATE FULLY WITH THE COMMISSION.

(G) FUNDS NECESSARY FOR THE FUNCTIONING OF THE COMMISSION SHALL BE AS PROVIDED IN THE STATE BUDGET.

(H) A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(I) (1) THE COMMISSION SHALL STUDY~~:~~

~~(I)~~ ALL ASPECTS OF CAPITAL PUNISHMENT AS CURRENTLY AND HISTORICALLY ADMINISTERED IN THE STATE~~;~~ .

~~(II) WHETHER THE DEATH PENALTY RATIONALLY SERVES A LEGITIMATE PENOLOGICAL INTENT, INCLUDING DETERRENCE WITHIN THE PRISON SYSTEM AS IT RELATES TO THE SAFETY OF CORRECTIONAL OFFICERS;~~

~~(III) WHAT DIFFERENCE EXISTS BETWEEN THE COST OF IMPOSITION OF THE DEATH PENALTY FROM INDICTMENT TO EXECUTION AND THE COST OF LIFE IMPRISONMENT WITHOUT PAROLE, FACTORING IN THE COST OF ALL CAPITAL OFFENSE TRIALS THAT HAVE RESULTED IN LIFE SENTENCES AS WELL AS THE DEATH SENTENCES REVERSED ON APPEAL;~~

~~(IV) WHETHER THE DEATH PENALTY IS CONSISTENT WITH EVOLVING STANDARDS OF DECENCY;~~

~~(V) WHETHER THE SELECTION OF CASES IN THE STATE FOR CAPITAL PUNISHMENT IS ARBITRARY, UNFAIR, OR DISCRIMINATORY;~~

~~(VI) WHETHER THERE IS ARBITRARY, UNFAIR, OR DISCRIMINATORY VARIABILITY AT ANY STAGE IN THE PROCESS FOR A CAPITAL CASE;~~

~~(VII) WHETHER THERE IS A DIFFERENCE IN THE CRIMES OR CIRCUMSTANCES OF THOSE SENTENCED TO DEATH AND THOSE SENTENCED TO LIFE IN PRISON; AND~~

~~(VIII) WHETHER ALTERNATIVES TO THE DEATH PENALTY EXIST THAT WOULD SUFFICIENTLY ENSURE PUBLIC SAFETY AND ADDRESS OTHER LEGITIMATE SOCIAL AND PENOLOGICAL INTERESTS, INCLUDING THE INTERESTS OF THE FAMILIES OF VICTIMS.~~

(2) (I) THE COMMISSION SHALL MAKE RECOMMENDATIONS ~~TO GUARANTEE THAT~~ CONCERNING THE APPLICATION AND ADMINISTRATION OF CAPITAL PUNISHMENT IN THE STATE ~~AND THE PUBLIC POLICY OF THE STATE REGARDING CAPITAL PUNISHMENT~~ SO THAT THEY ARE FREE FROM BIAS AND ERROR AND ~~DESIGNED TO GUARANTEE~~ ACHIEVE FAIRNESS AND ACCURACY.

(II) THE RECOMMENDATIONS SHALL ADDRESS:

1. RACIAL DISPARITIES;

2. JURISDICTIONAL DISPARITIES;

3. SOCIO–ECONOMIC DISPARITIES;

4. THE RISK OF INNOCENT PEOPLE BEING EXECUTED;

5. ~~EVOLVING STANDARDS OF PROPRIETY REGARDING STATE EXECUTIONS; AND~~ A COMPARISON OF THE EFFECTS OF PROLONGED COURT CASES INVOLVING CAPITAL PUNISHMENT AND THOSE INVOLVING LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE;

6. A COMPARISON OF THE COSTS ASSOCIATED WITH DEATH SENTENCES AND THE COSTS ASSOCIATED WITH SENTENCES OF LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE ; AND

7. THE IMPACT OF DNA EVIDENCE IN ASSURING FAIRNESS AND ACCURACY IN CAPITAL CASES.

(J) THE COMMISSION SHALL MAKE A FINAL REPORT, AND IF APPLICABLE, A MINORITY REPORT, ON ITS FINDINGS AND RECOMMENDATIONS, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 15, 2008.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to affect in any way the law concerning the death penalty, including the procedures and time frames for notifications, determinations, and judicial review of death penalty decisions.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of 6 months and, at the end of December 31, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 431

(House Bill 1111)

AN ACT concerning

Death Penalty – Maryland Commission on Capital Punishment

FOR the purpose of establishing a Maryland Commission on Capital Punishment; providing for the membership of the Commission; providing for the chair of the Commission; authorizing the Commission to hold public hearings; providing for the staffing of the Commission; requiring certain entities to cooperate with the Commission; providing for the funding of the Commission; providing that a member of the Commission may not receive compensation but is entitled to certain reimbursement; establishing the duties of the Commission; requiring the Commission to make a certain report by a certain date; defining a certain term; providing for the construction of this Act; providing for the termination of this Act; and generally relating to the death penalty.

BY adding to
Article – Correctional Services
Section 3–910
Annotated Code of Maryland
(1999 Volume and 2007 Supplement)

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

Article – Correctional Services

3–910.

(A) IN THIS SECTION, "COMMISSION" MEANS THE MARYLAND COMMISSION ON CAPITAL PUNISHMENT.

(B) THERE IS A MARYLAND COMMISSION ON CAPITAL PUNISHMENT.

(C) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE AND REFLECTING THE BROAD DIVERSITY OF VIEWS ON CAPITAL PUNISHMENT;

(2) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE AND REFLECTING THE BROAD DIVERSITY OF VIEWS ON CAPITAL PUNISHMENT;

(3) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;

(4) *ONE FORMER MEMBER OF THE JUDICIARY, APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;* ~~ONE MEMBER OF THE JUDICIARY, APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;~~

~~(5)~~ *(5)* THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE;

~~(6)~~ ~~(5)~~ *(6)* THE STATE PUBLIC DEFENDER, OR THE STATE PUBLIC DEFENDER'S DESIGNEE;

~~(7)~~ ~~(6)~~ *(7)* A STATE'S ATTORNEY ~~OR ASSISTANT STATE'S ATTORNEY,~~ ~~RECOMMENDED~~ DESIGNATED BY THE PRESIDENT OF THE MARYLAND STATE'S ATTORNEYS' ASSOCIATION ~~AND~~ WHO HAS PROSECUTED A DEATH PENALTY CASE; AND

~~(8)~~ ~~(7)~~ *(8)* THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR AND REFLECTING THE BROAD DIVERSITY OF VIEWS ON CAPITAL

PUNISHMENT, *AND THE RACIAL, ETHNIC, GENDER, AND GEOGRAPHIC DIVERSITY OF THE STATE*:

(I) A REPRESENTATIVE OF THE MARYLAND CHIEFS OF POLICE ASSOCIATION;

(II) A REPRESENTATIVE OF THE MARYLAND STATE LODGE FRATERNAL ORDER OF POLICE;

~~(II)~~ (III) ~~A REPRESENTATIVE OF THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES WHO IS ALSO EMPLOYED AS~~ A CORRECTIONAL OFFICER IN A STATE PRISON;

~~(III)~~ (IV) A FORMER STATE PRISONER WHO ~~WAS ON DEATH ROW AND~~ HAS BEEN EXONERATED *OF THE CRIME FOR WHICH THE INDIVIDUAL WAS INCARCERATED* ~~OF THE CRIME FOR WHICH THE INDIVIDUAL WAS INCARCERATED~~;

~~(IV)~~ (V) ~~ONE REPRESENTATIVE~~ *THREE REPRESENTATIVES* OF THE RELIGIOUS COMMUNITY; AND

~~(V)~~ (VI) ~~THREE~~ SIX REPRESENTATIVES OF THE GENERAL PUBLIC, TO INCLUDE AT LEAST ~~ONE~~ THREE FAMILY ~~MEMBER~~ MEMBERS OF A MURDER VICTIM ~~AND REFLECTING THE BROAD DIVERSITY OF VIEWS ON CAPITAL PUNISHMENT~~.

(D) THE GOVERNOR, *THE PRESIDENT OF THE SENATE OF MARYLAND, AND THE SPEAKER OF THE HOUSE OF DELEGATES JOINTLY* SHALL APPOINT THE CHAIR OF THE COMMISSION.

(E) THE COMMISSION SHALL HOLD PUBLIC HEARINGS.

(F) (1) THE MARYLAND ~~JUSTICE~~ *STATISTICAL* ANALYSIS CENTER ~~OF THE DEPARTMENT OF CRIMINOLOGY AT THE UNIVERSITY OF MARYLAND~~ IN THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL PROVIDE STAFF FOR THE COMMISSION.

(2) ALL STATE, COUNTY, AND MUNICIPAL AGENCIES, DEPARTMENTS, BOARDS, BUREAUS, AND COMMISSIONS SHALL COOPERATE FULLY WITH THE COMMISSION.

(G) FUNDS NECESSARY FOR THE FUNCTIONING OF THE COMMISSION SHALL BE AS PROVIDED IN THE STATE BUDGET.

(H) A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(I) (1) THE COMMISSION SHALL STUDY~~:~~

~~(I)~~ ALL ASPECTS OF CAPITAL PUNISHMENT AS CURRENTLY AND HISTORICALLY ADMINISTERED IN THE STATE~~;~~.

~~(II) WHETHER THE DEATH PENALTY RATIONALLY SERVES A LEGITIMATE PENOLOGICAL INTENT, INCLUDING DETERRENCE WITHIN THE PRISON SYSTEM AS IT RELATES TO THE SAFETY OF CORRECTIONAL OFFICERS;~~

~~(III) WHAT DIFFERENCE EXISTS BETWEEN THE COST OF IMPOSITION OF THE DEATH PENALTY FROM INDICTMENT TO EXECUTION AND THE COST OF LIFE IMPRISONMENT WITHOUT PAROLE, FACTORING IN THE COST OF ALL CAPITAL OFFENSE TRIALS THAT HAVE RESULTED IN LIFE SENTENCES AS WELL AS THE DEATH SENTENCES REVERSED ON APPEAL;~~

~~(IV) WHETHER THE DEATH PENALTY IS CONSISTENT WITH EVOLVING STANDARDS OF DECENCY;~~

~~(V) WHETHER THE SELECTION OF CASES IN THE STATE FOR CAPITAL PUNISHMENT IS ARBITRARY, UNFAIR, OR DISCRIMINATORY;~~

~~(VI) WHETHER THERE IS ARBITRARY, UNFAIR, OR DISCRIMINATORY VARIABILITY AT ANY STAGE IN THE PROCESS FOR A CAPITAL CASE;~~

~~(VII) WHETHER THERE IS A DIFFERENCE IN THE CRIMES OR CIRCUMSTANCES OF THOSE SENTENCED TO DEATH AND THOSE SENTENCED TO LIFE IN PRISON; AND~~

~~(VIII) WHETHER ALTERNATIVES TO THE DEATH PENALTY EXIST THAT WOULD SUFFICIENTLY ENSURE PUBLIC SAFETY AND ADDRESS OTHER LEGITIMATE SOCIAL AND PENOLOGICAL INTERESTS, INCLUDING THE INTERESTS OF THE FAMILIES OF VICTIMS.~~

(2) (I) THE COMMISSION SHALL MAKE RECOMMENDATIONS ~~TO GUARANTEE THAT~~ CONCERNING THE APPLICATION AND ADMINISTRATION OF CAPITAL PUNISHMENT IN THE STATE ~~AND THE PUBLIC POLICY OF THE STATE REGARDING CAPITAL PUNISHMENT~~ SO THAT THEY ARE FREE FROM BIAS AND ERROR AND ~~DESIGNED TO GUARANTEE~~ ACHIEVE FAIRNESS AND ACCURACY.

(II) THE RECOMMENDATIONS SHALL ADDRESS:

1. RACIAL DISPARITIES;

2. JURISDICTIONAL DISPARITIES;

3. SOCIO–ECONOMIC DISPARITIES;

4. THE RISK OF INNOCENT PEOPLE BEING EXECUTED;

5. ~~EVOLVING STANDARDS OF PROPRIETY REGARDING STATE EXECUTIONS; AND~~ A COMPARISON OF THE EFFECTS OF PROLONGED COURT CASES INVOLVING CAPITAL PUNISHMENT AND THOSE INVOLVING LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE;

6. A COMPARISON OF THE COSTS ASSOCIATED WITH DEATH SENTENCES AND THE COSTS ASSOCIATED WITH SENTENCES OF LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE; AND

7. THE IMPACT OF DNA EVIDENCE IN ASSURING FAIRNESS AND ACCURACY IN CAPITAL CASES.

(J) THE COMMISSION SHALL MAKE A FINAL REPORT, AND IF APPLICABLE, A MINORITY REPORT, ON ITS FINDINGS AND RECOMMENDATIONS, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 15, 2008.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to affect in any way the law concerning the death penalty, including the procedures and time frames for notifications, determinations, and judicial review of death penalty decisions.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of 6 months and, at the end of

December 31, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 432

(Senate Bill 622)

AN ACT concerning

Business Regulation – Stationary Engineers – Boilers

FOR the purpose of altering the scope of stationary engineer services that are subject to certain licensing requirements; altering the types of boilers certain stationary engineers ~~may~~ are authorized to oversee; providing that the Maryland Stationary Engineers Act and certain regulations may not supersede certain authority of the Board of Boiler Rules; defining certain terms; altering a certain definition; and generally relating to stationary engineers.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 6.5–101 and 6.5–302
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – Business Occupations and Professions
Section 6.5–103
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 6.5–301
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

6.5–101.

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

(b) "Board" means the State Board of Stationary Engineers.

(C) "BOILER" MEANS:

(1) A CLOSED VESSEL IN WHICH WATER IS HEATED, STEAM IS GENERATED, STEAM IS SUPERHEATED, OR A COMBINATION OF THESE FUNCTIONS IS ACCOMPLISHED, UNDER PRESSURE OR VACUUM FOR USE EXTERNALLY TO THE VESSEL BY THE DIRECT APPLICATION OF HEAT FROM THE COMBUSTION OF FUELS OR FROM ELECTRICITY OR NUCLEAR ENERGY; OR

(2) A FIRED UNIT FOR HEATING OR VAPORIZING LIQUIDS OTHER THAN WATER IF THE UNIT IS SEPARATE FROM A PROCESSING SYSTEM AND IS COMPLETE WITHIN ITSELF.

(D) "HEATING BOILER" MEANS:

(1) A STEAM BOILER THAT OPERATES AT PRESSURES NOT EXCEEDING 15 PSIG; OR

(2) A HOT WATER BOILER THAT OPERATES AT PRESSURES NOT EXCEEDING 160 PSIG OR TEMPERATURES NOT EXCEEDING 250 DEGREES FAHRENHEIT.

~~**(E) "HIGH PRESSURE, HIGH TEMPERATURE WATER BOILER" MEANS A WATER BOILER THAT OPERATES AT PRESSURES EXCEEDING 160 PSIG OR TEMPERATURES EXCEEDING 250 DEGREES FAHRENHEIT.**~~

[(c)**]** ~~**(F)**~~ **(E)** (1) "License" means, unless the context requires otherwise, a license issued by the Board to perform the functions of a stationary engineer.

(2) "License" includes, unless the context requires otherwise:

(i) a Grade 5 license;

(ii) a Grade 4 license;

(iii) a Grade 3 license;

(iv) a Grade 2 license; and

(v) a Grade 1 license.

~~**(G) "POWER BOILER" MEANS A BOILER IN WHICH STEAM OR OTHER VAPOR IS GENERATED AT A PRESSURE OF MORE THAN 15 PSIG.**~~

[(d)**]** ~~**(H)**~~ **(F) (1)** "Provide stationary engineer services" means to oversee the operation of a power plant, plant of machinery, or boiler, each generating pressure of ~~at least~~ **MORE THAN** 15 psi and operating at 30 or more horsepower.

(2) "PROVIDE STATIONARY ENGINEER SERVICES" DOES NOT INCLUDE OVERSEEING THE OPERATION OF A HEATING BOILER.

[(e)**]** ~~**(I)**~~ **(G)** "Stationary engineer" means an individual who is licensed by the Board to provide stationary engineer services in accordance with the license grades described in § 6.5–302 of this title.

6.5–103.

THE PROVISIONS OF THIS TITLE AND ANY REGULATIONS ADOPTED UNDER THIS TITLE MAY NOT SUPERSEDE THE AUTHORITY OF THE BOARD OF BOILER RULES TO IMPLEMENT BOILER AND PRESSURE VESSEL SAFETY STANDARDS ESTABLISHED UNDER TITLE 12, SUBTITLE 9 OF THE PUBLIC SAFETY ARTICLE OR ANY REGULATIONS ADOPTED UNDER THAT SUBTITLE.

6.5–301.

Except as otherwise provided in this title, an individual shall be licensed by the Board to provide stationary engineer services before the individual may provide stationary engineer services in the State.

6.5–302.

(a) A Grade 5 stationary engineer licensee may oversee the operation of a ~~**POWER BOILER OR A HIGH PRESSURE, HIGH TEMPERATURE WATER**~~ boiler that:

(1) (i) **[**operates at a pressure of more than 15 psi and**]** can be operated at 30 to 99 horsepower; and

(ii) is located in a building not open for public use;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, is visited by a Grade 5 licensee at least once every 24 hours that the boiler is in operation; and

(4) if equipped with a 24–hour computerized monitoring system and automatic controls, is visited by a Grade 5 licensee at least once per week that the boiler is in operation, if the licensee:

(i) is responsible for the safe operation of the equipment at all times;

(ii) is available to observe the monitoring equipment or devices and make the necessary adjustments at least once every 24 hours; and

(iii) maintains a daily inspection log.

(b) A Grade 4 stationary engineer licensee may oversee the operation of a ~~**POWER BOILER OR A HIGH PRESSURE, HIGH TEMPERATURE**~~ boiler that:

(1) (i) **[**operates at a pressure of more than 15 psi and**]** can operate at 30 to 99 horsepower; and

(ii) is located in a building open for public use;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, is attended by a Grade 4 licensee as follows:

(i) at all times that the boiler is in operation; or

(ii) if located in a school:

1. at all times during regular school hours; and

2. only when at least 150 students, faculty, or members of the public occupy the building where the boiler is located during nonregular school hours;

(4) if equipped with a 24–hour computerized monitoring system and automatic controls, is attended by a Grade 4 licensee as follows:

(i) if located in a hospital, hotel, residential facility, or other building generally open to the public, is visited at least once every 8 hours that the building is open for public use, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log; and

(ii) if located in a school, is visited at least once every 8 hours:

1. during regular school hours; and

2. during nonregular school hours when the school building in which the boiler is located is occupied by at least 150 students, faculty, or members of the public, if the licensee:

A. is responsible for the safe operation of such equipment at all times;

B. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

C. maintains a daily inspection log.

(c) A Grade 3 stationary engineer licensee may oversee the operation of a ~~**POWER BOILER OR A HIGH PRESSURE, HIGH TEMPERATURE**~~ boiler that:

(1) **[**operates at a pressure of more than 15 psi and**]** can operate at 100 to 299 horsepower;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, has a Grade 3 licensee in attendance at all times that the boiler is in operation; and

(4) if equipped with a 24–hour computerized monitoring system and automatic controls, is attended by a Grade 3 licensee as follows:

(i) if not located in a building open for public use, does not require regular full–time attendance or scheduled visitation, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log; and

(ii) if located in a school, hospital, hotel, residential facility, or other building generally open to the public, is visited at least once every 8 hours that the building is open for public use, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log.

(d) A Grade 2 stationary engineer licensee may oversee the operation of a ~~**POWER BOILER OR A HIGH PRESSURE, HIGH TEMPERATURE**~~ boiler that:

(1) **[**operates at a pressure of more than 15 psi and**]** can operate at 300 to 499 horsepower;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, has a Grade 2 licensee in attendance at all times that the boiler is in operation; and

(4) if equipped with a 24–hour computerized monitoring system and automatic controls, is attended by a Grade 2 licensee as follows:

(i) if not located in a building open for public use, does not require regular full–time attendance or scheduled visitation, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log; and

(ii) if located in a school, hospital, hotel, residential facility, or other building generally open to the public, is visited at least once every 8 hours that the building is open for public use, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log.

(e) A Grade 1 stationary engineer licensee may oversee the operation of a ~~**POWER BOILER OR A HIGH PRESSURE, HIGH TEMPERATURE**~~ boiler that:

(1) **[**operates at a pressure of more than 15 psi and**]** can operate at 500 or more horsepower;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, has a Grade 1 licensee in attendance at all times that the boiler is in operation; and

(4) if equipped with a 24–hour computerized monitoring system and automatic controls and is attended by a Grade 1 licensee as follows:

(i) if not located in a building open for public use, does not require regular visitation, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log; and

(ii) if located in a school, hospital, hotel, residential facility, or other building generally open to the public, is visited at least once every 8 hours that the building is open for public use, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 433

(House Bill 808)

AN ACT concerning

Business Regulation – Stationary Engineers – Boilers

FOR the purpose of altering the scope of stationary engineer services that are subject to certain licensing requirements; altering the types of boilers certain stationary engineers ~~may~~ are authorized to oversee; providing that the Maryland Stationary Engineers Act and certain regulations may not supersede certain authority of the Board of Boiler Rules; defining certain terms; altering a certain definition; and generally relating to stationary engineers.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 6.5–101 and 6.5–302
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – Business Occupations and Professions
Section 6.5–103
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 6.5–301
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

6.5–101.

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

(b) "Board" means the State Board of Stationary Engineers.

(C) "BOILER" MEANS:

(1) A CLOSED VESSEL IN WHICH WATER IS HEATED, STEAM IS GENERATED, STEAM IS SUPERHEATED, OR A COMBINATION OF THESE FUNCTIONS IS ACCOMPLISHED, UNDER PRESSURE OR VACUUM FOR USE EXTERNALLY TO THE VESSEL BY THE DIRECT APPLICATION OF HEAT FROM THE COMBUSTION OF FUELS OR FROM ELECTRICITY OR NUCLEAR ENERGY; OR

(2) A FIRED UNIT FOR HEATING OR VAPORIZING LIQUIDS OTHER THAN WATER IF THE UNIT IS SEPARATE FROM A PROCESSING SYSTEM AND IS COMPLETE WITHIN ITSELF.

(D) "HEATING BOILER" MEANS:

(1) A STEAM BOILER THAT OPERATES AT PRESSURES NOT EXCEEDING 15 PSIG; OR

(2) A HOT WATER BOILER THAT OPERATES AT PRESSURES NOT EXCEEDING 160 PSIG OR TEMPERATURES NOT EXCEEDING 250 DEGREES FAHRENHEIT.

~~**(E) "HIGH PRESSURE, HIGH TEMPERATURE WATER BOILER" MEANS A WATER BOILER THAT OPERATES AT PRESSURES EXCEEDING 160 PSIG OR TEMPERATURES EXCEEDING 250 DEGREES FAHRENHEIT.**~~

[(c)**]** ~~**(F)**~~ ***(E)*** (1) "License" means, unless the context requires otherwise, a license issued by the Board to perform the functions of a stationary engineer.

(2) "License" includes, unless the context requires otherwise:

(i) a Grade 5 license;

(ii) a Grade 4 license;

(iii) a Grade 3 license;

(iv) a Grade 2 license; and

(v) a Grade 1 license.

~~***(G)***~~ ~~**"POWER BOILER" MEANS A BOILER IN WHICH STEAM OR OTHER VAPOR IS GENERATED AT A PRESSURE OF MORE THAN 15 PSIG.**~~

[(d)**]** ~~**(H)**~~ ***(F)*** **(1)** "Provide stationary engineer services" means to oversee the operation of a power plant, plant of machinery, ~~or boiler, each generating pressure of at least 15 psi and operating at 30 or more horsepower~~ ~~**POWER BOILER, OR HIGH–PRESSURE, HIGH TEMPERATURE WATER BOILER**~~ *or boiler, each generating pressure of* ***[****at least****]*** ***MORE THAN*** *15 psi and operating at 30 or more horsepower*.

(2) "PROVIDE STATIONARY ENGINEER SERVICES" DOES NOT INCLUDE OVERSEEING THE OPERATION OF A HEATING BOILER.

[(e)**]** ~~**(I)**~~ ***(G)*** "Stationary engineer" means an individual who is licensed by the Board to provide stationary engineer services in accordance with the license grades described in § 6.5–302 of this title.

6.5–103.

THE PROVISIONS OF THIS TITLE AND ANY REGULATIONS ADOPTED UNDER THIS TITLE MAY NOT SUPERSEDE THE AUTHORITY OF THE BOARD OF BOILER RULES TO IMPLEMENT BOILER AND PRESSURE VESSEL SAFETY STANDARDS ESTABLISHED UNDER TITLE 12, SUBTITLE 9 OF THE PUBLIC SAFETY ARTICLE OR ANY REGULATIONS ADOPTED UNDER THAT SUBTITLE.

6.5–301.

Except as otherwise provided in this title, an individual shall be licensed by the Board to provide stationary engineer services before the individual may provide stationary engineer services in the State.

6.5–302.

(a) A Grade 5 stationary engineer licensee may oversee the operation of a ~~**POWER BOILER OR A HIGH PRESSURE, HIGH TEMPERATURE WATER**~~ boiler that:

(1) (i) **[**operates at a pressure of more than 15 psi and**]** can be operated at 30 to 99 horsepower; and

(ii) is located in a building not open for public use;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, is visited by a Grade 5 licensee at least once every 24 hours that the boiler is in operation; and

(4) if equipped with a 24–hour computerized monitoring system and automatic controls, is visited by a Grade 5 licensee at least once per week that the boiler is in operation, if the licensee:

(i) is responsible for the safe operation of the equipment at all times;

(ii) is available to observe the monitoring equipment or devices and make the necessary adjustments at least once every 24 hours; and

(iii) maintains a daily inspection log.

(b) A Grade 4 stationary engineer licensee may oversee the operation of a ~~**POWER BOILER OR A HIGH PRESSURE, HIGH TEMPERATURE**~~ boiler that:

(1) (i) **[**operates at a pressure of more than 15 psi and**]** can operate at 30 to 99 horsepower; and

(ii) is located in a building open for public use;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, is attended by a Grade 4 licensee as follows:

(i) at all times that the boiler is in operation; or

(ii) if located in a school:

1. at all times during regular school hours; and

2. only when at least 150 students, faculty, or members of the public occupy the building where the boiler is located during nonregular school hours;

(4) if equipped with a 24–hour computerized monitoring system and automatic controls, is attended by a Grade 4 licensee as follows:

(i) if located in a hospital, hotel, residential facility, or other building generally open to the public, is visited at least once every 8 hours that the building is open for public use, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log; and

(ii) if located in a school, is visited at least once every 8 hours:

1. during regular school hours; and

2. during nonregular school hours when the school building in which the boiler is located is occupied by at least 150 students, faculty, or members of the public, if the licensee:

A. is responsible for the safe operation of such equipment at all times;

B. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

C. maintains a daily inspection log.

(c) A Grade 3 stationary engineer licensee may oversee the operation of a ~~**POWER BOILER OR A HIGH PRESSURE, HIGH TEMPERATURE**~~ boiler that:

(1) **[**operates at a pressure of more than 15 psi and**]** can operate at 100 to 299 horsepower;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, has a Grade 3 licensee in attendance at all times that the boiler is in operation; and

(4) if equipped with a 24–hour computerized monitoring system and automatic controls, is attended by a Grade 3 licensee as follows:

(i) if not located in a building open for public use, does not require regular full–time attendance or scheduled visitation, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log; and

(ii) if located in a school, hospital, hotel, residential facility, or other building generally open to the public, is visited at least once every 8 hours that the building is open for public use, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log.

(d) A Grade 2 stationary engineer licensee may oversee the operation of a ~~**POWER BOILER OR A HIGH PRESSURE, HIGH TEMPERATURE**~~ boiler that:

(1) **[**operates at a pressure of more than 15 psi and**]** can operate at 300 to 499 horsepower;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, has a Grade 2 licensee in attendance at all times that the boiler is in operation; and

(4) if equipped with a 24–hour computerized monitoring system and automatic controls, is attended by a Grade 2 licensee as follows:

(i) if not located in a building open for public use, does not require regular full–time attendance or scheduled visitation, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log; and

(ii) if located in a school, hospital, hotel, residential facility, or other building generally open to the public, is visited at least once every 8 hours that the building is open for public use, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log.

(e) A Grade 1 stationary engineer licensee may oversee the operation of a ~~**POWER BOILER OR A HIGH PRESSURE, HIGH TEMPERATURE**~~ boiler that:

(1) **[**operates at a pressure of more than 15 psi and**]** can operate at 500 or more horsepower;

(2) is inspected in accordance with the boiler laws and regulations by a special inspector or a deputy boiler inspector;

(3) if not equipped with a 24–hour computerized monitoring system and automatic controls, has a Grade 1 licensee in attendance at all times that the boiler is in operation; and

(4) if equipped with a 24–hour computerized monitoring system and automatic controls and is attended by a Grade 1 licensee as follows:

(i) if not located in a building open for public use, does not require regular visitation, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log; and

(ii) if located in a school, hospital, hotel, residential facility, or other building generally open to the public, is visited at least once every 8 hours that the building is open for public use, if the licensee:

1. is responsible for the safe operation of such equipment at all times;

2. is available to observe the monitoring equipment or devices and make necessary adjustments at least once every 24 hours; and

3. maintains a daily inspection log.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 434

(Senate Bill 650)

AN ACT concerning

Employment Agencies – Bonding – Enforcement Authority

FOR the purpose of authorizing the Commissioner of Labor and Industry to <u>initiate certain investigations and</u> investigate certain complaints relating to alleged violations of certain bonding requirements by certain employment agencies; requiring the Commissioner to provide a certain notice; authorizing the Commissioner to impose certain penalties under certain circumstances; and generally relating to bonding requirements for employment agencies.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 9–101, 9–102, 9–201, and 9–401
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 9–301
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – Business Regulation

9–101.

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

(b) "Client" means an individual who seeks employment through an employment agency.

(c) "Commissioner" means the Commissioner of Labor and Industry.

(d) (1) "Employment agency" means a person who, for a fee:

(i) obtains, offers to obtain, or attempts to obtain:

1. an employee for a person who seeks an employee; or

2. employment for a client;

(ii) provides to a client information to enable the client to obtain employment;

(iii) obtains, offers to obtain, or attempts to obtain employment or an engagement in connection with an entertainment, exhibition, or performance, including:

1. a ballet;

2. a circus;

3. a concert;

4. the legitimate theater;

5. modeling;

6. a motion picture;

7. an opera;

8. a phonograph recording;

9. the radio;

10. a transcription;

11. television;

12. the variety field; or

13. vaudeville; or

(iv) 1. obtains, offers to obtain, or attempts to obtain an alien labor certification or immigrant visa for an individual; and

2. participates directly or indirectly in the recruitment or supply of an individual who resides outside of the continental United States for employment in the continental United States.

(2) "Employment agency" does not include a person who merely:

(i) conducts a business that directly employs individuals to provide part–time or temporary services to another person;

(ii) as a lawyer, directly obtains an immigrant visa for an individual;

(iii) conducts a business that:

1. receives a fee that is paid wholly by an employer;

2. does not collect money from an individual seeking employment; and

3. does not require an individual seeking employment to make a contract; or

(iv) operates a nursing referral service agency that is licensed under Title 19, Subtitle 4B of the Health – General Article.

9–102.

This title does not apply to:

(1) a charitable, educational, fraternal, or religious organization that does not charge a fee for its services other than ordinary dues for membership;

(2) a labor organization while obtaining or attempting to obtain employment for a member of the organization; or

(3) an organization of employers while obtaining or attempting to obtain help for a member of the organization.

9–201.

The Commissioner may delegate any power or duty of the Commissioner under this title.

9–301.

(a) An employment agency shall submit to the Commissioner a penal bond.

(b) The bond shall:

(1) run to the State;

(2) be in the amount of $7,000;

(3) be signed by an individual authorized to do so by the employment agency as principal and by a surety company authorized to do business in the State as surety; and

(4) be conditioned that the employment agency will comply with this title and will pay to any person all damages caused by deceit, fraud, misrepresentation, or misstatement of the employment agency or an agent or employee of the employment agency.

(C) TO ENSURE THAT EACH EMPLOYMENT AGENCY SUBMITS THE PENAL BOND IN ACCORDANCE WITH THIS ~~SUBTITLE~~ SECTION, THE COMMISSIONER MAY

INITIATE AN INVESTIGATION OR INVESTIGATE A COMPLAINT THAT AN EMPLOYMENT AGENCY HAS FAILED TO SUBMIT A PENAL BOND.

(D) IF, AFTER INVESTIGATION, THE COMMISSIONER FINDS THAT AN EMPLOYMENT AGENCY HAS FAILED TO SUBMIT A PENAL BOND AS REQUIRED BY THIS ~~SUBTITLE~~ SECTION, THE COMMISSIONER SHALL GIVE WRITTEN NOTICE THAT DIRECTS THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY, WITHIN 15 DAYS AFTER RECEIPT OF THE NOTICE:

(1) TO SUBMIT THE REQUIRED BOND; OR

(2) TO SHOW WRITTEN CAUSE WHY THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY IS NOT REQUIRED TO COMPLY WITH THIS ~~SUBTITLE~~ SECTION.

(E) (1) IF THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY COMPLIES WITH THE REQUIREMENT TO SUBMIT A BOND OR OTHERWISE SUBMITS A TIMELY RESPONSE, THE COMMISSIONER MAY:

(I) TERMINATE PROCEEDINGS AGAINST THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY; OR

(II) SCHEDULE A HEARING AND, BY CERTIFIED MAIL, GIVE THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY WRITTEN NOTICE OF THE DATE, PLACE, AND TIME OF THE HEARING.

(2) IF THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY FAILS TO COMPLY WITH A LAWFUL ORDER OF THE COMMISSIONER OR FAILS TO SUBMIT A TIMELY RESPONSE, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY OF NOT LESS THAN $500 AND NOT MORE THAN $1,000 FOR EACH FAILURE TO COMPLY WITH THE ORDER OR FAILURE TO SUBMIT A TIMELY REPORT.

(F) IF AFTER A HEARING, THE COMMISSIONER FINDS THAT THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY HAS VIOLATED THE PROVISIONS OF THIS ~~SUBTITLE~~ SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY OF NOT LESS THAN $500 AND NOT MORE THAN $1,000 FOR EACH VIOLATION OF THIS ~~SUBTITLE~~ SECTION.

9–401.

A person who violates this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 435

(House Bill 866)

AN ACT concerning

Employment Agencies – Bonding – Enforcement Authority

FOR the purpose of authorizing the Commissioner of Labor and Industry to initiate certain investigations and investigate certain complaints relating to alleged violations of certain bonding requirements by certain employment agencies; requiring the Commissioner to provide a certain notice; authorizing the Commissioner to impose certain penalties under certain circumstances; and generally relating to bonding requirements for employment agencies.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 9–101, 9–102, 9–201, and 9–401
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 9–301
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – Business Regulation

9–101.

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

(b) "Client" means an individual who seeks employment through an employment agency.

(c) "Commissioner" means the Commissioner of Labor and Industry.

(d) (1) "Employment agency" means a person who, for a fee:

(i) obtains, offers to obtain, or attempts to obtain:

1. an employee for a person who seeks an employee; or

2. employment for a client;

(ii) provides to a client information to enable the client to obtain employment;

(iii) obtains, offers to obtain, or attempts to obtain employment or an engagement in connection with an entertainment, exhibition, or performance, including:

1. a ballet;

2. a circus;

3. a concert;

4. the legitimate theater;

5. modeling;

6. a motion picture;

7. an opera;

8. a phonograph recording;

9. the radio;

10. a transcription;

11. television;

12. the variety field; or

13. vaudeville; or

(iv) 1. obtains, offers to obtain, or attempts to obtain an alien labor certification or immigrant visa for an individual; and

2. participates directly or indirectly in the recruitment or supply of an individual who resides outside of the continental United States for employment in the continental United States.

(2) "Employment agency" does not include a person who merely:

(i) conducts a business that directly employs individuals to provide part–time or temporary services to another person;

(ii) as a lawyer, directly obtains an immigrant visa for an individual;

(iii) conducts a business that:

1. receives a fee that is paid wholly by an employer;

2. does not collect money from an individual seeking employment; and

3. does not require an individual seeking employment to make a contract; or

(iv) operates a nursing referral service agency that is licensed under Title 19, Subtitle 4B of the Health – General Article.

9–102.

This title does not apply to:

(1) a charitable, educational, fraternal, or religious organization that does not charge a fee for its services other than ordinary dues for membership;

(2) a labor organization while obtaining or attempting to obtain employment for a member of the organization; or

(3) an organization of employers while obtaining or attempting to obtain help for a member of the organization.

9–201.

The Commissioner may delegate any power or duty of the Commissioner under this title.

9–301.

(a) An employment agency shall submit to the Commissioner a penal bond.

(b) The bond shall:

(1) run to the State;

(2) be in the amount of $7,000;

(3) be signed by an individual authorized to do so by the employment agency as principal and by a surety company authorized to do business in the State as surety; and

(4) be conditioned that the employment agency will comply with this title and will pay to any person all damages caused by deceit, fraud, misrepresentation, or misstatement of the employment agency or an agent or employee of the employment agency.

(C) TO ENSURE THAT EACH EMPLOYMENT AGENCY SUBMITS THE PENAL BOND IN ACCORDANCE WITH THIS ~~SUBTITLE~~ SECTION, THE COMMISSIONER MAY INITIATE AN INVESTIGATION OR INVESTIGATE A COMPLAINT THAT AN EMPLOYMENT AGENCY HAS FAILED TO SUBMIT A PENAL BOND.

(D) IF, AFTER INVESTIGATION, THE COMMISSIONER FINDS THAT AN EMPLOYMENT AGENCY HAS FAILED TO SUBMIT A PENAL BOND AS REQUIRED BY THIS ~~SUBTITLE~~ SECTION, THE COMMISSIONER SHALL GIVE WRITTEN NOTICE THAT DIRECTS THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY, WITHIN 15 DAYS AFTER RECEIPT OF THE NOTICE:

(1) TO SUBMIT THE REQUIRED BOND; OR

(2) TO SHOW WRITTEN CAUSE WHY THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY IS NOT REQUIRED TO COMPLY WITH THIS ~~SUBTITLE~~ SECTION.

(E) (1) IF THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY COMPLIES WITH THE REQUIREMENT TO SUBMIT A BOND OR OTHERWISE SUBMITS A TIMELY RESPONSE, THE COMMISSIONER MAY:

(I) TERMINATE PROCEEDINGS AGAINST THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY; OR

(II) SCHEDULE A HEARING AND, BY CERTIFIED MAIL, GIVE THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY WRITTEN NOTICE OF THE DATE, PLACE, AND TIME OF THE HEARING.

(2) IF THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY FAILS TO COMPLY WITH A LAWFUL ORDER OF THE COMMISSIONER OR FAILS TO SUBMIT A TIMELY RESPONSE, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY OF NOT LESS THAN $500 AND NOT MORE THAN $1,000 FOR EACH FAILURE TO COMPLY WITH THE ORDER OR FAILURE TO SUBMIT A TIMELY REPORT.

(F) IF AFTER A HEARING, THE COMMISSIONER FINDS THAT THE ~~ALLEGED VIOLATOR~~ EMPLOYMENT AGENCY HAS VIOLATED THE PROVISIONS OF THIS ~~SUBTITLE~~ SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY OF NOT LESS THAN $500 AND NOT MORE THAN $1,000 FOR EACH VIOLATION OF THIS ~~SUBTITLE~~ SECTION.

9–401.

A person who violates this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 436

(Senate Bill 685)

AN ACT concerning

Prince George's County – Roadside ~~Advertising or~~ Solicitation of Money or Donations – Prohibition

FOR the purpose of prohibiting a person from standing in a highway in Prince George's County to solicit money or donations from the occupant of a vehicle ~~or to advertise any message~~; prohibiting an adult from encouraging or allowing a

child to stand in a highway in Prince George's County to solicit money or donations from the occupant of a vehicle ~~or to advertise any message~~; providing that a child may not be found guilty or adjudicated delinquent for standing in a highway in Prince George's County to solicit money or donations from the occupant of a vehicle ~~or to advertise any message~~ if an adult encouraged or allowed the child to commit the violation; providing for the issuance of a certain warning to a first–time offender; providing a certain penalty for subsequent offenses; making the provisions of this Act severable; defining a certain term; and generally relating to restrictions on the use of highways in Prince George's County for ~~advertising or~~ solicitation.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–507
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

21–507.

(a) Except for the occupant of a disabled vehicle who seeks the aid of another vehicle, a person may not stand in a roadway to solicit a ride, employment, or business from the occupant of any vehicle.

(b) A person may not stand on or near a highway to solicit any other person to watch or guard any vehicle while it is parked or about to be parked on a highway.

(c) In Carroll County, Charles County, Frederick County, Harford County, and Washington County, a person may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(d) (1) **[**In Prince George's County:

(i) A child under the age of 15 years may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle; and**]** **THIS SUBSECTION APPLIES TO PRINCE GEORGE'S COUNTY.**

(2) (I) A PERSON MAY NOT STAND IN A HIGHWAY TO:

~~1.~~ ~~SOLICIT~~ SOLICIT MONEY OR DONATIONS OF ANY KIND FROM THE OCCUPANT OF A VEHICLE~~; OR~~

~~2.~~ ~~ADVERTISE ANY MESSAGE~~.

(ii) An adult may not cause, encourage, allow, or petition a child under the age of 15 years to **[**stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle**] VIOLATE SUBPARAGRAPH (I) OF THIS PARAGRAPH**.

(III) IN THIS PARAGRAPH, "HIGHWAY" INCLUDES:

1. RIGHTS–OF–WAY, ROADWAY SURFACES, ROADWAY SUBGRADES, SHOULDERS, MEDIAN DIVIDERS, DRAINAGE FACILITIES AND STRUCTURES, RELATED STORMWATER MANAGEMENT FACILITIES AND STRUCTURES, ROADWAY CUTS, ROADWAY FILLS, GUARDRAILS, BRIDGES, HIGHWAY GRADE SEPARATION STRUCTURES, RAILROAD GRADE SEPARATIONS, TUNNELS, OVERPASSES, UNDERPASSES, INTERCHANGES, ENTRANCE PLAZAS, APPROACHES, AND OTHER STRUCTURES FORMING AN INTEGRAL PART OF A STREET, ROAD, OR HIGHWAY, INCLUDING BICYCLE AND WALKING PATHS; AND

2. ANY OTHER PROPERTY ACQUIRED FOR THE CONSTRUCTION, OPERATION, OR USE OF THE HIGHWAY.

[(2)**] (3)** A child under the age of 15 years may not be found guilty or adjudicated delinquent for a violation of paragraph **[**(1)(i)**] (2)(I)** of this subsection if an adult caused, encouraged, allowed, or petitioned the child in violation of paragraph **[**(1)(ii)**] (2)(II)** of this subsection.

(4) THIS SUBSECTION SHALL BE ENFORCED:

(I) BY THE ISSUANCE OF A WARNING THAT INFORMS THE OFFENDER OF THE REQUIREMENTS OF THIS SUBSECTION IF IT IS THE OFFENDER'S FIRST VIOLATION; AND

(II) UNDER § 27–101 OF THIS ARTICLE IF IT IS THE OFFENDER'S SECOND OR SUBSEQUENT VIOLATION.

(e) (1) This subsection applies to Anne Arundel County.

(2) (i) A person may not stand in a highway to:

1. Solicit money or donations of any kind from the occupant of a vehicle; or

2. Advertise any message.

(ii) "Highway" includes:

1. Rights–of–way, roadway surfaces, roadway subgrades, shoulders, median dividers, drainage facilities and structures, related stormwater management facilities and structures, roadway cuts, roadway fills, guardrails, bridges, highway grade separation structures, railroad grade separations, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, and other structures forming an integral part of a street, road, or highway, including bicycle and walking paths; and

2. Any other property acquired for the construction, operation, or use of the highway.

(f) (1) This subsection applies only to Cecil County.

(2) In this subsection, "qualified organization" means a fire company or bona fide religious, fraternal, civic, war veterans', or charitable organization.

(3) Except as provided in paragraph (4) of this subsection, in Cecil County a person may not:

(i) Stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle; or

(ii) Cause, encourage, allow, or petition another to stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(4) (i) The County Commissioners of Cecil County or the governing body of a municipal corporation in Cecil County may, by appropriate resolution or ordinance, enact a permit program to allow individuals who are at least 18 years old and representatives of qualified organizations who are at least 18 years old to solicit money or donations from the occupant of a vehicle by standing in a roadway, median divider, or intersection.

(ii) If the County Commissioners or the governing body of a municipal corporation in the county enact a resolution or ordinance establishing a permit program authorized by this paragraph, the resolution or ordinance shall:

1. Require an applicant for a permit to submit proof that the individual or qualified organization has a plan for safely soliciting money or donations from the proposed location;

2. Provide that a permit is effective for a period of 1 calendar day; and

3. Allow an individual or a qualified organization to obtain only one permit per calendar year.

(g) (1) In Montgomery County, a child under the age of 18 years may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(2) This subsection shall be enforced by the issuance of a warning that informs the offender of the requirements of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 437

(House Bill 1010)

AN ACT concerning

Prince George's County – Roadside ~~Advertising or~~ Solicitation of Money or Donations – Prohibition

PG 409–08

FOR the purpose of prohibiting a person from standing in a highway in Prince George's County to solicit money or donations from the occupant of a vehicle ~~or~~

~~to advertise any message~~; prohibiting an adult from encouraging or allowing a child to stand in a highway in Prince George's County to solicit money or donations from the occupant of a vehicle ~~or to advertise any message~~; providing that a child may not be found guilty or adjudicated delinquent for standing in a highway in Prince George's County to solicit money or donations from the occupant of a vehicle ~~or to advertise any message~~ if an adult encouraged or allowed the child to commit the violation; providing for the issuance of a certain warning to a first–time offender; providing a certain penalty for subsequent offenses; making the provisions of this Act severable; defining a certain term; and generally relating to restrictions on the use of highways in Prince George's County for ~~advertising or~~ solicitation.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–507
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

21–507.

(a) Except for the occupant of a disabled vehicle who seeks the aid of another vehicle, a person may not stand in a roadway to solicit a ride, employment, or business from the occupant of any vehicle.

(b) A person may not stand on or near a highway to solicit any other person to watch or guard any vehicle while it is parked or about to be parked on a highway.

(c) In Carroll County, Charles County, Frederick County, Harford County, and Washington County, a person may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(d) (1) **[**In Prince George's County:

(i) A child under the age of 15 years may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle; and**] THIS SUBSECTION APPLIES TO PRINCE GEORGE'S COUNTY.**

(2) (I) A PERSON MAY NOT STAND IN A HIGHWAY TO:

~~1.~~ ~~SOLICIT~~ SOLICIT MONEY OR DONATIONS OF ANY KIND FROM THE OCCUPANT OF A VEHICLE~~; OR~~

~~2.~~ ~~ADVERTISE ANY MESSAGE~~.

(ii) An adult may not cause, encourage, allow, or petition a child under the age of 15 years to **[**stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle**] VIOLATE SUBPARAGRAPH (I) OF THIS PARAGRAPH**.

(III) IN THIS PARAGRAPH, "HIGHWAY" INCLUDES:

1. RIGHTS–OF–WAY, ROADWAY SURFACES, ROADWAY SUBGRADES, SHOULDERS, MEDIAN DIVIDERS, DRAINAGE FACILITIES AND STRUCTURES, RELATED STORMWATER MANAGEMENT FACILITIES AND STRUCTURES, ROADWAY CUTS, ROADWAY FILLS, GUARDRAILS, BRIDGES, HIGHWAY GRADE SEPARATION STRUCTURES, RAILROAD GRADE SEPARATIONS, TUNNELS, OVERPASSES, UNDERPASSES, INTERCHANGES, ENTRANCE PLAZAS, APPROACHES, AND OTHER STRUCTURES FORMING AN INTEGRAL PART OF A STREET, ROAD, OR HIGHWAY, INCLUDING BICYCLE AND WALKING PATHS; AND

2. ANY OTHER PROPERTY ACQUIRED FOR THE CONSTRUCTION, OPERATION, OR USE OF THE HIGHWAY.

[(2)**] (3)** A child under the age of 15 years may not be found guilty or adjudicated delinquent for a violation of paragraph **[**(1)(i)**] (2)(I)** of this subsection if an adult caused, encouraged, allowed, or petitioned the child in violation of paragraph **[**(1)(ii)**] (2)(II)** of this subsection.

(4) THIS SUBSECTION SHALL BE ENFORCED:

(I) BY THE ISSUANCE OF A WARNING THAT INFORMS THE OFFENDER OF THE REQUIREMENTS OF THIS SUBSECTION IF IT IS THE OFFENDER'S FIRST VIOLATION; AND

(II) UNDER § 27–101 OF THIS ARTICLE IF IT IS THE OFFENDER'S SECOND OR SUBSEQUENT VIOLATION.

(e) (1) This subsection applies to Anne Arundel County.

(2) (i) A person may not stand in a highway to:

1. Solicit money or donations of any kind from the occupant of a vehicle; or

2. Advertise any message.

(ii) "Highway" includes:

1. Rights–of–way, roadway surfaces, roadway subgrades, shoulders, median dividers, drainage facilities and structures, related stormwater management facilities and structures, roadway cuts, roadway fills, guardrails, bridges, highway grade separation structures, railroad grade separations, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, and other structures forming an integral part of a street, road, or highway, including bicycle and walking paths; and

2. Any other property acquired for the construction, operation, or use of the highway.

(f) (1) This subsection applies only to Cecil County.

(2) In this subsection, "qualified organization" means a fire company or bona fide religious, fraternal, civic, war veterans', or charitable organization.

(3) Except as provided in paragraph (4) of this subsection, in Cecil County a person may not:

(i) Stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle; or

(ii) Cause, encourage, allow, or petition another to stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(4) (i) The County Commissioners of Cecil County or the governing body of a municipal corporation in Cecil County may, by appropriate resolution or ordinance, enact a permit program to allow individuals who are at least 18 years old and representatives of qualified organizations who are at least 18 years old to solicit money or donations from the occupant of a vehicle by standing in a roadway, median divider, or intersection.

(ii) If the County Commissioners or the governing body of a municipal corporation in the county enact a resolution or ordinance establishing a permit program authorized by this paragraph, the resolution or ordinance shall:

1. Require an applicant for a permit to submit proof that the individual or qualified organization has a plan for safely soliciting money or donations from the proposed location;

2. Provide that a permit is effective for a period of 1 calendar day; and

3. Allow an individual or a qualified organization to obtain only one permit per calendar year.

(g) (1) In Montgomery County, a child under the age of 18 years may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(2) This subsection shall be enforced by the issuance of a warning that informs the offender of the requirements of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 438

(Senate Bill 686)

AN ACT concerning

Task Force to Study the Procurement of Health and Social Services by State Agencies

FOR the purpose of establishing a Task Force to Study the Procurement of Health and Social Services by State Agencies; providing for the membership and duties of the Task Force; providing for the designation of a chair of the Task Force; authorizing the Task Force to establish certain subcommittees; requiring the

~~Department of Budget and Management and the Department of General Services~~ *departments represented on the Task Force* to provide staff for the Task Force; prohibiting members of the Task Force from receiving compensation; authorizing a member to receive certain reimbursement; requiring the Task Force to report certain 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 a Task Force to Study the Procurement of Health and Social Services by State Agencies.

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

(a) There is a Task Force to Study the Procurement of Health and Social Services by State Agencies.

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

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the State Treasurer, or the Treasurer's designee;

(4) the Secretary of Budget and Management, or the Secretary's designee;

(5) the Secretary of General Services, or the Secretary's designee;

(6) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(7) the Secretary of Human Resources, or the Secretary's designee;

(8) the Secretary of Juvenile Services, or the Secretary's designee;

(9) the State Superintendent of Schools, or the Superintendent's designee;

(10) the Special Secretary of the Governor's Office of Minority Affairs, or the Special Secretary's designee;

(11) the following two faculty members of universities or colleges in the State, jointly appointed by the President of the Senate and the Speaker of the House:

(i) one member who has special expertise in government administration; and

(ii) one member who has special expertise in business management; and

(12) three representatives of organizations currently contracting with the State to provide health or social services, appointed by the Governor.

(c) The President of the Senate and the Speaker of the House jointly shall designate the chair of the Task Force.

(d) The Task Force may establish subcommittees as it determines necessary to fulfill its duties.

(e) The ~~Department of Budget and Management and the Department of General Services~~ *departments represented on the Task Force* shall provide staff for the Task Force.

(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) evaluate and make recommendations regarding the methods used by State agencies to procure the delivery of health and social services;

(2) examine and make recommendations regarding State agencies' timeliness in preparing and issuing requests for proposals for the delivery of health and human services;

(3) examine and make recommendations regarding the timeliness of payments to contractors;

(4) examine and make recommendations regarding possible standardization of contracting processes among and within State agencies, including standardization of related documents and documentation required of contractors; and

(5) identify and make recommendations regarding any other issues, including current State laws or regulations affecting the efficiency and cost of procuring health and social services.

(h) In evaluating processes and formulating recommendations, the Task Force shall especially consider:

(1) the effect of procurement processes on quality and continuity of services;

(2) the costs and benefits of existing procurement procedures; and

(3) the effects of procurement requirements on the number and diversity of potential providers of services contracted by the State.

(i) The Task Force shall report its preliminary findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on or before November 30, 2008.

(j) The Task Force shall report its final findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on or before November 30, 2009.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of 2 years and, at the end of June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 439

(House Bill 527)

AN ACT concerning

Task Force to Study the Procurement of Health and Social Services by State Agencies

FOR the purpose of establishing a Task Force to Study the Procurement of Health and Social Services by State Agencies; providing for the membership and duties of the Task Force; providing for the designation of a chair of the Task Force;

authorizing the Task Force to establish certain subcommittees; requiring the ~~Department of Budget and Management and the Department of General Services~~ ~~Department of Legislative Services~~ *departments represented on the Task Force* to provide staff for the Task Force; prohibiting members of the Task Force from receiving compensation; authorizing a member to receive certain reimbursement; requiring the Task Force to report certain 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 a Task Force to Study the Procurement of Health and Social Services by State Agencies.

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

(a) There is a Task Force to Study the Procurement of Health and Social Services by State Agencies.

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

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the State Treasurer, or the Treasurer's designee;

(4) the Secretary of Budget and Management, or the Secretary's designee;

(5) the Secretary of General Services, or the Secretary's designee;

(6) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(7) the Secretary of Human Resources, or the Secretary's designee;

(8) the Secretary of Juvenile Services, or the Secretary's designee;

(9) the State Superintendent of Schools, or the Superintendent's designee;

(10) the Special Secretary of the Governor's Office of Minority Affairs, or the Special Secretary's designee;

(11) the following two faculty members of universities or colleges in the State, jointly appointed by the President of the Senate and the Speaker of the House:

(i) one member who has special expertise in government administration; and

(ii) one member who has special expertise in business management; and

(12) three representatives of organizations currently contracting with the State to provide health or social services, appointed by the Governor.

(c) The President of the Senate and the Speaker of the House jointly shall designate the chair of the Task Force.

(d) The Task Force may establish subcommittees as it determines necessary to fulfill its duties.

(e) The ~~Department of Budget and Management and the Department of General Services~~ ~~Department of Legislative Services~~ *departments represented on the Task Force* shall provide staff for the Task Force.

(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) evaluate and make recommendations regarding the methods used by State agencies to procure the delivery of health and social services;

(2) examine and make recommendations regarding State agencies' timeliness in preparing and issuing requests for proposals for the delivery of health and human services;

(3) examine and make recommendations regarding the timeliness of payments to contractors;

(4) examine and make recommendations regarding possible standardization of contracting processes among and within State agencies, including standardization of related documents and documentation required of contractors; and

(5) identify and make recommendations regarding any other issues, including current State laws or regulations affecting the efficiency and cost of procuring health and social services.

(h) In evaluating processes and formulating recommendations, the Task Force shall especially consider:

(1) the effect of procurement processes on quality and continuity of services;

(2) the costs and benefits of existing procurement procedures; and

(3) the effects of procurement requirements on the number and diversity of potential providers of services contracted by the State.

(i) The Task Force shall report its preliminary findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on or before November 30, 2008.

(j) The Task Force shall report its final findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on or before November 30, 2009.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of 2 years and, at the end of June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 440

(Senate Bill 701)

AN ACT concerning

Insurance Producers – Life and Health Insurance Examinations – Annual ~~Reports~~ *Report*

FOR the purpose of requiring the Maryland Insurance Commissioner or a designee of the Commissioner on or before a certain date each year to prepare and publish a certain report that relates to life and health insurance producer examinations

administered during a certain period of time; requiring the report to include certain information about certain examinees in a certain manner; ~~requiring the Commissioner or a designee of the Commissioner on or before a certain date each year to prepare and make available on request a certain report that relates to a certain test form used for certain examinations administered during a certain period of time; requiring the report to show certain information about certain test forms for certain examinees in a certain manner;~~ *requiring the Commissioner or a designee of the Commissioner to submit the report to certain legislative committees; providing for the termination of this Act;* providing for the termination of this Act; and generally relating to *reports on* examinations for insurance producers.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 10–109
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Insurance

10–109.

(a) An individual applicant who otherwise qualifies for a license for life insurance, health insurance, annuities, nonprofit health service plans, dental plan organizations, or health maintenance organizations is entitled to be examined as provided in this section.

(b) (1) Each individual applicant must pass a personal written examination to determine:

(i) the competence of the applicant as to life insurance, health insurance, or annuities or to any subdivision of them, including contracts for nonprofit health service plans, vision plans, dental plan organizations, and health maintenance organizations; and

(ii) the familiarity of the applicant with the applicable laws of the State.

(2) Each examination must be graded within 30 days after the date of the examination.

(c) An individual applicant who fails an examination may not take another examination until at least 14 days after the date of the last examination that the applicant failed.

(d) The Commissioner shall adopt reasonable regulations that specify:

(1) the scope, type, conduct, and grading of the written examinations;

(2) the frequency, times, and places in the State where the written examinations will be held; and

(3) subject to § 10–105(e) of this subtitle, the educational requirements for an individual applicant to be eligible to take a written examination.

(E) (1) ON OR BEFORE APRIL 1 OF EACH YEAR, THE COMMISSIONER OR A DESIGNEE OF THE COMMISSIONER SHALL PREPARE AND PUBLISH A REPORT THAT SUMMARIZES STATISTICAL INFORMATION THAT RELATES TO THE LIFE AND HEALTH INSURANCE PRODUCER EXAMINATIONS ADMINISTERED DURING THE PRECEDING CALENDAR YEAR.

(2) THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION FOR ALL EXAMINEES COMBINED AND SEPARATELY BY RACE OR ETHNICITY, GENDER, RACE OR ETHNICITY WITHIN GENDER, EDUCATIONAL LEVEL, AND NATIVE LANGUAGE:

(I) THE TOTAL NUMBER OF EXAMINEES;

(II) THE PERCENTAGE AND NUMBER OF EXAMINEES WHO PASSED THE EXAMINATION;

(III) THE MEAN SCALED SCORES ON THE EXAMINATION; ~~AND~~

(IV) THE STANDARD DEVIATION OF SCALED SCORES ON THE EXAMINATION; *AND*

***(V) THE CORRECT ANSWER RATE AND CORRELATION FOR EACH TEST QUESTION AND EACH TEST FORM*.**

~~**(F) (1) ON OR BEFORE APRIL 1 OF EACH YEAR, THE COMMISSIONER OR A DESIGNEE OF THE COMMISSIONER SHALL PREPARE AND MAKE AVAILABLE ON REQUEST A REPORT THAT SUMMARIZES STATISTICAL INFORMATION THAT RELATES TO EACH LIFE AND HEALTH INSURANCE PRODUCER TEST FORM USED FOR EXAMINATIONS ADMINISTERED DURING THE PRECEDING CALENDAR YEAR.**~~

~~**(2) THE REPORT SHALL SHOW, FOR EACH TEST FORM, FOR ALL EXAMINEES COMBINED AND SEPARATELY FOR AFRICAN AMERICAN EXAMINEES, WHITE EXAMINEES, AMERICAN INDIAN EXAMINEES, ASIAN EXAMINEES, HISPANIC EXAMINEES, AND OTHER EXAMINEES, THE CORRECT ANSWER RATES AND CORRELATIONS**~~

***(3) AS SOON AS PRACTICABLE AFTER ITS PUBLICATION, THE COMMISSIONER OR A DESIGNEE OF THE COMMISSIONER SHALL SUBMIT THE REPORT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE*.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. It shall remain effective for a period of 3 years and, at the end of September 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 441

(House Bill 1100)

AN ACT concerning

Insurance Producers – Life and Health Insurance Examinations – Annual ~~Reports~~ Report

FOR the purpose of requiring the Maryland Insurance Commissioner or a designee of the Commissioner on or before a certain date each year to prepare and publish a certain report that relates to life and health insurance producer examinations administered during a certain period of time; requiring the report to include certain information about certain examinees in a certain manner; ~~requiring the Commissioner or a designee of the Commissioner on or before a certain date each year to prepare and make available on request a certain report that relates to a certain test form used for certain examinations administered during a certain period of time; requiring the report to show certain information about certain test forms for certain examinees in a certain manner;~~ requiring the Commissioner or a designee of the Commissioner to submit the report to certain legislative committees; providing for the termination of this Act; and generally relating to reports on examinations for insurance producers.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 10–109
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Insurance

10–109.

(a) An individual applicant who otherwise qualifies for a license for life insurance, health insurance, annuities, nonprofit health service plans, dental plan organizations, or health maintenance organizations is entitled to be examined as provided in this section.

(b) (1) Each individual applicant must pass a personal written examination to determine:

(i) the competence of the applicant as to life insurance, health insurance, or annuities or to any subdivision of them, including contracts for nonprofit health service plans, vision plans, dental plan organizations, and health maintenance organizations; and

(ii) the familiarity of the applicant with the applicable laws of the State.

(2) Each examination must be graded within 30 days after the date of the examination.

(c) An individual applicant who fails an examination may not take another examination until at least 14 days after the date of the last examination that the applicant failed.

(d) The Commissioner shall adopt reasonable regulations that specify:

(1) the scope, type, conduct, and grading of the written examinations;

(2) the frequency, times, and places in the State where the written examinations will be held; and

(3) subject to § 10–105(e) of this subtitle, the educational requirements for an individual applicant to be eligible to take a written examination.

(E) (1) ON OR BEFORE APRIL 1 OF EACH YEAR, THE COMMISSIONER OR A DESIGNEE OF THE COMMISSIONER SHALL PREPARE AND PUBLISH A REPORT THAT SUMMARIZES STATISTICAL INFORMATION THAT RELATES TO THE LIFE AND HEALTH INSURANCE PRODUCER EXAMINATIONS ADMINISTERED DURING THE PRECEDING CALENDAR YEAR.

(2) THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION FOR ALL EXAMINEES COMBINED AND SEPARATELY BY RACE OR ETHNICITY, GENDER, RACE OR ETHNICITY WITHIN GENDER, EDUCATIONAL LEVEL, AND NATIVE LANGUAGE:

(I) THE TOTAL NUMBER OF EXAMINEES;

(II) THE PERCENTAGE AND NUMBER OF EXAMINEES WHO PASSED THE EXAMINATION;

(III) THE MEAN SCALED SCORES ON THE EXAMINATION; ~~AND~~

(IV) THE STANDARD DEVIATION OF SCALED SCORES ON THE EXAMINATION; AND

(V) THE CORRECT ANSWER RATE AND CORRELATION FOR EACH TEST QUESTION AND EACH TEST FORM.

~~(F) (1) ON OR BEFORE APRIL 1 OF EACH YEAR, THE COMMISSIONER OR A DESIGNEE OF THE COMMISSIONER SHALL PREPARE AND MAKE AVAILABLE ON REQUEST A REPORT THAT SUMMARIZES STATISTICAL INFORMATION THAT RELATES TO EACH LIFE AND HEALTH INSURANCE PRODUCER TEST FORM USED FOR EXAMINATIONS ADMINISTERED DURING THE PRECEDING CALENDAR YEAR.~~

~~(2) THE REPORT SHALL SHOW, FOR EACH TEST FORM, FOR ALL EXAMINEES COMBINED AND SEPARATELY FOR AFRICAN AMERICAN EXAMINEES, WHITE EXAMINEES, AMERICAN INDIAN EXAMINEES, ASIAN EXAMINEES, HISPANIC EXAMINEES, AND OTHER EXAMINEES, THE CORRECT ANSWER RATES AND CORRELATIONS~~

(3) AS SOON AS PRACTICABLE AFTER ITS PUBLICATION, THE COMMISSIONER OR A DESIGNEE OF THE COMMISSIONER SHALL SUBMIT THE REPORT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT

ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. It shall remain effective for a period of 3 years and, at the end of September 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 442

(Senate Bill 710)

AN ACT concerning

Environment – Phosphorus – Dishwashing Detergent

FOR the purpose of altering the date by which certain persons are prohibited from using, selling, manufacturing, or distributing for sale certain dishwashing detergent that contains greater than a certain amount of phosphorus; and generally relating to phosphorus in dishwashing detergents.

BY repealing and reenacting, without amendments,
Article – Environment
Section 9–1502
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1503
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

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

Article – Environment

9–1502.

This subtitle does not apply to a cleaning agent that is:

(1) A detergent used in dairy, beverage, or food processing cleaning equipment;

(2) A phosphoric acid product, including a sanitizer, brightener, acid cleaner, or metal conditioner;

(3) A detergent used in hospitals, veterinary hospitals or clinics, or health care facilities or in agricultural production;

(4) A detergent used by industry for metal cleaning or conditioning;

(5) Manufactured, stored, or distributed for use or sale outside of the State;

(6) Used in any laboratory, including a biological laboratory, research facility, chemical laboratory, and engineering laboratory; or

(7) Used in a commercial laundry that provides laundry services for a hospital, health care facility, or veterinary hospital.

9–1503.

(a) Except as provided in subsection (b) of this section, a person may not use, sell, manufacture, or distribute for use or sale within the State any cleaning agent that contains more than 0.0 percent phosphorus by weight expressed as elemental phosphorus except for an amount not exceeding 0.5 percent phosphorus that is incidental to manufacturing.

(b) Except as provided in subsection (c) of this section, a person may use, sell, manufacture, or distribute for use or sale a cleaning agent that contains greater than 0.0 percent phosphorus by weight, but does not exceed 8.7 percent phosphorus by weight that is:

(1) A detergent used in a dishwashing machine, whether commercial or household; or

(2) A substance the Secretary, by rule and regulation, excludes from the 0.0 percent phosphorus limitation of subsection (a) of this section based on a finding that compliance with this section would:

(i) Create a significant hardship on the user; or

(ii) Be unreasonable because of the lack of an adequate substitute cleaning agent.

(c) After **[**January 1, 2010**]** **JULY 1, 2010**, a person may not use, sell, manufacture, or distribute for use or sale within the State any detergent for use in a household dishwashing machine that contains more than 0.5 percent phosphorus by weight.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 443

(Senate Bill 712)

AN ACT concerning

Vehicle Laws – Failure to Yield Right–of–Way – Penalties for Death or Serious Bodily Injury

FOR the purpose of establishing that if a person fails to yield the right–of–way in violation of certain provisions of law and the violation contributes to an accident that results in the death or serious bodily injury of another, the person is subject to a certain fine and the Motor Vehicle Administration is authorized to suspend the person's license for a certain period of time; providing that a licensee may request a hearing on a license suspension imposed under this Act; and generally relating to penalties for a failure to yield the right–of–way that contributes to an accident that results in death or serious bodily injury.

BY adding to
Article – Transportation
Section 27–114
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

27–114.

(A) IF A PERSON VIOLATES ANY PROVISION OF TITLE 21, SUBTITLE 4 OF THIS ARTICLE AND THE VIOLATION CONTRIBUTES TO AN ACCIDENT THAT RESULTS IN THE DEATH OR, *AS DEFINED IN § 27–113 OF THIS SUBTITLE*, SERIOUS BODILY INJURY OF ANOTHER, THE PERSON IS GUILTY OF A MISDEMEANOR AND ON CONVICTION:

(1) THE PERSON IS SUBJECT TO A FINE OF NOT MORE THAN $1,000; AND

(2) THE ADMINISTRATION MAY SUSPEND THE PERSON'S LICENSE FOR NOT MORE THAN 180 DAYS.

(B) SUBJECT TO THE PROVISIONS OF TITLE 12, SUBTITLE 2 OF THIS ARTICLE, A LICENSEE MAY REQUEST A HEARING ON A LICENSE SUSPENSION IMPOSED UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 444

(Senate Bill 718)

AN ACT concerning

Lead Risk Reduction – Acquisition of Property – Compliance Requirements

FOR the purpose of authorizing a person who intends to acquire a property that is considered to be affected under certain lead risk reduction provisions to submit a compliance plan to the Department of the Environment; requiring a person who has acquired, or will acquire, an affected property to give certain notice and information at a certain time; establishing a process and a fee for submitting an application for a compliance plan; requiring the Department to approve or deny the plan, or request additional information, within a certain number of days after the plan is submitted; authorizing the Department to deny certain applications under certain circumstances; requiring either certain proof that a certain risk reduction standard has been satisfied or a certain inspection report

to be filed with the Department under certain circumstances; providing that a compliance plan is void under certain circumstances; providing certain protections for an owner after a plan is approved; providing that if the owner fails to comply with the compliance plan, the owner shall be considered noncompliant as of a certain date; authorizing the Department to adopt certain regulations; and generally relating to acquiring property with lead risks.

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–820 and 6–823
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Environment
Section 6–824 and 6–836
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY adding to
Article – Environment
Section 6–825
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

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

Article – Environment

6–820.

(a) Except as provided in subsection (b) of this section, an owner of an affected property shall give to the tenant of the affected property a notice, prepared by the Department, of the tenant's rights under §§ 6–817 and 6–819 of this subtitle, according to the following schedule:

(1) At least 25% of the owner's affected properties by May 25, 1996;

(2) At least 50% of the owner's affected properties by August 25, 1996;

(3) At least 75% of the owner's affected properties by November 25, 1996; and

(4) 100% of the owner's affected properties by February 25, 1997.

(b) On or after February 24, 1996, an owner of an affected property shall give to the tenant of the affected property a notice, prepared by the Department, of the tenant's rights under §§ 6–817 and 6–819 of this subtitle upon the execution of a lease or the inception of a tenancy.

(c) An owner of an affected property shall give to the tenant of the affected property a notice, prepared by the Department, of the tenant's rights under §§ 6–817 and 6–819 of this subtitle at least every 2 years after last giving the notice to the tenant.

(d) The owner shall include, with the notice of the tenant's rights that is provided to a tenant under this section upon the execution of a lease or the inception of a tenancy, a copy of the current verified inspection certificate for the affected property prepared under § 6–818 of this subtitle.

(e) (1) Notice given under this section shall be written, and shall be sent by:

(i) Certified mail, return receipt requested; or

(ii) A verifiable method approved by the Department.

(2) When giving notice to a tenant under this section, the owner shall provide documentation of the notice to the Department in a manner acceptable to the Department.

(3) A notice required to be given to a tenant under this section shall be sent to a party or parties identified as the lessee in a written lease in effect for an affected property or, if there is no written lease, the party or parties to whom the property was rented.

(F) A PERSON WHO HAS ACQUIRED, OR WILL ACQUIRE, AN AFFECTED PROPERTY SHALL GIVE THE NOTICE REQUIRED UNDER THIS SECTION TO THE TENANT OF THE AFFECTED PROPERTY:

(1) BEFORE TRANSFER OF LEGAL TITLE; OR

(2) WITHIN 15 DAYS FOLLOWING TRANSFER OF LEGAL TITLE.

6–823.

(a) By May 23, 1996, an owner of an affected property shall give to the tenant of each of the owner's affected properties a lead poisoning information packet prepared or designated by the Department.

(b) On or after February 24, 1996, upon the execution of a lease or the inception of a tenancy for an affected property the owner of the affected property shall give to the tenant a lead poisoning information packet prepared or designated by the Department.

(c) An owner of an affected property shall give to the tenant of the affected property another copy of the lead poisoning information packet prepared or designated by the Department at least every 2 years after last giving the information packet to the tenant.

(d) A packet given to a tenant under this section shall be sent by:

(1) Certified mail, return receipt requested; or

(2) A verifiable method approved by the Department.

(e) The packet required to be given to a tenant under this section shall be sent to a party or parties identified as the lessee in a written lease in effect for an affected property or, if there is no written lease, the party or parties to whom the property was rented.

(F) A PERSON WHO HAS ACQUIRED, OR WILL ACQUIRE, AN AFFECTED PROPERTY SHALL GIVE THE PACKET REQUIRED UNDER THIS SECTION TO THE TENANT OF THE AFFECTED PROPERTY:

(1) BEFORE TRANSFER OF LEGAL TITLE; OR

(2) WITHIN 15 DAYS FOLLOWING TRANSFER OF LEGAL TITLE.

6–824.

An owner shall disclose an obligation to perform either the modified or full risk reduction treatment to an affected property under this subtitle to any prospective purchaser of an affected property at or prior to the time a contract of sale is executed, if:

(1) An event has occurred that requires performance of either the modified or full risk reduction treatment to the affected property under this subtitle; and

(2) The owner will not perform the required treatment prior to the transfer of ownership.

6–825.

(A) A PERSON WHO INTENDS TO ACQUIRE, THROUGH AN ARM'S LENGTH TRANSACTION, INHERITANCE, TAX SALE, FORECLOSURE, OR JUDICIALLY APPROVED TRANSFER, AN OCCUPIED AFFECTED PROPERTY THAT IS IN VIOLATION OF § 6–815, § 6–817, OR § 6–819 OF THIS SUBTITLE MAY SUBMIT TO THE DEPARTMENT AN APPLICATION FOR A COMPLIANCE PLAN.

(B) (1) THE APPLICATION FOR A COMPLIANCE PLAN SHALL:

(I) BE SUBMITTED AND RECEIVED BY THE DEPARTMENT AT LEAST 30 DAYS BEFORE TRANSFER OF LEGAL TITLE TO THE OCCUPIED AFFECTED PROPERTY; AND

(II) BE ON A FORM PROVIDED BY THE DEPARTMENT THAT INCLUDES, FOR EACH OCCUPIED AFFECTED PROPERTY, THE FOLLOWING INFORMATION:

1. THE TRANSFEREE'S NAME, ADDRESS, AND TELEPHONE NUMBER;

2. THE TRANSFEROR'S NAME AND ADDRESS;

3. A STATEMENT CERTIFYING THAT NEITHER THE TRANSFEREE NOR ANY OFFICER OR DIRECTOR OF THE TRANSFEREE HAS A CURRENT INTEREST, EITHER INDIVIDUALLY OR JOINTLY, IN THE OCCUPIED AFFECTED PROPERTY;

4. THE TYPE AND SCHEDULED DATE OF TRANSFER;

5. THE ADDRESS OF THE OCCUPIED AFFECTED PROPERTY INCLUDING, FOR A MULTIFAMILY–OCCUPIED AFFECTED PROPERTY, EACH UNIT IN THE PROPERTY; AND

6. WHETHER A PERSON AT RISK RESIDES IN THE OCCUPIED AFFECTED PROPERTY.

(2) THE DEPARTMENT MAY REQUIRE ANY ADDITIONAL INFORMATION THAT IT CONSIDERS APPROPRIATE.

(3) AN APPLICATION FEE OF $200 FOR EACH OCCUPIED AFFECTED PROPERTY AND EACH OCCUPIED UNIT IN A MULTIFAMILY AFFECTED PROPERTY, NOT TO EXCEED ~~$6,000~~ $10,000, SHALL BE SUBMITTED TO THE DEPARTMENT WITH THE APPLICATION.

(C) (1) WITHIN 20 DAYS OF RECEIPT OF THE APPLICATION FOR A COMPLIANCE PLAN, THE DEPARTMENT SHALL:

(I) APPROVE THE COMPLIANCE PLAN, IN WHOLE OR IN PART;

(II) DENY THE COMPLIANCE PLAN, IN WHOLE OR IN PART; OR

(III) REQUEST ADDITIONAL INFORMATION.

(2) THE DEPARTMENT MAY DENY AN APPLICATION FOR A COMPLIANCE PLAN FOR AN OCCUPIED AFFECTED PROPERTY BASED ON THE FOLLOWING FACTORS:

(I) FAILURE TO SUBMIT OR TIMELY SUBMIT A COMPLETE APPLICATION;

(II) FAILURE TO SUBMIT OR TIMELY SUBMIT INFORMATION REQUESTED BY THE DEPARTMENT;

(III) THE EXISTENCE OF PRIOR VIOLATIONS BY THE TRANSFEREE OF THE PROVISIONS OF THIS SUBTITLE OR APPLICABLE REGULATIONS;

(IV) PRIOR EXTENSION OF THE COMPLIANCE DEADLINE UNDER SUBSECTION (D) OF THIS SECTION FOR AN AFFECTED PROPERTY;

(V) POTENTIAL OR ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY; AND

(VI) ANY OTHER FACTOR THE DEPARTMENT CONSIDERS APPROPRIATE.

(D) (1) THIS SUBSECTION APPLIES TO AN OCCUPIED AFFECTED PROPERTY IN WHICH A PERSON AT RISK DOES NOT RESIDE.

(2) SUBJECT TO SUBSECTION (E) OF THIS SECTION, IF AN APPLICATION FOR A COMPLIANCE PLAN IS APPROVED, THE TRANSFEREE SHALL FILE WITH THE DEPARTMENT AN INSPECTION REPORT AS PROOF THAT THE RISK REDUCTION STANDARD SPECIFIED IN § 6–815 OF THIS SUBTITLE HAS BEEN SATISFIED, OR AN INSPECTION REPORT IN ACCORDANCE WITH § 6–804 OF THIS

SUBTITLE, FOR EACH OCCUPIED AFFECTED PROPERTY THAT HAS NOT SATISFIED THE REQUIREMENTS OF § 6–815, § 6–817, OR § 6–819 OF THIS SUBTITLE WITHIN THE FOLLOWING TIME FRAMES:

(I) WITHIN 30 DAYS AFTER TRANSFER OF LEGAL TITLE FOR A TRANSFEREE ACQUIRING 1 OCCUPIED AFFECTED PROPERTY;

(II) WITHIN 90 DAYS AFTER THE TRANSFER OF LEGAL TITLE FOR A TRANSFEREE ACQUIRING 2 TO 5 OCCUPIED AFFECTED PROPERTIES;

(III) WITHIN 135 DAYS AFTER THE TRANSFER OF LEGAL TITLE FOR A TRANSFEREE ACQUIRING 6 TO 10 OCCUPIED AFFECTED PROPERTIES; OR

(IV) WITHIN 180 DAYS AFTER THE TRANSFER OF LEGAL TITLE FOR A TRANSFEREE ACQUIRING MORE THAN 10 OCCUPIED AFFECTED PROPERTIES.

(E) (1) THIS SUBSECTION APPLIES TO AN OCCUPIED AFFECTED PROPERTY IN WHICH A PERSON AT RISK RESIDES.

(2) NOTWITHSTANDING THE STATUS OF AN APPLICATION FOR A COMPLIANCE PLAN, THE TRANSFEREE SHALL FILE WITH THE DEPARTMENT AN INSPECTION REPORT AS PROOF THAT THE RISK REDUCTION STANDARD SPECIFIED IN § 6–815 OF THIS SUBTITLE HAS BEEN SATISFIED, OR AN INSPECTION REPORT IN ACCORDANCE WITH § 6–804 OF THIS SUBTITLE, FOR EACH OCCUPIED AFFECTED PROPERTY THAT HAS NOT SATISFIED THE REQUIREMENTS OF § 6–815, § 6–817, OR § 6–819 OF THIS SUBTITLE WITHIN 30 DAYS AFTER TRANSFER OF LEGAL TITLE.

(F) A COMPLIANCE PLAN FOR AN OCCUPIED AFFECTED PROPERTY UNDER THIS SECTION IS VOID UNLESS WITHIN 15 DAYS FOLLOWING TRANSFER OF THE OCCUPIED AFFECTED PROPERTY SUBJECT TO THE COMPLIANCE PLAN, THE TRANSFEREE FILES WITH THE DEPARTMENT:

(1) DOCUMENTATION SATISFACTORY TO THE DEPARTMENT OF THE TRANSFER OF LEGAL TITLE;

(2) A STATEMENT CERTIFYING THAT, PRIOR TO OR WITHIN 15 DAYS OF TRANSFER OF LEGAL TITLE, THE TRANSFEREE PROVIDED THE TENANTS OF THE OCCUPIED PROPERTIES WITH THE NOTICE OF TENANT'S RIGHTS AND LEAD POISONING INFORMATION PACKET REQUIRED BY §§ 6–820 AND 6–823 OF THIS SUBTITLE; AND

(3) A STATEMENT CERTIFYING THAT WITHIN 15 DAYS OF TRANSFER OF LEGAL TITLE, THE TRANSFEREE REGISTERED THE OCCUPIED AFFECTED PROPERTIES WITH THE DEPARTMENT IN ACCORDANCE WITH §§ 6–811 AND 6–812 OF THIS SUBTITLE.

(G) IF THE DEPARTMENT DETERMINES THAT ANY INFORMATION PROVIDED IN AN APPLICATION FOR A COMPLIANCE PLAN OR REQUIRED IN SUBSECTION (F) OF THIS SECTION WAS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY DECLARE THE COMPLIANCE PLAN VOID IN WHOLE OR IN PART.

(H) THIS SECTION DOES NOT AFFECT AN OWNER'S OBLIGATION TO COMPLY WITH §§ 6–815 AND 6–819(C) AND (D) OF THIS SUBTITLE THAT ARISES AFTER LEGAL TITLE TO THE AFFECTED PROPERTY IS TRANSFERRED.

(I) SUBJECT TO SUBSECTIONS (H) AND (J) OF THIS SECTION, IF THE DEPARTMENT APPROVES A COMPLIANCE PLAN, AN AFFECTED PROPERTY SUBJECT TO THE COMPLIANCE PLAN SHALL BE CONSIDERED IN COMPLIANCE WITH §§ 6–815, 6–817, AND 6–819 OF THIS SUBTITLE AS OF THE DAY OF THE DATE OF TRANSFER.

(J) IF THE PERSON WHO ACQUIRED AN OCCUPIED AFFECTED PROPERTY THAT DOES NOT SATISFY THE REQUIREMENTS OF § 6–815, § 6–817, OR § 6–819 OF THIS SUBTITLE FAILS TO COMPLY WITH THE TERMS OF AN APPROVED COMPLIANCE PLAN, THE AFFECTED PROPERTY SHALL BE CONSIDERED TO BE NONCOMPLIANT WITH § 6–815 OF THIS SUBTITLE FROM THE DATE LEGAL TITLE TO THE AFFECTED PROPERTY WAS TRANSFERRED TO THE PERSON.

(K) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

6–836.

An owner of an affected property is not liable, for alleged injury or loss caused by ingestion of lead by a person at risk in the affected property, to a person at risk or a parent, legal guardian, or other person authorized under § 6–833 of this subtitle to respond on behalf of a person at risk who rejects a qualified offer made by the owner or the owner's insurer or agent if, during the period of the alleged ingestion of lead by the person at risk, and with respect to the affected property in which the exposure allegedly occurred, the owner:

(1) Has given to the tenant the notices required by §§ 6–820 and 6–823 of this subtitle; and

(2) Was in compliance with:

(i) The registration provisions of Part III of this subtitle; and

(ii) The applicable risk reduction standard and response standard under § 6–815 or § 6–819 of this subtitle, and the risk reduction schedule under § 6–817 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 445

(Senate Bill 735)

AN ACT concerning

Coordinating Emerging Nanobiotechnology Research (CENTR) in Maryland Program

FOR the purpose of establishing the Coordinating Emerging Nanobiotechnology Research in Maryland Program to be administered by the Maryland Technology Development Corporation to provide grants for certain nanobiotechnology research projects; establishing the purposes of the Program; establishing certain types of grants to be awarded under the Program; declaring the intent of the General Assembly; requiring the Corporation to adopt certain regulations; requiring the Corporation to include certain information in a certain report to the General Assembly; defining certain terms; expressing certain legislative intent related to certain appropriations ~~to the Program~~; and generally relating to the creation of a program for nanobiotechnology research.

BY adding to
Article – Economic Development
Section 10–445 through 10–451 to be under the new part "Part IV. Coordinating Emerging Nanobiotechnology Research in Maryland Program"
Annotated Code of Maryland

(As enacted by Chapter 306 (H.B.~~1~~ *1050*)(8lr0698) of the Acts of the General Assembly of 2008)

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

Article – Economic Development

10–443. RESERVED.

10–444. RESERVED.

PART IV. COORDINATING EMERGING NANOBIOTECHNOLOGY RESEARCH IN MARYLAND PROGRAM.

10–445.

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

(B) "CENTR MARYLAND PROGRAM" OR "PROGRAM" MEANS THE COORDINATING EMERGING NANOBIOTECHNOLOGY RESEARCH PROGRAM ESTABLISHED UNDER § 10–447 OF THIS SUBTITLE.

(C) "FUND" MEANS THE COORDINATING EMERGING NANOBIOTECHNOLOGY RESEARCH IN MARYLAND FUND ESTABLISHED UNDER § 10–448 OF THIS SUBTITLE.

(D) "NANOBIOTECHNOLOGY" MEANS THE APPLICATION OF NANOTECHNOLOGY TO THE LIFE SCIENCES INCLUDING RESEARCH RELATING TO THE CHARACTERIZATION OF NANOMATERIALS FOR HEALTH AND ENVIRONMENTAL SAFETY IMPLICATIONS.

10–446.

THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(1) NANOBIOTECHNOLOGY OFFERS TREMENDOUS POTENTIAL TO REVOLUTIONIZE MEDICAL AND LIFE SCIENCE RESEARCH AND TO ENABLE DISCOVERIES THAT WILL ENRICH AND IMPROVE THE QUALITY OF LIFE FOR THE PEOPLE OF THE STATE;

(2) THE PROVISION OF FUNDS FOR NANOBIOTECHNOLOGY PROJECTS IS VITAL TO SUPPORTING THIS EMERGING TECHNOLOGY; AND

(3) FOSTERING PARTNERSHIPS AMONG FEDERAL INSTITUTIONS, PRIVATE SECTOR ENTITIES, AND INSTITUTIONS OF HIGHER EDUCATION WILL HELP SECURE THE STATE'S POSITION AS A LEADER IN NANOBIOTECHNOLOGY RESEARCH AND ASSIST IN SECURING THE STATE'S ECONOMIC FUTURE.

10–447.

(A) THERE IS A COORDINATING EMERGING NANOBIOTECHNOLOGY RESEARCH IN MARYLAND PROGRAM.

(B) THE PURPOSE OF THE CENTR MARYLAND PROGRAM IS TO:

(1) SUPPORT AND PROMOTE ADVANCED RESEARCH IN NANOBIOTECHNOLOGY IN THE STATE;

(2) SUPPORT NANOBIOTECHNOLOGY RESEARCH ACTIVITIES AT POSTSECONDARY EDUCATION INSTITUTIONS; AND

(3) ESTABLISH THE STATE AS A KEY LOCATION FOR NANOBIOTECHNOLOGY RESEARCH AND INDUSTRY.

10–448.

(A) THERE IS A COORDINATING EMERGING NANOBIOTECHNOLOGY RESEARCH IN MARYLAND FUND IN THE CORPORATION.

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

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

(C) THE FUND CONSISTS OF:

(1) APPROPRIATIONS AS PROVIDED IN THE STATE BUDGET; AND

(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE CENTR MARYLAND PROGRAM.

(D) THE EXECUTIVE DIRECTOR OF THE CORPORATION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL ADMINISTER THE FUND IN ACCORDANCE WITH THIS PART AND OTHER APPLICABLE LAW.

(E) THE FUND SHALL BE USED TO COVER THE COSTS OF THE PROGRAM, INCLUDING ANY GRANTS THAT ARE AWARDED TO ELIGIBLE RECIPIENTS.

(F) (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 FUND.

(G) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2–1220 OF THE STATE GOVERNMENT ARTICLE.

10–449.

(A) ~~SUBJECT~~ WITHIN THE CENTR MARYLAND PROGRAM, SUBJECT TO AVAILABLE FUNDING, THE CORPORATION SHALL AWARD CAPITAL AND OPERATING GRANTS FROM THE FUND TO PRIVATE SECTOR ENTITIES AND INSTITUTIONS OF HIGHER EDUCATION IN THE STATE TO:

(1) LEVERAGE FEDERAL FUNDING FOR THE ESTABLISHMENT OR CONSTRUCTION OF RESEARCH CENTERS IN THE STATE;

(2) PROVIDE PILOT FUNDING FOR FACULTY AT INSTITUTIONS OF HIGHER EDUCATION IN THE STATE TO DEVELOP INITIAL RESEARCH DATA FOR THE DEVELOPMENT OF LARGER GRANT FUNDING PROPOSALS;

(3) FOSTER PUBLIC–PRIVATE PARTNERSHIPS BETWEEN PRIVATE INDUSTRY AND INSTITUTIONS OF HIGHER EDUCATION IN THE STATE; AND

(4) ASSIST WITH THE TRANSFER OF NANOBIOTECHNOLOGY RESEARCH INTO COMMERCIAL APPLICATIONS.

(B) WITHIN THE CENTR MARYLAND PROGRAM, THE CORPORATION MAY AWARD OPERATING GRANTS FROM THE FUND TO INSTITUTIONS OF HIGHER EDUCATION THAT SHALL INCLUDE:

(1) DISCOVERY EDUCATIONAL GRANTS TO SUPPORT POSTDOCTORATE OR GRADUATE–LEVEL COLLABORATION WITH PRIVATE SECTOR ENTITIES ON NANOBIOTECHNOLOGY PROJECTS THAT:

(I) SHALL BE SUBJECT TO SUPERVISION BY FACULTY MEMBERS; AND

(II) REQUIRE A MATCHING SUM, EITHER DIRECT OR IN–KIND, FROM A PRIVATE SECTOR ENTITY EQUIVALENT TO THE GRANT AMOUNT;

(2) COLLABORATIVE GRANTS TO SUPPORT RESEARCH TEAMS FROM INSTITUTIONS OF HIGHER EDUCATION WORKING WITH PRIVATE SECTOR ENTITIES ON COLLABORATIVE RESEARCH PROJECTS THAT:

(I) FOCUS ON SPECIFIC APPLICATION DEVELOPMENT; AND

(II) REQUIRE A MATCHING SUM FROM PRIVATE SECTOR ENTITY EQUIVALENT TO THE GRANT AMOUNT; AND

(3) PROTOTYPE GRANTS TO ENABLE INSTITUTIONS OF HIGHER EDUCATION AND PRIVATE SECTOR ENTITIES TO ENGAGE IN PROJECTS THAT:

(I) DEMONSTRATE WHETHER A PROTOTYPE IS FUNCTIONAL AND MANUFACTURABLE;

(II) DEMONSTRATE THE COST EFFECTIVENESS OF NANOTECHNOLOGY–RELATED APPLICATIONS; AND

(III) SHALL BE MATCHED WITH AN INDUSTRY GRANT IN AN AMOUNT OF AT LEAST $2 FOR EVERY $1 OF THE PROTOTYPE GRANT.

10–450.

(A) THE CORPORATION SHALL ADOPT REGULATIONS TO ESTABLISH:

(1) A COMPETITIVE APPLICATION PROCESS; AND

(2) CRITERIA AND PROCEDURES FOR ~~DISBURSING~~ AWARDING GRANTS FROM THE ~~PROGRAM~~ FUND TO ELIGIBLE RECIPIENTS.

(B) (1) IN ACCORDANCE WITH THIS PART, ALL PRIVATE SECTOR ENTITIES IN THE STATE AND ALL INSTITUTIONS OF HIGHER EDUCATION IN THE STATE MAY BE ELIGIBLE RECIPIENTS OF GRANTS.

(2) PRIORITY FOR THE AWARD OF ANY GRANT SHALL BE GIVEN TO THOSE PROJECTS THAT ARE MOST LIKELY TO:

~~(1)~~ (I) ATTRACT SIGNIFICANT INVESTMENT IN THE STATE;

~~(2)~~ (II) LEVERAGE SIGNIFICANT ADDITIONAL GRANT OR RESEARCH FUNDING FROM FEDERAL OR PRIVATE SECTOR SOURCES; OR

~~(3)~~ (III) ESTABLISH THE STATE AS A KEY LOCATION FOR NANOBIOTECHNOLOGY RESEARCH AND INDUSTRY.

10–451.

THE CORPORATION SHALL INCLUDE, AS PART OF ITS ANNUAL REPORT TO THE GOVERNOR AND GENERAL ASSEMBLY UNDER § 10–415 OF THIS SUBTITLE, A DETAILED DESCRIPTION OF THE GRANTS AWARDED UNDER THIS PART.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly encourages the Governor to include at least $5,000,000 in the State budget for the Fund each fiscal year for grants to be awarded from the Program under the CENTR Maryland Program established under this Act.~~

SECTION ~~3.~~ *2.* AND BE IT FURTHER ENACTED, That ~~funding provided by~~ *it is the intent of the General Assembly that funding provided to implement* this Act shall be in addition to and may not supplant funds ~~already appropriated for this purpose~~, or alter the administration of funding, currently provided in the State budget to support *other* nanobiotechnology programs in the State.

SECTION ~~4.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 446

(House Bill 1409)

AN ACT concerning

Coordinating Emerging Nanobiotechnology Research (CENTR) in Maryland Program

FOR the purpose of establishing the Coordinating Emerging Nanobiotechnology Research in Maryland Program to be administered by the Maryland Technology Development Corporation to provide grants for certain nanobiotechnology research projects; establishing the purposes of the Program; establishing certain types of grants to be awarded under the Program; declaring the intent of the General Assembly; requiring the Corporation to adopt certain regulations; requiring the Corporation to include certain information in a certain report to the General Assembly; defining certain terms; *expressing certain legislative intent related to certain appropriations*; ~~expressing certain legislative intent related to certain appropriations to the Program;~~ and generally relating to the creation of a program for nanobiotechnology research.

BY adding to
Article – Economic Development
Section 10–445 through 10–451 to be under the new part "Part IV. Coordinating Emerging Nanobiotechnology Research in Maryland Program"
Annotated Code of Maryland
(As enacted by Chapter 306 ~~(H.B.)~~ (H.B. 1050)(8lr0698) of the Acts of the General Assembly of 2008)

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

Article – Economic Development

10–443. RESERVED.

10–444. RESERVED.

PART IV. COORDINATING EMERGING NANOBIOTECHNOLOGY RESEARCH IN MARYLAND PROGRAM.

10–445.

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

(B) "CENTR MARYLAND PROGRAM" OR "PROGRAM" MEANS THE COORDINATING EMERGING NANOBIOTECHNOLOGY RESEARCH PROGRAM ESTABLISHED UNDER § 10–447 OF THIS SUBTITLE.

(C) "FUND" MEANS THE COORDINATING EMERGING NANOBIOTECHNOLOGY RESEARCH IN MARYLAND FUND ESTABLISHED UNDER § 10–448 OF THIS SUBTITLE.

(D) "NANOBIOTECHNOLOGY" MEANS THE APPLICATION OF NANOTECHNOLOGY TO THE LIFE SCIENCES INCLUDING RESEARCH RELATING TO THE CHARACTERIZATION OF NANOMATERIALS FOR HEALTH AND ENVIRONMENTAL SAFETY IMPLICATIONS.

10–446.

THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(1) NANOBIOTECHNOLOGY OFFERS TREMENDOUS POTENTIAL TO REVOLUTIONIZE MEDICAL AND LIFE SCIENCE RESEARCH AND TO ENABLE DISCOVERIES THAT WILL ENRICH AND IMPROVE THE QUALITY OF LIFE FOR THE PEOPLE OF THE STATE;

(2) THE PROVISION OF FUNDS FOR NANOBIOTECHNOLOGY PROJECTS IS VITAL TO SUPPORTING THIS EMERGING TECHNOLOGY; AND

(3) FOSTERING PARTNERSHIPS AMONG FEDERAL INSTITUTIONS, PRIVATE SECTOR ENTITIES, AND INSTITUTIONS OF HIGHER EDUCATION WILL HELP SECURE THE STATE'S POSITION AS A LEADER IN NANOBIOTECHNOLOGY RESEARCH AND ASSIST IN SECURING THE STATE'S ECONOMIC FUTURE.

10–447.

(A) THERE IS A COORDINATING EMERGING NANOBIOTECHNOLOGY RESEARCH IN MARYLAND PROGRAM.

(B) THE PURPOSE OF THE CENTR MARYLAND PROGRAM IS TO:

(1) SUPPORT AND PROMOTE ADVANCED RESEARCH IN NANOBIOTECHNOLOGY IN THE STATE;

(2) SUPPORT NANOBIOTECHNOLOGY RESEARCH ACTIVITIES AT POSTSECONDARY EDUCATION INSTITUTIONS; AND

(3) ESTABLISH THE STATE AS A KEY LOCATION FOR THE BENEFIT OF THE PROGRAM.

10–448.

(A) THERE IS A COORDINATING EMERGING NANOBIOTECHNOLOGY RESEARCH IN MARYLAND FUND IN THE CORPORATION.

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

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

(C) THE FUND CONSISTS OF:

(1) APPROPRIATIONS AS PROVIDED IN THE STATE BUDGET; AND

(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE CENTR MARYLAND PROGRAM.

(D) THE EXECUTIVE DIRECTOR OF THE CORPORATION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL ADMINISTER THE FUND IN ACCORDANCE WITH THIS PART AND OTHER APPLICABLE LAW.

(E) THE FUND SHALL BE USED TO COVER THE COSTS OF THE PROGRAM, INCLUDING ANY GRANTS THAT ARE AWARDED TO ELIGIBLE RECIPIENTS.

(F) (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 FUND.

(G) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2–1220 OF THE STATE GOVERNMENT ARTICLE.

10–449.

(A) ~~SUBJECT~~ WITHIN THE CENTR MARYLAND PROGRAM, SUBJECT TO AVAILABLE FUNDING, THE CORPORATION SHALL AWARD CAPITAL AND OPERATING GRANTS FROM THE FUND TO PRIVATE SECTOR ENTITIES AND INSTITUTIONS OF HIGHER EDUCATION IN THE STATE TO:

(1) LEVERAGE FEDERAL FUNDING FOR THE ESTABLISHMENT OR CONSTRUCTION OF RESEARCH CENTERS IN THE STATE;

(2) PROVIDE PILOT FUNDING FOR FACULTY AT INSTITUTIONS OF HIGHER EDUCATION IN THE STATE TO DEVELOP INITIAL RESEARCH DATA FOR THE DEVELOPMENT OF LARGER GRANT FUNDING PROPOSALS;

(3) FOSTER PUBLIC–PRIVATE PARTNERSHIPS BETWEEN PRIVATE INDUSTRY AND INSTITUTIONS OF HIGHER EDUCATION IN THE STATE; AND

(4) ASSIST WITH THE TRANSFER OF NANOBIOTECHNOLOGY RESEARCH INTO COMMERCIAL APPLICATIONS.

(B) WITHIN THE CENTR MARYLAND PROGRAM, THE CORPORATION MAY AWARD OPERATING GRANTS FROM THE FUND TO INSTITUTIONS OF HIGHER EDUCATION THAT SHALL INCLUDE:

(1) DISCOVERY EDUCATIONAL GRANTS TO SUPPORT POSTDOCTORATE OR GRADUATE–LEVEL COLLABORATION WITH PRIVATE SECTOR ENTITIES ON NANOBIOTECHNOLOGY PROJECTS THAT:

(I) SHALL BE SUBJECT TO SUPERVISION BY FACULTY MEMBERS; AND

(II) REQUIRE A MATCHING SUM, EITHER DIRECT OR IN–KIND, FROM A PRIVATE SECTOR ENTITY EQUIVALENT TO THE GRANT AMOUNT;

(2) COLLABORATIVE GRANTS TO SUPPORT RESEARCH TEAMS FROM INSTITUTIONS OF HIGHER EDUCATION WORKING WITH PRIVATE SECTOR ENTITIES ON COLLABORATIVE RESEARCH PROJECTS THAT:

(I) FOCUS ON SPECIFIC APPLICATION DEVELOPMENT; AND

(II) REQUIRE A MATCHING SUM FROM PRIVATE SECTOR ENTITY EQUIVALENT TO THE GRANT AMOUNT; AND

(3) PROTOTYPE GRANTS TO ENABLE INSTITUTIONS OF HIGHER EDUCATION AND PRIVATE SECTOR ENTITIES TO ENGAGE IN PROJECTS THAT:

(I) DEMONSTRATE WHETHER A PROTOTYPE IS FUNCTIONAL AND MANUFACTURABLE;

(II) DEMONSTRATE THE COST EFFECTIVENESS OF NANOTECHNOLOGY–RELATED APPLICATIONS; AND

(III) SHALL BE MATCHED WITH AN INDUSTRY GRANT IN AN AMOUNT OF AT LEAST $2 FOR EVERY $1 OF THE PROTOTYPE GRANT.

10–450.

(A) THE CORPORATION SHALL ADOPT REGULATIONS TO ESTABLISH:

(1) A COMPETITIVE APPLICATION PROCESS; AND

(2) CRITERIA AND PROCEDURES FOR ~~DISBURSING~~ AWARDING GRANTS FROM THE ~~PROGRAM~~ FUND TO ELIGIBLE RECIPIENTS.

(B) (1) IN ACCORDANCE WITH THIS PART, ALL PRIVATE SECTOR ENTITIES IN THE STATE AND ALL INSTITUTIONS OF HIGHER EDUCATION IN THE STATE MAY BE ELIGIBLE RECIPIENTS OF GRANTS.

(2) PRIORITY FOR THE AWARD OF ANY GRANT SHALL BE GIVEN TO THOSE PROJECTS THAT ARE MOST LIKELY TO:

~~(1)~~ (I) ATTRACT SIGNIFICANT INVESTMENT IN THE STATE;

~~(2)~~ (II) LEVERAGE SIGNIFICANT ADDITIONAL GRANT OR RESEARCH FUNDING FROM FEDERAL OR PRIVATE SECTOR SOURCES; OR

~~(3)~~ (III) ESTABLISH THE STATE AS A KEY LOCATION FOR NANOBIOTECHNOLOGY RESEARCH AND INDUSTRY.

10–451.

THE CORPORATION SHALL INCLUDE, AS PART OF ITS ANNUAL REPORT TO THE GOVERNOR AND GENERAL ASSEMBLY UNDER § 10–415 OF THIS SUBTITLE, A DETAILED DESCRIPTION OF THE GRANTS AWARDED UNDER THIS PART.

~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Governor shall include at least $5,000,000 in the State budget each fiscal year for grants from the Program established under this Act.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That funding provided by this Act shall be in addition to and may not supplant funds already appropriated for this purpose or alter the administration of funding currently provided in the State budget to support nanobiotechnology programs in the State.~~

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that funding provided to implement this Act shall be in addition to and may not supplant funds, or alter the administration of funding, currently provided in the State budget to support other nanobiotechnology programs in the State.

SECTION ~~4.~~ ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 447

(Senate Bill 744)

AN ACT concerning

Task Force on Health Care Access and Reimbursement – Additional Duties

FOR the purpose of altering the charge to the Task Force on Health Care Access and Reimbursement to develop certain recommendations; and generally relating to the recommendations of the Task Force on Health Care Access and Reimbursement.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–710.3(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health – General

19–710.3.

(f) The Task Force shall develop recommendations regarding:

(1) Specific options that are available, given limitations of the federal ERISA law, to change physician and other health care provider reimbursements, if needed;

(2) The sufficiency of present statutory formulas for the reimbursement of noncontracting physicians and other health care providers by health maintenance organizations;

(3) Whether the Maryland Insurance Administration and the Attorney General currently have sufficient authority to regulate rate setting and market–related practices of health insurance carriers that may have the effect of unreasonably reducing reimbursements;

(4) Whether there is a need to enhance the ability of physicians and other health care providers to negotiate reimbursement rates with health insurance carriers, without unduly impairing the ability of the carriers to appropriately manage their provider networks;

(5) Whether there is a need to establish a rate–setting system for physicians and other health care providers similar to the system established to set hospital rates in Maryland;

(6) The advisability of the use of payment methods linked to quality of care or outcomes; **[**and**]**

(7) The need to prohibit a health insurance carrier from requiring health care providers who join a provider network of the carrier to also serve on a provider network of a different carrier**;** ~~**AND**~~

(8) WHETHER THERE IS A NEED TO PROVIDE INCENTIVES FOR PHYSICIANS AND OTHER HEALTH CARE PROVIDERS TO BE AVAILABLE TO PROVIDE CARE ON EVENINGS AND ON WEEKENDS*; AND*

***(9) THE ABILITY OF PRIMARY CARE PHYSICIANS TO BE REIMBURSED FOR MENTAL HEALTH SERVICES PERFORMED WITHIN THEIR SCOPE OF PRACTICE*.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 448

(House Bill 818)

AN ACT concerning

Task Force on Health Care Access and Reimbursement – Additional Duties

FOR the purpose of altering the charge to the Task Force on Health Care Access and Reimbursement to develop certain recommendations; and generally relating to the recommendations of the Task Force on Health Care Access and Reimbursement.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–710.3(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health – General

19–710.3.

(f) The Task Force shall develop recommendations regarding:

(1) Specific options that are available, given limitations of the federal ERISA law, to change physician and other health care provider reimbursements, if needed;

(2) The sufficiency of present statutory formulas for the reimbursement of noncontracting physicians and other health care providers by health maintenance organizations;

(3) Whether the Maryland Insurance Administration and the Attorney General currently have sufficient authority to regulate rate setting and

market–related practices of health insurance carriers that may have the effect of unreasonably reducing reimbursements;

(4) Whether there is a need to enhance the ability of physicians and other health care providers to negotiate reimbursement rates with health insurance carriers, without unduly impairing the ability of the carriers to appropriately manage their provider networks;

(5) Whether there is a need to establish a rate–setting system for physicians and other health care providers similar to the system established to set hospital rates in Maryland;

(6) The advisability of the use of payment methods linked to quality of care or outcomes; **[**and**]**

(7) The need to prohibit a health insurance carrier from requiring health care providers who join a provider network of the carrier to also serve on a provider network of a different carrier**;** ~~**AND**~~

(8) WHETHER THERE IS A NEED TO PROVIDE INCENTIVES FOR PHYSICIANS AND OTHER HEALTH CARE PROVIDERS TO BE AVAILABLE TO PROVIDE CARE ON EVENINGS AND ON WEEKENDS; AND

(9) THE ABILITY OF PRIMARY CARE PHYSICIANS TO BE REIMBURSED FOR MENTAL HEALTH SERVICES PERFORMED WITHIN THEIR SCOPE OF PRACTICE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 449

(Senate Bill 762)

AN ACT concerning

Real Estate ~~Brokers~~ Licensees – Record Keeping

FOR the purpose of requiring a real estate ~~broker~~ licensee to ~~retain~~ keep certain records for a certain period of time; authorizing a ~~broker~~ licensee to keep and

store certain records in a certain manner under certain circumstances; requiring a real estate ~~broker~~ licensee to make certain records available to the State Real Estate Commission in a certain manner under certain circumstances; and generally relating to record keeping requirements for real estate ~~brokers~~ licensees.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 17–101(a), (d), (k), and (n) and 17–508
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 17–507
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – Business Occupations and Professions

17–101.

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

(d) "Commission" means the State Real Estate Commission.

(k) "Licensee" means a licensed real estate broker, a licensed associate real estate broker, or a licensed real estate salesperson.

(n) "Real estate broker" means an individual who provides real estate brokerage services.

17–507.

(A) Each real estate broker shall maintain all records of trust money in a secured area within the office of the broker.

(B) (1) EACH ~~REAL ESTATE BROKER~~ LICENSEE SHALL ~~RETAIN~~ KEEP COPIES OF:

(I) LISTINGS; AND

(II) ~~DEPOSIT RECEIPTS;~~

~~(III) CANCELED CHECKS;~~

~~(IV) TRUST RECORDS; AND~~

~~(V)~~ **ANY OTHER DOCUMENT EXECUTED OR OBTAINED BY THE ~~BROKER~~ LICENSEE IN CONNECTION WITH A TRANSACTION ~~FOR WHICH A REAL ESTATE BROKER LICENSE IS REQUIRED~~ INVOLVING THE PROVISION OF REAL ESTATE BROKERAGE SERVICES, INCLUDING ANY ELECTRONIC SIGNATURE CONTAINED ON A DOCUMENT.**

(2) (I) A ~~BROKER~~ LICENSEE SHALL KEEP THE RECORDS REQUIRED BY THIS SECTION FOR ~~3~~ 5 YEARS, STARTING ON THE DATE OF THE CLOSING OF A REAL ESTATE TRANSACTION, OR, IF THE TRANSACTION IS NOT CLOSED, ~~3~~ 5 YEARS AFTER THE DATE OF THE LISTING.

(II) A LICENSEE PROVIDING PROPERTY MANAGEMENT SERVICES SHALL KEEP THE RECORDS REQUIRED BY THIS SECTION FOR 5 YEARS AFTER THE TERMINATION OF THE MANAGEMENT AGREEMENT.

(C) FOR ANY RECORD REQUIRED TO BE ~~STORED~~ KEPT UNDER ~~SUBSECTION~~ SUBSECTIONS (A) AND (B) OF THIS SECTION, A ~~REAL ESTATE BROKER~~ LICENSEE MAY ~~RETAIN~~ KEEP AND STORE AN ELECTRONIC RECORD OF THE INFORMATION IF:

(1) THE STORED RECORD CANNOT BE ERASED OR EDITED;

(2) THE STORED RECORD IS MADE OR PRESERVED AS PART OF, AND IN THE REGULAR COURSE OF, THE ~~BROKER'S~~ LICENSEE'S BUSINESS;

(3) THE ORIGINAL RECORD FROM WHICH THE STORED RECORD WAS COPIED WAS MADE OR PREPARED BY THE ~~BROKER~~ LICENSEE OR THE ~~BROKER'S~~ LICENSEE'S EMPLOYEES AT OR NEAR THE TIME OF THE ACTIVITY DESCRIBED IN THE RECORD;

(4) THE CUSTODIAN OF THE RECORD IS ABLE TO IDENTIFY THE STORED RECORD, THE MODE OF ITS PREPARATION, AND THE MODE OF STORAGE; AND

(5) THE ELECTRONIC STORAGE SYSTEM CONTAINS A RELIABLE INDEXING SYSTEM THAT PROVIDES:

(I) CONVENIENT ACCESS TO THE DOCUMENT OR RECORD;

(II) APPROPRIATE QUALITY CONTROL OF THE STORAGE PROCESS; AND

(III) CHRONOLOGICAL ARRANGEMENT OF STORED DOCUMENTS OR RECORDS.

(D) (1) ON REASONABLE NOTICE FROM THE COMMISSION, A ~~BROKER~~ LICENSEE SHALL ALLOW A REPRESENTATIVE OF THE COMMISSION TO ENTER THE ~~BROKER'S~~ LICENSEE'S PLACE OF BUSINESS DURING BUSINESS HOURS TO INSPECT A RECORD REQUIRED TO BE ~~MAINTAINED~~ KEPT UNDER SUBSECTION (B) OF THIS SECTION.

(2) THE ~~BROKER~~ LICENSEE SHALL PROVIDE, AT THE ~~BROKER'S~~ LICENSEE'S EXPENSE, A PAPER COPY OF ANY DOCUMENT OR RECORD REQUESTED BY THE COMMISSION.

(3) A LICENSEE SHALL DISPLAY TO THE COMMISSION ON DEMAND ALL RECORDS, BOOKS, AND ACCOUNTS OF ANY MONEY HELD IN TRUST.

17–508.

In addition to being subject to disciplinary action under §§ 17–322 and 17–328 of this title, a real estate broker, an associate real estate broker, or a real estate salesperson who violates any provision of this Part I of this subtitle is subject to any other civil or criminal action provided by law.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 450

(House Bill 1316)

AN ACT concerning

Real Estate ~~Brokers~~ Licensees – Record Keeping

FOR the purpose of requiring a real estate ~~broker~~ licensee to ~~retain~~ keep certain records for a certain period of time; authorizing a ~~broker~~ licensee to keep and store certain records in a certain manner under certain circumstances; requiring a real estate ~~broker~~ licensee to make certain records available to the State Real Estate Commission in a certain manner under certain circumstances; and generally relating to record keeping requirements for real estate ~~brokers~~ licensees.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 17–101(a), (d), (k), and (n) and 17–508
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 17–507
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – Business Occupations and Professions

17–101.

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

(d) "Commission" means the State Real Estate Commission.

(k) "Licensee" means a licensed real estate broker, a licensed associate real estate broker, or a licensed real estate salesperson.

(n) "Real estate broker" means an individual who provides real estate brokerage services.

17–507.

(A) Each real estate broker shall maintain all records of trust money in a secured area within the office of the broker.

(B) (1) EACH ~~REAL ESTATE BROKER~~ LICENSEE SHALL ~~RETAIN~~ KEEP COPIES OF:

(I) LISTINGS; AND

(II) ~~DEPOSIT RECEIPTS;~~

~~(III) CANCELED CHECKS;~~

~~(IV) TRUST RECORDS; AND~~

~~(V)~~ ANY OTHER DOCUMENT EXECUTED OR OBTAINED BY THE ~~BROKER~~ LICENSEE IN CONNECTION WITH A TRANSACTION ~~FOR WHICH A REAL ESTATE BROKER LICENSE IS REQUIRED~~ INVOLVING THE PROVISION OF REAL ESTATE BROKERAGE SERVICES, INCLUDING ANY ELECTRONIC SIGNATURE CONTAINED ON A DOCUMENT.

(2) (I) A ~~BROKER~~ LICENSEE SHALL KEEP THE RECORDS REQUIRED BY THIS SECTION FOR ~~3~~ 5 YEARS, STARTING ON THE DATE OF THE CLOSING OF A REAL ESTATE TRANSACTION, OR, IF THE TRANSACTION IS NOT CLOSED, ~~3~~ 5 YEARS AFTER THE DATE OF THE LISTING.

(II) A LICENSEE PROVIDING PROPERTY MANAGEMENT SERVICES SHALL KEEP THE RECORDS REQUIRED BY THIS SECTION FOR 5 YEARS AFTER THE TERMINATION OF THE MANAGEMENT AGREEMENT.

(C) FOR ANY RECORD REQUIRED TO BE ~~STORED~~ KEPT UNDER ~~SUBSECTION~~ SUBSECTIONS (A) AND (B) OF THIS SECTION, A ~~REAL ESTATE BROKER~~ LICENSEE MAY ~~RETAIN~~ KEEP AND STORE AN ELECTRONIC RECORD OF THE INFORMATION IF:

(1) THE STORED RECORD CANNOT BE ERASED OR EDITED;

(2) THE STORED RECORD IS MADE OR PRESERVED AS PART OF, AND IN THE REGULAR COURSE OF, THE ~~BROKER'S~~ LICENSEE'S BUSINESS;

(3) THE ORIGINAL RECORD FROM WHICH THE STORED RECORD WAS COPIED WAS MADE OR PREPARED BY THE ~~BROKER~~ LICENSEE OR THE ~~BROKER'S~~ LICENSEE'S EMPLOYEES AT OR NEAR THE TIME OF THE ACTIVITY DESCRIBED IN THE RECORD;

(4) THE CUSTODIAN OF THE RECORD IS ABLE TO IDENTIFY THE STORED RECORD, THE MODE OF ITS PREPARATION, AND THE MODE OF STORAGE; AND

(5) THE ELECTRONIC STORAGE SYSTEM CONTAINS A RELIABLE INDEXING SYSTEM THAT PROVIDES:

(I) CONVENIENT ACCESS TO THE DOCUMENT OR RECORD;

(II) APPROPRIATE QUALITY CONTROL OF THE STORAGE PROCESS; AND

(III) CHRONOLOGICAL ARRANGEMENT OF STORED DOCUMENTS OR RECORDS.

(D) (1) ON REASONABLE NOTICE FROM THE COMMISSION, A ~~BROKER~~ LICENSEE SHALL ALLOW A REPRESENTATIVE OF THE COMMISSION TO ENTER THE ~~BROKER'S~~ LICENSEE'S PLACE OF BUSINESS DURING BUSINESS HOURS TO INSPECT A RECORD REQUIRED TO BE ~~MAINTAINED~~ KEPT UNDER SUBSECTION (B) OF THIS SECTION.

(2) THE ~~BROKER~~ LICENSEE SHALL PROVIDE, AT THE ~~BROKER'S~~ LICENSEE'S EXPENSE, A PAPER COPY OF ANY DOCUMENT OR RECORD REQUESTED BY THE COMMISSION.

(3) A LICENSEE SHALL DISPLAY TO THE COMMISSION ON DEMAND ALL RECORDS, BOOKS, AND ACCOUNTS OF ANY MONEY HELD IN TRUST.

17–508.

In addition to being subject to disciplinary action under §§ 17–322 and 17–328 of this title, a real estate broker, an associate real estate broker, or a real estate salesperson who violates any provision of this Part I of this subtitle is subject to any other civil or criminal action provided by law.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 451

(Senate Bill 773)

AN ACT concerning

State Department of Education – Adult Education and Family Literacy Services

FOR the purpose of requiring the State Department of Education to compile a certain list by county of adult education and family literacy services offered to the public; requiring the Department to distribute the list to certain local school officials and to post the list on its public website; and generally relating to the compilation and distribution of information about adult education and family literacy services.

BY repealing and reenacting, with amendments,
Article – Education
Section 5–218
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Education

5–218.

(a) (1) The Department shall distribute competitive grants for adult education and literacy services in accordance with the State Plan for Adult Education and Family Literacy.

(2) The grants distributed under this section shall be based on need and performance.

(3) Grants under this section may be used for adult education and literacy services, including:

(i) GED instruction;

(ii) The Maryland Adult External High School Program under § 7–205.1 of this article;

(iii) English for Speakers of Other Languages;

(iv) Family literacy; and

(v) Basic skills and literacy instruction.

(B) ON OR BEFORE AUGUST 1 EACH YEAR, THE DEPARTMENT SHALL:

(1) COMPILE A LIST BY COUNTY OF ADULT EDUCATION AND LITERACY SERVICES OFFERED TO THE PUBLIC;

(2) DISTRIBUTE THE LIST TO THE COUNTY BOARD AND COUNTY SUPERINTENDENT OR CHIEF EXECUTIVE OFFICER OF EACH LOCAL SCHOOL SYSTEM IN THE STATE; AND

(3) POST THE LIST ON ITS PUBLIC WEBSITE.

[(b)**]** **(C)** (1) Subject to paragraph (2) of this subsection, funding for the competitive grants under this section shall be as provided in the State budget.

(2) (i) In fiscal year 2007, the Governor shall include an appropriation in the State budget equal to an increase of $1,500,000 over the fiscal year 2005 appropriation for the Department to distribute as Literacy Works grants in order to reduce the waiting list for adult education and literacy services to the extent possible.

(ii) In fiscal year 2008, the Governor shall include an appropriation in the State budget equal to an increase of $1,500,000 over the fiscal year 2007 appropriation for the Department to distribute as Literacy Works grants for adult education and literacy services.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 452

(Senate Bill 775)

AN ACT concerning

Maryland Medbank Program – Funding

FOR the purpose of authorizing certain funds to be transferred and appropriated to the Department of Health and Mental Hygiene in a certain fiscal year for a certain purpose; and generally relating to funding for the Maryland Medbank Program.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, notwithstanding Section 4 of Chapter 345 of the Acts of the General Assembly of 2006 or any other provision of law, for fiscal year 2009 only, funds remaining from the Senior Prescription Drug Program that have accrued to the account of the Senior Prescription Drug Assistance Program of the Maryland Health Insurance Plan Fund may be transferred and appropriated in the budget bill or by budget amendment to the Department of Health and Mental Hygiene for the purpose of providing a grant, not to exceed $425,000, to the Maryland Medbank Program under § 15–124.2 of the Health – General Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 453

(House Bill 514)

AN ACT concerning

Maryland Medbank Program – Funding

FOR the purpose of authorizing certain funds to be transferred and appropriated to the Department of Health and Mental Hygiene in a certain fiscal year for a certain purpose; and generally relating to funding for the Maryland Medbank Program.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, notwithstanding Section 4 of Chapter 345 of the Acts of the General Assembly of 2006 or any other provision of law, for fiscal year 2009 only, funds remaining from the Senior Prescription Drug Program that have accrued to the account of the Senior Prescription Drug Assistance Program of the Maryland Health Insurance Plan Fund may be transferred and appropriated in the budget bill or by budget amendment to the Department of Health and Mental Hygiene for the purpose of providing a grant, not to exceed $425,000, to the Maryland Medbank Program under § 15–124.2 of the Health – General Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 454

(Senate Bill 782)

AN ACT concerning

Residential Child Care Programs – Statement of Need

FOR the purpose of requiring a statement of need for developing, operating, establishing, relocating, or expanding a residential child care program; providing certain exceptions; requiring that, before an application is submitted or a license is granted, the Department of Human Resources ~~and~~ or the Department of Juvenile Services ~~to~~ shall issue a statement of need to a program; requiring the Departments to adopt certain regulations; requiring the Departments to consider certain needs of certain children and consult with certain stakeholders in developing certain regulations; requiring the Departments to provide notification of certain applications in a certain manner; defining certain terms; requiring a certain report on or before a certain date; and generally relating to statements of need for residential child care programs.

BY adding to
Article – Human Services
Section 8–703.1
Annotated Code of Maryland
(2007 Volume)

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

Article – Human Services

8–703.1.

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

(2) "LICENSING AGENCY" MEANS:

(I) THE DEPARTMENT OF HUMAN RESOURCES; AND

(II) THE DEPARTMENT OF JUVENILE SERVICES.

(3) "STATEMENT OF NEED" MEANS AN OFFICIAL CERTIFICATION OF PUBLIC NEED FOR THE LOCATION AND ESTABLISHMENT OF A RESIDENTIAL CHILD CARE PROGRAM IN A COUNTY ISSUED BY A LICENSING AGENCY UNDER THIS SECTION.

(B) THE LICENSING AGENCIES SHALL ADOPT REGULATIONS GOVERNING THE ISSUANCE OF STATEMENTS OF NEED.

(C) IN DEVELOPING THE REGULATIONS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, A LICENSING AGENCY SHALL:

(1) CONSIDER THE SPECIALIZED MENTAL, PHYSICAL, AND BEHAVIORAL HEALTH AND DEVELOPMENTAL NEEDS OF CHILDREN IN THE COUNTY OR REGION AFFECTED BY THE STATEMENT OF NEED; AND

(2) CONSULT WITH STAKEHOLDERS IN THE COUNTY OR REGION AFFECTED BY THE STATEMENT OF NEED, INCLUDING:

(I) STATE AND LOCAL CHILD–SERVING AGENCIES;

(II) PROVIDERS OF RESIDENTIAL AND COMMUNITY–BASED SERVICES FOR CHILDREN; AND

(III) CHILDREN, PARENTS, AND FOSTER PARENTS.

~~(C)~~ (D) AN APPLICATION MAY NOT BE SUBMITTED TO THE OFFICE AND A LICENSE MAY NOT BE GRANTED BY A LICENSING AGENCY FOR A RESIDENTIAL CHILD CARE PROGRAM UNTIL A LICENSING AGENCY ISSUES A STATEMENT OF NEED FOR A RESIDENTIAL CHILD CARE PROGRAM IN A COUNTY.

~~(D)~~ (E) IN ADDITION TO THE STATEMENT OF NEED REQUIRED UNDER SUBSECTION ~~(C)~~ (D) OF THIS SECTION, A STATEMENT OF NEED IS REQUIRED BEFORE:

(1) AN EXISTING OR PREVIOUSLY LICENSED RESIDENTIAL CHILD CARE PROGRAM IS RELOCATED TO ANOTHER SITE;

(2) THE PHYSICAL SITE OF A RESIDENTIAL CHILD CARE PROGRAM IS EXPANDED ~~OR RENOVATED~~; OR

(3) THE NUMBER OF PLACEMENTS IN A RESIDENTIAL CHILD CARE PROGRAM IS INCREASED.

~~(E)~~ (F) A LICENSING AGENCY SHALL PUBLISH NOTICE OF THE ISSUANCE OF A STATEMENT OF NEED IN THE MARYLAND REGISTER.

~~(F) A LICENSING AGENCY SHALL HAVE NONDELEGABLE AUTHORITY TO ISSUE A STATEMENT OF NEED.~~

(G) A LICENSING AGENCY MAY NOT DELEGATE ITS AUTHORITY TO ISSUE A STATEMENT OF NEED.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2008, the Department of Juvenile Services, the Department of Human Resources, and the Governor's Office for Children shall jointly report to the General Assembly, in accordance with § 2–1246 of the State Government Article:

(1) the processes adopted under this Act for developing a statement of need and for determining and documenting the needs of the children affected by a statement of need;

(2) ways in which the agencies will coordinate the appropriate development of placement resources; and

(3) actions taken and planned to develop resources in underserved areas and resources that match the nature and intensity of the documented, specialized needs of children, including strategies to overcome community resistance.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 455

(Senate Bill 789)

AN ACT concerning

Vehicle Laws – Child Safety Seats – Age and Weight Requirements

FOR the purpose of ~~expanding a certain requirement relating to the use of child safety seas to include certain trucks; providing that certain provisions establishing a certain age requirement for the use of child safety seats apply to certain vehicles registered in another state or Puerto Rico; altering certain requirements for the use of child safety seats to require a person transporting a child under a certain age weight to secure the child in a child safety seat and eliminating a certain weight age requirement;~~ *expanding a certain requirement relating to the use of child safety seats to include certain trucks; providing that certain provisions establishing a certain age requirement for the use of child safety seats apply to certain vehicles registered in another state or Puerto Rico; altering certain requirements for the use of child safety seats to require a person transporting a child under a certain age to secure the child in a child safety seat, subject to certain exceptions; eliminating a certain weight requirement; repealing a certain requirement for the use of child safety seats that applied to a person transporting a child in a motor vehicle registered in another state or country; adding height to the list of reasons that a physician may use to certify that the use of a child safety seat by a particular child is impractical; making certain clarifying changes;* ~~repealing a certain requirement for the use of child safety seats that applied to a person transporting a child in a motor vehicle registered in another state or country; adding height to the list of reasons that a physician may use to certify that the use of a child safety seat by a particular child is impractical; making certain clarifying changes;~~ and generally relating to child safety seats.

BY repealing and reenacting, with amendments,
Article – Transportation
Section ~~22–412.2(d)~~ *22–412.2*
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

~~22–412.2.~~

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

~~(2) (i) "Child safety seat" means a device, including a child booster seat, that the manufacturer:~~

~~1. Certifies is manufactured in accordance with applicable federal safety standards; and~~

~~2. Intends to be used to restrain, seat, or position a child who is transported in a motor vehicle.~~

~~(ii) "Child safety seat" does not mean a seat belt or combination seat belt–shoulder harness used alone.~~

~~(3) (i) "Seat belt" means a restraining device described under § 22–412 of this subtitle.~~

~~(ii) "Seat belt" includes a combination seat belt–shoulder harness.~~

~~(b) A child safety seat meets the requirements of this section only if it is installed and used in accordance with the directions of the manufacturer.~~

~~(c) This section applies to the transportation of a child in~~ **[**~~a~~**]:**

~~**(1) A MOTOR** vehicle registered, or of a type capable of being registered, in this State as a:~~

[~~(1)~~**]** ~~**(I)** Class A (passenger) vehicle;~~

[~~(2)~~**]** ~~**(II)** Class E (truck)~~ **[**~~with a manufacturer's rated capacity of 3/4 ton or less, the gross vehicle weight of which does not exceed 7,000 pounds~~**] VEHICLE**; ~~or~~

[~~(3)~~**]** ~~**(III)** Class M (multipurpose) vehicle~~**; AND**

~~**(2) A VEHICLE REGISTERED IN ANOTHER STATE OR PUERTO RICO THAT IS THE SAME TYPE OF VEHICLE AS A VEHICLE IDENTIFIED IN ITEM (1) OF THIS SUBSECTION.**~~

~~(d) A person transporting a child~~ **UNDER THE AGE OF 8 YEARS** ~~in a motor vehicle~~ **[**~~registered in the State~~**]** ~~shall secure the child in a child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions~~ **[**~~if the child:~~

~~(1) Is under the age of 6 years, regardless of the child's weight; or~~

~~(2) Weighs 40 pounds or less, regardless of the child's age.~~

~~(d–1) A person transporting a child in a motor vehicle registered in another state, in the District of Columbia, or in another country, shall secure the child in a~~

~~child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions if the child:~~

~~(1) Is under the age of 4 years, regardless of the child's weight; or~~

~~(2) Weighs 40 pounds or less, regardless of the child's age~~**]**~~.~~

~~(e)~~ **[**A**] SUBJECT TO SUBSECTION (D) OF THIS SECTION, A** ~~person may not transport a child under the age of 16 years unless the child is secured in:~~

~~(1) A child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions; or~~

~~(2) A seat belt.~~

~~(f)~~ **[**If**] NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, IF** ~~a physician, who is licensed to practice medicine in the state in which the vehicle transporting the child is registered, certifies in writing that use of a child safety seat by a particular child would be impractical due to the child's weight,~~ **HEIGHT,** ~~physical unfitness, or other medical reason, there is not a violation of this section.~~

~~(g) A child safety seat or seat belt may not be used to restrain, seat, or position more than 1 individual at a time.~~

~~(h)~~ **[**If**] NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, IF** ~~the number of children subject to the provisions of this section exceeds the number of passenger securing locations suitable for securing a child either in a seat belt or in a child safety seat in accordance with this section, and all of those securing locations are in use by children, there is not a violation of this section.~~

~~(i) A violation of this section is not contributory negligence and may not be admitted as evidence in the trial of any civil action.~~

~~(j) A violation of this section is not considered a moving violation for purposes of § 16–402 of this article.~~

~~(k) The failure to provide a child safety seat or seat belt for more than 1 child in the same vehicle at the same time, as required by this section, shall be treated as a single violation.~~

~~(l) (1) Any person convicted of a violation of this section is subject to a fine of $25.~~

~~(2) A judge may waive the fine if the person charged with violation of this section:~~

~~(i) Did not possess a child safety seat at the time of the violation;~~

~~(ii) Acquires a child safety seat prior to the hearing date; and~~

~~(iii) Provides proof of acquisition to the court.~~

~~(m) The Department of Transportation and the Department of Health and Mental Hygiene shall jointly implement the Child Safety Seat Program and foster compliance with this section through educational and promotional efforts.~~

22–412.2.

~~(d) A person transporting a child in a motor vehicle registered in the State shall secure the child in a child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions if the child~~**[**~~:~~

~~(1) Is under the age of 6 years, regardless of the child's weight; or~~

~~(2) Weighs 40~~**] WEIGHS 50** ~~pounds or less~~**[**~~, regardless of the child's age~~**]**~~.~~

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

(2) (i) "Child safety seat" means a device, including a child booster seat, that the manufacturer:

1. Certifies is manufactured in accordance with applicable federal safety standards; and

2. Intends to be used to restrain, seat, or position a child who is transported in a motor vehicle.

(ii) "Child safety seat" does not mean a seat belt or combination seat belt–shoulder harness used alone.

(3) (i) "Seat belt" means a restraining device described under § 22–412 of this subtitle.

(ii) "Seat belt" includes a combination seat belt–shoulder harness.

(b) A child safety seat meets the requirements of this section only if it is installed and used in accordance with the directions of the manufacturer.

(c) *This section applies to the transportation of a child in* ***[****a****]:***

(1) ***A MOTOR*** *vehicle registered, or of a type capable of being registered, in this State as a:*

[*(1)****] (I)*** *Class A (passenger) vehicle;*

[*(2)****] (II)*** *Class E (truck)* ***[****with a manufacturer's rated capacity of 3/4 ton or less, the gross vehicle weight of which does not exceed 7,000 pounds****] VEHICLE****; or*

[*(3)****] (III)*** *Class M (multipurpose) vehicle****; AND***

(2) ***A VEHICLE REGISTERED IN ANOTHER STATE OR PUERTO RICO THAT IS THE SAME TYPE OF VEHICLE AS A VEHICLE IDENTIFIED IN ITEM (1) OF THIS SUBSECTION****.*

(d) *A person transporting a child* ***UNDER THE AGE OF 8 YEARS*** *in a motor vehicle* ***[****registered in the State****]*** *shall secure the child in a child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions* ***[****if****]UNLESS*** *the child:*

(1) *Is* ***[****under the age of 6 years, regardless of the child's weight****]4 FEET, 9 INCHES TALL OR TALLER****; or*

(2) *Weighs* ***[****40****]MORE THAN 65*** *pounds* ***[****or less, regardless of the child's age.*

(d–1) *A person transporting a child in a motor vehicle registered in another state, in the District of Columbia, or in another country, shall secure the child in a child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions if the child:*

(1) *Is under the age of 4 years, regardless of the child's weight; or*

(2) *Weighs 40 pounds or less, regardless of the child's age****].***

(e) ***[****A****] SUBJECT TO SUBSECTION (D) OF THIS SECTION, A*** *person may not transport a child under the age of 16 years unless the child is secured in:*

(1) *A child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions; or*

(2) A seat belt.

(f) ***[****If****] NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, IF*** *a physician, who is licensed to practice medicine in the state in which the vehicle transporting the child is registered, certifies in writing that use of a child safety seat by a particular child would be impractical due to the child's weight,* ***HEIGHT,*** *physical unfitness, or other medical reason, there is not a violation of this section.*

(g) A child safety seat or seat belt may not be used to restrain, seat, or position more than 1 individual at a time.

(h) ***[****If****] NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, IF*** *the number of children subject to the provisions of this section exceeds the number of passenger securing locations suitable for securing a child either in a seat belt or in a child safety seat in accordance with this section, and all of those securing locations are in use by children, there is not a violation of this section.*

(i) A violation of this section is not contributory negligence and may not be admitted as evidence in the trial of any civil action.

(j) A violation of this section is not considered a moving violation for purposes of § 16–402 of this article.

(k) The failure to provide a child safety seat or seat belt for more than 1 child in the same vehicle at the same time, as required by this section, shall be treated as a single violation.

(l) (1) Any person convicted of a violation of this section is subject to a fine of $25.

(2) A judge may waive the fine if the person charged with violation of this section:

(i) Did not possess a child safety seat at the time of the violation;

(ii) Acquires a child safety seat prior to the hearing date; and

(iii) Provides proof of acquisition to the court.

(m) The Department of Transportation and the Department of Health and Mental Hygiene shall jointly implement the Child Safety Seat Program and foster compliance with this section through educational and promotional efforts.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 30, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 456

(Senate Bill 793)

AN ACT concerning

Harford County – Special Taxing Districts – Creation

FOR the purpose of authorizing Harford County to exercise certain powers concerning the creation of special taxing districts, the levying of certain taxes, and the issuing of certain bonds for developing and financing certain infrastructure improvements under certain circumstances; authorizing Harford County to create a special taxing district only in certain areas; requiring that a local law creating a special taxing district be enacted in a certain manner; authorizing the governing body of Harford County to consider certain elements of a development that would receive the proceeds of a certain bond at a certain public hearing; ~~requiring certain disclosure to buyers of real property within a special taxing district of certain charges for which the buyer would be liable; providing that failure to provide certain disclosure makes a contract for the purchase of real property within a special taxing district voidable under certain circumstances;~~ requiring that adequate debt service reserve funds be maintained by Harford County; providing that Harford County may establish a special taxing district only if all the owners of real property within the proposed special taxing district petition the county for the creation of the special taxing district; prohibiting a vendor of certain property within a special taxing district from enforcing a contract for the sale of the property unless the purchaser of the property is provided with certain information relating to the special taxing district and the contract of sale contains a certain notice; providing that a vendor may provide a purchaser with certain information by providing the purchaser with a certain collection of documents; providing that a vendor may rely on certain documents filed in the land records when providing the purchaser with certain information; providing that a purchaser under a contract for the sale of certain property within a special taxing district may cancel the contract within a certain time after receiving certain information; providing that unless the purchaser consents, settlement of a contract for the sale of certain property within a special taxing district may not take place within a certain time after a purchaser receives certain information; requiring a vendor to refund certain deposits under certain circumstances; providing that a vendor is liable for certain damages caused by certain false statements or omissions;

providing that an action against a vendor for certain false statements or omissions must be brought within a certain time; and generally relating to the authority of Harford County to create special taxing districts for developing and financing infrastructure improvements and to the sale of property located within certain special taxing districts.

BY repealing and reenacting, without amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9–1301(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9–1301(b) and (c)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Real Property
Section 10–706
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

9–1301.

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

(2) (i) "Bond" means a special obligation bond, revenue bond, note, or other similar instrument issued by the county in accordance with this section.

(ii) "Bond" includes a special obligation bond, revenue bond, note, or similar instrument issued by the revenue authority of Prince George's County.

(3) "Cost" includes the cost of:

(i) Construction, reconstruction, and renovation, and acquisition of all lands, structures, real or personal property, rights, rights–of–way, franchises, easements, and interests acquired or to be acquired by the county;

(ii) All machinery and equipment including machinery and equipment needed to expand or enhance county services to the special taxing district;

(iii) Financing charges and interest prior to and during construction, and, if deemed advisable by the county, for a limited period after completion of the construction, interest and reserves for principal and interest, including costs of municipal bond insurance and any other type of financial guaranty and costs of issuance;

(iv) Extensions, enlargements, additions, and improvements;

(v) Architectural, engineering, financial, and legal services;

(vi) Plans, specifications, studies, surveys, and estimates of cost and of revenues;

(vii) Administrative expenses necessary or incident to determining to proceed with the infrastructure improvements; and

(viii) Other expenses as may be necessary or incident to the construction, acquisition, and financing of the infrastructure improvements.

(4) In Prince George's County, "cost" includes the cost of renovation, rehabilitation, and repair of existing buildings, internal and external structural systems, elevators, facades, mechanical systems and components, and security systems.

(b) This section applies only to Anne Arundel County, Calvert County, Charles County, Garrett County, **HARFORD COUNTY,** Howard County, Prince George's County, St. Mary's County, Washington County, and Wicomico County.

(c) (1) Subject to the provisions of this section, and for the purpose stated in paragraph (2) of this subsection, the county may:

(i) Create a special taxing district;

(ii) Levy ad valorem or special taxes; and

(iii) Issue bonds and other obligations.

(2) The purpose of the authority granted under paragraph (1) of this subsection is to provide financing, refinancing, or reimbursement for the cost of the design, construction, establishment, extension, alteration, or acquisition of adequate storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting, parking, parks and recreation facilities, libraries, schools,

transit facilities, solid waste facilities, and other infrastructure improvements as necessary, whether situated within the special taxing district or outside the special taxing district if the infrastructure improvement is reasonably related to other infrastructure improvements within the special taxing district, for the development and utilization of the land, each with respect to any defined geographic region within the county.

(3) A law enacted by Anne Arundel County under the authority of this section:

(i) Shall specify the types of infrastructure and related costs that may be financed;

(ii) Shall require:

1. Reasonable disclosure in the real estate contract to buyers of real property within a special taxing district of any special assessment, special tax, or other fee or charge for which the buyer would be liable due to the special taxing district;

2. That a seller's failure to provide the disclosure required under subitem 1 of this item renders the contract voidable at the option of the buyer before the date of settlement; and

3. That adequate debt service reserve funds be maintained;

(iii) May not allow:

1. Acceleration of assessments or taxes by reason of bond default; or

2. An increase in the maximum special assessments, special taxes, or other fees or charges applicable to any individual property in the event that other property owners become delinquent in the payment of a special assessment, special tax, or other fee or charge securing special obligation debt issued under this section; and

(iv) May provide:

1. For exemptions, deferrals, and credits; and

2. That a lien attaches to property within a special taxing district to the extent of that property owner's obligation under any special taxing district financing.

(4) Charles County may exercise the authority granted under this section only in commercial or light industrial zones.

(5) Prince George's County may exercise the authority granted in this subsection to:

(i) Levy hotel rental taxes; and

(ii) Provide financing, refinancing, or reimbursement for the costs of:

1. Convention centers, conference centers, and visitors' centers;

2. Maintenance of infrastructure improvements, convention centers, conference centers, and visitors' centers;

3. Marketing the special taxing district facilities and other improvements; and

4. Renovation, rehabilitation, and repair of existing buildings, building systems, and components for existing residential condominiums designated as workforce housing as defined in § 4–1801 of the Housing and Community Development Article.

(6) (I) THIS PARAGRAPH APPLIES ONLY TO HARFORD COUNTY.

(II) 1. ~~THE~~ *EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE* COUNTY MAY EXERCISE THE AUTHORITY GRANTED UNDER THIS SECTION ONLY IN DESIGNATED GROWTH AREAS AS DEFINED IN THE COUNTY MASTER PLAN AND LAND USE ELEMENT PLAN.

2. THE COUNTY MAY NOT EXERCISE THE AUTHORITY GRANTED UNDER THIS SECTION IN ANY OF THE COUNTY'S RURAL VILLAGES.

(III) A LAW CREATING A SPECIAL TAXING DISTRICT SHALL BE ENACTED BY A BILL ADOPTED BY THE COUNTY GOVERNING BODY.

(IV) AT THE PUBLIC HEARING ON A BILL CREATING A SPECIAL TAXING DISTRICT, THE COUNTY GOVERNING BODY MAY CONSIDER, AMONG OTHER THINGS, THE FOLLOWING ELEMENTS OF A PROPOSED

DEVELOPMENT THAT WOULD RECEIVE THE PROCEEDS OF A PROPOSED BOND UNDER THIS SECTION:

1. DEVELOPMENT DESIGN STANDARDS;

2. THE USE OF TRANSFER OF DEVELOPMENT RIGHTS OR OTHER METHODS OF ACHIEVING DENSITY OF DEVELOPMENT;

3. DESIGN AND USAGE OF OPEN SPACE; AND

4. AVAILABILITY AND DESIGN OF RECREATIONAL AND EDUCATIONAL FACILITIES.

(V) A LAW ENACTED BY THE COUNTY CREATING A SPECIAL TAXING DISTRICT SHALL ~~REQUIRE:~~

~~1. REASONABLE DISCLOSURE IN THE REAL ESTATE CONTRACT TO BUYERS OF REAL PROPERTY WITHIN A SPECIAL TAXING DISTRICT OF ANY SPECIAL ASSESSMENT, SPECIAL TAX, OR OTHER FEE OR CHARGE FOR WHICH THE BUYER WOULD BE LIABLE DUE TO THE SPECIAL TAXING DISTRICT;~~

~~2. THAT A SELLER'S FAILURE TO PROVIDE THE DISCLOSURE REQUIRED UNDER ITEM 1 OF THIS SUBPARAGRAPH RENDERS THE CONTRACT VOIDABLE AT THE OPTION OF THE BUYER BEFORE THE DATE OF SETTLEMENT; AND~~

~~3. THAT~~ REQUIRE THAT ADEQUATE DEBT SERVICE RESERVE FUNDS BE MAINTAINED.

(VI) NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, BEFORE THE COUNTY MAY ESTABLISH A SPECIAL TAXING DISTRICT, ALL OF THE OWNERS OF REAL PROPERTY WITHIN THE PROPOSED SPECIAL TAXING DISTRICT MUST PETITION THE COUNTY FOR THE CREATION OF THE SPECIAL TAXING DISTRICT.

Article – Real Property

10–706.

(A) (1) THIS SECTION APPLIES ONLY TO THE SALE OF RESIDENTIAL REAL PROPERTY IN HARFORD COUNTY.

(2) THIS SECTION DOES NOT APPLY TO:

(I) A SALE OF PROPERTY TO A PURCHASER WHO DOES NOT INTEND TO OCCUPY THE PROPERTY; OR

(II) A SALE IN AN ACTION TO FORECLOSE A MORTGAGE, DEED OF TRUST, OR OTHER LIEN.

(B) THE VENDOR OF PROPERTY THAT IS SUBJECT TO A TAX OF A SPECIAL TAXING DISTRICT AS AUTHORIZED IN ARTICLE 24, § 9–1301(C) OF THE CODE MAY NOT ENFORCE A CONTRACT FOR THE SALE OF THE PROPERTY UNLESS:

(1) THE PURCHASER OF THE PROPERTY IS PROVIDED WITH THE FOLLOWING INFORMATION IN WRITING:

(I) A DESCRIPTION OF THE AREA INCLUDED WITHIN THE SPECIAL TAXING DISTRICT;

(II) THE MAXIMUM AMOUNT OF BONDS AND OTHER OBLIGATIONS TO BE ISSUED WITH RESPECT TO THE SPECIAL TAXING DISTRICT;

(III) A DESCRIPTION OF THE PURPOSES FOR WHICH THE SPECIAL TAXING DISTRICT WAS CREATED, AND FOR WHICH THE BONDS OR OTHER OBLIGATIONS HAVE BEEN ISSUED, INCLUDING A DESCRIPTION OF ANY IMPROVEMENTS;

(IV) THE AMOUNT OF SPECIAL TAXES LEVIED ON THE PROPERTY FOR THE MOST RECENT YEAR OR, IF TAXES WERE NOT LEVIED ON THE PROPERTY FOR THE MOST RECENT YEAR, A GOOD–FAITH ESTIMATE OF THE ANNUAL TAX THAT WILL BE LEVIED ON THE PROPERTY;

(V) THE MAXIMUM AMOUNT OF SPECIAL TAXES THAT MAY BE LEVIED ON THE PROPERTY IN A YEAR;

(VI) THE PROJECTED TIME PERIOD OVER WHICH ANY BONDS OR OBLIGATIONS ISSUED IN CONNECTION WITH THE SPECIAL TAXING DISTRICT ARE TO BE REPAID; AND

(VII) A DESCRIPTION OF THE PURCHASER'S RIGHT TO FULLY PREPAY THE SPECIAL TAXING DISTRICT OBLIGATIONS; AND

(2) THE CONTRACT FOR THE SALE OF THE PROPERTY CONTAINS A NOTICE, WRITTEN IN CONSPICUOUS, BOLD, AND UNDERSCORED TYPE, THAT IS SUBSTANTIALLY THE SAME AS THE FOLLOWING:

"NOTICE REQUIRED BY MARYLAND LAW

THE PROPERTY THAT IS THE SUBJECT OF THIS CONTRACT IS LOCATED WITHIN A SPECIAL TAXING DISTRICT, WHICH HAS BEEN CREATED FOR THE PURPOSE OF FINANCING OR REFINANCING THE COSTS RELATED TO CERTAIN INFRASTRUCTURE IMPROVEMENTS WITHIN THE TAXING DISTRICT. THESE COSTS WILL BE REPAID FROM THE PROCEEDS OF SPECIAL TAXES COLLECTED FROM THE OWNERS OF PROPERTIES LOCATED WITHIN THE SPECIAL TAXING DISTRICT.

STATE LAW REQUIRES THAT THE SELLER DISCLOSE TO YOU, AT OR BEFORE THE TIME YOU ENTER INTO THIS CONTRACT, THE FOLLOWING INFORMATION: (1) A DESCRIPTION OF THE AREA INCLUDED WITHIN THE SPECIAL TAXING DISTRICT, (2) THE MAXIMUM AMOUNT OF BONDS AND OTHER OBLIGATIONS TO BE ISSUED WITH RESPECT TO THE SPECIAL TAXING DISTRICT, (3) A DESCRIPTION OF THE PURPOSES FOR WHICH THE SPECIAL TAXING DISTRICT WAS CREATED, AND FOR WHICH THE BONDS OR OTHER OBLIGATIONS HAVE BEEN ISSUED, INCLUDING A DESCRIPTION OF ANY INFRASTRUCTURE IMPROVEMENTS, (4) THE AMOUNT OF SPECIAL TAXES LEVIED ON THE PROPERTY FOR THE MOST RECENT YEAR OR, IF TAXES WERE NOT LEVIED ON THE PROPERTY FOR THE MOST RECENT YEAR, A GOOD–FAITH ESTIMATE OF THE ANNUAL TAX THAT WILL BE LEVIED ON THE PROPERTY, (5) THE MAXIMUM AMOUNT OF SPECIAL TAXES THAT MAY BE LEVIED ON THE PROPERTY IN A YEAR, (6) THE PROJECTED TIME PERIOD OVER WHICH ANY BONDS OR OBLIGATIONS ISSUED IN CONNECTION WITH THE SPECIAL TAXING DISTRICT ARE TO BE REPAID, AND (7) YOUR RIGHT AS THE PROSPECTIVE OWNER OF THE PROPERTY TO FULLY PREPAY THE SPECIAL TAXING DISTRICT OBLIGATIONS WITH RESPECT TO THE PROPERTY.

YOU HAVE 7 CALENDAR DAYS FROM THE DATE YOU RECEIVE THE ABOVE INFORMATION RELATING TO THE SPECIAL TAXING DISTRICT TO CANCEL THIS CONTRACT BY SENDING A WRITTEN NOTICE OF CANCELLATION TO THE SELLER. YOU ARE NOT REQUIRED TO STATE A REASON FOR CANCELLING THE CONTRACT. UPON CANCELLATION OF THE CONTRACT, YOU ARE ENTITLED TO A REFUND OF ANY DEPOSIT YOU MAY HAVE MADE UNDER THIS CONTRACT.

A SELLER MAY NOT REQUIRE THAT YOU WAIVE YOUR RIGHT TO RECEIVE THE INFORMATION RELATING TO THE SPECIAL TAXING DISTRICT OR YOUR

RIGHT TO CANCEL THE CONTRACT WITHIN 7 CALENDAR DAYS OF RECEIPT OF THE INFORMATION. A SELLER MAY NOT REQUIRE THAT YOU CLOSE THE SALE UNDER THIS CONTRACT WITHIN 7 CALENDAR DAYS FROM THE DATE YOU RECEIVE THE INFORMATION RELATING TO THE SPECIAL TAXING DISTRICT.

STATE LAW PROVIDES THAT ANY SELLER WHO, IN DISCLOSING THE INFORMATION RELATING TO THE SPECIAL TAXING DISTRICT, MAKES ANY FALSE STATEMENT OF A MATERIAL FACT OR OMITS A MATERIAL FACT THAT, IN LIGHT OF THE CIRCUMSTANCES UNDER WHICH THE STATEMENTS WERE MADE, IS NECESSARY TO MAKE THE STATEMENTS NOT MISLEADING IS LIABLE TO THE PURCHASER FOR DAMAGES PROXIMATELY CAUSED BY THE SELLER'S FALSE OR OMITTED STATEMENT. ANY ACTION FOR DAMAGES CAUSED BY THE SELLER'S FALSE STATEMENT OR OMISSION OF A MATERIAL FACT MUST BE BROUGHT WITHIN 1 YEAR FROM THE DATE OF CLOSING UNDER THIS CONTRACT.

YOU SHOULD CAREFULLY REVIEW THE INFORMATION RELATING TO THE SPECIAL TAXING DISTRICT PROVIDED BY THE SELLER TO FAMILIARIZE YOURSELF WITH YOUR RIGHTS AND OBLIGATIONS AS A PROSPECTIVE OWNER OF PROPERTY LOCATED WITHIN THE SPECIAL TAXING DISTRICT."

(C) (1) THE REQUIREMENTS OF SUBSECTION (B)(1) OF THIS SECTION SHALL BE DEEMED FULFILLED IF THE INFORMATION REQUIRED TO BE PROVIDED TO THE PURCHASER IS PROVIDED TO THE PURCHASER IN WRITING, IN A CLEAR AND CONCISE MANNER.

(2) A VENDOR MAY PROVIDE THE PURCHASER WITH THE INFORMATION REQUIRED UNDER SUBSECTION (B)(1) OF THIS SECTION BY PROVIDING THE PURCHASER WITH A COLLECTION OF DOCUMENTS IF THE DOCUMENTS CONVEY THE INFORMATION REQUIRED UNDER SUBSECTION (B)(1) OF THIS SECTION IN A CLEAR AND CONCISE MANNER.

(3) IN SATISFYING THE REQUIREMENTS OF SUBSECTION (B)(1) OF THIS SECTION, THE VENDOR MAY RELY ON ANY DOCUMENT THAT, IN CONNECTION WITH THE CREATION OF THE SPECIAL TAXING DISTRICT, WAS FILED BY THE OWNER OF THE PROPERTY IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(D) (1) A PURCHASER UNDER A CONTRACT FOR THE SALE OF PROPERTY THAT IS SUBJECT TO THIS SECTION MAY CANCEL THE CONTRACT WITHIN 7 CALENDAR DAYS OF RECEIVING THE INFORMATION UNDER SUBSECTION (B)(1) OF THIS SECTION BY DELIVERING WRITTEN NOTICE OF CANCELLATION TO THE VENDOR.

(2) UNLESS THE PURCHASER CONSENTS TO AN EARLIER SETTLEMENT DATE, THE SETTLEMENT OF A CONTRACT FOR THE SALE OF PROPERTY THAT IS SUBJECT TO THIS SECTION MAY NOT TAKE PLACE WITHIN 7 CALENDAR DAYS FROM THE DATE THE PURCHASER RECEIVES THE INFORMATION REQUIRED UNDER SUBSECTION (B)(1) OF THIS SECTION.

(3) NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DELIVERED BY:

(I) HAND–DELIVERY; OR

(II) FIRST–CLASS MAIL.

(4) ON CANCELLATION OF A CONTRACT FOR THE PURCHASE OF PROPERTY UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE VENDOR SHALL REFUND TO THE PURCHASER ANY DEPOSITS PAID BY, OR ON BEHALF OF, THE PURCHASER UNDER THE CANCELLED CONTRACT.

(E) (1) ANY VENDOR THAT, IN PROVIDING THE PURCHASER WITH THE INFORMATION REQUIRED UNDER SUBSECTION (B)(1) OF THIS SECTION, MAKES ANY FALSE STATEMENT OF A MATERIAL FACT OR OMITS A MATERIAL FACT THAT, IN LIGHT OF THE CIRCUMSTANCES UNDER WHICH THE STATEMENTS WERE MADE, IS NECESSARY TO MAKE THE STATEMENTS NOT MISLEADING IS LIABLE TO THE PURCHASER FOR DAMAGES PROXIMATELY CAUSED BY THE VENDOR'S FALSE OR OMITTED STATEMENT.

(2) AN ACTION BROUGHT UNDER PARAGRAPH (1) OF THIS SUBSECTION MUST BE BROUGHT WITHIN 1 YEAR FROM THE DATE OF SETTLEMENT OF THE CONTRACT OF SALE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 457

(Senate Bill 796)

AN ACT concerning

~~Vehicle Laws –~~ Motor Vehicle Accident Reports – Access

FOR the purpose of ~~authorizing a member of the Maryland General Assembly to access a motor vehicle accident report under certain circumstances; providing that a designated employee of a law enforcement agency may be presented with certain documentation under certain circumstances; exempting certain entities that may access motor vehicle accident reports from a requirement that they present certain documentation to an officer or designated employee of a law enforcement agency; making a certain violation related to disclosing a motor vehicle accident report a misdemeanor; making stylistic changes~~ prohibiting a person from accessing a certain motor vehicle accident report for certain purposes under certain circumstances; providing for a certain penalty; repealing certain provisions of law concerning access to and disclosure of a certain motor vehicle accident report; defining certain terms; making this Act an emergency measure; and generally relating to motor vehicle accident reports.

BY repealing ~~and reenacting, with amendments,~~
Article – Transportation
Section 20–110
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 10–604
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 10–606(c)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – Transportation

~~20–110.~~

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

~~(2) "Law enforcement agency" means an agency that is listed in § 3–101(e) of the Public Safety Article.~~

~~(3) "Motor vehicle accident" has the meaning stated in § 27–401 of the Insurance Article.~~

~~(4) (i) "Newspaper" includes a newspaper of general circulation that~~ **[**~~is~~**]**~~:~~

~~1.~~ **[**~~Published~~**] IS PUBLISHED** ~~at least once a week;~~

~~2. Includes stories of general interest to the public; and~~

~~3.~~ **[**~~Used~~**] IS USED** ~~primarily for the dissemination of news.~~

~~(ii) "Newspaper" does not include a publication:~~

~~1. That is intended primarily for members of a particular profession or occupational group;~~

~~2. With the primary purpose of distributing advertising; or~~

~~3. With the primary purpose of publishing names and other personal identifying information regarding parties to a motor vehicle accident.~~

~~(5) "Report" means a report completed by an officer of a law enforcement agency that:~~

~~(i) Indicates that a motor vehicle accident occurred; and~~

~~(ii) Includes information about the persons involved in the motor vehicle accident including:~~

~~1. Names;~~

~~2. Telephone numbers; and~~

~~3. Addresses.~~

~~(b) For 60 days following the date a report is filed with a law enforcement agency, only the following persons may access the report:~~

~~(1) The individuals involved in the motor vehicle accident;~~

~~(2) The legal representative of an individual involved in the motor vehicle accident;~~

~~(3) The insurance producer, insurer, or employee or agent of the insurer of an individual involved in the motor vehicle accident;~~

~~(4) A State's Attorney or other prosecutor;~~

~~(5) A representative of a victim services program;~~

~~(6) An employee of a radio or television station licensed by the Federal Communications Commission;~~

~~(7) An employee of a newspaper; **[**and**]**~~

~~(8) A unit of local, State, or federal government that is otherwise authorized to have access to a report in furtherance of the unit's duties**; AND**~~

~~**(9) A MEMBER OF THE MARYLAND GENERAL ASSEMBLY.**~~

~~(c) (1) Except as provided in paragraph (2) of this subsection, a person that accesses a report within 60 days after the date a report is filed shall present to **[**the**] AN** officer **OR A DESIGNATED EMPLOYEE** of a law enforcement agency in which the report is filed:~~

~~(i) A valid driver's license or other State–issued identification card;~~

~~(ii) Proof that the person is a person authorized to receive the report under subsection (b) of this section; and~~

~~(iii) A statement indicating that from the time the person is granted access to the report until 60 days after the date the report is filed:~~

~~1. The report will not be used for any commercial solicitation of an individual listed in the report; and~~

~~2. The person will not knowingly disclose any information contained in the report to a third party for commercial solicitation of an individual listed in the report.~~

~~(2) Paragraph (1) of this subsection does not apply to **THE FOLLOWING ENTITIES:**~~

~~(I)~~ ~~[an]~~ ~~**AN** insurance producer, insurer, or employee or agent of the insurer of an individual involved in the motor vehicle accident;~~

~~(II)~~ ~~**A UNIT OF LOCAL, STATE, OR FEDERAL GOVERNMENT THAT IS OTHERWISE AUTHORIZED TO HAVE ACCESS TO A REPORT IN FURTHERANCE OF THE UNIT'S DUTIES;**~~

~~(III)~~ ~~**A STATE'S ATTORNEY OR OTHER PROSECUTOR; OR**~~

~~(IV)~~ ~~**A MEMBER OF THE MARYLAND GENERAL ASSEMBLY.**~~

~~(d) This section does not prohibit the dissemination or publication of news to the general public by any legitimate media entitled to access reports.~~

~~(e) (1) A person who obtains a report in violation of this subsection is guilty of a felony and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 15 years or both.~~

~~(2) An officer~~ ~~**OR A DESIGNATED EMPLOYEE**~~ ~~of a law enforcement agency who knowingly discloses a report to a person not entitled to access the report under this section is guilty of a [felony]~~ ~~**MISDEMEANOR**~~ ~~and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 15 years or both.~~

Article – Business Occupations and Professions

10–604.

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

(2) "LAW ENFORCEMENT AGENCY" MEANS AN AGENCY THAT IS LISTED IN § 3–101(E) OF THE PUBLIC SAFETY ARTICLE.

(3) "MOTOR VEHICLE ACCIDENT" HAS THE MEANING STATED IN § 27–401 OF THE INSURANCE ARTICLE.

(4) "REPORT" MEANS A REPORT COMPLETED BY A POLICE OFFICER OF A LAW ENFORCEMENT AGENCY THAT:

(I) INDICATES THAT A MOTOR VEHICLE ACCIDENT OCCURRED; AND

(II) INCLUDES INFORMATION ABOUT A PERSON INVOLVED IN THE MOTOR VEHICLE ACCIDENT, INCLUDING THE PERSON'S NAME, TELEPHONE NUMBER, AND ADDRESS.

[(a)**] (B)** Without an existing relationship or interest in an issue:

(1) a person may not, for personal gain, solicit another person to sue or to retain a lawyer to represent the other person in a lawsuit;

(2) A PERSON MAY NOT, FOR PERSONAL GAIN, ACCESS A REPORT FOR THE PURPOSE OF SOLICITING ANOTHER PERSON TO SUE OR TO RETAIN A LAWYER TO REPRESENT THE OTHER PERSON; and

[(2)**] (3)** a lawyer, except as provided in the Rules of Professional Conduct, may not:

(i) for personal gain, solicit another person to sue or to retain the lawyer to represent the person in a lawsuit;

(ii) directly or indirectly employ or in any way compensate or agree to employ or compensate any person as an expert witness or otherwise for the purpose of having that person solicit or attempt to solicit clients for the lawyer;

(iii) knowingly represent a person who retained the lawyer as a result of solicitation prohibited under this section; or

(iv) cause a case to be instituted without the authority of a client.

[(b)**] (C)** Any solicitation involving acts described in this section is prima facie evidence that the person soliciting is acting for gain.

10–606.

(c) Except as provided in subsections (a) and (b) of this section, a person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 13, 2008.

CHAPTER 458

(House Bill 488)

AN ACT concerning

Motor Vehicle Accident Reports – Access

FOR the purpose of ~~altering the period of time during which certain persons may access a certain motor vehicle accident report; authorizing owners of certain motor vehicles and property to access a certain motor vehicle accident report during a certain time following the date the motor vehicle accident occurred; requiring a person that accesses a certain motor vehicle accident report during a certain time after the motor vehicle accident occurred to present certain information to certain authorized employees; providing for certain exceptions; providing that certain persons who knowingly disclose a certain motor vehicle accident report to certain persons are subject to a certain penalty~~ prohibiting a *certain* person from accessing a certain motor vehicle accident report for certain purposes under certain circumstances; providing for a certain penalty; repealing certain provisions of law concerning access to and disclosure of a certain motor vehicle accident report; defining certain terms; making this Act an emergency measure; and generally relating to motor vehicle accident reports.

BY repealing ~~and reenacting, with amendments,~~
Article – Transportation
Section 20–110
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 10–604
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 10–606(c)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – Transportation

~~20–110.~~

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

~~(2) "Law enforcement agency" means an agency that is listed in § 3–101(e) of the Public Safety Article.~~

~~(3) "Motor vehicle accident" has the meaning stated in § 27–401 of the Insurance Article.~~

~~(4) (i) "Newspaper" includes a newspaper of general circulation that is:~~

~~1. Published at least once a week;~~

~~2. Includes stories of general interest to the public; and~~

~~3. Used primarily for the dissemination of news.~~

~~(ii) "Newspaper" does not include a publication:~~

~~1. That is intended primarily for members of a particular profession or occupational group;~~

~~2. With the primary purpose of distributing advertising; or~~

~~3. With the primary purpose of publishing names and other personal identifying information regarding parties to a motor vehicle accident.~~

~~(5) "Report" means a report completed by an officer of a law enforcement agency that:~~

~~(i) Indicates that a motor vehicle accident occurred; and~~

~~(ii) Includes information about the persons involved in the motor vehicle accident including:~~

~~1. Names;~~

~~2. Telephone numbers; and~~

~~3. Addresses.~~

~~(b) For 60 days following the date a **[**report is filed with a law enforcement agency**]** **MOTOR VEHICLE ACCIDENT OCCURRED**, only the following persons may access the report:~~

~~(1) The individuals involved in the motor vehicle accident;~~

~~(2) **THE OWNER OF A MOTOR VEHICLE INVOLVED IN THE MOTOR VEHICLE ACCIDENT OR PROPERTY DAMAGED IN THE MOTOR VEHICLE ACCIDENT;**~~

~~**(3)** The legal representative of an individual involved in the motor vehicle accident;~~

~~**[**(3)**](4)** The insurance producer, insurer, or employee or agent of the insurer of an individual involved in the motor vehicle accident;~~

~~**[**(4)**](5)** A State's Attorney or other prosecutor;~~

~~**[**(5)**](6)** A representative of a victim services program;~~

~~**[**(6)**](7)** An employee of a radio or television station licensed by the Federal Communications Commission;~~

~~**[**(7)**](8)** An employee of a newspaper; and~~

~~**[**(8)**](9)** A unit of local, State, or federal government that is otherwise authorized to have access to a report in furtherance of the unit's duties.~~

~~(c) (1) Except as provided in paragraph (2) of this subsection, a person that accesses a report within 60 days after the date a **[**report is filed**]** **MOTOR VEHICLE ACCIDENT OCCURRED** shall present to **[**the**]** **AN** officer **OR AUTHORIZED EMPLOYEE** of a law enforcement agency in which the report is filed:~~

~~(i) A valid driver's license or other State–issued identification card;~~

~~(ii) Proof that the person is a person authorized to receive the report under subsection (b) of this section; and~~

~~(iii) A statement indicating that from the time the person is granted access to the report until 60 days after the date the report is filed:~~

~~1. The report will not be used for any commercial solicitation of an individual listed in the report; and~~

~~2. The person will not knowingly disclose any information contained in the report to a third party for commercial solicitation of an individual listed in the report.~~

~~(2) Paragraph (1) of this subsection does not apply to~~ **[**~~an~~**]**~~:~~

~~(I)~~ **A**~~N insurance producer, insurer, or employee or agent of the insurer of an individual involved in the motor vehicle accident~~**;**

~~(II)~~ ~~**AN INDIVIDUAL INVOLVED IN THE MOTOR VEHICLE ACCIDENT, THE OWNER OF A MOTOR VEHICLE INVOLVED OR PROPERTY DAMAGED IN THE MOTOR VEHICLE ACCIDENT;**~~

~~(III)~~ ~~**A STATE'S ATTORNEY OR OTHER PROSECUTOR; OR**~~

~~(IV)~~ ~~**A UNIT OF LOCAL, STATE, OR FEDERAL GOVERNMENT THAT IS OTHERWISE AUTHORIZED TO HAVE ACCESS TO A REPORT IN FURTHERANCE OF THE UNIT'S DUTIES.**~~

~~(d) This section does not prohibit the dissemination or publication of news to the general public by any legitimate media entitled to access reports.~~

~~(e) (1) A person who obtains a report in violation of this subsection is guilty of a felony and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 15 years or both.~~

~~(2)~~ **[**~~An officer of a law enforcement agency~~**] A PERSON** ~~who knowingly discloses a report to a person not entitled to access the report under this section is guilty of a felony and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 15 years or both.~~

Article – Business Occupations and Professions

10–604.

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

(2) "LAW ENFORCEMENT AGENCY" MEANS AN AGENCY THAT IS LISTED IN § 3–101(E) OF THE PUBLIC SAFETY ARTICLE.

(3) "MOTOR VEHICLE ACCIDENT" HAS THE MEANING STATED IN § 27–401 OF THE INSURANCE ARTICLE.

(4) "REPORT" MEANS A REPORT COMPLETED BY A POLICE OFFICER OF A LAW ENFORCEMENT AGENCY THAT:

(I) INDICATES THAT A MOTOR VEHICLE ACCIDENT OCCURRED; AND

(II) INCLUDES INFORMATION ABOUT A PERSON INVOLVED IN THE MOTOR VEHICLE ACCIDENT, INCLUDING THE PERSON'S NAME, TELEPHONE NUMBER, AND ADDRESS.

[(a)**] (B)** Without an existing relationship or interest in an issue:

(1) a person may not, for personal gain, solicit another person to sue or to retain a lawyer to represent the other person in a lawsuit;

(2) A PERSON *WHO IS NOT A LAWYER* MAY NOT, FOR PERSONAL GAIN, ACCESS A REPORT FOR THE PURPOSE OF SOLICITING ANOTHER PERSON TO SUE OR TO RETAIN A LAWYER TO REPRESENT THE OTHER PERSON; and

[(2)**] (3)** a lawyer, except as provided in the Rules of Professional Conduct, may not:

(i) for personal gain, solicit another person to sue or to retain the lawyer to represent the person in a lawsuit;

(ii) directly or indirectly employ or in any way compensate or agree to employ or compensate any person as an expert witness or otherwise for the purpose of having that person solicit or attempt to solicit clients for the lawyer;

(iii) knowingly represent a person who retained the lawyer as a result of solicitation prohibited under this section; or

(iv) cause a case to be instituted without the authority of a client.

[(b)**] (C)** Any solicitation involving acts described in this section is prima facie evidence that the person soliciting is acting for gain.

10–606.

(c) Except as provided in subsections (a) and (b) of this section, a person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 13, 2008.

CHAPTER 459

(Senate Bill 799)

AN ACT concerning

Family Investment Program Recipients – Child–Specific Benefit – Repeal

FOR the purpose of repealing certain provisions prohibiting the payment of certain temporary cash assistance benefits as a result of the birth of certain children under certain circumstances; and generally relating to the receipt of temporary cash assistance benefits by Family Investment Program (FIP) recipients.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 5–313
Annotated Code of Maryland
(2007 Volume)

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

Article – Human Services

5–313.

(a) **[**(1) This subsection does not apply to a birth resulting from rape or incest.

(2) Except as provided in paragraph (3) of this subsection, temporary cash assistance may not include the increment in cash benefits under the FIP for which a recipient would otherwise be eligible as a result of the birth of a child 10 or more months after the recipient's initial application for temporary cash assistance benefits.

(3) Cash payments for a child may not be made to a family other than the child's family unless the Social Services Administration has placed the child with the other family.

(4) If a recipient is ineligible for an increment in cash benefits under this subsection, the Department shall provide a child–specific benefit, not to exceed the value of the increment eliminated by this subsection, for the purchase of goods specified by the Department as suitable for the care of a minor.

(5) A local department may pay an administrative fee to a third party payee to cover the administrative costs of the third party payee for managing the child–specific benefit.

(6) The Secretary shall adopt regulations specifying the selection criteria for third party payees under this subsection.

(b) (1)**]** Except as provided in **[**paragraph (2)**]** **SUBSECTION (B)** of this **[**subsection**]** **SECTION** and in regulations that the Secretary adopts, a local department may not pay temporary cash assistance to:

[(i)**]** **(1)** a family that includes an adult who has received more than 60 cumulative months of temporary cash assistance funded wholly or partly by federal funds; or

[(ii)**]** **(2)** a family that includes an adult who:

[1.**]** **(I)** has received more than 24 cumulative months of temporary cash assistance funded wholly or partly by federal funds; and

[2.**]** **(II)** who is not participating in a work activity.

[(2)**]** **(B)** The Secretary shall adopt regulations that establish:

[(i)**]** **(1)** standards and procedures under which a local department may exempt a family from the limitation under **[**paragraph (1)(i)**]** **SUBSECTION (A)(1)** of this **[**subsection**]** **SECTION** because of hardship; and

[(ii)**]** **(2)** a separate State program that:

[1.**]** **(I)** is funded entirely from State general funds that may be counted toward any federal maintenance of effort requirement;

[2.**]** **(II)** pays temporary cash assistance to a family that is exempted under item **[**(i)**]** **(1)** of this **[**paragraph**]** **SUBSECTION** but cannot receive federal funds because of federal limitations; and

[3.**]** **(III)** is subject to all FIP requirements under this subtitle.

[(3)**]** **(C)** The provisions of this **[**subsection**]** **SECTION** are subject to federal law and regulation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 460

(House Bill 1356)

AN ACT concerning

Family Investment Program Recipients – Child–Specific Benefit – Repeal

FOR the purpose of repealing certain provisions prohibiting the payment of certain temporary cash assistance benefits as a result of the birth of certain children under certain circumstances; ~~requiring the Department of Human Resources to submit a certain report;~~ and generally relating to the receipt of temporary cash assistance benefits by Family Investment Program (FIP) recipients.

~~BY adding to~~
~~Article – Human Services~~
~~Section 5–312(g)~~
~~Annotated Code of Maryland~~
~~(2007 Volume)~~

BY repealing and reenacting, with amendments,

Article – Human Services
Section 5–313
Annotated Code of Maryland
(2007 Volume)

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

Article – Human Services

~~5–312.~~

~~**(G) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, INDICATING THE NUMBER OF TEMPORARY CASH ASSISTANCE RECIPIENTS WHO RECEIVED AN INCREMENT IN CASH BENEFITS UNDER THE FIP IN THE MOST RECENTLY COMPLETED FISCAL YEAR AS THE RESULT OF THE BIRTH OF A CHILD 10 OR MORE MONTHS AFTER THE RECIPIENT'S INITIAL APPLICATION FOR TEMPORARY CASH ASSISTANCE BENEFITS.**~~

5–313.

(a) **[**(1) This subsection does not apply to a birth resulting from rape or incest.

(2) Except as provided in paragraph (3) of this subsection, temporary cash assistance may not include the increment in cash benefits under the FIP for which a recipient would otherwise be eligible as a result of the birth of a child 10 or more months after the recipient's initial application for temporary cash assistance benefits.

(3) Cash payments for a child may not be made to a family other than the child's family unless the Social Services Administration has placed the child with the other family.

(4) If a recipient is ineligible for an increment in cash benefits under this subsection, the Department shall provide a child–specific benefit, not to exceed the value of the increment eliminated by this subsection, for the purchase of goods specified by the Department as suitable for the care of a minor.

(5) A local department may pay an administrative fee to a third party payee to cover the administrative costs of the third party payee for managing the child–specific benefit.

(6) The Secretary shall adopt regulations specifying the selection criteria for third party payees under this subsection.

(b) (1)**]** Except as provided in **[**paragraph (2)**]** **SUBSECTION (B)** of this **[**subsection**]** **SECTION** and in regulations that the Secretary adopts, a local department may not pay temporary cash assistance to:

[(i)**] (1)** a family that includes an adult who has received more than 60 cumulative months of temporary cash assistance funded wholly or partly by federal funds; or

[(ii)**] (2)** a family that includes an adult who:

[1.**] (I)** has received more than 24 cumulative months of temporary cash assistance funded wholly or partly by federal funds; and

[2.**] (II)** who is not participating in a work activity.

[(2)**] (B)** The Secretary shall adopt regulations that establish:

[(i)**] (1)** standards and procedures under which a local department may exempt a family from the limitation under **[**paragraph (1)(i)**]** **SUBSECTION (A)(1)** of this **[**subsection**]** **SECTION** because of hardship; and

[(ii)**] (2)** a separate State program that:

[1.**] (I)** is funded entirely from State general funds that may be counted toward any federal maintenance of effort requirement;

[2.**] (II)** pays temporary cash assistance to a family that is exempted under item **[**(i)**] (1)** of this **[**paragraph**]** **SUBSECTION** but cannot receive federal funds because of federal limitations; and

[3.**] (III)** is subject to all FIP requirements under this subtitle.

[(3)**] (C)** The provisions of this **[**subsection**]** **SECTION** are subject to federal law and regulation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 461

(Senate Bill 840)

AN ACT concerning

Boiler and Pressure Vessel Safety – Inspections – Antique Boilers or Pressure Vessels

FOR the purpose of authorizing certain inspections of certain antique boilers or pressure vessels to be made by certain private inspectors under certain circumstances; requiring certain private inspectors who make certain inspections to file a certain report with the Chief Boiler Inspector; requiring the Chief Boiler Inspector to issue a certain certificate to the owner or user of certain antique boilers or pressure vessels under certain circumstances; defining a certain term; and generally relating to inspections of boilers and pressure vessels.

~~BY renumbering~~
~~Article – Public Safety~~
~~Section 12–901(l)~~
~~to be Section 12–901(m)~~
~~Annotated Code of Maryland~~
~~(2003 Volume and 2007 Supplement)~~

~~BY adding to~~
~~Article – Public Safety~~
~~Section 12–901(l)~~
~~Annotated Code of Maryland~~
~~(2003 Volume and 2007 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–909
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~Section(s) 12–901(l) of Article – Public Safety of the Annotated Code of Maryland be renumbered to be Section(s) 12–901(m).~~

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

Article – Public Safety

~~12–901.~~

~~(L) "PRIVATE INSPECTOR" MEANS AN INDIVIDUAL WHO:~~

~~(1) HAS A LEVEL II OR LEVEL III CERTIFICATION FROM THE AMERICAN SOCIETY FOR NONDESTRUCTIVE TESTING (ASNT); AND~~

~~(2) IS COMMISSIONED BY THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS.~~

12–909.

(a) The requirements of this section and §§ 12–910 and 12–911 of this subtitle do not apply to:

(1) a boiler or pressure vessel that is located on a farm and used solely for agricultural purposes;

(2) a heating boiler that is located in a private residence or an apartment house with less than six family units;

(3) a pressure vessel that:

(i) contains only water under pressure for domestic supply purposes, including a pressure vessel that contains air, the compression of which serves only as a cushion or airlift pumping system; and

(ii) is located in a private residence or an apartment house with less than six family units; or

(4) an exhibition or antique boiler or pressure vessel, including a steam or gas engine, wheat thresher, or antique tractor, if the boiler or pressure vessel:

(i) has been inspected and issued a certificate of safety by another state that has safety requirements equal to or greater than those of this State; and

(ii) has been brought into this State to be used in a temporary exhibit or show.

(b) The Chief Boiler Inspector or a deputy boiler inspector shall have free access, during reasonable hours, to any premises in the State:

(1) to determine whether a boiler or pressure vessel is being constructed for use or installed in the State in accordance with this subtitle;

(2) to inspect or investigate an accident or explosion that involves a boiler or pressure vessel; or

(3) to make an inspection required under this subtitle.

(c) (1) Except as provided in paragraphs **[**(2) and (3)**] (2), (3), AND (4)** of this subsection, the Chief Boiler Inspector or a deputy boiler inspector shall make the certificate inspections required under subsection (d) of this section.

(2) If a boiler or pressure vessel is insured by an insurer, a special inspector employed by the insurer shall make the inspections required under subsection (d) of this section.

(3) If a pressure vessel is owned or operated by a person who employs a special inspector who holds a commission, the special inspector shall make the inspections required under subsection (d) of this section.

(4) (I) ***IN THIS PARAGRAPH, "PRIVATE INSPECTOR" MEANS AN INDIVIDUAL WHO:***

1. HAS A LEVEL II OR LEVEL III CERTIFICATION FROM THE AMERICAN SOCIETY FOR NONDESTRUCTIVE TESTING (ASNT); AND

2. IS COMMISSIONED AS A SPECIAL INSPECTOR BY THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS.

(II) **IF A BOILER OR PRESSURE VESSEL IS AN EXHIBITION OR ANTIQUE BOILER OR PRESSURE VESSEL, INCLUDING A STEAM OR GAS ENGINE, WHEAT THRESHER, OR ANTIQUE TRACTOR, THAT WILL BE USED IN AN EXHIBIT OR SHOW FOR NONCOMMERCIAL PURPOSES, THE INSPECTIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION MAY BE MADE BY A PRIVATE INSPECTOR ~~WHO HAS LEVEL II OR LEVEL III CERTIFICATION FROM THE AMERICAN SOCIETY FOR NONDESTRUCTIVE TESTING (ASNT)~~.**

~~(II)~~ *(III)* **IF A ~~CERTIFIED~~ PRIVATE INSPECTOR MAKES THE INSPECTIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, THE**

PRIVATE INSPECTOR SHALL FILE A REPORT WITH THE CHIEF BOILER INSPECTOR ON THE RESULTS OF THE INSPECTION.

~~(III)~~ *(IV)* IF THE REPORT OF THE PRIVATE INSPECTOR SHOWS THAT THE EXHIBITION OR ANTIQUE BOILER OR PRESSURE VESSEL COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (D) OF THIS SECTION AND THE REGULATIONS ADOPTED UNDER THIS SUBTITLE, THE CHIEF BOILER INSPECTOR SHALL ISSUE A CERTIFICATE TO THE OWNER OR USER OF THE EXHIBITION OR ANTIQUE BOILER OR PRESSURE VESSEL THAT AUTHORIZES IT TO BE USED IN AN EXHIBIT OR SHOW FOR NONCOMMERCIAL PURPOSES.

(d) (1) Except for boilers and pressure vessels exempt under subsection (a) of this section or § 12–903 of this subtitle, each boiler and each pressure vessel that is used or proposed to be used in the State shall be inspected thoroughly as to its construction, installation, and condition in accordance with this subsection.

(2) A certificate inspection required under this subsection shall be:

(i) an internal inspection if construction allows; or

(ii) an inspection that is as complete as possible.

(3) (i) Except for model steam boilers, a power boiler or a high pressure, high temperature water boiler shall:

1. receive a certificate inspection annually; and

2. be externally inspected annually while under pressure, if possible.

(ii) The Board may extend to 2 years the interval between certificate inspections of a power boiler if:

1. the power boiler has internal continuous water treatment under the general supervision of a professional engineer who has experience in the treatment of boiler water; and

2. the owner or user of the power boiler keeps available, for examination by the Chief Boiler Inspector or by a deputy boiler inspector or special inspector, accurate records that show:

A. the date, time, and reason that the power boiler is out of service; and

B. a chemical and physical analysis of samples of the boiler water taken at regular intervals of not more than 48 hours of operation that adequately show the condition of the boiler water and any elements or characteristics of the boiler water that are capable of producing corrosion or other deterioration of the power boiler or its parts.

(4) A nuclear vessel within the scope of this subtitle shall be inspected and reported in a form and with appropriate information designated by the Board.

(5) (i) Except as provided in paragraph (3) of this subsection, certificate inspections shall be conducted at time intervals set forth in regulations adopted under this subtitle and in accordance with Title 10 of the State Government Article.

(ii) The intervals shall protect public safety taking into consideration, consistent with § 12–905 of this subtitle, the design, type, age, extent of automated monitoring, fuel, and operating characteristics of the boiler or pressure vessel.

(e) If, at the discretion of the inspector, a hydrostatic test is considered necessary, the owner or user of a boiler or pressure vessel shall make the hydrostatic test.

(f) (1) Except as provided in paragraph (2) of this subsection, at least 30 days before installing a boiler or pressure vessel covered by this subtitle, the person who will perform the installation shall give the Commissioner notice of the installation in accordance with regulations adopted under this subtitle.

(2) Under emergency circumstances, the person who will perform the installation of a boiler or pressure vessel may give the Commissioner notice of the installation less than 30 days before installation in accordance with regulations adopted under this subtitle.

(3) Except for a cast–iron sectional boiler or pressure vessel, each boiler to be installed in the State shall be inspected:

(i) during construction or field assembly, as required by regulations adopted under this subtitle, by an inspector authorized to inspect boilers and pressure vessels in the State; or

(ii) if the boiler is constructed outside the State, by an inspector who holds a commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

(g) (1) Within 24 hours after an accident or explosion, the owner or user of a boiler or pressure vessel shall give the Chief Boiler Inspector notice of the accident or explosion in accordance with regulations adopted under this subtitle.

(2) On notification or information, the Chief Boiler Inspector or a deputy boiler inspector shall investigate each accident or explosion that involves a boiler or pressure vessel covered by this subtitle.

(h) (1) The Board shall provide for public safety and therefore has jurisdiction over the interpretation and application of the inspection requirements provided in the regulations adopted under this subtitle.

(2) Inspection requirements of operating equipment shall:

(i) be in accordance with generally accepted practice; and

(ii) be compatible with the actual service conditions, including:

1. previous experience, based on records of performance and maintenance;

2. location, with respect to personnel hazard;

3. provision for related safe operation controls; and

4. interrelation with other operations outside the scope of this subtitle.

(i) The owner or user of a boiler or pressure vessel required by this subtitle to be inspected by the Chief Boiler Inspector or a deputy boiler inspector shall pay directly to the Chief Boiler Inspector, on completion of the inspection, a fee in accordance with the following schedule:

(1) certificate inspection:

(i) initial certificate inspection of a boiler or pressure vessel not previously inspected in the State..... no charge

(ii) certificate inspection of a boiler or pressure vessel, other than a pressure vessel attached to an air compressor, previously inspected in the State..... $40

(iii) certificate inspection of a pressure vessel, attached to an air compressor, previously inspected in the State.. ..... $10

(iv) certificate inspection of an additional boiler or pressure vessel previously inspected in the State, at the same location, on the same date..... $10

(v) follow–up inspection to determine compliance..... $50

(2) inspection of an antique or model steam boiler or pressure vessel.....$15

(3) investigation of an accident or complaint..... no charge

(4) special inspection, such as an inspection at a fabrication or repair facility, ASME joint review, or National Board of Inspection Code Repair Review, shall be charged at the following rates, and shall include all expenses such as travel and hotel costs:

(i) half day (up to 4 hours)..... $250

(ii) full day (up to 8 hours)..... $500

SECTION ~~2.~~ ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 462

(House Bill 1274)

AN ACT concerning

Boiler and Pressure Vessel Safety – Inspections – Antique Boilers or Pressure Vessels

FOR the purpose of authorizing certain inspections of certain antique boilers or pressure vessels to be made by certain private inspectors under certain circumstances; requiring certain private inspectors who make certain inspections to file a certain report with the Chief Boiler Inspector; requiring the Chief Boiler Inspector to issue a certain certificate to the owner or user of certain antique boilers or pressure vessels under certain circumstances;

defining a certain term; and generally relating to inspections of boilers and pressure vessels.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–909
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

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

Article – Public Safety

12–909.

(a) The requirements of this section and §§ 12–910 and 12–911 of this subtitle do not apply to:

(1) a boiler or pressure vessel that is located on a farm and used solely for agricultural purposes;

(2) a heating boiler that is located in a private residence or an apartment house with less than six family units;

(3) a pressure vessel that:

(i) contains only water under pressure for domestic supply purposes, including a pressure vessel that contains air, the compression of which serves only as a cushion or airlift pumping system; and

(ii) is located in a private residence or an apartment house with less than six family units; or

(4) an exhibition or antique boiler or pressure vessel, including a steam or gas engine, wheat thresher, or antique tractor, if the boiler or pressure vessel:

(i) has been inspected and issued a certificate of safety by another state that has safety requirements equal to or greater than those of this State; and

(ii) has been brought into this State to be used in a temporary exhibit or show.

(b) The Chief Boiler Inspector or a deputy boiler inspector shall have free access, during reasonable hours, to any premises in the State:

(1) to determine whether a boiler or pressure vessel is being constructed for use or installed in the State in accordance with this subtitle;

(2) to inspect or investigate an accident or explosion that involves a boiler or pressure vessel; or

(3) to make an inspection required under this subtitle.

(c) (1) Except as provided in paragraphs **[**(2) and (3)**] (2), (3), AND (4)** of this subsection, the Chief Boiler Inspector or a deputy boiler inspector shall make the certificate inspections required under subsection (d) of this section.

(2) If a boiler or pressure vessel is insured by an insurer, a special inspector employed by the insurer shall make the inspections required under subsection (d) of this section.

(3) If a pressure vessel is owned or operated by a person who employs a special inspector who holds a commission, the special inspector shall make the inspections required under subsection (d) of this section.

(4) (I) IN THIS PARAGRAPH, "PRIVATE INSPECTOR" MEANS AN INDIVIDUAL WHO:

1. HAS A LEVEL II OR LEVEL III CERTIFICATION FROM THE AMERICAN SOCIETY FOR NONDESTRUCTIVE TESTING (ASNT); AND

2. IS COMMISSIONED AS A SPECIAL INSPECTOR BY THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS.

(II) IF A BOILER OR PRESSURE VESSEL IS AN EXHIBITION OR ANTIQUE BOILER OR PRESSURE VESSEL, INCLUDING A STEAM OR GAS ENGINE, WHEAT THRESHER, OR ANTIQUE TRACTOR, THAT WILL BE USED IN AN EXHIBIT OR SHOW FOR NONCOMMERCIAL PURPOSES, THE INSPECTIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION MAY BE MADE BY A PRIVATE INSPECTOR ~~WHO HAS LEVEL II OR LEVEL III CERTIFICATION FROM THE AMERICAN SOCIETY FOR NONDESTRUCTIVE TESTING (ASNT)~~.

~~(II)~~ (III) IF A ~~CERTIFIED~~ PRIVATE INSPECTOR MAKES THE INSPECTIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, THE PRIVATE INSPECTOR SHALL FILE A REPORT WITH THE CHIEF BOILER INSPECTOR ON THE RESULTS OF THE INSPECTION.

~~(III)~~ (IV) IF THE REPORT OF THE PRIVATE INSPECTOR SHOWS THAT THE EXHIBITION OR ANTIQUE BOILER OR PRESSURE VESSEL COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (D) OF THIS SECTION AND THE REGULATIONS ADOPTED UNDER THIS SUBTITLE, THE CHIEF BOILER INSPECTOR SHALL ISSUE A CERTIFICATE TO THE OWNER OR USER OF THE EXHIBITION OR ANTIQUE BOILER OR PRESSURE VESSEL THAT AUTHORIZES IT TO BE USED IN AN EXHIBIT OR SHOW FOR NONCOMMERCIAL PURPOSES.

(d) (1) Except for boilers and pressure vessels exempt under subsection (a) of this section or § 12–903 of this subtitle, each boiler and each pressure vessel that is used or proposed to be used in the State shall be inspected thoroughly as to its construction, installation, and condition in accordance with this subsection.

(2) A certificate inspection required under this subsection shall be:

(i) an internal inspection if construction allows; or

(ii) an inspection that is as complete as possible.

(3) (i) Except for model steam boilers, a power boiler or a high pressure, high temperature water boiler shall:

1. receive a certificate inspection annually; and

2. be externally inspected annually while under pressure, if possible.

(ii) The Board may extend to 2 years the interval between certificate inspections of a power boiler if:

1. the power boiler has internal continuous water treatment under the general supervision of a professional engineer who has experience in the treatment of boiler water; and

2. the owner or user of the power boiler keeps available, for examination by the Chief Boiler Inspector or by a deputy boiler inspector or special inspector, accurate records that show:

A. the date, time, and reason that the power boiler is out of service; and

B. a chemical and physical analysis of samples of the boiler water taken at regular intervals of not more than 48 hours of operation that adequately show the condition of the boiler water and any elements or characteristics

of the boiler water that are capable of producing corrosion or other deterioration of the power boiler or its parts.

(4) A nuclear vessel within the scope of this subtitle shall be inspected and reported in a form and with appropriate information designated by the Board.

(5) (i) Except as provided in paragraph (3) of this subsection, certificate inspections shall be conducted at time intervals set forth in regulations adopted under this subtitle and in accordance with Title 10 of the State Government Article.

(ii) The intervals shall protect public safety taking into consideration, consistent with § 12–905 of this subtitle, the design, type, age, extent of automated monitoring, fuel, and operating characteristics of the boiler or pressure vessel.

(e) If, at the discretion of the inspector, a hydrostatic test is considered necessary, the owner or user of a boiler or pressure vessel shall make the hydrostatic test.

(f) (1) Except as provided in paragraph (2) of this subsection, at least 30 days before installing a boiler or pressure vessel covered by this subtitle, the person who will perform the installation shall give the Commissioner notice of the installation in accordance with regulations adopted under this subtitle.

(2) Under emergency circumstances, the person who will perform the installation of a boiler or pressure vessel may give the Commissioner notice of the installation less than 30 days before installation in accordance with regulations adopted under this subtitle.

(3) Except for a cast–iron sectional boiler or pressure vessel, each boiler to be installed in the State shall be inspected:

(i) during construction or field assembly, as required by regulations adopted under this subtitle, by an inspector authorized to inspect boilers and pressure vessels in the State; or

(ii) if the boiler is constructed outside the State, by an inspector who holds a commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

(g) (1) Within 24 hours after an accident or explosion, the owner or user of a boiler or pressure vessel shall give the Chief Boiler Inspector notice of the accident or explosion in accordance with regulations adopted under this subtitle.

(2) On notification or information, the Chief Boiler Inspector or a deputy boiler inspector shall investigate each accident or explosion that involves a boiler or pressure vessel covered by this subtitle.

(h) (1) The Board shall provide for public safety and therefore has jurisdiction over the interpretation and application of the inspection requirements provided in the regulations adopted under this subtitle.

(2) Inspection requirements of operating equipment shall:

(i) be in accordance with generally accepted practice; and

(ii) be compatible with the actual service conditions, including:

1. previous experience, based on records of performance and maintenance;

2. location, with respect to personnel hazard;

3. provision for related safe operation controls; and

4. interrelation with other operations outside the scope of this subtitle.

(i) The owner or user of a boiler or pressure vessel required by this subtitle to be inspected by the Chief Boiler Inspector or a deputy boiler inspector shall pay directly to the Chief Boiler Inspector, on completion of the inspection, a fee in accordance with the following schedule:

(1) certificate inspection:

(i) initial certificate inspection of a boiler or pressure vessel not previously inspected in the State ..... no charge

(ii) certificate inspection of a boiler or pressure vessel, other than a pressure vessel attached to an air compressor, previously inspected in the State..... $40

(iii) certificate inspection of a pressure vessel, attached to an air compressor, previously inspected in the State $10

(iv) certificate inspection of an additional boiler or pressure vessel previously inspected in the State, at the same location, on the same date..... ..... $10

(v) follow–up inspection to determine compliance $50

(2) inspection of an antique or model steam boiler or pressure vessel..... $15

(3) investigation of an accident or complaint ..... no charge

(4) special inspection, such as an inspection at a fabrication or repair facility, ASME joint review, or National Board of Inspection Code Repair Review, shall be charged at the following rates, and shall include all expenses such as travel and hotel costs:

(i) half day (up to 4 hours)..... $250

(ii) full day (up to 8 hours)..... $500

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 463

(Senate Bill 847)

AN ACT concerning

Task Force on the Minority Business Enterprise Program and Equity Investment Capital

FOR the purpose of establishing a Task Force on the Minority Business Enterprise Program and Equity Investment Capital; providing for the composition of the Task Force; requiring the President of the Senate and the Speaker of the House to select a co–chair from the Senate and House of Delegates; requiring the Department of General Services and the Department of Transportation to provide staff for the Task Force; prohibiting a Task Force member from receiving compensation but allowing a member to be reimbursed for certain expenses; requiring the Task Force to study how to facilitate the acquisition of investment equity capital by minority business enterprises in Maryland in a certain manner; requiring the Task Force to report its recommendations and draft legislation to the Governor and General Assembly on or before a certain

date; providing for the termination of this Act; and generally relating to the Minority Business Enterprise Program and equity investment capital.

Preamble

WHEREAS, Our State has clearly demonstrated a will to use its Minority Business Enterprise Program in a constructive manner;

WHEREAS, The most glaring component of disparity between Maryland's minority business enterprises and those in other states is the dearth of equity investment capital that has been infused into Maryland's minority business enterprises;

WHEREAS, Nationally, less than 2% of all available private equity is invested in minority firms in any year, yet minorities represent 30% of the population;

WHEREAS, The federal government clearly recognizes the inability of individuals to compete on a level playing field for business capital as a characteristic of a disadvantaged class, by defining "economically disadvantaged persons" as those persons whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities because of their identity as members of a group without regard to their individual qualities, as compared to others in the same line of business and competitive market area;

WHEREAS, Although Maryland permits nonminority investment into minority business enterprises, other restrictions related to minority business enterprise organization and certification have made the acquisition of investment equity capital by minority business enterprises virtually impossible;

WHEREAS, The mentoring of minority business enterprise founders can be improved by exposure to professional business investors with aligned interests; and

WHEREAS, It is necessary for the minority business enterprise owners to maintain full operational control of the business; now, therefore,

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

(a) There is a Task Force on the Minority Business Enterprise Program and Equity Investment Capital.

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

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House; and

(3) the following seven members, appointed by the Governor:

(i) one representative of the Department of General Services;

(ii) one representative of the Department of Transportation;

(iii) one representative of the Governor's Office of Minority Affairs;

(iv) one representative of a professional private equity firm;

(v) one representative of a law firm with proficiency in business, equity transactions, and corporate governance;

(vi) one representative of the business community who has founded and been the chief executive of at least one successful company, has experience with equity transactions from the business side, and has participated in a formal corporate board, preferably recognized for entrepreneurship; and

(vii) one representative of the Maryland Small Business Development Financing Authority.

(c) The President of the Senate and the Speaker of the House shall designate a Senator and a Delegate to co–chair the Task Force.

(d) The Department of General Services and the Department of Transportation shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) study how to facilitate the acquisition of investment equity capital by minority business enterprises in Maryland in a manner that:

(i) allows minority business enterprise owners to retain operational control of the business enterprise; and

(ii) provides adequate protection to equity investors;

(2) make recommendations regarding the necessary modifications to the Minority Business Enterprise Program that will authorize and encourage equity investment in minority business enterprises in Maryland; and

(3) develop draft legislation for the 2010 legislative session to implement the recommendations identified in paragraph (2) of this subsection.

(g) On or before December 1, 2009, the Task Force shall report its recommendations and draft legislation to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. It shall remain effective for a period of 1 year and 2 months and, at the end of December 1, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 464

(Senate Bill 849)

AN ACT concerning

Fitness and Athletics Equity for Students with Disabilities Act

FOR the purpose of requiring county ~~school systems~~ boards of education to ensure ~~the participation of~~ that students with disabilities have certain opportunities in certain physical education and certain athletic programs; providing for certain exceptions to these requirements under certain circumstances; requiring county ~~school systems~~ boards to provide certain accommodations; requiring county ~~school systems~~ boards to develop certain ~~programs,~~ policies~~,~~ and procedures; requiring county ~~school systems~~ boards to provide opportunities meeting certain criteria to students; ~~requiring county school systems to designate a certain employee to handle certain duties and responsibilities; requiring each county school system to provide notice of certain information to certain individuals; requiring each county school system to adopt and publish grievance procedures~~

~~meeting certain criteria;~~ requiring the State Board of Education to adopt a certain model policy to assist certain county boards; requiring the State Department of Education to monitor compliance by county ~~school systems~~ boards with certain requirements; authorizing the Department to investigate and take or require certain action in response to certain complaints; ~~authorizing the Department to make certain determinations; authorizing the State Board of Education to take certain actions;~~ requiring county ~~school systems~~ boards and the Department to provide certain reports; requiring the Department to adopt certain regulations; ~~clarifying the availability of certain legal remedies; providing for the availability of certain legal action for noncompliance with certain provisions~~ ~~providing for the enforcement of certain provisions; authorizing a court to award attorney's fees;~~ defining certain terms; providing for a deadline for ~~local school system~~ compliance with certain provisions; providing for the construction of this Act; and generally relating to access to physical education and athletic programs in public schools by students with disabilities.

BY adding to
Article – Education
Section 7–4B–01 through ~~7–4B–07~~ 7–4B–06 to be under the new subtitle "Subtitle 4B. Physical Education and Athletic Programs for Students with Disabilities"
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, The Rehabilitation Act of 1973 provides that exclusion and segregation of individuals with disabilities by recipients of federal funds is prohibited discrimination; and

WHEREAS, The Americans with Disabilities Act, signed into law in 1990, provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity; and

WHEREAS, Maryland public schools offer a variety of physical education and athletic opportunities to students that provide numerous educational benefits, including greater academic success, better physical and psychological health, responsible social behaviors, and enhanced interpersonal skills; and

WHEREAS, Sports participation is an effective intervention in combating obesity; and

WHEREAS, The aforementioned benefits and opportunities are particularly significant for students with disabilities; and

WHEREAS, Approximately 56 million people in the United States have documented disabilities; and

WHEREAS, Studies indicate that 56% of people with disabilities do not engage in any physical activity, compared to 36% of people without disabilities, and only 23% of people with disabilities are active for 30 minutes three or more times per week; and

WHEREAS, Childhood obesity is a national health concern, and physical activity can help prevent secondary health problems related to disabilities; and

WHEREAS, Students with disabilities have historically been underserved by school physical education and physical activity programs, such as athletics; and

WHEREAS, Including students with disabilities in mainstream physical education and athletic programs and adapted programs can provide students with disabilities with the opportunity to realize the full benefits of such programs; now, therefore,

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

Article – Education

SUBTITLE 4B. PHYSICAL EDUCATION AND ATHLETIC PROGRAMS FOR STUDENTS WITH DISABILITIES.

7–4B–01.

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

(B) "ADAPTED PROGRAM" MEANS A PROGRAM THAT IS ~~SPECIFICALLY~~ DEVELOPED FOR A STUDENT WITH A DISABILITY.

(C) "ALLIED SPORTS OR UNIFIED PROGRAM" MEANS A PROGRAM THAT IS SPECIFICALLY DESIGNED TO COMBINE GROUPS OF STUDENTS WITH AND WITHOUT DISABILITIES TOGETHER IN PHYSICAL ACTIVITY.

(D) "MAINSTREAM ATHLETIC PROGRAM" MEANS INTRAMURAL OR INTERSCHOLASTIC ATHLETIC ACTIVITY THAT IS DEVELOPED AND OFFERED TO

STUDENTS IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE STATE BOARD.

~~(D)~~ (E) "MAINSTREAM PHYSICAL EDUCATION ~~AND ATHLETIC~~ PROGRAM" MEANS A ~~SCHOOL-BASED ACTIVITY~~ PHYSICAL EDUCATION PROGRAM THAT IS DEVELOPED AND OFFERED TO ~~ALL~~ STUDENTS IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE STATE BOARD.

~~(E) "PHYSICAL EDUCATION AND ATHLETIC PROGRAM" MEANS A PHYSICAL EDUCATION OR ATHLETIC ACTIVITY HELD ON THE PREMISES OF OR SPONSORED BY A PUBLIC SCHOOL.~~

(F) "STUDENT WITH A DISABILITY" MEANS A STUDENT WHO MEETS THE DEFINITION OF A "HANDICAPPED PERSON" AS DEFINED IN 45 C.F.R. § 84.3(J).

7–4B–02.

(A) ~~THE~~ SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE ~~DEPARTMENT~~ STATE BOARD AND EACH COUNTY ~~SCHOOL SYSTEM~~ BOARD SHALL:

~~(1) ENSURE THE PARTICIPATION OF STUDENTS WITH DISABILITIES INTO PHYSICAL EDUCATION AND ATHLETIC PROGRAMS FOR STUDENTS WITHOUT DISABILITIES TO THE MAXIMUM EXTENT POSSIBLE;~~

(1) ENSURE THAT STUDENTS WITH DISABILITIES HAVE AN EQUAL OPPORTUNITY TO:

(I) PARTICIPATE IN MAINSTREAM PHYSICAL EDUCATION PROGRAMS; AND

(II) TRY OUT FOR AND, IF SELECTED, PARTICIPATE IN MAINSTREAM ATHLETIC PROGRAMS;

(2) ENSURE THE PROVISION OF REASONABLE ACCOMMODATIONS NECESSARY TO PROVIDE STUDENTS WITH DISABILITIES EQUAL OPPORTUNITY TO PARTICIPATE, TO THE FULLEST EXTENT POSSIBLE, IN MAINSTREAM PHYSICAL EDUCATION AND MAINSTREAM ATHLETIC PROGRAMS; AND

(3) ENSURE THAT ADAPTED, ALLIED, OR UNIFIED PHYSICAL EDUCATION AND ATHLETIC PROGRAMS ~~FOR STUDENTS WITH DISABILITIES ARE DEVELOPED TO PROVIDE STUDENTS WITH DISABILITIES WITH A PHYSICAL~~

~~EDUCATION OR ATHLETIC PROGRAM THAT IS AS EFFECTIVE AS PROGRAMS PROVIDED TO STUDENTS WITHOUT DISABILITIES~~ ARE AVAILABLE.

(B) AN EXCEPTION TO THE ~~REQUIREMENT~~ REQUIREMENTS UNDER SUBSECTION ~~(A)(1)~~ (A) OF THIS SECTION MAY BE MADE WHEN THE INCLUSION OF A STUDENT:

(1) PRESENTS AN OBJECTIVE SAFETY RISK TO THE STUDENT OR TO OTHERS, BASED ON AN INDIVIDUALIZED ASSESSMENT OF THE STUDENT; OR

(2) FUNDAMENTALLY ALTERS THE NATURE OF THE SCHOOL'S MAINSTREAM PHYSICAL EDUCATION OR MAINSTREAM ATHLETIC ~~ATHLETIC OR PHYSICAL EDUCATION~~ PROGRAM.

~~(C) (1) A COUNTY SCHOOL SYSTEM SHALL CONSIDER DEVELOPING SINGLE–SEX COMPETITIVE TEAMS FOR STUDENTS WITH DISABILITIES IN PUBLIC SECONDARY SCHOOLS.~~

~~(2) A PROGRAM DEVELOPED UNDER THIS SUBSECTION SHALL CONSIDER THE INTERESTS OF THE STUDENTS FOR WHOM THE PROGRAMS ARE BEING DEVELOPED AND THE INTERESTS OF THE SCHOOL SYSTEM IN DEVELOPING A SPECTRUM OF ATHLETIC EXPERIENCES TO STUDENTS.~~

~~(3) COUNTY SCHOOL SYSTEMS SHALL:~~

~~(I) ENCOURAGE FEMALE STUDENTS WITH DISABILITIES TO PARTICIPATE IN ADAPTED PROGRAMS; AND~~

~~(II) ENSURE THAT FEMALE STUDENTS WITH DISABILITIES ARE ADEQUATELY REPRESENTED IN ADAPTED PROGRAMS.~~

~~(4) A COUNTY SCHOOL SYSTEM MAY INCLUDE STUDENTS OF BOTH SEXES IN A PROGRAM DEVELOPED UNDER THIS SUBSECTION IF THE SCHOOL SYSTEM CAN DEMONSTRATE THAT THE PROGRAM HAS BEEN DEVELOPED TO PROVIDE EQUAL OPPORTUNITIES TO BOTH SEXES AND THE SCHOOL SYSTEM HAS CONSIDERED THE SYSTEM'S CAPACITY TO PROVIDE SINGLE–SEX COMPETITIVE TEAMS.~~

~~(D)~~ (C) THE PROVISION OF ADAPTED, ALLIED, OR UNIFIED PROGRAMS FOR STUDENTS WITH DISABILITIES DOES NOT MITIGATE THE DUTY OF A COUNTY ~~SCHOOL SYSTEM~~ BOARD TO PROVIDE AN INDIVIDUAL STUDENT WITH A DISABILITY AN EQUAL OPPORTUNITY TO BE FULLY INCLUDED IN

MAINSTREAM PHYSICAL EDUCATION AND MAINSTREAM ATHLETIC PROGRAMS ~~AVAILABLE TO STUDENTS WITHOUT DISABILITIES~~.

7–4B–03.

(A) A COUNTY ~~SCHOOL SYSTEM~~ BOARD SHALL:

(1) DEVELOP POLICIES AND PROCEDURES TO PROMOTE AND PROTECT THE INCLUSION OF STUDENTS WITH DISABILITIES INTO MAINSTREAM PHYSICAL EDUCATION AND MAINSTREAM ATHLETIC PROGRAMS; AND

(2) PROVIDE THE OPPORTUNITY FOR STUDENTS WITH ~~AND WITHOUT~~ DISABILITIES TO PARTICIPATE IN EXTRACURRICULAR OR INTERSCHOLASTIC COMPETITION, AS DEMONSTRATED BY:

(I) EQUIVALENT OPPORTUNITIES FOR PARTICIPATION IN EXTRACURRICULAR OR INTERSCHOLASTIC ATHLETIC PROGRAMS ~~FOR STUDENTS WITH DISABILITIES AND STUDENTS WITHOUT DISABILITIES IN NUMBERS SUBSTANTIALLY PROPORTIONATE TO THEIR RESPECTIVE ENROLLMENTS; AND~~; OR

(II) EVIDENCE INDICATING THAT THE INTERESTS AND ABILITIES OF STUDENTS WITH DISABILITIES HAVE BEEN FULLY AND EFFECTIVELY ACCOMMODATED BY THE ~~SCHOOL SYSTEM'S~~ COUNTY BOARD'S IMPLEMENTED PROGRAMS~~; AND~~.

(B) THE STATE BOARD SHALL ADOPT A MODEL POLICY TO ASSIST A COUNTY BOARD WITH THE IMPLEMENTATION OF THIS SECTION.

~~(3) PROVIDE STUDENTS WITH DISABILITIES WITH BENEFITS AND OPPORTUNITIES EQUIVALENT TO THOSE PROVIDED TO STUDENTS WITHOUT DISABILITIES IN THE FOLLOWING AREAS:~~

~~(I) PROVISION AND MAINTENANCE OF EQUIPMENT AND SUPPLIES;~~

~~(II) PROVISION OF THE OPPORTUNITY TO ACTIVELY PARTICIPATE AND BE RECOGNIZED AS AN ATHLETE OR TEAM MEMBER;~~

~~(III) SCHEDULING OF ATHLETIC ACTIVITIES, INCLUDING GAMES AND PRACTICE TIMES;~~

~~(IV) PROVISION OF FACILITIES, INCLUDING LOCKER ROOMS;~~

~~(V) ACCESSIBLE TRAVEL AND ACCOMMODATIONS;~~

~~(VI) OPPORTUNITY TO RECEIVE COACHING;~~

~~(VII) PUBLICITY AND SUPPORT SERVICES; AND~~

~~(VIII) ADMINISTRATIVE SUPPORT.~~

~~**7–4B–04.**~~

~~(A) EACH COUNTY SCHOOL SYSTEM SHALL DESIGNATE AT LEAST ONE QUALIFIED EMPLOYEE TO COORDINATE ITS EFFORTS TO COMPLY WITH AND CARRY OUT THE SYSTEM'S RESPONSIBILITIES UNDER THIS SUBTITLE, INCLUDING THE INVESTIGATION OF ANY COMPLAINT ALLEGING NONCOMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.~~

~~(B) (1) EACH COUNTY SCHOOL SYSTEM SHALL ANNUALLY NOTIFY ALL STUDENTS, PARENTS, OR GUARDIANS OF THE NAME, OFFICE ADDRESS, AND OFFICE TELEPHONE NUMBER OF THE EMPLOYEE OR EMPLOYEES DESIGNATED UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(2) (I) EACH COUNTY SCHOOL SYSTEM SHALL NOTIFY ALL STUDENTS, PARENTS, AND GUARDIANS OF THE RIGHTS OF STUDENTS WITH DISABILITIES UNDER THIS SUBTITLE NO LATER THAN THE FIRST WEEK OF A NEW ACADEMIC YEAR OR AT REGISTRATION.~~

~~(II) THE RIGHTS OF STUDENTS WITH DISABILITIES UNDER THIS SUBTITLE SHALL BE PUBLISHED IN ANY STUDENT HANDBOOK OR PUBLICATION DESCRIBING SCHOOL ATHLETIC OFFERINGS.~~

~~(C) (1) EACH COUNTY SCHOOL SYSTEM SHALL ADOPT AND PUBLISH GRIEVANCE PROCEDURES PROVIDING FOR PROMPT AND EQUITABLE RESOLUTION OF WRITTEN STUDENT COMPLAINTS, INCLUDING COMPLAINTS BROUGHT BY A PARENT, GUARDIAN, OR LEGAL REPRESENTATIVE OF A STUDENT WHO IS ALLEGING ANY ACTION THAT WOULD BE A VIOLATION OF THE PROVISIONS OF THIS SUBTITLE.~~

~~(2) THE FILING OF A COMPLAINT WITH A COUNTY SCHOOL SYSTEM DOES NOT LIMIT THE RIGHT OF A STUDENT, PARENT, OR GUARDIAN TO PURSUE ANY AVAILABLE LEGAL REMEDIES.~~

~~**7–4B–05.**~~

7–4B–04.

(A) THE DEPARTMENT SHALL MONITOR THE COMPLIANCE OF COUNTY ~~SCHOOL SYSTEMS~~ BOARDS WITH THE PROVISIONS OF THIS SUBTITLE.

(B) THE DEPARTMENT MAY~~:~~

~~(1)~~ ~~INVESTIGATE~~ INVESTIGATE AND TAKE CORRECTIVE ACTION IN RESPONSE TO COMPLAINTS FROM PARENTS, GUARDIANS, OR LEGAL REPRESENTATIVES OF STUDENTS WITH DISABILITIES WHO ALLEGE A VIOLATION OF THE PROVISIONS OF THIS SUBTITLE~~; AND~~.

~~(2) REQUIRE CORRECTIVE ACTION PLANS FROM SCHOOLS OR COUNTY SCHOOL SYSTEMS TO EFFECTUATE COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.~~

~~(C) IF, AFTER PROVIDING A REASONABLE TIME FOR COMPLIANCE, THE DEPARTMENT DETERMINES THAT A SCHOOL OR COUNTY SCHOOL SYSTEM HAS FAILED TO IMPLEMENT A CORRECTIVE ACTION PLAN OR HAS OTHERWISE FAILED TO COMPLY WITH THE PROVISIONS OF THIS SUBTITLE, THE STATE BOARD, ON RECOMMENDATION FROM THE DEPARTMENT, MAY:~~

~~(1) ORDER THAT AN ATHLETIC TEAM OR TEAMS WITHIN THE APPLICABLE SCHOOL OR SCHOOL SYSTEM SHALL NOT PARTICIPATE IN OR SHALL BE DISQUALIFIED FROM INTERSCHOLASTIC ATHLETIC COMPETITION, INCLUDING POSTSEASON ATHLETIC CONTESTS FOR STUDENTS WITHOUT DISABILITIES; OR~~

~~(2) WITHHOLD FUNDS IN AN AMOUNT THAT THE STATE BOARD DETERMINES IS SUFFICIENT TO SECURE THE SCHOOL OR SCHOOL SYSTEM'S COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.~~

~~(D) ANY FUNDS WITHHELD BY THE STATE BOARD UNDER THIS SUBSECTION MAY BE ALLOTTED TO THE APPLICABLE SCHOOL OR SCHOOL SYSTEM UPON THE STATE BOARD'S DETERMINATION THAT THE APPLICABLE SCHOOL OR SCHOOL SYSTEM IS IN COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.~~

~~7–4B–06.~~

7–4B–05.

(A) ON OR BEFORE ~~OCTOBER~~ FEBRUARY 1 OF EACH YEAR, EACH COUNTY BOARD SHALL SUBMIT TO THE DEPARTMENT A REPORT OF THE SCHOOL SYSTEM'S COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.

(B) THE FIRST ANNUAL REPORT COMPLETED BY A COUNTY BOARD IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) ~~AN ASSESSMENT OF HOW MANY~~ THE NUMBER OF STUDENTS WITH DISABILITIES THAT PARTICIPATE IN THE SCHOOL SYSTEM'S MAINSTREAM PHYSICAL EDUCATION OR MAINSTREAM ATHLETIC PROGRAMS; AND

~~(2) THE TYPES OF DISABILITIES POSSESSED BY STUDENTS WITH DISABILITIES WHO PARTICIPATE IN THE SCHOOL SYSTEM'S PHYSICAL EDUCATION OR ATHLETIC PROGRAMS;~~

~~(3) A LIST OF ACCOMMODATIONS PROVIDED BY THE SCHOOL SYSTEM TO ENSURE PARTICIPATION BY STUDENTS WITH DISABILITIES IN SCHOOL SYSTEM PHYSICAL EDUCATION OR ATHLETIC PROGRAMS; AND~~

~~(4)~~ (2) A DESCRIPTION OF PLANS BY THE ~~SCHOOL SYSTEM~~ COUNTY BOARD TO AFFIRMATIVELY ENGAGE STUDENTS WITH DISABILITIES IN MAINSTREAM PHYSICAL EDUCATION OR MAINSTREAM ATHLETIC PROGRAMS.

(C) REPORTS SUBMITTED BY A COUNTY ~~SCHOOL SYSTEM~~ BOARD SUBSEQUENT TO THE REPORT SUBMITTED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE CONSISTENT WITH REGULATIONS ADOPTED BY THE STATE BOARD. ~~INCLUDE:~~

~~(1) THE NUMBER OF STUDENTS WITH DISABILITIES WHO HAVE BEEN INCLUDED IN MAINSTREAM PHYSICAL EDUCATION AND ATHLETIC PROGRAMS;~~

~~(2) THE NUMBER AND TYPE OF ACCOMMODATIONS THAT HAVE BEEN PROVIDED FOR PHYSICAL EDUCATION AND ATHLETIC PROGRAMS TO ENSURE PARTICIPATION BY STUDENTS WITH DISABILITIES;~~

~~(3) THE ADAPTED PROGRAMS THAT HAVE BEEN DEVELOPED TO PROVIDE OPPORTUNITIES FOR STUDENTS WITH DISABILITIES TO PARTICIPATE IN PHYSICAL EDUCATION AND ATHLETIC PROGRAMS;~~

~~(4) THE NUMBER OF STUDENTS WITH DISABILITIES WHO PARTICIPATED IN ADAPTED PROGRAMS; AND~~

~~(5) A LIST OF EFFORTS MADE BY THE SCHOOL SYSTEM TO ENCOURAGE THE PARTICIPATION OF STUDENTS WITH DISABILITIES IN PHYSICAL EDUCATION AND ATHLETIC PROGRAMS.~~

~~(D) THE DEPARTMENT SHALL DIRECT A COUNTY BOARD OF EDUCATION THAT HAS FAILED TO SUBMIT A REPORT REQUIRED UNDER THIS SECTION TO TAKE THOSE STEPS NECESSARY FOR THE SCHOOL SYSTEM TO COMPLY WITH THE REPORTING REQUIREMENTS OF THIS SECTION.~~

~~(E)~~ (D) ON OR BEFORE ~~DECEMBER 31~~ MAY 1 OF EACH YEAR, THE DEPARTMENT SHALL, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, SUBMIT TO THE GENERAL ASSEMBLY A REPORT OF ~~COUNTY SCHOOL SYSTEM~~ COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.

~~7–4B–07.~~ 7–4B–06.

(A) THE DEPARTMENT SHALL ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THIS SUBTITLE.

(B) THE DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE TO COUNTY ~~SCHOOL SYSTEMS~~ BOARDS CONCERNING THE PROVISIONS OF THIS SUBTITLE.

~~(C) (1) THE RIGHTS, REMEDIES, AND PROHIBITIONS PROVIDED UNDER THIS SUBTITLE SHALL BE IN ADDITION TO AND CUMULATIVE OF ANY OTHER RIGHT, REMEDY, OR PROHIBITION PROVIDED UNDER COMMON LAW, FEDERAL LAW, ANY OTHER LAWS OF THIS STATE, A CONSENT DECREE, OR ANY OTHER SETTLEMENT AGREEMENT ENTERED INTO BY A LOCAL OR STATE GOVERNMENTAL AGENCY TO ADDRESS EQUITY FOR INDIVIDUALS WITH DISABILITIES IN PHYSICAL EDUCATION OR ATHLETIC PROGRAMS.~~

~~(2) THIS SUBTITLE MAY NOT BE CONSTRUED TO DENY, ABROGATE, OR IMPAIR ANY SUCH FEDERAL OR STATE COMMON–LAW OR STATUTORY RIGHT, REMEDY, OR PROHIBITION.~~

~~(D)~~ ~~(C)~~ ~~(1) THE PROVISIONS OF THIS SUBTITLE MAY BE ENFORCED AGAINST THE STATE BOARD OR A COUNTY SCHOOL SYSTEM BOARD BY A CIVIL ACTION FOR ANY AVAILABLE RELIEF, INCLUDING INJUNCTIVE RELIEF OR DAMAGES, OR BOTH, WHICH SHALL BE INDEPENDENT OF ANY OTHER RIGHTS AND REMEDIES AND SHALL INCLUDE A RIGHT TO ATTORNEYS' FEES.~~

~~(2) A COURT MAY AWARD ATTORNEY'S FEES.~~

SECTION 2. AND BE IT FURTHER ENACTED, That any county ~~school system~~ board of education subject to the provisions of this Act shall be in compliance with the provisions of this Act as expeditiously as possible, but no later than 3 years from the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 465

(House Bill 1411)

AN ACT concerning

Fitness and Athletics Equity for Students with Disabilities Act

FOR the purpose of requiring county ~~school systems~~ boards of education to ensure ~~the participation of~~ that students with disabilities have certain opportunities in certain physical education and certain athletic programs; providing for certain exceptions to these requirements under certain circumstances; requiring county ~~school systems~~ boards to provide certain accommodations; requiring county ~~school systems~~ boards to develop certain ~~programs,~~ policies~~,~~ and procedures; requiring county ~~school systems~~ boards to provide opportunities meeting certain criteria to students; ~~requiring county school systems to designate a certain employee to handle certain duties and responsibilities; requiring each county school system to provide notice of certain information to certain individuals; requiring each county school system to adopt and publish grievance procedures meeting certain criteria;~~ requiring the State Board of Education to adopt a certain model policy to assist certain county boards; requiring the State Department of Education to monitor compliance by county ~~school systems~~ boards with certain requirements; authorizing the Department to investigate and take or require certain action in response to certain complaints; ~~authorizing the Department to make certain determinations; authorizing the State Board of Education to take certain actions;~~ requiring county ~~school systems~~ boards and the Department to provide certain reports; requiring the Department to adopt certain regulations; ~~clarifying the availability of certain legal remedies; providing for the availability of certain legal action for noncompliance with certain provisions;~~ defining certain terms; providing for a deadline for ~~local~~

~~school system~~ compliance with certain provisions; providing for the construction of this Act; and generally relating to access to physical education and athletic programs in public schools by students with disabilities.

BY adding to
Article – Education
Section 7–4B–01 through ~~7–4B–07~~ 7–4B–06 to be under the new subtitle "Subtitle 4B. Physical Education and Athletic Programs for Students with Disabilities"
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, The Rehabilitation Act of 1973 provides that exclusion and segregation of individuals with disabilities by recipients of federal funds is prohibited discrimination; and

WHEREAS, The Americans with Disabilities Act, signed into law in 1990, provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity; and

WHEREAS, Maryland public schools offer a variety of physical education and athletic opportunities to students that provide numerous educational benefits, including greater academic success, better physical and psychological health, responsible social behaviors, and enhanced interpersonal skills; and

WHEREAS, Sports participation is an effective intervention in combating obesity; and

WHEREAS, The aforementioned benefits and opportunities are particularly significant for students with disabilities; and

WHEREAS, Approximately 56 million people in the United States have documented disabilities; and

WHEREAS, Studies indicate that 56% of people with disabilities do not engage in any physical activity, compared to 36% of people without disabilities, and only 23% of people with disabilities are active for 30 minutes three or more times per week; and

WHEREAS, Childhood obesity is a national health concern, and physical activity can help prevent secondary health problems related to disabilities; and

WHEREAS, Students with disabilities have historically been underserved by school physical education and physical activity programs, such as athletics; and

WHEREAS, Including students with disabilities in mainstream physical education and athletic programs and adapted programs can provide students with disabilities with the opportunity to realize the full benefits of such programs; now, therefore,

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

Article – Education

SUBTITLE 4B. PHYSICAL EDUCATION AND ATHLETIC PROGRAMS FOR STUDENTS WITH DISABILITIES.

7–4B–01.

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

(B) "ADAPTED PROGRAM" MEANS A PROGRAM THAT IS ~~SPECIFICALLY~~ DEVELOPED FOR A STUDENT WITH A DISABILITY.

(C) "ALLIED SPORTS OR UNIFIED PROGRAM" MEANS A PROGRAM THAT IS SPECIFICALLY DESIGNED TO COMBINE GROUPS OF STUDENTS WITH AND WITHOUT DISABILITIES TOGETHER IN PHYSICAL ACTIVITY.

(D) "MAINSTREAM ATHLETIC PROGRAM" MEANS INTRAMURAL OR INTERSCHOLASTIC ATHLETIC ACTIVITY THAT IS DEVELOPED AND OFFERED TO STUDENTS IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE STATE BOARD.

~~(D)~~ (E) "MAINSTREAM PHYSICAL EDUCATION ~~AND ATHLETIC~~ PROGRAM" MEANS A ~~SCHOOL–BASED ACTIVITY~~ PHYSICAL EDUCATION PROGRAM THAT IS DEVELOPED AND OFFERED TO ~~ALL~~ STUDENTS IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE STATE BOARD.

~~(E) "PHYSICAL EDUCATION AND ATHLETIC PROGRAM" MEANS A PHYSICAL EDUCATION OR ATHLETIC ACTIVITY HELD ON THE PREMISES OF OR SPONSORED BY A PUBLIC SCHOOL.~~

(F) "STUDENT WITH A DISABILITY" MEANS A STUDENT WHO MEETS THE DEFINITION OF A "HANDICAPPED PERSON" AS DEFINED IN 45 C.F.R. § 84.3(J).

7–4B–02.

(A) ~~THE~~ SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE ~~DEPARTMENT~~ STATE BOARD AND EACH COUNTY ~~SCHOOL SYSTEM~~ BOARD SHALL:

~~(1) ENSURE THE PARTICIPATION OF STUDENTS WITH DISABILITIES INTO PHYSICAL EDUCATION AND ATHLETIC PROGRAMS FOR STUDENTS WITHOUT DISABILITIES TO THE MAXIMUM EXTENT POSSIBLE;~~

(1) ENSURE THAT STUDENTS WITH DISABILITIES HAVE AN EQUAL OPPORTUNITY TO:

(I) PARTICIPATE IN MAINSTREAM PHYSICAL EDUCATION PROGRAMS; AND

(II) TRY OUT FOR AND, IF SELECTED, PARTICIPATE IN MAINSTREAM ATHLETIC PROGRAMS;

(2) ENSURE THE PROVISION OF REASONABLE ACCOMMODATIONS NECESSARY TO PROVIDE STUDENTS WITH DISABILITIES EQUAL OPPORTUNITY TO PARTICIPATE, TO THE FULLEST EXTENT POSSIBLE, IN MAINSTREAM PHYSICAL EDUCATION AND MAINSTREAM ATHLETIC PROGRAMS; AND

(3) ENSURE THAT ADAPTED, ALLIED, OR UNIFIED PHYSICAL EDUCATION AND ATHLETIC PROGRAMS ~~FOR STUDENTS WITH DISABILITIES ARE DEVELOPED TO PROVIDE STUDENTS WITH DISABILITIES WITH A PHYSICAL EDUCATION OR ATHLETIC PROGRAM THAT IS AS EFFECTIVE AS PROGRAMS PROVIDED TO STUDENTS WITHOUT DISABILITIES~~ ARE AVAILABLE.

(B) AN EXCEPTION TO THE ~~REQUIREMENT~~ REQUIREMENTS UNDER SUBSECTION ~~(A)(1)~~ (A) OF THIS SECTION MAY BE MADE WHEN THE INCLUSION OF A STUDENT:

(1) PRESENTS AN OBJECTIVE SAFETY RISK TO THE STUDENT OR TO OTHERS, BASED ON AN INDIVIDUALIZED ASSESSMENT OF THE STUDENT; OR

(2) FUNDAMENTALLY ALTERS THE NATURE OF THE SCHOOL'S MAINSTREAM PHYSICAL EDUCATION OR MAINSTREAM ATHLETIC ~~ATHLETIC OR PHYSICAL EDUCATION~~ PROGRAM.

~~(C) (1) A COUNTY SCHOOL SYSTEM SHALL CONSIDER DEVELOPING SINGLE–SEX COMPETITIVE TEAMS FOR STUDENTS WITH DISABILITIES IN PUBLIC SECONDARY SCHOOLS.~~

~~(2) A PROGRAM DEVELOPED UNDER THIS SUBSECTION SHALL CONSIDER THE INTERESTS OF THE STUDENTS FOR WHOM THE PROGRAMS ARE BEING DEVELOPED AND THE INTERESTS OF THE SCHOOL SYSTEM IN DEVELOPING A SPECTRUM OF ATHLETIC EXPERIENCES TO STUDENTS.~~

~~(3) COUNTY SCHOOL SYSTEMS SHALL:~~

~~(I) ENCOURAGE FEMALE STUDENTS WITH DISABILITIES TO PARTICIPATE IN ADAPTED PROGRAMS; AND~~

~~(II) ENSURE THAT FEMALE STUDENTS WITH DISABILITIES ARE ADEQUATELY REPRESENTED IN ADAPTED PROGRAMS.~~

~~(4) A COUNTY SCHOOL SYSTEM MAY INCLUDE STUDENTS OF BOTH SEXES IN A PROGRAM DEVELOPED UNDER THIS SUBSECTION IF THE SCHOOL SYSTEM CAN DEMONSTRATE THAT THE PROGRAM HAS BEEN DEVELOPED TO PROVIDE EQUAL OPPORTUNITIES TO BOTH SEXES AND THE SCHOOL SYSTEM HAS CONSIDERED THE SYSTEM'S CAPACITY TO PROVIDE SINGLE–SEX COMPETITIVE TEAMS.~~

~~(D)~~ (C) **THE PROVISION OF ADAPTED, ALLIED, OR UNIFIED PROGRAMS FOR STUDENTS WITH DISABILITIES DOES NOT MITIGATE THE DUTY OF A COUNTY ~~SCHOOL SYSTEM~~ BOARD TO PROVIDE AN INDIVIDUAL STUDENT WITH A DISABILITY AN EQUAL OPPORTUNITY TO BE FULLY INCLUDED IN MAINSTREAM PHYSICAL EDUCATION AND MAINSTREAM ATHLETIC PROGRAMS ~~AVAILABLE TO STUDENTS WITHOUT DISABILITIES~~.**

7–4B–03.

(A) A COUNTY ~~SCHOOL SYSTEM~~ BOARD SHALL:

(1) DEVELOP POLICIES AND PROCEDURES TO PROMOTE AND PROTECT THE INCLUSION OF STUDENTS WITH DISABILITIES INTO MAINSTREAM PHYSICAL EDUCATION AND MAINSTREAM ATHLETIC PROGRAMS; AND

(2) PROVIDE THE OPPORTUNITY FOR STUDENTS WITH ~~AND WITHOUT~~ DISABILITIES TO PARTICIPATE IN EXTRACURRICULAR OR INTERSCHOLASTIC COMPETITION, AS DEMONSTRATED BY:

(I) EQUIVALENT OPPORTUNITIES FOR PARTICIPATION IN EXTRACURRICULAR OR INTERSCHOLASTIC ATHLETIC PROGRAMS ~~FOR STUDENTS WITH DISABILITIES AND STUDENTS WITHOUT DISABILITIES IN NUMBERS SUBSTANTIALLY PROPORTIONATE TO THEIR RESPECTIVE ENROLLMENTS; AND~~; OR

(II) EVIDENCE INDICATING THAT THE INTERESTS AND ABILITIES OF STUDENTS WITH DISABILITIES HAVE BEEN FULLY AND EFFECTIVELY ACCOMMODATED BY THE ~~SCHOOL SYSTEM'S~~ COUNTY BOARD'S IMPLEMENTED PROGRAMS~~; AND~~.

(B) THE STATE BOARD SHALL ADOPT A MODEL POLICY TO ASSIST A COUNTY BOARD WITH THE IMPLEMENTATION OF THIS SECTION.

~~(3) PROVIDE STUDENTS WITH DISABILITIES WITH BENEFITS AND OPPORTUNITIES EQUIVALENT TO THOSE PROVIDED TO STUDENTS WITHOUT DISABILITIES IN THE FOLLOWING AREAS:~~

~~(I) PROVISION AND MAINTENANCE OF EQUIPMENT AND SUPPLIES;~~

~~(II) PROVISION OF THE OPPORTUNITY TO ACTIVELY PARTICIPATE AND BE RECOGNIZED AS AN ATHLETE OR TEAM MEMBER;~~

~~(III) SCHEDULING OF ATHLETIC ACTIVITIES, INCLUDING GAMES AND PRACTICE TIMES;~~

~~(IV) PROVISION OF FACILITIES, INCLUDING LOCKER ROOMS;~~

~~(V) ACCESSIBLE TRAVEL AND ACCOMMODATIONS;~~

~~(VI) OPPORTUNITY TO RECEIVE COACHING;~~

~~(VII) PUBLICITY AND SUPPORT SERVICES; AND~~

~~(VIII) ADMINISTRATIVE SUPPORT.~~

~~7–4B–04.~~

~~(A) EACH COUNTY SCHOOL SYSTEM SHALL DESIGNATE AT LEAST ONE QUALIFIED EMPLOYEE TO COORDINATE ITS EFFORTS TO COMPLY WITH AND CARRY OUT THE SYSTEM'S RESPONSIBILITIES UNDER THIS SUBTITLE,~~

~~INCLUDING THE INVESTIGATION OF ANY COMPLAINT ALLEGING NONCOMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.~~

~~(B) (1) EACH COUNTY SCHOOL SYSTEM SHALL ANNUALLY NOTIFY ALL STUDENTS, PARENTS, OR GUARDIANS OF THE NAME, OFFICE ADDRESS, AND OFFICE TELEPHONE NUMBER OF THE EMPLOYEE OR EMPLOYEES DESIGNATED UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(2) (I) EACH COUNTY SCHOOL SYSTEM SHALL NOTIFY ALL STUDENTS, PARENTS, AND GUARDIANS OF THE RIGHTS OF STUDENTS WITH DISABILITIES UNDER THIS SUBTITLE NO LATER THAN THE FIRST WEEK OF A NEW ACADEMIC YEAR OR AT REGISTRATION.~~

~~(II) THE RIGHTS OF STUDENTS WITH DISABILITIES UNDER THIS SUBTITLE SHALL BE PUBLISHED IN ANY STUDENT HANDBOOK OR PUBLICATION DESCRIBING SCHOOL ATHLETIC OFFERINGS.~~

~~(C) (1) EACH COUNTY SCHOOL SYSTEM SHALL ADOPT AND PUBLISH GRIEVANCE PROCEDURES PROVIDING FOR PROMPT AND EQUITABLE RESOLUTION OF WRITTEN STUDENT COMPLAINTS, INCLUDING COMPLAINTS BROUGHT BY A PARENT, GUARDIAN, OR LEGAL REPRESENTATIVE OF A STUDENT WHO IS ALLEGING ANY ACTION THAT WOULD BE A VIOLATION OF THE PROVISIONS OF THIS SUBTITLE.~~

~~(2) THE FILING OF A COMPLAINT WITH A COUNTY SCHOOL SYSTEM DOES NOT LIMIT THE RIGHT OF A STUDENT, PARENT, OR GUARDIAN TO PURSUE ANY AVAILABLE LEGAL REMEDIES.~~

~~7–4B–05.~~ 7–4B–04.

(A) THE DEPARTMENT SHALL MONITOR THE COMPLIANCE OF COUNTY ~~SCHOOL SYSTEMS~~ BOARDS WITH THE PROVISIONS OF THIS SUBTITLE.

(B) THE DEPARTMENT MAY~~:~~

~~(1) INVESTIGATE~~ INVESTIGATE AND TAKE CORRECTIVE ACTION IN RESPONSE TO COMPLAINTS FROM PARENTS, GUARDIANS, OR LEGAL REPRESENTATIVES OF STUDENTS WITH DISABILITIES WHO ALLEGE A VIOLATION OF THE PROVISIONS OF THIS SUBTITLE~~; AND~~.

~~(2) REQUIRE CORRECTIVE ACTION PLANS FROM SCHOOLS OR COUNTY SCHOOL SYSTEMS TO EFFECTUATE COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.~~

~~(C) IF, AFTER PROVIDING A REASONABLE TIME FOR COMPLIANCE, THE DEPARTMENT DETERMINES THAT A SCHOOL OR COUNTY SCHOOL SYSTEM HAS FAILED TO IMPLEMENT A CORRECTIVE ACTION PLAN OR HAS OTHERWISE FAILED TO COMPLY WITH THE PROVISIONS OF THIS SUBTITLE, THE STATE BOARD, ON RECOMMENDATION FROM THE DEPARTMENT, MAY:~~

~~(1) ORDER THAT AN ATHLETIC TEAM OR TEAMS WITHIN THE APPLICABLE SCHOOL OR SCHOOL SYSTEM SHALL NOT PARTICIPATE IN OR SHALL BE DISQUALIFIED FROM INTERSCHOLASTIC ATHLETIC COMPETITION, INCLUDING POSTSEASON ATHLETIC CONTESTS FOR STUDENTS WITHOUT DISABILITIES; OR~~

~~(2) WITHHOLD FUNDS IN AN AMOUNT THAT THE STATE BOARD DETERMINES IS SUFFICIENT TO SECURE THE SCHOOL OR SCHOOL SYSTEM'S COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.~~

~~(D) ANY FUNDS WITHHELD BY THE STATE BOARD UNDER THIS SUBSECTION MAY BE ALLOTTED TO THE APPLICABLE SCHOOL OR SCHOOL SYSTEM UPON THE STATE BOARD'S DETERMINATION THAT THE APPLICABLE SCHOOL OR SCHOOL SYSTEM IS IN COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.~~

~~7–4B–06.~~ 7–4B–05.

(A) ON OR BEFORE ~~OCTOBER~~ FEBRUARY 1 OF EACH YEAR, EACH COUNTY BOARD SHALL SUBMIT TO THE DEPARTMENT A REPORT OF THE SCHOOL SYSTEM'S COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.

(B) THE FIRST ANNUAL REPORT COMPLETED BY A COUNTY BOARD IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) ~~AN ASSESSMENT OF HOW MANY~~ THE NUMBER OF STUDENTS WITH DISABILITIES THAT PARTICIPATE IN THE SCHOOL SYSTEM'S MAINSTREAM PHYSICAL EDUCATION OR MAINSTREAM ATHLETIC PROGRAMS; AND

~~(2) THE TYPES OF DISABILITIES POSSESSED BY STUDENTS WITH DISABILITIES WHO PARTICIPATE IN THE SCHOOL SYSTEM'S PHYSICAL EDUCATION OR ATHLETIC PROGRAMS;~~

~~(3) A LIST OF ACCOMMODATIONS PROVIDED BY THE SCHOOL SYSTEM TO ENSURE PARTICIPATION BY STUDENTS WITH DISABILITIES IN SCHOOL SYSTEM PHYSICAL EDUCATION OR ATHLETIC PROGRAMS; AND~~

~~(4)~~ (2) A DESCRIPTION OF PLANS BY THE ~~SCHOOL SYSTEM~~ COUNTY BOARD TO AFFIRMATIVELY ENGAGE STUDENTS WITH DISABILITIES IN MAINSTREAM PHYSICAL EDUCATION OR MAINSTREAM ATHLETIC PROGRAMS.

(C) REPORTS SUBMITTED BY A COUNTY ~~SCHOOL SYSTEM~~ BOARD SUBSEQUENT TO THE REPORT SUBMITTED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE CONSISTENT WITH REGULATIONS ADOPTED BY THE STATE BOARD. ~~INCLUDE:~~

~~(1) THE NUMBER OF STUDENTS WITH DISABILITIES WHO HAVE BEEN INCLUDED IN MAINSTREAM PHYSICAL EDUCATION AND ATHLETIC PROGRAMS;~~

~~(2) THE NUMBER AND TYPE OF ACCOMMODATIONS THAT HAVE BEEN PROVIDED FOR PHYSICAL EDUCATION AND ATHLETIC PROGRAMS TO ENSURE PARTICIPATION BY STUDENTS WITH DISABILITIES;~~

~~(3) THE ADAPTED PROGRAMS THAT HAVE BEEN DEVELOPED TO PROVIDE OPPORTUNITIES FOR STUDENTS WITH DISABILITIES TO PARTICIPATE IN PHYSICAL EDUCATION AND ATHLETIC PROGRAMS;~~

~~(4) THE NUMBER OF STUDENTS WITH DISABILITIES WHO PARTICIPATED IN ADAPTED PROGRAMS; AND~~

~~(5) A LIST OF EFFORTS MADE BY THE SCHOOL SYSTEM TO ENCOURAGE THE PARTICIPATION OF STUDENTS WITH DISABILITIES IN PHYSICAL EDUCATION AND ATHLETIC PROGRAMS.~~

~~(D) THE DEPARTMENT SHALL DIRECT A COUNTY BOARD OF EDUCATION THAT HAS FAILED TO SUBMIT A REPORT REQUIRED UNDER THIS SECTION TO TAKE THOSE STEPS NECESSARY FOR THE SCHOOL SYSTEM TO COMPLY WITH THE REPORTING REQUIREMENTS OF THIS SECTION.~~

~~(E)~~ (D) ON OR BEFORE ~~DECEMBER 31~~ MAY 1 OF EACH YEAR, THE DEPARTMENT SHALL, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, SUBMIT TO THE GENERAL ASSEMBLY A REPORT OF ~~COUNTY SCHOOL SYSTEM~~ COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE.

~~7–4B–07.~~ 7–4B–06.

(A) THE DEPARTMENT SHALL ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THIS SUBTITLE.

(B) THE DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE TO COUNTY SCHOOL SYSTEMS CONCERNING THE PROVISIONS OF THIS SUBTITLE.

~~**(C) (1) THE RIGHTS, REMEDIES, AND PROHIBITIONS PROVIDED UNDER THIS SUBTITLE SHALL BE IN ADDITION TO AND CUMULATIVE OF ANY OTHER RIGHT, REMEDY, OR PROHIBITION PROVIDED UNDER COMMON LAW, FEDERAL LAW, ANY OTHER LAWS OF THIS STATE, A CONSENT DECREE, OR ANY OTHER SETTLEMENT AGREEMENT ENTERED INTO BY A LOCAL OR STATE GOVERNMENTAL AGENCY TO ADDRESS EQUITY FOR INDIVIDUALS WITH DISABILITIES IN PHYSICAL EDUCATION OR ATHLETIC PROGRAMS.**~~

~~**(2) THIS SUBTITLE MAY NOT BE CONSTRUED TO DENY, ABROGATE, OR IMPAIR ANY SUCH FEDERAL OR STATE COMMON–LAW OR STATUTORY RIGHT, REMEDY, OR PROHIBITION.**~~

~~**(D) THE PROVISIONS OF THIS SUBTITLE MAY BE ENFORCED AGAINST THE STATE BOARD OR A COUNTY SCHOOL SYSTEM BY A CIVIL ACTION FOR ANY AVAILABLE RELIEF, INCLUDING INJUNCTIVE RELIEF OR DAMAGES, OR BOTH, WHICH SHALL BE INDEPENDENT OF ANY OTHER RIGHTS AND REMEDIES AND SHALL INCLUDE A RIGHT TO ATTORNEYS' FEES.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That any county ~~school system~~ board of education subject to the provisions of this Act shall be in compliance with the provisions of this Act as expeditiously as possible, but no later than 3 years from the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 466

(Senate Bill 885)

AN ACT concerning

The Jane E. Lawton Loan Program

FOR the purpose of establishing the Jane E. Lawton Conservation Loan Program; establishing the Jane E. Lawton Conservation Fund to finance the Program; consolidating certain programs administered by the Maryland Energy Administration into the Program; consolidating certain funds into the Fund; providing for the management and composition of the Fund; providing the powers and duties of the Administration with respect to the Program; providing that entities seeking loans under the Program comply with certain application procedures; establishing the purposes for which loans made under the Program may be used; providing that borrowers that receive loans under the Program must document that the anticipated energy cost savings over a defined period after the completion of the project funded by the loan are greater than the cost of the project; providing for repayment of the loans; authorizing the Administration to enter into contracts with third parties to make, service, or sell loans under this Act; prohibiting false statements to be made in applications for loans and providing certain penalties for entities that violate the prohibition; defining certain terms; providing that certain assets, liabilities, and obligations of the programs subject to repeal by this Act shall remain the assets, liabilities, and obligations of the fund established by this Act; and generally relating to the Jane E. Lawton Conservation Loan Program and Conservation Fund.

BY repealing
Article – State Government
Section 9–20A–01 through 9–20A–09 and the subtitle "Subtitle 20A. Energy Efficiency and Economic Development Loan Program"; and 9–2101 through 9–2109 and the subtitle "Subtitle 21. Community Energy Loan Program"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Government
Section 9–20A–01 through 9–20A–09 to be under the new subtitle "Subtitle 20A. Jane E. Lawton Conservation Loan Program"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Given current rates of energy consumption, Maryland may face electricity shortages as early as 2011; and

WHEREAS, Consumption of energy, particularly energy created by fossil fuels, is directly linked to emission of harmful pollutants that create health risks and contribute to global warming; and

WHEREAS, Technology to reduce the consumption of energy and utilization of fossil fuels by State agencies, municipalities, and the private sector does exist, but implementing such technology requires significant capital expenditure; and

WHEREAS, The late Delegate Jane E. Lawton was a tireless advocate for protection of our environment and long supported energy efficiency and conservation measures; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9–20A–01 through 9–20A–09 and the subtitle "Subtitle 20A. Energy Efficiency and Economic Development Loan Program"; and Section(s) 9–2101 through 9–2109 and the subtitle "Subtitle 21. Community Energy Loan Program" of Article – State Government of the Annotated Code of Maryland be repealed.

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

Article – State Government

SUBTITLE 20A. THE JANE E. LAWTON CONSERVATION LOAN PROGRAM.

9–20A–01.

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

(B) "ADMINISTRATION" MEANS THE MARYLAND ENERGY ADMINISTRATION.

(C) "BORROWER" MEANS AN ELIGIBLE LOCAL JURISDICTION, NONPROFIT ORGANIZATION, OR ELIGIBLE BUSINESS THAT APPLIES AND QUALIFIES FOR A LOAN UNDER THIS PROGRAM.

(D) "ELIGIBLE BUSINESS" MEANS A COMMERCIAL ENTERPRISE OR BUSINESS:

(1) THAT IS INCORPORATED IN THE STATE; OR

(2) WHOSE PRINCIPAL OWNERS ARE STATE RESIDENTS AND THE BUSINESS OF WHICH IS PRINCIPALLY CARRIED OUT IN THE STATE.

(E) "ENERGY COST SAVINGS" MEANS THE ACTUAL REDUCTION IN OPERATING EXPENSES RESULTING FROM THE IMPROVED ENERGY EFFICIENCY GENERATED BY AN ENERGY CONSERVATION PROJECT FINANCED UNDER THE PROGRAM.

(F) "FUND" MEANS THE JANE E. LAWTON CONSERVATION FUND.

(G) (1) "LOCAL JURISDICTION" MEANS ANY COUNTY OR MUNICIPALITY OF THE STATE.

(2) "LOCAL JURISDICTION" INCLUDES A BOARD OF EDUCATION OF A COUNTY OR MUNICIPALITY.

(H) "MUNICIPALITY" MEANS ANY MUNICIPAL CORPORATION IN THE STATE THAT IS SUBJECT TO THE PROVISIONS OF ARTICLE XI–E OF THE MARYLAND CONSTITUTION OR ANY DULY AUTHORIZED AGENCY OR INSTRUMENTALITY OF THE MUNICIPALITY.

(I) "NONPROFIT ORGANIZATION" MEANS A CORPORATION, FOUNDATION, SCHOOL, HOSPITAL, OR OTHER LEGAL ENTITY, NO PART OF THE NET EARNINGS OF WHICH INURE TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL HOLDING AN INTEREST IN THE ENTITY.

(J) "PROGRAM" MEANS THE JANE E. LAWTON CONSERVATION LOAN PROGRAM.

(K) (1) "PROJECT" MEANS ONE OR MORE IMPROVEMENTS OR MODIFICATIONS THAT ENHANCE THE ENERGY EFFICIENCY AND REDUCE THE OPERATING EXPENSES OF A STRUCTURE.

(2) "PROJECT" INCLUDES START–UP OPPORTUNITIES FOR NEW BUSINESSES IF THE LOAN WOULD ENHANCE THE ENERGY EFFICIENCY OF THE BORROWER'S BUSINESS.

(3) "PROJECT" DOES NOT INCLUDE IMPROVEMENTS OR MODIFICATIONS FOR ENERGY CONSERVATION IN STRUCTURES USED PRIMARILY FOR RELIGIOUS OR FRATERNAL ACTIVITIES.

9–20A–02.

THERE IS A JANE E. LAWTON CONSERVATION LOAN PROGRAM IN THE ADMINISTRATION.

9–20A–03.

THE PURPOSE OF THE PROGRAM IS TO PROVIDE FINANCIAL ASSISTANCE IN THE FORM OF LOW INTEREST LOANS TO NONPROFIT ORGANIZATIONS, LOCAL JURISDICTIONS, AND ELIGIBLE BUSINESSES FOR PROJECTS IN ORDER TO:

(1) PROMOTE ENERGY CONSERVATION;

(2) REDUCE CONSUMPTION OF FOSSIL FUELS;

(3) IMPROVE ENERGY EFFICIENCY; AND

(4) ENHANCE ENERGY–RELATED ECONOMIC DEVELOPMENT AND STABILITY IN BUSINESS, COMMERCIAL, AND INDUSTRIAL SECTORS.

9–20A–04.

THE ADMINISTRATION SHALL:

(1) MANAGE, SUPERVISE, AND ADMINISTER THE PROGRAM;

(2) ADOPT REGULATIONS TO ENSURE THAT LOANS ARE PROVIDED ONLY TO PROJECTS THAT CARRY OUT THE PURPOSE OF THE PROGRAM;

(3) ATTACH SPECIFIC TERMS TO ANY LOAN THAT ARE CONSIDERED NECESSARY TO ENSURE THAT THE PURPOSE OF THE PROGRAM IS FULFILLED; AND

(4) DEVELOP PROCEDURES FOR MONITORING PROJECTS TO ASSESS WHETHER THE IMPROVEMENTS OR MODIFICATIONS MADE BY AN ELIGIBLE ENTITY OR BUSINESS THAT HAD RECEIVED A LOAN UNDER THE PROGRAM HAVE RESULTED IN A MEASURABLE REDUCTION IN ENERGY CONSUMPTION.

9–20A–05.

(A) (1) TO RECEIVE A LOAN UNDER THE PROGRAM, A BORROWER MUST FILE AN APPLICATION WITH THE ADMINISTRATION.

(2) IF THE BORROWER IS AN ELIGIBLE BUSINESS, THE APPLICATION MUST BE SIGNED BY THE CHIEF OPERATING OFFICER OR AN AUTHORIZED OFFICER OF THE BUSINESS.

(3) IF THE BORROWER IS A LOCAL JURISDICTION, THE APPLICATION MUST BE SIGNED BY THE CHIEF ELECTED OFFICER OF THE COUNTY OR MUNICIPALITY, OR IF NONE, BY THE GOVERNING BODY OF THE COUNTY OR MUNICIPALITY IN WHICH THE PROJECT IS LOCATED.

(4) IF THE BORROWER IS A PUBLIC SCHOOL, THE APPLICATION MUST BE SIGNED BY THE BOARD OF EDUCATION OF THE COUNTY IN WHICH THE PROJECT IS LOCATED.

(B) THE APPLICATION SHALL CONTAIN ANY INFORMATION THE ADMINISTRATION DETERMINES IS NECESSARY, INCLUDING:

(1) THE PROJECTED COST TO ACCOMPLISH A PROPOSED PROJECT;

(2) IF APPLICABLE, THE AMOUNT OF ENERGY OR FUEL A PROPOSED PROJECT IS EXPECTED TO SAVE OVER A DEFINED PERIOD OF TIME AFTER COMPLETION OF THE PROJECT;

(3) THE ANTICIPATED ENVIRONMENTAL BENEFITS IN THE FORM OF REDUCED EMISSIONS OR POLLUTION ATTRIBUTABLE TO THE PROPOSED PROJECT;

(4) THE AMOUNT OF COST SAVINGS EXPECTED TO BE GENERATED OVER A DEFINED PERIOD OF TIME AFTER COMPLETION OF THE PROPOSED PROJECT;

(5) A DESCRIPTION OF THE BORROWER'S CONTRIBUTION TO A PROPOSED PROJECT AS REQUIRED BY § 9–20A–06 OF THIS SUBTITLE; AND

(6) ANY ADDITIONAL INFORMATION RELATING TO THE BORROWER OR THE PROPOSED PROJECT THAT MAY BE REQUIRED BY THE ADMINISTRATION IN ORDER TO ADMINISTER THE PROGRAM.

9–20A–06.

(A) LOANS FROM THE FUND MAY BE USED FOR:

(1) THE COSTS OF IMPLEMENTING PROJECTS, INCLUDING THE COSTS OF ALL NECESSARY:

(I) TECHNICAL ASSESSMENTS;

(II) STUDIES;

(III) SURVEYS;

(IV) PLANS AND SPECIFICATIONS; AND

(V) START–UP, ARCHITECTURAL, ENGINEERING, OR OTHER SPECIAL SERVICES;

(2) THE COSTS OF PROCURING NECESSARY TECHNOLOGY, EQUIPMENT, LICENSES, OR MATERIALS; AND

(3) THE COSTS OF CONSTRUCTION, REHABILITATION, OR MODIFICATION, INCLUDING THE PURCHASE AND INSTALLATION OF ANY NECESSARY MACHINERY, EQUIPMENT, OR FURNISHINGS.

(B) EACH BORROWER SHALL MAKE A CONTRIBUTION TO A PROJECT THAT IS OF A TYPE AND AMOUNT ACCEPTABLE TO THE ADMINISTRATION.

(C) IF THE SOLE OR PRIMARY PURPOSE OF THE PROJECT IS TO REDUCE ENERGY CONSUMPTION, THE BORROWER MUST DOCUMENT THAT THE ANTICIPATED ENERGY COST SAVINGS OVER A DEFINED PERIOD AFTER THE COMPLETION OF THE PROJECT ARE GREATER THAN THE COST OF THE PROJECT.

(D) LOANS MADE UNDER THE PROGRAM SHALL:

(1) BE REPAYABLE BY THE BORROWER FROM SPECIFIED REVENUES THAT MAY INCLUDE THE ENERGY COST SAVINGS GENERATED BY A PROJECT;

(2) BEAR INTEREST AT A RATE THAT THE ADMINISTRATION DETERMINES TO BE NECESSARY AND REASONABLE FOR THE PROJECT; AND

(3) BE REPAYABLE IN ACCORDANCE WITH A SCHEDULE THAT THE ADMINISTRATION SETS, WHICH MAY BE ON A DEFERRED PAYMENT BASIS.

(E) (1) A BORROWER SHALL PROVIDE ASSURANCES FOR THE REPAYMENT OF A LOAN.

(2) THE ASSURANCES:

(I) SHALL INCLUDE A PROMISSORY NOTE; AND

(II) MAY INCLUDE SUPERIOR OR SUBORDINATE MORTGAGE LIENS, GUARANTEES OF REPAYMENT, OR OTHER FORMS OF COLLATERAL.

(F) LOANS MAY BE MADE IN CONJUNCTION WITH, OR IN ADDITION TO, FINANCIAL ASSISTANCE PROVIDED THROUGH OTHER STATE OR FEDERAL PROGRAMS.

9–20A–07.

(A) THERE IS A JANE E. LAWTON CONSERVATION FUND.

(B) THE ADMINISTRATION SHALL ADMINISTER THE FUND.

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

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

(D) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE PROGRAM~~, INCLUDING MONEY APPROPRIATED TO THE ENERGY OVERCHARGE RESTITUTION FUND~~;

(2) MONEY RECEIVED FROM ANY PUBLIC OR PRIVATE SOURCE;

(3) INTEREST AND INVESTMENT EARNINGS ON THE FUND; AND

(4) REPAYMENTS AND PREPAYMENTS OF PRINCIPAL AND INTEREST ON LOANS MADE FROM THE FUND.

(E) THE FUND MAY BE USED ONLY:

(1) TO PAY THE EXPENSES OF THE PROGRAM; AND

(2) TO PROVIDE LOANS TO ELIGIBLE BORROWERS AND PROJECTS.

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

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(3) ANY REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS MADE FROM THE FUND SHALL BE PAID INTO THE FUND.

(G) (1) THE ADMINISTRATION SHALL ANNUALLY RESERVE A PORTION OF THE MONEY FROM THE FUND THAT IS AVAILABLE FOR FINANCIAL ASSISTANCE UNDER THE PROGRAM FOR LOANS TO NONPROFIT ORGANIZATIONS.

(2) IN A FISCAL YEAR IN WHICH REQUESTS FOR FINANCIAL ASSISTANCE FROM NONPROFIT ORGANIZATIONS ARE LESS THAN THE AMOUNT OF MONEY RESERVED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ADMINISTRATION MAY MAKE THE UNENCUMBERED OR NONCOMMITTED PORTION OF THE RESERVE AVAILABLE TO OTHER BORROWERS IN THE PROGRAM.

9–20A–08.

THE ADMINISTRATION MAY ENTER INTO CONTRACTS WITH THIRD PARTIES TO MAKE, SERVICE, OR SETTLE LOANS MADE UNDER THIS SUBTITLE.

9–20A–09.

(A) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY FALSE STATEMENT OR REPORT IN ANY DOCUMENT REQUIRED TO BE FURNISHED TO THE ADMINISTRATION BY ANY AGREEMENT RELATING TO FINANCIAL ASSISTANCE.

(B) A PERSON APPLYING FOR FINANCIAL ASSISTANCE MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY FALSE STATEMENT FOR THE PURPOSE OF INFLUENCING ANY ACTION OF THE ADMINISTRATION ON AN APPLICATION FOR FINANCIAL ASSISTANCE OR FOR THE PURPOSE OF

INFLUENCING ANY ACTION OF THE ADMINISTRATION AFFECTING FINANCIAL ASSISTANCE ALREADY PROVIDED.

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $50,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) the assets, liabilities, and obligations of the Community Energy Loan Program and the Energy Efficiency and Economic Development Loan Program, as repealed by Section 1 of this Act, are continued as the assets, liabilities, and obligations of the Jane E. Lawton Conservation Loan Program enacted by Section 2 of this Act; and

(b) any loan transacted under the Community Energy Loan Program and the Energy Efficiency and Economic Development Loan Program, as repealed by Section 1 of this Act, that was made on or before the effective date of this Act shall remain valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed under the Jane E. Lawton Conservation Loan Program, as enacted by Section 2 this Act, as though the repeal had not occurred.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 467

(House Bill 1301)

AN ACT concerning

The Jane E. Lawton Loan Program

FOR the purpose of establishing the Jane E. Lawton Conservation Loan Program; establishing the Jane E. Lawton Conservation Fund to finance the Program; consolidating certain programs administered by the Maryland Energy Administration into the Program; consolidating certain funds into the Fund; providing for the management and composition of the Fund; providing the powers and duties of the Administration with respect to the Program; providing that entities seeking loans under the Program comply with certain application

procedures; establishing the purposes for which loans made under the Program may be used; providing that borrowers that receive loans under the Program must document that the anticipated energy cost savings over a defined period after the completion of the project funded by the loan are greater than the cost of the project; providing for repayment of the loans; authorizing the Administration to enter into contracts with third parties to make, service, or sell loans under this Act; prohibiting false statements to be made in applications for loans and providing certain penalties for entities that violate the prohibition; defining certain terms; providing that certain assets, liabilities, and obligations of the programs subject to repeal by this Act shall remain the assets, liabilities, and obligations of the fund established by this Act; and generally relating to the Jane E. Lawton Conservation Loan Program and Conservation Fund.

BY repealing
Article – State Government
Section 9–20A–01 through 9–20A–09 and the subtitle "Subtitle 20A. Energy Efficiency and Economic Development Loan Program"; and 9–2101 through 9–2109 and the subtitle "Subtitle 21. Community Energy Loan Program"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Government
Section 9–20A–01 through 9–20A–09 to be under the new subtitle "Subtitle 20A. Jane E. Lawton Conservation Loan Program"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Given current rates of energy consumption, Maryland may face electricity shortages as early as 2011; and

WHEREAS, Consumption of energy, particularly energy created by fossil fuels, is directly linked to emission of harmful pollutants that create health risks and contribute to global warming; and

WHEREAS, Technology to reduce the consumption of energy and utilization of fossil fuels by State agencies, municipalities, and the private sector does exist, but implementing such technology requires significant capital expenditure; and

WHEREAS, The late Delegate Jane E. Lawton was a tireless advocate for protection of our environment and long supported energy efficiency and conservation measures; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9–20A–01 through 9–20A–09 and the subtitle "Subtitle 20A. Energy Efficiency and Economic Development Loan Program"; and Section(s) 9–2101 through 9–2109 and the subtitle "Subtitle 21. Community Energy Loan Program" of Article – State Government of the Annotated Code of Maryland be repealed.

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

Article – State Government

SUBTITLE 20A. THE JANE E. LAWTON CONSERVATION LOAN PROGRAM.

9–20A–01.

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

(B) "ADMINISTRATION" MEANS THE MARYLAND ENERGY ADMINISTRATION.

(C) "BORROWER" MEANS AN ELIGIBLE LOCAL JURISDICTION, NONPROFIT ORGANIZATION, OR ELIGIBLE BUSINESS THAT APPLIES AND QUALIFIES FOR A LOAN UNDER THIS PROGRAM.

(D) "ELIGIBLE BUSINESS" MEANS A COMMERCIAL ENTERPRISE OR BUSINESS:

(1) THAT IS INCORPORATED IN THE STATE; OR

(2) WHOSE PRINCIPAL OWNERS ARE STATE RESIDENTS AND THE BUSINESS OF WHICH IS PRINCIPALLY CARRIED OUT IN THE STATE.

(E) "ENERGY COST SAVINGS" MEANS THE ACTUAL REDUCTION IN OPERATING EXPENSES RESULTING FROM THE IMPROVED ENERGY EFFICIENCY GENERATED BY AN ENERGY CONSERVATION PROJECT FINANCED UNDER THE PROGRAM.

(F) "FUND" MEANS THE JANE E. LAWTON CONSERVATION FUND.

(G) (1) "LOCAL JURISDICTION" MEANS ANY COUNTY OR MUNICIPALITY OF THE STATE.

(2) "LOCAL JURISDICTION" INCLUDES A BOARD OF EDUCATION OF A COUNTY OR MUNICIPALITY.

(H) "MUNICIPALITY" MEANS ANY MUNICIPAL CORPORATION IN THE STATE THAT IS SUBJECT TO THE PROVISIONS OF ARTICLE XI–E OF THE MARYLAND CONSTITUTION OR ANY DULY AUTHORIZED AGENCY OR INSTRUMENTALITY OF THE MUNICIPALITY.

(I) "NONPROFIT ORGANIZATION" MEANS A CORPORATION, FOUNDATION, SCHOOL, HOSPITAL, OR OTHER LEGAL ENTITY, NO PART OF THE NET EARNINGS OF WHICH INURE TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL HOLDING AN INTEREST IN THE ENTITY.

(J) "PROGRAM" MEANS THE JANE E. LAWTON CONSERVATION LOAN PROGRAM.

(K) (1) "PROJECT" MEANS ONE OR MORE IMPROVEMENTS OR MODIFICATIONS THAT ENHANCE THE ENERGY EFFICIENCY AND REDUCE THE OPERATING EXPENSES OF A STRUCTURE.

(2) "PROJECT" INCLUDES START–UP OPPORTUNITIES FOR NEW BUSINESSES IF THE LOAN WOULD ENHANCE THE ENERGY EFFICIENCY OF THE BORROWER'S BUSINESS.

(3) "PROJECT" DOES NOT INCLUDE IMPROVEMENTS OR MODIFICATIONS FOR ENERGY CONSERVATION IN STRUCTURES USED PRIMARILY FOR RELIGIOUS OR FRATERNAL ACTIVITIES.

9–20A–02.

THERE IS A JANE E. LAWTON CONSERVATION LOAN PROGRAM IN THE ADMINISTRATION.

9–20A–03.

THE PURPOSE OF THE PROGRAM IS TO PROVIDE FINANCIAL ASSISTANCE IN THE FORM OF LOW INTEREST LOANS TO NONPROFIT ORGANIZATIONS, LOCAL JURISDICTIONS, AND ELIGIBLE BUSINESSES FOR PROJECTS IN ORDER TO:

(1) PROMOTE ENERGY CONSERVATION;

(2) REDUCE CONSUMPTION OF FOSSIL FUELS;

(3) IMPROVE ENERGY EFFICIENCY; AND

(4) ENHANCE ENERGY–RELATED ECONOMIC DEVELOPMENT AND STABILITY IN BUSINESS, COMMERCIAL, AND INDUSTRIAL SECTORS.

9–20A–04.

THE ADMINISTRATION SHALL:

(1) MANAGE, SUPERVISE, AND ADMINISTER THE PROGRAM;

(2) ADOPT REGULATIONS TO ENSURE THAT LOANS ARE PROVIDED ONLY TO PROJECTS THAT CARRY OUT THE PURPOSE OF THE PROGRAM;

(3) ATTACH SPECIFIC TERMS TO ANY LOAN THAT ARE CONSIDERED NECESSARY TO ENSURE THAT THE PURPOSE OF THE PROGRAM IS FULFILLED; AND

(4) DEVELOP PROCEDURES FOR MONITORING PROJECTS TO ASSESS WHETHER THE IMPROVEMENTS OR MODIFICATIONS MADE BY AN ELIGIBLE ENTITY OR BUSINESS THAT HAD RECEIVED A LOAN UNDER THE PROGRAM HAVE RESULTED IN A MEASURABLE REDUCTION IN ENERGY CONSUMPTION.

9–20A–05.

(A) (1) TO RECEIVE A LOAN UNDER THE PROGRAM, A BORROWER MUST FILE AN APPLICATION WITH THE ADMINISTRATION.

(2) IF THE BORROWER IS AN ELIGIBLE BUSINESS, THE APPLICATION MUST BE SIGNED BY THE CHIEF OPERATING OFFICER OR AN AUTHORIZED OFFICER OF THE BUSINESS.

(3) IF THE BORROWER IS A LOCAL JURISDICTION, THE APPLICATION MUST BE SIGNED BY THE CHIEF ELECTED OFFICER OF THE COUNTY OR MUNICIPALITY, OR IF NONE, BY THE GOVERNING BODY OF THE COUNTY OR MUNICIPALITY IN WHICH THE PROJECT IS LOCATED.

(4) IF THE BORROWER IS A PUBLIC SCHOOL, THE APPLICATION MUST BE SIGNED BY THE BOARD OF EDUCATION OF THE COUNTY IN WHICH THE PROJECT IS LOCATED.

(B) THE APPLICATION SHALL CONTAIN ANY INFORMATION THE ADMINISTRATION DETERMINES IS NECESSARY, INCLUDING:

(1) THE PROJECTED COST TO ACCOMPLISH A PROPOSED PROJECT;

(2) IF APPLICABLE, THE AMOUNT OF ENERGY OR FUEL A PROPOSED PROJECT IS EXPECTED TO SAVE OVER A DEFINED PERIOD OF TIME AFTER COMPLETION OF THE PROJECT;

(3) THE ANTICIPATED ENVIRONMENTAL BENEFITS IN THE FORM OF REDUCED EMISSIONS OR POLLUTION ATTRIBUTABLE TO THE PROPOSED PROJECT;

(4) THE AMOUNT OF COST SAVINGS EXPECTED TO BE GENERATED OVER A DEFINED PERIOD OF TIME AFTER COMPLETION OF THE PROPOSED PROJECT;

(5) A DESCRIPTION OF THE BORROWER'S CONTRIBUTION TO A PROPOSED PROJECT AS REQUIRED BY § 9–20A–06 OF THIS SUBTITLE; AND

(6) ANY ADDITIONAL INFORMATION RELATING TO THE BORROWER OR THE PROPOSED PROJECT THAT MAY BE REQUIRED BY THE ADMINISTRATION IN ORDER TO ADMINISTER THE PROGRAM.

9–20A–06.

(A) LOANS FROM THE FUND MAY BE USED FOR:

(1) THE COSTS OF IMPLEMENTING PROJECTS, INCLUDING THE COSTS OF ALL NECESSARY:

(I) TECHNICAL ASSESSMENTS;

(II) STUDIES;

(III) SURVEYS;

(IV) PLANS AND SPECIFICATIONS; AND

(V) START–UP, ARCHITECTURAL, ENGINEERING, OR OTHER SPECIAL SERVICES;

(2) THE COSTS OF PROCURING NECESSARY TECHNOLOGY, EQUIPMENT, LICENSES, OR MATERIALS; AND

(3) THE COSTS OF CONSTRUCTION, REHABILITATION, OR MODIFICATION, INCLUDING THE PURCHASE AND INSTALLATION OF ANY NECESSARY MACHINERY, EQUIPMENT, OR FURNISHINGS.

(B) EACH BORROWER SHALL MAKE A CONTRIBUTION TO A PROJECT THAT IS OF A TYPE AND AMOUNT ACCEPTABLE TO THE ADMINISTRATION.

(C) IF THE SOLE OR PRIMARY PURPOSE OF THE PROJECT IS TO REDUCE ENERGY CONSUMPTION, THE BORROWER MUST DOCUMENT THAT THE ANTICIPATED ENERGY COST SAVINGS OVER A DEFINED PERIOD AFTER THE COMPLETION OF THE PROJECT ARE GREATER THAN THE COST OF THE PROJECT.

(D) LOANS MADE UNDER THE PROGRAM SHALL:

(1) BE REPAYABLE BY THE BORROWER FROM SPECIFIED REVENUES THAT MAY INCLUDE THE ENERGY COST SAVINGS GENERATED BY A PROJECT;

(2) BEAR INTEREST AT A RATE THAT THE ADMINISTRATION DETERMINES TO BE NECESSARY AND REASONABLE FOR THE PROJECT; AND

(3) BE REPAYABLE IN ACCORDANCE WITH A SCHEDULE THAT THE ADMINISTRATION SETS, WHICH MAY BE ON A DEFERRED PAYMENT BASIS.

(E) (1) A BORROWER SHALL PROVIDE ASSURANCES FOR THE REPAYMENT OF A LOAN.

(2) THE ASSURANCES:

(I) SHALL INCLUDE A PROMISSORY NOTE; AND

(II) MAY INCLUDE SUPERIOR OR SUBORDINATE MORTGAGE LIENS, GUARANTEES OF REPAYMENT, OR OTHER FORMS OF COLLATERAL.

(F) LOANS MAY BE MADE IN CONJUNCTION WITH, OR IN ADDITION TO, FINANCIAL ASSISTANCE PROVIDED THROUGH OTHER STATE OR FEDERAL PROGRAMS.

9–20A–07.

(A) THERE IS A JANE E. LAWTON CONSERVATION FUND.

(B) THE ADMINISTRATION SHALL ADMINISTER THE FUND.

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

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

(D) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE PROGRAM~~, INCLUDING MONEY APPROPRIATED TO THE ENERGY OVERCHARGE RESTITUTION FUND~~;

(2) MONEY RECEIVED FROM ANY PUBLIC OR PRIVATE SOURCE;

(3) INTEREST AND INVESTMENT EARNINGS ON THE FUND; AND

(4) REPAYMENTS AND PREPAYMENTS OF PRINCIPAL AND INTEREST ON LOANS MADE FROM THE FUND.

(E) THE FUND MAY BE USED ONLY:

(1) TO PAY THE EXPENSES OF THE PROGRAM; AND

(2) TO PROVIDE LOANS TO ELIGIBLE BORROWERS AND PROJECTS.

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

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(3) ANY REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS MADE FROM THE FUND SHALL BE PAID INTO THE FUND.

(G) (1) THE ADMINISTRATION SHALL ANNUALLY RESERVE A PORTION OF THE MONEY FROM THE FUND THAT IS AVAILABLE FOR FINANCIAL ASSISTANCE UNDER THE PROGRAM FOR LOANS TO NONPROFIT ORGANIZATIONS.

(2) IN A FISCAL YEAR IN WHICH REQUESTS FOR FINANCIAL ASSISTANCE FROM NONPROFIT ORGANIZATIONS ARE LESS THAN THE AMOUNT OF MONEY RESERVED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ADMINISTRATION MAY MAKE THE UNENCUMBERED OR NONCOMMITTED PORTION OF THE RESERVE AVAILABLE TO OTHER BORROWERS IN THE PROGRAM.

9–20A–08.

THE ADMINISTRATION MAY ENTER INTO CONTRACTS WITH THIRD PARTIES TO MAKE, SERVICE, OR SETTLE LOANS MADE UNDER THIS SUBTITLE.

9–20A–09.

(A) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY FALSE STATEMENT OR REPORT IN ANY DOCUMENT REQUIRED TO BE FURNISHED TO THE ADMINISTRATION BY ANY AGREEMENT RELATING TO FINANCIAL ASSISTANCE.

(B) A PERSON APPLYING FOR FINANCIAL ASSISTANCE MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY FALSE STATEMENT FOR THE PURPOSE OF INFLUENCING ANY ACTION OF THE ADMINISTRATION ON AN APPLICATION FOR FINANCIAL ASSISTANCE OR FOR THE PURPOSE OF INFLUENCING ANY ACTION OF THE ADMINISTRATION AFFECTING FINANCIAL ASSISTANCE ALREADY PROVIDED.

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $50,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) the assets, liabilities, and obligations of the Community Energy Loan Program and the Energy Efficiency and Economic Development Loan Program, as repealed by Section 1 of this Act, are continued as the assets, liabilities, and

obligations of the Jane E. Lawton Conservation Loan Program enacted by Section 2 of this Act; and

(b) any loan transacted under the Community Energy Loan Program and the Energy Efficiency and Economic Development Loan Program, as repealed by Section 1 of this Act, that was made on or before the effective date of this Act shall remain valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed under the Jane E. Lawton Conservation Loan Program, as enacted by Section 2 this Act, as though the repeal had not occurred.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 468

(Senate Bill 911)

AN ACT concerning

Baltimore City Land Bank ~~Authorities – Establishment by Counties~~ Authority

FOR the purpose of authorizing ~~a county~~ Baltimore City to establish a land bank authority by ordinance; requiring an ordinance establishing an authority to include certain articles of incorporation; requiring certain articles of incorporation to be filed, accepted, and amended in a certain manner; authorizing ~~a county creating an authority~~ Baltimore City to take certain actions by ordinance; providing for the disposition of property and obligations of an authority on termination; requiring an ordinance creating an authority to establish and provide for a board of directors; ~~providing that the procedures of a county incorporating an authority control in certain circumstances;~~ establishing the powers of an authority; providing that certain property purchased, owned, or sold by an authority under this Act may not be located outside of Baltimore City; authorizing an authority to delegate certain powers; ~~authorizing an authority to purchase, own, or sell property located outside of a certain county;~~ authorizing an authority to employ certain staff and retain certain consultants; authorizing a court to appoint an authority to serve as a certain receiver; requiring an authority to adopt a certain code of ethics~~; establishing~~, establish certain policies and procedures, and ~~complying~~ comply with certain provisions of law; providing that the procedures of Baltimore City control certain matters

under certain circumstances; authorizing an authority to exercise certain powers of ~~a county~~ Baltimore City; ~~providing an authority with certain immunities;~~ authorizing an authority to take certain actions relating to property held or owned by an authority; requiring property held by an authority to be inventoried and classified in a certain manner; prohibiting a certain register of deeds from charging a certain fee; providing certain tax exemptions for certain properties, activities, and principal, interest, and income from bonds; authorizing an authority to bring a certain civil action; requiring an authority to be made a party to certain actions; prohibiting a certain proceeding from being held until certain service of process is made; establishing that property and income of an authority is for a certain purpose; providing that an authority is subject to certain local zoning laws, permitting processes, and land use controls; requiring an authority to make a certain annual report to the Mayor and City Council of Baltimore City and the General Assembly ~~in a certain time period~~; authorizing an authority to issue certain bonds for certain purposes under certain circumstances; authorizing an authority to issue certain bond anticipation notes; authorizing an authority to take certain actions in connection with bonds issued by an authority; requiring an authority to pass a certain resolution in connection with each issue of its bonds; authorizing an authority to enter into certain trust agreements in connection with bonds issued by an authority; requiring an authority to convey title and release certain collateral under certain circumstances; authorizing certain persons to bring certain actions; defining certain terms; providing for the construction of this Act; establishing that the powers granted in this Act are supplemental to certain other powers; establishing that this Act does not authorize an authority to exercise certain powers or levy certain taxes or assessments; and generally relating to ~~land bank authorities~~ the Baltimore City Land Bank Authority.

BY adding to
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 22–101 through 22–212 to be under the new title "Title 22. Baltimore City Land Bank ~~Authorities~~ Authority"
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

TITLE 22. BALTIMORE CITY LAND BANK ~~AUTHORITIES~~ AUTHORITY.

SUBTITLE 1. GENERAL PROVISIONS.

22–101.

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

(B) "AUTHORITY" MEANS A NONPROFIT OR QUASI–GOVERNMENTAL ENTITY CREATED BY ~~A COUNTY~~ BALTIMORE CITY UNDER § 22–103 OF THIS SUBTITLE.

(C) "BOARD" MEANS THE BOARD OF DIRECTORS OF ~~AN~~ THE AUTHORITY.

(D) (1) "BOND" MEANS A BOND ISSUED BY ~~AN~~ THE AUTHORITY UNDER THIS SUBTITLE.

(2) "BOND" INCLUDES A BOND, A REFUNDING BOND, A NOTE, AND ANY OTHER OBLIGATION.

(E) "COST" INCLUDES:

(1) THE PURCHASE PRICE OF PROPERTY;

(2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN PROPERTY;

(3) THE COST OF ANY IMPROVEMENTS MADE TO PROPERTY;

(4) THE AMOUNT TO BE PAID TO DISCHARGE EACH OBLIGATION NECESSARY OR DESIRABLE TO VEST TITLE TO ANY PART OF PROPERTY IN ~~AN~~ THE AUTHORITY OR OTHER OWNER;

(5) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, FRANCHISE, AND PERMIT ASSOCIATED WITH A PROJECT;

(6) THE COST OF LABOR, MACHINERY, AND EQUIPMENT NECESSARY TO IMPLEMENT A PROJECT;

(7) FINANCING CHARGES;

(8) INTEREST AND RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

(9) THE COST OF REVENUE AND COST ESTIMATES, ENGINEERING AND LEGAL SERVICES, PLANS, SPECIFICATIONS, STUDIES, SURVEYS, AND OTHER

EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OR PRACTICABILITY OF A PROJECT;

(10) ADMINISTRATIVE EXPENSES; AND

(11) OTHER EXPENSES AS NECESSARY OR INCIDENT TO:

(I) FINANCING A PROJECT;

(II) ACQUIRING AND IMPROVING A PROJECT;

(III) PLACING A PROJECT IN OPERATION, INCLUDING REASONABLE PROVISION FOR WORKING CAPITAL; AND

(IV) OPERATING AND MAINTAINING A PROJECT.

(F) "FINANCE" INCLUDES REFINANCE.

(G) (1) "PROJECT" MEANS ANY ORGANIZED PLAN CARRIED OUT BY ~~AN~~ THE AUTHORITY IN RELATION TO:

(I) ACQUIRING AND REHABILITATING ABANDONED AND DILAPIDATED PROPERTIES; AND

(II) MARKETING AND LEASING OR SELLING THE REHABILITATED PROPERTIES.

(2) "PROJECT" INCLUDES:

(I) ACQUIRING LAND OR AN INTEREST IN LAND;

(II) ACQUIRING STRUCTURES, EQUIPMENT, AND FURNISHINGS LOCATED ON A PROPERTY;

(III) ACQUIRING PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO A PROJECT; AND

(IV) OBTAINING OR CONTRACTING FOR ANY SERVICES NECESSARY FOR THE REHABILITATION OF A PROPERTY.

(H) (1) "REVENUES" MEANS THE INCOME, REVENUE, AND OTHER MONEY ~~AN~~ THE AUTHORITY RECEIVES FROM OR IN CONNECTION WITH A PROJECT AND ALL OTHER INCOME OF ~~AN~~ THE AUTHORITY.

(2) "REVENUES" INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES.

(I) "TAX SALE PROPERTY" MEANS PROPERTY OR AN INTEREST IN PROPERTY SOLD BY THE TAX COLLECTOR OF ~~THE COUNTY~~ BALTIMORE CITY IN ACCORDANCE WITH TITLE 14, SUBTITLE 8, PART III OF THE TAX – PROPERTY ARTICLE.

(J) (1) "TRUST AGREEMENT" MEANS AN AGREEMENT ENTERED INTO BY ~~AN~~ THE AUTHORITY TO SECURE A BOND.

(2) "TRUST AGREEMENT" MAY INCLUDE A BOND CONTRACT, BOND RESOLUTION, OR OTHER CONTRACT WITH OR FOR THE BENEFIT OF A BONDHOLDER.

22–102.

(A) THIS TITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

(B) THE POWERS GRANTED TO ~~AN~~ THE AUTHORITY UNDER THIS SECTION SHALL BE CONSTRUED AS SUPPLEMENTAL AND IN ADDITION TO POWERS GRANTED TO ~~AN~~ THE AUTHORITY UNDER ANY STATE OR LOCAL LAW.

(C) THIS TITLE DOES NOT AUTHORIZE ~~AN~~ THE AUTHORITY TO:

(1) EXERCISE THE POWER OF EMINENT DOMAIN; OR

(2) LEVY ANY TAX OR SPECIAL ASSESSMENT.

22–103.

(A) BY ORDINANCE, ~~THE LEGISLATIVE BODY OF A COUNTY~~ BALTIMORE CITY MAY ESTABLISH A LAND BANK AUTHORITY IN ACCORDANCE WITH THIS TITLE.

(B) ~~AN ORDINANCE ADOPTED UNDER SUBSECTION (A), (F), OR (G) OF THIS SECTION:~~

~~(1) IS ADMINISTRATIVE IN NATURE;~~

~~(2) IS NOT SUBJECT TO REFERENDUM; AND~~

~~(3) IN A COUNTY THAT HAS A PUBLICLY ELECTED CHIEF EXECUTIVE, IS SUBJECT TO APPROVAL BY THE CHIEF EXECUTIVE.~~

~~(C) SUBSECTION (A) OF THIS SECTION IS SELF-EXECUTING AND FULLY AUTHORIZES A COUNTY TO ESTABLISH AN AUTHORITY, NOTWITHSTANDING ANY OTHER STATUTORY OR CHARTER PROVISION.~~

~~(D)~~ **AN ORDINANCE ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE PROPOSED ARTICLES OF INCORPORATION OF ~~AN~~ THE AUTHORITY THAT STATE:**

(1) THE NAME OF THE AUTHORITY, WHICH SHALL BE "LAND BANK AUTHORITY OF ~~(NAME OF THE INCORPORATING COUNTY)~~ BALTIMORE CITY";

(2) THAT THE AUTHORITY IS FORMED UNDER THIS TITLE;

(3) THE NAMES, ADDRESSES, AND TERMS OF OFFICE OF THE INITIAL MEMBERS OF THE BOARD OF DIRECTORS OF THE AUTHORITY;

(4) THE ADDRESS OF THE PRINCIPAL OFFICE OF THE AUTHORITY;

(5) THE PURPOSES FOR WHICH THE AUTHORITY IS FORMED; AND

(6) THE POWERS OF THE AUTHORITY SUBJECT TO THE LIMITATIONS ON THE POWERS OF ~~AN~~ THE AUTHORITY UNDER THIS TITLE.

~~(E)~~ **(C) (1) THE ~~CHIEF EXECUTIVE OF THE INCORPORATING COUNTY~~ MAYOR OF BALTIMORE CITY, OR ANY ~~OTHER~~ OFFICIAL DESIGNATED IN THE ORDINANCE ESTABLISHING ~~AN~~ THE AUTHORITY, SHALL EXECUTE AND FILE THE ARTICLES OF INCORPORATION OF THE AUTHORITY FOR ~~RECORD~~ RECORDATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.**

(2) WHEN THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES OF INCORPORATION FOR ~~RECORD~~ RECORDATION, THE AUTHORITY BECOMES A BODY POLITIC AND CORPORATE AND AN INSTRUMENTALITY OF ~~THE INCORPORATING COUNTY~~ BALTIMORE CITY.

(3) ACCEPTANCE OF THE ARTICLES OF INCORPORATION FOR ~~RECORD~~ RECORDATION BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE OF THE FORMATION OF THE AUTHORITY.

~~(F)~~ (D) (1) BY ORDINANCE, ~~THE LEGISLATIVE BODY OF THE INCORPORATING COUNTY~~ BALTIMORE CITY MAY ADOPT AN AMENDMENT TO THE ARTICLES OF INCORPORATION OF ~~AN~~ THE AUTHORITY.

(2) ARTICLES OF AMENDMENT MAY CONTAIN ANY PROVISION THAT LAWFULLY COULD BE CONTAINED IN ARTICLES OF INCORPORATION AT THE TIME OF THE AMENDMENT.

(3) THE ARTICLES OF AMENDMENT SHALL BE FILED FOR ~~RECORD~~ RECORDATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(4) THE ARTICLES OF AMENDMENT ARE EFFECTIVE AS OF THE TIME THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES FOR ~~RECORD~~ RECORDATION.

(5) ACCEPTANCE OF THE ARTICLES OF AMENDMENT FOR ~~RECORD~~ RECORDATION BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE THAT THE ARTICLES HAVE BEEN LAWFULLY AND PROPERLY ADOPTED.

~~(G)~~ (E) (1) SUBJECT TO THE PROVISIONS OF THIS SECTION AND ANY LIMITATIONS IMPOSED BY LAW ON THE IMPAIRMENT OF CONTRACTS, ~~THE INCORPORATING COUNTY~~ BALTIMORE CITY, IN ITS SOLE DISCRETION, BY ORDINANCE MAY:

(I) SET OR CHANGE THE STRUCTURE, ORGANIZATION, PROCEDURES, PROGRAMS, OR ACTIVITIES OF ~~AN~~ THE AUTHORITY; OR

(II) TERMINATE THE AUTHORITY.

(2) ON TERMINATION OF THE AUTHORITY:

(I) TITLE TO ALL PROPERTY OF THE AUTHORITY SHALL BE TRANSFERRED TO AND SHALL VEST IN ~~THE INCORPORATING COUNTY~~ BALTIMORE CITY; AND

(II) ALL OBLIGATIONS OF THE AUTHORITY SHALL BE TRANSFERRED TO AND ASSUMED BY ~~THE INCORPORATING COUNTY~~ BALTIMORE CITY.

22–104.

~~(A)~~ AN ORDINANCE THAT CREATES A LAND BANK AUTHORITY SHALL ESTABLISH A BOARD OF DIRECTORS TO GOVERN ~~AN~~ THE AUTHORITY AND SHALL INCLUDE PROVISIONS FOR:

(1) APPOINTMENT PROCEDURES;

(2) TERM LENGTHS;

(3) REMOVAL PROCEDURES;

(4) ELECTION OF A CHAIR; AND

(5) POWERS OF THE BOARD.

~~(B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE OR THE ORDINANCE ESTABLISHING THE AUTHORITY, THE PROCEDURES OF THE INCORPORATING COUNTY CONTROL ANY MATTER RELATING TO THE INTERNAL ADMINISTRATION OF THE AUTHORITY.~~

22–105.

(A) EXCEPT AS LIMITED BY THE AUTHORITY'S ARTICLES OF INCORPORATION, ~~AN~~ THE AUTHORITY HAS ALL THE POWERS SET FORTH IN THIS SUBTITLE.

(B) ~~AN~~ THE AUTHORITY MAY:

(1) ADOPT BYLAWS FOR THE CONDUCT OF BUSINESS OF THE AUTHORITY;

(2) SUE AND BE SUED;

(3) MAINTAIN AN OFFICE AT A PLACE THE AUTHORITY DESIGNATES;

(4) BORROW MONEY;

(5) ISSUE BONDS AND OTHER OBLIGATIONS FOR ANY CORPORATE PURPOSE IN ACCORDANCE WITH THIS TITLE OR AN ORDINANCE ADOPTED UNDER THIS TITLE;

(6) INVEST MONEY OF THE AUTHORITY IN INSTRUMENTS, OBLIGATIONS, SECURITIES, OR PROPERTY;

(7) ENTER INTO CONTRACTS AND EXECUTE THE INSTRUMENTS OR AGREEMENTS NECESSARY OR CONVENIENT TO CARRY OUT THIS TITLE OR AN ORDINANCE ADOPTED UNDER THIS TITLE TO ACCOMPLISH THEIR PURPOSES;

(8) SOLICIT AND ACCEPT GIFTS, GRANTS, LOANS, OR OTHER ASSISTANCE IN ANY FORM FROM ANY PUBLIC OR PRIVATE SOURCE, SUBJECT TO THE PROVISIONS OF THIS TITLE OR ANY ORDINANCE ADOPTED UNDER THIS TITLE;

(9) PARTICIPATE IN ANY WAY IN A PROGRAM OF THE FEDERAL GOVERNMENT, THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN INTERGOVERNMENTAL ENTITY CREATED UNDER THE LAWS OF THE STATE;

(10) CONTRACT FOR GOODS AND SERVICES;

(11) STUDY, DEVELOP, AND PREPARE REPORTS OR PLANS TO ASSIST IN THE AUTHORITY'S EXERCISE OF POWERS AND TO MONITOR AND EVALUATE THE AUTHORITY'S PROGRESS;

(12) CONTRACT WITH PUBLIC OR PRIVATE ENTITIES FOR THE PROVISION OF SERVICES NECESSARY FOR THE MANAGEMENT AND OPERATION OF THE AUTHORITY;

(13) PROVIDE ACQUISITION, MANAGEMENT, AND SALE SERVICES TO ~~A COUNTY~~ BALTIMORE CITY FOR ~~COUNTY–OWNED~~ CITY–OWNED PROPERTY;

(14) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR OTHER PERSON, WHETHER OPERATED FOR PROFIT OR NOT FOR PROFIT, FOR THE PURPOSES OF DEVELOPING PROPERTY IN ORDER TO MAXIMIZE MARKETABILITY;

(15) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND

(16) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS EXPRESSLY GRANTED BY THIS TITLE OR BY AN ORDINANCE ADOPTED UNDER THIS TITLE.

(C) ~~AN~~ THE AUTHORITY MAY DELEGATE TO A MEMBER OR OFFICER A POWER GRANTED TO THE AUTHORITY BY THIS TITLE, INCLUDING THE POWER TO EXECUTE A BOND, OBLIGATION, CERTIFICATE, DEED, LEASE, MORTGAGE AGREEMENT, OR OTHER DOCUMENT OR INSTRUMENT.

22–106.

~~(A)~~ (A) ~~AN~~ THE AUTHORITY MAY:

(1) ACQUIRE, DIRECTLY OR THROUGH A PERSON OR GOVERNMENTAL ENTITY, BY GIFT, DEVISE, TRANSFER, EXCHANGE, FORECLOSURE, PURCHASE, OR OTHERWISE ON TERMS AND CONDITIONS AND IN A MANNER THE AUTHORITY CONSIDERS PROPER, REAL PROPERTY OR RIGHTS OR INTERESTS IN REAL PROPERTY;

(2) OWN IN THE AUTHORITY'S NAME PROPERTY ACQUIRED BY OR CONVEYED TO THE AUTHORITY BY THE STATE, ~~A FORECLOSING GOVERNMENTAL UNIT,~~ A LOCAL GOVERNMENT, AN INTERGOVERNMENTAL AGENCY CREATED UNDER THE LAWS OF THIS STATE, OR ANY OTHER PUBLIC OR PRIVATE PERSON, INCLUDING TAX FORECLOSED PROPERTY AND PROPERTY WITHOUT CLEAR TITLE;

(3) SELL, LEASE AS LESSOR, TRANSFER, AND DISPOSE OF THE AUTHORITY'S PROPERTY OR INTEREST IN PROPERTY;

(4) PROCURE INSURANCE AGAINST LOSS IN CONNECTION WITH THE PROPERTY, ASSETS, OR ACTIVITIES OF THE AUTHORITY; AND

(5) EXECUTE DEEDS, MORTGAGES, CONTRACTS, LEASES, PURCHASES, OR OTHER AGREEMENTS REGARDING THE PROPERTY OF THE AUTHORITY.

~~(B) PROPERTY PURCHASED, OWNED, OR SOLD UNDER THIS SECTION MAY BE LOCATED OUTSIDE OF THE COUNTY IN WHICH THE AUTHORITY IS LOCATED.~~

(B) PROPERTY PURCHASED, OWNED, OR SOLD UNDER THIS SECTION MAY NOT BE LOCATED OUTSIDE OF BALTIMORE CITY.

22–107.

~~AN~~ THE AUTHORITY MAY EMPLOY STAFF AND RETAIN CONSULTANTS AS EMPLOYEES OR AGENTS THAT THE AUTHORITY CONSIDERS NECESSARY AND SET THEIR COMPENSATION.

22–108.

THE COURT MAY APPOINT ~~AN~~ THE AUTHORITY TO SERVE AS A RECEIVER IN A RECEIVERSHIP PROCEEDING FILED BY ~~A COUNTY~~ BALTIMORE CITY.

22–109.

(A) ~~AN~~ THE AUTHORITY SHALL:

(1) ADOPT A CODE OF ETHICS FOR THE AUTHORITY'S DIRECTORS, OFFICERS, AND EMPLOYEES;

(2) ESTABLISH POLICIES AND PROCEDURES REQUIRING THE DISCLOSURE OF RELATIONSHIPS THAT MAY GIVE RISE TO A CONFLICT OF INTEREST, INCLUDING REQUIRING THAT ANY MEMBER OF THE BOARD WITH A DIRECT OR INDIRECT INTEREST IN A MATTER BEFORE THE AUTHORITY DISCLOSE THE MEMBER'S INTEREST TO THE BOARD BEFORE THE BOARD TAKES ANY ACTION ON THE MATTER; AND

(3) COMPLY WITH~~:~~

~~(I)~~ ~~THE~~ THE STATE OPEN MEETINGS ACT UNDER TITLE 10, SUBTITLE 5 AND SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE~~; AND~~

~~(II) TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE~~.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE OR THE ORDINANCE ESTABLISHING AN AUTHORITY, THE PROCEDURES OF BALTIMORE CITY CONTROL ANY MATTER RELATING TO THE INTERNAL ADMINISTRATION OF THE AUTHORITY.

22–110.

(A) ~~AN~~ THE AUTHORITY MAY EXERCISE THE POWERS GRANTED TO ~~THE GOVERNING BODY OF A COUNTY~~ BALTIMORE CITY UNDER §§ 14–825 THROUGH 14–831 OF THE TAX – PROPERTY ARTICLE.

(B) ~~AN~~ THE AUTHORITY ~~HAS~~ MAY HAVE THE SAME IMMUNITIES AS ~~A COUNTY~~ BALTIMORE CITY.

22–111.

(A) ~~AN AUTHORITY MAY, WITHOUT THE APPROVAL OF THE COUNTY IN WHICH A PROPERTY IS LOCATED, HOLD, MANAGE, MAINTAIN, OPERATE, REPAIR, LEASE AS LESSOR, SECURE, PREVENT THE WASTE OR DETERIORATION OF, DEMOLISH, AND TAKE ALL OTHER ACTIONS NECESSARY TO PRESERVE THE VALUE OF THE PROPERTY IT HOLDS OR OWNS.~~

~~(B)~~ WITH RESPECT TO PROPERTY HELD OR OWNED BY THE AUTHORITY, THE AUTHORITY MAY:

(1) GRANT OR ACQUIRE A LICENSE, EASEMENT, OR OPTION;

(2) FIX, CHARGE, AND COLLECT RENTS, FEES, AND CHARGES FOR USE OF THE PROPERTY;

(3) PAY TAXES OR SPECIAL ASSESSMENTS DUE;

(4) TAKE ANY ACTION, PROVIDE ANY NOTICE, OR INSTITUTE ANY PROCEEDING REQUIRED TO CLEAR OR QUIET TITLE IN ORDER TO ESTABLISH OWNERSHIP BY AND VEST TITLE TO PROPERTY IN THE AUTHORITY; ~~AND~~

(5) ~~REMEDIATE ENVIRONMENTAL CONTAMINATION~~ ABATE VIOLATIONS OF THE LOCAL AND STATE BUILDING, FIRE, HEALTH, AND RELATED CODES; AND

(6) HOLD, MANAGE, MAINTAIN, OPERATE, REPAIR, LEASE AS LESSOR, SECURE, PREVENT THE WASTE OR DETERIORATION OF, DEMOLISH, AND TAKE ALL OTHER ACTIONS NECESSARY TO PRESERVE THE VALUE OF THE PROPERTY IT HOLDS OR OWNS.

~~(C)~~ (B) ~~AN~~ THE AUTHORITY SHALL BE MADE A PARTY TO, AND SHALL DEFEND ANY ACTION OR PROCEEDING CONCERNING, CLAIMS AGAINST PROPERTY HELD BY THE AUTHORITY.

22–112.

(A) PROPERTY HELD BY ~~AN~~ THE AUTHORITY SHALL BE INVENTORIED AND CLASSIFIED ACCORDING TO TITLE STATUS AND SUITABILITY FOR USE.

(B) A REGISTER OF DEEDS IN ~~A COUNTY IN WHICH PROPERTY OWNED BY AN AUTHORITY IS LOCATED~~ BALTIMORE CITY MAY NOT CHARGE A FEE TO RECORD A DOCUMENT EVIDENCING THE TRANSFER UNDER THIS TITLE OF PROPERTY TO THE AUTHORITY BY THE STATE OR ~~A COUNTY~~ BALTIMORE CITY.

22–113.

(A) FOLLOWING AN UNSUCCESSFUL ATTEMPT ON THE PART OF ~~THE COUNTY~~ BALTIMORE CITY TO COLLECT OUTSTANDING LIENS AT TAX SALE AND SUBJECT TO THE APPROVAL OF THE ~~LOCAL~~ TAX COLLECTING UNIT OF ~~THE JURISDICTION WHERE~~ ~~THE PROPERTY IS LOCATED~~ BALTIMORE CITY, ~~AN~~ THE AUTHORITY MAY ACCEPT FROM A PERSON WITH AN INTEREST IN A PARCEL OF TAX DELINQUENT PROPERTY OR TAX SALE PROPERTY A DEED OR ASSIGNMENT CONVEYING THAT PERSON'S INTEREST IN THE PROPERTY INSTEAD OF:

(1) THE FORECLOSURE OR SALE OF THE PROPERTY FOR DELINQUENT TAXES, PENALTIES, AND INTEREST, AS DEFINED BY § 14–801(C) OF THE TAX – PROPERTY ARTICLE; OR

(2) DELINQUENT SPECIFIC TAXES LEVIED BY A ~~COUNTY, MUNICIPAL CORPORATION, OR OTHER~~ LOCAL TAXING JURISDICTION.

(B) EXCEPT AS OTHERWISE PROVIDED BY LAW, CONVEYANCE OF PROPERTY BY DEED INSTEAD OF FORECLOSURE UNDER THIS SECTION MAY NOT AFFECT OR IMPAIR ANY OTHER LIEN AGAINST THE PROPERTY OR ANY EXISTING RECORDED OR UNRECORDED INTEREST IN THE PROPERTY, INCLUDING:

(1) FUTURE INSTALLMENTS OF SPECIAL ASSESSMENTS;

(2) LIENS RECORDED BY THE STATE;

(3) EASEMENTS OR RIGHTS–OF–WAY;

(4) PRIVATE DEED RESTRICTIONS;

(5) SECURITY INTERESTS AND MORTGAGES; OR

(6) TAX LIENS OF OTHER TAXING JURISDICTIONS ~~OR A FORECLOSING GOVERNMENTAL UNIT THAT DOES~~ THAT DO NOT CONSENT TO A RELEASE OF THEIR LIENS.

(C) A TAX LIEN AGAINST PROPERTY HELD BY OR UNDER THE CONTROL OF ~~AN~~ THE AUTHORITY MAY BE RELEASED OR ABATED AT ANY TIME BY ONE OR MORE OF THE FOLLOWING:

(1) ~~THE COUNTY OR MUNICIPAL CORPORATION~~ BALTIMORE CITY WITH RESPECT TO A LIEN HELD BY ~~THE COUNTY OR MUNICIPAL CORPORATION~~ BALTIMORE CITY;

(2) THE GOVERNING BODY OF ANY TAXING JURISDICTION OTHER THAN THE STATE, COUNTY, OR MUNICIPAL CORPORATION WITH RESPECT TO A LIEN HELD BY THE TAXING JURISDICTION;

(3) A ~~FORECLOSING GOVERNMENTAL ENTITY~~ PUBLIC WATER OR SEWER AUTHORITY WITH RESPECT TO A TAX LIEN OR RIGHT TO COLLECT A TAX HELD BY THE ~~FORECLOSING GOVERNMENTAL ENTITY~~ PUBLIC WATER OR SEWER AUTHORITY; OR

(4) THE STATE ~~TREASURER~~ COMPTROLLER WITH RESPECT TO A STATE TAX LIEN.

22–114.

(A) MONEY RECEIVED BY ~~AN~~ THE AUTHORITY AS PAYMENT OF TAXES, PENALTIES, OR INTEREST, OR FROM THE REDEMPTION OR SALE OF PROPERTY SUBJECT TO A TAX LIEN OF ANY TAXING UNIT SHALL BE RETURNED TO THE LOCAL TAX COLLECTING UNIT IN THE JURISDICTION WHERE THE PROPERTY IS LOCATED FOR DISTRIBUTION ON A PRO RATA BASIS TO THE APPROPRIATE TAXING UNITS IN AN AMOUNT EQUAL TO DELINQUENT TAXES, PENALTIES, AND INTEREST OWED ON THE PROPERTY.

(B) PROCEEDS RECEIVED BY ~~AN~~ THE AUTHORITY MAY BE RETAINED BY THE AUTHORITY FOR THE PURPOSES OF THIS TITLE, UNLESS OTHERWISE DESIGNATED BY:

(1) THIS SUBTITLE;

(2) THE PROVISIONS OF A DEED;

(3) ANY OTHER LAW; OR

(4) AN AGREEMENT OF THE AUTHORITY.

22–115.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ~~AN~~ THE AUTHORITY IS EXEMPT FROM ANY REQUIREMENT TO PAY STATE OR LOCAL TAXES OR ASSESSMENTS ON THE AUTHORITY'S PROPERTIES, ACTIVITIES, OR ANY REVENUE FROM THE PROPERTIES OR ACTIVITIES.

(B) PROPERTY THAT ~~AN~~ THE AUTHORITY SELLS OR LEASES TO A PRIVATE ENTITY IS SUBJECT TO STATE AND LOCAL PROPERTY TAXES FROM THE TIME OF THE SALE OR LEASE.

(C) THE PRINCIPAL OF AND INTEREST ON BONDS, THE TRANSFER OF BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING PROFITS MADE ON THEIR SALE OR TRANSFER, ARE FOREVER EXEMPT FROM ALL STATE AND LOCAL TAXES.

22–116.

(A) ~~AN~~ THE AUTHORITY MAY BRING A CIVIL ACTION TO PREVENT, RESTRAIN, OR ENJOIN THE WASTE OF OR UNLAWFUL REMOVAL OF ANY PROPERTY FROM REAL PROPERTY HELD BY THE AUTHORITY.

(B) (1) ~~AN~~ THE AUTHORITY SHALL BE MADE A PARTY TO ANY ACTION OR PROCEEDING INSTITUTED FOR THE PURPOSE OF SETTING ASIDE TITLE TO PROPERTY HELD BY THE AUTHORITY OR FOR THE SALE OF PROPERTY BY THE AUTHORITY.

(2) A HEARING IN ANY SUCH PROCEEDING MAY NOT BE HELD UNTIL THE AUTHORITY IS SERVED ~~WITH PROCESS AND PROPER PROOF OF SERVICE IS FILED~~ IN ACCORDANCE WITH THE MARYLAND RULES.

22–117.

(A) PROPERTY OF ~~AN~~ THE AUTHORITY IS PUBLIC PROPERTY DEVOTED TO AN ESSENTIAL PUBLIC AND GOVERNMENTAL FUNCTION AND PURPOSE.

(B) INCOME OF ~~AN~~ THE AUTHORITY IS CONSIDERED TO BE FOR A PUBLIC AND GOVERNMENTAL PURPOSE.

22–118.

~~AN~~ THE AUTHORITY IS SUBJECT TO ANY LOCAL:

(1) ~~ZONING~~ ZONING LAWS;

(2) PERMITTING PROCESSES FOR CONSTRUCTION, DEMOLITION, OR REPAIR OF A PROPERTY; AND ~~LAND~~

(3) LAND USE CONTROLS.

22–119.

~~AN~~ THE AUTHORITY SHALL REPORT ANNUALLY TO THE ~~COUNTY IN WHICH THE AUTHORITY IS LOCATED~~ MAYOR AND CITY COUNCIL OF BALTIMORE CITY AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE ACTIVITIES OF THE AUTHORITY.

SUBTITLE 2. BONDS.

22–201.

(A) (1) ~~AN~~ THE AUTHORITY MAY PERIODICALLY:

(I) ISSUE BONDS TO PAY ALL OR PART OF THE COST OF ACQUIRING OR IMPROVING PROPERTY;

(II) FUND OR REFUND THOSE BONDS;

(III) PURCHASE BONDS WITH ANY FUNDS AVAILABLE; AND

(IV) HOLD, PLEDGE, CANCEL, OR RESELL BONDS.

(2) BY RESOLUTION, ~~AN~~ THE AUTHORITY MAY AUTHORIZE THE CHAIR, ONE OF THE AUTHORITY'S MEMBERS, OR A COMMITTEE OF THE MEMBERS TO DETERMINE OR PROVIDE FOR ANY MATTERS RELATING TO BONDS THAT THE AUTHORITY CONSIDERS APPROPRIATE, INCLUDING:

(I) SPECIFYING, DETERMINING, PRESCRIBING, AND APPROVING MATTERS, DOCUMENTS, AND PROCEDURES THAT RELATE TO THE AUTHORIZATION, SALE, SECURITY, ISSUANCE, DELIVERY, AND PAYMENT OF AND FOR THE BONDS;

(II) CREATING SECURITY FOR THE BONDS;

(III) PROVIDING FOR THE ADMINISTRATION OF BOND ISSUES; AND

(IV) TAKING OTHER ACTIONS IT CONSIDERS APPROPRIATE CONCERNING THE BONDS.

(3) THE POWER GRANTED IN PARAGRAPH (2) OF THIS SUBSECTION IS IN ADDITION TO POWERS CONFERRED ON THE AUTHORITY BY THIS TITLE AND DOES NOT LIMIT ANY POWER OF THE AUTHORITY UNDER THIS TITLE.

(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AUTHORITY MAY AUTHORIZE THE EXECUTIVE DIRECTOR TO TAKE ANY OF THE ACTIONS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION.

(II) IF THE AUTHORITY AUTHORIZES THE EXECUTIVE DIRECTOR TO TAKE ANY OF THE ACTIONS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THE AUTHORITY SHALL PRESCRIBE LIMITS WITHIN WHICH THE EXECUTIVE DIRECTOR MAY EXERCISE DISCRETION.

(B) ~~AN~~ THE AUTHORITY MAY ISSUE THE BONDS AT ONE TIME OR IN ONE OR MORE SERIES FROM TIME TO TIME.

(C) FOR EACH ISSUE OF ~~AN~~ THE AUTHORITY'S BONDS, THE AUTHORITY SHALL PASS A RESOLUTION THAT:

(1) SPECIFIES AND DESCRIBES THE PROJECT FOR WHICH THE PROCEEDS OF THE BOND ISSUANCE ARE INTENDED;

(2) GENERALLY DESCRIBES THE PUBLIC PURPOSE AND THE FINANCING TRANSACTION TO BE ACCOMPLISHED;

(3) SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS THAT MAY BE ISSUED BY THE AUTHORITY; AND

(4) IMPOSES ANY TERMS OR CONDITIONS ON THE ISSUANCE AND SALE OF THE BONDS THAT THE AUTHORITY CONSIDERS APPROPRIATE.

(D) SUBJECT TO ANY PROVISIONS FOR THEIR REGISTRATION, BONDS ARE NEGOTIABLE INSTRUMENTS FOR ALL PURPOSES REGARDLESS OF WHETHER THEY ARE PAYABLE FROM A SPECIAL FUND.

(E) (1) THE BONDS MAY BE:

(I) SERIAL BONDS;

(II) TERM BONDS; OR

(III) BOTH IN THE DISCRETION OF THE AUTHORITY.

(2) SUBJECT TO ANY DELEGATION UNDER SUBSECTION (A)(2) OF THIS SECTION, THE RESOLUTION AUTHORIZING BONDS MAY PROVIDE:

(I) THE DATES OF THE BONDS;

(II) THE MATURITY DATES OF THE BONDS;

(III) THE INTEREST RATES ON THE BONDS;

(IV) THE TIME AT WHICH THE BONDS WILL BE PAYABLE;

(V) THE DENOMINATIONS OF THE BONDS;

(VI) WHETHER THE BONDS WILL BE IN COUPON OR REGISTERED FORM;

(VII) ANY REGISTRATION PRIVILEGES OF THE BONDS;

(VIII) THE MANNER OF EXECUTION OF THE BONDS;

(IX) THE PLACE AT WHICH THE BONDS WILL BE PAYABLE; AND

(X) ANY TERMS OF REDEMPTION OF THE BONDS.

(3) THE BONDS SHALL MATURE WITHIN A PERIOD NOT TO EXCEED 50 YEARS AFTER THE DATE OF ISSUE.

(4) THE BONDS SHALL BE PAYABLE IN UNITED STATES CURRENCY.

(F) (1) ~~AN~~ THE AUTHORITY SHALL SELL THE BONDS AT COMPETITIVE OR NEGOTIATED SALE IN A MANNER AND FOR A PRICE THE AUTHORITY DETERMINES TO BE IN THE AUTHORITY'S BEST INTERESTS.

(2) BONDS ARE EXEMPT FROM §§ 8–206 AND 8–208 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(G) AN OFFICER'S SIGNATURE OR FACSIMILE ON A BOND REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

(H) PENDING PREPARATION OF THE DEFINITIVE BONDS, ~~AN~~ THE AUTHORITY MAY ISSUE INTERIM RECEIPTS OR CERTIFICATES THAT WILL BE EXCHANGED FOR DEFINITIVE BONDS.

(I) (1) A TRUST AGREEMENT AUTHORIZING BONDS MAY CONTAIN PROVISIONS THAT ARE PART OF THE CONTRACT WITH THE BONDHOLDERS.

(2) THE PROVISIONS MAY INCLUDE:

(I) PLEDGING THE FOLLOWING TO SECURE PAYMENT OF BONDS, SUBJECT TO ANY EXISTING AGREEMENTS WITH BONDHOLDERS:

1. THE FULL FAITH AND CREDIT OF ~~AN~~ THE AUTHORITY;

2. REVENUES OF A PROJECT;

3. A REVENUE–PRODUCING CONTRACT THE AUTHORITY HAS MADE WITH A PERSON OR PUBLIC ENTITY; OR

4. THE PROCEEDS OF THE SALE OF BONDS;

(II) THE RATES, RENTALS, FEES, AND OTHER CHARGES, THE AMOUNTS TO BE RAISED IN EACH YEAR, AND THE USE AND DISPOSITION OF THE REVENUES;

(III) SETTING ASIDE OF RESERVES AND SINKING FUNDS AND THEIR DISPOSITION;

(IV) LIMITS ON THE RIGHT OF THE AUTHORITY OR THE AUTHORITY'S AGENTS TO RESTRICT AND REGULATE THE USE OF A PROJECT;

(V) LIMITS ON THE PURPOSE TO WHICH THE PROCEEDS OF SALE OF BONDS MAY BE APPLIED;

(VI) LIMITS ON ISSUING ADDITIONAL BONDS AND REFUNDING BONDS AND THE TERMS UNDER WHICH ADDITIONAL BONDS MAY BE ISSUED AND SECURED;

(VII) THE PROCEDURE TO AMEND OR ABROGATE THE TERMS OF A CONTRACT WITH BONDHOLDERS AND THE REQUIREMENTS FOR CONSENT;

(VIII) LIMITS ON THE AMOUNT OF PROJECT REVENUES TO BE EXPENDED FOR OPERATING, ADMINISTRATIVE, OR OTHER EXPENSES OF THE AUTHORITY;

(IX) THE ACTS OR OMISSIONS THAT CONSTITUTE DEFAULT BY THE AUTHORITY AND THE RIGHTS AND REMEDIES OF THE BONDHOLDERS IN THE EVENT OF A DEFAULT;

(X) THE CONVEYANCE OR MORTGAGING OF A PROJECT AND ITS SITE TO SECURE THE BONDHOLDERS; AND

(XI) CREATION AND DISPOSITION OF A COLLATERAL FUND FOR THE PURPOSE OF SECURING THE BONDHOLDERS.

(J) THE MEMBERS OF ~~AN~~ THE AUTHORITY AND A PERSON EXECUTING THE BONDS MAY NOT BE HELD LIABLE PERSONALLY ON THE BONDS.

22–202.

(A) THE CORPORATE TRUSTEE UNDER A TRUST AGREEMENT MAY BE A TRUST COMPANY OR A BANK THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

(B) AN EXPENSE INCURRED IN CARRYING OUT THE TRUST AGREEMENT OR A RESOLUTION MAY BE TREATED AS PART OF THE COST OF THE OPERATION OF A PROJECT.

22–203.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, IN A PROCEEDING INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND OR THE SECURITY FOR A BOND, THE DETERMINATION OF ~~AN~~ THE AUTHORITY UNDER THIS TITLE IS CONCLUSIVE AND BINDING.

22–204.

BONDS ARE SECURITIES:

(1) IN WHICH ANY OF THE FOLLOWING PERSONS MAY LEGALLY AND PROPERLY INVEST MONEY, INCLUDING CAPITAL THAT THE PERSON OWNS OR CONTROLS:

(I) AN OFFICER OR UNIT OF THE STATE OR A POLITICAL SUBDIVISION;

(II) A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, INVESTMENT COMPANY, OR OTHER PERSON CONDUCTING A BANKING BUSINESS;

(III) AN INSURANCE COMPANY, INSURANCE ASSOCIATION, OR OTHER PERSON CONDUCTING AN INSURANCE BUSINESS;

(IV) A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY; AND

(V) ANY OTHER PERSON; AND

(2) THAT MAY BE DEPOSITED WITH AND RECEIVED BY A UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OBLIGATIONS OF THE STATE IS AUTHORIZED BY LAW.

22–205.

(A) A BOND IS NOT:

(1) A DEBT OR LIABILITY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; OR

(2) A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(B) EACH BOND SHALL STATE ON THE FACE OF THE BOND THAT NEITHER THE STATE NOR A POLITICAL SUBDIVISION OF THE STATE IS OBLIGED TO PAY THE PRINCIPAL OF OR INTEREST ON THE BOND EXCEPT FROM REVENUES PLEDGED TO THE PAYMENT OF THE BOND.

(C) THE ISSUANCE OF BONDS DOES NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE STATE OR ITS POLITICAL SUBDIVISIONS:

(1) TO LEVY OR PLEDGE A TAX TO PAY THE BONDS; OR

(2) TO MAKE AN APPROPRIATION TO PAY THE BONDS.

(D) NOTHING IN THIS TITLE PROHIBITS ~~AN~~ THE AUTHORITY FROM PLEDGING ITS FULL FAITH AND CREDIT IN CONNECTION WITH THE ISSUANCE OF BONDS.

22–206.

(A) ~~AN~~ THE AUTHORITY MAY:

(1) FIX AND COLLECT RATES, RENTS, FEES, AND CHARGES RELATED TO A PROJECT AND FOR THE SERVICES RELATED TO A PROJECT; AND

(2) CONTRACT WITH ANY PERSON OR GOVERNMENTAL ENTITY TO EXERCISE ITS AUTHORITY UNDER THIS SECTION.

(B) THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY ~~AN~~ THE AUTHORITY UNDER THIS SECTION SHALL BE FIXED AND ADJUSTED SO THAT THE AGGREGATE AMOUNT OF THE RATES, RENTS, FEES, AND CHARGES FROM THE PROJECT, WHEN ADDED TO OTHER AVAILABLE MONEY, IS SUFFICIENT TO:

(1) PAY FOR THE EXPENSES OF THE PROJECT;

(2) PAY THE PRINCIPAL OF AND THE INTEREST ON THE BONDS THAT THE AUTHORITY ISSUED FOR THE PROJECT AS THEY BECOME DUE AND PAYABLE; AND

(3) CREATE AND MAINTAIN RESERVES REQUIRED OR PROVIDED FOR IN A TRUST AGREEMENT.

(C) THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY ~~AN~~ THE AUTHORITY UNDER THIS SECTION ARE NOT SUBJECT TO SUPERVISION OR REGULATION BY ANY UNIT OF THE STATE OTHER THAN THE AUTHORITY.

22–207.

(A) (1) ANY PLEDGE OF REVENUES AND OTHER MONEY UNDER § 22–201(I) OF THIS SUBTITLE IS VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.

(2) (I) THE REVENUE OR MONEY THAT ~~AN~~ THE AUTHORITY PLEDGES AND RECEIVES IS SUBJECT IMMEDIATELY TO THE LIEN OF THE PLEDGE.

(II) NEITHER PHYSICAL DELIVERY OF THE REVENUE OR MONEY NOR ANY OTHER ACT IS REQUIRED TO VALIDATE THE LIEN.

(3) THE LIEN OF THE PLEDGE IS VALID AND BINDING AGAINST EACH PARTY WITH A CLAIM AGAINST THE AUTHORITY IN TORT, CONTRACT, OR OTHERWISE, REGARDLESS OF WHETHER THE PARTY HAS NOTICE OF THE LIEN.

(B) THE TRUST AGREEMENT AND ANY OTHER AGREEMENT OR LEASE CREATING A PLEDGE UNDER THIS SECTION NEED NOT BE FILED OR RECORDED, EXCEPT IN THE RECORDS OF THE AUTHORITY.

22–208.

(A) PROCEEDS FROM THE SALE OF BONDS AND OTHER REVENUES RECEIVED UNDER THIS TITLE ARE TRUST FUNDS TO BE HELD AND APPLIED SOLELY AS PROVIDED IN THIS TITLE.

(B) (1) EACH OFFICER, BANK, OR TRUST COMPANY THAT RECEIVES TRUST MONEY FROM ~~AN~~ THE AUTHORITY UNDER THIS TITLE SHALL ACT AS TRUSTEE OF THE MONEY AND SHALL HOLD AND APPLY THE MONEY FOR THE PURPOSES SPECIFIED UNDER THIS TITLE.

(2) THE OFFICER, BANK, OR TRUST COMPANY HOLDING MONEY IS SUBJECT TO:

(I) ANY REGULATION ADOPTED UNDER THIS TITLE; AND

(II) THE RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS OR THE TRUST AGREEMENT.

22–209.

(A) (1) ~~AN~~ THE AUTHORITY MAY ISSUE BONDS TO REFUND OUTSTANDING BONDS OF THE AUTHORITY, INCLUDING PAYING:

(I) ANY REDEMPTION PREMIUM;

(II) INTEREST ACCRUED OR TO ACCRUE TO THE DATE OF REDEMPTION, PURCHASE, OR MATURITY OF THE BONDS; AND

(III) IF CONSIDERED ADVISABLE BY THE AUTHORITY, ANY PART OF THE COST OF ACQUIRING OR IMPROVING PROPERTY AS PART OF A PROJECT.

(2) REFUNDING BONDS MAY BE ISSUED FOR ANY CORPORATE PURPOSE, INCLUDING:

(I) REALIZING SAVINGS IN THE EFFECTIVE COSTS OF DEBT SERVICE, DIRECTLY OR THROUGH A DEBT RESTRUCTURING; OR

(II) ALLEVIATING A POTENTIAL OR ACTUAL DEFAULT.

(B) A REFUNDING BOND THAT ~~AN~~ THE AUTHORITY ISSUES UNDER THIS SECTION SHALL BE ISSUED IN THE SAME MANNER AND IS SUBJECT TO THIS TITLE TO THE SAME EXTENT AS ANY OTHER BOND.

(C) ~~AN~~ THE AUTHORITY MAY ISSUE REFUNDING BONDS IN ONE OR MORE SERIES IN AN AMOUNT GREATER THAN THE AMOUNT OF THE BONDS TO BE REFUNDED.

22–210.

(A) ~~AN~~ THE AUTHORITY MAY ISSUE NEGOTIABLE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF BONDS FOR ANY CORPORATE PURPOSE.

(B) BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION SHALL BE ISSUED IN THE SAME MANNER AS BONDS.

(C) BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION AND THE RESOLUTION AUTHORIZING THEM MAY CONTAIN ANY PROVISIONS, CONDITIONS, OR LIMITATIONS THAT MAY BE INCLUDED IN A TRUST AGREEMENT.

(D) ~~AN~~ THE AUTHORITY MAY ISSUE BOND ANTICIPATION NOTES TO PAY ANY OTHER BOND ANTICIPATION NOTES.

(E) BOND ANTICIPATION NOTES SHALL BE PAID FROM:

(1) REVENUES OF THE AUTHORITY;

(2) MONEY AVAILABLE AND NOT OTHERWISE PLEDGED; OR

(3) THE PROCEEDS OF THE SALE OF THE BONDS IN ANTICIPATION OF WHICH THE NOTES WERE ISSUED.

22–211.

(A) ~~AN~~ THE AUTHORITY SHALL CONVEY TITLE TO PROPERTY RELATING TO A PROJECT AND RELEASE COLLATERAL IN ACCORDANCE WITH THIS SECTION WHEN THE FOLLOWING CONDITIONS ARE MET:

(1) (I) THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED TO FINANCE THE PROJECT, INCLUDING ANY REFUNDING BONDS, HAVE BEEN FULLY PAID AND RETIRED; OR

(II) ADEQUATE PROVISION HAS BEEN MADE TO FULLY PAY AND RETIRE THE BONDS;

(2) ALL OTHER CONDITIONS OF THE TRUST AGREEMENT HAVE BEEN SATISFIED; AND

(3) THE LIEN OF THE TRUST AGREEMENT HAS BEEN RELEASED.

(B) ON SATISFACTION OF THE CONDITIONS UNDER SUBSECTION (A) OF THIS SECTION, ~~AN~~ THE AUTHORITY PROMPTLY SHALL EXECUTE ANY DEEDS, CONVEYANCES, RELEASES, AND DOCUMENTS AND TAKE ANY OTHER ACTION NECESSARY TO CONVEY TITLE TO THE PROPERTY AND RELEASE COLLATERAL FREE OF ALL LIENS AND ENCUMBRANCES CREATED THROUGH THE AUTHORITY.

22–212.

(A) A BONDHOLDER, A HOLDER OF ANY COUPONS ATTACHED TO BONDS, OR A TRUSTEE UNDER A TRUST AGREEMENT SECURING THE BONDS MAY SUE TO:

(1) PROTECT AND ENFORCE RIGHTS UNDER LAWS OF THE STATE OR A TRUST AGREEMENT; AND

(2) ENFORCE AND COMPEL THE PERFORMANCE OF DUTIES BY ~~AN~~ THE AUTHORITY OR ITS OFFICER, EMPLOYEE, OR AGENT THAT THIS TITLE OR A TRUST AGREEMENT REQUIRES, INCLUDING FIXING AND COLLECTING RATES, RENTS, FEES, AND CHARGES THAT THE TRUST AGREEMENT REQUIRES TO BE FIXED AND COLLECTED.

(B) THE RIGHTS UNDER THIS SECTION ARE SUBJECT TO ANY TRUST AGREEMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 469

(Senate Bill 914)

AN ACT concerning

Handgun Roster Board – Membership

FOR the purpose of clarifying the appointed membership of the Handgun Roster Board with respect to the representation of a certain organization; and generally relating to the membership of the Handgun Roster Board.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5–404
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

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

Article – Public Safety

5–404.

(a) There is a Handgun Roster Board in the Department of State Police.

(b) (1) The Board consists of 11 members.

(2) Of the 11 members of the Board:

(i) one shall be the Secretary as an ex officio member; ~~and~~

(ii) ten shall be appointed by the Governor with the advice and consent of the Senate; and

(iii) all shall be Maryland residents.

(3) Of the ten appointed members of the Board:

(i) one shall be a representative of the Association of Chiefs of Police;

(ii) one shall be a representative of the Maryland State's Attorneys' Association;

(iii) one shall be a handgun dealer, gunsmith, or representative of a handgun manufacturer;

(iv) one shall be a resident of the State who is a representative of the National Rifle Association or its affiliated State association;

(v) one shall be a representative of **[**the Marylanders Against Handgun Abuse**]** **AN ORGANIZATION THAT ADVOCATES AGAINST HANDGUN VIOLENCE**; and

(vi) five shall be public members, two of whom shall be mechanical or electrical engineers.

(c) The term of an appointed member is 4 years.

(d) The Secretary shall serve as chairman.

(e) The Board shall meet at the request of the chairman or of a majority of the members.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 470

(Senate Bill 934)

AN ACT concerning

Prince George's County – Tax Increment Financing – Application of Bond Proceeds

FOR the purpose of authorizing Prince George's County to apply the proceeds from the issuance of certain bonds to the installation of infrastructure improvements for the purpose of encouraging redevelopment in certain areas; and generally relating to the application of proceeds from certain bonds in Prince George's County.

~~BY repealing and reenacting, without amendments,~~
~~Article 41 – Governor – Executive and Administrative Departments~~
~~Section 14–203~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2007 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article 41 – Governor – Executive and Administrative Departments~~
~~Section 14–205~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2007 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 12–201(i) and 12–204(a)
Annotated Code of Maryland
(As enacted by Chapter 306 (H.B. 1050) of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 12–207
Annotated Code of Maryland
(As enacted by Chapter 306 (H.B. 1050) of the Acts of the General Assembly of 2008)

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

~~**Article 41 – Governor – Executive and Administrative Departments**~~

~~14–203.~~

~~In addition to whatever other powers it may have and notwithstanding any limitation of law, any municipality or county may borrow money by issuing and selling bonds, at any time and from time to time, for the purpose of financing the development~~

~~of an industrial, commercial, or residential area. This subtitle is self–executing and it shall not be necessary for any such municipality or county to effect any amendment of its charter in order to exercise the powers granted hereunder. This subtitle does not apply in Baltimore City.~~

~~14–205.~~

~~(a) Except as provided in subsection (b) of this section, all proceeds received from any bonds issued and sold pursuant to this subtitle shall be applied solely for:~~

~~(1) The cost of purchasing, leasing, condemning, or otherwise acquiring land or other property, or an interest in them, in the designated development district area or as necessary for a right–of–way or other easement to or from the development district area;~~

~~(2) Site removal;~~

~~(3) Surveys and studies;~~

~~(4) Relocation of businesses or residents;~~

~~(5) Installation of utilities, construction of parks and playgrounds, and other necessary improvements including streets and roads to, from, or within the development district, parking, lighting, and other facilities;~~

~~(6) Construction or rehabilitation of buildings provided that such buildings are to be devoted to a governmental use or purpose;~~

~~(7) Reserves or capitalized interest;~~

~~(8) Necessary costs of issuing bonds; and~~

~~(9) Payment of the principal and interest on loans, money advanced, or indebtedness incurred by a county or municipality, for any of the purposes set out in this section.~~

~~(b)~~ **~~(1)~~** ~~In addition to the authority granted in subsection (a) of this section, all proceeds received from any bonds issued and sold by Prince George's County or the revenue authority of Prince George's County pursuant to this subtitle may be applied~~ **~~AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND~~** ~~for:~~

[~~(1)~~**]**~~**(I)**~~ ~~Convention centers, conference centers, and visitors' centers;~~

[~~(2)~~**]**~~**(II)**~~ ~~Maintenance of infrastructure improvements, convention centers, conference centers, and visitors' centers; and~~

[(3)]~~(III)~~ ~~Marketing the development district facilities and other improvements.~~

~~(2) (I) FOR THE PURPOSE STATED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ALL PROCEEDS RECEIVED FROM ANY BONDS ISSUED AND SOLD BY PRINCE GEORGE'S COUNTY OR THE REVENUE AUTHORITY OF PRINCE GEORGE'S COUNTY UNDER THIS SUBTITLE MAY BE APPLIED FOR INSTALLATION OF ANY INFRASTRUCTURE IMPROVEMENTS, INCLUDING:~~

~~1. STREETS;~~

~~2. PARKING STRUCTURES OF ANY TYPE WHETHER FOR PUBLIC OR PRIVATE USE;~~

~~3. UTILITIES;~~

~~4. STREET LIGHTS;~~

~~5. STORMWATER MANAGEMENT AND STORM DRAIN FACILITIES;~~

~~6. FENCING;~~

~~7. NOISE WALLS;~~

~~8. RETAINING WALLS;~~

~~9. TRAILS;~~

~~10. SIDEWALKS;~~

~~11. PEDESTRIAN AND VEHICULAR BRIDGES; AND~~

~~12. PARK FACILITIES.~~

~~(II) THE PURPOSE OF THE AUTHORITY GRANTED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH IS TO ENCOURAGE REDEVELOPMENT IN:~~

~~1. REVITALIZATION AREAS DESIGNATED BY THE COUNTY;~~

~~2. MIXED USE CENTERS;~~

~~3. BLIGHTED AREAS; AND~~

~~4. THE DEVELOPED TIER, GROWTH CORRIDORS, AND GROWTH CENTERS, AS DEFINED IN THE COUNTY GENERAL PLAN.~~

Article – Economic Development

12–201.

(i) "Issuer" means a political subdivision or the revenue authority of Prince George's County that issues a bond under this subtitle.

12–204.

(a) Notwithstanding any limitation of law, an issuer may issue bonds from time to time to finance the development of an industrial, commercial, or residential area.

12–207.

(a) Bond proceeds may be used only:

(1) to buy, lease, condemn, or otherwise acquire property, or an interest in property:

(i) in the development district; or

(ii) needed for a right–of–way or other easement to or from the development district;

(2) for site removal;

(3) for surveys and studies;

(4) to relocate businesses or residents;

(5) to install utilities, construct parks and playgrounds, and for other needed improvements including:

(i) roads to, from, or in the development district;

(ii) parking; and

(iii) lighting;

(6) to construct or rehabilitate buildings for a governmental purpose or use;

(7) for reserves or capitalized interest;

(8) for necessary costs to issue bonds; and

(9) to pay the principal of and interest on loans, advances, or indebtedness that a political subdivision incurs for a purpose specified in this section.

(b) **(1)** In addition to the purposes listed in subsection (a) of this section, the proceeds from bonds that Prince George's County or the revenue authority of Prince George's County issues may be used:

[(1)**]** **(I)** for convention, conference, or visitors' centers;

[(2)**]** **(II)** to maintain infrastructure improvements and convention, conference, or visitors' centers; **[**and**]**

[(3)**]** **(III)** to market development district facilities and other improvements**; AND**

(IV) FOR THE PURPOSE OF ENCOURAGING REDEVELOPMENT IN THOSE AREAS LISTED IN PARAGRAPH (2) OF THIS SUBSECTION, TO INSTALL INFRASTRUCTURE IMPROVEMENTS, INCLUDING:

1. STREETS;

2. PARKING STRUCTURES OF ANY TYPE WHETHER FOR PUBLIC OR PRIVATE USE;

3. UTILITIES;

4. STREET LIGHTS;

5. STORMWATER MANAGEMENT AND STORM DRAIN FACILITIES;

6. FENCING;

7. NOISE WALLS;

8. RETAINING WALLS;

9. TRAILS;

10. SIDEWALKS;

11. PEDESTRIAN AND VEHICULAR BRIDGES; AND

12. PARK FACILITIES.

(2) THE PURPOSE OF THE AUTHORITY GRANTED BY PARAGRAPH (1)(IV) OF THIS SUBSECTION IS TO ENCOURAGE REDEVELOPMENT IN:

(I) REVITALIZATION AREAS DESIGNATED BY THE COUNTY;

(II) MIXED USE CENTERS;

(III) BLIGHTED AREAS; AND

(IV) THE DEVELOPED TIER, GROWTH CORRIDORS, AND GROWTH CENTERS, AS DEFINED IN THE COUNTY GENERAL PLAN.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 471

(Senate Bill 945)

AN ACT concerning

Local Governments – Postemployment Benefits – Investment of Funds

FOR the purpose of authorizing a political subdivision of the State or a unit of a political subdivision of the State to enter into certain agreements with third party contractors or vendors for the management or investment of certain money intended for certain postemployment benefits; providing that an agreement entered into under this Act includes the authority to create certain

investments and accounts; authorizing the governing authority of any local government to direct its financial officer to remit certain funds to the State Treasurer for a certain purpose; and generally relating to the investment of funds by local governments.

BY repealing and reenacting, with amendments,
Article 95 – Treasurer
Section 22(b) and 22G(c)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article 95 – Treasurer

22.

(b) (1) In this subsection, "other postemployment benefits" means postemployment health care benefits, regardless of the type of plan that provides them, and all postemployment benefits provided separately from a pension plan.

(2) The trustees or other officers in charge of any pension or retirement system or fund or other postemployment benefits fund of any political subdivision of the State or any agency or department of the political subdivision may invest, redeem, sell, exchange, and reinvest moneys under their custody or control as provided by law by the governing body of the political subdivision and shall comply with fiduciary standards that at least meet the standards set forth in Title 21, Subtitle 2 of the State Personnel and Pensions Article in connection with funds under their custody or control.

(3) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A POLITICAL SUBDIVISION OF THE STATE OR A UNIT OF A POLITICAL SUBDIVISION OF THE STATE MAY ENTER INTO AN AGREEMENT WITH A THIRD PARTY CONTRACTOR OR VENDOR FOR THE MANAGEMENT OR INVESTMENT OF MONEY INTENDED FOR OTHER POSTEMPLOYMENT BENEFITS.

(II) AN AGREEMENT ENTERED INTO UNDER THIS PARAGRAPH INCLUDES THE AUTHORITY TO:

1. CREATE POOLED INVESTMENTS UNDER THE STEWARDSHIP OF:

A. A POLITICAL SUBDIVISION OF THE STATE OR UNIT OF A POLITICAL SUBDIVISION OF THE STATE; OR

B. A SEPARATE BODY UNDER AN AGREEMENT WITH A POLITICAL SUBDIVISION OF THE STATE;

2. CREATE ONE OR MORE ACCOUNTS TO BE MANAGED IN COORDINATION WITH OTHER FUNDS OR INVESTMENTS BY A THIRD PARTY UNDER AN AGREEMENT WITH A POLITICAL SUBDIVISION OF THE STATE; AND

3. CREATE DISTINCT FUNDING ACCOUNTS FOR PAYMENT ON BEHALF OF EMPLOYEES OF A UNIT OF A POLITICAL SUBDIVISION OF THE STATE UNDER AN AGREEMENT WITH THE POLITICAL SUBDIVISION.

22G.

(c) (1) The governing authority of any local government having funds which are available for investment and which are not required by law or by any covenant or agreement with bondholders or others to be segregated and invested in a different manner may direct its financial officer to remit funds to the Treasurer for investment as part of the Local Government Investment Pool.

(2) THE GOVERNING AUTHORITY OF ANY LOCAL GOVERNMENT HAVING FUNDS INTENDED FOR OTHER POSTEMPLOYMENT BENEFITS THAT ARE AVAILABLE FOR INVESTMENT, AS AUTHORIZED UNDER § 22 OF THIS ARTICLE, MAY DIRECT ITS FINANCIAL OFFICER TO REMIT THOSE FUNDS TO THE TREASURER FOR INVESTMENT AS PART OF THE INVESTMENT POOL.

[(2)**](3)** Upon determination by the local governing authority that it is in the best interest of the local government to deposit funds in the Investment Pool, it shall adopt and file with the Treasurer a certified copy of a resolution or ordinance authorizing investment of its funds in the Investment Pool. The resolution or ordinance shall name the local government official or officials responsible for deposit and withdrawal of such funds.

[(3)**](4)** The resolution or ordinance filed with the Treasurer shall be accompanied by a statement as to the approximate cash flow requirements of the local government for the invested funds. Subsequent deposits into the Investment Pool shall be accompanied by a statement as to the intended duration of the investment or the anticipated date of withdrawal of the funds from the Pool.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 472

(House Bill 1585)

AN ACT concerning

Local Governments – Postemployment Benefits – Investment of Funds

FOR the purpose of authorizing a political subdivision of the State or a unit of a political subdivision of the State to enter into certain agreements with third party contractors or vendors for the management or investment of certain money intended for certain postemployment benefits; providing that an agreement entered into under this Act includes the authority to create certain investments and accounts; authorizing the governing authority of any local government to direct its financial officer to remit certain funds to the State Treasurer for a certain purpose; and generally relating to the investment of funds by local governments.

BY repealing and reenacting, with amendments,
Article 95 – Treasurer
Section 22(b) and 22G(c)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article 95 – Treasurer

22.

(b) (1) In this subsection, "other postemployment benefits" means postemployment health care benefits, regardless of the type of plan that provides them, and all postemployment benefits provided separately from a pension plan.

(2) The trustees or other officers in charge of any pension or retirement system or fund or other postemployment benefits fund of any political subdivision of the State or any agency or department of the political subdivision may invest, redeem, sell, exchange, and reinvest moneys under their custody or control as provided by law by the governing body of the political subdivision and shall comply with fiduciary standards that at least meet the standards set forth in Title 21, Subtitle 2 of the State Personnel and Pensions Article in connection with funds under their custody or control.

(3) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A POLITICAL SUBDIVISION OF THE STATE OR A UNIT OF A POLITICAL SUBDIVISION OF THE STATE MAY ENTER INTO AN AGREEMENT WITH A THIRD PARTY CONTRACTOR OR VENDOR FOR THE MANAGEMENT OR INVESTMENT OF MONEY INTENDED FOR OTHER POSTEMPLOYMENT BENEFITS.

(II) AN AGREEMENT ENTERED INTO UNDER THIS PARAGRAPH INCLUDES THE AUTHORITY TO:

1. CREATE POOLED INVESTMENTS UNDER THE STEWARDSHIP OF:

A. A POLITICAL SUBDIVISION OF THE STATE OR UNIT OF A POLITICAL SUBDIVISION OF THE STATE; OR

B. A SEPARATE BODY UNDER AN AGREEMENT WITH A POLITICAL SUBDIVISION OF THE STATE;

2. CREATE ONE OR MORE ACCOUNTS TO BE MANAGED IN COORDINATION WITH OTHER FUNDS OR INVESTMENTS BY A THIRD PARTY UNDER AN AGREEMENT WITH A POLITICAL SUBDIVISION OF THE STATE; AND

3. CREATE DISTINCT FUNDING ACCOUNTS FOR PAYMENT ON BEHALF OF EMPLOYEES OF A UNIT OF A POLITICAL SUBDIVISION OF THE STATE UNDER AN AGREEMENT WITH THE POLITICAL SUBDIVISION.

22G.

(c) (1) The governing authority of any local government having funds which are available for investment and which are not required by law or by any covenant or agreement with bondholders or others to be segregated and invested in a different manner may direct its financial officer to remit funds to the Treasurer for investment as part of the Local Government Investment Pool.

(2) THE GOVERNING AUTHORITY OF ANY LOCAL GOVERNMENT HAVING FUNDS INTENDED FOR OTHER POSTEMPLOYMENT BENEFITS THAT ARE AVAILABLE FOR INVESTMENT, AS AUTHORIZED UNDER § 22 OF THIS ARTICLE, MAY DIRECT ITS FINANCIAL OFFICER TO REMIT THOSE FUNDS TO THE TREASURER FOR INVESTMENT AS PART OF THE INVESTMENT POOL.

[(2)**] (3)** Upon determination by the local governing authority that it is in the best interest of the local government to deposit funds in the Investment Pool,

it shall adopt and file with the Treasurer a certified copy of a resolution or ordinance authorizing investment of its funds in the Investment Pool. The resolution or ordinance shall name the local government official or officials responsible for deposit and withdrawal of such funds.

[(3)**] (4)** The resolution or ordinance filed with the Treasurer shall be accompanied by a statement as to the approximate cash flow requirements of the local government for the invested funds. Subsequent deposits into the Investment Pool shall be accompanied by a statement as to the intended duration of the investment or the anticipated date of withdrawal of the funds from the Pool.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 473

(Senate Bill 955)

AN ACT concerning

~~Brian Moore Student Health and Fitness Act of Maryland~~
Task Force on Student Physical Fitness in Maryland Public Schools

FOR the purpose of establishing a Task Force on Student Physical Fitness in Maryland Public Schools; providing for the membership and chair of the Task Force; requiring the ~~Department of Legislative Services~~ *State Department of Education* to provide staff for the Task Force; prohibiting a member of the Task Force from receiving certain compensation but entitling members to reimbursement for certain expenses; providing for the duties of the Task Force; requiring the Task Force to submit a certain report to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force on Student Physical Fitness in Maryland Public Schools ~~requiring that public school students in kindergarten through a certain grade be provided certain minimum levels of a program of physical activity each week; requiring that the program of physical activity for a certain category of student be consistent with a certain plan for the student; requiring public elementary schools to designate a certain group to plan and coordinate certain activities; requiring students in public high schools to complete a certain amount of physical education in order to graduate;~~

~~requiring the State Board of Education to adopt certain regulations; providing for certain extensions; and generally relating to student health and fitness~~.

~~BY repealing and reenacting, without amendments,~~
~~Article – Education~~
~~Section 7–205(a)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Education~~
~~Section 7–409~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

~~Preamble~~

~~WHEREAS, Obesity leads to at least 300,000 deaths among adults in the United States each year due in part to physical inactivity and a poor diet; and~~

~~WHEREAS, Inadequate participation in physical activity is a significant contributor to the "epidemic of obesity" that has plagued the nation's young people during the past 2 decades; and~~

~~WHEREAS, Physical activity offers young people many health benefits, including improving aerobic endurance and muscular strength, helping to control weight, building lean muscle and reducing fat, and helping to build greater bone mass, all of which thwart the development of osteoporosis in adulthood and prevent or reduce high blood pressure; and~~

~~WHEREAS, A growing body of evidence suggests that providing students with more physical education and physical activity opportunities helps reduce the costs schools incur by reducing absenteeism, improving student health, and reducing staff time spent addressing academic performance; and~~

~~WHEREAS, A growing body of evidence also suggests that improvement in test scores and overall academic achievement can be linked to increased time in physical education; and~~

~~WHEREAS, The National PTA considers "Early Physical Education" a "Parent Priority" and urges its members to promote physical education in the schools; now, therefore,~~

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

(a) There is a Task Force on Student Physical Fitness in Maryland Public Schools.

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

(1) one member of the House of Delegates, appointed by the Speaker of the House;

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

(3) one representative of the Department of Health and Mental Hygiene, appointed by the Secretary of Health and Mental Hygiene; and

(4) the following members appointed by the Governor:

(i) one representative of the State Department of Education;

(ii) one representative of the Maryland Association of Boards of Education;

(iii) one representative of the Maryland Association of Counties;

(iv) one representative of the American Diabetes Association;

(v) one representative of the American Heart Association;

(vi) one representative of the American Cancer Society;

(vii) one representative of the Maryland State Teachers Association;

~~(vii)~~ *(viii)* one representative of the Personal Development, Health & Physical Education Teachers Association; and

~~(viii)~~ *(ix)* one representative of the National Parent Teachers Association.

(c) The members of the Task Force shall elect a chair from among the members of the Task Force.

(d) The ~~Department of Legislative Services~~ *State Department of Education* shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations as provided in the State budget.

(f) The Task Force shall study:

(1) the advisability of requiring all public schools in the State to provide a minimum amount of physical activity or physical education to students in the public school system each week;

(2) the effects on childhood obesity and related health issues of requiring students to participate in a minimum amount of physical activity or physical education each week;

(3) the monetary costs of requiring public schools to provide a minimum amount of physical activity or physical education for students, how these costs may be minimized, and whether additional outside funding resources are available for these purposes; and

(4) ~~and~~ analyze the results obtained by any local school systems in the State and other states that have current physical activity or physical education requirements.

(g) On or before November 20, 2008, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

~~**Article – Education**~~

~~7–205.~~

~~(a) The promotion of students in a public school and graduation from a public high school shall be in accordance with:~~

~~(1) Policies established by the county board; and~~

~~(2) The rules and regulations of the State Board.~~

~~7–409.~~

~~(a)~~ **[**~~Each~~**]** ~~**SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, EACH**~~ ~~public school shall have a program of physical education that is given in a~~

~~planned and sequential manner to all students, kindergarten through grade 12, to develop their good health and physical fitness and improve their motor coordination and physical skills.~~

~~**(B) (1) ALL STUDENTS IN KINDERGARTEN THROUGH GRADE 8 SHALL BE PROVIDED A DAILY PROGRAM OF PHYSICAL ACTIVITY TOTALING 150 MINUTES A WEEK AS PROVIDED IN THIS SUBSECTION:**~~

~~**(I) THE PROGRAM SHALL INCLUDE A MINIMUM OF 90 MINUTES A WEEK OF PHYSICAL EDUCATION; AND**~~

~~**(II) ANY MINUTES NOT CONSISTING OF PHYSICAL EDUCATION SHALL CONSIST OF DEVELOPMENTALLY APPROPRIATE, MODERATE TO VIGOROUS ACTIVITY, INCLUDING RECESS.**~~

~~**(2) AS APPLICABLE, A STUDENT'S PROGRAM OF PHYSICAL ACTIVITY SHALL BE CONSISTENT WITH THE STUDENT'S INDIVIDUALIZED EDUCATION PLAN (IEP).**~~

~~**(3) EACH PUBLIC ELEMENTARY SCHOOL SHALL DESIGNATE A PHYSICAL ACTIVITY LEADERSHIP TEAM TO PLAN AND COORDINATE OPPORTUNITIES FOR ACTIVITIES THAT MEET THE REQUIREMENTS OF PARAGRAPH (1)(II) OF THIS SUBSECTION.**~~

~~**(C) A STUDENT IN A PUBLIC HIGH SCHOOL SHALL COMPLETE TWO YEARS OF PHYSICAL EDUCATION IN ORDER TO GRADUATE FROM A PUBLIC HIGH SCHOOL.**~~

~~**(D) THE STATE BOARD SHALL ADOPT REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.**~~

~~**[**(b)**] (E)** The Department shall employ a full-time director of physical education.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That any county school system that does not meet the requirements of this Act by October 1, 2008 may apply to the State Department of Education for an extension on compliance with this Act. If granted, an extension shall terminate at the end of July 1, 2011.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That a county school system that receives an extension under Section 2 of the Act shall have a plan to ensure the county school system's full compliance with the requirements of this Act by July 1, 2011.~~

SECTION ~~4.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2008. It shall remain effective for a period of 1 year and, at the end of June 30, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 474

(Senate Bill 959)

AN ACT concerning

~~Statewide Phase-Out of Electronic Gaming Devices~~
Slot Machines – Definition

FOR the purpose of ~~prohibiting, on or after a certain date, the purchase, lease, sale, transfer, replacement, licensure, or operation of an electronic gaming device in the State; providing certain exceptions to the prohibition; defining a certain term; providing certain penalties; altering certain definitions~~ altering the definition of "slot machine" for purposes of certain provisions of law to include certain machines, apparatuses, or devices that make a certain award to a user through the reading of a game of chance or the delivery of a game of chance; providing that the definition of "slot machine" does not include certain machines, apparatuses, or devices; authorizing the continued use of certain instant bingo machines under certain circumstances; *providing a certain limitation on the number of slot machines for a certain location; prohibiting the issuance of a commercial bingo license under certain conditions; providing that the State Lottery Agency shall submit a certain report by a certain date;* establishing that the enforcement and implementation of this Act may not be stayed under certain circumstances; ~~making this Act an emergency measure;~~ and generally relating to ~~electronic gaming devices~~ slot machines.

~~BY repealing and reenacting, without amendments,~~
~~Article – Criminal Law~~
~~Section 12–101(a), 12–102, 12–104, 12–111, 12–302, and 13–203~~
~~Annotated Code of Maryland~~
~~(2002 Volume and 2007 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Criminal Law~~
~~Section 12–101(d), 12–301, 12–304(c), and 13–101~~

~~Annotated Code of Maryland~~
~~(2002 Volume and 2007 Supplement)~~

~~BY adding to~~
~~Article – Criminal Law~~
~~Section 12–108.1~~
~~Annotated Code of Maryland~~
~~(2002 Volume and 2007 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 12–301 *and 13–101*
Annotated Code of Maryland
(2002 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 12–302
Annotated Code of Maryland
(2002 Replacement Volume and 2007 Supplement)

~~Preamble~~

~~WHEREAS, Although 37 states have authorized the use of slot machines, Maryland, with the narrow exception of qualified nonprofit organizations in eight Eastern Shore counties, has long prohibited a person from locating, possessing, keeping, or operating a slot machine; and~~

~~WHEREAS, Despite a clear prohibition in State law as to the use of slot machines and similar gaming devices, the use, possession, and operation of electronic gaming devices and machines has expanded throughout the State on a massive scale under the pretext of bingo, tip jars, and other gaming activities without any State authorization, oversight, or regulation; and~~

~~WHEREAS, In many instances these electronic gaming devices are so similar in appearance and operation to slot machines that the contention that they are not slot machines is absurd and has caused confusion among the members of the public as well as law enforcement officers who are charged with upholding the State laws prohibiting the unauthorized operation of slot machines; and~~

~~WHEREAS, When the State legislature granted persons the opportunity to conduct bingo, instant bingo, or other forms of gambling, the legislature did not contemplate or intend that the games would be played on technologically advanced electronic gaming devices similar in appearance and player operation to slot machines; and~~

~~WHEREAS, The General Assembly passed a proposed Constitutional Amendment in November 2007 that will be decided by the voters of this State at referendum in November 2008 which would authorize an electronic video lottery terminal program strictly limited to five locations in the State with a limited number of machines and a significant majority of the funding allocated to benefit K–12 and higher education in the State; and~~

~~WHEREAS, Neither the General Assembly nor the voters have approved measures to authorize expanded electronic gaming in the State; and~~

~~WHEREAS, Electronic gaming devices have been inappropriately authorized by local governments at a potentially unlimited number of locations and are being operated in this State with no central State oversight or regulation of the revenues and their distribution resulting in tremendous private gain to private operators under the guise of commercial and charitable activity to the detriment of the State; and~~

~~WHEREAS, The State Lottery is estimated to yield over $500,000,000 for the general support of State government in fiscal year 2009, and a proliferation of electronic gaming devices without any authorization by the General Assembly will reduce State revenues at a time of great fiscal strain on the State budget; and~~

~~WHEREAS, Revenues collected from the State Lottery are essential to the State budget and for maintaining critical government services, including funding provided to local governments for K–12 education, teachers' retirement, libraries, aging public school renovation, community colleges, local police aid, and local health departments, and to preserving full funding of local highway user revenues, and Program Open Space funds; and~~

~~WHEREAS, Without central regulation and oversight by the State, the massive, unregulated, and unauthorized expansion of electronic gaming on an ad hoc basis at the local level creates the opportunity for inappropriate private gain, criminal activity, and other behavior that is harmful to the public interest and is contrary to the best interests of all of the citizens of the State; now, therefore,~~

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

Article – Criminal Law

~~12–101.~~

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

~~(d) (1) "Gaming device" means:~~

~~(i) a gaming table, except a billiard table, at which a game of chance is played for money or any other thing or consideration of value; or~~

~~(ii) a game or device at which money or any other thing or consideration of value is bet, wagered, or gambled.~~

~~(2) "Gaming device" includes a paddle wheel, wheel of fortune, chance book, and bingo.~~

~~**(3) "GAMING DEVICE" INCLUDES AN ELECTRONIC GAMING DEVICE UNDER § 12–108.1 OF THIS SUBTITLE.**~~

~~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) 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) 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.~~

~~(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.~~

~~12–104.~~

~~(a) A person may not:~~

~~(1) keep a gaming device, or all or a part of a building, vessel, or place, on land or water within the State for the purpose of gambling;~~

~~(2) own, rent, or occupy all or a part of a building, vessel, or place and knowingly allow a gaming device to be kept in the building, vessel, or place;~~

~~(3) lease or rent all or a part of a building, vessel, or place to be used for the purpose of gambling;~~

~~(4) deal at a gaming device or in a building, vessel, or place for gambling;~~

~~(5) manage a gaming device or a building, vessel, or place for gambling; or~~

~~(6) have an interest in a gaming device or the profits of a gaming device.~~

~~(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 not exceeding $500 or both.~~

~~**12–108.1.**~~

~~**(A) (1) IN THIS SECTION, "ELECTRONIC GAMING DEVICE" MEANS AN ELECTRONIC SLOT MACHINE, VIDEO POKER MACHINE, ELECTRONIC BINGO MACHINE, ELECTRONIC PULL TAB MACHINE, OR SIMILAR ELECTRONIC MACHINE THAT:**~~

~~**(I) ON INSERTION OF A COIN, TOKEN, OR SIMILAR OBJECT OR ON PAYMENT OF ANY CONSIDERATION, IS AVAILABLE TO BE PLAYED; AND**~~

~~**(II) BY THE SKILL OF THE PLAYER, THE APPLICATION OF THE ELEMENT OF CHANCE, OR BY ANY OTHER METHOD, MAY DELIVER OR ENTITLE THE PLAYER TO RECEIVE CASH, PREMIUMS, MERCHANDISE, TOKENS, PAPER RECEIPTS REDEEMABLE FOR CASH, OR ANYTHING ELSE OF VALUE.**~~

~~**(2) "ELECTRONIC GAMING DEVICE" INCLUDES AN ELECTRONIC MACHINE THAT:**~~

~~**(I) DISPENSES TICKETS VERIFYING THE NUMBER OF POINTS OR CREDITS THAT THE PLAYER HAS ACCUMULATED WHILE PLAYING AND THAT MAY BE REDEEMED FOR CASH OR MERCHANDISE; AND**~~

~~**(II) IS EQUIPPED WITH A KNOCK–OFF SWITCH OR SIMILAR DEVICE THAT RELEASES FREE GAMES OR CREDITS ACCUMULATED TOWARD THE AWARD OF CASH OR MERCHANDISE AND RESETS THE POINT OR CREDIT TOTAL TO ZERO.**~~

~~**(3) IF LEGISLATION IS ENACTED AUTHORIZING COMMERCIAL VIDEO LOTTERY GAMING IN THE STATE, "ELECTRONIC GAMING DEVICE" DOES NOT INCLUDE A VIDEO LOTTERY TERMINAL AS DEFINED IN § 9–1A–01 OF THE STATE GOVERNMENT ARTICLE.**~~

~~(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY NOT PURCHASE, LEASE, SELL, TRANSFER, REPLACE, LICENSE, OR OPERATE AN ELECTRONIC GAMING DEVICE IN THE STATE.~~

~~(2) IF A PERSON HAS CONTINUOUSLY OPERATED AN ELECTRONIC GAMING DEVICE AS AN OWNER, LESSOR, LESSEE, LICENSOR, LICENSEE, OR IN ANY OTHER CAPACITY BEGINNING:~~

~~(I) BEFORE JULY 1, 1998, THE PERSON MAY CONTINUE TO OPERATE AN ELECTRONIC GAMING DEVICE THROUGH THE END OF JUNE 30, 2009;~~

~~(II) ON OR AFTER JULY 1, 1998, BUT BEFORE JULY 1, 2003, THE PERSON MAY CONTINUE TO OPERATE AN ELECTRONIC GAMING DEVICE THROUGH THE END OF DECEMBER 31, 2008; AND~~

~~(III) ON OR AFTER JULY 1, 2003, BUT BEFORE MARCH 1, 2008, THE PERSON MAY CONTINUE TO OPERATE AN ELECTRONIC GAMING DEVICE THROUGH THE END OF JUNE 30, 2008.~~

~~(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:~~

~~(1) IF THE PERSON IS AN INDIVIDUAL, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE OF $1,000 OR BOTH FOR EACH VIOLATION; OR~~

~~(2) IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING $1,000 OR LOSS OF PRIVILEGES TO CONDUCT A GAMING EVENT NOT EXCEEDING 60 DAYS OR BOTH FOR EACH VIOLATION.~~

~~12–111.~~

~~If a law enforcement officer has a reason to suspect a gaming device is kept unlawfully at a place, the law enforcement officer shall:~~

~~(1) visit the place; and~~

~~(2) charge all persons who violate a law that prohibits gambling.~~

12–301.

In this subtitle:

(1) "slot machine" means a machine, apparatus, or device that:

(i) operates or can be made to operate by inserting, depositing, or placing with another person money, a token, or another object; and

(ii) through the element of chance**, THE READING OF A GAME OF CHANCE, THE DELIVERY OF A GAME OF CHANCE,** or any other outcome unpredictable by the user, awards the user:

1. money, a token, or other object that represents or that can be converted into money; or

2. the right to receive money, a token, or another object that represents and can be converted into money; ~~and~~

(2) "slot machine" includes:

(i) a machine, apparatus, or device described in item (1) of this section that also sells, delivers, or awards merchandise, money, or some other tangible thing of value; ~~[~~and~~]~~

(ii) a pinball machine or console machine that pays off in merchandise**; AND**

~~**(III) AN ELECTRONIC GAMING DEVICE UNDER § 12–108.1 OF THIS TITLE.**~~

(3) "SLOT MACHINE" DOES NOT INCLUDE A MACHINE, APPARATUS, OR DEVICE THAT:

(I) AWARDS THE USER ONLY FREE ADDITIONAL GAMES OR PLAYS;

(II) AWARDS THE USER ONLY NONCASH MERCHANDISE OR *NONCASH* PRIZES OF MINIMAL VALUE;

(III) DISPENSES PAPER PULL TAB TIP JAR TICKETS OR PAPER PULL TAB INSTANT BINGO TICKETS THAT MUST BE OPENED MANUALLY BY THE USER PROVIDED THAT THE MACHINE, APPARATUS, OR DEVICE DOES NOT:

1. READ THE TICKETS ELECTRONICALLY;

2. ALERT THE USER TO A WINNING OR LOSING TICKET; OR

3. TABULATE A PLAYER'S WINNINGS AND LOSSES;

(IV) 1. DISPLAYS FACSIMILES OF BINGO CARDS THAT USERS MARK AND MONITOR ~~AS NUMBERS ARE CALLED BY AN INDIVIDUAL LOCATED ON THE PREMISES~~ *ACCORDING TO NUMBERS CALLED ON THE PREMISES BY AN INDIVIDUAL* WHERE THE USER IS OPERATING THE MACHINE; AND

2. DOES NOT PERMIT A USER TO PLAY MORE THAN 54 BINGO CARDS AT THE SAME TIME;

(V) IS USED BY THE STATE LOTTERY COMMISSION UNDER TITLE 9 OF THE STATE GOVERNMENT ARTICLE; OR

(VI) IF LEGISLATION TAKES EFFECT AUTHORIZING THE OPERATION OF VIDEO LOTTERY TERMINALS, *IS* A VIDEO LOTTERY TERMINAL AS DEFINED IN AND LICENSED UNDER THAT LEGISLATION.

12–302.

(a) Except as allowed under §§ 12–304 through 12–306 of this subtitle, a person may not locate, possess, keep, or operate a slot machine in the State as an owner, lessor, lessee, licensor, licensee, or in any other capacity.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine of $1,000 or both for each violation.

13–101.

(A) *Activities conducted under this title are allowed notwithstanding the provisions of Title 12, Subtitles 1 and 2 of this article.*

(B) A COUNTY MAY NOT ISSUE A COMMERCIAL BINGO LICENSE UNDER THIS TITLE OR UNDER ANY PUBLIC LOCAL LAW TO AN ENTITY THAT WAS NOT LICENSED TO CONDUCT COMMERCIAL BINGO ON OR BEFORE JUNE 30, 2008.

~~12–304.~~

~~(c) (1) In this subsection, a console or set of affixed slot machines is not an individual slot machine.~~

~~(2)~~ **[**~~Notwithstanding~~**] SUBJECT TO § 12–108.1 OF THIS TITLE BUT NOTWITHSTANDING** ~~any other provision of this subtitle, an eligible organization may own and operate a slot machine if the eligible organization:~~

~~(i) obtains a license under subsection (e) of this section for each slot machine;~~

~~(ii) owns each slot machine that the eligible organization operates;~~

~~(iii) owns not more than five slot machines;~~

~~(iv) locates and operates its slot machines at its principal meeting hall in the county in which the eligible organization is located;~~

~~(v) does not locate or operate its slot machines in a private commercial facility;~~

~~(vi) uses:~~

~~1. at least one–half of the proceeds from its slot machines for the benefit of a charity; and~~

~~2. the remainder of the proceeds from its slot machines to further the purposes of the eligible organization;~~

~~(vii) does not use any of the proceeds of the slot machine for the financial benefit of an individual; and~~

~~(viii) reports annually under affidavit to the State Comptroller:~~

~~1. the income of each slot machine; and~~

~~2. the disposition of the income from each slot machine.~~

~~13–101.~~

~~**(A)**~~ **[**~~Activities~~**] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION, ACTIVITIES** ~~conducted under this title are allowed notwithstanding the provisions of Title 12, Subtitles 1 and 2 of this article.~~

~~**(B) THE OPERATION OF AN ELECTRONIC GAMING DEVICE IN ANY ACTIVITY CONDUCTED UNDER THIS TITLE IS SUBJECT TO § 12–108.1 OF THIS ARTICLE.**~~

~~13–203.~~

~~This title and Title 12 of this article do not prohibit a qualified organization from conducting a gaming event for the exclusive benefit of a qualified organization if an individual or group of individuals does not:~~

~~(1) benefit financially from the gaming event under this subtitle; or~~

~~(2) receive any of the proceeds from the gaming event under this subtitle for personal use or benefit.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of Section 1 of this Act, an entity licensed to offer instant bingo *under a commercial bingo license as of July 1, 2007, or by a qualified organization as defined in § 13–201 of this article on the premises of the qualified organization* may continue to operate a game of instant bingo in the same manner using electronic machines until ~~January~~ *July* 1, 2009, provided that:

(a) ~~the machines have been in operation for a 1–year period ending December 31, 2007;~~ *the machines have been in operation for a 1–year period ending December 31, 2007;*

~~(b)~~ *(b)* ~~the machines operate using preprinted rolls of paper pull tab tickets that issue pull tab tickets in a predetermined order~~ *the entity does not operate more than the number of electronic machines operated as of February 28, 2008*; and

~~(c)~~ ~~*(b)*~~ *(c)* the conduct of the gaming and operation of the machines is consistent with all other provisions of the Criminal Law Article ~~and with the holding in the case of Chesapeake Amusements Inc. v. Riddle, 363 Md. 16 (2001).~~

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The State Lottery Agency shall prepare a report that:

(1) outlines the current statutory and regulatory provisions governing gaming activities in local jurisdictions;

(2) provides information on the prevalence of gaming activities in local jurisdictions;

(3) analyzes the financial impact of gaming activities for:

(i) the entities or organizations conducting the activities;

(ii) the local jurisdictions; and

(iii) any other entities or organizations that may benefit financially from such activities;

(4) examines the impact of gaming activities in local jurisdictions on other gaming activities regulated by the State, including the State Lottery and horse racing; and

(5) makes recommendations as to how the State may exercise additional or improved oversight of gaming activities.

(b) The State Lottery Agency shall submit the report required under subsection (a) of this section to the Governor and, subject to § 2–1246 of the State Government Article, to the Senate Budget and Taxation Committee and the House Committee on Ways and Means on or before December 15, 2008.

SECTION ~~3.~~ *4.* AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, if any action is brought for declaratory, injunctive, or other relief to challenge the legality of any provision of this Act or any amendment made by this Act, the enforcement and implementation of this Act may not be stayed pending the disposition of the action.

SECTION ~~2.~~ ~~4.~~ *5.* AND BE IT FURTHER ENACTED, That this Act ~~is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted~~ *shall take effect July 1, 2008*.

Approved by the Governor, May 13, 2008.

CHAPTER 475

(Senate Bill 969)

AN ACT concerning

State Board of Stationary Engineers – Licensing Exemption – Resource Recovery Facility Operators

FOR the purpose of exempting from the requirement to be licensed by the State Board of Stationary Engineers certain resource recovery facility operators who provide

stationary engineer services under certain circumstances; defining a certain term; and generally relating to licensing of stationary engineers.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 6.5–301
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

6.5–301.

(A) Except as otherwise provided in this title, an individual shall be licensed by the Board to provide stationary engineer services before the individual may provide stationary engineer services in the State.

(B) (1) IN THIS SUBSECTION, "RESOURCE RECOVERY FACILITY" MEANS A FACILITY THAT PROCESSES SOLID WASTE TO PRODUCE VALUABLE RESOURCES, INCLUDING STEAM, ELECTRICITY, METALS, OR REFUSE–DERIVED FUEL.

(2) AN INDIVIDUAL WHO PROVIDES STATIONARY ENGINEER SERVICES AT A RESOURCE RECOVERY FACILITY THAT GENERATES STEAM OR ELECTRICITY IS NOT REQUIRED TO BE LICENSED BY THE BOARD TO PROVIDE STATIONARY ENGINEER SERVICES IF THE INDIVIDUAL IS CERTIFIED TO OPERATE A RESOURCE RECOVERY FACILITY UNDER REGULATIONS ADOPTED BY THE SECRETARY OF THE ENVIRONMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 476

(House Bill 1561)

AN ACT concerning

State Board of Stationary Engineers – Licensing Exemption – Resource Recovery Facility Operators

FOR the purpose of exempting from the requirement to be licensed by the State Board of Stationary Engineers certain resource recovery facility operators who provide stationary engineer services under certain circumstances; defining a certain term; and generally relating to licensing of stationary engineers.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 6.5–301
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

6.5–301.

(A) Except as otherwise provided in this title, an individual shall be licensed by the Board to provide stationary engineer services before the individual may provide stationary engineer services in the State.

(B) (1) IN THIS SUBSECTION, "RESOURCE RECOVERY FACILITY" MEANS A FACILITY THAT PROCESSES SOLID WASTE TO PRODUCE VALUABLE RESOURCES, INCLUDING STEAM, ELECTRICITY, METALS, OR REFUSE–DERIVED FUEL.

(2) AN INDIVIDUAL WHO PROVIDES STATIONARY ENGINEER SERVICES AT A RESOURCE RECOVERY FACILITY THAT GENERATES STEAM OR ELECTRICITY IS NOT REQUIRED TO BE LICENSED BY THE BOARD TO PROVIDE STATIONARY ENGINEER SERVICES IF THE INDIVIDUAL IS CERTIFIED TO OPERATE A RESOURCE RECOVERY FACILITY UNDER REGULATIONS ADOPTED BY THE SECRETARY OF THE ENVIRONMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 477

(Senate Bill 983)

AN ACT concerning

Maryland Housing Fund – Unallocated Reserves – Transfers

FOR the purpose of ~~requiring the Secretary of Housing and Community Development to transfer~~ *transferring* certain amounts in the Maryland Housing Fund at the end of any fiscal year to the Homeownership Programs Fund, the Rental Housing Programs Fund, and the Special Loan Programs Fund; *requiring a certain transfer of funds in a certain year;* and generally relating to the transfer of certain unallocated reserves of the Maryland Housing Fund.

BY adding to
Article – Housing and Community Development
Section 3–203(i)
Annotated Code of Maryland
(2006 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 4–502(d), 4–504(e)(1), and 4–505(g)(1)
Annotated Code of Maryland
(2006 Volume and 2007 Supplement)

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

Article – Housing and Community Development

3–203.

(I) ***(1)*** **~~IF~~** ***BEGINNING IN FISCAL YEAR 2010, IF*** **THE BALANCE** ***OF THE UNALLOCATED RESERVE*** **OF THE FUND AT THE END OF ANY FISCAL YEAR EXCEEDS ~~THE AMOUNT OF RESERVES NECESSARY TO PROVIDE BACKING FOR THE INSURANCE ISSUED BY THE FUND BY MORE THAN~~ $10,000,000, THE EXCESS OVER $10,000,000 SHALL BE TRANSFERRED BY THE ~~SECRETARY AS FOLLOWS~~ *GOVERNOR TO THE*:**

~~(1)~~ ***(I)*** **~~ONE–THIRD TO THE~~ HOMEOWNERSHIP PROGRAMS FUND ESTABLISHED UNDER § 4–502 OF THIS ARTICLE;**

~~(2)~~ *(II)* ~~ONE–THIRD TO THE~~ RENTAL HOUSING PROGRAMS FUND ESTABLISHED UNDER § 4–504 OF THIS ARTICLE; AND

~~(3)~~ *(III)* ~~ONE–THIRD TO THE~~ SPECIAL LOAN PROGRAMS FUND ESTABLISHED UNDER § 4–505 OF THIS ARTICLE.

(2) THE DISTRIBUTION OF ANY MONEY TRANSFERRED FROM THE FUND TO THE HOMEOWNERSHIP PROGRAMS FUND, THE RENTAL HOUSING PROGRAMS FUND, AND THE SPECIAL LOAN PROGRAMS FUND SHALL BE AT THE DISCRETION OF THE SECRETARY.

4–502.

(d) The Fund consists of:

(1) money appropriated by the State for homeownership programs, including the Maryland Home Financing Program under Subtitle 8 of this title and the Down Payment and Settlement Expense Loan Program under Subtitle 3 of this title;

(2) money from the sale of the State's general obligation bonds;

(3) repayments or prepayments of principal and payments of interest on loans made under the Maryland Home Financing Program, the Homeowners' Emergency Mortgage Assistance Program, the Reverse Equity Program, or the Down Payment and Settlement Expense Loan Program, formerly the Settlement Expense Loan Program;

(4) money transferred to the Fund in accordance with §§ 4–503(d), 4–504(f), and 4–505(h) of this subtitle and **[**§ 6–310(g)**] §§ 3–203(I) AND 6–310(G)** of this article; and

(5) investment earnings of the Fund.

4–504.

(e) (1) The Fund consists of:

(i) money appropriated by the State for rental housing programs, including the Elderly Rental Housing Program under § 4–402 of this title, the Multifamily Rehabilitation Program under § 4–906(b) of this title, the Nonprofit Rehabilitation Program under § 4–929 of this title, and the Rental Housing Production Program under § 4–1502 of this title;

(ii) repayments and prepayments of loans made under the programs set forth in item (i) of this paragraph;

(iii) money appropriated under § 4–501(c) of this subtitle;

(iv) money transferred to the Fund in accordance with §§ 4–502(e), 4–503(d), and 4–505(h) of this subtitle and **[**§ 6–310(g)**] §§ 3–203(I) AND 6–310(G)** of this article; and

(v) investment earnings of the Fund.

4–505.

(g) (1) The Fund consists of:

(i) money appropriated by the State for special loan programs, including:

1. the Special Rehabilitation Program under § 4–906(b) of this title;

2. the Regular Rehabilitation Program under § 4–906(b) of this title;

3. the Group Home Financing Program under § 4–602 of this title; and

4. the Lead Hazard Reduction Grant Program under § 4–708 of this title and the Lead Hazard Reduction Loan Program under § 4–709 of this title;

(ii) repayments of principal and payments of interest on loans made under these programs;

(iii) repayments of grants from the Fund;

(iv) repayments of principal and payments of interest on loans from the Fund;

(v) money transferred to the Fund in accordance with §§ 4–502(e), 4–503(d), and 4–504(f) of this subtitle and **[**§ 6–310(g)**] §§ 3–203(I) AND 6–310(G)** of this article; and

(vi) investment earnings of the Fund.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, on or before June 30, 2008, the Governor shall transfer

$10,000,000 in the Maryland Housing Fund established under § 3–203 of the Housing and Community Development Article to the Rental Housing Programs Fund, the Homeownership Programs Fund, and the Special Loan Program Fund in the amounts of $5,600,000, $1,800,000, and $2,600,000, respectively.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 478

(Senate Bill 984)

AN ACT concerning

Board of Public Works – Notification – Capital Leases

FOR the purpose of prohibiting the Board of Public Works from approving certain leases without a certain ~~determination by the Comptroller's General Accounting Office; requiring certain notice to the Legislative Policy Committee prior to approval of certain leases; requiring certain leases to be approved as capital leases;~~ certification by the Capital Debt Affordability Committee or approval of the General Assembly in the budget; and generally relating to the approval of leases by the Board of Public Works.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 12–204
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – State Finance and Procurement

12–204.

(a) This section does not apply to a lease entered into on or before May 31, 1967, unless the lease is renewed after that date.

(b) (1) Except as **[**provided in subsection (c) of this section**]** **OTHERWISE PROVIDED IN THIS SECTION** and § 13–108 of this article, before a unit executes or renews a lease of land, buildings, or office space, the Board shall approve the lease or lease renewal.

(2) After review by the Secretary of General Services, the Board may designate the location of any unit.

(c) (1) Subject to paragraph (2) of this subsection, the Board may adopt regulations, in accordance with Title 10, Subtitle 1 of the State Government Article, that allow a unit to execute or renew a lease without Board approval.

(2) These regulations are subject to the approval of:

(i) the General Assembly; or

(ii) while the General Assembly is not in session, the Legislative Policy Committee.

(3) Regulations adopted under this section shall:

(i) establish an expenditure or use classification to determine which leases or lease renewals may be entered into without Board approval;

(ii) set an amount for each classification and require a unit to obtain approval if a lease or lease renewal exceeds that amount; and

(iii) require a unit to establish a reporting system approved by the Board to inform the Board about leases or lease renewals entered into without Board approval.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD MAY NOT APPROVE A LEASE THAT:

(I) TRANSFERS OWNERSHIP OF THE PROPERTY TO THE LESSEE ON OR BEFORE THE TERMINATION OF THE LEASE;

(II) ALLOWS THE LESSEE TO PURCHASE THE PROPERTY BELOW FAIR MARKET VALUE OR FOR A FIXED AMOUNT;

(III) IS FOR A TERM THAT IS 75% OR MORE OF THE ESTIMATED USEFUL ECONOMIC LIFE OF THE PROPERTY; OR

(IV) HAS PAYMENTS WITH A PRESENT VALUE THAT IS 90% OR MORE OF THE FAIR MARKET VALUE OF THE PROPERTY.

(2) ~~(I)~~ THE BOARD MAY APPROVE A LEASE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IF:

~~**1. THE COMPTROLLER'S GENERAL ACCOUNTING OFFICE DETERMINES THE LEASE IS NOT APPROPRIATE TO BE INCLUDED IN THE ANNUAL ESTIMATE OF THE CAPITAL DEBT AFFORDABILITY COMMITTEE; AND**~~

~~**2. THE BOARD SUBMITS TO THE LEGISLATIVE POLICY COMMITTEE THE LEASE TERMS AND ANY SUPPORTING INFORMATION.**~~

~~**(II) THE LEGISLATIVE POLICY COMMITTEE HAS 45 DAYS WITHIN WHICH TO REVIEW AND PROVIDE WRITTEN COMMENTS ON THE LEASE.**~~

~~**(3) IF THE COMPTROLLER'S GENERAL ACCOUNTING OFFICE DETERMINES THE LEASE IS APPROPRIATE TO BE INCLUDED IN THE ANNUAL ESTIMATE OF THE CAPITAL DEBT AFFORDABILITY COMMITTEE THE LEASE MAY BE APPROVED AS A CAPITAL LEASE AS PROVIDED IN §§ 8–401 THROUGH 8–407 OF THIS ARTICLE.**~~

(I) THE CAPITAL DEBT AFFORDABILITY COMMITTEE HAS CERTIFIED TO THE GOVERNOR AND THE GENERAL ASSEMBLY THAT THE TOTAL AMOUNT OF NEW STATE DEBT TO BE INCURRED BY THE LEASE MAY PRUDENTLY BE AUTHORIZED; OR

(II) THE GENERAL ASSEMBLY HAS APPROVED THE LEASE IN THE BUDGET FOR THE REQUESTING UNIT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 479

(House Bill 1596)

AN ACT concerning

Board of Public Works – Notification – Capital Leases

FOR the purpose of prohibiting the Board of Public Works from approving certain leases without a certain ~~determination by the Comptroller's General Accounting Office; requiring certain notice to the Legislative Policy Committee prior to approval of certain leases; requiring certain leases to be approved as capital leases;~~ certification by the Capital Debt Affordability Committee or approval of the General Assembly in the budget; and generally relating to the approval of leases by the Board of Public Works.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 12–204
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – State Finance and Procurement

12–204.

(a) This section does not apply to a lease entered into on or before May 31, 1967, unless the lease is renewed after that date.

(b) (1) Except as **[**provided in subsection (c) of this section**]** **OTHERWISE PROVIDED IN THIS SECTION** and § 13–108 of this article, before a unit executes or renews a lease of land, buildings, or office space, the Board shall approve the lease or lease renewal.

(2) After review by the Secretary of General Services, the Board may designate the location of any unit.

(c) (1) Subject to paragraph (2) of this subsection, the Board may adopt regulations, in accordance with Title 10, Subtitle 1 of the State Government Article, that allow a unit to execute or renew a lease without Board approval.

(2) These regulations are subject to the approval of:

(i) the General Assembly; or

(ii) while the General Assembly is not in session, the Legislative Policy Committee.

(3) Regulations adopted under this section shall:

(i) establish an expenditure or use classification to determine which leases or lease renewals may be entered into without Board approval;

(ii) set an amount for each classification and require a unit to obtain approval if a lease or lease renewal exceeds that amount; and

(iii) require a unit to establish a reporting system approved by the Board to inform the Board about leases or lease renewals entered into without Board approval.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD MAY NOT APPROVE A LEASE THAT:

(I) TRANSFERS OWNERSHIP OF THE PROPERTY TO THE LESSEE ON OR BEFORE THE TERMINATION OF THE LEASE;

(II) ALLOWS THE LESSEE TO PURCHASE THE PROPERTY BELOW FAIR MARKET VALUE OR FOR A FIXED AMOUNT;

(III) IS FOR A TERM THAT IS 75% OR MORE OF THE ESTIMATED USEFUL ECONOMIC LIFE OF THE PROPERTY; OR

(IV) HAS PAYMENTS WITH A PRESENT VALUE THAT IS 90% OR MORE OF THE FAIR MARKET VALUE OF THE PROPERTY.

(2) ~~(I)~~ THE BOARD MAY APPROVE A LEASE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IF:

~~**1. THE COMPTROLLER'S GENERAL ACCOUNTING OFFICE DETERMINES THE LEASE IS NOT APPROPRIATE TO BE INCLUDED IN THE ANNUAL ESTIMATE OF THE CAPITAL DEBT AFFORDABILITY COMMITTEE; AND**~~

~~**2. THE BOARD SUBMITS TO THE LEGISLATIVE POLICY COMMITTEE THE LEASE TERMS AND ANY SUPPORTING INFORMATION.**~~

~~**(II) THE LEGISLATIVE POLICY COMMITTEE HAS 45 DAYS WITHIN WHICH TO REVIEW AND PROVIDE WRITTEN COMMENTS ON THE LEASE.**~~

~~**(3) IF THE COMPTROLLER'S GENERAL ACCOUNTING OFFICE DETERMINES THE LEASE IS APPROPRIATE TO BE INCLUDED IN THE ANNUAL ESTIMATE OF THE CAPITAL DEBT AFFORDABILITY COMMITTEE THE LEASE MAY**~~

~~**BE APPROVED AS A CAPITAL LEASE AS PROVIDED IN §§ 8–401 THROUGH 8–407 OF THIS ARTICLE.**~~

(I) THE CAPITAL DEBT AFFORDABILITY COMMITTEE HAS CERTIFIED TO THE GOVERNOR AND THE GENERAL ASSEMBLY THAT THE TOTAL AMOUNT OF NEW STATE DEBT TO BE INCURRED BY THE LEASE MAY PRUDENTLY BE AUTHORIZED; OR

(II) THE GENERAL ASSEMBLY HAS APPROVED THE LEASE IN THE BUDGET FOR THE REQUESTING UNIT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 480

(Senate Bill 1008)

AN ACT concerning

Home Builders – Sales Representative Registration and Home Builder Guaranty Fund

FOR the purpose of repealing a requirement that an individual who sells any real estate as a sales agent for a home builder be licensed by the State Real Estate Commission; renaming the Home Builder Registration Unit in the Consumer Protection Division of the Office of the Attorney General to be the Home Builder and Home Builder Sales Representative Registration Unit; requiring the Unit to maintain a list of certain registered sales representatives; requiring the Unit to make certain information regarding certain laws and regulations available to certain registered sales representatives within a certain time period; requiring the Unit to collect and maintain certain information regarding consumer complaints involving registered sales representatives; prohibiting certain persons from acting as home builder sales representatives unless the person is a registered sales representatives; providing for certain application, issuance, and renewal procedures for registration certificates for registered sales representatives; requiring certain registered sales representatives to display a certain registration certificate in a certain manner; requiring certain home builders to disclose certain information to a prospective home buyer; authorizing the Unit to deny, reprimand, suspend, or revoke a certain

registration certificate or impose certain penalties on certain registered sales representatives under certain circumstances; prohibiting certain acts and providing for certain penalties; requiring certain persons to pay a certain fee before being issued certain permits for home building in certain counties; increasing certain home builder registration and renewal fees; requiring the Division to establish the Home Builder Guaranty Fund; requiring the Division to maintain the Guaranty Fund at a certain monetary level, deposit certain money into the Guaranty Fund, and administer the Guaranty Fund; requiring the Office of Legislative Audits to audit the Guaranty Fund; establishing a custodian of the Guaranty Fund; requiring that certain administrative costs of the Guaranty Fund be paid from a certain fund; requiring certain home builders to pay a certain Guaranty Fund fee with each application for a permit for the construction of a new home; authorizing a home builder to collect money for the Guaranty Fund fee from a certain person; requiring certain county departments to remit Guaranty Fund fees to the Division at a certain time; authorizing the Division to set a certain fee; providing for the suspension of a home builder's registration under certain circumstances; authorizing a consumer to recover compensation from the Guaranty Fund under certain circumstances; requiring certain consumers to provide a certain notice to a registrant under certain circumstances; requiring a complainant with a certain new home warranty security plan to file a certain claim with the plan and exhaust the plan's claims process before seeking recovery from the Guaranty Fund; establishing certain limits on the recovery of a claimant; authorizing the Division to deny a claim under certain circumstances; limiting the amounts of money and purposes for which the Division may make awards from the Guaranty Fund; prohibiting certain persons from making claims against the Guaranty Fund; authorizing a claimant to bring a claim against the Guaranty Fund within a certain time period; specifying procedures for recovering money from the Guaranty Fund; requiring the Division's mediation unit to perform certain duties; requiring the Division to process certain claims made against the Guaranty Fund; authorizing a claimant to make certain appeals; providing that the Division has a right to reimbursement from a certain registrant for money paid from the Guaranty Fund; establishing certain penalties; requiring the Consumer Protection Division of the Office of the Attorney General to submit a certain report on the activities regarding the Home Builder Registration Fund and the Home Builder Guaranty Fund to the General Assembly on or before a certain date each year; defining certain terms; providing for the application of this Act; and generally relating to the Home Builder Guaranty Fund and the registration of home builder sales representatives.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 17–101(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 17–101(l)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 4.5–101, 4.5–201, 4.5–202, 4.5–301, 4.5–303 through 4.5–308, 4.5–501, and 4.5–601; and 4.5–701 to be under the amended subtitle "Subtitle 8. Short Title"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 4.5–203 and 4.5–302
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – Business Regulation
Section 4.5–304.1; and 4.5–701 through 4.5–712 to be under the new subtitle "Subtitle 7. Home Builder Guaranty Fund"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 522 of the Acts of the General Assembly of 2000
Section 4

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

Article – Business Occupations and Professions

17–101.

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

(l) "Provide real estate brokerage services" means to engage in any of the following activities:

(1) for consideration, providing any of the following services for another person:

(i) selling, buying, exchanging, or leasing any real estate; **OR**

(ii) **[**selling any real estate as a sales agent for a home builder; or

(iii)**]** collecting rent for the use of any real estate;

(2) for consideration, assisting another person to locate or obtain for purchase or lease any residential real estate;

(3) engaging regularly in a business of dealing in real estate or leases or options on real estate;

(4) engaging in a business the primary purpose of which is promoting the sale of real estate through a listing in a publication issued primarily for the promotion of real estate sales;

(5) engaging in a business that subdivides land that is located in any state and sells the divided lots; or

(6) for consideration, serving as a consultant regarding any activity set forth in items (1) through (5) of this subsection.

Article – Business Regulation

4.5–101.

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

(b) "Consumer" means an owner or a contract purchaser.

(c) "Contract purchaser" means a person who has entered into a contract with a home builder to purchase a new home, but who has not yet settled on the purchase of the new home.

(d) "Division" means the Consumer Protection Division of the Office of the Attorney General.

(e) "Exempt lender" means a lender exempt from the requirements of registration as provided in § 4.5–501(c) of this title.

(F) "GUARANTY FUND" MEANS THE HOME BUILDER GUARANTY FUND.

[(f)**] (G)** (1) "Home builder" means a person that undertakes to erect or otherwise construct a new home.

(2) "Home builder" includes:

(i) a custom home builder as defined in § 10–501 of the Real Property Article;

(ii) a new home builder subject to § 10–301 of the Real Property Article; and

(iii) the installer or retailer of a mobile home or an industrialized building intended for residential use.

(3) "Home builder" does not include:

(i) an employee of a registrant who does not hold himself or herself out for hire in home building except as an employee of a registrant;

(ii) subcontractors or other vendors hired by the registrant to perform services or supply materials for the construction of a new home who do not otherwise meet the requirements of this title;

(iii) the manufacturer of industrialized buildings intended for residential use or of mobile homes, unless the manufacturer also installs the industrialized buildings or mobile homes;

(iv) a real estate developer who does not construct homes;

(v) a financial institution that lends funds for the construction or purchase of residential dwellings in the State; or

(vi) **EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE,** a person who erects or constructs new homes solely in Montgomery County.

[(g)**] (H)** "Home builder registration number" means a registration number issued by the Unit to a registrant under this title.

(I) (1) "HOME BUILDER SALES REPRESENTATIVE" MEANS AN INDIVIDUAL EMPLOYED BY A HOME BUILDER AS THE HOME BUILDER'S REPRESENTATIVE TO CONSUMERS REGARDING THE PURCHASE OF A NEW HOME FROM THE HOME BUILDER.

(2) "HOME BUILDER SALES REPRESENTATIVE" INCLUDES INDIVIDUALS EMPLOYED BY A PERSON WHO ERECTS OR CONSTRUCTS NEW HOMES SOLELY IN MONTGOMERY COUNTY AND IS NOT REQUIRED TO REGISTER UNDER THIS TITLE.

(3) "HOME BUILDER SALES REPRESENTATIVE" DOES NOT INCLUDE:

(I) AN INDIVIDUAL EMPLOYED BY AN INSTALLER OR RETAILER OF MOBILE HOMES OR INDUSTRIALIZED BUILDINGS INTENDED FOR RESIDENTIAL USE; OR

(II) AN EMPLOYEE OR OFFICER AGENT FOR A NONPROFIT ORGANIZATION, WITH AT LEAST A ~~5–YEAR EXEMPLARY~~ *2–YEAR* RECORD IN THE STATE AS A DEVELOPER OF AFFORDABLE HOUSING FOR PERSONS WITH LOW TO MODERATE INCOMES, IN THE INITIAL SALE OF A HOME IF:

1. THE HOME IS CONSTRUCTED OR REHABILITATED BY THE NONPROFIT ORGANIZATION; AND

2. THE PURCHASER OF THE HOME IS USING FEDERAL, STATE, OR LOCAL GOVERNMENT OR OTHER SUBSIDIZED FINANCING ADMINISTERED BY THE NONPROFIT ORGANIZATION FOR THE PURPOSE OF ASSISTING INDIVIDUALS WITH LOW TO MODERATE INCOMES TO PURCHASE HOMES.

[(h)**] (J)** "Industrialized building" has the meaning stated in § 12–301 of the Public Safety Article.

[(i)**] (K)** "Install" has the meaning stated in § 12–301 of the Public Safety Article.

[(j)**] (L)** "Mobile home" means a manufactured home as defined in § 12–301 of the Public Safety Article.

[(k)**] (M)** (1) "New home" means each newly constructed residential dwelling unit in the State and the fixtures and structure that are made a part of a newly constructed private dwelling unit at the time of construction.

(2) "New home" includes:

(i) a custom home as defined in § 10–501(c) of the Real Property Article;

(ii) a new home to which § 10–301 of the Real Property Article applies;

(iii) an industrialized building intended for residential use; and

(iv) a mobile home.

(N) "NEW HOME CONTRACT" MEANS AN AGREEMENT BETWEEN A HOME BUILDER AND A CONSUMER FOR THE SALE OR CONSTRUCTION OF A NEW HOME.

[(l)**] (O)** (1) "Owner" means a person for whom a new home is built or to whom a new home is sold for occupation by:

(i) that person or the family of that person as a home; or

(ii) the successors of that person in title to the home or a mortgagor in possession.

(2) "Owner" includes a contract purchaser who contracts with a registrant for the construction and purchase of a new home.

(3) "Owner" does not include:

(i) a development company, association, or subsidiary company of a registrant; or

(ii) a person or organization to whom the home may be conveyed by the registrant for a purpose other than residential occupation by that person or organization.

[(m)**] (P)** "Principal" means:

(1) a sole proprietor, officer, director, general partner, or limited liability company manager of an applicant or registrant;

(2) a person with at least 10 percent ownership in an applicant or registrant or a subsidiary of an applicant or registrant; and

(3) parents, spouses, and children with a combined 10 percent ownership in an applicant or registrant or a subsidiary of an applicant or registrant.

(Q) "REGISTERED SALES REPRESENTATIVE" MEANS A PERSON REGISTERED TO BE A HOME BUILDER SALES REPRESENTATIVE UNDER THIS TITLE.

[(n)**] (R)** "Registrant" means a person registered to build new homes.

(S) "REGISTRATION CERTIFICATE" MEANS A CERTIFICATE ISSUED TO A REGISTERED SALES REPRESENTATIVE BY THE UNIT.

[(o)**] (T)** "Registration Fund" means the Home Builder Registration Fund.

4.5–201.

There is a Home Builder **AND HOME BUILDER SALES REPRESENTATIVE** Registration Unit in the Division.

4.5–202.

(a) The Unit shall maintain a list of all registrants **AND REGISTERED SALES REPRESENTATIVES**.

(b) (1) The Unit shall make available to each applicant for registration **AS A HOME BUILDER OR HOME BUILDER SALES REPRESENTATIVE** a copy of this title and other applicable laws and regulations.

(2) The Unit shall make available to each registrant **AND EACH REGISTERED SALES REPRESENTATIVE** any amendments to this title or other applicable laws or regulations at least 30 days before the effective date of the amendments.

(c) (1) In consultation with the home building industry, the Unit shall develop a consumer information pamphlet written in plain English that describes:

(i) the rights and remedies of consumers in the purchase of a new home; and

(ii) any other information that the Division considers reasonably necessary to assist consumers.

(2) The Division shall provide each registered home builder with a sufficient number of copies of the consumer information pamphlets as needed by the home builder.

(3) A home builder shall provide each contract purchaser with the consumer information pamphlet before entering into a contract for the initial sale of a new home.

(4) The contract purchaser shall acknowledge in writing the receipt of the consumer information pamphlet.

(5) The failure of a home builder to provide a copy of the consumer protection pamphlet to a contract purchaser may not be used as a basis for invalidation of the contract for the initial sale of a new home.

(d) The Unit shall collect and maintain information on the resolution of consumer complaints involving new home builders **OR HOME BUILDER SALES REPRESENTATIVES**.

4.5–203.

(a) (1) There is a Home Builder Registration Fund.

(2) The Division shall administer the Registration Fund.

(3) The Registration Fund shall be used to cover the actual documented direct and indirect costs incurred for the administration and enforcement of the Maryland Home Builder Registration Act.

(4) The Registration Fund is a continuing, nonlapsing fund, and is subject to § 7–302 of the State Finance and Procurement Article.

(5) Unspent assets of the Registration Fund shall remain in the Registration Fund and may not revert or be transferred to the General Fund of the State.

(6) The Registration Fund may not be supported by appropriations of State funds.

(b) The Division shall pay all funds collected under §§ 4.5–303, 4.5–304, and 4.5–305 of this title to the Comptroller, who shall distribute the fees to the Registration Fund.

(c) The Office of Legislative Audits shall audit the accounts and transactions of the Registration Fund under § 2–1220 of the State Government Article.

4.5–301.

(A) Except as otherwise provided in this title, a person may not act as a home builder in the State unless the person is registered as a home builder under this title.

(B) A PERSON MAY NOT ACT AS A HOME BUILDER SALES REPRESENTATIVE IN THE STATE UNLESS THE PERSON IS A REGISTERED SALES REPRESENTATIVE UNDER THIS TITLE.

4.5–302.

(a) Each person that constructs new homes for sale to the public shall maintain general liability insurance for at least $100,000.

(b) If a home builder's registration has been revoked and the home builder applies for a new registration, the Unit shall, in its discretion, approve the application on the applicant's fulfillment of specified terms and conditions, including the posting of a bond for the benefit of subcontractors, suppliers, and consumers, and the payment of any judgments or awards due to any subcontractors, suppliers, and consumers, for a period of 4 years from the date of the approval of registration, after which the licensing bond shall expire and shall no longer be required to be maintained by the registered home builder.

4.5–303.

(a) To apply for registration **AS A HOME BUILDER OR A HOME BUILDER SALES REPRESENTATIVE**, an applicant shall:

(1) submit to the Unit under oath an application on the form provided by the Unit; and

(2) pay the nonrefundable application fee required by this subtitle.

(b) The application **FOR REGISTRATION AS A HOME BUILDER** shall require an applicant to provide:

(1) the applicant's name;

(2) the applicant's business address, telephone number, and, if applicable, electronic mail address;

(3) in the case of an applicant who is an individual, the applicant's Social Security number;

(4) in the case of an applicant other than an individual:

(i) the applicant's federal employer identification number; and

(ii) the names and addresses of all principals of the applicant;

(5) the names of all applicants and principals who have previously applied for registration, and the disposition of all previous applications;

(6) the name of any applicant or principal that was a principal in an entity that previously applied for registration;

(7) a list of all states and other jurisdictions in which the applicant holds a similar registration or license;

(8) a list of all states and other jurisdictions in which the applicant has had a similar registration or license suspended or revoked;

(9) a statement whether any pending judgments or tax liens exist against the applicant;

(10) (i) the election made by the applicant regarding deposit moneys under § 10–301 of the Real Property Article; and

(ii) if the applicant elects to hold deposits in an escrow account, the account number and the name of the financial institution that holds the escrow account;

(11) if the applicant participates in a new home warranty security plan, the name and address of the warranty company; and

(12) the name of the insurance carrier and the policy number of the general liability coverage required under § 4.5–302 of this subtitle.

(C) THE APPLICATION FOR REGISTRATION AS A HOME BUILDER SALES REPRESENTATIVE SHALL REQUIRE AN APPLICANT TO PROVIDE:

(1) THE APPLICANT'S NAME;

(2) THE APPLICANT'S BUSINESS ADDRESS, TELEPHONE NUMBER, AND, IF APPLICABLE, ELECTRONIC MAIL ADDRESS;

(3) THE APPLICANT'S SOCIAL SECURITY NUMBER;

(4) A LIST OF ALL STATES AND OTHER JURISDICTIONS IN WHICH THE APPLICANT HOLDS A SIMILAR REGISTRATION OR LICENSE;

(5) A LIST OF ALL STATES AND OTHER JURISDICTIONS IN WHICH THE APPLICANT HAS HAD A SIMILAR REGISTRATION OR LICENSE SUSPENDED OR REVOKED;

(6) THE APPLICANT'S EMPLOYER'S BUSINESS NAME, ADDRESS, TELEPHONE NUMBER, AND REGISTRATION NUMBER OR IF THE EMPLOYER IS EXEMPT FROM REGISTRATION UNDER THIS TITLE, DOCUMENTATION THAT THE EMPLOYER ERECTS OR CONSTRUCTS HOMES SOLELY IN MONTGOMERY COUNTY; AND

(7) A STATEMENT WHETHER ANY PENDING JUDGMENTS OR TAX LIENS EXIST AGAINST THE APPLICANT.

4.5–304.

(a) The Unit shall register and issue a home builder registration number to an applicant **FOR A HOME BUILDER REGISTRATION** that:

(1) meets the requirements of this title; and

(2) pays to the Division an initial nonrefundable 2–year registration fee of **[**$300**] $600**.

(b) A **HOME BUILDER** registration issued under this title may not be transferred, assigned, or pledged.

(c) A valid **HOME BUILDER** registration authorizes the registrant to act as a home builder in the State.

(d) **(1)** A home builder that holds a license or registration in Montgomery County may act as a home builder in that county only, unless the home builder is also registered under this title.

(2) A HOME BUILDER THAT HOLDS A LICENSE OR REGISTRATION IN MONTGOMERY COUNTY AND IS NOT REGISTERED UNDER THIS TITLE IS SUBJECT TO SUBTITLE 7 OF THIS TITLE.

(3) (I) IN ADDITION TO THE COUNTY LICENSE OR REGISTRATION FEE, A HOME BUILDER THAT IS REQUIRED TO HOLD A LICENSE OR REGISTRATION ONLY IN MONTGOMERY COUNTY SHALL PAY TO THE COUNTY A GUARANTY FUND ADMINISTRATIVE FEE OF $150.

(II) THE COUNTY SHALL REMIT THE GUARANTY FUND ADMINISTRATIVE FEE TO THE UNIT TO BE DEPOSITED IN THE REGISTRATION FUND.

4.5–304.1.

(A) THE UNIT SHALL REGISTER AND ISSUE A REGISTRATION CERTIFICATE TO AN APPLICANT FOR A HOME BUILDER SALES REPRESENTATIVE REGISTRATION CERTIFICATE THAT:

(1) MEETS THE REQUIREMENTS OF THIS TITLE; AND

(2) PAYS TO THE DIVISION AN INITIAL NONREFUNDABLE 2–YEAR REGISTRATION FEE OF $200.

(B) A UNIT SHALL INCLUDE ON EACH REGISTRATION CERTIFICATE THAT THE UNIT ISSUES:

(1) THAT THIS IS A REGISTRATION CERTIFICATE FOR A REGISTERED SALES REPRESENTATIVE;

(2) THE FULL NAME OF THE CERTIFICATE HOLDER;

(3) THE CERTIFICATE HOLDER'S EMPLOYER'S REGISTRATION NUMBER OR THE NAME OF THE LICENSED OR REGISTERED MONTGOMERY COUNTY HOME BUILDER; AND

(4) THE CERTIFICATE HOLDER'S REGISTRATION NUMBER.

(C) A REGISTRATION CERTIFICATE ISSUED UNDER THIS TITLE MAY NOT BE TRANSFERRED, ASSIGNED, OR PLEDGED.

(D) A VALID REGISTRATION CERTIFICATE AUTHORIZES THE CERTIFICATE HOLDER TO ACT AS A HOME BUILDER SALES REPRESENTATIVE IN THE STATE.

(E) THE UNIT MAY ISSUE A REGISTRATION CERTIFICATE TO REPLACE A LOST, DESTROYED, OR MUTILATED REGISTRATION CERTIFICATE IF THE CERTIFICATE HOLDER PAYS THE REGISTRATION CERTIFICATE REPLACEMENT FEE SET BY THE UNIT.

4.5–305.

(a) (1) Unless renewed under this section, a registration **OR REGISTRATION CERTIFICATE** expires on the second anniversary of its effective date.

(2) A registrant **OR REGISTERED SALES REPRESENTATIVE** that meets the requirements of subsection (c) of this section may obtain a renewal of a

registration **OR REGISTRATION CERTIFICATE** before the registration **OR REGISTRATION CERTIFICATE** expires for an additional 2–year term.

(3) Once expired, a registration **OR A REGISTRATION CERTIFICATE** may not be renewed.

(b) At least 60 days before a registration **OR REGISTRATION CERTIFICATE** expires, the Unit shall mail the registrant **OR REGISTERED SALES REPRESENTATIVE**, at the last known address of the registrant **OR REGISTERED SALES REPRESENTATIVE**:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current registration **OR REGISTRATION CERTIFICATE** expires; and

(ii) the date by which the Unit must receive the renewal application for a renewal to be issued and mailed before the registration **OR REGISTRATION CERTIFICATE** expires.

(c) The Unit shall renew the registration **OR REGISTRATION CERTIFICATE** of each registrant **OR REGISTERED SALES REPRESENTATIVE** that:

(1) submits to the Unit a renewal application on the form provided by the Unit;

(2) would qualify for an initial registration **OR INITIAL REGISTRATION CERTIFICATE**;

(3) **(I) FOR RENEWAL OF A REGISTRATION,** pays to the Division a nonrefundable renewal fee based on the number of building permits for the construction of new homes issued to the registrant in the preceding calendar year as follows:

[(i)**]** **1.** 10 or fewer new homes..... **[**$150**] $300**; and

[(ii)**]** **2.** 11 or more new homes.....**[**$300**] $600**; **[**and**] OR**

(II) FOR RENEWAL OF A REGISTRATION CERTIFICATE, PAYS TO THE DIVISION A NONREFUNDABLE RENEWAL FEE OF $200; AND

(4) is otherwise entitled to be registered.

4.5–306.

(a) **(1)** A registrant shall **[**provide**]** **SEND** the Unit written notice of any change in the information submitted under § 4.5–303(b) of this subtitle within 10 working days after the change is effective.

(2) A REGISTERED SALES REPRESENTATIVE SHALL SEND THE UNIT WRITTEN NOTICE OF ANY CHANGE IN THE INFORMATION SUBMITTED UNDER § 4.5–303(C) OF THIS SUBTITLE WITHIN 10 WORKING DAYS AFTER THE CHANGE IS EFFECTIVE.

(b) A registrant **AND A REGISTERED SALES REPRESENTATIVE** shall comply with subsection (a) of this section for 1 year after the registrant ceases to be registered.

4.5–307.

(a) **(1)** Each registrant shall display its home builder registration number conspicuously on all properties at which the registrant is performing work that requires registration under this title.

[(b)**]** **(2)** If a registrant is building multiple homes in one project area or subdivision, the registrant may post its home builder registration number in one central conspicuous location in the project area or subdivision.

(B) EACH REGISTERED SALES REPRESENTATIVE SHALL DISPLAY THE REGISTRATION CERTIFICATE CONSPICUOUSLY AT THE PROPERTY AT WHICH THE REGISTERED SALES REPRESENTATIVE PRIMARILY PERFORMS WORK THAT REQUIRES REGISTRATION UNDER THIS TITLE.

(C) (1) A HOME BUILDER SHALL PROVIDE EACH PROSPECTIVE HOME BUYER WITH A DISCLOSURE THAT STATES: "THE SALES REPRESENTATIVE WORKS FOR THE HOME BUILDER, WHICH MEANS THAT HE OR SHE MAY ASSIST THE BUYER IN PURCHASING THE PROPERTY, BUT HIS OR HER DUTY OF LOYALTY ~~IN~~ *IS* ONLY TO THE HOME BUILDER.".

(2) THE DISCLOSURE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN AT LEAST 12–POINT BOLD TYPE AND SHALL BE INCLUDED WITH:

(I) ANY WRITTEN MATERIALS MADE AVAILABLE TO CONSUMERS AT THE PROPERTY AT WHICH A REGISTERED SALES

REPRESENTATIVE PRIMARILY PERFORMS WORK THAT REQUIRES REGISTRATION UNDER THIS TITLE; AND

(II) THE FIRST AGREEMENT SIGNED BY THE CONSUMER.

4.5–308.

(a) The Unit may deny registration **OR A REGISTRATION CERTIFICATE** to an applicant, reprimand a registrant **OR REGISTERED SALES REPRESENTATIVE**, suspend or revoke a registration **OR A REGISTRATION CERTIFICATE**, or impose a civil penalty on a registrant **OR REGISTERED SALES REPRESENTATIVE** if the Unit determines that the applicant **[**or**]**, registrant**, OR REGISTERED SALES REPRESENTATIVE**:

(1) fraudulently or deceptively obtained or attempted to obtain a registration **OR REGISTRATION CERTIFICATE**;

(2) fraudulently or deceptively used a registration **OR REGISTRATION CERTIFICATE**;

(3) presented or attempted to present the home builder registration number of another registrant as the applicant's or registrant's home builder registration number;

(4) used or attempted to use an expired, suspended, or revoked home builder registration number **OR REGISTRATION CERTIFICATE**;

(5) PRESENTED OR ATTEMPTED TO PRESENT THE REGISTRATION CERTIFICATE OF ANOTHER REGISTERED SALES REPRESENTATIVE AS THE APPLICANT'S OR REGISTERED SALES REPRESENTATIVE'S REGISTRATION CERTIFICATE;

[(5)**] (6)** impersonated or falsely represented oneself as a registered home builder **OR REGISTERED SALES REPRESENTATIVE**;

[(6)**] (7)** repeatedly violated this title;

[(7)**] (8)** engaged in a pattern of unfair or deceptive trade practices under the Consumer Protection Act, as determined by a final administrative order or judicial decision;

[(8)**] (9)** repeatedly violated a local building, development, or zoning permit law or regulations, or a State or federal law or regulation, including an

environmental protection law or regulation, that relates to the fitness and qualification or ability of the applicant or registrant to build homes;

[(9)**] (10)** engaged in a pattern of poor workmanship as evidenced by one or more of the following:

(i) repeated unresolved building code violations;

(ii) repeated unsatisfied arbitration awards in favor of consumers against the applicant or registered home builder based on incomplete or substandard work; or

(iii) an unsatisfied final judgment in favor of a consumer;

[(10)**] (11)** repeatedly engaged in fraud, deception, misrepresentation, or knowing omissions of material facts related to home building contracts;

[(11)**] (12)** had a similar registration**, REGISTRATION CERTIFICATE,** or license denied, suspended, or revoked in another state or jurisdiction; or

[(12)**] (13)** had the renewal of a similar registration**, REGISTRATION CERTIFICATE,** or license denied for any cause other than failure to pay a renewal fee.

(b) (1) The Unit may deny a registration to a nonpublicly traded applicant or suspend or revoke a registration of a nonpublicly traded registrant if a principal of the applicant or registrant, other than a financial institution or a nonprofit organization, that owns at least 10 percent of the applicant or registrant, was a principal of a home builder that had a similar registration or license denied, suspended, or revoked by the Unit or in another state or jurisdiction for any cause other than a failure to pay a renewal fee if the Unit determines that the interests of the public cannot be protected if the applicant or registrant is allowed to act as a home builder in the State.

(2) For the purposes of this subsection, the interests of a principal include interests held by the parents, spouse, or children of the principal.

(c) The Unit shall provide an applicant **[**or**],** registrant**, OR REGISTERED SALES REPRESENTATIVE** notice and an opportunity to request a hearing under Title 10, Subtitle 2 of the State Government Article to contest a proposed disciplinary action.

4.5–501.

(a) Except as otherwise provided in this title, a person may not act as, offer to act as, hold oneself out as, or impersonate a registrant **OR REGISTERED SALES**

REPRESENTATIVE in the State unless the person is a registrant **OR REGISTERED SALES REPRESENTATIVE**.

(b) A person that violates this section is guilty of a misdemeanor and, on first conviction, is subject to a fine not exceeding $1,000 and on second or subsequent conviction, is subject to a fine not exceeding $5,000.

(c) The following lenders are exempt from the requirements relating to registration under this title when the lender hires a second registered home builder who would undertake to complete a first home builder's unfinished project pursuant to a default in obligations of the first home builder to the lender:

(1) a mortgage lender as defined in § 11–501(i)(1)(ii) of the Financial Institutions Article that is a licensee under Title 11, Subtitle 5 of the Financial Institutions Article;

(2) a bank, trust company, savings bank, savings and loan association, or credit union incorporated or chartered under the laws of this State or the United States that maintains its principal office in this State;

(3) an out–of–state bank as defined in § 5–1001 of the Financial Institutions Article that has a branch in this State that accepts deposits;

(4) an institution incorporated under federal law as a savings association or savings bank that does not maintain its principal office in this State but has a branch that accepts deposits in this State; and

(5) a subsidiary or affiliate of an institution described in paragraph (2), (3), or (4) of this subsection that is subject to audit or examination by a regulatory body or agency of this State, the United States, or the state where the subsidiary or affiliate maintains its principal office.

(d) An exempt lender is subject only to §§ 4.5–202(c), 4.5–401, 4.5–503, 4.5–601, 4.5–602, and 4.5–603 of this title.

4.5–601.

(a) Except for a building permit for construction to be performed directly by a landowner solely for the landowner's own use, the building and permits department of a county may not issue a permit for home building unless**:**

(1) the permit includes the home builder registration number of a registrant**; AND**

(2) THE PERSON PAYS THE GUARANTY FUND FEE REQUIRED UNDER § 4.5–704 OF THIS TITLE.

(b) Before issuing a permit for home building to a landowner, the building and permits department of a county shall obtain the signature of the landowner affirming that the permit is being issued solely for the purpose of the landowner performing work on the landowner's own property.

(c) Nothing in this section shall be construed to relieve a registrant from the obligation to obtain all other permits, licenses, and other authorizations for the construction of a new home.

SUBTITLE 7. HOME BUILDER GUARANTY FUND.

4.5–701.

IN THIS SUBTITLE, "ACTUAL LOSS" MEANS:

(1) THE COSTS OF RESTORATION, REPAIR, REPLACEMENT, OR COMPLETION THAT ~~ARISES~~ ARISE FROM:

(I) THE INCOMPLETE CONSTRUCTION OF A NEW HOME OR THE BREACH OF AN EXPRESS OR IMPLIED WARRANTY, AS DEFINED IN §§ 10–202 AND 10–203 OF THE REAL PROPERTY ARTICLE; OR

(II) THE FAILURE TO MEET STANDARDS OR GUIDELINES REQUIRED IN § 14–117 OF THE REAL PROPERTY ARTICLE; OR

(2) DEPOSITS OR OTHER PAYMENTS MADE TO A HOME BUILDER REQUIRED TO BE HELD IN AN ESCROW ACCOUNT OR PROTECTED BY A SURETY BOND OR IRREVOCABLE LETTER OF CREDIT UNDER § 10–301 OR § 10–504 OF THE REAL PROPERTY ARTICLE, THAT ARE NOT RETURNED TO A CONSUMER WHO IS ENTITLED TO A RETURN OF THE DEPOSIT OR OTHER PAYMENTS.

4.5–702.

THIS SUBTITLE DOES NOT:

(1) LIMIT THE AUTHORITY OF THE DIVISION TO TAKE DISCIPLINARY ACTION AGAINST A REGISTRANT UNDER THIS SUBTITLE;

(2) LIMIT THE AVAILABILITY OF OTHER REMEDIES TO A CLAIMANT; OR

(3) REQUIRE A CLAIMANT TO EXHAUST ADMINISTRATIVE REMEDIES BEFORE THE DIVISION BEFORE BRINGING AN ACTION TO COURT.

4.5–703.

(A) THE DIVISION SHALL:

(1) ESTABLISH A HOME BUILDER GUARANTY FUND; AND

(2) MAINTAIN THE GUARANTY FUND AT A LEVEL OF AT LEAST $1,000,000.

(B) (1) THE DIVISION SHALL DEPOSIT ALL MONEY COLLECTED UNDER § 4.5–704 OF THIS SUBTITLE IN THE GUARANTY FUND.

(2) (I) THE STATE TREASURER IS THE CUSTODIAN OF THE GUARANTY FUND.

(II) THE GUARANTY FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

(III) THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM THE DIVISION UNDER THIS SECTION INTO THE GUARANTY FUND.

(IV) INVESTMENT EARNINGS SHALL BE CREDITED TO THE GUARANTY FUND.

(C) THE DIVISION SHALL ADMINISTER THE GUARANTY FUND IN ACCORDANCE WITH THIS SUBTITLE.

(D) THE DIRECT AND INDIRECT COSTS INCURRED FOR THE ADMINISTRATION OF AND ENFORCEMENT RELATED TO THE GUARANTY FUND SHALL BE PAID FROM THE REGISTRATION FUND ESTABLISHED UNDER § 4.5–203 OF THIS TITLE.

(E) THE OFFICE OF LEGISLATIVE AUDITS SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE GUARANTY FUND UNDER § 2–1220 OF THE STATE GOVERNMENT ARTICLE.

4.5–704.

(A) (1) SUBJECT TO THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION, A HOME BUILDER SHALL PAY TO THE BUILDING AND PERMITS DEPARTMENT OF A COUNTY A GUARANTY FUND FEE AS SET BY THE DIVISION UNDER SUBSECTION (C) OF THIS SECTION WITH EACH APPLICATION FOR A PERMIT FOR CONSTRUCTION OF A NEW HOME.

(2) THE HOME BUILDER MAY COLLECT THE GUARANTY FUND FEE FROM THE CONSUMER.

(3) EACH MONTH, THE BUILDING AND PERMITS DEPARTMENT OF A COUNTY SHALL REMIT ALL THE GUARANTY FUND FEES TO THE DIVISION TO BE DEPOSITED IN THE GUARANTY FUND.

(4) THE GUARANTY FUND FEE MAY BE DEPOSITED ONLY IN THE GUARANTY FUND.

(B) IF A REGISTRANT FAILS TO PAY THE GUARANTY FUND FEE, THE REGISTRANT'S HOME BUILDER REGISTRATION IS SUSPENDED UNTIL THE FEE IS PAID.

(C) THE DIVISION SHALL SET THE AMOUNT OF THE GUARANTY FUND FEE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SO AS TO NOT EXCEED $50 AND TO MAINTAIN THE GUARANTY FUND LEVEL REQUIRED UNDER § 4.5–703(A) OF THIS SUBTITLE.

4.5–705.

(A) SUBJECT TO THIS SUBTITLE A CLAIMANT MAY RECOVER COMPENSATION FROM THE GUARANTY FUND FOR AN ACTUAL LOSS THAT RESULTS FROM AN ACT OR OMISSION BY A REGISTRANT AS FOUND BY THE DIVISION OR A COURT OF COMPETENT JURISDICTION.

(B) BEFORE SUBMITTING A CLAIM TO THE GUARANTY FUND, A CONSUMER SHALL:

(1) SEND A REGISTRANT A WRITTEN NOTICE DESCRIBING THE ALLEGED DEFECT OR OTHER CLAIM FOR WHICH THE CONSUMER INTENDS TO SEEK RECOVERY; AND

(2) PERMIT THE REGISTRANT ACCESS, DURING REGULAR BUSINESS HOURS, TO THE CONSUMER'S PROPERTY TO INSPECT, DETERMINE THE CAUSE OF, AND REMEDY THE ALLEGED DEFECT OR OTHER CLAIM WITHIN A REASONABLE PERIOD OF TIME.

(C) (1) (I) IF A CONSUMER HAS A NEW HOME WARRANTY SECURITY PLAN, THE CONSUMER MAY ALSO SEEK RECOVERY FROM THE GUARANTY FUND IF THE CONSUMER HAS FIRST:

1. FILED A CLAIM WITH THE NEW HOME WARRANTY SECURITY PLAN; AND

2. EXHAUSTED THE PLAN'S CLAIM PROCESS.

(II) A CONSUMER SEEKING RECOVERY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT RECEIVE MORE THAN ONE RECOVERY FOR THE SAME ACTUAL LOSS.

(2) A CLAIMANT WHO HAS ALSO FILED A CLAIM WITH A NEW HOME WARRANTY SECURITY PLAN SHALL INCLUDE WITH THE CLAIM AGAINST THE GUARANTY FUND:

(I) A COPY OR DESCRIPTION OF THE CLAIM FILED WITH THE NEW HOME WARRANTY SECURITY PLAN;

(II) ANY DOCUMENTS SUBMITTED BY THE CLAIMANT IN SUPPORT OF THE WARRANTY CLAIM, INCLUDING ENGINEERING OR INSPECTION REPORTS;

(III) ANY DOCUMENTS SUBMITTED ON BEHALF OF THE HOME BUILDER OR WARRANTY PLAN IN CONNECTION WITH THE WARRANTY CLAIM, INCLUDING ENGINEERING OR INSPECTION REPORTS;

(IV) DISCLOSURE OF ANY RECOVERIES RECEIVED IN CONNECTION WITH THE WARRANTY CLAIM; AND

(V) IF ALL OR PART OF THE WARRANTY CLAIM WAS DENIED, A COPY OF THE DENIAL.

(D) (1) THE DIVISION MAY DENY A CLAIM IF THE DIVISION FINDS THAT THE CLAIMANT UNREASONABLY REJECTED GOOD FAITH EFFORTS BY THE REGISTRANT TO RESOLVE THE CLAIM.

(2) IN DETERMINING WHETHER A CLAIM SHOULD BE DENIED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DIVISION SHALL CONSIDER WHETHER THE CLAIMANT PROVIDED THE REGISTRANT WITH NOTICE AND A

REASONABLE OPPORTUNITY TO ACCESS AND INSPECT AND REPAIR THE CLAIMED DEFECT AS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

(E) THE DIVISION MAY NOT AWARD FROM THE GUARANTY FUND:

(1) MORE THAN $50,000 TO ONE CLAIMANT FOR ACTS OR OMISSIONS OF ONE REGISTRANT;

(2) MORE THAN $300,000 TO ALL CLAIMANTS FOR ACTS OR OMISSIONS OF ONE REGISTRANT UNLESS, AFTER THE DIVISION HAS PAID OUT $300,000 ON ACCOUNT OF ACTS OR OMISSIONS OF THE REGISTRANT, THE REGISTRANT REIMBURSES $300,000 TO THE GUARANTY FUND; OR

(3) AN AMOUNT FOR ATTORNEY'S FEES, CONSEQUENTIAL DAMAGES, COURT COSTS, INTEREST, PERSONAL INJURY DAMAGES, OR PUNITIVE DAMAGES.

(F) A CLAIM AGAINST THE GUARANTY FUND BASED ON THE ACT OR OMISSION OF A PARTICULAR REGISTRANT MAY NOT BE MADE BY:

(1) A SPOUSE OR OTHER IMMEDIATE RELATIVE OF THE REGISTRANT;

(2) AN EMPLOYEE OR PRINCIPAL OF THE REGISTRANT; OR

(3) AN IMMEDIATE RELATIVE OF AN EMPLOYEE OR PRINCIPAL OF THE REGISTRANT.

(G) (1) A CLAIMANT MAY BRING A CLAIM AGAINST THE GUARANTY FUND WITHIN 2 YEARS AFTER THE CLAIMANT DISCOVERED OR, SHOULD HAVE DISCOVERED THE LOSS OR DAMAGE OR WITHIN 2 YEARS AFTER THE EXPIRATION OF THE WARRANTY UNDER § 10–204 OF THE REAL PROPERTY ARTICLE, WHICHEVER OCCURS FIRST.

(2) IF A CLAIMANT HAS FILED A CLAIM WITH A NEW HOME WARRANTY SECURITY PLAN, A CLAIMANT MAY BRING A CLAIM AGAINST THE GUARANTY FUND WITHIN 4 MONTHS AFTER THE CLAIMS PROCESS OF THE HOME WARRANTY SECURITY PLAN IS EXHAUSTED.

4.5–706.

(A) TO BEGIN A PROCEEDING TO RECOVER FROM THE GUARANTY FUND, A CLAIMANT SHALL SUBMIT TO THE DIVISION'S MEDIATION UNIT A WRITTEN COMPLAINT THAT STATES:

(1) THE AMOUNT CLAIMED BASED ON THE ACTUAL LOSS;

(2) THE FACTS GIVING RISE TO THE CLAIM;

(3) ~~THAT~~ WHETHER THERE IS OTHER EVIDENCE THAT SUPPORTS THE CLAIM, INCLUDING EXPERT REPORTS, PHOTOGRAPHS, OR VIDEOTAPES AND THAT THE EVIDENCE IS INCLUDED WITH THE COMPLAINT;

(4) WHAT DOCUMENTS ARE RELATED TO THE CLAIM AND THAT COPIES OF THE DOCUMENTS ARE ATTACHED, INCLUDING THE CONTRACT OF SALE; AND

(5) ANY OTHER INFORMATION THAT THE DIVISION REQUIRES.

(B) THE DIVISION'S MEDIATION UNIT SHALL:

(1) SEND A COPY OF THE COMPLAINT TO THE REGISTRANT ALLEGED TO BE RESPONSIBLE FOR THE ACTUAL LOSS;

(2) REQUIRE A WRITTEN RESPONSE TO THE COMPLAINT WITHIN 30 DAYS THAT INCLUDES:

(I) ANY EVIDENCE THE REGISTRANT HAS CONCERNING THE CLAIM, INCLUDING EXPERT REPORTS, PHOTOGRAPHS, OR VIDEOTAPES; AND

(II) ANY OTHER INFORMATION THAT THE DIVISION REQUIRES;

(3) ATTEMPT TO RESOLVE THE COMPLAINT THROUGH MEDIATION ~~IN ACCORDANCE WITH~~, TAKING INTO CONSIDERATION APPLICABLE LAWS, INCLUDING EXPRESS AND IMPLIED WARRANTIES AND THE PROVISIONS OF § 4.5–401 OF THIS TITLE; AND

(4) REFER THE COMPLAINT TO THE DIVISION AS A CLAIM AGAINST THE GUARANTY FUND IF:

(I) 1. THE HOME BUILDER FAILS TO RESPOND AS REQUIRED BY THIS SECTION;

2. THE MEDIATION UNIT CONCLUDES THAT THE COMPLAINT CANNOT BE RESOLVED THROUGH MEDIATION; OR

3. IN MEDIATION, THE PARTIES DO NOT MUTUALLY AGREE TO AN ARBITRATOR; AND

(II) THE CLAIMANT EXECUTES A CLAIM FORM PREPARED BY THE DIVISION STATING UNDER OATH THAT THE CLAIMANT WISHES TO SEEK RECOVERY FROM THE GUARANTY FUND.

(C) (1) IF A CLAIMANT'S NEW HOME CONTRACT INCLUDES A WRITTEN AGREEMENT WITH A REGISTRANT TO SUBMIT A DISPUTE TO ARBITRATION AND THE AGREEMENT AUTHORIZES:

(I) THE REGISTRANT TO SELECT THE ARBITRATOR OR THE ARBITRATION SERVICE, THE CLAIMANT MAY ELECT WHETHER TO FIRST SEEK RECOVERY FROM THE GUARANTY FUND OR SUBMIT THE DISPUTE TO ARBITRATION; OR

(II) IF THE CLAIMANT'S NEW HOME CONTRACT PROVIDES FOR MUTUAL SELECTION OF THE ARBITRATION SERVICE AND THE CLAIMANT AND REGISTRANT HAVE MUTUALLY AGREED ON AN ARBITRATION SERVICE, THE CLAIMANT MUST SUBMIT THE DISPUTE TO ARBITRATION PRIOR TO SEEKING RECOVERY FROM THE GUARANTY FUND.

(2) IF THE CLAIMANT AND THE REGISTRANT SUBMIT THE DISPUTE TO ARBITRATION UNDER THE WRITTEN AGREEMENT IN THE CONTRACT AND THE ARBITRATOR MAKES A FINAL JUDGMENT OR FINAL AWARD IN FAVOR OF THE CLAIMANT:

(I) THE CLAIMANT MAY MAKE A CLAIM AGAINST THE GUARANTY FUND; BUT

(II) IF THE REGISTRANT PAYS THE AWARD AMOUNT TO THE CLAIMANT WITHIN 90 DAYS OF THE FINAL AWARD, THE DIVISION SHALL DISMISS THE CLAIM AGAINST THE GUARANTY FUND.

4.5–707.

(A) THE PROCEDURES FOR NOTICE, HEARINGS, AND JUDICIAL REVIEW THAT APPLY TO PROCEEDINGS UNDER TITLE 3, SUBTITLE 2 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE ALSO APPLY TO PROCEEDINGS TO RECOVER FROM THE GUARANTY FUND.

(B) ON RECEIPT OF A CLAIM, THE DIVISION SHALL:

(1) SEND A COPY OF THE CLAIM TO THE REGISTRANT ALLEGED TO BE RESPONSIBLE FOR THE ACTUAL LOSS; AND

(2) REQUIRE A WRITTEN RESPONSE TO THE CLAIM WITHIN 30 DAYS.

(C) (1) THE DIVISION:

(I) SHALL REVIEW THE CLAIM AND ANY RESPONSE TO IT; AND

(II) MAY REFER THE CLAIM FOR INVESTIGATION.

(2) ON THE BASIS OF ITS REVIEW AND ANY INVESTIGATION, THE DIVISION MAY:

(I) SET THE MATTER FOR A HEARING WITH THE OFFICE OF ADMINISTRATIVE HEARINGS;

(II) DISMISS THE CLAIM, IF THE CLAIM IS FRIVOLOUS, LEGALLY INSUFFICIENT, OR MADE IN BAD FAITH; OR

(III) IF THE TOTAL CLAIM AGAINST A PARTICULAR REGISTRANT DOES NOT EXCEED $5,000, ISSUE A PROPOSED ORDER TO PAY ALL OR PART OF THE CLAIM OR DENY THE CLAIM.

(D) (1) THE DIVISION SHALL SEND A PROPOSED ORDER ISSUED UNDER SUBSECTION (C)(2)(III) OF THIS SECTION TO THE CLAIMANT AND THE REGISTRANT, AT THE MOST RECENT ADDRESS ON RECORD WITH THE DIVISION, BY:

(I) PERSONAL DELIVERY; OR

(II) BOTH REGULAR MAIL AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(2) WITHIN 21 DAYS AFTER SERVICE, RECEIPT, OR ATTEMPTED DELIVERY OF THE PROPOSED ORDER, THE CLAIMANT OR REGISTRANT MAY SUBMIT TO THE DIVISION:

(I) A WRITTEN REQUEST FOR A HEARING BEFORE THE DIVISION; OR

(II) A WRITTEN EXCEPTION TO THE PROPOSED ORDER.

(3) IF THE CLAIMANT OR REGISTRANT SUBMITS A TIMELY EXCEPTION TO THE PROPOSED ORDER, THE DIVISION MAY:

(I) ISSUE A REVISED PROPOSED ORDER;

(II) SET A HEARING ON THE CLAIM; OR

(III) DISMISS THE CLAIM.

(4) UNLESS THE CLAIMANT OR REGISTRANT SUBMITS A TIMELY REQUEST FOR A HEARING OR TIMELY EXCEPTION, THE PROPOSED ORDER IS FINAL.

(E) AT A HEARING ON A CLAIM, THE CLAIMANT HAS THE BURDEN OF PROOF.

(F) A CLAIMANT AND REGISTRANT MAY PARTICIPATE IN A GUARANTY FUND PROCEEDING WITHOUT REPRESENTATION BY COUNSEL.

4.5–708.

(A) (1) THE DIVISION MAY JOIN A PROCEEDING ON A CLAIM AGAINST THE GUARANTY FUND WITH A DISCIPLINARY PROCEEDING AGAINST A REGISTRANT UNDER THIS SUBTITLE IF THE DISCIPLINARY HEARING IS BASED ON THE SAME FACTS ALLEGED IN THE CLAIM.

(2) IN A CONSOLIDATED PROCEEDING THE CLAIMANT IS A PARTY, AND MAY PARTICIPATE IN THE HEARING TO THE EXTENT NECESSARY TO ESTABLISH THE CLAIM.

(B) (1) NOTWITHSTANDING § 4.5–702(2) OF THIS SUBTITLE, A CLAIMANT MAY NOT CONCURRENTLY SUBMIT A CLAIM TO RECOVER FROM THE GUARANTY FUND AND BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION AGAINST A REGISTRANT BASED ON THE SAME FACTS ALLEGED IN THE CLAIM.

(2) IF, AFTER FILING A CLAIM, THE CLAIMANT BRINGS AN ACTION IN A COURT OF COMPETENT JURISDICTION BASED ON THE SAME FACTS

ALLEGED IN THE PENDING CLAIM, THE DIVISION SHALL STAY ITS PROCEEDINGS ON THE CLAIM UNTIL THERE IS A FINAL JUDGMENT AND ALL RIGHTS TO APPEAL ARE EXHAUSTED.

(3) TO THE EXTENT THAT A FINAL JUDGMENT OR FINAL AWARD IN ARBITRATION IS BASED ON THE SAME FACTUAL AND LEGAL ISSUES ALLEGED IN A PENDING CLAIM, THE DIVISION SHALL:

(I) APPROVE THE CLAIM AGAINST THE GUARANTY FUND, IF THE JUDGMENT OR AWARD IS DECIDED IN FAVOR OF THE CLAIMANT AND THE REGISTRANT HAS FAILED TO PAY THE JUDGMENT OR AWARD; OR

(II) DISMISS THE CLAIM AGAINST THE GUARANTY FUND, IF THE JUDGMENT OR AWARD IS DECIDED IN FAVOR OF THE REGISTRANT.

4.5–709.

A PARTY TO A PROCEEDING BEFORE THE DIVISION WHO IS AGGRIEVED BY A FINAL DECISION OF THE DIVISION IN A CONTESTED CASE, AS DEFINED IN § 10–202 OF THE STATE GOVERNMENT ARTICLE, MAY TAKE AN APPEAL AS ALLOWED IN §§ 10–222 AND 10–223 OF THE STATE GOVERNMENT ARTICLE.

4.5–710.

(A) THE DIVISION MAY ORDER PAYMENT OF A CLAIM AGAINST THE GUARANTY FUND ONLY IF:

(1) THE DECISION OR ORDER OF THE DIVISION IS FINAL IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE AND ALL RIGHTS OF APPEAL ARE EXHAUSTED; OR

(2) THE CLAIMANT PROVIDES THE DIVISION WITH A CERTIFIED COPY OF A FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION OR A FINAL AWARD IN ARBITRATION, WITH ALL RIGHTS OF APPEAL EXHAUSTED, IN WHICH THE COURT OR ARBITRATOR:

(I) EXPRESSLY MADE FINDINGS OF FACT THAT SUPPORT THE CLAIMANT'S RIGHT TO RECOVER UNDER § 4.5–705(A) OF THIS SUBTITLE; AND

(II) HAS FOUND THE VALUE OF THE ACTUAL LOSS.

(B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE

DIVISION SHALL PAY APPROVED CLAIMS IN THE ORDER SUBMITTED.

(2) IF APPROVED CLAIMS SUBMITTED TO THE DIVISION AGAINST A REGISTRANT EXCEED $300,000, LESS THE AMOUNT OF UNREIMBURSED CLAIM PAYMENTS PREVIOUSLY MADE FOR THE REGISTRANT, THE DIVISION MAY PAY THE APPROVED CLAIMS PROPORTIONATELY SO THAT EACH CLAIMANT RECEIVES THE SAME PERCENTAGE PAYMENT OF THE CLAIMS.

(3) AFTER THE GUARANTY FUND IS REIMBURSED, THE DIVISION SHALL PAY UNSATISFIED APPROVED CLAIMS.

(C) IF THERE IS NOT ENOUGH MONEY IN THE GUARANTY FUND TO PAY AN APPROVED CLAIM WHOLLY OR PARTIALLY, THE DIVISION SHALL PAY THE UNPAID CLAIM:

(1) WHEN ENOUGH MONEY IS DEPOSITED IN THE GUARANTY FUND; AND

(2) IN THE ORDER THAT EACH CLAIM ORIGINALLY WAS FILED WITH A COURT OF COMPETENT JURISDICTION OR SUBMITTED TO THE DIVISION.

4.5–711.

(A) (1) AFTER THE DIVISION PAYS A CLAIM FROM THE GUARANTY FUND:

(I) THE DIVISION IS SUBROGATED TO ALL RIGHTS OF THE CLAIMANT IN THE CLAIM UP TO THE AMOUNT PAID;

(II) THE CLAIMANT SHALL ASSIGN TO THE DIVISION ALL RIGHTS OF THE CLAIMANT IN THE CLAIM UP TO THE AMOUNT PAID; AND

(III) THE DIVISION HAS A RIGHT TO REIMBURSEMENT OF THE GUARANTY FUND BY THE REGISTRANT WHOM THE DIVISION FINDS RESPONSIBLE FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM FOR:

1. THE AMOUNT PAID FROM THE GUARANTY FUND; AND

2. INTEREST ON THAT AMOUNT AT A RATE DETERMINED BY THE DIVISION SO AS NOT TO EXCEED THE LEGAL RATE OF INTEREST ON A JUDGMENT IN PLACE AT THE TIME THE CLAIM IS APPROVED.

(2) ALL MONEY THAT THE DIVISION RECOVERS ON A CLAIM SHALL BE DEPOSITED IN THE GUARANTY FUND.

(B) IF, WITHIN 30 DAYS AFTER THE DIVISION GIVES NOTICE, A REGISTRANT ON WHOSE ACCOUNT A CLAIM WAS PAID DOES NOT REIMBURSE THE GUARANTY FUND IN FULL, THE DIVISION MAY SUE THE REGISTRANT IN A COURT OF COMPETENT JURISDICTION FOR THE UNREIMBURSED AMOUNT.

(C) THE DIVISION IS ENTITLED TO A JUDGMENT FOR THE UNREIMBURSED AMOUNT IF THE DIVISION PROVES THAT:

(1) A CLAIM WAS PAID FROM THE GUARANTY FUND ON ACCOUNT OF THE REGISTRANT;

(2) THE REGISTRANT HAS NOT REIMBURSED THE GUARANTY FUND IN FULL;

(3) THE REGISTRANT WAS GIVEN NOTICE AND AN OPPORTUNITY TO PARTICIPATE IN A HEARING ON THE CLAIM BEFORE THE DIVISION; AND

(4) (I) THE DIVISION DIRECTED PAYMENT BASED ON A FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION OR A FINAL AWARD IN ARBITRATION; OR

(II) THE DECISION OR ORDER OF THE DIVISION IS FINAL IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE AND THERE IS NO PENDING APPEAL.

(D) THE DIVISION MAY REFER TO THE CENTRAL COLLECTION UNIT FOR COLLECTION UNDER §§ 13–912 THROUGH 13–919 OF THE TAX – GENERAL ARTICLE A DEBT OWED TO THE DIVISION BY A REGISTRANT ON WHOSE ACCOUNT A CLAIM WAS PAID FROM THE GUARANTY FUND AND WHO IS AT LEAST 12 MONTHS BEHIND IN REIMBURSEMENT PAYMENTS TO THE GUARANTY FUND.

(E) FOR THE PURPOSE OF EXCEPTING TO A DISCHARGE OF A REGISTRANT UNDER FEDERAL BANKRUPTCY LAW, THE DIVISION IS A CREDITOR OF THE REGISTRANT FOR THE AMOUNT PAID FROM THE GUARANTY FUND.

(F) (1) (I) IF A PERSON LIABLE FOR REIMBURSING THE GUARANTY FUND UNDER THIS SECTION RECEIVES A DEMAND FOR REIMBURSEMENT AND FAILS TO REIMBURSE THE GUARANTY FUND, THE REIMBURSEMENT AMOUNT AND ANY ACCRUED INTEREST OR COSTS ARE A LIEN

IN FAVOR OF THE STATE ON ANY REAL PROPERTY OF THE PERSON IF THE LIEN IS RECORDED AND INDEXED AS PROVIDED IN THIS SUBSECTION.

(II) INTEREST SHALL CONTINUE AT THE RATE OF INTEREST ON A JUDGMENT AS PROVIDED IN § 11–107(A) OF THE COURTS ARTICLE UNTIL THE FULL AMOUNT DUE THE GUARANTY FUND IS PAID.

(2) THE LIEN IN FAVOR OF THE STATE CREATED BY THIS SUBSECTION MAY NOT ATTACH TO SPECIFIC PROPERTY UNTIL THE STATE CENTRAL COLLECTION UNIT RECORDS WRITTEN NOTICE OF THE LIEN IN THE OFFICE OF THE CLERK OF THE COURT FOR THE COUNTY IN WHICH THE PROPERTY SUBJECT TO THE LIEN OR ANY PART OF THE PROPERTY IS LOCATED.

(3) THE LIEN IN FAVOR OF THE STATE CREATED BY THIS SUBSECTION DOES NOT HAVE PRIORITY AS TO ANY SPECIFIC PROPERTY OVER ANY PERSON WHO IS A LIENHOLDER OF RECORD AT THE TIME THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION IS RECORDED.

(4) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE PERSON AGAINST WHOSE PROPERTY THE LIEN EXISTS;

(II) THE AMOUNT OF THE LIEN;

(III) A DESCRIPTION OF OR REFERENCE TO THE PROPERTY SUBJECT TO THE LIEN; AND

(IV) THE DATE THE GUARANTY FUND PAID THE CLAIM GIVING RISE TO THE LIEN.

(5) ON PRESENTATION OF A RELEASE OF ANY LIEN IN FAVOR OF THE STATE CREATED BY THIS SUBSECTION, THE CLERK OF THE COURT IN WHICH THE LIEN IS RECORDED AND INDEXED SHALL RECORD AND INDEX THE RELEASE AND SHALL NOTE IN THE LIEN DOCKET THE DATE THE RELEASE IS FILED AND THE FACT THAT THE LIEN IS RELEASED.

(6) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND ANY RELEASE FILED UNDER PARAGRAPH (5) OF THIS SUBSECTION SHALL BE INDEXED WITH THE JUDGMENT LIEN RECORDS MAINTAINED BY THE OFFICE OF THE CLERK OF THE COURT WHERE THE NOTICE IS RECORDED.

(7) THE CLERK MAY COLLECT A REASONABLE FEE FOR RECORDING AND INDEXING EACH NOTICE OF LIEN OR RELEASE OF ANY LIEN UNDER THIS SUBSECTION.

4.5–712.

(A) IF THE DIVISION PAYS A CLAIM AGAINST THE GUARANTY FUND BASED ON AN ACT OR OMISSION OF A REGISTRANT, THE DIVISION MAY SUSPEND THE HOME BUILDER REGISTRATION UNTIL THE REGISTRANT REIMBURSES THE FUND IN FULL FOR:

(1) THE AMOUNT PAID FROM THE GUARANTY FUND; AND

(2) INTEREST ON THAT AMOUNT AT A RATE DETERMINED BY THE DIVISION SO AS NOT TO EXCEED THE LEGAL RATE OF INTEREST ON A JUDGMENT IN PLACE AT THE TIME A CLAIM IS APPROVED.

(B) REIMBURSEMENT OF THE GUARANTY FUND IN FULL BY A REGISTRANT, BY ITSELF, DOES NOT NULLIFY OR MODIFY THE EFFECT OF A DISCIPLINARY PROCEEDING AGAINST A REGISTRANT.

(C) IF A HOME BUILDER HOLDS A LICENSE OR REGISTRATION IN MONTGOMERY COUNTY, THE COUNTY MAY SUSPEND THE LICENSE AS PROVIDED IN THIS SECTION.

Subtitle **[**7.**] 8.** Short Title.

[4.5–701.**] 4.5–801.**

This title may be cited as the Maryland Home Builder Registration Act.

SECTION 2. AND BE IT FURTHER ENACTED, That:

Chapter 522 of the Acts of 2000

SECTION 4. AND BE IT FURTHER ENACTED, That on or before November 1, 2001 and annually thereafter, the Consumer Protection Division of the Office of the Attorney General shall submit an annual report of its activities regarding home builders**, THE HOME BUILDER REGISTRATION FUND, AND THE HOME BUILDER GUARANTY FUND** and provide copies of the report to the Governor, and, subject to § 2–1246 of the State Government Article, the General Assembly.

SECTION 3. 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 new home contracts awarded on or before January 1, 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 481

(House Bill 1557)

AN ACT concerning

Home Builders – Sales Representative Registration and Home Builder Guaranty Fund

FOR the purpose of repealing a requirement that an individual who sells any real estate as a sales agent for a home builder be licensed by the State Real Estate Commission; renaming the Home Builder Registration Unit in the Consumer Protection Division of the Office of the Attorney General to be the Home Builder and Home Builder Sales Representative Registration Unit; requiring the Unit to maintain a list of certain registered sales representatives; requiring the Unit to make certain information regarding certain laws and regulations available to certain registered sales representatives within a certain time period; requiring the Unit to collect and maintain certain information regarding consumer complaints involving registered sales representatives; prohibiting certain persons from acting as home builder sales representatives unless the person is a registered sales representatives; providing for certain application, issuance, and renewal procedures for registration certificates for registered sales representatives; requiring certain registered sales representatives to display a certain registration certificate in a certain manner; requiring certain home builders to disclose certain information to a prospective home buyer; authorizing the Unit to deny, reprimand, suspend, or revoke a certain registration certificate or impose certain penalties on certain registered sales representatives under certain circumstances; prohibiting certain acts and providing for certain penalties; requiring certain persons to pay a certain fee before being issued certain permits for home building in certain counties; increasing certain home builder registration and renewal fees; requiring the Division to establish the Home Builder Guaranty Fund; requiring the Division

to maintain the Guaranty Fund at a certain monetary level, deposit certain money into the Guaranty Fund, and administer the Guaranty Fund; requiring the Office of Legislative Audits to audit the Guaranty Fund; establishing a custodian of the Guaranty Fund; requiring that certain administrative costs of the Guaranty Fund be paid from a certain fund; requiring certain home builders to pay a certain Guaranty Fund fee with each application for a permit for the construction of a new home; authorizing a home builder to collect money for the Guaranty Fund fee from a certain person; requiring certain county departments to remit Guaranty Fund fees to the Division at a certain time; authorizing the Division to set a certain fee; providing for the suspension of a home builder's registration under certain circumstances; authorizing a consumer to recover compensation from the Guaranty Fund under certain circumstances; requiring certain consumers to provide a certain notice to a registrant under certain circumstances; requiring a complainant with a certain new home warranty security plan to file a certain claim with the plan and exhaust the plan's claims process before seeking recovery from the Guaranty Fund; establishing certain limits on the recovery of a claimant; authorizing the Division to deny a claim under certain circumstances; limiting the amounts of money and purposes for which the Division may make awards from the Guaranty Fund; prohibiting certain persons from making claims against the Guaranty Fund; authorizing a claimant to bring a claim against the Guaranty Fund within a certain time period; specifying procedures for recovering money from the Guaranty Fund; requiring the Division's mediation unit to perform certain duties; requiring the Division to process certain claims made against the Guaranty Fund; authorizing a claimant to make certain appeals; providing that the Division has a right to reimbursement from a certain registrant for money paid from the Guaranty Fund; establishing certain penalties; requiring the Consumer Protection Division of the Office of the Attorney General to submit a certain report on the activities regarding the Home Builder Registration Fund and the Home Builder Guaranty Fund to the General Assembly on or before a certain date each year; defining certain terms; providing for the application of this Act; and generally relating to the Home Builder Guaranty Fund and the registration of home builder sales representatives.

BY repealing and reenacting, without amendments,
Article – Business Occupations and Professions
Section 17–101(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 17–101(l)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 4.5–101, 4.5–201, 4.5–202, 4.5–301, 4.5–303 through 4.5–308, 4.5–501, and 4.5–601; and 4.5–701 to be under the amended subtitle "Subtitle 8. Short Title"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 4.5–203 and 4.5–302
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – Business Regulation
Section 4.5–304.1; and 4.5–701 through 4.5–712 to be under the new subtitle "Subtitle 7. Home Builder Guaranty Fund"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 522 of the Acts of the General Assembly of 2000
Section 4

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

Article – Business Occupations and Professions

17–101.

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

(l) "Provide real estate brokerage services" means to engage in any of the following activities:

(1) for consideration, providing any of the following services for another person:

(i) selling, buying, exchanging, or leasing any real estate; **OR**

(ii) **[**selling any real estate as a sales agent for a home builder; or

(iii)**]** collecting rent for the use of any real estate;

(2) for consideration, assisting another person to locate or obtain for purchase or lease any residential real estate;

(3) engaging regularly in a business of dealing in real estate or leases or options on real estate;

(4) engaging in a business the primary purpose of which is promoting the sale of real estate through a listing in a publication issued primarily for the promotion of real estate sales;

(5) engaging in a business that subdivides land that is located in any state and sells the divided lots; or

(6) for consideration, serving as a consultant regarding any activity set forth in items (1) through (5) of this subsection.

Article – Business Regulation

4.5–101.

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

(b) "Consumer" means an owner or a contract purchaser.

(c) "Contract purchaser" means a person who has entered into a contract with a home builder to purchase a new home, but who has not yet settled on the purchase of the new home.

(d) "Division" means the Consumer Protection Division of the Office of the Attorney General.

(e) "Exempt lender" means a lender exempt from the requirements of registration as provided in § 4.5–501(c) of this title.

(F) "GUARANTY FUND" MEANS THE HOME BUILDER GUARANTY FUND.

[(f)**] (G)** (1) "Home builder" means a person that undertakes to erect or otherwise construct a new home.

(2) "Home builder" includes:

(i) a custom home builder as defined in § 10–501 of the Real Property Article;

(ii) a new home builder subject to § 10–301 of the Real Property Article; and

(iii) the installer or retailer of a mobile home or an industrialized building intended for residential use.

(3) "Home builder" does not include:

(i) an employee of a registrant who does not hold himself or herself out for hire in home building except as an employee of a registrant;

(ii) subcontractors or other vendors hired by the registrant to perform services or supply materials for the construction of a new home who do not otherwise meet the requirements of this title;

(iii) the manufacturer of industrialized buildings intended for residential use or of mobile homes, unless the manufacturer also installs the industrialized buildings or mobile homes;

(iv) a real estate developer who does not construct homes;

(v) a financial institution that lends funds for the construction or purchase of residential dwellings in the State; or

(vi) **EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE,** a person who erects or constructs new homes solely in Montgomery County.

[(g)**] (H)** "Home builder registration number" means a registration number issued by the Unit to a registrant under this title.

(I) (1) "HOME BUILDER SALES REPRESENTATIVE" MEANS AN INDIVIDUAL EMPLOYED BY A HOME BUILDER AS THE HOME BUILDER'S REPRESENTATIVE TO CONSUMERS REGARDING THE PURCHASE OF A NEW HOME FROM THE HOME BUILDER.

(2) "HOME BUILDER SALES REPRESENTATIVE" INCLUDES INDIVIDUALS EMPLOYED BY A PERSON WHO ERECTS OR CONSTRUCTS NEW HOMES SOLELY IN MONTGOMERY COUNTY AND IS NOT REQUIRED TO REGISTER UNDER THIS TITLE.

(3) "HOME BUILDER SALES REPRESENTATIVE" DOES NOT INCLUDE:

(I) AN INDIVIDUAL EMPLOYED BY AN INSTALLER OR RETAILER OF MOBILE HOMES OR INDUSTRIALIZED BUILDINGS INTENDED FOR RESIDENTIAL USE; OR

(II) AN EMPLOYEE OR OFFICER AGENT FOR A NONPROFIT ORGANIZATION, *WITH AT LEAST A 2–YEAR RECORD IN THE STATE AS A DEVELOPER OF AFFORDABLE HOUSING FOR PERSONS WITH LOW TO MODERATE INCOMES*, IN THE INITIAL SALE OF A HOME IF:

1. THE HOME IS CONSTRUCTED OR REHABILITATED BY THE NONPROFIT ORGANIZATION; AND

2. THE PURCHASER OF THE HOME IS USING FEDERAL, STATE, OR LOCAL GOVERNMENT OR OTHER SUBSIDIZED FINANCING ADMINISTERED BY THE NONPROFIT ORGANIZATION FOR THE PURPOSE OF ASSISTING INDIVIDUALS WITH LOW TO MODERATE INCOMES TO PURCHASE HOMES.

[(h)**] (J)** "Industrialized building" has the meaning stated in § 12–301 of the Public Safety Article.

[(i)**] (K)** "Install" has the meaning stated in § 12–301 of the Public Safety Article.

[(j)**] (L)** "Mobile home" means a manufactured home as defined in § 12–301 of the Public Safety Article.

[(k)**] (M)** (1) "New home" means each newly constructed residential dwelling unit in the State and the fixtures and structure that are made a part of a newly constructed private dwelling unit at the time of construction.

(2) "New home" includes:

(i) a custom home as defined in § 10–501(c) of the Real Property Article;

(ii) a new home to which § 10–301 of the Real Property Article applies;

(iii) an industrialized building intended for residential use; and

(iv) a mobile home.

(N) "NEW HOME CONTRACT" MEANS AN AGREEMENT BETWEEN A HOME BUILDER AND A CONSUMER FOR THE SALE OR CONSTRUCTION OF A NEW HOME.

[(l)**] (O)** (1) "Owner" means a person for whom a new home is built or to whom a new home is sold for occupation by:

(i) that person or the family of that person as a home; or

(ii) the successors of that person in title to the home or a mortgagor in possession.

(2) "Owner" includes a contract purchaser who contracts with a registrant for the construction and purchase of a new home.

(3) "Owner" does not include:

(i) a development company, association, or subsidiary company of a registrant; or

(ii) a person or organization to whom the home may be conveyed by the registrant for a purpose other than residential occupation by that person or organization.

[(m)**] (P)** "Principal" means:

(1) a sole proprietor, officer, director, general partner, or limited liability company manager of an applicant or registrant;

(2) a person with at least 10 percent ownership in an applicant or registrant or a subsidiary of an applicant or registrant; and

(3) parents, spouses, and children with a combined 10 percent ownership in an applicant or registrant or a subsidiary of an applicant or registrant.

(Q) "REGISTERED SALES REPRESENTATIVE" MEANS A PERSON REGISTERED TO BE A HOME BUILDER SALES REPRESENTATIVE UNDER THIS TITLE.

[(n)**] (R)** "Registrant" means a person registered to build new homes.

(S) "REGISTRATION CERTIFICATE" MEANS A CERTIFICATE ISSUED TO A REGISTERED SALES REPRESENTATIVE BY THE UNIT.

[(o)**] (T)** "Registration Fund" means the Home Builder Registration Fund.

4.5–201.

There is a Home Builder **AND HOME BUILDER SALES REPRESENTATIVE** Registration Unit in the Division.

4.5–202.

(a) The Unit shall maintain a list of all registrants **AND REGISTERED SALES REPRESENTATIVES**.

(b) (1) The Unit shall make available to each applicant for registration **AS A HOME BUILDER OR HOME BUILDER SALES REPRESENTATIVE** a copy of this title and other applicable laws and regulations.

(2) The Unit shall make available to each registrant **AND EACH REGISTERED SALES REPRESENTATIVE** any amendments to this title or other applicable laws or regulations at least 30 days before the effective date of the amendments.

(c) (1) In consultation with the home building industry, the Unit shall develop a consumer information pamphlet written in plain English that describes:

(i) the rights and remedies of consumers in the purchase of a new home; and

(ii) any other information that the Division considers reasonably necessary to assist consumers.

(2) The Division shall provide each registered home builder with a sufficient number of copies of the consumer information pamphlets as needed by the home builder.

(3) A home builder shall provide each contract purchaser with the consumer information pamphlet before entering into a contract for the initial sale of a new home.

(4) The contract purchaser shall acknowledge in writing the receipt of the consumer information pamphlet.

(5) The failure of a home builder to provide a copy of the consumer protection pamphlet to a contract purchaser may not be used as a basis for invalidation of the contract for the initial sale of a new home.

(d) The Unit shall collect and maintain information on the resolution of consumer complaints involving new home builders **OR HOME BUILDER SALES REPRESENTATIVES**.

4.5–203.

(a) (1) There is a Home Builder Registration Fund.

(2) The Division shall administer the Registration Fund.

(3) The Registration Fund shall be used to cover the actual documented direct and indirect costs incurred for the administration and enforcement of the Maryland Home Builder Registration Act.

(4) The Registration Fund is a continuing, nonlapsing fund, and is subject to § 7–302 of the State Finance and Procurement Article.

(5) Unspent assets of the Registration Fund shall remain in the Registration Fund and may not revert or be transferred to the General Fund of the State.

(6) The Registration Fund may not be supported by appropriations of State funds.

(b) The Division shall pay all funds collected under §§ 4.5–303, 4.5–304, and 4.5–305 of this title to the Comptroller, who shall distribute the fees to the Registration Fund.

(c) The Office of Legislative Audits shall audit the accounts and transactions of the Registration Fund under § 2–1220 of the State Government Article.

4.5–301.

(A) Except as otherwise provided in this title, a person may not act as a home builder in the State unless the person is registered as a home builder under this title.

(B) A PERSON MAY NOT ACT AS A HOME BUILDER SALES REPRESENTATIVE IN THE STATE UNLESS THE PERSON IS A REGISTERED SALES REPRESENTATIVE UNDER THIS TITLE.

4.5–302.

(a) Each person that constructs new homes for sale to the public shall maintain general liability insurance for at least $100,000.

(b) If a home builder's registration has been revoked and the home builder applies for a new registration, the Unit shall, in its discretion, approve the application on the applicant's fulfillment of specified terms and conditions, including the posting of a bond for the benefit of subcontractors, suppliers, and consumers, and the payment of any judgments or awards due to any subcontractors, suppliers, and consumers, for a period of 4 years from the date of the approval of registration, after which the licensing bond shall expire and shall no longer be required to be maintained by the registered home builder.

4.5–303.

(a) To apply for registration **AS A HOME BUILDER OR A HOME BUILDER SALES REPRESENTATIVE**, an applicant shall:

(1) submit to the Unit under oath an application on the form provided by the Unit; and

(2) pay the nonrefundable application fee required by this subtitle.

(b) The application **FOR REGISTRATION AS A HOME BUILDER** shall require an applicant to provide:

(1) the applicant's name;

(2) the applicant's business address, telephone number, and, if applicable, electronic mail address;

(3) in the case of an applicant who is an individual, the applicant's Social Security number;

(4) in the case of an applicant other than an individual:

(i) the applicant's federal employer identification number; and

(ii) the names and addresses of all principals of the applicant;

(5) the names of all applicants and principals who have previously applied for registration, and the disposition of all previous applications;

(6) the name of any applicant or principal that was a principal in an entity that previously applied for registration;

(7) a list of all states and other jurisdictions in which the applicant holds a similar registration or license;

(8) a list of all states and other jurisdictions in which the applicant has had a similar registration or license suspended or revoked;

(9) a statement whether any pending judgments or tax liens exist against the applicant;

(10) (i) the election made by the applicant regarding deposit moneys under § 10–301 of the Real Property Article; and

(ii) if the applicant elects to hold deposits in an escrow account, the account number and the name of the financial institution that holds the escrow account;

(11) if the applicant participates in a new home warranty security plan, the name and address of the warranty company; and

(12) the name of the insurance carrier and the policy number of the general liability coverage required under § 4.5–302 of this subtitle.

(C) THE APPLICATION FOR REGISTRATION AS A HOME BUILDER SALES REPRESENTATIVE SHALL REQUIRE AN APPLICANT TO PROVIDE:

(1) THE APPLICANT'S NAME;

(2) THE APPLICANT'S BUSINESS ADDRESS, TELEPHONE NUMBER, AND, IF APPLICABLE, ELECTRONIC MAIL ADDRESS;

(3) THE APPLICANT'S SOCIAL SECURITY NUMBER;

(4) A LIST OF ALL STATES AND OTHER JURISDICTIONS IN WHICH THE APPLICANT HOLDS A SIMILAR REGISTRATION OR LICENSE;

(5) A LIST OF ALL STATES AND OTHER JURISDICTIONS IN WHICH THE APPLICANT HAS HAD A SIMILAR REGISTRATION OR LICENSE SUSPENDED OR REVOKED;

(6) THE APPLICANT'S EMPLOYER'S BUSINESS NAME, ADDRESS, TELEPHONE NUMBER, AND REGISTRATION NUMBER OR IF THE EMPLOYER IS EXEMPT FROM REGISTRATION UNDER THIS TITLE, DOCUMENTATION THAT THE EMPLOYER ERECTS OR CONSTRUCTS HOMES SOLELY IN MONTGOMERY COUNTY; AND

(7) A STATEMENT WHETHER ANY PENDING JUDGMENTS OR TAX LIENS EXIST AGAINST THE APPLICANT.

4.5–304.

(a) The Unit shall register and issue a home builder registration number to an applicant **FOR A HOME BUILDER REGISTRATION** that:

(1) meets the requirements of this title; and

(2) pays to the Division an initial nonrefundable 2–year registration fee of **[**$300**] $600**.

(b) A **HOME BUILDER** registration issued under this title may not be transferred, assigned, or pledged.

(c) A valid **HOME BUILDER** registration authorizes the registrant to act as a home builder in the State.

(d) **(1)** A home builder that holds a license or registration in Montgomery County may act as a home builder in that county only, unless the home builder is also registered under this title.

(2) A HOME BUILDER THAT HOLDS A LICENSE OR REGISTRATION IN MONTGOMERY COUNTY AND IS NOT REGISTERED UNDER THIS TITLE IS SUBJECT TO SUBTITLE 7 OF THIS TITLE.

(3) (I) IN ADDITION TO THE COUNTY LICENSE OR REGISTRATION FEE, A HOME BUILDER THAT IS REQUIRED TO HOLD A LICENSE OR REGISTRATION ONLY IN MONTGOMERY COUNTY SHALL PAY TO THE COUNTY A GUARANTY FUND ADMINISTRATIVE FEE OF $150.

(II) THE COUNTY SHALL REMIT THE GUARANTY FUND ADMINISTRATIVE FEE TO THE UNIT TO BE DEPOSITED IN THE REGISTRATION FUND.

4.5–304.1.

(A) THE UNIT SHALL REGISTER AND ISSUE A REGISTRATION CERTIFICATE TO AN APPLICANT FOR A HOME BUILDER SALES REPRESENTATIVE REGISTRATION CERTIFICATE THAT:

(1) MEETS THE REQUIREMENTS OF THIS TITLE; AND

(2) PAYS TO THE DIVISION AN INITIAL NONREFUNDABLE 2–YEAR REGISTRATION FEE OF $200.

(B) A UNIT SHALL INCLUDE ON EACH REGISTRATION CERTIFICATE THAT THE UNIT ISSUES:

(1) THAT THIS IS A REGISTRATION CERTIFICATE FOR A REGISTERED SALES REPRESENTATIVE;

(2) THE FULL NAME OF THE CERTIFICATE HOLDER;

(3) THE CERTIFICATE HOLDER'S EMPLOYER'S REGISTRATION NUMBER OR THE NAME OF THE LICENSED OR REGISTERED MONTGOMERY COUNTY HOME BUILDER; AND

(4) THE CERTIFICATE HOLDER'S REGISTRATION NUMBER.

(C) A REGISTRATION CERTIFICATE ISSUED UNDER THIS TITLE MAY NOT BE TRANSFERRED, ASSIGNED, OR PLEDGED.

(D) A VALID REGISTRATION CERTIFICATE AUTHORIZES THE CERTIFICATE HOLDER TO ACT AS A HOME BUILDER SALES REPRESENTATIVE IN THE STATE.

(E) THE UNIT MAY ISSUE A REGISTRATION CERTIFICATE TO REPLACE A LOST, DESTROYED, OR MUTILATED REGISTRATION CERTIFICATE IF THE CERTIFICATE HOLDER PAYS THE REGISTRATION CERTIFICATE REPLACEMENT FEE SET BY THE UNIT.

4.5–305.

(a) (1) Unless renewed under this section, a registration **OR REGISTRATION CERTIFICATE** expires on the second anniversary of its effective date.

(2) A registrant **OR REGISTERED SALES REPRESENTATIVE** that meets the requirements of subsection (c) of this section may obtain a renewal of a registration **OR REGISTRATION CERTIFICATE** before the registration **OR REGISTRATION CERTIFICATE** expires for an additional 2–year term.

(3) Once expired, a registration **OR A REGISTRATION CERTIFICATE** may not be renewed.

(b) At least 60 days before a registration **OR REGISTRATION CERTIFICATE** expires, the Unit shall mail the registrant **OR REGISTERED SALES**

REPRESENTATIVE, at the last known address of the registrant **OR REGISTERED SALES REPRESENTATIVE**:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current registration **OR REGISTRATION CERTIFICATE** expires; and

(ii) the date by which the Unit must receive the renewal application for a renewal to be issued and mailed before the registration **OR REGISTRATION CERTIFICATE** expires.

(c) The Unit shall renew the registration **OR REGISTRATION CERTIFICATE** of each registrant **OR REGISTERED SALES REPRESENTATIVE** that:

(1) submits to the Unit a renewal application on the form provided by the Unit;

(2) would qualify for an initial registration **OR INITIAL REGISTRATION CERTIFICATE**;

(3) **(I) FOR RENEWAL OF A REGISTRATION,** pays to the Division a nonrefundable renewal fee based on the number of building permits for the construction of new homes issued to the registrant in the preceding calendar year as follows:

[(i)**]** **1.** 10 or fewer new homes..... **[**$150**] $300**; and

[(ii)**]** **2.** 11 or more new homes.....**[**$300**] $600**; **[**and**] OR**

(II) FOR RENEWAL OF A REGISTRATION CERTIFICATE, PAYS TO THE DIVISION A NONREFUNDABLE RENEWAL FEE OF $200; AND

(4) is otherwise entitled to be registered.

4.5–306.

(a) **(1)** A registrant shall **[**provide**] SEND** the Unit written notice of any change in the information submitted under § 4.5–303(b) of this subtitle within 10 working days after the change is effective.

(2) A REGISTERED SALES REPRESENTATIVE SHALL SEND THE UNIT WRITTEN NOTICE OF ANY CHANGE IN THE INFORMATION SUBMITTED UNDER § 4.5–303(C) OF THIS SUBTITLE WITHIN 10 WORKING DAYS AFTER THE CHANGE IS EFFECTIVE.

(b) A registrant **AND A REGISTERED SALES REPRESENTATIVE** shall comply with subsection (a) of this section for 1 year after the registrant ceases to be registered.

4.5–307.

(a) **(1)** Each registrant shall display its home builder registration number conspicuously on all properties at which the registrant is performing work that requires registration under this title.

[(b)**]** **(2)** If a registrant is building multiple homes in one project area or subdivision, the registrant may post its home builder registration number in one central conspicuous location in the project area or subdivision.

(B) EACH REGISTERED SALES REPRESENTATIVE SHALL DISPLAY THE REGISTRATION CERTIFICATE CONSPICUOUSLY AT THE PROPERTY AT WHICH THE REGISTERED SALES REPRESENTATIVE PRIMARILY PERFORMS WORK THAT REQUIRES REGISTRATION UNDER THIS TITLE.

(C) (1) A HOME BUILDER SHALL PROVIDE EACH PROSPECTIVE HOME BUYER WITH A DISCLOSURE THAT STATES: "THE SALES REPRESENTATIVE WORKS FOR THE HOME BUILDER, WHICH MEANS THAT HE OR SHE MAY ASSIST THE BUYER IN PURCHASING THE PROPERTY, BUT HIS OR HER DUTY OF LOYALTY ~~IN~~ *IS* ONLY TO THE HOME BUILDER.".

(2) THE DISCLOSURE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN AT LEAST 12–POINT BOLD TYPE AND SHALL BE INCLUDED WITH:

(I) ANY WRITTEN MATERIALS MADE AVAILABLE TO CONSUMERS AT THE PROPERTY AT WHICH A REGISTERED SALES REPRESENTATIVE PRIMARILY PERFORMS WORK THAT REQUIRES REGISTRATION UNDER THIS TITLE; AND

(II) THE FIRST AGREEMENT SIGNED BY THE CONSUMER.

4.5–308.

(a) The Unit may deny registration **OR A REGISTRATION CERTIFICATE** to an applicant, reprimand a registrant **OR REGISTERED SALES REPRESENTATIVE**, suspend or revoke a registration **OR A REGISTRATION CERTIFICATE**, or impose a civil penalty on a registrant **OR REGISTERED SALES REPRESENTATIVE** if the Unit determines that the applicant **[**or**]**, registrant**, OR REGISTERED SALES REPRESENTATIVE**:

(1) fraudulently or deceptively obtained or attempted to obtain a registration **OR REGISTRATION CERTIFICATE**;

(2) fraudulently or deceptively used a registration **OR REGISTRATION CERTIFICATE**;

(3) presented or attempted to present the home builder registration number of another registrant as the applicant's or registrant's home builder registration number;

(4) used or attempted to use an expired, suspended, or revoked home builder registration number **OR REGISTRATION CERTIFICATE**;

(5) PRESENTED OR ATTEMPTED TO PRESENT THE REGISTRATION CERTIFICATE OF ANOTHER REGISTERED SALES REPRESENTATIVE AS THE APPLICANT'S OR REGISTERED SALES REPRESENTATIVE'S REGISTRATION CERTIFICATE;

[(5)**] (6)** impersonated or falsely represented oneself as a registered home builder **OR REGISTERED SALES REPRESENTATIVE**;

[(6)**] (7)** repeatedly violated this title;

[(7)**] (8)** engaged in a pattern of unfair or deceptive trade practices under the Consumer Protection Act, as determined by a final administrative order or judicial decision;

[(8)**] (9)** repeatedly violated a local building, development, or zoning permit law or regulations, or a State or federal law or regulation, including an environmental protection law or regulation, that relates to the fitness and qualification or ability of the applicant or registrant to build homes;

[(9)**] (10)** engaged in a pattern of poor workmanship as evidenced by one or more of the following:

(i) repeated unresolved building code violations;

(ii) repeated unsatisfied arbitration awards in favor of consumers against the applicant or registered home builder based on incomplete or substandard work; or

(iii) an unsatisfied final judgment in favor of a consumer;

[(10)**] (11)** repeatedly engaged in fraud, deception, misrepresentation, or knowing omissions of material facts related to home building contracts;

[(11)**] (12)** had a similar registration**, REGISTRATION CERTIFICATE,** or license denied, suspended, or revoked in another state or jurisdiction; or

[(12)**] (13)** had the renewal of a similar registration**, REGISTRATION CERTIFICATE,** or license denied for any cause other than failure to pay a renewal fee.

(b) (1) The Unit may deny a registration to a nonpublicly traded applicant or suspend or revoke a registration of a nonpublicly traded registrant if a principal of the applicant or registrant, other than a financial institution or a nonprofit organization, that owns at least 10 percent of the applicant or registrant, was a principal of a home builder that had a similar registration or license denied, suspended, or revoked by the Unit or in another state or jurisdiction for any cause other than a failure to pay a renewal fee if the Unit determines that the interests of the public cannot be protected if the applicant or registrant is allowed to act as a home builder in the State.

(2) For the purposes of this subsection, the interests of a principal include interests held by the parents, spouse, or children of the principal.

(c) The Unit shall provide an applicant **[**or**],** registrant**, OR REGISTERED SALES REPRESENTATIVE** notice and an opportunity to request a hearing under Title 10, Subtitle 2 of the State Government Article to contest a proposed disciplinary action.

4.5–501.

(a) Except as otherwise provided in this title, a person may not act as, offer to act as, hold oneself out as, or impersonate a registrant **OR REGISTERED SALES REPRESENTATIVE** in the State unless the person is a registrant **OR REGISTERED SALES REPRESENTATIVE**.

(b) A person that violates this section is guilty of a misdemeanor and, on first conviction, is subject to a fine not exceeding $1,000 and on second or subsequent conviction, is subject to a fine not exceeding $5,000.

(c) The following lenders are exempt from the requirements relating to registration under this title when the lender hires a second registered home builder who would undertake to complete a first home builder's unfinished project pursuant to a default in obligations of the first home builder to the lender:

(1) a mortgage lender as defined in § 11–501(i)(1)(ii) of the Financial Institutions Article that is a licensee under Title 11, Subtitle 5 of the Financial Institutions Article;

(2) a bank, trust company, savings bank, savings and loan association, or credit union incorporated or chartered under the laws of this State or the United States that maintains its principal office in this State;

(3) an out–of–state bank as defined in § 5–1001 of the Financial Institutions Article that has a branch in this State that accepts deposits;

(4) an institution incorporated under federal law as a savings association or savings bank that does not maintain its principal office in this State but has a branch that accepts deposits in this State; and

(5) a subsidiary or affiliate of an institution described in paragraph (2), (3), or (4) of this subsection that is subject to audit or examination by a regulatory body or agency of this State, the United States, or the state where the subsidiary or affiliate maintains its principal office.

(d) An exempt lender is subject only to §§ 4.5–202(c), 4.5–401, 4.5–503, 4.5–601, 4.5–602, and 4.5–603 of this title.

4.5–601.

(a) Except for a building permit for construction to be performed directly by a landowner solely for the landowner's own use, the building and permits department of a county may not issue a permit for home building unless**:**

(1) the permit includes the home builder registration number of a registrant**; AND**

(2) THE PERSON PAYS THE GUARANTY FUND FEE REQUIRED UNDER § 4.5–704 OF THIS TITLE.

(b) Before issuing a permit for home building to a landowner, the building and permits department of a county shall obtain the signature of the landowner affirming that the permit is being issued solely for the purpose of the landowner performing work on the landowner's own property.

(c) Nothing in this section shall be construed to relieve a registrant from the obligation to obtain all other permits, licenses, and other authorizations for the construction of a new home.

SUBTITLE 7. HOME BUILDER GUARANTY FUND.

4.5–701.

IN THIS SUBTITLE, "ACTUAL LOSS" MEANS:

(1) THE COSTS OF RESTORATION, REPAIR, REPLACEMENT, OR COMPLETION THAT ~~ARISES~~ ARISE FROM:

(I) THE INCOMPLETE CONSTRUCTION OF A NEW HOME OR THE BREACH OF AN EXPRESS OR IMPLIED WARRANTY, AS DEFINED IN §§ 10–202 AND 10–203 OF THE REAL PROPERTY ARTICLE; OR

(II) THE FAILURE TO MEET STANDARDS OR GUIDELINES REQUIRED IN § 14–117 OF THE REAL PROPERTY ARTICLE; OR

(2) DEPOSITS OR OTHER PAYMENTS MADE TO A HOME BUILDER REQUIRED TO BE HELD IN AN ESCROW ACCOUNT OR PROTECTED BY A SURETY BOND OR IRREVOCABLE LETTER OF CREDIT UNDER § 10–301 OR § 10–504 OF THE REAL PROPERTY ARTICLE, THAT ARE NOT RETURNED TO A CONSUMER WHO IS ENTITLED TO A RETURN OF THE DEPOSIT OR OTHER PAYMENTS.

4.5–702.

THIS SUBTITLE DOES NOT:

(1) LIMIT THE AUTHORITY OF THE DIVISION TO TAKE DISCIPLINARY ACTION AGAINST A REGISTRANT UNDER THIS SUBTITLE;

(2) LIMIT THE AVAILABILITY OF OTHER REMEDIES TO A CLAIMANT; OR

(3) REQUIRE A CLAIMANT TO EXHAUST ADMINISTRATIVE REMEDIES BEFORE THE DIVISION BEFORE BRINGING AN ACTION TO COURT.

4.5–703.

(A) THE DIVISION SHALL:

(1) ESTABLISH A HOME BUILDER GUARANTY FUND; AND

(2) MAINTAIN THE GUARANTY FUND AT A LEVEL OF AT LEAST $1,000,000.

(B) (1) THE DIVISION SHALL DEPOSIT ALL MONEY COLLECTED UNDER § 4.5–704 OF THIS SUBTITLE IN THE GUARANTY FUND.

(2) (I) THE STATE TREASURER IS THE CUSTODIAN OF THE GUARANTY FUND.

(II) THE GUARANTY FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

(III) THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM THE DIVISION UNDER THIS SECTION INTO THE GUARANTY FUND.

(IV) INVESTMENT EARNINGS SHALL BE CREDITED TO THE GUARANTY FUND.

(C) THE DIVISION SHALL ADMINISTER THE GUARANTY FUND IN ACCORDANCE WITH THIS SUBTITLE.

(D) THE DIRECT AND INDIRECT COSTS INCURRED FOR THE ADMINISTRATION OF AND ENFORCEMENT RELATED TO THE GUARANTY FUND SHALL BE PAID FROM THE REGISTRATION FUND ESTABLISHED UNDER § 4.5–203 OF THIS TITLE.

(E) THE OFFICE OF LEGISLATIVE AUDITS SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE GUARANTY FUND UNDER § 2–1220 OF THE STATE GOVERNMENT ARTICLE.

4.5–704.

(A) (1) SUBJECT TO THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION, A HOME BUILDER SHALL PAY TO THE BUILDING AND PERMITS DEPARTMENT OF A COUNTY A GUARANTY FUND FEE AS SET BY THE DIVISION UNDER SUBSECTION (C) OF THIS SECTION WITH EACH APPLICATION FOR A PERMIT FOR CONSTRUCTION OF A NEW HOME.

(2) THE HOME BUILDER MAY COLLECT THE GUARANTY FUND FEE FROM THE CONSUMER.

(3) EACH MONTH, THE BUILDING AND PERMITS DEPARTMENT OF A COUNTY SHALL REMIT ALL THE GUARANTY FUND FEES TO THE DIVISION TO BE DEPOSITED IN THE GUARANTY FUND.

(4) THE GUARANTY FUND FEE MAY BE DEPOSITED ONLY IN THE GUARANTY FUND.

(B) IF A REGISTRANT FAILS TO PAY THE GUARANTY FUND FEE, THE REGISTRANT'S HOME BUILDER REGISTRATION IS SUSPENDED UNTIL THE FEE IS PAID.

(C) THE DIVISION SHALL SET THE AMOUNT OF THE GUARANTY FUND FEE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SO AS TO NOT EXCEED $50 AND TO MAINTAIN THE GUARANTY FUND LEVEL REQUIRED UNDER § 4.5–703(A) OF THIS SUBTITLE.

4.5–705.

(A) SUBJECT TO THIS SUBTITLE A CLAIMANT MAY RECOVER COMPENSATION FROM THE GUARANTY FUND FOR AN ACTUAL LOSS THAT RESULTS FROM AN ACT OR OMISSION BY A REGISTRANT AS FOUND BY THE DIVISION OR A COURT OF COMPETENT JURISDICTION.

(B) BEFORE SUBMITTING A CLAIM TO THE GUARANTY FUND, A CONSUMER SHALL:

(1) SEND A REGISTRANT A WRITTEN NOTICE DESCRIBING THE ALLEGED DEFECT OR OTHER CLAIM FOR WHICH THE CONSUMER INTENDS TO SEEK RECOVERY; AND

(2) PERMIT THE REGISTRANT ACCESS, DURING REGULAR BUSINESS HOURS, TO THE CONSUMER'S PROPERTY TO INSPECT, DETERMINE THE CAUSE OF, AND REMEDY THE ALLEGED DEFECT OR OTHER CLAIM WITHIN A REASONABLE PERIOD OF TIME.

(C) (1) (I) IF A CONSUMER HAS A NEW HOME WARRANTY SECURITY PLAN, THE CONSUMER MAY ALSO SEEK RECOVERY FROM THE GUARANTY FUND IF THE CONSUMER HAS FIRST:

1. FILED A CLAIM WITH THE NEW HOME WARRANTY SECURITY PLAN; AND

2. EXHAUSTED THE PLAN'S CLAIM PROCESS.

(II) A CONSUMER SEEKING RECOVERY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT RECEIVE MORE THAN ONE RECOVERY FOR THE SAME ACTUAL LOSS.

(2) A CLAIMANT WHO HAS ALSO FILED A CLAIM WITH A NEW HOME WARRANTY SECURITY PLAN SHALL INCLUDE WITH THE CLAIM AGAINST THE GUARANTY FUND:

(I) A COPY OR DESCRIPTION OF THE CLAIM FILED WITH THE NEW HOME WARRANTY SECURITY PLAN;

(II) ANY DOCUMENTS SUBMITTED BY THE CLAIMANT IN SUPPORT OF THE WARRANTY CLAIM, INCLUDING ENGINEERING OR INSPECTION REPORTS;

(III) ANY DOCUMENTS SUBMITTED ON BEHALF OF THE HOME BUILDER OR WARRANTY PLAN IN CONNECTION WITH THE WARRANTY CLAIM, INCLUDING ENGINEERING OR INSPECTION REPORTS;

(IV) DISCLOSURE OF ANY RECOVERIES RECEIVED IN CONNECTION WITH THE WARRANTY CLAIM; AND

(V) IF ALL OR PART OF THE WARRANTY CLAIM WAS DENIED, A COPY OF THE DENIAL.

(D) (1) THE DIVISION MAY DENY A CLAIM IF THE DIVISION FINDS THAT THE CLAIMANT UNREASONABLY REJECTED GOOD FAITH EFFORTS BY THE REGISTRANT TO RESOLVE THE CLAIM.

(2) IN DETERMINING WHETHER A CLAIM SHOULD BE DENIED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DIVISION SHALL CONSIDER WHETHER THE CLAIMANT PROVIDED THE REGISTRANT WITH NOTICE AND A REASONABLE OPPORTUNITY TO ACCESS AND INSPECT AND REPAIR THE CLAIMED DEFECT AS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

(E) THE DIVISION MAY NOT AWARD FROM THE GUARANTY FUND:

(1) MORE THAN $50,000 TO ONE CLAIMANT FOR ACTS OR OMISSIONS OF ONE REGISTRANT;

(2) MORE THAN $300,000 TO ALL CLAIMANTS FOR ACTS OR OMISSIONS OF ONE REGISTRANT UNLESS, AFTER THE DIVISION HAS PAID OUT $300,000 ON ACCOUNT OF ACTS OR OMISSIONS OF THE REGISTRANT, THE REGISTRANT REIMBURSES $300,000 TO THE GUARANTY FUND; OR

(3) AN AMOUNT FOR ATTORNEY'S FEES, CONSEQUENTIAL DAMAGES, COURT COSTS, INTEREST, PERSONAL INJURY DAMAGES, OR PUNITIVE DAMAGES.

(F) A CLAIM AGAINST THE GUARANTY FUND BASED ON THE ACT OR OMISSION OF A PARTICULAR REGISTRANT MAY NOT BE MADE BY:

(1) A SPOUSE OR OTHER IMMEDIATE RELATIVE OF THE REGISTRANT;

(2) AN EMPLOYEE OR PRINCIPAL OF THE REGISTRANT; OR

(3) AN IMMEDIATE RELATIVE OF AN EMPLOYEE OR PRINCIPAL OF THE REGISTRANT.

(G) (1) A CLAIMANT MAY BRING A CLAIM AGAINST THE GUARANTY FUND WITHIN 2 YEARS AFTER THE CLAIMANT DISCOVERED OR, SHOULD HAVE DISCOVERED THE LOSS OR DAMAGE OR WITHIN 2 YEARS AFTER THE EXPIRATION OF THE WARRANTY UNDER § 10–204 OF THE REAL PROPERTY ARTICLE, WHICHEVER OCCURS FIRST.

(2) IF A CLAIMANT HAS FILED A CLAIM WITH A NEW HOME WARRANTY SECURITY PLAN, A CLAIMANT MAY BRING A CLAIM AGAINST THE GUARANTY FUND WITHIN 4 MONTHS AFTER THE CLAIMS PROCESS OF THE HOME WARRANTY SECURITY PLAN IS EXHAUSTED.

4.5–706.

(A) TO BEGIN A PROCEEDING TO RECOVER FROM THE GUARANTY FUND, A CLAIMANT SHALL SUBMIT TO THE DIVISION'S MEDIATION UNIT A WRITTEN COMPLAINT THAT STATES:

(1) THE AMOUNT CLAIMED BASED ON THE ACTUAL LOSS;

(2) THE FACTS GIVING RISE TO THE CLAIM;

(3) ~~THAT~~ WHETHER THERE IS OTHER EVIDENCE THAT SUPPORTS THE CLAIM, INCLUDING EXPERT REPORTS, PHOTOGRAPHS, OR VIDEOTAPES AND THAT THE EVIDENCE IS INCLUDED WITH THE COMPLAINT;

(4) WHAT DOCUMENTS ARE RELATED TO THE CLAIM AND THAT COPIES OF THE DOCUMENTS ARE ATTACHED, INCLUDING THE CONTRACT OF SALE; AND

(5) ANY OTHER INFORMATION THAT THE DIVISION REQUIRES.

(B) THE DIVISION'S MEDIATION UNIT SHALL:

(1) SEND A COPY OF THE COMPLAINT TO THE REGISTRANT ALLEGED TO BE RESPONSIBLE FOR THE ACTUAL LOSS;

(2) REQUIRE A WRITTEN RESPONSE TO THE COMPLAINT WITHIN 30 DAYS THAT INCLUDES:

(I) ANY EVIDENCE THE REGISTRANT HAS CONCERNING THE CLAIM, INCLUDING EXPERT REPORTS, PHOTOGRAPHS, OR VIDEOTAPES; AND

(II) ANY OTHER INFORMATION THAT THE DIVISION REQUIRES;

(3) ATTEMPT TO RESOLVE THE COMPLAINT THROUGH MEDIATION ~~IN ACCORDANCE WITH~~, TAKING INTO CONSIDERATION APPLICABLE LAWS, INCLUDING EXPRESS AND IMPLIED WARRANTIES AND THE PROVISIONS OF § 4.5–401 OF THIS TITLE; AND

(4) REFER THE COMPLAINT TO THE DIVISION AS A CLAIM AGAINST THE GUARANTY FUND IF:

(I) 1. THE HOME BUILDER FAILS TO RESPOND AS REQUIRED BY THIS SECTION;

2. THE MEDIATION UNIT CONCLUDES THAT THE COMPLAINT CANNOT BE RESOLVED THROUGH MEDIATION; OR

3. IN MEDIATION, THE PARTIES DO NOT MUTUALLY AGREE TO AN ARBITRATOR; AND

(II) THE CLAIMANT EXECUTES A CLAIM FORM PREPARED BY THE DIVISION STATING UNDER OATH THAT THE CLAIMANT WISHES TO SEEK RECOVERY FROM THE GUARANTY FUND.

(C) (1) IF A CLAIMANT'S NEW HOME CONTRACT INCLUDES A WRITTEN AGREEMENT WITH A REGISTRANT TO SUBMIT A DISPUTE TO ARBITRATION AND THE AGREEMENT AUTHORIZES:

(I) THE REGISTRANT TO SELECT THE ARBITRATOR OR THE ARBITRATION SERVICE, THE CLAIMANT MAY ELECT WHETHER TO FIRST SEEK RECOVERY FROM THE GUARANTY FUND OR SUBMIT THE DISPUTE TO ARBITRATION; OR

(II) IF THE CLAIMANT'S NEW HOME CONTRACT PROVIDES FOR MUTUAL SELECTION OF THE ARBITRATION SERVICE AND THE CLAIMANT AND REGISTRANT HAVE MUTUALLY AGREED ON AN ARBITRATION SERVICE, THE CLAIMANT MUST SUBMIT THE DISPUTE TO ARBITRATION PRIOR TO SEEKING RECOVERY FROM THE GUARANTY FUND.

(2) IF THE CLAIMANT AND THE REGISTRANT SUBMIT THE DISPUTE TO ARBITRATION UNDER THE WRITTEN AGREEMENT IN THE CONTRACT AND THE ARBITRATOR MAKES A FINAL JUDGMENT OR FINAL AWARD IN FAVOR OF THE CLAIMANT:

(I) THE CLAIMANT MAY MAKE A CLAIM AGAINST THE GUARANTY FUND; BUT

(II) IF THE REGISTRANT PAYS THE AWARD AMOUNT TO THE CLAIMANT WITHIN 90 DAYS OF THE FINAL AWARD, THE DIVISION SHALL DISMISS THE CLAIM AGAINST THE GUARANTY FUND.

4.5–707.

(A) THE PROCEDURES FOR NOTICE, HEARINGS, AND JUDICIAL REVIEW THAT APPLY TO PROCEEDINGS UNDER TITLE 3, SUBTITLE 2 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE ALSO APPLY TO PROCEEDINGS TO RECOVER FROM THE GUARANTY FUND.

(B) ON RECEIPT OF A CLAIM, THE DIVISION SHALL:

(1) SEND A COPY OF THE CLAIM TO THE REGISTRANT ALLEGED TO BE RESPONSIBLE FOR THE ACTUAL LOSS; AND

(2) REQUIRE A WRITTEN RESPONSE TO THE CLAIM WITHIN 30 DAYS.

(C) (1) THE DIVISION:

(I) SHALL REVIEW THE CLAIM AND ANY RESPONSE TO IT; AND

(II) MAY REFER THE CLAIM FOR INVESTIGATION.

(2) ON THE BASIS OF ITS REVIEW AND ANY INVESTIGATION, THE DIVISION MAY:

(I) SET THE MATTER FOR A HEARING WITH THE OFFICE OF ADMINISTRATIVE HEARINGS;

(II) DISMISS THE CLAIM, IF THE CLAIM IS FRIVOLOUS, LEGALLY INSUFFICIENT, OR MADE IN BAD FAITH; OR

(III) IF THE TOTAL CLAIM AGAINST A PARTICULAR REGISTRANT DOES NOT EXCEED $5,000, ISSUE A PROPOSED ORDER TO PAY ALL OR PART OF THE CLAIM OR DENY THE CLAIM.

(D) (1) THE DIVISION SHALL SEND A PROPOSED ORDER ISSUED UNDER SUBSECTION (C)(2)(III) OF THIS SECTION TO THE CLAIMANT AND THE REGISTRANT, AT THE MOST RECENT ADDRESS ON RECORD WITH THE DIVISION, BY:

(I) PERSONAL DELIVERY; OR

(II) BOTH REGULAR MAIL AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(2) WITHIN 21 DAYS AFTER SERVICE, RECEIPT, OR ATTEMPTED DELIVERY OF THE PROPOSED ORDER, THE CLAIMANT OR REGISTRANT MAY SUBMIT TO THE DIVISION:

(I) A WRITTEN REQUEST FOR A HEARING BEFORE THE DIVISION; OR

(II) A WRITTEN EXCEPTION TO THE PROPOSED ORDER.

(3) IF THE CLAIMANT OR REGISTRANT SUBMITS A TIMELY EXCEPTION TO THE PROPOSED ORDER, THE DIVISION MAY:

(I) ISSUE A REVISED PROPOSED ORDER;

(II) SET A HEARING ON THE CLAIM; OR

(III) DISMISS THE CLAIM.

(4) UNLESS THE CLAIMANT OR REGISTRANT SUBMITS A TIMELY REQUEST FOR A HEARING OR TIMELY EXCEPTION, THE PROPOSED ORDER IS FINAL.

(E) AT A HEARING ON A CLAIM, THE CLAIMANT HAS THE BURDEN OF PROOF.

(F) A CLAIMANT AND REGISTRANT MAY PARTICIPATE IN A GUARANTY FUND PROCEEDING WITHOUT REPRESENTATION BY COUNSEL.

4.5–708.

(A) (1) THE DIVISION MAY JOIN A PROCEEDING ON A CLAIM AGAINST THE GUARANTY FUND WITH A DISCIPLINARY PROCEEDING AGAINST A REGISTRANT UNDER THIS SUBTITLE IF THE DISCIPLINARY HEARING IS BASED ON THE SAME FACTS ALLEGED IN THE CLAIM.

(2) IN A CONSOLIDATED PROCEEDING THE CLAIMANT IS A PARTY, AND MAY PARTICIPATE IN THE HEARING TO THE EXTENT NECESSARY TO ESTABLISH THE CLAIM.

(B) (1) NOTWITHSTANDING § 4.5–702(2) OF THIS SUBTITLE, A CLAIMANT MAY NOT CONCURRENTLY SUBMIT A CLAIM TO RECOVER FROM THE GUARANTY FUND AND BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION AGAINST A REGISTRANT BASED ON THE SAME FACTS ALLEGED IN THE CLAIM.

(2) IF, AFTER FILING A CLAIM, THE CLAIMANT BRINGS AN ACTION IN A COURT OF COMPETENT JURISDICTION BASED ON THE SAME FACTS ALLEGED IN THE PENDING CLAIM, THE DIVISION SHALL STAY ITS PROCEEDINGS ON THE CLAIM UNTIL THERE IS A FINAL JUDGMENT AND ALL RIGHTS TO APPEAL ARE EXHAUSTED.

(3) TO THE EXTENT THAT A FINAL JUDGMENT OR FINAL AWARD IN ARBITRATION IS BASED ON THE SAME FACTUAL AND LEGAL ISSUES ALLEGED IN A PENDING CLAIM, THE DIVISION SHALL:

(I) APPROVE THE CLAIM AGAINST THE GUARANTY FUND, IF THE JUDGMENT OR AWARD IS DECIDED IN FAVOR OF THE CLAIMANT AND THE REGISTRANT HAS FAILED TO PAY THE JUDGMENT OR AWARD; OR

(II) DISMISS THE CLAIM AGAINST THE GUARANTY FUND, IF THE JUDGMENT OR AWARD IS DECIDED IN FAVOR OF THE REGISTRANT.

4.5–709.

A PARTY TO A PROCEEDING BEFORE THE DIVISION WHO IS AGGRIEVED BY A FINAL DECISION OF THE DIVISION IN A CONTESTED CASE, AS DEFINED IN § 10–202 OF THE STATE GOVERNMENT ARTICLE, MAY TAKE AN APPEAL AS ALLOWED IN §§ 10–222 AND 10–223 OF THE STATE GOVERNMENT ARTICLE.

4.5–710.

(A) THE DIVISION MAY ORDER PAYMENT OF A CLAIM AGAINST THE GUARANTY FUND ONLY IF:

(1) THE DECISION OR ORDER OF THE DIVISION IS FINAL IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE AND ALL RIGHTS OF APPEAL ARE EXHAUSTED; OR

(2) THE CLAIMANT PROVIDES THE DIVISION WITH A CERTIFIED COPY OF A FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION OR A FINAL AWARD IN ARBITRATION, WITH ALL RIGHTS OF APPEAL EXHAUSTED, IN WHICH THE COURT OR ARBITRATOR:

(I) EXPRESSLY MADE FINDINGS OF FACT THAT SUPPORT THE CLAIMANT'S RIGHT TO RECOVER UNDER § 4.5–705(A) OF THIS SUBTITLE; AND

(II) HAS FOUND THE VALUE OF THE ACTUAL LOSS.

(B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE DIVISION SHALL PAY APPROVED CLAIMS IN THE ORDER SUBMITTED.

(2) IF APPROVED CLAIMS SUBMITTED TO THE DIVISION AGAINST A REGISTRANT EXCEED $300,000, LESS THE AMOUNT OF UNREIMBURSED CLAIM

PAYMENTS PREVIOUSLY MADE FOR THE REGISTRANT, THE DIVISION MAY PAY THE APPROVED CLAIMS PROPORTIONATELY SO THAT EACH CLAIMANT RECEIVES THE SAME PERCENTAGE PAYMENT OF THE CLAIMS.

(3) AFTER THE GUARANTY FUND IS REIMBURSED, THE DIVISION SHALL PAY UNSATISFIED APPROVED CLAIMS.

(C) IF THERE IS NOT ENOUGH MONEY IN THE GUARANTY FUND TO PAY AN APPROVED CLAIM WHOLLY OR PARTIALLY, THE DIVISION SHALL PAY THE UNPAID CLAIM:

(1) WHEN ENOUGH MONEY IS DEPOSITED IN THE GUARANTY FUND; AND

(2) IN THE ORDER THAT EACH CLAIM ORIGINALLY WAS FILED WITH A COURT OF COMPETENT JURISDICTION OR SUBMITTED TO THE DIVISION.

4.5–711.

(A) (1) AFTER THE DIVISION PAYS A CLAIM FROM THE GUARANTY FUND:

(I) THE DIVISION IS SUBROGATED TO ALL RIGHTS OF THE CLAIMANT IN THE CLAIM UP TO THE AMOUNT PAID;

(II) THE CLAIMANT SHALL ASSIGN TO THE DIVISION ALL RIGHTS OF THE CLAIMANT IN THE CLAIM UP TO THE AMOUNT PAID; AND

(III) THE DIVISION HAS A RIGHT TO REIMBURSEMENT OF THE GUARANTY FUND BY THE REGISTRANT WHOM THE DIVISION FINDS RESPONSIBLE FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM FOR:

1. THE AMOUNT PAID FROM THE GUARANTY FUND; AND

2. INTEREST ON THAT AMOUNT AT A RATE DETERMINED BY THE DIVISION SO AS NOT TO EXCEED THE LEGAL RATE OF INTEREST ON A JUDGMENT IN PLACE AT THE TIME THE CLAIM IS APPROVED.

(2) ALL MONEY THAT THE DIVISION RECOVERS ON A CLAIM SHALL BE DEPOSITED IN THE GUARANTY FUND.

(B) IF, WITHIN 30 DAYS AFTER THE DIVISION GIVES NOTICE, A REGISTRANT ON WHOSE ACCOUNT A CLAIM WAS PAID DOES NOT REIMBURSE THE GUARANTY FUND IN FULL, THE DIVISION MAY SUE THE REGISTRANT IN A COURT OF COMPETENT JURISDICTION FOR THE UNREIMBURSED AMOUNT.

(C) THE DIVISION IS ENTITLED TO A JUDGMENT FOR THE UNREIMBURSED AMOUNT IF THE DIVISION PROVES THAT:

(1) A CLAIM WAS PAID FROM THE GUARANTY FUND ON ACCOUNT OF THE REGISTRANT;

(2) THE REGISTRANT HAS NOT REIMBURSED THE GUARANTY FUND IN FULL;

(3) THE REGISTRANT WAS GIVEN NOTICE AND AN OPPORTUNITY TO PARTICIPATE IN A HEARING ON THE CLAIM BEFORE THE DIVISION; AND

(4) (I) THE DIVISION DIRECTED PAYMENT BASED ON A FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION OR A FINAL AWARD IN ARBITRATION; OR

(II) THE DECISION OR ORDER OF THE DIVISION IS FINAL IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE AND THERE IS NO PENDING APPEAL.

(D) THE DIVISION MAY REFER TO THE CENTRAL COLLECTION UNIT FOR COLLECTION UNDER §§ 13–912 THROUGH 13–919 OF THE TAX – GENERAL ARTICLE A DEBT OWED TO THE DIVISION BY A REGISTRANT ON WHOSE ACCOUNT A CLAIM WAS PAID FROM THE GUARANTY FUND AND WHO IS AT LEAST 12 MONTHS BEHIND IN REIMBURSEMENT PAYMENTS TO THE GUARANTY FUND.

(E) FOR THE PURPOSE OF EXCEPTING TO A DISCHARGE OF A REGISTRANT UNDER FEDERAL BANKRUPTCY LAW, THE DIVISION IS A CREDITOR OF THE REGISTRANT FOR THE AMOUNT PAID FROM THE GUARANTY FUND.

(F) (1) (I) IF A PERSON LIABLE FOR REIMBURSING THE GUARANTY FUND UNDER THIS SECTION RECEIVES A DEMAND FOR REIMBURSEMENT AND FAILS TO REIMBURSE THE GUARANTY FUND, THE REIMBURSEMENT AMOUNT AND ANY ACCRUED INTEREST OR COSTS ARE A LIEN IN FAVOR OF THE STATE ON ANY REAL PROPERTY OF THE PERSON IF THE LIEN IS RECORDED AND INDEXED AS PROVIDED IN THIS SUBSECTION.

(II) INTEREST SHALL CONTINUE AT THE RATE OF INTEREST ON A JUDGMENT AS PROVIDED IN § 11–107(A) OF THE COURTS ARTICLE UNTIL THE FULL AMOUNT DUE THE GUARANTY FUND IS PAID.

(2) THE LIEN IN FAVOR OF THE STATE CREATED BY THIS SUBSECTION MAY NOT ATTACH TO SPECIFIC PROPERTY UNTIL THE STATE CENTRAL COLLECTION UNIT RECORDS WRITTEN NOTICE OF THE LIEN IN THE OFFICE OF THE CLERK OF THE COURT FOR THE COUNTY IN WHICH THE PROPERTY SUBJECT TO THE LIEN OR ANY PART OF THE PROPERTY IS LOCATED.

(3) THE LIEN IN FAVOR OF THE STATE CREATED BY THIS SUBSECTION DOES NOT HAVE PRIORITY AS TO ANY SPECIFIC PROPERTY OVER ANY PERSON WHO IS A LIENHOLDER OF RECORD AT THE TIME THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION IS RECORDED.

(4) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE PERSON AGAINST WHOSE PROPERTY THE LIEN EXISTS;

(II) THE AMOUNT OF THE LIEN;

(III) A DESCRIPTION OF OR REFERENCE TO THE PROPERTY SUBJECT TO THE LIEN; AND

(IV) THE DATE THE GUARANTY FUND PAID THE CLAIM GIVING RISE TO THE LIEN.

(5) ON PRESENTATION OF A RELEASE OF ANY LIEN IN FAVOR OF THE STATE CREATED BY THIS SUBSECTION, THE CLERK OF THE COURT IN WHICH THE LIEN IS RECORDED AND INDEXED SHALL RECORD AND INDEX THE RELEASE AND SHALL NOTE IN THE LIEN DOCKET THE DATE THE RELEASE IS FILED AND THE FACT THAT THE LIEN IS RELEASED.

(6) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND ANY RELEASE FILED UNDER PARAGRAPH (5) OF THIS SUBSECTION SHALL BE INDEXED WITH THE JUDGMENT LIEN RECORDS MAINTAINED BY THE OFFICE OF THE CLERK OF THE COURT WHERE THE NOTICE IS RECORDED.

(7) THE CLERK MAY COLLECT A REASONABLE FEE FOR RECORDING AND INDEXING EACH NOTICE OF LIEN OR RELEASE OF ANY LIEN UNDER THIS SUBSECTION.

4.5–712.

(A) IF THE DIVISION PAYS A CLAIM AGAINST THE GUARANTY FUND BASED ON AN ACT OR OMISSION OF A REGISTRANT, THE DIVISION MAY SUSPEND THE HOME BUILDER REGISTRATION UNTIL THE REGISTRANT REIMBURSES THE FUND IN FULL FOR:

(1) THE AMOUNT PAID FROM THE GUARANTY FUND; AND

(2) INTEREST ON THAT AMOUNT AT A RATE DETERMINED BY THE DIVISION SO AS NOT TO EXCEED THE LEGAL RATE OF INTEREST ON A JUDGMENT IN PLACE AT THE TIME A CLAIM IS APPROVED.

(B) REIMBURSEMENT OF THE GUARANTY FUND IN FULL BY A REGISTRANT, BY ITSELF, DOES NOT NULLIFY OR MODIFY THE EFFECT OF A DISCIPLINARY PROCEEDING AGAINST A REGISTRANT.

(C) IF A HOME BUILDER HOLDS A LICENSE OR REGISTRATION IN MONTGOMERY COUNTY, THE COUNTY MAY SUSPEND THE LICENSE AS PROVIDED IN THIS SECTION.

Subtitle **[**7.**] 8.** Short Title.

[4.5–701.**] 4.5–801.**

This title may be cited as the Maryland Home Builder Registration Act.

SECTION 2. AND BE IT FURTHER ENACTED, That:

Chapter 522 of the Acts of 2000

SECTION 4. AND BE IT FURTHER ENACTED, That on or before November 1, 2001 and annually thereafter, the Consumer Protection Division of the Office of the Attorney General shall submit an annual report of its activities regarding home builders**, THE HOME BUILDER REGISTRATION FUND, AND THE HOME BUILDER GUARANTY FUND** and provide copies of the report to the Governor, and, subject to § 2–1246 of the State Government Article, the General Assembly.

SECTION 3. 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 new home contracts awarded on or before January 1, 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 482

(Senate Bill 1009)

AN ACT concerning

Garrett County Code of Public Local Laws – Legalization

FOR the purpose of legalizing the 2005 edition of the Code of Public Local Laws of Garrett County, which was prepared under the direction of the Board of County Commissioners of Garrett County; and generally relating to the legalization of the Code of Public Local Laws of Garrett County.

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

(1) The 2005 edition of the Code of Public Local Laws of Garrett County, being Article 12 of the Code of Public Local Laws of Maryland, published under the direction of the Board of County Commissioners, is legalized;

(2) Any pocket or loose–leaf supplement to the 2005 Code of Public Local Laws of Garrett County that has been or may be published under the direction of the Board of County Commissioners of Garrett County is legalized;

(3) The 2005 Code of Public Local Laws of Garrett County shall contain all public local laws relating to Garrett County contained in the 1985 edition and 2001 supplement of that code and those public local laws relating to Garrett County passed by the General Assembly of Maryland during the 2001 through 2008 sessions of the General Assembly; and

(4) The 2005 Code of Public Local Laws of Garrett County shall be deemed and taken in all courts of the State and by all public officials of the State and

of the political subdivisions of the State to be evidence of the public local laws of Garrett County.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 483

(House Bill 62)

AN ACT concerning

Lead–Containing Children's Products – Prohibition

FOR the purpose of prohibiting the manufacture, sale, offer for sale, importation, or distribution of certain lead–containing children's products ~~or lead–adulterated consumable products~~ in a certain manner; providing that certain provisions of this Act do not apply to certain electronic devices, certain distribution operations or activities, or certain vehicles, products, parts, or equipment; ~~authorizing an agent of the Department of Health and Mental Hygiene to enter certain factories, warehouses, and establishments to inspect certain products at any reasonable time; requiring an agent of the Department to present certain credentials to certain persons under certain circumstances; authorizing an agent of the Department to obtain a sample of any product, package, or labeling during an inspection; requiring an agent of the Department to take certain actions when obtaining a certain sample; requiring the Department to test a certain sample of a product under certain circumstances; requiring the Secretary of Health and Mental Hygiene to make certain declarations if a product is a lead–containing product or a lead–adulterated consumable product;~~ requiring the Department of the Environment to ~~issue and~~ give certain notices under certain circumstances; requiring a manufacturer of a children's product to conduct a certain testing of the product and issue a certain certificate under certain circumstances; requiring a person to ensure that the certificate is transmitted to certain distributors and retailers in a certain manner; requiring certain manufacturers and retailers to maintain certain documents and to provide certain documents to the Department or any person on request; prohibiting a person from selling or offering for sale a children's product that is not accompanied by a certain certificate; requiring a certain person to send certain information to the Department under certain circumstances; requiring a certain person to submit a certain report to the Department under certain

circumstances; providing that certain provisions of this Act do not affect the enforcement of certain local laws; establishing certain penalties; authorizing the Comptroller to assess a certain fine against a certain person; requiring the Comptroller to distribute certain fines to a certain fund; providing that a violation of this Act is an unfair or deceptive trade practice within the meaning of the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; defining certain terms; authorizing the Secretary of ~~Health and Mental Hygiene~~ the Environment to adopt certain regulations; ~~making this Act an emergency measure;~~ and generally relating to prohibiting lead–containing children's products.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–301(14)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – ~~Health – General~~ Environment
Section ~~22–601~~ 6–1301 through ~~22–609~~ 6–1311 to be under the new subtitle "Subtitle ~~6.~~ 13. Lead–Containing Children's Products"
Annotated Code of Maryland
(~~2005~~ 2007 Replacement Volume and 2007 Supplement)

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

Article – Commercial Law

13–301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(i) This title;

(ii) An order of the Attorney General or agreement of a party relating to unit pricing under Title 14, Subtitle 1 of this article;

(iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt Collection Act;

(iv) Title 14, Subtitle 3 of this article, the Maryland Door–to–Door Sales Act;

(v) Title 14, Subtitle 9 of this article, Kosher Products;

(vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;

(vii) Section 14–1302 of this article;

(viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales Act;

(ix) Section 22–415 of the Transportation Article;

(x) Title 14, Subtitle 20 of this article;

(xi) Title 14, Subtitle 15 of this article, the Automotive Warranty Enforcement Act;

(xii) Title 14, Subtitle 21 of this article;

(xiii) Section 18–107 of the Transportation Article;

(xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone Solicitations Act;

(xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts Act;

(xvi) Title 10, Subtitle 6 of the Real Property Article;

(xvii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;

(xviii) Title 14, Subtitle 26 of this article, the Maryland Door–to–Door Solicitations Act;

(xix) Title 14, Subtitle 31 of this article, the Maryland Household Goods Movers Act;

(xx) Title 14, Subtitle 32 of this article, the Maryland Telephone Consumer Protection Act;

(xxi) Title 14, Subtitle 33 of this article, the Social Security Number Privacy Act;

(xxii) Section 14–1319 or § 14–1320 of this article; [or]

(xxiii) Section 7–304 of the Criminal Law Article; or

(XXIV) TITLE 6, SUBTITLE 13 OF THE ENVIRONMENT ARTICLE; OR

Article – ~~Health – General~~ Environment

SUBTITLE ~~6.~~ 13. LEAD–CONTAINING CHILDREN'S PRODUCTS.

~~22–601.~~ 6–1301.

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

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, "~~CHILD~~ CHILD" MEANS AN INDIVIDUAL WHO IS UNDER THE AGE OF ~~7~~ 6 YEARS.

(2) IF A FEDERAL LAW ESTABLISHING THE PERMISSIBLE LEVEL OF LEAD IN CHILDREN'S PRODUCTS IS ENACTED, "CHILD" SHALL MEAN AN INDIVIDUAL WHO IS THE AGE SPECIFIED IN THE FEDERAL LAW.

(C) (1) "CHILDREN'S PRODUCT" MEANS:

~~(1)~~ (I) A PRODUCT THAT IS MARKETED FOR USE BY A CHILD; OR

~~(2)~~ (II) A PRODUCT THE USE OF WHICH BY A CHILD IS FORESEEABLE.

(2) "CHILDREN'S PRODUCT" DOES NOT INCLUDE FOOD AS DEFINED IN § 21–101 OF THE HEALTH – GENERAL ARTICLE.

~~(D) "CONSUMABLE PRODUCT" INCLUDES:~~

~~(1) CANDY AND CONFECTIONARY ITEMS THAT ARE LIKELY TO BE CONSUMED BY A CHILD; AND~~

~~(2) DIETARY SUPPLEMENTS.~~

~~(E) "HOMEOPATHIC REMEDY" MEANS A SUBSTANCE OR COMPOUND USED BY AN INDIVIDUAL TO TREAT A DISEASE, AILMENT, OR CONDITION.~~

~~(F) "LEAD–ADULTERATED CONSUMABLE PRODUCT" MEANS ANY CONSUMABLE PRODUCT OR ITEM OR CONSUMABLE HOMEOPATHIC REMEDY THAT CONTAINS LEAD IN AN AMOUNT:~~

~~(1) IN EXCESS OF 0.1 PPM; OR~~

~~(2) SET BY THE SECRETARY IN REGULATION.~~

~~(G)~~ (D) "LEAD–CONTAINING PRODUCT" MEANS A PRODUCT IN WHICH ANY PART, COMPONENT, OR COATING OF THE PRODUCT CONTAINS LEAD OR LEAD COMPOUNDS~~:~~

~~(1) GREATER~~ GREATER THAN ~~0.02%~~ THE LESSER OF:

(1) 0.06% BY WEIGHT OF THE TOTAL WEIGHT OF THE PART, COMPONENT, OR COATING; OR

~~(2) IN AN AMOUNT SET BY THE SECRETARY IN REGULATION.~~

(2) THE STANDARD ESTABLISHED UNDER FEDERAL LAW REGARDING THE PERMISSIBLE LEVEL OF LEAD IN CHILDREN'S PRODUCTS.

(E) "MANUFACTURER" MEANS A PERSON THAT IS THE BRAND OWNER OF A PRODUCT.

~~(H)~~ (F) "PRODUCT" INCLUDES:

(1) ACCESSORIES AND JEWELRY;

(2) CLOTHING;

(3) DECORATIVE OBJECTS;

(4) FURNITURE;

(5) ~~HOMEOPATHIC REMEDIES~~ LUNCH BOXES AND EATING UTENSILS;

(6) TOYS; AND

(7) ~~WRAPPERS~~ ANY OTHER ITEM SPECIFIED BY THE DEPARTMENT IN REGULATION.

~~(I) "WRAPPER" MEANS ANY PACKAGING MATERIAL THAT IS IN CONTACT WITH FOOD, INCLUDING:~~

~~(1) PAPER;~~

~~(2) CELLOPHANE;~~

~~(3) A PLASTIC CONTAINER;~~

~~(4) A STICK HANDLE;~~

~~(5) A SPOON;~~

~~(6) A POT;~~

~~(7) A SQUEEZE TUBE; AND~~

~~(8) ANY OTHER SIMILAR DEVICE.~~

~~22–602.~~ **6–1302.**

THIS SUBTITLE DOES NOT APPLY TO:

(1) AN ELECTRONIC DEVICE THAT IS A LEAD–CONTAINING PRODUCT UNLESS THE SECRETARY DETERMINES THAT DURING THE NORMAL USE OF THE ELECTRONIC DEVICE THERE IS A SIGNIFICANT RISK THAT A CHILD COULD BE EXPOSED TO THE LEAD CONTAINED IN THE ELECTRONIC DEVICE; ~~AND~~

(2) ANY ~~FACTORY, WAREHOUSE, OR ESTABLISHMENT AT A MARINE TERMINAL~~ **DISTRIBUTION OPERATION OR ACTIVITY PERFORMED IN A FACTORY, WAREHOUSE, OR ESTABLISHMENT, OR, IN THE COURSE OF SURFACE TRANSPORTATION, AT A PORT FACILITY AS DEFINED IN § 6–101 OF THE TRANSPORTATION ARTICLE; AND**

(3) A VEHICLE AS DEFINED IN § 11–176 OF THE TRANSPORTATION ARTICLE, A PRODUCT OR PART FOR USE IN A VEHICLE, OR TRANSPORTATION EQUIPMENT.

~~22–603.~~ **6–1303.**

A PERSON MAY NOT ~~MANUFACTURE,~~**:**

(1) MANUFACTURE A CHILDREN'S PRODUCT THAT IS A LEAD–CONTAINING PRODUCT; OR ~~SELL,~~

(2) SELL, OFFER FOR SALE, IMPORT, OR DISTRIBUTE~~:~~

~~(1)~~ ~~A~~, BY ANY MEANS, INCLUDING THROUGH A SALES OUTLET, A CATALOG, OR THE INTERNET, A CHILDREN'S PRODUCT THAT IS A LEAD–CONTAINING PRODUCT~~; OR~~

~~(2) A LEAD–ADULTERATED CONSUMABLE PRODUCT~~.

~~22–604.~~

~~(A) AT ANY REASONABLE TIME, AN AGENT OF THE DEPARTMENT MAY ENTER A FACTORY, WAREHOUSE, OR ESTABLISHMENT IN WHICH A PRODUCT IS MANUFACTURED, PROCESSED, PACKAGED, STORED, SOLD, OR OFFERED FOR SALE TO INSPECT ANY FINISHED OR UNFINISHED PRODUCT.~~

~~(B) WHEN CONDUCTING AN INSPECTION UNDER THIS SECTION, AN AGENT OF THE DEPARTMENT IMMEDIATELY SHALL PRESENT APPROPRIATE CREDENTIALS TO THE OWNER, OPERATOR, OR AGENT IN CHARGE OF THE FACTORY, WAREHOUSE, OR ESTABLISHMENT.~~

~~(C) (1) DURING AN INSPECTION CONDUCTED UNDER THIS SECTION, AN AGENT OF THE DEPARTMENT MAY OBTAIN A SAMPLE OF ANY PRODUCT, PACKAGE, OR LABELING.~~

~~(2) AN AGENT OF THE DEPARTMENT WHO OBTAINS A SAMPLE SHALL:~~

~~(I) PAY OR OFFER TO PAY FOR THE SAMPLE; AND~~

~~(II) GIVE TO THE OWNER, OPERATOR, OR AGENT IN CHARGE OF THE FACTORY, WAREHOUSE, OR ESTABLISHMENT A RECEIPT THAT DESCRIBES THE SAMPLE.~~

~~(D) THE DEPARTMENT SHALL TEST A SAMPLE OF A PRODUCT OBTAINED BY AN AGENT TO DETERMINE WHETHER THE PRODUCT IS A LEAD–CONTAINING PRODUCT OR A LEAD–ADULTERATED CONSUMABLE PRODUCT.~~

~~(E) IF THE PRODUCT IS A LEAD–CONTAINING PRODUCT OR A LEAD–ADULTERATED CONSUMABLE PRODUCT, THE SECRETARY SHALL:~~

~~(1) DECLARE THE PRODUCT HAZARDOUS AND REQUIRE THE REMOVAL OF THE PRODUCT FROM THE STREAM OF COMMERCE; AND~~

~~(2) DECLARE ALL PRODUCTS OF THE SAME STYLE PRODUCED BY THE SAME MANUFACTURER TO BE HAZARDOUS AND REQUIRE THE REMOVAL OF THE PRODUCT FROM THE STREAM OF COMMERCE.~~

6–1304.

(A) A MANUFACTURER OF A CHILDREN'S PRODUCT SHALL:

(1) TEST WHETHER THE CHILDREN'S PRODUCT IS A LEAD–CONTAINING PRODUCT BY USING AN INDEPENDENT THIRD PARTY QUALIFIED TESTING ENTITY THAT:

(I) IS NOT OWNED, MANAGED, CONTROLLED, OR DIRECTED BY THE MANUFACTURER; AND

(II) IS ACCREDITED IN ACCORDANCE WITH AN ACCREDITATION PROCESS ESTABLISHED OR RECOGNIZED BY THE DEPARTMENT; AND

(2) IF THE CHILDREN'S PRODUCT TESTED UNDER ITEM (1) OF THIS SUBSECTION IS NOT A LEAD–CONTAINING PRODUCT, ISSUE A CERTIFICATE THAT CERTIFIES THAT THE CHILDREN'S PRODUCT IS NOT A LEAD–CONTAINING PRODUCT.

(B) A PERSON SHALL ENSURE THAT THE CERTIFICATE ISSUED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION IS TRANSMITTED WITH THE CHILDREN'S PRODUCT TO ANY DISTRIBUTOR OR RETAILER WHO RECEIVES THE CHILDREN'S PRODUCT.

(C) A MANUFACTURER SHALL:

(1) MAINTAIN A COPY OF ANY DOCUMENTS RELATED TO LEAD TESTING AND ANY CERTIFICATE ISSUED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION; AND

(2) PROVIDE A COPY TO THE DEPARTMENT OR ANY PERSON ON REQUEST.

(D) A RETAILER SHALL:

(1) MAINTAIN A COPY OF ANY CERTIFICATE ISSUED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION; AND

(2) PROVIDE A COPY TO THE DEPARTMENT OR ANY PERSON ON REQUEST.

(E) A PERSON MAY NOT SELL OR OFFER FOR SALE IN THE STATE, BY ANY MEANS, INCLUDING TRANSACTIONS CONDUCTED THROUGH A SALES OUTLET, A CATALOG, OR THE INTERNET, A CHILDREN'S PRODUCT FOR WHICH THERE IS NO CERTIFICATE ISSUED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

(F) A CERTIFICATE ISSUED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL BE:

(1) BASED ON A TEST OF EACH CHILDREN'S PRODUCT OR ON A TESTING PROTOCOL THAT IS ESTABLISHED OR RECOGNIZED BY THE DEPARTMENT; AND

(2) ON A FORM CREATED OR APPROVED BY THE DEPARTMENT.

~~22–605.~~ 6–1305.

(A) IF THE DEPARTMENT DETERMINES THAT A PERSON HAS VIOLATED § ~~22–603~~ 6–1303 OF THIS SUBTITLE, THE DEPARTMENT SHALL~~:~~

~~(1) ISSUE A HEALTH ADVISORY NOTICE TO LOCAL HEALTH OFFICERS; AND~~

~~(2) GIVE~~ GIVE WRITTEN NOTICE TO THE PERSON DETERMINED TO HAVE VIOLATED § ~~22–603~~ 6–1303 OF THIS SUBTITLE THAT IDENTIFIES THE CHILDREN'S PRODUCT THAT IS A LEAD–CONTAINING PRODUCT ~~OR THE LEAD–ADULTERATED CONSUMABLE PRODUCT AND THE ASSOCIATED HEALTH HAZARD~~.

(B) WITHIN 15 DAYS AFTER RECEIVING THE WRITTEN NOTICE REQUIRED UNDER SUBSECTION ~~(A)(2)~~ (A) OF THIS SECTION, THE PERSON SHALL SEND TO THE DEPARTMENT THE FOLLOWING INFORMATION:

(1) A LIST OF ALL CHILDREN'S PRODUCTS OF THE SAME STYLE PRODUCED BY THE SAME MANUFACTURER ~~AS THE SAMPLE OBTAINED BY THE AGENT OF THE DEPARTMENT UNDER § 22–604 OF THIS SUBTITLE~~;

(2) THE NAME OF THE MANUFACTURER OR SELLER FROM WHOM THE PERSON OBTAINED THE CHILDREN'S PRODUCT THAT IS A LEAD–CONTAINING PRODUCT ~~OR THE LEAD–ADULTERATED CONSUMABLE PRODUCT~~; AND

(3) THE NAME OF EACH ~~PERSON~~ DISTRIBUTOR OR RETAILER TO WHOM THE PERSON TRANSFERRED THE CHILDREN'S PRODUCT THAT IS A LEAD–CONTAINING PRODUCT ~~OR THE LEAD–ADULTERATED CONSUMABLE PRODUCT~~ OF THE SAME STYLE PRODUCED BY THE SAME MANUFACTURER.

~~22–606.~~ 6–1306.

WITHIN 24 HOURS AFTER A PERSON DETERMINES THAT THE PERSON HAS MANUFACTURED, SOLD, OFFERED FOR SALE, IMPORTED, OR DISTRIBUTED A CHILDREN'S PRODUCT IN VIOLATION OF § ~~22–603~~ 6–1303 OF THIS SUBTITLE, THE PERSON SHALL SUBMIT A REPORT TO THE DEPARTMENT IN A FORM REQUIRED BY THE DEPARTMENT.

~~22–607.~~ 6–1307.

(A) (1) A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING $1,000 PER DAY FOR EACH VIOLATION.

(2) THE CIVIL PENALTY UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE ASSESSED AND RECOVERED IN ANY COURT OF COMPETENT JURISDICTION.

(B) A PERSON WHO WILLFULLY VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING ~~$1,000~~ $10,000 FOR EACH VIOLATION OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

6–1308.

(A) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, THE COMPTROLLER MAY ASSESS AGAINST A PERSON WHO VIOLATES § 6–1304(E) OF THIS SUBTITLE A FINE NOT EXCEEDING $1,000 FOR EACH VIOLATION, UP TO A MAXIMUM OF $50,000.

(B) A FINE ASSESSED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE ASSESSED UNTIL THE PERSON WHO COMMITTED THE VIOLATION HAS BEEN ISSUED THREE WARNINGS REGARDING THE VIOLATION.

(C) EACH DAY ON WHICH A VIOLATION OCCURS OR CONTINUES IS A SEPARATE VIOLATION UNDER THIS SECTION.

(D) AT THE END OF EACH QUARTER, THE COMPTROLLER SHALL DISTRIBUTE ALL FINES ASSESSED UNDER THIS SECTION TO THE LEAD POISONING PREVENTION FUND IN A MANNER DETERMINED BY THE DEPARTMENT AND THE COMPTROLLER.

6–1309.

IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, A VIOLATION OF THIS SUBTITLE IS:

(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND

(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

~~22–608.~~ 6–1310.

~~(A)~~ THE SECRETARY MAY ADOPT REGULATIONS ~~THAT SET THE AMOUNT OF LEAD THAT MAY BE CONTAINED IN A LEAD–CONTAINING PRODUCT AND A LEAD–ADULTERATED CONSUMABLE PRODUCT.~~

~~(B) ANY REGULATION ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE CONSISTENT WITH APPLICABLE GUIDELINES PUBLISHED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION~~ TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

~~22–609.~~ 6–1311.

THE PROVISIONS OF THIS SUBTITLE DO NOT AFFECT THE AUTHORITY OF A LOCAL AGENCY TO ENFORCE A LOCAL LAW GOVERNING THE AMOUNT OF LEAD CONTAINED IN A PRODUCT IF THE LOCAL LAW IS AT LEAST AS RESTRICTIVE AS THE PROVISIONS OF THIS SUBTITLE.

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~~ shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 484

(House Bill 63)

AN ACT concerning

Elevator Safety Review Board Fund

FOR the purpose of establishing the Elevator Safety Review Board Fund; providing for the purpose, administration, composition, use, investments, and expenditures of the Fund; providing that the Fund is a special, nonlapsing fund; requiring certain fees collected for certain inspections, certain registrations, and certain licenses to be paid into the Fund; providing that certain balances in the Fund at the end of each fiscal year revert to the General Fund; providing for an audit of the Fund; requiring the Elevator Safety Review Board to report to certain committees of the General Assembly on or before a certain date each year; and generally relating to the Elevator Safety Review Board Fund.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–809 and 12–824
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

BY adding to
Article – Public Safety
Section 12–824.1
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

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

Article – Public Safety

12–809.

(a) Except as provided in subsection (d) of this section, each inspection required by Part II of this subtitle shall be done by a State inspector.

(b) (1) A contractor, owner, or lessee shall provide the Commissioner with at least 60 days' notice of a requested inspection.

(2) If a contractor, owner, or lessee provides the Commissioner with less than 60 days' notice of a requested inspection that will be conducted by a State inspector, the Commissioner shall schedule the inspection at the convenience of the State subject to the availability of State resources.

(c) (1) For all inspections conducted by a State inspector, the contractor, owner, or lessee of an elevator unit shall pay a fee for an inspection under § 12–810(d) or § 12–812(d)(3) of this subtitle at the following rate:

(i) half day (up to 4 hours), not to exceed $250; or

(ii) full day (up to 8 hours), not to exceed $500.

(2) Each fee collected under this subsection shall be paid into the **[**General Fund**]** **ELEVATOR SAFETY REVIEW BOARD FUND ESTABLISHED UNDER THIS SUBTITLE**.

(3) A contractor, owner, or lessee who notifies the Commissioner at least 24 hours in advance of a scheduled inspection that the elevator unit does not comply with the requirements of Part II of this subtitle may not be charged a fee under paragraph (1) of this subsection.

(d) (1) Periodic annual no–load test inspections of elevator units required by Part II of this subtitle and the enforcement of the Safety Code for elevator units shall comply with regulations adopted by the Commissioner under this subsection.

(2) The Commissioner shall authorize inspections of periodic annual no–load tests of elevator units to be conducted by third–party qualified elevator inspectors.

(3) The Commissioner shall establish qualifications, insurance requirements, and procedures based on nationally accepted standards that the Commissioner considers necessary to register third–party qualified elevator inspectors under Part II of this subtitle.

(4) When the Commissioner authorizes a third–party qualified elevator inspector to conduct a periodic annual no–load test inspection, the inspection shall ensure that the elevator unit complies with the Safety Code and any other regulation adopted by the Commissioner under Part II of this subtitle.

(5) ANY FEES COLLECTED BY THE COMMISSIONER TO REGISTER THIRD–PARTY QUALIFIED ELEVATOR INSPECTORS SHALL BE PAID INTO THE ELEVATOR SAFETY REVIEW BOARD FUND ESTABLISHED UNDER THIS SUBTITLE.

12–824.

(a) The Board shall establish fees for the application, issuance, and renewal of licenses issued under Part III of this subtitle.

(b) The total amount of fees established under subsection (a) of this section may not exceed, for the 2–year term of the license:

(1) $100 per year for an elevator mechanic or elevator renovator mechanic; and

(2) $150 per year for an elevator contractor or elevator renovator contractor.

(C) EACH FEE FOR THE APPLICATION, ISSUANCE, AND RENEWAL OF LICENSES COLLECTED BY THE BOARD SHALL BE PAID INTO THE ELEVATOR SAFETY REVIEW BOARD FUND ESTABLISHED UNDER THIS SUBTITLE.

12–824.1.

(A) IN THIS SECTION, "FUND" MEANS THE ELEVATOR SAFETY REVIEW BOARD FUND.

(B) THERE IS AN ELEVATOR SAFETY REVIEW BOARD FUND.

(C) THE PURPOSE OF THE FUND IS TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE BOARD.

(D) THE COMMISSIONER SHALL ADMINISTER THE FUND.

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

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

(F) THE FUND CONSISTS OF:

(1) REVENUE DISTRIBUTED TO THE FUND UNDER THIS SUBTITLE;

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

(3) INVESTMENT EARNINGS OF THE FUND; AND

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

(G) THE FUND MAY BE USED ONLY TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE BOARD.

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

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(J) ANY BALANCE IN THE FUND AT THE END OF JUNE 30 OF EACH FISCAL YEAR IN EXCESS OF 10% OF THE ACTUAL EXPENSES OF OPERATING THE ELEVATOR SAFETY REVIEW BOARD SHALL REVERT TO THE GENERAL FUND OF THE STATE.

(K) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2–1220 OF THE STATE GOVERNMENT ARTICLE.

(L) ON OR BEFORE OCTOBER 1, 2009, AND EACH YEAR THEREAFTER, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE BOARD SHALL REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE FINANCE COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE ECONOMIC MATTERS COMMITTEE ON THE IMPLEMENTATION OF THE FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 485

(House Bill 74)

AN ACT concerning

Maryland Housing Rehabilitation Program – Loans to Members of Cooperative Housing Corporations

FOR the purpose of authorizing the Department of Housing and Community Development to take certain actions in connection with certain housing assistance program loans made to members of cooperative housing corporations; providing that certain housing assistance program loans made to members of cooperative housing corporations may be secured by perfected security interests in the members' cooperative interests under certain circumstances; requiring the Department of Housing and Community Development, in connection with certain housing assistance program loans made to members of housing cooperatives, to enter into an agreement with the cooperative housing corporation regarding the parties' rights and obligations with respect to the secured cooperative interest under certain circumstances; defining certain terms; and generally relating to Maryland Housing Rehabilitation Program loans.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 4–901 and 4–917
Annotated Code of Maryland
(2006 Volume and 2007 Supplement)

BY adding to
Article – Housing and Community Development
Section 4–909.1
Annotated Code of Maryland
(2006 Volume and 2007 Supplement)

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

Article – Housing and Community Development

4–901.

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

(B) "COOPERATIVE HOUSING CORPORATION" HAS THE MEANING STATED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

(C) "COOPERATIVE INTEREST" HAS THE MEANING STATED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

[(b)**] (D)** (1) "Family of limited income" means a family or individual whose income does not exceed the limits that the Secretary establishes under § 4–915 of this subtitle.

(2) "Family of limited income" includes a trust described in 42 U.S.C. § 1396p(d)(4), or a trust established for the benefit of an individual with a disability by an individual other than the beneficiary and that is funded with assets that were never owned or controlled by the beneficiary, if:

(i) the income of the trust does not exceed the upper income limits established by the Secretary under § 4–915 of this subtitle; and

(ii) the beneficiary of the trust is an individual who resides in the residential building owned by the trust.

[(c)**] (E)** "Local rehabilitation program" means a rehabilitation program that uses Program loans and is administered by a political subdivision.

(F) "MEMBER" HAS THE MEANING STATED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

[(d)**] (G)** "Minimum livability code" means a regulation, statute, or ordinance that establishes minimum property maintenance standards that the State or a political subdivision adopts under § 12–203 of the Public Safety Article.

[(e)**] (H)** "Nonprofit sponsor" means:

(1) a nonprofit organization;

(2) a political subdivision; or

(3) a limited partnership formed to undertake a rehabilitation project that is eligible wholly or partly for federal programs or incentives, including low–income housing tax credits, if:

(i) each general partner is a nonprofit organization or a political subdivision; or

(ii) 1. each general partner is a wholly owned subsidiary of a nonprofit organization or political subdivision; and

2. a nonprofit organization or political subdivision manages the rehabilitation project or will receive net cash flow or the residual sale proceeds on the sale of the rehabilitation project.

[(f)**] (I)** "Program" means the Maryland Housing Rehabilitation Program.

[(g)**] (J)** "Program loan" means a loan under the Maryland Housing Rehabilitation Program or a special loan program.

[(h)**] (K)** (1) "Rehabilitation project" means a project to repair, reconstruct, renovate, redevelop, improve, modify, or add to a building for a purpose listed in § 4–923 of this subtitle.

(2) "Rehabilitation project" includes providing utility submetering for dwellings in a residential rental building.

[(i)**] (L)** "Special loan program" means:

(1) the Accessory, Shared, and Sheltered Housing Program;

(2) the Indoor Plumbing Program;

(3) the Lead Paint Abatement Program;

(4) the Migratory Worker Housing Program; or

(5) the Radon and Asbestos Abatement Pilot Program.

[(j)**] (M)** "Sponsor" means an owner who receives a loan to rehabilitate a building for residential rental purposes or nonresidential purposes.

4–909.1.

(A) IF A PROGRAM LOAN TO A MEMBER OF A COOPERATIVE HOUSING CORPORATION IS SECURED BY A SECURITY INTEREST IN THE MEMBER'S COOPERATIVE INTEREST, THE DEPARTMENT MAY:

(1) FORECLOSE ON THE SECURITY INTEREST OR OTHERWISE ENFORCE THE SECURITY INTEREST AS PERMITTED UNDER TITLE 9 OF THE COMMERCIAL LAW ARTICLE;

(2) TAKE POSSESSION OF THE PREMISES IN LIEU OF FORECLOSURE;

(3) OBTAIN AND ENFORCE DEFICIENCY JUDGMENTS;

(4) TRANSFER THE COOPERATIVE INTEREST;

(5) ALLOW ASSUMPTION OF THE SECURITY AGREEMENT; AND

(6) CONTRACT WITH PRIVATE LOAN SERVICERS TO PERFORM ON BEHALF OF THE DEPARTMENT ANY FUNCTIONS THE PRIVATE LOAN SERVICERS ORDINARILY PERFORM.

(B) WITHOUT APPROVAL OR EXECUTION BY THE BOARD OF PUBLIC WORKS, THE DEPARTMENT MAY:

(1) ASSIGN A SECURITY INTEREST FOR VALUE;

(2) RELEASE A SECURITY INTEREST WHEN PAID;

(3) FORECLOSE ON A SECURITY INTEREST;

(4) TAKE POSSESSION OF THE PREMISES IN LIEU OF FORECLOSURE; OR

(5) TRANSFER A COOPERATIVE INTEREST AFTER ACQUISITION.

4–917.

(a) A Program loan:

(1) may not be made if the Department determines that comparable private financing is available to the prospective borrower; and

(2) may not exceed an amount the Secretary establishes by regulation.

(b) (1) Except as provided under paragraphs (2)**, [**and**]** (3)**, AND (4)** of this subsection, a Program loan of more than $5,000 shall be secured wholly or partly by a recorded mortgage or deed of trust on real property.

(2) A Program loan to a political subdivision may be secured by a recorded mortgage, deed of trust on real property, or other security device acceptable to the Department.

(3) A Program loan to a trust described in 42 U.S.C. § 1396p(d)(4) may be secured by a recorded mortgage, deed of trust on real property, or other security device acceptable to the Department.

(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PROGRAM LOAN TO A MEMBER OF A COOPERATIVE HOUSING CORPORATION MAY BE SECURED BY A PERFECTED SECURITY INTEREST IN THE MEMBER'S COOPERATIVE INTEREST.

(II) BEFORE A PROGRAM LOAN IS SECURED BY A PERFECTED SECURITY INTEREST IN THE MEMBER'S COOPERATIVE INTEREST, THE DEPARTMENT SHALL ENTER INTO AN AGREEMENT WITH THE COOPERATIVE HOUSING CORPORATION THAT ESTABLISHES THE RIGHTS AND OBLIGATIONS OF THE DEPARTMENT AND THE COOPERATIVE HOUSING CORPORATION WITH RESPECT TO THE SECURED COOPERATIVE INTEREST.

(c) Program loans shall be made to:

(1) families of limited income owning and occupying the building to be rehabilitated; or

(2) sponsors or nonprofit sponsors.

(d) The Department may require that Program loans be insured.

(e) A Program loan may cover:

(1) costs of a rehabilitation project, including implementation costs such as appraisal, architectural, and engineering fees; and

(2) closing costs of the Program loan.

(f) The Department may modify the interest rate, the time or amount of payment, or any other term of a Program loan that is in default to facilitate repayment of the Program loan and achieve the purposes of the Program.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 486

(House Bill 83)

AN ACT concerning

State Holiday – American Indian Heritage Day

FOR the purpose of making a certain date a legal State holiday named American Indian Heritage Day; providing that a certain paid holiday for State employees is for American Indian Heritage Day; and generally relating to making American Indian Heritage Day a holiday in the State.

BY repealing and reenacting, with amendments,
Article 1 – Rules of Interpretation
Section 27
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 9–201
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Former President George H. W. Bush approved a Joint Resolution of Congress designating November 1990 "National American Indian Heritage Month"; and

WHEREAS, Similar proclamations have been issued each year since 1994; and

WHEREAS, On November 13, 2007, the United States House of Representatives unanimously passed legislation introduced by Representative Joe Baca that encourages the designation of the Friday after Thanksgiving Day as Native

American Heritage Day to pay tribute to Native Americans for their many contributions to the United States; and

WHEREAS, A day honoring American Indian heritage is supported by 184 federally recognized Native American tribes throughout the United States; and

WHEREAS, The State should honor the rich cultural heritage, proud history, and vital contributions of American Indians by recognizing American Indian Heritage Day on the Friday after Thanksgiving Day; now, therefore,

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

Article 1 – Rules of Interpretation

27.

(a) In this Code and any rule, regulation, or directive adopted under it, "legal holiday" means:

(1) January 1, for New Year's Day;

(2) January 15, for Dr. Martin Luther King, Jr.'s birthday, unless the United States Congress designates another day for observance of that legal holiday, in which case, the day designated by the United States Congress;

(3) February 12, for Lincoln's birthday;

(4) The third Monday in February, for Washington's birthday;

(5) March 25, for Maryland Day;

(6) Good Friday;

(7) May 30, for Memorial Day, unless the United States Congress designates another day for observance of that legal holiday, in which case, the day designated by the United States Congress;

(8) July 4, for Independence Day;

(9) The first Monday in September, for Labor Day;

(10) September 12, for Defenders' Day;

(11) October 12, for Columbus Day, unless the United States Congress designates another day for observance of that legal holiday, in which case, the day designated by the United States Congress;

(12) November 11, for Veterans' Day;

(13) The fourth Thursday in November, for Thanksgiving Day;

(14) THE FRIDAY AFTER THANKSGIVING DAY, FOR AMERICAN INDIAN HERITAGE DAY;

[(14)**] (15)** December 25, for Christmas Day;

[(15)**] (16)** Each statewide general election day in this State; and

[(16)**] (17)** Each other day that the President of the United States or the Governor designates for general cessation of business.

(b) Except as otherwise expressly provided in this Code, a legal holiday shall be observed on:

(1) The date specified in subsection (a) of this section for the legal holiday; and

(2) If that date falls on a Sunday, on the next Monday after that date.

Article – State Personnel and Pensions

9–201.

In this title, "employee holiday" includes:

(1) January 1, for New Year's Day;

(2) January 15, for Dr. Martin Luther King, Jr.'s birthday, unless the United States Congress designates another day for observance of that legal holiday, in which case, the day designated by the United States Congress;

(3) the third Monday in February, for Presidents' Day;

(4) May 30, for Memorial Day, unless the United States Congress designates another day for observance of that legal holiday, in which case, the day designated by the United States Congress;

(5) July 4, for Independence Day;

(6) the first Monday in September, for Labor Day;

(7) October 12, for Columbus Day, unless the United States Congress designates another day for observance of that legal holiday, in which case, the day designated by the United States Congress;

(8) November 11, for Veterans' Day;

(9) the fourth Thursday in November, for Thanksgiving Day;

(10) the Friday after Thanksgiving Day**, FOR AMERICAN INDIAN HERITAGE DAY**;

(11) December 25, for Christmas Day;

(12) each statewide general election day in this State; and

(13) each other day that the President of the United States or the Governor designates for general cessation of business.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 487

(House Bill 114)

AN ACT concerning

All–Terrain ~~Vehicles – Protective Headgear~~ Vehicle Safety Task Force

FOR the purpose of ~~prohibiting an individual under a certain age from operating or riding on an all–terrain vehicle unless the individual is wearing protective headgear that meets certain standards; defining a certain term; and generally relating to required equipment for individuals operating or riding on all–terrain vehicles~~ establishing an All–Terrain Vehicle Safety Task Force; providing for the membership and duties of the Task Force; requiring the Task Force to select a chair from among its members; providing for the staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation;

requiring the Task Force to report to the Governor and the General Assembly by certain dates; providing for the termination of this Act; and generally relating to the establishment of an All–Terrain Vehicle Safety Task Force.

~~BY adding to~~
~~Article – Health – General~~
~~Section 24–1601 to be under the new subtitle "Subtitle 16. All–Terrain Vehicles"~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2007 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. ALL–TERRAIN VEHICLES.**~~

~~**24–1601.**~~

~~**(A) IN THIS SECTION, "ALL–TERRAIN VEHICLE" MEANS A MOTOR VEHICLE THAT:**~~

~~**(1) IS DESIGNED TO TRAVEL OFF–HIGHWAY;**~~

~~**(2) IS DESIGNED TO TRAVEL ON THREE OR FOUR LOW–PRESSURE TIRES;**~~

~~**(3) HAS A SEAT DESIGNED TO BE STRADDLED BY THE OPERATOR; AND**~~

~~**(4) HAS HANDLEBARS FOR STEERING CONTROL.**~~

~~**(B) AN INDIVIDUAL UNDER THE AGE OF 16 YEARS MAY NOT OPERATE OR RIDE ON AN ALL–TERRAIN VEHICLE UNLESS THE INDIVIDUAL IS WEARING PROTECTIVE HEADGEAR THAT MEETS THE STANDARDS ESTABLISHED BY THE STATE HIGHWAY ADMINISTRATOR FOR MOTORCYCLE HELMETS UNDER § 21–1306 OF THE TRANSPORTATION ARTICLE.**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.~~

(a) There is an All–Terrain Vehicle (ATV) Safety Task Force.

(b) The Task Force shall consist of the following members:

(1) the Secretary of Natural Resources, or the Secretary's designee;

(2) the Secretary of Transportation, or the Secretary's designee;

(3) the Executive Director of ABATE of Maryland, Inc., or the Executive Director's designee;

(4) one representative of the Office of Injury Prevention of the Department of Health and Mental Hygiene, appointed by the Secretary of Health and Mental Hygiene;

(5) one representative of the Maryland Legislative Sportsmen's Foundation, appointed by the Board of Directors of the Foundation; and

(6) the following members, appointed by the Governor:

(i) one representative of TraumaNet;

(ii) one representative of the Maryland Chapter of the American College of Emergency Physicians;

(iii) one representative of the Maryland Chapter of the American Academy of Pediatrics;

(iv) one representative of the Maryland Chapter of the American Trauma Society;

(v) one representative of the Maryland Emergency Nurses Association;

(vi) one representative of Johns Hopkins School of Public Health;

(vii) one representative of Children's National Medical Center;

(viii) one member representing the interests of ATV dealers;

(ix) one member representing the interests of private ATV recreational parks;

(x) one member representing the interests of providers of property, casualty, and health insurance in the State;

(xi) one representative of the ATV Safety Institute;

(xii) one representative of the Specialty Vehicle Institute of America;

(xiii) one representative of the Maryland Institute for Emergency Medical Services Systems;

(xiv) one representative of the Maryland State Firemen's Association; and

(xv) one representative of a Maryland ATV club from each of the following regions:

1. western Maryland;

2. southern Maryland;

3. the eastern shore of Maryland; and

4. central Maryland.

(c) From among its members, the Task Force shall select a chair of the Task Force.

(d) The Maryland Institute for Emergency Medical Services Systems shall provide staff for the Task Force.

(e) A member of the Task Force may not receive compensation as a member of the Task Force.

(f) The Task Force shall identify and study major issues related to ATV safety and shall make findings and recommendations regarding:

(1) accurate methods of tracking ATV ownership in the State;

(2) appropriate safety equipment;

(3) effective methods of educating consumers;

(4) appropriate locations for ATV use;

(5) training for ATV owners;

(6) public awareness of ATV safety–related topics; and

(7) any other topic related to ATV safety deemed appropriate by the Task Force.

(g) The Task Force shall report its findings and recommendations to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly, in an interim report, on or before December 15, 2008, and in a final report, on or before May 31, 2009.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 1 year and, at the end of May 31, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 488

(House Bill 149)

AN ACT concerning

Family Law – Counsel for Minor – Payment of Fees

FOR the purpose of authorizing a court to impose against one or more parties certain counsel fees for the representation of a minor child in certain proceedings; and generally relating to the payment of certain counsel fees for the representation of a minor child in certain proceedings.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 1–202
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Family Law

1–202.

(a) In an action in which custody, visitation rights, or the amount of support of a minor child is contested, the court may:

(1) (i) appoint a lawyer who shall serve as a child advocate attorney to represent the minor child and who may not represent any party to the action; or

(ii) appoint a lawyer who shall serve as a best interest attorney to represent the minor child and who may not represent any party to the action; and

(2) impose **COUNSEL FEES** against **[**either or both parents counsel fees**]** **ONE OR MORE PARTIES TO THE ACTION**.

(b) A lawyer appointed under this section shall exercise ordinary care and diligence in the representation of a minor child.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 489

(House Bill 199)

AN ACT concerning

Public Schools – Bullying ~~and Cyber-Bullying~~, Harassment, and Intimidation – Policy and Disciplinary Standards

FOR the purpose of requiring the State Board of Education to ~~establish~~ develop a certain model policy prohibiting ~~bullying and cyber-bullying~~ bullying, harassment, and intimidation in schools; requiring that the model policy include certain information; ~~requiring the State Board to develop a certain student awareness campaign;~~ ~~requiring the State Board to develop a certain set of model standards for investigating certain complaints and disciplining certain individuals; requiring certain model standards to include certain requirements;~~ requiring certain county boards of education to establish certain ~~local standards concerning bullying based on certain State model standards~~ policies prohibiting bullying, harassment, and intimidation in schools based on the model policy; requiring certain county boards to publicize certain policies in certain publications and certain locations; requiring certain county boards to develop

certain educational programs; providing that a school employee that reports a certain act is not civilly liable under certain circumstances; defining ~~a~~ certain ~~term~~ terms; and generally relating to ~~policies and standards related to~~ bullying, harassment, and intimidation in the public schools.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–424
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Education
Section ~~7–429~~ 7–424.1
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, The National Institutes of Health reports that bullying affects more than 5 million students in grades 6 through 11; and

WHEREAS, According to the United States Department of Health and Human Services, bullies identified by age 8 are six times more likely to have a criminal conviction by age 24; and

WHEREAS, The increased use of the Internet by students is presenting new challenges regarding bullying in schools; and

WHEREAS, Bullying may lead to an increase in absenteeism or the dropout rate; and

WHEREAS, Maintaining a safe environment in schools is integral to promoting learning and success in students; now, therefore,

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

Article – Education

7–424.

(a) **(1)** In this section**[,] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) "**BULLYING,** harassment**,** or intimidation" means **INTENTIONAL** conduct, including verbal**, PHYSICAL, OR WRITTEN** conduct, **OR AN INTENTIONAL ELECTRONIC COMMUNICATION,** that:

[(1)**] (I)** Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well–being and is:

[(i)**] 1.** Motivated by an actual or a perceived personal characteristic **[**such as**] INCLUDING** race, national origin, marital status, sex, sexual orientation, gender identity, religion, **ANCESTRY, PHYSICAL ATTRIBUTES, SOCIOECONOMIC STATUS, FAMILIAL STATUS, OR PHYSICAL OR MENTAL ABILITY** or disability; or

[(ii)**] 2.** Threatening or seriously intimidating; and

[(2)**] (II) 1.** Occurs on school property, at a school activity or event, or on a school bus**[**.**]; OR**

2. SUBSTANTIALLY DISRUPTS THE ORDERLY OPERATION OF A SCHOOL.

(3) "ELECTRONIC COMMUNICATION" MEANS A COMMUNICATION TRANSMITTED BY MEANS OF AN ELECTRONIC DEVICE, INCLUDING A TELEPHONE, CELLULAR PHONE, COMPUTER, OR PAGER.

(b) (1) The Department shall require a county board to report incidents of **BULLYING,** harassment**,** or intimidation against students attending a public school under the jurisdiction of the county board.

(2) An incident of **BULLYING,** harassment**,** or intimidation may be reported by a student or the parent, guardian, or close adult relative of a student.

(c) (1) The Department shall create a standard victim of **BULLYING,** harassment**,** or intimidation report form.

(2) Each victim of **BULLYING,** harassment**,** or intimidation report form shall:

(i) Identify the victim and the alleged perpetrator, if known;

(ii) Indicate the age of the victim and alleged perpetrator;

(iii) Describe the incident, including alleged statements made by the alleged perpetrator;

(iv) Indicate the location of the incident;

(v) Identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;

(vi) Indicate the number of days a student is absent from school, if any, as a result of the incident;

(vii) Identify any request for psychological services initiated by the victim or the victim's family due to psychological injuries suffered; and

(viii) Include instructions on how to fill out the form and the mailing address to where the form shall be sent.

(3) A county board shall distribute copies of the victim of **BULLYING,** harassment**,** or intimidation report form to each public school under the county board's jurisdiction.

(d) (1) Each county board shall submit summaries of report forms filed with the county board to the State Board on or before January 31 each year.

(2) A county board shall delete any information that identifies an individual.

(e) The information contained in a victim of **BULLYING,** harassment**,** or intimidation report form in accordance with subsection (c) of this section:

(1) Is confidential and may not be redisclosed except as otherwise provided under the Family Education Rights and Privacy Act or this section; and

(2) May not be made a part of a student's permanent educational record.

(f) (1) The Department shall submit a report on or before March 31 each year to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2–1246 of the State Government Article, consisting of a summary of the information included in the victim of **BULLYING,** harassment**,** or intimidation report forms filed with the county boards the previous year.

(2) The report submitted by the Department shall include, to the extent feasible:

(i) A description of the act constituting the **BULLYING,** harassment**,** or intimidation;

(ii) The age of the victim and alleged perpetrator;

(iii) The allegation of the alleged perpetrator's motive;

(iv) A description of the investigation of the complaint and any corrective action taken by the appropriate school authorities;

(v) The number of days a student is absent from school, if any, as a result of the incident; and

(vi) The number of false allegations reported.

~~**7–429.**~~

~~**(A) IN THIS SECTION, "BULLYING" MEANS ANY INTENTIONAL WRITTEN, VERBAL, OR PHYSICAL ACT, INCLUDING ANY PUBLISHED COMMUNICATION, THAT HAS THE EFFECT OF:**~~

~~**(1) PHYSICALLY HARMING AN INDIVIDUAL;**~~

~~**(2) DAMAGING AN INDIVIDUAL'S PROPERTY;**~~

~~**(3) SUBSTANTIALLY INTERFERING WITH AN INDIVIDUAL'S EDUCATION OR LEARNING ENVIRONMENT;**~~

~~**(4) PLACING AN INDIVIDUAL IN REASONABLE FEAR OF HARM TO THE INDIVIDUAL'S PERSON OR PROPERTY; OR**~~

~~**(5) SUBSTANTIALLY DISRUPTING THE ORDERLY OPERATION OF THE SCHOOL.**~~

~~**(B) THE STATE BOARD SHALL ESTABLISH A POLICY PROHIBITING BULLYING IN SCHOOLS.**~~

~~**(C) (1) THE STATE BOARD SHALL DEVELOP MODEL UNIFORM STANDARDS FOR INVESTIGATING COMPLAINTS OF BULLYING AND DISCIPLINING INDIVIDUALS WHO HAVE VIOLATED THE BULLYING POLICY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION.**~~

~~(2) THE STANDARDS ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:~~

~~(I) SPECIFIC PENALTIES TO BE APPLIED TO INDIVIDUALS WHO REPEATEDLY HAVE VIOLATED THE BULLYING POLICY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION;~~

~~(II) A REQUIREMENT THAT AN INDIVIDUAL WHO VIOLATES THE BULLYING POLICY RECEIVE EDUCATIONAL AND THERAPEUTIC SERVICES CONCERNING BULLYING PREVENTION; AND~~

~~(III) A PROCEDURE FOR PROTECTING VICTIMS OF BULLYING FROM ADDITIONAL INCIDENTS OF BULLYING, HARASSMENT, INTIMIDATION, OR RETALIATION.~~

~~(D) EACH COUNTY BOARD SHALL ESTABLISH LOCAL STANDARDS FOR INVESTIGATING COMPLAINTS OF BULLYING AND DISCIPLINING INDIVIDUALS WHO HAVE VIOLATED THE BULLYING POLICY THAT ARE BASED ON THE MODEL UNIFORM STANDARDS DEVELOPED UNDER SUBSECTION (C) OF THIS SECTION.~~

7–424.1.

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

(2) "BULLYING, HARASSMENT, OR INTIMIDATION" MEANS INTENTIONAL CONDUCT, INCLUDING VERBAL, PHYSICAL, OR WRITTEN CONDUCT, OR AN INTENTIONAL ELECTRONIC COMMUNICATION, THAT:

(I) CREATES A HOSTILE EDUCATIONAL ENVIRONMENT BY SUBSTANTIALLY INTERFERING WITH A STUDENT'S EDUCATIONAL BENEFITS, OPPORTUNITIES, OR PERFORMANCE, OR WITH A STUDENT'S PHYSICAL OR PSYCHOLOGICAL WELL–BEING AND IS:

1. MOTIVATED BY AN ACTUAL OR A PERCEIVED PERSONAL CHARACTERISTIC INCLUDING RACE, NATIONAL ORIGIN, MARITAL STATUS, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, RELIGION, ANCESTRY, PHYSICAL ATTRIBUTE, SOCIOECONOMIC STATUS, FAMILIAL STATUS, OR PHYSICAL OR MENTAL ABILITY OR DISABILITY; OR

2. THREATENING OR SERIOUSLY INTIMIDATING; AND

(II) 1. OCCURS ON SCHOOL PROPERTY, AT A SCHOOL ACTIVITY OR EVENT, OR ON A SCHOOL BUS; OR

2. SUBSTANTIALLY DISRUPTS THE ORDERLY OPERATION OF A SCHOOL.

(3) "ELECTRONIC COMMUNICATION" MEANS A COMMUNICATION TRANSMITTED BY MEANS OF AN ELECTRONIC DEVICE, INCLUDING A TELEPHONE, CELLULAR PHONE, COMPUTER, OR PAGER.

(B) (1) BY ~~DECEMBER 1, 2008,~~ *MARCH 31, 2009,* THE STATE BOARD, AFTER CONSULTATION WITH AND INPUT FROM LOCAL SCHOOL SYSTEMS, SHALL DEVELOP A MODEL POLICY PROHIBITING BULLYING, HARASSMENT, OR INTIMIDATION IN SCHOOLS.

(2) THE MODEL POLICY DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) A STATEMENT PROHIBITING BULLYING, HARASSMENT, AND INTIMIDATION IN SCHOOLS;

(II) A STATEMENT PROHIBITING REPRISAL OR RETALIATION AGAINST INDIVIDUALS WHO REPORT ACTS OF BULLYING, HARASSMENT, OR INTIMIDATION;

(III) A DEFINITION OF BULLYING, HARASSMENT, OR INTIMIDATION THAT IS EITHER THE SAME AS SET FORTH IN SUBSECTION (A)(2) OF THIS SECTION OR A DEFINITION THAT IS NOT LESS INCLUSIVE THAN THAT DEFINITION;

(IV) STANDARD CONSEQUENCES AND REMEDIAL ACTIONS FOR PERSONS COMMITTING ACTS OF BULLYING, HARASSMENT, OR INTIMIDATION AND FOR PERSONS ENGAGED IN REPRISAL OR RETALIATION;

(V) STANDARD CONSEQUENCES AND REMEDIAL ACTIONS FOR PERSONS FOUND TO HAVE MADE FALSE ACCUSATIONS;

(VI) MODEL PROCEDURES FOR REPORTING ACTS OF BULLYING, HARASSMENT, AND INTIMIDATION;

(VII) MODEL PROCEDURES FOR THE PROMPT INVESTIGATION OF ACTS OF BULLYING, HARASSMENT, AND INTIMIDATION;

(VIII) INFORMATION ABOUT THE TYPES OF SUPPORT SERVICES AVAILABLE TO THE STUDENT BULLY, VICTIM, AND ANY BYSTANDERS; AND

(IX) INFORMATION REGARDING THE AVAILABILITY AND USE OF THE BULLYING, HARASSMENT, OR INTIMIDATION FORM UNDER § 7–424 OF THIS SUBTITLE.

~~**(C) THE STATE BOARD SHALL DEVELOP A STUDENT AWARENESS CAMPAIGN TO PUBLICIZE THE POLICY.**~~

~~**(D)**~~ ***(C)*** **(1) EACH COUNTY BOARD SHALL ESTABLISH A POLICY PROHIBITING BULLYING, HARASSMENT, OR INTIMIDATION AT SCHOOL BASED ON THE MODEL POLICY.**

(2) THE POLICY SHALL ADDRESS THE COMPONENTS OF THE MODEL POLICY SPECIFIED IN SUBSECTION (B)(2) OF THIS SECTION.

(3) A COUNTY BOARD SHALL DEVELOP THE POLICY IN CONSULTATION WITH REPRESENTATIVES OF THE FOLLOWING GROUPS:

(I) PARENTS OR GUARDIANS OF STUDENTS;

(II) SCHOOL EMPLOYEES AND ADMINISTRATORS;

(III) SCHOOL VOLUNTEERS;

(IV) STUDENTS; AND

(V) MEMBERS OF THE COMMUNITY.

~~**(E)**~~ ***(D)*** **EACH COUNTY BOARD SHALL PUBLICIZE ITS POLICY IN STUDENT HANDBOOKS, SCHOOL SYSTEM WEBSITES, AND ANY OTHER LOCATION OR VENUE THE COUNTY BOARD DETERMINES IS NECESSARY OR APPROPRIATE.**

~~**(F)**~~ ***(E)*** **EACH COUNTY BOARD POLICY SHALL INCLUDE INFORMATION ON THE PROCEDURE FOR REPORTING INCIDENTS OF BULLYING, HARASSMENT, OR INTIMIDATION, INCLUDING:**

(1) A CHAIN OF COMMAND IN THE REPORTING PROCESS; AND

(2) THE NAME AND CONTACT INFORMATION FOR AN EMPLOYEE OF THE DEPARTMENT, DESIGNATED BY THE DEPARTMENT, WHO IS FAMILIAR

WITH THE REPORTING AND INVESTIGATION PROCEDURES IN THE APPLICABLE SCHOOL SYSTEM.

~~(G)~~ *(F)* **EACH COUNTY BOARD SHALL SUBMIT ITS POLICY TO THE STATE SUPERINTENDENT BY JULY 1, 2009.**

~~(H)~~ *(G)* **EACH COUNTY BOARD SHALL DEVELOP THE FOLLOWING EDUCATIONAL PROGRAMS IN ITS EFFORTS TO PREVENT BULLYING, HARASSMENT, AND INTIMIDATION IN SCHOOLS:**

(1) AN EDUCATIONAL BULLYING, HARASSMENT, AND INTIMIDATION PREVENTION PROGRAM FOR STUDENTS, STAFF, VOLUNTEERS, AND PARENTS; AND

(2) A TEACHER AND ADMINISTRATOR DEVELOPMENT PROGRAM THAT TRAINS TEACHERS AND ADMINISTRATORS TO IMPLEMENT THE POLICY.

~~(I)~~ *(H)* **(1) A SCHOOL EMPLOYEE WHO REPORTS AN ACT OF BULLYING, HARASSMENT, OR INTIMIDATION UNDER THIS SECTION IN ACCORDANCE WITH THE COUNTY BOARD'S POLICY ESTABLISHED UNDER SUBSECTION ~~(D)~~ *(C)* OF THIS SECTION IS NOT CIVILLY LIABLE FOR ANY ACT OR OMISSION IN REPORTING OR FAILING TO REPORT AN ACT OF BULLYING, HARASSMENT, OR INTIMIDATION UNDER THIS SECTION.**

(2) THE PROVISIONS OF THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE LEGAL RIGHTS OF A VICTIM OF BULLYING, HARASSMENT, OR INTIMIDATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 490

(House Bill 213)

AN ACT concerning

Personal Records – Collection of Personal Information

FOR the purpose of altering a certain requirement that the Secretary of Budget and Management report annually to the General Assembly on certain personal records; and generally relating to a certain reporting requirement regarding the collection of certain personal information by units of State government.

BY repealing and reenacting, without amendments,
Article – State Government
Section 10–624(a) and (b)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–624(c)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – State Government

10–624.

(a) In this section, "personal record" means a public record that names or, with reasonable certainty, otherwise identifies an individual by an identifying factor such as:

(1) an address;

(2) a description;

(3) a finger or voice print;

(4) a number; or

(5) a picture.

(b) (1) Personal records may not be created unless the need for the information has been clearly established by the unit collecting the records.

(2) Personal information collected for personal records:

(i) shall be appropriate and relevant to the purposes for which it is collected;

(ii) shall be accurate and current to the greatest extent practicable; and

(iii) may not be obtained by fraudulent means.

(c) (1) This subsection only applies to units of State government.

(2) Except as otherwise provided by law, an official custodian who keeps personal records shall, to the greatest extent practicable, collect personal information from the person in interest.

(3) An official custodian who requests personal information for personal records shall provide the following information to each person in interest from whom personal information is collected:

(i) the purpose for which the personal information is collected;

(ii) any specific consequences to the person for refusal to provide the personal information;

(iii) the person's right to inspect, amend, or correct personal records, if any;

(iv) whether the personal information is generally available for public inspection; and

(v) whether the personal information is made available or transferred to or shared with any entity other than the official custodian.

(4) Each unit of State government shall post its privacy policies with regard to the collection of personal information, including the policies specified in this subsection, on its Internet website.

(5) The following personal records shall be exempt from the requirements of this subsection:

(i) information pertaining to the enforcement of criminal laws or the administration of the penal system;

(ii) information contained in investigative materials kept for the purpose of investigating a specific violation of State law and maintained by a State agency whose principal function may be other than law enforcement;

(iii) information contained in public records which are accepted by the State Archivist for deposit in the Maryland Hall of Records;

(iv) information gathered as part of formal research projects previously reviewed and approved by federally mandated institutional review boards; and

(v) any other personal records exempted by regulations adopted by the Secretary of Budget and Management, based on the recommendation of the Chief of Information Technology.

(6) **[**In accordance with § 2–1246 of this article, the Secretary of Budget and Management shall report on October 1 of each year to the General Assembly on the personal records exempted by regulations under paragraph (5)(v) of this subsection**] IF THE SECRETARY OF BUDGET AND MANAGEMENT ADOPTS REGULATIONS UNDER PARAGRAPH (5)(V) OF THIS SUBSECTION, THE SECRETARY SHALL, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, REPORT TO THE GENERAL ASSEMBLY ON THE PERSONAL RECORDS EXEMPTED FROM THE REQUIREMENTS OF THIS SUBSECTION**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 491

(House Bill 221)

AN ACT concerning

Vehicle Laws – Motorcycles – Definition

FOR the purpose of altering the definition of "motorcycle" under the Maryland Vehicle Law; making this Act an emergency measure; and generally relating to the definition of motorcycle under the Maryland Vehicle Law.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 11–136
Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

11–136.

(a) "Motorcycle" means a motor vehicle that:

[(1) Has one front wheel and one or two rear wheels on a single axle; however, if it is equipped with two rear wheels on a single axle, the rear tread width may not exceed 25 inches;

(2) Is self–propelled by a motor with a rating of more than 1.5 brake horsepower and a capacity of at least 49 cubic centimeters piston displacement;

(3) Has a singular front steering road wheel mounted in a fork assembly that passes through a frame steering bearing and to which is attached a handlebar or other directly operated steering device;

(4) Has a seat that is straddled by the driver; and

(5) Except for a windshield or windscreen, does not have any enclosure or provision for an enclosure for the driver or any passenger**]**

(1) HAS MOTIVE POWER;

(2) HAS A SEAT OR SADDLE FOR THE USE OF THE RIDER;

(3) IS DESIGNED TO TRAVEL:

(I) ON NOT MORE THAN THREE WHEELS IN CONTACT WITH THE GROUND; AND

(II) AT SPEEDS EXCEEDING 35 MILES PER HOUR; AND

(4) IS OF A TYPE REQUIRED TO COMPLY WITH ALL MOTOR VEHICLE SAFETY STANDARDS APPLICABLE TO MOTORCYCLES UNDER FEDERAL LAW.

(b) A detachable sidecar is an accessory to and not a part of a motorcycle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 13, 2008.

CHAPTER 492

(House Bill 225)

AN ACT concerning

Motor Vehicles – Salvage Vehicle Inspection Fee – Collection and Payment

FOR the purpose of authorizing the Automotive Safety Enforcement Division of the Department of State Police to collect certain fees charged for certain salvage inspections; requiring certain fees collected by the Department or the Motor Vehicle Administration to be paid to the Automotive Safety Enforcement Division for the purpose of recovering certain costs; and generally relating to salvage vehicles and the collection and payment of certain inspection fees.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–507(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

13–507.

(a) (1) An application for a certificate of title of a vehicle for which a salvage certificate has been issued shall be made by the owner of the vehicle on a form that the Administration requires.

(2) An application under paragraph (1) of this subsection shall be accompanied by:

(i) Except as provided in subsection (c)(3) of this section, the salvage certificate for the vehicle;

(ii) A certificate of inspection issued by a county police department or the Department of State Police; and

(iii) A certificate of inspection as required under Title 23 of this article.

(3) (i) The Administration may establish a fee for an inspection under paragraph (2)(ii) of this subsection.

(ii) **1.** The fees **[**collected**]** **ESTABLISHED** under this paragraph shall be **[**paid to**]** **COLLECTED BY** the **[**Auto Theft Unit**]** **ADMINISTRATION OR THE AUTOMOTIVE SAFETY ENFORCEMENT DIVISION** of the Department of State Police**.**

2. THE FEES COLLECTED UNDER THIS SUBPARAGRAPH SHALL BE PAID TO THE AUTOMOTIVE SAFETY ENFORCEMENT DIVISION OF THE DEPARTMENT OF STATE POLICE for the purpose of recovering the cost of administering the salvage inspection program and may not be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8–403 or § 8–404 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 493

(House Bill 254)

AN ACT concerning

~~Frederick County –~~ Annual Financial ~~Report~~ *and Audit Reports* – Filing Date

FOR the purpose of altering the date by which Frederick County may file its annual financial report for the fiscal year with the Maryland Department of Legislative Services; ~~and generally relating to the annual financial report of Frederick County~~ *altering the date by which a certain audit report must be submitted by a*

county, municipal corporation, or taxing district to the Legislative Auditor; making certain stylistic changes; and generally relating to annual financial and audit reports of counties, municipal corporations, and taxing districts.

BY repealing and reenacting, with amendments,
Article 19 – Comptroller
Section 37 *and 40(a)*
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 19 – Comptroller

37.

(a) (1) Except as provided in paragraph (2) of this subsection, each county, municipal corporation, and taxing district in the State shall by the first day of November after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(2) (i) Each county, municipal corporation, or taxing district with a population of more than 400,000 may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(ii) Unless subparagraph (i) of this paragraph applies, Howard County may by the first day of December after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(III) FREDERICK COUNTY MAY BY THE FIRST DAY OF JANUARY AFTER THE CLOSE OF THE FISCAL YEAR FILE WITH THE DEPARTMENT OF LEGISLATIVE SERVICES ITS FINANCIAL REPORT COVERING THE FULL PERIOD OF THAT FISCAL YEAR.

(b) The reports required by subsection (a) of this section shall be:

(1) Properly filled in on the form or forms established by the Department as provided in this subtitle; and

(2) Verified by the chief executive officer of each county, municipal corporation, and taxing district.

40.

(a) (1) Except as provided in paragraph (2) of this subsection, each county, [incorporated city or town] ***MUNICIPAL CORPORATION,*** *and taxing district created by and situated within the State shall have its books, accounts, [records]* ***RECORDS,*** *and reports examined at least once during each fiscal year by the persons and for the purposes specified in this section. The examination shall be made by a certified public accountant in the capacity of either an independent auditor or official auditor of any county or [incorporated city]* ***MUNICIPAL CORPORATION****. The auditor shall be in compliance with the provisions of the Maryland Public Accountancy Act. The official auditor shall be approved by the Legislative Auditor for the purposes specified in this section. On such examination, inquiry shall be made into the methods, [accuracy]* ***ACCURACY,*** *and legality of the accounts, records, [files]* ***FILES,*** *and reports of each county, [incorporated city or town]* ***MUNICIPAL CORPORATION,*** *and taxing district. The Legislative Auditor upon [his]* ***THE LEGISLATIVE AUDITOR'S*** *own initiative may review or audit the books, [records]* ***RECORDS,*** *and reports of any county, [incorporated city or town]* ***MUNICIPAL CORPORATION,*** *or taxing district. Any county, [incorporated city or town]* ***MUNICIPAL CORPORATION,*** *or taxing district may request the Legislative Auditor to audit its books, [records]* ***RECORDS,*** *and reports. If the request is approved, the costs of the examination shall be borne by the auditee. The results of the audit shall be reported, subject to § 2–1246 of the State Government Article, to the Legislative Auditor on such form or forms and in such manner as the Legislative Auditor may prescribe. This report shall be made to the Legislative Auditor by [November 1 after the close of the fiscal year, except that the report may be made to the Legislative Auditor by January 1 after the close of the fiscal year for a county, incorporated city or town or taxing district having a population of more than 400,000]* ***THE DATE THE COUNTY'S, MUNICIPAL CORPORATION'S, OR TAXING DISTRICT'S FINANCIAL REPORT IS REQUIRED TO BE SUBMITTED UNDER § 37 OF THIS SUBTITLE****. An audit report filed with the Legislative Auditor is a public record under the provisions of § 10–611 of the State Government Article. Each year the Legislative Auditor shall review the audit reports submitted and shall make a full and detailed report in writing to the State Comptroller and, subject to § 2–1246 of the State Government Article, to the Executive Director of the State Department of Legislative Services of the result of the examination of the books, accounts, [records]* ***RECORDS,*** *and reports of each county, [incorporated city or town]* ***MUNICIPAL CORPORATION,*** *and taxing district, together with such suggestions as the Legislative Auditor may think advisable to be made with respect to methods of bookkeeping, changes in the uniform system of financial [reporting]* ***REPORTING,*** *and changes in the reports of the counties, [incorporated cities or towns]* ***MUNICIPAL CORPORATIONS,*** *and taxing districts. In conducting the reviews specified in this section, the Legislative Auditor may review the working papers and other documentation of the auditor. As a result of the Legislative Auditor's reviews, audit reports, working papers, or other documentation may be referred to the State Board of Public Accountancy for action as prescribed in the Maryland Public Accountancy Act. It shall also be the duty of the Legislative Auditor to*

report all violations by any county, [incorporated city or town] ***MUNICIPAL CORPORATION,*** *and taxing district of the requirement and provisions specified in the sections of this subtitle to the State Comptroller and, subject to § 2–1246 of the State Government Article, to the Executive Director of the State Department of Legislative Services. Should any county or [incorporated city or town]* ***MUNICIPAL CORPORATION,*** *or taxing district fail or refuse to file the audit reports as provided in this section with the Legislative Auditor within the time prescribed or fail or refuse to submit an audit report including financial statements that have been prepared in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards, the State Comptroller, acting upon the advice of the Executive Director of the State Department of Legislative Services, shall be authorized to order the discontinuance of payment of all funds, grants, or State aid which the county, [incorporated city or town]* ***MUNICIPAL CORPORATION,*** *or taxing district is entitled to receive under State law. This provision shall have specific reference to all funds, grants, or State aid which the county, [incorporated city or town]* ***MUNICIPAL CORPORATION,*** *or taxing district is entitled to receive under applicable provisions of State law distributed by the State Comptroller, the clerks of the court, or other units of State government.*

(2) Unless the Legislative Auditor determines, on a case–by–case basis, that more frequent audits are required, the Legislative Auditor may authorize [an incorporated city or town] ***A MUNICIPAL CORPORATION*** *or taxing district created by the State with annual revenues of less than $50,000 in the prior 4 fiscal years to have an audit conducted once every 4 years.*

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 494

(House Bill 263)

AN ACT concerning

Police Training Commission – Membership and Chairman

FOR the purpose of replacing the Deputy Secretary of the Department of Public Safety and Correctional Services with the Secretary of the Department as a member of the Police Training Commission; designating the Secretary of State Police as

chair of the Police Training Commission; and generally related to the Police Training Commission.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3–203(a) and 3–204
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

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

Article – Public Safety

3–203.

(a) (1) The Commission consists of 15 members.

(2) Of the 15 members of the Commission:

(i) one shall be the President of the Maryland Chiefs of Police Association;

(ii) one shall be the President of the Maryland Sheriffs Association;

(iii) one shall be the President of the Maryland Law Enforcement Officers, Inc.;

(iv) one shall be the Attorney General of the State;

(v) one shall be the Secretary of State Police;

(vi) one shall be the Police Commissioner of Baltimore City;

(vii) one shall be the Chancellor of the University System of Maryland;

(viii) one shall be the agent in charge of the Baltimore office of the F.B.I.;

(ix) one shall be the President of the Eastern Shore Police Association;

(x) one shall represent the Maryland State Lodge of Fraternal Order of Police;

(xi) one shall be the **[**Deputy**]** Secretary of Public Safety and Correctional Services;

(xii) one shall be the Chairman of the Maryland Municipal League Police Executive Association; and

(xiii) three shall be police officials of the State appointed under subsection (b) of this section.

3–204.

(a) The **[**Deputy**]** Secretary of **[**Public Safety and Correctional Services or the Deputy Secretary's representative**]** **STATE POLICE** is the chairman of the Commission.

(b) The Commission annually shall elect a vice chairman from among its members.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 495

(House Bill 330)

AN ACT concerning

St. Mary's County – Assistant Sheriff

FOR the purpose of replacing the rank of Captain with that of Assistant Sheriff in the Sheriff's Office of St. Mary's County; and generally relating to the Sheriff's Office of St. Mary's County.

BY repealing and reenacting, with amendments,
The Public Local Laws of St. Mary's County
Section 120–2 A.(1) and B.
Article 19 – Public Local Laws of Maryland

(2007 Edition, as amended)

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

Article 19 – St. Mary's County

120–2.

A. (1) Except for the Sheriff, all personnel of the Sheriff's office shall participate in the merit system of St. Mary's County and shall be hired and governed by the rules of that system. **[**A Captain**] AN ASSISTANT SHERIFF** appointed by the Sheriff in accordance with Subsection B of this section shall participate in the merit system except to the extent that the rules of that system conflict with the provisions of Subsection B of this section.

B. (1) Subject to the qualifications under Paragraph (3) of this subsection, the Sheriff may appoint, without examination, **[**a Captain**] AN ASSISTANT SHERIFF**, who shall serve in that position at the pleasure of the Sheriff.

(2) The County Commissioners shall set the salary of the **[**Captain**] ASSISTANT SHERIFF**.

(3) Only a deputy sheriff who holds the permanent rank of Sergeant or Lieutenant in the St. Mary's County Sheriff's office is eligible for appointment to **[**Captain**] ASSISTANT SHERIFF**.

(4) While serving as **[**Captain**] ASSISTANT SHERIFF**, an individual may participate.

(a) In the Sheriff's office retirement plan.

(b) In the competitive promotional process for the next rank above the individual's permanent rank.

(5) When the appointment of the **[**Captain**] ASSISTANT SHERIFF** ends, the **[**Captain**] ASSISTANT SHERIFF** shall return to the rank held before being appointed to **[**Captain**] ASSISTANT SHERIFF** or, if the **[**Captain**] ASSISTANT SHERIFF** qualified for a higher rank while serving as **[**Captain**] ASSISTANT SHERIFF**, to the higher rank.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 496

(House Bill 359)

AN ACT concerning

Local Correctional Facilities – Inmate Health Care Expenses – Payment Rates to Health Care Providers

FOR the purpose of providing that ~~a local correctional facility that is responsible for payment for~~ liability for payment to a health care provider for certain health care expenses of certain inmates ~~is only responsible for payment at~~ may not exceed the lower of certain rates; providing that a county may ~~enter into an agreement with a health care provider for the provision of health care services at amounts that are higher or lower than a certain rate~~ elect to declare certain provisions of this Act inapplicable to the county by filing a certain declaration with the county health officer; providing that a certain election may be withdrawn in a certain manner at any time; defining certain terms; providing for the application of this Act; and generally relating to payment rates for health care services provided to inmates ~~confined in~~ committed to local correctional facilities.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 11–203
Annotated Code of Maryland
(1999 Volume and 2007 Supplement)

BY adding to
Article – Correctional Services
Section 11–205
Annotated Code of Maryland
(1999 Volume and 2007 Supplement)

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

Article – Correctional Services

11–203.

(a) (1) The managing official of a local correctional facility shall provide to an inmate in the custody of the managing official:

(i) food and board; and

(ii) any article of comfort that is considered necessary for a sick inmate by the physician attending the inmate.

(2) Except as provided in **[**§ 11–204**] §§ 11–204 AND 11–205** of this subtitle and subject to subsections (b), (c), and (d) of this section, the county shall pay the costs associated with food, board, and articles of comfort provided to inmates under paragraph (1) of this subsection.

(b) An inmate in a local correctional facility who is sick, injured, or disabled shall:

(1) reimburse the county, as appropriate, for the payment of medical expenses; and

(2) provide the managing official with any information relating to:

(i) the existence of any health insurance, group health plan, or prepaid medical care coverage under which the inmate is insured or covered;

(ii) the inmate's eligibility for benefits under the Maryland Medical Assistance Program;

(iii) the name and address of any third party payor; and

(iv) any policy or other identifying number relating to items (i) through (iii) of this item.

(c) (1) In addition to obtaining any reimbursement authorized under subsection (b) of this section and subject to paragraph (4) of this subsection, the governing body of each county shall establish a reasonable fee, not to exceed $4, for each visit by an inmate in a local correctional facility to an institutional medical unit or noninstitutional physician, dentist, or optometrist.

(2) The per visit fee shall be deducted from an inmate's spending financial account, reserve financial account, or similar account held by the managing official on behalf of the inmate.

(3) The fees collected under this subsection shall be deposited in the general fund of the county.

(4) This subsection does not apply to a visit by an inmate to a medical unit or a physician, dentist, or optometrist if the visit is:

(i) required as a part of the intake process;

(ii) required for an initial physical examination;

(iii) due to a referral by a nurse or physician's assistant;

(iv) provided during a follow–up visit that is initiated by a medical professional from the local correctional facility;

(v) initiated by a medical or mental health staff member of the local correctional facility; or

(vi) required for necessary treatment.

(d) Subsections (b) and (c) of this section do not impose liability for reimbursement or payment of medical expenses on any person other than an inmate personally or through a person that provides insurance, coverage, or other benefits described under subsection (b) of this section.

11–205.

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

(2) (I) "HEALTH CARE PROVIDER" HAS THE MEANING STATED IN § 19–132 OF THE HEALTH – GENERAL ARTICLE.

(II) "HEALTH CARE PROVIDER" DOES NOT INCLUDE A HOSPITAL REGULATED BY THE HEALTH SERVICES COST REVIEW COMMISSION.

(3) "HEALTH CARE SERVICE" HAS THE MEANING STATED IN § 19–132 OF THE HEALTH – GENERAL ARTICLE.

~~(3)~~ (4) "MEDICAID RATE" MEANS:

(I) THE AMOUNT A HEALTH CARE PROVIDER WOULD BE PAID FOR HEALTH CARE SERVICES UNDER A CONTRACT OR PROVIDER AGREEMENT WITH THE MARYLAND MEDICAL ASSISTANCE PROGRAM; OR

(II) IF THE HEALTH CARE PROVIDER IS A FEDERALLY QUALIFIED HEALTH CENTER, THE AMOUNT THAT A FEDERALLY QUALIFIED HEALTH CENTER WOULD BE PAID BY THE MARYLAND MEDICAL ASSISTANCE PROGRAM USING THE PAYMENT METHODOLOGY DESCRIBED IN 42 U.S.C. § 1396A(BB).

(B) ~~A LOCAL CORRECTIONAL FACILITY THAT IS RESPONSIBLE~~ LIABILITY FOR PAYMENT TO A HEALTH CARE PROVIDER FOR ANY HEALTH CARE ~~SERVICES~~ SERVICE PROVIDED TO AN INMATE ~~IS ONLY RESPONSIBLE FOR PAYMENT OF~~ COMMITTED TO A LOCAL CORRECTIONAL FACILITY THAT IS NOT PROVIDED ON THE PREMISES OF THE FACILITY MAY NOT EXCEED THE LESSER OF:

(1) THE ACTUAL AMOUNT BILLED BY THE HEALTH CARE PROVIDER FOR THE HEALTH CARE ~~SERVICES~~ SERVICE; OR

(2) THE MEDICAID RATE FOR THE HEALTH CARE ~~SERVICES~~ SERVICE.

~~(C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, A COUNTY MAY ENTER INTO AN AGREEMENT WITH A HEALTH CARE PROVIDER FOR THE PROVISION OF HEALTH CARE SERVICES TO INMATES IN A LOCAL CORRECTIONAL FACILITY AT A PAYMENT RATE THAT IS HIGHER OR LOWER THAN THE MEDICAID RATE.~~

(C) (1) A COUNTY MAY ELECT TO DECLARE THE PROVISIONS OF THIS SECTION INAPPLICABLE TO THE COUNTY BY FILING WITH THE COUNTY HEALTH OFFICER A WRITTEN DECLARATION BY THE HIGHEST OFFICIAL OF THE LOCAL CORRECTIONAL FACILITY, APPROVED BY THE CHIEF EXECUTIVE OFFICER OF THE COUNTY.

(2) THE HIGHEST OFFICIAL OF THE LOCAL CORRECTIONAL FACILITY, WITH THE APPROVAL OF THE CHIEF EXECUTIVE OFFICER OF THE COUNTY, MAY WITHDRAW AT ANY TIME AN ELECTION MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not apply to a contract to provide health care services to inmates in local correctional facilities in effect on or before the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 497

(House Bill 407)

AN ACT concerning

Commissioner of Labor and Industry – Boiler and Pressure Vessel Safety – Authorized Inspection Agencies

FOR the purpose of authorizing insurers, owners who employ special inspectors, and the Commissioner of Labor and Industry to contract with authorized inspection agencies for certain boiler and pressure vessel inspections; authorizing inspection agencies to request special inspector commissions; requiring ~~authorized inspection agencies to submit a certain surety bond~~ the Commissioner to establish certain insurance requirements by regulation; exempting certain inspections by certain persons from certain fees; requiring that authorized inspection agencies file certain reports with the Chief Boiler Inspector and notify the Commissioner of certain hazardous conditions; requiring certain persons to maintain inspection records in a certain manner; defining a certain term; making a technical correction; and generally relating to the inspection of boilers and pressure vessels.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–901, 12–907, 12–909(c) and (h), and 12–910
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

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

Article – Public Safety

12–901.

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

(B) "AUTHORIZED INSPECTION AGENCY" MEANS AN ENTITY THAT:

(1) IS ACCREDITED IN ACCORDANCE WITH THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS NB–369; OR

(2) MEETS THE QUALIFICATION AND DEFINITION OF THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS NB–360.

[(b)**] (C)** "Board" means the Board of Boiler Rules.

[(c)**] (D)** "Boiler" means:

(1) a closed vessel in which water is heated, steam is generated, steam is superheated, or a combination of these functions is accomplished, under pressure or vacuum for use externally to the vessel by the direct application of heat from the combustion of fuels or from electricity or nuclear energy; or

(2) a fired unit for heating or vaporizing liquids other than water if the unit is separate from a processing system and is complete within itself.

[(d)**] (E)** "Certificate" means a certificate issued by the Chief Boiler Inspector to operate a boiler or pressure vessel.

[(e)**] (F)** "Certificate inspection" means an inspection, the report of which is used by the Chief Boiler Inspector to determine whether to issue a certificate.

[(f)**] (G)** "Commissioner" means the Commissioner of Labor and Industry.

[(g)**] (H)** "Heating boiler" means:

(1) a steam boiler that operates at pressures not exceeding 15 psig; or

(2) a hot water boiler that operates at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees Fahrenheit.

[(h)**] (I)** "High pressure, high temperature water boiler" means a water boiler that operates at pressures exceeding 160 psig or temperatures exceeding 250 degrees Fahrenheit.

[(i)**] (J)** "Model steam boiler" means a boiler that is:

(1) individually fabricated for noncommercial use;

(2) used primarily for demonstration, exhibition, or educational purposes; and

(3) not for profit.

[(j)**] (K)** "Power boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig.

[(k)**] (L)** (1) "Pressure vessel" means a vessel in which the pressure is obtained:

(i) from an external source; or

(ii) by the application of heat from:

1. an indirect source; or

2. a direct source other than a boiler.

(2) "Pressure vessel" does not include a pipe, piping component, or structure whose primary function is to transport fluids.

[(l)**] (M)** "Secretary" means the Secretary of Labor, Licensing, and Regulation.

12–907.

(a) (1) The following entities may request the Commissioner to issue special inspector commissions:

(i) an authorized insurer that insures boilers and pressure vessels in the State; **[**or**]**

(ii) a person that operates pressure vessels in the State that regularly are inspected and rated by an established inspection service under the supervision of engineers whose qualifications are satisfactory to the Board and in accordance with the regulations adopted under this subtitle**; OR**

(III) AN AUTHORIZED INSPECTION AGENCY.

(2) On request of an entity described in paragraph (1) of this subsection, the Commissioner may issue a special inspector commission to an individual employed by the entity to serve as a special inspector if the entity and the individual satisfy the requirements of this section.

(b) (1) An applicant for a special inspector commission shall be employed by the entity that requests the special inspector commission.

(2) An applicant for a special inspector commission for a person that operates pressure vessels shall:

(i) be employed full time by the person; and

(ii) be responsible for making inspections of pressure vessels that are used or to be used by the person and are not for resale.

(3) An applicant for a special inspector commission shall:

(i) pass the examination given by the Board under subsection **[**(d)**] (E)** of this section;

(ii) hold a commission or certificate of competency as an inspector of boilers and pressure vessels in another state that has an examination substantially equivalent to the examination given by the Board; or

(iii) 1. hold a commission as an inspector of boilers and pressure vessels issued by the National Board of Boiler and Pressure Vessel Inspectors; and

2. pass the part of the examination given by the Board that differs from the national examination.

(c) (1) The employer of an applicant for a special inspector commission shall:

(i) submit to the Commissioner an application on the form that the Commissioner requires; and

(ii) pay to the Commissioner a fee of $50.

(2) The application shall include:

(i) the name and qualifications of the individual who will serve as a special inspector; and

(ii) evidence that the individual satisfies the requirements of subsection (b) of this section.

(D) ~~**(1)**~~ ~~**AN AUTHORIZED INSPECTION AGENCY SHALL SUBMIT A SURETY BOND TO THE COMMISSIONER.**~~

~~**(2)**~~ ~~**THE SURETY BOND SHALL:**~~

~~**(I) RUN TO THE COMMISSIONER FOR THE BENEFIT OF ANY PERSON WHO HAS BEEN DAMAGED BY A VIOLATION OF ANY PROVISION OF THIS SUBTITLE COMMITTED BY THE AUTHORIZED INSPECTION AGENCY;**~~

~~**(II) BE IN THE AMOUNT OF $5,000;**~~

~~**(III) BE SIGNED BY THE APPLICANT AS PRINCIPAL AND BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE AS A SURETY;**~~

~~**(IV) BE CONDITIONED THAT THE AUTHORIZED INSPECTION SERVICE WILL COMPLY WITH THIS SUBTITLE; AND**~~

~~**(V) BE APPROVED BY THE COMMISSIONER**~~ **BY REGULATION, THE COMMISSIONER SHALL ESTABLISH INSURANCE REQUIREMENTS~~, BASED ON NATIONALLY ACCEPTED STANDARDS,~~ THAT MUST BE SATISFIED BY AN AUTHORIZED INSPECTION AGENCY BEFORE A COMMISSION MAY BE ISSUED TO *AN INSPECTOR EMPLOYED BY* THE AUTHORIZED INSPECTION AGENCY.**

[(d)**] (E)** (1) The Board shall give examinations to applicants for special inspector commissions as provided in this subsection.

(2) The examination:

(i) shall be in writing;

(ii) shall be limited to questions the answers to which will help to determine the fitness and competency of the individual for the intended service; and

(iii) may consist of questions prepared by the National Board of Boiler and Pressure Vessel Inspectors.

(3) (i) An applicant who fails the examination may appeal to the Board for a reexamination.

(ii) The reexamination shall be given by the Board within 90 days.

(4) The record of an applicant's examination shall be available to the applicant and the applicant's employer.

(5) The fee for an examination or reexamination is $50.

[(e)**] (F)** (1) The Commissioner shall issue a special inspector commission to each applicant who meets the requirements of this subtitle.

(2) The Commissioner may issue a special inspector commission to a representative of an employee organization covered by a collective bargaining agreement.

[(f)**] (G)** An inspection by a special inspector of a boiler or pressure vessel insured or pressure vessel operated by the employer of the special inspector**, OR AN INSPECTION BY A SPECIAL INSPECTOR EMPLOYED BY AN AUTHORIZED INSPECTION AGENCY,** exempts the owner or user of the boiler or pressure vessel from the payment to the State of inspection fees required by this subtitle for the boiler or pressure vessel.

[(g)**] (H)** A special inspector may not receive a salary from or have any expenses paid by the State.

[(h)**] (I)** (1) A special inspector commission expires 2 years after its effective date.

(2) Before a special inspector commission expires, the employer of the special inspector may renew the commission if the employer:

(i) pays to the Commissioner a renewal fee of $50; and

(ii) submits evidence to the Commissioner that the special inspector:

1. meets the standards imposed by this subtitle;

2. remains in the employment of the employer; and

3. has been trained on current boiler and pressure vessel technology in accordance with regulations adopted under this subtitle.

[(i)**] (J)** Within 30 days after the termination of the employment of a special inspector, the employer shall return the special inspector commission to the Chief Boiler Inspector.

[(j)**] (K)** (1) If an identification card of a special inspector is lost or destroyed, the Commissioner shall issue a new identification card in its place without another examination.

(2) The fee for replacement of an identification card is $50.

[(k)**] (L)** (1) After investigation and recommendation by the Board, the Commissioner may suspend the special inspector commission for:

(i) incompetence of the special inspector;

(ii) untrustworthiness of the special inspector;

(iii) willful falsification of any matter or statement contained in the application for the special inspector commission; or

(iv) willful falsification of any matter or statement contained in a report of an inspection made by the special inspector.

(2) Within 10 days after suspending a special inspector commission, the Commissioner shall give written notice of the suspension to the special inspector and the employer of the special inspector.

(3) (i) An individual whose special inspector commission has been suspended may appeal to the Board.

(ii) At the hearing on the appeal, the individual may be present and represented by counsel.

(4) An individual whose special inspector commission has been suspended may apply for reinstatement of the commission after 90 days following the date of the suspension.

[(l)**] (M)** (1) If the Board has reason to believe that a special inspector is no longer qualified to hold a commission, the Board shall hold a hearing.

(2) The Board shall give at least 10 days' written notice of the hearing to the special inspector and to the employer of the special inspector.

(3) At the hearing, the special inspector and the employer shall have an opportunity to be heard.

(4) If after the hearing the Board finds that the special inspector is no longer qualified to hold a commission:

(i) the Board shall recommend to the Commissioner that the special inspector commission be revoked; and

(ii) the Commissioner shall revoke the special inspector commission immediately.

12–909.

(c) (1) Except as provided in paragraphs (2)**, [**and**]** (3)**, AND (4)** of this subsection, the Chief Boiler Inspector or a deputy boiler inspector shall make the certificate inspections required under subsection (d) of this section.

(2) If a boiler or pressure vessel is insured by an insurer, a special inspector employed by the insurer**, OR BY AN AUTHORIZED INSPECTION AGENCY UNDER CONTRACT WITH THE INSURER,** shall make the inspections required under subsection (d) of this section.

(3) If a pressure vessel is owned or operated by a person who employs a special inspector who holds a commission, the special inspector**, OR A SPECIAL INSPECTOR EMPLOYED BY AN AUTHORIZED INSPECTION AGENCY UNDER CONTRACT WITH THE OWNER OR OPERATOR,** shall make the inspections required under subsection (d) of this section.

(4) IF A BOILER OR PRESSURE VESSEL IS NOT INSURED BY AN INSURER, THE COMMISSIONER MAY CONTRACT WITH AN INSURER OR AN AUTHORIZED INSPECTION AGENCY TO HAVE A SPECIAL INSPECTOR WHO IS EMPLOYED BY THAT INSURER OR AUTHORIZED INSPECTION AGENCY MAKE THE INSPECTIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.

(h) (1) The Board shall provide for public safety and therefore has jurisdiction over the interpretation and application of the inspection requirements provided in the regulations adopted under this subtitle.

(2) Inspection requirements of operating equipment shall:

(i) be in accordance with generally accepted practice; and

(ii) be compatible with the actual service conditions, including:

1. previous experience, based on records of performance and maintenance;

2. location, with respect to personnel hazard;

3. provision for related safe operation **OF** controls; and

4. interrelation with other operations outside the scope of this subtitle.

12–910.

(a) (1) Each authorized insurer**, OR AUTHORIZED INSPECTION AGENCY,** that employs a special inspector shall file with the Chief Boiler Inspector a report on:

(i) each certificate inspection; and

(ii) any other inspection for which a report is required to be filed under regulations adopted under this subtitle.

(2) The report filed under paragraph (1) of this subsection shall:

(i) be filed within 30 days after an inspection; and

(ii) be in the form required by regulations adopted under this subtitle.

(3) For each report not filed electronically, the authorized insurer shall pay a $5 report filing fee.

(4) Within 24 hours after an inspection, each authorized insurer**, OR AUTHORIZED INSPECTION AGENCY,** that employs a special inspector shall notify the Chief Boiler Inspector if an inspection reveals a hazardous condition as described in § 12–915(a)(2) of this subtitle that affects the safety of a boiler or pressure vessel.

(b) (1) Each person that operates pressure vessels covered by an owner–user inspection service that meets the requirements of this subtitle shall maintain in its files an inspection record that lists, by **A MARYLAND** number and by an abbreviated identification description:

(i) each pressure vessel covered by this subtitle;

(ii) the date of the last inspection of the pressure vessel; and

(iii) the approximate date for the next inspection of the pressure vessel, calculated by applying the appropriate rules for inspection to all data available when the inspection record is compiled.

(2) The inspection record shall be readily available for examination by the Chief Boiler Inspector or authorized representative during business hours.

(3) (i) In addition, the person shall file annually with the Chief Boiler Inspector a statement that:

1. is signed by the professional engineer who supervised the inspections made during the period covered;

2. states the number of pressure vessels covered by this subtitle that were inspected during the year; and

3. certifies that each inspection was conducted in accordance with the inspection requirements of this subtitle.

(ii) The statement shall be accompanied by a filing fee of:

1. $5 per pressure vessel, for a statement that covers not more than 25 pressure vessels;

2. $125, for a statement that covers more than 25 but less than 101 pressure vessels;

3. $250, for a statement that covers more than 100 but less than 501 pressure vessels; or

4. $325, for a statement that covers more than 500 pressure vessels.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 498

(House Bill 408)

AN ACT concerning

Business and Economic Development – Qualified Distressed Counties

FOR the purpose of altering the definition of "qualified distressed county" for ~~purposes of~~ certain purposes, including the Maryland Economic Development Assistance Authority and Fund and the One Maryland Economic Development Tax Credit; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the Maryland Economic Development Assistance Authority and Fund and the One

Maryland Economic Development Tax Credit and economic development in qualified distressed counties in the State.

BY repealing and reenacting, with amendments,
Article 83A – Department of Business and Economic Development
Section 5–1401(u) and 5–1501(a)(8)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 1–101(e)
Annotated Code of Maryland
(As enacted by Chapter 306 (H.B. 1050) of the Acts of the General Assembly of 2008)

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

Article 83A – Department of Business and Economic Development

5–1401.

(u) **(1)** "Qualified distressed county" means a county that has developed in consultation with the municipal corporations located within the county and submitted to the Secretary a local strategic plan for economic development that has been approved by the Secretary and:

[(1)**]** **(I)** For which the average rate of unemployment for the most recent **[**18–month**]** **24–MONTH** period for which data are available exceeds 150% of the average rate of unemployment for the entire State during the same period; or

[(2)**]** **(II)** For which the average per capita personal income for the most recent 24–month period for which data are available does not exceed 67% of the average personal per capita income for the entire State during the same period.

(2) "QUALIFIED DISTRESSED COUNTY" INCLUDES A COUNTY THAT NO LONGER MEETS EITHER OF THE CRITERIA SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION, BUT HAS DONE SO AT SOME TIME DURING THE PRECEDING 12–MONTH PERIOD.

5–1501.

(a) (8) **(I)** "Qualified distressed county" means a county, including Baltimore City, for which:

[(i)**]** **1.** The average rate of unemployment for the most recent **[**18–month**]** **24–MONTH** period for which data are available is greater than 150% of the average rate of unemployment for the entire State during that same period; or

[(ii)**]** **2.** The average per capita personal income for the most recent 24–month period for which data are available is equal to or less than 67% of the average personal per capita income for the entire State during that same period.

(II) "QUALIFIED DISTRESSED COUNTY" INCLUDES A COUNTY, INCLUDING BALTIMORE CITY, THAT NO LONGER MEETS EITHER OF THE CRITERIA SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, BUT HAS DONE SO AT SOME TIME DURING THE PRECEDING 12–MONTH PERIOD.

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

Article – Economic Development

1–101.

(e) **(1)** "Qualified distressed county" means a county with:

[(1)**] (I)** an average rate of unemployment for the most recent **[**18–month**]** **24–MONTH** period for which data are available that exceeds 150% of the average rate of unemployment for the State during that period; or

[(2)**] (II)** an average per capita personal income for the most recent 24–month period for which data are available that is equal to or less than 67% of the average per capita personal income for the State during that period.

(2) "QUALIFIED DISTRESSED COUNTY" INCLUDES A COUNTY THAT:

(I) NO LONGER MEETS EITHER CRITERION STATED IN PARAGRAPH (1) OF THIS SUBSECTION; BUT

(II) HAS MET AT LEAST ONE OF THE CRITERIA AT SOME TIME DURING THE PRECEDING 12–MONTH PERIOD.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of Chapter ___ (H.B. 1050) of the Acts of the General Assembly of 2008. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 499

(House Bill 417)

AN ACT concerning

Financial Institutions – Cooperative Agreements and Information Sharing with Government Agencies

FOR the purpose of authorizing the Commissioner of Financial Regulation to enter into cooperative and information sharing agreements with certain federal~~, state, or local~~ *or state* government agencies; authorizing the Commissioner to exchange certain information with certain federal~~, state, or local~~ *or state* government agencies; *providing for a certain exemption to the Commissioner's authority;* and generally relating to cooperative agreements and information sharing by the Commissioner of Financial Regulation.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 2–113
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article – Financial Institutions
Section 2–117
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Financial Institutions

2–113.

(a) In this section, "affiliate" has the meaning stated in § 5–401(b) of this article.

(b) Except as provided in subsection (d) of this section, the investigative and enforcement powers of the Commissioner authorized under this subtitle are in addition to any investigative or enforcement powers of the Commissioner authorized under any other provision of law.

(c) Beginning in fiscal year 2001, the Governor shall appropriate in the State budget in each fiscal year to the Division of Financial Regulation funding for the positions necessary to implement the investigative and enforcement powers authorized under this subtitle.

(d) ***[****The****]*** ***EXCEPT AS PROVIDED IN § 2–117 OF THIS SUBTITLE, THE*** *provisions of §§ 2–114 through* ***[****2–116****]*** ***2–117****, inclusive, of this subtitle do not apply to:*

(1) Any bank, trust company, savings bank, savings and loan association, or credit union incorporated or chartered under the laws of this State or the United States that maintains its principal office in this State;

(2) Any out–of–state bank, as defined in § 5–1001 of this article, having a branch that accepts deposits in this State;

(3) Any institution incorporated under federal law as a savings association or savings bank that does not maintain its principal office in this State but has a branch that accepts deposits in this State; or

(4) An affiliate of an institution described in paragraph (1), (2), or (3) of this subsection.

2–117.

(A) ~~**NOTWITHSTANDING**~~ ***SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, NOTWITHSTANDING*** **ANY OTHER PROVISION OF STATE LAWS OR REGULATIONS, THE COMMISSIONER MAY:**

(1) ENTER INTO COOPERATIVE AND INFORMATION SHARING AGREEMENTS WITH ANY ~~**FEDERAL, STATE, OR MUNICIPAL**~~ ***FEDERAL OR STATE*** **REGULATORY** ~~**OR LAW**~~ ~~**ENFORCEMENT**~~ **AGENCY HAVING AUTHORITY OVER FINANCIAL INSTITUTIONS,** ***PROVIDED THAT THE AGREEMENTS PROHIBIT THE AGENCY FROM DISCLOSING ANY SHARED INFORMATION WITHOUT PRIOR WRITTEN CONSENT FROM THE COMMISSIONER REGARDING DISCLOSURE OF THE PARTICULAR INFORMATION*****;** ~~**OR**~~ ***AND***

(2) EXCHANGE INFORMATION ABOUT A FINANCIAL INSTITUTION, INCLUDING INFORMATION OBTAINED DURING AN EXAMINATION, WITH ANY ~~FEDERAL, STATE, OR MUNICIPAL~~ *FEDERAL OR STATE* REGULATORY ~~OR LAW ENFORCEMENT~~ AGENCY HAVING AUTHORITY OVER THE FINANCIAL INSTITUTION.

(B) NOTWITHSTANDING § 2–113(D) OF THIS SUBTITLE, AN AFFILIATE AS DEFINED IN § 2–113(A) OF THIS SUBTITLE IS SUBJECT TO SUBSECTION (A) OF THIS SECTION IF THAT AFFILIATE MAINTAINS OR IS REQUIRED TO MAINTAIN A LICENSE ISSUED BY THE COMMISSIONER.

(C) THIS SECTION DOES NOT AUTHORIZE THE COMMISSIONER TO SHARE OR EXCHANGE INFORMATION IN ANY WAY PROHIBITED BY FEDERAL LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 500

(House Bill 424)

AN ACT concerning

Office of the State Prosecutor – Subpoena Authority

FOR the purpose of authorizing the State Prosecutor to issue ~~subpoenas for the attendance of witnesses and the production of evidence when the State Prosecutor investigates or prosecutes a case under certain circumstances~~ a subpoena for the production of certain records or documents for a certain purpose; specifying the manner of service of a subpoena, the rights of a person served with a certain subpoena, and the requirements the State Prosecutor must meet when a subpoena is served; authorizing the State Prosecutor to report the failure of a person to obey a subpoena to a certain circuit court; authorizing a court to grant certain relief under certain circumstances; and generally relating to the State Prosecutor.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure

Section 14–110
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)
(As enacted by Chapter 15 (S.B. 37) of the Acts of the General Assembly of 2008)

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

Article – Criminal Procedure

14–110.

(A) The State Prosecutor ~~**MAY ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF EVIDENCE AND**~~ has all the powers and duties of a State's Attorney, including the use of a grand jury in any county, when the State Prosecutor:

(1) investigates a case under § 14–107 of this title; or

(2) prosecutes a case under § 14–109 of this title.

(B) (1) FOR THE LIMITED PURPOSE OF FURTHERING AN ONGOING CRIMINAL INVESTIGATION UNDER § 14–107 OF THIS TITLE, THE STATE PROSECUTOR MAY ISSUE A SUBPOENA TO A PERSON TO PRODUCE TELEPHONE, BUSINESS, GOVERNMENTAL, OR CORPORATE RECORDS OR DOCUMENTS.

(2) THE SUBPOENA MAY BE SERVED IN THE SAME MANNER AS ONE ISSUED BY A CIRCUIT COURT.

(C) (1) A PERSON MAY HAVE AN ATTORNEY PRESENT DURING ANY CONTACT WITH THE STATE PROSECUTOR MADE UNDER SUBSECTION (B) OF THIS SECTION.

(2) THE STATE PROSECUTOR SHALL ADVISE A PERSON OF THE RIGHT TO COUNSEL WHEN THE SUBPOENA IS SERVED.

(D) (1) (I) THE STATE PROSECUTOR IMMEDIATELY MAY REPORT THE FAILURE OF A PERSON TO OBEY A LAWFULLY SERVED SUBPOENA UNDER SUBSECTION (B) OF THIS SECTION TO THE CIRCUIT COURT OF THE COUNTY HAVING JURISDICTION.

(II) THE STATE PROSECUTOR SHALL PROVIDE A COPY OF THE SUBPOENA AND PROOF OF SERVICE TO THE CIRCUIT COURT.

(2) AFTER CONDUCTING A HEARING AT WHICH THE PERSON WHO ALLEGEDLY FAILED TO COMPLY WITH A SUBPOENA ISSUED UNDER SUBSECTION (B) OF THIS SECTION HAS AN OPPORTUNITY TO BE HEARD AND REPRESENTED BY COUNSEL, THE COURT MAY GRANT APPROPRIATE RELIEF.

(E) THIS SECTION DOES NOT ALLOW THE CONTRAVENTION, DENIAL, OR ABROGATION OF A PRIVILEGE OR RIGHT RECOGNIZED BY LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 501

(House Bill 428)

AN ACT concerning

Harford County – Alcoholic Beverages – Cafe License

FOR the purpose of authorizing in Harford County a Class B Cafe beer and wine license; specifying an annual license fee; specifying that the license entitles the holder to sell beer and wine for consumption on and off the premises; specifying that the license is a 7–day license with an on–premises wine tasting privilege for a certain number of days; prohibiting the Liquor Control Board from issuing more than a certain number of cafe licenses; requiring the Liquor Control Board to set a maximum and a minimum seating capacity for certain licenses; authorizing the license to be issued only if certain conditions are met; prohibiting the license from being used for certain purposes; specifying certain hours and days of sale; and generally relating to a Class B Cafe beer and wine license in Harford County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 5–201(n)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article 2B – Alcoholic Beverages

Section 5–201(n)(6)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–513
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article 2B – Alcoholic Beverages

5–201.

(n) (1) This subsection applies only in Harford County.

(6) (I) THERE IS A CLASS B CAFE BEER AND WINE LICENSE.

(II) THE ANNUAL LICENSE FEE IS $1,575.

(III) A CAFE LICENSE ENTITLES THE HOLDER TO SELL BEER AND WINE FOR CONSUMPTION ON AND OFF THE LICENSED PREMISES.

(IV) A CAFE LICENSE IS A 7–DAY LICENSE WITH AN ON–PREMISES WINE TASTING PRIVILEGE FOR EVERY DAY OF THE YEAR.

(V) THE LIQUOR CONTROL BOARD MAY ISSUE NOT MORE THAN FIVE CAFE LICENSES.

(VI) THE LIQUOR CONTROL BOARD SHALL SET A MAXIMUM AND A MINIMUM SEATING CAPACITY FOR EACH CAFE LICENSE IT ISSUES.

(VII) A CAFE LICENSE MAY BE EXERCISED AT AN ESTABLISHMENT ONLY IF:

1. THE LIQUOR CONTROL BOARD DETERMINES THAT THE ESTABLISHMENT HAS ADEQUATE TABLES, CHAIRS, FOOD, AND FACILITIES FOR PREPARING AND SERVING MEALS;

2. THE AVERAGE GROSS MONTHLY RECEIPTS FROM THE SALE OF COOKED OR PREPARED FOOD SERVED AT THE ESTABLISHMENT

AND OTHER ITEMS APPROVED BY THE LIQUOR CONTROL BOARD EXCEED 50% OF THE AVERAGE MONTHLY RECEIPTS FROM THE SALE OF BEER AND WINE SOLD FOR ON–PREMISES CONSUMPTION; AND

3. NOT MORE THAN 10% OF THE TOTAL SQUARE FOOTAGE OF THE ESTABLISHMENT IS DEDICATED TO THE PUBLIC DISPLAY OF BEER AND WINE THAT IS OFFERED FOR SALE.

(VIII) A CAFE LICENSE MAY NOT BE USED FOR OFF–PREMISES CATERING.

11–513.

(a) The provisions of this section apply in Harford County only.

(b) (1) A licensee may sell, offer for sale, or dispense alcoholic beverages:

(i) On Monday through Sunday; and

(ii) Only between 8 a.m. and 2 a.m. the following morning.

(2) A CLASS B CAFE LICENSEE MAY OFFER TO SELL BEER AND WINE:

(I) ON MONDAY THROUGH SATURDAY FROM 10 A.M. TO 11 P.M.; AND

(II) ON SUNDAY FROM 10 A.M. TO 11 P.M.

(3) During a baseball game only, a licensee may not sell alcoholic beverages:

(i) After the beginning of the eighth inning; or

(ii) During a doubleheader game, after the beginning of the sixth inning of the second game.

(c) A licensee may not:

(1) Allow alcoholic beverages to be consumed on the licensee's premises after 2:15 a.m. or before 8:00 a.m. the same morning; or

(2) Allow alcoholic beverages glasses, bottles, or containers to remain on tables or serving counters after 2:30 a.m.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 502

(House Bill 429)

AN ACT concerning

Personal Property Tax – Refunds and Reports – Interest

FOR the purpose of allowing a county to pay a claim for a refund of personal property tax without interest within a certain period after the claim is approved under certain circumstances; providing for the application of this Act; and generally relating to refunds and reports for personal property tax.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–919
Annotated Code of Maryland
(2007 Replacement Volume)

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

Article – Tax – Property

14–919.

(A) Notwithstanding any other provision of this title, ~~**A COUNTY OR**~~ a municipal corporation may pay a claim for a refund of personal property tax without interest within three years after the refund claim is approved if the Department determines that the refund is a result of a failure to file a report when due or other taxpayer error.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A COUNTY MAY PAY A CLAIM FOR A REFUND OF PERSONAL PROPERTY TAX WITHOUT INTEREST WITHIN 180 DAYS AFTER THE REFUND CLAIM IS APPROVED

IF THE DEPARTMENT DETERMINES THAT THE REFUND IS A RESULT OF A FAILURE TO FILE A REPORT WHEN DUE OR OTHER TAXPAYER ERROR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008, and shall be applicable to all taxable years beginning after June 30, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 503

(House Bill 440)

AN ACT concerning

Procurement – Service Contracts – Notice to ~~State Employees and~~ Exclusive Representatives

FOR the purpose of requiring the Board of Public Works to ensure that certain procurement regulations provide for procedures that are consistent with certain provisions of law; requiring that notice of certain rights be given to exclusive representatives of certain employees ~~and their exclusive representatives~~ at certain points in the procurement process; providing that a violation of a certain provision does not constitute grounds to challenge or appeal certain awards and processes; providing that certain notice requirements must be met for certain service contracts to be certified; ~~authorizing the Department of General Services and the Department of Budget and Management to adopt certain regulations; requiring a procurement unit in the Executive Branch of the State government to include certain information in certain required~~ altering certain notice requirements included in certain plans of assistance for certain State employees who will be adversely affected by certain service contracts; defining ~~certain terms~~ a certain term; and generally relating to notice requirements for certain service contracts with the State.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 11–101(a) and (d) and 13–218(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement

Section 12–101(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Finance and Procurement
Section 13–218.1
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 13–401~~, 13–402, and 13–403~~ through 13–404
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section ~~13–404 and~~ 13–405
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – State Finance and Procurement

11–101.

(a) In this Division II the following words have the meanings indicated unless:

(1) the context clearly requires a different meaning; or

(2) a different definition is provided for a particular title or provision.

(d) "Board" means the Board of Public Works.

12–101.

(b) (1) The Board may control procurement by units.

(2) To implement the provisions of this Division II, the Board may:

(i) set policy;

(ii) adopt regulations, in accordance with Title 10, Subtitle 1 of the State Government Article; and

(iii) establish internal operational procedures consistent with this Division II.

(3) The Board shall ensure that the regulations of the primary procurement units provide for procedures that are consistent with this Division II **AND TITLE 13, SUBTITLE 4 OF THE STATE PERSONNEL AND PENSIONS ARTICLE** and, to the extent the circumstances of a particular type of procurement or a particular unit do not require otherwise, are substantially the same.

(4) The Board may delegate any of its authority that it determines to be appropriate for delegation and may require prior Board approval for specified procurement actions.

(5) Except as limited by the **[**State**]** **MARYLAND** Constitution, the Board may exercise any control authority conferred on a primary procurement unit by this Division II and, to the extent that its action conflicts with the action of the primary procurement unit, the action of the Board shall prevail.

(6) The Board, with the assistance of the Department of Budget and Management, shall compile comprehensive statistics on the procurement system by agency, amount, and type of procurement.

(7) The Board shall develop and submit to the General Assembly, in accordance with § 2–1246 of the State Government Article, an annual report on the procurement system that includes information on actions necessary to improve effective broad–based competition in procurement.

13–218.

(a) Each procurement contract shall include clauses covering:

(1) termination for default;

(2) termination wholly or partly by the State for its convenience if the head of the primary procurement unit determines that termination is appropriate;

(3) variations that occur between estimated and actual quantities of work in a procurement contract;

(4) liquidated damages, as appropriate;

(5) specified excuses for nonperformance;

(6) except for real property leases, the unilateral right of the State to order in writing:

(i) changes in the work, if the changes are within the scope of the procurement contract; and

(ii) a temporary stop or delay in performance;

(7) the obligation of the contractor to comply with the political contribution reporting requirements under Title 14 of the Election Law Article, to which the contractor may be subject as required under § 17–402 of this article; and

(8) nonvisual access for information technology as required under § 3–412 of this article.

13–218.1.

(A) IN THIS SECTION, "SERVICE CONTRACT" HAS THE MEANING STATED IN § 13–401 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) AT LEAST ~~90~~ 60 DAYS BEFORE THE ISSUANCE OF A SOLICITATION FOR A SERVICE CONTRACT THAT IS NOT EXEMPT UNDER § 13–403(C) OR § 13–404(B) OF THE STATE PERSONNEL AND PENSIONS ARTICLE, THE UNIT SHALL PROVIDE THE EXCLUSIVE REPRESENTATIVE OF THE EMPLOYEES WHO MAY BE AFFECTED BY THE SERVICE CONTRACT ~~AND THEIR EXCLUSIVE REPRESENTATIVES~~ WITH WRITTEN NOTICE OF:

(1) WORK THAT IS BEING PROPOSED FOR CONTRACTING; AND

(2) CONTRACTING PROCEDURES, REQUIREMENTS, TIMETABLES, AND EMPLOYEE RIGHTS AS PROVIDED IN TITLE 13, SUBTITLE 4 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(C) A VIOLATION OF THIS SECTION DOES NOT CONSTITUTE GROUNDS TO CHALLENGE OR APPEAL AN AWARD OF A PROCUREMENT OR THE PROCESS THROUGH WHICH THE PROCUREMENT WAS CONDUCTED.

Article – State Personnel and Pensions

13–401.

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

(b) "Service contract" means a procurement contract for services that:

(1) will be provided to a unit in the Executive Branch of State government;

(2) will be performed within a State–operated facility; and

(3) in the estimation of the procurement officer, will exceed an annual cost of $100,000.

(c) "Services" has the meaning stated in § 11–101 of the State Finance and Procurement Article.

(d) "Unit" has the meaning stated in § 11–101 of the State Finance and Procurement Article.

13–402.

The policy of this State is to use State employees to perform all State functions in State–operated facilities in preference to contracting with the private sector to perform those functions.

13–403.

(a) A service contract may be entered into only as approved by the Board of Public Works in accordance with this subtitle.

(b) Except as provided in subsection (c) of this section, the Board of Public Works may approve a service contract for a unit only if the Board receives a certification from the Department that:

(1) the service contract is exempt under § 13–404(b) of this subtitle; or

(2) the unit has complied with the requirements of § 13–404(c) of this subtitle.

(c) If the General Assembly authorizes or requires that certain services be performed by an independent contractor, the Board of Public Works may approve a service contract for those services without the certification required by subsection (b) of this section.

13–404.

(a) The Department may certify a service contract to the Board of Public Works as provided in this section.

(b) The Department may certify a service contract as being exempt from the preference stated in § 13–402 of this subtitle if:

(1) State employees are not available to perform the services;

(2) a conflict of interest would result if a State employee were to perform the services;

(3) the nature of the services meets the standards set by the Department for emergency appointments;

(4) the services are incidental to the purchase or lease of personal property or real property, such as a service agreement that is part of the purchase or rental of computers or office equipment; or

(5) a clear need exists to obtain an unbiased finding or opinion, such as an expert witness in litigation.

(c) The Department may certify a service contract that is not exempt under subsection (b) of this section only if**[**:

(1) the unit that seeks to enter into the service contract has complied with § 13–405 of this subtitle; and

(2)**]** the Department finds that:

~~**(1) THE UNIT THAT SEEKS TO ENTER INTO THE SERVICE CONTRACT HAS COMPLIED WITH § 13–405 OF THIS SUBTITLE;**~~

[(i)**]** ~~**(2)**~~ the potential economic advantage of entering into the service contract is not outweighed by the preference stated in § 13–402 of this subtitle;

[(ii)**]** ~~**(3)**~~ the service contract does not adversely affect the affirmative action efforts of this State;

[(iii)**]** ~~**(4)**~~ the service contract includes adequate control mechanisms to ensure that the services will be performed in accordance with the service contract; **[**and

(iv)**]** ~~**(5)**~~ the service contract complies with all of the requirements of Division II of the State Finance and Procurement Article~~**; AND**~~

~~(6) AT LEAST 15 DAYS BEFORE CERTIFYING THE SERVICE CONTRACT, THE DEPARTMENT HAS NOTIFIED EMPLOYEES WHO MAY BE AFFECTED BY THE SERVICE CONTRACT AND THEIR EXCLUSIVE REPRESENTATIVES IN WRITING OF THE FOLLOWING:~~

~~(I) THE DEPARTMENT'S INTENT TO CERTIFY THE SERVICE CONTRACT;~~

~~(II) THAT EMPLOYEES AND THEIR EXCLUSIVE REPRESENTATIVES MAY REVIEW AND RECEIVE A COPY, AT NO CHARGE, OF THE SERVICE CONTRACT, THE PROPOSED CERTIFICATION, AND THE INFORMATION RELIED ON BY THE DEPARTMENT IN MAKING THE PROPOSED CERTIFICATION; AND~~

~~(III) THAT EMPLOYEES AND THEIR EXCLUSIVE REPRESENTATIVES MAY SUBMIT COMMENTS TO THE DEPARTMENT REGARDING THE PROPOSED CERTIFICATION.~~

~~(D) THE DEPARTMENT OF GENERAL SERVICES AND THE DEPARTMENT OF BUDGET AND MANAGEMENT MAY ADOPT REGULATIONS TO CARRY OUT THE REQUIREMENTS OF THIS SECTION.~~

~~(E) (1) WHEN A NONEXEMPT SERVICE CONTRACT UNDER SUBSECTION (C) OF THIS SECTION IS CERTIFIED, THE DEPARTMENT SHALL NOTIFY EMPLOYEES WHO MAY BE AFFECTED BY THE SERVICE CONTRACT AND THEIR EXCLUSIVE REPRESENTATIVES IN WRITING OF THE EMPLOYEES' AND THEIR EXCLUSIVE REPRESENTATIVES' RIGHT TO:~~

~~(I) RECEIVE, WITHOUT CHARGE, A COPY OF THE CERTIFICATION DOCUMENT AND THE SERVICE CONTRACT; AND~~

~~(II) COMMENT ON THE CERTIFICATION AND THE SERVICE CONTRACT BEFORE THE BOARD OF PUBLIC WORKS.~~

~~(2) THE DEPARTMENT'S NOTIFICATION TO EMPLOYEES AND THEIR EXCLUSIVE REPRESENTATIVES REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION MUST BE PERFORMED AT LEAST 15 DAYS BEFORE THE SERVICE CONTRACT IS CONSIDERED BY THE BOARD OF PUBLIC WORKS~~.

13–405.

(a) A unit that seeks to enter into a service contract that is not exempt under § 13–403(c) or § 13–404(b) of this subtitle shall submit to the Department the information required by this section.

(b) The unit shall submit a demonstration that the unit has taken formal and positive steps to consider alternatives to the service contract, including reorganization, reevaluation of service, and reevaluation of performance.

(c) (1) The unit shall submit calculations that:

(i) compare the cost of the service contract with the cost of using State employees; and

(ii) show savings to this State, over the duration of the service contract, of 20% of the contract or $200,000, whichever is less.

(2) In calculating the cost comparison required by this subsection, a unit shall include:

(i) direct costs, including fringe benefits;

(ii) indirect overhead costs, including the proportional share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials, but only to the extent that those costs are attributed solely to the service in question and would not exist if the service were not performed by State employees;

(iii) any continuing or transitional costs that would be directly associated with contracting for the services, including unemployment compensation and the cost of transitional services; and

(iv) additional costs of performance of the services by State employees, including salaries and benefits of additional staff and the cost of additional space, equipment, and materials needed to perform the services.

(d) (1) The unit shall submit a formal plan of assistance for all State employees who will be adversely affected by the service contract.

(2) The plan of assistance shall include:

(i) efforts to place affected employees in vacant positions in the unit or in another unit;

(ii) provisions in the service contract, if feasible, for the hiring by the contractor of displaced employees; and

(iii) prior notification to affected employees **[**by the earlier of:

1. the day the contract is signed; or

2. 6 months before the day the adverse effect will occur**]** **IN ACCORDANCE WITH § 13–218.1 OF THE STATE FINANCE AND PROCUREMENT ARTICLE** ~~**AND § 13–404 OF THIS ARTICLE**~~.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 504

(House Bill 452)

AN ACT concerning

Landlord and Tenant – Summary Ejectment – Deceased Tenant

FOR the purpose of authorizing a landlord to bring an action for summary ejectment against a deceased, intestate tenant without next of kin under certain circumstances; requiring a landlord bringing a certain action for summary ejectment to state in a certain written complaint that, to the best of the landlord's knowledge, the tenant is deceased, intestate, and without next of kin; establishing certain notice and service of process requirements; providing that certain property shall be presumed abandoned under certain circumstances; and generally relating to an action for summary ejectment against a deceased tenant.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 8–401
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article – Real Property
Section 8–405
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Real Property

8–401.

(a) Whenever the tenant or tenants fail to pay the rent when due and payable, it shall be lawful for the landlord to have again and repossess the premises.

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

(i) Describing in general terms the property sought to be repossessed;

(ii) Setting forth the name of each tenant to whom the property is rented or any assignee or subtenant;

(iii) Stating the amount of rent and any late fees due and unpaid;

(iv) Requesting to repossess the premises and, if requested by the landlord, a judgment for the amount of rent due, costs, and any late fees; **[**and**]**

(V) IF APPLICABLE, STATING THAT, TO THE BEST OF THE LANDLORD'S KNOWLEDGE, THE TENANT IS DECEASED, INTESTATE, AND WITHOUT NEXT OF KIN; AND

[(v)**] (VI)** If the property to be repossessed is an affected property as defined in § 6–801 of the Environment Article, stating that the landlord has registered the affected property as required under § 6–811 of the Environment Article and renewed the registration as required under § 6–812 of the Environment Article and:

1. A. If the current tenant moved into the property on or after February 24, 1996, stating the inspection certificate number for the inspection conducted for the current tenancy as required under § 6–815(c) of the Environment Article; or

B. On or after February 24, 2006, stating the inspection certificate number for the inspection conducted for the current tenancy as required under § 6–815(c), § 6–817(b), or § 6–819(e) of the Environment Article; or

2. Stating that the owner is unable to provide an inspection certificate number because:

A. The owner has requested that the tenant allow the owner access to the property to perform the work required under Title 6, Subtitle 8 of the Environment Article;

B. The owner has offered to relocate the tenant in order to allow the owner to perform work if the work will disturb the paint on the interior surfaces of the property and to pay the reasonable expenses the tenant would incur directly related to the relocation; and

C. The tenant has refused to allow access to the owner or refused to vacate the property in order for the owner to perform the required work.

(2) For the purpose of the court's determination under subsection (c) of this section the landlord shall also specify the amount of rent due for each rental period under the lease, the day that the rent is due for each rental period, and any late fees for overdue rent payments.

(3) The District Court shall issue its summons, directed to any constable or sheriff of the county entitled to serve process, and ordering the constable or sheriff to notify the tenant, assignee, or subtenant by first–class mail:

(i) To appear before the District Court at the trial to be held on the fifth day after the filing of the complaint; and

(ii) To answer the landlord's complaint to show cause why the demand of the landlord should not be granted.

(4) (i) The constable or sheriff shall proceed to serve the summons upon the tenant, assignee, or subtenant or their known or authorized agent as follows:

1. If personal service is requested and any of the persons whom the sheriff shall serve is found on the property, the sheriff shall serve any such persons; or

2. If personal service is requested and none of the persons whom the sheriff is directed to serve shall be found on the property and, in all cases where personal service is not requested, the constable or sheriff shall affix an attested copy of the summons conspicuously upon the property.

(ii) The affixing of the summons upon the property after due notification to the tenant, assignee, or subtenant by first–class mail shall conclusively be presumed to be a sufficient service to all persons to support the entry of a default judgment for possession of the premises, together with court costs, in favor of the landlord, but it shall not be sufficient service to support a default judgment in favor of the landlord for the amount of rent due.

(5) Notwithstanding the provisions of paragraphs (1) through (4) of this subsection, in Wicomico County, in an action to repossess any premises under this section, service of process on a tenant may be directed to any person authorized under the Maryland Rules to serve process.

(6) (I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (3) THROUGH (5) OF THIS SUBSECTION, IF THE LANDLORD CERTIFIES TO THE COURT IN THE WRITTEN COMPLAINT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT, TO THE BEST OF THE LANDLORD'S KNOWLEDGE, THE TENANT IS DECEASED, INTESTATE, AND WITHOUT NEXT OF KIN, THE DISTRICT COURT SHALL ISSUE ITS SUMMONS, DIRECTED TO ANY CONSTABLE OR SHERIFF OF THE COUNTY ENTITLED TO SERVE PROCESS, AND ORDERING THE CONSTABLE OR SHERIFF TO NOTIFY THE OCCUPANT OF THE PREMISES OR THE NEXT OF KIN OF THE DECEASED TENANT, IF KNOWN, BY PERSONAL SERVICE:

1. TO APPEAR BEFORE THE DISTRICT COURT AT THE TRIAL TO BE HELD ON THE FIFTH DAY AFTER THE FILING OF THE COMPLAINT; AND

2. TO ANSWER THE LANDLORD'S COMPLAINT TO SHOW CAUSE WHY THE DEMAND OF THE LANDLORD SHOULD NOT BE GRANTED.

(II) 1. THE CONSTABLE OR SHERIFF SHALL PROCEED TO SERVE THE SUMMONS UPON THE OCCUPANT OF THE PREMISES OR THE NEXT OF KIN OF THE DECEASED TENANT, IF KNOWN, AS FOLLOWS:

A. IF ANY OF THE PERSONS WHOM THE SHERIFF IS DIRECTED TO SERVE ARE FOUND ON THE PROPERTY OR AT ANOTHER KNOWN ADDRESS, THE SHERIFF SHALL SERVE ANY SUCH PERSONS; OR

B. IF NONE OF THE PERSONS WHOM THE SHERIFF IS DIRECTED TO SERVE ARE FOUND ON THE PROPERTY OR AT ANOTHER KNOWN ADDRESS, THE CONSTABLE OR SHERIFF SHALL AFFIX AN ATTESTED COPY OF THE SUMMONS CONSPICUOUSLY UPON THE PROPERTY.

2. THE AFFIXING OF THE SUMMONS UPON THE PROPERTY SHALL CONCLUSIVELY BE PRESUMED TO BE A SUFFICIENT SERVICE TO ALL PERSONS TO SUPPORT THE ENTRY OF A DEFAULT JUDGMENT FOR POSSESSION OF THE PREMISES, TOGETHER WITH COURT COSTS, IN FAVOR OF THE LANDLORD, BUT IT SHALL NOT BE SUFFICIENT SERVICE TO SUPPORT A DEFAULT JUDGMENT IN FAVOR OF THE LANDLORD FOR THE AMOUNT OF RENT DUE.

(c) (1) If, at the trial on the fifth day indicated in subsection (b) of this section, the court is satisfied that the interests of justice will be better served by an adjournment to enable either party to procure their necessary witnesses, the court may adjourn the trial for a period not exceeding 1 day, except with the consent of all parties, the trial may be adjourned for a longer period of time.

(2) (i) The information required under subsection **[**(b)(1)(v)**]** **(B)(1)(VI)** of this section may not be an issue of fact in a trial under this section.

(ii) If, when the trial occurs, it appears to the satisfaction of the court, that the rent, or any part of the rent and late fees are actually due and unpaid, the court shall determine the amount of rent and late fees due as of the date the complaint was filed, if the trial occurs within the time specified by subsection (b)(3) of this section.

(iii) 1. If the trial does not occur within the time specified in subsection (b)(3)(i) of this section and the tenant has not become current since the filing of the complaint, the court, if the complaint so requests, shall enter a judgment in favor of the landlord for possession of the premises and determine the rent and late fees due as of the trial date.

2. The determination of rent and late fees shall include the following:

A. Rent claimed in the complaint;

B. Rent accruing after the date of the filing of the complaint;

C. Late fees accruing in or prior to the month in which the complaint was filed; and

D. Credit for payments of rent and late fees made by the tenant after the complaint was filed.

(iv) In the case of a residential tenancy, the court may also give judgment in favor of the landlord for the amount of rent and late fees determined to be

due together with costs of the suit if the court finds that the residential tenant was personally served with a summons.

(v) In the case of a nonresidential tenancy, if the court finds that there was such service of process or submission to the jurisdiction of the court as would support a judgment in contract or tort, the court may also give judgment in favor of the landlord for:

1. The amount of rent and late fees determined to be due;

2. Costs of the suit; and

3. Reasonable attorney's fees, if the lease agreement authorizes the landlord to recover attorney's fees.

(vi) A nonresidential tenant who was not personally served with a summons shall not be subject to personal jurisdiction of the court if that tenant asserts that the appearance is for the purpose of defending an in rem action prior to the time that evidence is taken by the court.

(3) The court, when entering the judgment, shall also order that possession of the premises be given to the landlord, or the landlord's agent or attorney, within 4 days after the trial.

(4) The court may, upon presentation of a certificate signed by a physician certifying that surrender of the premises within this 4–day period would endanger the health or life of the tenant or any other occupant of the premises, extend the time for surrender of the premises as justice may require but not more than 15 days after the trial.

(5) However, if the tenant, or someone for the tenant, at the trial, or adjournment of the trial, tenders to the landlord the rent and late fees determined by the court to be due and unpaid, together with the costs of the suit, the complaint against the tenant shall be entered as being satisfied.

(d) (1) (i) Subject to the provisions of paragraph (2) of this subsection, if judgment is given in favor of the landlord, and the tenant fails to comply with the requirements of the order within 4 days, the court shall, at any time after the expiration of the 4 days, issue its warrant, directed to any official of the county entitled to serve process, ordering the official to cause the landlord to have again and repossess the property by putting the landlord (or the landlord's duly qualified agent or attorney for the landlord's benefit) in possession thereof, and for that purpose to remove from the property, by force if necessary, all the furniture, implements, tools,

goods, effects or other chattels of every description whatsoever belonging to the tenant, or to any person claiming or holding by or under said tenant.

(ii) If the landlord does not order a warrant of restitution within sixty days from the date of judgment or from the expiration date of any stay of execution, whichever shall be the later:

1. The judgment for possession shall be stricken; and

2. The judgment shall be applied to the number of judgments necessary to foreclose a tenant's right to redemption of the leased premises as established in subsection (e)(2) of this section unless the court in its discretion determines that the judgment may not apply for purposes of subsection (e)(2) of this section.

(iii) If the landlord orders a warrant of restitution but takes no action on the warrant within 60 days from the later of the date the court issues the order for the warrant or the date as otherwise extended by the court:

1. The warrant of restitution shall expire and the judgment for possession shall be stricken; and

2. The judgment shall be applied to the number of judgments necessary to foreclose a tenant's right to redemption of the leased premises as established in subsection (e)(2) of this section unless the court in its discretion determines that the judgment may not apply for purposes of subsection (e)(2) of this section.

(2) (i) The administrative judge of any district may stay the execution of a warrant of restitution of a residential property, from day to day, in the event of extreme weather conditions.

(ii) When a stay has been granted under this paragraph, the execution of the warrant of restitution for which the stay has been granted shall be given priority and completed within 3 days after the extreme weather conditions cease.

(e) (1) Subject to paragraph (2) of this subsection, in any action of summary ejectment for failure to pay rent where the landlord is awarded a judgment giving the landlord restitution of the leased premises, the tenant shall have the right to redemption of the leased premises by tendering in cash, certified check or money order to the landlord or the landlord's agent all past due amounts, as determined by the court under subsection (c) of this section, plus all court awarded costs and fees, at any time before actual execution of the eviction order.

(2) This subsection does not apply to any tenant against whom 3 judgments of possession have been entered for rent due and unpaid in the 12 months prior to the initiation of the action to which this subsection otherwise would apply.

(f) (1) The tenant or the landlord may appeal from the judgment of the District Court to the circuit court for any county at any time within 4 days from the rendition of the judgment.

(2) The tenant, in order to stay any execution of the judgment, shall give a bond to the landlord with one or more sureties, who are owners of sufficient property in the State of Maryland, with condition to prosecute the appeal with effect, and answer to the landlord in all costs and damages mentioned in the judgment, and other damages as shall be incurred and sustained by reason of the appeal.

(3) The bond shall not affect in any manner the right of the landlord to proceed against the tenant, assignee or subtenant for any and all rents that may become due and payable to the landlord after the rendition of the judgment.

8–405.

(A) IF A TENANT UNDER A LEASE DIES INTESTATE AND WITHOUT NEXT OF KIN, THE LANDLORD MAY BRING AN ACTION FOR SUMMARY EJECTMENT UNDER § 8–401 OF THIS SUBTITLE AGAINST THE TENANT NAMED IN THE LEASE ~~REGARDLESS OF~~ NOTWITHSTANDING THE TENANT'S DEATH.

(B) THE LANDLORD SHALL CERTIFY TO THE COURT IN THE WRITTEN COMPLAINT REQUIRED UNDER § 8–401(B)(1) OF THIS SUBTITLE THAT, TO THE BEST OF THE LANDLORD'S KNOWLEDGE, THE TENANT IS DECEASED, INTESTATE, AND WITHOUT NEXT OF KIN.

(C) PROPERTY OR INCOME FROM PROPERTY THAT A LANDLORD HOLDS FOR A DECEASED, INTESTATE TENANT WITHOUT NEXT OF KIN SHALL BE PRESUMED ABANDONED IN ACCORDANCE WITH TITLE 17 OF THE COMMERCIAL LAW ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 505

(House Bill 459)

AN ACT concerning

State Board of Professional Counselors and Therapists – Sunset Extension and Revisions

FOR the purpose of continuing the State Board of Professional Counselors and Therapists 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; increasing the number of members on the State Board of Professional Counselors and Therapists; requiring a certain number of members to be professional counselors, marriage and family therapists, and alcohol and drug counselors; repealing a requirement that certain licensed professional counselor board members be employed in certain areas; repealing the position of drug and alcohol counselor advisor to the Board; requiring a marriage and family therapist or an alcohol and drug counselor board member to vote before certain action is taken against certain professional counselors; prohibiting certain individuals from practicing clinical alcohol and drug counseling, marriage and family therapy, or professional counseling unless they are licensed by the Board; providing for certain exemptions from licensing requirements; establishing certain qualifications for the licensure of clinical alcohol and drug counselors, clinical marriage and family therapists, and clinical professional counselors; establishing certain requirements for applications for licensure, certification, and examination of applicants; authorizing the Board to waive certain requirements for licensure or certification under certain circumstances; establishing procedures for the issuance of licenses and certificates; requiring licenses and certificates to include certain information; authorizing the Board to replace certain licenses or certificates under certain circumstances; providing for the scope of certain licenses and certificates; providing for the terms and renewal of certain licenses and certificates; requiring the Board to place certain licensees or certificate holders on inactive status under certain circumstances; prohibiting the Board from placing certain certificates on inactive status; authorizing the Board to reinstate certain licenses or certain certificates under certain circumstances; prohibiting the reinstatement of certain certificates; authorizing the Board to adopt certain regulations to allow certain individuals to practice under supervision as licensed graduate alcohol and drug counselors, marriage and family therapists, and professional counselors; establishing qualifications for licensed graduate alcohol and drug counselors, marriage and family therapists, and professional counselors; prohibiting the practice of

licensed graduate professional counseling unless approved by the Board; requiring certain licensees and certificate holders to display a certain license or certificate in a certain manner; requiring certain licensees or certificate holders to furnish a certain professional disclosure statement that includes certain information; prohibiting the surrender of a certain license under certain circumstances and providing for a certain exception; authorizing the Board to deny, probate, reprimand, suspend, or revoke the license, certificate, or application of certain licensees, certificate holders, or applicants if an individual violates certain disciplinary grounds; establishing certain civil penalties under certain circumstances; requiring the Board to adopt certain regulations concerning the imposition of certain penalties; requiring the Board to pay certain money collected into the General Fund of the State; establishing certain hearing and appeal procedures; authorizing the Board to enjoin certain actions; authorizing the Board to reinstate a certain license or certificate, reduce a certain suspension or probation, or withdraw a reprimand under certain circumstances; establishing a counselor and therapist rehabilitation committee; establishing the purpose, function, and duties of the counselor and therapist rehabilitation committee; providing that certain committee records are not discoverable in certain proceedings; establishing civil immunity for members of the committee for actions taken within the scope of the committee's jurisdiction; requiring certain individuals to be certified before practicing alcohol and drug counseling, marriage and family therapy, and professional counseling, using certain titles, or representing certain certification; establishing qualifications for certification as a certified professional counselor–alcohol and drug, certified associate counselor–alcohol and drug, and certified supervised counselor–alcohol and drug; authorizing certain individuals to practice clinical alcohol and drug counseling, clinical marriage and family therapy, or clinical professional counseling without a license or to practice alcohol and drug counseling, marriage and family therapy, or professional counseling without a certificate for a certain amount of time under certain circumstances as a trainee; prohibiting certain unlicensed individuals from making certain representations to the public and using certain titles or words with the intent to represent that the individual practices clinical counseling or therapy or licensed graduate counseling or therapy; prohibiting certain uncertified individuals from making certain representations to the public and using certain titles or words with the intent to represent that the individual practices certain counseling or therapy; establishing certain penalties; establishing a certain short title; requiring the Board to waive certain requirements for certification as alcohol and drug counselors for certain individuals who have certain qualifications; requiring certain individuals applying for certification as alcohol and drug counselors under a certain waiver to apply for certification by a certain date; ~~providing for the termination of the term of a member of the Board;~~ providing for the appointment of certain members of the Board to serve certain terms until certain successors are appointed; providing that the term of a certain Board advisor terminate on a certain date; requiring the Board to submit a

certain interim report including certain information to certain committees of the General Assembly on or before a certain date; defining certain terms; making certain technical changes; providing for the termination of certain provisions of this Act; and generally relating to the State Board of Professional Counselors and Therapists and the licensing and certification of counselors and therapists.

BY repealing
Article – Health Occupations
Section 17–301 through 17–317 and the subtitle "Subtitle 3. Certification"; 17–3A–01 through 17–3A–13 and the subtitle "Subtitle 3A. Licensing"; 17–401 and 17–402 and the subtitle "Subtitle 4. Prohibited Acts; Penalties"; and 17–501 and 17–502 and the subtitle "Subtitle 5. Short Title; Termination of Title"
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 17–101, 17–102, 17–202, and 17–205
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 17–103, 17–201, 17–203, 17–204, and 17–206
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing
Article – Health Occupations
Section 17–104
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Health Occupations
Section 17–301 through 17–309 to be under the new subtitle "Subtitle 3. Licensing"; 17–401 through 17–405.1 and 17–406 to be under the new subtitle "Subtitle 4. Certification"; 17–501 through 17–515 to be under the new subtitle "Subtitle 5. General Provisions; Disciplinary Actions"; 17–601 through 17–604 to be under the new subtitle "Subtitle 6. Prohibited Acts; Penalties"; and 17–701 and 17–702 to be under the new subtitle "Subtitle 7. Short Title; Termination of Title"
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(16)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 17–301 through 17–317 and the subtitle "Subtitle 3. Certification"; 17–3A–01 through 17–3A–13 and the subtitle "Subtitle 3A. Licensing"; 17–401 and 17–402 and the subtitle "Subtitle 4. Prohibited Acts; Penalties"; and 17–501 and 17–502 and the subtitle "Subtitle 5. Short Title; Termination of Title" of Article – Health Occupations of the Annotated Code of Maryland be repealed.

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

Article – Health Occupations

17–101.

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

(b) "Alcohol and drug counseling" means assisting an individual, family, or group through the client–counselor relationship:

(1) To develop understanding of intrapersonal and interpersonal substance abuse problems;

(2) To define goals relating to substance abuse;

(3) To make decisions relating to substance abuse;

(4) To plan a course of action reflecting the needs, interests, and abilities of the individual, family, or group relating to substance abuse; and

(5) To use informational and community substance abuse resources relating to personal, social, emotional, educational, and vocational development and adjustment.

(c) (1) "Appraisal" means:

(i) Selecting, administering, scoring, and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics; and

(ii) Using nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations.

(2) "Appraisal" does not include instruments which require specialized psychological training for administration and interpretation unless the licensed or certified professional counselor has completed training deemed by the Board of Examiners of Psychologists and the State Board of Professional Counselors and Therapists to be equivalent to that of a licensed psychologist who is qualified to administer the same types of instruments.

(d) "Board" means the State Board of Professional Counselors and Therapists.

(e) "Certificate" means a certificate issued by the Board to practice professional counseling.

(f) "Certified professional counselor" means a professional counselor who is certified by the Board.

(g) "Certified professional counselor–marriage and family therapist" means an individual who is certified by the Board to practice marriage and family therapy in the State.

(h) (1) "Certified supervised counselor–alcohol and drug" means an individual who is certified by the Board to practice alcohol and drug counseling in the State pursuant to the limitations in **[**§ 17–302.4**] § 17–404** of this title.

(2) "Certified associate counselor–alcohol and drug" means an individual who is certified by the Board to practice alcohol and drug counseling in the State pursuant to the limitations in **[**§ 17–302.5**] § 17–403** of this title.

(3) "Certified professional counselor–alcohol and drug" means an individual who is certified by the Board to practice alcohol and drug counseling in the State.

(i) "Counseling" means assisting an individual, family, or group through the client–counselor relationship:

(1) To develop understanding of intrapersonal and interpersonal problems;

(2) To define goals;

(3) To make decisions;

(4) To plan a course of action reflecting the needs, interests, and abilities of the individual, family, or group; and

(5) To use informational and community resources, as these procedures are related to personal, social, emotional, educational, and vocational development and adjustment.

(j) "Fund" means the State Board of Professional Counselors and Therapists Fund.

(K) "LICENSE" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, ONE OF SIX TYPES OF LICENSES ISSUED BY THE BOARD AUTHORIZING AN INDIVIDUAL TO PRACTICE:

(1) CLINICAL ALCOHOL AND DRUG COUNSELING;

(2) CLINICAL MARRIAGE AND FAMILY THERAPY;

(3) CLINICAL PROFESSIONAL COUNSELING;

(4) GRADUATE ALCOHOL AND DRUG COUNSELING;

(5) GRADUATE MARRIAGE AND FAMILY THERAPY; OR

(6) GRADUATE PROFESSIONAL COUNSELING.

(L) "LICENSED GRADUATE ALCOHOL AND DRUG COUNSELOR" MEANS AN INDIVIDUAL APPROVED BY THE BOARD TO PRACTICE GRADUATE ALCOHOL AND DRUG COUNSELING.

(M) "LICENSED GRADUATE MARRIAGE AND FAMILY THERAPIST" MEANS AN INDIVIDUAL APPROVED BY THE BOARD TO PRACTICE GRADUATE MARRIAGE AND FAMILY THERAPY.

(N) "LICENSED GRADUATE PROFESSIONAL COUNSELOR" MEANS AN INDIVIDUAL APPROVED BY THE BOARD TO PRACTICE GRADUATE PROFESSIONAL COUNSELING.

[(k)**] (O)** "Marriage and family therapy" means applying marriage and family systems theory, principles, methods, therapeutic techniques, and research in:

(1) Resolving emotional conflict and modifying perception and behavior in the context of marriage and family life; and

(2) The identification and assessment of client needs and the implementation of therapeutic intervention.

[(l)**] (P)** "Practice alcohol and drug counseling" means to engage professionally and for compensation in alcohol and drug counseling activities while representing oneself to be a certified professional counselor–alcohol and drug, a certified supervised counselor–alcohol and drug, or a certified associate counselor–alcohol and drug.

(Q) "PRACTICE CLINICAL ALCOHOL AND DRUG COUNSELING" MEANS TO ENGAGE PROFESSIONALLY AND FOR COMPENSATION IN ALCOHOL AND DRUG COUNSELING AND APPRAISAL ACTIVITIES BY PROVIDING SERVICES INVOLVING THE APPLICATION OF COUNSELING PRINCIPLES AND METHODS IN THE DIAGNOSIS, PREVENTION, TREATMENT, AND AMELIORATION OF PSYCHOLOGICAL PROBLEMS AND EMOTIONAL OR MENTAL CONDITIONS OF INDIVIDUALS OR GROUPS.

(R) "PRACTICE CLINICAL MARRIAGE AND FAMILY THERAPY" MEANS TO ENGAGE PROFESSIONALLY AND FOR COMPENSATION IN MARRIAGE AND FAMILY THERAPY AND APPRAISAL ACTIVITIES BY PROVIDING SERVICES INVOLVING THE APPLICATION OF THERAPY PRINCIPLES AND METHODS IN THE DIAGNOSIS, PREVENTION, TREATMENT, AND AMELIORATION OF PSYCHOLOGICAL PROBLEMS AND EMOTIONAL OR MENTAL CONDITIONS OF INDIVIDUALS OR GROUPS.

(S) "PRACTICE CLINICAL PROFESSIONAL COUNSELING" MEANS TO ENGAGE PROFESSIONALLY AND FOR COMPENSATION IN COUNSELING AND APPRAISAL ACTIVITIES BY PROVIDING SERVICES INVOLVING THE APPLICATION OF COUNSELING PRINCIPLES AND METHODS IN THE DIAGNOSIS, PREVENTION, TREATMENT, AND AMELIORATION OF PSYCHOLOGICAL PROBLEMS AND EMOTIONAL OR MENTAL CONDITIONS OF INDIVIDUALS OR GROUPS.

(T) "PRACTICE GRADUATE ALCOHOL AND DRUG COUNSELING" MEANS TO PRACTICE CLINICAL ALCOHOL AND DRUG COUNSELING:

(1) UNDER THE SUPERVISION OF A LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR OR ANOTHER HEALTH CARE PROVIDER LICENSED UNDER THIS ARTICLE, AS APPROVED BY THE BOARD; AND

(2) WHILE FULFILLING THE REQUIREMENTS FOR SUPERVISED EXPERIENCE UNDER § 17–302 OF THIS SUBTITLE.

(U) "PRACTICE GRADUATE MARRIAGE AND FAMILY THERAPY" MEANS TO PRACTICE CLINICAL MARRIAGE AND FAMILY THERAPY:

(1) UNDER THE SUPERVISION OF A LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST OR ANOTHER HEALTH CARE PROVIDER LICENSED UNDER THIS ARTICLE, AS APPROVED BY THE BOARD; AND

(2) WHILE FULFILLING THE REQUIREMENTS FOR SUPERVISED EXPERIENCE UNDER § 17–303 OF THIS SUBTITLE.

(V) "PRACTICE GRADUATE PROFESSIONAL COUNSELING" MEANS TO PRACTICE CLINICAL PROFESSIONAL COUNSELING:

(1) UNDER THE SUPERVISION OF A LICENSED CLINICAL PROFESSIONAL COUNSELOR OR ANOTHER HEALTH CARE PROVIDER LICENSED UNDER THIS ARTICLE, AS APPROVED BY THE BOARD; AND

(2) WHILE FULFILLING THE REQUIREMENTS FOR SUPERVISED EXPERIENCE UNDER § 17–304 OF THIS SUBTITLE.

[(m)**] (W)** "Practice marriage and family therapy" means to engage professionally and for compensation in marriage and family therapy activities while representing oneself to be a certified professional counselor–marriage and family therapist.

[(n)**] (X)** "Practice professional counseling" means to engage professionally and for compensation in counseling and appraisal activities while representing oneself to be a **CERTIFIED** professional counselor.

17–102.

(a) The General Assembly finds that the profession of counseling **AND THERAPY** profoundly affects the lives and health of the people of this State.

(b) The purpose of this title is to protect the public by:

(1) Setting qualifications, education, training, and experience standards for **[**professional**]** counselors **AND THERAPISTS**; and

(2) Promoting high professional standards for the practice of counseling **AND THERAPY**.

17–103.

This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

[17–104.

(a) A certificate to practice professional counseling authorizes the certificate holder to practice professional counseling while the certificate is effective.

(b) A certificate to practice marriage and family therapy authorizes the certificate holder to practice marriage and family therapy while the certificate is effective.**]**

17–201.

There is a State Board of Professional Counselors and Therapists.

17–202.

(a) (1) The Board consists of **[**nine**]** ~~**11**~~ **13** members appointed by the Governor with the advice of the Secretary.

(2) Of the **[**nine**]** ~~**11**~~ **13** Board members:

(i) ~~**[**~~Five~~**]**~~ ~~**FOUR**~~ shall be licensed as **CLINICAL** professional counselors under **[**Subtitle 3A**]** **SUBTITLE 3** of this title**[**, including:

1. One who is primarily engaged in professional counselor education;

2. One who is employed in the private sector;

3. One who is employed in the public sector; and

4. Two professional counselors at large**]**;

(ii) **[**One**]** ~~**TWO**~~ **THREE** shall be **[**a**]** licensed **AS** clinical marriage and family **[**therapist**]** **THERAPISTS**;

(iii) **[**One**]** **THREE** shall be **[**a**]** ~~certified **AS** professional **[**counselor–alcohol**]** **COUNSELORS–ALCOHOL** and drug or~~ licensed **AS** clinical alcohol and drug **[**counselor**]** **COUNSELORS**; and

(iv) Two shall be consumer members.

(3) The composition of the Board as to the race and sex of its members shall reflect the composition of the population of the State.

(4) The Governor shall appoint the **[**professional**]** counselors **AND THERAPISTS** from a list submitted to the Governor by the Secretary. Any association representing professional counselors**, MARRIAGE AND FAMILY THERAPISTS, OR ALCOHOL AND DRUG COUNSELORS** may submit recommendations for Board members to the Secretary.

(b) The consumer members of the Board:

(1) Shall be members of the general public;

(2) May not be or ever have been **[**a**]** certified or licensed **[**professional**]** **AS A** counselor **OR THERAPIST** or in training to become **[**a**]** certified or licensed **[**professional**]** **AS A** counselor **OR THERAPIST**;

(3) May not have a household member who is **[**a**]** certified or licensed **[**professional**]** **AS A** counselor **OR THERAPIST** or in training to become **[**a**]** certified or licensed **[**professional**]** **AS A** counselor **OR THERAPIST**;

(4) May not participate or ever have participated in a commercial or professional field related to professional counseling**, MARRIAGE AND FAMILY THERAPY, OR ALCOHOL AND DRUG COUNSELING**;

(5) May not have a household member who participates in a commercial or professional field related to professional counseling**, MARRIAGE AND FAMILY THERAPY, OR ALCOHOL AND DRUG COUNSELING**;

(6) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board; and

(7) While members of the Board, may not have a substantial financial interest in a person regulated by the Board.

(c) The licensed clinical marriage and family therapy **[**member**]** **MEMBERS** of the Board shall:

(1) **[**Have**]** **HOLD** a master's or doctoral degree in a marriage and family therapy field; and

(2) Meet the educational and supervised experience requirements of **[**§ 17–302**]** **§ 17–303** of this title.

(d) The ~~certified professional **[**counselor–alcohol**]** **COUNSELORS–ALCOHOL** and drug or~~ licensed clinical alcohol and drug counselor **[**member**]** **MEMBERS** of the Board shall:

(1) **[**Have**]** **HOLD** a master's or doctoral degree in a health and human services counseling field; and

(2) Meet the educational and supervised experience requirements of **[**§ 17–302.3**]** **§ 17–302**~~**, § 17–402, OR § 17–403**~~ of this title.

(e) **[**A certified associate counselor–alcohol and drug or a certified supervised counselor–alcohol and drug shall be appointed by the Governor to serve as an advisor to the Board.

(f)**]** Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the State Constitution.

[(g)**]** **(F)** (1) The term of a member is 4 years.

(2) The terms of the members of the Board are staggered as required by the terms of the members of the Board serving on July 1, 1988.

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

(4) A member may not serve more than 2 consecutive full terms.

(5) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

[(h)**]** **(G)** (1) The Governor may remove a member for incompetency, misconduct, or neglect of duty.

(2) Upon the recommendation of the Secretary, the Governor may remove a member whom the Secretary finds to have been absent from 2 successive Board meetings without adequate reason.

17–203.

(a) From among its members, the Board annually shall elect:

(1) A chairperson;

(2) A vice chairperson; and

(3) A secretary.

(b) The Board shall determine:

(1) The manner of election of officers;

(2) The term of office of each officer; and

(3) The duties of each officer.

17–204.

(a) A majority of the full authorized membership of the Board is a quorum.

(b) The Board shall meet at least once a year, at the times and places that it determines.

(c) Each member of the Board is entitled to reimbursement for expenses at a rate determined by the Board.

(d) The Board may employ a staff in accordance with the budget of the Board.

17–205.

(a) In addition to the powers set forth elsewhere in this title, the Board may adopt rules and regulations to carry out the provisions of this title.

(b) In addition to the duties set forth elsewhere in this title, the Board shall:

(1) Maintain a registry of all counselors or therapists currently licensed or certified by the Board;

(2) Submit an annual report to the Governor and the Secretary;

(3) Adopt a code of ethics that the Board considers to be appropriate and applicable to the counselors or therapists currently certified or licensed by the Board;

(4) Establish continuing education requirements for the counselors or therapists currently certified or licensed by the Board;

(5) Adopt an official seal; and

(6) Create committees as it deems appropriate to advise the Board on special issues.

(c) (1) The Board may take action against a **[**certified professional counselor–marriage and family therapist or a licensed clinical**]** marriage and family therapist only if:

(i) Before taking action against the **[**certified professional counselor–marriage and family therapist or the licensed clinical**]** marriage and family therapist, the Board discusses the proposed action with **[**the**]** **A** Board member who is a licensed clinical marriage and family therapist; and

(ii) **[**The**]** **A** Board member who is a licensed clinical marriage and family therapist votes, either in the affirmative or in the negative, on the proposed action.

(2) The Board may take action against an alcohol and drug counselor only if:

(i) Before taking action against the alcohol and drug counselor, the Board discusses the proposed action with **[**the**]** **A** Board member who is a ~~certified professional counselor–alcohol and drug or~~ licensed clinical alcohol and drug counselor; and

(ii) **[**The**]** **A** Board member who is a ~~certified professional counselor–alcohol and drug or~~ licensed clinical alcohol and drug counselor votes, either in the affirmative or in the negative, on the proposed action.

(3) The Board shall investigate all complaints filed against licensed **[**professional**]** counselors **AND THERAPISTS** if, at the time of the violation, the licensed **[**professional**]** counselor **OR THERAPIST** has also registered and qualified for psychology associate status by virtue of holding a master's degree under Title 18 (Maryland Psychologists Act) of this article.

(4) The Board shall notify the Board of Examiners of Psychologists of the complaint in writing within 60 days of receipt of the complaint if an investigation of the supervising licensed psychologists is warranted.

(5) The Board shall initiate disciplinary action against any licensed **[**professional**]** counselor **OR THERAPIST** who also registers as a psychology associate and violates any portion of this statute.

(d) The Board shall establish or select examinations that the Board considers appropriate to determine the ability of an applicant to be licensed or certified by the Board.

17–206.

(a) There is a State Board of Professional Counselors and Therapists Fund.

(b) (1) The Board may set reasonable fees for the issuance and renewal of licenses or certificates and its other services.

(2) The fees charged shall be set to produce funds so as to approximate the cost of maintaining the Board.

(3) Funds to cover the expenses of the Board members shall be generated by fees set under this section.

(c) (1) The Board shall pay all fees collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the Fund.

(d) (1) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this article.

(2) The Fund is a continuing, nonlapsing fund, not subject to § 7–302 of the State Finance and Procurement Article.

(3) Any unspent portions of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this article.

(4) No other State money may be used to support the Fund.

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

(f) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2–1220 of the State Government Article.

SUBTITLE 3. LICENSING.

17–301.

(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN INDIVIDUAL MAY NOT PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PRACTICE CLINICAL ALCOHOL AND DRUG COUNSELING, CLINICAL MARRIAGE AND FAMILY THERAPY, OR CLINICAL PROFESSIONAL COUNSELING IN THE STATE UNLESS LICENSED BY THE BOARD.

(B) SUBJECT TO THE REGULATIONS OF THE BOARD, SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO:

(1) A STUDENT WORKING UNDER THE SUPERVISION OF A LICENSED MENTAL HEALTH CARE PROVIDER WHILE PURSUING A SUPERVISED COURSE OF STUDY IN COUNSELING THAT THE BOARD APPROVES AS QUALIFYING TRAINING AND EXPERIENCE UNDER THIS TITLE; OR

(2) AN INDIVIDUAL WHO, IN ACCORDANCE WITH § 17–406 OF THIS TITLE, IS WORKING AS A TRAINEE UNDER THE SUPERVISION OF A LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR OR ANOTHER HEALTH CARE PROVIDER LICENSED OR CERTIFIED UNDER THIS ARTICLE AND APPROVED BY THE BOARD WHILE FULFILLING THE EXPERIENTIAL OR COURSE OF STUDY REQUIREMENTS UNDER § 17–302 OF THIS SUBTITLE OR § 17–402, § 17–403, OR § 17–404 OF THIS TITLE.

(C) THIS SUBTITLE MAY NOT BE CONSTRUED TO LIMIT THE SCOPE OF PRACTICE OF ANY INDIVIDUAL WHO IS DULY LICENSED UNDER THIS ARTICLE.

17–302.

(A) TO QUALIFY FOR A LICENSE TO PRACTICE CLINICAL ALCOHOL AND DRUG COUNSELING, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL BE OF GOOD MORAL CHARACTER.

(C) THE APPLICANT SHALL BE AT LEAST 18 YEARS OLD.

(D) (1) EXCEPT AS PROVIDED IN § 17–305 OF THIS SUBTITLE, THE APPLICANT SHALL:

(I) HOLD A MASTER'S OR DOCTORAL DEGREE IN A HEALTH AND HUMAN SERVICES COUNSELING FIELD FROM AN ACCREDITED EDUCATIONAL INSTITUTION THAT IS APPROVED BY THE BOARD; OR

(II) HAVE COMPLETED A PROGRAM OF STUDIES JUDGED BY THE BOARD TO BE SUBSTANTIALLY EQUIVALENT IN SUBJECT MATTER AND EXTENT OF TRAINING AS REQUIRED UNDER THIS SECTION.

(2) (I) IN THE CASE OF AN APPLICANT HOLDING A DOCTORAL DEGREE, THE APPLICANT SHALL HAVE COMPLETED A MINIMUM OF 90 GRADUATE CREDIT HOURS APPROVED BY THE BOARD.

(II) IN THE CASE OF AN APPLICANT HOLDING ONLY A MASTER'S DEGREE, THE APPLICANT SHALL HAVE COMPLETED A MINIMUM OF 60 GRADUATE CREDIT HOURS APPROVED BY THE BOARD.

(3) THE APPLICANT SHALL HAVE COMPLETED A MINIMUM OF 26 CREDIT HOURS IN ALCOHOL AND DRUG COUNSELOR TRAINING, INCLUDING:

(I) MEDICAL ASPECTS OF CHEMICAL DEPENDENCY;

(II) GROUP COUNSELING;

(III) INDIVIDUAL COUNSELING;

(IV) FAMILY COUNSELING;

(V) ASSESSMENT AND TREATMENT PLANNING;

(VI) ETHICS FOR ALCOHOL AND DRUG COUNSELORS;

(VII) HUMAN DEVELOPMENT;

(VIII) ABNORMAL PSYCHOLOGY; AND

(IX) COURSES PERTAINING TO COUNSELOR CORE FUNCTIONS OF SCREENING, INTAKE, ORIENTATION, CASE MANAGEMENT, CRISIS INTERVENTION, EDUCATION AND PREVENTION, REFERRAL, CONSULTATION,

REPORTS AND RECORD KEEPING, AND SPECIAL ALCOHOL AND DRUG DEPENDENCY TOPICS.

(E) THE APPLICANT SHALL HAVE COMPLETED NOT LESS THAN 3 YEARS WITH A MINIMUM OF 2,000 HOURS OF SUPERVISED EXPERIENCE IN ALCOHOL AND DRUG COUNSELING APPROVED BY THE BOARD, 2 YEARS OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE MASTER'S OR DOCTORAL DEGREE OR ITS SUBSTANTIAL EQUIVALENT.

(F) THE APPLICANT SHALL PROVIDE DOCUMENTATION TO THE BOARD EVIDENCING THE COMPLETION OF 60 HOURS OF GRADUATE COURSE WORK, COMPLETED AT AN ACCREDITED COLLEGE OR UNIVERSITY APPROVED BY THE BOARD THAT INCLUDED TRAINING IN:

(1) PERSONALITY DEVELOPMENT;

(2) DIAGNOSIS AND TREATMENT OF MENTAL AND EMOTIONAL DISORDERS;

(3) PSYCHOPATHOLOGY; AND

(4) PSYCHOTHERAPY IN ALCOHOL AND DRUG DISORDERS.

(G) THE APPLICANT SHALL PROVIDE DOCUMENTATION EVIDENCING THE COMPLETION OF 2 YEARS OF POSTGRADUATE SUPERVISED CLINICAL EXPERIENCE AS REQUIRED BY THE BOARD.

(H) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE APPLICANT SHALL PASS AN EXAMINATION APPROVED BY THE BOARD.

17–303.

(A) TO QUALIFY FOR A LICENSE TO PRACTICE CLINICAL MARRIAGE AND FAMILY THERAPY, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL BE OF GOOD MORAL CHARACTER.

(C) THE APPLICANT SHALL BE AT LEAST 18 YEARS OLD.

(D) (1) EXCEPT AS PROVIDED IN § 17–306 OF THIS SUBTITLE, THE APPLICANT SHALL HOLD A MASTER'S OR DOCTORAL DEGREE IN A MARRIAGE AND FAMILY FIELD OR HAVE COMPLETED A PROGRAM OF STUDIES JUDGED BY

THE BOARD TO BE SUBSTANTIALLY EQUIVALENT IN SUBJECT MATTER AND EXTENT OF TRAINING AS REQUIRED UNDER THIS SECTION.

(2) IN THE CASE OF AN APPLICANT HOLDING A DOCTORAL DEGREE, THE APPLICANT SHALL HAVE COMPLETED A MINIMUM OF 90 GRADUATE CREDIT HOURS IN TRAINING IN MARRIAGE AND FAMILY THERAPY APPROVED BY THE BOARD THAT INCLUDES INSTRUCTION IN THE FOLLOWING SPECIALIZED AREAS:

(I) ANALYSIS OF FAMILY SYSTEMS;

(II) FAMILY THERAPY, THEORY, AND TECHNIQUES;

(III) COUPLES THERAPY, THEORY, AND TECHNIQUES;

(IV) GENDER AND ETHNICITY IN MARRIAGE AND FAMILY THERAPY; AND

(V) SEXUAL ISSUES IN MARRIAGE AND FAMILY THERAPY.

(3) IN THE CASE OF AN APPLICANT HOLDING ONLY A MASTER'S DEGREE, THE APPLICANT SHALL HAVE COMPLETED A MINIMUM OF 60 GRADUATE CREDIT HOURS IN TRAINING IN MARRIAGE AND FAMILY THERAPY APPROVED BY THE BOARD THAT INCLUDES INSTRUCTION IN THE SPECIALIZED AREAS SET FORTH IN PARAGRAPH (2) OF THIS SUBSECTION.

(E) THE APPLICANT SHALL HAVE COMPLETED NOT LESS THAN 2 YEARS WITH A MINIMUM OF 2,000 HOURS OF SUPERVISED EXPERIENCE IN MARRIAGE AND FAMILY THERAPY APPROVED BY THE BOARD, 2 YEARS OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE MASTER'S OR DOCTORAL DEGREE OR ITS SUBSTANTIAL EQUIVALENT.

(F) THE APPLICANT SHALL PROVIDE DOCUMENTATION TO THE BOARD EVIDENCING THE COMPLETION OF 60 HOURS OF GRADUATE COURSE WORK COMPLETED AT AN ACCREDITED COLLEGE OR UNIVERSITY APPROVED BY THE BOARD, THAT INCLUDED TRAINING IN:

(1) PERSONALITY DEVELOPMENT;

(2) DIAGNOSIS AND TREATMENT OF MENTAL AND EMOTIONAL DISORDERS;

(3) PSYCHOPATHOLOGY;

(4) FAMILY THERAPY; AND

(5) PSYCHOTHERAPY.

(G) THE APPLICANT SHALL PROVIDE DOCUMENTATION EVIDENCING THE COMPLETION OF 2 YEARS OF POSTGRADUATE SUPERVISED CLINICAL EXPERIENCE AS REQUIRED BY THE BOARD.

(H) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE APPLICANT SHALL PASS AN EXAMINATION APPROVED BY THE BOARD.

17–304.

(A) EXCEPT AS PROVIDED IN § 17–307 OF THIS SUBTITLE, TO QUALIFY FOR A LICENSE TO PRACTICE CLINICAL PROFESSIONAL COUNSELING, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL BE OF GOOD MORAL CHARACTER.

(C) THE APPLICANT SHALL BE AT LEAST 18 YEARS OLD.

(D) (1) THE APPLICANT SHALL HOLD A MASTER'S OR DOCTORAL DEGREE IN A PROFESSIONAL COUNSELING FIELD FROM AN ACCREDITED EDUCATIONAL INSTITUTION THAT IS APPROVED BY THE BOARD.

(2) IN THE CASE OF AN APPLICANT HOLDING A DOCTORAL DEGREE, THE APPLICANT SHALL HAVE COMPLETED:

(I) A MINIMUM OF 90 GRADUATE CREDIT HOURS IN COUNSELOR TRAINING APPROVED BY THE BOARD, INCLUDING INSTRUCTION IN:

1. COUNSELING THEORY AND ETHICS;

2. COUNSELING TECHNIQUES;

3. HUMAN GROWTH AND DEVELOPMENT AND MALADAPTIVE BEHAVIORS;

4. GROUP DYNAMICS, PROCESSING, AND COUNSELING;

5. SOCIAL AND CULTURAL FOUNDATIONS;

6. LIFESTYLE AND CAREER DEVELOPMENT;

7. APPRAISAL OF INDIVIDUALS;

8. RESEARCH AND EVALUATION;

9. PARTICIPATION IN A SUPERVISED PRACTICUM IN PROFESSIONAL COUNSELING;

10. MARRIAGE AND FAMILY THERAPY; AND

11. ALCOHOL AND DRUG COUNSELING; AND

(II) NOT LESS THAN 2 YEARS OF SUPERVISED EXPERIENCE IN COUNSELING APPROVED BY THE BOARD, 1 YEAR OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE DOCTORAL DEGREE.

(3) IN THE CASE OF AN APPLICANT HOLDING ONLY A MASTER'S DEGREE, THE APPLICANT SHALL HAVE COMPLETED:

(I) A MINIMUM OF 60 GRADUATE CREDIT HOURS IN COUNSELOR TRAINING IN THE AREAS SET FORTH IN PARAGRAPH (2) OF THIS SUBSECTION; AND

(II) NOT LESS THAN 3 YEARS, WITH A MINIMUM OF 3,000 HOURS, OF SUPERVISED EXPERIENCE IN COUNSELING APPROVED BY THE BOARD, 2 YEARS OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE MASTER'S DEGREE.

(E) THE APPLICANT SHALL PROVIDE DOCUMENTATION TO THE BOARD EVIDENCING THE COMPLETION OF 60 HOURS OF GRADUATE COURSE WORK IN THE APPLICANT'S RESPECTIVE AREA OF PRACTICE FROM AN ACCREDITED COLLEGE OR UNIVERSITY PROGRAM APPROVED BY THE BOARD, INCLUDING TRAINING IN:

(1) PERSONALITY DEVELOPMENT;

(2) DIAGNOSIS AND TREATMENT OF MENTAL AND EMOTIONAL DISORDERS;

(3) PSYCHOPATHOLOGY; AND

(4) PSYCHOTHERAPY.

(F) THE APPLICANT SHALL PROVIDE DOCUMENTATION EVIDENCING THE COMPLETION OF 2 YEARS OF POSTGRADUATE SUPERVISED EXPERIENCE AS REQUIRED BY THE BOARD.

(G) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE APPLICANT SHALL PASS AN EXAMINATION APPROVED BY THE BOARD.

17–305.

(A) THE BOARD SHALL WAIVE THE REQUIREMENTS FOR LICENSURE FOR AN APPLICANT TO PRACTICE CLINICAL ALCOHOL AND DRUG COUNSELING IF THE APPLICANT:

(1) IS LICENSED OR CERTIFIED AS A CLINICAL ALCOHOL AND DRUG COUNSELOR IN ANOTHER STATE, TERRITORY, OR JURISDICTION THAT HAS REQUIREMENTS THAT ARE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF § 17–302 OF THIS SUBTITLE;

(2) SUBMITS AN APPLICATION TO THE BOARD ON A FORM THAT THE BOARD REQUIRES; AND

(3) PAYS TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

(B) THE BOARD SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

17–306.

(A) THE BOARD SHALL WAIVE THE REQUIREMENTS FOR LICENSURE FOR AN APPLICANT TO PRACTICE CLINICAL MARRIAGE AND FAMILY THERAPY IF THE APPLICANT:

(1) IS LICENSED OR CERTIFIED AS A CLINICAL MARRIAGE AND FAMILY THERAPIST IN ANOTHER STATE, TERRITORY, OR JURISDICTION THAT HAS REQUIREMENTS THAT ARE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF § 17–303 OF THIS SUBTITLE;

(2) SUBMITS AN APPLICATION ON THE FORM THAT THE BOARD REQUIRES; AND

(3) PAYS TO THE BOARD THE APPLICATION FEE SET BY THE BOARD.

(B) THE BOARD SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

17–307.

(A) THE BOARD SHALL WAIVE THE REQUIREMENTS FOR LICENSURE FOR AN APPLICANT TO PRACTICE CLINICAL PROFESSIONAL COUNSELING IF THE APPLICANT:

(1) IS LICENSED OR CERTIFIED AS A CLINICAL PROFESSIONAL COUNSELOR IN ANOTHER STATE, TERRITORY, OR JURISDICTION THAT HAS REQUIREMENTS THAT ARE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF § 17–304 OF THIS SUBTITLE;

(2) SUBMITS AN APPLICATION TO THE BOARD ON A FORM THAT THE BOARD REQUIRES; AND

(3) PAYS TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

(B) THE BOARD SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

17–308.

(A) A LICENSE AUTHORIZES THE LICENSEE TO PRACTICE CLINICAL ALCOHOL AND DRUG COUNSELING, CLINICAL MARRIAGE AND FAMILY THERAPY, OR CLINICAL PROFESSIONAL COUNSELING WHILE THE LICENSE IS EFFECTIVE.

(B) AN INDIVIDUAL LICENSED UNDER THIS SUBTITLE MAY PROVIDE SERVICES INVOLVING THE APPLICATION OF COUNSELING PRINCIPLES AND METHODS IN THE DIAGNOSIS, PREVENTION, TREATMENT, AND AMELIORATION OF PSYCHOLOGICAL PROBLEMS, EMOTIONAL CONDITIONS, OR MENTAL CONDITIONS OF INDIVIDUALS OR GROUPS.

17–309.

(A) THE BOARD MAY ADOPT REGULATIONS TO ALLOW AN INDIVIDUAL TO PRACTICE UNDER SUPERVISION AS A LICENSED GRADUATE ALCOHOL AND

DRUG COUNSELOR, A LICENSED GRADUATE MARRIAGE AND FAMILY THERAPIST, OR A LICENSED GRADUATE PROFESSIONAL COUNSELOR.

(B) TO QUALIFY TO PRACTICE AS A LICENSED GRADUATE ALCOHOL AND DRUG COUNSELOR, A LICENSED GRADUATE MARRIAGE AND FAMILY THERAPIST, OR A LICENSED GRADUATE PROFESSIONAL COUNSELOR, AN INDIVIDUAL SHALL BE:

(1) OF GOOD MORAL CHARACTER; AND

(2) AT LEAST 18 YEARS OLD.

(C) AN INDIVIDUAL MAY PRACTICE GRADUATE ALCOHOL AND DRUG COUNSELING UNDER SUPERVISION FOR A LIMITED PERIOD OF TIME IF THE INDIVIDUAL HAS:

(1) A MASTER'S OR DOCTORAL DEGREE IN A HEALTH AND HUMAN SERVICES COUNSELING FIELD THAT MEETS THE EDUCATIONAL REQUIREMENTS OF § 17–302 OF THIS SUBTITLE; AND

(2) PASSED THE NATIONAL ALCOHOL AND DRUG COUNSELOR EXAMINATION APPROVED BY THE BOARD.

(D) AN INDIVIDUAL MAY PRACTICE GRADUATE MARRIAGE AND FAMILY THERAPY UNDER SUPERVISION FOR A LIMITED PERIOD OF TIME IF THE INDIVIDUAL HAS:

(1) A MASTER'S OR DOCTORAL DEGREE IN A MARRIAGE AND FAMILY FIELD THAT MEETS THE EDUCATIONAL REQUIREMENTS OF § 17–303 OF THIS SUBTITLE; AND

(2) PASSED THE NATIONAL MARRIAGE AND FAMILY THERAPY EXAMINATION APPROVED BY THE BOARD.

(E) AN INDIVIDUAL MAY PRACTICE GRADUATE PROFESSIONAL COUNSELING UNDER SUPERVISION FOR A LIMITED PERIOD OF TIME IF THE INDIVIDUAL HAS:

(1) A MASTER'S OR DOCTORAL DEGREE IN A PROFESSIONAL COUNSELING FIELD THAT MEETS THE EDUCATIONAL REQUIREMENTS OF § 17–304 OF THIS SUBTITLE; AND

(2) PASSED THE NATIONAL PROFESSIONAL COUNSELOR EXAMINATION APPROVED BY THE BOARD.

(F) AN INDIVIDUAL MAY NOT PRACTICE WITHOUT APPROVAL BY THE BOARD.

SUBTITLE 4. CERTIFICATION.

17–401.

(A) (1) THIS SUBSECTION ONLY APPLIES TO INDIVIDUALS CERTIFIED BY THE BOARD AS A CERTIFIED PROFESSIONAL COUNSELOR OR CERTIFIED PROFESSIONAL COUNSELOR–MARRIAGE AND FAMILY THERAPIST ON OR BEFORE SEPTEMBER 30, 2008.

(2) (I) AN INDIVIDUAL SHALL BE CERTIFIED AS A PROFESSIONAL COUNSELOR BY THE BOARD BEFORE THE INDIVIDUAL MAY:

1. USE THE TITLE "CERTIFIED PROFESSIONAL COUNSELOR";

2. USE THE INITIALS "C.P.C." AFTER THE NAME OF THE INDIVIDUAL; OR

3. REPRESENT TO THE PUBLIC THAT THE INDIVIDUAL IS CERTIFIED AS A PROFESSIONAL COUNSELOR.

(II) A CERTIFICATE TO PRACTICE PROFESSIONAL COUNSELING ISSUED BY THE BOARD AUTHORIZES THE CERTIFICATE HOLDER TO PRACTICE PROFESSIONAL COUNSELING WHILE THE CERTIFICATE IS EFFECTIVE.

(3) (I) AN INDIVIDUAL SHALL BE CERTIFIED AS A PROFESSIONAL COUNSELOR–MARRIAGE AND FAMILY THERAPIST BY THE BOARD BEFORE THE INDIVIDUAL MAY:

1. USE THE TITLE "CERTIFIED PROFESSIONAL COUNSELOR–MARRIAGE AND FAMILY THERAPIST";

2. USE THE INITIALS "C.P.C.–M.F.T." AFTER THE NAME OF THE INDIVIDUAL; OR

3. REPRESENT TO THE PUBLIC THAT THE INDIVIDUAL IS CERTIFIED AS A CERTIFIED PROFESSIONAL COUNSELOR–MARRIAGE AND FAMILY THERAPIST.

(II) A CERTIFICATE TO PRACTICE MARRIAGE AND FAMILY THERAPY ISSUED BY THE BOARD AUTHORIZES THE CERTIFICATE HOLDER TO PRACTICE MARRIAGE AND FAMILY THERAPY WHILE THE CERTIFICATE IS EFFECTIVE.

(B) (1) AN INDIVIDUAL SHALL BE CERTIFIED AS A CERTIFIED PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG BY THE BOARD BEFORE THE INDIVIDUAL MAY:

(I) USE THE TITLE "CERTIFIED PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG";

(II) USE THE INITIALS "C.P.C.–A.D." AFTER THE NAME OF THE INDIVIDUAL; OR

(III) REPRESENT TO THE PUBLIC THAT THE INDIVIDUAL IS CERTIFIED AS A CERTIFIED PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG.

(2) AN INDIVIDUAL SHALL BE CERTIFIED AS A CERTIFIED ASSOCIATE COUNSELOR–ALCOHOL AND DRUG BY THE BOARD BEFORE THE INDIVIDUAL MAY:

(I) USE THE TITLE "CERTIFIED ASSOCIATE COUNSELOR–ALCOHOL AND DRUG";

(II) USE THE INITIALS "C.A.C.–A.D." AFTER THE NAME OF THE INDIVIDUAL; OR

(III) REPRESENT TO THE PUBLIC THAT THE INDIVIDUAL IS CERTIFIED AS A CERTIFIED ASSOCIATE COUNSELOR–ALCOHOL AND DRUG.

(3) AN INDIVIDUAL SHALL BE CERTIFIED AS A CERTIFIED SUPERVISED COUNSELOR–ALCOHOL AND DRUG BY THE BOARD BEFORE THE INDIVIDUAL MAY:

(I) USE THE TITLE "CERTIFIED SUPERVISED COUNSELOR–ALCOHOL AND DRUG";

(II) USE THE INITIALS "C.S.C.–A.D." AFTER THE NAME OF THE INDIVIDUAL; OR

(III) REPRESENT TO THE PUBLIC THAT THE INDIVIDUAL IS CERTIFIED AS A CERTIFIED SUPERVISED COUNSELOR–ALCOHOL AND DRUG.

(4) A CERTIFICATE TO PRACTICE ALCOHOL AND DRUG COUNSELING ISSUED BY THE BOARD AUTHORIZES THE CERTIFICATE HOLDER TO PRACTICE ALCOHOL AND DRUG COUNSELING WHILE THE CERTIFICATE IS EFFECTIVE.

17–402.

(A) EXCEPT AS PROVIDED IN § 17–405 OF THIS SUBTITLE, TO QUALIFY AS A CERTIFIED PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG, AN APPLICANT SHALL MEET THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL BE OF GOOD MORAL CHARACTER.

(C) THE APPLICANT SHALL BE AT LEAST 18 YEARS OLD.

(D) (1) THE APPLICANT SHALL HOLD A MASTER'S OR DOCTORAL DEGREE IN A HEALTH AND HUMAN SERVICES COUNSELING FIELD FROM AN ACCREDITED EDUCATIONAL INSTITUTION THAT IS APPROVED BY THE BOARD OR HAVE COMPLETED A PROGRAM OF STUDIES JUDGED BY THE BOARD TO BE SUBSTANTIALLY EQUIVALENT IN SUBJECT MATTER AND EXTENT OF TRAINING AS REQUIRED UNDER THIS SECTION.

(2) IN THE CASE OF AN APPLICANT HOLDING A DOCTORAL DEGREE, THE APPLICANT SHALL HAVE COMPLETED A MINIMUM OF 90 GRADUATE CREDIT HOURS IN COUNSELOR TRAINING APPROVED BY THE BOARD, INCLUDING INSTRUCTION IN THE FOLLOWING AREAS:

(I) COUNSELING THEORY AND ETHICS;

(II) COUNSELING TECHNIQUES;

(III) HUMAN GROWTH AND DEVELOPMENT AND MALADAPTIVE BEHAVIORS;

(IV) GROUP DYNAMICS, PROCESSING, AND COUNSELING;

(V) SOCIAL AND CULTURAL FOUNDATIONS;

(VI) LIFESTYLE AND CAREER DEVELOPMENT;

(VII) APPRAISAL OF INDIVIDUALS;

(VIII) RESEARCH AND EVALUATION;

(IX) PARTICIPATION IN A SUPERVISED PRACTICUM IN PROFESSIONAL COUNSELING;

(X) MARRIAGE AND FAMILY THERAPY; AND

(XI) ALCOHOL AND DRUG COUNSELING.

(3) IN THE CASE OF AN APPLICANT HOLDING ONLY A MASTER'S DEGREE, THE APPLICANT SHALL HAVE COMPLETED A MINIMUM OF 60 GRADUATE CREDIT HOURS IN COUNSELOR TRAINING APPROVED BY THE BOARD INCLUDING INSTRUCTION IN THE AREAS SET FORTH IN PARAGRAPH (2) OF THIS SUBSECTION.

(4) THE APPLICANT SHALL HAVE COMPLETED A MINIMUM OF 26 CREDIT HOURS IN ALCOHOL AND DRUG COUNSELOR TRAINING, INCLUDING INSTRUCTION IN:

(I) MEDICAL ASPECTS OF CHEMICAL DEPENDENCY;

(II) GROUP COUNSELING;

(III) INDIVIDUAL COUNSELING;

(IV) FAMILY COUNSELING;

(V) ASSESSMENT AND TREATMENT PLANNING;

(VI) ETHICS FOR ALCOHOL AND DRUG COUNSELORS;

(VII) HUMAN DEVELOPMENT;

(VIII) ABNORMAL PSYCHOLOGY; AND

(IX) COURSES PERTAINING TO COUNSELOR CORE FUNCTIONS OF SCREENING, INTAKE, ORIENTATION, CASE MANAGEMENT, CRISIS INTERVENTION, EDUCATION AND PREVENTION, REFERRAL, CONSULTATION,

REPORTS AND RECORD KEEPING, AND SPECIAL ALCOHOL AND DRUG DEPENDENCY TOPICS.

(E) THE APPLICANT SHALL HAVE COMPLETED NOT LESS THAN 3 YEARS WITH A MINIMUM OF 2,000 HOURS OF SUPERVISED EXPERIENCE IN ALCOHOL AND DRUG COUNSELING APPROVED BY THE BOARD, 2 YEARS OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE MASTER'S OR DOCTORAL DEGREE OR ITS SUBSTANTIAL EQUIVALENT.

(F) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE APPLICANT SHALL PASS AN EXAMINATION APPROVED BY THE BOARD UNDER THIS TITLE.

17–403.

(A) EXCEPT AS PROVIDED IN § 17–405 OF THIS SUBTITLE, TO QUALIFY AS A CERTIFIED ASSOCIATE COUNSELOR–ALCOHOL AND DRUG, AN APPLICANT SHALL:

(1) HOLD A BACHELOR'S DEGREE FROM AN ACCREDITED EDUCATIONAL INSTITUTION APPROVED BY THE BOARD IN A HEALTH AND HUMAN SERVICES COUNSELING FIELD OR HAVE COMPLETED A PROGRAM OF STUDIES JUDGED BY THE BOARD TO BE SUBSTANTIALLY EQUIVALENT IN SUBJECT MATTER AND EXTENT OF TRAINING TO SUCH A PROGRAM OF STUDIES;

(2) HAVE COMPLETED NOT LESS THAN 3 YEARS, WITH A MINIMUM OF 2,000 HOURS OF SUPERVISED EXPERIENCE IN ALCOHOL AND DRUG COUNSELING APPROVED BY THE BOARD, 2 YEARS OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE BACHELOR'S DEGREE;

(3) HAVE A MINIMUM OF 20 CREDIT HOURS IN ALCOHOL AND DRUG COUNSELOR TRAINING, INCLUDING INSTRUCTION IN:

(I) MEDICAL ASPECTS OF CHEMICAL DEPENDENCY;

(II) GROUP COUNSELING;

(III) INDIVIDUAL COUNSELING;

(IV) FAMILY COUNSELING;

(V) ASSESSMENT AND TREATMENT PLANNING;

(VI) ETHICS FOR ALCOHOL AND DRUG COUNSELORS;

(VII) HUMAN DEVELOPMENT;

(VIII) ABNORMAL PSYCHOLOGY; AND

(IX) COURSES PERTAINING TO COUNSELOR CORE FUNCTIONS OF SCREENING, INTAKE, ORIENTATION, CASE MANAGEMENT, CRISIS INTERVENTION, EDUCATION AND PREVENTION, REFERRAL, CONSULTATION, REPORTS AND RECORD KEEPING, AND SPECIAL ALCOHOL AND DRUG DEPENDENCY TOPICS; AND

(4) (I) PRACTICE ALCOHOL AND DRUG COUNSELING UNDER THE SUPERVISION OF A CERTIFIED PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG OR ANOTHER HEALTH CARE PROVIDER APPROVED BY THE BOARD; OR

(II) PROVIDE ALCOHOL AND DRUG COUNSELING AS AN EMPLOYEE OF AN AGENCY OR FACILITY THAT IS ACCREDITED BY THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTH CARE ORGANIZATIONS OR THAT IS CERTIFIED UNDER TITLE 8, SUBTITLE 4 OF THE HEALTH – GENERAL ARTICLE.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE APPLICANT SHALL PASS AN EXAMINATION APPROVED BY THE BOARD UNDER THIS TITLE.

17–404.

(A) TO QUALIFY AS A CERTIFIED SUPERVISED COUNSELOR–ALCOHOL AND DRUG, AN APPLICANT SHALL:

(1) HOLD AN ASSOCIATE'S DEGREE IN A HEALTH AND HUMAN SERVICES COUNSELING FIELD OR HAVE COMPLETED A PROGRAM OF STUDIES JUDGED BY THE BOARD TO BE SUBSTANTIALLY EQUIVALENT IN SUBJECT MATTER TO SUCH A PROGRAM OF STUDIES;

(2) HAVE COMPLETED NOT LESS THAN 2 YEARS, WITH A MINIMUM OF 2,000 HOURS OF SUPERVISED EXPERIENCE IN ALCOHOL AND DRUG COUNSELING APPROVED BY THE BOARD, 1 YEAR OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE ASSOCIATE'S DEGREE;

(3) HAVE A MINIMUM OF 15 CREDIT HOURS IN ALCOHOL AND DRUG COUNSELOR TRAINING, INCLUDING INSTRUCTION IN:

(I) MEDICAL ASPECTS OF CHEMICAL DEPENDENCY;

(II) GROUP COUNSELING;

(III) INDIVIDUAL COUNSELING;

(IV) FAMILY COUNSELING;

(V) ASSESSMENT AND TREATMENT PLANNING;

(VI) ETHICS FOR ALCOHOL AND DRUG COUNSELORS;

(VII) HUMAN DEVELOPMENT;

(VIII) ABNORMAL PSYCHOLOGY; AND

(IX) COURSES PERTAINING TO COUNSELOR CORE FUNCTIONS OF SCREENING, INTAKE, ORIENTATION, CASE MANAGEMENT, CRISIS INTERVENTION, EDUCATION AND PREVENTION, REFERRAL, CONSULTATION, REPORTS AND RECORD KEEPING, AND SPECIAL ALCOHOL AND DRUG DEPENDENCY TOPICS; AND

(4) PRACTICE ALCOHOL AND DRUG COUNSELING UNDER THE SUPERVISION OF A CERTIFIED PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG OR ANOTHER HEALTH CARE PROVIDER APPROVED BY THE BOARD AND PROVIDE ALCOHOL AND DRUG COUNSELING AS AN EMPLOYEE OF AN AGENCY OR FACILITY THAT IS ACCREDITED BY THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTH CARE ORGANIZATIONS OR THAT IS CERTIFIED UNDER TITLE 8, SUBTITLE 4 OF THE HEALTH – GENERAL ARTICLE.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE APPLICANT SHALL PASS AN EXAMINATION APPROVED BY THE BOARD UNDER THIS TITLE.

17–405.

(A) THE BOARD SHALL WAIVE THE REQUIREMENTS FOR CERTIFICATION FOR AN APPLICANT TO PRACTICE ALCOHOL AND DRUG COUNSELING IF THE APPLICANT MEETS THE REQUIREMENTS OF THIS SECTION.

(B) IF THE APPLICANT IS LICENSED OR CERTIFIED TO PRACTICE AS A PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG, THE BOARD SHALL GRANT A WAIVER UNDER THIS SECTION ONLY IF THE APPLICANT:

(1) IS LICENSED OR CERTIFIED IN ANOTHER STATE, TERRITORY, OR JURISDICTION THAT HAS REQUIREMENTS THAT ARE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF § 17–402 OF THIS SUBTITLE;

(2) SUBMITS AN APPLICATION TO THE BOARD ON A FORM THAT THE BOARD REQUIRES; AND

(3) PAYS TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

(C) IF THE APPLICANT IS LICENSED OR CERTIFIED TO PRACTICE AS AN ASSOCIATE COUNSELOR–ALCOHOL AND DRUG, THE BOARD SHALL GRANT A WAIVER UNDER THIS SECTION ONLY IF THE APPLICANT:

(1) IS LICENSED OR CERTIFIED IN ANOTHER STATE, TERRITORY, OR JURISDICTION THAT HAS REQUIREMENTS THAT ARE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF § 17–403 OF THIS SUBTITLE;

(2) SUBMITS AN APPLICATION TO THE BOARD ON A FORM THAT THE BOARD REQUIRES; AND

(3) PAYS TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

(D) IF THE APPLICANT IS LICENSED OR CERTIFIED TO PRACTICE AS A SUPERVISED COUNSELOR–ALCOHOL AND DRUG, THE BOARD SHALL GRANT A WAIVER UNDER THIS SECTION ONLY IF THE APPLICANT:

(1) IS LICENSED OR CERTIFIED IN ANOTHER STATE, TERRITORY, OR JURISDICTION THAT HAS REQUIREMENTS THAT ARE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF § 17–404 OF THIS SUBTITLE;

(2) SUBMITS AN APPLICATION TO THE BOARD ON A FORM THAT THE BOARD REQUIRES; AND

(3) PAYS TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

(E) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

17–406.

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

(2) "APPROVED ALCOHOL AND DRUG SUPERVISOR" MEANS:

(I) A CERTIFIED PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG;

(II) A LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR; OR

(III) A HEALTH CARE PROVIDER LICENSED OR CERTIFIED UNDER THIS ARTICLE WITH DOCUMENTED EXPERTISE IN ALCOHOL AND DRUG COUNSELING, AS APPROVED BY THE BOARD.

(3) "UNDER THE SUPERVISION OF AN APPROVED ALCOHOL AND DRUG SUPERVISOR" MEANS ENGAGING IN AN ONGOING PROCESS THAT INCLUDES DIRECT, ON–SITE, FACE–TO–FACE, INDIVIDUAL OR GROUP MEETINGS WITH AN APPROVED ALCOHOL AND DRUG SUPERVISOR FOCUSED ON QUALITY OF DELIVERY OF ALCOHOL AND DRUG COUNSELING SERVICES AND IMPROVEMENT OF COUNSELING SKILLS FOR A MINIMUM OF 1 DOCUMENTED HOUR FOR EACH 40–HOUR WORKWEEK BUT NOT LESS THAN 2 DOCUMENTED HOURS PER MONTH FOR LESS THAN A 40–HOUR WORKWEEK.

(B) (1) AN INDIVIDUAL MAY PRACTICE CLINICAL ALCOHOL AND DRUG COUNSELING WITHOUT A LICENSE FOR A LIMITED PERIOD OF TIME, AS DETERMINED BY THE BOARD, IF THE INDIVIDUAL IS WORKING AS A TRAINEE UNDER THE SUPERVISION OF AN APPROVED ALCOHOL AND DRUG SUPERVISOR WHILE FULFILLING THE EXPERIENTIAL OR COURSE OF STUDY REQUIREMENTS UNDER § 17–302 OF THIS TITLE OR § 17–402, § 17–403, OR § 17–404 OF THIS SUBTITLE.

(2) AN INDIVIDUAL MAY PRACTICE ALCOHOL AND DRUG COUNSELING WITHOUT CERTIFICATION FOR A LIMITED PERIOD OF TIME, AS DETERMINED BY THE BOARD, IF THE INDIVIDUAL IS WORKING AS A TRAINEE UNDER THE SUPERVISION OF AN APPROVED ALCOHOL AND DRUG SUPERVISOR WHILE FULFILLING THE EXPERIENTIAL OR COURSE OF STUDY REQUIREMENTS UNDER § 17–302 OF THIS TITLE OR § 17–402, § 17–403, OR § 17–404 OF THIS SUBTITLE.

SUBTITLE 5. GENERAL PROVISIONS; DISCIPLINARY ACTIONS.

17–501.

TO APPLY FOR A LICENSE OR CERTIFICATE, AN APPLICANT SHALL:

(1) SUBMIT AN APPLICATION ON THE FORM THAT THE BOARD REQUIRES; AND

(2) PAY TO THE BOARD THE APPLICATION FEE SET BY THE BOARD.

17–502.

(A) AN APPLICANT WHO OTHERWISE QUALIFIES FOR A LICENSE OR CERTIFICATE IS ENTITLED TO BE EXAMINED AS PROVIDED IN THIS SECTION.

(B) THE BOARD SHALL GIVE EXAMINATIONS TO APPLICANTS AT LEAST TWICE A YEAR, AT THE TIMES AND PLACES THAT THE BOARD DETERMINES.

(C) THE BOARD SHALL NOTIFY EACH QUALIFIED APPLICANT OF THE TIME AND PLACE OF EXAMINATION.

(D) (1) THE BOARD MAY NOT LIMIT THE NUMBER OF TIMES AN APPLICANT MAY TAKE AN EXAMINATION REQUIRED UNDER THIS TITLE.

(2) THE APPLICANT SHALL PAY TO THE BOARD A REEXAMINATION FEE SET BY THE BOARD FOR EACH REEXAMINATION.

(E) THE EXAMINATION SHALL INCLUDE A PORTION THAT TESTS AN APPLICANT'S KNOWLEDGE OF THE MARYLAND PROFESSIONAL COUNSELORS AND THERAPISTS ACT.

17–503.

(A) THE BOARD SHALL ISSUE A LICENSE OR CERTIFICATE TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS TITLE.

(B) THE BOARD SHALL INCLUDE ON EACH LICENSE AND CERTIFICATE THAT THE BOARD ISSUES:

(1) THE KIND OF LICENSE OR CERTIFICATE;

(2) THE FULL NAME OF THE LICENSEE OR CERTIFICATE HOLDER;

(3) A SERIAL NUMBER;

(4) THE SIGNATURES OF THE CHAIRMAN AND THE SECRETARY OF THE BOARD; AND

(5) THE SEAL OF THE BOARD.

(C) THE BOARD MAY ISSUE A LICENSE OR CERTIFICATE TO REPLACE A LOST, DESTROYED, OR MUTILATED LICENSE OR CERTIFICATE IF THE LICENSEE OR CERTIFICATE HOLDER PAYS THE REPLACEMENT FEE SET BY THE BOARD.

17–504.

(A) (1) A LICENSE OR CERTIFICATE EXPIRES ON THE DATE SET BY THE BOARD, UNLESS THE LICENSE OR CERTIFICATE IS RENEWED FOR AN ADDITIONAL TERM AS PROVIDED IN THIS SECTION.

(2) A LICENSE OR CERTIFICATE MAY NOT BE RENEWED FOR A TERM LONGER THAN 2 YEARS.

(B) AT LEAST 1 MONTH BEFORE THE LICENSE OR CERTIFICATE EXPIRES, THE BOARD SHALL SEND TO THE LICENSEE OR CERTIFICATE HOLDER, BY FIRST–CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE LICENSEE OR CERTIFICATE HOLDER, A RENEWAL NOTICE THAT STATES:

(1) THE DATE ON WHICH THE CURRENT LICENSE OR CERTIFICATE EXPIRES;

(2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE OR CERTIFICATE EXPIRES; AND

(3) THE AMOUNT OF THE RENEWAL FEE.

(C) EACH LICENSEE OR CERTIFICATE HOLDER SHALL NOTIFY THE BOARD OF ANY CHANGE IN THE ADDRESS OF THE LICENSEE OR CERTIFICATE HOLDER.

(D) BEFORE THE LICENSE OR CERTIFICATE EXPIRES, THE LICENSEE OR CERTIFICATE HOLDER PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL 2–YEAR TERM, IF THE LICENSEE OR CERTIFICATE HOLDER:

(1) OTHERWISE IS ENTITLED TO BE LICENSED OR CERTIFIED;

(2) PAYS TO THE BOARD THE RENEWAL FEE SET BY THE BOARD;

(3) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM THAT THE BOARD REQUIRES; AND

(4) SUBMITS SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY CONTINUING EDUCATION REQUIREMENTS AS REQUIRED BY THE BOARD FOR LICENSE OR CERTIFICATE RENEWAL.

(E) THE BOARD MAY NOT AUTHORIZE HOME STUDY TOWARDS THE COMPLETION OF THE CONTINUING EDUCATION REQUIREMENTS.

(F) (1) THE BOARD SHALL RENEW THE LICENSE OR CERTIFICATE OF AND ISSUE A RENEWAL LICENSE OR CERTIFICATE TO EACH LICENSEE OR CERTIFICATE HOLDER WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(2) THE BOARD SHALL INCLUDE THE TERM OF THE RENEWAL ON EACH RENEWAL LICENSE OR CERTIFICATE THAT THE BOARD ISSUES.

17–505.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD SHALL PLACE A LICENSEE OR CERTIFICATE HOLDER ON INACTIVE STATUS, IF THE LICENSEE OR CERTIFICATE HOLDER:

(I) SUBMITS TO THE BOARD AN APPLICATION FOR INACTIVE STATUS ON THE FORM REQUIRED BY THE BOARD; AND

(II) PAYS THE INACTIVE STATUS FEE SET BY THE BOARD.

(2) THE BOARD SHALL ISSUE A LICENSE OR CERTIFICATE TO AN INDIVIDUAL WHO IS ON INACTIVE STATUS IF THE INDIVIDUAL COMPLIES WITH THE RENEWAL REQUIREMENTS THAT ARE IN EFFECT WHEN THE INDIVIDUAL REQUESTS THE RENEWAL OF THE LICENSE OR CERTIFICATE.

(3) THE BOARD MAY NOT PLACE A CERTIFIED PROFESSIONAL COUNSELOR–MARRIAGE AND FAMILY THERAPIST OR A CERTIFIED PROFESSIONAL COUNSELOR ON INACTIVE STATUS.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD, IN ACCORDANCE WITH ITS REGULATIONS, MAY REINSTATE THE LICENSE OF A LICENSEE OR THE CERTIFICATE OF A

CERTIFICATE HOLDER WHO HAS FAILED TO RENEW THE LICENSE OR CERTIFICATE FOR ANY REASON.

(2) THE BOARD MAY NOT REINSTATE THE CERTIFICATE OF A CERTIFIED PROFESSIONAL COUNSELOR–MARRIAGE AND FAMILY THERAPIST OR CERTIFIED PROFESSIONAL COUNSELOR WHO HAS FAILED TO RENEW THE CERTIFICATE FOR ANY REASON.

17–506.

EACH LICENSEE OR CERTIFICATE HOLDER SHALL DISPLAY THE LICENSE OR CERTIFICATE CONSPICUOUSLY IN THE LICENSEE'S OR CERTIFICATE HOLDER'S OFFICE OR PLACE OF EMPLOYMENT.

17–507.

(A) ANY INDIVIDUAL WHO IS LICENSED UNDER SUBTITLE 3 OF THIS TITLE OR CERTIFIED UNDER SUBTITLE 4 OF THIS TITLE MAY NOT CHARGE A CLIENT OR RECEIVE REMUNERATION FOR COUNSELING OR THERAPY SERVICES UNLESS:

(1) BEFORE THE PERFORMANCE OF THOSE SERVICES, THE CLIENT IS FURNISHED A COPY OF A PROFESSIONAL DISCLOSURE STATEMENT; OR

(2) (I) THIS PROFESSIONAL DISCLOSURE STATEMENT IS DISPLAYED IN A CONSPICUOUS LOCATION AT THE PLACE WHERE THE SERVICES ARE PERFORMED; AND

(II) A COPY OF THE STATEMENT IS PROVIDED TO THE CLIENT ON REQUEST.

(B) THE PROFESSIONAL DISCLOSURE STATEMENT SHALL CONTAIN:

(1) THE NAME, TITLE, BUSINESS ADDRESS, AND BUSINESS TELEPHONE NUMBER OF THE LICENSEE OR CERTIFICATE HOLDER PERFORMING THE SERVICES;

(2) THE FORMAL PROFESSIONAL EDUCATION OF THE LICENSEE OR CERTIFICATE HOLDER, INCLUDING THE INSTITUTIONS ATTENDED AND THE DEGREES RECEIVED FROM THEM;

(3) THE AREAS OF SPECIALIZATION OF THE LICENSEE OR CERTIFICATE HOLDER AND THE SERVICES PROVIDED;

(4) IN THE CASE OF AN INDIVIDUAL LICENSED UNDER SUBTITLE 3 OF THIS TITLE OR CERTIFIED UNDER SUBTITLE 4 OF THIS TITLE WHO IS ENGAGED IN A PRIVATE INDIVIDUAL PRACTICE, PARTNERSHIP, OR GROUP PRACTICE, THE INDIVIDUAL'S FEE SCHEDULE LISTED BY TYPE OF SERVICE OR HOURLY RATE;

(5) AT THE BOTTOM OF THE FIRST PAGE OF THE DISCLOSURE STATEMENT, THE WORDS, "THIS INFORMATION IS REQUIRED BY THE BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS, WHICH REGULATES ALL LICENSED AND CERTIFIED COUNSELORS AND THERAPISTS."; AND

(6) IMMEDIATELY BENEATH THE STATEMENT REQUIRED BY ITEM (5) OF THIS SUBSECTION, THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE BOARD.

17–508.

(A) IN THIS SECTION, "REGULATED COUNSELOR OR THERAPIST" MEANS:

(1) A LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR;

(2) A LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST;

(3) A LICENSED CLINICAL PROFESSIONAL COUNSELOR;

(4) A LICENSED GRADUATE ALCOHOL AND DRUG COUNSELOR;

(5) A LICENSED GRADUATE MARRIAGE AND FAMILY THERAPIST;

(6) A LICENSED GRADUATE PROFESSIONAL COUNSELOR;

(7) A CERTIFIED PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG COUNSELOR;

(8) A CERTIFIED ASSOCIATE COUNSELOR–ALCOHOL AND DRUG COUNSELOR;

(9) A CERTIFIED SUPERVISED COUNSELOR–ALCOHOL AND DRUG COUNSELOR;

(10) A CERTIFIED PROFESSIONAL COUNSELOR–MARRIAGE AND FAMILY THERAPIST; AND

(11) A CERTIFIED PROFESSIONAL COUNSELOR.

(B) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A LICENSE OR CERTIFICATE, WHILE THE LICENSEE OR CERTIFICATE HOLDER IS UNDER INVESTIGATION OR WHILE CHARGES ARE PENDING AGAINST THE LICENSEE OR CERTIFICATE HOLDER, A REGULATED COUNSELOR OR THERAPIST MAY NOT:

(1) SURRENDER THE LICENSE OR CERTIFICATE; OR

(2) ALLOW THE LICENSE OR CERTIFICATE TO LAPSE BY OPERATION OF LAW.

(C) THE BOARD MAY SET CONDITIONS ON ITS AGREEMENT WITH THE REGULATED COUNSELOR OR THERAPIST UNDER INVESTIGATION OR AGAINST WHOM CHARGES ARE PENDING TO ACCEPT SURRENDER OF THE LICENSE OR CERTIFICATE.

17–509.

SUBJECT TO THE HEARING PROVISIONS OF § 17–511 OF THIS SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN SERVING, MAY DENY A LICENSE OR CERTIFICATE TO ANY APPLICANT, PLACE ANY LICENSEE OR CERTIFICATE HOLDER ON PROBATION, REPRIMAND ANY LICENSEE OR CERTIFICATE HOLDER, OR SUSPEND OR REVOKE A LICENSE OF ANY LICENSEE OR A CERTIFICATE OF ANY CERTIFICATE HOLDER IF THE APPLICANT, LICENSEE, OR CERTIFICATE HOLDER:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE OR CERTIFICATE FOR THE APPLICANT, LICENSEE, OR CERTIFICATE HOLDER OR FOR ANOTHER;

(2) HABITUALLY IS INTOXICATED;

(3) PROVIDES PROFESSIONAL SERVICES:

(I) WHILE UNDER THE INFLUENCE OF ALCOHOL; OR

(II) WHILE USING ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE, OR OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

(4) AIDS OR ABETS AN UNAUTHORIZED INDIVIDUAL IN PRACTICING CLINICAL OR NONCLINICAL COUNSELING OR THERAPY OR REPRESENTING TO BE AN ALCOHOL AND DRUG COUNSELOR, MARRIAGE AND FAMILY THERAPIST, OR PROFESSIONAL COUNSELOR;

(5) PROMOTES THE SALE OF DRUGS, DEVICES, APPLIANCES, OR GOODS TO A PATIENT SO AS TO EXPLOIT THE PATIENT FOR FINANCIAL GAIN;

(6) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD IN THE PRACTICE OF COUNSELING OR THERAPY;

(7) MAKES A WILLFUL MISREPRESENTATION WHILE COUNSELING OR PROVIDING THERAPY;

(8) VIOLATES THE CODE OF ETHICS ADOPTED BY THE BOARD;

(9) KNOWINGLY VIOLATES ANY PROVISION OF THIS TITLE;

(10) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A FELONY OR A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE;

(11) IS PROFESSIONALLY, PHYSICALLY, OR MENTALLY INCOMPETENT;

(12) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;

(13) VIOLATES ANY RULE OR REGULATION ADOPTED BY THE BOARD;

(14) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OF ANY OTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD'S DISCIPLINARY STATUTES;

(15) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL

SERVICES FOR WHICH THE LICENSEE IS LICENSED AND QUALIFIED OR THE CERTIFICATE HOLDER IS CERTIFIED AND QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

(16) COMMITS AN ACT OF IMMORAL OR UNPROFESSIONAL CONDUCT IN THE PRACTICE OF CLINICAL OR NONCLINICAL COUNSELING OR THERAPY;

(17) KNOWINGLY FAILS TO REPORT SUSPECTED CHILD ABUSE IN VIOLATION OF § 5–704 OF THE FAMILY LAW ARTICLE; OR

(18) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD.

17–510.

(A) IF AFTER A HEARING UNDER § 17–511 OF THIS SUBTITLE THE BOARD FINDS THAT THERE ARE GROUNDS UNDER § 17–509 OF THIS SUBTITLE TO PLACE ANY LICENSEE OR CERTIFICATE HOLDER ON PROBATION, REPRIMAND ANY LICENSEE OR CERTIFICATE HOLDER, OR SUSPEND OR REVOKE A LICENSE OR CERTIFICATE, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING $5,000:

(1) INSTEAD OF PLACING THE LICENSEE OR CERTIFICATE HOLDER ON PROBATION, REPRIMANDING THE LICENSEE OR CERTIFICATE HOLDER, OR SUSPENDING OR REVOKING THE LICENSE OR CERTIFICATE; OR

(2) IN ADDITION TO PLACING THE LICENSEE OR CERTIFICATE HOLDER ON PROBATION, REPRIMANDING THE LICENSEE OR CERTIFICATE HOLDER, OR SUSPENDING OR REVOKING THE LICENSE OR CERTIFICATE.

(B) THE BOARD SHALL ADOPT REGULATIONS TO SET STANDARDS FOR THE IMPOSITION OF PENALTIES UNDER THIS SECTION.

(C) THE BOARD SHALL PAY ANY MONEY COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND OF THE STATE.

17–511.

(A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY ACTION UNDER § 17–509 OF THIS SUBTITLE, IT SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

(B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) THE HEARING NOTICE TO BE GIVEN TO THE INDIVIDUAL SHALL BE SERVED PERSONALLY OR BY REGISTERED MAIL TO THE LAST KNOWN ADDRESS OF THE INDIVIDUAL AT LEAST 30 DAYS BEFORE THE HEARING.

(D) THE INDIVIDUAL MAY BE REPRESENTED AT THE HEARING BY COUNSEL.

(E) (1) OVER THE SIGNATURE OF AN OFFICER OR THE ADMINISTRATOR OF THE BOARD, THE BOARD MAY ISSUE SUBPOENAS AND ADMINISTER OATHS IN CONNECTION WITH ANY INVESTIGATION UNDER THIS TITLE AND ANY HEARINGS OR PROCEEDINGS BEFORE IT.

(2) IF, WITHOUT LAWFUL EXCUSE, A PERSON DISOBEYS A SUBPOENA FROM THE BOARD OR AN ORDER BY THE BOARD TO TAKE AN OATH OR TO TESTIFY OR ANSWER A QUESTION, THEN, ON PETITION OF THE BOARD, A COURT OF COMPETENT JURISDICTION MAY PUNISH THE PERSON AS FOR CONTEMPT OF COURT.

(F) IF AFTER DUE NOTICE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE BOARD MAY HEAR AND DETERMINE THE MATTER.

17–512.

(A) EXCEPT AS PROVIDED IN THIS SECTION FOR AN ACTION UNDER § 17–409 OF THIS TITLE, ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A CONTESTED CASE, AS DEFINED IN § 10–201 OF THE STATE GOVERNMENT ARTICLE, MAY:

(1) APPEAL THAT DECISION TO THE BOARD OF REVIEW; AND

(2) THEN TAKE ANY FURTHER APPEAL ALLOWED BY TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(B) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD UNDER § 17–509 OF THIS SUBTITLE:

(1) MAY NOT APPEAL TO THE BOARD OF REVIEW; BUT

(2) MAY TAKE A DIRECT JUDICIAL APPEAL AS PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) AN ORDER OF THE BOARD MAY NOT BE STAYED PENDING JUDICIAL REVIEW.

(D) THE BOARD MAY APPEAL FROM ANY DECISION THAT REVERSES OR MODIFIES ITS ORDER.

17–513.

(A) AN ACTION MAY BE MAINTAINED IN THE NAME OF THE STATE OR THE BOARD TO ENJOIN:

(1) THE UNAUTHORIZED PRACTICE OF ALCOHOL AND DRUG COUNSELING AND CLINICAL ALCOHOL AND DRUG COUNSELING, MARRIAGE AND FAMILY THERAPY AND CLINICAL MARRIAGE AND FAMILY THERAPY, OR PROFESSIONAL COUNSELING AND CLINICAL PROFESSIONAL COUNSELING; OR

(2) CONDUCT THAT IS A GROUND FOR DISCIPLINARY ACTION UNDER § 17–509 OF THIS SUBTITLE.

(B) AN ACTION UNDER THIS SECTION MAY BE BROUGHT BY:

(1) THE BOARD, IN ITS OWN NAME;

(2) THE ATTORNEY GENERAL, IN THE NAME OF THE STATE; OR

(3) A STATE'S ATTORNEY, IN THE NAME OF THE STATE.

(C) AN ACTION UNDER THIS SECTION SHALL BE BROUGHT IN THE COUNTY WHERE THE DEFENDANT:

(1) RESIDES; OR

(2) ENGAGES IN THE ACTS SOUGHT TO BE ENJOINED.

(D) PROOF OF ACTUAL DAMAGES OR THAT ANY PERSON WILL SUSTAIN ANY DAMAGES IF AN INJUNCTION IS NOT GRANTED IS NOT REQUIRED FOR AN ACTION UNDER THIS SECTION.

(E) AN ACTION UNDER THIS SECTION IS IN ADDITION TO AND NOT INSTEAD OF CRIMINAL PROSECUTION FOR THE UNAUTHORIZED PRACTICE OF ALCOHOL AND DRUG COUNSELING AND CLINICAL ALCOHOL AND DRUG COUNSELING, MARRIAGE AND FAMILY THERAPY AND CLINICAL MARRIAGE AND FAMILY THERAPY, OR PROFESSIONAL COUNSELING AND CLINICAL PROFESSIONAL COUNSELING, UNDER § 17–301, § 17–601, § 17–602, OR § 17–603 OF THIS TITLE OR DISCIPLINARY ACTION UNDER § 17–509 OF THIS SUBTITLE.

17–514.

FOR REASONS THE BOARD CONSIDERS SUFFICIENT, AND ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN SERVING, THE BOARD MAY:

(1) REINSTATE A LICENSE OR CERTIFICATE THAT HAS BEEN REVOKED;

(2) REDUCE THE PERIOD OF A SUSPENSION OR PROBATION; OR

(3) WITHDRAW A REPRIMAND.

17–515.

(A) IN THIS SECTION, "COUNSELOR AND THERAPIST REHABILITATION COMMITTEE" MEANS A COMMITTEE THAT:

(1) IS DESCRIBED IN SUBSECTION (B) OF THIS SECTION; AND

(2) PERFORMS ANY OF THE FUNCTIONS LISTED IN SUBSECTION (D) OF THIS SECTION.

(B) FOR PURPOSES OF THIS SECTION, A COUNSELOR AND THERAPIST REHABILITATION COMMITTEE IS A COMMITTEE OF THE BOARD OR A COMMITTEE OF ANY ASSOCIATION OR ASSOCIATIONS REPRESENTING ALCOHOL AND DRUG COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, OR PROFESSIONAL COUNSELORS THAT:

(1) IS RECOGNIZED BY THE BOARD; AND

(2) INCLUDES BUT IS NOT LIMITED TO ALCOHOL AND DRUG COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND PROFESSIONAL COUNSELORS.

(C) A REHABILITATION COMMITTEE OF THE BOARD OR RECOGNIZED BY THE BOARD MAY FUNCTION:

(1) SOLELY FOR THE BOARD; OR

(2) JOINTLY WITH A REHABILITATION COMMITTEE REPRESENTING ANOTHER BOARD OR BOARDS.

(D) FOR PURPOSES OF THIS SECTION, A COUNSELOR AND THERAPIST REHABILITATION COMMITTEE EVALUATES AND PROVIDES ASSISTANCE TO ANY ALCOHOL AND DRUG COUNSELOR, MARRIAGE AND FAMILY THERAPIST, PROFESSIONAL COUNSELOR, AND ANY OTHER INDIVIDUAL REGULATED BY THE BOARD, IN NEED OF TREATMENT AND REHABILITATION FOR ALCOHOLISM, DRUG ABUSE, CHEMICAL DEPENDENCY, OR OTHER PHYSICAL, EMOTIONAL, OR MENTAL CONDITION.

(E) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE PROCEEDINGS, RECORDS, AND FILES OF THE COUNSELOR AND THERAPIST REHABILITATION COMMITTEE ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL ACTION ARISING OUT OF THE MATTERS THAT ARE BEING OR HAVE BEEN REVIEWED AND EVALUATED BY THE COUNSELOR AND THERAPIST REHABILITATION COMMITTEE.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO ANY RECORD OR DOCUMENT THAT IS CONSIDERED BY THE COUNSELOR AND THERAPIST REHABILITATION COMMITTEE AND THAT OTHERWISE WOULD BE SUBJECT TO DISCOVERY OR INTRODUCTION INTO EVIDENCE IN A CIVIL ACTION.

(3) FOR PURPOSES OF THIS SUBSECTION, CIVIL ACTION DOES NOT INCLUDE A PROCEEDING BEFORE THE BOARD OR JUDICIAL REVIEW OF A PROCEEDING BEFORE THE BOARD.

(F) A PERSON WHO ACTS IN GOOD FAITH AND WITHIN THE SCOPE OF JURISDICTION OF A COUNSELOR AND THERAPIST REHABILITATION COMMITTEE IS NOT CIVILLY LIABLE FOR ANY ACTION AS A MEMBER OF THE COUNSELOR AND THERAPIST REHABILITATION COMMITTEE OR FOR GIVING INFORMATION TO, PARTICIPATING IN, OR CONTRIBUTING TO THE FUNCTION OF THE COUNSELOR AND THERAPIST REHABILITATION COMMITTEE.

SUBTITLE 6. PROHIBITED ACTS; PENALTIES.

17–601.

UNLESS AN INDIVIDUAL IS LICENSED TO PRACTICE CLINICAL ALCOHOL AND DRUG COUNSELING, CLINICAL MARRIAGE AND FAMILY THERAPY, OR CLINICAL PROFESSIONAL COUNSELING, AN INDIVIDUAL MAY NOT:

(1) REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL IS LICENSED BY THE BOARD TO PROVIDE CLINICAL ALCOHOL AND DRUG COUNSELING SERVICES, CLINICAL MARRIAGE AND FAMILY THERAPY SERVICES, OR CLINICAL PROFESSIONAL COUNSELING SERVICES IN THE STATE;

(2) USE ANY TITLE, ABBREVIATION, SIGN, CARD, OR OTHER REPRESENTATION THAT THE INDIVIDUAL IS A LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR, LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST, OR LICENSED CLINICAL PROFESSIONAL COUNSELOR; OR

(3) USE THE TITLE "L.C.A.D.C.", "L.C.M.F.T.", OR "L.C.P.C." OR THE WORDS "LICENSED CLINICAL ALCOHOL AND DRUG COUNSELOR", "LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST", OR "LICENSED CLINICAL PROFESSIONAL COUNSELOR" WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL PRACTICES CLINICAL ALCOHOL AND DRUG COUNSELING, CLINICAL MARRIAGE AND FAMILY THERAPY, OR CLINICAL PROFESSIONAL COUNSELING.

17–602.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, UNLESS AN INDIVIDUAL HAS BEEN APPROVED BY THE BOARD TO PRACTICE AS A LICENSED GRADUATE ALCOHOL AND DRUG COUNSELOR, A LICENSED GRADUATE PROFESSIONAL COUNSELOR, OR A LICENSED GRADUATE MARRIAGE AND FAMILY THERAPIST THE INDIVIDUAL MAY NOT:

(1) USE THE TITLE "LICENSED GRADUATE ALCOHOL AND DRUG COUNSELOR", "LICENSED GRADUATE PROFESSIONAL COUNSELOR", OR "LICENSED GRADUATE MARRIAGE AND FAMILY THERAPIST";

(2) USE THE INITIALS "L.G.A.D.C.", "L.G.P.C.", OR "L.G.M.F.T." AFTER THE NAME OF THE INDIVIDUAL;

(3) REPRESENT TO THE PUBLIC THAT THE INDIVIDUAL IS APPROVED BY THE BOARD TO PRACTICE ALCOHOL AND DRUG COUNSELING, PROFESSIONAL COUNSELING, OR MARRIAGE AND FAMILY THERAPY; OR

(4) USE ANY TITLE, ABBREVIATION, SIGN, CARD, OR OTHER REPRESENTATION THAT THE INDIVIDUAL IS A LICENSED GRADUATE ALCOHOL AND DRUG COUNSELOR, A LICENSED GRADUATE PROFESSIONAL COUNSELOR, OR A LICENSED GRADUATE MARRIAGE AND FAMILY THERAPIST.

17–603.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, UNLESS AN INDIVIDUAL IS CERTIFIED TO PRACTICE ALCOHOL AND DRUG COUNSELING, MARRIAGE AND FAMILY THERAPY, OR PROFESSIONAL COUNSELING, THE INDIVIDUAL MAY NOT:

(1) REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL IS CERTIFIED BY THE BOARD TO PROVIDE COUNSELING OR THERAPY SERVICES IN THIS STATE;

(2) USE ANY TITLE, ABBREVIATION, SIGN, CARD, OR OTHER REPRESENTATION THAT THE INDIVIDUAL IS A CERTIFIED PROFESSIONAL COUNSELOR, CERTIFIED PROFESSIONAL COUNSELOR–MARRIAGE AND FAMILY THERAPIST, CERTIFIED PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG, CERTIFIED ASSOCIATE COUNSELOR–ALCOHOL AND DRUG, OR CERTIFIED SUPERVISED COUNSELOR–ALCOHOL AND DRUG; OR

(3) USE THE TITLE "C.P.C.", "C.P.C.–M.F.T.", "C.P.C.–A.D.", "C.A.C.–A.D.", OR "C.S.C.–A.D.", THE WORDS "CERTIFIED PROFESSIONAL COUNSELOR" OR "CERTIFIED PROFESSIONAL COUNSELOR–MARRIAGE AND FAMILY THERAPIST", OR THE WORDS "CERTIFIED COUNSELOR" OR "CERTIFIED MARRIAGE AND FAMILY THERAPIST" WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL PRACTICES PROFESSIONAL COUNSELING OR MARRIAGE AND FAMILY THERAPY, OR THE WORDS "CERTIFIED PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG", "CERTIFIED ASSOCIATE COUNSELOR–ALCOHOL AND DRUG", "CERTIFIED SUPERVISED COUNSELOR–ALCOHOL AND DRUG" WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL PRACTICES ALCOHOL AND DRUG COUNSELING.

17–604.

(A) ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR § 17–301 OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $2,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(B) EACH VIOLATION OF THIS SUBTITLE IS A SEPARATE OFFENSE.

SUBTITLE 7. SHORT TITLE; TERMINATION OF TITLE.

17–701.

THIS TITLE MAY BE CITED AS THE "MARYLAND PROFESSIONAL COUNSELORS AND THERAPISTS ACT".

17–702.

SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, THIS TITLE AND ALL RULES OR REGULATIONS ADOPTED UNDER THIS TITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1, 2019.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(16) Counselors and Therapists, State Board of Professional (§ 17–201 of the Health Occupations Article: **[**July 1, 2008**] JULY 1, 2018**);

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health Occupations

17–405.1.

(A) (1) THE BOARD SHALL WAIVE THE REQUIREMENTS FOR CERTIFICATION AS A CERTIFIED PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG UNDER § 17–402 OF THIS SUBTITLE FOR ANY INDIVIDUAL WHO:

(I) HAD FILED A LETTER OF INTENT WITH THE BOARD BY OCTOBER 1, 2001;

(II) FILES AN APPLICATION FOR CERTIFICATION AS A CERTIFIED PROFESSIONAL COUNSELOR–ALCOHOL AND DRUG ON OR BEFORE MAY 1, 2009;

(III) HOLDS A MASTER'S OR DOCTORAL DEGREE IN A HEALTH AND HUMAN SERVICES COUNSELING FIELD OR HAS COMPLETED A PROGRAM THAT THE BOARD DETERMINES TO BE SUBSTANTIALLY EQUIVALENT IN SUBJECT MATTER AND EXTENT OF TRAINING AS A MASTER'S OR DOCTORAL DEGREE IN A HEALTH AND HUMAN SERVICES COUNSELING FIELD;

(IV) AS OF JULY 1, 2001, WAS CERTIFIED AS A CERTIFIED CHEMICAL DEPENDENCY COUNSELOR, ITS EQUIVALENT, OR HIGHER BY THE MARYLAND ADDICTION COUNSELOR CERTIFICATION BOARD, ANOTHER STATE, THE CERTIFICATION COMMISSION OF THE NATIONAL ASSOCIATION OF ALCOHOLISM AND DRUG ABUSE COUNSELORS, OR THE INTERNATIONAL CERTIFICATION RECIPROCITY CONSORTIUM, OR WAS EMPLOYED IN THE CAPACITY OF A PROGRAM SPECIALIST I, II, III, OR ITS EQUIVALENT, OR HIGHER, IN AN AGENCY OR FACILITY ACCREDITED BY THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTH CARE ORGANIZATIONS OR CERTIFIED UNDER TITLE 8, SUBTITLE 4 OF THE HEALTH – GENERAL ARTICLE;

(V) HAS COMPLETED NOT LESS THAN 3 YEARS WITH A MINIMUM OF 3,000 HOURS OF SUPERVISED EXPERIENCE IN ALCOHOL AND DRUG ABUSE COUNSELING APPROVED BY THE BOARD, 2 YEARS OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE MASTER'S OR DOCTORAL DEGREE; AND

(VI) HAD, BY OCTOBER 1, 2001, SUCCESSFULLY PASSED AN EXAMINATION APPROVED BY THE BOARD.

(2) THE BOARD SHALL WAIVE THE REQUIREMENTS FOR CERTIFICATION AS A CERTIFIED ASSOCIATE COUNSELOR–ALCOHOL AND DRUG FOR ANY INDIVIDUAL WHO:

(I) HAD FILED A LETTER OF INTENT WITH THE BOARD BY OCTOBER 1, 2001;

(II) FILES AN APPLICATION FOR CERTIFICATION AS A CERTIFIED ASSOCIATE COUNSELOR–ALCOHOL AND DRUG ON OR BEFORE MAY 1, 2009;

(III) HOLDS A BACHELOR'S DEGREE IN A HEALTH AND HUMAN SERVICES COUNSELING FIELD OR HAS COMPLETED A PROGRAM THAT THE BOARD DETERMINES TO BE SUBSTANTIALLY EQUIVALENT IN SUBJECT MATTER AND EXTENT OF TRAINING TO A BACHELOR'S DEGREE IN A HEALTH AND HUMAN SERVICES COUNSELING FIELD;

(IV) AS OF JULY 1, 2001, WAS CERTIFIED AS A CERTIFIED CHEMICAL DEPENDENCY COUNSELOR, ITS EQUIVALENT, OR HIGHER, BY THE MARYLAND ADDICTION COUNSELOR CERTIFICATION BOARD, ANOTHER STATE, THE CERTIFICATION COMMISSION OF THE NATIONAL ASSOCIATION OF ALCOHOLISM AND DRUG ABUSE COUNSELORS, OR THE INTERNATIONAL CERTIFICATION RECIPROCITY CONSORTIUM, OR WAS EMPLOYED IN THE CAPACITY OF A PROGRAM SPECIALIST I, II, III, OR ITS EQUIVALENT, OR HIGHER, IN AN AGENCY OR FACILITY ACCREDITED BY THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTH CARE ORGANIZATIONS OR CERTIFIED UNDER TITLE 8, SUBTITLE 4 OF THE HEALTH – GENERAL ARTICLE; AND

(V) HAS COMPLETED NOT LESS THAN 3 YEARS WITH A MINIMUM OF 3,000 HOURS OF SUPERVISED EXPERIENCE IN ALCOHOL AND DRUG ABUSE COUNSELING APPROVED BY THE BOARD, 2 YEARS OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE BACHELOR'S DEGREE OR A PROGRAM THAT THE BOARD DETERMINES TO BE SUBSTANTIALLY EQUIVALENT IN SUBJECT MATTER AND EXTENT OF TRAINING.

(3) THE BOARD SHALL WAIVE THE REQUIREMENTS FOR CERTIFICATION AS A CERTIFIED SUPERVISED COUNSELOR–ALCOHOL AND DRUG FOR ANY INDIVIDUAL WHO:

(I) HAD FILED A LETTER OF INTENT WITH THE BOARD BY OCTOBER 1, 2001;

(II) FILES AN APPLICATION FOR CERTIFICATION AS A CERTIFIED SUPERVISED COUNSELOR–ALCOHOL AND DRUG ON OR BEFORE MAY 1, 2009;

(III) HOLDS AN ASSOCIATE'S DEGREE IN HEALTH AND HUMAN SERVICES COUNSELING OR HAS COMPLETED A PROGRAM THAT THE BOARD DETERMINES TO BE SUBSTANTIALLY EQUIVALENT IN SUBJECT MATTER AND EXTENT OF TRAINING TO AN ASSOCIATE'S DEGREE IN HEALTH AND HUMAN SERVICES COUNSELING; OR

(IV) AS OF JULY 1, 2001, WAS CERTIFIED AS A CERTIFIED ALCOHOLISM COUNSELOR, CERTIFIED DRUG COUNSELOR, OR HIGHER, BY THE MARYLAND ADDICTION COUNSELOR CERTIFICATION BOARD, ANOTHER STATE, THE CERTIFICATION COMMISSION OF THE NATIONAL ASSOCIATION OF ALCOHOLISM AND DRUG ABUSE COUNSELORS, OR THE INTERNATIONAL CERTIFICATION RECIPROCITY CONSORTIUM, OR WAS EMPLOYED IN THE CAPACITY OF AN ADDICTION COUNSELOR II OR III, OR ITS EQUIVALENT, OR HIGHER, IN AN AGENCY OR FACILITY ACCREDITED BY THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTH CARE ORGANIZATIONS OR CERTIFIED UNDER TITLE 8, SUBTITLE 4 OF THE HEALTH – GENERAL ARTICLE.

SECTION 4. AND BE IT FURTHER ENACTED, That:

~~(a) The term of the professional counselor member of the Board of Professional Counselors and Therapists whose term is scheduled to expire on June 30, 2009, shall terminate at the end of June 30, 2009, at which time no successors shall be appointed.~~

~~(b)~~ (a) The Governor shall appoint two alcohol and drug counselor members and ~~one~~ two marriage and family therapist ~~member~~ members in accordance with § 17–202 of the Health Occupations Article, as enacted by Section 5 of this Act. These members shall serve a term of 4 years which shall begin on July 1, 2009, and the members shall serve until a successor is appointed and qualifies.

~~(c)~~ (b) Notwithstanding the provisions of § 17–202 of the Health Occupations Article, as enacted by Section 2 of this Act, the term of the certified associate counselor–alcohol and drug or certified supervised counselor–alcohol and drug advisor to the Board appointed by the Governor on or before October 1, 2008, shall terminate at the end of June 30, 2009.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) On or before October 1, 2010, the State Board of Professional Counselors and Therapists shall submit, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee an interim report on Board's actions concerning the recommendations contained in the sunset review report of the State Board of Professional Counselors and Therapists published by the Department of Legislative Services in October 2007.

(b) The interim report shall include an explanation of:

(1) the results of the Board's review of the certification structure for alcohol and drug counselors to determine whether the current three–tiered structure

is of continued benefit to the profession and the public, including any proposed alternatives to the current structure;

(2) the results of the Board's evaluation of the current revenue structure to determine levels necessary to reach a reasonable fund balance by the end of fiscal year 2011; and

(3) the implementation of any other recommendations contained in the report referenced in subsection (a) of this section.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. Section 3 of this Act shall remain effective for a period of 1 year and, at the end of September 30, 2009, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 506

(House Bill 481)

AN ACT concerning

State Retirement and Pension Systems – Investments

FOR the purpose of repealing certain restrictions placed on the Board of Trustees for the State Retirement and Pension System with regard to investing the assets of the several systems of the State Retirement and Pension System; repealing the requirement that the Board of Public Works approve certain sales and purchases of real estate by the Board of Trustees; requiring the Comptroller, Treasurer, and Secretary of Budget and Management to approve certain sales and purchases of real estate by the Board of Trustees; requiring the Board of Trustees to submit certain reports by certain dates; clarifying that certain provisions of the State Finance and Procurement Article do not apply to certain transactions of the Board of Trustees; eliminating certain limitations on certain fees paid by the Board of Trustees to certain investment managers; clarifying that the Board of Trustees is not subject to any limitation on certain fees paid to certain investment managers; and generally relating to the investments of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions

Section 21–123(c) and (f) and 21–315(d)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 21–123(h)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

21–123.

(c) (1) **[**(i) Subject to subparagraph (ii) of this paragraph, the**]** **THE** Board of Trustees may invest assets of the several systems subject to the conditions that it imposes.

[(ii) Not more than 25% of the assets that the Board of Trustees invests in common stocks may be invested in nondividend paying common stocks.**]**

(2) The Board of Trustees shall include the conditions that it adopts under paragraph (1) of this subsection in the investment policy manual required by § 21–116(c) of this subtitle.

(f) (1) Notwithstanding any other law in force on or after July 1, 1988, unless the law makes specific reference to this subsection, and subject to paragraph (2) of this subsection, the Board of Trustees may keep all analyses, forecasts, negotiations, papers, records, recommendations, and reports closed to public inspection until:

(i) the release of the information would not adversely affect the negotiation for or market price of a security; and

(ii) completion of:

1. a proposed purchase or program of purchases leading to a cumulative position in a security;

2. the making, sale, or prepayment of a loan;

3. any proposed sale or program of sales leading to the elimination of a position in a security; or

4. the sale or purchase of real estate.

(2) **(I)** The sale or purchase of real estate shall be subject to the approval of **[**the Board of Public Works and shall be included on a Board of Public Works agenda**]** **A MAJORITY OF THE COMPTROLLER, TREASURER, AND SECRETARY OF BUDGET AND MANAGEMENT, IN THEIR CAPACITY AS MEMBERS OF THE BOARD OF TRUSTEES.**

(II) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD OF TRUSTEES SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE TO THE BOARD OF PUBLIC WORKS, THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES A LIST OF ALL SALES OR PURCHASES OF DIRECTLY HELD REAL ESTATE APPROVED BY THE BOARD OF TRUSTEES FOR THE IMMEDIATELY PRECEDING FISCAL YEAR.

(H) TITLE 4, SUBTITLE 3, PART III AND § 10–305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE DO NOT APPLY TO THE SALE, ACQUISITION, LEASE, TRANSFER, EXCHANGE, OR OTHER DISPOSITION OF ANY REAL OR PERSONAL PROPERTY ACQUIRED BY THE BOARD OF TRUSTEES IN ANY TRANSACTION AUTHORIZED UNDER THIS TITLE.

21–315.

(d) (1) Each quarter of the fiscal year the Board of Trustees shall estimate**[**:

(i) one–fourth of an amount, not exceeding 1.2% of the market value as of the last day of the preceding quarter of assets externally invested in real estate or alternative investments, necessary for external real estate or alternative investment management services; and

(ii)**]** one–fourth of an amount, not exceeding 0.3% of the market value as of the last day of the preceding quarter of invested assets that are externally managed exclusive of assets invested in real estate or alternative investments, necessary to procure and retain investment management services other than external real estate or alternative investment management services.

[(2) In addition to the amount estimated in paragraph (1)(i) of this subsection, any previously estimated amount that has not been paid to an external real estate or alternative investment management service by the last day of each quarter shall be carried over into the next quarter and added to the new estimate.**]**

(2) THE BOARD OF TRUSTEES IS NOT LIMITED IN THE AMOUNT OF INVESTMENT MANAGER FEES THAT THE BOARD OF TRUSTEES MAY PAY AS NECESSARY FOR EXTERNAL REAL ESTATE OR ALTERNATIVE INVESTMENT MANAGEMENT SERVICES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 507

(House Bill 482)

AN ACT concerning

State Police Retirement System – Survivor Benefits

FOR the purpose of altering the survivor benefit for certain beneficiaries of certain retirees of the State Police Retirement System; repealing a supplemental survivor benefit for certain beneficiaries of certain retirees of the State Police Retirement System; and generally relating to survivor benefits for beneficiaries of retirees of the State Police Retirement System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 24–403
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing
Article – State Personnel and Pensions
Section 24–404
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

24–403.

(a) This section applies only to a retiree who has retired with a service retirement allowance or a disability retirement allowance.

(b) On the death of a retiree, the Board of Trustees shall pay **[**50%**] 80%** of the retiree's retirement allowance:

(1) to the surviving spouse; or

(2) if there is not a surviving spouse or if the surviving spouse dies before the youngest child is 18 years old, to any children of the deceased retiree who are under 18 years of age.

(c) If the Board of Trustees pays an allowance to more than one child, the Board of Trustees shall divide the allowance among the children under the age of 18 years in a manner that provides for payments to continue until each child dies or becomes 18 years old.

[24–404.

(a) Subject to subsections (b) through (d) of this section, the Board of Trustees shall pay the following benefits in accordance with Title II of the federal Social Security Act:

(1) if a member dies while employed as a member, child's insurance benefits;

(2) if a retiree dies with a special disability retirement allowance under § 29–111 of this article:

(i) surviving spouse's insurance benefits;

(ii) child's insurance benefits; or

(iii) parents' insurance benefits; or

(3) if a retiree dies with a service retirement allowance or an ordinary disability retirement allowance under § 29–107 of this article:

(i) surviving spouse's insurance benefits;

(ii) child's insurance benefits;

(iii) mother's insurance benefits;

(iv) parents' insurance benefits; or

(v) other death benefits payable under Title II of the federal Social Security Act.

(b) A payment under subsection (a)(1) or (2) of this section may not be made if, under Title II of the federal Social Security Act:

(1) the surviving spouse is eligible to receive surviving spouse's insurance benefits;

(2) the child is eligible to receive child's insurance benefits; or

(3) the parent is eligible to receive parents' insurance benefits.

(c) The Board of Trustees shall make a payment under this section:

(1) after receiving proof of death of the member or retiree;

(2) in accordance with Title II of the federal Social Security Act in effect at the time of initial eligibility; and

(3) without any cost–of–living adjustment that the federal government may provide.

(d) The monthly earnings used in the federal Social Security Act computation of benefits under this section shall be the lesser of:

(1) one–twelfth of the member's average final compensation; or

(2) the maximum Social Security monthly earnings that may be used in the computation.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 508

(House Bill 494)

AN ACT concerning

Licensed Counselors and Therapists – Appraisal Activities – Training Requirements

FOR the purpose of ~~altering the definition of "appraisal" relating to the use of certain instruments by certain licensed counselors and therapists~~ repealing a certain requirement that the Board of Examiners of Psychologists and the State Board of Professional Counselors and Therapists jointly approve certain training for licensed counselors and therapists; authorizing certain licensed counselors and therapists to engage in certain appraisal activities that include the use of certain instruments if certain training has been completed; and generally relating to appraisal activities and licensed counselors and therapists.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 17–101(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 17–101(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Health Occupations
Section 17–3A–03.1
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health Occupations

17–101.

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

(c) (1) "Appraisal" means:

(i) Selecting, administering, scoring, and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics; and

(ii) Using nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations.

(2) "Appraisal" does not include instruments which require specialized psychological training for administration and interpretation unless the licensed **[**or certified professional**]** counselor **OR THERAPIST** has completed **THE** training **[**deemed by the Board of Examiners of Psychologists and the State Board of Professional Counselors and Therapists to be equivalent to that of a licensed psychologist who is qualified to administer the same types of instruments**]** **REQUIRED UNDER § 17–3A–03.1 OF THIS TITLE**.

17–3A–03.1.

A LICENSED COUNSELOR OR THERAPIST MAY ENGAGE IN APPRAISAL ACTIVITIES THAT INCLUDE INSTRUMENTS THAT REQUIRE SPECIALIZED PSYCHOLOGICAL TRAINING FOR ADMINISTRATION AND INTERPRETATION IF THE LICENSED COUNSELOR OR THERAPIST HAS COMPLETED TRAINING THAT INCLUDES:

(1) POSSESSION OF A DOCTORAL OR MASTER'S DEGREE IN ~~AN AREA OF MENTAL HEALTH~~ COUNSELING OR A RELATED FIELD THAT INCLUDES A MINIMUM OF ~~9~~ *NINE* GRADUATE COURSES OF AT LEAST 3 SEMESTER HOURS IN EACH OF THE FOLLOWING COURSES:

(I) PSYCHOPATHOLOGY;

(II) BIOLOGICAL BASES OF BEHAVIOR;

(III) RESEARCH METHODS;

(IV) ADVANCED STATISTICS;

(V) TESTS AND MEASURES;

(VI) INTELLECTUAL ASSESSMENT;

(VII) PERSONALITY ASSESSMENT;

~~(IX)~~ (VIII) ETHICS; AND

~~(X)~~ (IX) PRACTICUM IN ADVANCED ASSESSMENT; ~~OR~~

~~(2) (I) POSSESSION OF A DOCTORAL OR MASTER'S DEGREE IN A COUNSELING OR RELATED FIELD;~~

~~(II) A MINIMUM OF NINE GRADUATE COURSES, AS VERIFIED TO THE BOARD ON THE FORM THAT THE BOARD REQUIRES, OF AT LEAST 3 SEMESTER HOURS IN EACH OF THE COURSES LISTED IN ITEM (1) OF THIS SECTION;~~

~~(III)~~ (2) COMPLETION OF 500 HOURS OF ~~FACE–TO–FACE~~ SUPERVISED, DIRECT, CLIENT–RELATED, ADVANCED ASSESSMENT TESTING ~~CONTACT~~ THAT IS COMPLETED NOT LESS THAN 2 YEARS FOLLOWING THE COMPLETION OF THE MASTER'S DEGREE, OF WHICH A MINIMUM OF 100 HOURS SHALL INCLUDE FACE–TO–FACE SUPERVISION ~~OF ADVANCED ASSESSMENT RELATED ACTIVITIES~~ BY A SUPERVISOR WHO IS:

~~1. A SUPERVISOR;~~

~~2.~~ (I) A LICENSED MENTAL HEALTH PROFESSIONAL; ~~OR~~

~~3.~~ (II) ~~AN INDIVIDUAL PROFICIENT~~ PROFICIENT IN THE USE OF ADVANCED ASSESSMENT TESTS~~, APPROVED~~; AND

(III) APPROVED BY THE BOARD; AND

~~(IV)~~ (3) PASSAGE OF A NATIONAL EXAMINATION THAT INCLUDES ITEMS ON ADVANCED ASSESSMENT THAT EVALUATE KNOWLEDGE OF ADVANCED ASSESSMENT PROCEDURES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 509

(House Bill 515)

AN ACT concerning

Anne Arundel County – Development Impact Fees – Not–For–Profit Entities

FOR the purpose of authorizing the County Council of Anne Arundel County to enact an ordinance to grant exemptions from or credits against development impact fees for development by certain not–for–profit entities; requiring the ordinance to set the amount of, establish the conditions of eligibility for, and adopt procedures for the exemptions or credits; and generally relating to development impact fees in Anne Arundel County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Anne Arundel County
Section 17–11–215
Article 2 – Public Local Laws of Maryland
(2005 Edition and December 2007 Supplement, as amended)

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

Article 2 – Anne Arundel County

17–11–215.

(A) By ordinance enacted by the County Council, and subject to any applicable express prohibition in the Anne Arundel County Charter, the County may fix, impose, and collect development impact fees for financing, in whole or in part, the capital costs of additional or expanded public works, improvements, and facilities required to accommodate new construction or development.

(B) (1) BY ORDINANCE ENACTED BY THE COUNTY COUNCIL, THE COUNTY MAY GRANT EXEMPTIONS FROM OR CREDITS AGAINST DEVELOPMENT IMPACT FEES FOR DEVELOPMENT BY NOT–FOR–PROFIT ENTITIES THAT HAVE BEEN IN EXISTENCE FOR AT LEAST 3 YEARS.

(2) THE ORDINANCE SHALL:

(I) SET THE AMOUNT OF THE EXEMPTIONS OR CREDITS;

(II) ESTABLISH THE CONDITIONS OF ELIGIBILITY FOR THE EXEMPTIONS OR CREDITS; AND

(III) ADOPT PROCEDURES FOR APPLYING FOR THE EXEMPTIONS OR CREDITS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 510

(House Bill 578)

AN ACT concerning

Health Insurance – Coverage for Amino Acid–Based Elemental Formula

FOR the purpose of requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for amino acid–based elemental formula for the diagnosis and treatment of certain allergies, syndromes, and conditions under certain circumstances; authorizing *a private review agent, acting on behalf of* an insurer, nonprofit health service plan, or health maintenance organization to review a certain determination of medical necessity *in accordance with certain provisions of law*; providing for the application of this Act; and generally relating to requiring health insurance coverage for amino acid–based elemental formula.

BY adding to
Article – Health – General
Section 19–706(ppp)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Insurance
Section 15–843
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Health – General

19–706.

(PPP) THE PROVISIONS OF § 15–843 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

15–843.

(A) THIS SECTION APPLIES TO:

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

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

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A POLICY OR PLAN SUBJECT TO THIS SECTION SHALL INCLUDE, UNDER THE FAMILY MEMBER COVERAGE, COVERAGE FOR AMINO ACID–BASED ELEMENTAL FORMULA, REGARDLESS OF DELIVERY METHOD, FOR THE DIAGNOSIS AND TREATMENT OF:

(I) IMMUNOGLOBULIN E AND NON–IMMUNOGLOBULIN E MEDIATED ALLERGIES TO MULTIPLE FOOD PROTEINS;

(II) SEVERE FOOD PROTEIN INDUCED ENTEROCOLITIS SYNDROME;

(III) EOSINOPHILIC DISORDERS, AS EVIDENCED BY THE RESULTS OF A BIOPSY; AND

(IV) IMPAIRED ABSORPTION OF NUTRIENTS CAUSED BY DISORDERS AFFECTING THE ABSORPTIVE SURFACE, FUNCTIONAL LENGTH, AND MOTILITY OF THE GASTROINTESTINAL TRACT.

(2) ~~THE~~ SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE COVERAGE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS REQUIRED IF THE ORDERING PHYSICIAN HAS ISSUED A WRITTEN ORDER STATING THAT THE AMINO ACID–BASED ELEMENTAL FORMULA IS MEDICALLY NECESSARY FOR THE TREATMENT OF A DISEASE OR DISORDER *LISTED IN PARAGRAPH (1) OF THIS SUBSECTION*.

(3) ~~**AN**~~ ***IN ACCORDANCE WITH SUBTITLE 10A OF THIS TITLE, A PRIVATE REVIEW AGENT, ACTING ON BEHALF OF AN*** **INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE** ~~**ORGANIZATION**~~ ***ORGANIZATION*****, MAY REVIEW THE ORDERING PHYSICIAN'S DETERMINATION OF THE MEDICAL NECESSITY OF THE AMINO ACID–BASED ELEMENTAL FORMULA FOR THE TREATMENT OF A DISEASE OR DISORDER** ***LISTED IN PARAGRAPH (1) OF THIS SUBSECTION*****.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2008.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 511

(House Bill 595)

AN ACT concerning

Worcester County – Office of the State's Attorney

FOR the purpose of altering certain personnel policies of the Office of the State's Attorney of Worcester County; altering the salary of the State's Attorney; providing that certain salaries, compensation, employee benefits, and expenses of the Office be subject to the annual budget process and approval of the county commissioners; specifying that employees of the Office are not employees of the county; altering the number of special investigators the State's Attorney may appoint; authorizing the State's Attorney to hire certain employees under certain circumstances; requiring that employees of the Office receive certain benefits and are under the control of the State's Attorney; specifying that the State's Attorney perform certain supervisory functions for certain employees; authorizing the State's Attorney to adopt certain office practices and procedures; specifying that certain employees may be disciplined or terminated for cause only; requiring that certain employees remain in their positions and be considered rehired when a new State's Attorney takes office or at the beginning of a new term of office; authorizing the county commissioners to

provide in–kind support to the State's Attorney for personnel matters; and generally relating to the Office of the State's Attorney of Worcester County.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 15–424
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)
(As enacted by Chapter 15 (S.B. 37) of the Acts of the General Assembly of 2008)

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

Article – Criminal Procedure

15–424.

(a) This section applies only in Worcester County.

(b) (1) Subject to paragraph (2) of this subsection, the State's Attorney's salary is 90% of the salary of a judge of the District Court of Maryland.

(2) By enacting an ordinance before the election filing deadline for the next term of office for the State's Attorney, the county commissioners may set the salary at an amount exceeding 90% of the salary of a judge of the District Court of Maryland.

(3) (I) ALL OTHER SALARIES, COMPENSATION, EMPLOYEE BENEFITS, AND EXPENSES OF THE OFFICE OF THE STATE'S ATTORNEY ARE SUBJECT TO THE ANNUAL BUDGET PROCESS AND APPROVAL OF THE COUNTY COMMISSIONERS IN ACCORDANCE WITH THE BUDGET AND FISCAL POLICIES AND PURCHASING LAWS OF THE COUNTY.

(II) PROCESSING THE PAYROLL OF THE OFFICE OF THE STATE'S ATTORNEY AS PART OF THE PAYROLL OF THE COUNTY DOES NOT MAKE EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY THE EMPLOYEES OF THE COUNTY.

(c) (1) **[**(i)**]** The State's Attorney may appoint the number of full–time or part–time deputy State's Attorneys and assistant State's Attorneys that the county commissioners approve.

[(ii)**](2)** The deputy and assistant State's Attorneys appointed under subparagraph (i) of this paragraph shall:

[1.**](I)** serve at the pleasure of the State's Attorney; and

[2.**](II)** have the same legal powers as the State's Attorney to present cases to the grand jury, represent the State in criminal proceedings, and perform necessary duties in relation to the grand jury and operation of the office **THAT THE STATE'S ATTORNEY REQUIRES**.

[(iii) The county commissioners shall approve the compensation of the deputy and assistant State's Attorneys.

(2) (i) In addition to the assistant State's Attorney appointed under paragraph (1) of this subsection, with the approval of the resident circuit court judge of the county, the State's Attorney may appoint two members of the Bar of Worcester County as assistant State's Attorneys.

(ii) One assistant State's Attorney appointed under this paragraph shall receive a salary set by the Board of County Commissioners that may not be less than $16,000, including any state or federal funds provided for the position.

(iii) The other assistant State's Attorney appointed under this paragraph shall receive a salary that may not be less than $12,000, including any State or federal funds provided for the position.

(3) (i) In addition to the assistant State's Attorneys appointed under paragraphs (1) and (2) of this subsection, with the prior approval of the resident circuit court judge of the county and the Board of County Commissioners, the State's Attorney may appoint additional assistant State's Attorneys as the State's Attorney considers necessary.

(ii) The salary of an assistant State's Attorney appointed under this paragraph shall be set and approved by the Board of County Commissioners.**]**

(d) **[**(1)**]** If authorized by an ordinance enacted by the county commissioners, the State's Attorney may appoint **[**two**]** special investigators who:

[(i)**](1)** shall serve at the pleasure of the State's Attorney; **AND**

[(ii)**](2)** shall perform work as directed by and under the supervision of the State's Attorney**[**; and

(iii) subject to paragraph (2) of this subsection, shall receive a salary determined by the county commissioners.

(2) The salary of one special investigator appointed under paragraph (1) of this subsection may not be less than $12,000, including any State or federal funds provided for the position**]**.

(e) **[**(1)**]** The State's Attorney shall serve full time and may not engage in the private practice of law.

[(2) (i) The assistant State's Attorney appointed under subsection (c)(2)(ii) of this section shall serve full time and may not engage in the private practice of law.

(ii) The assistant State's Attorney appointed under subsection (c)(2)(iii) of this section may engage in the private practice of law.

(3) A special investigator appointed under subsection (d) of this section shall serve full time and may not engage in other employment.**]**

(F) ON APPROVAL OF THE COUNTY COMMISSIONERS, THE STATE'S ATTORNEY MAY HIRE THE CLERICAL, SECRETARIAL, AND OFFICE EMPLOYEES THAT THE STATE'S ATTORNEY DETERMINES ARE NEEDED.

(G) ALL EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY, INCLUDING DEPUTY STATE'S ATTORNEYS, ASSISTANT STATE'S ATTORNEYS, INVESTIGATORS, CLERICAL WORKERS, SECRETARIES, AND OFFICE EMPLOYEES:

(1) ARE EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY AND NOT OF THE COUNTY COMMISSIONERS;

(2) SHALL RECEIVE THE SAME INSURANCE, RETIREMENT, AND LEAVE BENEFITS AS COUNTY EMPLOYEES; AND

(3) ARE UNDER THE CONTROL OF THE STATE'S ATTORNEY, SUBJECT TO THIS SECTION AND THE PERSONNEL RULES AND REGULATIONS THAT THE COUNTY COMMISSIONERS ADOPT BY RESOLUTION FOR COUNTY EMPLOYEES.

(H) THE STATE'S ATTORNEY SHALL PERFORM THE APPOINTMENT, DISCIPLINARY, TERMINATION, AND MANAGERIAL FUNCTIONS FOR ALL EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY WHO ARE COVERED BY

THE PERSONNEL RULES AND REGULATIONS THAT THE COUNTY COMMISSIONERS ADOPT.

(I) THE STATE'S ATTORNEY MAY ADOPT OFFICE PRACTICES, MANUALS, RULES OF CONDUCT, AND OTHER PROCEDURES TO SERVE AS CONDITIONS OF EMPLOYMENT FOR EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY.

(J) (1) EXCEPT FOR MEMBERS OF THE STATE BAR WHO SERVE AS DEPUTY OR ASSISTANT STATE'S ATTORNEYS, EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY MAY BE DISCIPLINED OR TERMINATED FOR CAUSE ONLY IN ACCORDANCE WITH THIS SECTION AND THE PERSONNEL RULES AND REGULATIONS THAT THE COUNTY COMMISSIONERS ADOPT.

(2) WHEN A NEW STATE'S ATTORNEY TAKES OFFICE OR AT THE BEGINNING OF A NEW TERM OF A STATE'S ATTORNEY, ALL CLERICAL, SECRETARIAL, OFFICE, AND OTHER EMPLOYEES EXCEPT FOR DEPUTY AND ASSISTANT STATE'S ATTORNEYS SHALL REMAIN IN THEIR POSITIONS AND SHALL BE CONSIDERED REHIRED.

(K) ON REQUEST OF THE STATE'S ATTORNEY, THE COUNTY COMMISSIONERS MAY PROVIDE IN–KIND SUPPORT TO THE STATE'S ATTORNEY FOR PERSONNEL MATTERS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 512

(House Bill 639)

AN ACT concerning

Washington County – Board of Education – Vacancies

FOR the purpose of ~~requiring the Board of County Commissioners of Washington County, instead of the Governor, to appoint~~ altering the method of appointing certain individuals to fill certain vacancies on the Board of Education of Washington County; establishing a Washington County School Board

Nominating Commission; specifying the membership of the Commission; specifying the duties of the Commission; providing for the staffing of the Commission; requiring the Commission to submit certain nominees within a certain period of time to the Board of County Commissioners of Washington County; requiring the Board of County Commissioners of Washington County to select certain individuals within a certain period of time to fill certain vacancies on the Board of Education of Washington County; and generally relating to appointments to the Board of Education of Washington County.

BY repealing and reenacting, without amendments,
Article – Education
Section 3–1301(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 3–1301(c)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Education
Section 3–1301(e)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Education

3–1301.

(a) The Washington County Board consists of seven members.

(c) (1) Each member serves for a term of 4 years beginning on the first Tuesday in December after the member's election and until a successor is elected and qualifies.

(2) The terms of members are staggered as required by the terms of the members serving on the County Board as of July 1, 1986.

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

(4) ~~The [Governor]~~ **IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, THE COUNTY COMMISSIONERS** shall appoint a qualified individual to fill any vacancy on the County Board for the remainder of that term and until a successor is elected and qualifies.

(E) (1) IN THIS SECTION, "WASHINGTON COUNTY DELEGATION" MEANS THE SENATORS AND DELEGATES IN THE GENERAL ASSEMBLY OF MARYLAND WHO ARE ELECTED TO REPRESENT WASHINGTON COUNTY OR ANY PORTION OF WASHINGTON COUNTY.

(2) THERE IS A WASHINGTON COUNTY SCHOOL BOARD NOMINATING COMMISSION.

(3) THE COMMISSION SHALL CONSIST OF THE FOLLOWING SIX VOTING MEMBERS:

(I) ONE MEMBER APPOINTED BY THE SENATOR MEMBERS OF THE WASHINGTON COUNTY DELEGATION;

(II) ONE MEMBER APPOINTED BY THE DELEGATE MEMBERS OF THE WASHINGTON COUNTY DELEGATION;

(III) ONE MEMBER APPOINTED BY THE COUNTY BOARD; AND

(IV) THE FOLLOWING THREE MEMBERS APPOINTED BY THE COUNTY COMMISSIONERS:

1. ONE MEMBER REPRESENTING THE WASHINGTON COUNTY BUSINESS COMMUNITY;

2. ONE MEMBER REPRESENTING THE WASHINGTON COUNTY CITIZENS ADVISORY COUNCIL; AND

3. ONE MEMBER REPRESENTING THE WASHINGTON COUNTY EDUCATIONAL COMMUNITY.

(4) (I) THE CHAIRMAN OF THE COMMISSION SHALL BE A MEMBER OF THE PUBLIC APPOINTED BY THE COUNTY COMMISSIONERS.

(II) THE CHAIRMAN MAY NOT BE A MEMBER OF EITHER THE COUNTY BOARD OR THE WASHINGTON COUNTY DELEGATION.

(III) THE CHAIRMAN IS A NONVOTING MEMBER OF THE COMMISSION WHO SHALL VOTE ONLY WHEN THERE IS A TIE VOTE AMONG THE VOTING MEMBERS OF THE COMMISSION.

(5) THE COUNTY COMMISSIONERS SHALL PROVIDE THE STAFF FOR THE COMMISSION.

(6) THE COMMISSION SHALL:

(I) ADVERTISE THE VACANCY AND PROVIDE THE PROCEDURES FOR FILLING THE VACANCY IN AT LEAST ONE MEDIUM ACCESSIBLE TO THE GENERAL PUBLIC, WHICH INCLUDES:

1. A NEWSPAPER OF GENERAL CIRCULATION IN THE REGION; OR

2. AN ELECTRONIC POSTING ON THE LOCAL SCHOOL SYSTEM WEBSITE; AND

(II) BEFORE SELECTING ANY NOMINEES, HOLD AT LEAST ONE PUBLIC HEARING.

(7) WITHIN 30 DAYS OF THE VACANCY OCCURRING, THE COMMISSION SHALL SUBMIT THE NAMES OF NO MORE THAN THREE NOMINEES TO THE COUNTY COMMISSIONERS FOR THEIR CONSIDERATION.

(8) WITHIN 15 DAYS AFTER RECEIVING THE NAMES OF THE NOMINEES PROVIDED BY THE COMMISSION UNDER PARAGRAPH (7) OF THIS SUBSECTION, THE COUNTY COMMISSIONERS SHALL SELECT AN INDIVIDUAL TO FILL THE VACANCY ON THE COUNTY BOARD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 513

(House Bill 646)

AN ACT concerning

Condominiums – Property Insurance Deductible – Unit Owner Responsibility

FOR the purpose of altering the maximum amount of the responsibility of certain condominium unit owners for the council of unit owners property insurance deductible under certain circumstances; altering the amount of the council of unit owners property insurance deductible that is a common expense; and generally relating to the responsibility of certain condominium unit owners for the council of unit owners' property insurance deductible.

BY repealing and reenacting, without amendments,
Article – Real Property
Section 11–114(a) and (c)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–114(g)(2)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Real Property

11–114.

(a) Commencing not later than the time of the first conveyance of a unit to a person other than the developer, the council of unit owners shall maintain, to the extent reasonably available:

(1) Property insurance on the common elements and units, exclusive of improvements and betterments installed in units by unit owners, insuring against those risks of direct physical loss commonly insured against, in amounts determined by the council of unit owners but not less than any amounts specified in the declaration or bylaws; and

(2) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the council of unit owners, but not less than any amount specified in the declaration or bylaws, covering occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

(c) Insurance policies carried pursuant to subsection (a) of this section shall provide that:

(1) Each unit owner is an insured person under the policy with respect to liability arising out of his ownership of an undivided interest in the common elements or membership in the council of unit owners;

(2) The insurer waives its right to subrogation under the policy against any unit owner of the condominium or members of his household;

(3) An act or omission by any unit owner, unless acting within the scope of his authority on behalf of the council of unit owners, does not void the policy and is not a condition to recovery under the policy; and

(4) If, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same property covered by the policy, the policy is primary insurance not contributing with the other insurance.

(g) (2) (i) 1. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense.

2. A property insurance deductible is not a cost of repair or replacement in excess of insurance proceeds.

(ii) If the cause of any damage to or destruction of any portion of the condominium originates from the common elements, the council of unit owners' property insurance deductible is a common expense.

(iii) 1. Except as otherwise provided in the council of unit owners' bylaws, if the cause of any damage to or destruction of any portion of the condominium originates from a unit, the council of unit owners' property insurance deductible is a common expense.

2. If the council of unit owners' bylaws provides that the owner of the unit where the cause of the damage or destruction originated is responsible for the council of unit owners' property insurance deductible, the unit owner's responsibility may not exceed **[**$1,000**]** ~~**$10,000**~~ **$5,000**.

3. The council of unit owners' property insurance deductible amount exceeding the **[**$1,000**]** ~~**$10,000**~~ **$5,000** responsibility of the unit owner is a common expense.

(iv) In the same manner as provided under § 11–110 of this subtitle, the council of unit owners may make an annual assessment against the unit owner responsible under subparagraph (iii) of this paragraph.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 514

(House Bill 684)

AN ACT concerning

Task Force to Study Motor Vehicle Towing Practices

FOR the purpose of establishing the Task Force to Study Motor Vehicle Towing Practices in the State; providing for the membership of the Task Force; requiring the Governor to designate the chair of the Task Force; requiring the Task Force to study certain issues relevant to motor vehicle towing practices in the State; 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 reimbursement for expenses for a member of the Task Force; providing for the staff of the Task Force; providing for the termination of this Act; and generally relating to the establishment of the Task Force to Study Motor Vehicle Towing Practices in the State.

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

(a) There is a Task Force to Study Motor Vehicle Towing Practices in the State.

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

(1) ~~two members~~ *one member* of the Senate of Maryland, appointed by the President of the Senate;

(2) ~~two members~~ *one member* of the House of Delegates, appointed by the Speaker of the House;

(3) one representative from the Motor Vehicle Administration, appointed by the Motor Vehicle Administrator;

(4) two representatives from the motor vehicle insurance industry, appointed by the Governor;

(5) two representatives from two different county police departments who are involved with the county's towing policies and the disposition of abandoned motor vehicles, appointed by the Governor;

(6) two representatives of the Towing and Recovery Professionals of Maryland, appointed by the president of that organization;

(7) two representatives of the Maryland Association of Counties, appointed by the president of the Association;

(8) one representative of the Maryland Retailers Association, appointed by the president of the Association;

(9) one representative of the Maryland Bankers Association, appointed by the president of the Association;

(10) one representative of the Maryland Automobile Dealers Association, appointed by the president of the Association;

(11) one representative of the Apartment and Office Building Association, appointed by the president of the Association; ~~and~~

~~(12) two members from the general public, appointed by the Governor~~

(12) one representative of the Maryland Auto and Truck Recyclers Association, appointed by the Executive Director of the Association;

(13) one representative of a Maryland branch of the American Automobile Association (AAA) appointed by the branch president of the Association;

(14) two representatives of the Maryland Municipal League, appointed by the Executive Director of the League; and

(15) the following members appointed by the Governor:

(i) two members representing the interests of commercial and residential property owners; and

(ii) two members from the general public.

(c) The Governor shall designate the chair of the Task Force.

(d) The Motor Vehicle Administration shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall study:

(1) the State and local laws governing towing practices, including the storage and disposal of towed vehicles, and any recommended changes to these laws;

(2) the costs, benefits, and feasibility of a State program of licensure or registration for the towing industry;

(3) issues related to notice given by a private property owner to the owner of a motor vehicle before towing the vehicle;

(4) issues related to notice given by a police department to the motor vehicle owner, a secured party, or an insurer of an abandoned motor vehicle in police custody;

(5) issues related to notice given by a private tower to the motor vehicle owner, a secured party, an insurer, or the local police department of a towed vehicle in the possession of a private tower;

(6) issues related to State preemption of local authority governing the towing or removal of motor vehicles; and

(7) any other issues that the Task Force considers relevant to motor vehicle towing practices in the State.

(g) On or before December 31, 2008, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of ~~7 months~~ *1 year* and, at the end of ~~December 31, 2008~~ *May 31, 2009*, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 515

(House Bill 707)

AN ACT concerning

Department of State Police – State Aid for Police Protection Fund – Transfer to Governor's Office of Crime Control and Prevention

FOR the purpose of transferring the administration of the State Aid for Police Protection Fund from the Department of State Police to the Governor's Office of Crime Control and Prevention; transferring the functions of the Secretary of State Police relating to the State Aid for Police Protection Fund to the Executive Director of the Governor's Office of Crime Control and Prevention; defining certain terms; *stating the intent of the General Assembly that the Governor's Office of Crime Control and Prevention administer the Fund with existing resources;* altering certain definitions; and generally relating to the transfer of the State Aid for Police Protection Fund to the Governor's Office of Crime Control and Prevention.

BY repealing and reenacting, with amendments,
Article 41 – Governor – Executive and Administrative Departments
Section 4–403(a) and (b)(8), 4–405, and 4–406
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article 41 – Governor – Executive and Administrative Departments

4–403.

(a) As used in this subtitle:

(1) "Subdivision" means any county of Maryland but does not include Baltimore City; or where the context requires, the governing body thereof.

(2) "Municipality" means any incorporated city or town, except Baltimore City, within Maryland; or where the context requires, the governing body thereof.

(3) "Expenditures for police protection" shall be those for the fiscal year immediately preceding the fiscal year for which the calculation of State aid is to be made. Thus, State aid for the first year of this grant (1968–1969) shall be based on "expenditures for police protection" in the fiscal year ending June 30, 1968; State aid for the second year of this grant (1969–1970) shall be based on expenditures in the fiscal year ending June 30, 1969, and so forth. "Expenditures for police protection" means salaries and wages, other operating expenses, capital outlays from current operating funds, and properly identifiable debt service, paid for police protection. Expenditures for sheriffs and constables are included only to the extent that such officers perform police protection functions. Expenditures for traffic control, park police, and a share of the cost of a central alarm system proportionate to its police use, are included. No part of expenditures for collecting from or servicing parking meters, nor of constructing or operating jails, is included.

(4) "Adjusted assessed valuation of real property" means 100% of the assessed valuation of the operating real property of public utilities, plus 40% of the assessed valuation of all other real property for State purposes, as reported by the State Department of Assessments and Taxation as of July 1 of the second fiscal year preceding the fiscal year for which the calculation of State aid is to be made, plus 20% of new property assessed between July 1 and December 31 of the second preceding fiscal year. "Real property" means all property classified as real property under § 8–101(b) of the Tax – Property Article.

(5) "Net taxable income" shall be the taxable income of individuals under Title 10 of the Tax – General Article, as certified by the Comptroller of the Treasury for the third completed calendar year preceding the fiscal year for which the calculation of State aid is to be made. Thus, State aid for the first year of this grant shall be based on taxable income in calendar year 1965, and State aid in succeeding years on taxable income in corresponding succeeding calendar years.

(6) Population figures for total number of people in a subdivision, i.e. figures used in per capita and density determinations, shall be those estimated by the State Department of Health and Mental Hygiene, as of July 1 of each year. Percentage of population residing in municipalities shall be determined from time to time by the most recently published federal decennial census data.

(7) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.

[(7)**] (8)** "Qualifying municipality" means a municipality:

(i) 1. Whose "expenditures for police protection", as defined above, exceed $5,000; and

2. That employs at least one qualified full–time police officer, as determined by the **[**Secretary of State Police**]** **EXECUTIVE DIRECTOR**; or

(ii) 1. Whose "expenditures for police protection", as defined above, exceed $80,000; and

2. That employs at least two qualified part–time police officers, as determined by the **[**Secretary of State Police**]** **EXECUTIVE DIRECTOR**, from a county police department or county sheriff's department.

[(8)**]** **(9)** "Wealth base" of a subdivision means the sum of the "adjusted assessed valuation of real property" and "net taxable income".

[(9)**]** **(10)** "Aggregate expenditures for police protection" for a subdivision means the sum of "expenditures for police protection", as defined above, of that subdivision and of every qualifying municipality in that subdivision.

[(10)**]** **(11)** "Equivalent of X dollars per capita" means an amount of money equal to the product of X times the number of people in the particular subdivision.

(12) "Sworn officer" means:

(i) A law enforcement officer certified by the Police Training Commission; or

(ii) A full–time probationary employee of a local government who:

1. Is hired to attend a police training academy to become a certified law enforcement officer; and

2. Is in training or is functioning as a law enforcement officer pending training.

(b) Subject to subsection (d) of this section, for the fiscal year beginning July 1, 2004, and thereafter, the State shall pay to each subdivision, and to each qualifying municipality, each year in the manner and subject to the limitations and requirements hereinafter provided, an amount determined as follows:

(8) Municipal Sworn Officer Allocation. For fiscal year 2009 and each fiscal year thereafter, the State shall pay to each qualifying municipality, in addition

to the payments made under paragraphs (1) through (7) of this subsection an amount equal to $1,950 for each sworn police officer actually employed on a full–time basis by the qualifying municipality, as determined by the **[**Secretary of State Police**]** **EXECUTIVE DIRECTOR**.

4–405.

(a) If the **[**Secretary of State Police**]** **EXECUTIVE DIRECTOR** finds that a county is not complying with the maintenance of effort provisions of § 4–402 of this subtitle, the **[**Secretary of State Police**]** **EXECUTIVE DIRECTOR** shall notify the subdivision or qualifying municipality of such noncompliance.

(b) If a subdivision or qualifying municipality disputes the finding within 30 days of the issuance of such notice, the dispute shall be promptly referred to the Secretary of the Department of Budget and Management, who shall make a final determination.

(c) Upon receipt of certification of noncompliance by the **[**Secretary of State Police**]** **EXECUTIVE DIRECTOR** or the Secretary of the Department of Budget and Management, as the case may be, the Comptroller shall suspend, until notification of compliance is received, payment of any funds due the subdivision or qualifying municipality for the current fiscal year, as provided in § 4–403 of this subtitle, to the extent that the State's aid due the subdivision or qualifying municipality in the current fiscal year under that section exceeds the amount which the subdivision or qualifying municipality received in the prior fiscal year.

4–406.

(a) The **[**Secretary of State Police**]** **EXECUTIVE DIRECTOR** shall administer the State Aid for Police Protection Fund.

(b) The **[**Secretary of State Police**]** **EXECUTIVE DIRECTOR** shall:

(1) Certify to the Comptroller and to the subdivisions and qualifying municipalities the amount of payments to the subdivisions and qualifying municipalities; and

(2) Make such regulations and require such reports as are necessary to certify the amounts.

(c) In administering the Fund, the **[**Secretary of State Police**]** **EXECUTIVE DIRECTOR** shall:

(1) Make a continuing effort to establish standards of police protection adequate to the various local situations; and

(2) Subject to § 2–1246 of the State Government Article, report periodically to the General Assembly on progress in establishing and meeting those standards, including the payment amounts certified under subsection (b) of this section and any other relevant fiscal information.

(d) In determining qualification under § 4–403(a)(7) of this subtitle, the minimum standards determined by the Police Training Commission under authority of Title 3, Subtitle 2 of the Public Safety Article shall be applied.

(e) The Police Training Commission shall print and distribute to all municipalities its rules and regulations setting forth the minimum standards of police qualifications.

(f) (1) In the event a municipality fails to meet the minimum standards for two successive years, the **[**Secretary of State Police**]** **EXECUTIVE DIRECTOR** shall withhold payments to the municipality with respect to the second year.

(2) Any payment withheld for noncompliance is forfeited, and a claim may not be made by the municipality for the funds.

SECTION 2. AND BE IT FURTHER ENACTED, That on July 1, 2008, all the functions, powers, duties, assets, and liabilities of the State Aid for Police Protection Fund within the Department of State Police shall be transferred to the Governor's Office of Crime Control and Prevention.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Governor's Office of Crime Control and Prevention administer the State Aid for Police Protection Fund with existing resources.

SECTION ~~3.~~ *4.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 516

(House Bill 720)

AN ACT concerning

State Retirement and Pension System – Reemployment of Retirees

FOR the purpose of exempting from a certain offset of a retirement allowance retired judges who are members of the Employees' Retirement System or the Employees' Pension System; requiring certain local school superintendents to make certain reimbursements under certain circumstances by a certain date; providing that certain members of the Judges' Retirement System may earn service credit under certain circumstances; providing for certain individuals who are retirees of the Employees' Retirement System or Employees' Pension System to elect to suspend temporarily their service retirement allowances under certain circumstances; requiring the Board of Trustees to suspend temporarily certain service retirement allowances under certain circumstances as of a certain date; exempting certain individuals who are retirees of the Employees' Retirement System or Employees' Pension System from a certain earnings offset under certain circumstances; providing for the resumption of a service retirement allowance with certain adjustments to the allowance after receipt by the Board of Trustees for the State Retirement and Pension System of certain documentation; providing for certain survivorship benefits for surviving spouses of certain individuals who are retirees of the Employees' Retirement System or Employees' Pension System; requiring the Joint Committee on Pensions to submit certain information to the Senate Budget and Taxation Committee and the House Appropriations Committee by a certain date; requiring certain State agencies to submit certain data to the Joint Committee on Pensions; providing for the termination of certain provisions of this Act; and generally relating to reemployment of retirees of the State Retirement and Pension System.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 22–406(b) and (c)(2) and (3) and 23–407(b) and (c)(2) and (3)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section ~~22–406(c)(1) and (9) and 23–407(c)(1) and (9)~~ 22–406(c)(1), (4)(vii) and (viii), and (9) and 23–407(c)(1), (4)(v) and (vi), and (9)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Personnel and Pensions
Section ~~22–407 and 23–408~~ 22–406(c)(4)(ix), 22–407, 23–407(c)(4)(vii), and 23–408
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – State Personnel and Pensions

22–406.

(b) Except as provided in subsection (m) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, if:

(1) the individual immediately notifies the Board of Trustees of the individual's intention to accept this employment; and

(2) the individual specifies the compensation to be received.

(c) (1) **[**The**]** **EXCEPT AS PROVIDED IN § 22–407 OF THIS SUBTITLE, THE** Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance or vested allowance;

(ii) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance under § 22–402 of this subtitle.

(2) The reduction required under paragraph (1) of this subsection shall equal:

(i) the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance; or

(ii) for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual

compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic allowance.

(3) A reduction of an early service retirement allowance under paragraph (1)(iii) of this subsection shall be applied only until the individual has received an allowance for 12 months.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(vii) a former employee of the Domestic Relations Division of Anne Arundel County Circuit Court who transfers into the State Employees' Personnel System under § 2–510 of the Courts Article; **[**or**]**

(viii) a retiree of the Employees' Retirement System who is reemployed on a contractual basis for not more than 4 years by the Department of Health and Mental Hygiene as a health care practitioner, as defined in § 1–301 of the Health Occupations Article, in:

1. a State residential center as defined in § 7–101 of the Health – General Article;

2. a chronic disease center subject to Title 19, Subtitle 5 of the Health – General Article;

3. a State facility as defined in § 10–101 of the Health – General Article; or

4. a local health department subject to Title 3, Subtitle 2 of the Health – General Article**; OR**

(IX) A RETIREE OF THE EMPLOYEES' RETIREMENT SYSTEM AND THE JUDGES' RETIREMENT SYSTEM WHO IS TEMPORARILY ASSIGNED TO SIT IN A COURT OF THIS STATE UNDER THE AUTHORITY OF ARTICLE IV, § 3A OF THE MARYLAND CONSTITUTION.

(9) (i) The superintendent of the local school system rehiring an individual under paragraph (4)(v) or (vi) of this subsection shall:

1. approve the rehiring of that individual; and

2. determine the school where the individual is to be reemployed.

(ii) Within 30 days after rehiring an individual, the superintendent of a local school system shall complete and file with the Board of Trustees and the State Department of Education a form provided by the Board of Trustees that certifies that the individual rehired by the local school system under paragraph (4)(v) or (vi) of this subsection:

1. satisfied the criteria provided in paragraph (4)(v) or (vi) of this subsection;

2. was reemployed at a school described under paragraph (5)(i) or (6) of this subsection; and

3. if rehired under paragraph (4)(v) of this subsection, was:

A. teaching in an area specified in paragraph (5)(ii) of this subsection; or

B. teaching in any class or subject or providing educational services as provided under paragraph (8) of this subsection.

(iii) 1. On or before April 1 of each year, the Board of Trustees and the State Department of Education shall jointly review any forms filed by a superintendent of a local school system under subparagraph (ii) of this paragraph during the previous calendar year.

2. If the Board of Trustees and the State Department of Education agree that a superintendent of a local school system has rehired an individual that does not satisfy the criteria provided in paragraph (4)(v) or (vi) and (5), (6), or (8) of this subsection:

A. on or before July 1 of the year of the finding, the Board of Trustees shall notify the superintendent of the local school system of this individual; and

B. the local school system shall reimburse the Board of Trustees the amount equal to the reduction to the individual's retirement allowance that would have been made in paragraph (2) of this subsection.

(iv) **IF A SUPERINTENDENT OF A LOCAL SCHOOL SYSTEM REHIRES AN INDIVIDUAL THAT SATISFIES THE CRITERIA PROVIDED IN PARAGRAPHS (4)(V) OR (VI) AND (5), (6), OR (8) OF THIS SUBSECTION AND THE BOARD OF TRUSTEES AND THE STATE DEPARTMENT OF EDUCATION DO NOT**

RECEIVE CERTIFICATION FROM THE SUPERINTENDENT IN THE TIME REQUIRED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH:

1. ON OR BEFORE JULY 1 OF THE YEAR OF THE FINDING, THE BOARD OF TRUSTEES SHALL NOTIFY THE SUPERINTENDENT OF THE LOCAL SCHOOL SYSTEM OF THIS INDIVIDUAL; AND

2. THE LOCAL SCHOOL SYSTEM SHALL REIMBURSE THE BOARD OF TRUSTEES THE AMOUNT EQUAL TO ANY REDUCTION TO THE INDIVIDUAL'S RETIREMENT ALLOWANCE THAT WOULD HAVE BEEN MADE IN PARAGRAPH (2) OF THIS SUBSECTION AS A RESULT OF THE SUPERINTENDENT'S FAILURE TO SUBMIT CERTIFICATION UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.

(V) The local school system shall make the reimbursement on or before December 31 of the year the local school system receives notice from the Board of Trustees under subparagraph (iii)2A of this paragraph.

22–407.

(A) THIS SECTION APPLIES TO AN INDIVIDUAL WHO:

(1) ~~IS APPOINTED AS A JUDGE OF THE COURT OF APPEALS, THE COURT OF SPECIAL APPEALS, A CIRCUIT COURT OF A COUNTY IN THE STATE, OR THE DISTRICT COURT OF MARYLAND~~ *IS ELIGIBLE FOR MEMBERSHIP IN THE JUDGES' RETIREMENT SYSTEM AS PROVIDED IN § 27–201(A) OF THIS TITLE*; AND

(2) (I) IS RECEIVING A SERVICE RETIREMENT ALLOWANCE FROM THE EMPLOYEES' RETIREMENT SYSTEM AT THE TIME OF APPOINTMENT IN ITEM (1) OF THIS SUBSECTION; OR

(II) 1. HAS EARNED A VESTED ALLOWANCE FROM THE EMPLOYEES' RETIREMENT SYSTEM; AND

2. BEGINS RECEIVING THE VESTED ALLOWANCE WHILE SERVING AS A JUDGE DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

(B) AN INDIVIDUAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY ELECT TO RECEIVE SERVICE CREDIT IN THE JUDGES' RETIREMENT SYSTEM.

(C) (1) AN INDIVIDUAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION WHO ELECTS TO RECEIVE SERVICE CREDIT IN THE JUDGES' RETIREMENT SYSTEM UNDER SUBSECTION (B) OF THIS SECTION SHALL COMPLETE AND FILE A FORM PROVIDED BY THE BOARD OF TRUSTEES DIRECTING THE BOARD OF TRUSTEES TO SUSPEND THE INDIVIDUAL'S ALLOWANCE WHILE THE INDIVIDUAL IS RECEIVING SERVICE CREDIT IN THE JUDGES' RETIREMENT SYSTEM.

(2) (I) AN INDIVIDUAL SHALL FILE A FORM DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION WITH THE BOARD OF TRUSTEES:

1. IF THE INDIVIDUAL IS RECEIVING A SERVICE RETIREMENT ALLOWANCE FROM THE EMPLOYEES' RETIREMENT SYSTEM PRIOR TO SERVING AS A JUDGE, AT THE TIME THE INDIVIDUAL BECOMES A MEMBER OF THE JUDGES' RETIREMENT SYSTEM; OR

2. IF THE INDIVIDUAL HAS EARNED A VESTED ALLOWANCE FROM THE EMPLOYEES' RETIREMENT SYSTEM AND BECOMES ELIGIBLE TO RECEIVE THAT ALLOWANCE AFTER THE INDIVIDUAL BECOMES A MEMBER OF THE JUDGES' RETIREMENT SYSTEM, AT THE TIME THE INDIVIDUAL APPLIES TO RECEIVE THE VESTED ALLOWANCE.

(II) A TEMPORARY SUSPENSION UNDER THIS SUBSECTION SHALL BEGIN ON THE FIRST DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE BOARD OF TRUSTEES RECEIVED THE INDIVIDUAL'S REQUEST TO TEMPORARILY SUSPEND THE ALLOWANCE.

(D) AN INDIVIDUAL WHOSE ALLOWANCE IS TEMPORARILY SUSPENDED UNDER SUBSECTION (C) OF THIS SECTION IS NOT SUBJECT TO A REDUCTION AS PROVIDED IN § 22–406 OF THIS SUBTITLE DURING THE PERIOD THE INDIVIDUAL IS SERVING AS A JUDGE.

(E) (1) ON RECEIVING SATISFACTORY DOCUMENTATION THAT THE INDIVIDUAL IS NO LONGER SERVING AS A JUDGE, THE BOARD OF TRUSTEES SHALL REINSTATE THE INDIVIDUAL'S ALLOWANCE WITH ACCUMULATED COST–OF–LIVING ADJUSTMENTS FROM THE DATE THE ALLOWANCE WAS TEMPORARILY SUSPENDED.

(2) THE INDIVIDUAL'S ALLOWANCE WILL BE REINSTATED ON THE FIRST DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE INDIVIDUAL CEASED SERVING AS A JUDGE.

(F) IF AN INDIVIDUAL WHOSE ALLOWANCE IS TEMPORARILY SUSPENDED DIES WHILE SERVING AS A JUDGE, THE SURVIVING SPOUSE OF THE INDIVIDUAL SHALL RECEIVE:

(1) SURVIVORSHIP BENEFITS AS PROVIDED IN § 27–403 OF THIS ARTICLE; AND

(2) IF THE SURVIVING SPOUSE IS THE INDIVIDUAL'S DESIGNATED BENEFICIARY, THE SURVIVORSHIP BENEFITS SELECTED BY THE INDIVIDUAL AT THE TIME OF RETIREMENT FROM THE EMPLOYEES' RETIREMENT SYSTEM.

23–407.

(b) Except as provided in subsection (m) of this section, an individual who is receiving a service retirement allowance or a vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, if:

(1) the individual immediately notifies the Board of Trustees of the individual's intention to accept this employment; and

(2) the individual specifies the compensation to be received.

(c) (1) **[**The**] EXCEPT AS PROVIDED IN § 23–408 OF THIS SUBTITLE, THE** Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance or vested allowance;

(ii) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance or an early vested allowance computed under § 23–402 of this subtitle.

(2) The reduction required under paragraph (1) of this subsection shall equal:

(i) the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance; or

(ii) for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic allowance.

(3) A reduction of an early service retirement allowance or an early vested allowance under paragraph (1)(iii) of this subsection shall be applied only until the individual has received an allowance for 12 months.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(v) a retiree of the Teachers' Pension System who:

1. A. was employed as a principal within 5 years of retirement; or

B. was employed as a principal not more than 10 years before retirement and was employed in a position supervising principals in the retiree's last assignment prior to retirement;

2. has verification of satisfactory performance for each year as a principal and, if applicable, in a position supervising principals prior to retirement;

3. based on the retiree's qualifications, has been hired as a principal; and

4. receives verification of satisfactory performance each year the retiree is employed as a principal under paragraph (6) of this subsection; **[**or**]**

(vi) a retiree of the Employees' Pension System who is reemployed on a contractual basis for not more than 4 years by the Department of Health and Mental Hygiene as a health care practitioner, as defined in § 1–301 of the Health Occupations Article in:

1. a State residential center as defined in § 7–101 of the Health – General Article;

2. a chronic disease center subject to Title 19, Subtitle 5 of the Health – General Article;

3. a State facility as defined in § 10–101 of the Health – General Article; or

4. a local health department subject to Title 3, Subtitle 2 of the Health – General Article**; OR**

(VII) A RETIREE OF THE EMPLOYEES' PENSION SYSTEM AND THE JUDGES' RETIREMENT SYSTEM WHO IS TEMPORARILY ASSIGNED TO SIT IN A COURT OF THIS STATE UNDER THE AUTHORITY OF ARTICLE IV, § 3A OF THE MARYLAND CONSTITUTION.

(9) (i) The superintendent of the local school system rehiring an individual under paragraph (4)(iv) or (v) of this subsection shall:

1. approve the rehiring of that individual; and

2. determine the school where the individual is to be reemployed.

(ii) Within 30 days after rehiring an individual, the superintendent of a local school system shall complete and file with the Board of Trustees and the State Department of Education a form provided by the Board of Trustees that certifies that the individual rehired by the local school system under paragraph **[**(4)(v) or (vi)**] (4)(IV) OR (V)** of this subsection:

1. satisfied the criteria provided in paragraph (4)(iv) or (v) of this subsection;

2. was reemployed at a school described under paragraph (5)(i) or (6) of this subsection; and

3. if rehired under paragraph (4)(iv) of this subsection, was:

A. teaching in an area specified in paragraph (5)(ii) of this subsection; or

B. teaching in any class or subject or providing educational services as provided under paragraph (8) of this subsection.

(iii) 1. On or before April 1 of each year, the Board of Trustees and the State Department of Education shall jointly review any forms filed by a superintendent of a local school system under subparagraph (ii) of this paragraph.

2. If the Board of Trustees and the State Department of Education agree that a superintendent of a local school system has rehired an individual that does not satisfy the criteria provided in paragraph (4)(iv) or (v) and (5), (6), or (8) of this subsection:

A. on or before July 1 of the year of the finding, the Board of Trustees shall notify the superintendent of the local school system of this individual; and

B. the local school system shall reimburse the Board of Trustees the amount equal to the reduction to the individual's retirement allowance that would have been made in paragraph (2) of this subsection.

(iv) **IF A SUPERINTENDENT OF A LOCAL SCHOOL SYSTEM REHIRES AN INDIVIDUAL THAT SATISFIES THE CRITERIA PROVIDED IN PARAGRAPHS (4)(IV) OR (V) AND (5), (6), OR (8) OF THIS SUBSECTION AND THE BOARD OF TRUSTEES AND THE STATE DEPARTMENT OF EDUCATION DO NOT RECEIVE CERTIFICATION FROM THE SUPERINTENDENT IN THE TIME REQUIRED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH:**

1. ON OR BEFORE JULY 1 OF THE YEAR OF THE FINDING, THE BOARD OF TRUSTEES SHALL NOTIFY THE SUPERINTENDENT OF THE LOCAL SCHOOL SYSTEM OF THIS INDIVIDUAL; AND

2. THE LOCAL SCHOOL SYSTEM SHALL REIMBURSE THE BOARD OF TRUSTEES THE AMOUNT EQUAL TO ANY REDUCTION TO THE INDIVIDUAL'S RETIREMENT ALLOWANCE THAT WOULD HAVE BEEN MADE IN PARAGRAPH (2) OF THIS SUBSECTION AS A RESULT OF THE SUPERINTENDENT'S FAILURE TO SUBMIT CERTIFICATION UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.

(V) The local school system shall make the reimbursement on or before December 31 of the year the local school system receives notice from the Board of Trustees under subparagraph (iii)2A of this paragraph.

23–408.

(A) THIS SECTION APPLIES TO AN INDIVIDUAL WHO:

(1) ~~**IS APPOINTED AS A JUDGE OF THE COURT OF APPEALS, THE COURT OF SPECIAL APPEALS, A CIRCUIT COURT OF A COUNTY IN THE STATE, OR THE DISTRICT COURT OF MARYLAND**~~ ***IS ELIGIBLE FOR MEMBERSHIP IN THE JUDGES' RETIREMENT SYSTEM AS PROVIDED IN § 27–201(A) OF THIS TITLE*****;** **AND**

(2) (I) IS RECEIVING A SERVICE RETIREMENT ALLOWANCE FROM THE EMPLOYEES' PENSION SYSTEM AT THE TIME OF APPOINTMENT IN ITEM (1) OF THIS SUBSECTION; OR

(II) 1. HAS EARNED A VESTED ALLOWANCE FROM THE EMPLOYEES' PENSION SYSTEM; AND

2. BEGINS RECEIVING THE VESTED ALLOWANCE WHILE SERVING AS A JUDGE DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

(B) AN INDIVIDUAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY ELECT TO RECEIVE SERVICE CREDIT IN THE JUDGES' RETIREMENT SYSTEM.

(C) (1) AN INDIVIDUAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION WHO ELECTS TO RECEIVE SERVICE CREDIT IN THE JUDGES' RETIREMENT SYSTEM UNDER SUBSECTION (B) OF THIS SECTION SHALL COMPLETE AND FILE A FORM PROVIDED BY THE BOARD OF TRUSTEES DIRECTING THE BOARD OF TRUSTEES TO SUSPEND THE INDIVIDUAL'S ALLOWANCE WHILE THE INDIVIDUAL IS RECEIVING SERVICE CREDIT IN THE JUDGES' RETIREMENT SYSTEM.

(2) (I) AN INDIVIDUAL SHALL FILE A FORM DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION WITH THE BOARD OF TRUSTEES:

1. IF THE INDIVIDUAL IS RECEIVING A SERVICE RETIREMENT ALLOWANCE FROM THE EMPLOYEES' PENSION SYSTEM PRIOR TO SERVING AS A JUDGE, AT THE TIME THE INDIVIDUAL BECOMES A MEMBER OF THE JUDGES' RETIREMENT SYSTEM; OR

2. IF THE INDIVIDUAL HAS EARNED A VESTED ALLOWANCE FROM THE EMPLOYEES' PENSION SYSTEM AND BECOMES ELIGIBLE TO RECEIVE THAT ALLOWANCE AFTER THE INDIVIDUAL BECOMES A MEMBER OF THE JUDGES' RETIREMENT SYSTEM, AT THE TIME THE INDIVIDUAL APPLIES TO RECEIVE THE VESTED ALLOWANCE.

(II) A TEMPORARY SUSPENSION UNDER THIS SUBSECTION SHALL BEGIN ON THE FIRST DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE BOARD OF TRUSTEES RECEIVED THE INDIVIDUAL'S REQUEST TO TEMPORARILY SUSPEND THE ALLOWANCE.

(D) AN INDIVIDUAL WHOSE ALLOWANCE IS TEMPORARILY SUSPENDED UNDER SUBSECTION (C) OF THIS SECTION IS NOT SUBJECT TO A REDUCTION AS PROVIDED IN § 23–407 OF THIS SUBTITLE DURING THE PERIOD THE INDIVIDUAL IS SERVING AS A JUDGE.

(E) (1) ON RECEIVING SATISFACTORY DOCUMENTATION THAT THE INDIVIDUAL IS NO LONGER SERVING AS A JUDGE, THE BOARD OF TRUSTEES SHALL REINSTATE THE INDIVIDUAL'S ALLOWANCE WITH ACCUMULATED COST–OF–LIVING ADJUSTMENTS FROM THE DATE THE ALLOWANCE WAS TEMPORARILY SUSPENDED.

(2) THE INDIVIDUAL'S ALLOWANCE WILL BE REINSTATED ON THE FIRST DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE INDIVIDUAL CEASED SERVING AS A JUDGE.

(F) IF AN INDIVIDUAL WHOSE ALLOWANCE IS TEMPORARILY SUSPENDED DIES WHILE SERVING AS A JUDGE, THE SURVIVING SPOUSE OF THE INDIVIDUAL SHALL RECEIVE:

(1) SURVIVORSHIP BENEFITS AS PROVIDED IN § 27–403 OF THIS ARTICLE; AND

(2) IF THE SURVIVING SPOUSE IS THE INDIVIDUAL'S DESIGNATED BENEFICIARY, THE SURVIVORSHIP BENEFITS SELECTED BY THE INDIVIDUAL AT THE TIME OF RETIREMENT FROM THE EMPLOYEES' PENSION SYSTEM.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) This subsection applies to an individual who on June 30, 2008:

(i) ~~is serving as a judge of the Court of Appeals, the Court of Special Appeals, a circuit court of a county in the State, or the District Court of Maryland;~~

~~(ii)~~ is eligible to receive a service retirement allowance or vested allowance from the Employees' Retirement System or Employees' Pension System; and

~~(iii)~~ *(ii)* is receiving service credit in the Judges' Retirement System.

(2) (i) An individual described in paragraph (1) of this subsection may elect to apply for a service retirement allowance from the State employees' system from which the individual is eligible to receive an allowance.

(ii) An individual who elects to apply for a service retirement allowance under subparagraph (i) of this paragraph shall complete and file a form provided by the Board of Trustees for the State Retirement and Pension System on or before December 31, 2008, directing the Board of Trustees to suspend the individual's service retirement allowance from the Employees' Retirement System or Employees' Pension System while the individual is receiving service credit in the Judges' Retirement System.

(b) (1) This subsection applies to an individual who on June 30, 2008:

(i) ~~is serving as a judge of the Court of Appeals, the Court of Special Appeals, a circuit court of a county in the State, or the District Court of Maryland~~ *is eligible for membership in the Judges' Retirement System as provided in § 27–201(a) of the State Personnel and Pensions Article*;

(ii) is receiving a service retirement allowance from the Employees' Retirement System or the Employees' Pension System; and

(iii) is receiving a reduction to that allowance under § 22–406 or § 23–407 of the State Personnel and Pensions Article.

(2) (i) An individual described in paragraph (1) of this subsection may elect to receive service credit in the Judges' Retirement System.

(ii) An individual who elects to receive service credit in the Judges' Retirement System under subparagraph (i) of this paragraph shall complete and file a form provided by the Board of Trustees for the State Retirement and Pension System on or before December 31, 2008, directing the Board of Trustees to suspend the individual's service retirement allowance from the Employees' Retirement System or Employees' Pension System while the individual is receiving service credit in the Judges' Retirement System.

(c) A service retirement allowance from the Employees' Retirement System or Employees' Pension System that is temporarily suspended under this section shall be suspended on the first day of the month following the month in which the Board of Trustees receives the individual's completed form under subsection (a)(2) or (b)(2) of this section.

(d) An individual whose allowance is temporarily suspended under subsection (a)(2) or (b)(2) of this section is not subject to a reduction as provided in § 22–406 or § 23–407 of the State Personnel and Pensions Article during the period the individual is serving as a judge.

(e) (1) On receiving satisfactory documentation that the individual is no longer serving as a judge, the Board of Trustees shall reinstate the individual's allowance from the applicable State employees' system with accumulated cost–of–living adjustments from the date the allowance was temporarily suspended.

(2) The individual's allowance will be reinstated on the first day of the month following the month in which the individual ceased serving as a judge.

(f) If an individual whose allowance from the Employees' Retirement System or Employees' Pension System is temporarily suspended dies while serving as a judge, the surviving spouse of the individual shall receive:

(1) survivorship benefits as provided in § 27–403 of the State Personnel and Pensions Article; and

(2) if the surviving spouse is the individual's designated beneficiary, the survivorship benefits selected by the individual at the time of retirement from the Employees' Retirement System or Employees' Pension System.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) (1) The Joint Committee on Pensions shall study reemployment of retirees in the State Retirement and Pension System.

(2) The Joint Committee on Pensions shall receive data based on criteria established by the Joint Committee on Pensions from:

(i) the State Retirement and Pension System;

(ii) the Department of Budget and Management; and

(iii) the State Department of Education.

(b) The Joint Committee on Pensions shall report its findings to the Senate Budget and Taxation Committee and the House Appropriations Committee on or before December 31, 2008, 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, 2008. Section 2 of this Act shall remain effective for a period of 6 months and,

at the end of December 31, 2008, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 517

(House Bill 721)

AN ACT concerning

Job Creation Tax Credit – ~~Repeal of~~ Termination Provisions

FOR the purpose of ~~repealing~~ altering the termination provisions applicable to the job creation tax credit program; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the job creation tax credit program.

BY repealing and reenacting, with amendments,
Article 83A – Department of Business and Economic Development
Section 5–1103
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 6–309
Annotated Code of Maryland
(As enacted by Chapter 306 (H.B. 1050) of the Acts of the General Assembly of 2008)

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

Article 83A – Department of Business and Economic Development

~~[~~5–1103.

(a) Subject to the provisions of this section, the provisions of this subtitle and the tax credit authorized under this subtitle shall terminate as of January 1, ~~2010~~ **2014**.

(b) (1) The tax credits authorized under this subtitle:

(i) May be claimed only for qualified positions at a newly established or expanded facility that commences operations before January 1, ~~2009~~ **2013**; and

(ii) May not be earned for any credit year beginning on or after January 1, ~~2010~~ **2014**.

(2) Subject to the limitations under this subtitle, for taxable years beginning on or after January 1, ~~2010~~ **2014**, tax credits earned in credit years beginning before January 1, ~~2010~~ **2014**, may be allowed ratably over a 2–year period, may be carried forward, and are subject to recapture as provided in § 5–1102 of this subtitle.~~]~~

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

Article – Economic Development

6–309.

(a) (1) Subject to paragraph (2) of this subsection, this subtitle and the tax credit authorized under it shall terminate on January 1, **[**2010**] 2014**.

(2) As provided in this subtitle, for taxable years beginning on or after January 1, **[**2010**] 2014**, tax credits earned in credit years beginning before January 1, **[**2010**] 2014** may be allowed ratably over a 2–year period, may be carried forward, and are subject to recapture in accordance with § 6–305 of this subtitle.

(b) The tax credit authorized under this subtitle:

(1) may be claimed only for qualified positions at a newly established or expanded business facility that commences operations before January 1, **[**2009**] 2013**; and

(2) may not be earned for a credit year beginning on or after January 1, **[**2010**] 2014**.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of Chapter 306 (H.B. 1050) of the Acts of the General Assembly of 2008. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 518

(House Bill 723)

AN ACT concerning

Business and Economic Development – Biotechnology Investment Incentive Act

FOR the purpose of altering certain eligibility criteria and requirements for claiming a certain State income tax credit for certain investments in certain technology businesses; limiting the aggregate credits that may be certified for investments in a single company for any fiscal year to a certain percentage of the total appropriations to a certain reserve fund for that fiscal year; altering the method of claiming the credit; providing for recapture of the credit under certain circumstances; defining certain terms; authorizing certain regulations; providing for the application of this Act; and generally relating to certain tax credits for investments in certain technology businesses in the State.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–725
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article – Tax – General

10–725.

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

(2) "Biotechnology company" means a company organized for profit that is primarily engaged in the research, development, or commercialization of innovative and proprietary technology that comprises, interacts with, or analyzes

biological material including biomolecules (DNA, RNA, or protein), cells, tissues, or organs.

(3) (I) "COMPANY" MEANS ANY ENTITY OF ANY FORM DULY ORGANIZED AND EXISTING UNDER THE LAWS OF ANY JURISDICTION FOR THE PURPOSE OF CONDUCTING BUSINESS FOR PROFIT.

(II) "COMPANY" DOES NOT INCLUDE A SOLE PROPRIETORSHIP.

[(3)**] (4)** "Department" means the Department of Business and Economic Development.

[(4)**] (5)** (i) "Investment" means the contribution of **[**property**] MONEY IN CASH OR CASH EQUIVALENTS EXPRESSED IN UNITED STATES DOLLARS**, at a risk of loss, to a **[**qualified company**] QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY** in exchange for stock, a partnership **OR MEMBERSHIP** interest, or other ownership interest in the **[**qualified company**] EQUITY OF THE QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY, TITLE TO WHICH OWNERSHIP INTEREST SHALL VEST IN THE QUALIFIED INVESTOR**.

(II) "INVESTMENT" DOES NOT INCLUDE DEBT.

[(ii)**] (III)** For purposes of this section, an investment is at risk of loss when its repayment entirely depends upon the success of the business operations of the qualified company.

[(5)**] (6) (I)** "Qualified investor" means **[**an investor that is:

(i) an individual**] ANY ENTITY** that invests at least $25,000 in a qualified Maryland biotechnology company**[**; or

(ii) a corporation that invests at least $250,000 in a qualified Maryland biotechnology company**] AND THAT IS REQUIRED TO FILE AN INCOME TAX RETURN IN ANY JURISDICTION**.

(II) "QUALIFIED INVESTOR" DOES NOT INCLUDE A QUALIFIED PENSION PLAN, INDIVIDUAL RETIREMENT ACCOUNT, OR OTHER QUALIFIED RETIREMENT PLAN UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED, OR FIDUCIARIES OR CUSTODIANS UNDER SUCH PLANS, OR SIMILAR TAX–FAVORED PLANS OR ENTITIES UNDER THE LAWS OF OTHER COUNTRIES.

[(6)**] (7)** **(I)** "Qualified Maryland biotechnology company" means a biotechnology company that:

[(i)**]** **1.** has its headquarters and base of operations in this State;

[(ii)**]** **2.** has fewer than 50 full–time employees;

[(iii)**]** **3.** **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH,** has been in active business no longer than 10 years; **[**and**]**

4. DOES NOT HAVE ITS SECURITIES PUBLICLY TRADED ON ANY EXCHANGE; AND

[(iv)**]** **5.** has been certified as a biotechnology company by the Department.

(II) "QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY" INCLUDES A COMPANY THAT HAS BEEN IN ACTIVE BUSINESS FOR UP TO 12 YEARS IF THE DEPARTMENT DETERMINES THAT THE COMPANY REQUIRES ADDITIONAL TIME TO COMPLETE THE PROCESS OF REGULATORY APPROVAL.

[(7) "Qualified Maryland venture capital firm" means an entity that:

(i) is organized for the purpose of investing funds in privately held companies engaged in the research, development, or commercialization of innovative and proprietary technology;

(ii) has at least two principals that each have at least 5 years of venture capital experience;

(iii) has at least 1 year of experience investing in biotechnology or biopharmaceutical companies; and

(iv) has its principal place of operations in this State.**]**

(b) **(1)** Subject to **PARAGRAPHS (2) AND (3) OF THIS SUBSECTION AND** subsections (d) and (e) of this section, a qualified investor **[**or a qualified Maryland venture capital firm**]** may claim a credit against the State income tax in an amount equal to the **AMOUNT OF TAX CREDIT STATED IN THE** final credit certificate approved by the Secretary for an investment in a qualified Maryland biotechnology company as provided under this section.

(2) TO BE ELIGIBLE FOR THE TAX CREDIT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED INVESTOR SHALL BE:

(I) FOR A COMPANY, DULY ORGANIZED AND IN GOOD STANDING IN THE JURISDICTION UNDER THE LAWS UNDER WHICH IT IS ORGANIZED;

(II) FOR A COMPANY, IN GOOD STANDING AND AUTHORIZED OR REGISTERED TO DO BUSINESS IN THE STATE;

(III) CURRENT IN THE PAYMENT OF ALL TAX OBLIGATIONS TO THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE; AND

(IV) NOT IN DEFAULT UNDER THE TERMS OF ANY CONTRACT WITH, INDEBTEDNESS TO, OR GRANT FROM THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE.

(3) TO BE ELIGIBLE FOR THE TAX CREDIT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED INVESTOR MAY NOT~~:~~,

~~(I)~~ AFTER MAKING THE PROPOSED INVESTMENT, OWN OR CONTROL MORE THAN 25% OF THE EQUITY INTERESTS IN THE QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY IN WHICH THE INVESTMENT IS TO BE MADE~~; OR~~.

~~(II) BEFORE MAKING THE PROPOSED INVESTMENT, BE:~~

~~1. A FOUNDER, A PRINCIPAL, AN OFFICER, OR A MEMBER OF OR A GENERAL PARTNER IN THE QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY; OR~~

~~2. A PARENT, A SPOUSE, OR A CHILD OF ANY PERSON DESCRIBED IN ITEM 1 OF THIS ITEM.~~

(c) (1) At least 30 days prior to making an investment in a qualified Maryland biotechnology company for which a qualified investor **[**or qualified Maryland venture capital firm**]** would be eligible for an initial tax credit certificate under subsection (b) of this section, the qualified investor **[**or qualified Maryland venture capital firm**]** shall submit an application to the Department.

(2) THE APPLICATION SHALL EVIDENCE THAT THE QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY IS:

(I) IN GOOD STANDING;

(II) CURRENT IN THE PAYMENT OF ALL TAX OBLIGATIONS TO THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE; AND

(III) NOT IN DEFAULT UNDER THE TERMS OF ANY CONTRACT WITH, INDEBTEDNESS TO, OR GRANT FROM THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE.

[(2)**] (3)** The Department shall:

(i) approve all applications that qualify for credits under this section on a first come first served basis; and

(ii) within 30 days of receipt of an application, certify the amount of any approved tax credits to a qualified investor **[**or qualified Maryland venture capital firm**]**.

[(3)**] (4)** (i) After the **DATE ON WHICH THE** Department **[**has issued**] ISSUES** an initial tax credit certificate under this section, a qualified investor **[**or qualified Maryland venture capital firm**]** shall have 30 **CALENDAR** days to make an investment in a qualified Maryland biotechnology company under this section.

(ii) Within 10 **CALENDAR** days **[**of making an investment in a qualified Maryland biotechnology company**] AFTER THE DATE ON WHICH A QUALIFIED INVESTOR MAKES THE INVESTMENT**, **[**a**] THE** qualified investor **[**or qualified Maryland venture capital firm**]** shall provide **TO THE DEPARTMENT** notice **[**to the Department**] AND PROOF OF THE MAKING OF THE INVESTMENT, INCLUDING:**

1. THE DATE OF THE INVESTMENT;

2. THE AMOUNT INVESTED;

3. PROOF OF THE RECEIPT OF THE INVESTED FUNDS BY THE QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY;

4. A COMPLETE DESCRIPTION OF THE NATURE OF THE OWNERSHIP INTEREST IN THE EQUITY OF THE QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY ACQUIRED IN CONSIDERATION OF THE INVESTMENT; AND

5. ANY REASONABLE SUPPORTING DOCUMENTATION THE DEPARTMENT MAY REQUIRE.

(iii) If a qualified investor **[**or qualified Maryland venture capital firm**]** does not provide the notice **AND PROOF OF THE MAKING OF THE INVESTMENT** required in subparagraph (ii) of this paragraph within **[**30 days**] 40 CALENDAR DAYS** after the **[**issuance of**] DATE ON WHICH THE DEPARTMENT ISSUES** an initial tax credit certificate under this section**[**,**]:**

1. the Department shall rescind the **INITIAL TAX CREDIT** certificate**; AND**

2. THE CREDIT AMOUNT ALLOCATED TO THE RESCINDED CERTIFICATE SHALL REVERT TO THE MARYLAND BIOTECHNOLOGY INVESTMENT TAX CREDIT RESERVE FUND AND SHALL BE AVAILABLE IN THE APPLICABLE FISCAL YEAR FOR ALLOCATION BY THE DEPARTMENT TO OTHER INITIAL TAX CREDIT CERTIFICATES IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(d) (1) The tax credit allowed in an initial tax credit certificate issued under this section is 50% of the investment in a qualified Maryland biotechnology company, not to exceed**[**:

(i) $50,000 for a qualified investor that is an individual;

(ii) $250,000 for a qualified investor that is a corporation; or

(iii) $250,000 for a qualified Maryland venture capital firm**] $250,000**.

(2) DURING ANY FISCAL YEAR, THE SECRETARY MAY NOT CERTIFY ELIGIBILITY FOR TAX CREDITS FOR INVESTMENTS IN A SINGLE QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY THAT IN THE AGGREGATE EXCEED 15% OF THE TOTAL APPROPRIATIONS TO THE MARYLAND BIOTECHNOLOGY INVESTMENT TAX CREDIT RESERVE FUND FOR THAT FISCAL YEAR.

[(2)**] (3)** If the tax credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the qualified investor **[**or qualified Maryland venture capital firm**]** for that taxable year, the qualified investor **[**or qualified Maryland venture capital firm**]** may claim a refund in the amount of the excess.

(e) (1) In this subsection, "Reserve Fund" means the Maryland Biotechnology Investment Tax Credit Reserve Fund established under paragraph (2) of this subsection.

(2) (i) There is a Biotechnology Investment Tax Credit Reserve Fund which is a special continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(ii) The money in the Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall be credited to the General Fund.

(3) (i) Subject to the provisions of this subsection, the Secretary shall issue an initial tax credit certificate for each approved investment in a qualified Maryland biotechnology company eligible for a tax credit.

(ii) An initial tax credit certificate issued under this subsection shall state the maximum amount of tax credit for which the qualified investor **[**or qualified Maryland venture capital firm**]** is eligible.

(iii) 1. Except as otherwise provided in this subparagraph, for any fiscal year, the Secretary may not issue initial tax credit certificates for credit amounts in the aggregate totaling more than the amount appropriated to the Reserve Fund for that fiscal year in the State budget as approved by the General Assembly.

2. If the aggregate credit amounts under initial tax credit certificates issued in a fiscal year total less than the amount appropriated to the Reserve Fund for that fiscal year, any excess amount shall remain in the Reserve Fund and may be issued under initial tax credit certificates for the next fiscal year.

3. For any fiscal year, if funds are transferred from the Reserve Fund under the authority of any provision of law other than under paragraph (4) of this subsection, the maximum credit amounts in the aggregate for which the Secretary may issue initial tax credit certificates shall be reduced by the amount transferred.

(iv) For each fiscal year, the Governor shall include in the budget bill an appropriation to the Reserve Fund.

(v) Notwithstanding the provisions of § 7–213 of the State Finance and Procurement Article, the Governor may not reduce an appropriation to the Reserve Fund in the State budget as approved by the General Assembly.

(vi) Based on the actual amount of an investment made by a qualified investor **[**or a qualified Maryland venture capital firm**]**, the Secretary shall

issue a final tax credit certificate to the qualified investor **[**or qualified Maryland venture capital firm**]**.

(vii) A qualified investor **[**or a qualified Maryland venture capital firm**]** may redeem a final tax credit certificate for a taxable year beginning after December 31, 2006.

(4) (i) Except as provided in this paragraph, money appropriated to the Reserve Fund shall remain in the Fund.

(ii) 1. Within 15 days after the end of each calendar quarter, the Department shall notify the Comptroller as to each final credit certificate issued during the quarter:

A. the maximum credit amount stated in the initial tax credit certificate for the investment; and

B. the final certified credit amount for the investment.

2. On notification that an investment has been certified, the Comptroller shall transfer an amount equal to the credit amount stated in the initial tax credit certificate for the investment from the Reserve Fund to the General Fund.

(f) (1) The credit claimed under this section shall be recaptured as provided in paragraph (2) of this subsection if~~,~~ within 2 years from the close of the taxable year in which the credit is approved~~, the~~**:**

(I) **THE** qualified investor sells, transfers, or otherwise disposes of the ownership interest in the qualified Maryland biotechnology company that gave rise to the credit**; OR**

(II) THE QUALIFIED MARYLAND BIOTECHNOLOGY COMPANY THAT GAVE RISE TO THE CREDIT CEASES OPERATING AS AN ACTIVE BUSINESS WITH ITS HEADQUARTERS AND BASE OF OPERATIONS IN THE STATE.

(2) The amount required to be recaptured under this subsection is the product of multiplying:

(i) **THE TOTAL AMOUNT OF THE CREDIT CLAIMED OR, IN THE CASE OF AN EVENT DESCRIBED IN PARAGRAPH (1)(I) OF THIS SUBSECTION,** the portion of the credit attributable to the ownership interest disposed of ~~as described in paragraph (1) of this subsection~~; and

(ii) 1. 100%, if the ~~disposition~~ **EVENT REQUIRING RECAPTURE OF THE CREDIT** occurs during the taxable year in which the tax credit is approved;

2. 67%, if the ~~disposition~~ **EVENT REQUIRING RECAPTURE OF THE CREDIT** occurs during the first year after the close of the taxable year for which the tax credit is approved; or

3. 33%, if the ~~disposition~~ **EVENT REQUIRING RECAPTURE OF THE CREDIT** occurs more than 1 year but not more than 2 years after the close of the taxable year for which the tax credit is approved.

(3) The qualified investor **[**or a qualified Maryland venture capital firm**]** that claimed the credit shall pay the amount to be recaptured as determined under paragraph (2) of this subsection as taxes payable to the State for the taxable year in which the ~~disposition~~ **EVENT REQUIRING RECAPTURE OF THE CREDIT** ~~described under paragraph (1) of this subsection~~ occurs.

(g) (1) The Department may revoke its **INITIAL OR FINAL** certification of an approved credit under this section if any representation in connection with the application for the certification **[**proves**]** **IS DETERMINED BY THE DEPARTMENT** to have been false when made.

(2) The revocation may be in full or in part as the Department may determine and, subject to paragraph (3) of this subsection, shall be communicated to the qualified investor**[**, the qualified Maryland venture capital firm,**]** and the Comptroller.

(3) The qualified investor **[**or a qualified Maryland venture capital firm**]** shall have an opportunity to appeal any revocation to the Department prior to notification of the Comptroller.

(4) The Comptroller may make an assessment against the qualified investor **[**or a qualified Maryland venture capital firm**]** to recapture any amount of tax credit that the qualified investor **[**or a qualified Maryland venture capital firm**]** has already claimed.

(h) (1) On or before January 10 of each year, the Department shall report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly, on the initial tax credit certificates awarded under this section for the prior calendar year.

(2) The report required under paragraph (1) of this subsection shall include for each initial tax credit certificate awarded:

(i) the name of the qualified investor **[**or the name of the qualified Maryland venture capital firm**]** and the amount of credit awarded or allocated to each investor **[**or firm**]**;

(ii) the name and address of the qualified Maryland biotechnology company that received the investment giving rise to the credit under this section and the county where the qualified Maryland biotechnology company is located; and

(iii) the dates of receipt and approval by the Department of all applications for initial tax credit certificates.

(3) The report required under paragraph (1) of this subsection shall summarize for the category of qualified investors **[**and qualified Maryland venture capital firms**]**:

(i) the total number of applicants for initial tax credit certificates under this section in each calendar year;

(ii) the number of applications for which initial tax credit certificates were issued in each calendar year; and

(iii) the total initial tax credit certificates authorized under this section for all calendar years under this section.

(i) The Department and the Comptroller jointly shall adopt regulations to carry out the provisions of this section **AND TO SPECIFY CRITERIA AND PROCEDURES FOR APPLICATION FOR, APPROVAL OF, AND MONITORING CONTINUING ELIGIBILITY FOR THE TAX CREDIT UNDER THIS SECTION**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008, and shall be applicable to all taxable years beginning after December 31, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 519

(House Bill 725)

AN ACT concerning

~~Employees'~~ State Retirement and Pension ~~Systems~~ System – Line of Duty Death Benefits ~~– State Highway Administration Employees~~

FOR the purpose of providing that certain minor children and dependent parents of certain ~~employees of the State Highway Administration~~ deceased members of the State Retirement and Pension System are entitled to enroll and participate in the State Employee and Retiree Health and Welfare Benefits Program under certain circumstances; providing that surviving spouses, certain minor children, or dependent parents of certain deceased members of the ~~Employees' Retirement System or Employees' Pension System~~ State Retirement and Pension System are eligible to receive certain death benefits under certain circumstances; prohibiting the payment of certain death benefits to surviving spouses, certain minor children, or dependent parents of certain deceased members of the ~~Employees' Retirement System or Employees' Pension System~~ State Retirement and Pension System if the surviving spouse, children, or parents are receiving certain line of duty death benefits; providing for the application of this Act; and generally relating to line of duty death benefits for surviving spouses, minor children, and dependent parents of deceased ~~employees of the State Highway Administration~~ members of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–507, 29–202(b), 29–205, 29–206
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 29–202(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 29–204.2
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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.

(a) Subject to the regulations adopted under § 2–503 of this subtitle, a State employee may enroll and participate in any of the health insurance or other benefit options established under the Program.

(b) The surviving spouse of a State employee who died while employed by the State may enroll and participate in the health insurance benefit options established under the Program as long as the surviving spouse:

(1) is receiving an allowance under Title 29, Subtitle 2 of this article; or

(2) is the sole primary designated beneficiary and receiving a periodic distribution of benefits under an optional retirement program under Title 30 of this article.

(c) The surviving minor child or dependent parent of a State Police officer who 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.

(d) The surviving minor child of a correctional officer who at the time of death was a member of the Correctional Officers' Retirement System and who 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 is receiving an allowance under Title 29, Subtitle 2 of this article.

(E) THE SURVIVING MINOR CHILD OR DEPENDENT PARENT OF ~~AN~~ A STATE EMPLOYEE ~~OF THE STATE HIGHWAY ADMINISTRATION~~ WHO AT THE TIME OF DEATH WAS A MEMBER OF THE EMPLOYEES' RETIREMENT SYSTEM, ~~OR~~ EMPLOYEES' PENSION SYSTEM, TEACHERS' RETIREMENT SYSTEM, OR TEACHERS' PENSION SYSTEM AND WHO ~~DIED~~ WAS KILLED 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) 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.

(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 payable or has been 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 payable or has been paid for that death.

(3) A DEATH BENEFIT UNDER THIS SECTION MAY NOT BE PAID FOR THE DEATH OF ~~AN EMPLOYEE OF THE STATE HIGHWAY ADMINISTRATION WHO AT THE TIME OF DEATH WAS~~ A MEMBER OF THE EMPLOYEES' RETIREMENT SYSTEM, ~~OR~~ EMPLOYEES' PENSION SYSTEM, TEACHERS' RETIREMENT 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.

29–204.2.

(A) THIS SECTION APPLIES ONLY TO AN INDIVIDUAL WHO ~~DIES~~ IS KILLED WHILE ~~EMPLOYED BY THE STATE HIGHWAY ADMINISTRATION AS~~ A MEMBER OF THE EMPLOYEES' RETIREMENT SYSTEM, ~~OR~~ EMPLOYEES' PENSION SYSTEM, TEACHERS' RETIREMENT SYSTEM, OR TEACHERS' PENSION SYSTEM:

(1) WITHOUT WILLFUL NEGLIGENCE BY THE MEMBER; AND

(2) WITH DEATH ARISING OUT OF OR IN THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY.

(B) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH OF A MEMBER AND FINDS THAT THE DEATH HAS OCCURRED IN THE MANNER DESCRIBED IN SUBSECTION (A) OF THIS SECTION, THE BOARD OF TRUSTEES SHALL PAY:

(1) IF THE MEMBER IS SURVIVED BY A SPOUSE, A CHILD UNDER THE AGE OF 18 YEARS, OR A DEPENDENT PARENT:

(I) THE MEMBER'S ACCUMULATED CONTRIBUTIONS TO THE DESIGNATED BENEFICIARY, OR OTHERWISE TO THE MEMBER'S ESTATE; AND

(II) AN ALLOWANCE OF TWO–THIRDS OF THE MEMBER'S AVERAGE FINAL COMPENSATION:

1. TO THE SURVIVING SPOUSE;

2. IF THERE IS NO SURVIVING SPOUSE OR IF THE SURVIVING SPOUSE DIES BEFORE THE YOUNGEST CHILD OF THE MEMBER IS 18 YEARS OLD, TO ALL CHILDREN OF THE DECEASED MEMBER WHO ARE UNDER THE AGE OF 18 YEARS; OR

3. IF THERE IS NO SURVIVING SPOUSE OR CHILDREN YOUNGER THAN 18 YEARS OF AGE, TO THE MEMBER'S DEPENDENT PARENT TO CONTINUE AS THE BOARD OF TRUSTEES MAY DIRECT FOR THE REST OF THE PARENT'S LIFE; OR

(2) IF THE MEMBER IS NOT SURVIVED BY A SPOUSE, A CHILD UNDER THE AGE OF 18 YEARS, OR A DEPENDENT PARENT, THE DEATH BENEFIT UNDER § 29–202 OF THIS SUBTITLE.

(C) 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 UNDER THE AGE OF 18 YEARS IN A MANNER THAT PROVIDES FOR PAYMENTS TO CONTINUE UNTIL EACH CHILD DIES OR BECOMES 18 YEARS OLD.

29–205.

(a) This section applies to the surviving spouse of an individual who died while employed as a member of:

(1) the Correctional Officers' Retirement System;

(2) the Employees' Retirement System;

(3) the Local Fire and Police System, if the member had transferred from the Employees' Retirement System; or

(4) the Teachers' Retirement System.

(b) Except as provided in **[**subsection (c)**]** **SUBSECTIONS (C) AND (D)** of this section, a surviving spouse may elect to receive one of the following:

(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) 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) A DEATH BENEFIT UNDER THIS SECTION MAY NOT BE PAID FOR THE DEATH OF A MEMBER OF THE EMPLOYEES' RETIREMENT SYSTEM <u>OR TEACHERS' RETIREMENT SYSTEM</u> IF A SPECIAL DEATH BENEFIT UNDER § 29–204.2 OF THIS SUBTITLE IS PAYABLE OR HAS BEEN PAID FOR THAT DEATH.

29–206.

(a) This section applies to the surviving spouse of an individual who died while employed as a member of:

(1) the Employees' Pension System;

(2) the Teachers' Pension System; or

(3) the Local Fire and Police System, if the member had not transferred from the Employees' Retirement System.

(b) **[**A**] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A** surviving spouse may elect to receive one of the following:

(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) 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any individual who died on or after January 1, 2007, while employed by the State Highway Administration as a member of the Employees' Retirement System or Employees' Pension System:

(1) without willful negligence by the individual; and

(2) with death arising out of or in the course of the actual performance of duty.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 520

(House Bill 744)

AN ACT concerning

Correctional Services – Maryland Correctional Enterprises – Construction Services – Training

FOR the purpose of allowing Maryland Correctional Enterprises to develop certain training programs to provide certain construction and construction–related

services to certain correctional facilities; providing that certain training programs are not subject to certain procurement provisions; limiting the total costs of certain construction programs; and generally relating to Maryland Correctional Enterprises and construction services.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 3–511
Annotated Code of Maryland
(1999 Volume and 2007 Supplement)

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

Article – Correctional Services

3–511.

(A) The Commissioner and Chief Executive Officer may develop programs to provide services or produce goods used by:

(1) units of State government;

(2) political subdivisions of the State;

(3) units of the federal government;

(4) units of other states; or

(5) political subdivisions of other states.

(B) (1) THE COMMISSIONER AND THE CHIEF EXECUTIVE OFFICER, WITH THE APPROVAL OF THE SECRETARY, MAY DEVELOP TRAINING PROGRAMS TO PROVIDE CONSTRUCTION AND CONSTRUCTION–RELATED SERVICES, AS DEFINED IN TITLE 11, SUBTITLE 1 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, FOR STATE CORRECTIONAL FACILITIES.

(2) THE TRAINING PROGRAMS WILL BE DEVELOPED IN CONSULTATION WITH THE MARYLAND AND DISTRICT OF COLUMBIA BUILDING TRADES COUNCILS.

(3) THE PROGRAMS ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION ARE NOT SUBJECT TO:

(I) THE PROVISIONS OF § 3–515 OF THIS SUBTITLE; OR

(II) EXCEPT FOR § 11–101 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE PROVISIONS OF DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(4) A CONSTRUCTION PROJECT UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED $500,000 IN TOTAL COSTS PER UNRELATED PROJECT AS DETERMINED BY THE SECRETARY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 521

(House Bill 782)

AN ACT concerning

Governor's Office of Community Initiatives – Reorganization of Various State Entities

FOR the purpose of establishing statutorily the Governor's Office of Community Initiatives; requiring the Governor's Office of Community Initiatives to include certain units; transferring the Commission on Indian Affairs from the Department of Human Resources to the Governor's Office of Community Initiatives; transferring the Commission on African American History and Culture from the Department of Planning to the Governor's Office of Community Initiatives; providing for certain corrections in cross–references and terminology; altering the Division of Historical and Cultural Programs in the Department of Planning; and generally relating to the Governor's Office of Community Initiatives and the reorganization of various State entities.

BY renumbering
Article – State Government
Section 9–1301 through 9–1306, respectively, and the subtitle "Subtitle 13. Governor's Office on Service and Volunteerism"
to be Section 9.5–201 through 9.5–206, respectively, and the subtitle "Subtitle 2. Governor's Office on Service and Volunteerism"

Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY transferring
Article – Human Services
Section 2–501 through 2–512, respectively, and the subtitle "Subtitle 5. Commission on Indian Affairs"
Annotated Code of Maryland
(2007 Volume)
to be
Article – State Government
Section 9.5–301 through 9.5–312, respectively, and the subtitle "Subtitle 3. Commission on Indian Affairs"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY transferring
Article – State Finance and Procurement
Section 5A–201 through 5A–208, respectively, and the subtitle "Subtitle 2. Commission on African American History and Culture"
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)
to be
Article – State Government
Section 9.5–401 through 9.5–408, respectively, and the subtitle "Subtitle 4. Commission on African American History and Culture"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 5A–102
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Government
Section 9.5–101 to be under the new title "Title 9.5. Governor's Office of Community Initiatives" and the new subtitle "Subtitle 1. Governmental Units"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government

Section 9.5–202
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9.5–302, 9.5–305, 9.5–306, and 9.5–309
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)
(As enacted by Section 2 of this Act)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9.5–402, 9.5–405, 9.5–406, and 9.5–408
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)
(As enacted by Section 3 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9–1301 through 9–1306, respectively, and the subtitle "Subtitle 13. Governor's Office on Service and Volunteerism" of Article – State Government of the Annotated Code of Maryland be renumbered to be Section(s) 9.5–201 through 9.5–206, respectively, and the subtitle "Subtitle 2. Governor's Office on Service and Volunteerism".

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2–501 through 2–512, respectively, and the subtitle "Subtitle 5. Commission on Indian Affairs" of Article – Human Services of the Annotated Code of Maryland be transferred to be Section(s) 9.5–301 through 9.5–312, respectively, and the subtitle "Subtitle 3. Commission on Indian Affairs" of Article – State Government of the Annotated Code of Maryland.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 5A–201 through 5A–208, respectively, and the subtitle "Subtitle 2. Commission on African American History and Culture" of Article – State Finance and Procurement of the Annotated Code of Maryland be transferred to be Section(s) 9.5–401 through 9.5–408, respectively, and the subtitle "Subtitle 4. Commission on African American History and Culture" of Article – State Government of the Annotated Code of Maryland.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

5A–102.

The Division of Historical and Cultural Programs includes**[**:

(1) the Commission on African American History and Culture; and

(2)**]** the Maryland Historical Trust.

Article – State Government

TITLE 9.5. GOVERNOR'S OFFICE OF COMMUNITY INITIATIVES.

SUBTITLE 1. GOVERNMENTAL UNITS.

9.5–101.

(A) THERE IS A GOVERNOR'S OFFICE OF COMMUNITY INITIATIVES, AS AUTHORIZED UNDER EXECUTIVE ORDER 01.01.07.2007.25.

(B) THE GOVERNOR'S OFFICE OF COMMUNITY INITIATIVES SHALL INCLUDE THE FOLLOWING UNITS:

(1) THE GOVERNOR'S OFFICE ON SERVICE AND VOLUNTEERISM, UNDER SUBTITLE 2 OF THIS TITLE;

(2) THE COMMISSION ON INDIAN AFFAIRS, UNDER SUBTITLE 3 OF THIS TITLE;

(3) THE COMMISSION ON AFRICAN AMERICAN HISTORY AND CULTURE, UNDER SUBTITLE 4 OF THIS TITLE; AND

(4) ANY OTHER UNIT AS AUTHORIZED BY LAW OR EXECUTIVE ORDER.

9.5–202.

There is a Governor's Office on Service and Volunteerism within the **[**Executive Department**] GOVERNOR'S OFFICE OF COMMUNITY INITIATIVES**.

9.5–302.

There is a Commission on Indian Affairs in the **[**Department**] GOVERNOR'S OFFICE OF COMMUNITY INITIATIVES**.

9.5–305.

(a) The Commission shall meet at the call of the chair, a majority of the members, or the **[**Secretary**] GOVERNOR OR THE GOVERNOR'S DESIGNEE**.

(b) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) may receive reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

9.5–306.

(a) (1) With the approval of the **[**Secretary**] GOVERNOR**, the Commission shall appoint an administrator.

(2) The administrator may not be a member of the Commission.

(3) The administrator serves at the pleasure of the Commission, subject to the concurrence of the **[**Secretary**] GOVERNOR**.

(b) The administrator is a special appointment in the State Personnel Management System.

(c) Subject to the rules and policies of the Commission and the administrative supervision of the **[**Secretary**] GOVERNOR OR THE GOVERNOR'S DESIGNEE** in accordance with this title, the administrator shall:

(1) administer the activities of the Commission; and

(2) supervise the appointment and removal of personnel whom the Commission employs.

9.5–309.

(a) Subject to the approval of the **[**Secretary**] GOVERNOR**, the Commission may by regulation establish a process for an Indian community that is indigenous to the State to apply to the Commission for recognition of Maryland Indian status.

(b) (1) If the Commission finds that a petitioning group meets the requirements for recognition, the Commission may recommend to the Governor that it be granted recognition of Maryland Indian status.

(2) A member of the Commission may not vote or participate in deliberations on an application for recognition of Maryland Indian status made by the petitioning group to which the member belongs.

(c) (1) The Governor may issue an executive order providing recognition of Maryland Indian status to the petitioning group.

(2) The executive order:

(i) shall be submitted to the Joint Committee on Administrative, Executive, and Legislative Review; and

(ii) shall take effect 30 days after it is submitted.

(d) (1) This section does not:

(i) create a right of ownership or any other right to land;

(ii) create a benefit or entitlement of any kind;

(iii) impair existing rights, benefits, or entitlements belonging to Indians living in the State;

(iv) impair existing judicial rulings of the State regarding Indians of the State; or

(v) give the Commission the power to establish standards for membership in an Indian community.

(2) The power to establish standards for membership in an Indian community is reserved to the community.

(3) An act or failure to act by the Commission under this section does not create a private cause of action under State law.

9.5–402.

There is a Commission on African American History and Culture **IN THE GOVERNOR'S OFFICE OF COMMUNITY INITIATIVES**.

9.5–405.

(a) The Commission shall meet at the call of the chair, a majority of the members, or the **[**Secretary**]** **GOVERNOR**.

(b) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) is entitled to receive reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

9.5–406.

(a) (1) With the approval of the **[**Secretary**]** **GOVERNOR**, the Commission shall appoint a director.

(2) The director may not be a member of the Commission.

(3) The director serves at the pleasure of the Commission, subject to the concurrence of the **[**Secretary**]** **GOVERNOR**.

(b) The director is a special appointment in the State Personnel Management System.

(c) Subject to the rules and policies adopted by the Commission and the administrative supervision of the **[**Secretary in accordance with Title 5, Subtitle 2**]** **GOVERNOR IN ACCORDANCE WITH TITLE 8, SUBTITLE 3** of this article, the director shall:

(1) administer the activities of the Commission; and

(2) supervise the appointment and removal of Commission personnel.

9.5–408.

(a) (1) The Commission may seek money from the federal government, foundations, and private sources in addition to State financing.

(2) The Commission may accept gifts, grants, donations, bequests, or endowments for any of its purposes.

(b) Money received under subsection (a) of this section, income from the operation of the Banneker–Douglass Museum, and money from educational materials and activities of the Commission are not subject to § 7–302 of **[**this article**]** **THE STATE FINANCE AND PROCUREMENT ARTICLE**.

(c) Money maintained under this section is subject to audit by the State, including the Legislative Auditor.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 522

(House Bill 786)

AN ACT concerning

Maryland Uniform Interstate Family Support Act – Revision

FOR the purpose of revising the Maryland Uniform Interstate Family Support Act; clarifying that remedies provided under the Maryland Uniform Interstate Family Support Act do not affect the availability of remedies under certain other laws; establishing that this Act does not provide the exclusive method of establishing or enforcing a support order under the law of this State and does not grant a tribunal of this State certain jurisdiction; altering certain provisions concerning the authority of a tribunal of this State to exercise personal jurisdiction over a nonresident individual in a proceeding to establish, modify, or enforce a child support order to determine parentage; altering certain provisions concerning certain proceedings involving two or more states; altering certain provisions concerning the priority of multiple support orders and the determination of the controlling support order; subjecting a support enforcement agency to sanctions if it fails to file a copy of a certain order under certain circumstances; extending certain evidentiary and discovery provisions to certain foreign support orders; specifying certain procedures for the issuance and modification of spousal support orders; altering certain provisions governing procedures for proceedings under this Act; altering the duties of a support enforcement agency under this Act; altering the duties of the Attorney General under this Act; requiring a tribunal to order payment of costs and reasonable attorney's fees under certain circumstances; altering certain rules of evidence and procedure; extending certain provisions of this Act to foreign countries and political subdivisions; requiring a tribunal of this State to direct certain payments, issue a certain order, and send a certain notice under certain circumstances; altering certain provisions governing the establishment of a support order; altering certain provisions governing the registration, enforcement, and modification of a support order; authorizing a tribunal of this State to assume jurisdiction to modify a child support order of a foreign country or political subdivision that is a state under certain circumstances; altering certain provisions governing proceedings to determine parentage; repealing

certain obsolete provisions; making stylistic changes; defining certain terms; altering certain definitions; and generally relating to the revision of the Maryland Uniform Interstate Family Support Act.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 10–301(a) and 10–359
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 10–301(h), (o), (p), (q), (r), (s), (t), (u), (v), (w), and (x), 10–303 through 10–305, 10–308 through 10–313, 10–315, 10–316, 10–317(a) and (b)(1), 10–318 through 10–320, 10–322 through 10–324, 10–325(c), 10–326(a), 10–328(a), (b), (e), (f), (g), (h), 10–329, 10–331 through 10–333, 10–334(c)(2), 10–335, 10–338, 10–339(a); the part designation Part VI. "Enforcement and Modification of Support Order After Registration" immediately preceding Section 10–340; 10–340, 10–341(a), 10–343, 10–344, 10–345(a), 10–346(a), 10–349, 10–350, 10–351, 10–354, 10–356(a) and (b), and 10–357
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Family Law
Section 10–301(o) and (p), 10–312.1, 10–312.2, 10–317(f), 10–328(j), 10–341(d) and (e), and 10–353.1
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing
Article – Family Law
The subpart designation "Subpart A. Extended Personal Jurisdiction" immediately preceding Section 10–304; the subpart designation "Subpart B. Proceedings Involving Two or More States" immediately preceding Section 10–308; and the subpart designation "Subpart C. Reconciliation of Multiple Orders" immediately preceding Section 10–310
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Family Law

10–301.

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

(h) "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this subtitle or a law or procedure substantially similar to this subtitle**[**, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act**]**.

(O) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, GOVERNMENT, GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, PUBLIC CORPORATION, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(P) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

[(o)**] (Q)** "Register" means to record a support order or judgment determining parentage in the registry of foreign support orders.

[(p)**] (R)** "Registering tribunal" means a tribunal in which a support order is registered.

[(q)**] (S)** "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this subtitle or a law or procedure substantially similar to this subtitle**[**, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act**]**.

[(r)**] (T)** "Responding tribunal" means the authorized tribunal in a responding state.

[(s)**] (U)** "Spousal support order" means a support order for a spouse or former spouse of the obligor.

[(t)**] (V)** (1) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(2) "State" includes:

(i) an Indian tribe; and

(ii) a foreign **[**jurisdiction**]** **COUNTRY OR POLITICAL SUBDIVISION** that has**:**

1. BEEN DECLARED TO BE A FOREIGN RECIPROCATING COUNTRY OR POLITICAL SUBDIVISION UNDER FEDERAL LAW;

2. ESTABLISHED A RECIPROCAL ARRANGEMENT FOR CHILD SUPPORT WITH THIS STATE AS PROVIDED IN § 10–320; OR

3. enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this subtitle**[**, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act**]**.

[(u)**] (W)** "Support enforcement agency" means a public official or agency authorized to seek:

(1) enforcement of support orders or laws relating to the duty of support;

(2) establishment or modification of child support;

(3) determination of parentage; **[**or**]**

(4) the location of obligors or their assets**; OR**

(5) DETERMINATION OF THE CONTROLLING CHILD SUPPORT ORDER.

[(v)**] (X)** "Support order" means a judgment, decree, **[**or**]** order, **OR DIRECTIVE** whether temporary, final, or subject to modification, **ISSUED BY A TRIBUNAL** for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

[(w)**] (Y)** "Tribe" means a tribe, band, or village of Native Americans which is recognized by federal law or formally acknowledged by a state.

[(x)**] (Z)** "Tribunal" means a court, administrative agency, or quasi–judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

10–303.

(A) Remedies provided by this subtitle are cumulative and do not affect the availability of remedies under other law**, INCLUDING THE RECOGNITION OF A SUPPORT ORDER OF A FOREIGN COUNTRY OR POLITICAL SUBDIVISION ON THE BASIS OF COMITY**.

(B) THIS SUBTITLE DOES NOT:

(1) PROVIDE THE EXCLUSIVE METHOD OF ESTABLISHING OR ENFORCING A SUPPORT ORDER UNDER THE LAW OF THIS STATE; OR

(2) GRANT A TRIBUNAL OF THIS STATE JURISDICTION TO RENDER JUDGMENT OR ISSUE AN ORDER RELATING TO CHILD CUSTODY OR VISITATION IN A PROCEEDING UNDER THIS SUBTITLE.

Part II. Jurisdiction.

[Subpart A. Extended Personal Jurisdiction.**]**

10–304.

(A) In a proceeding to establish**[**,**]** **OR** enforce**[**, or modify**]** a support order or to determine parentage, a tribunal of this State may exercise personal jurisdiction over a nonresident individual if:

(1) the individual is personally served within this State;

(2) the individual submits to the jurisdiction of this State by consent **IN A RECORD**, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided in this State and provided prenatal expenses or support for the child;

(4) the child resides in this State as result of the acts or directives of the individual;

(5) the child may have been conceived in this State; or

(6) there is any other basis consistent with the constitutions of this State and the United States for the exercise of personal jurisdiction.

(B) THE BASES OF PERSONAL JURISDICTION SET FORTH IN SUBSECTION (A) OF THIS SECTION OR IN ANY OTHER LAW OF THIS STATE MAY NOT BE USED TO ACQUIRE PERSONAL JURISDICTION FOR A TRIBUNAL OF THE STATE TO MODIFY A CHILD SUPPORT ORDER OF ANOTHER STATE UNLESS THE REQUIREMENTS OF §§ 10–350 AND 10–353.1 ARE MET.

10–305.

[A tribunal of this State exercising personal jurisdiction over a nonresident under § 10–304 of this subtitle may apply § 10–328 of this subtitle (Special rules of evidence and procedure) to receive evidence from another state, and § 10–330 of this subtitle (Assistance with discovery) to obtain discovery through a tribunal of another state. In all other respects, Parts III through VII of this subtitle do not apply and the tribunal shall apply the procedural and substantive law of this State, including the rules on choice of law other than those established by this subtitle.**]** **PERSONAL JURISDICTION ACQUIRED BY A TRIBUNAL OF THIS STATE IN A PROCEEDING UNDER THIS SUBTITLE OR OTHER LAW OF THIS STATE RELATING TO A SUPPORT ORDER CONTINUES AS LONG AS A TRIBUNAL OF THIS STATE HAS CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY ITS ORDER OR CONTINUING JURISDICTION TO ENFORCE ITS ORDER AS PROVIDED IN §§ 10–308, 10–309, AND 10–312.2 OF THIS SUBTITLE.**

[Subpart B. Proceedings Involving Two or More States.**]**

10–308.

(a) A tribunal of this State **[**issuing**]** **THAT HAS ISSUED** a support order consistent with the law of this State has **AND SHALL EXERCISE** continuing, exclusive jurisdiction **[**over a**]** **TO MODIFY ITS** child support order **IF THE ORDER IS THE CONTROLLING ORDER AND**:

(1) **[**as long as**]** **AT THE TIME OF FILING OF A REQUEST FOR MODIFICATION** this State **[**remains**]** **IS** the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) **[**until all of the parties who are individuals have filed written consents with the tribunal of this State for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction**]** **EVEN IF THIS STATE IS NOT THE RESIDENCE OF THE OBLIGOR, THE INDIVIDUAL OBLIGEE, OR THE CHILD FOR WHOSE BENEFIT THE SUPPORT ORDER IS ISSUED, THE PARTIES CONSENT IN A RECORD OR IN OPEN COURT THAT THE TRIBUNAL OF THIS STATE MAY CONTINUE TO EXERCISE JURISDICTION TO MODIFY ITS ORDER**.

(b) A tribunal of this State **[**issuing**]** **THAT HAS ISSUED** a child support order consistent with the law of this State may not exercise **[**its**]** continuing**, EXCLUSIVE** jurisdiction to modify the order if **[**the order has been modified by a tribunal of another state pursuant to this subtitle or a law substantially similar to this subtitle**]:**

(1) ALL OF THE PARTIES WHO ARE INDIVIDUALS FILE CONSENT IN A RECORD WITH THE TRIBUNAL OF THIS STATE THAT A TRIBUNAL OF ANOTHER STATE THAT HAS JURISDICTION OVER AT LEAST ONE OF THE PARTIES WHO IS AN INDIVIDUAL OR THAT IS LOCATED IN THE STATE OF RESIDENCE OF THE CHILD MAY MODIFY THE ORDER AND ASSUME CONTINUING, EXCLUSIVE JURISDICTION; OR

(2) ITS ORDER IS NOT THE CONTROLLING ORDER.

(c) **[**If a child support order of this State is modified by a tribunal of another state pursuant to this subtitle or a law substantially similar to this subtitle, a tribunal of this State loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this State, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.**] IF A TRIBUNAL OF ANOTHER STATE HAS ISSUED A CHILD SUPPORT ORDER PURSUANT TO THIS SUBTITLE OR A LAW SUBSTANTIALLY SIMILAR TO THIS SUBTITLE THAT MODIFIES A CHILD SUPPORT ORDER OF A TRIBUNAL OF THIS STATE, TRIBUNALS OF THIS STATE SHALL RECOGNIZE THE CONTINUING, EXCLUSIVE JURISDICTION OF THE TRIBUNAL OF THE OTHER STATE.**

(d) **[**A tribunal of this State shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to this subtitle or a law substantially similar to this subtitle**] A TRIBUNAL OF THIS STATE THAT LACKS CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY A CHILD SUPPORT ORDER MAY SERVE AS AN INITIATING TRIBUNAL TO REQUEST A TRIBUNAL OF ANOTHER STATE TO MODIFY A SUPPORT ORDER ISSUED IN THAT STATE**.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

[(f) A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this State may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.**]**

10–309.

(a) A tribunal of this State **THAT HAS ISSUED A CHILD SUPPORT ORDER CONSISTENT WITH THE LAW OF THIS STATE** may serve as an initiating tribunal to request a tribunal of another state to enforce **[**or modify a support order issued in that state**]:**

(1) THE ORDER IF THE ORDER IS THE CONTROLLING ORDER AND HAS NOT BEEN MODIFIED BY A TRIBUNAL OF ANOTHER STATE THAT ASSUMED JURISDICTION PURSUANT TO THIS SUBTITLE; OR

(2) A MONEY JUDGMENT FOR ARREARS OF SUPPORT AND INTEREST ON THE ORDER ACCRUED BEFORE A DETERMINATION THAT AN ORDER OF ANOTHER STATE IS THE CONTROLLING ORDER.

(b) A tribunal of this State having continuing**[**, exclusive**]** jurisdiction over a support order may act as a responding tribunal to enforce **[**or modify**]** the order. **[**If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply § 10–328 of this subtitle (Special rules of evidence and procedure) to receive evidence from another state and § 10–330 of this subtitle (Assistance with discovery) to obtain discovery through a tribunal of another state.

(c) A tribunal of this State which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.**]**

[Subpart C. Reconciliation of Multiple Orders.**]**

10–310.

(a) If a proceeding is brought under this subtitle and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

(b) If a proceeding is brought under this subtitle, and two or more child support orders have been issued by tribunals of this State or another state with regard to the same obligor and **SAME** child, a tribunal of this State **HAVING PERSONAL JURISDICTION OVER BOTH THE OBLIGOR AND INDIVIDUAL OBLIGEE** shall apply the following rules **[**in determining**] AND BY ORDER SHALL DETERMINE** which order **[**to recognize for purposes of continuing, exclusive jurisdiction**] CONTROLS**:

(1) if only one of the tribunals would have continuing, exclusive jurisdiction under this subtitle, the order of that tribunal controls and must be so recognized**[**.**];**

(2) if more than one of the tribunals would have continuing, exclusive jurisdiction under this subtitle, an order issued by a tribunal in the current home state of the child controls **[**and must be so recognized**]**, but if an order has not been issued in the current home state of the child, the order most recently issued controls **[**and must be so recognized.**]; OR**

(3) if none of the tribunals would have continuing, exclusive jurisdiction under this subtitle, the tribunal of this State **[**having jurisdiction over the parties**]** shall issue a child support order, which controls **[**and must be so recognized**]**.

(c) If two or more child support orders have been issued for the same obligor and **SAME** child **[**and if the obligor or the individual obligee resides in this State**]**, **ON REQUEST OF** a party **WHO IS AN INDIVIDUAL OR SUPPORT ENFORCEMENT AGENCY, [**may request**]** a tribunal of this State **[**to**] HAVING PERSONAL JURISDICTION OVER BOTH THE OBLIGOR AND THE OBLIGEE WHO IS AN INDIVIDUAL SHALL** determine which order controls **[**and must be so recognized**]** under subsection (b) of this section. The request **[**must be accompanied by a certified copy of every support order in effect. Each party whose rights may be affected by a determination of the controlling order must be given notice of the request for that determination in accordance with the Maryland Rules**] MAY BE FILED WITH A REGISTRATION FOR ENFORCEMENT OR REGISTRATION FOR MODIFICATION PURSUANT TO PART VI OF THIS SUBTITLE, OR MAY BE FILED AS A SEPARATE PROCEEDING**.

(d) **A REQUEST TO DETERMINE WHICH IS THE CONTROLLING ORDER MUST BE ACCOMPANIED BY A COPY OF EVERY CHILD SUPPORT ORDER IN EFFECT AND THE APPLICABLE RECORD OF PAYMENTS. EACH PARTY WHOSE RIGHTS MAY BE AFFECTED BY A DETERMINATION OF THE CONTROLLING ORDER SHALL BE GIVEN NOTICE OF THE REQUEST FOR THAT DETERMINATION IN ACCORDANCE WITH THE MARYLAND RULES.**

(E) The tribunal that issued the controlling order under subsection (a), (b), or (c) of this section **[**is the tribunal that**]** has continuing**[**, exclusive**]** jurisdiction **[**under**]** **TO THE EXTENT PROVIDED IN** § 10–308 **OR § 10–309** of this subtitle.

[(e)**]** **(F)** A tribunal of this State that determines by order **[**the identity of**]** the controlling child support order under subsection (b)(1) or (2) **OR (C)** of this section or that issues a new controlling child support order under subsection (b)(3) of this **[**section**]** **SECTION,** shall include in that order**:**

(1) the basis upon which the tribunal made its determination**;**

(2) **THE AMOUNT OF PROSPECTIVE SUPPORT, IF ANY; AND**

(3) **THE TOTAL AMOUNT OF CONSOLIDATED ARREARS AND ACCRUED INTEREST, IF ANY, UNDER ALL OF THE ORDERS AFTER ALL PAYMENTS MADE ARE CREDITED AS PROVIDED BY § 10–312 OF THIS SUBTITLE**.

[(f)**]** **(G)** Within 30 days after issuance of the order determining **[**the identity of**]** the controlling order, the party obtaining that order shall file a certified copy of it **[**with**]** **IN** each tribunal that had issued or registered an earlier order of child support. Failure of the party **OR SUPPORT ENFORCEMENT AGENCY** obtaining the order to file a certified copy as required subjects that party **OR SUPPORT ENFORCEMENT AGENCY** to appropriate sanctions by a tribunal in which the issue of failure to file arises, but that failure has no effect on the validity or enforceability of the controlling order.

(H) **AN ORDER THAT HAS BEEN DETERMINED TO BE THE CONTROLLING ORDER, OR A JUDGMENT FOR CONSOLIDATED ARREARS OF SUPPORT AND INTEREST, IF ANY, MADE PURSUANT TO THIS SECTION SHALL BE RECOGNIZED IN PROCEEDINGS UNDER THIS SUBTITLE.**

10–311.

In responding to **[**multiple**]** registrations or requests for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this State shall enforce those orders in the same manner as if the **[**multiple**]** orders had been issued by a tribunal of this State.

10–312.

[Amounts**]** **A TRIBUNAL OF THIS STATE SHALL CREDIT AMOUNTS** collected **[**and credited**]** for a particular period pursuant to **[**a support order**]** **ANY CHILD**

SUPPORT ORDER AGAINST THE AMOUNTS OWED FOR THE SAME PERIOD UNDER ANY OTHER CHILD SUPPORT ORDER FOR SUPPORT OF THE SAME CHILD issued by a tribunal of **THIS STATE OR** another state **[**must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this State**]**.

10–312.1.

A TRIBUNAL OF THIS STATE EXERCISING PERSONAL JURISDICTION OVER A NONRESIDENT IN A PROCEEDING UNDER THIS SUBTITLE, UNDER OTHER LAW OF THIS STATE RELATING TO A SUPPORT ORDER, OR RECOGNIZING A SUPPORT ORDER OF A FOREIGN COUNTRY OR POLITICAL SUBDIVISION ON THE BASIS OF COMITY MAY RECEIVE EVIDENCE FROM ANOTHER STATE PURSUANT TO § 10–328 OF THIS SUBTITLE, COMMUNICATE WITH A TRIBUNAL OF ANOTHER STATE PURSUANT TO § 10–329 OF THIS SUBTITLE, AND OBTAIN DISCOVERY THROUGH A TRIBUNAL OF ANOTHER STATE PURSUANT TO § 10–330 OF THIS SUBTITLE. IN ALL OTHER RESPECTS, THE PROVISIONS OF PARTS III THROUGH VII OF THIS SUBTITLE DO NOT APPLY AND THE TRIBUNAL SHALL APPLY THE PROCEDURAL AND SUBSTANTIVE LAW OF THIS STATE.

10–312.2.

(A) A TRIBUNAL OF THIS STATE ISSUING A SPOUSAL SUPPORT ORDER CONSISTENT WITH THE LAW OF THIS STATE HAS CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY THE SPOUSAL SUPPORT ORDER THROUGHOUT THE EXISTENCE OF THE SUPPORT OBLIGATION.

(B) A TRIBUNAL OF THIS STATE MAY NOT MODIFY A SPOUSAL SUPPORT ORDER ISSUED BY A TRIBUNAL OF ANOTHER STATE IF THE STATE HAS CONTINUING, EXCLUSIVE JURISDICTION OVER THE SPOUSAL SUPPORT ORDER UNDER THE LAW OF THAT STATE.

(C) A TRIBUNAL OF THIS STATE THAT HAS CONTINUING, EXCLUSIVE JURISDICTION OVER A SPOUSAL SUPPORT ORDER MAY SERVE AS:

(1) AN INITIATING TRIBUNAL TO REQUEST A TRIBUNAL OF ANOTHER STATE TO ENFORCE THE SPOUSAL SUPPORT ORDER ISSUED IN THIS STATE; OR

(2) A RESPONDING TRIBUNAL TO ENFORCE OR MODIFY ITS OWN SPOUSAL SUPPORT ORDER.

10–313.

(a) Except as otherwise provided in this subtitle, **[**this**]** Part III **OF THIS SUBTITLE** applies to all proceedings under this subtitle.

(b) **[**This subtitle provides for the following proceedings:

(1) establishment of an order for spousal support or child support pursuant to Part IV of this subtitle;

(2) enforcement of a support order and income withholding order of another state without registration pursuant to Part V of this subtitle;

(3) registration of an order for spousal support or child support of another state for enforcement pursuant to Part VI of this subtitle;

(4) modification of an order for child support or spousal support issued by a tribunal of this State pursuant to Part II, Subpart B of this subtitle;

(5) registration of an order for child support of another state for modification pursuant to Part VI of this subtitle;

(6) determination of parentage pursuant to Part VII of this subtitle; and

(7) assertion of jurisdiction over nonresidents pursuant to Part II, Subpart A of this subtitle.

(c)**]** An individual or a support enforcement agency may **[**commence**]** **INITIATE** a proceeding authorized under this subtitle by filing a complaint in an initiating tribunal for forwarding to a responding tribunal or by filing a complaint or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the defendant.

10–315.

Except as otherwise provided **[**by**]** **IN** this subtitle, a responding tribunal of this State **SHALL**:

(1) **[**shall**]** apply the procedural and substantive law**[**, including the rules on choice of law,**]** generally applicable to similar proceedings originating in this State and may exercise all powers and provide all remedies available in those proceedings; and

(2) [shall] determine the duty of support and the amount payable in accordance with the law and support guidelines of this State.

10–316.

(a) Upon the filing of a complaint authorized by this subtitle, an initiating tribunal of this State shall forward [three copies of] the complaint and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If [a responding state has not enacted this subtitle or a law or procedure substantially similar to this subtitle, a] **REQUESTED BY THE RESPONDING TRIBUNAL, A** tribunal of this State [may] **SHALL** issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign [jurisdiction] **COUNTRY OR POLITICAL SUBDIVISION, ON REQUEST**, the tribunal [may] **SHALL** specify the amount of support sought [and]**, CONVERT THAT AMOUNT INTO THE EQUIVALENT AMOUNT IN THE FOREIGN CURRENCY UNDER APPLICABLE OFFICIAL OR MARKET EXCHANGE RATE AS PUBLICLY REPORTED, AND** provide **ANY** other documents necessary to satisfy the requirements of the responding state.

10–317.

(a) When a responding tribunal of this State receives a complaint or comparable pleading from an initiating tribunal or directly pursuant to § 10–313 of this subtitle [(Proceedings under this subtitle)], it shall cause the complaint or pleading to be filed and notify the plaintiff where and when it was filed.

(b) A responding tribunal of this State, to the extent [otherwise authorized] **NOT PROHIBITED** by **OTHER** law, may do one or more of the following:

(1) issue or enforce a support order, modify a child support order, **DETERMINE THE CONTROLLING CHILD SUPPORT ORDER,** or [render a judgment to] determine parentage;

(F) IF REQUESTED TO ENFORCE A SUPPORT ORDER, ARREARS, OR JUDGMENT OR TO MODIFY A SUPPORT ORDER STATED IN A FOREIGN CURRENCY, A RESPONDING TRIBUNAL OF THIS STATE SHALL CONVERT THE

AMOUNT STATED IN THE FOREIGN CURRENCY TO THE EQUIVALENT AMOUNT IN DOLLARS UNDER THE APPLICABLE OFFICIAL MARKET EXCHANGE RATE AS PUBLICLY REPORTED.

10–318.

If a complaint or comparable pleading is received by an inappropriate tribunal of this State, **[**it**]** **THE TRIBUNAL** shall forward the pleading and accompanying documents to an appropriate tribunal in this State or another state and notify the plaintiff where and when the pleading was sent.

10–319.

(a) A support enforcement agency of this State, upon request, shall provide services to a plaintiff in a proceeding under this subtitle.

(b) A support enforcement agency **OF THIS STATE** that is providing services to the plaintiff **[**as appropriate**]** shall:

(1) take all steps necessary to enable an appropriate tribunal in this State or another state to obtain jurisdiction over the defendant;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within 2 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of **[**a written**]** notice **IN A RECORD** from an initiating, responding, or registering tribunal, send a copy of the notice to the plaintiff;

(5) within 2 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of **[**a written**]** communication **IN A RECORD** from the defendant or the defendant's attorney, send a copy of the communication to the plaintiff; and

(6) notify the plaintiff if jurisdiction over the defendant cannot be obtained.

(c) **A SUPPORT ENFORCEMENT AGENCY OF THIS STATE THAT REQUESTS REGISTRATION OF A CHILD SUPPORT ORDER IN THIS STATE FOR ENFORCEMENT OR FOR MODIFICATION SHALL MAKE REASONABLE EFFORTS TO ENSURE THAT:**

(1) THE ORDER TO BE REGISTERED IS THE CONTROLLING ORDER; OR

(2) IF TWO OR MORE CHILD SUPPORT ORDERS EXIST AND THE IDENTITY OF THE CONTROLLING ORDER HAS NOT BEEN DETERMINED, A REQUEST FOR A DETERMINATION OF THE CONTROLLING ORDER IS MADE IN A TRIBUNAL HAVING JURISDICTION TO DO SO.

(D) A SUPPORT ENFORCEMENT AGENCY OF THIS STATE THAT REQUESTS REGISTRATION AND ENFORCEMENT OF A SUPPORT ORDER, ARREARS, OR JUDGMENT STATED IN A FOREIGN CURRENCY SHALL CONVERT THE AMOUNT STATED IN THE FOREIGN CURRENCY INTO THE EQUIVALENT AMOUNT IN DOLLARS UNDER THE APPLICABLE OFFICIAL MARKET EXCHANGE RATE AS PUBLICLY REPORTED.

(E) A SUPPORT ENFORCEMENT AGENCY OF THIS STATE SHALL REQUEST A TRIBUNAL OF THIS STATE TO ISSUE A CHILD SUPPORT ORDER AND AN INCOME WITHHOLDING ORDER THAT REDIRECT PAYMENT OF CURRENT SUPPORT, ARREARS, AND INTEREST IF REQUESTED TO DO SO BY A SUPPORT ENFORCEMENT AGENCY OF ANOTHER STATE PURSUANT TO § 10–331 OF THIS SUBTITLE.

(F) This subtitle does not create a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency. The attorney representing the support enforcement agency shall advise the person being assisted by the agency that the attorney's representation of the Administration does not create an attorney–client relationship between the attorney and that person.

10–320.

(A) If the Attorney General determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the Attorney General may order the agency to perform its duties under this subtitle.

(B) THE ATTORNEY GENERAL MAY DETERMINE THAT A FOREIGN COUNTRY OR POLITICAL SUBDIVISION HAS ESTABLISHED A RECIPROCAL ARRANGEMENT FOR CHILD SUPPORT WITH THIS STATE AND TAKE APPROPRIATE ACTION FOR NOTIFICATION OF THE DETERMINATION.

10–322.

(a) The Child Support Enforcement Administration is the State information agency under this subtitle.

(b) The State information agency shall:

(1) compile and maintain a current list, including addresses, other tribunals in this State which have jurisdiction under this subtitle, and any support enforcement agencies in this State and transmit a copy to the state information agency of every other state;

(2) maintain a register of **NAMES AND ADDRESSES OF** tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the **[**place**]** **COUNTY** in this State in which the **[**individual**]** obligee **WHO IS AN INDIVIDUAL** or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this subtitle received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this State not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, drivers' licenses, and Social Security.

10–323.

(a) **[**A**]** **IN A PROCEEDING UNDER THIS SUBTITLE, A** plaintiff seeking to establish **[**or modify**]** a support order **[**or**]**, to determine parentage **[**in a proceeding under this subtitle**]**, **OR TO REGISTER AND MODIFY A SUPPORT ORDER OF ANOTHER STATE** must **[**verify the**]** **FILE A** complaint. Unless otherwise ordered under § 10–324 of this subtitle **[**(Nondisclosure of information in exceptional circumstances)**]**, the **[**plaintiff**]** **COMPLAINT** or accompanying documents must provide, so far as known, the name, residential address, and Social Security numbers of the obligor and the obligee **OR THE PARENT AND ALLEGED PARENT,** and the name, sex, residential address, Social Security number, and date of birth of each child for **[**whom**]** **WHOSE BENEFIT** support is sought **OR WHOSE PARENTAGE IS TO BE DETERMINED**. **[**The**]** **UNLESS FILED AT THE TIME OF REGISTRATION, THE** complaint must be accompanied by a **[**certified**]** copy of any support order **[**in effect**]** **KNOWN TO HAVE BEEN ISSUED BY ANOTHER TRIBUNAL**. The complaint may include any other information that may assist in locating or identifying the defendant.

(b) The complaint must specify the relief sought. The complaint and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

10–324.

[Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this subtitle.**] IF A PARTY ALLEGES IN AN AFFIDAVIT OR A PLEADING UNDER OATH THAT THE HEALTH, SAFETY, OR LIBERTY OF A PARTY OR CHILD WOULD BE JEOPARDIZED BY DISCLOSURE OF SPECIFIC IDENTIFYING INFORMATION, THAT INFORMATION SHALL BE SEALED AND MAY NOT BE DISCLOSED TO THE OTHER PARTY OR THE PUBLIC. AFTER A HEARING IN WHICH A TRIBUNAL TAKES INTO CONSIDERATION THE HEALTH, SAFETY, OR LIBERTY OF THE PARTY OR CHILD, THE TRIBUNAL MAY ORDER DISCLOSURE OF INFORMATION THAT THE TRIBUNAL DETERMINES TO BE IN THE INTEREST OF JUSTICE.**

10–325.

(c) The tribunal **[**may**] SHALL** order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under Part VI of this subtitle **[**(Enforcement and modification of support order after registration)**]** a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

10–326.

(a) Participation by a plaintiff in a proceeding **UNDER THIS SUBTITLE** before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the plaintiff in another proceeding.

10–328.

(a) The physical presence of **[**the plaintiff**] A NONRESIDENT PARTY WHO IS AN INDIVIDUAL** in a **[**responding**]** tribunal of this State is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) **[**A verified complaint,**] AN** affidavit, **A** document substantially complying with federally mandated forms, **[**and**] OR** a document incorporated by reference in any of them, **WHICH WOULD** not **BE** excluded under the hearsay rule if given in person, is admissible in evidence if given under **[**oath**] PENALTY OF PERJURY** by a party or witness residing in another state.

(e) Documentary evidence transmitted from another state to a tribunal of this State by telephone, telecopier, or other means that do not provide an original **[**writing**] RECORD** may not be excluded from evidence on an objection based on the means of transmission unless the documentary evidence is shown to vary in a substantial or relevant manner from the original.

(f) In a proceeding under this subtitle, a tribunal of this State **[**may**] SHALL** permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this State shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) **IF A PARTY CALLED TO TESTIFY AT A CIVIL HEARING REFUSES TO ANSWER ON THE GROUND THAT THE TESTIMONY MAY BE SELF–INCRIMINATING, THE TRIER OF FACT MAY DRAW AN ADVERSE INFERENCE FROM THE REFUSAL.**

(H) Laws attaching a privilege against the disclosure of communications between husband and wife do not apply to proceedings under this subtitle.

[(h)**] (I)** In proceedings under this subtitle, husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.

(J) A VOLUNTARY ACKNOWLEDGMENT OF PATERNITY, CERTIFIED AS A TRUE COPY, IS ADMISSIBLE TO ESTABLISH PARENTAGE OF THE CHILD.

10–329.

A tribunal of this State may communicate with a tribunal of another state **OR FOREIGN COUNTRY OR POLITICAL SUBDIVISION** in **[**writing**] A RECORD**, or by telephone or other means, to obtain information concerning the laws **[**of that state**]**, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state **OR FOREIGN COUNTRY OR POLITICAL SUBDIVISION**. A tribunal of this State may furnish similar information by similar means to a tribunal of another state **OR FOREIGN COUNTRY OR POLITICAL SUBDIVISION**.

10–331.

(A) A support enforcement agency or tribunal of this State shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

(B) IF THE OBLIGOR, THE OBLIGEE WHO IS AN INDIVIDUAL, OR THE CHILD DOES NOT RESIDE IN THIS STATE, ON REQUEST FROM THE SUPPORT ENFORCEMENT AGENCY OF THIS STATE OR ANOTHER STATE, THE SUPPORT ENFORCEMENT AGENCY OF THIS STATE OR A TRIBUNAL OF THIS STATE SHALL:

(1) DIRECT THAT THE SUPPORT PAYMENT BE MADE TO THE SUPPORT ENFORCEMENT AGENCY IN THE STATE IN WHICH THE OBLIGEE IS RECEIVING SERVICES; AND

(2) ISSUE AND SEND TO THE OBLIGOR'S EMPLOYER A CONFORMING INCOME–WITHHOLDING ORDER OR AN ADMINISTRATIVE NOTICE OF CHANGE OF PAYEE, REFLECTING THE REDIRECTED PAYMENTS.

(C) THE SUPPORT ENFORCEMENT AGENCY OF THIS STATE RECEIVING REDIRECTED PAYMENTS FROM ANOTHER STATE PURSUANT TO A LAW SIMILAR TO SUBSECTION (B) OF THIS SECTION SHALL FURNISH TO A REQUESTING PARTY OR TRIBUNAL OF THE OTHER STATE A CERTIFIED STATEMENT BY THE CUSTODIAN OF THE RECORD OF THE AMOUNT AND DATES OF ALL PAYMENTS RECEIVED.

10–332.

(a) If a support order entitled to recognition under this subtitle has not been issued, a responding tribunal of this State may issue a support order if:

(1) the individual seeking the order resides in another state; or

(2) the support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child support order if**[**:

(1) the defendant has signed a verified statement acknowledging parentage;

(2) the defendant has been determined by or pursuant to law to be the parent; or

(3) there is other clear and convincing evidence that the defendant is the child's parent.**]** **THE TRIBUNAL DETERMINES THAT SUCH AN ORDER IS APPROPRIATE AND THE INDIVIDUAL ORDERED TO PAY IS:**

(1) A PRESUMED FATHER OF THE CHILD;

(2) PETITIONING TO HAVE HIS PATERNITY ADJUDICATED;

(3) IDENTIFIED AS THE FATHER OF THE CHILD THROUGH GENETIC TESTING;

(4) AN ALLEGED FATHER WHO HAS DECLINED TO SUBMIT TO GENETIC TESTING;

(5) SHOWN BY CLEAR AND CONVINCING EVIDENCE TO BE THE FATHER OF THE CHILD;

(6) AN ACKNOWLEDGED FATHER AS PROVIDED BY § 5–306(A)(6) OF THIS ARTICLE;

(7) THE MOTHER OF THE CHILD; OR

(8) AN INDIVIDUAL WHO HAS BEEN ORDERED TO PAY CHILD SUPPORT IN A PREVIOUS PROCEEDING AND THE ORDER HAS NOT BEEN REVERSED OR VACATED.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to § 10–317 of this subtitle **[**(Duties and powers of responding tribunal)**]**.

10–333.

An income withholding order issued in another state may be sent **BY OR ON BEHALF OF THE OBLIGEE, OR BY THE SUPPORT ENFORCEMENT AGENCY,** to the person **[**or entity**]** defined as the obligor's employer under Subtitle 1 of this title without first filing a request for service of the order or comparable pleading or registering the order with a tribunal of this State.

10–334.

(c) Except as otherwise provided in subsection (d) of this section and § 10–335 of this subtitle, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(2) the person **[**or agency**]** designated to receive payment and the address to which the payments are to be forwarded;

10–335.

If the obligor's employer receives **[**multiple**]** **TWO OR MORE** orders to withhold support from the earnings of the same obligor, the employer shall be deemed to have satisfied the terms of the **[**multiple**]** orders if the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for **[**multiple**]** **TWO OR MORE** child support obligees is complied with.

10–338.

(a) An obligor may contest the validity or enforcement of an income withholding order issued in another state and received directly by an employer in this State **BY REGISTERING THE ORDER IN A TRIBUNAL OF THIS STATE AND FILING A CONTEST TO THAT ORDER AS PROVIDED IN PART VI OF THIS SUBTITLE, OR OTHERWISE CONTESTING THE ORDER** in the same manner as if the order had been issued by a tribunal of this State. **[**Section 10–343 of this subtitle (Choice of law) applies to the contest.**]**

(b) The obligor shall give notice of the contest to:

(1) a support enforcement agency providing services to the obligee;

(2) each employer that has directly received an income withholding order **RELATING TO THE OBLIGOR**; and

(3) the person **[**or agency**]** designated to receive payments in the income withholding order or, if no person **[**or agency**]** is designated, to the obligee.

10–339.

(a) A party **OR SUPPORT ENFORCEMENT AGENCY** seeking to enforce a support order or an income withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this State.

Part VI. **REGISTRATION, [**Enforcement**] ENFORCEMENT,** and Modification of Support Order **[**after Registration**]**.

10–340.

A support order or [an] income withholding order issued by a tribunal of another state may be registered in this State for enforcement.

10–341.

(a) A support order or income withholding order of another state may be registered in this State by sending the following [documents] **RECORDS** and information to the appropriate tribunal in this State:

(1) a letter of transmittal to the tribunal requesting registration and enforcement;

(2) two copies, including one certified copy, of [all orders] **THE ORDER** to be registered, including any modification of [an] **THE** order;

(3) a sworn statement by the [party seeking] **PERSON REQUESTING** registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(i) the obligor's address and Social Security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor in this State not exempt from execution; and

(5) **EXCEPT AS PROVIDED IN § 10–324,** the name and address of the obligee and, if applicable, the [agency or] person to whom support payments are to be remitted.

(D) IF TWO OR MORE ORDERS ARE IN EFFECT, THE PERSON REQUESTING REGISTRATION SHALL:

(1) FURNISH TO THE TRIBUNAL A COPY OF EVERY SUPPORT ORDER ASSERTED TO BE IN EFFECT IN ADDITION TO THE DOCUMENTS SPECIFIED IN THIS SECTION;

(2) SPECIFY THE ORDER ALLEGED TO BE THE CONTROLLING ORDER, IF ANY; AND

(3) SPECIFY THE AMOUNT OF CONSOLIDATED ARREARS, IF ANY.

(E) A REQUEST FOR A DETERMINATION OF WHICH IS THE CONTROLLING ORDER MAY BE FILED SEPARATELY OR WITH A REQUEST FOR REGISTRATION AND ENFORCEMENT OR FOR REGISTRATION AND MODIFICATION. THE PERSON REQUESTING REGISTRATION SHALL GIVE NOTICE OF THE REQUEST TO EACH PARTY WHOSE RIGHTS MAY BE AFFECTED BY THE DETERMINATION.

10–343.

(a) **[**The**] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE** law of the issuing state governs**:**

(1) the nature, extent, amount, and duration of current payments **[**and other obligations of support and**] UNDER A REGISTERED SUPPORT ORDER;**

(2) the **COMPUTATION AND** payment of arrearages **AND ACCRUAL OF INTEREST ON THE ARREARAGES** under the **SUPPORT** order**; AND**

(3) THE EXISTENCE AND SATISFACTION OF OTHER OBLIGATIONS UNDER THE SUPPORT ORDER.

(b) In a proceeding for **[**arrearages**] ARREARS UNDER A REGISTERED SUPPORT ORDER**, the statute of limitation **[**under the laws**]** of this State or of the issuing state, whichever is longer, applies.

(C) A RESPONDING TRIBUNAL OF THIS STATE SHALL APPLY THE PROCEDURES AND REMEDIES OF THIS STATE TO ENFORCE CURRENT SUPPORT AND COLLECT ARREARS AND INTEREST DUE ON A SUPPORT ORDER OF ANOTHER STATE REGISTERED IN THIS STATE.

(D) AFTER A TRIBUNAL OF THIS OR ANOTHER STATE DETERMINES WHICH IS THE CONTROLLING ORDER AND ISSUES AN ORDER CONSOLIDATING ARREARS, IF ANY, A TRIBUNAL OF THIS STATE SHALL PROSPECTIVELY APPLY THE LAW OF THE STATE ISSUING THE CONTROLLING ORDER, INCLUDING ITS LAW ON INTEREST ON ARREARS, ON CURRENT AND FUTURE SUPPORT, AND ON CONSOLIDATED ARREARS.

10–344.

(a) When a support order or income withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by first–class, certified, or registered mail or by any means of personal service authorized by the law of this State. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) **[**The**] A** notice must inform the nonregistering party:

(1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this State;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after the date of mailing or personal service of the notice;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) of the amount of any alleged arrearages.

(c) **IF THE REGISTERING PARTY ASSERTS THAT TWO OR MORE ORDERS ARE IN EFFECT, A NOTICE MUST ALSO:**

(1) IDENTIFY THE TWO OR MORE ORDERS AND THE ORDER ALLEGED BY THE REGISTERING PERSON TO BE THE CONTROLLING ORDER AND THE CONSOLIDATED ARREARS, IF ANY;

(2) NOTIFY THE NONREGISTERING PARTY OF THE RIGHT TO A DETERMINATION OF WHICH IS THE CONTROLLING ORDER;

(3) STATE THAT THE PROCEDURES PROVIDED IN SUBSECTION (B) OF THIS SECTION APPLY TO THE DETERMINATION OF WHICH IS THE CONTROLLING ORDER; AND

(4) STATE THAT FAILURE TO CONTEST THE VALIDITY OR ENFORCEMENT OF THE ORDER ALLEGED TO BE THE CONTROLLING ORDER IN A TIMELY MANNER MAY RESULT IN CONFIRMATION THAT THE ORDER IS THE CONTROLLING ORDER.

(D) Upon registration of an income withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to Subtitle 1 of this title.

10–345.

(a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this State shall request a hearing within 20 days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to § 10–346 of this subtitle **[**(Contest of registration or enforcement)**]**.

10–346.

(a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) the issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

(3) the order has been vacated, suspended, or modified by a later order;

(4) the issuing tribunal has stayed the order pending appeal;

(5) there is a defense under the law of this State to the remedy sought;

(6) full or partial payment has been made; **[**or**]**

(7) the statute of limitation under § 10–343 of this subtitle **[**(Choice of law)**]** precludes enforcement of some or all of the **ALLEGED** arrearages**; OR**

(8) THE ALLEGED CONTROLLING ORDER IS NOT THE CONTROLLING ORDER.

10–349.

A tribunal of this State may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this State, but the registered order may be modified only if the

requirements of [§ 10–350] **§ 10–350, § 10–352, OR § 10–353.1** of this subtitle [(Modification of child support order of another state)] have been met.

10–350.

(a) [After] **IF § 10–352 DOES NOT APPLY, EXCEPT AS OTHERWISE PROVIDED IN § 10–353.1 OF THIS SUBTITLE, ON THE FILING OF A COMPLAINT, A TRIBUNAL OF THIS STATE MAY MODIFY** a child support order issued in another state [has been] **THAT IS** registered in this State[, the responding tribunal of this State may modify that order only if § 10–352 of this subtitle does not apply and] **IF**, after notice and hearing, [it] **THE TRIBUNAL** finds that:

(1) the following requirements are met:

(i) **NEITHER** the child, **NOR** the [individual] obligee **WHO IS AN INDIVIDUAL**, [and] **NOR** the obligor [do not reside] **RESIDES** in the issuing state;

(ii) a plaintiff who is a nonresident of this State seeks modification; and

(iii) the defendant is subject to the personal jurisdiction of the tribunal of this State; or

(2) **THIS STATE IS THE STATE OF RESIDENCE OF** the child or a party who is an individual is subject to the personal jurisdiction of the tribunal of this State and all of the parties who are individuals have filed [written] consents **IN A RECORD** in the issuing tribunal for a tribunal of this State to modify the support order and assume continuing, exclusive jurisdiction [over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this subtitle, the consent otherwise required of an individual residing in this State is not required for the tribunal to assume jurisdiction to modify the child support order].

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this State, and the order may be enforced and satisfied in the same manner.

(c) [A] **EXCEPT AS OTHERWISE PROVIDED IN § 10–353.1 OF THIS SUBTITLE, A** tribunal of this State may not modify any provision of a child support order that may not be modified under the law of the issuing state**, INCLUDING THE DURATION OF THE OBLIGATION OF SUPPORT**. If two or more tribunals have issued child support orders for the same obligor and **SAME** child, the order that controls and

must be so recognized under the provisions of § 10–310 of this subtitle establishes the provisions of the support order which are nonmodifiable.

(d) **IN A PROCEEDING TO MODIFY A CHILD SUPPORT ORDER, THE LAW OF THE STATE THAT IS DETERMINED TO HAVE ISSUED THE INITIAL CONTROLLING ORDER GOVERNS THE DURATION OF THE OBLIGATION OF SUPPORT. THE OBLIGOR'S FULFILLMENT OF THE DUTY OF SUPPORT ESTABLISHED BY THAT ORDER PRECLUDES IMPOSITION OF A FURTHER OBLIGATION OF SUPPORT BY A TRIBUNAL OF THIS STATE.**

(E) On issuance of an order **BY A TRIBUNAL OF THIS STATE** modifying a child support order issued in another state, **[**a**] THE** tribunal of this State becomes the tribunal of continuing, exclusive jurisdiction.

10–351.

[A**] IF A CHILD SUPPORT ORDER ISSUED BY A** tribunal of this State **[**shall recognize a modification of its earlier child support order**] IS MODIFIED** by a tribunal of another state which assumed jurisdiction pursuant to this subtitle **[**or a law substantially similar to this subtitle and, upon request, except as otherwise provided in this subtitle, shall**], A TRIBUNAL OF THIS STATE**:

(1) **MAY** enforce **[**the**] ITS** order that was modified only as to **[**amounts**] ARREARS AND INTEREST** accruing before the modification;

(2) **[**enforce only nonmodifiable aspects of that order;

(3)**] MAY** provide **[**other**]** appropriate relief **[**only**]** for violations of **[**that**] ITS** order which occurred before the effective date of the modification; and

[(4)**] (3) SHALL** recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

10–353.1.

(A) IF A FOREIGN COUNTRY OR POLITICAL SUBDIVISION THAT IS A STATE DOES NOT OR MAY NOT MODIFY ITS ORDER PURSUANT TO ITS LAWS, A TRIBUNAL OF THIS STATE MAY ASSUME JURISDICTION TO MODIFY THE CHILD SUPPORT ORDER AND BIND ALL INDIVIDUALS SUBJECT TO THE PERSONAL JURISDICTION OF THE TRIBUNAL WHETHER OR NOT THE CONSENT TO MODIFICATION OF A CHILD SUPPORT ORDER OTHERWISE REQUIRED OF THE INDIVIDUAL IN ACCORDANCE WITH § 10–350 OF THIS SUBTITLE HAS BEEN

GIVEN OR WHETHER THE INDIVIDUAL SEEKING MODIFICATION IS A RESIDENT OF THIS STATE OR OF THE FOREIGN COUNTRY OR POLITICAL SUBDIVISION.

(B) AN ORDER ISSUED PURSUANT TO THIS SECTION IS THE CONTROLLING ORDER.

10–354.

[(a)**]** A **[**tribunal**]** **COURT** of this State **AUTHORIZED TO DETERMINE PARENTAGE OF A CHILD** may serve as **[**an initiating or**]** **A** responding tribunal in a proceeding **TO DETERMINE PARENTAGE** brought under this subtitle or a law or procedure substantially similar to this subtitle**[**, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the plaintiff is a parent of a particular child or to determine that a defendant is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this State shall apply the procedural and substantive law of this State and the rules of this State on choice of law**]**.

10–356.

(a) Before making **A** demand that the governor of another state surrender an individual charged criminally in this State with having failed to provide for the support of an obligee, the Governor of this State may require a prosecutor of this State to demonstrate that at least 60 days previously the obligee had initiated proceedings for support pursuant to this subtitle or that the proceeding would be of no avail.

(b) If, under this subtitle or a law substantially similar to this subtitle, **[**the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act,**]** the governor of another state makes a demand that the Governor of this State surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the Governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the Governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

10–357.

[This subtitle shall be applied and construed to effectuate its general purpose to make uniform**]** **IN APPLYING AND CONSTRUING THIS SUBTITLE, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF** the law with respect

to [the] **ITS** subject [of this subtitle] **MATTER** among states [enacting it] **THAT ENACT IT**.

10–359.

This subtitle may be cited as the Maryland Uniform Interstate Family Support Act.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 523

(House Bill 844)

AN ACT concerning

Vehicle Laws – Registration Plates – Motorcycles

FOR the purpose of specifying the dimensions of a motor vehicle registration plate issued for a motorcycle; and generally relating to vehicle registration plates.

BY adding to
Article – Transportation
Section 13–410(g)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

13–410.

(G) THE DIMENSIONS OF A REGISTRATION PLATE ISSUED FOR A CLASS D (MOTORCYCLE) VEHICLE SHALL BE 7 INCHES WIDE BY ~~4.5~~ 4 INCHES HIGH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 524

(House Bill 847)

AN ACT concerning

Vehicle Laws – Falsifying Documents and Registration Plates – Arrest ~~and Penalties~~

FOR the purpose of authorizing a police officer to arrest an individual without a warrant for a violation of certain provisions of law related to falsifying certain vehicle–related documents and registration plates; ~~making a violation of certain provisions of law related to falsifying certain vehicle–related documents and registration plates a felony; altering a certain penalty;~~ and generally relating to ~~penalties~~ arrest for falsifying certain vehicle–related documents and registration plates.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 14–110
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 26–202(a)(3)(vii) and (viii) ~~and 27–101(c)~~
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Transportation
Section 26–202(a)(3)(ix) ~~and 27–114~~
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Transportation

14–110.

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

(2) "Falsify" includes alter, counterfeit, duplicate, or forge.

(3) "Registration plate" means every plate or marker required by law to be attached to a vehicle, but does not include the temporary number plate referred to in § 13–415(e)(1) of this article.

(b) A person may not, with fraudulent intent, falsify or attempt to falsify any certificate of title, registration card, registration plate, validation tab, permit, or any other official document issued by the Administration.

(c) A person may not, with fraudulent intent, manufacture, construct, or possess any paraphernalia for use in any falsification prohibited by this section.

(d) A person may not, with fraudulent intent, possess, give away, sell, or attempt to sell any item falsified in violation of this section.

(e) A person may not, with fraudulent intent, falsify any assignment on a certificate of title.

(f) A person may not hold any document or registration plate described in this section, knowing that it has been falsified in violation of this section.

(g) A person may not use any document or registration plate described in this section, knowing that it has been falsified in violation of this section.

26–202.

(a) A police officer may arrest without a warrant a person for a violation of the Maryland Vehicle Law, including any rule or regulation adopted under it, or for a violation of any traffic law or ordinance of any local authority of this State, if:

(3) The officer has probable cause to believe that the person has committed the violation, and the violation is any of the following offenses:

(vii) Fleeing or attempting to elude a police officer; **[**or**]**

(viii) Driving or attempting to drive a vehicle in violation of § 16–101 of this article; **OR**

(IX) A VIOLATION OF ~~§ 14–110~~ § 14–110(B), (C), (D), OR (E) OF THIS ARTICLE;

~~27–101.~~

~~(c) Any person who is convicted of a violation of any of the provisions of the following sections of this article is subject to a fine of not more than $500 or imprisonment for not more than 2 months or both:~~

~~(1) § 12–301(c), (d), (e), or (f) ("Special identification cards: Fraud and misrepresentation prohibited");~~

~~(2) § 14–102 ("Taking or driving vehicle without consent of owner");~~

~~(3) § 14–104 ("Damaging or tampering with vehicle");~~

~~(4) § 14–107 ("Removed, falsified, or unauthorized identification number or registration card or plate");~~

~~(5) [§ 14–110 ("Altered or forged documents and plates");~~

~~(6)]~~ ~~§ 15–312 ("Dealers: Prohibited acts – Vehicle sales transactions");~~

~~[(7)]~~**(6)** ~~§ 15–313 ("Dealers: Prohibited acts – Advertising practices");~~

~~[(8)]~~**(7)** ~~§ 15–314 ("Dealers: Prohibited acts – Violation of licensing laws");~~

~~[(9)]~~**(8)** ~~§ 15–411 ("Vehicle salesmen: Prohibited acts");~~

~~[(10)]~~**(9)** ~~§ 15–502(c) ("Storage of certain vehicles by unlicensed persons prohibited");~~

~~[(11)]~~**(10)** ~~§ 16–113(j) ("Violation of alcohol restriction ordered by a court");~~

~~[(12)]~~**(11)** ~~§ 16–301 ("Unlawful application for or use of license");~~

~~[(13)]~~**(12)** ~~§ 16–303(h) ("Licenses suspended under certain provisions of Code");~~

~~[(14)]~~**(13)** ~~§ 16–303(i) ("Licenses suspended under certain provisions of the traffic laws or regulations of another state");~~

~~[(15)]~~**(14)** ~~§ 18–106 ("Unauthorized use of rented motor vehicle");~~

~~[(16)]~~**(15)** ~~§ 20–103 ("Driver to remain at scene — Accidents resulting only in damage to attended vehicle or property");~~

~~[(17)]~~**(16)** ~~§ 20–104 ("Duty to give information and render aid");~~

~~[(18)]~~**(17)** ~~§ 20–105 ("Duty on striking unattended vehicle or other property");~~

~~[(19)]~~**(18)** ~~§ 20–108 ("False reports prohibited");~~

~~[(20)]~~**(19)** ~~§ 21–206 ("Interference with traffic control devices or railroad signs and signals");~~

~~[(21)]~~**(20)** ~~As to a pedestrian in a marked crosswalk, § 21–502(a) ("Pedestrians' right–of–way in crosswalks: In general"), if the violation contributes to an accident;~~

~~[(22)]~~**(21)** ~~As to another vehicle stopped at a marked crosswalk, § 21–502(c) ("Passing of vehicle stopped for pedestrian prohibited"), if the violation contributes to an accident;~~

~~[(23)]~~**(22)** ~~Except as provided in subsections (f) and (q) of this section, § 21–902(b) ("Driving while impaired by alcohol");~~

~~[(24)]~~**(23)** ~~Except as provided in subsections (f) and (q) of this section, § 21–902(c) ("Driving while impaired by drugs or drugs and alcohol");~~

~~[(25)]~~**(24)** ~~§ 21–902.1 ("Driving within 12 hours after arrest"); or~~

~~[(26)]~~**(25)** ~~§ 27–107(d), (e), (f), or (g) ("Prohibited acts — Ignition interlock systems").~~

~~**27–114.**~~

~~**A PERSON WHO VIOLATES § 14–110 OF THIS ARTICLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT MORE THAN 2 MONTHS OR A FINE OF NOT MORE THAN $1,000 OR BOTH.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 525

(House Bill 865)

AN ACT concerning

~~Government Efficiency and Streamlining Operations~~
Procurement – eMaryland Marketplace – Use

FOR the purpose of requiring certain persons to use eMaryland Marketplace to advertise for a certain procurement and to publish notice of an award of a certain contract; defining certain terms; providing for the construction of this Act; prohibiting an unintentional violation from constituting grounds to challenge or appeal the award of a procurement or the process through which a procurement was conducted; and generally relating to the use of eMaryland Marketplace.

BY adding to
Article – State Finance and Procurement
Section 17–501 and 17–502 to be under the new subtitle "Subtitle 5. eMaryland Marketplace – Use by Certain Persons"
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – State Finance and Procurement

SUBTITLE 5. EMARYLAND MARKETPLACE – USE BY CERTAIN PERSONS.

17–501.

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

(B) "EMARYLAND MARKETPLACE" HAS THE MEANING STATED IN § 13–101 OF THIS ARTICLE.

(C) "PROCUREMENT" MEANS PROCUREMENT BY COMPETITIVE SEALED BIDDING, COMPETITIVE SEALED PROPOSALS, OR NONCOMPETITIVE NEGOTIATION.

17–502.

(A) IN ADDITION TO ANY OTHER PROVISION OF LAW, THE FOLLOWING PERSONS SHALL USE EMARYLAND MARKETPLACE TO PUBLISH NOTICE OF A PROCUREMENT OR PUBLISH A NOTICE OF AWARD OF A PROCUREMENT THAT IS AT THE SAME AMOUNT OR EXCEEDS THE AMOUNT REQUIRED BY THE BOARD FOR A STATE CONTRACT TO BE PUBLISHED IN EMARYLAND MARKETPLACE:

(1) A UNIT OF STATE GOVERNMENT;

(2) A COUNTY;

(3) A MUNICIPALITY;

(4) A BICOUNTY OR MULTICOUNTY GOVERNMENTAL AGENCY;

(5) A SPECIAL TAX DISTRICT, SANITARY DISTRICT, DRAINAGE DISTRICT, SOIL CONSERVATION DISTRICT, AND WATER SUPPLY DISTRICT;

(6) A PUBLIC INSTITUTION OF HIGHER EDUCATION;

(7) A PUBLIC SCHOOL; AND

(8) <u>EXCEPT FOR THE MARYLAND HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY,</u> AN ENTITY EXEMPT FROM THE PROVISIONS OF THIS DIVISION II IN ACCORDANCE WITH § 11–203 OF THIS ARTICLE.

(B) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A PERSON LISTED IN SUBSECTION (A) OF THIS SECTION FROM PUBLISHING NOTICE OF A PROCUREMENT OR PUBLISHING A NOTICE OF AWARD IN ACCORDANCE WITH ANY OTHER LAW OR POLICY.

<u>(C) AN UNINTENTIONAL VIOLATION OF THIS SECTION MAY NOT CONSTITUTE GROUNDS TO CHALLENGE OR APPEAL:</u>

<u>(1) THE AWARD OF A PROCUREMENT; OR</u>

<u>(2) THE PROCESS THROUGH WHICH A PROCUREMENT WAS CONDUCTED.</u>

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 526

(House Bill 882)

AN ACT concerning

Juvenile Services – Release of Confidential Information

FOR the purpose of authorizing a certain law enforcement agency to release to the public certain information concerning a child who has escaped from a detention center for juveniles or a secure residential facility for juveniles for certain purposes; and generally relating to juvenile services.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–8A–27(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 10 of the Acts of the General Assembly of 2006)

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

Article – Courts and Judicial Proceedings

3–8A–27.

(a) (1) A police record concerning a child is confidential and shall be maintained separate from those of adults. Its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as otherwise provided in § 7–303 of the Education Article.

(2) This subsection does not prohibit:

(i) Access to and confidential use of the record by the Department of Juvenile Services or in the investigation and prosecution of the child by any law enforcement agency; **[**or**]**

(ii) A law enforcement agency of the State or of a political subdivision of the State, the Department of Juvenile Services, or the criminal justice information system from including in the law enforcement computer information system information about an outstanding juvenile court ordered writ of attachment, for the sole purpose of apprehending a child named in the writ**[.]; OR**

(III) A LAW ENFORCEMENT AGENCY OF THE STATE OR OF A POLITICAL SUBDIVISION OF THE STATE FROM RELEASING TO THE PUBLIC PHOTOGRAPHS AND IDENTIFYING INFORMATION OF A CHILD WHO HAS ESCAPED FROM A DETENTION CENTER FOR JUVENILES OR A SECURE RESIDENTIAL FACILITY FOR JUVENILES, FOR THE PURPOSES OF FACILITATING APPREHENSION OF THE CHILD AND ENSURING PUBLIC SAFETY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 527

(House Bill 940)

AN ACT concerning

Washington Suburban Sanitary Commission and Maryland–National Capital Park and Planning Commission – Appointments – Interviews and Financial Statements

PG/MC 102–08

FOR the purpose of authorizing, rather than requiring, the county executives of Montgomery County and Prince George's County or a designee of the county executive to conduct certain interviews of each applicant for appointment or reappointment to the Washington Suburban Sanitary Commission (WSSC); requiring the county executives or a designee of the county executive to conduct certain interviews of applicants selected for appointment to the WSSC; authorizing a designee of the County Executive of Montgomery County to require certain applicants to produce certain documents; *requiring the County Executive of Prince George's County or a designee of the County Executive to* ~~*provide to*~~ *inform the Prince George's County Council, before appointment to the WSSC,* ~~*the complete transcript of the interview*~~ *of possible or potential conflicts of interest of a certain applicant;* altering certain requirements relating to the

deadline for filing of certain financial disclosure statements filed by certain applicants for appointments to the WSSC and to the Maryland–National Capital Park and Planning Commission (MNCPPC) in Montgomery County and Prince George's County; clarifying certain requirements relating to the content of certain financial disclosure statements filed by certain applicants for appointment to the WSSC and the MNCPPC; making stylistic changes; and generally relating to applications for appointments to the WSSC and the MNCPPC.

BY repealing and reenacting, with amendments,
Article 29 – Washington Suburban Sanitary District
Section 1–103
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 15–821
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Article 29 – Washington Suburban Sanitary District

1–103.

(a) (1) The County Executive shall make any appointment from a list of applicants. The list of applicants shall:

(i) Be completed at least 3 weeks before the date the County Executive makes the actual appointment; and

(ii) Be open to the public for inspection from the time the list is first begun until an appointment is made by the County Executive.

(2) If **[**a**]** **THE** County Executive does not choose to appoint an individual from the names on the list, the County Executive shall prepare additional lists and follow the procedure applicable to the first list. The **[**3 week**]** **3–WEEK** period begins with the closing of each list.

(b) **(1)** **[**The**]** **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE** County Executive or a designee of the County Executive **[**shall**]** **MAY** interview in

private each applicant for appointment or reappointment to the WSSC as to possible or potential conflicts of interest.

(2) THE COUNTY EXECUTIVE OR A DESIGNEE OF THE COUNTY EXECUTIVE SHALL INTERVIEW IN PRIVATE, BEFORE APPOINTMENT, AN APPLICANT WHO IS SELECTED FOR APPOINTMENT TO THE WSSC AS TO POSSIBLE OR POTENTIAL CONFLICTS OF INTEREST.

(c) (1) In Montgomery County, **IF THE COUNTY EXECUTIVE OR A DESIGNEE OF THE COUNTY EXECUTIVE CONDUCTS AN INTERVIEW UNDER SUBSECTION (B) OF THIS SECTION,** the applicant shall be interviewed:

(i) In a question and answer fashion; and

(ii) Under oath about all sources of income, property holdings, business interests, and financial interests of the applicant, and the applicant's spouse, father, mother, brother, sister, or child.

(2) The County Executive of Montgomery County **OR A DESIGNEE OF THE COUNTY EXECUTIVE** may require the production of any documents that the County Executive **OR DESIGNEE** wishes the applicant to produce.

(3) A written transcript of the interview:

(i) Shall be made;

(ii) Unless waived by the applicant, may be reviewed by the applicant;

(iii) May be altered for the applicant by the transcribing officer if accompanied by a statement of the reason given by the applicant for the alteration; and

(iv) Shall be signed by the applicant.

(4) The transcribing officer shall certify on the transcript that:

(i) The applicant was duly sworn by the officer; and

(ii) The transcript is a true record of the testimony given by the applicant.

(5) The County Executive of Montgomery County **OR A DESIGNEE OF THE COUNTY EXECUTIVE** shall:

(i) Publicly disclose the complete transcribed testimony of **AN** actual **[**appointees**]** **APPOINTEE** to the WSSC 3 weeks after **[**their**]** **THE** appointment; and

(ii) Destroy the complete transcript of **[**all**]** **ANY** other **[**applicants**]** **APPLICANT** immediately without the disclosure to anyone of any information contained in the transcript.

(6) THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY OR A DESIGNEE OF THE COUNTY EXECUTIVE SHALL ~~PROVIDE TO~~ INFORM THE PRINCE GEORGE'S COUNTY COUNCIL, BEFORE APPOINTMENT, ~~THE COMPLETE TRANSCRIPT OF THE INTERVIEW~~ OF POSSIBLE OR POTENTIAL CONFLICTS OF INTEREST OF AN APPLICANT WHO IS SELECTED FOR APPOINTMENT TO THE WSSC.

Article – State Government

15–821.

(a) An applicant for appointment as commissioner shall file the financial disclosure statement required by this Part III as prescribed in this section.

(b) The statement shall be filed with the county council and the chief administrative officer of the county from which the applicant seeks appointment.

(c) (1) In Montgomery County, an applicant for appointment or reappointment to the Maryland–National Capital Park and Planning Commission shall file the statement not later than 5 days before the **[**initial date set for the interview by the county council**]** **INTERVIEW CONDUCTED UNDER ARTICLE 28, § 2–114 OF THE CODE**. The statement shall cover the 12–month period ending 60 days before the **[**initial date set for the interview**]** **DAY THE STATEMENT IS FILED**.

(2) In Prince George's County, an applicant for appointment to the Maryland–National Capital Park and Planning Commission shall file the statement not later than 5 days before the **[**initial date set for the confirmation hearing by the county council**]** **CONFIRMATION HEARING CONDUCTED UNDER ARTICLE 28, § 2–101 OF THE CODE**. The statement shall cover the 12–month period ending 60 days before the initial date set for the confirmation hearing.

(d) An applicant for appointment to the Washington Suburban Sanitary Commission shall file the statement not later than 5 days before the interview **[**required by Article 29**]** **CONDUCTED UNDER ARTICLE 29, § 1–103** of the Code. The

statement shall cover the 12–month period ending 60 days before the **[**initial date set for the interview**]** **DAY THE STATEMENT IS FILED**.

(e) An applicant for appointment to the Washington Suburban Transit Commission shall file the statement at least 10 days before the appointment becomes effective. The statement shall cover the 12–month period ending not more than 60 days before the day the statement is filed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 528

(House Bill 975)

AN ACT concerning

Department of Housing and Community Development – Authorization for Sales of State–Funded ~~Loan Sales~~ Mortgages or Other Obligations – Servicing Rights ~~for State and Bond–Funded Loans~~

FOR the purpose of ~~requiring~~ authorizing the Department of Housing and Community Development to sell certain ~~loans~~ mortgages or other obligations at a public or private sale, under certain circumstances; authorizing the Department and the Community Development Administration to retain servicing rights for certain ~~loans~~ mortgages or other obligations after they are sold and to charge a certain fee for servicing the ~~loans~~ mortgages or other obligations; and generally relating to the sale and servicing of ~~loans~~ mortgages or other obligations by the Department of Housing and Community Development and the Community Development Administration.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 2–102, 4–226(c), and 4–235(g)
Annotated Code of Maryland
(2006 Volume and 2007 Supplement)

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

Article – Housing and Community Development

2–102.

(A) The Department shall:

(1) encourage and assist political subdivisions and public and private community organizations to develop mutual and cooperative solutions to their common problems;

(2) serve as a clearinghouse for information and materials that may be pertinent to sound community assistance, including information on available federal, State, and private financial assistance and technical assistance;

(3) implement model or demonstration programs and projects or otherwise provide a program of practical research in community assistance;

(4) provide grants and loans for energy conservation and the use of solar energy in commercial and residential buildings;

(5) provide advisory, consultative, training, and educational services, and technical assistance to any political subdivision, local public agency, or nonprofit organization for community assistance purposes;

(6) contract for and accept a gift, grant, contribution, or loan of money, property, or other aid for community assistance from a governmental unit, the federal government, or another source and comply with the terms and conditions of that aid;

(7) attach terms and conditions to financial assistance as the Secretary determines;

(8) participate with political subdivisions, regional governments, organizations, and the federal government in developing, financing, and implementing a program to build the management capabilities of municipal corporations by supplying needed managerial expertise through circuit riding managers;

(9) administer federal programs to community assistance; ~~[and]~~

(10) develop and implement a weatherization program in accordance with Title 4 of this article and administer the low–income weatherization component of the electric universal service program in accordance with § 7–512.1 of the Public Utility Companies Article~~; AND~~**.**

~~(11)~~ **(B)** ~~IF NECESSARY OR CONVENIENT TO FURTHER ANY PURPOSE OF THE DEPARTMENT,~~ **THE DEPARTMENT MAY:**

(1) SELL ANY MORTGAGE OR OTHER OBLIGATION THAT ~~IT~~ THE DEPARTMENT HOLDS AT PUBLIC OR PRIVATE SALE, WITH OR WITHOUT PUBLIC BIDDING~~, AND~~;

(2) RETAIN THE SERVICING RIGHTS AND CHARGE SERVICING FEES FOR ANY MORTGAGE OR OTHER OBLIGATION THAT ~~IT~~ THE DEPARTMENT SELLS ~~AND~~; AND

(3) APPLY THE PROCEEDS FROM ANY SALE AND SERVICING FEES EARNED TO ANY OF THE FUNDS ESTABLISHED ~~BY~~ UNDER TITLE 4, SUBTITLE 5 OF THIS ARTICLE.

4–226.

(c) **(1)** At public or private sale and with or without public bidding, the Administration may sell a mortgage or other obligation that the Administration holds**.** ~~AND~~

(2) THE ADMINISTRATION MAY RETAIN THE SERVICING RIGHTS AND CHARGE SERVICING FEES FOR ANY MORTGAGE OR OTHER OBLIGATION ~~IT~~ THE ADMINISTRATION SELLS.

4–235.

(g) The Administration may**:**

(1) sell any mortgage or other obligation that it holds, at public or private sale, with or without public bidding~~, AND~~**; AND**

(2) RETAIN THE SERVICING RIGHTS AND CHARGE SERVICING FEES FOR ANY MORTGAGE OR OTHER OBLIGATION ~~IT~~ THE ADMINISTRATION SELLS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 529

(House Bill 1002)

AN ACT concerning

Election Law – Worcester County Democratic Party Central Committee

FOR the purpose of repealing certain provisions relating to staggering of terms of the members of the Worcester County Democratic Party Central Committee; and generally relating to the terms of the members of the Worcester County Democratic Party Central Committee.

BY repealing and reenacting, without amendments,
Article – Election Law
Section 4–202(a) and (f) and 4–203(h)
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

BY repealing
Chapter 570 of the Acts of the General Assembly of 2006
Section 2

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

Article – Election Law

4–202.

(a) (1) A principal political party shall elect the members of the county central committee at a primary election.

(2) Except as otherwise provided in this section or § 4–203 of this subtitle, the central committee for a county shall consist of the number of members determined by the party's constitution.

(f) (1) Except as provided in paragraph (2) of this subsection, the tenure in office of a member of the central committee of any political party shall:

(i) begin at the time the results of that election are certified; and

(ii) continue to the extent of any extension in time between primary elections by reason of any change in the date of holding primary elections by a political party in the State.

(2) The tenure in office of a member of the Republican Party Central Committee shall begin on the 14th day following the gubernatorial general election.

(3) For purposes of this subsection, upon relinquishing residency in the county, a member of a party central committee shall be considered to have resigned.

4–203.

(h) (1) In Worcester County, the Democratic Party Central Committee consists of 11 members as follows:

(i) seven members who shall reside in and be elected, respectively, by the eligible voters of each of the seven county commissioner districts; and

(ii) four members who shall reside in Worcester County, be elected at large by the eligible voters of the entire county, and receive the highest number of votes cast for candidates in the at large election.

(2) (i) A candidate for election to the Democratic Party Central Committee shall declare at the time of filing a certificate of candidacy which seat the candidate is seeking.

(ii) A member elected to represent a specific county commissioner district who ceases to reside in that district may not continue to serve on the Central Committee.

(3) Any vacancy in a seat on the Central Committee held by an individual elected from a county commissioner district shall be filled by an individual who resides in that district.

Chapter 570 of the Acts of 2006

[SECTION 2. AND BE IT FURTHER ENACTED, That, subject to § 4–202(f) of the Election Law Article, the terms of the members of the Worcester County Democratic Party Central Committee elected under this Act shall expire as follows:

(1) the term of the member elected at the November 2006 election from county commissioner district 1, 4, 6, and 7 shall expire after the November 2010 election, and then expire each four years thereafter;

(2) the term of the member elected at the November 2006 election from county commissioner district 2, 3, and 5 shall expire after the November 2008 election, and then expire each four years thereafter; and

(3) (i) the term of each of the two members elected from the county at large at the November 2006 election who receive the highest and second highest number of votes cast at that election shall expire after the November 2010 election, and then expire each four years thereafter; and

(ii) the term of each of the two members elected from the county at large at the November 2006 election who receive the third and fourth highest number of votes cast at that election shall expire after the November 2008 election, and then expire each four years thereafter.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 530

(House Bill 1057)

AN ACT concerning

Commercial Law – Automotive Repair Facilities – Invoices, *Written Estimates, and Forms for Authorization of Repairs*

FOR the purpose of requiring an invoice, *a written estimate for repair work, and a form for authorization of repairs* from an automotive repair facility to state that while a customer's motor vehicle is on the premises of the automotive repair facility, the automotive repair facility ~~is not responsible for any damage to the customer's motor vehicle that is caused by an individual not employed by the automotive repair facility~~ may not be responsible for damage to the customer's motor vehicle under certain circumstances, and that the customer should ask a representative of the automotive repair facility about the extent of its responsibility, *including the extent of the insurance coverage of the automotive repair facility*; making ~~a stylistic change~~ *stylistic changes*; and generally relating to automotive repair facilities ~~and invoices~~.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section *14–1002(a) and* 14–1003
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Commercial Law
Section 14–1008(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Commercial Law

14–1002.

(a) (1) Before beginning any repair work on a motor vehicle for which a customer is charged more than $50, an automotive repair facility shall give the customer on ***[****his****] THE CUSTOMER'S*** *request a written statement which contains:*

(i) The estimated completion date; ***[****and****]***

(ii) The estimated price for labor and parts necessary to complete the work; ***[****and****]***

(III) A CLEAR STATEMENT THAT WHILE THE CUSTOMER'S MOTOR VEHICLE IS ON THE PREMISES OF THE AUTOMOTIVE REPAIR FACILITY, THE AUTOMOTIVE REPAIR FACILITY MAY NOT BE RESPONSIBLE FOR DAMAGE TO THE CUSTOMER'S MOTOR VEHICLE UNDER CERTAIN CIRCUMSTANCES, AND THAT THE CUSTOMER SHOULD ASK A REPRESENTATIVE OF THE AUTOMOTIVE REPAIR FACILITY ABOUT THE EXTENT OF ITS RESPONSIBILITY, INCLUDING THE EXTENT OF THE INSURANCE COVERAGE OF THE AUTOMOTIVE REPAIR FACILITY; AND

[*(iii)****] (IV)*** *The estimated surcharge, if any.*

(2) If the fee is disclosed to the customer before the estimate is made, the automotive repair facility may charge a reasonable fee for making the estimate.

14–1003.

(a) An automotive repair facility shall prepare an invoice which describes:

(1) All work done by it, including all warranty work; and

(2) All parts supplied by it.

(b) The invoice shall state clearly **[**if**]:**

(1) IF any used, rebuilt, or reconditioned parts have been supplied or if a part of a component system supplied is composed of used, rebuilt, or reconditioned parts**; AND**

(2) THAT WHILE A CUSTOMER'S MOTOR VEHICLE IS ON THE PREMISES OF THE AUTOMOTIVE REPAIR FACILITY, THE AUTOMOTIVE REPAIR FACILITY ~~**IS NOT RESPONSIBLE FOR ANY DAMAGE TO THE CUSTOMER'S MOTOR VEHICLE THAT IS CAUSED BY AN INDIVIDUAL NOT EMPLOYED BY THE AUTOMOTIVE REPAIR FACILITY**~~ **MAY NOT BE RESPONSIBLE FOR DAMAGE TO THE CUSTOMER'S MOTOR VEHICLE UNDER CERTAIN CIRCUMSTANCES, AND THAT THE CUSTOMER SHOULD ASK A REPRESENTATIVE OF THE AUTOMOTIVE REPAIR FACILITY ABOUT THE EXTENT OF ITS RESPONSIBILITY,** ***INCLUDING THE EXTENT OF THE INSURANCE COVERAGE OF THE AUTOMOTIVE REPAIR FACILITY***.

(c) The invoice shall include the following notice:

"Manufacturer Special Policy Adjustment Programs

Federal law requires manufacturers to furnish the National Highway Traffic Safety Administration (N.H.T.S.A.) with bulletins describing any defects in their vehicles. You may obtain copies of these bulletins from either the manufacturer or N.H.T.S.A. In addition, certain consumer publications or organizations publish this information, which may be available for a fee or for free."

(d) After the customer signs the invoice, the automotive repair facility shall give **[**him**] THE CUSTOMER** a copy of it and retain a copy.

14–1008.

(E) THE AUTHORIZATION FORM SHALL INCLUDE A CLEAR STATEMENT THAT WHILE THE CUSTOMER'S MOTOR VEHICLE IS ON THE PREMISES OF THE AUTOMOTIVE REPAIR FACILITY, THE AUTOMOTIVE REPAIR FACILITY MAY NOT BE RESPONSIBLE FOR DAMAGE TO THE CUSTOMER'S MOTOR VEHICLE UNDER CERTAIN CIRCUMSTANCES, AND THAT THE CUSTOMER SHOULD ASK A REPRESENTATIVE OF THE AUTOMOTIVE REPAIR FACILITY ABOUT THE EXTENT OF ITS RESPONSIBILITY, INCLUDING THE EXTENT OF THE INSURANCE COVERAGE OF THE AUTOMOTIVE REPAIR FACILITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 531

(House Bill 1087)

AN ACT concerning

Washington County – Alcoholic Beverages – Catering, Stadium, and Sidewalk Café Licenses

FOR the purpose of authorizing the Board of License Commissioners of Washington County to issue a caterer's license to certain alcoholic beverages licensees; specifying the privileges conferred by the caterer's license; specifying certain requirements that a holder of a caterer's license must meet; authorizing the Board to issue a stadium license to certain persons; specifying the privileges conferred by the stadium license and requirements to be met by a stadium license holder; authorizing the Board to issue a sidewalk café license to certain persons; specifying the privileges conferred by a sidewalk café license; requiring the holder of a sidewalk café license to meet certain requirements; providing certain fees and the hours of sale for certain licenses; defining certain terms; making certain stylistic changes; and generally relating to alcoholic beverages licenses in Washington County.

BY renumbering
Article 2B – Alcoholic Beverages
Section 6–709, 6–710, and 6–711, respectively
to be Section 6–710, 6–711, and 6–712, respectively
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 6–709
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–222
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 6–709, 6–710, and 6–711, respectively, of Article

2B – Alcoholic Beverages of the Annotated Code of Maryland be renumbered to be Section(s) 6–710, 6–711, and 6–712, respectively.

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

Article 2B – Alcoholic Beverages

6–709.

(A) (1) THIS SECTION APPLIES ONLY IN WASHINGTON COUNTY.

(2) IN THIS SECTION, "BOARD" MEANS THE BOARD OF LICENSE COMMISSIONERS.

(B) THE BOARD MAY ISSUE A CATERER'S LICENSE TO A HOLDER OF A POURING LICENSE OR A CLASS B RESTAURANT OR HOTEL (ON AND OFF–SALE) BEER, WINE AND LIQUOR LICENSE.

(C) THE ANNUAL LICENSE FEE IS $1,500.

(D) A CATERER'S LICENSE ISSUED UNDER THIS SECTION AUTHORIZES THE HOLDER TO PROVIDE ALCOHOLIC BEVERAGES AT EVENTS THAT ARE HELD OFF THE PREMISES COVERED BY THE POURING LICENSE OR THE CLASS B RESTAURANT OR HOTEL LICENSE.

(E) THE HOLDER SHALL PREPARE, DELIVER, AND PROVIDE FOOD AS WELL AS ALCOHOLIC BEVERAGES FOR CONSUMPTION AT THE CATERED EVENT.

(F) BEFORE A CATERER'S LICENSE MAY BE ISSUED, REISSUED, OR RENEWED, THE COUNTY HEALTH DEPARTMENT SHALL APPROVE THE FACILITIES THAT PREPARE THE FOOD.

(G) A HOLDER MAY EXERCISE THE PRIVILEGES UNDER THIS LICENSE ONLY DURING THE HOURS AND DAYS THAT ARE ALLOWED UNDER THIS ARTICLE FOR THE UNDERLYING POURING LICENSE OR CLASS B RESTAURANT OR HOTEL LICENSE.

(H) THIS SECTION DOES NOT REQUIRE A HOLDER OF AN EXISTING POURING LICENSE OR CLASS B RESTAURANT OR HOTEL LICENSE TO HAVE A CATERER'S LICENSE FOR CATERING ON THE PREMISES THAT IS COVERED BY THE EXISTING LICENSE.

(I) THE HOLDER OF A CATERER'S LICENSE SHALL:

(1) PROVIDE ALL THE SERVICE EMPLOYEES TO SERVE THE ALCOHOLIC BEVERAGES AT THE CATERED EVENT; AND

(2) ENSURE THAT AT LEAST ONE OF THOSE EMPLOYEES IS CERTIFIED BY AN ALCOHOL AWARENESS PROGRAM AND ON THE PREMISES AT ALL TIMES DURING THE CATERED EVENT.

8–222.

(A) THIS SECTION APPLIES ONLY IN WASHINGTON COUNTY.

[(a)**] (B)** (1) **[**In Washington County the**] THE** operators of any amusement park, whether individual, association of individuals, or a corporation, may be entitled to a license for the sale of beer within the confines of its park.

(2) The fee for such license shall be one hundred dollars ($100) each calendar year, and shall entitle the holder to sell beer at one or more locations within the park from 8 a.m. to 12 p.m. on every day from May 1 to September 30 of each year, except Sundays and election days.

(3) Such licensees shall be subject to all laws, rules and regulations applicable in **[**Washington the County**] THE COUNTY** to the sale of beer, not inconsistent with the provisions of this section; nothing contained in § 9–102 of this article shall apply to any license issued pursuant to this section.

[(b)**] (C)** (1) A separate license, called a **CLASS P** "pouring license" may be issued countywide by the **[**Washington County Liquor**]** Board **OF LICENSE COMMISSIONERS**.

(2) The holder of a **CLASS P** "pouring license" may only sell alcoholic beverages for consumption on the premises.

(3) The annual fee for each **CLASS P** "pouring license" is:

(i) $350 for a beer license;

(ii) $400 for a beer and light wine license;

(iii) $750 for a beer, light wine, and liquor license; and

(iv) $250 for a Sunday sale license.

(D) (1) IN THIS SUBSECTION, "PREMISES" INCLUDES THE ENTIRE STADIUM FACILITY AND THE STADIUM PARKING LOTS.

(2) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A STADIUM (ON–SALE) LICENSE TO THE OWNER OF A PROFESSIONAL BASEBALL TEAM FRANCHISE.

(3) THE FRANCHISE MAY BE IN ANY FORM OF BUSINESS ORGANIZATION, INCLUDING PARTNERSHIP, CORPORATION, AND LIMITED LIABILITY COMPANY.

(4) THE ANNUAL FEE IS $2,000.

(5) A LICENSE ENTITLES THE HOLDER TO SELL BEER AND LIGHT WINE:

(I) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, FOR CONSUMPTION ON THE LICENSED PREMISES TO PERSONS PRESENT AT ANY EVENT HELD IN THE STADIUM;

(II) IN PLASTIC, STYROFOAM, OR PAPER CONTAINERS; AND

(III) FROM THE TIME THE STADIUM OPENS FOR THE EVENT UNTIL THE EVENT ENDS.

(6) THE WRITTEN APPROVAL OF THE BOARD OF LICENSE COMMISSIONERS IS REQUIRED BEFORE BEER AND LIGHT WINE MAY BE SOLD, SERVED, OR CONSUMED:

(I) ON THE PARKING LOTS OF THE STADIUM; OR

(II) DURING ANY EVENT OTHER THAN A BASEBALL GAME IN WHICH THE TEAM OF THE LICENSE HOLDER IS PLAYING.

(7) EXCEPT FOR A WHOLESALER OR DISTRIBUTOR OF BEER AND LIGHT WINE THAT IS CONDUCTING BUSINESS WITH THE LICENSE HOLDER, THE LICENSE HOLDER MAY NOT ALLOW ANY PERSON TO CARRY ALCOHOLIC BEVERAGES ONTO OR FROM THE LICENSED PREMISES.

(E) (1) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A SIDEWALK CAFÉ LICENSE TO A HOLDER OF A CLASS B OR CLASS P "POURING" LICENSE.

(2) A LICENSE ENTITLES THE HOLDER TO SELL AND SERVE ALCOHOLIC BEVERAGES IN AN AREA ON THE SIDEWALK DIRECTLY IN FRONT OF THE LICENSED ESTABLISHMENT.

(3) THE ANNUAL FEE IS ~~$1,000~~ *$500*.

(4) A SIDEWALK CAFÉ LICENSE MAY BE ISSUED ONLY WITH AN APPLICATION FOR A CLASS B LICENSE OR CLASS P "POURING" LICENSE.

(5) TO MAINTAIN A SIDEWALK CAFÉ LICENSE, A HOLDER:

(I) SHALL COMPLY WITH ALL RULES AND REGULATIONS APPLICABLE TO THE ISSUANCE OF THE UNDERLYING CLASS B LICENSE OR CLASS P "POURING" LICENSE AND WITH ALL MUNICIPAL ORDINANCES AND FIRE AND HEALTH DEPARTMENT REGULATIONS;

(II) ENSURE THAT AT LEAST ONE EMPLOYEE IS CERTIFIED BY AN ALCOHOL AWARENESS PROGRAM AND ON THE PREMISES AT ALL TIMES DURING THE OPERATION OF THE SIDEWALK CAFÉ; AND

(III) KEEP THE KITCHEN OPEN DURING ALL HOURS OF OPERATION AND HAVE PREPARED MEALS AVAILABLE TO BE SERVED IN THE SIDEWALK CAFÉ.

(6) A HOLDER MAY SELL OR SERVE ALCOHOLIC BEVERAGES IN THE SIDEWALK CAFÉ FROM NOON TO MIDNIGHT, EVERY DAY OF THE WEEK.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 532

(House Bill 1090)

AN ACT concerning

State Board of Morticians – Family Security Trust Fund and Pre–Need Contracts

FOR the purpose of establishing the Family Security Trust Fund; requiring the State Board of Morticians to administer the Fund and to build the Fund to a certain monetary level; requiring the Board to order a certain payment of a certain claim related to pre–need funds from the Fund in a certain manner; requiring the Board to deposit all money collected to the credit of the Fund with the State Treasurer; authorizing the State Treasurer to invest or reinvest Fund monies in a certain manner; requiring that accounting and financial reports be publicly available in a timely manner; requiring the Legislative Auditor to audit the accounts and transactions of the Fund in a certain manner; authorizing the Board to retain certain services for a certain purpose; requiring that costs of certain services be paid out of the Fund; requiring the Board to adopt certain regulations; specifying that the Fund is not subject to certain provisions of State law; specifying that the Fund is not liable to any other expenses or obligations of the Board; establishing the Family Security Trust Fund Advisory Committee; specifying the membership, leadership, and terms of the Advisory Committee; requiring the Advisory Committee to meet in a certain manner; specifying the purpose of the Advisory Committee; requiring the Board to work with the Advisory Committee in a certain manner and provide the Advisory Committee with certain information in a certain manner; prohibiting Advisory Committee members from receiving certain compensation but authorizing reimbursement for certain expenses; requiring a funeral establishment applicant to pay a certain fee to be credited to the Fund before the Board may issue an initial funeral establishment license; requiring each funeral establishment licensee to pay a certain annual fee to the Fund until the Fund has accumulated a certain balance; requiring each funeral establishment to pay a certain fee to the Fund under certain circumstances; prohibiting the Board from issuing a renewal funeral establishment license to a funeral establishment that has not made certain payment to the Board; requiring a funeral establishment to include certain written notice regarding the Fund in each sales contract provided by the funeral establishment; requiring that claims against the Fund be based on certain acts or omissions and be made in a certain manner; requiring the Board to process claims against the Fund in a certain manner; requiring the Board to provide the claimant and person against whom the complaint is made certain opportunities to participate in a certain hearing process; requiring that certain reimbursement be made to the Fund in a certain manner; establishing a certain lien in the favor of the State under certain circumstances; requiring the Board to take certain disciplinary action against a licensee under certain circumstances; repealing a certain requirement that a certain seller of pre–need goods and services annually file a certain report with the Board; providing that ~~the~~ certain provisions of this Act do not limit the authority of the Board to take certain action under certain circumstances; prohibiting certain banking institutions and savings and loan associations from releasing any money from a

certain pre–need account unless certain proof is provided; prohibiting a certain seller from withdrawing money from a certain pre–need account unless certain proof is provided; providing that it is an unfair or deceptive trade practice under the Maryland Consumer Protection Act to violate certain provisions of this Act; requiring the Board to provide certain notice to each banking institution and savings and loan association in the State on or before a certain date; defining certain terms; providing for a delayed effective date for certain provisions of this Act; making certain technical changes; and generally relating to the Family Security Trust Fund ~~and~~, the Family Security Trust Fund Advisory Committee, and pre–need contracts.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 7–310(b)(1) ~~and 7–314(c)~~, 7–314(c), and 7–405(e)(1) and (2)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 7–405(a), 7–405(e)(3), and 7–508
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing
Article – Health Occupations
Section 7–405(i)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Health Occupations
Section 7–4A–01 through 7–4A–13 to be under the new subtitle "Subtitle 4A. Family Security Trust Fund"
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 13–301(14)(xxii)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 13–301(14)(xxiii)

Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Commercial Law
Section 13–301(14)(xxiv)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health Occupations

7–310.

(b) (1) To apply for a funeral establishment license, an applicant shall:

(i) Submit an application to the Board on the form that the Board requires; and

(ii) Pay to the Board **[**an**]:**

1. AN application fee set by the Board**; AND**

2. THE FEE ESTABLISHED UNDER § 7–4A–05(A) OF THIS TITLE.

7–314.

(c) Except as otherwise provided in this section, before a license expires, the licensee periodically may renew it for additional terms, if the licensee:

(1) Has met the qualifications for licensure and is not under a suspension or revocation order of the Board;

(2) Except as otherwise provided under this title, pays to the Board a renewal fee set by the Board;

(3) Submits to the Board a renewal application on the form that it requires; **[**and**]**

(4) Submits to the Board satisfactory evidence of compliance with any continuing education requirements the Board may adopt by regulation**; AND**

(5) FOR A FUNERAL ESTABLISHMENT LICENSE, PROVIDES PROOF OF ANY PAYMENT TO THE BOARD REQUIRED IN ACCORDANCE WITH § 7–4A–05(B) OF THIS TITLE.

7–405.

[(i) A seller shall annually file a report with the Board which includes:

(1) A certification by a certified public accountant as to the seller's compliance with the provisions of this section; and

(2) Any other information the Board deems necessary.**]**

SUBTITLE 4A. FAMILY SECURITY TRUST FUND.

7–4A–01.

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

(B) "ADVISORY COMMITTEE" MEANS THE FAMILY SECURITY TRUST FUND ADVISORY COMMITTEE.

(C) "FUND" MEANS THE FAMILY SECURITY TRUST FUND.

7–4A–02.

THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF THE BOARD TO:

(1) TAKE ANY ACTION AGAINST A LICENSEE UNDER THE DISCIPLINARY PROVISIONS OF §§ 7–316 THROUGH 7–320 OF THIS TITLE; OR

(2) TAKE ANY OTHER DISCIPLINARY OR OTHER ACTION AUTHORIZED UNDER THIS TITLE.

7–4A–03.

(A) THERE IS A FAMILY SECURITY TRUST FUND.

(B) THE BOARD SHALL:

(1) ADMINISTER THE FUND; AND

(2) OVER A REASONABLE PERIOD OF TIME, BUILD THE FUND TO A LEVEL OF AT LEAST $1,000,000 AND THEREAFTER MAINTAIN THE FUND AT THAT LEVEL.

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

(D) (1) THE BOARD SHALL DEPOSIT ALL MONEY COLLECTED TO THE CREDIT OF THE FUND WITH THE STATE TREASURER FOR PLACEMENT INTO A SPECIAL ACCOUNT.

(2) (I) THE STATE TREASURER MAY INVEST OR REINVEST MONEY IN THE FUND IN THE SAME MANNER AS MONEY IN THE STATE RETIREMENT AND PENSION SYSTEM.

(II) THE INVESTMENT EARNINGS SHALL BE:

1. CREDITED TO THE FUND; AND

2. AVAILABLE FOR THE SAME PURPOSES AS THE MONEY DEPOSITED INTO THE FUND.

(E) THE FUND IS NOT LIABLE TO ANY OTHER EXPENSES OR OBLIGATIONS OF THE BOARD.

(F) (1) ACCOUNTING AND FINANCIAL REPORTS RELATED TO THE FUND SHALL BE PUBLICLY AVAILABLE IN A TIMELY MANNER.

(2) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2–1220 OF THE STATE GOVERNMENT ARTICLE.

(G) (1) THE BOARD MAY RETAIN THE SERVICES OF APPROPRIATE EXPERTS OR SERVICE PROVIDERS TO ADVISE ABOUT, OR ADMINISTER, THE FUND.

(2) THE COSTS OF THE SERVICES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PAID OUT OF THE FUND.

(H) THE BOARD SHALL ADOPT REGULATIONS FOR THE ADMINISTRATION AND CLAIMS PROCEDURES OF THE FUND.

7–4A–04.

(A) THERE IS A FAMILY SECURITY TRUST FUND ADVISORY COMMITTEE.

(B) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING FIVE MEMBERS:

(1) THREE MEMBERS OF THE BOARD, INCLUDING ONE CONSUMER MEMBER, APPOINTED BY THE BOARD;

(2) ONE MEMBER DESIGNATED BY THE MARYLAND STATE FUNERAL DIRECTORS ASSOCIATION; AND

(3) ONE MEMBER DESIGNATED BY THE FUNERAL DIRECTORS AND MORTICIANS ASSOCIATION OF MARYLAND, INC.

(C) THE ADVISORY COMMITTEE MEMBERS MAY BE, BUT ARE NOT REQUIRED TO BE, LICENSEES OF THE BOARD.

(D) (1) EXCEPT FOR THE INITIAL TERMS OF THE ADVISORY COMMITTEE, THE TERM OF A MEMBER IS 4 YEARS.

(2) A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(3) THE TERMS OF THE INITIAL MEMBERS SHALL BE STAGGERED EVENLY BETWEEN 3 YEARS AND 4 YEARS AS THE ADVISORY COMMITTEE SHALL DETERMINE AT THE ADVISORY COMMITTEE'S FIRST MEETING.

(4) A MEMBER MAY NOT SERVE FOR MORE THAN TWO 4–YEAR TERMS.

(E) THE ADVISORY COMMITTEE SHALL ELECT ANNUALLY A CHAIR, VICE CHAIR, AND SECRETARY FROM AMONG ITS MEMBERS.

(F) (1) THE ADVISORY COMMITTEE SHALL MEET AT THE CALL OF THE CHAIR OR THE VICE CHAIR.

(2) THE ADVISORY COMMITTEE SHALL MEET AT LEAST TWICE EACH YEAR AT THE TIMES AND PLACES THAT IT DETERMINES.

(G) THE PURPOSE OF THE ADVISORY COMMITTEE IS TO PROVIDE NONBINDING COUNSEL AND ADVICE TO THE BOARD ON ANY FUND MATTERS OTHER THAN PENDING INDIVIDUAL CLAIM MATTERS.

(H) THE BOARD SHALL:

(1) WORK WITH THE ADVISORY COMMITTEE IN A COOPERATIVE MANNER; AND

(2) PROVIDE TO THE ADVISORY COMMITTEE, IN A TIMELY MANNER:

(I) ALL APPROPRIATE FUND INFORMATION, OTHER THAN INFORMATION INVOLVING PENDING CLAIM MATTERS; AND

(II) SUMMARY INFORMATION ABOUT THE OUTCOME OF ALL CLOSED CLAIMS, INCLUDING ACTUAL AMOUNTS OF INDIVIDUAL AND TOTAL CLAIM PAYMENTS.

(I) A MEMBER OF THE ADVISORY COMMITTEE:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY COMMITTEE; BUT

(2) MAY RECEIVE REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

7–4A–05.

(A) BEFORE THE BOARD ISSUES AN INITIAL FUNERAL ESTABLISHMENT LICENSE, THE FUNERAL ESTABLISHMENT SHALL PAY, IN ADDITION TO ALL OTHER APPLICABLE FEES, A FEE OF $375 TO BE CREDITED TO THE FUND.

(B) (1) EACH FUNERAL ESTABLISHMENT SHALL PAY $375 PER YEAR INTO THE FUND, UNTIL THE FUND HAS ACCUMULATED A BALANCE OF $1,000,000.

(2) IF, AFTER THE FUND HAS ACCUMULATED A BALANCE OF $1,000,000, THE AMOUNT IN THE FUND FALLS BELOW $1,000,000, THE BOARD SHALL ASSESS EACH FUNERAL ESTABLISHMENT AN ADDITIONAL FEE IN AN AMOUNT THAT WILL, OVER A REASONABLE PERIOD, RETURN THE FUND TO A LEVEL OF AT LEAST $1,000,000.

(3) THE BOARD MAY NOT ISSUE A RENEWAL FUNERAL ESTABLISHMENT LICENSE IF THE FUNERAL ESTABLISHMENT HAS NOT PAID THE FEE REQUIRED UNDER THIS SUBSECTION.

7–4A–06.

(A) SUBJECT TO THE PROVISIONS OF THIS SUBTITLE, A PERSON MAY RECOVER COMPENSATION FROM THE FUND FOR AN ACTUAL PRE–NEED TRUST FUND LOSS THAT OCCURRED ON OR AFTER JANUARY 1, 2010, AND IS BASED ON AN ACT OR OMISSION AS DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

(B) A CLAIM FOR THE LOSS SHALL:

(1) BE BASED ON AN ACT OR OMISSION THAT OCCURS IN THE PROVISION OF FUNERAL PRE–NEED SERVICES BY:

(I) A LICENSED MORTICIAN;

(II) A LICENSED FUNERAL DIRECTOR;

(III) A LICENSED APPRENTICE MORTICIAN;

(IV) A LICENSED APPRENTICE FUNERAL DIRECTOR; OR

(V) AN UNLICENSED EMPLOYEE OF A LICENSED FUNERAL ESTABLISHMENT;

(2) INVOLVE A TRANSACTION THAT RELATES TO PRE–NEED FUNERAL PLANNING THAT OCCURRED IN THE STATE; AND

(3) BE BASED ON AN ACT OR OMISSION:

(I) IN WHICH PRE–NEED MONEY IS OBTAINED FROM A PERSON BY THEFT, EMBEZZLEMENT, FALSE PRETENSES, OR FORGERY; OR

(II) THAT CONSTITUTES FRAUD OR MISREPRESENTATION.

(C) THE AMOUNT RECOVERED FOR ANY CLAIM AGAINST THE FUND:

(1) MAY NOT EXCEED THE ACTUAL MONETARY LOSS SUFFERED; AND

(2) MAY NOT INCLUDE NONECONOMIC, CONSEQUENTIAL, OR PUNITIVE DAMAGES.

(D) A FUNERAL ESTABLISHMENT SHALL INCLUDE IN EACH SALES CONTRACT THAT IS PROVIDED BY THE FUNERAL ESTABLISHMENT A WRITTEN NOTICE TO THE BUYER THAT THE BUYER MAY FILE A CLAIM WITH THE FUND.

7–4A–07.

(A) EACH CLAIM AGAINST THE FUND SHALL BE MADE IN ACCORDANCE WITH THIS SECTION.

(B) EACH CLAIM SHALL:

(1) BE IN WRITING;

(2) BE MADE UNDER OATH;

(3) STATE THE AMOUNT OF LOSS CLAIMED;

(4) STATE THE FACTS ON WHICH THE CLAIM IS BASED; AND

(5) BE ACCOMPANIED BY ANY DOCUMENTATION OR OTHER EVIDENCE THAT SUPPORTS THE CLAIM.

7–4A–08.

(A) THE BOARD SHALL ACT PROMPTLY ON A CLAIM MADE UNDER THIS SUBTITLE.

(B) ON RECEIPT OF A CLAIM, THE BOARD SHALL:

(1) FORWARD A COPY OF THE CLAIM:

(I) TO EACH LICENSEE ALLEGED TO BE RESPONSIBLE FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM;

(II) TO EACH UNLICENSED EMPLOYEE ALLEGED TO BE RESPONSIBLE FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM; AND

(III) TO EACH FUNERAL ESTABLISHMENT THAT EMPLOYS A LICENSEE OR UNLICENSED EMPLOYEE ALLEGED TO BE RESPONSIBLE FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM; AND

(2) REQUEST FROM EACH OF THE PERSONS LISTED IN ITEM (1) OF THIS SUBSECTION A WRITTEN RESPONSE WITHIN 10 DAYS TO THE ALLEGATIONS SET FORTH IN THE CLAIM.

(C) (1) THE BOARD:

(I) SHALL REVIEW THE CLAIM AND ANY RESPONSE TO THE CLAIM; AND

(II) MAY CONDUCT AN INVESTIGATION OF THE CLAIM.

(2) ON THE BASIS OF ITS REVIEW AND ANY INVESTIGATION THAT THE BOARD CONDUCTS, THE BOARD SHALL:

(I) SET THE MATTER FOR A HEARING; OR

(II) IF THE CLAIM IS FRIVOLOUS, MADE IN BAD FAITH, OR LEGALLY INSUFFICIENT, DISMISS THE CLAIM.

(D) AT ANY CLAIM HEARING, THE BURDEN OF PROOF SHALL BE ON THE CLAIMANT TO ESTABLISH THE VALIDITY OF THE CLAIM.

7–4A–09.

(A) THE BOARD SHALL GIVE THE FOLLOWING PERSONS NOTICE OF THE HEARING AND AN OPPORTUNITY TO PARTICIPATE IN THE HEARING:

(1) THE CLAIMANT;

(2) EACH LICENSEE ALLEGED TO BE RESPONSIBLE FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM;

(3) EACH UNLICENSED EMPLOYEE ALLEGED TO BE RESPONSIBLE FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM; AND

(4) EACH FUNERAL ESTABLISHMENT THAT EMPLOYS A LICENSEE OR UNLICENSED EMPLOYEE ALLEGED TO BE RESPONSIBLE FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM.

(B) THE BOARD MAY NOT PROCEED WITH THE HEARING UNLESS THE RECORDS OF THE BOARD SHOW THAT THE BOARD PROVIDED EACH NOTICE

REQUIRED UNDER THE PROVISIONS OF THIS SECTION AND § 7–4A–08 OF THIS SUBTITLE.

7–4A–10.

(A) IF A CLAIM AGAINST THE FUND ALLEGES THAT THE ACT OR OMISSION GIVING RISE TO THE CLAIM WAS PERFORMED BY A LICENSEE, THE BOARD MAY JOIN THE PROCEEDING ON THE CLAIM WITH ANY DISCIPLINARY PROCEEDING AGAINST THE LICENSEE UNDER THIS TITLE ARISING FROM THE SAME FACTS ALLEGED IN THE CLAIM.

(B) (1) FOR THAT PART OF A HEARING ON CONSOLIDATED PROCEEDINGS THAT RELATES TO DISCIPLINARY ACTION BUT DOES NOT RELATE TO THE FUND CLAIM AGAINST A LICENSEE, THE CLAIMANT:

(I) MAY NOT BE A PARTY; AND

(II) MAY PARTICIPATE ONLY AS A WITNESS.

(2) FOR THAT PART OF A HEARING ON CONSOLIDATED PROCEEDINGS THAT RELATES TO THE CLAIM AGAINST THE FUND, THE CLAIMANT IS A PARTY.

7–4A–11.

(A) THE BOARD SHALL ORDER FULL OR PARTIAL PAYMENT OF A CLAIM BY THE FUND IF, ON THE HEARING, THE CLAIMANT PROVES THAT THE CLAIMANT HAS A VALID CLAIM UNDER THIS SUBTITLE.

(B) THE BOARD MAY ORDER FULL OR PARTIAL PAYMENT BY THE FUND ONLY FOR THE ACTUAL MONETARY LOSS SUFFERED BY THE CLAIMANT AS A RESULT OF THE CLAIM PROVEN BY THE CLAIMANT.

(C) A PAYMENT MAY NOT BE MADE BY THE FUND UNDER AN ORDER OF THE BOARD UNTIL:

(1) THE EXPIRATION OF THE TIME PROVIDED UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE FOR SEEKING JUDICIAL REVIEW OF THE BOARD'S ORDER; OR

(2) THE EXPIRATION OF ANY JUDICIAL STAY OF THE ORDER OF THE BOARD.

(D) THE BOARD SHALL ORDER PAYMENT OF EACH CLAIM DUE IN THE ORDER IN WHICH THE CLAIM WAS AWARDED.

(E) IF, AT THE TIME A PAYMENT IS DUE, THE MONEY IN THE FUND IS INSUFFICIENT TO SATISFY FULLY THE ORDER FOR PAYMENT, THE BOARD:

(1) IMMEDIATELY SHALL PAY TO THE CLAIMANT THE AMOUNT THAT IS AVAILABLE IN THE FUND; AND

(2) WHEN SUFFICIENT FUNDS ARE AVAILABLE IN THE FUND, SHALL PAY THE CLAIMANT THE BALANCE DUE ON THE ORDER.

7–4A–12.

(A) AFTER PAYMENT OF A CLAIM BY THE FUND, A LICENSEE WHO THE BOARD FINDS RESPONSIBLE FOR THE ACT OR OMISSION THAT GAVE RISE TO THE CLAIM SHALL REIMBURSE THE FUND IN FULL FOR:

(1) THE AMOUNT PAID BY THE FUND; AND

(2) INTEREST ON THE AMOUNT PAID BY THE FUND AT AN ANNUAL RATE OF 6%.

(B) EACH LICENSEE WHO THE BOARD FINDS RESPONSIBLE FOR THE ACT OR OMISSION THAT GAVE RISE TO A CLAIM IS JOINTLY AND SEVERALLY LIABLE FOR THE CLAIM.

(C) IF A LICENSEE DOES NOT REIMBURSE THE FUND AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE BOARD OR THE STATE CENTRAL COLLECTION UNIT, AS ASSIGNEE OF THE BOARD, MAY BRING AN ACTION AGAINST THE LICENSEE FOR THE AMOUNT THAT HAS NOT BEEN REIMBURSED.

(D) THE BOARD OR THE STATE CENTRAL COLLECTION UNIT, AS ASSIGNEE OF THE BOARD, SHALL BE ENTITLED TO A JUDGMENT FOR THE AMOUNT THAT THE LICENSEE HAS NOT REIMBURSED THE FUND IF THE BOARD PROVES THAT:

(1) PAYMENT WAS MADE BY THE FUND BASED ON AN ACT OR OMISSION FOR WHICH THE BOARD FOUND THE LICENSEE WAS RESPONSIBLE;

(2) A PERIOD OF AT LEAST 30 DAYS HAS PASSED SINCE PAYMENT WAS MADE BY THE FUND; AND

(3) THE LICENSEE HAS NOT REIMBURSED THE FUND FOR THE AMOUNT FOR WHICH THE JUDGMENT IS SOUGHT.

(E) (1) IF A PERSON LIABLE FOR REIMBURSING THE FUND UNDER THIS SECTION RECEIVES A DEMAND FOR REIMBURSEMENT AND FAILS TO REIMBURSE THE FUND, THE REIMBURSEMENT AMOUNT AND ANY ACCRUED INTEREST OR COST ARE A LIEN IN FAVOR OF THE STATE ON ANY REAL PROPERTY OF THE PERSON IF THE LIEN IS RECORDED AND INDEXED AS PROVIDED IN THIS SUBSECTION.

(2) (I) THE LIEN IN FAVOR OF THE STATE CREATED BY THIS SUBSECTION MAY NOT ATTACH TO SPECIFIC PROPERTY UNTIL THE STATE CENTRAL COLLECTION UNIT RECORDS WRITTEN NOTICE OF THE LIEN IN THE OFFICE OF THE CLERK OF THE COURT FOR THE COUNTY IN WHICH THE PROPERTY SUBJECT TO THE LIEN OR ANY PART OF THE PROPERTY IS LOCATED.

(II) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL CONTAIN THE NAME AND ADDRESS OF THE PERSON AGAINST WHOSE PROPERTY THE LIEN EXISTS, THE AMOUNT OF THE LIEN, A DESCRIPTION OF OR REFERENCE TO THE PROPERTY SUBJECT TO THE LIEN, AND THE DATE THE FUND PAID THE CLAIM GIVING RISE TO THE LIEN.

(3) THE LIEN IN FAVOR OF THE STATE CREATED BY THIS SUBSECTION DOES NOT HAVE PRIORITY AS TO ANY SPECIFIC PROPERTY OVER ANY PERSON WHO IS A LIENHOLDER OF RECORD AT THE TIME THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION IS RECORDED.

(4) ON PRESENTATION OF A RELEASE OF ANY LIEN IN FAVOR OF THE STATE CREATED BY THIS SUBSECTION, THE CLERK OF THE COURT IN WHICH THE LIEN IS RECORDED AND INDEXED SHALL RECORD AND INDEX THE RELEASE AND SHALL NOTE IN THE LIEN DOCKET THE DATE THE RELEASE IS FILED AND THE FACT THAT THE LIEN IS RELEASED.

(5) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND ANY RELEASE FILED UNDER PARAGRAPH (4) OF THIS SUBSECTION SHALL BE INDEXED WITH THE JUDGMENT LIEN RECORDS MAINTAINED BY THE OFFICE OF THE CLERK OF THE COURT WHERE THE NOTICE IS RECORDED.

(6) THE CLERK MAY COLLECT A REASONABLE FEE FOR RECORDING AND INDEXING EACH NOTICE OF LIEN OR RELEASE OF ANY LIEN UNDER THIS SUBSECTION.

(F) FOR THE PURPOSE OF EXCEPTING TO A DISCHARGE OF A LICENSEE UNDER 11 U.S.C. § 523, THE BOARD OR THE STATE CENTRAL COLLECTION UNIT, AS ASSIGNEE OF THE BOARD, IS A CREDITOR OF THE LICENSEE FOR THE AMOUNT THAT WAS PAID BY THE FUND BUT THAT HAS NOT BEEN REIMBURSED BY THE LICENSEE.

7–4A–13.

(A) IF THE BOARD ORDERS PAYMENT BY THE FUND OF A CLAIM BASED ON AN ACT OR OMISSION FOR WHICH A LICENSEE IS RESPONSIBLE, THE BOARD IMMEDIATELY AND WITHOUT FURTHER PROCEEDINGS SHALL SUSPEND THE LICENSE OF THE LICENSEE.

(B) THE BOARD MAY NOT REINSTATE A LICENSE THAT IS SUSPENDED UNDER THIS SECTION UNTIL THE PERSON WHOSE LICENSE WAS SUSPENDED:

(1) REPAYS IN FULL:

(I) THE AMOUNT PAID BY THE FUND; AND

(II) THE INTEREST DUE UNDER § 7–4A–12(A)(2) OF THIS SUBTITLE; AND

(2) APPLIES TO THE BOARD FOR REINSTATEMENT OF THE LICENSE.

(C) REGARDLESS OF WHETHER THE DISCIPLINARY SANCTION WAS IMPOSED FOR THE SAME ACT OR OMISSION THAT GAVE RISE TO THE CLAIM AGAINST THE FUND, THE REIMBURSEMENT OF THE FUND BY A LICENSEE DOES NOT AFFECT ANY SANCTION IMPOSED BY THE BOARD AGAINST A PERSON UNDER THE DISCIPLINARY PROVISIONS OF §§ 7–316 THROUGH 7–320 OF THIS TITLE.

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

Article – Commercial Law

13–301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(xxii) Section 14–1319 or § 14–1320 of this article; [or]

(xxiii) Section 7–304 of the Criminal Law Article; or

(XXIV) SECTION 7–405(E)(2)(II) OF THE HEALTH OCCUPATIONS ARTICLE; OR

Article – Health Occupations

7–405.

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

(2) "Beneficiary" means a person for whose benefit a pre–need contract is purchased and who will receive the merchandise or services offered under the contract.

(3) "Buyer" means a person that purchases a pre–need contract.

(4) "Seller" means a person who agrees to provide services or merchandise, directly or indirectly, under a pre–need contract.

(5) "Trustee" means a person that has responsibility for making pre–need arrangements in a manner that entitles the beneficiary to be eligible for benefits that restrict assets.

(e) (1) **(I)** Except as may be provided in an irrevocable trust established under paragraph (4) of this subsection **AND IN SUBPARAGRAPH (II) OF THIS PARAGRAPH**, the banking institution or savings and loan association with which funds are deposited under this section is not responsible for the application of pre–need contract escrow or trust funds.

(II) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE BANKING INSTITUTION OR SAVINGS AND LOAN ASSOCIATION WITH WHICH FUNDS ARE DEPOSITED UNDER THIS SECTION MAY NOT RELEASE THE FUNDS TO THE SELLER UNLESS THE SELLER PROVIDES TO THE BANKING INSTITUTION OR SAVINGS AND LOAN ASSOCIATION:

1. A COPY OF THE DEATH CERTIFICATE OF THE BENEFICIARY; OR

2. A NOTARIZED STATEMENT AND WITHDRAWAL REQUEST FROM THE BUYER OR THE BUYER'S LEGAL REPRESENTATIVE.

(2) **(I)** Except as otherwise provided in this subsection, a seller may not withdraw from the account any money received from a buyer unless the services and merchandise have been provided as agreed in the contract.

(II) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A SELLER MAY NOT WITHDRAW FROM THE ACCOUNT ANY MONEY RECEIVED FROM A BUYER UNLESS THE SELLER PROVIDES TO THE BANKING INSTITUTION OR SAVINGS AND LOAN ASSOCIATION WITH WHICH FUNDS ARE DEPOSITED A COPY OF THE BENEFICIARY'S DEATH CERTIFICATE.

2. A VIOLATION OF SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

(3) A pre–need contract is ended and a seller shall refund to a buyer all payments and interest held for the buyer if:

(i) The buyer or the legal representative of the buyer demands in writing a refund of all payments made;

(ii) The business of the seller is discontinued or sold;

(iii) The seller is unable to perform under the terms and conditions of the pre–need contract; or

(iv) The buyer fails to pay the entire contract price before the death of the beneficiary, and the seller considers the pre–need contract void.

7–508.

A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 1 year or both.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2008, the State Board of Morticians shall provide notice of the provisions of § 7–405(e)(1) and (2) of the Health Occupations Article, as enacted by Section 2 of this Act, to each banking institution and savings and loan association in the State.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 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 pre–need contract entered into before January 1, 2009.

SECTION ~~2.~~ 5. AND BE IT FURTHER ENACTED, That Sections 1, 2, and 4 of this Act shall take effect January 1, 2009.

SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Section 5 of this Act, this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 533

(House Bill 1115)

AN ACT concerning

Washington County – Building Excise Tax

FOR the purpose of altering the building excise tax that the Board of County Commissioners for Washington County is authorized to impose for certain construction in Washington County; ~~altering the criteria that must be met for the County Commissioners to impose a building excise tax for certain types of construction in Washington County;~~ ~~repealing~~ altering certain limitations for imposing a building excise tax in Washington County; repealing certain exemptions under the Washington County building excise tax; repealing certain authority for the County Commissioners to provide certain exemptions from the building excise tax; repealing certain building excise tax credits in Washington County; altering certain reporting requirements for the County Commissioners; and generally relating to the Washington County building excise tax.

BY repealing and reenacting, with amendments,
The Public Local Laws of Washington County
Section 2–701(b), (f), (h), and (i)
Article 22 – Public Local Laws of Maryland
(2007 Edition, as amended)

BY repealing
The Public Local Laws of Washington County
Section 2–701(b–1) and (g)
Article 22 – Public Local Laws of Maryland
(2007 Edition, as amended)

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

Article 22 – Washington County

2–701.

(b) (1) The County Commissioners shall specify in the ordinance the:

(i) Types of building construction subject to the building excise tax; and

(ii) Tax rates.

(2) (i) **[**For nonresidential **RETAIL** building types, the~~] THE~~ County Commissioners may impose a building excise tax not to exceed ~~$5~~ **$4** per square foot.

(II) FOR NONRESIDENTIAL NONRETAIL BUILDING TYPES, THE COUNTY COMMISSIONERS MAY IMPOSE A BUILDING EXCISE TAX NOT TO EXCEED $1.50 PER SQUARE FOOT.

~~(ii)~~ **(3)** The County Commissioners may impose different rates **[**or waive the building excise tax**]** for different **[**nonresidential**]** building types and uses.

~~(3)~~ **(4)** ~~[~~Except as provided in paragraph (5) of this subsection, for ~~single–family~~ residential units, the County Commissioners may impose a building excise tax not to exceed ~~$13,000 per unit~~ **$4.50 PER SQUARE FOOT**.

~~(4) Except as provided in paragraph (5) of this subsection, for multifamily residential units, the County Commissioners may impose a building excise tax rate not to exceed $15,500 per unit.~~

(5)~~]~~ (i) ~~This~~ **FOR ANY FISCAL YEAR, THIS** paragraph applies to the development of a single subdivision ~~that has more than 25 residential units~~ **WHERE THE WASHINGTON COUNTY DEPARTMENT OF PERMITS AND INSPECTIONS HAS ISSUED MORE THAN 25 BUILDING PERMITS FOR NEW RESIDENTIAL UNITS IN THAT FISCAL YEAR**.

(ii) The County Commissioners may impose a building excise tax for ~~single–family residential units and multifamily~~ residential units developed in a subdivision described under subparagraph (i) of this paragraph that does not exceed twice the building excise tax set under paragraph **[**(3) or (4)**]** ~~(2)~~ **(4)** of this subsection, if the development of the subdivision:

1. Is in a school district where a school is at or above **[**85%**] 90%** of the state rated school capacity;

2. Causes the roads or intersection within 1 centerline mile in any direction of any new street connecting the subdivision to be lower than a level of service D; or

3. Causes the intersections outside of the urban and town growth areas to be lower than a level of service C.

[(b–1) For fiscal year 2008 only:

(1) The limitations on the building excise tax under subsections (b)(2), (3), (4), and (5) of this section do not apply; and

(2) Any excise tax imposed by the County Commissioners:

(i) May be based on the square footage of construction; and

(ii) May be imposed based on increasing graduated rates for increased square footage of construction.**]**

(f) **[**(1)**]** The building excise tax does not apply to construction intended to be actively used for farm or agricultural use so long as the construction continues to be actively used for farm or agricultural use.

[(2) (i) Except as provided in subparagraph (ii) of this paragraph, the building excise tax does not apply to the first 50,000 square feet of nonresidential addition construction.

(ii) The exemption under subparagraph (i) of this paragraph may not apply more than once to the same building in any 5–year period.

(3) The County Commissioners may provide for additional exemptions to the building excise tax, including individual exemptions for specific construction projects on request.**]**

[(g) (1) (i) The County Commissioners by ordinance shall grant a building excise tax credit against the Washington County building excise tax imposed on single–family residential units and multifamily residential units that are developed as workforce housing.

(ii) The County Commissioners by ordinance shall define workforce housing based on the average family median income in Washington County.

(2) The County Commissioners shall provide, by law, for:

(i) The amount and duration of the building excise tax credit under this section; and

(ii) Any other provisions necessary to carry out the building excise tax credit under this subsection.

(3) (i) A municipal corporation within Washington County may grant a building excise tax credit against the Washington County building excise tax imposed on single–family residential units and multifamily residential units that are developed within the municipal corporation as workforce housing.

(ii) The amount of the building excise tax credit under this paragraph may not exceed the amount retained under subsection (d)(2)(ii)2 of this section and shall be offset against that amount.

(iii) The duration of the building excise tax credit and any other provisions necessary to carry out the building excise tax credit shall be in accordance with any ordinance passed by the County Commissioners under paragraph (2) of this subsection.**]**

[(h)**] (G)** (1) On or before September 30 of each year, each municipal corporation that retains revenues under subsection (d)(2) of this section shall report annually to the County Commissioners:

(i) The amount of revenues the municipal corporation received and the number of single–family residential units and multifamily residential units that generated these revenues;

(ii) The amount of revenues remitted to the County Commissioners and the amount retained by the municipal corporation; and

(iii) A detailed accounting of how the revenues that were retained by the municipal corporation were distributed among the acceptable uses specified in subsection (d)(2)(iii) of this section and the specific projects for which the revenues were used.

(2) The report prepared by each municipal corporation shall be based on the fiscal year ending on June 30 of the year the report is submitted.

[(i)**] (H)** (1) On or before December 31 of each year, the County Commissioners shall:

(i) Report to the members of the Washington County legislative delegation:

1. The amount of revenues by school district that the County Commissioners received from nonresidential building types~~, single-family residential units, and multifamily~~ **AND** residential units, and the number and type of units that generated these revenues; **AND**

2. A detailed accounting of how the revenues were distributed among the acceptable uses specified in subsection (c) of this section and the specific projects for which the revenues were used; and

~~3. The total number of requests for individual exemptions from the building excise tax under subsection (f)(2) of this section, the number of exemption requests denied, and for each project for which an individual exemption is granted, the name of the owner or developer of the project and the name, address, and description of the project; and~~

(ii) Submit to members of the Washington County legislative delegation**[**:

1. The**]** **THE** report prepared by each municipal corporation under subsection **[**(h)**] (G)** of this section**[**; and

2. A report on the status of the building excise tax credit provided under subsection (f) of this section**]**.

(2) The reports prepared by the County Commissioners shall be based on the fiscal year ending on June 30 of the year the reports are submitted.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 534

(House Bill 1159)

AN ACT concerning

Homeowners' Tax Fairness in Eminent Domain Proceedings Act

FOR the purpose of ~~exempting~~ authorizing the Mayor and City Council of Baltimore City or the governing body of a county to exempt from recordation tax ~~and State transfer tax~~ an instrument of writing that transfers certain improved residential real property to an individual who previously owned property that was acquired for public use; providing that a certain recordation tax exemption may apply to the county or Baltimore City transfer tax; providing for certain limitations on the exemption from recordation tax and ~~State~~ transfer tax; defining certain terms; and generally relating to exemptions from recordation and ~~State~~ county transfer taxes.

BY adding to
Article – Tax – Property
Section ~~12–108(dd) and 13–207(a)(22)~~ 12–118 and 13–411
Annotated Code of Maryland
(2007 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~
~~Article – Tax – Property~~
~~Section 13–207(a)(20) and (21)~~
~~Annotated Code of Maryland~~
~~(2007 Replacement Volume)~~

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

Article – Tax – Property

~~12–108~~ **12–118**.

~~(DD)~~ (A) (1) ~~(I)~~ IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

~~(II)~~ (2) "ACQUIRED DWELLING" MEANS A DWELLING:

~~1.~~ (I) THAT WAS OWNED BY A DISPLACED HOMEOWNER; AND

~~2.~~ (II) THAT BY NEGOTIATION OR CONDEMNATION WAS ACQUIRED FROM THE DISPLACED HOMEOWNER FOR PUBLIC USE BY THE STATE OR A POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE STATE, WHERE THE ACQUIRING AGENCY HAD THE POWER TO ACQUIRE THE DWELLING FOR PUBLIC USE BY CONDEMNATION.

~~(III)~~ (3) "ACQUISITION YEAR" MEANS THE TAXABLE YEAR IN WHICH AN ACQUIRED DWELLING WAS ACQUIRED FOR PUBLIC USE BY THE STATE OR A POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE STATE.

~~(IV)~~ (4) "AWARDED COMPENSATION" MEANS THE AMOUNT AWARDED TO THE DISPLACED HOMEOWNER FROM THE ACQUIRING AGENCY WHEN THE STATE OR A POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE STATE TOOK POSSESSION OF THE ACQUIRED DWELLING BY NEGOTIATION OR CONDEMNATION.

~~(V)~~ (5) "DISPLACED HOMEOWNER" MEANS AN INDIVIDUAL WHOSE LEGAL INTEREST IN A DWELLING WAS TERMINATED THROUGH EITHER NEGOTIATION OR CONDEMNATION IN EXCHANGE FOR AWARDED COMPENSATION.

~~(VI)~~ (6) "REPLACEMENT DWELLING" MEANS A DWELLING THAT IS:

~~1.~~ (I) PURCHASED BY A DISPLACED HOMEOWNER WITHIN 2 TAXABLE YEARS IMMEDIATELY FOLLOWING THE ACQUISITION YEAR; AND

~~2.~~ (II) IS INTENDED TO BE USED AS THE PRINCIPAL RESIDENCE OF THE DISPLACED HOMEOWNER.

~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN INSTRUMENT OF WRITING THAT TRANSFERS TITLE TO IMPROVED RESIDENTIAL REAL PROPERTY TO A DISPLACED HOMEOWNER IS NOT SUBJECT TO THE RECORDATION TAX IF THE IMPROVED RESIDENTIAL REAL PROPERTY CONVEYED TO THE DISPLACED HOMEOWNER QUALIFIES AS A REPLACEMENT DWELLING.~~

~~(3) TO THE EXTENT THAT THE DISPLACED HOMEOWNER'S RESPONSIBILITY FOR THE RECORDATION TAX EXCEEDS THE AMOUNT OF RECORDATION TAX THAT WOULD BE IMPOSED ON 125% OF THE AWARDED COMPENSATION, THE DISPLACED HOMEOWNER SHOULD PAY THE EXCESS.~~

(B) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY MAY EXEMPT, BY LAW, FROM THE RECORDATION TAX AN INSTRUMENT OF WRITING THAT TRANSFERS TITLE TO IMPROVED RESIDENTIAL REAL PROPERTY TO A DISPLACED HOMEOWNER IF THE IMPROVED RESIDENTIAL REAL PROPERTY CONVEYED TO THE DISPLACED HOMEOWNER QUALIFIES AS A REPLACEMENT DWELLING.

~~13–207.~~

~~(a) An instrument of writing is not subject to transfer tax to the same extent that it is not subject to recordation tax under:~~

~~(20) § 12–108(aa) of this article (Transfers involving certain Maryland Stadium Authority affiliates);~~ **[**~~or~~**]**

~~(21) § 12–108(cc) of this article (Certain transfers to land trusts)~~**; OR**

~~(22) § 12–108(DD) OF THIS ARTICLE (CERTAIN TRANSFERS TO DISPLACED HOMEOWNERS).~~

13–411.

AN INSTRUMENT OF WRITING THAT A COUNTY OR BALTIMORE CITY EXEMPTS FROM RECORDATION TAX UNDER § 12–118 OF THIS ARTICLE MAY BE EXEMPTED FROM THE COUNTY OR BALTIMORE CITY TRANSFER TAX.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 535

(House Bill 1176)

AN ACT concerning

Public Health – ~~Task Force~~ Committee on Childhood Obesity

FOR the purpose of establishing a ~~Task Force~~ Committee on Childhood Obesity to provide certain ~~advice and~~ recommendations to the Governor and the General Assembly on certain issues; specifying the membership, ~~terms,~~ chairman, and staff of the ~~Task Force~~ Committee; requiring the ~~Task Force~~ Committee to issue a certain report on or before a certain date; providing for the termination of this Act; and generally relating to the ~~Task Force~~ Committee on Childhood Obesity.

BY adding to
Article – Health – General

Section ~~19–710.4~~ 13–2A–01 to be under the new subtitle "Subtitle 2A. Committee on Childhood Obesity"
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Health – General

SUBTITLE 2A. COMMITTEE ON CHILDHOOD OBESITY.

~~19–710.4~~ 13–2A–01.

(A) THERE IS A COMMITTEE ON CHILDHOOD OBESITY IN THE DEPARTMENT.

(B) THE COMMITTEE CONSISTS OF:

(1) THE MEMBERS OF THE STATE ADVISORY COUNCIL ON HEART DISEASE AND STROKE; AND

(2) THE FOLLOWING MEMBERS WITH EXPERTISE IN OBESITY PREVENTION AND TREATMENT, APPOINTED BY THE SECRETARY:

(I) A REPRESENTATIVE OF THE MARYLAND CHAPTER OF THE AMERICAN ACADEMY OF PEDIATRICS;

(II) A REPRESENTATIVE OF THE CHILDREN'S NATIONAL MEDICAL CENTER;

(III) A REPRESENTATIVE OF THE JOHNS HOPKINS CHILDREN'S CENTER; AND

(IV) A REPRESENTATIVE OF THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION.

(C) (1) IN PERFORMING ITS DUTIES, THE COMMITTEE MAY CONSULT WITH INDIVIDUALS AND ENTITIES THAT THE SECRETARY DEEMS APPROPRIATE.

(2) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE COMMITTEE.

(3) THE MEMBERS OF THE COMMITTEE SHALL SELECT THE CHAIR OF THE COMMITTEE FROM AMONG THE MEMBERS.

(D) A MEMBER OF THE COMMITTEE MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMITTEE, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

(E) THE COMMITTEE SHALL STUDY CHILDHOOD OBESITY AND, SUBJECT TO SUBSECTION (F) OF THIS SECTION, REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY ON THE FOLLOWING:

(1) INSURANCE REIMBURSEMENTS PAID TO HEALTH CARE PROVIDERS TO DIAGNOSE AND TREAT CHILDHOOD OBESITY;

(2) A SYSTEM FOR COLLECTING, ANALYZING, AND MAINTAINING STATEWIDE DATA RELATING TO CHILDHOOD OBESITY;

(3) BEST AND PROMISING PRACTICES TO ADDRESS CHILDHOOD OBESITY, INCLUDING COMMUNITY AND SCHOOL–BASED APPROACHES;

(4) METHODS TO ENHANCE PUBLIC AWARENESS OF THE CHRONIC DISEASES RELATED TO CHILDHOOD OBESITY, INCLUDING THE INCREASED NUMBER OF CHILDREN DEVELOPING DIABETES; AND

(5) METHODS TO INCREASE THE RATE OF ~~BODY MASS INDEX~~ *OBESITY* SCREENINGS FOR CHILDREN.

(F) THE COMMITTEE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON OR BEFORE DECEMBER 1, 2009.

~~**(A) THERE IS A TASK FORCE ON CHILDHOOD OBESITY.**~~

~~**(B) (1) THE TASK FORCE CONSISTS OF 17 MEMBERS.**~~

~~**(2) OF THE 17 MEMBERS:**~~

~~**(I) ONE SHALL BE A MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;**~~

~~(II) ONE SHALL BE A MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;~~

~~(III) ONE SHALL BE THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;~~

~~(IV) ONE SHALL BE THE STATE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE;~~

~~(V) ONE SHALL BE THE INSURANCE COMMISSIONER, OR THE INSURANCE COMMISSIONER'S DESIGNEE;~~

~~(VI) ONE SHALL BE A REPRESENTATIVE OF THE MARYLAND HEALTH CARE COMMISSION; AND~~

~~(VII) 11 SHALL BE APPOINTED BY THE GOVERNOR.~~

~~(3) OF THE 11 MEMBERS APPOINTED BY THE GOVERNOR:~~

~~(I) ONE SHALL BE A REPRESENTATIVE OF THE MARYLAND CHAPTER OF THE AMERICAN ACADEMY OF PEDIATRICS;~~

~~(II) ONE SHALL BE A REPRESENTATIVE OF THE CHILDREN'S NATIONAL MEDICAL CENTER;~~

~~(III) ONE SHALL BE A REPRESENTATIVE OF THE JOHNS HOPKINS CHILDREN'S CENTER;~~

~~(IV) ONE SHALL BE A REPRESENTATIVE OF THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION;~~

~~(V) ONE SHALL BE A NUTRITIONIST;~~

~~(VI) ONE SHALL BE A CHILD PSYCHIATRIST OR CHILD PSYCHOLOGIST;~~

~~(VII) ONE SHALL BE A PROCESSOR OR MANUFACTURER OF THE FOOD INDUSTRY;~~

~~(VIII) ONE SHALL BE AN EXPERT ON DIABETES;~~

~~(IX) ONE SHALL BE AN EXPERT ON PHYSICAL EDUCATION OR SPORTS MEDICINE;~~

~~(X) ONE SHALL BE A REPRESENTATIVE OF A PARENT TEACHER ASSOCIATION; AND~~

~~(XI) ONE SHALL BE A REPRESENTATIVE OF THE MARYLAND RESTAURANT ASSOCIATION.~~

~~(C) IN PERFORMING ITS DUTIES, THE TASK FORCE MAY CONSULT WITH INDIVIDUALS AND ENTITIES THAT THE SECRETARY OF HEALTH AND MENTAL HYGIENE DEEMS APPROPRIATE.~~

~~(D) (1) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL:~~

~~(I) CHAIR THE TASK FORCE;~~

~~(II) ESTABLISH SUBCOMMITTEES AND APPOINT SUBCOMMITTEE CHAIRS AS NECESSARY TO FACILITATE THE WORK OF THE TASK FORCE; AND~~

~~(III) PROVIDE STAFF SUPPORT FOR THE TASK FORCE FROM THE DEPARTMENT.~~

~~(2) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE TASK FORCE SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.~~

~~(3) IN PERFORMING ITS DUTIES, THE TASK FORCE SHALL INVITE ALL INTERESTED GROUPS TO PRESENT TESTIMONY OR OTHER INFORMATION TO THE TASK FORCE ON THE ISSUES TO BE STUDIED BY THE TASK FORCE.~~

~~(E) A MEMBER OF THE TASK FORCE MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE TASK FORCE BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.~~

~~(F) THE TASK FORCE SHALL PROVIDE ADVICE AND RECOMMENDATIONS TO THE GOVERNOR AND THE GENERAL ASSEMBLY WITH RESPECT TO CHILDHOOD OBESITY BY:~~

~~(1) STUDYING DATA ON THE REIMBURSEMENTS PAID TO PHYSICIANS AND OTHER HEALTH CARE PROVIDERS BY HEALTH INSURANCE CARRIERS TO TREAT CHILDHOOD OBESITY;~~

~~**(2) STUDYING LINKS BETWEEN REIMBURSEMENT POLICIES FOR TREATMENT OF CHILDHOOD OBESITY AS A PRIMARY DIAGNOSIS AND HOW IT AFFECTS THE ACCESS OF CHILDREN TO PUBLICLY AND PRIVATELY FUNDED HEALTH CARE;**~~

~~**(3) STUDYING REQUIREMENTS FOR PHYSICAL EDUCATION IN THE PUBLIC SCHOOLS OF THE STATE AND HOW THEY AFFECT RATES OF CHILDHOOD OBESITY;**~~

~~**(4) INVESTIGATING PRACTICES IN OTHER STATES;**~~

~~**(5) EXPLORING WAYS TO INCREASE PUBLIC AWARENESS OF THE PROBLEMS SURROUNDING CHILDHOOD OBESITY AND THE INCREASED NUMBER OF CHILDREN DEVELOPING DIABETES;**~~

~~**(6) EXPLORING THE FEASIBILITY OF THE STATE BOARD OF EDUCATION CREATING AND PROMOTING A HEALTHY SCHOOLS INITIATIVE PROGRAM WITH AWARDS FOR PERFORMANCE AND RESULTS;**~~

~~**(7) DEVELOPING A SYSTEM FOR COLLECTING, ANALYZING, AND MAINTAINING STATEWIDE DATA;**~~

~~**(8) DEVELOPING WAYS TO PROMOTE THE BETTER USE OF AFTER SCHOOL FACILITIES AND SHARED FACILITIES WITH THE COMMUNITY FOR PHYSICAL ACTIVITIES;**~~

~~**(9) EXPLORING WAYS TO ENCOURAGE SCHOOLS, RESTAURANTS, AND THE FOOD INDUSTRY TO INCREASE THE NUMBER AND VARIETY OF NUTRITIOUS FOOD OFFERINGS; AND**~~

~~**(10) STUDYING THE FEASIBILITY OF MANDATING BODY MASS INDEX SCREENINGS IN PUBLIC SCHOOLS AND HOW THE SCREENING INFORMATION WOULD BE USED.**~~

~~**(G) THE TASK FORCE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON OR BEFORE DECEMBER 31, 2009.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of 2 years and, at the end of June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2008.

CHAPTER 536

(House Bill 1296)

AN ACT concerning

Certified Public Accountants – Licensed Out–of–State Certified Public Accountants – Practice Privilege

FOR the purpose of providing that an individual who practices certified public accountancy whose principal place of business is outside of the State is, under certain circumstances, exempt from certain licensure laws of the State for certified public accountants and is considered to have qualifications that are substantially equivalent to a certified public accountant licensed in the State; providing that an individual who qualifies for an exemption under this Act may exercise all of the privileges of a licensed certified public accountant in the State; providing that an individual who qualifies for a practice privilege established under this Act may practice certified public accountancy in the State by any means and without any notice or fee; providing for certain conditions to be met by individuals who practice certified public accountancy under the practice privilege established by this Act; providing that certain firms that operate a business through which certified public accountancy is practiced must, under certain circumstances, hold a permit issued by the State Board of Public Accountancy; repealing certain provisions relating to certain limited permits for the practice of certified public accountancy; altering provisions of law relating to permits for the practice of certified public accountancy by partnerships, limited liability companies, and corporations; authorizing a firm to use the title "CPA" or "CPA firm" without a permit under certain circumstances; defining certain terms; and generally relating to the practice of certified public accountancy.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 2–101, 2–102(b), 2–301, 2–308, 2–321, 2–402, 2–402.1, 2–403, 2–406, and 2–601 through 2–604
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Business Occupations and Professions
Section 2–302, 2–404, 2–405, 2–501, and 2–605
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing
Article – Business Occupations and Professions
Section 2–310, 2–320, 2–401, and 2–416
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – Business Occupations and Professions
Section 2–401
Annotated Code of Maryland
(2004 Replacement Volume and 2007 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

2–101.

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

(B) "AICPA" MEANS THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS.

(C) "ATTEST" MEANS TO PROVIDE THE FOLLOWING FINANCIAL STATEMENT SERVICES:

(1) AN AUDIT OR OTHER ENGAGEMENT PERFORMED IN ACCORDANCE WITH THE STATEMENTS ON AUDITING STANDARDS ISSUED BY AICPA;

(2) A REVIEW OF A FINANCIAL STATEMENT PERFORMED IN ACCORDANCE WITH THE STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES ISSUED BY AICPA;

(3) AN EXAMINATION OF PROSPECTIVE FINANCIAL INFORMATION PERFORMED IN ACCORDANCE WITH THE STATEMENTS ON STANDARDS FOR ATTESTATION ENGAGEMENTS ISSUED BY THE AICPA; AND

(4) ANY ENGAGEMENT PERFORMED IN ACCORDANCE WITH THE AUDITING STANDARDS OF THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD.

[(b)**] (D)** "Board" means the State Board of Public Accountancy.

(E) "HOME OFFICE" IS THE LOCATION SPECIFIED BY A CLIENT OF A CERTIFIED PUBLIC ACCOUNTANT AS THE ADDRESS TO WHICH A SERVICE DESCRIBED IN § 2–401(A) OF THIS TITLE IS DIRECTED.

[(c)**] (F)** "License" means, unless the context requires otherwise, a license issued by the Board to practice certified public accountancy.

[(d)**](G)** "License fee" means the fee paid in connection with the issuance or renewal of a license.

[(e)**](H)** "Licensed certified public accountant" means, unless the context requires otherwise, an individual licensed by the Board to practice certified public accountancy.

[(f)**](I)** "Permit" means, unless the context requires otherwise, a permit issued by the Board to allow a partnership or corporation to operate a business through which an individual may practice certified public accountancy.

[(g)**] (J)** "Permit fee" means the fee paid in connection with the issuance or renewal of a permit **[**or the issuance of a limited permit**]**.

[(h)**] (K)** "Practice certified public accountancy" means to perform any of the following accountancy services:

(1) conducting an audit of financial statements; or

(2) providing a written certificate or opinion on the correctness of the information or on the fairness of the presentation of the information in:

(i) a financial statement;

(ii) a report;

(iii) a schedule; or

(iv) an exhibit.

(L) "PRACTICE PRIVILEGE" MEANS THE RIGHT GRANTED TO AN INDIVIDUAL WHO IS LICENSED BY ANOTHER STATE TO PRACTICE CERTIFIED PUBLIC ACCOUNTANCY IN THIS STATE WITHOUT A LICENSE ISSUED BY THIS STATE.

(M) "PRINCIPAL PLACE OF BUSINESS" MEANS THE OFFICE LOCATION DESIGNATED BY THE LICENSEE FOR PURPOSES OF SUBSTANTIAL EQUIVALENCY AND RECIPROCITY.

(N) "NASBA" MEANS THE NATIONAL ASSOCIATION OF BOARDS OF ACCOUNTANCY.

2–102.

(b) This title does not prohibit a licensee or permit holder from:

(1) employing a certified public accountant licensed by another state or a foreign country; or

(2) listing that individual as a certified public accountant, if the **[**listing is followed by the name of or usual abbreviation for the other state or country where the individual is recognized as a certified public accountant**]** **INDIVIDUAL QUALIFIES FOR A PRACTICE PRIVILEGE UNDER § 2–321 OF THIS TITLE**.

2–301.

[An**]** **EXCEPT AS PROVIDED IN § 2–321 OF THIS SUBTITLE, AN** individual shall be licensed by the Board before the individual may practice certified public accountancy in the State.

2–302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good character and reputation.

(c) The applicant shall be at least 18 years old.

(d) The applicant shall meet the educational requirements under § 2–303 of this subtitle.

(e) Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the Board under this subtitle.

(f) The applicant for an initial license shall complete practical work experience that is approved by the Board and that:

(1) is obtained over a period of:

(i) not more than 3 years; and

(ii) 1. not less than 6 months if the applicant applies before October 1, 2000; or

2. not less than 1 year if the applicant applies on or after October 1, 2000;

(2) includes providing any type of service or advice involving the use of accounting, attest, management advisory, financial advisory, tax, or consulting skills;

(3) is performed under the direction of:

(i) a licensed certified public accountant; or

(ii) an appropriately qualified professional as determined by the Board;

(4) is obtained through employment in government, industry, academia, or public practice; and

(5) amounts to:

(i) 1,000 hours if the applicant applies before October 1, 2000; or

(ii) 2,000 hours if the applicant applies on or after October 1, 2000.

2–308.

(a) Subject to the provisions of this section, the Board may waive any examination requirement of this subtitle for:

(1) a certified public accountant licensed by another state; or

(2) the holder of a license, certificate, or degree that is issued by another country and is recognized as authority for the holder to practice public

accountancy in that country in a manner comparable to practicing certified public accountancy in this State.

(b) The Board may grant a waiver under this section only if the applicant:

(1) is of good character and reputation;

(2) is at least 18 years of age;

(3) pays to the Board:

(i) a nonrefundable application fee set by the Board; and

(ii) a license fee set by the Board; and

(4) **[**(i)**]** provides adequate evidence that**[**, at the time the applicant was licensed by the other state or country,**]** the applicant **HAS** met educational, examination, and experience requirements that **[**were**] ARE:**

(I) substantially equivalent to those **[**then**]** required by the laws of this State; **[**or**]**

(II) SUBSTANTIALLY EQUIVALENT TO THOSE REQUIRED BY THE LAWS OF THE STATE AT THE TIME THE APPLICANT WAS LICENSED IN ANOTHER STATE; OR

[(ii)**] (III)** after passing the Uniform **CERTIFIED** Public Accountancy Examination, has obtained**[**, outside of this State,**]** 4 years of practical work experience, as defined in § 2–302(f) of this subtitle, within the last 10 years immediately preceding submission of the application.

(C) (1) FOR THE PURPOSES OF THIS SUBTITLE, "SUBSTANTIAL EQUIVALENCY" MEANS A DETERMINATION MADE BY THE BOARD OR ITS DESIGNEE THAT:

(I) THE EDUCATION, EXAMINATION, AND EXPERIENCE REQUIREMENTS CONTAINED IN THE LAWS OR ADMINISTRATIVE RULES OF ANOTHER JURISDICTION ARE COMPARABLE TO, OR EXCEED, THE EDUCATION, EXAMINATION, AND EXPERIENCE REQUIREMENTS CONTAINED IN THE UNIFORM ACCOUNTANCY ACT; OR

(II) AN INDIVIDUAL'S EDUCATION, EXAMINATION, AND EXPERIENCE ARE COMPARABLE TO OR EXCEED THE EDUCATION, EXAMINATION,

AND EXPERIENCE REQUIREMENTS CONTAINED IN THE UNIFORM ACCOUNTANCY ACT.

(2) IN DETERMINING SUBSTANTIAL EQUIVALENCY, THE BOARD SHALL TAKE INTO ACCOUNT AN INDIVIDUAL'S QUALIFICATIONS WITHOUT REGARD TO THE SEQUENCE IN WHICH THE EDUCATION, EXAMINATION, OR EXPERIENCE REQUIREMENTS ARE MET.

[2–310.

While a license is in effect, it authorizes the licensee to practice certified public accountancy.**]**

[2–320.

(a) The Board may issue a limited license for the practice of certified public accountancy on a specific job to any applicant who:

(1) is licensed to practice certified public accountancy in another state or foreign country;

(2) is not a resident of this State;

(3) does not have a place of business in this State;

(4) submits to the Board an application on the form that the Board provides; and

(5) pays to the Board a license fee set by the Board.

(b) A limited license authorizes the licensee to practice certified public accountancy only for the specific job for which it was issued.

(c) Any statement or report relating to the services provided in this State shall be signed in and issued from the individual's out–of–state office on a form or stationery that sets forth the address of that office.

(d) (1) The Board shall set the term for each limited license issued under this section.

(2) The term for a limited license may not be set for more than 1 year.

(3) A limited license becomes effective and expires on the dates set by the Board.

(e) Subject to the hearing provisions of § 2–317 of this subtitle, the Board may deny or revoke a limited license for any ground as may be applicable under § 2–315 of this subtitle.**]**

2–321.

(a) In this section, "practice certified public accountancy" includes the practice of public accountancy.

[(b) An individual actively licensed as a certified public accountant in another state may practice certified public accountancy in the State upon notifying the Board of the individual's intent to practice under this section, if:

(1) the individual:

(i) verifies that the individual's principal place of business is located outside the State; and

(ii) pays to the Board a notification fee set by the Board; and

(2) the Board verifies that either the individual:

(i) has acquired the education, examination scores, and experience substantially equivalent to those required by the Uniform Accountancy Act; or

(ii) is actively licensed in a state that has licensing requirements in the areas of education, examination, and experience that are substantially equivalent to those required by the Uniform Accountancy Act.**]**

(B) (1) AN INDIVIDUAL WHOSE PRINCIPAL PLACE OF BUSINESS IS OUTSIDE THE STATE IS EXEMPT FROM THE LICENSING REQUIREMENT UNDER § 2–301 OF THIS SUBTITLE AND SHALL BE CONSIDERED TO HAVE QUALIFICATIONS THAT ARE SUBSTANTIALLY EQUIVALENT TO A LICENSEE IF:

(I) THE INDIVIDUAL HOLDS A VALID LICENSE AS A CERTIFIED PUBLIC ACCOUNTANT FROM ANOTHER STATE; AND

(II) THE REQUIREMENTS OF THAT STATE HAVE BEEN VERIFIED BY NASBA AS SUBSTANTIALLY EQUIVALENT WITH THE LICENSURE REQUIREMENTS OF THE UNIFORM ACCOUNTANCY ACT.

(2) AN INDIVIDUAL WHO QUALIFIES FOR AN EXEMPTION UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY EXERCISE ALL OF THE PRIVILEGES OF A LICENSED CERTIFIED PUBLIC ACCOUNTANT.

(C) (1) AN INDIVIDUAL WHO IS LICENSED BY A STATE THAT THE NASBA NATIONAL QUALIFICATION APPRAISAL SERVICE HAS NOT VERIFIED TO BE IN SUBSTANTIAL EQUIVALENCE WITH THE CPA LICENSURE REQUIREMENTS OF THE UNIFORM ACCOUNTANCY ACT MAY EXERCISE ALL OF THE PRIVILEGES OF A LICENSED CERTIFIED PUBLIC ACCOUNTANT IF THE INDIVIDUAL:

(I) RETAINS A PRINCIPAL PLACE OF BUSINESS OUTSIDE OF THE STATE;

(II) HOLDS A VALID LICENSE AS A CERTIFIED PUBLIC ACCOUNTANT; AND

(III) HAS QUALIFICATIONS THAT THE NASBA NATIONAL QUALIFICATION APPRAISAL SERVICE HAS DETERMINED TO BE SUBSTANTIALLY EQUIVALENT TO THE CPA LICENSURE REQUIREMENTS OF THE UNIFORM ACCOUNTANCY ACT.

(2) AN INDIVIDUAL WHO HAS PASSED THE UNIFORM CPA EXAMINATION AND HOLDS A VALID LICENSE ISSUED BY ANOTHER STATE PRIOR TO JANUARY 1, 2012, MAY BE EXEMPT FROM THE EDUCATION REQUIREMENTS IN THE UNIFORM ACCOUNTANCY ACT FOR PURPOSES OF THIS SUBSECTION.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INDIVIDUAL WHO QUALIFIES FOR A PRACTICE PRIVILEGE UNDER THIS SECTION MAY PRACTICE CERTIFIED PUBLIC ACCOUNTANCY IN THE STATE:

(I) BY ANY MEANS, INCLUDING MAIL, TELEPHONE, OR ELECTRONIC COMMUNICATION; AND

(II) WITHOUT ANY NOTICE, FEE, OR OTHER SUBMISSION TO THE BOARD.

[(c)**] (D) (1) [**By notifying the Board of the individual's intent to practice under this section, the individual consents to**] AS A CONDITION OF THE PRACTICE PRIVILEGE, AN INDIVIDUAL WHO IS LICENSED BY ANOTHER STATE AND QUALIFIES FOR A PRACTICE PRIVILEGE UNDER THIS SUBTITLE AND ANY FIRM**

THAT EMPLOYS THE INDIVIDUAL TO PRACTICE IN THE STATE SHALL BOTH CONSENT TO:

(1) the personal and subject matter jurisdiction and disciplinary authority of the Board;

(2) complying with State public accountancy laws and regulations adopted by the Board; and

(3) the appointment of the State Board of Public Accountancy that issued the individual's license to practice certified public accountancy as the agent upon which process may be served in any action or proceeding by the Board against the individual**; AND**

(4) CEASING TO OFFER OR PROVIDE SERVICES IN THE STATE THAT ARE SUBJECT TO THIS TITLE IF THE LICENSE ISSUED BY THE STATE IN WHICH THE INDIVIDUAL'S PRINCIPAL PLACE OF BUSINESS IS LOCATED IS NO LONGER VALID.

[(d) An individual's right to practice under this section shall expire 2 years after the date of notification to the Board as provided in subsection (b) of this section.

(e) An individual who meets the requirements of this section may renew the right to practice under this section by notifying the Board and paying a license fee set by the Board.**]**

[(f)**](E)** An individual authorized to practice certified public accountancy under this section **AND UNDER THE PRACTICE PRIVILEGE** may represent to the public, by use of a title, including "licensed certified public accountant", "certified public accountant", "public accountant", or "auditor", by use of the abbreviation "C.P.A.", by description of services, methods, or procedures, or otherwise, that the individual is authorized to practice certified public accountancy in the State.

(F) A SOLE PRACTITIONER WHO IS PRACTICING IN THE STATE UNDER THE PRACTICE PRIVILEGE MAY ONLY PERFORM ATTEST SERVICES AS DEFINED IN § 2–101(C)(1), (3), OR (4) OF THIS TITLE, THROUGH A FIRM THAT HOLDS A PERMIT ISSUED UNDER § 2–401 OF THIS TITLE.

[2–401.

(a) Subject to the provisions of this subtitle, an individual may practice certified public accountancy through a partnership, limited liability company, or corporation that holds a permit under this subtitle.

(b) A partnership, limited liability company, or corporation shall hold a permit issued by the Board before the partnership, limited liability company, or corporation may operate a business through which certified public accountancy is practiced.**]**

2–401.

(A) TO OPERATE A BUSINESS THROUGH WHICH CERTIFIED PUBLIC ACCOUNTANCY IS PRACTICED, A FIRM SHALL HOLD A PERMIT ISSUED BY THE BOARD IF THE FIRM:

(1) HAS AN OFFICE IN THIS STATE THAT PERFORMS ATTEST SERVICES AS DEFINED IN § 2–101(C) OF THIS TITLE;

(2) HAS AN OFFICE IN THIS STATE THAT USES THE TITLE "CPA" OR "CPA FIRM"; OR

(3) PERFORMS ATTEST SERVICES DESCRIBED IN § 2–101(C)(1), (3) OR (4) OF THIS TITLE FOR A CLIENT WITH A HOME OFFICE IN THIS STATE.

(B) A FIRM THAT DOES NOT HAVE AN OFFICE IN THIS STATE MAY PERFORM ATTEST SERVICES AS DEFINED IN § 2–101(C)(2) OR § 2–4A–01(C) OF THIS TITLE FOR A CLIENT WITH A HOME OFFICE IN THIS STATE WITHOUT A PERMIT IF THE FIRM:

(1) MEETS THE APPLICATION AND PEER REVIEW REQUIREMENTS UNDER §§ 2–402, 2–402.1, 2–403, AND 2–4A–02 OF THIS TITLE; AND

(2) PERFORMS SERVICES THROUGH AN INDIVIDUAL WITH A PRACTICE PRIVILEGE UNDER § 2–321 OF THIS TITLE.

(C) THE BOARD SHALL GRANT OR RENEW A PERMIT TO PRACTICE AS A CPA FIRM TO A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION THAT DEMONSTRATES ITS QUALIFICATIONS IN ACCORDANCE WITH THIS SECTION.

(D) IF A FIRM DOES NOT MEET THE REQUIREMENTS OF THIS SECTION, THE FIRM MAY PERFORM OTHER PROFESSIONAL SERVICES WHILE USING THE TITLE "CPA" OR "CPA FIRM" IN THIS STATE WITHOUT A PERMIT, IF THE FIRM:

(1) PERFORMS THOSE SERVICES THROUGH AN INDIVIDUAL WITH A PRACTICE PRIVILEGE PROVIDED UNDER § 2–321 OF THIS SUBTITLE; AND

(2) PERFORMS THOSE SERVICES IN THE STATE WHERE THE INDIVIDUAL WITH A PRACTICE PRIVILEGE RETAINS A PRINCIPAL PLACE OF BUSINESS.

2–402.

(a) To qualify for a permit, a partnership shall meet the requirements of this section.

(b) The partnership shall:

(1) **[**have a permanent office in the State from which an individual is to practice certified public accountancy; or

(2) submit proof, satisfactory to the Board, of the intent of the partnership to establish immediately a permanent office.

(c) Each permanent office required under subsection (b) of this section shall be managed by a partner of the partnership who resides in the State**] HAVE AT LEAST A SIMPLE MAJORITY OF THE PARTNERS, OFFICERS, SHAREHOLDERS, MEMBERS, OR MANAGERS, IN TERMS OF FINANCIAL INTEREST AND VOTING RIGHTS, BE LICENSED IN A STATE;**

(2) (I) HAVE A PERMANENT OFFICE IN THE STATE FROM WHICH AN INDIVIDUAL IS LICENSED TO PRACTICE CERTIFIED PUBLIC ACCOUNTANCY; OR

(II) HAVE AT LEAST A SIMPLE MAJORITY OF THE PARTNERS, OFFICERS, SHAREHOLDERS, MEMBERS, OR MANAGERS RETAIN A PRINCIPAL PLACE OF BUSINESS IN THIS STATE;

(3) HOLD A VALID LICENSE ISSUED UNDER § 2–301 OF THIS TITLE; AND

(4) COMPLY WITH REGULATIONS PROMULGATED BY THE BOARD.

[(d)**] (C) [**(1)**]** An individual who is not licensed to practice certified public accountancy in this State or another state may have an ownership interest in the partnership if:

[(i)**] (1)** a simple majority of the ownership of the partnership, in terms of financial interests and voting rights, is held by individuals licensed to practice certified public accountancy in this or another state;**[**and**]**

[(ii)**] (2)** the individual is an active participant in the partnership **OR ITS AFFILIATED ENTITIES;**

(3) THE PARTNERSHIP DESIGNATES, TO THE BOARD, A LICENSEE OF THIS STATE, OR A QUALIFIED LICENSEE OF ANOTHER STATE WHO IS RESPONSIBLE FOR THE REGISTRATION OF THE PARTNERSHIP; AND

(4) THE PARTNERSHIP COMPLIES WITH REGULATIONS ADOPTED BY THE BOARD.

[(2)**] (D)** At least 1 general partner and any other partner who practices or intends to practice certified public accountancy in the State shall be licensed by the Board to practice certified public accountancy in the State **OR QUALIFY FOR A PRACTICE PRIVILEGE UNDER § 2–321 OF THIS TITLE**.

2–402.1.

(a) To qualify for a permit, a limited liability company shall meet the requirements of this section.

(b) The limited liability company shall:

(1) **[**have a permanent office in the State from which an individual is to practice certified public accountancy; or

(2) submit proof, satisfactory to the Board, of the intent of the limited liability company to establish immediately a permanent office.

(c) Each permanent office required under subsection (b) of this section shall be under the immediate direction of a member of the limited liability company who resides in the State**] HAVE AT LEAST A SIMPLE MAJORITY OF THE OFFICERS, SHAREHOLDERS, MEMBERS, OR MANAGERS, IN TERMS OF FINANCIAL INTEREST AND VOTING RIGHTS, BE LICENSED IN A STATE;**

(2) (I) HAVE A PERMANENT OFFICE IN THE STATE FROM WHICH AN INDIVIDUAL IS LICENSED TO PRACTICE CERTIFIED PUBLIC ACCOUNTANCY; OR

(II) HAVE AT LEAST A SIMPLE MAJORITY OF THE OFFICERS, SHAREHOLDERS, MEMBERS, OR MANAGERS RETAIN A PRINCIPAL PLACE OF BUSINESS IN THIS STATE;

(3) HOLD A VALID LICENSE ISSUED UNDER § 2–301 OF THIS TITLE; AND

(4) COMPLY WITH REGULATIONS ADOPTED BY THE BOARD.

[(d)**] (C)** An individual who is not licensed to practice certified public accountancy in this State or another state may have an ownership interest in the limited liability company if:

(1) a simple majority of the ownership of the limited liability company, in terms of financial interests and voting rights, is held by individuals licensed to practice certified public accountancy in this or another state; and

(2) the individual is an active participant in the limited liability company **OR AFFILIATED ENTITIES**.

2–403.

(a) To qualify for a permit, a corporation shall meet the requirements of this section.

(b) The corporation shall meet the applicable requirements of the Maryland Professional Service Corporation Act **OR OF THE COMPARABLE LAW IN ANOTHER STATE**.

(c) The corporation shall:

(1) **[**have a permanent office in the State from which an individual is to practice certified public accountancy; or

(2) submit proof, satisfactory to the Board, of the intent of the corporation to establish immediately a permanent office**] HAVE AT LEAST A SIMPLE MAJORITY OF THE OFFICERS, SHAREHOLDERS, MEMBERS, OR MANAGERS, IN TERMS OF FINANCIAL INTEREST AND VOTING RIGHTS, BE LICENSED IN A STATE; AND**

(2) (I) HAVE A PERMANENT OFFICE IN THE STATE FROM WHICH AN INDIVIDUAL IS LICENSED TO PRACTICE CERTIFIED PUBLIC ACCOUNTANCY; OR

(II) HAVE AT LEAST A SIMPLE MAJORITY OF THE OFFICERS, SHAREHOLDERS, MEMBERS, OR MANAGERS RETAIN A PRINCIPAL PLACE OF BUSINESS IN THIS STATE;

(3) HOLD A VALID LICENSE ISSUED UNDER § 2–301 OF THIS TITLE; AND

(4) COMPLY WITH REGULATIONS ADOPTED BY THE BOARD.

[(d) Each permanent office required under subsection (c) of this section shall be managed by a stockholder of the corporation who resides in the State.**]**

[(e)**] (D)** An individual who is not licensed to practice certified public accountancy in this State or another state may have an ownership interest in the corporation if:

(1) a simple majority of the ownership of the corporation, in terms of financial interests and voting rights, is held by individuals licensed to practice certified public accountancy in this or another state; and

(2) the individual is an active participant in the corporation **OR AFFILIATED ENTITIES;**

(3) THE CORPORATION SUBMITS TO THE BOARD THE NAME OF A LICENSEE OF THIS STATE, OR, IF APPLICABLE, A LICENSEE OF ANOTHER STATE WITH A PRACTICE PRIVILEGE IN THIS STATE WHO IS RESPONSIBLE FOR THE REGISTRATION OF THE CORPORATION; AND

(4) THE CORPORATION COMPLIES WITH ANY OTHER REQUIREMENTS THAT THE BOARD IMPOSES.

2–404.

(a) An applicant for a permit shall:

(1) submit to the Board an application on the form that the Board provides; and

(2) pay to the Board a nonrefundable application fee set by the Board.

(b) In addition to any other information required on an application form, the form shall require:

(1) for a partnership applicant, a list of each partner who practices or who intends to practice certified public accountancy in the State;

(2) for a limited liability company, a list of each member who practices or who intends to practice certified public accountancy in the State; and

(3) for a corporate applicant, a list of all of the shareholders of the corporation.

2–405.

(a) If an applicant qualifies for a permit under this subtitle, the Board shall send the applicant a notice that states that:

(1) the applicant has qualified for a permit; and

(2) on receipt of a permit fee set by the Board, the Board will issue a permit to the applicant.

(b) On payment of the permit fee, the Board shall issue a permit to each applicant that meets the requirements of this subtitle.

2–406.

(a) Subject to subsection (b) of this section and while a permit is in effect, it authorizes the holder to:

(1) operate a business through which an individual practices certified public accountancy; and

(2) represent to the public that the business provides the services of a licensed certified public accountant.

(b) A permit authorizes the holder to provide a service that constitutes practicing certified public accountancy only if the service is performed by an individual who is licensed or otherwise authorized under this title to practice.

(C) A FIRM MAY USE THE TITLE "CPA" OR "CPA FIRM" WITHOUT A PERMIT ISSUED UNDER THIS SECTION IF THE FIRM IS PERFORMING OTHER PROFESSIONAL SERVICES THAT DO NOT REQUIRE A PERMIT IF:

(1) THE FIRM PERFORMS THOSE SERVICES THROUGH AN INDIVIDUAL WITH A PRACTICE PRIVILEGE UNDER § 2–321 OF THIS TITLE; AND

(2) THE FIRM PERFORMS THOSE SERVICES IN THE STATE WHERE THE INDIVIDUAL WITH A PRACTICE PRIVILEGE RETAINS A PRINCIPAL PLACE OF BUSINESS.

[2–416.

(a) The Board may issue a limited permit for the practice of certified public accountancy on a specific job to a partnership if:

(1) a simple majority of the ownership of the partnership, in terms of financial interests and voting rights, is held by individuals licensed to practice certified public accountancy in this or another state;

(2) any individual who has an ownership interest in the partnership and is not licensed to practice certified public accountancy in this or another state is an active participant in the partnership;

(3) at least 1 general partner and any other partner who practices or intends to practice accountancy in the State is licensed by the Board under § 2–309 or § 2–320 of this title; and

(4) the requirements of subsection (d) of this section are met.

(b) The Board may issue a limited permit for the practice of certified public accountancy on a specific job to a limited liability company if:

(1) a simple majority of the ownership of the limited liability company, in terms of financial interests and voting rights, is held by individuals licensed to practice certified public accountancy in this or another state;

(2) any individual who has an ownership interest in the limited liability company and is not licensed to practice certified public accountancy in this or another state is an active participant in the limited liability company;

(3) each member who practices or intends to practice accountancy in the State is licensed by the Board under § 2–309 or § 2–320 of this title; and

(4) the requirements of subsection (d) of this section are met.

(c) The Board may issue a limited permit for the practice of certified public accountancy on a specific job to a corporation if:

(1) a simple majority of the ownership of the corporation, in terms of financial interests and voting rights, is held by individuals licensed to practice certified public accountancy in this or another state;

(2) any individual who has an ownership interest in the corporation and is not licensed to practice certified public accountancy in this or another state is an active participant in the corporation;

(3) each shareholder who practices or intends to practice accountancy in this State is licensed by the Board under § 2–309 or § 2–320 of this title; and

(4) the requirements of subsection (d) of this section are met.

(d) In order to qualify for a limited permit under this section a corporation, limited liability company, or partnership shall:

(1) not have a place of business in this State;

(2) submit to the Board an application on the form that the Board provides; and

(3) pay to the Board a permit fee set by the Board.

(e) A limited permit authorizes the partnership, limited liability company, or corporation to conduct a business through which certified public accountancy is practiced only for the specific job for which it was issued, as set forth by the Board.

(f) (1) The Board shall set the term for each limited permit issued under this section.

(2) The term for a limited permit may not be set for more than 1 year and may not exceed the term of a limited license held by a partner, member, or shareholder for the job in question.

(3) A limited permit becomes effective and expires on the dates set by the Board.

(g) Subject to the hearing provisions of § 2–412 of this subtitle, the Board may deny or revoke a limited permit for any ground as may be applicable under § 2–410 of this subtitle.**]**

2–501.

(a) (1) The Board may adopt regulations to:

(i) require that each office maintained in the State for the practice of accounting by an individual accountant or partnership or corporate permit

holder be registered every 2 years with the Board by the individual, partnership, or corporation; and

(ii) set the procedure to carry out the registration.

(2) The Board may not charge a fee for any registration required under this section.

(b) If a licensee or a permit holder fails to register any office as required by a regulation adopted under subsection (a) of this section, the license or permit shall:

(1) be suspended automatically; and

(2) remain suspended until the licensee or permit holder complies with the registration requirements adopted under this section.

2–601.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice certified public accountancy in the State unless licensed by the Board **OR QUALIFIED FOR A PRACTICE PRIVILEGE UNDER § 2–321 OF THIS TITLE**.

2–602.

Except for a licensed certified public accountant **OR AN INDIVIDUAL PRACTICING UNDER A PRACTICE PRIVILEGE UNDER § 2–321 OF THIS TITLE** who operates a business as a sole practitioner, a person may not operate a business through which certified public accountancy is practiced, unless:

(1) the business is a partnership, limited liability company, or corporation; and

(2) **EXCEPT AS OTHERWISE PROVIDED UNDER § 2–401 OF THIS TITLE,** the partnership, limited liability company, or corporation holds a permit issued by the Board.

2–603.

(a) Subject to subsection (b) of this section and unless authorized under this title to practice certified public accountancy, a person may not represent to the public, by use of a title, including "licensed certified public accountant", "certified public accountant", "public accountant", or "auditor", by use of the abbreviation "CPA", by description of services, methods, or procedures, or otherwise, that the person is authorized to practice certified public accountancy in the State.

(b) Subsection (a) of this section does not prohibit:

(1) the description of a principal, officer, or employee of an organization by the position, title, or office that the individual holds in the organization; or

(2) a partnership, limited liability company, or corporation that holds a permit **OR IS EXEMPT FROM THE PERMIT REQUIREMENT UNDER § 2–401 OF THIS TITLE** from using, in connection with the name of the partnership, limited liability company, or corporation, any of the terms or the abbreviation to which subsection (a) of this section refers.

(c) (1) The display, distribution, or other use by a person of the person's name, in conjunction with any of the following list of titles or abbreviations in a card, sign, advertisement, directory listing, or other instrument or device, is, in any proceeding under this title, prima facie evidence that the person represents to the public that the person is authorized to practice certified public accountancy:

(i) "licensed certified public accountant";

(ii) "certified public accountant";

(iii) "public accountant";

(iv) "auditor"; or

(v) an abbreviation of any of these titles.

(2) In a proceeding under this title, evidence of a single representation described in paragraph (1) of this subsection is, without evidence of a general course of conduct, adequate to justify a finding that a person has represented to the public that the person is authorized to practice certified public accountancy in the State.

2–604.

(a) Subject to subsection (b) of this section and unless a person holds a permit issued by the Board **OR IS OTHERWISE AUTHORIZED UNDER THIS TITLE TO PRACTICE CERTIFIED PUBLIC ACCOUNTANCY**, the person may not represent to the public, by use of a title, including "licensed certified public accountants", "certified public accountants", "public accountants", or "auditors", by use of the abbreviation "CPA", by description of services, methods, or procedures, or otherwise, that the person holds a permit or otherwise is authorized to operate a business through which certified public accountancy is practiced in the State.

(b) Subsection (a) of this section does not apply to a licensed certified public accountant **OR AN INDIVIDUAL PRACTICING UNDER A PRACTICE PRIVILEGE UNDER § 2–321 OF THIS TITLE** who operates the business as a sole practitioner.

2–605.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(b) (1) The Board may impose on a person who violates any provision of this subtitle a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 537

(House Bill 1309)

AN ACT concerning

Business Regulation – Mold Remediation Services – Licensing

FOR the purpose of requiring certain persons to be licensed by the Maryland Home Improvement Commission to provide mold remediation services; requiring the ~~Secretary~~ Commission to adopt regulations for the licensure and regulation of mold remediation services; providing that this Act does not limit the rights of certain individuals to engage in certain mold remediation; establishing the purpose of this Act; providing for the powers and duties of the Commission in licensing and regulating mold remediation service providers; requiring all fees collected by the Commission under this Act to be paid into the General Fund; requiring ~~certain~~ licensees to maintain certain ~~general liability~~ insurance; providing that licensees are not required to pay certain assessments; ~~providing for the qualifications and applicant requirements of mold remediation supervisors and technicians;~~ establishing certain application procedures; authorizing the issuance ~~and renewal~~ of certain licenses; providing for the expiration and renewal of certain licenses; authorizing the ~~Secretary~~ Commission to deny a license to an applicant, ~~refuse to renew a license,~~ reprimand a licensee, suspend or revoke a license, or impose certain penalties under certain circumstances; establishing certain hearing and appeal procedures ~~for mold remediation technicians and supervisors~~; prohibiting a licensee from ~~employing certain individuals or from~~ engaging in certain practices; providing for certain ~~criminal and~~ civil penalties; requiring certain ~~persons performing~~ companies or firms providing mold remediation services to be licensed on or before a certain date; defining certain terms; and generally relating to the licensure and regulation of mold remediation services.

BY renumbering
Article – State Government
Section 8–403(b)(39) through (69), respectively
to be Section 8–403(b)(40) through (b)(70), respectively
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – Business Regulation
Section 8–701 through 8–718 to be under the new subtitle "Subtitle 7. Mold Remediation Services"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 8–701 and 8–702 to be under the amended subtitle "Subtitle 8. Short Title; Termination of Title"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Government
Section 8–403(b)(39)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–403(b)(39) through (69), respectively, of Article – State Government of the Annotated Code of Maryland be renumbered to be Section(s) 8–403(b)(40) through (70), respectively.

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

Article – Business Regulation

SUBTITLE 7. MOLD REMEDIATION SERVICES.

8–701.

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

(B) "ACCREDITATION BODY" MEANS THE AMERICAN INDOOR AIR QUALITY COUNCIL OR ANY OTHER NATIONALLY RECOGNIZED ACCREDITATION BODY THAT IS RECOGNIZED BY THE COMMISSION AND THAT OPERATES INDEPENDENTLY OF TRAINING ORGANIZATIONS OR INDUSTRY TRADE ASSOCIATIONS.

(C) "COMMISSION" MEANS THE MARYLAND HOME IMPROVEMENT COMMISSION.

(D) "LICENSE" MEANS A LICENSE ISSUED BY THE COMMISSION TO ~~PERFORM OR ASSIST IN PERFORMING~~ A COMPANY OR FIRM TO PROVIDE MOLD REMEDIATION SERVICES ~~AND INCLUDES:~~

~~(1) A MOLD REMEDIATION TECHNICIAN LICENSE; AND~~

~~(2) A MOLD REMEDIATION SUPERVISOR LICENSE~~.

(E) "MOLD" MEANS AN ORGANISM OF THE CLASS FUNGI THAT CAUSES DISINTEGRATION OF ORGANIC MATTER AND PRODUCES SPORES, AS WELL AS ANY SPORES, HYPHAE, AND MYCOTOXINS THAT ARE PRODUCED BY MOLD.

(F) "MOLD ASSESSMENT" MEANS:

(1) AN INSPECTION, INVESTIGATION, OR SURVEY OF A DWELLING OR OTHER STRUCTURE TO PROVIDE INFORMATION TO THE OWNER REGARDING THE PRESENCE, IDENTIFICATION, OR EVALUATION OF MOLD;

(2) THE DEVELOPMENT OF A MOLD MANAGEMENT PLAN; OR

(3) THE COLLECTION OR ANALYSIS OF A MOLD SAMPLE.

(G) "MOLD REMEDIATION" MEANS THE REMOVAL, CLEANING, SANITIZING, DEMOLITION, OR OTHER TREATMENT OF MOLD OR MOLD–CONTAMINATED MATTER, LIVE OR DEAD, THAT WAS NOT INTENDED TO BE GROWN AT THAT LOCATION.

8–702.

(A) THIS SUBTITLE DOES NOT APPLY TO:

(1) THE PERFORMANCE OF MOLD REMEDIATION ON NONRESIDENTIAL PROPERTY;

~~(1)~~ (2) THE PERFORMANCE OF MOLD REMEDIATION IN AN AREA LESS THAN 10 SQUARE FEET;

~~(2)~~ (3) THE PERFORMANCE OF MOLD ASSESSMENTS; OR

~~(3)~~ (4) ROUTINE CLEANING THAT IS NOT PERFORMED FOR THE PURPOSE OF MOLD REMEDIATION.

(B) THIS SUBTITLE DOES NOT LIMIT THE RIGHT OF:

(1) AN INDIVIDUAL RESIDENTIAL PROPERTY OWNER WHO PERFORMS MOLD REMEDIATION ON THE INDIVIDUAL'S PROPERTY;

(2) AN EMPLOYEE OF THE UNITED STATES GOVERNMENT, THE STATE GOVERNMENT, A LOCAL GOVERNMENT, OR AN INDEPENDENT AGENCY

WHILE THAT EMPLOYEE IS PERFORMING MOLD REMEDIATION SERVICES ON OR WITHIN BUILDINGS OR STRUCTURES OWNED OR SOLELY OCCUPIED BY THE UNITED STATES GOVERNMENT, THE STATE GOVERNMENT, A LOCAL GOVERNMENT, OR AN INDEPENDENT AGENCY;

(3) AN INDUSTRIAL HYGIENIST, AS DEFINED BY THE AMERICAN INDUSTRIAL HYGIENE ASSOCIATION, A PROFESSIONAL ENGINEER, OR AN ENVIRONMENTAL SANITARIAN WHO ENGAGES IN MOLD REMEDIATION SERVICES; OR

(4) AN INDIVIDUAL REGULARLY EMPLOYED BY THE OWNER OF PROPERTY, OR THE OWNER'S AGENT, TO ENGAGE IN MAINTENANCE AND REPAIR WORK.

8–703.

THE PURPOSE OF THIS SUBTITLE IS TO ESTABLISH A LICENSING PROGRAM FOR ~~INDIVIDUALS WHO PERFORM OR ASSIST IN PERFORMING~~ COMPANIES AND FIRMS THAT PROVIDE MOLD REMEDIATION SERVICES TO:

(1) PROTECT THE PUBLIC;

(2) IMPROVE INDOOR AIR QUALITY; AND

(3) PROMOTE HIGH PROFESSIONAL STANDARDS.

8–704.

IN ADDITION TO ANY OTHER POWERS AND DUTIES SET FORTH ELSEWHERE, THE COMMISSION SHALL:

(1) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE;

(2) ISSUE LICENSES;

(3) KEEP A LIST OF ALL LICENSEES; AND

(4) KEEP A RECORD OF ITS PROCEEDINGS.

8–705.

(A) SUBJECT TO ~~SUBSECTIONS (B) AND (C)~~ SUBSECTION (B) OF THIS SECTION, THE COMMISSION MAY SET REASONABLE FEES FOR ITS SERVICES.

(B) ~~EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, REVENUES~~ REVENUES GENERATED BY THE COMMISSION SHALL BE AT LEAST EQUAL TO EXPENSES INCURRED BY THE COMMISSION.

(C) THE COMMISSION SHALL PAY ALL MONEY COLLECTED UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE STATE.

8–706.

(A) (1) ~~EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A~~ A PERSON LICENSED UNDER THIS SUBTITLE MAY NOT CONTRACT OR SOLICIT TO ~~ENGAGE IN THE BUSINESS OF~~ PROVIDE MOLD REMEDIATION SERVICES UNLESS THE WORK OF THE LICENSEE IS COVERED BY ~~GENERAL LIABILITY~~ INSURANCE IN THE AMOUNT OF AT LEAST $1,000,000.

(2) A LICENSEE SHALL GIVE THE COMMISSION NOTICE OF THE CANCELLATION OF INSURANCE AT LEAST 10 DAYS BEFORE THE EFFECTIVE DATE OF THE CANCELLATION.

(B) ~~A LICENSED MOLD REMEDIATION TECHNICIAN OR SUPERVISOR NEED NOT OBTAIN SEPARATE INSURANCE WHILE PERFORMING OR ASSISTING IN PERFORMING MOLD REMEDIATION SERVICES UNDER THE CONTROL AND SUPERVISION OF A LICENSED FIRM~~ A PERSON LICENSED TO PROVIDE MOLD REMEDIATION SERVICES UNDER THIS SUBTITLE IS NOT REQUIRED TO PAY ASSESSMENTS TO THE FUND UNDER SUBTITLE 4 OF THIS TITLE.

8–707.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, ~~AN INDIVIDUAL~~ A COMPANY OR FIRM SHALL BE LICENSED BY THE COMMISSION BEFORE THE ~~INDIVIDUAL PERFORMS OR ASSISTS IN PERFORMING~~ COMPANY OR FIRM PROVIDES MOLD REMEDIATION SERVICES IN THE STATE.

(B) (1) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL MEET THE REQUIREMENTS OF THIS SECTION.

(2) IF THE APPLICANT IS A COMPANY OR FIRM, THE COMPANY OR FIRM SHALL APPOINT A COMPANY OR FIRM MEMBER AS A REPRESENTATIVE MEMBER TO MAKE THE APPLICATION ON BEHALF OF THE COMPANY OR FIRM.

~~(C) AN APPLICANT FOR A MOLD REMEDIATION SUPERVISOR LICENSE SHALL:~~

~~(1) BE AT LEAST 18 YEARS OLD;~~

~~(2) BE OF GOOD MORAL CHARACTER; AND~~

~~(3) BE ACTIVELY CERTIFIED BY AN ACCREDITATION BODY AS A MICROBIAL REMEDIATION SUPERVISOR.~~

~~(D) AN APPLICANT FOR A MOLD REMEDIATION TECHNICIAN LICENSE SHALL:~~

~~(1) BE AT LEAST 18 YEARS OLD;~~

~~(2) BE OF GOOD MORAL CHARACTER; AND~~

~~(3) BE ACTIVELY CERTIFIED BY AN ACCREDITATION BODY AS A MICROBIAL REMEDIATOR.~~

~~(E) AN APPLICANT FOR A MOLD REMEDIATION FIRM LICENSE SHALL:~~

~~(1) BE AT LEAST 18 YEARS OLD;~~

~~(2) BE OF GOOD MORAL CHARACTER; AND~~

~~(3) BE ACTIVELY CERTIFIED BY AN ACCREDITATION BODY AS A MICROBIAL REMEDIATION SUPERVISOR.~~

8–708.

~~(A)~~ **AN APPLICANT FOR A LICENSE SHALL:**

(1) SUBMIT AN APPLICATION TO THE COMMISSION IN THE FORM THAT THE COMMISSION PROVIDES;

(2) PAY A NONREFUNDABLE APPLICATION FEE ESTABLISHED THROUGH REGULATION;

(3) SUBMIT PROOF ~~**OF CERTIFICATION BY AN ACCREDITATION BODY AS A MOLD REMEDIATION SUPERVISOR OR REMEDIATOR**~~ **THAT EACH OF ITS EMPLOYEES WHO PROVIDES MOLD REMEDIATION SERVICES IS CERTIFIED BY AN ACCREDITATION BODY AS A MICROBIAL REMEDIATION SUPERVISOR OR MICROBIAL REMEDIATION TECHNICIAN, WHICHEVER IS APPLICABLE;**

(4) ~~IF APPLYING FOR A FIRM LICENSE,~~ SUBMIT PROOF OF ~~GENERAL LIABILITY~~ INSURANCE AS REQUIRED BY § 8–706 OF THIS SUBTITLE; AND

(5) PROVIDE ANY OTHER INFORMATION THE COMMISSION MAY REQUIRE.

~~(B) THE APPLICATION FORM PROVIDED BY THE COMMISSION SHALL REQUIRE AN APPLICANT TO PROVIDE:~~

~~(1) THE APPLICANT'S NAME;~~

~~(2) THE APPLICANT'S BUSINESS ADDRESS, TELEPHONE NUMBER, AND, IF APPLICABLE, ELECTRONIC MAIL ADDRESS;~~

~~(3) THE APPLICANT'S SOCIAL SECURITY NUMBER; AND~~

~~(4) ANY OTHER INFORMATION THAT THE COMMISSION DEEMS NECESSARY.~~

8–709.

(A) THE COMMISSION MAY GRANT A WAIVER TO THE REQUIREMENT FOR A LICENSE ONLY IF THE APPLICANT:

(1) PAYS THE APPROPRIATE APPLICATION FEE; AND

(2) PROVIDES ADEQUATE EVIDENCE THAT THE APPLICANT:

(I) MEETS THE QUALIFICATIONS OTHERWISE REQUIRED BY THIS SUBTITLE; AND

(II) HAS AN ACTIVE LICENSE FROM ANOTHER STATE WITH LICENSING REQUIREMENTS THAT ARE AT LEAST EQUIVALENT TO THE LICENSING REQUIREMENTS OF THIS STATE.

(B) THE COMMISSION ~~WILL~~ SHALL ISSUE THE LICENSE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE AND THE REGULATIONS ADOPTED UNDER IT.

8–710.

(A) UNLESS THE LICENSE IS RENEWED AS PROVIDED IN THIS SECTION, A LICENSE EXPIRES 2 YEARS AFTER THE DATE OF ISSUANCE.

(B) BEFORE THE LICENSE EXPIRES, THE LICENSEE MAY RENEW IT FOR AN ADDITIONAL 2–YEAR TERM, IF THE LICENSEE:

(1) OTHERWISE IS ENTITLED TO BE GRANTED A LICENSE;

(2) PAYS TO THE COMMISSION A RENEWAL FEE ESTABLISHED BY THE COMMISSION; AND

(3) SUBMITS:

(I) PROOF OF INSURANCE~~, IF APPLICABLE~~;

(II) A RENEWAL APPLICATION IN THE FORM THAT THE COMMISSION PROVIDES; AND

(III) PROOF ~~OF THE LICENSEE'S ACTIVE CERTIFICATION OR RECERTIFICATION AS A MICROBIAL REMEDIATION SUPERVISOR OR MICROBIAL REMEDIATOR~~ THAT EACH OF THE LICENSEE'S CURRENT EMPLOYEES WHO PROVIDES MOLD REMEDIATION SERVICES HOLDS AN ACTIVE CERTIFICATION FROM AN ACCREDITATION BODY AS A MICROBIAL REMEDIATION SUPERVISOR OR MICROBIAL REMEDIATION TECHNICIAN.

(C) THE COMMISSION SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(D) (1) IF APPLICATION FOR RESTORATION IS MADE WITHIN 90 DAYS OF EXPIRATION OF A LICENSE, THE LICENSE MAY BE RESTORED ONLY ON PAYMENT OF A RENEWAL FEE.

(2) IF APPLICATION FOR RESTORATION IS NOT MADE WITHIN THE 90–DAY PERIOD, THE COMMISSION MAY REQUIRE COMPLIANCE WITH THE PROCESS FOR INITIAL APPLICATIONS AS IF THE APPLICANT HAD NEVER BEEN LICENSED.

8–711.

(A) ~~THE~~ SUBJECT TO THE HEARING PROVISIONS OF § 8–712 OF THIS SUBTITLE, THE COMMISSION MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND ANY LICENSEE, OR SUSPEND OR REVOKE A LICENSE ~~AFTER A PUBLIC HEARING CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF §~~

~~8–712 OF THIS TITLE,~~ IF THE COMMISSION FINDS THAT THE ~~INDIVIDUAL~~ APPLICANT OR LICENSEE:

(1) OBTAINED A LICENSE BY FALSE OR FRAUDULENT REPRESENTATION;

(2) TRANSFERRED THE AUTHORITY GRANTED BY THE LICENSE TO ANOTHER PERSON;

(3) WILLFULLY OR DELIBERATELY DISREGARDED AND VIOLATED ANY REGULATIONS ESTABLISHED BY THE COMMISSION UNDER THIS SUBTITLE;

(4) WILLFULLY OR DELIBERATELY DISREGARDED AND VIOLATED LAWS OF THE STATE OR OF ANY MUNICIPALITY, CITY, OR COUNTY OF THE STATE;

(5) IS CONVICTED OF:

(I) A FELONY; OR

(II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO PROVIDE MOLD REMEDIATION SERVICES;

(6) AIDED OR ABETTED A PERSON TO EVADE A PROVISION OF THIS SUBTITLE BY ALLOWING A LICENSE TO BE USED BY AN UNLICENSED PERSON, FIRM, OR CORPORATION;

(7) PERFORMED WORK UNDER A MOLD REMEDIATION SERVICES CONTRACT OR PROJECT THAT IS INADEQUATE OR INCOMPLETE;

(8) MADE ANY MATERIAL MISREPRESENTATION IN THE PROCUREMENT OF A MOLD REMEDIATION SERVICES CONTRACT OR PROJECT; OR

(9) ~~VIOLATES~~ VIOLATED THIS SUBTITLE.

(B) SUBJECT TO THE HEARING PROVISIONS OF § 8–712 OF THIS ~~TITLE~~ SUBTITLE, THE COMMISSION MAY REPRIMAND A LICENSEE OR SUSPEND OR REVOKE A LICENSE OF A LICENSEE FOR A VIOLATION OF THIS TITLE BY AN AGENT, DIRECTOR, EMPLOYEE, MANAGER, OFFICER, PARTNER, OR SALESPERSON OF THE LICENSEE, UNLESS THE COMMISSION FINDS THAT THE LICENSEE:

(1) HAD NO KNOWLEDGE OF THE WRONGFUL CONDUCT; OR

(2) COULD NOT PREVENT THE VIOLATION.

(C) INSTEAD OF OR IN ADDITION TO REPRIMANDING A LICENSEE OR SUSPENDING OR REVOKING A LICENSE, THE COMMISSION MAY IMPOSE A CIVIL PENALTY UNDER § 8–620 OF THIS TITLE.

(D) THE COMMISSION SHALL CONSIDER THE FOLLOWING FACTS IN THE GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR THE REPRIMAND OF A LICENSEE WHEN AN APPLICANT OR LICENSEE IS CONVICTED OF A FELONY OR MISDEMEANOR:

(1) THE NATURE OF THE CRIME;

(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED BY THE LICENSE;

(3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO ~~PERFORM~~ PROVIDE MOLD REMEDIATION SERVICES;

(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

(5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR LICENSEE BEFORE AND AFTER THE CONVICTION.

(E) THE COMMISSION SHALL PAY ANY PENALTY COLLECTED UNDER THIS ~~SUBSECTION~~ SECTION INTO THE GENERAL FUND OF THE STATE.

8–712.

(A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE COMMISSION TAKES ANY FINAL ACTION UNDER THIS SUBTITLE, THE COMMISSION SHALL GIVE THE ~~INDIVIDUAL~~ PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE COMMISSION.

(B) THE COMMISSION SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) THE COMMISSION MAY ADMINISTER OATHS IN CONNECTION WITH ANY PROCEEDING UNDER THIS SECTION.

(D) IF, AFTER DUE NOTICE, THE ~~INDIVIDUAL~~ PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, NEVERTHELESS THE COMMISSION MAY HEAR AND DETERMINE THE MATTER.

8–713.

ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE COMMISSION MAY TAKE AN APPEAL AS ALLOWED IN §§ 10–222 AND 10–223 OF THE STATE GOVERNMENT ARTICLE.

8–714.

(A) EACH ~~LICENSED MOLD REMEDIATION SUPERVISOR OR TECHNICIAN~~ LICENSEE SHALL DISPLAY:

(1) THE LICENSE AND THE LICENSE NUMBER CONSPICUOUSLY IN THE PRINCIPAL PLACE OF BUSINESS OF THE LICENSEE; AND

(2) THE LICENSE NUMBER OF THE LICENSEE ON EACH VEHICLE USED ON THE JOB FOR ~~PERFORMING~~ PROVIDING MOLD REMEDIATION SERVICES.

(B) EACH LICENSEE SHALL GIVE THE COMMISSION NOTICE OF ANY CHANGE OF NAME, ADDRESS, OR EMPLOYMENT FROM THAT WHICH APPEARS ON THE CURRENT LICENSE, AT LEAST 10 WORKING DAYS BEFORE THE CHANGE IS TO TAKE EFFECT.

8–715.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A ~~HOLDER OF A MOLD REMEDIATION LICENSE MAY NOT EMPLOY AN INDIVIDUAL TO PERFORM OR ASSIST IN PERFORMING~~ PERSON MAY NOT PROVIDE MOLD REMEDIATION SERVICES UNLESS THE ~~INDIVIDUAL~~ PERSON IS LICENSED BY THE COMMISSION.

(B) A ~~LICENSED MOLD REMEDIATION TECHNICIAN OR LICENSED MOLD REMEDIATION SUPERVISOR~~ LICENSEE MAY NOT:

(1) ~~PERFORM~~ PROVIDE OR OFFER TO ~~PERFORM~~ PROVIDE ANY MOLD REMEDIATION TO A STRUCTURE ON WHICH THE FIRM ~~THAT EMPLOYS THE LICENSED TECHNICIAN OR LICENSED SUPERVISOR~~ OR COMPANY OR ITS

EMPLOYEES HAS PROVIDED A MOLD ASSESSMENT WITHIN THE LAST 12 MONTHS; OR

(2) PAY ANY COMPENSATION, INDUCEMENT, OR REWARD TO A MOLD ASSESSOR OR A MOLD ASSESSOR'S FIRM IN ORDER TO GENERATE THE REFERRAL OF ANY BUSINESS TO THE ~~LICENSED TECHNICIAN, LICENSED SUPERVISOR, OR FIRM THAT EMPLOYS THE LICENSED TECHNICIAN OR LICENSED SUPERVISOR~~ LICENSEE'S FIRM OR COMPANY OR ITS EMPLOYEES.

8–716.

UNLESS LICENSED TO PROVIDE MOLD REMEDIATION SERVICES UNDER THIS SUBTITLE, A PERSON MAY NOT REPRESENT TO THE PUBLIC BY USE OF THE TITLES "MOLD REMEDIATION LICENSE HOLDER", "REGISTERED MOLD REMEDIATION CONTRACTOR", BY OTHER TITLE, OR BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON IS LICENSED TO ~~PERFORM OR TO ASSIST IN PERFORMING~~ PROVIDE MOLD REMEDIATION SERVICES.

8–717.

THIS SUBTITLE MAY BE CITED AS THE "MARYLAND MOLD REMEDIATION SERVICES ACT".

8–718.

SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, THIS SUBTITLE AND ALL REGULATIONS ADOPTED UNDER THIS SUBTITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1, ~~2013~~ ~~2015~~ *2016*.

Subtitle [7.] **8.** Short Title; Termination of Title.

[8–701.] **8–801.**

This title is the Maryland Home Improvement Law.

[8–702.] **8–802.**

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate on October 1, 2012.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(39) MOLD REMEDIATION SERVICES, LICENSING AND REGULATION OF (§ 8–701 OF THE BUSINESS REGULATION ARTICLE: JULY 1, ~~2012~~ 2015);

SECTION 3. AND BE IT FURTHER ENACTED, That on or before ~~January~~ June 1, 2010, a ~~person performing~~ company or firm providing mold remediation services shall be licensed by the Maryland Home Improvement Commission, subject to the qualification and application requirements of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 538

(House Bill 1326)

AN ACT concerning

Annotated Code of Maryland – Estates and Trusts Article – Dedicated to Roger D. Redden

FOR the purpose of dedicating the Estates and Trusts Article of the Annotated Code of Maryland to Roger D. Redden.

~~BY adding to~~
~~Article – State Government~~

~~Section 13–601 to be under the amended title "Title 13. Emblems; Commemorations" and the new subtitle "Subtitle 6. Dedication of the Annotated Code of Maryland"~~
~~Annotated Code of Maryland~~
~~(2004 Replacement Volume and 2007 Supplement)~~

BY adding to
Article – Estates and Trusts
Section 1–104
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Since 1970, the Annotated Code of Maryland has been the subject of an ongoing process of reorganization and modernization that is now almost complete; and

WHEREAS, This massive undertaking began on the strength of a convincing argument made in a Maryland Law Review article, co–written in 1969 by Roger D. Redden, long–tenured and highly regarded attorney in Baltimore City with the renowned firm of Piper and Marbury; and

WHEREAS, Mr. Redden noted in his law review article that Maryland's then–current codification of statutory laws was a chaotic "jig saw pattern", with "inconsistencies and overlappings" and "archaic and purely local" provisions; and

WHEREAS, Mr. Redden's article laid out the framework of what has become the now–familiar compilation of the statutory laws of Maryland arranged by broad subject areas and bound in dark red volumes published as Michie's Annotated Code of Maryland; and

WHEREAS, As a result of Mr. Redden's article, former Governor Marvin Mandel issued an executive order establishing a commission to revise the Annotated Code of Maryland and appointed Mr. Redden to the blue ribbon commission consisting of prominent judges and attorneys; and

WHEREAS, Under the guidance of Mr. Redden and others, Maryland's code revision process and its work product became a national model for expressing statutory law in clear, concise, and consistent language; and

WHEREAS, Roger D. Redden passed away on January 29, 2008; now, therefore,

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

~~**Article – State Government**~~

~~Title 13. Emblems; **[**Commemorative Days**]** **COMMEMORATIONS.**~~

~~**SUBTITLE 6. DEDICATION OF THE ANNOTATED CODE OF MARYLAND.**~~

~~**13–601.**~~

~~**THE ANNOTATED CODE OF MARYLAND IS DEDICATED TO THE MEMORY OF ROGER D. REDDEN, ESQUIRE.**~~

Article – Estates and Trusts

1–104.

THIS ARTICLE IS DEDICATED TO THE MEMORY OF ROGER D. REDDEN, ESQUIRE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 539

(House Bill 1350)

AN ACT concerning

Consumer Protection – Advertisement of Rebate for Consumer Goods

FOR the purpose of ~~prohibiting merchants from advertising rebates for consumer goods by displaying the net price of the consumer goods in the advertisement unless the amount of the rebate is provided to the consumer by the merchant at the time of the purchase of the consumer goods; providing that a merchant need not provide the amount of a rebate for consumer goods to a consumer if the advertisement for the consumer goods states that a rebate is available without displaying the net price of the consumer goods; defining a certain term~~ requiring a merchant that advertises a rebate for consumer goods that is only available if the consumer mails in a rebate form to include a certain statement

in the advertisement; and generally relating to the advertisement of rebates for consumer goods by merchants.

BY adding to
Article – Commercial Law
Section 13–319
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

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

Article – Commercial Law

13–319.

~~**(A) IN THIS SECTION, "NET PRICE" MEANS THE PRICE A CONSUMER WOULD PAY FOR CONSUMER GOODS AFTER REDEMPTION OF THE REBATE OFFERED FOR THE CONSUMER GOODS.**~~

~~**(B) A MERCHANT MAY NOT ADVERTISE THE AVAILABILITY OF A REBATE FOR CONSUMER GOODS BY DISPLAYING THE NET PRICE OF THE CONSUMER GOODS IN THE ADVERTISEMENT UNLESS THE AMOUNT OF THE REBATE IS PROVIDED TO THE CONSUMER BY THE MERCHANT AT THE TIME OF THE PURCHASE OF THE CONSUMER GOODS.**~~

~~**(C) A MERCHANT NEED NOT PROVIDE THE AMOUNT OF A REBATE FOR CONSUMER GOODS TO A CONSUMER IF THE ADVERTISEMENT FOR THE CONSUMER GOODS STATES THAT A REBATE IS AVAILABLE WITHOUT DISPLAYING THE NET PRICE OF THE CONSUMER GOODS.**~~

IF A MERCHANT ADVERTISES A REBATE FOR CONSUMER GOODS THAT IS AVAILABLE ONLY IF A CONSUMER MAILS IN A REBATE FORM, THE ADVERTISEMENT SHALL CLEARLY STATE THAT THE REBATE IS ONLY AVAILABLE BY MAIL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 540

(House Bill 1353)

AN ACT concerning

Omnibus Coastal Property Insurance Reform Act

FOR the purpose of ~~altering the requirements an insurer must meet before refusing to issue or renew certain insurance contracts solely because the insured property or the applicant's or insured's address is located within a certain geographic area of the State; requiring an insurer to adopt a certain underwriting standard and file the underwriting standard with the Maryland Insurance Commissioner for approval; specifying the contents of certain filings; establishing that certain underwriting standards may not take effect until a certain number of days after it is filed with the Commissioner; establishing certain exceptions; establishing certain requirements for certain underwriting standards; providing that certain information shall be open to public inspection; authorizing the Commissioner to disapprove a filing under certain circumstances; requiring the Commissioner to send certain notice of disapproval of a filing under certain circumstances; requiring the Commissioner to hold a hearing under certain circumstances; requiring the Commissioner to give certain notice of the hearing;~~ prohibiting an insurer *that issues a policy of homeowner's insurance* from adopting an underwriting standard that requires a certain deductible unless the insurer has made a certain filing and obtained approval from the Commissioner; providing that if an insurer has adopted a certain underwriting standard that requires a deductible equal to a percentage of the policy limits of a policy, the deductible may only be applicable during a certain time; requiring an insurer that has adopted a certain underwriting standard to send a certain annual statement; requiring certain insurers to offer a certain premium discount ~~under certain circumstances~~ to certain policyholders who submit certain proof of certain improvements made to a certain insured premises; requiring certain improvements to be completed by certain licensed contractors; authorizing an insurer to inspect certain improvements; requiring certain premium discounts to be in compliance with certain provisions of law; requiring certain insurers to provide a certain annual statement; requiring certain insurers that use catastrophic risk planning or other models in setting *homeowner's insurance* rates to file certain information with the Commissioner and ~~explain certain information~~ make certain arrangements; providing that certain information is proprietary and confidential commercial information under a certain provision of law; authorizing the Commissioner to adopt certain regulations; requiring a certain insurer to file a certain plan at a certain time; providing for the contents of the plan; prohibiting the plan from taking effect until a certain time after a certain filing; authorizing the Commissioner to extend a certain waiting period

for a certain time upon a certain notice; providing that a certain filing is deemed approved unless disapproved by a certain time; authorizing the Commissioner to allow a certain insurer to implement a certain plan within a certain time; requiring the Commissioner to approve the plan under certain circumstances; requiring the Commissioner to assess a certain impact; requiring the Commissioner to state certain points of objection and certain amendments under certain circumstances; requiring a certain insurer to file a certain amended plan within a certain time; prohibiting any intended withdrawal in accordance with a certain plan until a certain plan is approved; defining certain terms; requiring the Maryland Department of ~~Planning~~ Housing and Community Development to conduct a certain review and make a certain report by a certain date; providing for the application of this Act; and generally relating to coastal property insurance.

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~
~~Section 19–107~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

BY adding to
Article – Insurance
Section 19–208 through ~~19–210~~ 19–211
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – Insurance

~~19–107.~~

~~(a) An insurer may not refuse to issue or renew a contract of motor vehicle insurance, property insurance, or casualty insurance **OR EXCLUDE CERTAIN PERILS** solely because the subject of the risk or the applicant's or insured's address is located in a certain geographic area of the State unless:~~

~~(1) **[**at least 60 days before the refusal, the insurer has filed with the Commissioner a written statement designating the geographic area; and~~

~~(2) the designation has an objective basis and is not arbitrary or unreasonable**]** **THE INSURER HAS ADOPTED A WRITTEN UNDERWRITING STANDARD DESIGNATING THE GEOGRAPHIC AREA;**~~

~~**(2) THE INSURER HAS FILED THE UNDERWRITING STANDARD FOR APPROVAL BY THE COMMISSIONER; AND**~~

~~**(3) THE COMMISSIONER HAS APPROVED THE UNDERWRITING STANDARD IN WRITING.**~~

~~(b)~~ **[**~~A statement filed with the Commissioner under this section is a public record~~**] THE FILING REQUIRED BY SUBSECTION (A) OF THIS SECTION SHALL BE MADE AT LEAST 120 DAYS BEFORE THE INSURER PROPOSES TO IMPLEMENT THE UNDERWRITING STANDARD IN THE STATE.**

~~**(C) THE FILING REQUIRED BY SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:**~~

~~**(1) A MAP OR OTHER DOCUMENT AND A RATING RULE THAT IDENTIFIES THE GEOGRAPHIC AREAS IN WHICH WRITINGS WILL BE RESTRICTED;**~~

~~**(2) A COPY OF THE UNDERWRITING STANDARD THE INSURER PROPOSES TO IMPLEMENT;**~~

~~**(3) THE DATA RELIED ON BY THE INSURER IN DEVELOPING THE UNDERWRITING STANDARD; AND**~~

~~**(4) THE DATE ON WHICH THE INSURER INTENDS TO IMPLEMENT THE UNDERWRITING STANDARD.**~~

~~**(D) (1) EXCEPT AS PROVIDED IN THIS SECTION, AN UNDERWRITING STANDARD SUBJECT TO THIS SECTION MAY NOT TAKE EFFECT UNTIL 120 DAYS AFTER IT IS FILED WITH THE COMMISSIONER.**~~

~~**(2) DURING THE INITIAL 120-DAY WAITING PERIOD, THE COMMISSIONER MAY EXTEND THE WAITING PERIOD FOR AN ADDITIONAL PERIOD, NOT TO EXCEED 60 DAYS, BY WRITTEN NOTICE TO THE INSURER THAT THE COMMISSIONER NEEDS ADDITIONAL TIME FOR CONSIDERATION OF THE FILING.**~~

~~**(3) IF THE COMMISSIONER REQUIRES ADDITIONAL INFORMATION, THE WAITING PERIOD AND ANY ADDITIONAL PERIOD UNDER THIS SECTION SHALL BE TOLLED AND SHALL BEGIN AGAIN ON THE DATE THE NEEDED INFORMATION IS RECEIVED.**~~

~~(4) A FILING IS DEEMED APPROVED UNLESS DISAPPROVED BY THE COMMISSIONER DURING THE WAITING PERIOD OR ANY EXTENSION OF THE WAITING PERIOD.~~

~~(E) IF THE COMMISSIONER FINDS THAT COMPLIANCE WITH SUBSECTION (B) OR (D) OF THIS SECTION WOULD RESULT IN IMPAIRMENT OF THE INSURER OR A SIGNIFICANT FINANCIAL LOSS TO THE INSURER, THE COMMISSIONER MAY ALLOW AN INSURER TO IMPLEMENT ITS UNDERWRITING STANDARD DESIGNATING THE GEOGRAPHIC AREAS IN WHICH IT WILL RESTRICT ITS WRITINGS WITHIN 60 DAYS AFTER THE FILING OF THE UNDERWRITING STANDARD.~~

~~(F) AN UNDERWRITING STANDARD THAT RESTRICTS WRITING IN A CERTAIN GEOGRAPHIC AREA, INCLUDING THE DESIGNATION OF THE AREA AND ITS BOUNDARIES, SHALL:~~

~~(1) COMPLY WITH THE PROVISIONS OF § 27–501(A) AND (B) OF THIS ARTICLE;~~

~~(2) BE DEMONSTRATED OBJECTIVELY;~~

~~(3) INCLUDE CONSIDERATION OF PAST AND PROSPECTIVE LOSS EXPERIENCE WITHIN AND OUTSIDE THE STATE; AND~~

~~(4) INCLUDE A CONSIDERATION OF ALL RELEVANT HISTORICAL WEATHER DATA FOR ANY RESTRICTION THAT IS BASED, IN WHOLE OR IN PART, ON A CATASTROPHE MODEL.~~

~~(G) (1) THE INFORMATION FILED UNDER SUBSECTION (C)(1) AND (4) OF THIS SECTION SHALL BE OPEN TO PUBLIC INSPECTION AS SOON AS IT IS FILED.~~

~~(2) THE INFORMATION FILED UNDER SUBSECTION (C)(2) AND (3) OF THIS SECTION IS SUBJECT TO THE PROVISIONS OF § 27–501(H) OF THIS ARTICLE.~~

~~(H) (1) THE INSURER BEARS THE BURDEN OF PROOF TO DEMONSTRATE THAT ITS PROPOSED UNDERWRITING STANDARD, INCLUDING ITS GEOGRAPHIC DESIGNATION, MEETS THE REQUIREMENTS OF THIS SECTION.~~

~~(2) UNLESS THE INSURER DEMONSTRATES THAT ITS PROPOSED UNDERWRITING STANDARD, INCLUDING ITS GEOGRAPHIC DESIGNATION, MEETS THE REQUIREMENTS OF THIS SECTION, THE COMMISSIONER MAY DISAPPROVE~~

~~THE FILING AND PROHIBIT THE INSURER FROM IMPLEMENTING THE UNDERWRITING STANDARD.~~

~~(3) IF, DURING THE WAITING PERIOD OR ANY EXTENSION OF THE WAITING PERIOD, THE COMMISSIONER FINDS THAT AN INSURER'S FILING DOES NOT MEET THE REQUIREMENTS OF THIS SECTION, THE COMMISSIONER SHALL SEND WRITTEN NOTICE OF DISAPPROVAL TO THE INSURER.~~

~~(I) (1) IF, AFTER AN UNDERWRITING STANDARD SUBJECT TO THIS SECTION HAS BEEN APPROVED OR OTHERWISE HAS BECOME EFFECTIVE, THE COMMISSIONER HAS REASON TO BELIEVE THAT THE UNDERWRITING STANDARD NO LONGER MEETS THE CRITERIA SET FORTH IN SUBSECTION (F) OF THIS SECTION, THE COMMISSIONER MAY ORDER THE INSURER TO JUSTIFY THE STANDARD.~~

~~(2) THE COMMISSIONER SHALL HOLD A HEARING BEFORE ISSUING AN ORDER REVOKING APPROVAL OF THE INSURER'S UNDERWRITING STANDARD.~~

~~(3) THE COMMISSIONER SHALL GIVE WRITTEN NOTICE OF THE HEARING TO THE INSURER AT LEAST 10 DAYS BEFORE THE HEARING.~~

~~(4) THE NOTICE SHALL SPECIFY THE MATTERS TO BE CONSIDERED AT THE HEARING.~~

19–208.

(A) (1) AN INSURER *THAT ISSUES A POLICY OF HOMEOWNER'S INSURANCE* MAY NOT ADOPT AN UNDERWRITING STANDARD THAT REQUIRES A DEDUCTIBLE THAT EXCEEDS 5% *OF THE "COVERAGE A – DWELLING LIMIT"* OF THE POLICY ~~LIMITS OF THE POLICY~~ IN THE CASE OF A HURRICANE OR OTHER ~~RELATED~~ STORM, UNLESS:

(I) THE INSURER HAS FILED THE UNDERWRITING STANDARD FOR APPROVAL BY THE COMMISSIONER; AND

(II) THE COMMISSIONER HAS APPROVED THE UNDERWRITING STANDARD IN WRITING.

(2) THE FILING REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) BE MADE AT LEAST ~~120~~ 60 DAYS BEFORE THE INSURER PROPOSES TO IMPLEMENT THE UNDERWRITING STANDARD IN THE STATE; AND

(II) INCLUDE ANY INFORMATION REQUIRED BY THE COMMISSIONER, INCLUDING:

1. A COPY OF THE UNDERWRITING STANDARD THE INSURER PROPOSES TO IMPLEMENT;

2. THE DATA RELIED ON BY THE INSURER IN DEVELOPING THE UNDERWRITING STANDARD; AND

3. THE DATE ON WHICH THE INSURER INTENDS TO IMPLEMENT THE UNDERWRITING STANDARD.

(3) AN UNDERWRITING STANDARD SUBJECT TO THIS SUBSECTION MAY NOT TAKE EFFECT UNTIL ~~120~~ 60 DAYS AFTER IT IS FILED WITH THE COMMISSIONER.

(4) DURING THE INITIAL ~~120~~ 60–DAY WAITING PERIOD, THE COMMISSIONER MAY EXTEND THE WAITING PERIOD FOR AN ADDITIONAL PERIOD, NOT TO EXCEED 60 DAYS, BY WRITTEN NOTICE TO THE INSURER THAT THE COMMISSIONER NEEDS ADDITIONAL TIME FOR CONSIDERATION OF THE FILING.

~~(5) IF THE COMMISSIONER REQUIRES ADDITIONAL INFORMATION, THE WAITING PERIOD AND ANY ADDITIONAL PERIOD UNDER THIS SECTION SHALL BE TOLLED AND SHALL BEGIN AGAIN ON THE DATE THE NEEDED INFORMATION IS RECEIVED.~~

~~(6)~~ *(5)* A FILING IS DEEMED APPROVED UNLESS DISAPPROVED BY THE COMMISSIONER DURING THE WAITING PERIOD OR ANY EXTENSION OF THE WAITING PERIOD.

~~(7)~~ *(6)* IF THE COMMISSIONER FINDS THAT COMPLIANCE WITH PARAGRAPH (3) OR (4) OF THIS SUBSECTION WOULD RESULT IN IMPAIRMENT OF THE INSURER OR A SIGNIFICANT FINANCIAL LOSS TO THE INSURER, THE COMMISSIONER MAY ALLOW AN INSURER TO IMPLEMENT ITS UNDERWRITING STANDARD ESTABLISHING A DEDUCTIBLE AT THE PERCENTAGE INDICATED IN THE FILING WITHIN 60 DAYS AFTER THE FILING OF THE UNDERWRITING STANDARD.

~~(8)~~ *(7)* **AN UNDERWRITING STANDARD SUBJECT TO THIS SUBSECTION SHALL~~:~~**

~~(I) BE DEMONSTRATED OBJECTIVELY; AND~~

~~(II) INCLUDE CONSIDERATION OF PAST AND PROSPECTIVE LOSS EXPERIENCE WITHIN AND OUTSIDE THE STATE.~~

~~(9) THE INFORMATION FILED UNDER PARAGRAPH (2)(II)1 AND 3 OF THIS SUBSECTION SHALL BE OPEN TO PUBLIC INSPECTION AS SOON AS IT IS FILED~~ *COMPLY WITH ALL APPLICABLE LAWS*.

(B) IF AN INSURER HAS ADOPTED AN UNDERWRITING STANDARD THAT REQUIRES A DEDUCTIBLE EQUAL TO A PERCENTAGE *OF THE "COVERAGE A – DWELLING LIMIT"* OF THE POLICY ~~LIMITS OF THE POLICY~~ IN THE CASE OF A HURRICANE OR OTHER ~~RELATED~~ STORM, THE DEDUCTIBLE MAY ONLY BE APPLICABLE BEGINNING AT THE TIME THE NATIONAL HURRICANE CENTER OF THE NATIONAL WEATHER SERVICE ISSUES A HURRICANE WARNING FOR ANY PART OF THE ~~STATE~~ STATE WHERE THE INSURED'S HOME IS LOCATED AND ENDING 24 HOURS FOLLOWING THE TERMINATION OF THE LAST HURRICANE WARNING ISSUED FOR ANY PART OF THE ~~STATE~~ STATE IN WHICH THE INSURED'S HOME IS LOCATED.

(C) *(1)* AN INSURER THAT HAS ADOPTED AN UNDERWRITING STANDARD THAT REQUIRES A DEDUCTIBLE EQUAL TO A PERCENTAGE *OF THE "COVERAGE A – DWELLING LIMIT"* OF THE POLICY ~~LIMITS OF THE POLICY~~ IN THE CASE OF A HURRICANE OR OTHER ~~RELATED~~ STORM SHALL PROVIDE A POLICYHOLDER WITH AN ANNUAL STATEMENT EXPLAINING THE MANNER IN WHICH THE DEDUCTIBLE IS APPLIED.

(2) THE INSURER SHALL SEND A COPY OF THE FORM USED TO PROVIDE THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE COMMISSIONER PRIOR TO ITS USE.

(D) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

19–209.

(A) ~~AN INSURER SHALL OFFER A PREMIUM DISCOUNT ON A HOMEOWNER'S INSURANCE POLICY TO AN INSURED WHO SUBMITS PROOF OF IMPROVEMENTS MADE TO THE INSURED PREMISES AS A MEANS OF MITIGATING LOSS FROM A HURRICANE OR OTHER RELATED STORM~~ AN INSURER SHALL

OFFER AT LEAST ONE ACTUARIALLY JUSTIFIED PREMIUM DISCOUNT ON A POLICY OF HOMEOWNER'S INSURANCE TO A POLICYHOLDER WHO SUBMITS PROOF OF IMPROVEMENTS MADE TO THE INSURED PREMISES AS A MEANS OF MITIGATING LOSS FROM A HURRICANE OR OTHER STORM.

(B) MEANS OF MITIGATING LOSS INCLUDE:

(1) THE INSTALLATION OF ONE OR MORE OF THE FOLLOWING:

(I) HURRICANE SHUTTERS;

(II) SECONDARY WATER BARRIER;

(III) REINFORCED ROOF COVERINGS;

(IV) BRACED GABLE ENDS;

(V) REINFORCED ROOF TO WALL CONNECTIONS;

(VI) TIE DOWNS; AND

(VII) REINFORCED OPENING PROTECTIONS;

(2) REPAIR OR REPLACEMENT OF:

(I) EXTERIOR DOORS, INCLUDING GARAGE DOORS;

(II) HURRICANE RESISTANT TRUSSES, STUDS, AND OTHER STRUCTURAL COMPONENTS; AND

(III) REPAIR OR REPLACEMENT OF MANUFACTURED HOME PIERS, ANCHORS, AND TIE DOWN STRAPS; AND

(3) ANY MITIGATION EFFORT THAT MATERIALLY MITIGATES LOSS FROM A HURRICANE OR OTHER STORM OTHERWISE COVERED UNDER THE POLICY.

(C) IMPROVEMENTS MADE TO ~~AN~~ *THE* INSURED PREMISES UNDER THIS SECTION SHALL BE ~~COMPLETED~~ *INSPECTED* BY A CONTRACTOR LICENSED BY THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

(D) (1) AN INSURER SHALL BE ALLOWED TO INSPECT THE IMPROVEMENTS THAT ARE THE BASIS OF A PREMIUM DISCOUNT UNDER THIS SECTION.

(2) (I) VERIFICATION OF IMPROVEMENTS THAT ARE THE BASIS OF A PREMIUM DISCOUNT UNDER THIS SECTION RESTS WITH THE INSURER.

(II) AN INSURER MAY ACCEPT AN INSPECTION CERTIFICATE ISSUED BY A GOVERNMENTAL AGENCY AS VERIFICATION OF IMPROVEMENTS THAT ARE THE BASIS OF A PREMIUM DISCOUNT UNDER THIS SECTION.

(E) A PREMIUM DISCOUNT OFFERED UNDER THIS SECTION SHALL:

(1) COMPLY WITH THE PROVISIONS OF TITLE 11 OF THIS ARTICLE; AND

(2) ONLY BE OFFERED FOR IMPROVEMENTS IDENTIFIED BY THE COMMISSIONER AS QUALIFIED MITIGATION ACTIONS MADE TO ~~AN~~ *THE* INSURED PREMISES THAT MAY MATERIALLY MITIGATE LOSS FROM A HURRICANE OR OTHER STORM OTHERWISE COVERED UNDER ~~A~~ *THE* POLICY.

(F) (1) AN INSURER THAT OFFERS A PREMIUM DISCOUNT UNDER THIS SECTION SHALL PROVIDE A POLICYHOLDER WITH AN ANNUAL STATEMENT REGARDING THE AVAILABILITY OF THE DISCOUNT AND THE METHOD OF APPLYING FOR THE DISCOUNT.

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE SENT WITH THE STATEMENT REQUIRED UNDER § 19–205 OF THIS SUBTITLE.

~~(B)~~ (G) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

19–210.

(A) (1) IF AN INSURER USES A CATASTROPHIC RISK PLANNING MODEL OR OTHER MODEL IN SETTING *HOMEOWNER'S INSURANCE* RATES *OR REFUSING TO ISSUE OR RENEW HOMEOWNER'S INSURANCE BECAUSE OF THE GEOGRAPHIC LOCATION OF THE RISK*, THE INSURER SHALL:

~~(1)~~ (I) FILE WITH THE COMMISSIONER A DESCRIPTION OF THE SPECIFIC MODEL USED IN SETTING THE RATE *OR REFUSING TO ISSUE OR RENEW*

***HOMEOWNER'S INSURANCE BECAUSE OF THE GEOGRAPHIC LOCATION OF THE RISK*; AND**

~~(2) EXPLAIN THE MANNER IN WHICH THE MODEL WAS USED TO DETERMINE THE FILED RATE~~

(II) MAKE ARRANGEMENTS FOR THE VENDOR OF THE MODEL TO EXPLAIN TO THE COMMISSIONER THE DATA USED IN THE MODEL AND THE MANNER IN WHICH THE OUTPUT IS OBTAINED.

(2) IF AT ANY TIME AN INSURER CHANGES THE CATASTROPHIC RISK PLANNING MODEL OR OTHER MODEL UPON WHICH IT IS RELYING, THE INSURER SHALL NOTIFY THE COMMISSIONER OF THE CHANGE AND COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION.

(B) THE INFORMATION FILED UNDER SUBSECTION (A) OF THIS SECTION IS PROPRIETARY AND CONFIDENTIAL COMMERCIAL INFORMATION UNDER § 10–617(D) OF THE STATE GOVERNMENT ARTICLE.

(C) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

19–211.

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

(2) (I) "MATERIAL REDUCTION" MEANS DURING A 1–YEAR PERIOD~~, THE GREATER OF:~~

~~1.~~ A REDUCTION OF HOMEOWNER'S INSURANCE POLICIES IN FORCE~~, BY 5%~~ *FOR AN INSURER ON A STATEWIDE BASIS BY 3%* OR MORE *DUE TO CANCELLATIONS OR NONRENEWALS SOLELY BECAUSE THE SUBJECT OF THE RISK OR THE INSURED'S ADDRESS IS LOCATED IN A CERTAIN GEOGRAPHIC AREA OF THE STATE*~~; AND~~

~~2. A REDUCTION IN THE NET NUMBER OF HOMEOWNER'S INSURANCE POLICIES BY 100~~.

(II) "MATERIAL REDUCTION" DOES NOT INCLUDE A HOMEOWNER'S INSURANCE POLICY:

1. CANCELLED, NONRENEWED, OR OTHERWISE TERMINATED BY AN INSURED; OR

2. CANCELLED OR NONRENEWED BY AN INSURER PURSUANT TO REASONS OTHER THAN A MATERIAL REDUCTION PLAN.

(3) (I) "MINIMIZES MARKET DISRUPTION" MEANS ACTIONS TO BE TAKEN BY AN INSURER THAT INTENDS TO ENGAGE IN A PLAN OF MATERIAL REDUCTION OF ITS VOLUME OF POLICIES TO PROVIDE FOR THE ORDERLY REDUCTION IN HOMEOWNER'S INSURANCE COVERAGE.

(II) "MINIMIZES MARKET DISRUPTION" INCLUDES:

1. EFFORTS BY THE INSURER TO MAINTAIN A SERVICE FORCE IN AFFECTED AREAS DURING THE PERIOD OF MATERIAL REDUCTION;

2. EFFORTS TO INFORM INSUREDS OF OPTIONS AVAILABLE FOR REPLACEMENT OF COVERAGE WITH AUTHORIZED INSURERS; AND

3. ANY ACTIONS SERVING TO MINIMIZE MARKET DISRUPTION.

(B) (1) AT LEAST 60 DAYS IN ADVANCE OF IMPLEMENTING A PLAN OF MATERIAL REDUCTION, AN INSURER SHALL FILE WITH THE COMMISSIONER A PLAN FOR ORDERLY REDUCTION.

(2) THE PLAN SHALL:

(I) DESCRIBE THE INSURER'S CONTEMPLATED ACTIONS;

(II) SET FORTH THE REASONS FOR THE ACTIONS;

(III) DESCRIBE THE MEASURES THE INSURER INTENDS TO TAKE IN ORDER TO MINIMIZE MARKET DISRUPTION; AND

(IV) PROVIDE ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER.

(C) (1) EXCEPT AS PROVIDED IN THIS SECTION, A FILING UNDER THIS SECTION MAY NOT TAKE EFFECT UNTIL 60 DAYS AFTER IT IS FILED WITH THE COMMISSIONER.

(2) DURING THE INITIAL 60–DAY WAITING PERIOD, THE COMMISSIONER MAY EXTEND THE WAITING PERIOD FOR AN ADDITIONAL PERIOD, NOT TO EXCEED 60 DAYS, BY WRITTEN NOTICE TO THE INSURER THAT THE COMMISSIONER NEEDS ADDITIONAL TIME FOR CONSIDERATION OF THE FILING.

~~**(3) IF THE COMMISSIONER REQUIRES ADDITIONAL INFORMATION, THE WAITING PERIOD AND ANY ADDITIONAL PERIOD UNDER THIS SECTION SHALL BE TOLLED AND SHALL BEGIN AGAIN ON THE DATE THE NEEDED INFORMATION IS RECEIVED.**~~

~~**(4)**~~ ***(3)*** **A FILING IS DEEMED APPROVED UNLESS DISAPPROVED BY THE COMMISSIONER DURING THE WAITING PERIOD OR ANY EXTENSION OF THE WAITING PERIOD.**

(D) IF THE COMMISSIONER FINDS THAT COMPLIANCE WITH SUBSECTION (B) OF THIS SECTION WOULD RESULT IN IMPAIRMENT OF THE INSURER OR A SIGNIFICANT FINANCIAL LOSS TO THE INSURER, THE COMMISSIONER MAY ALLOW AN INSURER TO IMPLEMENT ITS PLAN OF MATERIAL REDUCTION WITHIN 60 DAYS AFTER THE FILING OF THE PLAN.

(E) THE COMMISSIONER SHALL APPROVE THE PLAN OF MATERIAL REDUCTION IF THE INSURER DEMONSTRATES THAT THE MATERIAL REDUCTION IS ACCOMPLISHED IN A MANNER THAT MINIMIZES MARKET DISRUPTION IN THE AREAS OF MATERIAL REDUCTION.

(F) IN REVIEWING A PLAN OF MATERIAL REDUCTION, THE COMMISSIONER SHALL ASSESS THE IMPACT OF THE PLAN OF MATERIAL REDUCTION IN:

(1) EACH COUNTY OF THE STATE; AND

(2) AREAS WITHIN 1 MILE OF ANY SALTWATER SHORELINE OR ANY SHORELINE DIRECTLY ADJACENT TO THE CHESAPEAKE BAY.

(G) (1) IF THE COMMISSIONER DISAPPROVES THE PLAN OF MATERIAL REDUCTION, THE COMMISSIONER SHALL STATE:

(I) THE POINTS OF OBJECTION WITH THE PLAN; AND

(II) ANY AMENDMENTS TO THE PLAN THAT THE COMMISSIONER MAY REQUIRE, CONSISTENT WITH THIS SECTION, INCLUDING

AMENDMENTS DESIGNED TO ACCOMPLISH THE PLAN OF MATERIAL REDUCTION IN A MANNER THAT MINIMIZES MARKET DISRUPTION.

(2) THE INSURER SHALL FILE AN AMENDED PLAN WITHIN 15 DAYS AFTER THE DATE OF RETURN OF THE DISAPPROVED PLAN.

(3) ANY INTENDED WITHDRAWAL IN ACCORDANCE WITH A PLAN OF MATERIAL REDUCTION THAT IS DISAPPROVED IS PROHIBITED UNTIL THE ORIGINAL OR AN AMENDED PLAN OF MATERIAL REDUCTION IS APPROVED BY THE COMMISSIONER.

(H) THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Department of ~~Planning~~ Housing and Community Development shall review current statewide building codes and develop enhanced building codes for coastal regions of the State that promote disaster–resistant construction in the coastal regions of the State. The Department shall report their findings and recommendations, subject to § 2–1246 of the State Government Article, to the Senate Finance Committee and House Economic Matters Committee on or before October 1, 2010. The enhanced building codes shall be provided to the planning boards of the counties in the coastal areas of the State.

SECTION 3. AND BE IT FURTHER ENACTED, That, *except as provided in Section 4 of this Act*, this Act shall apply to all homeowner's insurance policies issued, delivered, or renewed in the State on or after October 1, 2008.

SECTION 4. AND BE IT FURTHER ENACTED, That the provisions of § 19–209 of the Insurance Article as enacted by this Act shall apply to all homeowner's insurance policies issued, delivered, or renewed in the State on or after June 1, 2009.

SECTION ~~4.~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 541

(House Bill 1400)

AN ACT concerning

Workers' Compensation – Covered Employees – State Government Volunteer Workers

FOR the purpose of providing that a volunteer worker for a unit of State government is a covered employee under the Maryland Workers' Compensation Act; specifying that, for certain purposes, the State is the employer of a certain volunteer worker; ~~using the federal minimum wage in effect at a certain time to calculate a certain average weekly wage for certain purposes;~~ limiting the benefits provided to a volunteer worker to certain medical services and treatment; and generally relating to covered employment under workers' compensation law.

BY adding to
Article – Labor and Employment
Section 9–231.1 ~~and 9–602(m)~~
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

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

Article – Labor and Employment

9–231.1.

(A) A VOLUNTEER WORKER FOR A UNIT OF STATE GOVERNMENT IS A COVERED EMPLOYEE.

(B) FOR THE PURPOSES OF THIS TITLE, THE STATE IS THE EMPLOYER OF AN INDIVIDUAL WHO IS A COVERED EMPLOYEE UNDER THIS SECTION.

~~9–602.~~

(C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, BENEFITS PROVIDED UNDER THIS SECTION SHALL CONSIST ONLY OF MEDICAL SERVICES AND TREATMENT UNDER SUBTITLE 6, PART IX OF THIS TITLE FOR A COMPENSABLE INJURY.

~~**(M) FOR THE PURPOSE OF COMPUTING THE AVERAGE WEEKLY WAGE OF A VOLUNTEER WORKER WHO IS A COVERED EMPLOYEE UNDER § 9–231.1 OF THIS TITLE, THE WAGES OF THE COVERED EMPLOYEE SHALL BE THE FEDERAL**~~

~~**MINIMUM WAGE THAT IS IN EFFECT AT THE TIME OF THE ACCIDENTAL PERSONAL INJURY OR LAST INJURIOUS EXPOSURE.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 542

(House Bill 1426)

AN ACT concerning

Vehicle Laws – ~~Young Drivers – Driving Privileges~~ Learner's Instructional Permits

FOR the purpose of ~~altering the period after which the holder of a learner's instructional permit may take certain examinations for a provisional license under certain circumstances;~~ altering the period for which a learner's instructional permit is valid; repealing exceptions in law allowing an individual who is at least a certain age to drive on Maryland highways without obtaining a learner's instructional permit; ~~altering the hours during which a holder of a provisional driver's license under a certain age may drive unsupervised; requiring the Motor Vehicle Administration to impose certain restrictions on a provisional driver's license and suspend or revoke the license under certain circumstances; altering a certain definition; modifying a certain license restriction prohibiting a holder of a provisional driver's license from driving a vehicle carrying certain passengers under certain circumstances;~~ and generally relating to ~~driving privileges for young drivers~~ learner's instructional permits.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 16–105(d)~~, 16–113(d), 16–213, and 21–1123~~
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing
Article – Transportation
Section 16–105.1
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

~~BY adding to~~
~~Article – Transportation~~
~~Section 16–113(d–2)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

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

Article – Transportation

16–105.

(d) (1) This subsection applies to an individual who:

(i) Seeks to obtain an original driver's license under this subtitle; and

(ii) Does not qualify for a learner's instructional permit under subsection (e) of this section.

(2) An individual who holds a learner's instructional permit may not take a driver skills examination or driver road examination for a provisional license:

(i) Sooner than 6 months:

1. After the individual first obtains the learner's instructional permit; or

2. After the date on which the individual committed a moving violation for which the individual was convicted ~~**OR GRANTED PROBATION BEFORE JUDGMENT**~~;

(ii) Until after successful completion of:

1. The driver education program approved under Subtitle 5 of this title, consisting of at least 30 hours of classroom instruction and at least 6 hours of highway driving instruction; and

2. At least 60 hours, 10 hours of which must occur during the period beginning 30 minutes before sunset and ending 30 minutes after sunrise, of behind–the–wheel driving practice supervised by an individual who:

A. Holds a valid driver's license;

B. Is at least 21 years old; and

C. Has been licensed to drive for at least 3 years; and

(iii) Unless the individual submits, in accordance with the Administration's regulations, a completed skills log book signed by:

1. Each supervising driver who certifies that the individual has satisfactorily demonstrated a required skill and has completed the driving practice requirements of item (ii)2 of this paragraph; and

2. If a signature of a parent, guardian, or other person is required under § 16–107 of this subtitle, the parent, guardian, or other person who signs the individual's application under that section.

(3) A learner's instructional permit issued to an individual described in paragraph (1) of this subsection expires **[**one year**]** **2 YEARS** after the date of issuance.

[16–105.1.

Any individual who is at least 15 years old may drive a motor vehicle on highways in this State, without obtaining a learner's instructional permit, if:

(1) The individual is a student enrolled in a driver education course approved under this article;

(2) The motor vehicle is equipped with a dual brake control and any other equipment specified by regulations adopted under this article; and

(3) While driving the motor vehicle, the individual is under the control of:

(i) An instructor certified under Subtitle 5 of this title;

(ii) A qualified student instructor participating in an instructor preparation program sanctioned by the Administration in consultation with the State Department of Education; or

(iii) A driving instructor licensed under Title 15, Subtitle 8 of this article.**]**

~~16–113.~~

~~(d) (1) Notwithstanding the licensee's driving record, the Administration shall impose an hour restriction on a provisional driver's license issued to an applicant under the age of 18.~~

~~(2) The restriction under this subsection shall limit the holder of a provisional license to driving unsupervised only between the hours of [5 a.m. and 12 midnight]:~~

~~**(I) 5 A.M. AND 10 P.M. IF THE HOLDER OF THE PROVISIONAL LICENSE IS UNDER THE AGE OF 17; AND**~~

~~**(II) 5 A.M. AND 12 MIDNIGHT IF THE HOLDER OF THE PROVISIONAL LICENSE IS AT LEAST 17 YEARS OLD BUT UNDER THE AGE OF 18**.~~

~~(3) This subsection does not preclude the holder of a provisional license from driving between the hours of [12 midnight] **10 P.M.** and 5 a.m. the following day if the licensee is:~~

~~(i) Accompanied and supervised by a licensed driver who is at least 21 years old;~~

~~(ii) Driving to or from or in the course of the licensee's employment;~~

~~(iii) Driving to or from a school class or official school activity;~~

~~(iv) Driving to or from an organized volunteer program; or~~

~~(v) Driving to or from an opportunity to participate in an athletic event or related training session.~~

~~(4) The hour restriction and the supervision requirement under this subsection expire on the date the holder of the provisional license turns 18 years of age.~~

~~**(D–2) (1) NOTWITHSTANDING THE LICENSEE'S DRIVING RECORD, THE ADMINISTRATION SHALL IMPOSE AN EDUCATION– AND EMPLOYMENT–ONLY RESTRICTION ON A PROVISIONAL DRIVER'S LICENSE ISSUED TO AN INDIVIDUAL UNDER THE AGE OF 18 IF THE PROVISIONAL LICENSE HOLDER IS CONVICTED OF OR RECEIVES PROBATION BEFORE JUDGMENT FOR A MOVING VIOLATION.**~~

~~**(2) THE ADMINISTRATION MAY NOT REMOVE A RESTRICTION IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION UNTIL THE**~~

~~**PROVISIONAL LICENSE HOLDER OBTAINS A DRIVER'S LICENSE ISSUED UNDER § 16–111.1 OF THIS SUBTITLE.**~~

~~16–213.~~

~~(a) In this section, "offense" means a moving violation committed by an individual who:~~

~~(1) **[**Holds**] HELD** a provisional license under § 16–111 of this title **AT THE TIME THE VIOLATION WAS COMMITTED**;~~

~~(2) Was convicted of, or granted a probation before judgement under § 6–220 of the Criminal Procedure Article for, the violation; and~~

~~(3) Was not eligible for a license under § 16–111.1 of this title at the time of the violation.~~

~~(b) Except as provided in § 16–205(d–1) or § 16–206(b) of this subtitle, the sanctions under this section are in addition to any other penalty or sanctions that might apply as a result of a moving violation.~~

~~(c) The Administration:~~

~~(1) **FOR ANY INDIVIDUAL 18 YEARS OLD OR OLDER WHO HOLDS A PROVISIONAL DRIVER'S LICENSE:**~~

~~**(I)** For a first offense, shall require the offender to attend a driver improvement program under § 16–212 of this subtitle;~~

~~**[**(2)**] (II)** For a second offense, may suspend the offender's **[**provisional**]** license for **[**up to**]** 30 days; and~~

~~**[**(3)**] (III)** For a third or subsequent offense, may suspend **[**or revoke**]** the offender's **[**provisional**]** license for **[**up to**]** 180 days**[**.**];**~~

~~**(2) FOR ANY INDIVIDUAL UNDER THE AGE OF 18 WHO HOLDS A PROVISIONAL DRIVER'S LICENSE:**~~

~~**(I) FOR A FIRST OFFENSE, SHALL IMPOSE A LICENSE RESTRICTION ON THE OFFENDER'S PROVISIONAL DRIVER'S LICENSE UNDER § 16–113(D–2) OF THIS TITLE;**~~

~~**(II) FOR A SECOND OFFENSE, SHALL:**~~

~~**1. REQUIRE THE OFFENDER TO ATTEND A DRIVER IMPROVEMENT PROGRAM UNDER § 16–212 OF THIS SUBTITLE;**~~

~~**2. RESTRICT THE OFFENDER FROM DRIVING WITH A PASSENGER UNDER THE AGE OF 18 UNTIL THE OFFENDER OBTAINS A DRIVER'S LICENSE ISSUED UNDER § 16–111.1 OF THIS TITLE; AND**~~

~~**3. SUSPEND THE OFFENDER'S LICENSE FOR 30 DAYS;**~~

~~**(III) FOR A THIRD OFFENSE, SHALL:**~~

~~**1. REQUIRE THE OFFENDER TO ATTEND A DRIVER REHABILITATION PROGRAM UNDER § 16–213 OF THIS SUBTITLE;**~~

~~**2. SUSPEND THE OFFENDER'S LICENSE FOR 180 DAYS; AND**~~

~~**3. RESTRICT THE OFFENDER AS DESCRIBED IN ITEM (II)2 OF THIS ITEM; AND**~~

~~**(IV) FOR A FOURTH OR SUBSEQUENT OFFENSE, SHALL:**~~

~~**1. REVOKE THE OFFENDER'S LICENSE;**~~

~~**2. REQUIRE THE OFFENDER, IN ADDITION TO APPLYING FOR REINSTATEMENT AS REQUIRED UNDER § 16–208(B) OF THIS SUBTITLE, TO PASS THE EXAMINATIONS REQUIRED UNDER § 16–110 OF THIS TITLE; AND**~~

~~**3. RESTRICT THE OFFENDER'S LICENSE AS DESCRIBED IN ITEM (II)2 OF THIS ITEM.**~~

~~21–1123.~~

~~(a) (1) The provisions of this subsection do not apply if the holder of the provisional driver's license is driving while accompanied by and under the immediate supervision of an individual who:~~

~~(i) Is at least 21 years old;~~

~~(ii) Has been licensed for at least 3 years in this State or in another state to drive vehicles of the class then being driven by the holder of the provisional driver's license; and~~

~~(iii) Is seated beside the holder of the provisional driver's license.~~

~~(2) Except as provided in paragraph (3) of this subsection, a holder of a provisional driver's license who is under the age of 18 years may not drive a motor vehicle with a passenger under the age of 18 years.~~

~~(3) The prohibition under paragraph (2) of this subsection:~~

~~(i) Shall be in effect from the date the provisional license is originally issued until the~~ **[**~~151st day after the provisional license was issued~~**]** ~~**PROVISIONAL LICENSEE REACHES THE AGE OF 18**; and~~

~~(ii) Does not apply to a passenger who is:~~

~~1. A spouse, daughter, son, stepdaughter, stepson, sister, brother, stepsister, or stepbrother of the licensee; or~~

~~2. A relative of the licensee who resides at the same address as the licensee.~~

~~(b) A police officer may enforce this section only as a secondary action when the police officer detains a driver for a suspected violation of another provision of the Code.~~

~~(c) A violation of this section is a moving violation for the purposes of § 16–402 of this article.~~

~~(d) (1) If the Administration receives satisfactory evidence that an individual has violated this section, the Administration may suspend or revoke the individual's driver's license.~~

~~(2) An individual may request a hearing as provided for a suspension or revocation under Title 16, Subtitle 2 of this article.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.

CHAPTER 543

(House Bill 1432)

AN ACT concerning

Election Law – Campaign Finance – Affidavit and Signature

FOR the purpose of authorizing the State Board of Elections to accept a certain electronic signature for certain documents; requiring a certain campaign finance report submitted using an electronic form to be made under oath or affirmation, require an electronic signature from a campaign finance entity's treasurer at a certain time, and be made subject to the penalties for perjury; repealing certain provisions for filing and maintaining a certain affidavit; authorizing a certain treasurer to file a certain affidavit at certain times stating that the campaign finance entity has not raised or spent a certain amount instead of filing a certain report; providing that a campaign finance entity may file a certain affidavit instead of filing a certain report; providing that a campaign finance report preceded by a certain affidavit shall cover a certain period; prohibiting a person from making an electronic submission of certain documents on behalf of another person without that person's express consent; defining a certain term; and generally relating to an affidavit of limited fundraising activity and an electronic signature.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 1–101, 13–304, 13–312, and 13–601
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

BY adding to
Article – Election Law
Section 13–104 and 13–305
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

BY repealing
Article – Election Law
Section 13–305
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Election Law
Section 13–309

Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

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

Article – Election Law

1–101.

(a) In this article the following words have the meanings indicated unless a different meaning is clearly intended from the context.

(b) "Absentee ballot" means a ballot not used in a polling place.

(c) "Authorized candidate campaign committee" means a political committee established under Title 13 of this article and authorized by a candidate to promote the candidate's candidacy.

(d) (1) "Ballot" or "official ballot" includes:

(i) an absentee ballot;

(ii) a provisional ballot;

(iii) a document ballot; or

(iv) a voting machine ballot.

(2) "Ballot" or "official ballot" does not include:

(i) a sample ballot; or

(ii) a specimen ballot.

(e) "Ballot face" means a single side of a sheet on which are printed some or all of the contests to be voted on by a voter.

(f) "Ballot issue committee" means a political committee that is formed to promote the success or defeat of a question to be submitted to a vote at an election.

(g) "Ballot style" means a unique aggregation of contests that make up the ballot for a particular group of voters identified by common characteristics of residence location, party affiliation, or both.

(h) "Campaign finance entity" means a political committee established under Title 13 of this article.

(i) "Campaign finance report" means a report, statement, affidavit, or other document that is:

(1) authorized or required under this article;

(2) related to the campaign finance activities of a campaign finance entity or to expenses associated with a legislative newsletter; and

(3) filed or submitted on a form prescribed by the State Board under this article.

(j) "Campaign manager" means a person designated by a candidate, or the candidate's representative, to exercise general overall responsibility for the conduct of the candidate's political campaign.

(k) (1) "Campaign material" means any material that:

(i) contains text, graphics, or other images;

(ii) relates to a candidate, a prospective candidate, or the approval or rejection of a question; and

(iii) is published or distributed.

(2) "Campaign material" includes:

(i) material transmitted by or appearing on the Internet or other electronic medium; and

(ii) an oral commercial campaign advertisement.

(l) (1) "Candidate" means an individual who files a certificate of candidacy for a public or party office.

(2) "Candidate" includes:

(i) an incumbent judge of the Court of Appeals or Court of Special Appeals at an election for continuance in office; and

(ii) an individual, prior to that individual filing a certificate of candidacy, if a campaign finance entity has been established on behalf of that individual.

(m) (1) "Contest" means:

(i) the aggregate of candidates who run against each other or among themselves for nomination for, or election to, an office or multiple offices of the same category; or

(ii) the positive and negative voting options for a question submitted to the voters.

(2) "Contest" includes, in a general election for an office, the write–in option.

(n) "Continuing political committee" means a political committee that is permitted to continue in existence from year to year.

(o) (1) "Contribution" means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a campaign finance entity to promote or assist in the promotion of the success or defeat of a candidate, political party, or question.

(2) "Contribution" includes proceeds from the sale of tickets to a campaign fund–raising event.

(p) "County" means a county of the State or Baltimore City.

(q) "Disabled" means having a temporary or permanent physical disability.

(r) (1) "Distributor" means a person engaged for profit in the distribution of campaign material by hand delivery or direct mail.

(2) "Distributor" does not include salaried employees, agents, or volunteers of the person.

(s) (1) "Document ballot" means a ballot used with a voting system in which the voter individually is issued a ballot on which to indicate one or more votes.

(2) "Document ballot" includes:

(i) a machine–read ballot, such as an optically scanned ballot; and

(ii) a hand–counted paper ballot.

(t) "Driver's license" includes an identification card issued by the Motor Vehicle Administration.

(u) "Elderly" means 65 years of age or older.

(v) (1) "Election" means the process by which voters cast votes on one or more contests under the laws of this State or the United States.

(2) "Election" includes, unless otherwise specifically provided in this article, all general elections, primary elections, and special elections.

(3) "Election" does not include, unless otherwise specifically provided in this article, a municipal election other than in Baltimore City.

(w) "Election cycle" means the period that begins on the January 1 that follows a gubernatorial election and continues until the December 31 that is 4 years later.

(x) **"ELECTRONIC SIGNATURE" MEANS AN ELECTRONIC SOUND, SYMBOL, OR PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH A RECORD AND EXECUTED OR ADOPTED BY A PERSON WITH THE INTENT TO SIGN THE RECORD.**

(Y) "Electronic storage format" means a computer disk or other information storage and retrieval medium approved by the State Board.

[(y)**] (Z)** "Expenditure" means a gift, transfer, disbursement, or promise of money or a thing of value by or on behalf of a campaign finance entity to:

(1) promote or assist in the promotion of the success or defeat of a candidate, political party, or question at an election; or

(2) pay for the publication expense of a legislative newsletter under Title 13, Subtitle 4 of this article.

[(z)**] (AA)** "Independent expenditure" means an expenditure by a person to aid or promote the success or defeat of a candidate if the expenditure is not made in coordination with, or at the request or suggestion of, the candidate, a campaign finance entity of the candidate, or an agent of the candidate.

[(aa)**] (BB)** "Local board" means a county board of elections.

[(bb)**] (CC)** "Majority party" means the political party to which the incumbent Governor belongs, if the incumbent Governor is a member of a principal political party. If the incumbent Governor is not a member of one of the two principal political

parties, "majority party" means the principal political party whose candidate for Governor received the highest number of votes of any party candidate at the last preceding general election.

[(cc)**] (DD)** "Partisan organization" means a combination of two or more individuals formed for the purpose of organizing a new political party.

[(dd)**] (EE)** "Political action committee" means a political committee that is not:

(1) a political party;

(2) a central committee;

(3) a slate;

(4) a political committee organized and operated solely to support or oppose a single candidate; or

(5) a political committee organized and operated solely to support or oppose a ballot issue.

[(ee)**] (FF)** "Political committee" means a combination of two or more individuals that assists or attempts to assist in promoting the success or defeat of a candidate, political party, or question submitted to a vote at any election.

[(ff)**] (GG)** "Political party" means an organized group that is qualified as a political party in accordance with Title 4 of this article.

[(gg)**] (HH)** "Precinct" includes:

(1) an election district in a county that is not divided into precincts;

(2) an election precinct in an election district that is divided into precincts; or

(3) a precinct in a ward of the City of Baltimore.

[(hh)**] (II)** "Precinct register" means the list of voters for a single precinct.

[(ii)**] (JJ)** "Principal minority party" means the principal political party whose candidate for Governor received the second highest number of votes of any party candidate at the last preceding general election.

[(jj)**] (KK)** "Principal political parties" means the majority party and the principal minority party.

[(kk)**] (LL)** "Provisional ballot" means a ballot that is cast by an individual but not counted until the individual's qualifications to vote have been confirmed by the local board.

[(ll)**] (MM)** "Responsible officers" means the chairman and treasurer of a political committee.

[(mm)**] (NN)** "Sample ballot" means a facsimile of a ballot used for informational purposes by a person or entity other than a local board.

[(nn)**] (OO)** "Slate" means a political committee of two or more candidates who join together to conduct and pay for joint campaign activities.

[(oo)**] (PP)** "Specimen ballot" means a facsimile of a ballot used by a local board to provide notice to registered voters of the contents of the ballot.

[(pp)**] (QQ)** "State Administrator" means the State Administrator of Elections.

[(qq)**] (RR)** "State Board" means the State Board of Elections.

[(rr)**] (SS)** "Transfer" means a monetary contribution that is made by one campaign finance entity to another campaign finance entity, other than one made by or to a political club.

[(ss)**] (TT)** "Treasurer" means an individual appointed in accordance with Title 13, Subtitle 2 of this article.

[(tt)**] (UU)** "Vote" means to cast a ballot that is counted.

[(uu)**] (VV)** "Voting machine" includes:

(1) a mechanical lever machine; and

(2) a direct recording electronic voting device.

[(vv)**] (WW)** "Voting machine ballot" means a ballot posted on or in the voting machine and referred to by the voter to indicate the voting locations for each contest.

[(ww)**] (XX)** "Voting system" means a method of casting and tabulating ballots or votes.

[(xx)**] (YY)** "Write–in candidate" means an individual whose name will not appear on the ballot but who files a certificate of candidacy in accordance with § 5–303 of this article.

[(yy)**] (ZZ)** "Write–in vote" means a vote cast, in a contest at a general election, for an individual whose name is not on the ballot for that contest.

13–104.

THE STATE BOARD MAY ACCEPT AN ELECTRONIC SIGNATURE FOR ANY FORM, DOCUMENT, REPORT, OR AFFIDAVIT REQUIRED BY THE STATE BOARD UNDER THIS TITLE.

13–304.

(a) **(1)** From the date of its organization until its termination under the provisions of this title, a campaign finance entity, except a political club, shall file a campaign finance report at the times, for the periods, and at the locations required by §§ 13–309, 13–312, and 13–316 of this subtitle.

(2) A CAMPAIGN FINANCE REPORT SUBMITTED USING AN ELECTRONIC FORMAT SHALL:

(I) BE MADE UNDER OATH OR AFFIRMATION;

(II) REQUIRE AN ELECTRONIC SIGNATURE FROM THE TREASURER AT THE TIME OF THE FILING OF THE CAMPAIGN FINANCE REPORT; AND

(III) BE MADE SUBJECT TO THE PENALTIES FOR PERJURY.

(b) A campaign finance report filed by a campaign finance entity under subsection (a) of this section shall include the information required by the State Board with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during the designated reporting period.

(c) A campaign finance report prescribed by this subtitle for the campaign finance entity of a candidate is required whether or not:

(1) the candidate files a certificate of candidacy;

(2) the candidate withdraws, declines a nomination, or otherwise ceases to be a candidate;

(3) the candidate's name appears on the primary ballot; or

(4) the candidate is successful in the election.

[13–305.

(a) Subject to subsection (b) of this section, a candidate's authorized political committee is not required to file the campaign finance reports required under § 13–304 of this subtitle if the responsible officers file an affidavit:

(1) on or before the day when the first campaign finance report is due; and

(2) stating that the campaign finance entity does not intend either to raise contributions in the cumulative amount of $1,000 or more or, exclusive of the filing fee, make expenditures in the cumulative amount of $1,000 or more.

(b) If the campaign finance entity receives cumulative contributions of $1,000 or more or makes cumulative expenditures of $1,000 or more, the campaign finance entity shall file all subsequent campaign finance reports required under this subtitle.

(c) (1) Notwithstanding subsection (a) of this section, and subject to subsection (d) of this section, the responsible officers of a candidate's authorized political committee may file an affidavit, instead of the campaign finance reports for the period required under § 13–309(a) of this subtitle for an election in which the political committee designates it will participate, if the affidavit:

(i) is filed on or before the day when the campaign finance report is due; and

(ii) states that the campaign finance entity did not raise contributions in the cumulative amount of $1,000 or more or, exclusive of the filing fee, make expenditures in the cumulative amount of $1,000 or more for the period.

(2) (i) So long as the campaign finance entity does not receive cumulative contributions of $1,000 or more or make cumulative expenditures of $1,000 or more during any reporting period:

1. the affidavit filed under paragraph (1) of this subsection remains in effect; and

2. the campaign finance entity is not required to file a campaign finance report required under § 13–309(a) of this subtitle.

(ii) A campaign finance entity subject to this paragraph shall file the annual campaign finance report required under § 13–309(b) of this subtitle.

(d) After filing an affidavit under subsection (c)(1) of this section, if the campaign finance entity receives cumulative contributions of $1,000 or more or makes cumulative expenditures of $1,000 or more in a period, the campaign finance entity shall file a campaign finance report for that period as required under § 13–309 of this subtitle on or before the day that the campaign finance report is due.

(e) A violation of subsections (b) or (d) of this section constitutes a failure to file by the campaign finance entity, and the responsible officers are guilty of a misdemeanor and on conviction are subject to the penalties prescribed under Part VII of this title.**]**

13–305.

(A) INSTEAD OF FILING A REPORT REQUIRED UNDER § 13–309 OF THIS SUBTITLE, A TREASURER MAY FILE AN AFFIDAVIT STATING THAT THE CAMPAIGN FINANCE ENTITY HAS NOT RAISED OR SPENT A CUMULATIVE AMOUNT OF ~~$500~~ $1,000 OR MORE, EXCLUSIVE OF THE FILING FEE, AND REGARDLESS OF THE BALANCE OF THE CAMPAIGN ACCOUNT, SINCE:

(1) ESTABLISHING THE CAMPAIGN FINANCE ENTITY; OR

(2) FILING THE CAMPAIGN FINANCE ENTITY'S LAST CAMPAIGN FINANCE REPORT.

(B) THE AFFIDAVIT SHALL BE FILED ON OR BEFORE THE DATE A CAMPAIGN FINANCE REPORT IS DUE TO BE FILED UNDER § 13–309 OF THIS SUBTITLE.

13–309.

(a) Subject to other provisions of this subtitle, a campaign finance entity shall file campaign finance reports as follows:

(1) except for a ballot issue committee, on or before the fourth Tuesday immediately preceding each primary election except a presidential primary election;

(2) except for a ballot issue committee, on or before the second Friday immediately preceding a primary election;

(3) on or before the second Friday immediately preceding a general election; and

(4) on or before the third Tuesday after a general election.

(b) (1) A campaign finance entity is subject to subsection (a) of this section and this subsection only as to the election in which the entity designates that it will participate.

(2) In addition to the campaign finance reports required under subsection (a) of this section, but subject to paragraph (4) of this subsection, a campaign finance entity shall file campaign finance reports on the third Wednesday in January.

(3) (i) If subsequent to the filing of its declaration under § 13–208(c)(3) of this title, a campaign finance entity participates in an election in which it was not designated to participate, the campaign finance entity shall file all campaign reports prescribed under subsection (a) of this section for that election.

(ii) A violation of subparagraph (i) of this paragraph constitutes a failure to file by the campaign finance entity, and the responsible officer is guilty of a misdemeanor and on conviction is subject to the penalties prescribed under Part VII of this subtitle.

(4) If a campaign finance entity has neither a cash balance nor an outstanding obligation at the end of a reporting period, a campaign finance report for that period, clearly marked as "final", shall be filed on or before the due date, and no further report is required.

(c) In addition to the campaign reports required under subsection (a) of this section, a continuing political committee shall file a campaign finance report on the third Wednesday in January of each year the committee is in existence.

13–312.

(A) Campaign finance reports filed under § 13–304 of this subtitle shall cover the following reporting periods:

(1) the first campaign finance report shall cover the period from the date of organization of the campaign finance entity through the day specified in item (3) of this section;

(2) each subsequent campaign finance report shall cover the period from the closing date of the previous campaign finance report through the day specified in item (3) of this section;

(3) (i) except as provided in item (ii) of this item, each campaign finance report shall cover the period that includes the seventh day before the day the campaign finance report is due; but

(ii) the campaign finance report that is required on or before the second Friday immediately preceding an election shall cover the period through and including the preceding Sunday; and

(4) if no contribution is received and no expenditure is made during the period covered by a campaign finance report, the campaign finance entity shall file a campaign finance report **OR AN AFFIDAVIT UNDER § 13–305 OF THIS SUBTITLE** to that effect.

(B) A CAMPAIGN FINANCE REPORT PRECEDED BY AN AFFIDAVIT FILED IN ACCORDANCE WITH THIS SUBTITLE SHALL COVER THE PERIOD FROM THE CLOSING DATE OF THE PREVIOUS CAMPAIGN FINANCE REPORT OR DATE OF ORGANIZATION OF THE CAMPAIGN FINANCE ENTITY THROUGH THE DAY SPECIFIED IN SUBSECTION (A)(3) OF THIS SECTION.

13–601.

(a) A person may not willfully make a false, fraudulent, or misleading statement or entry in any campaign finance report or other filing that is under oath and is required by this article.

(b) **A PERSON MAY NOT MAKE AN ELECTRONIC SUBMISSION OF A PRESCRIBED FORM, AFFIDAVIT, CAMPAIGN FINANCE REPORT, OR OTHER DOCUMENT ON BEHALF OF ANOTHER PERSON WITHOUT THAT PERSON'S EXPRESS CONSENT.**

(C) A person who violates this section is guilty of perjury and on conviction subject to the penalty provided under the Criminal Law Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 13, 2008.