LAWS

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CHAPTER 544

(House Bill 1441)

AN ACT concerning

Baltimore City – Tax Increment Financing and Special Tax Districts – MEDCO

FOR the purpose of providing that certain special funds established with respect to certain development districts in Baltimore City may be used to pay or reimburse the Mayor and City Council of Baltimore under certain circumstances for certain debt service on certain bonds, notes, or similar instruments issued by the Maryland Economic Development Corporation; providing that certain special funds established with respect to certain special taxing districts in Baltimore City may under certain circumstances be applied in a certain manner for certain purposes, accumulated for payment of certain debt service on certain bonds, or used to pay or reimburse the Mayor and City Council of Baltimore for certain debt service on certain bonds, notes, or similar instruments issued by certain entities; defining certain terms; and generally relating to certain authority for tax increment financing and special taxing districts in Baltimore City.

BY adding to
The Charter of Baltimore City
Article II – General Powers
Section (62)(b)(18) and (62A)(b)(7)
(2006 Edition, as amended)

BY repealing and reenacting, with amendments,
The Charter of Baltimore City
Article II – General Powers
Section (62)(e)(2)(iii) and (62A)(f)
(2006 Edition, as amended)

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

The Charter of Baltimore City

Article II – General Powers

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of

Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(62)

(b) **(18) "STATE OBLIGATIONS" MEANS ANY BONDS OR BOND, NOTES OR NOTE, OR OTHER SIMILAR INSTRUMENTS OR INSTRUMENT ISSUED BY THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION, THE STATE OF MARYLAND, OR ANY AGENCY, DEPARTMENT, OR POLITICAL SUBDIVISION THEREOF, THE PROCEEDS OF WHICH HAVE BEEN USED FOR ANY OF THE PURPOSES SPECIFIED IN SUBSECTION (C) OF THIS SECTION.**

(e) (2) When no bonds authorized by this section are outstanding with respect to a development district and the Mayor and City Council of Baltimore by ordinance so determines, moneys in the special fund for that development district created pursuant to subsection (d)(3)(ii) of this section may be:

(iii) used to pay or to reimburse the Mayor and City Council of Baltimore for debt service which the Mayor and City Council of Baltimore is obligated to pay or has paid (whether such obligation is general or limited) on **[**bonds issued by the Mayor and City Council of Baltimore, the State of Maryland, or any agency, department, or political subdivision thereof, the proceeds of which have been used for any of the purposes specified in subsection (c) of this section**] ANY BONDS OR STATE OBLIGATIONS**; or

(62A)

(b) **(7) "STATE OBLIGATIONS" MEANS ANY BONDS OR BOND, NOTES OR NOTE, OR OTHER SIMILAR INSTRUMENTS OR INSTRUMENT ISSUED BY THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION, THE STATE OF MARYLAND, OR ANY AGENCY, DEPARTMENT, OR POLITICAL SUBDIVISION THEREOF, PROVIDED:**

(I) SUCH BONDS ARE ISSUED FOR THE PURPOSES SPECIFIED IN SUBSECTION (A)(2) OF THIS SECTION;

(II) A REQUEST HAS BEEN MADE TO THE MAYOR AND CITY COUNCIL OF BALTIMORE BY BOTH:

1. THE OWNERS OF AT LEAST TWO–THIRDS OF THE ASSESSED VALUATION OF THE REAL PROPERTY LOCATED WITHIN THE SPECIAL TAXING DISTRICT; AND

2. AT LEAST TWO–THIRDS OF THE OWNERS OF THE REAL PROPERTY LOCATED WITHIN THE SPECIAL TAXING DISTRICT, PROVIDED THAT MULTIPLE OWNERS OF A SINGLE PARCEL ARE TREATED AS A SINGLE OWNER; AND A SINGLE OWNER OF MULTIPLE PARCELS IS TREATED AS ONE OWNER; AND

(III) THE PROCEEDS OF SUCH BONDS HAVE BEEN APPLIED IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

(f) **(1) WHEN NO BONDS AUTHORIZED BY THIS SECTION ARE OUTSTANDING WITH RESPECT TO A SPECIAL TAXING DISTRICT AND THE MAYOR AND CITY COUNCIL OF BALTIMORE BY ORDINANCE SO DETERMINES, MONEYS IN THE SPECIAL FUND FOR THAT SPECIAL TAXING DISTRICT CREATED PURSUANT TO SUBSECTION (E)(1) OF THIS SECTION MAY BE:**

(I) APPLIED AS PROVIDED IN SUBSECTION (D) OF THIS SECTION IN ACCORDANCE WITH THE PURPOSES SET FORTH IN SUBSECTION (A)(2) OF THIS SECTION;

(II) ACCUMULATED FOR PAYMENT OF DEBT SERVICE ON BONDS SUBSEQUENTLY ISSUED UNDER THIS SECTION FOR ANY OF THE PURPOSES DESCRIBED IN SUBSECTION (A)(2) AND WHOSE PROCEEDS ARE TO BE APPLIED IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION; OR

(III) USED TO PAY OR TO REIMBURSE THE MAYOR AND CITY COUNCIL OF BALTIMORE FOR DEBT SERVICE WHICH THE MAYOR AND CITY COUNCIL OF BALTIMORE IS OBLIGATED TO PAY OR HAS PAID (WHETHER SUCH OBLIGATION IS GENERAL OR LIMITED) ON ANY BONDS OR STATE OBLIGATIONS.

(2) (I) THE MAYOR AND CITY COUNCIL OF BALTIMORE MAY ENACT AN ORDINANCE CREATING A SPECIAL FUND DESCRIBED IN SUBSECTION (E)(1)(II) OF THIS SECTION WITH RESPECT TO A SPECIAL TAXING DISTRICT, EVEN THOUGH NO BONDS AUTHORIZED BY THIS SECTION HAVE BEEN ISSUED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE WITH RESPECT TO THAT SPECIAL TAXING DISTRICT OR ARE THEN OUTSTANDING.

(II) THE TAXES ALLOCATED TO SUCH SPECIAL FUND BY SUBSECTION (E)(2) OF THIS SECTION SHALL THEREAFTER BE PAID OVER TO SUCH SPECIAL FUND, AS LONG AS SUCH ORDINANCE REMAINS IN EFFECT.

(3) When no bonds authorized by this section are outstanding with respect to a special taxing district:

[(1)**]** **(I)** the special taxing district shall be terminated; and

[(2)**]** **(II)** any moneys remaining in the special fund on the date of termination of the special taxing district shall be paid to the general fund of the Mayor and City Council of Baltimore.

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

Approved by the Governor, May 13, 2008.

CHAPTER 545

(House Bill 1444)

AN ACT concerning

Academic Facilities Bonding Authority

FOR the purpose of approving certain projects for the acquisition, development, and improvement of certain academic facilities for the University System of Maryland; authorizing the University System of Maryland to issue bonds, in a certain total principal amount of money, to finance certain projects; providing that the bonds issued under the authority of this Act are not a debt or obligation of the State or any of its subdivisions; and generally relating to academic facilities bonding authority.

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

(a) In accordance with § 19–102(d) of the Education Article, each of the following projects is approved as a project for an academic facility, and the University System of Maryland may issue, sell, and deliver bonds in the total principal amount of $16,000,000 for the purposes of financing and refinancing the costs of these projects:

(1) University of Maryland, Baltimore (Baltimore City): Pharmacy Hall Addition and Renovation

(2) University of Maryland, College Park (Prince George's County): New Journalism Building

(3) Towson University (Baltimore County): Campus–Wide Safety and Circulation Improvements

(b) In accordance with § 19–102(d) of the Education Article, such system–wide capital facilities renewal projects for the constituent institutions and centers of the University System of Maryland as are authorized by the Board are hereby approved as projects for academic facilities, and the University System of Maryland may issue, sell, and deliver bonds in the total principal amount of $17,000,000 for the purposes of financing and refinancing the costs of those facilities renewal projects.

(c) The bonds issued under the authority of this Act do not create or constitute any indebtedness or obligation of the State or of any political subdivision thereof except the University System of Maryland, and the bonds shall so state on their face. The bonds do not constitute a debt or obligation contracted by the General Assembly of Maryland or pledge the faith and credit of the State within the meaning of Article III, § 34 of the Maryland Constitution.

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

Approved by the Governor, May 13, 2008.

CHAPTER 546

(House Bill 1479)

AN ACT concerning

Prince George's County – Alcoholic Beverages – Convention Center License

PG 331–08

FOR the purpose of establishing a Class B–CC (convention center) beer, wine and liquor license in Prince George's County; specifying that a license may be issued only to a certain establishment that is equipped with certain rooms and

facilities; providing for an annual license fee; requiring that the total average daily receipts from certain sources exceed the average daily receipts from the sale of alcoholic beverages; specifying certain hours of sale; authorizing the sale of alcoholic beverages from locked, prestocked private bars under certain circumstances; authorizing the sale of alcoholic beverages and dancing and live entertainment throughout the licensed establishment; specifying that this Act does not preclude a license holder from having an interest in certain other licenses; providing for certain exceptions to certain licensing restrictions; making this Act an emergency measure; and generally relating to the Class B–CC (convention center) alcoholic beverages license in Prince George's County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–201(r)(1)(i) and 9–217(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 6–201(r)(16)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–101(d)(6), 9–102(a), and 9–217(d)
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

6–201.

(r) (1) (i) This subsection applies only in Prince George's County.

(16) (I) THERE IS A CLASS B–CC (CONVENTION CENTER) BEER, WINE AND LIQUOR LICENSE.

(II) A CLASS B–CC LICENSE MAY BE ISSUED ONLY TO AN ESTABLISHMENT THAT IS RECOGNIZED AS A HOTEL FOR THE ACCOMMODATION OF THE PUBLIC THAT PROVIDES SERVICES ORDINARILY PROVIDED IN HOTELS AND THAT IS EQUIPPED WITH:

1. AT LEAST 1,500 BEDROOMS;

2. AT LEAST THREE DINING AREAS WITH FACILITIES FOR PREPARING AND SERVING REGULAR MEALS;

3. ROOMS FOR MEETINGS, DISPLAYS, BANQUETS, BALLS, DANCING, AND LIVE ENTERTAINMENT; AND

4. A BAR AND ENTERTAINMENT OR DANCING AREA COMMONLY RECOGNIZED AS A NIGHTCLUB.

(III) THE ANNUAL LICENSE FEE IS $20,000.

(IV) THE TOTAL AVERAGE DAILY RECEIPTS FROM THE HIRE OF MEETING ROOMS, BEDROOMS, AND THE SALE OF FOOD OF A CLASS B–CC LICENSED ESTABLISHMENT SHALL EXCEED THE AVERAGE DAILY RECEIPTS FROM THE SALE OF ALCOHOLIC BEVERAGES.

(V) THE HOURS DURING WHICH ALCOHOLIC BEVERAGES MAY BE SERVED AT A CLASS B–CC LICENSED ESTABLISHMENT ARE FROM 6 A.M. UNTIL 3 A.M. THE NEXT MORNING, 7 DAYS A WEEK.

(VI) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, ALCOHOLIC BEVERAGES MAY BE SOLD FROM A LOCKED, PRESTOCKED PRIVATE BAR IN AN INDIVIDUAL GUEST ROOM IF THE CHARGES FOR THE ALCOHOLIC BEVERAGES SOLD ARE INDICATED ON THE GUEST ROOM BILL.

2. THE MANAGEMENT OF THE ESTABLISHMENT SHALL REMOVE THE BAR KEY FROM ANY ROOM THAT IS RENTED TO A GUEST UNDER THE AGE OF 21 YEARS.

(VII) ALCOHOLIC BEVERAGES MAY BE SOLD FOR CONSUMPTION ON THE PREMISES THROUGHOUT THE LICENSED ESTABLISHMENT, BOTH INDOORS AND OUTDOORS, INCLUDING MEETING AND BANQUET ROOMS, PATIOS, VERANDAS, QUAYS, AND GREEN SPACES.

(VIII) DANCING AND LIVE ENTERTAINMENT ARE AUTHORIZED THROUGHOUT THE LICENSED ESTABLISHMENT.

(IX) THIS PARAGRAPH DOES NOT PRECLUDE A HOLDER OF A CLASS B–CC LICENSE FROM HAVING AN INTEREST IN OTHER ALCOHOLIC BEVERAGES LICENSES IN THE COUNTY.

9–101.

(d) (6) This section does not apply to racetrack licenses, Class BLX licenses, arena licenses, Class BCE (catering) licenses, **CLASS B–CC (CONVENTION CENTER) LICENSES,** Class B/ECF (educational conference facility) licenses, issuance, renewal, or transfer of Class B–DD (development district) licenses, or to businesses whose sales of stock or interests are authorized for sale by the Securities and Exchange Commission of the United States.

9–102.

(a) No more than one license provided by this article, except by way of renewal or as otherwise provided in this section, shall be issued in any county or Baltimore City, to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company, in Baltimore City or any county of the State, and no more than one license shall be issued for the same premises except as provided in §§ 2–201 through 2–208, 2–301, and 6–701, and nothing herein shall be construed to apply to § 6–201(r)(15), **§ 6–201(R)(16),** § 7–101(b) and (c), § 8–202(g)(2)(ii) and (iii), § 8–508, or § 12–202 of this article.

9–217.

(a) This section applies only in Prince George's County.

(d) This section does not apply to a license issued under the provisions of § 6–201(r)(2), (5), **[**or**]** (15), **OR (16),** or § 7–101 of this article.

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 547

(House Bill 1513)

AN ACT concerning

Maryland Affordable Housing Trust – Board of Trustees – Membership

FOR the purpose of removing the representative of a certain organization from the membership of the Maryland Affordable Housing Trust; altering the number of voting trustees who are representatives of the public that the Governor is authorized to appoint; and generally relating to the Maryland Affordable Housing Trust.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 10–104
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

10–104.

(a) (1) The Board consists of 14 trustees.

(2) The nonvoting trustees are:

(i) the Secretary;

(ii) a member of the House of Delegates, appointed by the Speaker of the House; and

(iii) a member of the Senate, appointed by the President of the Senate.

(3) With the advice and consent of the Senate, the Governor shall appoint 11 voting trustees, consisting of:

(i) **[**three**]** **FOUR** representatives of the public; and

(ii) one representative of each of the following:

1. title companies doing business in the State;

[2. the Maryland Center for Community Development;**]**

[3.**] 2.** financial institutions doing business in the State;

[4.**] 3.** political subdivisions;

[5.**] 4.** nonprofit housing developers;

[6.**] 5.** for profit housing developers;

[7.**] 6.** public housing authorities; and

[8.**] 7.** social services providers.

(b) In appointing trustees, the Governor shall consider geographic representation.

(c) Service as a trustee is not a State office or State employment for purposes of any prohibition against holding two public positions.

(d) (1) The term of a voting trustee is 4 years.

(2) The terms of voting trustees are staggered as required by the terms provided for voting trustees on October 1, 2005.

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

(4) A voting trustee who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

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

Approved by the Governor, May 13, 2008.

CHAPTER 548

(House Bill 1534)

AN ACT concerning

College Savings Plans of Maryland

FOR the purpose of authorizing the College Savings Plans of Maryland Board to establish the Maryland Broker–Dealer College Investment Plan for certain purposes; requiring the Board to oversee the administration of the Broker–Dealer Plan; providing that neither the faith and credit nor the taxing power of the State is pledged to the payment of debts, contracts, and obligations of the Broker–Dealer Plan; providing for the administration of the Broker–Dealer Plan; requiring the Board to maintain the Broker–Dealer Plan in compliance with certain standards for qualified State tuition programs; requiring the Board to issue certain statements to participants at least annually; providing that the assets and the income of the Broker–Dealer Plan are exempt from State and local taxation; allowing a subtraction modification under the State income tax for certain contributions to an account under the Broker–Dealer Plan~~, subject to a certain limitation;~~; clarifying a certain limitation on certain subtraction modifications for certain contributions to certain accounts under the College Savings Plans of Maryland; allowing certain amounts disallowed under the subtraction modification as a result of a certain limitation to be carried over and subtracted for succeeding taxable years; requiring an addition modification for certain distributions made under certain investment accounts; allowing a subtraction modification for certain distributions under certain investment accounts; providing for the construction and application of this Act; clarifying certain distribution requirements and eliminating the reference to refunds under the Maryland College Investment Plan; defining certain terms; and generally relating to the Maryland College Investment Plan and the Maryland Broker–Dealer College Investment Plan.

BY repealing and reenacting, with amendments,
Article – Education
Section 18–1901, 18–1902.1, 18–1904(b), 18–1905, 18–19A–04, and 18–19A–05
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 18–1904(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Education
Section 18–19B–01 through 18–19B–08 to be under the new subtitle "Subtitle 19B. Maryland Broker–Dealer College Investment Plan"
Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–205(a), 10–207(a), and 10–208(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–205(h), 10–207(s), and 10–208(o)
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 – Education

18–1901.

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

(b) "Account holder" means an individual who:

(1) Makes or undertakes the obligation to make advance payments of qualified higher education expenses as provided under a prepaid contract; and

(2) Except as provided in § 18–1909(b) of this subtitle, is a resident of Maryland or of the District of Columbia at the time that the account holder enters into a prepaid contract.

(c) "Board" means the College Savings Plans of Maryland Board.

(D) "BROKER–DEALER PLAN" MEANS THE MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN ESTABLISHED UNDER SUBTITLE 19B OF THIS TITLE.

[(d)**] (E)** "Current prepaid contract obligations" means the scheduled payments due for the next fiscal year under existing prepaid contracts.

[(e)**] (F)** "Eligible institution of higher education" means an institution of higher education that:

(1) Offers an associate, bachelor, or graduate degree program; and

(2) Is eligible to participate in federal financial aid programs.

[(f)**] (G)** "Market value of program assets" means the amount of cash and cash equivalents held by the Trust plus the fair market value of other assets of the Trust.

[(g)**] (H)** "Plan" means the Maryland College Investment Plan established under Subtitle 19A of this title.

[(h)**] (I)** "Prepaid contract" means a contract between the Board and an account holder under the provisions of this subtitle for the advance payment of qualified higher education expenses by the account holder for a qualified beneficiary to attend an eligible institution of higher education, if the qualified beneficiary is admitted to the institution.

[(i)**] (J)** "Program" means the College Savings Plans of Maryland.

[(j)**] (K)** "Qualified beneficiary" means an individual who:

(1) Is eligible to apply advance payments of qualified higher education expenses to undergraduate or graduate qualified higher education expenses at an eligible institution of higher education under the provisions of this subtitle; and

(2) Except as provided in § 18–1909(b) of this subtitle, is a resident of the State or of the District of Columbia at the time that the account holder enters into a prepaid contract.

[(k)**] (L)** "Qualified higher education expenses" has the meaning stated in § 529(e) of the Internal Revenue Code.

[(l)**] (M)** "Qualified state tuition program" has the meaning stated in § 529 of the Internal Revenue Code.

[(m)**] (N)** "Trust" means the Maryland Prepaid College Trust established under this subtitle.

[(n)**] (O)** (1) "Tuition" means the actual tuition and mandatory fees assessed to all students by an eligible institution of higher education as a condition of enrollment at the institution.

(2) "Tuition" does not include any fee that is assessed by the institution for a particular course taken, year of enrollment, academic status, course of study, residency status, or any other distinguishing factor used by the institution to determine a specific fee.

18–1902.1.

(a) There is a program entitled the College Savings Plans of Maryland.

(b) The purpose of the Program is to provide for the administration by the Board of the Maryland Prepaid College Trust**, [**and**]** the Maryland College Investment Plan**, AND THE MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN**.

18–1904.

(a) There is a College Savings Plans of Maryland Board.

(b) The Board shall administer:

(1) The Maryland Prepaid College Trust established under this subtitle; **[**and**]**

(2) The Maryland College Investment Plan established under Subtitle 19A of this title**; AND**

(3) THE MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN ESTABLISHED UNDER SUBTITLE 19B OF THIS TITLE.

18–1905.

(a) The Board, from among the members of the Board, shall elect a chairman and may elect additional officers that the Board considers necessary.

(b) The Board shall determine the times and places of meetings.

(c) A member of the Board:

(1) May not receive compensation;

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations; and

(3) Shall file a public disclosure of financial interests as required under the Maryland Public Ethics Law.

(d) (1) The Board:

(i) Shall appoint a Program executive director who is in the executive service of the State Personnel Management System; and

(ii) May employ additional staff in accordance with the budget.

(2) (i) Except for employees described in subparagraph (ii) or (iii) of this paragraph, the employees shall be skilled service employees subject to the provisions of the State Personnel and Pensions Article that govern skilled service employees.

(ii) An employee is in the professional service and subject to the provisions of the State Personnel and Pensions Article that govern professional service employees if the position:

1. Requires knowledge of an advanced type in a field of science or learning customarily acquired by a course of specialized intellectual instruction and study; and

2. Normally requires a professional license, an advanced degree, or both.

(iii) An employee is in the management service and subject to the provisions of the State Personnel and Pensions Article that govern management service employees if the position:

1. Primarily involves direct responsibility for the oversight and management of personnel and financial resources;

2. Requires the exercise of discretion and independent judgment; and

3. Is not in the executive service.

(3) The Board may retain the services of consultants, administrators, and other personnel, as necessary, to administer the Trust, **[**or**]** the Plan**, OR THE BROKER–DEALER PLAN**.

(4) The budget for the Program, the Board, and its staff is subject to review by the General Assembly for information purposes only.

(e) The Board may adopt any regulations that the Board considers necessary to carry out the provisions of this subtitle or Subtitle 19A **OR SUBTITLE 19B** of this title.

(f) In addition, the Board may:

(1) Adopt an official seal;

(2) Sue and be sued;

(3) Execute contracts and other necessary instruments;

(4) Hold, buy, and sell instruments, obligations, securities, and other investments consistent with its comprehensive investment plan;

(5) Enter into agreements with eligible institutions of higher education and other public or private entities for the promotion, administration, or marketing of the Program, the Trust, **[**or**]** the Plan**, OR THE BROKER–DEALER PLAN**;

(6) Invest funds not required for immediate disbursement;

(7) Solicit and accept gifts, grants, loans, or other aid from any source or participate in any government program for purposes consistent with this subtitle and **[**Subtitle**] SUBTITLES** 19A **AND 19B** of this title;

(8) Subject to the review of the General Assembly, impose and collect reasonable administrative fees for any transactions under the Trust**, [**or**]** the Plan**, OR THE BROKER–DEALER PLAN** or involving prepaid contracts or transactions affecting the Program, the Trust, **[**or**]** the Plan**, OR THE BROKER–DEALER PLAN**;

(9) Procure insurance against any loss of assets of the Program, the Trust, **[**or**]** the Plan**, OR THE BROKER–DEALER PLAN**;

(10) Endorse insurance coverage written exclusively for the purpose of protecting:

(i) A prepaid contract under the Trust and the account holder and the qualified beneficiary of the contract; or

(ii) An investment account under the Plan, **OR THE BROKER–DEALER PLAN,** and the account holder and qualified designated beneficiary of the investment account.

(11) Designate terms under which money may be withdrawn from the Program, the Trust, **[**or**]** the Plan**, OR THE BROKER–DEALER PLAN**;

(12) Establish additional procedural and substantive requirements for participation in and the administration or marketing of the Program, the Trust, **[**or**]** the Plan**, OR THE BROKER–DEALER PLAN**;

(13) Appear on the Board's own behalf before other boards, commissions, or other governmental agencies; and

(14) Take any other action that the Board considers appropriate to implement and administer the Program, the Trust, **[**or**]** the Plan**, OR THE BROKER–DEALER PLAN**.

18–19A–04.

(a) A Maryland resident or a nonresident of Maryland may participate in and benefit from the Plan.

(b) **[**Distributions from the Plan may be used only for qualified higher education expenses.

(c) Refunds shall be disbursed to the account holder of the investment account**] DISTRIBUTIONS SHALL BE REQUESTED BY THE ACCOUNT HOLDER**.

18–19A–05.

(a) (1) The debts, contracts, and obligations of the Plan are not the contracts, debts, or obligations of the State and neither the faith and credit nor taxing power of the State is pledged directly or indirectly or contingently, morally or otherwise, to the payment of the debts, contracts, and obligations.

(2) The Board cannot directly or indirectly or contingently obligate, morally or otherwise, the State to levy or pledge any form of taxation whatsoever for the debts and obligations of the Plan or to make any appropriation for the payment of the debts and obligations of the Plan.

(b) Neither the State nor any eligible educational institution shall be liable for any losses or shortage of funds in the event that the account holder's investment account balance is insufficient to meet the tuition requirements of an institution attended by the qualified designated beneficiary.

(c) Moneys of the Plan may not be considered moneys of the State or deposited in the State Treasury.

(d) Moneys of the Plan may not be considered moneys of or commingled with the Maryland Prepaid College Trust.

(E) MONEYS OF THE PLAN MAY NOT BE CONSIDERED MONEYS OF OR COMMINGLED WITH THE MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN.

SUBTITLE 19B. MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN.

18–19B–01.

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

(B) "ACCOUNT HOLDER" MEANS THE PERSON WHO ESTABLISHED AN INVESTMENT ACCOUNT ON BEHALF OF A QUALIFIED DESIGNATED BENEFICIARY.

(C) "BOARD" MEANS THE COLLEGE SAVINGS PLANS OF MARYLAND BOARD ESTABLISHED UNDER § 18–1904 OF THIS TITLE.

(D) "BROKER–DEALER PLAN" MEANS THE MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN ESTABLISHED UNDER THIS SUBTITLE.

(E) "ELIGIBLE EDUCATIONAL INSTITUTION" HAS THE MEANING STATED IN § 529(E) OF THE INTERNAL REVENUE CODE.

(F) "INVESTMENT ACCOUNT" MEANS AN ACCOUNT ESTABLISHED BY AN ACCOUNT HOLDER UNDER THIS SUBTITLE ON BEHALF OF A QUALIFIED DESIGNATED BENEFICIARY FOR THE PURPOSE OF APPLYING DISTRIBUTIONS TOWARD QUALIFIED HIGHER EDUCATION EXPENSES AT ELIGIBLE EDUCATIONAL INSTITUTIONS.

(G) "QUALIFIED DESIGNATED BENEFICIARY" HAS THE MEANING STATED IN § 529(E) OF THE INTERNAL REVENUE CODE.

(H) "QUALIFIED HIGHER EDUCATION EXPENSES" HAS THE MEANING STATED IN § 529(E) OF THE INTERNAL REVENUE CODE.

(I) "QUALIFIED STATE TUITION PROGRAM" HAS THE MEANING STATED IN § 529 OF THE INTERNAL REVENUE CODE.

18–19B–02.

(A) THE BOARD MAY ESTABLISH A MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN.

(B) THE PURPOSE OF THE BROKER–DEALER PLAN IS TO PROVIDE FOR A BROKER–DEALER DISTRIBUTED VEHICLE THAT WOULD ALLOW CONTRIBUTIONS TO AN INVESTMENT ACCOUNT ESTABLISHED FOR THE

PURPOSES OF MEETING THE QUALIFIED HIGHER EDUCATION EXPENSES OF THE QUALIFIED DESIGNATED BENEFICIARY OF THE ACCOUNT.

(C) (1) THE BOARD SHALL ADMINISTER, MANAGE, AND PROMOTE THE BROKER–DEALER PLAN.

(2) THE BOARD SHALL ADMINISTER THE BROKER–DEALER PLAN IN COMPLIANCE WITH INTERNAL REVENUE SERVICE STANDARDS FOR QUALIFIED STATE TUITION PROGRAMS.

(D) (1) THE BOARD SHALL ADOPT PROCEDURES RELATING TO:

(I) ENROLLMENT PROCEDURES FOR PARTICIPATION IN THE BROKER–DEALER PLAN;

(II) START–UP COSTS INCURRED BY THE STATE FOR THE DEVELOPMENT OF THE BROKER–DEALER PLAN WITH THESE COSTS TO BE REIMBURSED TO THE STATE BY THE BROKER–DEALER PLAN;

(III) EARLY WITHDRAWALS SO THAT THERE WILL BE NO MAJOR DETRIMENT TO THE REMAINING ACCOUNT HOLDERS IN THE BROKER–DEALER PLAN; AND

(IV) TRANSFER OF FUNDS FROM THE BROKER–DEALER PLAN TO OTHER QUALIFIED STATE TUITION PROGRAMS AND FROM OTHER QUALIFIED STATE TUITION PROGRAMS TO THE BROKER–DEALER PLAN IN ACCORDANCE WITH FEDERAL LAW; AND

(2) THE BOARD SHALL ADOPT ANY OTHER PROCEDURES THAT THE BOARD CONSIDERS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

(E) AT LEAST ANNUALLY, THE BOARD SHALL ISSUE TO EACH ACCOUNT HOLDER A STATEMENT THAT PROVIDES A SEPARATE ACCOUNTING FOR EACH QUALIFIED DESIGNATED BENEFICIARY PROVIDING THE FOLLOWING INFORMATION WITH RESPECT TO EACH ACCOUNT:

(1) THE BEGINNING BALANCE;

(2) CONTRIBUTIONS TO THE ACCOUNT;

(3) WITHDRAWALS FROM THE ACCOUNT DURING THE PREVIOUS YEAR; AND

(4) ENDING INVESTMENT ACCOUNT VALUE.

18–19B–03.

(A) (1) THE BOARD MAY ISSUE REQUESTS FOR PROPOSALS TO EVALUATE AND DETERMINE THE MEANS FOR THE ADMINISTRATION, MANAGEMENT, PROMOTION, OR MARKETING OF THE BROKER–DEALER PLAN.

(2) THE BOARD SHALL CONSIDER PROPOSALS THAT MEET THE FOLLOWING CRITERIA:

(I) ABILITY TO DEVELOP AND ADMINISTER AN INVESTMENT PROGRAM OF A NATURE SIMILAR TO THE OBJECTIVES OF THE BROKER–DEALER PLAN;

(II) ABILITY TO ADMINISTER FINANCIAL PROGRAMS WITH INDIVIDUAL ACCOUNT RECORDS AND REPORTING; AND

(III) ABILITY TO MARKET THE BROKER–DEALER PLAN TO MARYLAND RESIDENTS AND, AT THE BOARD'S DISCRETION, NONRESIDENTS OF MARYLAND.

(B) (1) THE BOARD MAY REQUIRE AN INITIAL ENROLLMENT FEE TO BE USED FOR ADMINISTRATIVE COSTS OF THE BROKER–DEALER PLAN.

(2) THE BOARD MAY REQUIRE ADDITIONAL FEES ASSOCIATED WITH THE EXPENSES OF THE BROKER–DEALER PLAN.

(C) (1) CONTRIBUTIONS TO THE BROKER–DEALER PLAN ON BEHALF OF A QUALIFIED DESIGNATED BENEFICIARY MAY NOT EXCEED THE MAXIMUM AMOUNT DETERMINED BY THE BOARD TO BE IN ACCORDANCE WITH § 529 OF THE INTERNAL REVENUE CODE.

(2) CONTRIBUTIONS TO THE BROKER–DEALER PLAN MAY BE MADE ONLY IN CASH OR CASH EQUIVALENTS.

(3) THE BROKER–DEALER PLAN SHALL INCLUDE PROVISIONS FOR AUTOMATIC CONTRIBUTIONS.

(D) (1) THE BROKER–DEALER PLAN:

(I) MAY BE ESTABLISHED AS ONE OR MORE SEPARATE PLANS AS DETERMINED BY THE BOARD;

(II) IF ESTABLISHED BY THE BOARD, SHALL BE ESTABLISHED IN THE FORM DETERMINED BY THE BOARD;

(III) SHALL BE MARKETED AND PROMOTED UNDER THE NAME OR NAMES DETERMINED BY THE BOARD; AND

(IV) MAY BE ESTABLISHED AS ONE OR MORE TRUSTS TO BE DECLARED BY THE BOARD.

(2) THE BROKER–DEALER PLAN MAY BE DIVIDED INTO MULTIPLE INVESTMENT OPTIONS.

18–19B–04.

(A) A MARYLAND RESIDENT OR, AT THE BOARD'S DISCRETION, A NONRESIDENT OF MARYLAND MAY PARTICIPATE IN AND BENEFIT FROM THE BROKER–DEALER PLAN.

(B) DISTRIBUTIONS SHALL BE REQUESTED BY THE ACCOUNT HOLDER.

18–19B–05.

(A) (1) THE DEBTS, CONTRACTS, AND OBLIGATIONS OF THE BROKER–DEALER PLAN ARE NOT THE CONTRACTS, DEBTS, OR OBLIGATIONS OF THE STATE AND NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE STATE IS PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY, MORALLY OR OTHERWISE, TO THE PAYMENT OF THE DEBTS, CONTRACTS, AND OBLIGATIONS.

(2) THE BOARD CANNOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE, MORALLY OR OTHERWISE, THE STATE TO LEVY OR PLEDGE ANY FORM OF TAXATION WHATSOEVER FOR THE DEBTS AND OBLIGATIONS OF THE BROKER–DEALER PLAN OR TO MAKE ANY APPROPRIATION FOR THE PAYMENT OF THE DEBTS AND OBLIGATIONS OF THE BROKER–DEALER PLAN.

(B) NEITHER THE STATE NOR ANY ELIGIBLE EDUCATIONAL INSTITUTION SHALL BE LIABLE FOR ANY LOSSES OR SHORTAGE OF FUNDS IN THE EVENT THAT THE ACCOUNT HOLDER'S INVESTMENT ACCOUNT BALANCE IS INSUFFICIENT TO MEET THE TUITION REQUIREMENTS OF AN INSTITUTION ATTENDED BY THE QUALIFIED DESIGNATED BENEFICIARY.

(C) MONEYS OF THE BROKER–DEALER PLAN MAY NOT BE CONSIDERED MONEYS OF THE STATE OR DEPOSITED IN THE STATE TREASURY.

(D) MONEYS OF THE BROKER–DEALER PLAN MAY NOT BE CONSIDERED MONEYS OF OR COMMINGLED WITH THE MARYLAND PREPAID COLLEGE TRUST.

(E) MONEYS OF THE BROKER–DEALER PLAN MAY NOT BE CONSIDERED MONEYS OF OR COMMINGLED WITH THE MARYLAND COLLEGE INVESTMENT PLAN.

18–19B–06.

(A) THE BOARD, THE BROKER–DEALER PLAN, AND THE INVESTMENT ACCOUNTS ISSUED UNDER THIS SUBTITLE ARE NOT SUBJECT TO THE PROVISIONS OF THE INSURANCE ARTICLE.

(B) THE ASSETS AND INCOME OF THE MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN ARE EXEMPT FROM STATE AND LOCAL TAXATION.

18–19B–07.

(A) IN THIS SECTION, "PERSON" DOES NOT INCLUDE THE STATE.

(B) A PERSON MAY NOT ATTACH, EXECUTE, GARNISH, OR OTHERWISE SEIZE ANY CURRENT OR FUTURE BENEFIT UNDER AN INVESTMENT ACCOUNT OR ANY ASSET OF THE BROKER–DEALER PLAN.

18–19B–08.

(A) (1) THE LEGISLATIVE AUDITOR SHALL AUDIT THE BROKER–DEALER PLAN AS PROVIDED UNDER TITLE 2, SUBTITLE 12 OF THE STATE GOVERNMENT ARTICLE.

(2) THE BOARD SHALL OBTAIN AN ANNUAL AUDIT REPORT FROM SERVICE PROVIDER(S) WITHIN SIX MONTHS OF THE END OF SUCH SERVICE PROVIDER'S REPORTING PERIOD.

Article – Tax – General

10–205.

(a) In addition to the modification under § 10–204 of this subtitle, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(h) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Account holder" means an account holder as defined in § 18–1901**, § 18–19A–01, OR § 18–19B–01** of the Education Article ~~or account holder as defined in §§ 18–19A–01 AND 18–19B–01 of the Education Article~~.

(iii) "Qualified designated beneficiary" ~~has the meaning stated in §§ 18–19A–01 AND 18–19B–01~~ **MEANS A QUALIFIED DESIGNATED BENEFICIARY AS DEFINED IN § 18–19A–01 OR § 18–19B–01** of the Education Article.

(iv) "Qualified beneficiary" has the meaning stated in § 18–1901 of the Education Article.

(v) "Qualified higher education expenses" has the meaning stated in § 529 of the Internal Revenue Code.

(2) The addition under subsection (a) of this section includes the amount of:

(i) any refund received in the taxable year by an account holder under a prepaid contract in accordance with the Maryland Prepaid College Trust **[**or under an investment account in accordance with the Maryland College Investment Plan**]**; or

(ii) any distribution received in the taxable year by an account holder under a prepaid contract in accordance with the Maryland Prepaid College Trust or under an investment account in accordance with the Maryland College Investment Plan **OR THE MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN** that is not used on behalf of the qualified beneficiary or qualified designated beneficiary for qualified higher education expenses.

(3) The amount of the addition required under this subsection shall be reduced by any amount included in the individual's federal adjusted gross income as a result of the refund **OR DISTRIBUTION**.

(4) The cumulative amount of the addition under this subsection for the taxable year and all prior taxable years may not exceed the cumulative amount allowed as a subtraction:

(i) under § 10–208(n) of this subtitle for the taxable year and all prior taxable years for the account holder's payments to the prepaid contract under which the refund or distribution is received; or

(ii) under § 10–208(o) of this subtitle for the taxable year and all prior taxable years for contributions made by an account holder to an investment account under which the **[**refund or**]** distribution is received.

10–207.

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

(s) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Qualified beneficiary" has the meaning stated in § 18–1901 of the Education Article.

(iii) "Qualified designated beneficiary" ~~has the meaning stated in §§ 18–19A–01 AND 18–19B–01~~ **MEANS A QUALIFIED DESIGNATED BENEFICIARY AS DEFINED IN § 18–19A–01 OR § 18–19B–01** of the Education Article.

(iv) "Qualified higher education expenses" has the meaning stated in § 529 of the Internal Revenue Code.

(2) Except as provided in paragraph (3) of this subsection, the subtraction under subsection (a) of this section includes any amount included in federal adjusted gross income as a result of a distribution to:

(i) a qualified beneficiary pursuant to a prepaid contract under the Maryland Prepaid College Trust; **[**or**]**

(ii) a qualified designated beneficiary from an investment account under the Maryland College Investment Plan**; OR**

(III) A QUALIFIED DESIGNATED BENEFICIARY FROM AN INVESTMENT ACCOUNT UNDER THE MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN.

(3) The subtraction under paragraph (2) of this subsection does not apply to:

(i) a refund under the Maryland Prepaid College Trust **[**or the Maryland College Investment Plan**]**; or

(ii) a distribution that is not used by the qualified beneficiary or qualified designated beneficiary for qualified higher education expenses.

10–208.

(a) In addition to the modification under § 10–207 of this subtitle, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(o) (1) **(I)** ~~In this subsection, "account holder", "investment account", "qualified designated beneficiary", and "qualified higher education expenses" have the meanings stated in §~~**§** 18–19A–01 ~~AND~~ **18–19B–01** ~~of the Education Article.~~

~~(II) FOR PURPOSES OF THIS SUBSECTION, AN INVESTMENT ACCOUNT MAY INCLUDE MORE THAN ONE INVESTMENT OPTION.~~ **IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(II) "ACCOUNT HOLDER" MEANS AN ACCOUNT HOLDER AS DEFINED IN § 18–19A–01 OR § 18–19B–01 OF THE EDUCATION ARTICLE.

(III) "INVESTMENT ACCOUNT" MEANS AN INVESTMENT ACCOUNT AS DEFINED IN § 18–19A–01 OR § 18–19B–01 OF THE EDUCATION ARTICLE.

(IV) "QUALIFIED DESIGNATED BENEFICIARY" MEANS A QUALIFIED DESIGNATED BENEFICIARY AS DEFINED IN § 18–19A–01 OR § 18–19B–01 OF THE EDUCATION ARTICLE.

(2) ~~(I)~~ ~~The~~ **SUBJECT TO THE LIMITATION UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE** subtraction under subsection (a) of this section includes the amount contributed by an account holder during the taxable year to an investment account.

~~(II) REGARDLESS OF THE NUMBER OF INVESTMENT OPTIONS INCLUDED IN AN INVESTMENT ACCOUNT, ALL CONTRIBUTIONS BY AN ACCOUNT HOLDER ON BEHALF OF THE SAME QUALIFIED DESIGNATED BENEFICIARY SHALL BE CONSIDERED CONTRIBUTIONS TO ONE INVESTMENT ACCOUNT.~~

(3) **(I)** Subject to paragraph (4) of this subsection, for each ~~investment account~~ **ACCOUNT HOLDER FOR ALL INVESTMENT ACCOUNTS MAINTAINED IN ~~BOTH~~ THE MARYLAND COLLEGE INVESTMENT PLAN AND THE MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN FOR THE SAME QUALIFIED DESIGNATED BENEFICIARY**, the subtraction under paragraph (2) of this subsection may not exceed $2,500 for any taxable year **PER QUALIFIED DESIGNATED BENEFICIARY**.

(II) FOR PURPOSES OF THE LIMITATION UNDER THIS PARAGRAPH, EACH SPOUSE ON A JOINT RETURN SHALL BE TREATED SEPARATELY.

(4) ~~The~~ **SUBJECT TO THE $2,500 ANNUAL LIMITATION FOR EACH ACCOUNT HOLDER FOR EACH QUALIFIED DESIGNATED BENEFICIARY, THE** amount disallowed as a subtraction under this subsection for any taxable year as a result of the limitation under paragraph (3) of this subsection ~~shall be treated as having been contributed in the next 10 succeeding taxable years and, subject to the $2,500 annual limitation for each investment account,~~ may be carried over ~~to~~ **UNTIL USED TO THE NEXT 10** succeeding taxable years as a subtraction.

SECTION 2. AND BE IT FURTHER ENACTED, That ~~Section(s)~~ §§ 10–205(h), 10–207(s), and 10–208(o) of the Tax – General Article as enacted under Section 1 of this Act shall be applicable to all taxable years beginning after December 31, 2007.

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

Approved by the Governor, May 13, 2008.

CHAPTER 549

(House Bill 1550)

AN ACT concerning

Department of General Services Police – Jurisdiction, Authority, and Responsibility

FOR the purpose of providing that the Department of General Services has full police jurisdiction and authority for the enforcement of certain laws as they relate to certain properties, including the surrounding areas of certain properties in

~~Annapolis; expanding the authority of the Secretary of General Services with regard to the Department's police and security force and with regard to its responsibility for law enforcement for certain properties, including the surrounding areas of certain properties in Annapolis~~ Annapolis and Baltimore City; authorizing the Secretary of General Services to establish a certain police force to protect people and property in certain areas; making certain provisions relating to the Department of General Services security force applicable to the police force authorized under this Act; establishing that the Secretary of General Services has concurrent authority with certain chiefs of police to enforce the criminal laws in certain areas, including in the surrounding areas of certain properties in Annapolis and Baltimore City, and the parking and motor vehicle laws in the surrounding areas of certain properties in Annapolis and Baltimore City; repealing ~~a provision~~ certain limitations relating to the concurrent authority of the Secretary of General Services and certain chiefs of police; making this Act an emergency measure; and generally relating to the jurisdiction, authority, and responsibility of the Department of General Services Police.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 4–601, 4–605, and 4–606
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 4–602, 4–603, and 4–604
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

4–601.

The Department has jurisdiction over **AND FULL POLICE AUTHORITY FOR THE ENFORCEMENT OF THE CRIMINAL LAWS AND THE PARKING AND MOTOR VEHICLE LAWS AS TO** the operation, maintenance, and protection of:

(1) buildings and grounds that, on June 30, 1984, were administered by the Office of Annapolis Public Buildings and Grounds**, AND EXTENDING TO THE SURROUNDING AREA THAT ENCOMPASSES 1,000 FEET IN ANY DIRECTION FROM THE BOUNDARY OF THOSE BUILDINGS AND GROUNDS**;

(2) buildings and grounds that, on June 30, 1984, were administered by the Office of Baltimore Public Buildings and Grounds**, AND EXTENDING TO THE SURROUNDING AREA THAT ENCOMPASSES 1,000 FEET IN ANY DIRECTION FROM THE BOUNDARY OF THOSE BUILDINGS AND GROUNDS**;

(3) multiservice centers designated by law or by the Board of Public Works; and

(4) other public improvements or grounds designated by law or by the Board of Public Works.

4–602.

(a) In accordance with the provisions of the State Personnel and Pensions Article, the Secretary may appoint and remove superintendents to supervise designated improvements, grounds, and multiservice centers under the jurisdiction of the Department, including those in Annapolis and Baltimore City.

(b) A superintendent shall perform the duties delegated by the Secretary.

(c) A superintendent is entitled to compensation in accordance with the State budget.

4–603.

The Secretary may establish divisions or offices in the Department to carry out the responsibilities for improvements, grounds, and multiservice centers under the jurisdiction of the Department.

4–604.

For all improvements, grounds, and multiservice centers under the jurisdiction of the Department, the responsibilities of the Department include:

(1) keeping a complete inventory of movable property assigned to the Department;

(2) supervising utility and sanitation services and fire and safety systems;

(3) supervising repairs and other work;

(4) landscaping;

(5) purchasing carpets, equipment, furniture, and supplies;

(6) protecting persons and property, including dispersing any assemblage that is unlawful, is dangerous, or obstructs free passage;

(7) preserving and protecting the public peace, health, and safety; and

(8) controlling pedestrian and vehicular traffic, including establishing of speed limits and parking and impoundment regulations for parking garages, surface parking lots, roads, and sidewalks that are owned or leased by the State and that are within the improvements, grounds, and multiservice centers.

4–605.

(a) (1) In accordance with the provisions of the State Personnel and Pensions Article, the Secretary may establish a **POLICE AND** security force to protect people and property on or about improvements, grounds, and multiservice centers under the jurisdiction of the Department**, AND IN THE SURROUNDING AREAS OF THE BUILDINGS AND GROUNDS IN ANNAPOLIS AND BALTIMORE CITY AS DESCRIBED IN § 4–601(1) AND (2) OF THIS SUBTITLE**.

(2) The **POLICE AND** security force may include sworn police officers.

(b) A member of the **POLICE AND** security force may not be involuntarily transferred from a site to another site.

(c) A member of the **POLICE AND** security force has the same powers as a sheriff or police officer under § 2–101 of the Criminal Procedure Article only if the member:

(1) meets the legal requirements set forth by the Maryland Police Training Commission; and

(2) is designated by the Department as a police officer.

4–606.

(a) In this section, "Chief of Police" means:

(1) as to improvements, grounds, and multiservice centers in the City of Annapolis, the Chief of Police of the City of Annapolis;

(2) as to improvements, grounds, and multiservice centers in Baltimore City, the Police Commissioner of Baltimore City; and

(3) as to improvements, grounds, and multiservice centers not located in the City of Annapolis or Baltimore City, the head of the local police force of the county in which the improvements, grounds, or multiservice centers are located.

(b) **[**Subject to subsection (c) of this section, the**]** **THE** Secretary has concurrent authority with the Chief of Police to enforce **THE CRIMINAL LAWS AND** parking and motor vehicle laws on streets adjacent to all improvements, grounds, and multiservice centers under the jurisdiction of the Department**, AND IN THE SURROUNDING AREAS OF THE BUILDINGS AND GROUNDS IN ANNAPOLIS AND BALTIMORE CITY AS DESCRIBED IN § 4–601(1) AND (2) OF THIS SUBTITLE**.

[(c) The concurrent authority conferred by subsection (b) of this section:

(1) is subject to any conditions prescribed by the Chief of Police; and

(2) applies only to streets designated by the Chief of Police.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2008~~ 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 550

(House Bill 1562)

AN ACT concerning

Cecil County – Special Taxing Districts – Creation

FOR the purpose of authorizing Cecil 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 Cecil County to create a special taxing district only in certain areas; authorizing the governing body of Cecil County to consider certain aspects of a development that would benefit from the creation of a special taxing district 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 Cecil County; providing that Cecil County may establish a special taxing district only if all the owners of the real property located 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 on or before entering into the contract of sale 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 Cecil 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, **CECIL COUNTY,** Charles County, Garrett 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 CECIL COUNTY.

(II) THE COUNTY MAY EXERCISE THE AUTHORITY GRANTED UNDER THIS SECTION ONLY IN DESIGNATED GROWTH AREAS AS DEFINED IN THE COUNTY COMPREHENSIVE PLAN.

(III) THE COUNTY SHALL HOLD AT LEAST ONE PUBLIC HEARING ON A BILL CREATING A SPECIAL TAXING DISTRICT.

~~(III)~~ (IV) AT ~~THE~~ A PUBLIC HEARING ON A BILL CREATING A SPECIAL TAXING DISTRICT, THE COUNTY GOVERNING BODY MAY CONSIDER 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 INCREASING THE DENSITY OF DEVELOPMENT;

3. DESIGN AND USAGE OF OPEN SPACE; AND

4. AVAILABILITY AND DESIGN OF RECREATIONAL AND EDUCATIONAL FACILITIES.

~~(IV)~~ (V) A LAW ENACTED BY THE COUNTY UNDER THE AUTHORITY OF THIS SECTION 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.

~~(V)~~ (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 CECIL 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 ON OR BEFORE ENTERING INTO THE CONTRACT FOR THE SALE OF THE PROPERTY:

(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 20 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 20 CALENDAR DAYS OF RECEIPT OF THE INFORMATION. A SELLER MAY NOT REQUIRE THAT YOU CLOSE THE SALE UNDER THIS CONTRACT WITHIN 20 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 20 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 20 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 551

(House Bill 1564)

AN ACT concerning

Real Property – Talbot County – Recordation of County Right–of–Way Plats

FOR the purpose of including Talbot County in the provisions of law in which the clerks of the circuit courts for certain counties are required to receive, index, and file county right–of–way plats; and generally relating to the recordation of county right–of–way plats in Talbot County.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 3–109.1
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

3–109.1.

(a) (1) In **[**Frederick and Carroll**]** **FREDERICK, CARROLL, AND TALBOT** counties, the clerk of the circuit court for the respective county shall receive, index, and file in a substantial loose–leaf, linen–backed, or other durable–backed book, copies of plats showing property or rights–of–way to be acquired or conveyed by the board of county commissioners **OR THE GOVERNING BODY** of that county.

(2) Each plat may not be greater in size than 22 inches by 36 inches.

(b) When filed and indexed under subsection (a) of this section, a plat constitutes a part of the land records of the county.

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

Approved by the Governor, May 13, 2008.

CHAPTER 552

(House Bill 1566)

AN ACT concerning

Garrett County – Local Tax – Date of Payment

FOR the purpose of altering the date the County Commissioners of Garrett County are required to make certain payments of the revenue from certain local taxes to certain volunteer fire departments; and generally relating to the payment of certain local tax revenues to volunteer fire departments in Garrett County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Garrett County
Section 41–2
Article 12 – Public Local Laws of Maryland
(1985 Edition and October 2001 Supplement, as amended)
(As enacted by Chapter 41 of the Acts of the General Assembly of 1929)

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

Article 12 – Garrett County

41–2.

Such payments shall be made **[**on the first day of September**]** in **DECEMBER AND JUNE** each and every year by the County Commissioners of Garrett County.

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

Approved by the Governor, May 13, 2008.

CHAPTER 553

(House Bill 1602)

AN ACT concerning

Commission to Study the Impact of Immigrants in Maryland

FOR the purpose of establishing a Commission to Study the Impact of Immigrants in Maryland; providing for the membership and duties of the Commission; requiring that certain members appointed to the Commission reflect certain diversity of this State; providing for the designation of a chair of the Commission; requiring the University of Maryland, College Park to provide staff for the Commission; prohibiting members of the Commission from receiving compensation; authorizing a member to receive certain reimbursement; requiring the Commission to report its findings *and recommendations* to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to a Commission to Study the Impact of Immigrants in Maryland.

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

(a) There is a Commission to Study the Impact of Immigrants in Maryland.

(b) The Commission consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Business and Economic Development, or the Secretary's designee;

(4) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(5) the Secretary of Human Resources, or the Secretary's designee;

(6) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee; ~~and~~

(7) the Secretary of the Maryland Department of Planning;

(8) the Comptroller, or the Comptroller's designee;

~~(8)~~ *(9)* a representative of the Maryland State Bar Association Immigration Section; and

~~(7)~~ ~~(9)~~ *(10)* ~~seven~~ ~~five~~ *eight* members, appointed by the Governor*, with at least:*

(i) two members from the business community;

(ii) two members with expertise on immigration–related issues; and

(iii) two members with expertise on education issues.

(c) To the extent practicable, the members appointed to the Commission shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

(d) The Governor shall designate the chair of the Commission.

(e) The University of Maryland, College Park shall provide staff for the Commission, in consultation with the Department of Legislative Services, the Department of Budget and Management, and the Office of the Governor.

(f) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

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

(g) The Commission shall study:

(1) the demographic profile and impact of immigrants on the State, including:

(i) the growth rate of the immigrant population in the State;

(ii) the national origins of the State's immigrant population;

(iii) the geographic areas of the State where immigrants reside;

(iv) the size and age distribution of the State's immigrant population, including both documented and undocumented immigrants;

(v) whether the State's immigrant population is similar to the typical demographic profile of an immigrant population in the United States;

(vi) the impact of the State immigrant population on population growth and birth rates;

(vii) the impact of the State immigrant population on the student population growth rate in the State's public schools;

(viii) the impact, growth rate, and participation rate of the State immigrant population relative to the State's workforce; and

(ix) the socioeconomic profile of the State's immigrant population; and

(2) the economic and fiscal impact of immigrants on the State, including:

(i) the impact of immigrant contributions to Maryland's economy and tax base;

(ii) the impact of consumer spending by immigrants on the economies of the State, State metropolitan areas, and individual counties;

(iii) the major public services costs incurred by the State as a result of immigrants, including spending on K–12 public education, higher education, health services delivery, *public safety*, and corrections;

(iv) the direct and indirect tax contributions of immigrants to the State;

(v) the net benefit or cost of immigrants on the State budget;

(vi) the importance of immigrants to the State's economic output;

(vii) the potential for local businesses to generate more revenue as a result of immigrant workforce availability and local spending by immigrants;

(viii) the projected economic impact of immigrants in the State as it evolves in the future;

(ix) the constraints faced by immigrants and immigrant–owned businesses in the State; and

(x) how business and trade with immigrants' countries of origin can be expanded to benefit the State.

(h) The Commission shall report its findings *and recommendations* to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on or before January 1, 2011.

(i) To the extent possible, for each of the items of study included in this Act, the report of the Commission shall make the distinction between persons who are in lawful immigration status and those who are not in lawful immigration status.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 3 years and, at the end of May 31, 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 554

(House Bill 1607)

AN ACT concerning

Anne Arundel County – Board of Education and School Board Nominating Commission

FOR the purpose of requiring the Department of Legislative Services to provide staff for the School Board Nominating Commission of Anne Arundel County; repealing the provision that the increase in the salary or compensation of the President and the members of the Anne Arundel County Board of Education does not apply to the incumbent President or the incumbent members of the County Board; and generally relating to the Board of Education and the School Board Nominating Commission of Anne Arundel County.

BY repealing and reenacting, with amendments,
Article – Education
Section 3–110
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing
Chapter 454 of the Acts of the General Assembly of 2007
Section 4

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

Article – Education

3–110.

(a) (1) The Anne Arundel County Board consists of 9 members who shall be appointed as follows:

(i) 3 from the county at large;

(ii) 1 each from legislative districts 30, 31, 32, 33, and that portion of legislative district 21 that lies within Anne Arundel County; and

(iii) 1 student member.

(2) Except for the student member, the Governor shall appoint a member of the County Board from a list of nominees submitted by the School Board Nominating Commission of Anne Arundel County as provided in subsection (b) of this section.

(b) (1) (i) There is a School Board Nominating Commission of Anne Arundel County.

(ii) The purpose of the Commission is to select nominees to be recommended to the Governor as qualified candidates for appointment to the Anne Arundel County Board of Education.

(iii) The Commission shall hold at least two public hearings on the selection of nominees before recommending to the Governor nominees for appointment to the County Board.

(2) (i) The Commission consists of 11 members who shall be appointed in accordance with this paragraph.

(ii) The Governor shall appoint five members, one from each legislative district that lies in whole or in part in Anne Arundel County.

(iii) The County Executive of Anne Arundel County shall appoint one member from the county at large.

(iv) The following organizations shall each appoint one member:

1. The Teachers Association of Anne Arundel County;

2. The Annapolis and Anne Arundel County Chamber of Commerce;

3. The Anne Arundel County Council of Parent Teacher Associations;

4. The Anne Arundel County Community College Board of Trustees; and

5. The Association of Educational Leaders (AEL).

(3) (i) The Governor shall designate as chair of the Commission one of the five members appointed by the Governor under subsection (b)(2)(ii) of this section.

(ii) The term of the chair of the Commission is 4 years.

(iii) The Governor may reappoint the chair of the Commission for a second term.

(iv) The term of a member of the Commission is 4 years.

(4) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL PROVIDE STAFF FOR THE COMMISSION.

[(4)**] (5)** Beginning January 1, 2008, for each nomination to the County Board, the Commission shall submit to the Governor a list of nominees that contains:

(i) At least two names for each vacancy; or

(ii) If there are fewer than two applicants for a vacancy, the number of names that is equal to the number of applicants for the vacancy.

(c) (1) Following the initial appointment of a member of the Anne Arundel County Board of Education by the Governor, a member may continue to serve for the remainder of the member's first term subject to the approval or rejection of the registered voters of the county at the next general election.

(2) A member of the County Board may serve for a second consecutive term subject to the approval of or rejection by the registered voters of the county at the next general election.

(3) (i) The approval or rejection of a member of the County Board by the registered voters of the county provided for in subparagraph (ii) of this paragraph shall be a vote for the member's retention or removal.

(ii) On receipt of the notice required under § 5–301(h) of the Election Law Article, the name of the member of the County Board shall be placed on the appropriate ballot and shown, without opposition, and the voters shall vote for or against the member's retention as a member of the County Board.

(4) If the voters reject the retention of the member, or the vote is tied:

(i) The position shall become vacant 10 days after certification of the election returns; and

(ii) The member serves until a successor is appointed and qualifies.

(d) (1) The student member shall:

(i) Be a regularly enrolled senior year student of good character and in good standing in an Anne Arundel County public high school;

(ii) Be selected in the student's junior year by a method selected by the Chesapeake Regional Association of Student Councils of Anne Arundel County;

(iii) 1. Serve a term of 1 year; and

2. Continue to serve after graduation and until a successor is appointed and qualifies.

(2) If a vacancy in the position of the student member occurs during the term of the student member, the Chesapeake Regional Association of Student Councils shall:

(i) Conduct a special election at its next general meeting; and

(ii) By utilizing the same method that it used to select the previous student member of the Board, select another student member to fill the vacancy.

(e) A Board member who does not maintain the residency qualification shall be replaced as a member.

(f) If the boundary line of a legislative district changes, an incumbent member of the County Board who, because of the change, no longer resides in the legislative district from which the member was appointed may complete the term.

(g) The President of the Anne Arundel County Board of Education is entitled to receive $8,000 annually as compensation and, except for the student member, the other Board members are entitled to receive $6,000 each annually as compensation.

Chapter 454 of the Acts of 2007

[SECTION 4. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the President and members of the Anne Arundel County Board of Education in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the President and members of the Anne Arundel County Board of Education shall take effect at the beginning of the next following term of office.**]**

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

Approved by the Governor, May 13, 2008.

CHAPTER 555

(Senate Bill 210)

AN ACT concerning

Maryland Veterans Behavioral Health

FOR the purpose of establishing behavioral health service coordination among the Department of Health and Mental Hygiene, the United States Department of Veterans Affairs, the Maryland Department of Veterans Affairs, the Maryland National Guard, and the Maryland Defense Force for certain veterans of the

Afghanistan or Iraq conflicts; requiring the provision of certain behavioral health services under certain circumstances in certain areas of the State to veterans of the Afghanistan or Iraq conflicts; requiring the Department of Health and Mental Hygiene to seek certain reimbursement for certain services; requiring the Department of Health and Mental Hygiene to separately account for certain funds; creating the Veterans Behavioral Health Advisory Board; providing for the composition and chair of the Board; providing for the staffing of the Board; prohibiting members of the Board from receiving compensation but entitling members to reimbursement of certain expenses; establishing the duties of the Board; requiring the Board to submit certain reports to the Governor and the General Assembly on or before certain dates; requiring the Department of Health and Mental Hygiene, in consultation with the Board, to submit a certain application for certain funds on or before a certain date; requiring the Department to submit a copy of the application to the Maryland Congressional Delegation and certain committees of the General Assembly; providing for the termination of this Act; defining certain terms; and generally relating to the behavioral health needs of veterans and their families.

BY adding to
Article – Health – General
Section 13–2701 through 13–2703 to be under the new subtitle "Subtitle 27. Behavioral Health Services for Maryland Veterans of the Afghanistan and Iraq Conflicts"
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Maryland has a long and proud history of commitment to military service, with over 460,000 veterans who have served the nation in the armed forces; and

WHEREAS, Maryland has over 10,000 veterans of the conflicts in Afghanistan and Iraq, with 5,000 more projected to return by the end of 2008; and

WHEREAS, It is among the highest priorities of the State to ensure that veterans returning from active service have the support, opportunities, and services necessary to facilitate their smooth transition from military to civilian life, and to ease that transition for their families; and

WHEREAS, Among the obstacles returning veterans often face are unmet physical and behavioral health needs arising out of their service; and

WHEREAS, The psychological trauma of the war on terror, the counterinsurgency, and the urban battlefield has put veterans returning from

Afghanistan and Iraq at particular risk of Post–Traumatic Stress Syndrome and related conditions, which if untreated can lead to life–long struggles with depression, substance abuse, unemployment, homelessness, and suicide; and

WHEREAS, Estimates are that more than half of veterans of the Afghanistan and Iraq conflicts return from combat zones with behavioral health problems that could compromise their successful adjustment to civilian life; and

WHEREAS, Gaps in the availability of behavioral health services and impediments to veterans' ability to access those services, particularly in the State's rural areas, may leave serious health problems untreated and exacerbate the difficulties returning veterans and their families must face; and

WHEREAS, The State is committed to identifying the behavioral health needs and gaps in services that may exist for returning veterans, and to collaborating with the United States Department of Veterans Affairs, veterans' organizations, and others to address those needs and ensure that veterans and their families receive the services they require and deserve; now, therefore,

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

Article – Health – General

SUBTITLE 27. BEHAVIORAL HEALTH SERVICES FOR MARYLAND VETERANS OF THE AFGHANISTAN AND IRAQ CONFLICTS.

13–2701.

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

(B) "ADJUTANT GENERAL" MEANS THE HEAD OF THE MARYLAND MILITARY DEPARTMENT.

(C) "BEHAVIORAL HEALTH SERVICES" MEANS MENTAL HEALTH SERVICES OR ALCOHOL AND SUBSTANCE ABUSE SERVICES.

(D) "CRISIS SERVICES" MEANS TEMPORARY SERVICES DESIGNED TO ADDRESS AND STABILIZE A SEVERE BEHAVIORAL HEALTH PROBLEM AND TO AVOID AN EMERGENCY SITUATION, AND MAY INCLUDE HOTLINES, IN–HOME SUPPORT, AND RESIDENTIAL CRISIS SERVICES.

(E) "MARYLAND DEFENSE FORCE" MEANS THE MILITARY FORCE ESTABLISHED UNDER § 13–501 OF THE PUBLIC SAFETY ARTICLE.

(F) "MARYLAND NATIONAL GUARD" MEANS THE MARYLAND ARMY NATIONAL GUARD AND MARYLAND AIR NATIONAL GUARD.

(G) "SERVICE COORDINATION" MEANS A SERVICE DESIGNED TO COORDINATE AND PROVIDE ASSISTANCE IN OBTAINING ACCESS TO BEHAVIORAL HEALTH SERVICES.

(H) "SERVICE COORDINATOR" MEANS A PERSON EMPLOYED BY THE DEPARTMENT TO PROVIDE SERVICE COORDINATION TO VETERANS.

(I) "UNIFORMED SERVICES" HAS THE MEANING STATED IN 10 U.S.C. § 101.

~~(I)~~ (J) "VETERAN" MEANS A MARYLAND RESIDENT WHO:

(1) SERVED ON ACTIVE DUTY IN THE ~~ARMED FORCES~~ UNIFORMED SERVICES OF THE UNITED STATES, OTHER THAN FOR TRAINING, AND WAS DISCHARGED OR RELEASED UNDER CONDITIONS OTHER THAN DISHONORABLE; AND

(2) (I) SERVED IN AFGHANISTAN OR CONTIGUOUS AIRSPACE, AS DEFINED IN FEDERAL REGULATIONS, ON OR AFTER OCTOBER 24, 2001, AND BEFORE A TERMINAL DATE TO BE PRESCRIBED BY THE UNITED STATES SECRETARY OF DEFENSE; OR

(II) SERVED IN IRAQ OR CONTIGUOUS WATERS OR AIRSPACE, AS DEFINED IN FEDERAL REGULATIONS, ON OR AFTER MARCH 19, 2003, AND BEFORE A TERMINAL DATE TO BE PRESCRIBED BY THE UNITED STATES SECRETARY OF DEFENSE.

~~(J)~~ (K) "WEB–BASED RESOURCE PROGRAM" MEANS AN INTERACTIVE WEB–BASED COMMUNICATION MEDIUM THAT:

(1) ALLOWS INDIVIDUALS TO ACCESS COMPREHENSIVE INFORMATION, ADVOCACY, AND OTHER RESOURCES REGARDING PUBLIC AND PRIVATE BEHAVIORAL HEALTH SERVICES, CRISIS AND EMERGENCY SERVICES, AND EARLY INTERVENTION AND PREVENTION PROGRAMS; AND

(2) ENABLES THE PUBLIC AND PRIVATE HEALTH CARE COMMUNITIES TO WORK TOGETHER TO ADDRESS THE PROBLEMS RELATED TO PROVIDING AND OBTAINING ACCESS TO BEHAVIORAL HEALTH SERVICES.

13–2702.

(A) SUBJECT TO THE LIMITATIONS OF ITS BUDGET, THE DEPARTMENT:

(1) IN COLLABORATION WITH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, THE MARYLAND DEPARTMENT OF VETERANS AFFAIRS, THE MARYLAND NATIONAL GUARD, AND THE MARYLAND DEFENSE FORCE, SHALL PROVIDE SERVICE COORDINATION FOR VETERANS IN ALL GEOGRAPHIC REGIONS OF THE STATE TO CONNECT THEM TO BEHAVIORAL HEALTH SERVICES WHICH MAY BE AVAILABLE THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS;

(2) (I) WHERE SERVICES ARE NOT YET AVAILABLE OR ACCESSIBLE THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, SHALL PROVIDE SERVICE COORDINATION FOR VETERANS IN ALL GEOGRAPHIC REGIONS OF THE STATE TO CONNECT THEM TO BEHAVIORAL HEALTH SERVICES WHICH MAY BE AVAILABLE THROUGH THE MENTAL HYGIENE ADMINISTRATION OR THE ALCOHOL AND DRUG ABUSE ADMINISTRATION, UNTIL SUCH FEDERAL SERVICES CAN BE ACCESSED AND OBTAINED; AND

(II) THE PROVISION OF SERVICES THROUGH THE MENTAL HYGIENE ADMINISTRATION OR THE ALCOHOL AND DRUG ABUSE ADMINISTRATION SHALL BE BASED ON ELIGIBILITY AND MEDICAL NECESSITY CRITERIA ESTABLISHED BY THESE ADMINISTRATIONS; AND

(3) SHALL PROVIDE VETERANS UP–TO–DATE INFORMATION ABOUT BEHAVIORAL HEALTH SERVICES AND RESOURCES THROUGH A WEB–BASED RESOURCE PROGRAM.

(B) SUBJECT TO THE LIMITATIONS OF ITS BUDGET AND IN ADDITION TO THE SERVICE COORDINATION PROVIDED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE OR FUND CERTAIN BEHAVIORAL HEALTH SERVICES FOR VETERANS WHO:

(1) MEET THE ELIGIBILITY AND MEDICAL NECESSITY CRITERIA OF THE MENTAL HYGIENE ADMINISTRATION AND THE ALCOHOL AND DRUG ABUSE ADMINISTRATION; AND

(2) CANNOT OBTAIN IMMEDIATE ACCESS TO BEHAVIORAL HEALTH SERVICES THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS.

(C) (1) THE BEHAVIORAL HEALTH SERVICES PROVIDED UNDER SUBSECTION (B) OF THIS SECTION MAY INCLUDE:

(I) CRISIS SERVICES IN ALL GEOGRAPHIC REGIONS OF THE STATE; AND

(II) SHORT–TERM BEHAVIORAL HEALTH SERVICES IN RURAL AREAS OF THE STATE, WHERE EXISTING FEDERAL AND STATE BEHAVIORAL HEALTH SERVICES ARE DETERMINED BY THE DEPARTMENT TO BE INADEQUATE OR INACCESSIBLE.

(2) THE SHORT–TERM BEHAVIORAL HEALTH SERVICES PROVIDED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION:

(I) SHALL BE AVAILABLE ONLY UNTIL A VETERAN IS ABLE TO ACCESS AND OBTAIN ADEQUATE BEHAVIORAL HEALTH SERVICES THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS; AND

(II) MAY INCLUDE:

1. SCREENING ASSESSMENTS;

2. INDIVIDUAL, FAMILY, AND GROUP THERAPY;

3. SUBSTANCE ABUSE EARLY INTERVENTION AND DETOXIFICATION SERVICES; AND

4. SUBSTANCE ABUSE MEDICATION–ASSISTED TREATMENT.

(3) THE DEPARTMENT SHALL SEEK REIMBURSEMENT FROM THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR OTHER RESPONSIBLE PUBLIC OR PRIVATE PAYER FOR ANY BEHAVIORAL HEALTH SERVICES PROVIDED UNDER SUBSECTION (B) OF THIS SECTION.

(D) THE DEPARTMENT SHALL ACCOUNT SEPARATELY FOR FUNDS USED TO PROVIDE BEHAVIORAL HEALTH SERVICES TO VETERANS UNDER SUBSECTION (B) OF THIS SECTION.

13–2703.

(A) THERE IS A VETERANS BEHAVIORAL HEALTH ADVISORY BOARD.

(B) THE ADVISORY BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:

(1) THE LIEUTENANT GOVERNOR;

(2) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(3) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(4) THE SECRETARY OF THE MARYLAND DEPARTMENT OF VETERANS AFFAIRS, OR THE SECRETARY'S DESIGNEE;

(5) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(6) THE ADJUTANT GENERAL, OR THE ADJUTANT GENERAL'S DESIGNEE;

(7) A REPRESENTATIVE OF THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS; AND

~~(7)~~ (8) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

(I) ONE REPRESENTATIVE OF A VETERANS SERVICE ORGANIZATION;

(II) ONE REPRESENTATIVE OF A LOCAL HEALTH DEPARTMENT;

(III) ONE REPRESENTATIVE OF A PRIVATE PROVIDER OF BEHAVIORAL HEALTH SERVICES;

(IV) ONE VETERAN; AND

(V) ONE FAMILY MEMBER OF A VETERAN.

(C) THE LIEUTENANT GOVERNOR SHALL BE THE CHAIR OF THE ADVISORY BOARD.

(D) THE DEPARTMENTS OF HEALTH AND MENTAL HYGIENE AND VETERANS AFFAIRS SHALL PROVIDE STAFF FOR THE ADVISORY BOARD.

(E) A MEMBER OF THE ADVISORY BOARD MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY BOARD, BUT IS ENTITLED TO REIMBURSEMENT EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) A MAJORITY OF THE FULL MEMBERSHIP OF THE ADVISORY BOARD SHALL CONSTITUTE A QUORUM.

(G) THE ADVISORY BOARD MAY ACT ON ANY MATTER WITH THE AUTHORIZATION OF A MAJORITY OF THE QUORUM PRESENT AND VOTING.

(H) THE ADVISORY BOARD SHALL:

(1) CONDUCT AN IMMEDIATE ANALYSIS OF THE BEHAVIORAL HEALTH NEEDS OF VETERANS AND THEIR FAMILIES;

(2) IDENTIFY THE GAPS IN BEHAVIORAL HEALTH SERVICES AVAILABLE TO VETERANS AND THEIR FAMILIES;

(3) IDENTIFY IMPEDIMENTS TO THE ABILITY OF VETERANS AND THEIR FAMILIES TO ACCESS THE BEHAVIORAL HEALTH SERVICES THAT ARE AVAILABLE, PARTICULARLY IN THE STATE'S RURAL AREAS;

(4) FACILITATE COLLABORATION AMONG ORGANIZATIONS AND ENTITIES, *INCLUDING HOSPITALS*, THAT PROVIDE BEHAVIORAL HEALTH SERVICES TO VETERANS AND THEIR FAMILIES;

(5) MAKE RECOMMENDATIONS WITH RESPECT TO IMPROVING OUTREACH TO VETERANS AND THEIR FAMILIES IN NEED OF BEHAVIORAL HEALTH SERVICES;

(6) PROMOTE FEDERAL AND STATE COLLABORATION TO MAXIMIZE FUNDING AND ACCESS TO RESOURCES FOR THE BEHAVIORAL HEALTH NEEDS OF VETERANS AND THEIR FAMILIES;

(7) MAKE RECOMMENDATIONS WITH RESPECT TO BUILDING PROVIDER CAPACITY AND INCREASING PROVIDER TRAINING TO MEET THE BEHAVIORAL HEALTH NEEDS OF VETERANS AND THEIR FAMILIES; ~~AND~~

(8) MAKE RECOMMENDATIONS WITH RESPECT TO IMPROVING THE COORDINATION OF BEHAVIORAL HEALTH SERVICES FOR VETERANS AND THEIR FAMILIES; *AND*

***(9) MAKE RECOMMENDATIONS ON METHODS TO PROVIDE BEHAVIORAL HEALTH SERVICES TO INDIVIDUALS WHO ARE NOT ELIGIBLE FOR BENEFITS FROM THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS DUE TO A DISHONORABLE DISCHARGE OR RELEASE FOR A REASON RELATING TO SUBSTANCE ABUSE OR MENTAL ILLNESS*.**

(I) THE ADVISORY BOARD SHALL SUBMIT AN INTERIM REPORT OF ITS FINDINGS ON OR BEFORE DECEMBER 1, 2009, AND A FINAL REPORT OF ITS FINDINGS AND RECOMMENDATIONS ON OR BEFORE DECEMBER 1, 2010, TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before September 1, 2008, the Department of Health and Mental Hygiene, in conjunction with the Veterans Behavioral Health Advisory Board established under Section 1 of this Act, shall submit a grant application to the United States Department of Veterans Affairs or other appropriate federal agency for a minimum of $3,500,000 in federal funds in fiscal year 2010 and a minimum of $3,500,000 in federal funds in fiscal year 2011 to support the provision of behavioral health services to veterans under this Act.

(b) The Department shall send a copy of the application required under this section to the members of the Maryland Congressional Delegation and, in accordance with § 2–1246 of the State Government Article, the Senate Budget and Taxation Committee, the Senate Finance Committee, the House Appropriations Committee, and the House Health and Government Operations Committee.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 3 years and, at the end of May 31, 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 22, 2008.

CHAPTER 556

(House Bill 372)

AN ACT concerning

Maryland Veterans Behavioral Health

FOR the purpose of establishing behavioral health service coordination among the Department of Health and Mental Hygiene, the United States Department of Veterans Affairs, the Maryland Department of Veterans Affairs, the Maryland National Guard, and the Maryland Defense Force for certain veterans of the Afghanistan or Iraq conflicts; requiring the provision of certain behavioral health services under certain circumstances in certain areas of the State to veterans of the Afghanistan or Iraq conflicts; requiring the Department of Health and Mental Hygiene to seek certain reimbursement for certain services; requiring the Department of Health and Mental Hygiene to separately account for certain funds; creating the Veterans Behavioral Health Advisory Board; providing for the composition and chair of the Board; providing for the staffing of the Board; prohibiting members of the Board from receiving compensation but entitling members to reimbursement of certain expenses; establishing the duties of the Board; requiring the Board to submit certain reports to the Governor and the General Assembly on or before certain dates; requiring the Department of Health and Mental Hygiene, in consultation with the Board, to submit a certain application for certain funds on or before a certain date; requiring the Department to submit a copy of the application to the Maryland Congressional Delegation and certain committees of the General Assembly; providing for the termination of this Act; defining certain terms; and generally relating to the behavioral health needs of veterans and their families.

BY adding to
Article – Health – General
Section 13–2701 through 13–2703 to be under the new subtitle "Subtitle 27. Behavioral Health Services for Maryland Veterans of the Afghanistan and Iraq Conflicts"
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Maryland has a long and proud history of commitment to military service, with over 460,000 veterans who have served the nation in the armed forces; and

WHEREAS, Maryland has over 10,000 veterans of the conflicts in Afghanistan and Iraq, with 5,000 more projected to return by the end of 2008; and

WHEREAS, It is among the highest priorities of the State to ensure that veterans returning from active service have the support, opportunities, and services necessary to facilitate their smooth transition from military to civilian life, and to ease that transition for their families; and

WHEREAS, Among the obstacles returning veterans often face are unmet physical and behavioral health needs arising out of their service; and

WHEREAS, The psychological trauma of the war on terror, the counterinsurgency, and the urban battlefield has put veterans returning from Afghanistan and Iraq and at particular risk of Post–Traumatic Stress Syndrome and related conditions, which if untreated can lead to life–long struggles with depression, substance abuse, unemployment, homelessness, and suicide; and

WHEREAS, Estimates are that more than half of veterans of the Afghanistan and Iraq conflicts return from combat zones with behavioral health problems that could compromise their successful adjustment to civilian life; and

WHEREAS, Gaps in the availability of behavioral health services and impediments to veterans' ability to access those services, particularly in the State's rural areas may leave serious health problems untreated and exacerbate the difficulties returning veterans and their families must face; and

WHEREAS, The State is committed to identifying the behavioral health needs and gaps in services that may exist for returning veterans, and to collaborating with the United States Department of Veterans Affairs, veterans' organizations, and others to address those needs and ensure that veterans and their families receive the services they require and deserve; now, therefore,

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

Article – Health – General

SUBTITLE 27. BEHAVIORAL HEALTH SERVICES FOR MARYLAND VETERANS OF THE AFGHANISTAN AND IRAQ CONFLICTS.

13–2701.

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

(B) "ADJUTANT GENERAL" MEANS THE HEAD OF THE MARYLAND MILITARY DEPARTMENT.

(C) "BEHAVIORAL HEALTH SERVICES" MEANS MENTAL HEALTH SERVICES OR ALCOHOL AND SUBSTANCE ABUSE SERVICES.

(D) "CRISIS SERVICES" MEANS TEMPORARY SERVICES DESIGNED TO ADDRESS AND STABILIZE A SEVERE BEHAVIORAL HEALTH PROBLEM AND TO AVOID AN EMERGENCY SITUATION, AND MAY INCLUDE HOTLINES, IN–HOME SUPPORT, AND RESIDENTIAL CRISIS SERVICES.

(E) "MARYLAND DEFENSE FORCE" MEANS THE MILITARY FORCE ESTABLISHED UNDER § 13–501 OF THE PUBLIC SAFETY ARTICLE.

(F) "MARYLAND NATIONAL GUARD" MEANS THE MARYLAND ARMY NATIONAL GUARD AND MARYLAND AIR NATIONAL GUARD.

(G) "SERVICE COORDINATION" MEANS A SERVICE DESIGNED TO COORDINATE AND PROVIDE ASSISTANCE IN OBTAINING ACCESS TO BEHAVIORAL HEALTH SERVICES.

(H) "SERVICE COORDINATOR" MEANS A PERSON EMPLOYED BY THE DEPARTMENT TO PROVIDE SERVICE COORDINATION TO VETERANS.

(I) "UNIFORMED SERVICES" HAS THE MEANING STATED IN 10 U.S.C. § 101.

~~(I)~~ (J) "VETERAN" MEANS A MARYLAND RESIDENT WHO:

(1) SERVED ON ACTIVE DUTY IN THE ~~ARMED FORCES~~ UNIFORMED SERVICES OF THE UNITED STATES, OTHER THAN FOR TRAINING, AND WAS DISCHARGED OR RELEASED UNDER CONDITIONS OTHER THAN DISHONORABLE; AND

(2) (I) SERVED IN AFGHANISTAN OR CONTIGUOUS AIRSPACE, AS DEFINED IN FEDERAL REGULATIONS, ON OR AFTER OCTOBER 24, 2001, AND BEFORE A TERMINAL DATE TO BE PRESCRIBED BY THE UNITED STATES SECRETARY OF DEFENSE; OR

(II) SERVED IN IRAQ OR CONTIGUOUS WATERS OR AIRSPACE, AS DEFINED IN FEDERAL REGULATIONS, ON OR AFTER MARCH 19, 2003, AND BEFORE A TERMINAL DATE TO BE PRESCRIBED BY THE UNITED STATES SECRETARY OF DEFENSE.

~~(J)~~ (K) "WEB–BASED RESOURCE PROGRAM" MEANS AN INTERACTIVE WEB–BASED COMMUNICATION MEDIUM THAT:

(1) ALLOWS INDIVIDUALS TO ACCESS COMPREHENSIVE INFORMATION, ADVOCACY, AND OTHER RESOURCES REGARDING PUBLIC AND PRIVATE BEHAVIORAL HEALTH SERVICES, CRISIS AND EMERGENCY SERVICES, AND EARLY INTERVENTION AND PREVENTION PROGRAMS; AND

(2) ENABLES THE PUBLIC AND PRIVATE HEALTH CARE COMMUNITIES TO WORK TOGETHER TO ADDRESS THE PROBLEMS RELATED TO PROVIDING AND OBTAINING ACCESS TO BEHAVIORAL HEALTH SERVICES.

13–2702.

(A) SUBJECT TO THE LIMITATIONS OF ITS BUDGET, THE DEPARTMENT:

(1) IN COLLABORATION WITH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, THE MARYLAND DEPARTMENT OF VETERANS AFFAIRS, THE MARYLAND NATIONAL GUARD, AND THE MARYLAND DEFENSE FORCE, SHALL PROVIDE SERVICE COORDINATION FOR VETERANS IN ALL GEOGRAPHIC REGIONS OF THE STATE TO CONNECT THEM TO BEHAVIORAL HEALTH SERVICES WHICH MAY BE AVAILABLE THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS;

(2) (I) WHERE SERVICES ARE NOT YET AVAILABLE OR ACCESSIBLE THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, SHALL PROVIDE SERVICE COORDINATION FOR VETERANS IN ALL GEOGRAPHIC REGIONS OF THE STATE TO CONNECT THEM TO BEHAVIORAL HEALTH SERVICES WHICH MAY BE AVAILABLE THROUGH THE MENTAL HYGIENE ADMINISTRATION OR THE ALCOHOL AND DRUG ABUSE ADMINISTRATION, UNTIL SUCH FEDERAL SERVICES CAN BE ACCESSED AND OBTAINED; AND

(II) THE PROVISION OF SERVICES THROUGH THE MENTAL HYGIENE ADMINISTRATION OR THE ALCOHOL AND DRUG ABUSE ADMINISTRATION SHALL BE BASED ON ELIGIBILITY AND MEDICAL NECESSITY CRITERIA ESTABLISHED BY THESE ADMINISTRATIONS; AND

(3) SHALL PROVIDE VETERANS UP–TO–DATE INFORMATION ABOUT BEHAVIORAL HEALTH SERVICES AND RESOURCES THROUGH A WEB–BASED RESOURCE PROGRAM.

(B) SUBJECT TO THE LIMITATIONS OF ITS BUDGET AND IN ADDITION TO THE SERVICE COORDINATION PROVIDED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE OR FUND CERTAIN BEHAVIORAL HEALTH SERVICES FOR VETERANS WHO:

(1) MEET THE ELIGIBILITY AND MEDICAL NECESSITY CRITERIA OF THE MENTAL HYGIENE ADMINISTRATION AND THE ALCOHOL AND DRUG ABUSE ADMINISTRATION; AND

(2) CANNOT OBTAIN IMMEDIATE ACCESS TO BEHAVIORAL HEALTH SERVICES THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS.

(C) (1) THE BEHAVIORAL HEALTH SERVICES PROVIDED UNDER SUBSECTION (B) OF THIS SECTION MAY INCLUDE:

(I) CRISIS SERVICES IN ALL GEOGRAPHIC REGIONS OF THE STATE; AND

(II) SHORT–TERM BEHAVIORAL HEALTH SERVICES IN RURAL AREAS OF THE STATE, WHERE EXISTING FEDERAL AND STATE BEHAVIORAL HEALTH SERVICES ARE DETERMINED BY THE DEPARTMENT TO BE INADEQUATE OR INACCESSIBLE.

(2) THE SHORT–TERM BEHAVIORAL HEALTH SERVICES PROVIDED UNDER PARAGRAPH (1) (II) OF THIS SUBSECTION:

(I) SHALL BE AVAILABLE ONLY UNTIL A VETERAN IS ABLE TO ACCESS AND OBTAIN ADEQUATE BEHAVIORAL HEALTH SERVICES THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS; AND

(II) MAY INCLUDE:

1. SCREENING ASSESSMENTS;

2. INDIVIDUAL, FAMILY, AND GROUP THERAPY;

3. SUBSTANCE ABUSE EARLY INTERVENTION AND DETOXIFICATION SERVICES; AND

4. SUBSTANCE ABUSE MEDICATION–ASSISTED TREATMENT.

(3) THE DEPARTMENT SHALL SEEK REIMBURSEMENT FROM THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR OTHER RESPONSIBLE PUBLIC OR PRIVATE PAYER FOR ANY BEHAVIORAL HEALTH SERVICES PROVIDED UNDER SUBSECTION (B) OF THIS SECTION.

(D) THE DEPARTMENT SHALL ACCOUNT SEPARATELY FOR FUNDS USED TO PROVIDE BEHAVIORAL HEALTH SERVICES TO VETERANS UNDER SUBSECTION (B) OF THIS SECTION.

13–2703.

(A) THERE IS A VETERANS BEHAVIORAL HEALTH ADVISORY BOARD.

(B) THE ADVISORY BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:

(1) THE LIEUTENANT GOVERNOR;

(2) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(3) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(4) THE SECRETARY OF THE MARYLAND DEPARTMENT OF VETERANS AFFAIRS, OR THE SECRETARY'S DESIGNEE;

(5) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;

(6) THE ADJUTANT GENERAL, OR THE ADJUTANT GENERAL'S DESIGNEE;

(7) A REPRESENTATIVE OF THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS; AND

~~(7)~~ (8) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

(I) ONE REPRESENTATIVE OF A VETERANS SERVICE ORGANIZATION;

(II) ONE REPRESENTATIVE OF A LOCAL HEALTH DEPARTMENT;

(III) ONE REPRESENTATIVE OF A PRIVATE PROVIDER OF BEHAVIORAL HEALTH SERVICES;

(IV) ONE VETERAN; AND

(V) ONE FAMILY MEMBER OF A VETERAN.

(C) THE LIEUTENANT GOVERNOR SHALL BE THE CHAIR OF THE ADVISORY BOARD.

(D) THE DEPARTMENTS OF HEALTH AND MENTAL HYGIENE AND VETERANS AFFAIRS SHALL PROVIDE STAFF FOR THE ADVISORY BOARD.

(E) A MEMBER OF THE ADVISORY BOARD MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY BOARD, BUT IS ENTITLED TO REIMBURSEMENT EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) A MAJORITY OF THE FULL MEMBERSHIP OF THE ADVISORY BOARD SHALL CONSTITUTE A QUORUM.

(G) THE ADVISORY BOARD MAY ACT ON ANY MATTER WITH THE AUTHORIZATION OF A MAJORITY OF THE QUORUM PRESENT AND VOTING.

(H) THE ADVISORY BOARD SHALL:

(1) CONDUCT AN IMMEDIATE ANALYSIS OF THE BEHAVIORAL HEALTH NEEDS OF VETERANS AND THEIR FAMILIES;

(2) IDENTIFY THE GAPS IN BEHAVIORAL HEALTH SERVICES AVAILABLE TO VETERANS AND THEIR FAMILIES;

(3) IDENTIFY IMPEDIMENTS TO THE ABILITY OF VETERANS AND THEIR FAMILIES TO ACCESS THE BEHAVIORAL HEALTH SERVICES THAT ARE AVAILABLE, PARTICULARLY IN THE STATE'S RURAL AREAS;

(4) FACILITATE COLLABORATION AMONG ORGANIZATIONS AND ENTITIES, INCLUDING HOSPITALS, THAT PROVIDE BEHAVIORAL HEALTH SERVICES TO VETERANS AND THEIR FAMILIES;

(5) MAKE RECOMMENDATIONS WITH RESPECT TO IMPROVING OUTREACH TO VETERANS AND THEIR FAMILIES IN NEED OF BEHAVIORAL HEALTH SERVICES;

(6) PROMOTE FEDERAL AND STATE COLLABORATION TO MAXIMIZE FUNDING AND ACCESS TO RESOURCES FOR THE BEHAVIORAL HEALTH NEEDS OF VETERANS AND THEIR FAMILIES;

(7) MAKE RECOMMENDATIONS WITH RESPECT TO BUILDING PROVIDER CAPACITY AND INCREASING PROVIDER TRAINING TO MEET THE BEHAVIORAL HEALTH NEEDS OF VETERANS AND THEIR FAMILIES; ~~AND~~

(8) MAKE RECOMMENDATIONS WITH RESPECT TO IMPROVING THE COORDINATION OF BEHAVIORAL HEALTH SERVICES FOR VETERANS AND THEIR FAMILIES; AND

(9) MAKE RECOMMENDATIONS ON METHODS TO PROVIDE BEHAVIORAL HEALTH SERVICES TO INDIVIDUALS WHO ARE NOT ELIGIBLE FOR BENEFITS FROM THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS DUE TO A DISHONORABLE DISCHARGE OR RELEASE FOR A REASON RELATING TO SUBSTANCE ABUSE OR MENTAL ILLNESS.

(I) THE ADVISORY BOARD SHALL SUBMIT AN INTERIM REPORT OF ITS FINDINGS ON OR BEFORE DECEMBER 1, 2009, AND A FINAL REPORT OF ITS FINDINGS AND RECOMMENDATIONS ON OR BEFORE DECEMBER 1, 2010, TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before September 1, 2008, the Department of Health and Mental Hygiene, in conjunction with the Veterans Behavioral Health Advisory Board established under Section 1 of this Act, shall submit a grant application to the United States Department of Veterans Affairs or other appropriate federal agency for a minimum of $3,500,000 in federal funds in fiscal year 2010 and a minimum of $3,500,000 in federal funds in fiscal year 2011 to support the provision of behavioral health services to veterans under this Act.

(b) The Department shall send a copy of the application required under this section to the members of the Maryland Congressional Delegation and, in accordance with § 2–1246 of the State Government Article, the Senate Budget and Taxation Committee, the Senate Finance Committee, the House Appropriations Committee, and the House Health and Government Operations Committee.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 3 years and, at the end of May 31, 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 22, 2008.

CHAPTER 557

(Senate Bill 906)

AN ACT concerning

Senior Prescription Drug Assistance Program – Subsidy for Medicare Part D Coverage Gap and Sunset Extension

FOR the purpose of requiring a certain corporation, beginning on a certain date and under certain circumstances, to transfer a certain amount of money to the separate account for the Senior Prescription Drug Assistance Program within the Maryland Health Insurance Plan; authorizing the corporation not to make the transfer, under certain circumstances; providing for a certain exception; requiring the Program to provide a certain subsidy for the Medicare Part D coverage gap, subject to the availability of certain funds; requiring the Board of Directors of the Maryland Health Insurance Plan to determine annually the amount of the subsidy; requiring the segregated account for the Senior Prescription Drug Assistance Program to include certain money deposited by a nonprofit health service plan; repealing a certain source of funds for the Maryland Health Insurance Plan Fund; altering requirements for a certain segregated account; altering requirements for the amount a nonprofit health service plan is required to deposit to the Fund; requiring a nonprofit health service plan to deposit to the Maryland Health Insurance Plan Fund the amount required for the Medicare Part D coverage gap subsidy; extending the termination date of the Senior Prescription Drug Assistance Program; defining a certain term; making technical corrections; and generally relating to a subsidy for the Medicare Part D coverage gap for enrollees of the Senior Prescription Drug Assistance Program.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 14–102(h), 14–501(i) and (j), 14–504(b), 14–512(c) and (e), and 14–513
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Insurance
Section 14–106.2 and 14–501(i)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Insurance
Section 14–501(a), 14–504 (a)(1) and (e), and 14–512(a) and (b)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 153 of the Acts of the General Assembly of 2002, as amended by Chapter 282 of the Acts of the General Assembly of 2005, Chapter 345 of the Acts of the General Assembly of 2006, and Chapter 509 of the Acts of the General Assembly of 2007
Section 13

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

Article – Insurance

14–102.

(h) The provisions of subsections (d) and (e) of this section and §§ 14–106, 14–106.1, **14–106.2,** 14–115(d), (e), (f), and (g), and 14–139(d) and (e) of this subtitle do not apply to a nonprofit health service plan that insures between 1 and 10,000 covered lives in Maryland or issues contracts for only one of the following services:

(1) podiatric;

(2) chiropractic;

(3) pharmaceutical;

(4) dental;

(5) psychological; or

(6) optometric.

14–106.2.

(A) THIS SECTION APPLIES TO A CORPORATION THAT IS:

(1) ISSUED A CERTIFICATE OF AUTHORITY AS A NONPROFIT HEALTH SERVICE PLAN; AND

(2) THE SOLE MEMBER OF A CORPORATION ISSUED A CERTIFICATE OF AUTHORITY AS A NONPROFIT HEALTH SERVICE PLAN.

(B) EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, BEGINNING JANUARY 1, 2009, AND EACH JANUARY 1 THEREAFTER, IF A CORPORATION SUBJECT TO THIS SECTION HAS A SURPLUS THAT EXCEEDS 800% OF THE CONSOLIDATED RISK–BASED CAPITAL REQUIREMENTS APPLICABLE TO THE CORPORATION IN THE IMMEDIATELY PRECEDING CALENDAR YEAR, THE CORPORATION SHALL TRANSFER $4,000,000 TO THE SEPARATE ACCOUNT FOR THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM WITHIN THE MARYLAND HEALTH INSURANCE PLAN FUND ESTABLISHED UNDER § 14–504 OF THIS TITLE.

(C) A CORPORATION IS NOT REQUIRED TO MAKE THE TRANSFER UNDER SUBSECTION (B) OF THIS SECTION IF:

(1) THE SURPLUS OF THE CORPORATION DOES NOT EXCEED 800% OF THE CONSOLIDATED RISK–BASED CAPITAL REQUIREMENTS APPLICABLE TO THE CORPORATION IN THE IMMEDIATELY PRECEDING CALENDAR YEAR; OR

(2) THE FEDERAL GOVERNMENT ELIMINATES THE COVERAGE GAP IN THE MEDICARE PART D PRESCRIPTION DRUG BENEFIT.

14–501.

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

(I) "MEDICARE PART D COVERAGE GAP" MEANS THE GAP IN COVERAGE UNDER MEDICARE PART D:

(1) ABOVE THE INITIAL COVERAGE LIMIT AND BEFORE CATASTROPHIC COVERAGE BEGINS; AND

(2) DURING WHICH AN INDIVIDUAL ENROLLED IN MEDICARE PART D IS RESPONSIBLE FOR 100% COINSURANCE COSTS.

[(i)**] (J)** "Plan" means the Maryland Health Insurance Plan.

[(j)**] (K)** "Plan of operation" means the articles, bylaws, and operating rules and procedures adopted by the Board in accordance with § 14–503 of this subtitle.

14–504.

(a) (1) There is a Maryland Health Insurance Plan Fund.

(b) The Fund shall consist of:

(1) premiums for coverage that the Plan issues;

[(2) except as provided in § 14–513(a) of this subtitle, premiums paid by enrollees of the Senior Prescription Drug Assistance Program;

(3)**] (2)** money collected in accordance with § 19–219 of the Health – General Article;

[(4)**] (3)** money deposited by a **[**carrier**] NONPROFIT HEALTH SERVICE PLAN** in accordance with § 14–513 of this subtitle;

[(5)**] (4)** income from investments that the Board makes or authorizes on behalf of the Fund;

[(6)**] (5)** interest on deposits or investments of money from the Fund;

[(7)**] (6)** premium tax revenue collected under § 14–107 of this title;

[(8)**] (7)** money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Fund;

[(9)**] (8)** money donated to the Fund; and

[(10)**] (9)** money awarded to the Fund through grants.

(e) (1) In addition to the operation and administration of the Plan, the Fund shall be used for the operation and administration of the Senior Prescription Drug Assistance Program established under Part II of this subtitle.

(2) The Board shall maintain separate accounts within the Fund for the Senior Prescription Drug Assistance Program and the Maryland Health Insurance Plan.

(3) Accounts within the Fund shall contain those moneys that are intended to support the operation of the Program for which the account is designated.

14–512.

(a) The Program shall:

(1) provide a prescription drug benefit subsidy, as determined by the Board, that may pay all or some of the deductibles, coinsurance payments, premiums, and copayments under the federal Medicare Part D Pharmaceutical Assistance Program for enrollees of the Program; and

(2) provide the subsidy to the maximum number of individuals eligible for enrollment in the Program, subject to the moneys available in the segregated account under § 14–504 of this subtitle.

(b) The Program may limit payment of any subsidy by paying the subsidy only on behalf of eligible individuals enrolled in a Medicare Part D Prescription Drug Plan or Medicare Advantage Plan that coordinates with the Program in accordance with federal requirements.

(c) The Program**:**

(1) may annually provide an additional subsidy, up to the full amount of the Medicare Part D Prescription Drug Plan premium, for individuals who qualify for a partial federal low–income subsidy**; AND**

(2) SHALL ANNUALLY PROVIDE AN ADDITIONAL SUBSIDY UP TO THE FULL AMOUNT OF THE MEDICARE PART D COVERAGE GAP, SUBJECT TO THE AVAILABILITY OF:

(I) FUNDS PROVIDED UNDER § 14–106.2 OF THIS TITLE; AND

(II) ANY OTHER FUNDS AVAILABLE FOR THIS PURPOSE.

(e) The Board shall determine annually:

(1) the number of individuals to be enrolled in the Program;

(2) the amount of subsidy to be provided under **[**subsection (a)**] SUBSECTIONS (A) AND (C)(2)** of this section; and

(3) the amount of any additional subsidy provided under subsection **[**(c)**] (C)(1)** of this section.

14–513.

(a) **[**As determined by the Board, premiums collected**]** **FUNDS** for the Program shall be deposited:

(1) to a segregated account in the Fund established under § 14–504 of this subtitle; or

(2) to a separate account for the Program established by the Program Administrator.

(b) **[**In addition to premium income, the**]** **THE** segregated account shall include:

(1) interest and investment income attributable to Program funds; and

(2) money deposited to the account by a nonprofit health service plan, in accordance with **[**subsection (c)**]** **SUBSECTIONS (C) AND (D)** of this section.

(c) (1) On or before April 1, 2003 and quarterly thereafter, the nonprofit health service plan required to subsidize the Program under § 14–106(d) of this title shall deposit to the Fund under § 14–504 of this subtitle the amount**[**, in excess of premiums collected,**]** that is necessary to operate and administer the Program for the following quarter.

(2) The amount deposited shall be determined by the Board based on enrollment, expenditures, and revenue for the previous year.

(3) The amount required by the Board under paragraph (2) of this subsection may not exceed the amounts specified in § 14–106(e) of this title.

(4) The Board shall provide funds to the Administrator, in accordance with the terms of the contract with the Administrator, for the cost of the State subsidy and administrative expenses incurred on behalf of the Program.

(D) A NONPROFIT HEALTH SERVICE PLAN SHALL DEPOSIT IN THE FUND UNDER § 14–504 OF THIS SUBTITLE THE AMOUNT REQUIRED UNDER § 14–106.2 OF THIS TITLE TO BE USED FOR THE PURPOSE OF SUBSIDIZING THE MEDICARE PART D COVERAGE GAP.

Chapter 153 of the Acts of 2002, as amended by Chapter 282 of the Acts of 2005, Chapter 345 of the Acts of 2006, and Chapter 509 of the Acts of 2007

SECTION 13. AND BE IT FURTHER ENACTED, That:

(1) No later than June 1, 2003, the Secretary of Health and Mental Hygiene and the carrier that is required to offer the Short–Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article shall transfer all Plan records, data, and other information necessary to operate and administer the Senior Prescription Drug Program established under this Act to the Board of the Maryland Health Insurance Plan.

(2) Each individual enrolled in the Short–Term Prescription Drug Subsidy Plan, established under Title 15, Subtitle 6 of the Health – General Article, on June 30, 2003 shall, at the option of the enrollee and subject to the payment of all necessary premiums and copayments, be automatically enrolled in the Senior Prescription Drug Program established under this Act.

(3) It is the intent of the General Assembly that the transition of enrollees from the Short–Term Prescription Drug Subsidy Plan to the Senior Prescription Drug Program be accomplished without interruption of benefits for enrollees.

(4) Subsidies shall be offered to enrollees through the Senior Prescription Drug Assistance Program established under Title 14, Subtitle 5, Part II of the Insurance Article beginning January 1, 2006. At the end of December 31, **[**2009**]** **2010**, the Senior Prescription Drug Assistance Program established under Title 14, Subtitle 5, Part II, as amended, shall be abrogated and of no further force and effect.

(5) Beginning April 1, 2003, the carrier required to offer the Short–Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article and the Senior Prescription Drug Assistance Program under Title 14, Subtitle 5 of the Insurance Article shall subsidize the Plan and beginning January 1, 2006, the Program, using the value of the carrier's premium tax exemption.

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

Approved by the Governor, May 22, 2008.

CHAPTER 558

(House Bill 1492)

AN ACT concerning

Senior Prescription Drug Assistance Program – Subsidy for Medicare Part D Coverage Gap and Sunset Extension

FOR the purpose of requiring a certain corporation, beginning on a certain date and under certain circumstances, to transfer a certain amount of money to the separate account for the Senior Prescription Drug Assistance Program within the Maryland Health Insurance Plan; authorizing the corporation not to make the transfer, under certain circumstances; providing for a certain exception; requiring the Program to provide a certain subsidy for the Medicare Part D coverage gap, subject to the availability of certain funds; requiring the Board of Directors of the Maryland Health Insurance Plan to determine annually the amount of the subsidy; requiring the segregated account for the Senior Prescription Drug Assistance Program to include certain money deposited by a nonprofit health service plan; repealing a certain source of funds for the Maryland Health Insurance Plan Fund; altering requirements for a certain segregated account; altering requirements for the amount a nonprofit health service plan is required to deposit to the Fund; requiring a nonprofit health service plan to deposit to the Maryland Health Insurance Plan Fund the amount required for the Medicare Part D coverage gap subsidy; extending the termination date of the Senior Prescription Drug Assistance Program; defining a certain term; making technical corrections; and generally relating to a subsidy for the Medicare Part D coverage gap for enrollees of the Senior Prescription Drug Assistance Program.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 14–102(h), 14–501(i) and (j), 14–504(b), 14–512(c) and (e), and 14–513
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Insurance
Section 14–106.2 and 14–501(i)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Insurance
Section 14–501(a), 14–504 (a)(1) and (e), and 14–512(a) and (b)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 153 of the Acts of the General Assembly of 2002, as amended by Chapter 282 of the Acts of the General Assembly of 2005, Chapter 345 of the

Acts of the General Assembly of 2006, and Chapter 509 of the Acts of the General Assembly of 2007
Section 13

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

Article – Insurance

14–102.

(h) The provisions of subsections (d) and (e) of this section and §§ 14–106, 14–106.1, **14–106.2,** 14–115(d), (e), (f), and (g), and 14–139(d) and (e) of this subtitle do not apply to a nonprofit health service plan that insures between 1 and 10,000 covered lives in Maryland or issues contracts for only one of the following services:

(1) podiatric;

(2) chiropractic;

(3) pharmaceutical;

(4) dental;

(5) psychological; or

(6) optometric.

14–106.2.

(A) THIS SECTION APPLIES TO A CORPORATION THAT IS:

(1) ISSUED A CERTIFICATE OF AUTHORITY AS A NONPROFIT HEALTH SERVICE PLAN; AND

(2) THE SOLE MEMBER OF A CORPORATION ISSUED A CERTIFICATE OF AUTHORITY AS A NONPROFIT HEALTH SERVICE PLAN.

(B) EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, BEGINNING JANUARY 1, 2009, AND EACH JANUARY 1 THEREAFTER, IF A CORPORATION SUBJECT TO THIS SECTION HAS A SURPLUS THAT EXCEEDS 800% OF THE CONSOLIDATED RISK–BASED CAPITAL REQUIREMENTS APPLICABLE TO THE CORPORATION IN THE IMMEDIATELY PRECEDING CALENDAR YEAR, THE CORPORATION SHALL TRANSFER $4,000,000 TO THE SEPARATE ACCOUNT FOR

THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM WITHIN THE MARYLAND HEALTH INSURANCE PLAN FUND ESTABLISHED UNDER § 14–504 OF THIS TITLE.

(C) A CORPORATION IS NOT REQUIRED TO MAKE THE TRANSFER UNDER SUBSECTION (B) OF THIS SECTION IF:

(1) THE SURPLUS OF THE CORPORATION DOES NOT EXCEED 800% OF THE CONSOLIDATED RISK–BASED CAPITAL REQUIREMENTS APPLICABLE TO THE CORPORATION IN THE IMMEDIATELY PRECEDING CALENDAR YEAR; OR

(2) THE FEDERAL GOVERNMENT ELIMINATES THE COVERAGE GAP IN THE MEDICARE PART D PRESCRIPTION DRUG BENEFIT.

14–501.

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

(I) "MEDICARE PART D COVERAGE GAP" MEANS THE GAP IN COVERAGE UNDER MEDICARE PART D:

(1) ABOVE THE INITIAL COVERAGE LIMIT AND BEFORE CATASTROPHIC COVERAGE BEGINS; AND

(2) DURING WHICH AN INDIVIDUAL ENROLLED IN MEDICARE PART D IS RESPONSIBLE FOR 100% COINSURANCE COSTS.

[(i)**] (J)** "Plan" means the Maryland Health Insurance Plan.

[(j)**] (K)** "Plan of operation" means the articles, bylaws, and operating rules and procedures adopted by the Board in accordance with § 14–503 of this subtitle.

14–504.

(a) (1) There is a Maryland Health Insurance Plan Fund.

(b) The Fund shall consist of:

(1) premiums for coverage that the Plan issues;

[(2) except as provided in § 14–513(a) of this subtitle, premiums paid by enrollees of the Senior Prescription Drug Assistance Program;

(3)**] (2)** money collected in accordance with § 19–219 of the Health – General Article;

[(4)**] (3)** money deposited by a **[**carrier**] NONPROFIT HEALTH SERVICE PLAN** in accordance with § 14–513 of this subtitle;

[(5)**] (4)** income from investments that the Board makes or authorizes on behalf of the Fund;

[(6)**] (5)** interest on deposits or investments of money from the Fund;

[(7)**] (6)** premium tax revenue collected under § 14–107 of this title;

[(8)**] (7)** money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Fund;

[(9)**] (8)** money donated to the Fund; and

[(10)**] (9)** money awarded to the Fund through grants.

(e) (1) In addition to the operation and administration of the Plan, the Fund shall be used for the operation and administration of the Senior Prescription Drug Assistance Program established under Part II of this subtitle.

(2) The Board shall maintain separate accounts within the Fund for the Senior Prescription Drug Assistance Program and the Maryland Health Insurance Plan.

(3) Accounts within the Fund shall contain those moneys that are intended to support the operation of the Program for which the account is designated.

14–512.

(a) The Program shall:

(1) provide a prescription drug benefit subsidy, as determined by the Board, that may pay all or some of the deductibles, coinsurance payments, premiums, and copayments under the federal Medicare Part D Pharmaceutical Assistance Program for enrollees of the Program; and

(2) provide the subsidy to the maximum number of individuals eligible for enrollment in the Program, subject to the moneys available in the segregated account under § 14–504 of this subtitle.

(b) The Program may limit payment of any subsidy by paying the subsidy only on behalf of eligible individuals enrolled in a Medicare Part D Prescription Drug Plan or Medicare Advantage Plan that coordinates with the Program in accordance with federal requirements.

(c) The Program**:**

(1) may annually provide an additional subsidy, up to the full amount of the Medicare Part D Prescription Drug Plan premium, for individuals who qualify for a partial federal low–income subsidy**; AND**

(2) SHALL ANNUALLY PROVIDE AN ADDITIONAL SUBSIDY UP TO THE FULL AMOUNT OF THE MEDICARE PART D COVERAGE GAP, SUBJECT TO THE AVAILABILITY OF:

(I) FUNDS PROVIDED UNDER § 14–106.2 OF THIS TITLE; AND

(II) ANY OTHER FUNDS AVAILABLE FOR THIS PURPOSE.

(e) The Board shall determine annually:

(1) the number of individuals to be enrolled in the Program;

(2) the amount of subsidy to be provided under **[**subsection (a)**] SUBSECTIONS (A) AND (C)(2)** of this section; and

(3) the amount of any additional subsidy provided under subsection **[**(c)**] (C)(1)** of this section.

14–513.

(a) **[**As determined by the Board, premiums collected**] FUNDS** for the Program shall be deposited:

(1) to a segregated account in the Fund established under § 14–504 of this subtitle; or

(2) to a separate account for the Program established by the Program Administrator.

(b) **[**In addition to premium income, the**] THE** segregated account shall include:

(1) interest and investment income attributable to Program funds; and

(2) money deposited to the account by a nonprofit health service plan, in accordance with **[**subsection (c)**]** **SUBSECTIONS (C) AND (D)** of this section.

(c) (1) On or before April 1, 2003 and quarterly thereafter, the nonprofit health service plan required to subsidize the Program under § 14–106(d) of this title shall deposit to the Fund under § 14–504 of this subtitle the amount**[**, in excess of premiums collected,**]** that is necessary to operate and administer the Program for the following quarter.

(2) The amount deposited shall be determined by the Board based on enrollment, expenditures, and revenue for the previous year.

(3) The amount required by the Board under paragraph (2) of this subsection may not exceed the amounts specified in § 14–106(e) of this title.

(4) The Board shall provide funds to the Administrator, in accordance with the terms of the contract with the Administrator, for the cost of the State subsidy and administrative expenses incurred on behalf of the Program.

(D) A NONPROFIT HEALTH SERVICE PLAN SHALL DEPOSIT IN THE FUND UNDER § 14–504 OF THIS SUBTITLE THE AMOUNT REQUIRED UNDER § 14–106.2 OF THIS TITLE TO BE USED FOR THE PURPOSE OF SUBSIDIZING THE MEDICARE PART D COVERAGE GAP.

Chapter 153 of the Acts of 2002, as amended by Chapter 282 of the Acts of 2005, Chapter 345 of the Acts of 2006, and Chapter 509 of the Acts of 2007

SECTION 13. AND BE IT FURTHER ENACTED, That:

(1) No later than June 1, 2003, the Secretary of Health and Mental Hygiene and the carrier that is required to offer the Short–Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article shall transfer all Plan records, data, and other information necessary to operate and administer the Senior Prescription Drug Program established under this Act to the Board of the Maryland Health Insurance Plan.

(2) Each individual enrolled in the Short–Term Prescription Drug Subsidy Plan, established under Title 15, Subtitle 6 of the Health – General Article, on June 30, 2003 shall, at the option of the enrollee and subject to the payment of all necessary premiums and copayments, be automatically enrolled in the Senior Prescription Drug Program established under this Act.

(3) It is the intent of the General Assembly that the transition of enrollees from the Short–Term Prescription Drug Subsidy Plan to the Senior Prescription Drug Program be accomplished without interruption of benefits for enrollees.

(4) Subsidies shall be offered to enrollees through the Senior Prescription Drug Assistance Program established under Title 14, Subtitle 5, Part II of the Insurance Article beginning January 1, 2006. At the end of December 31, **[**2009**]** **2010**, the Senior Prescription Drug Assistance Program established under Title 14, Subtitle 5, Part II, as amended, shall be abrogated and of no further force and effect.

(5) Beginning April 1, 2003, the carrier required to offer the Short–Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article and the Senior Prescription Drug Assistance Program under Title 14, Subtitle 5 of the Insurance Article shall subsidize the Plan and beginning January 1, 2006, the Program, using the value of the carrier's premium tax exemption.

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

Approved by the Governor, May 22, 2008.

CHAPTER 559

(Senate Bill 1)

AN ACT concerning

Maryland ~~Legislative~~ Youth Advisory Council

FOR the purpose of establishing the Maryland ~~Legislative~~ Youth Advisory Council; providing for the appointment, selection, membership, terms, and duties of the Council; establishing an executive board; providing for the selection of the executive board; requiring the consideration of certain factors in the appointment or selection of certain members by certain persons; providing for the appointment of the cochairs of the Council; providing for the development of a certain initial application and application process; providing for the staffing for the Council; requiring the Council to work with the State Department of Education regarding the granting of school credit for Council service; requiring the State Department of Education and the Maryland Higher Education Commission to notify certain individuals of the creation of the Council for a certain purpose; requiring the Council to hold certain public meetings, conduct

certain public hearings, propose legislation, and conduct a public awareness campaign; providing that a member of the Council may not receive compensation as a member of the Council, but is entitled to certain reimbursement; requiring the Council to make an annual report to the Governor and the General Assembly; defining certain terms; and generally relating to the Maryland ~~Legislative~~ Youth Advisory Council.

BY adding to
Article – State Government
Section 9–2701 to be under the new subtitle "Subtitle 27. Maryland ~~Legislative~~ Youth Advisory Council"
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

SUBTITLE 27. MARYLAND ~~LEGISLATIVE~~ YOUTH ADVISORY COUNCIL.

9–2701.

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

(2) "COUNCIL" MEANS THE MARYLAND ~~LEGISLATIVE~~ YOUTH ADVISORY COUNCIL.

(3) "HIGH SCHOOL STUDENT" MEANS A YOUTH WHO IS ENROLLED IN HIGH SCHOOL, WHO IS A HOME SCHOOL STUDENT, OR WHO IS ENROLLED IN A PROGRAM THAT LEADS TO A HIGH SCHOOL DIPLOMA OR CERTIFICATE OF ATTENDANCE OR A GENERAL EQUIVALENCY DIPLOMA.

(4) "INSTITUTION OF POSTSECONDARY EDUCATION" HAS THE MEANING STATED IN § 10–101 OF THE EDUCATION ARTICLE.

(5) "PUBLIC SENIOR HIGHER EDUCATION INSTITUTION" HAS THE MEANING STATED IN § 10–101 OF THE EDUCATION ARTICLE.

~~(3)~~ (6) "YOUTH" MEANS AN INDIVIDUAL WHO IS ~~22 YEARS OLD OR YOUNGER~~ 14 TO 22 YEARS OLD.

(B) THERE IS A MARYLAND ~~LEGISLATIVE~~ YOUTH ADVISORY COUNCIL.

(C) THE COUNCIL CONSISTS OF:

(1) THE FOLLOWING MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE:

~~**(I) TEN YOUTHS WHO ARE STUDENTS IN THE STATE AND WHO ARE ENROLLED IN HIGH SCHOOLS, WHO ARE HOME SCHOOL STUDENTS, OR WHO ARE ENROLLED IN PROGRAMS THAT LEAD TO A HIGH SCHOOL DIPLOMA OR CERTIFICATE OF ATTENDANCE OR A GENERAL EQUIVALENCY DIPLOMA;**~~

(I) SIX HIGH SCHOOL STUDENTS, INCLUDING AT LEAST THREE WHO ARE STUDENTS IN THE STATE AND WHO ARE ENROLLED IN PUBLIC HIGH SCHOOLS;

(II) TWO YOUTHS WHO ARE STUDENTS AT ~~**POSTSECONDARY EDUCATIONAL INSTITUTIONS**~~ **INSTITUTIONS OF POSTSECONDARY EDUCATION LOCATED IN THE STATE; AND**

(III) ONE MEMBER OF THE SENATE; ~~**AND**~~

(2) THE FOLLOWING MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES:

~~**(I) TEN YOUTHS WHO ARE STUDENTS IN THE STATE AND WHO ARE ENROLLED IN HIGH SCHOOLS, WHO ARE HOME SCHOOL STUDENTS, OR WHO ARE ENROLLED IN PROGRAMS THAT LEAD TO A HIGH SCHOOL DIPLOMA OR CERTIFICATE OF ATTENDANCE OR A GENERAL EQUIVALENCY DIPLOMA;**~~

(I) SIX HIGH SCHOOL STUDENTS, INCLUDING AT LEAST THREE WHO ARE STUDENTS IN THE STATE AND WHO ARE ENROLLED IN PUBLIC HIGH SCHOOLS;

(II) TWO YOUTHS WHO ARE STUDENTS AT ~~**POSTSECONDARY EDUCATIONAL INSTITUTIONS**~~ **INSTITUTIONS OF POSTSECONDARY EDUCATION LOCATED IN THE STATE; AND**

(III) ONE MEMBER OF THE HOUSE OF DELEGATES;

(3) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

(I) TWELVE YOUTHS, INCLUDING AT LEAST TEN HIGH SCHOOL STUDENTS, AT LEAST FIVE OF WHOM SHALL BE STUDENTS IN THE STATE WHO ARE ENROLLED IN PUBLIC HIGH SCHOOLS; AND

(II) FOUR YOUTHS WHO ARE STUDENTS AT INSTITUTIONS OF POSTSECONDARY EDUCATION LOCATED IN THE STATE;

(4) THE FOLLOWING MEMBERS SELECTED BY OTHER YOUTHS, INCLUDING:

(I) FIFTEEN HIGH SCHOOL STUDENTS CHOSEN BY THE MARYLAND ASSOCIATION OF STUDENT COUNCILS; AND

(II) EIGHT YOUTHS WHO ARE STUDENTS AT INSTITUTIONS OF POSTSECONDARY EDUCATION LOCATED IN THE STATE, INCLUDING:

1. THREE MEMBERS SELECTED BY THE UNIVERSITY SYSTEM OF MARYLAND STUDENT COUNCIL; AND

2. FIVE MEMBERS SELECTED BY THE STUDENT ADVISORY COUNCIL TO THE MARYLAND HIGHER EDUCATION COMMISSION, INCLUDING:

A. AT LEAST ONE MEMBER WHO IS ENROLLED IN A COMMUNITY COLLEGE;

B. AT LEAST ONE MEMBER WHO IS ENROLLED IN A PRIVATE COLLEGE OR UNIVERSITY; AND

C. AT LEAST ONE MEMBER WHO IS ENROLLED IN A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION WHO IS NOT OTHERWISE REPRESENTED ON THE COUNCIL; AND

(5) AN EXECUTIVE BOARD THAT CONSISTS OF:

(I) FOUR MEMBERS SELECTED BY THE YOUTH MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE, INCLUDING:

1. THREE HIGH SCHOOL STUDENTS; AND

2. ONE STUDENT AT AN INSTITUTION OF POSTSECONDARY EDUCATION;

(II) FOUR MEMBERS SELECTED BY THE YOUTH MEMBERS APPOINTED BY THE GOVERNOR, INCLUDING:

1. THREE HIGH SCHOOL STUDENTS; AND

2. ONE STUDENT AT AN INSTITUTION OF POSTSECONDARY EDUCATION; AND

(III) FOUR MEMBERS SELECTED BY THE YOUTH MEMBERS CHOSEN BY OTHER YOUTH, INCLUDING:

1. THREE HIGH SCHOOL STUDENTS; AND

2. ONE STUDENT AT AN INSTITUTION OF POSTSECONDARY EDUCATION.

(D) IN DECIDING WHICH MEMBERS TO APPOINT OR SELECT:

(1) THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE SHALL, TO THE EXTENT PRACTICABLE, CONSIDER:

(I) THE GEOGRAPHIC AND DEMOGRAPHIC DIVERSITY OF THE STATE;

(II) DIVERSITY IN EDUCATION, INCLUDING NONTRADITIONAL SETTINGS SUCH AS VOCATIONAL AND TECH–ORIENTED EDUCATION; AND

(III) YOUTHS WITH DISABILITIES;

(2) THE GOVERNOR SHALL, TO THE EXTENT PRACTICABLE, CONSIDER:

(I) THE GEOGRAPHIC AND DEMOGRAPHIC DIVERSITY OF THE STATE;

(II) DIVERSITY IN EDUCATION, INCLUDING NONTRADITIONAL SETTINGS SUCH AS VOCATIONAL AND TECH–ORIENTED EDUCATION;

(III) YOUTHS WITH DISABILITIES; AND

(IV) TRANSITIONAL YOUTHS WHO ARE NOT IN HIGH SCHOOL OR AN INSTITUTION OF POSTSECONDARY EDUCATION AND NOT LIKELY TO ATTEND AN INSTITUTION OF POSTSECONDARY EDUCATION; AND

(3) THE MARYLAND ASSOCIATION OF STUDENT COUNCILS SHALL CONSIDER YOUTHS WHO ARE ENROLLED IN SCHOOLS REPRESENTED BY THE ASSOCIATION AS WELL AS APPLICANTS WHO ARE ENROLLED IN SCHOOLS THAT ARE NOT REPRESENTED BY THE ASSOCIATION.

~~(D)~~ (E) (1) THE TERM OF A YOUTH MEMBER OF THE COUNCIL IS 9 MONTHS, FROM SEPTEMBER 1 TO JUNE 1 OF THE FOLLOWING YEAR.

(2) A YOUTH MEMBER WHO IS APPOINTED OR SELECTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED OR SELECTED AND QUALIFIES.

(3) A YOUTH MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

(4) THE MEMBER FROM THE SENATE AND THE MEMBER FROM THE HOUSE SERVE, RESPECTIVELY, AT THE PLEASURE OF THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE.

~~(E)~~ (F) (1) AT THE FIRST MEETING OF EACH YOUTH MEMBER TERM PERIOD, THE YOUTH MEMBERS SHALL ELECT ONE OF THE YOUTH MEMBERS TO SERVE AS COCHAIR FOR A TERM OF 9 MONTHS.

(2) ~~THE MEMBER FROM THE SENATE~~ A REPRESENTATIVE OF THE GOVERNOR'S OFFICE FOR CHILDREN APPOINTED BY THE GOVERNOR, THE MEMBER FROM THE SENATE, AND THE MEMBER FROM THE HOUSE SHALL SERVE AS COCHAIRS WITH THE ELECTED YOUTH MEMBER COCHAIR.

(3) THE COUNCIL MAY APPOINT ANY OFFICERS THAT IT CONSIDERS NECESSARY.

(4) THE COCHAIR APPOINTED BY THE GOVERNOR SHALL, ON BEHALF OF THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE, DEVELOP AN INITIAL APPLICATION AND APPLICATION PROCESS, BOTH OF WHICH THE COUNCIL MAY CHANGE AT ITS DISCRETION.

~~(F)~~ (G) THE GOVERNOR'S OFFICE FOR CHILDREN, IN ADDITION TO THE MEMBER FROM THE SENATE, OR THE MEMBER FROM THE HOUSE, OR BOTH, SHALL PROVIDE STAFF SUPPORT FOR THE COUNCIL.

~~(G)~~ (H) THE COUNCIL SHALL:

(1) INFORM THE GOVERNOR AND THE GENERAL ASSEMBLY OF ISSUES CONCERNING YOUTH, INCLUDING OFFERING TESTIMONY ON THESE ISSUES BEFORE LEGISLATIVE BODIES;

(2) EXAMINE ISSUES OF IMPORTANCE TO YOUTH, INCLUDING:

(I) EDUCATION;

(II) A SAFE LEARNING ENVIRONMENT;

(III) EMPLOYMENT OPPORTUNITIES;

(IV) STRATEGIES TO INCREASE YOUTH PARTICIPATION IN LOCAL AND STATE GOVERNMENT;

(V) HEALTH CARE ACCESS AND QUALITY OF CARE;

(VI) SUBSTANCE ABUSE AND UNDERAGE DRINKING;

(VII) EMOTIONAL AND PHYSICAL WELL–BEING;

(VIII) THE ENVIRONMENT;

(IX) POVERTY;

(X) HOMELESSNESS; ~~AND~~

(XI) YOUTH ACCESS TO STATE AND LOCAL SERVICES;

(XII) SUICIDE PREVENTION; AND

(XIII) EDUCATIONAL ACCESSIBILITY ISSUES FOR STUDENTS WITH DISABILITIES, INCLUDING ACCESS TO:

1. SCHOOLS;

2. SCHOOL–RELATED ACTIVITIES; AND

3. CLASSES;

(3) RECOMMEND ONE LEGISLATIVE PROPOSAL EACH LEGISLATIVE SESSION CONCERNING AN ISSUE INCLUDED IN PARAGRAPH (2) OF THIS SUBSECTION FOR POSSIBLE INTRODUCTION; AND

(4) CONDUCT A PUBLIC AWARENESS CAMPAIGN TO RAISE AWARENESS ABOUT THE COUNCIL AMONG MARYLAND YOUTH.

~~(H)~~ (I) (1) THE COUNCIL SHALL WORK WITH THE STATE DEPARTMENT OF EDUCATION REGARDING THE GRANTING OF SCHOOL CREDIT FOR COUNCIL SERVICE.

(2) THE STATE DEPARTMENT OF EDUCATION AND THE MARYLAND HIGHER EDUCATION COMMISSION SHALL NOTIFY THE HEAD ADMINISTRATORS OF ALL STATE HIGH SCHOOLS AND OF ALL INSTITUTIONS OF POSTSECONDARY EDUCATION, RESPECTIVELY, OF THE CREATION OF THE COUNCIL SO THAT THE ADMINISTRATORS MAY INFORM THEIR STUDENTS.

~~(I)~~ (J) (1) THE COUNCIL SHALL SET PRIORITIES AND DETERMINE:

(I) THE FUNCTION OF SUBCOMMITTEES;

(II) STANDARDS OF CONDUCT;

(III) PROCEDURES; AND

(IV) THE USE OF TECHNOLOGY TO CONVENE OR CONDUCT MEETINGS OR FACILITATE COMMUNICATIONS AMONG MEMBERS.

(2) THE COUNCIL SHALL REVIEW AND CONSIDER WHETHER THE PROCEDURES AND RULES USED BY THE GENERAL ASSEMBLY WOULD BE APPROPRIATE FOR USE AS MODELS FOR THE COUNCIL.

~~(J)~~ (K) THE COUNCIL SHALL:

(1) MEET AT LEAST FOUR TIMES EACH YEAR AND CONDUCT ONE OR TWO PUBLIC HEARINGS EACH YEAR ON ISSUES OF IMPORTANCE TO YOUTH;

(2) CONDUCT ONE EDUCATIONAL MEETING CONCERNING THE LEGISLATIVE PROCESS, TO WHICH THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE, AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LEGISLATIVE SERVICES, OR THEIR DESIGNEES, SHALL BE INVITED TO SPEAK; AND

(3) OPEN ALL MEETINGS TO THE PUBLIC.

~~(K)~~ (L) A MEMBER OF THE COUNCIL:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

~~(L)~~ (M) ON OR BEFORE THE LAST DAY OF THE YOUTH MEMBERS' TERMS, THE COUNCIL SHALL REPORT ITS ACTIVITIES TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, TO THE GENERAL ASSEMBLY.

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

Approved by the Governor, May 22, 2008.

CHAPTER 560

(Senate Bill 3)

AN ACT concerning

Fallen Soldier Privacy Act of 2008

FOR the purpose of prohibiting a person from knowingly using the name, portrait, picture, or image of a certain deceased soldier for certain purposes without prior consent from certain individuals; providing for the application of this Act; defining a certain term; establishing a certain penalty; and generally relating to the use of a deceased soldier's identity.

BY adding to
Article – Business Regulation
Section 19–401 through ~~19–403~~ 19–404 to be under the new subtitle "Subtitle 4. Use of a Deceased Soldier's Identity"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, The State of Maryland recognizes the tremendous dedication and sacrifice of those men and women who served in the armed forces and their willingness to defend the freedoms that we as individuals hold dear; and

WHEREAS, This legislation was inspired by the untimely death of Eric Kavanagh, a 20–year–old soldier and resident of Maryland, who was killed in action in Iraq on September 20, 2006, during Operation Iraqi Freedom, and dedicated to every man and woman in our armed forces who died protecting our country; and

WHEREAS, We believe that special honor should be given to those brave soldiers and surviving family members; and

WHEREAS, We also believe that it is imperative to protect the dignity of those who have fallen while serving this great country and that no individual, group, or organization should profit from the commercial use of a fallen soldier's name; and

WHEREAS, It is fitting that the State of Maryland enact legislation to ensure that the privacy of these heroic soldiers be respected and maintained; now, therefore,

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

Article – Business Regulation

SUBTITLE 4. USE OF A DECEASED SOLDIER'S IDENTITY.

19–401.

IN THIS ~~SECTION~~ *SUBTITLE*, "SOLDIER" MEANS:

(1) AN ACTIVE DUTY MEMBER OF THE ARMED FORCES OF THE UNITED STATES, INCLUDING THE ARMY, MARINE CORPS, NAVY, AIR FORCE, COAST GUARD, NATIONAL GUARD, RESERVE FORCES, AND ANY OTHER STANDARD UNITED STATES MILITARY AGENCY; OR

(2) A FEDERAL ACTIVE DUTY MEMBER OF THE STATE NATIONAL GUARD OR RESERVE FORCE.

19–402.

THIS ~~SECTION~~ *SUBTITLE* DOES NOT APPLY TO:

(1) THE USE OF A SOLDIER'S NAME, PORTRAIT, PICTURE, OR IMAGE IN AN ATTEMPT TO PORTRAY, DESCRIBE, OR IMPERSONATE THAT SOLDIER IN A LIVE PERFORMANCE, SINGLE AND ORIGINAL WORK OF FINE ART, PLAY, BOOK, ARTICLE, FILM, MUSICAL WORK, RADIO OR TELEVISION PROGRAMMING, OR OTHER AUDIO OR AUDIOVISUAL WORK, IF THE PERFORMANCE, FINE ART, PLAY, BOOK, ARTICLE, FILM, MUSICAL WORK, RADIO OR TELEVISION PROGRAMMING, OR OTHER AUDIO OR AUDIOVISUAL WORK DOES NOT CONSTITUTE A COMMERCIAL ADVERTISEMENT FOR ANY PRODUCT, GOOD, WARE, OR MERCHANDISE;

(2) THE USE OF A SOLDIER'S NAME, PORTRAIT, PICTURE, OR IMAGE FOR NONCOMMERCIAL PURPOSES, INCLUDING ANY NEWS, PUBLIC AFFAIRS, OR SPORTS BROADCAST OR ACCOUNT;

(3) THE USE OF A SOLDIER'S NAME IN TRUTHFULLY IDENTIFYING THE SOLDIER AS THE AUTHOR OF A PARTICULAR WORK OR PROGRAM OR AS THE PERFORMER IN A PARTICULAR PERFORMANCE;

(4) ANY PROMOTIONAL MATERIALS, ADVERTISEMENTS, OR COMMERCIAL ANNOUNCEMENTS FOR A USE DESCRIBED IN ITEM (1), (2), OR (3) OF THIS SECTION;

(5) UNLESS THE EXHIBITION IS CONTINUED BY THE PROFESSIONAL PHOTOGRAPHER AFTER WRITTEN NOTICE OBJECTING TO THE EXHIBITION BY A PERSON WITH THE AUTHORITY TO GRANT CONSENT FOR USE UNDER § 19–403 OF THIS SUBTITLE, THE USE OF PHOTOGRAPHS, VIDEO RECORDINGS, AND IMAGES BY A PERSON PRACTICING PROFESSIONAL PHOTOGRAPHY TO EXHIBIT, IN OR ABOUT THE PROFESSIONAL PHOTOGRAPHER'S PLACE OF BUSINESS OR PORTFOLIO, SAMPLES OF THE PROFESSIONAL PHOTOGRAPHER'S WORK;

(6) THE USE OF A SOLDIER'S PICTURE, PORTRAIT, OR IMAGE THAT IS NOT FACIALLY IDENTIFIABLE; AND

(7) A PHOTOGRAPH OF A MONUMENT OR A MEMORIAL THAT IS PLACED ON ANY PRODUCT, GOOD, WARE, OR MERCHANDISE.

~~19–402.~~ 19–403.

A PERSON MAY NOT KNOWINGLY USE THE NAME, PORTRAIT, PICTURE, OR IMAGE OF A SOLDIER KILLED IN THE LINE OF DUTY WITHIN THE PREVIOUS 50 YEARS~~, FOR THE PURPOSE OF GAINING A COMMERCIAL ADVANTAGE BY~~ IN ADVERTISING FOR THE SALE OF A PRODUCT, GOOD, WARE, MERCHANDISE, OR

SERVICE, FOR THE PURPOSE OF GAINING A COMMERCIAL ADVANTAGE, WITHOUT ~~FIRST~~ OBTAINING PRIOR CONSENT FOR USE FROM THE SOLDIER OR THE SURVIVING SPOUSE, THE PERSONAL REPRESENTATIVE, OR THE MAJORITY OF THE HEIRS OF THE DECEASED SOLDIER.

~~19–403.~~ 19–404.

A PERSON ~~THAT~~ WHO VIOLATES § ~~19–402~~ 19–403 OF THIS ~~SECTION~~ *SUBTITLE* IS GUILTY OF A MISDEMEANOR AND~~,~~ ON CONVICTION~~,~~ IS SUBJECT TO A FINE NOT EXCEEDING $2,500 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 22, 2008.

CHAPTER 561

(House Bill 64)

AN ACT concerning

Fallen Soldier Privacy Act of 2008

FOR the purpose of prohibiting a person from knowingly using the name, portrait, picture, or image of a certain deceased soldier for certain purposes without prior consent from certain individuals; providing for the application of this Act; defining a certain term; establishing a certain penalty; and generally relating to the use of a deceased soldier's identity.

BY adding to
Article – Business Regulation
Section 19–401 through ~~19–403~~ 19–404 to be under the new subtitle "Subtitle 4. Use of a Deceased Soldier's Identity"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, The State of Maryland recognizes the tremendous dedication and sacrifice of those men and women who served in the armed forces and their willingness to defend the freedoms that we as individuals hold dear; and

WHEREAS, This legislation was inspired by the untimely death of Eric Kavanagh, a 20–year–old soldier and resident of Maryland, who was killed in action in Iraq on September 20, 2006, during Operation Iraqi Freedom, and dedicated to every man and woman in our armed forces who died protecting our country; and

WHEREAS, We believe that special honor should be given to those brave soldiers and surviving family members; and

WHEREAS, We also believe that it is imperative to protect the dignity of those who have fallen while serving this great country and that no individual, group, or organization should profit from the commercial use of a fallen soldier's name; and

WHEREAS, It is fitting that the State of Maryland enact legislation to ensure that the privacy of these heroic soldiers be respected and maintained; now, therefore,

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

Article – Business Regulation

SUBTITLE 4. USE OF A DECEASED SOLDIER'S IDENTITY.

19–401.

IN THIS ~~SECTION~~ *SUBTITLE*, "SOLDIER" MEANS:

(1) AN ACTIVE DUTY MEMBER OF THE ARMED FORCES OF THE UNITED STATES, INCLUDING THE ARMY, MARINE CORPS, NAVY, AIR FORCE, COAST GUARD, NATIONAL GUARD, RESERVE FORCES, AND ANY OTHER STANDARD UNITED STATES MILITARY AGENCY; OR

(2) A FEDERAL ACTIVE DUTY MEMBER OF THE STATE NATIONAL GUARD OR RESERVE FORCE.

19–402.

THIS ~~SECTION~~ *SUBTITLE* DOES NOT APPLY TO:

(1) THE USE OF A SOLDIER'S NAME, PORTRAIT, PICTURE, OR IMAGE IN AN ATTEMPT TO PORTRAY, DESCRIBE, OR IMPERSONATE THAT

SOLDIER IN A LIVE PERFORMANCE, SINGLE AND ORIGINAL WORK OF FINE ART, PLAY, BOOK, ARTICLE, FILM, MUSICAL WORK, RADIO OR TELEVISION PROGRAMMING, OR OTHER AUDIO OR AUDIOVISUAL WORK, IF THE PERFORMANCE, FINE ART, PLAY, BOOK, ARTICLE, FILM, MUSICAL WORK, RADIO OR TELEVISION PROGRAMMING, OR OTHER AUDIO OR AUDIOVISUAL WORK DOES NOT CONSTITUTE A COMMERCIAL ADVERTISEMENT FOR ANY PRODUCT, GOOD, WARE, OR MERCHANDISE;

(2) THE USE OF A SOLDIER'S NAME, PORTRAIT, PICTURE, OR IMAGE FOR NONCOMMERCIAL PURPOSES, INCLUDING ANY NEWS, PUBLIC AFFAIRS, OR SPORTS BROADCAST OR ACCOUNT;

(3) THE USE OF A SOLDIER'S NAME IN TRUTHFULLY IDENTIFYING THE SOLDIER AS THE AUTHOR OF A PARTICULAR WORK OR PROGRAM OR AS THE PERFORMER IN A PARTICULAR PERFORMANCE;

(4) ANY PROMOTIONAL MATERIALS, ADVERTISEMENTS, OR COMMERCIAL ANNOUNCEMENTS FOR A USE DESCRIBED IN ITEM (1), (2), OR (3) OF THIS SECTION;

(5) UNLESS THE EXHIBITION IS CONTINUED BY THE PROFESSIONAL PHOTOGRAPHER AFTER WRITTEN NOTICE OBJECTING TO THE EXHIBITION BY A PERSON WITH THE AUTHORITY TO GRANT CONSENT FOR USE UNDER § 19–403 OF THIS SUBTITLE, THE USE OF PHOTOGRAPHS, VIDEO RECORDINGS, AND IMAGES BY A PERSON PRACTICING PROFESSIONAL PHOTOGRAPHY TO EXHIBIT, IN OR ABOUT THE PROFESSIONAL PHOTOGRAPHER'S PLACE OF BUSINESS OR PORTFOLIO, SAMPLES OF THE PROFESSIONAL PHOTOGRAPHER'S WORK;

(6) THE USE OF A SOLDIER'S PICTURE, PORTRAIT, OR IMAGE THAT IS NOT FACIALLY IDENTIFIABLE; AND

(7) A PHOTOGRAPH OF A MONUMENT OR A MEMORIAL THAT IS PLACED ON ANY PRODUCT, GOOD, WARE, OR MERCHANDISE.

~~19–402.~~ 19–403.

A PERSON MAY NOT KNOWINGLY USE THE NAME, PORTRAIT, PICTURE, OR IMAGE OF A SOLDIER KILLED IN THE LINE OF DUTY WITHIN THE PREVIOUS 50 YEARS~~, FOR THE PURPOSE OF GAINING A COMMERCIAL ADVANTAGE BY~~ IN ADVERTISING FOR THE SALE OF A PRODUCT, GOOD, WARE, MERCHANDISE, OR SERVICE, FOR THE PURPOSE OF GAINING A COMMERCIAL ADVANTAGE,

WITHOUT ~~FIRST~~ OBTAINING PRIOR CONSENT FOR USE FROM THE SOLDIER OR THE SURVIVING SPOUSE, THE PERSONAL REPRESENTATIVE, OR THE MAJORITY OF THE HEIRS OF THE DECEASED SOLDIER.

~~19–403.~~ 19–404.

A PERSON ~~THAT~~ WHO VIOLATES § ~~19–402~~ 19–403 OF THIS ~~SECTION~~ *SUBTITLE* IS GUILTY OF A MISDEMEANOR AND~~,~~ ON CONVICTION~~,~~ IS SUBJECT TO A FINE NOT EXCEEDING $2,500 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 22, 2008.

CHAPTER 562

(Senate Bill 45)

AN ACT concerning

State Advisory Council on Quality Care at the End of Life – Membership

FOR the purpose of altering the membership of the State Advisory Council on Quality Care at the End of Life; and generally relating to the membership of the State Advisory Council on Quality Care at the End of Life.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 13–1601
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–1602(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 – Health – General

13–1601.

There is a State Advisory Council on Quality Care at the End of Life.

13–1602.

(a) The Advisory Council consists of the following **[**20**]** ~~**21**~~ ***22*** members:

(1) The Attorney General or the Attorney General's designee;

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

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

(4) The Secretary of Aging or the Secretary's designee;

(5) The Secretary of Health and Mental Hygiene or the Secretary's designee; **[**and**]**

(6) THE SECRETARY OF DISABILITIES OR THE SECRETARY'S DESIGNEE; AND

[(6)**] (7)** ~~15~~ ***16*** members appointed by the Governor:

(i) One physician with experience in end–of–life care;

(ii) One nurse with experience in end–of–life care;

(iii) One pharmacist with experience in end–of–life care;

(iv) One physician with experience managing long–term care;

(v) One nurse with experience managing long–term care;

(vi) One representative of the health insurance industry;

(vii) One representative from a managed care organization;

(viii) One representative of the legal community;

(ix) One representative from the hospice care community;

(x) Two representatives from advocacy groups for end–of–life care;

(xi) Two representatives from religious groups; ~~and~~

(xii) Two representatives of the general public with experience with end–of–life or long–term care issues***; AND***

(XIII) ONE REPRESENTATIVE OF THE HOSPITAL INDUSTRY.

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

Approved by the Governor, May 22, 2008.

CHAPTER 563

(House Bill 118)

AN ACT concerning

State Advisory Council on Quality Care at the End of Life – Membership

FOR the purpose of altering the membership of the State Advisory Council on Quality Care at the End of Life; and generally relating to the membership of the State Advisory Council on Quality Care at the End of Life.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 13–1601
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–1602(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 – Health – General

13–1601.

There is a State Advisory Council on Quality Care at the End of Life.

13–1602.

(a) The Advisory Council consists of the following **[**20**]** ~~**21**~~ **22** members:

(1) The Attorney General or the Attorney General's designee;

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

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

(4) The Secretary of Aging or the Secretary's designee;

(5) The Secretary of Health and Mental Hygiene or the Secretary's designee; **[**and**]**

(6) THE SECRETARY OF DISABILITIES OR THE SECRETARY'S DESIGNEE; AND

[(6)**] (7)** ~~15~~ **16** members appointed by the Governor:

(i) One physician with experience in end–of–life care;

(ii) One nurse with experience in end–of–life care;

(iii) One pharmacist with experience in end–of–life care;

(iv) One physician with experience managing long–term care;

(v) One nurse with experience managing long–term care;

(vi) One representative of the health insurance industry;

(vii) One representative from a managed care organization;

(viii) One representative of the legal community;

(ix) One representative from the hospice care community;

(x) Two representatives from advocacy groups for end–of–life care;

(xi) Two representatives from religious groups; ~~and~~

(xii) Two representatives of the general public with experience with end–of–life or long–term care issues**; AND**

(XIII) ONE REPRESENTATIVE OF THE HOSPITAL INDUSTRY.

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

Approved by the Governor, May 22, 2008.

CHAPTER 564

(Senate Bill 154)

AN ACT concerning

Dorchester County – Alcoholic Beverages Act of 2008

FOR the purpose of repealing the off–sale privilege of a Class B beer and light wine license in Dorchester County on and after a certain date; authorizing a holder of a Class B (on–sale and off–sale) beer and light wine license in Dorchester County that is issued on or before a certain date to continue to exercise the privileges of the license and to renew the license; prohibiting the Board of License Commissioners from approving the transfer of a certain license on or before a certain date; repealing a requirement that a holder of a certain license must purchase wine from the Dorchester County Liquor Control Board Dispensaries; clarifying that certain restaurants may obtain a certain license from the Board of License Commissioners; clarifying that a certain license provides for the consumption of beer, wine, and liquor; providing certain penalties for the violation of certain requirements regarding catering events; authorizing the Board of License Commissioners to grant a special license entitling the holder to exercise certain privileges at an event conducted by a not for profit club, society, association, or organization; requiring an applicant for a

special license to submit to the Board of License Commissioners a certain application on a certain form; authorizing the issuance of Class A beer and wine licenses for certain premises under certain circumstances; clarifying and altering the hours of sale for certain licenses; and generally relating to alcoholic beverages in Dorchester County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 5–201(k), 6–201(k), 7–101(b)(6) ~~and~~, (d)(7), and (n)(2) and (3), 9–102(b–6), and 11–510(b)(10), (11), (12), and (13)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 7–101(n)(1) and 11–510(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 11–510(b)(14)
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.

(k) (1) In Dorchester County the annual license fee is $300.

(2) **[**A**]** **ON OR AFTER JULY 1, 2008, A** Class B (on–sale **[**and off–sale**]**) beer and light wine license shall be issued:

(i) Only to restaurants; and

(ii) Without seating capacity restrictions.

(3) **[**The holder of a license shall purchase all of the wine sold under this license from Dorchester County Liquor Control Board Dispensaries.**] A HOLDER OF A CLASS B (ON–SALE AND OFF–SALE) BEER AND LIGHT WINE LICENSE ISSUED ON OR BEFORE JUNE 30, 2008, MAY:**

(I) CONTINUE TO EXERCISE ALL OF THE PRIVILEGES OF THE LICENSE THROUGHOUT THE TERM OF THE LICENSE; AND

(II) RENEW THE LICENSE.

(4) THE DORCHESTER COUNTY BOARD OF LICENSE COMMISSIONERS MAY NOT APPROVE THE TRANSFER OF A CLASS B (ON–SALE AND OFF–SALE) BEER AND LIGHT WINE LICENSE ISSUED ON OR BEFORE JUNE 30, 2008.

6–201.

(k) (1) This subsection applies only in Dorchester County.

(2) (i) Bona fide restaurants, motels and hotels having restaurant facilities for serving full–course meals at least twice daily and seating capacity at tables for 75 or more persons, not including seats at bars or counters, may obtain a license from the **[**County Commissioners**] BOARD OF LICENSE COMMISSIONERS**. This license entitles the licensee to sell beer, wines, and liquors.

(ii) The annual license fee is $1,000.

(3) This license provides for the consumption of **BEER, [**wine**] WINE,** and liquor on the premises only.

7–101.

(b) (6) In Dorchester County:

(i) A holder of a special Class C beer license or a special Class C beer and wine license may cater an event at the place described in the license on the effective days of the license;

(ii) The fee is $15 per day; and

(iii) A holder of a special Class C beer license or a special Class C beer and wine license:

1. Shall distribute at the event for which the license is issued a wristband to each individual who is at least 21 years old; and

2. May not serve an alcoholic beverage to any individual who does not wear the wristband.

(IV) A PERSON WHO VIOLATES THIS PARAGRAPH IS SUBJECT TO:

1. FOR THE FIRST OFFENSE, A FINE OF $50; AND

2. FOR THE SECOND OFFENSE, A FINE NOT EXCEEDING $500 AND DENIAL OF FURTHER REQUESTS FOR LICENSES FOR CATERING ADDITIONAL EVENTS.

(d) (7) In Dorchester County:

(i) A holder of a special Class C beer, wine and liquor license may cater an event at the place described in the license on the effective days of the license;

(ii) The fee is $25 per day; and

(iii) A holder of a special Class C beer, wine and liquor license:

1. Shall distribute at the event for which the license is issued a wristband to each individual who is at least 21 years old; and

2. May not serve an alcoholic beverage to any individual who does not wear the wristband.

(IV) A PERSON WHO VIOLATES THIS PARAGRAPH IS SUBJECT TO:

1. FOR THE FIRST OFFENSE, A FINE OF $50; AND

2. FOR THE SECOND OFFENSE, A FINE NOT EXCEEDING $500 AND DENIAL OF FURTHER REQUESTS FOR LICENSES FOR CATERING ADDITIONAL EVENTS.

(n) (1) This subsection applies only in Dorchester County.

(2) The Board of License Commissioners may grant a special license of any class, except for any license issued by the Comptroller, that entitles the holder to exercise any of the privileges conferred by that class at an event conducted by a **NOT FOR PROFIT** club, society, association, or organization.

(3) **[**A license shall be in the form provided by the Board, and the licensee shall sign the license.**] AN APPLICANT FOR A LICENSE SHALL SUBMIT TO**

THE BOARD A COMPLETED, SIGNED, AND NOTARIZED APPLICATION ON THE FORM THAT THE BOARD PROVIDES.

9–102.

(b–6) (1) Notwithstanding any other provision of this section, in Dorchester County an additional Class A beer license **OR CLASS A BEER AND WINE LICENSE** may be issued for any premises licensed under a Class B or Class D license.

(2) The Board of License Commissioners of Dorchester County may limit the number of additional Class A beer licenses **AND CLASS A BEER AND WINE LICENSES** that it issues.

11–510.

(a) This section applies only in Dorchester County.

(b) Notwithstanding any other provisions of this subtitle, the hours for sale for alcoholic beverages are as follows:

(10) For the holders of a Class A beer and light wine license, sales are permitted:

(i) Monday through Saturday from 6 a.m. through **[**1 a.m. the following day**] MIDNIGHT**; and

(ii) Sunday from **[**12 noon**] 6 A.M.** through **[**12**]** midnight, except if Christmas Eve or New Year's Eve is on a Sunday, from **[**12 noon**] 6 A.M.** through 2 a.m. the following day.

(11) For the holders of a Class C beer and light wine license, sales are permitted:

(i) Monday through Saturday from 6 a.m. through 1:45 a.m. the following day; and

(ii) Sunday from **[**12**]** noon through **[**12**]** midnight, except if Christmas Eve or New Year's Eve is on a Sunday, from **[**12**]** noon through 2 a.m. the following day.

(12) For the holders of a Class D beer and light wine license, sales are permitted:

(i) Monday through Saturday from 6 a.m. through 1:45 a.m. the following day; and

(ii) Sunday from **[**12**]** noon through **[**12**]** midnight, except if Christmas Eve or New Year's Eve is on a Sunday, from **[**12**]** noon through 2 a.m. the following day.

(13) For the holders of a Class A beer, wine and liquor license, sales are permitted:

(i) Monday through Saturday from 6 a.m. through ~~12~~ midnight ~~the following day~~; and

(ii) Sunday from **[**12 noon**] 6 A.M.** through **[**12**]** midnight, except if Christmas Eve or New Year's Eve is on a Sunday, from **[**12 noon**] 6 A.M.** through 2 a.m. the following day.

(14) FOR THE HOLDERS OF A CLASS D BEER, WINE AND LIQUOR LICENSE, SALES ARE ALLOWED:

(I) MONDAY THROUGH SATURDAY FROM 6 A.M. THROUGH 1:45 A.M. THE FOLLOWING DAY; AND

(II) SUNDAY FROM NOON THROUGH MIDNIGHT, EXCEPT IF CHRISTMAS EVE OR NEW YEAR'S EVE IS ON A SUNDAY, FROM NOON THROUGH 2 A.M. THE FOLLOWING DAY.

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

Approved by the Governor, May 22, 2008.

CHAPTER 565

(Senate Bill 166)

AN ACT concerning

Furnishing an Alcoholic Beverage to Underage Individual – Penalty

FOR the purpose of ~~making it a misdemeanor for a person knowingly and willfully to furnish an alcoholic beverage for consumption to an individual under the age of 21 years under certain circumstances; imposing a certain criminal penalty;~~

~~repealing certain provisions requiring the issuance of a civil citation to a person who violates the prohibition against furnishing an alcoholic beverage for consumption to an underage individual; clarifying the elements of a certain alcoholic beverage violation;~~ increasing the penalty for furnishing an alcoholic beverage for consumption to an individual under the age of 21 years under certain circumstances; and generally relating to penalties for furnishing an alcoholic beverage to an underage individual.

BY repealing and reenacting, ~~with~~ without amendments,
Article – Criminal Law
Section 10–117 ~~and 10–119(a), (b), (f)(1), and (h)~~
Annotated Code of Maryland
(2002 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 10–119(h)
Annotated Code of Maryland
(2002 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 – Criminal Law

~~10–117.~~

~~(a) Except as provided in subsection (c) of this section, a person may not~~ ~~**KNOWINGLY AND WILLFULLY**~~ ~~furnish an alcoholic beverage to an individual~~ **[**~~if:~~

~~(1) the person furnishing the alcoholic beverage knows that the individual is under the age of 21 years; and~~

~~(2) the alcoholic beverage is furnished for the purpose of consumption by the individual under the age of 21 years~~**]** ~~**UNDER THE AGE OF 21 YEARS FOR THE PURPOSE OF CONSUMPTION BY THE INDIVIDUAL UNDER THE AGE OF 21 YEARS.**~~

~~(b) Except as provided in subsection (c) of this section, an adult may not knowingly and willfully allow an individual under the age of 21 years actually to possess or consume an alcoholic beverage at a residence, or within the curtilage of a residence that the adult owns or leases and in which the adult resides.~~

~~(c) (1) The prohibition set forth in subsection (a) of this section does not apply if the person furnishing the alcoholic beverage and the individual to whom the alcoholic beverage is furnished:~~

~~(i) are members of the same immediate family, and the alcoholic beverage is furnished and consumed in a private residence or within the curtilage of the residence; or~~

~~(ii) are participants in a religious ceremony.~~

~~(2) The prohibition set forth in subsection (b) of this section does not apply if the adult allowing the possession or consumption of the alcoholic beverage and the individual under the age of 21 years who possesses or consumes the alcoholic beverage:~~

~~(i) are members of the same immediate family, and the alcoholic beverage is possessed and consumed in a private residence, or within the curtilage of the residence, of the adult; or~~

~~(ii) are participants in a religious ceremony.~~

~~**(3) THE PROHIBITIONS SET FORTH IN SUBSECTIONS (A) AND (B) OF THIS SECTION DO NOT APPLY TO A PERSON WHO:**~~

~~**(I) WAS ACTING IN THE CAPACITY OF A LICENSEE, OR AN EMPLOYEE OF A LICENSEE, UNDER ARTICLE 2B OF THE CODE; AND**~~

~~**(II) HAS COMMITTED A VIOLATION OF AND IS SUBJECT TO THE PENALTIES UNDER ARTICLE 2B, § 12–108 OF THE CODE.**~~

~~**(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 60 DAYS OR A FINE NOT EXCEEDING $1,000 OR BOTH.**~~

~~10–119.~~

~~(a) A person who violates **[**§§ 10–113 through 10–118**]** **§ 10–113, § 10–114, § 10–115, § 10–116, OR § 10–118** of this part shall be issued a citation under this section.~~

~~(b) A citation for a violation of **[**§§ 10–113 through 10–118**]** **§ 10–113, § 10–114, § 10–115, § 10–116, OR § 10–118** of this part may be issued by:~~

~~(1) a police officer authorized to make arrests;~~

~~(2) in State forestry reservations, State parks, historic monuments, and recreation areas, a forest or park warden under § 5–206(a) or (b) of the Natural Resources Article; and~~

~~(3) in Anne Arundel County, Frederick County, Harford County, Montgomery County, and Prince George's County, and only in the inspector's jurisdiction, an alcoholic beverages inspector who investigates license violations under Article 2B of the Code if the inspector:~~

~~(i) has successfully completed an appropriate program of training in the proper use of arrest authority and pertinent police procedures as required by the board of license commissioners; and~~

~~(ii) does not carry firearms in the performance of the inspector's duties.~~

~~(f) (1) For purposes of this section, a violation of~~ **[**~~§§ 10–113 through 10–118~~**] § 10–113, § 10–114, § 10–115, § 10–116, OR § 10–118** ~~of this part is a Code violation and is a civil offense.~~

~~(h) (1)~~ **[**~~Except as provided in paragraph (2) of this subsection, if~~**] IF** ~~the District Court finds that a person has committed a Code violation, the court shall require the person to pay:~~

~~(i) a fine not exceeding $500; or~~

~~(ii) if the violation is a subsequent violation, a fine not exceeding $1,000.~~

[~~(2) If the District Court finds that a person has committed a Code violation under § 10–117 of this subtitle, the court shall require the person to pay:~~

~~(i) a fine not exceeding $1,000; or~~

~~(ii) if the violation is a subsequent violation, a fine not exceeding $1,500.~~**]**

[~~(3)~~**] (2)** ~~The Chief Judge of the District Court may not establish a schedule for the prepayment of fines.~~

10–117.

(a) Except as provided in subsection (c) of this section, a person may not furnish an alcoholic beverage to an individual if:

(1) the person furnishing the alcoholic beverage knows that the individual is under the age of 21 years; and

(2) the alcoholic beverage is furnished for the purpose of consumption by the individual under the age of 21 years.

(b) Except as provided in subsection (c) of this section, an adult may not knowingly and willfully allow an individual under the age of 21 years actually to possess or consume an alcoholic beverage at a residence, or within the curtilage of a residence that the adult owns or leases and in which the adult resides.

(c) (1) The prohibition set forth in subsection (a) of this section does not apply if the person furnishing the alcoholic beverage and the individual to whom the alcoholic beverage is furnished:

(i) are members of the same immediate family, and the alcoholic beverage is furnished and consumed in a private residence or within the curtilage of the residence; or

(ii) are participants in a religious ceremony.

(2) The prohibition set forth in subsection (b) of this section does not apply if the adult allowing the possession or consumption of the alcoholic beverage and the individual under the age of 21 years who possesses or consumes the alcoholic beverage:

(i) are members of the same immediate family, and the alcoholic beverage is possessed and consumed in a private residence, or within the curtilage of the residence, of the adult; or

(ii) are participants in a religious ceremony.

10–119.

(h) (1) Except as provided in paragraph (2) of this subsection, if the District Court finds that a person has committed a Code violation, the court shall require the person to pay:

(i) a fine not exceeding $500; or

(ii) if the violation is a subsequent violation, a fine not exceeding $1,000.

(2) If the District Court finds that a person has committed a Code violation under § 10–117 of this subtitle, the court shall require the person to pay:

(i) a fine not exceeding **[**$1,000**] $2,500**; or

(ii) if the violation is a subsequent violation, a fine not exceeding **[**$1,500**] $5,000**.

(3) The Chief Judge of the District Court may not establish a schedule for the prepayment of fines.

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

Approved by the Governor, May 22, 2008.

CHAPTER 566

(House Bill 76)

AN ACT concerning

Furnishing an Alcoholic Beverage to Underage Individual – Penalty

FOR the purpose of ~~making it a misdemeanor for a person knowingly and willfully to furnish an alcoholic beverage for consumption to an individual under the age of 21 years under certain circumstances; imposing a certain criminal penalty; repealing certain provisions requiring the issuance of a civil citation to a person who violates the prohibition against furnishing an alcoholic beverage for consumption to an underage individual; clarifying the elements of a certain alcoholic beverage violation;~~ *increasing the penalty for furnishing an alcoholic beverage for consumption to an individual under the age of 21 years under certain circumstances;* and generally relating to penalties for furnishing an alcoholic beverage to an underage individual.

BY repealing and reenacting, ~~with~~ *without* amendments,
Article – Criminal Law
Section 10–117 ~~and 10–119(a), (b), (f)(1), and (h)~~
Annotated Code of Maryland
(2002 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 10–119(h)

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

~~10–117.~~

~~(a) Except as provided in subsection (c) of this section, a person may not~~ ~~**KNOWINGLY AND WILLFULLY**~~ ~~furnish an alcoholic beverage to an individual~~ **[**~~if:~~

~~(1) the person furnishing the alcoholic beverage knows that the individual is under the age of 21 years; and~~

~~(2) the alcoholic beverage is furnished for the purpose of consumption by the individual under the age of 21 years~~**]** ~~**UNDER THE AGE OF 21 YEARS FOR THE PURPOSE OF CONSUMPTION BY THE INDIVIDUAL UNDER THE AGE OF 21 YEARS**~~.

~~(b) Except as provided in subsection (c) of this section, an adult may not knowingly and willfully allow an individual under the age of 21 years actually to possess or consume an alcoholic beverage at a residence, or within the curtilage of a residence that the adult owns or leases and in which the adult resides.~~

~~(c) (1) The prohibition set forth in subsection (a) of this section does not apply if the person furnishing the alcoholic beverage and the individual to whom the alcoholic beverage is furnished:~~

~~(i) are members of the same immediate family, and the alcoholic beverage is furnished and consumed in a private residence or within the curtilage of the residence; or~~

~~(ii) are participants in a religious ceremony.~~

~~(2) The prohibition set forth in subsection (b) of this section does not apply if the adult allowing the possession or consumption of the alcoholic beverage and the individual under the age of 21 years who possesses or consumes the alcoholic beverage:~~

~~(i) are members of the same immediate family, and the alcoholic beverage is possessed and consumed in a private residence, or within the curtilage of the residence, of the adult; or~~

~~(ii) are participants in a religious ceremony.~~

~~**(3) THE PROHIBITIONS SET FORTH IN SUBSECTIONS (A) AND (B) OF THIS SECTION DO NOT APPLY TO A PERSON WHO:**~~

~~**(I) WAS ACTING IN THE CAPACITY OF A LICENSEE, OR AN EMPLOYEE OF A LICENSEE, UNDER ARTICLE 2B OF THE CODE; AND**~~

~~**(II) HAS COMMITTED A VIOLATION OF AND IS SUBJECT TO THE PENALTIES UNDER ARTICLE 2B, § 12–108 OF THE CODE.**~~

~~**(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 60 DAYS OR A FINE NOT EXCEEDING $1,000 OR BOTH.**~~

~~10–119.~~

~~(a) A person who violates **[**§§ 10–113 through 10–118**]** **§ 10–113, § 10–114, § 10–115, § 10–116, OR § 10–118** of this part shall be issued a citation under this section.~~

~~(b) A citation for a violation of **[**§§ 10–113 through 10–118**]** **§ 10–113, § 10–114, § 10–115, § 10–116, OR § 10–118** of this part may be issued by:~~

~~(1) a police officer authorized to make arrests;~~

~~(2) in State forestry reservations, State parks, historic monuments, and recreation areas, a forest or park warden under § 5–206(a) or (b) of the Natural Resources Article; and~~

~~(3) in Anne Arundel County, Frederick County, Harford County, Montgomery County, and Prince George's County, and only in the inspector's jurisdiction, an alcoholic beverages inspector who investigates license violations under Article 2B of the Code if the inspector:~~

~~(i) has successfully completed an appropriate program of training in the proper use of arrest authority and pertinent police procedures as required by the board of license commissioners; and~~

~~(ii) does not carry firearms in the performance of the inspector's duties.~~

~~(f) (1) For purposes of this section, a violation of **[**§§ 10–113 through 10–118**]** **§ 10–113, § 10–114, § 10–115, § 10–116, OR § 10–118** of this part is a Code violation and is a civil offense.~~

~~(h) (1)~~ **[**~~Except as provided in paragraph (2) of this subsection, if~~**] IF** ~~the District Court finds that a person has committed a Code violation, the court shall require the person to pay:~~

~~(i) a fine not exceeding $500; or~~

~~(ii) if the violation is a subsequent violation, a fine not exceeding $1,000.~~

[~~(2) If the District Court finds that a person has committed a Code violation under § 10–117 of this subtitle, the court shall require the person to pay:~~

~~(i) a fine not exceeding $1,000; or~~

~~(ii) if the violation is a subsequent violation, a fine not exceeding $1,500.~~**]**

[~~(3)~~**] (2)** ~~The Chief Judge of the District Court may not establish a schedule for the prepayment of fines.~~

10–117.

(a) Except as provided in subsection (c) of this section, a person may not furnish an alcoholic beverage to an individual if:

(1) the person furnishing the alcoholic beverage knows that the individual is under the age of 21 years; and

(2) the alcoholic beverage is furnished for the purpose of consumption by the individual under the age of 21 years.

(b) Except as provided in subsection (c) of this section, an adult may not knowingly and willfully allow an individual under the age of 21 years actually to possess or consume an alcoholic beverage at a residence, or within the curtilage of a residence that the adult owns or leases and in which the adult resides.

(c) (1) The prohibition set forth in subsection (a) of this section does not apply if the person furnishing the alcoholic beverage and the individual to whom the alcoholic beverage is furnished:

(i) are members of the same immediate family, and the alcoholic beverage is furnished and consumed in a private residence or within the curtilage of the residence; or

(ii) are participants in a religious ceremony.

(2) The prohibition set forth in subsection (b) of this section does not apply if the adult allowing the possession or consumption of the alcoholic beverage and the individual under the age of 21 years who possesses or consumes the alcoholic beverage:

(i) are members of the same immediate family, and the alcoholic beverage is possessed and consumed in a private residence, or within the curtilage of the residence, of the adult; or

(ii) are participants in a religious ceremony.

10–119.

(h) (1) Except as provided in paragraph (2) of this subsection, if the District Court finds that a person has committed a Code violation, the court shall require the person to pay:

(i) a fine not exceeding $500; or

(ii) if the violation is a subsequent violation, a fine not exceeding $1,000.

(2) If the District Court finds that a person has committed a Code violation under § 10–117 of this subtitle, the court shall require the person to pay:

*(i) a fine not exceeding **[**$1,000**] $2,500**; or*

*(ii) if the violation is a subsequent violation, a fine not exceeding **[**$1,500**] $5,000**.*

(3) The Chief Judge of the District Court may not establish a schedule for the prepayment of fines.

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

Approved by the Governor, May 22, 2008.

CHAPTER 567

(Senate Bill 182)

AN ACT concerning

Maryland Transportation Authority ~~– Bonding Authority~~

FOR the purpose of requiring the Maryland Transportation Authority each year to develop, adopt, and submit to the General Assembly at certain times a certain financial forecast for its operations; requiring the financial forecast to include certain components; modifying a certain limit on the issuance of certain debt by the ~~Maryland Transportation~~ Authority; authorizing the Authority to issue certain notes of a certain maturity secured by a pledge of a certain line of credit; altering certain required General Fund appropriations for the financing of a certain highway; authorizing the Authority to issue certain notes for the financing of a certain highway; authorizing the Authority to use certain amounts from a certain *loan or* line of credit for the financing of a certain highway; authorizing the Governor to transfer up to a certain amount from the Transportation Trust Fund to the Authority for the financing of a certain highway; requiring that certain amounts be repaid by the Authority to the Transportation Trust Fund from certain appropriations; requiring the Authority each year to ~~develop, adopt, and submit to the General Assembly at certain times a certain financial plan of expenditures and funding for the construction of a certain highway; requiring the financial plan to include certain components~~ *include certain information in a certain required report to certain committees of the General Assembly*; stating the intent of the General Assembly that the Authority provide certain cash flow changes for financing a certain highway; *making certain provisions of this Act contingent on the taking effect of certain legislation;* and generally relating to the Maryland Transportation Authority ~~revenue bonds and the issuance of debt~~ and the financing of the Intercounty Connector.

BY adding to
Article – Transportation
Section 4–210 and 4–320.1
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 4–306 and 4–321
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 4–321(e)(2)
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)
(As enacted by Section 1 of this Act)

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

Article – Transportation

4–210.

(A) EACH YEAR, THE AUTHORITY SHALL DEVELOP AND ADOPT A ~~10–YEAR~~ *6–YEAR* FINANCIAL FORECAST FOR THE OPERATIONS OF THE AUTHORITY.

(B) IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE AUTHORITY SHALL SUBMIT TO THE GENERAL ASSEMBLY:

(1) A DRAFT OF THE FINANCIAL FORECAST ON SUBMISSION OF THE BUDGET BILL TO THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY; AND

(2) THE FINANCIAL FORECAST AS APPROVED BY THE AUTHORITY ON OR BEFORE JULY 1 OF EACH YEAR.

(C) THE FINANCIAL FORECAST SHALL INCLUDE THE FOLLOWING COMPONENTS:

(1) A SCHEDULE OF OPERATING EXPENSES;

(2) A SCHEDULE OF REVENUES, INCLUDING CONCESSIONS INCOME, INVESTMENT INCOME, OTHER INCOME, AND TRANSFERS FROM THE DEPARTMENT;

(3) A SCHEDULE OF TOLL REVENUES, INCLUDING THE AVERAGE TOLL PER VEHICLE, THE AVERAGE TOLL INCREASE, THE NUMBER OF PAID VEHICLES, AND THE TOLL REVENUE *BY TOLL FACILITY* ~~BY TOLL FACILITY AND~~ BY FISCAL YEAR;

(4) A SCHEDULE OF PLANNED BOND ISSUANCES, INCLUDING A DETAILED SUMMARY OF BONDS ISSUED TO FUND THE CAPITAL PROGRAM AND BONDS ISSUED TO FUND CAPITALIZED INTEREST;

(5) A SCHEDULE OF DEBT SERVICE IN EACH FISCAL YEAR FOR EACH BOND ISSUANCE OF ALL DEBT ISSUED ~~OR PLANNED TO BE ISSUED~~ BY THE AUTHORITY, INCLUDING ~~REVENUE BONDS AND CONDUIT FINANCING~~ *DEBT SERVICE ESTIMATES OF PLANNED BOND ISSUANCES*; AND

(6) A SUMMARY SCHEDULE FOR THE AUTHORITY THAT INCLUDES:

(I) THE TOTAL CASH BALANCE;

(II) THE AMOUNT OF THE CASH BALANCE THAT IS ENCUMBERED;

(III) THE ANNUAL CASH SURPLUS OR DEFICIT;

(IV) REVENUES;

(V) TRANSFERS TO THE DEPARTMENT FROM THE AUTHORITY;

(VI) TRANSFERS ~~FROM~~ *TO* THE AUTHORITY ~~TO~~ *FROM* THE DEPARTMENT;

(VII) BOND SALES;

(VIII) EXPENDITURES FOR DEBT SERVICE;

(IX) OPERATING EXPENSES;

(X) CAPITAL EXPENSES;

(XI) MAINTENANCE AND OPERATIONS EXPENSE RESERVE ACCOUNTS;

(XII) FORECASTED BOND INTEREST RATES;

(XIII) TOTAL BONDS OUTSTANDING; AND

(XIV) FINANCIAL COVERAGE RATIOS, INCLUDING THE RATIO OF TOTAL CASH TO TOLL REVENUES, THE DEBT SERVICE COVERAGE RATIO, AND THE RATE COVENANT COMPLIANCE RATIO.

(D) THE FINANCIAL FORECAST SHALL INCLUDE, FOR EACH OF THE COMPONENTS SPECIFIED IN SUBSECTION (C) OF THIS SECTION:

(1) ACTUAL INFORMATION FOR THE LAST FULL FISCAL YEAR; AND

(2) FORECASTS OF THE INFORMATION FOR EACH OF THE ~~10~~ *6* SUBSEQUENT FISCAL YEARS, INCLUDING THE CURRENT FISCAL YEAR, THE FISCAL YEAR FOR THE PROPOSED BUDGET, AND THE NEXT ~~8~~ *4* SUBSEQUENT FISCAL YEARS.

4–306.

(a) Except as provided in subsection (b) of this section, revenue bonds may be issued by the Authority:

(1) Without obtaining the consent of any instrumentality, agency, or unit of this State; and

(2) Without any proceedings or the happening of any conditions or things other than those specifically required by this subtitle.

(b) (1) ***(I)*** ~~Revenue~~ ***SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, REVENUE*** bonds secured by toll revenue may be issued in any amount as long as the aggregate outstanding and unpaid principal balance of the revenue bonds secured by toll revenue and revenue bonds of prior issues does not exceed **[**$1,900,000,000**] $3,000,000,000** on June 30 of any year.

(II) THE MAXIMUM AGGREGATE AMOUNT OF REVENUE BONDS THAT MAY BE OUTSTANDING AND UNPAID UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE REDUCED BY THE AMOUNT OF:

1. ANY LOAN EXTENDED TO THE STATE UNDER THE FEDERAL TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT; AND

2. ANY LINE OF CREDIT EXTENDED TO THE STATE UNDER THE FEDERAL TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT, TO THE EXTENT THE STATE DRAWS ON THE LINE OF CREDIT.

(2) Except as otherwise provided in this section and § 4–205 of this title, without the approval of the General Assembly, the Authority may issue bonds to refinance all or any part of the cost of a transportation facility project for which the Authority previously issued bonds authorized under this subtitle.

4–320.1.

(A) THE AUTHORITY MAY ISSUE BOND ANTICIPATION NOTES SECURED BY A PLEDGE OF A LINE OF CREDIT EXTENDED TO THE STATE UNDER THE FEDERAL TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.

(B) NOTES ISSUED UNDER THIS SECTION SHALL HAVE A MATURITY DATE *OF UP TO* 3 YEARS AFTER THE DATE OF ISSUE.

(C) A PLEDGE OF A LINE OF CREDIT AS AUTHORIZED UNDER THIS SECTION DOES NOT CONSTITUTE THE PLEDGE OF FUTURE FEDERAL REVENUES, AND NOTES ISSUED UNDER THIS SECTION ARE NOT SUBJECT TO § 3–601(D) OF THIS ARTICLE OR § 4–320 OF THIS SUBTITLE.

4–321.

(a) In this section, "Intercounty Connector" means the east–west multimodal highway in Montgomery and Prince George's counties between Interstate 270 and Interstate 95/U.S. Route 1, as described in the 2005 – 2010 Consolidated Transportation Plan.

(b) The State and the Authority shall finance the Intercounty Connector as provided in this section.

(c) The Authority shall:

(1) Issue not more than an aggregate principal amount of $750,000,000 in bonds secured by a pledge of future federal aid; and

(2) Issue revenue bonds under this subtitle that are not secured by a pledge of future federal aid.

(d) The Governor shall transfer from the Transportation Trust Fund to the Authority for the Intercounty Connector $22,000,000 in fiscal 2005 and $38,000,000 in fiscal 2006.

(e) The Governor shall transfer to the Authority for the Intercounty Connector:

(1) From the Transportation Trust Fund, at least $30,000,000 each year for fiscal years 2007 through 2010;

(2) From the General Fund, an aggregate appropriation by fiscal year **[**2010**] 2012** equal to $264,913,000, **[**with a payment of at least $50,000,000 each year for fiscal years 2007 through 2010; and**] AS FOLLOWS:**

(I) $53,000,000 FOR FISCAL YEAR 2007 AND FOR EACH OF FISCAL YEARS 2009 THROUGH 2011; AND

(II) $52,913,000 FOR FISCAL YEAR 2012; AND

(3) At least $10,000,000 federal aid from any source in amounts as deemed prudent.

(F) (1) IN ADDITION TO OTHER AMOUNTS PROVIDED TO FINANCE THE INTERCOUNTY CONNECTOR UNDER THIS SECTION, THE AUTHORITY MAY:

(I) ISSUE BOND ANTICIPATION NOTES FOR THE INTERCOUNTY CONNECTOR SECURED BY A PLEDGE OF A LINE OF CREDIT EXTENDED TO THE STATE UNDER THE FEDERAL TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AS AUTHORIZED UNDER § 4–320.1 OF THIS SUBTITLE; AND

(II) USE UP TO AN AMOUNT APPROVED BY THE U.S. DEPARTMENT OF TRANSPORTATION FROM A *LOAN OR* LINE OF CREDIT EXTENDED TO THE STATE UNDER THE FEDERAL TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN ADDITION TO AMOUNTS TRANSFERRED TO THE AUTHORITY UNDER SUBSECTIONS (D) AND (E)(1) OF THIS SECTION, THE GOVERNOR MAY TRANSFER UP TO $75,000,000 FROM THE TRANSPORTATION TRUST FUND TO THE AUTHORITY FOR THE INTERCOUNTY CONNECTOR.

(II) ANY AMOUNTS TRANSFERRED FROM THE TRANSPORTATION TRUST FUND UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE REPAID BY THE AUTHORITY TO THE TRANSPORTATION TRUST FUND FROM ~~THE~~ GENERAL FUND APPROPRIATIONS TO THE AUTHORITY ~~FOR FISCAL YEAR 2011 AND FISCAL YEAR 2012 UNDER SUBSECTION (E)(2) OF THIS SECTION~~.

[(f)**] (G)** (1) On or before December 1 of each year ***UNTIL COMPLETION OF CONSTRUCTION OF THE INTERCOUNTY CONNECTOR***, in accordance with § 2–1246 of the State Government Article, the Authority shall submit a report on the status of the Intercounty Connector to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the House Committee on Ways and Means.

(2) The report required under this subsection shall include:

(i) An update on the progress of the project and a comparison of the actual progress to the project schedule provided to the committees in January 2005;

(ii) The revised estimate of the total project cost of the project and a statement of the reasons for any cost savings or cost overruns, relative to the estimate of $2,447,000,000 provided to the committees in January 2005; ~~and~~

(iii) A description of any changes to the financing plan for the project, including the impact of cost savings or cost overruns, and, consistent with the intent of the General Assembly to limit the overall amount of debt used for financing the Intercounty Connector, the specific identification of sources of funds that may be applied to address any cost overruns~~.~~;

~~**(II) (1) EACH YEAR UNTIL COMPLETION OF ALL CASH FLOW FOR THE INTERCOUNTY CONNECTOR, THE AUTHORITY SHALL DEVELOP AND ADOPT AN UPDATED DETAILED FINANCIAL PLAN OF EXPENDITURES AND FUNDING FOR THE INTERCOUNTY CONNECTOR.**~~

~~**(2) IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE AUTHORITY SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY ON THE FINANCIAL PLAN FOR THE INTERCOUNTY CONNECTOR:**~~

~~**(I) ON SUBMISSION OF THE BUDGET BILL TO THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY; AND**~~

~~**(II) ON OR BEFORE JULY 1 OF EACH YEAR.**~~

~~**(3) THE REPORT REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE REVENUES AND EXPENDITURES FOR EACH FISCAL YEAR BEGINNING WITH FISCAL YEAR 2004 AND CONTINUING THROUGH ANTICIPATED COMPLETION OF THE INTERCOUNTY CONNECTOR.**~~

~~**(4) THE REPORT SHALL INCLUDE:**~~

~~(II)~~ *(IV)* PLANNED EXPENDITURES BY YEAR, CATEGORIZED BY PLANNING AND ENGINEERING, RIGHT–OF–WAY ACQUISITIONS, AND CONSTRUCTION;

~~(III)~~ *(V)* FUNDING SOURCES BY YEAR, CATEGORIZED BY:

1. GRANT ANTICIPATION REVENUE VEHICLE BOND ISSUANCES;

2. TRANSFERS FROM THE TRANSPORTATION TRUST FUND;

3. TRANSFERS FROM THE GENERAL FUND;

4. FEDERAL FUNDS;

5. AUTHORITY CASH RESERVES;

6. AUTHORITY REVENUE BOND ISSUANCES;

7. DRAWS ON A *LOAN OR* LINE OF CREDIT EXTENDED TO THE STATE UNDER THE FEDERAL TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT;

8. BOND ANTICIPATION NOTES; AND

9. ANY OTHER REVENUE SOURCE;

~~(III) NONOWNERSHIP–RELATED PROJECT COMPONENTS, BY COMPONENT, SUCH AS ENVIRONMENTAL MITIGATION, TEMPORARY CONSTRUCTION EASEMENTS, CONSTRUCTION ON ANY NON–STATE–OWNED ROAD, AND ANY OTHER CATEGORY IDENTIFIED BY THE AUTHORITY IN ITS TAX DUE DILIGENCE REVIEW;~~

~~(IV)~~ *(VI)* A SCHEDULE OF DEBT SERVICE FOR THE GRANT ANTICIPATION REVENUE VEHICLE BOND ISSUANCES AND AUTHORITY REVENUE BOND ISSUANCES; AND

~~(V)~~ *(VII)* FINANCING ASSUMPTIONS, INCLUDING MATURITIES OF BOND ISSUANCES AND FORECASTED INTEREST RATES.

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

Article – Transportation

4–321.

(e) The Governor shall transfer to the Authority for the Intercounty Connector:

*(2) From the General Fund, an aggregate appropriation by fiscal year [2012] **2011** equal to $264,913,000, as follows:*

(i) $53,000,000 for fiscal year 2007 [and for each of fiscal years 2009 through 2011; and];

(II) $85,000,000 FOR FISCAL YEAR 2009;

(III) $63,000,000 FOR FISCAL YEAR 2010; AND

*[(ii)] **(IV)** [$52,913,000] **$63,913,000** for fiscal year [2012] **2011**; and*

SECTION ~~2~~. *3.* AND BE IT FURTHER ENACTED, That:

(a) It is the intent of the General Assembly that the Maryland Transportation Authority implement cash flow changes for financing the Intercounty Connector as follows:

(1) for fiscal year 2009, the principal amount of the second tranche of Grant Anticipation Revenue Vehicle ("GARVEE") bonds may be increased by $17,000,000 to a total of $425,000,000, plus any bond premium generated in conjunction with that issuance of GARVEE bonds;

(2) for fiscal year 2010:

(i) the Authority may issue up to a $75,000,000 ~~3-year~~ bond anticipation note secured by a pledge of a line of credit extended to the State under the federal Transportation Infrastructure Finance and Innovation Act, and General Fund appropriations to the Authority ~~in fiscal years 2011 and 2012~~ may be invested for the purpose of generating sufficient interest income to offset the interest cost of the ~~3-year~~ bond anticipation note; and

(ii) the Authority may use up to $75,000,000 from its fiscal year 2010 unencumbered cash balance and return a like amount to its unencumbered cash balance ~~in fiscal year 2011 and fiscal year 2012~~ from the General Fund appropriations ~~received in those fiscal years~~; and

(3) the Authority may borrow up to $75,000,000 interest free from the Transportation Trust Fund, to be repaid by the Authority from General Fund appropriations ~~received in fiscal years 2011 and 2012~~.

(b) Funds received by the Authority from a *loan or* line of credit extended to the State under the federal Transportation Infrastructure Finance and Innovation Act may be substituted for Maryland Transportation Authority toll–backed revenue bonds in the financing of the Intercounty Connector.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act is contingent on the taking effect of legislation to increase the State income tax rate applicable to net taxable income of individuals in excess of $1,000,000 to at least 6.25% beginning January 1, 2008, and if legislation to increase the State income tax rate applicable to net taxable income of individuals in excess of $1,000,000 to at least 6.25% beginning January 1, 2008, does not become effective, Section 2 of this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION ~~2.~~ ~~3.~~ *5.* AND BE IT FURTHER ENACTED, That*, subject to Section 4 of this Act*, this Act shall take effect July 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 568

(Senate Bill 188)

AN ACT concerning

Comptroller – Cigarette Business Licenses – Grounds for Disciplinary Action

FOR the purpose of clarifying that applicants for cigarette business licenses and licensees must buy cigarettes for resale from a licensed cigarette manufacturer in order to be in compliance with certain provisions of law and not be subject to certain disciplinary action by the Comptroller; and generally relating to the regulation of cigarette business licenses in the State.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 16–210(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 – Business Regulation

16–210.

(a) Subject to the hearing provisions of § 16–211 of this subtitle, the Comptroller may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person;

(2) fraudulently or deceptively uses a license;

(3) fails to comply with the Maryland Cigarette Sales Below Cost Act or regulations adopted under that Act;

(4) fails to comply with the provisions of Title 11, Subtitle 5A of the Commercial Law Article;

(5) buys cigarettes for resale:

(i) in violation of a license; or

(ii) from a person who is not a **LICENSED** cigarette manufacturer, licensed subwholesaler, licensed vending machine operator, or licensed wholesaler;

(6) is convicted, under the laws of the United States or of any other state, of:

(i) a felony; or

(ii) a misdemeanor that is a crime of moral turpitude and is directly related to the fitness and qualification of the applicant or licensee; or

(7) has not paid a tax due before October 1 of the year after the tax became due.

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

Approved by the Governor, May 22, 2008.

CHAPTER 569

(Senate Bill 221)

AN ACT concerning

Garrett County – Alcoholic Beverages – Class B Beer and Light Wine License

FOR the purpose of establishing a Class B beer and light wine license in Garrett County; authorizing the Board of License Commissioners to issue the license for use in certain bona fide hotels, motels, inns, or restaurants; authorizing the Board to issue a license without or with a catering option; specifying the privileges of licenses without and licenses with a catering option; providing for certain issuing and annual fees; authorizing the Board to adopt certain regulations; defining a certain term; and generally relating to alcoholic beverages in Garrett County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 5–201(m)
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.

(m) **(1)** This **[**section does not apply**]** **SUBSECTION APPLIES ONLY** in Garrett County.

(2) IN THIS SUBSECTION, "LICENSE" MEANS A CLASS B BEER AND LIGHT WINE LICENSE.

(3) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS B BEER AND LIGHT WINE LICENSE FOR USE IN:

(I) A BONA FIDE HOTEL, MOTEL, OR INN THAT:

1. IS AN ESTABLISHMENT THAT ACCOMMODATES THE PUBLIC;

2. PROVIDES SERVICES ORDINARILY FOUND IN HOTELS, MOTELS, OR INNS;

3. IS EQUIPPED WITH AT LEAST 10 BEDROOMS FOR PUBLIC ACCOMMODATION; AND

4. HAS A LOBBY WITH A REGISTRATION AND MAIL DESK AND SEATING FACILITIES; OR

(II) A RESTAURANT THAT:

1. HAS A SEATING CAPACITY AT TABLES, NOT INCLUDING SEATS AT BARS OR COUNTERS, FOR AT LEAST 20 PERSONS; AND

2. CAN PREPARE AND SERVE FULL–COURSE MEALS FOR AT LEAST 20 PERSONS AT ONE SEATING.

(4) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A LICENSE WITHOUT OR WITH A CATERING OPTION.

(5) A HOLDER OF A LICENSE WITHOUT A CATERING OPTION MAY SELL:

(I) ALL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE LICENSED PREMISES; AND

(II) BREWED BEVERAGES FOR CONSUMPTION OFF THE LICENSED PREMISES.

(6) (I) IN ADDITION TO EXERCISING THE PRIVILEGES STATED IN PARAGRAPH (5) OF THIS SUBSECTION, A HOLDER OF A LICENSE WITH A CATERING OPTION MAY KEEP FOR SALE AND SELL BEER AND WINE FOR CONSUMPTION AT EVENTS THAT THE HOLDER CATERS OFF THE LICENSED PREMISES.

(II) TO EXERCISE THE CATERING OPTION, A HOLDER OF A LICENSE:

1. SHALL PROVIDE FOOD IF THE HOLDER PROVIDES ALCOHOLIC BEVERAGES AT A CATERED EVENT OFF THE LICENSED PREMISES; AND

2. MAY EXERCISE THE CATERING OPTION ONLY DURING THE HOURS AND DAYS THAT ARE ALLOWED UNDER THE LICENSE.

(7) FOR A LICENSE WITHOUT A CATERING OPTION:

(I) THE ISSUING FEE IS $350; AND

(II) THE ANNUAL FEE IS $350.

(8) FOR A LICENSE WITH A CATERING OPTION:

(I) THE ISSUING FEE IS $475; AND

(II) THE ANNUAL FEE IS $475.

(9) THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

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

Approved by the Governor, May 22, 2008.

CHAPTER 570

(Senate Bill 286)

AN ACT concerning

Public Health – Antibiotic–Resistant Infection Prevention Campaign

FOR the purpose of requiring the Secretary of Health and Mental Hygiene, in collaboration with other State agencies, <u>subject to the availability and appropriation of certain funding,</u> to establish and promote a certain public awareness campaign on antibiotic–resistant infections; providing for the components of the campaign; authorizing the Secretary to use certain resources

to carry out the provisions of this Act; requiring certain agencies and subdivisions to provide certain aid and information to the Secretary under certain circumstances; providing for the termination of this Act; and generally relating to a public awareness campaign on antibiotic–resistant infections.

BY adding to
Article – Health – General
Section 18–110
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

18–110.

(A) (1) ~~THE~~ SUBJECT TO THE AVAILABILITY AND APPROPRIATION OF FUNDING, THE SECRETARY, IN COLLABORATION WITH OTHER STATE AGENCIES, SHALL ESTABLISH AND PROMOTE A STATEWIDE PUBLIC INFORMATION, AWARENESS, AND EDUCATION CAMPAIGN ON ANTIBIOTIC–RESISTANT INFECTIONS.

(2) THE CAMPAIGN SHALL:

(I) DEVELOP AND DISSEMINATE EDUCATIONAL MATERIALS ABOUT ANTIBIOTIC–RESISTANT INFECTIONS THAT INCLUDE INFORMATION ON:

1. THE CAUSES AND SYMPTOMS OF ANTIBIOTIC–RESISTANT INFECTIONS, INCLUDING METHICILLIN–RESISTANT STAPHYLOCOCCUS AUREUS; AND

2. METHODS TO REDUCE THE TRANSMISSION OF ANTIBIOTIC–RESISTANT INFECTIONS, INCLUDING PROPER HAND WASHING TECHNIQUES AND THE USE OF ANTIBACTERIAL PRODUCTS;

(II) DISTRIBUTE THE EDUCATIONAL MATERIALS FREE OF CHARGE TO HEALTH FACILITIES, HEALTH CLINICS, SCHOOLS, AND ANY OTHER ORGANIZATION THE SECRETARY CONSIDERS APPROPRIATE TO RECEIVE THE MATERIALS;

(III) DISSEMINATE INFORMATION ABOUT THE DANGERS OF ANTIBIOTIC–RESISTANT INFECTIONS AND METHODS TO REDUCE THE

TRANSMISSION OF ANTIBIOTIC–RESISTANT INFECTIONS THROUGH WRITTEN MATERIALS, POSTERS, OR ANY OTHER MEDIUM THE SECRETARY CONSIDERS APPROPRIATE AND EFFECTIVE FOR CONVEYING THE INFORMATION TO THE PUBLIC; AND

(IV) INCLUDE ANY OTHER MATTER THAT THE SECRETARY CONSIDERS APPROPRIATE.

(B) TO CARRY OUT THIS SECTION, THE SECRETARY MAY:

(1) ~~ON REQUEST, SHALL RECEIVE~~ REQUEST AID OR INFORMATION FROM ANY AGENCY OF ~~THIS~~ THE STATE OR FROM A POLITICAL SUBDIVISION;

(2) ~~MAY REQUEST~~ REQUEST THE SERVICES OF INTERESTED ADVOCACY GROUPS; AND

(3) ~~MAY CONTRACT~~ CONTRACT FOR ANY NECESSARY SERVICES.

(C) AN AGENCY OF THE STATE OR A POLITICAL SUBDIVISION THAT IS REQUESTED TO PROVIDE AID OR INFORMATION UNDER SUBSECTION (B)(1) OF THIS SECTION SHALL PROVIDE THE REQUESTED AID OR INFORMATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. It shall remain effective for a period of 2 years and, at the end of September 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 22, 2008.

CHAPTER 571

(Senate Bill 297)

AN ACT concerning

Tax Credit for Employer Established Work–Based Learning Programs for Students

FOR the purpose of authorizing certain persons to establish certain approved paid work–based learning programs under which arrangements are made between

schools and employers to provide students certain structured employer–supervised learning; allowing a credit against the State income tax and insurance premiums tax for wages paid to each student under an approved paid work–based learning program; providing for calculation of the credit; providing for the carrying forward of the credit if the credit exceeds the total tax otherwise payable for a taxable year; providing for the termination of the credit after a certain taxable year; requiring that a certain study be done and provided to certain committees of the General Assembly on or before a certain date; providing for the application of this Act; providing for the termination of this Act; and generally relating to the establishment of approved paid work–based learning programs and a credit against the State income tax and insurance premiums tax for certain wages paid to each student pursuant to an approved paid work–based learning program.

BY adding to
Article – Education
Section 21–501 to be under the new subtitle "Subtitle 5. Approved Paid Work–Based Learning Programs"
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Tax – General
Section 10–711
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – Insurance
Section 6–118
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 – Education

SUBTITLE 5. APPROVED PAID WORK–BASED LEARNING PROGRAMS.

21–501.

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

(2) "ELIGIBLE PARTY" MEANS:

(I) AN EMPLOYER;

(II) A GROUP OF EMPLOYERS;

(III) AN INDUSTRY TRADE ASSOCIATION;

(IV) A LABOR ORGANIZATION;

(V) AN OPERATOR OF A REGISTERED APPRENTICESHIP PROGRAM; OR

(VI) ANY OTHER ENTITY THAT THE DEPARTMENT APPROVES TO ESTABLISH A PAID WORK–BASED LEARNING PROGRAM UNDER THIS SECTION.

(3) "STUDENT" MEANS AN INDIVIDUAL WHO:

(I) 1. IS AT LEAST 16 YEARS OLD BUT YOUNGER THAN THE AGE OF 23 YEARS; OR

2. REACHES THE AGE OF 23 YEARS WHILE PARTICIPATING IN AN APPROVED PAID WORK–BASED LEARNING PROGRAM UNDER THIS SECTION; AND

(II) IS ENROLLED IN A PUBLIC OR PRIVATE SECONDARY OR POSTSECONDARY SCHOOL IN THE STATE.

(4) "MULTICRAFT CONSTRUCTION SITE" MEANS A CONSTRUCTION SITE WHERE MORE THAN ONE CONSTRUCTION TRADE OPERATION IS TAKING PLACE AT THE SAME TIME.

(B) (1) AN ELIGIBLE PARTY MAY ESTABLISH A PAID WORK–BASED LEARNING PROGRAM FOR STUDENTS THAT IS CONSISTENT WITH CURRENT STATE AND FEDERAL EMPLOYMENT OF MINORS LAWS AND APPROVED BY THE DEPARTMENT AS PROVIDED UNDER THIS SECTION.

(2) A WORK–BASED LEARNING PROGRAM SHALL PROVIDE FOR APPROVED PAID WORK–BASED LEARNING ARRANGEMENTS BETWEEN EMPLOYERS AND SCHOOLS TO PROVIDE STUDENTS WITH STRUCTURED EMPLOYER–SUPERVISED LEARNING THAT:

(I) OCCURS IN THE WORKPLACE IN CONFORMANCE WITH ESTABLISHED SAFETY STANDARDS;

(II) INTEGRATES WITH CLASSROOM INSTRUCTION TO RESULT IN THE ACQUISITION OF AT LEAST ONE UNIT OF ACADEMIC CREDIT; AND

(III) LINKS TO EACH STUDENT'S CAREER INTEREST.

(3) AN APPROVED PAID WORK–BASED LEARNING PROGRAM FOR STUDENTS SHALL BE SET FORTH IN WRITING AND SHALL INCLUDE:

(I) A DESCRIPTION OF THE KNOWLEDGE AND SKILLS TO BE DEVELOPED;

(II) A DESCRIPTION OF THE METHODOLOGY TO BE USED;

(III) A DESCRIPTION OF THE CRITERIA FOR MONITORING, ASSESSING, AND CREDENTIALING; AND

(IV) EVIDENCE OF APPROVAL BY APPROPRIATE SCHOOL PERSONNEL.

(4) THE PROGRAM SHALL:

(I) PROVIDE APPROVED PAID WORK–BASED LEARNING EXPERIENCES FOR STUDENTS THAT ARE CONSISTENT WITH THE STRATEGIC ECONOMIC DEVELOPMENT GOALS ESTABLISHED FOR THE STATE; AND

(II) STRIVE TO ACHIEVE A GEOGRAPHIC REPRESENTATION OF STUDENTS PARTICIPATING IN PAID WORK–BASED LEARNING EXPERIENCES.

(5) A CONTRACTOR AT A MULTICRAFT CONSTRUCTION SITE MAY NOT QUALIFY FOR THE TAX CREDIT AUTHORIZED UNDER THIS SECTION FOR MORE THAN TWO STUDENTS.

(C) (1) IN ORDER FOR AN EMPLOYER TO BE ELIGIBLE TO CLAIM A TAX CREDIT, EACH STUDENT MUST BE EMPLOYED BY THE EMPLOYER FOR 200 HOURS OR MORE.

(2) AN EMPLOYER MAY CLAIM A TAX CREDIT IN AN AMOUNT EQUAL TO 15% OF THE WAGES PAID TO EACH STUDENT DURING THE TAXABLE YEAR UNDER A WORK–BASED LEARNING PROGRAM THAT HAS BEEN APPROVED

BY THE DEPARTMENT AS QUALIFYING FOR THE TAX CREDIT UNDER THIS SECTION.

(3) THE CUMULATIVE CREDIT ALLOWED UNDER THIS SECTION TO AN EMPLOYER IN THE CURRENT TAXABLE YEAR AND ALL PREVIOUS TAXABLE YEARS MAY NOT EXCEED $1,500 PER STUDENT.

(4) IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN ANY TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE EMPLOYER FOR THAT TAXABLE YEAR, THE EXCESS MAY BE CARRIED FORWARD AND APPLIED AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

(I) THE FULL AMOUNT OF EXCESS IS USED; OR

(II) THE EXPIRATION OF THE 5TH TAXABLE YEAR IN WHICH THE CONTRIBUTION WAS MADE.

(D) THE TAX CREDIT AUTHORIZED UNDER THIS SECTION SHALL BE ALLOWED ONLY FOR TAXABLE YEARS BEGINNING ON OR BEFORE DECEMBER 31, 2012.

(E) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

(2) (I) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL INCLUDE A PROCESS FOR APPROVAL OF PAID WORK–BASED LEARNING PROGRAMS AS QUALIFYING FOR THE TAX CREDIT UNDER THIS SECTION.

(II) THE NUMBER OF ELIGIBLE PAID WORK–BASED LEARNING PROGRAM STUDENTS APPROVED BY THE DEPARTMENT MAY NOT EXCEED 1,000 FOR EACH TAXABLE YEAR.

(3) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL INCLUDE A PROCESS FOR CERTIFYING EMPLOYERS' ELIGIBILITY FOR THE TAX CREDIT UNDER THIS SECTION.

(4) THE DEPARTMENT MAY DELEGATE THE APPROVAL AUTHORITY FOR PROGRAMS UNDER THIS SECTION TO ONE OR MORE PRIVATE INDUSTRY COUNCILS.

Article – Tax – General

10–711.

AN INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR WAGES PAID TO EACH STUDENT UNDER AN APPROVED PAID WORK–BASED LEARNING PROGRAM AS PROVIDED UNDER § 21–501 OF THE EDUCATION ARTICLE.

Article – Insurance

6–118.

AN INSURANCE COMPANY MAY CLAIM A CREDIT AGAINST THE PREMIUM TAX FOR WAGES PAID TO EACH STUDENT UNDER AN APPROVED PAID WORK–BASED LEARNING PROGRAM AS PROVIDED UNDER § 21–501 OF THE EDUCATION ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Department of Education shall evaluate the effectiveness of the tax credit provided under this Act. The Department shall include in this study the number of businesses qualifying for the tax credits, the types of businesses qualifying for the credits, and the amount of credits granted. The Department shall report its findings to the Senate Budget and Taxation Committee and the House Committee on Ways and Means on or before November 1, 2012, in accordance with § 2–1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall remain effective for a period of 5 years and, at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect; provided, that any excess credits may be carried forward and, subject to the limitations of § 21–501 of the Education Article, may be applied as credit for taxable years beginning on or after January 1, 2013.

SECTION 4. 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 22, 2008.

CHAPTER 572

(Senate Bill 305)

AN ACT concerning

Community Services Reimbursement Rate Commission – Termination Date Extension and Modifications

FOR the purpose of extending the termination date for the Community Services Reimbursement Rate Commission; authorizing the Governor, with the advice and consent of the Senate, to appoint a certain number of members to the Commission for an additional consecutive term beginning on a certain date; altering a requirement that the Commission assess changes in wages paid by certain providers to require the Commission to assess the level of and changes in wages paid by certain providers to direct support workers; repealing a requirement that the Commission assess certain measures of quality and certain other rate system issues; altering a requirement that the Commission assess the impact of consumer safety costs to require the Commission to assess the impact of changes in regulations that impact on the costs of certain providers; ~~requiring the Commission to assess trends in housing costs and how these trends affect costs of certain providers;~~ requiring the Commission to develop or refine certain methodologies; ~~requiring the Commission to continue to study the transportation costs incurred by certain providers; requiring the Commission to work with the Mental Hygiene Administration to expand the use of certain data~~ repealing a requirement that the Commission study the variation in transportation costs among providers of services to individuals with developmental disabilities and make a certain recommendation; repealing a requirement that the Commission work with the Mental Hygiene Administration to expand the use of certain billing data for a certain purpose; repealing a requirement that the Commission review certain changes in the payments for and utilization of psychiatric rehabilitation services; ~~requiring the Commission to review information on certain practices and make certain recommendations;~~ requiring the Commission to include certain findings in a certain report; requiring the Board of Nursing to provide to the Commission at a certain time copies of any new or revised regulations that would be expected to impact on the costs incurred by certain providers; repealing a certain definition; and generally relating to the Community Services Reimbursement Rate Commission.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–801, 13–803, 13–806, 13–809, and 13–810
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General

Section 13–802, 13–804, 13–805, 13–807, and 13–808
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 593 of the Acts of the General Assembly of 1996, as amended by Chapter 566 of the Acts of the General Assembly of 1999, Chapter 370 of the Acts of the General Assembly of 2002, and Chapter 401 of the Acts of the General Assembly of 2005
Section 3

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

Article – Health – General

13–801.

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

(b) "Commission" means the Community Services Reimbursement Rate Commission.

(c) **[**"Consumer safety costs" means the costs incurred by a provider for care that is provided to comply with any regulatory requirements in the staffing or manner of care provided, including cost factors related to health and safety that are stated in the care plan required for an individual.

(d)**]** "Provider" means a community–based agency or program funded:

(1) By the Developmental Disabilities Administration to serve individuals with developmental disabilities; or

(2) By the Mental Hygiene Administration to serve individuals with mental disorders.

[(e)**]** **(D)** "Rate" means the reimbursement rate paid by the Department to a provider from State general funds, Maryland Medical Assistance Program funds, other State or federal funds, or a combination of those funds.

13–802.

(a) There is a Community Services Reimbursement Rate Commission.

(b) The Commission is an independent unit that functions in the Department.

13–803.

(a) The Commission shall consist of seven members appointed by the Governor with the advice and consent of the Senate.

(b) Of the seven members, four shall be individuals who do not have any connection with the management or policy of any provider.

(c) Each member appointed to the Commission shall be interested in ensuring high quality community–based services for individuals with developmental disabilities or mental disorders.

(d) (1) The term of a member is 3 years.

(2) If a vacancy occurs during the term of a member, the Governor shall appoint a successor who will serve until the term expires.

(3) Except as provided in paragraph (4) of this subsection, a member who serves two consecutive full 3–year terms may not be reappointed for 3 years after completion of those terms.

(4) The Governor may, with the advice and consent of the Senate, appoint up to **[**three**]** **TWO** members serving on the Commission as of January 1, **[**2005**]** **2008,** to serve a **[**fourth**]** **FIFTH** consecutive 3–year term beginning October 1, **[**2005**]** **2008**.

13–804.

Each year, from among the members of the Commission:

(1) The Governor shall appoint a chairman; and

(2) The chairman shall appoint a vice chairman.

13–805.

(a) A quorum of the Commission is four members.

(b) The Commission shall meet at least four times a year at the times and places that it determines.

(c) A member of the Commission:

(1) May not receive compensation for duties performed 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.

(d) The Commission may employ staff and expend funds to carry out its duties and responsibilities under this subtitle in accordance with the State budget.

13–806.

(a) The Commission shall assess:

(1) The extent and amount of uncompensated care delivered by providers;

(2) The **[**relationship of**]** **LEVEL OF AND** changes in wages paid by providers to **[**changes in rates paid by the Department**]** **DIRECT SUPPORT WORKERS**, including the source of revenue for wages paid by providers;

(3) The ability of providers to operate on a solvent basis in the delivery of effective and efficient services that are in the public interest;

(4) The incentives and disincentives:

(i) Incorporated in the rate setting methodologies utilized and proposed by the Mental Hygiene Administration and the Developmental Disabilities Administration; and

(ii) In alternative methodologies;

(5) ~~Measures of quality and how~~ **HOW** incentives to provide quality care can be built into a rate setting methodology; **AND**

(6) The impact of **[**consumer safety**]** **CHANGES IN REGULATIONS THAT IMPACT ON THE** costs **OF PROVIDERS** and whether the rates have been adjusted to provide for **[**consumer safety costs**]** **ANY INCREASED COSTS ASSOCIATED WITH THE REGULATORY CHANGES**~~; **[**and**]**~~

~~(7) **THE TRENDS IN HOUSING COSTS, AND HOW THESE TRENDS ARE AFFECTING THE COSTS OF PROVIDERS OF RESIDENTIAL SERVICES; AND**~~

~~**(8)** Other rate system issues determined by the Commission to be appropriate~~.

(b) The Commission shall:

(1) Develop **OR REFINE** methodologies for calculating rate update factors for rates paid by the Developmental Disabilities Administration and the Mental Hygiene Administration and recommend annual rate update factors that use the methodologies that are developed;

(2) With respect to the Developmental Disabilities Administration~~:~~

~~(i)~~ ~~Review~~**, REVIEW** the data reported in the Developmental Disabilities Administration annual cost reports and use the data to develop relative performance measures of providers; and

~~(ii)~~ ~~**[**Study**] CONTINUE TO STUDY** the **[**variation in**]** transportation costs **[**among**] INCURRED BY** providers of services to individuals with developmental disabilities, and recommend whether the rates should include an adjustment for such costs;~~

(3) ~~With respect to the Mental Hygiene Administration:~~

~~(i)~~ ~~Work with the Mental Hygiene Administration to expand the use of **[**any**] SERVICE AUTHORIZATION AND** billing data collected by a third party administrator for the public mental health system in order to evaluate performance; and~~

~~(ii)~~ ~~**1.**~~ ~~Review **[**the changes in the payments for and utilization of psychiatric rehabilitation services associated with the shift to paying for these services by means of case rates**] INFORMATION ON EVIDENCE–BASED AND BEST PRACTICES FOR MENTAL HEALTH SERVICES;**~~

~~**2. RECOMMEND HOW INCENTIVES TO ENCOURAGE THESE PRACTICES COULD BE PROVIDED THROUGH THE RATE SYSTEM; AND**~~

~~**3. REVIEW WHETHER THE RATES PROVIDED UNDER THE RATE SYSTEM ARE ADEQUATE TO PROVIDE THESE INCENTIVES**; and~~

~~(4)~~ Evaluate proposed regulatory changes by the Department, the Developmental Disabilities Administration, and the Mental Hygiene Administration that affect the rates paid or the rate structure.

13–807.

(a) In addition to the powers and duties provided elsewhere in this subtitle, the Commission may:

(1) Recommend the adoption of regulations to carry out the provisions of this subtitle;

(2) Create committees from among its members;

(3) Appoint advisory committees that may include individuals and representatives of interested public and private organizations;

(4) Publish and distribute information that relates to the financial aspects of community–based developmental disability or mental health services; and

(5) Subject to the limitations of this subtitle, exercise any other power that is reasonably necessary to carry out the purposes of this subtitle.

(b) The Commission shall have timely access to information from the Executive Branch required to fulfill the responsibilities of the Commission under this subtitle, including information from the Developmental Disabilities Administration and the Mental Hygiene Administration.

13–808.

(a) The power of the Secretary over plans, proposals, and projects of units in the Department does not include the power to disapprove or modify a decision or determination that the Commission makes under authority specifically designated to the Commission by law.

(b) The power of the Secretary to transfer by rule, regulation, or written directive any staff, function, or funds of units in the Department does not apply to any staff, function, or funds of the Commission.

13–809.

On or before October 1 of each year, the Commission shall issue a report to the Governor, the Secretary, and, subject to § 2–1246 of the State Government Article, the General Assembly that:

(1) Describes its findings regarding:

(i) The **[**relationship of**]** changes in wages paid by providers to **[**changes in rates paid by the Department**]** **DIRECT CARE WORKERS**;

(ii) The financial condition of providers and the ability of providers to operate on a solvent basis in the delivery of effective and efficient services that are in the public interest;

(iii) The incentives and disincentives incorporated in the rate setting methodologies utilized and proposed by the Mental Hygiene Administration and the Developmental Disabilities Administration and how the methodologies might be improved;

(iv) How incentives to provide quality of care can be built into a rate setting methodology; **[**and**]**

(v) The recommended methodologies for the calculation of rate update factors and the rate update factors recommended for the next succeeding fiscal year~~; AND~~

~~(VI) THE TRENDS IN HOUSING COSTS AND HOW THESE TRENDS ARE AFFECTING THE COSTS OF PROVIDERS OF RESIDENTIAL SERVICES~~;

(2) Recommends the need for any formal executive, judicial, or legislative action;

(3) Describes issues in need of future study by the Commission; and

(4) Discusses any other matter that relates to the purposes of the Commission under this subtitle.

13–810.

(a) The findings and recommendations of the Commission shall be considered each year in the development of the budgets of the Department, the Developmental Disabilities Administration, and the Mental Hygiene Administration.

(b) (1) The Mental Hygiene Administration and the Developmental Disabilities Administration shall respond to the recommendations of the Commission in writing within 30 days after the report required in § 13–809 of this subtitle has been issued.

(2) The written response of the Mental Hygiene Administration and the Developmental Disabilities Administration shall include:

(i) An explanation of the actions being taken to implement the recommendations of the Commission; or

(ii) An explanation of why no action has been taken on the recommendations of the Commission.

(c) **(1)** The Mental Hygiene Administration and the Developmental Disabilities Administration shall provide to the Commission, in advance of or at the same time as they are provided to the public, copies of any new or revised regulations regarding payment rates for community services.

(2) THE BOARD OF NURSING SHALL PROVIDE TO THE COMMISSION, IN ADVANCE OF OR AT THE SAME TIME AS THEY ARE PROVIDED TO THE PUBLIC, COPIES OF ANY NEW OR REVISED REGULATIONS THAT WOULD BE EXPECTED TO IMPACT ON THE COSTS INCURRED BY PROVIDERS OF COMMUNITY SERVICES THAT ARE PAID FOR BY THE MENTAL HYGIENE ADMINISTRATION OR THE DEVELOPMENTAL DISABILITIES ADMINISTRATION.

Chapter 593 of the Acts of 1996, as amended by Chapter 566 of the Acts of 1999, Chapter 370 of the Acts of 2002, and Chapter 401 of the Acts of 2005

SECTION 3. AND BE IT FURTHER ENACTED, That, this Act shall take effect October 1, 1996. It shall remain effective for a period of **[**12**] 15** years and, at the end of September 30, **[**2008**] 2011**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 22, 2008.

CHAPTER 573

(House Bill 1059)

AN ACT concerning

Community Services Reimbursement Rate Commission – Termination Date Extension and Modifications

FOR the purpose of extending the termination date for the Community Services Reimbursement Rate Commission; authorizing the Governor, with the advice and consent of the Senate, to appoint a certain number of members to the Commission for an additional consecutive term beginning on a certain date;

altering a requirement that the Commission assess changes in wages paid by certain providers to require the Commission to assess the level of and changes in wages paid by certain providers to direct support workers; repealing a requirement that the Commission assess certain measures of quality and certain other rate system issues; altering a requirement that the Commission assess the impact of consumer safety costs to require the Commission to assess the impact of changes in regulations that impact on the costs of certain providers; ~~requiring the Commission to assess trends in housing costs and how these trends affect costs of certain providers;~~ requiring the Commission to develop or refine certain methodologies; ~~requiring the Commission to continue to study the transportation costs incurred by certain providers; requiring the Commission to work with the Mental Hygiene Administration to expand the use of certain data~~ repealing a requirement that the Commission study the variation in transportation costs among providers of services to individuals with developmental disabilities and make a certain recommendation; repealing a requirement that the Commission work with the Mental Hygiene Administration to expand the use of certain billing data for a certain purpose; repealing a requirement that the Commission review certain changes in the payments for and utilization of psychiatric rehabilitation services; ~~requiring the Commission to review information on certain practices and make certain recommendations;~~ requiring the Commission to include certain findings in a certain report; requiring the Board of Nursing to provide to the Commission at a certain time copies of any new or revised regulations that would be expected to impact on the costs incurred by certain providers; repealing a certain definition; and generally relating to the Community Services Reimbursement Rate Commission.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–801, 13–803, 13–806, 13–809, and 13–810
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 13–802, 13–804, 13–805, 13–807, and 13–808
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 593 of the Acts of the General Assembly of 1996, as amended by Chapter 566 of the Acts of the General Assembly of 1999, Chapter 370 of the Acts of the General Assembly of 2002, and Chapter 401 of the Acts of the General Assembly of 2005
Section 3

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

Article – Health – General

13–801.

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

(b) "Commission" means the Community Services Reimbursement Rate Commission.

(c) **[**"Consumer safety costs" means the costs incurred by a provider for care that is provided to comply with any regulatory requirements in the staffing or manner of care provided, including cost factors related to health and safety that are stated in the care plan required for an individual.

(d)**]** "Provider" means a community–based agency or program funded:

(1) By the Developmental Disabilities Administration to serve individuals with developmental disabilities; or

(2) By the Mental Hygiene Administration to serve individuals with mental disorders.

[(e)**] (D)** "Rate" means the reimbursement rate paid by the Department to a provider from State general funds, Maryland Medical Assistance Program funds, other State or federal funds, or a combination of those funds.

13–802.

(a) There is a Community Services Reimbursement Rate Commission.

(b) The Commission is an independent unit that functions in the Department.

13–803.

(a) The Commission shall consist of seven members appointed by the Governor with the advice and consent of the Senate.

(b) Of the seven members, four shall be individuals who do not have any connection with the management or policy of any provider.

(c) Each member appointed to the Commission shall be interested in ensuring high quality community–based services for individuals with developmental disabilities or mental disorders.

(d) (1) The term of a member is 3 years.

(2) If a vacancy occurs during the term of a member, the Governor shall appoint a successor who will serve until the term expires.

(3) Except as provided in paragraph (4) of this subsection, a member who serves two consecutive full 3–year terms may not be reappointed for 3 years after completion of those terms.

(4) The Governor may, with the advice and consent of the Senate, appoint up to **[**three**]** **TWO** members serving on the Commission as of January 1, **[**2005**]** **2008,** to serve a **[**fourth**]** **FIFTH** consecutive 3–year term beginning October 1, **[**2005**]** **2008**.

13–804.

Each year, from among the members of the Commission:

(1) The Governor shall appoint a chairman; and

(2) The chairman shall appoint a vice chairman.

13–805.

(a) A quorum of the Commission is four members.

(b) The Commission shall meet at least four times a year at the times and places that it determines.

(c) A member of the Commission:

(1) May not receive compensation for duties performed 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.

(d) The Commission may employ staff and expend funds to carry out its duties and responsibilities under this subtitle in accordance with the State budget.

13–806.

(a) The Commission shall assess:

(1) The extent and amount of uncompensated care delivered by providers;

(2) The **[**relationship of**]** **LEVEL OF AND** changes in wages paid by providers to **[**changes in rates paid by the Department**]** **DIRECT SUPPORT WORKERS**, including the source of revenue for wages paid by providers;

(3) The ability of providers to operate on a solvent basis in the delivery of effective and efficient services that are in the public interest;

(4) The incentives and disincentives:

(i) Incorporated in the rate setting methodologies utilized and proposed by the Mental Hygiene Administration and the Developmental Disabilities Administration; and

(ii) In alternative methodologies;

(5) ~~Measures of quality and how~~ **HOW** incentives to provide quality care can be built into a rate setting methodology; **AND**

(6) The impact of **[**consumer safety**]** **CHANGES IN REGULATIONS THAT IMPACT ON THE** costs **OF PROVIDERS** and whether the rates have been adjusted to provide for **[**consumer safety costs**]** **ANY INCREASED COSTS ASSOCIATED WITH THE REGULATORY CHANGES**~~; [and]~~

~~(7) THE TRENDS IN HOUSING COSTS, AND HOW THESE TRENDS ARE AFFECTING THE COSTS OF PROVIDERS OF RESIDENTIAL SERVICES; AND~~

~~**(8)** Other rate system issues determined by the Commission to be appropriate~~.

(b) The Commission shall:

(1) Develop **OR REFINE** methodologies for calculating rate update factors for rates paid by the Developmental Disabilities Administration and the Mental Hygiene Administration and recommend annual rate update factors that use the methodologies that are developed;

(2) With respect to the Developmental Disabilities Administration~~:~~

~~(i)~~ ~~Review~~**, REVIEW** the data reported in the Developmental Disabilities Administration annual cost reports and use the data to develop relative performance measures of providers; and

~~(ii)~~ ~~**[**Study**]** **CONTINUE TO STUDY** the **[**variation in**]** transportation costs **[**among**]** **INCURRED BY** providers of services to individuals with developmental disabilities, and recommend whether the rates should include an adjustment for such costs;~~

(3) ~~With respect to the Mental Hygiene Administration:~~

~~(i)~~ ~~Work with the Mental Hygiene Administration to expand the use of **[**any**]** **SERVICE AUTHORIZATION AND** billing data collected by a third party administrator for the public mental health system in order to evaluate performance; and~~

~~(ii)~~ ~~**1.**~~ ~~Review **[**the changes in the payments for and utilization of psychiatric rehabilitation services associated with the shift to paying for these services by means of case rates**]** **INFORMATION ON EVIDENCE–BASED AND BEST PRACTICES FOR MENTAL HEALTH SERVICES;**~~

~~**2.** **RECOMMEND HOW INCENTIVES TO ENCOURAGE THESE PRACTICES COULD BE PROVIDED THROUGH THE RATE SYSTEM; AND**~~

~~**3.** **REVIEW WHETHER THE RATES PROVIDED UNDER THE RATE SYSTEM ARE ADEQUATE TO PROVIDE THESE INCENTIVES**; and~~

~~(4)~~ Evaluate proposed regulatory changes by the Department, the Developmental Disabilities Administration, and the Mental Hygiene Administration that affect the rates paid or the rate structure.

13–807.

(a) In addition to the powers and duties provided elsewhere in this subtitle, the Commission may:

(1) Recommend the adoption of regulations to carry out the provisions of this subtitle;

(2) Create committees from among its members;

(3) Appoint advisory committees that may include individuals and representatives of interested public and private organizations;

(4) Publish and distribute information that relates to the financial aspects of community–based developmental disability or mental health services; and

(5) Subject to the limitations of this subtitle, exercise any other power that is reasonably necessary to carry out the purposes of this subtitle.

(b) The Commission shall have timely access to information from the Executive Branch required to fulfill the responsibilities of the Commission under this subtitle, including information from the Developmental Disabilities Administration and the Mental Hygiene Administration.

13–808.

(a) The power of the Secretary over plans, proposals, and projects of units in the Department does not include the power to disapprove or modify a decision or determination that the Commission makes under authority specifically designated to the Commission by law.

(b) The power of the Secretary to transfer by rule, regulation, or written directive any staff, function, or funds of units in the Department does not apply to any staff, function, or funds of the Commission.

13–809.

On or before October 1 of each year, the Commission shall issue a report to the Governor, the Secretary, and, subject to § 2–1246 of the State Government Article, the General Assembly that:

(1) Describes its findings regarding:

(i) The **[**relationship of**]** changes in wages paid by providers to **[**changes in rates paid by the Department**]** **DIRECT CARE WORKERS**;

(ii) The financial condition of providers and the ability of providers to operate on a solvent basis in the delivery of effective and efficient services that are in the public interest;

(iii) The incentives and disincentives incorporated in the rate setting methodologies utilized and proposed by the Mental Hygiene Administration and the Developmental Disabilities Administration and how the methodologies might be improved;

(iv) How incentives to provide quality of care can be built into a rate setting methodology; ~~[~~and~~]~~

(v) The recommended methodologies for the calculation of rate update factors and the rate update factors recommended for the next succeeding fiscal year~~; AND~~

~~(VI) THE TRENDS IN HOUSING COSTS AND HOW THESE TRENDS ARE AFFECTING THE COSTS OF PROVIDERS OF RESIDENTIAL SERVICES~~;

(2) Recommends the need for any formal executive, judicial, or legislative action;

(3) Describes issues in need of future study by the Commission; and

(4) Discusses any other matter that relates to the purposes of the Commission under this subtitle.

13–810.

(a) The findings and recommendations of the Commission shall be considered each year in the development of the budgets of the Department, the Developmental Disabilities Administration, and the Mental Hygiene Administration.

(b) (1) The Mental Hygiene Administration and the Developmental Disabilities Administration shall respond to the recommendations of the Commission in writing within 30 days after the report required in § 13–809 of this subtitle has been issued.

(2) The written response of the Mental Hygiene Administration and the Developmental Disabilities Administration shall include:

(i) An explanation of the actions being taken to implement the recommendations of the Commission; or

(ii) An explanation of why no action has been taken on the recommendations of the Commission.

(c) **(1)** The Mental Hygiene Administration and the Developmental Disabilities Administration shall provide to the Commission, in advance of or at the same time as they are provided to the public, copies of any new or revised regulations regarding payment rates for community services.

(2) THE BOARD OF NURSING SHALL PROVIDE TO THE COMMISSION, IN ADVANCE OF OR AT THE SAME TIME AS THEY ARE PROVIDED TO THE PUBLIC, COPIES OF ANY NEW OR REVISED REGULATIONS THAT WOULD BE EXPECTED TO IMPACT ON THE COSTS INCURRED BY PROVIDERS OF

COMMUNITY SERVICES THAT ARE PAID FOR BY THE MENTAL HYGIENE ADMINISTRATION OR THE DEVELOPMENTAL DISABILITIES ADMINISTRATION.

Chapter 593 of the Acts of 1996, as amended by Chapter 566 of the Acts of 1999, Chapter 370 of the Acts of 2002, and Chapter 401 of the Acts of 2005

SECTION 3. AND BE IT FURTHER ENACTED, That, this Act shall take effect October 1, 1996. It shall remain effective for a period of **[**12**]** **15** years and, at the end of September 30, **[**2008**]** **2011**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 22, 2008.

CHAPTER 574

(Senate Bill 612)

AN ACT concerning

Procurement – Preference Procurement Program for Sheltered Workshops – Individual With Disability Owned Businesses

FOR the purpose of expanding eligibility in the preference procurement program for sheltered workshops within the Department of General Services to include a specified ~~entity~~ business; defining the ~~entity~~ business and specifying requirements for the ~~entity~~ business to qualify to participate in the program; requiring the State or certain State aided or controlled entities to buy certain supplies and services from certain businesses under certain circumstances; requiring a specified committee to establish and review specified eligibility guidelines for participation in the program; requiring the committee to maintain and periodically review and revise a specified list of ~~entities~~ certain sheltered workshops and businesses eligible for the program; and generally relating to the preference procurement program for sheltered workshops and individual with disability owned businesses.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–101, 14–103, 14–106, 14–107, and 14–108
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

14–101.

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

(B) "INDIVIDUAL WITH DISABILITY OWNED BUSINESS" MEANS ~~AN ENTITY~~ A BUSINESS:

(1) THAT IS ORGANIZED UNDER THE LAWS OF THE UNITED STATES OR OF THIS STATE;

(2) THAT IS MAJORITY OWNED BY AN INDIVIDUAL OR INDIVIDUALS ~~CERTIFIED AS HAVING A DISABILITY~~ DETERMINED BY THE DIVISION OF REHABILITATION SERVICES IN THE STATE DEPARTMENT OF EDUCATION TO HAVE A DISABILITY, AS DEFINED BY TITLE 21, SUBTITLE 3 OF THE EDUCATION ARTICLE;

(3) WHOSE MAJORITY OWNER OR OWNERS ARE DIRECTLY AND SIGNIFICANTLY ENGAGED IN THE DAILY OPERATION OF THE BUSINESS;

(4) WHOSE WORKFORCE INCLUDES INDIVIDUALS WITH DISABILITIES COMPRISING A PERCENTAGE OF THE WORKFORCE THAT IS AT OR ABOVE THE MINIMUM REQUIRED UNDER THE POLICIES OR GUIDELINES ESTABLISHED BY THE STATE PRICING AND SELECTION COMMITTEE FOR REHABILITATION AND EMPLOYMENT PROGRAMS;

(5) WHOSE TOTAL GROSS REVENUES FOR CONTRACTS ASSIGNED UNDER THE PROGRAM AT THE TIME OF ASSIGNMENT DO NOT EXCEED THE MAXIMUM ALLOWED UNDER POLICIES OR GUIDELINES ESTABLISHED BY THE STATE PRICING AND SELECTION COMMITTEE FOR REHABILITATION AND EMPLOYMENT PROGRAMS; AND

(6) THAT CONTINUES TO MEET ALL OTHER ELIGIBILITY CRITERIA ESTABLISHED BY THE STATE PRICING AND SELECTION COMMITTEE FOR REHABILITATION AND EMPLOYMENT PROGRAMS.

[(b)**] (C)** "Sheltered workshop" means an agency:

(1) that is organized under the laws of the United States or the State;

(2) that is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor;

(3) that is accredited by the Division of Rehabilitation Services of the State Department of Education;

(4) that is operated in the interest of individuals who have a mental or physical disability, including blindness, that:

(i) constitutes a substantial handicap to employment; and

(ii) prevents the individual from engaging in normal competitive employment; and

(5) the net income of which does not inure wholly or partly to the benefit of any shareholder or other individual.

[(c)**]** **(D)** "State aided or controlled entity" means any public or quasi–public institution that receives aid from the State or that is owned, controlled, or managed by the State.

14–103.

The State or a State aided or controlled entity shall buy supplies and services from:

(1) Maryland Correctional Enterprises, as provided in Title 3, Subtitle 5 of the Correctional Services Article, if State Use Industries provides the supplies or services;

(2) Blind Industries and Services of Maryland, if:

(i) Blind Industries and Services of Maryland provides the supplies or services; and

(ii) Maryland Correctional Enterprises does not provide the supplies or services; ~~OR~~

(3) sheltered workshops ~~**OR INDIVIDUAL WITH DISABILITY OWNED BUSINESSES**~~ if:

(i) a sheltered workshop ~~**OR AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS**~~ provides the supplies or services;

(ii) neither Maryland Correctional Enterprises nor Blind Industries and Services of Maryland provides the supplies or services; and

(iii) the State or a State aided or controlled entity is not required by law to buy the supplies or services from any other unit of the State government**; OR**

(4) INDIVIDUAL WITH DISABILITY OWNED BUSINESSES IF:

(I) AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS PROVIDES THE SUPPLIES OR SERVICES;

(II) NEITHER MARYLAND CORRECTIONAL ENTERPRISES, BLIND INDUSTRIES AND SERVICES OF MARYLAND, NOR A SHELTERED WORKSHOP PROVIDES THE SUPPLIES OR SERVICES; AND

(III) THE STATE OR A STATE AIDED OR CONTROLLED ENTITY IS NOT REQUIRED BY LAW TO BUY THE SUPPLIES OR SERVICES FROM ANY OTHER UNIT OF THE STATE GOVERNMENT.

14–106.

(a) In this section, "Committee" means the Pricing and Selection Committee for Rehabilitation and Employment Programs.

(b) There is a Pricing and Selection Committee for Rehabilitation and Employment Programs.

(c) The Committee consists of the following 6 members:

(1) the Secretary of Transportation or a designee;

(2) the Secretary of General Services or a designee;

(3) the Secretary of Public Safety and Correctional Services or a designee;

(4) the President of Blind Industries and Services of Maryland or a designee; and

(5) 2 members of Maryland Works, Inc.

(d) A member of the Committee:

(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.

(e) The Committee shall:

(1) establish procedures to govern procurement of supplies and services from sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES**;

(2) from the State procurement list, choose appropriate supplies and services for sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES** to offer for procurement;

(3) provide that the State procure those supplies and services from a sheltered workshop **OR AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS**;

(4) if supplies or services are not available for procurement from a unit of the State government, determine whether supplies or services are available from a sheltered workshop **OR AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS**;

(5) determine the fair market price of supplies and services that sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES** provide;

(6) in accordance with market conditions, adjust prices for the supplies and services that sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES** provide; and

(7) at the request of a sheltered workshop **OR AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS**, review or change the price of a supply or service.

(F) IN ADDITION TO THE DUTIES SPECIFIED UNDER SUBSECTION (E) OF THIS SECTION, THE COMMITTEE SHALL:

(1) ESTABLISH AND PERIODICALLY REVIEW ELIGIBILITY POLICIES OR GUIDELINES FOR PARTICIPATING SHELTERED WORKSHOPS AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES;

(2) MAINTAIN A CURRENT LIST OF SHELTERED WORKSHOPS AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES; AND

(3) PERIODICALLY REVIEW AND REVISE THE LIST OF SHELTERED WORKSHOPS AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES; AND

(4) (I) SEND ANY REVISED LIST TO THE SECRETARY OF GENERAL SERVICES; AND

(II) MAKE THE LIST AVAILABLE TO EACH PERSON RESPONSIBLE FOR BUYING SUPPLIES OR SERVICES FOR THE STATE OR A STATE AIDED OR CONTROLLED ENTITY.

14–107.

Periodically the Pricing and Selection Committee for Rehabilitation and Employment Programs shall:

(1) (I) MAINTAIN A CURRENT LIST OF SUPPLIES AND SERVICES THAT COMMUNITY SERVICE PROVIDERS AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES PROVIDE; AND

[(1)**]** **(II) PERIODICALLY REVIEW AND** revise its list of supplies and services that sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES** provide; and

(2) send the list**, INCLUDING ANY REVISED LIST,** to the Secretary of General Services and each person responsible for buying supplies or services for the State or a State aided or controlled entity.

14–108.

The Secretary of General Services shall designate Maryland Works, Inc., or another appropriate coordinating entity, to facilitate the distribution of procurement contracts for supplies and services among sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES**.

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

Approved by the Governor, May 22, 2008.

CHAPTER 575

(House Bill 881)

AN ACT concerning

Procurement – Preference Procurement Program for Sheltered Workshops – Individual With Disability Owned Businesses

FOR the purpose of expanding eligibility in the preference procurement program for sheltered workshops within the Department of General Services to include a specified ~~entity~~ business; defining the ~~entity~~ business and specifying requirements for the ~~entity~~ business to qualify to participate in the program; requiring the State or certain State aided or controlled entities to buy certain supplies and services from certain businesses under certain circumstances; requiring a specified committee to establish and review specified eligibility guidelines for participation in the program; requiring the committee to maintain and periodically review and revise a specified list of ~~entities~~ certain sheltered workshops and businesses eligible for the program; and generally relating to the preference procurement program for sheltered workshops and individual with disability owned businesses.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–101, 14–103, 14–106, 14–107, and 14–108
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

14–101.

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

(B) "INDIVIDUAL WITH DISABILITY OWNED BUSINESS" MEANS ~~AN ENTITY~~ A BUSINESS:

(1) THAT IS ORGANIZED UNDER THE LAWS OF THE UNITED STATES OR OF THIS STATE;

(2) THAT IS MAJORITY OWNED BY AN INDIVIDUAL OR INDIVIDUALS ~~CERTIFIED AS HAVING A DISABILITY~~ DETERMINED BY THE DIVISION OF REHABILITATION SERVICES IN THE STATE DEPARTMENT OF EDUCATION TO HAVE A DISABILITY, AS DEFINED BY TITLE 21, SUBTITLE 3 OF THE EDUCATION ARTICLE;

(3) WHOSE MAJORITY OWNER OR OWNERS ARE DIRECTLY AND SIGNIFICANTLY ENGAGED IN THE DAILY OPERATION OF THE BUSINESS;

(4) WHOSE WORKFORCE INCLUDES INDIVIDUALS WITH DISABILITIES COMPRISING A PERCENTAGE OF THE WORKFORCE THAT IS AT OR ABOVE THE MINIMUM REQUIRED UNDER THE POLICIES OR GUIDELINES ESTABLISHED BY THE STATE PRICING AND SELECTION COMMITTEE FOR REHABILITATION AND EMPLOYMENT PROGRAMS;

(5) WHOSE TOTAL GROSS REVENUES FOR CONTRACTS ASSIGNED UNDER THE PROGRAM AT THE TIME OF ASSIGNMENT DO NOT EXCEED THE MAXIMUM ALLOWED UNDER POLICIES OR GUIDELINES ESTABLISHED BY THE STATE PRICING AND SELECTION COMMITTEE FOR REHABILITATION AND EMPLOYMENT PROGRAMS; AND

(6) THAT CONTINUES TO MEET ALL OTHER ELIGIBILITY CRITERIA ESTABLISHED BY THE STATE PRICING AND SELECTION COMMITTEE FOR REHABILITATION AND EMPLOYMENT PROGRAMS.

[(b)**] (C)** "Sheltered workshop" means an agency:

(1) that is organized under the laws of the United States or the State;

(2) that is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor;

(3) that is accredited by the Division of Rehabilitation Services of the State Department of Education;

(4) that is operated in the interest of individuals who have a mental or physical disability, including blindness, that:

(i) constitutes a substantial handicap to employment; and

(ii) prevents the individual from engaging in normal competitive employment; and

(5) the net income of which does not inure wholly or partly to the benefit of any shareholder or other individual.

[(c)**] (D)** "State aided or controlled entity" means any public or quasi–public institution that receives aid from the State or that is owned, controlled, or managed by the State.

14–103.

The State or a State aided or controlled entity shall buy supplies and services from:

(1) Maryland Correctional Enterprises, as provided in Title 3, Subtitle 5 of the Correctional Services Article, if State Use Industries provides the supplies or services;

(2) Blind Industries and Services of Maryland, if:

(i) Blind Industries and Services of Maryland provides the supplies or services; and

(ii) Maryland Correctional Enterprises does not provide the supplies or services; ~~OR~~

(3) sheltered workshops ~~OR INDIVIDUAL WITH DISABILITY OWNED BUSINESSES~~ if:

(i) a sheltered workshop ~~OR AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS~~ provides the supplies or services;

(ii) neither Maryland Correctional Enterprises nor Blind Industries and Services of Maryland provides the supplies or services; and

(iii) the State or a State aided or controlled entity is not required by law to buy the supplies or services from any other unit of the State government**; OR**

(4) INDIVIDUAL WITH DISABILITY OWNED BUSINESSES IF:

(I) AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS PROVIDES THE SUPPLIES OR SERVICES;

(II) NEITHER MARYLAND CORRECTIONAL ENTERPRISES, BLIND INDUSTRIES AND SERVICES OF MARYLAND, NOR A SHELTERED WORKSHOP PROVIDES THE SUPPLIES OR SERVICES; AND

(III) THE STATE OR A STATE AIDED OR CONTROLLED ENTITY IS NOT REQUIRED BY LAW TO BUY THE SUPPLIES OR SERVICES FROM ANY OTHER UNIT OF THE STATE GOVERNMENT.

14–106.

(a) In this section, "Committee" means the Pricing and Selection Committee for Rehabilitation and Employment Programs.

(b) There is a Pricing and Selection Committee for Rehabilitation and Employment Programs.

(c) The Committee consists of the following 6 members:

(1) the Secretary of Transportation or a designee;

(2) the Secretary of General Services or a designee;

(3) the Secretary of Public Safety and Correctional Services or a designee;

(4) the President of Blind Industries and Services of Maryland or a designee; and

(5) 2 members of Maryland Works, Inc.

(d) A member of the Committee:

(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.

(e) The Committee shall:

(1) establish procedures to govern procurement of supplies and services from sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES**;

(2) from the State procurement list, choose appropriate supplies and services for sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES** to offer for procurement;

(3) provide that the State procure those supplies and services from a sheltered workshop **OR AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS**;

(4) if supplies or services are not available for procurement from a unit of the State government, determine whether supplies or services are available from a sheltered workshop **OR AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS**;

(5) determine the fair market price of supplies and services that sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES** provide;

(6) in accordance with market conditions, adjust prices for the supplies and services that sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES** provide; and

(7) at the request of a sheltered workshop **OR AN INDIVIDUAL WITH DISABILITY OWNED BUSINESS**, review or change the price of a supply or service.

(F) IN ADDITION TO THE DUTIES SPECIFIED UNDER SUBSECTION (E) OF THIS SECTION, THE COMMITTEE SHALL:

(1) ESTABLISH AND PERIODICALLY REVIEW ELIGIBILITY POLICIES OR GUIDELINES FOR PARTICIPATING SHELTERED WORKSHOPS AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES;

(2) MAINTAIN A CURRENT LIST OF SHELTERED WORKSHOPS AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES; AND

(3) PERIODICALLY REVIEW AND REVISE THE LIST OF SHELTERED WORKSHOPS AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES; AND

(4) (I) SEND ANY REVISED LIST TO THE SECRETARY OF GENERAL SERVICES; AND

(II) MAKE THE LIST AVAILABLE TO EACH PERSON RESPONSIBLE FOR BUYING SUPPLIES OR SERVICES FOR THE STATE OR A STATE AIDED OR CONTROLLED ENTITY.

14–107.

Periodically the Pricing and Selection Committee for Rehabilitation and Employment Programs shall:

(1) (I) MAINTAIN A CURRENT LIST OF SUPPLIES AND SERVICES THAT COMMUNITY SERVICE PROVIDERS AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES PROVIDE; AND

[(1)**] (II) PERIODICALLY REVIEW AND** revise its list of supplies and services that sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES** provide; and

(2) send the list**, INCLUDING ANY REVISED LIST,** to the Secretary of General Services and each person responsible for buying supplies or services for the State or a State aided or controlled entity.

14–108.

The Secretary of General Services shall designate Maryland Works, Inc., or another appropriate coordinating entity, to facilitate the distribution of procurement contracts for supplies and services among sheltered workshops **AND INDIVIDUAL WITH DISABILITY OWNED BUSINESSES**.

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

Approved by the Governor, May 22, 2008.

CHAPTER 576

(Senate Bill 368)

AN ACT concerning

Procurement – Preferences – Employment Works Program

FOR the purpose of naming a certain preference procurement program within the Department of General Services as the Employment Works Program; clarifying the preference priority for certain providers with regard to purchases of certain supplies and services by the State or by certain other entities; altering the membership of the Pricing and Selection Committee for the Program; defining, altering, and clarifying certain terms; clarifying provisions relating to a certain entity as the coordinating entity for the distribution of certain procurement contracts among certain Program providers; specifying duties for a certain

committee; and generally relating to the Employment Works Program and the procurement process relating to certain community service providers.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–101, 14–103, 14–106, and 14–107
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing
Article – State Finance and Procurement
Section 14–108
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Finance and Procurement
Section 14–108
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

14–101.

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

(b) **[**"Sheltered workshop" means an agency:

(1) that is organized under the laws of the United States or the State;

(2) that is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor;

(3) that is accredited by the Division of Rehabilitation Services of the State Department of Education;

(4) that is operated in the interest of individuals who have a mental or physical disability, including blindness, that:

(i) constitutes a substantial handicap to employment; and

(ii) prevents the individual from engaging in normal competitive employment; and

(5) the net income of which does not inure wholly or partly to the benefit of any shareholder or other individual**] "COMMUNITY SERVICE PROVIDER" MEANS AN ENTITY THAT:**

(1) IS ORGANIZED UNDER THE LAWS OF THE UNITED STATES OR THIS STATE;

(2) ~~IS APPROVED~~ IS ACCREDITED BY THE DIVISION OF REHABILITATION SERVICES OF THE STATE DEPARTMENT OF EDUCATION FOR PARTICIPATION IN THE EMPLOYMENT WORKS PROGRAM ~~BY THE DIVISION OF REHABILITATION SERVICES IN THE STATE DEPARTMENT OF EDUCATION~~;

(3) IS OPERATED IN THE INTEREST OF INDIVIDUALS WHO HAVE A MENTAL OR PHYSICAL DISABILITY, INCLUDING BLINDNESS, THAT:

(I) CONSTITUTES A SUBSTANTIAL BARRIER TO EMPLOYMENT; AND

(II) PREVENTS THE INDIVIDUAL FROM ENGAGING IN COMPETITIVE EMPLOYMENT; AND

(4) DOES NOT INURE NET INCOME WHOLLY OR PARTLY TO THE BENEFIT OF ANY SHAREHOLDER OR OTHER INDIVIDUAL.

(c) "State aided or controlled entity" means any public or quasi–public institution that receives aid from the State or that is owned, controlled, or managed by the State.

14–103.

(A) The State or a State aided or controlled entity shall buy supplies and services from:

(1) Maryland Correctional Enterprises, as provided in Title 3, Subtitle 5 of the Correctional Services Article, if State Use Industries provides the supplies or services;

(2) Blind Industries and Services of Maryland, if:

(i) Blind Industries and Services of Maryland provides the supplies or services; and

(ii) Maryland Correctional Enterprises does not provide the supplies or services; or

(3) **[**sheltered workshops**] THE EMPLOYMENT WORKS PROGRAM ESTABLISHED UNDER § 14–108 OF THIS SUBTITLE,** if:

(i) a **[**sheltered workshop**] COMMUNITY SERVICE PROVIDER** provides the supplies or services;

(ii) neither Maryland Correctional Enterprises nor Blind Industries and Services of Maryland provides the supplies or services; and

(iii) the State or a State aided or controlled entity is not required by law to buy the supplies or services from any other unit of the State government.

(B) THE STATE OR A STATE AIDED OR CONTROLLED ENTITY SHALL GIVE PREFERENCE TO THE ENTITIES LISTED UNDER SUBSECTION (A) OF THIS SECTION IN THE ORDER THAT THE ENTITIES ARE LISTED.

14–106.

(a) In this section, "Committee" means the Pricing and Selection Committee for **[**Rehabilitation and Employment Programs**] THE EMPLOYMENT WORKS PROGRAM**.

(b) There is a Pricing and Selection Committee for **[**Rehabilitation and Employment Programs**] THE EMPLOYMENT WORKS PROGRAM**.

(c) The Committee consists of the following 6 members:

(1) the Secretary of Transportation or a designee;

(2) the Secretary of General Services or a designee;

(3) the Secretary of Public Safety and Correctional Services or a designee;

(4) the President of Blind Industries and Services of Maryland or a designee; **[**and**]**

(5) **[**2 members of Maryland Works, Inc.**] THE ASSISTANT SECRETARY FOR VOCATIONAL REHABILITATION WITHIN THE STATE DEPARTMENT OF EDUCATION OR A DESIGNEE; AND**

(6) THE SECRETARY OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION OR A DESIGNEE.

(d) A member of the Committee:

(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.

(e) The Committee shall:

(1) establish procedures to govern procurement of supplies and services from **[**sheltered workshops**]** **COMMUNITY SERVICE PROVIDERS**;

(2) from the State procurement list, choose appropriate supplies and services for **[**sheltered workshops**]** **COMMUNITY SERVICE PROVIDERS** to offer for procurement;

(3) provide that the State procure those supplies and services from a **[**sheltered workshop**]** **COMMUNITY SERVICE PROVIDER**;

(4) if supplies or services are not available for procurement from a unit of the State government, determine whether supplies or services are available from a **[**sheltered workshop**]** **COMMUNITY SERVICE PROVIDER**;

(5) determine the fair market price of supplies and services that **[**sheltered workshops**]** **COMMUNITY SERVICE PROVIDERS** provide;

(6) in accordance with market conditions, adjust prices for the supplies and services that **[**sheltered workshops**]** **COMMUNITY SERVICE PROVIDERS** provide; and

(7) at the request of a **[**sheltered workshop**]** **COMMUNITY SERVICE PROVIDER**, review **[**or**]** **AND, IF APPROPRIATE,** change the price of a supply or service.

(F) IN ADDITION TO THE DUTIES SPECIFIED UNDER SUBSECTION (E) OF THIS SECTION, THE COMMITTEE SHALL:

(1) MAINTAIN A CURRENT LIST OF COMMUNITY SERVICE PROVIDERS;

(2) PERIODICALLY REVIEW AND REVISE ITS LIST OF COMMUNITY SERVICE PROVIDERS; AND

(3) SEND ANY REVISED LIST TO THE SECRETARY OF GENERAL SERVICES WHO SHALL MAKE THE LIST AVAILABLE TO EACH PERSON RESPONSIBLE FOR BUYING SUPPLIES OR SERVICES FOR THE STATE OR A STATE AIDED OR CONTROLLED ENTITY.

14–107.

[Periodically the**] THE** Pricing and Selection Committee for **[**Rehabilitation and Employment Programs**] THE EMPLOYMENT WORKS PROGRAM** shall:

(1) MAINTAIN A CURRENT LIST OF SUPPLIES AND SERVICES THAT COMMUNITY SERVICE PROVIDERS PROVIDE;

[(1)**](2) PERIODICALLY REVIEW AND** revise its list of supplies and services that **[**sheltered workshops**] COMMUNITY SERVICE PROVIDERS** provide; and

[(2)**](3)** send **[**the**] ANY REVISED** list to the Secretary of General Services **[**and**] WHO SHALL MAKE THE LIST AVAILABLE TO** each person responsible for buying supplies or services for the State or a State aided or controlled entity.

[14–108.

The Secretary of General Services shall designate Maryland Works, Inc., or another appropriate coordinating entity, to facilitate the distribution of procurement contracts for supplies and services among sheltered workshops.**]**

14–108.

(A) IN THIS SECTION, "PROGRAM" MEANS THE EMPLOYMENT WORKS PROGRAM.

(B) THERE IS AN EMPLOYMENT WORKS PROGRAM IN THE DEPARTMENT OF GENERAL SERVICES.

(C) THE SECRETARY OF GENERAL SERVICES SHALL DESIGNATE MARYLAND WORKS, INC., OR ANOTHER APPROPRIATE COORDINATING ENTITY, TO FACILITATE THE DISTRIBUTION OF PROCUREMENT CONTRACTS FOR SUPPLIES AND SERVICES AMONG COMMUNITY SERVICE PROVIDERS.

(D) THE COORDINATING ENTITY DESIGNATED UNDER SUBSECTION (C) OF THIS SECTION SHALL:

(1) IDENTIFY POTENTIAL CONTRACTS FOR SUPPLIES AND SERVICES ELIGIBLE FOR PROCUREMENT;

(2) ESTABLISH PROCEDURES FOR THE SELECTION OF COMMUNITY SERVICE PROVIDERS TO PERFORM UNDER POTENTIALLY ELIGIBLE CONTRACTS FOR PREFERENCE PROCUREMENT;

(3) ESTABLISH PROCEDURES FOR REMEDIATION OF NONCOMPLIANCE WITH STATE OR PROGRAM POLICIES;

(4) PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO PARTICIPATING COMMUNITY SERVICE PROVIDERS;

(5) CONDUCT COST ANALYSES AND MARKET RESEARCH FOR SUBMISSION AND REVIEW BY THE PRICING AND SELECTION COMMITTEE FOR THE PROGRAM;

(6) PROVIDE STAFF SUPPORT FOR THE PRICING AND SELECTION COMMITTEE FOR THE PROGRAM; AND

(7) SERVE AS A MONITORING AGENT TO ENSURE THAT HIGH QUALITY STANDARDS ARE MET AND MAINTAINED BY THE PROGRAM AND ITS PARTICIPATING COMMUNITY SERVICE PROVIDERS.

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

Approved by the Governor, May 22, 2008.

CHAPTER 577

(House Bill 805)

AN ACT concerning

Procurement – Preferences – Employment Works Program

FOR the purpose of naming a certain preference procurement program within the Department of General Services as the Employment Works Program; clarifying the preference priority for certain providers with regard to purchases of certain supplies and services by the State or by certain other entities; altering the membership of the Pricing and Selection Committee for the Program; defining, altering, and clarifying certain terms; clarifying provisions relating to a certain entity as the coordinating entity for the distribution of certain procurement contracts among certain Program providers; specifying duties for a certain committee; and generally relating to the Employment Works Program and the procurement process relating to certain community service providers.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–101, 14–103, 14–106, and 14–107
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing
Article – State Finance and Procurement
Section 14–108
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Finance and Procurement
Section 14–108
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

14–101.

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

(b) **[**"Sheltered workshop" means an agency:

(1) that is organized under the laws of the United States or the State;

(2) that is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor;

(3) that is accredited by the Division of Rehabilitation Services of the State Department of Education;

(4) that is operated in the interest of individuals who have a mental or physical disability, including blindness, that:

(i) constitutes a substantial handicap to employment; and

(ii) prevents the individual from engaging in normal competitive employment; and

(5) the net income of which does not inure wholly or partly to the benefit of any shareholder or other individual**] "COMMUNITY SERVICE PROVIDER" MEANS AN ENTITY THAT:**

(1) IS ORGANIZED UNDER THE LAWS OF THE UNITED STATES OR THIS STATE;

(2) ~~IS APPROVED~~ IS ACCREDITED BY THE DIVISION OF REHABILITATION SERVICES OF THE STATE DEPARTMENT OF EDUCATION FOR PARTICIPATION IN THE EMPLOYMENT WORKS PROGRAM ~~BY THE DIVISION OF REHABILITATION SERVICES IN THE STATE DEPARTMENT OF EDUCATION~~;

(3) IS OPERATED IN THE INTEREST OF INDIVIDUALS WHO HAVE A MENTAL OR PHYSICAL DISABILITY, INCLUDING BLINDNESS, THAT:

(I) CONSTITUTES A SUBSTANTIAL BARRIER TO EMPLOYMENT; AND

(II) PREVENTS THE INDIVIDUAL FROM ENGAGING IN COMPETITIVE EMPLOYMENT; AND

(4) DOES NOT INURE NET INCOME WHOLLY OR PARTLY TO THE BENEFIT OF ANY SHAREHOLDER OR OTHER INDIVIDUAL.

(c) "State aided or controlled entity" means any public or quasi–public institution that receives aid from the State or that is owned, controlled, or managed by the State.

14–103.

(A) The State or a State aided or controlled entity shall buy supplies and services from:

(1) Maryland Correctional Enterprises, as provided in Title 3, Subtitle 5 of the Correctional Services Article, if State Use Industries provides the supplies or services;

(2) Blind Industries and Services of Maryland, if:

(i) Blind Industries and Services of Maryland provides the supplies or services; and

(ii) Maryland Correctional Enterprises does not provide the supplies or services; or

(3) **[**sheltered workshops**] THE EMPLOYMENT WORKS PROGRAM ESTABLISHED UNDER § 14–108 OF THIS SUBTITLE,** if:

(i) a **[**sheltered workshop**] COMMUNITY SERVICE PROVIDER** provides the supplies or services;

(ii) neither Maryland Correctional Enterprises nor Blind Industries and Services of Maryland provides the supplies or services; and

(iii) the State or a State aided or controlled entity is not required by law to buy the supplies or services from any other unit of the State government.

(B) THE STATE OR A STATE AIDED OR CONTROLLED ENTITY SHALL GIVE PREFERENCE TO THE ENTITIES LISTED UNDER SUBSECTION (A) OF THIS SECTION IN THE ORDER THAT THE ENTITIES ARE LISTED.

14–106.

(a) In this section, "Committee" means the Pricing and Selection Committee for **[**Rehabilitation and Employment Programs**] THE EMPLOYMENT WORKS PROGRAM**.

(b) There is a Pricing and Selection Committee for **[**Rehabilitation and Employment Programs**] THE EMPLOYMENT WORKS PROGRAM**.

(c) The Committee consists of the following 6 members:

(1) the Secretary of Transportation or a designee;

(2) the Secretary of General Services or a designee;

(3) the Secretary of Public Safety and Correctional Services or a designee;

(4) the President of Blind Industries and Services of Maryland or a designee; [and]

(5) [2 members of Maryland Works, Inc.] **THE ASSISTANT SECRETARY FOR VOCATIONAL REHABILITATION WITHIN THE STATE DEPARTMENT OF EDUCATION OR A DESIGNEE; AND**

(6) THE SECRETARY OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION OR A DESIGNEE.

(d) A member of the Committee:

(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.

(e) The Committee shall:

(1) establish procedures to govern procurement of supplies and services from [sheltered workshops] **COMMUNITY SERVICE PROVIDERS**;

(2) from the State procurement list, choose appropriate supplies and services for [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** to offer for procurement;

(3) provide that the State procure those supplies and services from a [sheltered workshop] **COMMUNITY SERVICE PROVIDER**;

(4) if supplies or services are not available for procurement from a unit of the State government, determine whether supplies or services are available from a [sheltered workshop] **COMMUNITY SERVICE PROVIDER**;

(5) determine the fair market price of supplies and services that [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** provide;

(6) in accordance with market conditions, adjust prices for the supplies and services that [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** provide; and

(7) at the request of a [sheltered workshop] **COMMUNITY SERVICE PROVIDER**, review [or] **AND, IF APPROPRIATE,** change the price of a supply or service.

(F) IN ADDITION TO THE DUTIES SPECIFIED UNDER SUBSECTION (E) OF THIS SECTION, THE COMMITTEE SHALL:

(1) MAINTAIN A CURRENT LIST OF COMMUNITY SERVICE PROVIDERS;

(2) PERIODICALLY REVIEW AND REVISE ITS LIST OF COMMUNITY SERVICE PROVIDERS; AND

(3) SEND ANY REVISED LIST TO THE SECRETARY OF GENERAL SERVICES WHO SHALL MAKE THE LIST AVAILABLE TO EACH PERSON RESPONSIBLE FOR BUYING SUPPLIES OR SERVICES FOR THE STATE OR A STATE AIDED OR CONTROLLED ENTITY.

14–107.

[Periodically the**] THE** Pricing and Selection Committee for **[**Rehabilitation and Employment Programs**] THE EMPLOYMENT WORKS PROGRAM** shall:

(1) MAINTAIN A CURRENT LIST OF SUPPLIES AND SERVICES THAT COMMUNITY SERVICE PROVIDERS PROVIDE;

[(1)**](2) PERIODICALLY REVIEW AND** revise its list of supplies and services that **[**sheltered workshops**] COMMUNITY SERVICE PROVIDERS** provide; and

[(2)**](3)** send **[**the**] ANY REVISED** list to the Secretary of General Services **[**and**] WHO SHALL MAKE THE LIST AVAILABLE TO** each person responsible for buying supplies or services for the State or a State aided or controlled entity.

[14–108.

The Secretary of General Services shall designate Maryland Works, Inc., or another appropriate coordinating entity, to facilitate the distribution of procurement contracts for supplies and services among sheltered workshops.**]**

14–108.

(A) IN THIS SECTION, "PROGRAM" MEANS THE EMPLOYMENT WORKS PROGRAM.

(B) THERE IS AN EMPLOYMENT WORKS PROGRAM IN THE DEPARTMENT OF GENERAL SERVICES.

(C) THE SECRETARY OF GENERAL SERVICES SHALL DESIGNATE MARYLAND WORKS, INC., OR ANOTHER APPROPRIATE COORDINATING ENTITY, TO FACILITATE THE DISTRIBUTION OF PROCUREMENT CONTRACTS FOR SUPPLIES AND SERVICES AMONG COMMUNITY SERVICE PROVIDERS.

(D) THE COORDINATING ENTITY DESIGNATED UNDER SUBSECTION (C) OF THIS SECTION SHALL:

(1) IDENTIFY POTENTIAL CONTRACTS FOR SUPPLIES AND SERVICES ELIGIBLE FOR PROCUREMENT;

(2) ESTABLISH PROCEDURES FOR THE SELECTION OF COMMUNITY SERVICE PROVIDERS TO PERFORM UNDER POTENTIALLY ELIGIBLE CONTRACTS FOR PREFERENCE PROCUREMENT;

(3) ESTABLISH PROCEDURES FOR REMEDIATION OF NONCOMPLIANCE WITH STATE OR PROGRAM POLICIES;

(4) PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO PARTICIPATING COMMUNITY SERVICE PROVIDERS;

(5) CONDUCT COST ANALYSES AND MARKET RESEARCH FOR SUBMISSION AND REVIEW BY THE PRICING AND SELECTION COMMITTEE FOR THE PROGRAM;

(6) PROVIDE STAFF SUPPORT FOR THE PRICING AND SELECTION COMMITTEE FOR THE PROGRAM; AND

(7) SERVE AS A MONITORING AGENT TO ENSURE THAT HIGH QUALITY STANDARDS ARE MET AND MAINTAINED BY THE PROGRAM AND ITS PARTICIPATING COMMUNITY SERVICE PROVIDERS.

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

Approved by the Governor, May 22, 2008.

CHAPTER 578

(Senate Bill 413)

AN ACT concerning

Courts – Service of Process – Motor Vehicle Administration as Agent for Nonresident Driver

FOR the purpose of designating the Motor Vehicle Administration as the agent for a certain nonresident driver with regard to a subpoena, summons, or other process issued in a certain action related to a certain motor vehicle accident under certain circumstances; requiring the Administration to take certain action, provide copies of certain documents on request, and keep certain records; authorizing the Administration to establish and collect a certain fee; authorizing the Administration to serve as an agent for service of certain papers in certain circumstances; requiring a certain party seeking service of process on a nonresident driver to provide a copy of a certain affidavit to the nonresident's insurer; requiring the Administration to report annually to the General Assembly on or before a certain date; defining certain terms; providing for the application of this Act; and generally relating to service of process on nonresident drivers under certain circumstances.

BY adding to
Article – Courts and Judicial Proceedings
Section 6–313
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 11–135, 11–139, 11–140, and 12–104(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Transportation
Section 12–104(f)
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

6–313.

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

(2) "MOTOR VEHICLE" HAS THE MEANING STATED IN § 11–135 OF THE TRANSPORTATION ARTICLE.

(3) "NONRESIDENT" HAS THE MEANING STATED IN § 11–139 OF THE TRANSPORTATION ARTICLE.

(4) "NONRESIDENT'S PRIVILEGE TO DRIVE" HAS THE MEANING STATED IN § 11–140 OF THE TRANSPORTATION ARTICLE.

(B) BY EXERCISING A NONRESIDENT'S PRIVILEGE TO DRIVE A MOTOR VEHICLE IN THE STATE, A NONRESIDENT IRREVOCABLY APPOINTS THE MOTOR VEHICLE ADMINISTRATION AS AGENT TO RECEIVE A SUBPOENA, A SUMMONS, OR OTHER PROCESS THAT IS:

(1) ISSUED IN AN ACTION THAT IS RELATED TO AN ACCIDENT OR COLLISION INVOLVING A MOTOR VEHICLE DRIVEN BY THE NONRESIDENT DRIVER AND IN WHICH THE NONRESIDENT DRIVER IS NAMED AS A PARTY; AND

(2) DIRECTED TO THE NONRESIDENT DRIVER.

(C) SERVICE OF PROCESS IS SUFFICIENT SERVICE ON A NONRESIDENT DRIVER IF:

(1) SERVICE IS MADE BY THE PERSONAL DELIVERY AND LEAVING OF A COPY OF THE PROCESS, WITH A CERTIFICATION OF THE LAST KNOWN ADDRESS OF THE NONRESIDENT DRIVER, WITH THE MOTOR VEHICLE ADMINISTRATION;

(2) A FEE FOR SERVICE OF PROCESS IS PAID TO THE MOTOR VEHICLE ADMINISTRATION;

(3) THE MOTOR VEHICLE ADMINISTRATION SENDS A COPY OF THE PROCESS BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE NONRESIDENT DRIVER AT THE NONRESIDENT DRIVER'S LAST KNOWN ADDRESS; AND

(4) THE MOTOR VEHICLE ADMINISTRATION FILES AN AFFIDAVIT OF COMPLIANCE WITH THE PROVISIONS OF THIS SECTION WITH THE CLERK OF THE COURT IN WHICH THE ACTION IS PENDING.

(D) THE MOTOR VEHICLE ADMINISTRATION SHALL PROVIDE A COPY OF THE AFFIDAVIT OF COMPLIANCE TO THE PARTY SEEKING SERVICE.

(E) THE PARTY SEEKING SERVICE SHALL SEND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A COPY OF THE AFFIDAVIT OF COMPLIANCE TO THE ~~AUTOMOBILE~~ MOTOR VEHICLE INSURER OF THE NONRESIDENT DRIVER.

(F) (1) THE MOTOR VEHICLE ADMINISTRATION SHALL KEEP A RECORD OF ALL PROCESS SERVED UNDER THIS SECTION THAT SHOWS THE DATE AND HOUR OF SERVICE ON THE ADMINISTRATION BY THE PARTY SEEKING SERVICE.

(2) WHEN THE CERTIFIED RETURN RECEIPT IS RETURNED TO THE MOTOR VEHICLE ADMINISTRATION, THE ADMINISTRATION SHALL:

(I) DELIVER IT TO THE PARTY SEEKING SERVICE; AND

(II) KEEP A RECORD OF THE DATE OF ITS RECEIPT AND THE DATE OF ITS DELIVERY TO THE PARTY SEEKING SERVICE.

(G) THE MOTOR VEHICLE ADMINISTRATION IS AUTHORIZED TO ESTABLISH AND COLLECT A REASONABLE FEE TO RECOVER THE ADMINISTRATION'S COSTS UNDER THIS SECTION.

(H) THE MOTOR VEHICLE ADMINISTRATION SHALL REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE JANUARY 1 OF EACH YEAR, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE FOLLOWING INFORMATION FOR THE PRECEDING CALENDAR YEAR:

(1) THE TOTAL NUMBER OF SUBPOENAS, SUMMONSES, AND OTHER SERVICE OF PROCESS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(2) THE NUMBER OF INSTANCES IN WHICH THE MOTOR VEHICLE ADMINISTRATION FAILED TO REACH THE INDIVIDUAL BEING SERVED AND THE REASONS THAT THOSE ATTEMPTS FAILED;

(3) A BREAKDOWN OF ALL DIRECT AND INDIRECT COSTS INCURRED BY THE MOTOR VEHICLE ADMINISTRATION IN CARRYING OUT THE REQUIREMENTS OF THIS SECTION; AND

(4) THE TOTAL FEES COLLECTED BY THE MOTOR VEHICLE ADMINISTRATION FROM PERSONS REQUESTING SERVICE OF PROCESS UNDER THIS SECTION.

Article – Transportation

11–135.

(a) (1) "Motor vehicle" means, except as provided in subsection (b) of this section, a vehicle that:

(i) Is self–propelled or propelled by electric power obtained from overhead electrical wires; and

(ii) Is not operated on rails.

(2) "Motor vehicle" includes a low speed vehicle.

(b) "Motor vehicle" does not include:

(1) A moped, as defined in § 11–134.1 of this subtitle; or

(2) A motor scooter, as defined in § 11–134.5 of this subtitle.

11–139.

"Nonresident" means any person who is not a resident, as that term is defined in this subtitle.

11–140.

"Nonresident's privilege to drive" means the privilege granted to a nonresident by the laws of this State to drive a motor vehicle in this State or to use in this State a vehicle owned by the nonresident.

12–104.

(a) In addition to the specific powers granted and duties imposed by this title, the Administration has the powers and duties set forth in this section.

(F) IN ACCORDANCE WITH § 6–313 OF THE COURTS ARTICLE AND THE MARYLAND RULES, THE ADMINISTRATION SHALL SERVE AS THE AGENT TO RECEIVE A SUBPOENA, A SUMMONS, OR OTHER PROCESS FOR A NONRESIDENT DRIVER NAMED AS A PARTY IN AN ACTION BROUGHT IN A COURT OF THIS STATE.

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 ~~case filed~~ cause of action arising before the effective date of this Act.

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

Approved by the Governor, May 22, 2008.

CHAPTER 579

(Senate Bill 438)

AN ACT concerning

Institutions of Higher Education – Plans for Programs of Cultural Diversity

FOR the purpose of requiring certain nonpublic institutions of higher education to submit a certain report regarding cultural diversity programs to the Maryland Independent College and University Association on or before a certain date each year; requiring the Association to submit a certain report on the status of certain cultural diversity programs to the Maryland Higher Education Commission on or before a certain date each year; requiring the report to include a certain analysis; requiring certain public institutions of higher education to develop and implement certain plans for a program of cultural diversity; requiring certain plans to include certain improvements to certain programs under certain circumstances; requiring certain plans to include certain implementation strategies and timelines for meeting certain goals; providing for the contents of a certain plan; requiring certain plans to enhance certain programming and certain sensitivity through certain instruction and training; requiring certain public institutions of higher education to submit certain plans to the governing body of the institution for review on or before a certain date each year; requiring the governing body of certain institutions to submit a certain progress report to the Commission on or before a certain date each year; requiring the Commission to review the progress report to monitor compliance with the diversity goals of the State Plan for Higher Education; requiring the Commission to submit a certain report to certain committees of the General Assembly on or before a certain date each year; defining a certain term; and generally relating to plans for programs of cultural diversity.

BY repealing and reenacting, with amendments,

Article – Education
Section 10–211
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Education
Section 11–406
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

10–211.

(a) The nonpublic institutions of higher education in the State are an important educational resource and are vital to the provision of postsecondary education in the State.

(b) The State shall continue to provide financial aid as provided by law to nonpublic institutions of higher education to foster this important educational resource.

(C) (1) IN THIS SUBSECTION, "CULTURAL DIVERSITY" MEANS THE INCLUSION OF THOSE RACIAL AND ETHNIC GROUPS AND INDIVIDUALS THAT ARE OR HAVE BEEN UNDERREPRESENTED IN HIGHER EDUCATION.

(2) ON OR BEFORE MAY 1 OF EACH YEAR, EACH NONPUBLIC INSTITUTION OF HIGHER EDUCATION ELIGIBLE FOR STATE AID UNDER § 17–103 OF THIS ARTICLE SHALL SUBMIT A REPORT ON THE INSTITUTION'S PROGRAMS TO PROMOTE AND ENHANCE CULTURAL DIVERSITY ON ITS CAMPUS TO THE MARYLAND INDEPENDENT COLLEGE AND UNIVERSITY ASSOCIATION.

~~(2)~~ (3) (I) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE MARYLAND INDEPENDENT COLLEGE AND UNIVERSITY ASSOCIATION SHALL SUBMIT A REPORT ON THE STATUS OF THE PROGRAMS REPORTED TO THE ASSOCIATION UNDER PARAGRAPH ~~(1)~~ (2) OF THIS SUBSECTION TO THE COMMISSION.

(II) THE REPORT SUBMITTED TO THE COMMISSION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE AN ANALYSIS OF THE ~~THE:~~

~~1.~~ ~~THE~~ BEST PRACTICES USED BY NONPUBLIC INSTITUTIONS OF HIGHER EDUCATION TO PROMOTE AND ENHANCE CULTURAL DIVERSITY ON THEIR CAMPUSES~~; AND~~

~~2. WHETHER THE ENHANCEMENT OF CULTURAL DIVERSITY HAS IMPROVED THE RETENTION AND GRADUATION RATE OF A CULTURALLY DIVERSE STUDENT BODY~~.

11–406.

(A) IN THIS SECTION, "CULTURAL DIVERSITY" MEANS THE ~~VARIETY OF CHARACTERISTICS AND EXPERIENCES THAT DEFINE AN INDIVIDUAL, INCLUDING THE PRIMARY DIMENSIONS OF RACE, ETHNICITY, GENDER, AGE, RELIGION, DISABILITY, AND SEXUAL ORIENTATION AND THE SECONDARY DIMENSIONS OF COMMUNICATION STYLE, WORK STYLE, ORGANIZATIONAL ROLE AND LEVEL, ECONOMIC STATUS, AND GEOGRAPHIC ORIGIN~~ INCLUSION OF THOSE RACIAL AND ETHNIC GROUPS AND INDIVIDUALS THAT ARE OR HAVE BEEN UNDERREPRESENTED IN HIGHER EDUCATION.

(B) (1) (I) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL DEVELOP AND IMPLEMENT A PLAN FOR A PROGRAM OF CULTURAL DIVERSITY.

(II) IF AN INSTITUTION OF HIGHER EDUCATION ALREADY HAS A PROGRAM OF CULTURAL DIVERSITY, THE INSTITUTION OF HIGHER EDUCATION SHALL DEVELOP AND IMPLEMENT A PLAN FOR IMPROVING THE PROGRAM.

(III) A PLAN DEVELOPED AND IMPLEMENTED UNDER THIS SUBSECTION SHALL INCLUDE AN IMPLEMENTATION STRATEGY AND A TIMELINE FOR MEETING GOALS WITHIN THE PLAN.

(2) A PLAN DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) A DESCRIPTION OF THE WAY THE INSTITUTION ADDRESSES CULTURAL DIVERSITY AMONG ITS STUDENT, FACULTY, AND STAFF POPULATIONS;

(II) A DESCRIPTION OF HOW THE INSTITUTION PLANS TO ENHANCE CULTURAL DIVERSITY, IF IMPROVEMENT IS NEEDED;

(III) A PROCESS FOR ~~RESPONDING TO~~ REPORTING CAMPUS–BASED HATE CRIMES ~~AND BIAS–MOTIVATED INCIDENTS THAT MAY OCCUR ON CAMPUS~~, AS DEFINED UNDER TITLE 10, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE AND CONSISTENT WITH FEDERAL REQUIREMENTS UNDER 20 U.S.C. 1092(F), KNOWN AS THE JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT; AND

(IV) A SUMMARY OF ANY RESOURCES, INCLUDING STATE GRANTS, NEEDED BY THE INSTITUTION TO EFFECTIVELY RECRUIT AND RETAIN A CULTURALLY DIVERSE STUDENT BODY, FACULTY, AND STAFF.

(3) A PLAN DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL ENHANCE CULTURAL DIVERSITY PROGRAMMING AND SENSITIVITY TO CULTURAL DIVERSITY THROUGH INSTRUCTION AND TRAINING OF THE STUDENT BODY, FACULTY, AND STAFF AT THE INSTITUTION OF HIGHER EDUCATION.

~~(B)~~ (C) (1) ON OR BEFORE MAY 1 OF EACH YEAR, EACH INSTITUTION SHALL SUBMIT THE PLAN DEVELOPED UNDER SUBSECTION ~~(A)~~ (B) OF THIS SECTION TO THE GOVERNING BODY OF THE INSTITUTION FOR THE GOVERNING BODY'S REVIEW.

(2) ~~(I)~~ ON OR BEFORE AUGUST 1 OF EACH YEAR, THE GOVERNING BODY OF AN INSTITUTION SHALL SUBMIT A PROGRESS REPORT REGARDING THE INSTITUTION'S IMPLEMENTATION OF ITS PLAN TO THE COMMISSION.

~~(II) THE PROGRESS REPORT SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE AN ANALYSIS OF WHETHER THE ENHANCEMENT OF CULTURAL DIVERSITY HAS IMPROVED THE RETENTION AND GRADUATION RATE OF A CULTURALLY DIVERSE STUDENT BODY.~~

~~(C)~~ (D) (1) THE COMMISSION SHALL REVIEW THE PROGRESS REPORT SUBMITTED BY EACH GOVERNING BODY UNDER SUBSECTION ~~(B)~~ (C) OF THIS SECTION TO MONITOR COMPLIANCE WITH THE DIVERSITY GOALS OF THE STATE PLAN FOR HIGHER EDUCATION.

(2) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE COMMISSION SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2–1246 OF THE STATE

GOVERNMENT ARTICLE, TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE COMMITTEE ON WAYS AND MEANS ON THE EXTENT TO WHICH THE INSTITUTIONS OF HIGHER EDUCATION IN THE STATE ARE IN COMPLIANCE WITH THE DIVERSITY GOALS OF THE STATE PLAN FOR HIGHER EDUCATION.

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

Approved by the Governor, May 22, 2008.

CHAPTER 580

(House Bill 905)

AN ACT concerning

Institutions of Higher Education – Plans for Programs of Cultural Diversity

FOR the purpose of requiring certain nonpublic institutions of higher education to submit a certain report regarding cultural diversity programs to the Maryland Independent College and University Association on or before a certain date each year; requiring the Association to submit a certain report on the status of certain cultural diversity programs to the Maryland Higher Education Commission on or before a certain date each year; requiring the report to include a certain analysis; requiring certain public institutions of higher education to develop and implement certain plans for a program of cultural diversity; requiring certain plans to include certain improvements to certain programs under certain circumstances; requiring certain plans to include certain implementation strategies and time lines for meeting certain goals; providing for the contents of a certain plan; requiring certain plans to enhance certain programming and certain sensitivity through certain instruction and training; requiring certain public institutions of higher education to submit certain plans to the governing body of the institution for review on or before a certain date each year; requiring the governing body of certain institutions to submit a certain progress report to the Commission on or before a certain date each year; requiring the Commission to review the progress report to monitor compliance with the *diversity* goals of the State Plan for Higher Education; *requiring the Commission to submit a certain report to certain committees of the General Assembly on or before a certain date each year; defining a certain term;* and generally relating to plans for programs of cultural diversity.

BY repealing and reenacting, with amendments,
Article – Education
Section 10–211
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Education
Section 11–406
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

10–211.

(a) The nonpublic institutions of higher education in the State are an important educational resource and are vital to the provision of postsecondary education in the State.

(b) The State shall continue to provide financial aid as provided by law to nonpublic institutions of higher education to foster this important educational resource.

(C) (1) ***IN THIS SUBSECTION, "CULTURAL DIVERSITY" MEANS THE INCLUSION OF THOSE RACIAL AND ETHNIC GROUPS AND INDIVIDUALS THAT ARE OR HAVE BEEN UNDERREPRESENTED IN HIGHER EDUCATION.***

(2) **ON OR BEFORE MAY 1 OF EACH YEAR, EACH NONPUBLIC INSTITUTION OF HIGHER EDUCATION ELIGIBLE FOR STATE AID UNDER § 17–103 OF THIS ARTICLE SHALL SUBMIT A REPORT ON THE INSTITUTION'S PROGRAMS TO PROMOTE AND ENHANCE CULTURAL DIVERSITY ON ITS CAMPUS TO THE MARYLAND INDEPENDENT COLLEGE AND UNIVERSITY ASSOCIATION.**

~~(2)~~ ***(3)*** **(I) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE MARYLAND INDEPENDENT COLLEGE AND UNIVERSITY ASSOCIATION SHALL SUBMIT A REPORT ON THE STATUS OF THE PROGRAMS REPORTED TO THE ASSOCIATION UNDER PARAGRAPH ~~(1)~~ *(2)* OF THIS SUBSECTION TO THE COMMISSION.**

(II) THE REPORT SUBMITTED TO THE COMMISSION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE AN ANALYSIS OF THE BEST PRACTICES USED BY NONPUBLIC INSTITUTIONS OF HIGHER EDUCATION TO PROMOTE AND ENHANCE CULTURAL DIVERSITY ON THEIR CAMPUSES.

11–406.

(A) ***IN THIS SECTION, "CULTURAL DIVERSITY" MEANS THE INCLUSION OF THOSE RACIAL AND ETHNIC GROUPS AND INDIVIDUALS THAT ARE OR HAVE BEEN UNDERREPRESENTED IN HIGHER EDUCATION.***

(B) **(1) (I) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL DEVELOP AND IMPLEMENT A PLAN FOR A PROGRAM OF CULTURAL DIVERSITY.**

(II) IF AN INSTITUTION OF HIGHER EDUCATION ALREADY HAS A PROGRAM OF CULTURAL DIVERSITY, THE INSTITUTION OF HIGHER EDUCATION SHALL DEVELOP AND IMPLEMENT A PLAN FOR IMPROVING THE PROGRAM.

(III) A PLAN DEVELOPED AND IMPLEMENTED UNDER THIS SUBSECTION SHALL INCLUDE AN IMPLEMENTATION STRATEGY AND A TIME LINE FOR MEETING GOALS WITHIN THE PLAN.

(2) A PLAN DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) A DESCRIPTION OF THE WAY THE INSTITUTION ADDRESSES CULTURAL DIVERSITY AMONG ITS STUDENT, FACULTY, AND STAFF POPULATIONS;

(II) A DESCRIPTION OF HOW THE INSTITUTION PLANS TO ENHANCE CULTURAL DIVERSITY, IF IMPROVEMENT IS NEEDED;

(III) A PROCESS FOR ~~RESPONDING TO~~ *REPORTING CAMPUS–BASED* HATE CRIMES ~~AND BIAS–MOTIVATED INCIDENTS THAT MAY OCCUR ON CAMPUS~~, *AS DEFINED UNDER TITLE 10, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE AND CONSISTENT WITH FEDERAL REQUIREMENTS UNDER 20 U.S.C. 1092(F), KNOWN AS THE JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT*; AND

(IV) A SUMMARY OF ANY RESOURCES, INCLUDING STATE GRANTS, NEEDED BY THE INSTITUTION TO EFFECTIVELY RECRUIT AND RETAIN A CULTURALLY DIVERSE STUDENT BODY.

(3) A PLAN DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL ENHANCE CULTURAL DIVERSITY PROGRAMMING AND SENSITIVITY TO CULTURAL DIVERSITY THROUGH INSTRUCTION AND TRAINING *OF THE STUDENT BODY, FACULTY, AND STAFF* AT THE INSTITUTION OF HIGHER EDUCATION.

~~(B)~~ *(C)* (1) ON OR BEFORE MAY 1 OF EACH YEAR, EACH INSTITUTION SHALL SUBMIT THE PLAN DEVELOPED UNDER SUBSECTION ~~(A)~~ *(B)* OF THIS SECTION TO THE GOVERNING BODY OF THE INSTITUTION FOR THE GOVERNING BODY'S REVIEW.

(2) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE GOVERNING BODY OF AN INSTITUTION SHALL SUBMIT A PROGRESS REPORT REGARDING THE INSTITUTION'S IMPLEMENTATION OF ITS PLAN TO THE COMMISSION.

~~(C)~~ *(D)* *(1)* THE COMMISSION SHALL REVIEW THE PROGRESS REPORT SUBMITTED BY EACH GOVERNING BODY UNDER SUBSECTION ~~(B)~~ *(C)* OF THIS SECTION TO MONITOR COMPLIANCE WITH THE GOALS OF THE STATE PLAN FOR HIGHER EDUCATION.

(2) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE COMMISSION SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE COMMITTEE ON WAYS AND MEANS ON THE EXTENT TO WHICH THE INSTITUTIONS OF HIGHER EDUCATION IN THE STATE ARE IN COMPLIANCE WITH THE DIVERSITY GOALS OF THE STATE PLAN FOR HIGHER EDUCATION.

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

Approved by the Governor, May 22, 2008.

CHAPTER 581

(Senate Bill 460)

AN ACT concerning

Vehicle Laws – Moving Violations by Minors – Notification of Parent or Guardian

FOR the purpose of requiring the Motor Vehicle Administration to notify the parent, guardian, or other cosigner of a minor's driver's license application if a citation is issued to the minor charging the minor with a certain moving violation; requiring the Chief Judge of the District Court, in conjunction with the Motor Vehicle Administrator, to establish procedures for notifying the Administration of each citation within the jurisdiction of the District Court that is issued to a minor licensed in the State charging that the minor committed a certain moving violation; requiring the notice provided by the Administration to contain certain information; providing for the construction and applicability of this Act; and generally relating to notifying a parent, guardian, or other cosigner of a minor's driver's license application that a citation alleging a moving violation was issued to the minor.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 1–605(d)(4)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–808
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

1–605.

(d) In addition to the powers and duties granted and imposed in subsections (a), (b), and (c) of this section, or elsewhere by law or rule, the Chief Judge of the District Court shall:

(4) In conjunction with the Motor Vehicle Administrator, establish uniform procedures for reporting traffic cases in the District Court, including procedures for promptly notifying the Motor Vehicle Administration of each citation

within the jurisdiction of the District Court that is issued to a minor licensed in the State charging the minor with **[**driving a motor vehicle at least 20 miles per hour above the maximum lawful speed;**]** **A MOVING VIOLATION AS DEFINED IN § ~~11–136.1(1)~~ *11–136.1* OF THE TRANSPORTATION ARTICLE;**

Article – Transportation

21–808.

(a) Upon receipt of notification from the District Court under § 1–605(d)(4) of the Courts Article that a citation was issued to a minor charging the minor with **[**driving a motor vehicle at least 20 miles per hour above the maximum lawful speed,**]** **A MOVING VIOLATION AS DEFINED IN § ~~11–136.1(1)~~ *11–136.1* OF THIS ARTICLE,** the Administration promptly shall notify the cosigner of the minor's driver's license application that the citation was issued to the minor.

(b) The notification required under subsection (a) of this section shall:

(1) Be mailed by the Administration to the most recent address provided by the cosigner in accordance with § 16–107(b) of this article; and

(2) Contain the following information:

(i) The name, address, and date of birth of the minor charged with the violation;

(ii) **IDENTIFICATION OF THE MOVING VIOLATION CHARGED;**

(III) [The**] IF THE CITATION WAS ISSUED FOR A SPEEDING VIOLATION, THE** speed at which the minor is alleged to have **[**driven;

(iii) The**] DRIVEN AND THE** maximum lawful speed at the location of the alleged violation;

(iv) The amount of the fine specified in the citation; and

(v) The number of points that may be assessed against the minor.

(c) Evidence of the receipt or lack of receipt of the notice required by this section is not admissible in any civil or criminal action against a cosigner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may be applied only to a citation issued to a minor on or after the effective date of this Act.

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

Approved by the Governor, May 22, 2008.

CHAPTER 582

(House Bill 511)

AN ACT concerning

Vehicle Laws – Moving Violations by Minors – Notification of Parent or Guardian

FOR the purpose of requiring the Motor Vehicle Administration to notify the parent, guardian, or other cosigner of a minor's driver's license application if a citation is issued to the minor charging the minor with a moving violation; requiring the Chief Judge of the District Court, in conjunction with the Motor Vehicle Administrator, to establish procedures for notifying the Administration of each citation within the jurisdiction of the District Court that is issued to a minor licensed in the State charging that the minor committed a moving violation; requiring the notice provided by the Administration to contain certain information; providing for the construction and applicability of this Act; and generally relating to notifying a parent, guardian, or other cosigner of a minor's driver's license application that a citation alleging a moving violation was issued to the minor.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 1–605(d)(4)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–808
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

1–605.

(d) In addition to the powers and duties granted and imposed in subsections (a), (b), and (c) of this section, or elsewhere by law or rule, the Chief Judge of the District Court shall:

(4) In conjunction with the Motor Vehicle Administrator, establish uniform procedures for reporting traffic cases in the District Court, including procedures for promptly notifying the Motor Vehicle Administration of each citation within the jurisdiction of the District Court that is issued to a minor licensed in the State charging the minor with **[**driving a motor vehicle at least 20 miles per hour above the maximum lawful speed;**] A MOVING VIOLATION AS DEFINED IN § 11–136.1 OF THE TRANSPORTATION ARTICLE;**

Article – Transportation

21–808.

(a) Upon receipt of notification from the District Court under § 1–605(d)(4) of the Courts Article that a citation was issued to a minor charging the minor with **[**driving a motor vehicle at least 20 miles per hour above the maximum lawful speed,**] A MOVING VIOLATION AS DEFINED IN § 11–136.1 OF THIS ARTICLE,** the Administration promptly shall notify the cosigner of the minor's driver's license application that the citation was issued to the minor.

(b) The notification required under subsection (a) of this section shall:

(1) Be mailed by the Administration to the most recent address provided by the cosigner in accordance with § 16–107(b) of this article; and

(2) Contain the following information:

(i) The name, address, and date of birth of the minor charged with the violation;

(ii) **IDENTIFICATION OF THE MOVING VIOLATION CHARGED;**

(III) [The**] IF THE CITATION WAS ISSUED FOR A SPEEDING VIOLATION, THE** speed at which the minor is alleged to have **[**driven;

(iii) The**] DRIVEN AND THE** maximum lawful speed at the location of the alleged violation;

(iv) The amount of the fine specified in the citation; and

(v) The number of points that may be assessed against the minor.

(c) Evidence of the receipt or lack of receipt of the notice required by this section is not admissible in any civil or criminal action against a cosigner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may be applied only to a citation issued to a minor on or after the effective date of this Act.

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

Approved by the Governor, May 22, 2008.

CHAPTER 583

(Senate Bill 463)

AN ACT concerning

State Board of Morticians and Funeral Directors – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Morticians and Funeral Directors 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; *altering the composition of the Board;* requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring that pre–need contracts contain a certain disclosure statement; requiring the Board to submit certain reports on or before certain dates; *requiring the Governor to appoint the additional consumer member of the Board authorized under this Act by a certain date; providing that the term of the additional consumer member shall begin on a certain date; providing that a certain position on the Board terminates on a certain date;* and generally relating to the State Board of Morticians and Funeral Directors.

BY repealing and reenacting, with amendments,

Article – Health Occupations
Section *7–202(a),* 7–316(a)(29), 7–405(c) and (h), and 7–602
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 7–405(a) and (b)
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)(40)
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 Occupations

7–202.

(a) (1) The Board consists of ***[****12****]*** ***11*** *members.*

(2) Of the ***[****12****]*** ***11*** *Board members:*

(i) ***[****8****]*** ***6*** *shall be licensed morticians or licensed funeral directors; and*

(ii) ***[****4****]*** ***5*** *shall be consumer members.*

(3) All Board members shall be residents of the State.

(4) The Governor shall appoint each member with the advice of the Secretary, and with the advice and consent of the Senate.

(5) The Board may not have more than one member who is employed by or affiliated with, directly or indirectly, the same corporation, professional association, or other entity, that owns, directly or through a subsidiary corporation, professional association, or other entity, one or more funeral homes.

7–316.

(a) Subject to the hearing provisions of § 7–319 of this subtitle and except as to a funeral establishment license, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee:

(29) Fails to allow an inspection under **[**§ 7–205(8)**] § 7–205(A)(8)** of this title;

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.

(b) (1) Only a licensed mortician, a licensed funeral director, or a holder of a surviving spouse license may offer or agree, directly or indirectly, to provide services or merchandise under a pre–need contract.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a licensed mortician or a licensed funeral director who is employed by a funeral establishment may execute pre–need contracts on behalf of the funeral establishment with which the mortician or funeral director is employed.

(3) Any funeral establishment on whose behalf pre–need contracts are executed under this subsection must comply with the requirements of this section.

(c) (1) A pre–need contract shall contain:

(i) The name of each party to the contract and, if the beneficiary is an individual other than the buyer, the name of the beneficiary of the contract;

(ii) A description of any service or merchandise to be provided under the pre–need contract;

(III) A DISCLOSURE STATEMENT THAT CLEARLY:

1. STATES THAT ALL FUNERAL COSTS MAY NOT BE COVERED UNDER THE PRE–NEED CONTRACT; AND

2. LISTS ALL FUNERAL GOODS AND SERVICES THAT ARE REASONABLY EXPECTED TO BE REQUIRED AT THE TIME OF NEED, BUT ARE NOT INCLUDED IN THE CONTRACT;

[(iii)**] (IV)** The total price of the services and merchandise agreed on; and

[(iv)**] (V)** The method of payment.

(2) A pre–need contract shall be executed in duplicate and be signed by each party.

(3) The seller shall give one of the duplicate originals of the pre–need contract to the buyer.

(h) A seller of a pre–need contract shall disclose to the consumer**[**:

(1) All goods and services that are reasonably expected to be required at the time of need, but are not included in the pre–need contract; and

(2) The**] THE** buyer's cancellation and refund rights under subsection (d) of this section.

7–602.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, **[**2008**] 2018**.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(40) Morticians **AND FUNERAL DIRECTORS**, State Board of (§ 7–201 of the Health Occupations Article: July 1, **[**2007**] 2017**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2008, the Board of Morticians and Funeral Directors shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, regarding:

(1) any observed changes in licensure patterns;

(2) a plan to reduce the Board's fund balance to 25% of biennial operating costs; and

(3) the status of nonstatutory recommendations contained in the Sunset Review: Evaluation of the State Board of Morticians and Funeral Directors conducted by the Department of Legislative Services.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(1) The Board of Morticians and Funeral Directors shall notify the Senate, Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee of the resolution in the matter of Charles Brown, et al. v. David Hovatter, et al.

(2) Within 6 months after the matter of Charles Brown et al. v. David Hovatter, et al. is resolved the Board of Morticians and Funeral Directors shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on:

(i) any proposals to alter the laws or regulations regarding corporate licenses;

(ii) whether a surviving spouse or executor license is still necessary; and

(iii) whether the requirement that an individual be a licensed mortician to qualify for a funeral establishment license is necessary.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 1, 2008, and each year thereafter, the Board of Morticians and Funeral Directors shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, regarding effectiveness of pre–need regulations.

SECTION 5. AND BE IT FURTHER ENACTED, That, on or before December 1, 2010, the Board of Morticians and Funeral Directors shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the outcome of reestablishing the funeral director license including the number of: (1) students enrolled in the funeral director program at the Community College of Baltimore County; (2) applicants for a funeral director apprenticeship license; and (3) funeral director licenses issued.

SECTION 6. AND BE IT FURTHER ENACTED, That:

(1) On or before June 30, 2009, the Governor shall appoint the additional consumer member of the State Board of Morticians and Funeral Directors authorized under Section 1 of this Act, and, subject to item (2) of this section, the additional consumer member shall fill the vacancy on the Board, previously held by a licensed member, that existed as of February 25, 2008;

(2) The 4–year term of the additional consumer member of the Board appointed under item (1) of this section shall begin on July 1, 2009; and

(3) The positions on the Board held by licensed members whose second terms expire at the end of June 30, 2009, shall be terminated at the end of June 30, 2009.

SECTION ~~6.~~ *7.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 584

(Senate Bill 465)

AN ACT concerning

Property Tax Assessment Appeals

FOR the purpose of altering a certain time limit for the Maryland Tax Court to hear and determine an appeal from a determination of a property tax assessment appeal board under certain circumstances; and generally relating to property tax assessment appeals.

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 14–512(f)(1)
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–512(f)(5)
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

14–512.

(f) (1) Any taxpayer, a municipal corporation, the Attorney General, the Department, or the governing body of a county may appeal a determination made by a property tax assessment appeal board under § 14–509(a) or (b) of this subtitle to the Maryland Tax Court.

(5) (i) ~~The~~ **UNLESS EXTENDED BY THE COURT AT THE REQUEST OF A PARTY, THE** Maryland Tax Court shall hear and determine all appeals under this subsection on or before**:**

1. FOR AN APPEAL OTHER THAN AN APPEAL OF A DETERMINATION REGARDING AN ASSESSMENT FOR RESIDENTIAL PROPERTY,

~~[~~120~~]~~ ~~**60**~~ days from the date the appeal is entered~~, unless extended by the court at the request of a party~~**; AND**

2. FOR AN APPEAL OF A DETERMINATION REGARDING AN ASSESSMENT FOR RESIDENTIAL PROPERTY, 90 DAYS FROM THE DATE THE APPEAL IS ENTERED.

(ii) Any party to an appeal may request the court to extend the ~~[~~120~~]~~ ~~**60**~~ **OR 90** day requirement.

(iii) The court may grant an extension if it deems the request to be valid.

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

Approved by the Governor, May 22, 2008.

CHAPTER 585

(Senate Bill 481)

AN ACT concerning

Disabled Law Enforcement Officers and Rescue Workers – Property Tax Credit

FOR the purpose of authorizing the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation to grant a certain property tax credit for certain residential real property owned by certain disabled law enforcement officers and rescue workers; defining a certain term; altering ~~a certain definition~~ certain definitions; providing for the application of this Act; and generally relating to a property tax credit for certain residential real property owned by certain disabled law enforcement officers and rescue workers.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–210
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

9–210.

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

(2) "DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER" MEANS AN INDIVIDUAL WHO:

(I) HAS BEEN FOUND TO BE PERMANENTLY AND TOTALLY DISABLED BY AN ADMINISTRATIVE BODY OR COURT OF COMPETENT JURISDICTION AUTHORIZED TO MAKE SUCH A DETERMINATION; AND

(II) BECAME DISABLED:

1. AS A RESULT OF OR IN THE COURSE OF EMPLOYMENT AS A LAW ENFORCEMENT OFFICER <u>OR A CORRECTIONAL OFFICER</u>; OR

2. WHILE IN THE ACTIVE SERVICE OF A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICE, UNLESS THE DISABILITY WAS THE RESULT OF THE INDIVIDUAL'S OWN WILLFUL MISCONDUCT OR ABUSE OF ALCOHOL OR DRUGS.

[(2)**] (3)** (i) "Dwelling" means real property that:

1. is the legal residence of a **DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER OR A** surviving spouse; and

2. is occupied by not more than two families.

(ii) "Dwelling" includes the lot or curtilage and structures necessary to use the real property as a residence.

[(3)**] (4)** "Fallen law enforcement officer or rescue worker" means an individual who dies:

(i) as a result of or in the course of employment as a law enforcement officer **<u>OR A CORRECTIONAL OFFICER</u>**; or

(ii) while in the active service of a fire, rescue, or emergency medical service, unless the death was the result of the individual's own willful misconduct or abuse of alcohol or drugs.

[(4)**] (5)** "Surviving spouse" means a surviving spouse, who has not remarried, of a fallen law enforcement officer or rescue worker.

(b) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may grant, by law, a property tax credit under this section against the county or municipal corporation property tax imposed on a dwelling that is owned by a **DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER OR A** surviving spouse of a fallen law enforcement officer or rescue worker:

(1) if the dwelling was owned **BY THE DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER AT THE TIME THE LAW ENFORCEMENT OFFICER OR RESCUE WORKER WAS ADJUDGED TO BE PERMANENTLY AND TOTALLY DISABLED OR** by the fallen law enforcement officer or rescue worker at the time of the fallen law enforcement officer's or rescue worker's death;

(2) if **THE DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER WAS DOMICILED IN THE STATE AS OF THE DATE THE DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER WAS ADJUDGED TO BE PERMANENTLY AND TOTALLY DISABLED OR** the fallen law enforcement officer or rescue worker or the surviving spouse was domiciled in the State as of the date of the fallen law enforcement officer's or rescue worker's death and the dwelling was acquired **BY THE DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER WITHIN 2 YEARS OF THE DATE THE DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER WAS ADJUDGED TO BE PERMANENTLY AND TOTALLY DISABLED OR** by the surviving spouse within 2 years of the fallen law enforcement officer's or rescue worker's death; or

(3) if the dwelling was acquired after **THE DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER OR** the surviving spouse qualified for a credit for a former dwelling under item (1) or (2) of this subsection, to the extent of the previous credit.

(c) A county or municipal corporation may provide, by law, for:

(1) the amount and duration of a property tax credit allowed under this section; and

(2) any other provision necessary to carry out the provisions of this section.

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 22, 2008.

CHAPTER 586

(House Bill 573)

AN ACT concerning

Disabled Law Enforcement Officers and Rescue Workers – Property Tax Credit

FOR the purpose of authorizing the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation to grant a certain property tax credit for certain residential real property owned by certain disabled law enforcement officers and rescue workers; defining a certain term; altering ~~a certain definition~~ certain definitions; providing for the application of this Act; and generally relating to a property tax credit for certain residential real property owned by certain disabled law enforcement officers and rescue workers.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–210
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

9–210.

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

(2) "DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER" MEANS AN INDIVIDUAL WHO:

(I) HAS BEEN FOUND TO BE PERMANENTLY AND TOTALLY DISABLED BY AN ADMINISTRATIVE BODY OR COURT OF COMPETENT JURISDICTION AUTHORIZED TO MAKE SUCH A DETERMINATION; AND

(II) BECAME DISABLED:

1. AS A RESULT OF OR IN THE COURSE OF EMPLOYMENT AS A LAW ENFORCEMENT OFFICER <u>OR A CORRECTIONAL OFFICER</u>; OR

2. WHILE IN THE ACTIVE SERVICE OF A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICE, UNLESS THE DISABILITY WAS THE RESULT OF THE INDIVIDUAL'S OWN WILLFUL MISCONDUCT OR ABUSE OF ALCOHOL OR DRUGS.

[(2)**] (3)** (i) "Dwelling" means real property that:

1. is the legal residence of a **DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER OR A** surviving spouse; and

2. is occupied by not more than two families.

(ii) "Dwelling" includes the lot or curtilage and structures necessary to use the real property as a residence.

[(3)**] (4)** "Fallen law enforcement officer or rescue worker" means an individual who dies:

(i) as a result of or in the course of employment as a law enforcement officer **<u>OR A CORRECTIONAL OFFICER</u>**; or

(ii) while in the active service of a fire, rescue, or emergency medical service, unless the death was the result of the individual's own willful misconduct or abuse of alcohol or drugs.

[(4)**] (5)** "Surviving spouse" means a surviving spouse, who has not remarried, of a fallen law enforcement officer or rescue worker.

(b) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may grant, by law, a property tax credit under this section against the county or municipal corporation property tax imposed on a dwelling that is owned by a **DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER OR A** surviving spouse of a fallen law enforcement officer or rescue worker:

(1) if the dwelling was owned **BY THE DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER AT THE TIME THE LAW ENFORCEMENT OFFICER OR RESCUE WORKER WAS ADJUDGED TO BE PERMANENTLY AND TOTALLY DISABLED OR** by the fallen law enforcement officer or rescue worker at the time of the fallen law enforcement officer's or rescue worker's death;

(2) if **THE DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER WAS DOMICILED IN THE STATE AS OF THE DATE THE DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER WAS ADJUDGED TO BE PERMANENTLY AND TOTALLY DISABLED OR** the fallen law enforcement officer or rescue worker or the surviving spouse was domiciled in the State as of the date of the fallen law enforcement officer's or rescue worker's death and the dwelling was acquired **BY THE DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER WITHIN 2 YEARS OF THE DATE THE DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER WAS ADJUDGED TO BE PERMANENTLY AND TOTALLY DISABLED OR** by the surviving spouse within 2 years of the fallen law enforcement officer's or rescue worker's death; or

(3) if the dwelling was acquired after **THE DISABLED LAW ENFORCEMENT OFFICER OR RESCUE WORKER OR** the surviving spouse qualified for a credit for a former dwelling under item (1) or (2) of this subsection, to the extent of the previous credit.

(c) A county or municipal corporation may provide, by law, for:

(1) the amount and duration of a property tax credit allowed under this section; and

(2) any other provision necessary to carry out the provisions of this section.

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 22, 2008.

CHAPTER 587

(Senate Bill 528)

AN ACT concerning

Maryland Human Relations Commission – Administrative and Civil Relief – Waiver of Sovereign Immunity

FOR the purpose of clarifying that certain earnings and amounts earnable operate to reduce certain awards of back pay in certain administrative proceedings; establishing that certain respondents may elect to have certain claims asserted in a certain complaint filed with the Maryland Human Relations Commission determined in certain civil actions brought by the Commission on the complainant's behalf; requiring that certain respondents give notice of certain elections to the Commission and certain other complainants and respondents; establishing that a certain complainant may bring a certain civil action alleging a discriminatory act if the complainant filed a certain administrative charge or complaint in a timely manner and the civil action is filed within a certain time after the occurrence of a certain act of discrimination; establishing that the filing of certain civil actions will automatically terminate certain proceedings before the Commission; establishing that certain earnings and amounts earnable operate to reduce certain awards of back pay in certain civil actions; prohibiting the use of sovereign immunity as a defense against certain awards in employment discrimination cases; providing for the payment of certain awards made against the State; correcting a certain cross–reference; and generally relating to the Maryland Human Relations Commission, administrative and civil relief for certain acts of discrimination, and the waiver of sovereign immunity.

BY repealing and reenacting, with amendments,
Article 49B – Human Relations Commission
Section 11(e)(6), 11A, 11B, 11D, and 17A
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article 49B – Human Relations Commission
Section 17B
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 49B – Human Relations Commission

11.

(e) (6) **[**In case of an award of**]** **IF** back pay **IS AWARDED** under paragraph (3) of this subsection, interim **[**earning**]** **EARNINGS** or amounts **[**earned**]** **EARNABLE** with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable.

11A.

(a) (1) When a complaint is filed under § 11 of this subtitle, a complainant **OR RESPONDENT** may elect to have the claims asserted in the complaint determined in a civil action brought by the Commission on the complainant's behalf, if:

(i) The Commission finds the respondent has engaged in, or is engaging in a discriminatory act; and

(ii) There is a failure to reach an agreement for the remedy and elimination of the discriminatory act.

(2) The election authorized under paragraph (1) of this subsection shall be made not later than 30 days after the complainant or respondent receives service under § 11(a)(2) of this subtitle.

(3) If an election is not made under paragraph (1) of this subsection, the Commission shall provide an opportunity for a hearing as provided under § 11(a)(3) of this subtitle.

(b) When a complaint is filed under § 11 of this subtitle, the Commission may elect to have the claims asserted in the complaint determined in a civil action brought on the Commission's own behalf, if:

(1) The Commission finds the respondent has engaged in, or is engaging in a discriminatory act; and

(2) There is a failure to reach an agreement for the remedy and elimination of the discriminatory act.

(c) (1) If a complainant **OR RESPONDENT** makes an election under subsection (a) of this section, that **[**individual**]** **PARTY** shall give notice of the election to the Commission and to all other complainants and respondents.

(2) If the Commission makes an election under subsection (b) of this section, the Commission shall give notice of the election to all complainants and respondents.

(3) Not later than 60 days after the election is made by any party, the Commission shall file a civil action in the court of the county where the alleged act of discrimination took place.

(d) If the court finds that a discriminatory act took place, the court may provide the remedies specified in § 11(e)(3) through (6) of this subtitle.

(e) If the Commission seeks compensatory damages under this section:

(1) Any party may demand a trial by jury; and

(2) The court may not inform the jury of the limitations on compensatory damages imposed under § 11(e)(5) of this subtitle.

11B.

(a) In addition to the right to make an election authorized under § 11A of this subtitle, a complainant may bring a civil action against the respondent alleging a discriminatory act if:

(1) The complainant initially filed ~~an~~ **A TIMELY** administrative charge or a complaint under federal, State, or local law alleging a discriminatory act by the respondent; ~~and~~

(2) At least 180 days have elapsed since the filing of the administrative charge or complaint**; AND**

(3) THE CIVIL ACTION IS FILED NO MORE THAN 2 YEARS AFTER THE OCCURRENCE OF THE ALLEGED ACT OF DISCRIMINATION.

(b) A civil action under this section may be filed in the circuit court of the county where the alleged act of discrimination took place.

(C) THE FILING OF A CIVIL ACTION UNDER THIS SECTION SHALL SERVE TO AUTOMATICALLY TERMINATE ANY PROCEEDING BEFORE THE COMMISSION BASED ON THE UNDERLYING ADMINISTRATIVE COMPLAINT AND ANY AMENDMENT TO THE COMPLAINT.

[(c)**] (D)** In addition to the relief authorized under **[**subsections (d) and (e)**] SUBSECTION (E)** of this section, the court may award punitive damages if:

(1) The respondent is not a government entity or political subdivision; and

(2) The court finds that the respondent has engaged in or is engaging in an unlawful employment practice with actual malice.

[(d)**] (E)** Compensatory damages awarded under this section are in addition to:

(1) Back pay or interest on back pay that the complainant is entitled to recover under any other provision of law; and

(2) Any other equitable relief the complainant is entitled to recover under any other provision of law.

[(e)**] (F)** The sum of the amount of compensatory damages awarded to each complainant under this section, for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and the amount of punitive damages awarded under **[**this**] SUBSECTION (D) OF THIS** section may not exceed:

(1) $50,000 if the respondent employs not fewer than 15 and not more than 100 employees in each of 20 or more calendar weeks in the current or preceding calendar year;

(2) $100,000, if the respondent employs not fewer than 101 and not more than 200 employees in each of 20 or more calendar weeks in the current or preceding calendar year;

(3) $200,000, if the respondent employs not fewer than 201 and not more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year; and

(4) $300,000, if the respondent employs not fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year.

[(f)**](G)** If a complainant seeks compensatory or punitive damages under this section:

(1) Any party may demand a trial by jury; and

(2) The court may not inform the jury of the limitations imposed **ON COMPENSATORY AND PUNITIVE DAMAGES** under subsection **[**(e)**] (F)** of this section.

(H) IF BACK PAY IS AWARDED UNDER THIS SECTION, INTERIM EARNINGS OR AMOUNTS EARNABLE WITH REASONABLE DILIGENCE BY THE PERSON OR PERSONS DISCRIMINATED AGAINST SHALL OPERATE TO REDUCE THE BACK PAY OTHERWISE ALLOWABLE.

[(g)**] (I)** When appropriate and to the extent authorized under law, in a dispute arising under this subtitle, in which the complainant seeks compensatory or punitive damages, the parties are encouraged to use alternative means of dispute resolution, including settlement negotiations or mediation.

11D.

(a) In an action brought under this **[**section**] SUBHEADING**, the court, in its discretion, may award the prevailing party reasonable attorney's fees, expert witness fees, and costs.

(b) This subtitle, including the limitations on damages, may not be construed to limit the scope of, or the administrative procedures or relief available under, any other provision of federal, State, or local law.

(c) This subtitle may not be construed to limit §§ 40 through 43 of this article.

17A.

This State, its officers, and its units may not raise sovereign immunity as a defense against **[**a salary**] AN** award in an employment discrimination case under **[**§ 16 of**]** this article.

17B.

(A) IF THE STATE HAS SUFFICIENT MONEY AVAILABLE AT THE TIME AN AWARD IS MADE AGAINST THE STATE UNDER THIS ARTICLE, THE STATE SHALL PAY THE AWARD AS SOON AS PRACTICABLE WITHIN 20 DAYS AFTER THE AWARD IS FINAL.

(B) (1) IF SUFFICIENT MONEY IS NOT AVAILABLE AT THE TIME AN AWARD IS MADE AGAINST THE STATE UNDER THIS ARTICLE, THE AFFECTED STATE UNIT OR OFFICER SHALL REPORT THE OUTSTANDING AWARD TO THE STATE COMPTROLLER.

(2) THE COMPTROLLER SHALL:

(I) KEEP AN ACCOUNTING OF ALL OUTSTANDING AWARDS; AND

(II) REPORT THAT ACCOUNTING ANNUALLY TO THE GOVERNOR.

(C) (1) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET SUFFICIENT MONEY TO PAY ALL AWARDS MADE AGAINST THE STATE UNDER THIS ARTICLE.

(2) ON APPROPRIATION OF MONEY BY THE GENERAL ASSEMBLY, THE COMPTROLLER SHALL AUTHORIZE PAYMENT OF ALL OUTSTANDING AWARDS UNDER THIS ARTICLE IN THE ORDER OF THE DATE ON WHICH EACH AWARD WAS MADE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 588

(House Bill 399)

AN ACT concerning

Maryland Human Relations Commission – Administrative and Civil Relief – Waiver of Sovereign Immunity

FOR the purpose of clarifying that certain earnings and amounts earnable operate to reduce certain awards of back pay in certain administrative proceedings; establishing that certain respondents may elect to have certain claims asserted in a certain complaint filed with the Maryland Human Relations Commission determined in certain civil actions brought by the Commission on the complainant's behalf; requiring that certain respondents give notice of certain elections to the Commission and certain other complainants and respondents; establishing that a certain civil action alleging a certain discriminatory act may be filed if the complainant filed a certain administrative charge or certain complaint in a timely manner and must be filed within a certain time after the occurrence of a certain act of discrimination; establishing that the filing of certain civil actions will automatically terminate certain proceedings before the Commission; establishing that certain earnings and amounts earnable operate to reduce certain awards of back pay in certain civil actions; prohibiting the use of sovereign immunity as a defense against certain awards in employment discrimination cases; providing for the payment of certain awards made against the State; correcting a certain cross–reference; and generally relating to the

Maryland Human Relations Commission, administrative and civil relief for certain acts of discrimination, and the waiver of sovereign immunity.

BY repealing and reenacting, with amendments,
Article 49B – Human Relations Commission
Section 11(e)(6), 11A, 11B, 11D, and 17A
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article 49B – Human Relations Commission
Section 17B
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 49B – Human Relations Commission

11.

(e) (6) **[**In case of an award of**]** **IF** back pay **IS AWARDED** under paragraph (3) of this subsection, interim **[**earning**]** **EARNINGS** or amounts **[**earned**]** **EARNABLE** with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable.

11A.

(a) (1) When a complaint is filed under § 11 of this subtitle, a complainant **OR RESPONDENT** may elect to have the claims asserted in the complaint determined in a civil action brought by the Commission on the complainant's behalf, if:

(i) The Commission finds the respondent has engaged in, or is engaging in a discriminatory act; and

(ii) There is a failure to reach an agreement for the remedy and elimination of the discriminatory act.

(2) The election authorized under paragraph (1) of this subsection shall be made not later than 30 days after the complainant or respondent receives service under § 11(a)(2) of this subtitle.

(3) If an election is not made under paragraph (1) of this subsection, the Commission shall provide an opportunity for a hearing as provided under § 11(a)(3) of this subtitle.

(b) When a complaint is filed under § 11 of this subtitle, the Commission may elect to have the claims asserted in the complaint determined in a civil action brought on the Commission's own behalf, if:

(1) The Commission finds the respondent has engaged in, or is engaging in a discriminatory act; and

(2) There is a failure to reach an agreement for the remedy and elimination of the discriminatory act.

(c) (1) If a complainant **OR RESPONDENT** makes an election under subsection (a) of this section, that **[**individual**]** **PARTY** shall give notice of the election to the Commission and to all other complainants and respondents.

(2) If the Commission makes an election under subsection (b) of this section, the Commission shall give notice of the election to all complainants and respondents.

(3) Not later than 60 days after the election is made by any party, the Commission shall file a civil action in the court of the county where the alleged act of discrimination took place.

(d) If the court finds that a discriminatory act took place, the court may provide the remedies specified in § 11(e)(3) through (6) of this subtitle.

(e) If the Commission seeks compensatory damages under this section:

(1) Any party may demand a trial by jury; and

(2) The court may not inform the jury of the limitations on compensatory damages imposed under § 11(e)(5) of this subtitle.

11B.

(a) In addition to the right to make an election authorized under § 11A of this subtitle, a complainant may bring a civil action against the respondent alleging a discriminatory act if:

(1) The complainant initially filed ~~an~~ **A TIMELY** administrative charge or a complaint under federal, State, or local law alleging a discriminatory act by the respondent; ~~and~~

(2) At least 180 days have elapsed since the filing of the administrative charge or complaint**; AND**

(3) THE CIVIL ACTION IS FILED NO MORE THAN 2 YEARS AFTER THE OCCURRENCE OF THE ALLEGED ACT OF DISCRIMINATION.

(b) A civil action under this section may be filed in the circuit court of the county where the alleged act of discrimination took place.

(C) THE FILING OF A CIVIL ACTION UNDER THIS SECTION SHALL SERVE TO AUTOMATICALLY TERMINATE ANY PROCEEDING BEFORE THE COMMISSION BASED ON THE UNDERLYING ADMINISTRATIVE COMPLAINT AND ANY AMENDMENT TO THE COMPLAINT.

[(c)**] (D)** In addition to the relief authorized under **[**subsections (d) and (e)**] SUBSECTION (E)** of this section, the court may award punitive damages if:

(1) The respondent is not a government entity or political subdivision; and

(2) The court finds that the respondent has engaged in or is engaging in an unlawful employment practice with actual malice.

[(d)**] (E)** Compensatory damages awarded under this section are in addition to:

(1) Back pay or interest on back pay that the complainant is entitled to recover under any other provision of law; and

(2) Any other equitable relief the complainant is entitled to recover under any other provision of law.

[(e)**] (F)** The sum of the amount of compensatory damages awarded to each complainant under this section, for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and the amount of punitive damages awarded under **[**this**] SUBSECTION (D) OF THIS** section may not exceed:

(1) $50,000 if the respondent employs not fewer than 15 and not more than 100 employees in each of 20 or more calendar weeks in the current or preceding calendar year;

(2) $100,000, if the respondent employs not fewer than 101 and not more than 200 employees in each of 20 or more calendar weeks in the current or preceding calendar year;

(3) $200,000, if the respondent employs not fewer than 201 and not more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year; and

(4) $300,000, if the respondent employs not fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year.

[(f)**](G)** If a complainant seeks compensatory or punitive damages under this section:

(1) Any party may demand a trial by jury; and

(2) The court may not inform the jury of the limitations imposed **ON COMPENSATORY AND PUNITIVE DAMAGES** under subsection **[**(e)**] (F)** of this section.

(H) IF BACK PAY IS AWARDED UNDER THIS SECTION, INTERIM EARNINGS OR AMOUNTS EARNABLE WITH REASONABLE DILIGENCE BY THE PERSON OR PERSONS DISCRIMINATED AGAINST SHALL OPERATE TO REDUCE THE BACK PAY OTHERWISE ALLOWABLE.

[(g)**] (I)** When appropriate and to the extent authorized under law, in a dispute arising under this subtitle, in which the complainant seeks compensatory or punitive damages, the parties are encouraged to use alternative means of dispute resolution, including settlement negotiations or mediation.

11D.

(a) In an action brought under this **[**section**] SUBHEADING**, the court, in its discretion, may award the prevailing party reasonable attorney's fees, expert witness fees, and costs.

(b) This subtitle, including the limitations on damages, may not be construed to limit the scope of, or the administrative procedures or relief available under, any other provision of federal, State, or local law.

(c) This subtitle may not be construed to limit §§ 40 through 43 of this article.

17A.

This State, its officers, and its units may not raise sovereign immunity as a defense against [a salary] **AN** award in an employment discrimination case under [§ 16 of] this article.

17B.

(A) IF THE STATE HAS SUFFICIENT MONEY AVAILABLE AT THE TIME AN AWARD IS MADE AGAINST THE STATE UNDER THIS ARTICLE, THE STATE SHALL PAY THE AWARD AS SOON AS PRACTICABLE WITHIN 20 DAYS AFTER THE AWARD IS FINAL.

(B) (1) IF SUFFICIENT MONEY IS NOT AVAILABLE AT THE TIME AN AWARD IS MADE AGAINST THE STATE UNDER THIS ARTICLE, THE AFFECTED STATE UNIT OR OFFICER SHALL REPORT THE OUTSTANDING AWARD TO THE STATE COMPTROLLER.

(2) THE COMPTROLLER SHALL:

(I) KEEP AN ACCOUNTING OF ALL OUTSTANDING AWARDS; AND

(II) REPORT THAT ACCOUNTING ANNUALLY TO THE GOVERNOR.

(C) (1) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET SUFFICIENT MONEY TO PAY ALL AWARDS MADE AGAINST THE STATE UNDER THIS ARTICLE.

(2) ON APPROPRIATION OF MONEY BY THE GENERAL ASSEMBLY, THE COMPTROLLER SHALL AUTHORIZE PAYMENT OF ALL OUTSTANDING AWARDS UNDER THIS ARTICLE IN THE ORDER OF THE DATE ON WHICH EACH AWARD WAS MADE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 589

(Senate Bill 545)

AN ACT concerning

~~Maryland~~ Health Care ~~Provider Rate Stabilization Account~~ Funds – ~~Transfer of Funds~~ Transfers and Disbursements

FOR the purpose of authorizing certain funds in a certain account of the Maryland Health Care Provider Rate Stabilization Fund to be transferred to certain accounts to be used for certain purposes; limiting a certain requirement that the Legislative Auditor conduct certain audits of a certain insurance society to years in which the society received certain disbursements from the Rate Stabilization Account of the Fund; requiring the Legislative Auditor to conduct a certain follow–up audit; authorizing the Governor, by budget amendment, to transfer a certain amount in the Cigarette Restitution Fund to the Department of Health and Mental Hygiene under certain circumstances; requiring that certain revenue for a certain fiscal year be distributed to a special fund, to be used only for certain purposes; authorizing the Governor, by budget amendment, to transfer a certain amount from the special fund to the Department of Health and Mental Hygiene under certain circumstances; *authorizing the Department of Health and Mental Hygiene to use certain funds for certain purposes; requiring the Department to submit a certain report to certain committees of the General Assembly;* and generally relating to ~~the use of certain funds in a certain account of the Maryland Health Care Provider Rate Stabilization Fund~~ certain transfers and disbursements of health care funds.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 19–804(c)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Insurance
Section 19–804(e)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 24–213
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

19–804.

(c) (1) Portions of the Rate Stabilization Account that exceed the amount necessary to pay for health care provider subsidies shall remain in the Rate Stabilization Account to be used:

(i) to pay for health care provider subsidies in calendar years 2006 through 2008; and

(ii) after the fiscal year 2009 allocation to the Rate Stabilization Account under § 19–803(b) of this subtitle, by the Medical Assistance Program Account for the purposes specified under § 19–807(b) of this subtitle.

(2) Any disbursements from the Rate Stabilization Account to a medical professional liability insurer that is not used to provide a rate reduction, credit, or refund to a health care provider shall be returned to the State Treasurer for reversion to the Fund.

(3) Notwithstanding paragraph (1) of this subsection, amounts necessary to pay for health care provider subsidies under § 19–805(b)(3) of this subtitle shall remain in the Rate Stabilization Account.

(E) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION OR ANY OTHER PROVISION OF LAW, IN FISCAL YEAR 2009, $83,275,000 OF THE BALANCE REMAINING IN THE RATE STABILIZATION ACCOUNT AT THE END OF FISCAL YEAR 2008 SHALL BE TRANSFERRED AS FOLLOWS:

(1) $7,000,000 TO THE MEDICAL ASSISTANCE PROGRAM ACCOUNT, TO BE USED BY THE SECRETARY TO INCREASE FEE–FOR–SERVICE PROVIDER RATES TO DENTISTS IN FISCAL YEAR 2009;

(2) ~~$14,275,000~~ $3,000,000 TO THE HEALTH CARE COVERAGE FUND ESTABLISHED UNDER TITLE 15, SUBTITLE 7 OF THE HEALTH – GENERAL ARTICLE, TO BE USED FOR ALLOWABLE EXPENSES IN FISCAL YEAR 2009; AND

(3) ~~$62,000,000~~ $73,275,000 TO THE HEALTH CARE COVERAGE FUND ESTABLISHED UNDER TITLE 15, SUBTITLE 7 OF THE HEALTH – GENERAL ARTICLE, TO BE USED FOR ALLOWABLE EXPENSES IN FISCAL YEAR 2010 AND FISCAL YEAR 2011.

24–213.

(a) The Legislative Auditor **[**annually**]** shall conduct a fiscal and compliance audit of the accounts and transactions of the Society **FOR EACH YEAR IN WHICH THE SOCIETY RECEIVES A DISBURSEMENT FROM THE RATE STABILIZATION ACCOUNT UNDER § 19–805 OF THIS ARTICLE OTHER THAN A DISBURSEMENT MADE UNDER § 19–805(B)(3) OF THIS ARTICLE**.

(B) WITHIN ONE YEAR OF THE DATE OF AN AUDIT REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE LEGISLATIVE AUDITOR SHALL CONDUCT A FOLLOW–UP AUDIT TO DETERMINE THE STATUS OF ANY AUDIT RECOMMENDATIONS.

[(b)**](C)** The Society shall pay the cost of each audit.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding § 7–317(g)(1) of the State Finance and Procurement Article or any other provision of law, the Governor may, by budget amendment, transfer up to ~~$1,000,000~~ *$2,000,000* of the funds in the Cigarette Restitution Fund established under § 7–317 of the State Finance and Procurement Article to the Department of Health and Mental Hygiene Program MQ0103 Medical Care Programs Administration, if revenues for fiscal year 2009 attained by the Cigarette Restitution Fund exceed the $170,780,000 in total net sources of revenue noted in Appendix M of the Governor's Budget Books.

SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding § 9–120 of the State Government Article or any other provision of law, after cumulative distributions for fiscal year 2008 to the General Fund under § 9–120(b)(1)(ii) of the State Government Article total $497,111,000, $13,000,000 of the remaining revenue that would otherwise be paid to the General Fund under § 9–120(b)(1)(ii) of the State Government Article shall be distributed to a special fund, to be used only as provided in this Section. The Governor may, by budget amendment, transfer up to $13,000,000 of the money in the special fund to the Department of Health and Mental Hygiene Program MQ0103 Medical Programs Administration.

SECTION 4. AND BE IT FURTHER ENACTED, That, notwithstanding § 19–310.1 of the Health – General Article or any other provision of law, the Department of Health and Mental Hygiene may use $8,500,000 of General Funds and $8,500,000 of Federal Funds currently allocated for nursing home reimbursements in the fiscal year 2009 budget to fund an increase in utilization of long–term care services resulting from any changes in the level of care used to determine medical assistance eligibility. On or before November 1, 2008, the Department of Health and Mental Hygiene shall submit a report to the Senate Finance Committee, the Senate Budget and Taxation Committee, the House Health and Government Operations Committee, and the House Appropriations Committee concerning the changes made in the level of care, the number of additional individuals eligible for care as a result of the changes, and the fiscal implications of the change.

SECTION ~~2.~~ ~~3.~~ ~~4.~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 590

(Senate Bill 566)

AN ACT concerning

Health Care Facility Visitation and Medical Decisions – Domestic Partners

FOR the purpose of requiring certain health care facilities to allow domestic partners and certain relatives of domestic partners to visit a domestic partner except under certain circumstances; requiring two adults to be treated as domestic partners under certain circumstances related to medical emergencies; providing that a health care agent retains certain authority to make certain decisions notwithstanding certain provisions of law; providing that an individual who asserts a domestic partnership may be required to provide certain proof; prohibiting the Department of Health and Mental Hygiene from denying a domestic partner the right to inspect a record to permit a disinterment or reinterment of a body; authorizing a domestic partner to give consent to conduct a postmortem examination of a certain body; authorizing a domestic partner to arrange for the final disposition of the body of a decedent under certain circumstances; authorizing a domestic partner to make the health care decisions for a certain person; authorizing a domestic partner of a certain patient to petition a court to enjoin the actions of a certain health care provider; authorizing a domestic partner to accompany an individual being transported from one health care facility to another health care facility under certain circumstances; establishing that a domestic partner may be a representative of a deceased from whom a hospital is asking for authorization for a human organ donation; prohibiting a hospital from billing a domestic partner for the costs associated with the deceased domestic partner's organ donation; requiring that domestic partners be given the opportunity to share a room in a certain facility under certain circumstances; requiring certain related institutions to allow a resident who is a party to a domestic partnership to have privacy during a visit by the other domestic partner; authorizing a domestic partner of a resident of a facility to file a certain complaint; authorizing a domestic partner to arrange the final disposition of the body of a decedent with a mortician under certain circumstances; establishing that for purposes of an interest in the property of a

burial site, a domestic partner is a person in interest; establishing that a domestic partner is a next of kin for purposes of making anatomical gifts of a decedent; defining certain terms; making the provisions of this Act severable; providing for the construction of this Act; and generally relating to health care facility visitation and medical decisions by a domestic partner.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 1–101, 4–215(e), 5–501(b), 5–509(c), 5–605(a)(2), 5–612(b), 10–807(e), 19–310(a)(4) and (7), and 19–344(h), (k), and (q)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 4–215(a), 5–501(a), 5–509(a), 5–605(a)(1), 5–612(a), 10–807(a), and 19–344(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Health – General
Section 6–101 through 6–203 to be under the new title "Title 6. Health Care Facility Visitation and Medical Emergencies"
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 7–410(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 7–410(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 14–121(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 4–501
Annotated Code of Maryland
(2001 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

1–101.

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

(b) "County" means a county of this State and, unless expressly provided otherwise, Baltimore City.

(c) "Department" means the Department of Health and Mental Hygiene.

(D) "DOMESTIC PARTNER" MEANS AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF § 6–101 OF THIS ARTICLE.

[(d)**] (E)** "Health officer" means, unless expressly provided otherwise, the Baltimore City Commissioner of Health or the health officer of a county.

[(e)**] (F)** "Includes" or "including" means includes or including by way of illustration and not by way of limitation.

[(f)**] (G)** "Local health planning agency" means the health department of a jurisdiction or a body designated by the local health department to perform health planning functions.

[(g)**] (H)** "Medical examiner" means:

(1) The Chief Medical Examiner;

(2) The Deputy Chief Medical Examiner;

(3) Any assistant medical examiner; or

(4) Any deputy medical examiner.

[(h)**] (I)** "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

[(i)**] (J)** "Physician" means an individual who is authorized under the Maryland Medical Practice Act to practice medicine in this State.

[(j)**] (K)** "Secretary" means the Secretary of Health and Mental Hygiene.

[(k)**] (L)** "State" means:

(1) A state, possession, or territory of the United States;

(2) The District of Columbia; or

(3) The Commonwealth of Puerto Rico.

4–215.

(a) In this section, "cemetery" includes a crematory or other place for final disposition.

(e) (1) A permit for disinterment and reinterment is required before the disinterment of human remains if reinterment is not to be made in the same cemetery. The Secretary or a health officer shall issue the permit after receipt of an application on the form that the Secretary requires.

(2) If all human remains in a cemetery are to be disinterred for purposes of relocation or abandonment of the cemetery, one application is sufficient for that purpose.

(3) The Department shall keep a record of each permit issued for the disinterment and reinterment of human remains.

(4) Except as provided in paragraph (5) of this subsection, the Department may not disclose or allow public inspection of information in a permit record about the location of the site of a disinterment or reinterment if a local burial sites advisory board or the Director of the Maryland Historical Trust determines that:

(i) The site is historic property, as defined in § 5A–301 of the State Finance and Procurement Article; and

(ii) Disclosure would create a substantial risk of harm, theft, or destruction to the site.

(5) The Department may not deny inspection of a permit record to:

(i) The owner of the site of the disinterment or reinterment;

(ii) A governmental entity that has the power of eminent domain; or

(iii) The spouse, **DOMESTIC PARTNER,** next of kin, or appointed personal representative of the deceased whose human remains have been disinterred or reinterred.

5–501.

(a) Consent for a postmortem examination of a body by a physician is sufficient if the consent is given as provided in this section.

(b) (1) The consent may be given by any one of the following persons if that person, whether alone or with another, has assumed control of the body for its final disposition:

(i) A parent;

(ii) A spouse;

(III) A DOMESTIC PARTNER;

[(iii)**] (IV)** A child;

[(iv)**] (V)** A guardian;

[(v)**] (VI)** A next of kin; or

[(vi)**] (VII)** In the absence of these persons, any other person.

(2) If a person does not assume control of a body under paragraph (1) of this subsection, the consent may be given by the State Anatomy Board.

5–509.

(a) Any individual who is 18 years of age or older may decide the disposition of the individual's own body after that individual's death without the predeath or post–death consent of another person by executing a document that expresses the individual's wishes regarding disposition of the body or by entering into a pre–need contract.

(c) Unless a person has knowledge that contrary directions have been given by the decedent, if a decedent has not executed a document under subsection (a) of this section, the following persons, in the order of priority stated, have the right to arrange for the final disposition of the body of the decedent, including by cremation under § 5–502 of this subtitle:

(1) The surviving spouse **OR DOMESTIC PARTNER** of the decedent;

(2) An adult child of the decedent;

(3) A parent of the decedent;

(4) An adult brother or sister of the decedent;

(5) A person acting as a representative of the decedent under a signed authorization of the decedent;

(6) The guardian of the person of the decedent at the time of the decedent's death, if one has been appointed; or

(7) In the absence of any person under paragraphs (1) through (6) of this subsection, any other person willing to assume the responsibility to act as the authorizing agent for purposes of arranging the final disposition of the decedent's body, including the personal representative of the decedent's estate, after attesting in writing that a good faith effort has been made to no avail to contact the individuals under paragraphs (1) through (6) of this subsection.

5–605.

(a) (1) In this subsection, "unavailable" means:

(i) After reasonable inquiry, a health care provider is unaware of the existence of a health care agent or surrogate decision maker;

(ii) After reasonable inquiry, a health care provider cannot ascertain the whereabouts of a health care agent or surrogate decision maker;

(iii) A health care agent or surrogate decision maker has not responded in a timely manner, taking into account the health care needs of the individual, to a written or oral message from a health care provider;

(iv) A health care agent or surrogate decision maker is incapacitated; or

(v) A health care agent or surrogate decision maker is unwilling to make decisions concerning health care for the individual.

(2) The following individuals or groups, in the specified order of priority, may make decisions about health care for a person who has been certified to be incapable of making an informed decision and who has not appointed a health care agent in accordance with this subtitle or whose health care agent is unavailable. Individuals in a particular class may be consulted to make a decision only if all individuals in the next higher class are unavailable:

(i) A guardian for the patient, if one has been appointed;

(ii) The patient's spouse **OR DOMESTIC PARTNER**;

(iii) An adult child of the patient;

(iv) A parent of the patient;

(v) An adult brother or sister of the patient; or

(vi) A friend or other relative of the patient who meets the requirements of paragraph (3) of this subsection.

5–612.

(a) (1) A health care provider for an individual incapable of making an informed decision who believes that an instruction to withhold or withdraw a life–sustaining procedure from the patient is inconsistent with generally accepted standards of patient care shall:

(i) Petition a patient care advisory committee for advice concerning the withholding or withdrawal of the life–sustaining procedure from the patient if the patient is in a hospital or related institution; or

(ii) File a petition in a court of competent jurisdiction seeking injunctive or other relief relating to the withholding or withdrawal of the life–sustaining procedure from the patient.

(2) In reviewing a petition filed under paragraph (1) of this subsection, the court shall follow the standards set forth in §§ 13–711 through 13–713 of the Estates and Trusts Article.

(b) On petition of the patient's spouse, **DOMESTIC PARTNER,** a parent, adult child, grandchild, brother, or sister of the patient, or a friend or other relative who has qualified as a surrogate under § 5–605 of this subtitle to a circuit court of the county or

city in which the patient for whom treatment will be or is currently being provided, withheld, or withdrawn under this subtitle resides or is located, the court may enjoin that action upon finding by a preponderance of the evidence that the action is not lawfully authorized by this subtitle or by other State or federal law.

TITLE 6. HEALTH CARE FACILITY VISITATION AND MEDICAL EMERGENCIES.

SUBTITLE 1. IN GENERAL.

6–101.

(A) IN THIS TITLE, "DOMESTIC PARTNERSHIP" MEANS A RELATIONSHIP BETWEEN TWO INDIVIDUALS WHO:

(1) ARE AT LEAST 18 YEARS OLD;

(2) ARE NOT RELATED TO EACH OTHER BY BLOOD OR MARRIAGE WITHIN FOUR DEGREES OF CONSANGUINITY UNDER CIVIL LAW RULE;

(3) ARE NOT MARRIED OR IN A CIVIL UNION OR DOMESTIC PARTNERSHIP WITH ANOTHER INDIVIDUAL; AND

(4) AGREE TO BE IN A RELATIONSHIP OF MUTUAL INTERDEPENDENCE IN WHICH EACH INDIVIDUAL CONTRIBUTES TO THE MAINTENANCE AND SUPPORT OF THE OTHER INDIVIDUAL AND THE RELATIONSHIP, EVEN IF BOTH INDIVIDUALS ARE NOT REQUIRED TO CONTRIBUTE EQUALLY TO THE RELATIONSHIP.

(B) AN INDIVIDUAL WHO ASSERTS A DOMESTIC PARTNERSHIP UNDER SUBSECTION (A) OF THIS SECTION MAY BE REQUIRED TO PROVIDE ~~PROOF~~:

(1) AN AFFIDAVIT SIGNED UNDER PENALTY OF PERJURY BY TWO INDIVIDUALS STATING THAT THEY HAVE ESTABLISHED A DOMESTIC PARTNERSHIP; AND

(2) PROOF OF ANY TWO OF THE FOLLOWING DOCUMENTS:

~~(1)~~ (I) JOINT LIABILITY OF THE INDIVIDUALS FOR A MORTGAGE, LEASE, OR LOAN;

~~(2)~~ (II) THE DESIGNATION OF ONE OF THE INDIVIDUALS AS THE PRIMARY BENEFICIARY UNDER A LIFE INSURANCE POLICY ON THE LIFE OF THE

OTHER INDIVIDUAL OR UNDER A RETIREMENT PLAN OF THE OTHER INDIVIDUAL;

~~(3)~~ (III) THE DESIGNATION OF ONE OF THE INDIVIDUALS AS THE PRIMARY BENEFICIARY OF THE WILL OF THE OTHER INDIVIDUAL;

~~(4)~~ (IV) A DURABLE POWER OF ATTORNEY FOR HEALTH CARE OR FINANCIAL MANAGEMENT GRANTED BY ONE OF THE INDIVIDUALS TO THE OTHER INDIVIDUAL;

~~(5)~~ (V) JOINT OWNERSHIP OR LEASE BY THE INDIVIDUALS OF A MOTOR VEHICLE;

~~(6) A JOINT CHECKING ACCOUNT, JOINT INVESTMENTS, OR A JOINT CREDIT ACCOUNT;~~

(VI) A JOINT CHECKING ACCOUNT, JOINT INVESTMENTS, OR A JOINT CREDIT ACCOUNT;

~~(7)~~ ~~(VI)~~ (VII) A JOINT RENTER'S OR HOMEOWNER'S INSURANCE POLICY;

~~(8)~~ ~~(VII)~~ (VIII) COVERAGE ON A HEALTH INSURANCE POLICY;

~~(9)~~ ~~(VIII)~~ (IX) JOINT RESPONSIBILITY FOR CHILD CARE, SUCH AS GUARDIANSHIP OR SCHOOL DOCUMENTS; OR

~~(10)~~ ~~(IX)~~ (X) A RELATIONSHIP OR COHABITATION CONTRACT~~; OR~~.

~~(11) DOCUMENTATION OF A MARRIAGE, CIVIL UNION, OR DOMESTIC PARTNERSHIP ENTERED INTO SUBJECT TO THE LAWS OF THE UNITED STATES, ANY STATE, OR LOCAL OR FOREIGN JURISDICTION.~~

SUBTITLE 2. VISITATION AND MEDICAL EMERGENCIES.

6–201.

(A) A HOSPITAL, RELATED INSTITUTION, OR RESIDENTIAL TREATMENT CENTER, AS DEFINED IN § 19–301 OF THIS ARTICLE, SHALL ALLOW A PATIENT'S OR RESIDENT'S DOMESTIC PARTNER, THE CHILDREN OF THE PATIENT'S OR RESIDENT'S DOMESTIC PARTNER, AND THE DOMESTIC PARTNER OF THE PATIENT'S OR RESIDENT'S PARENT OR CHILD TO VISIT, UNLESS:

(1) NO VISITORS ARE ALLOWED;

(2) THE FACILITY REASONABLY DETERMINES THAT THE PRESENCE OF A PARTICULAR VISITOR WOULD ENDANGER THE HEALTH OR SAFETY OF A PATIENT, RESIDENT, OR MEMBER OF THE FACILITY STAFF; OR

(3) THE PATIENT OR RESIDENT OR THE PATIENT'S OR RESIDENT'S PERSONAL REPRESENTATIVE TELLS THE FACILITY STAFF THAT THE PATIENT OR RESIDENT DOES NOT WANT A PARTICULAR PERSON TO VISIT.

(B) THIS SECTION DOES NOT PROHIBIT A HOSPITAL, RELATED INSTITUTION, OR RESIDENTIAL TREATMENT CENTER FROM ESTABLISHING REASONABLE RESTRICTIONS ON VISITATION, INCLUDING RESTRICTIONS ON THE HOURS OF VISITATION AND NUMBER OF VISITORS.

6–202.

(A) IN THE CASE OF A MEDICAL EMERGENCY, TWO ADULTS SHALL BE TREATED AS DOMESTIC PARTNERS IF ONE OF THE ADULTS, IN GOOD FAITH, TELLS THE EMERGENCY MEDICAL PROVIDER OR HOSPITAL PERSONNEL THAT THE ADULTS ARE IN A MUTUALLY INTERDEPENDENT RELATIONSHIP, FOR THE FOLLOWING PURPOSES ONLY:

(1) ALLOWING ONE ADULT TO ACCOMPANY THE ILL OR INJURED ADULT BEING TRANSPORTED TO A HOSPITAL IN AN EMERGENCY VEHICLE; AND

(2) VISITATION WITH THE ILL OR INJURED ADULT ADMITTED TO A HOSPITAL ON AN EMERGENCY BASIS ON THE SAME BASIS AS A MEMBER OF THE ILL OR INJURED ADULT'S IMMEDIATE FAMILY.

6–203.

NOTWITHSTANDING ANY PROVISIONS OF THIS TITLE OR ANY OTHER PROVISION OF LAW, IF A DOMESTIC PARTNER HAS SELECTED A HEALTH CARE AGENT IN ACCORDANCE WITH TITLE 5, SUBTITLE 6 OF THIS ARTICLE, THAT HEALTH CARE AGENT RETAINS THE AUTHORITY TO MAKE ANY DECISIONS FOR THE DOMESTIC PARTNER THAT ARE PROVIDED FOR IN THE SELECTION OF THE HEALTH CARE AGENT UNTIL THE HEALTH CARE AGENCY HAS BEEN REVOKED IN ACCORDANCE WITH THE PROVISIONS OF TITLE 5, SUBTITLE 6 OF THIS ARTICLE.

10–807.

(a) The Director may transfer an individual from a public facility to another public facility or, if a private facility agrees, to that private facility, if the Director finds that:

(1) The individual either can receive better care or treatment in or would be more likely to benefit from care or treatment at the other facility; or

(2) The safety or welfare of other individuals would be furthered.

(e) An individual may not be transported to or from any facility unless accompanied by:

(1) An ambulance attendant or other individual who is authorized by the facility and is of the same sex. However, the chief executive officer of the facility or that officer's designee may designate an ambulance attendant or other person of either sex to provide transportation to an individual, if deemed appropriate; or

(2) The parent, spouse, **DOMESTIC PARTNER,** adult sibling, or adult offspring of the individual.

19–310.

(a) (4) (i) Except as provided in paragraph (10) of this subsection, when an individual dies in a hospital in accordance with § 5–202 of this article, a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor shall request, with sensitivity, in the order of stated priority, that the individual's representative consent to the donation of all or any of the decedent's organs or tissues as an anatomical donation if suitable.

(ii) For the purposes of subparagraph (i) of this paragraph, the representative of the deceased individual is 1 of the following individuals listed in the following order of priority:

1. A spouse **OR DOMESTIC PARTNER**, but, if not alive or not competent, then;

2. A son or daughter who is at least 18 years old, but, if not alive, competent, or immediately available, then;

3. A parent, but, if not alive, competent, or immediately available, then;

4. A brother or sister who is at least 18 years old, but, if not alive or not competent, then;

5. A guardian;

6. A friend or other relative of the decedent, if the individual:

A. Is a competent individual; and

B. Presents an affidavit to the attending physician stating:

I. That the individual is a relative or close friend of the decedent; and

II. Specific facts and circumstances demonstrating that the individual maintained regular contact with the decedent sufficient to be familiar with the decedent's activities, health, and personal beliefs; or

7. Any other person authorized or required to dispose of the body.

(iii) 1. This paragraph does not apply if the decedent has given contrary directions.

2. The failure of the decedent to make a gift is not a contrary direction for purposes of this paragraph.

(iv) Contrary directions given by the decedent under this paragraph shall be recorded in the decedent's medical record.

(v) The representative of the appropriate organ, tissue, or eye recovery agency or the designated requestor and the representative of the deceased patient are entitled to protection from civil and criminal liability as provided in § 4–508(b) of the Estates and Trusts Article.

(7) A hospital may not bill the estate of the decedent, a surviving spouse **OR DOMESTIC PARTNER** of the decedent, any heirs of the decedent, or an insurer of the decedent for the costs associated with the removal of all or any of the decedent's organs or tissues for the purpose of an anatomical donation.

19–344.

(a) To carry out the policy set forth in § 19–343 of this subtitle, the following procedures are required for all services provided to a resident of a facility.

(h) If it is feasible to do so and not medically contraindicated, spouses **OR DOMESTIC PARTNERS** who are both residents of the facility shall be given the opportunity to share a room.

(k) **(1)** Each married resident of a facility shall have privacy during a visit by the spouse.

(2) EACH RESIDENT OF A FACILITY WHO HAS A DOMESTIC PARTNER SHALL HAVE PRIVACY DURING A VISIT BY THE OTHER DOMESTIC PARTNER.

(q) (1) A resident of a facility or the next of kin **OR DOMESTIC PARTNER** or guardian of the person of a resident may file a complaint about an alleged violation of this section.

Article – Health Occupations

7–410.

(a) Any individual who is 18 years of age or older may decide the disposition of the individual's own body after the individual's death without the pre–death or post–death consent of another person by executing a document that expresses the individual's wishes or by entering into a pre–need contract.

(c) Unless a person has knowledge that contrary directions have been given by the decedent, if a decedent has not executed a document under subsection (a) of this section, the following persons, in the order of priority stated, have the right to arrange for the final disposition of the body of the decedent under this section and are liable for the reasonable costs of preparation, care, and disposition of the decedent:

(1) The surviving spouse **OR DOMESTIC PARTNER, AS DEFINED IN § 1–101 OF THE HEALTH – GENERAL ARTICLE,** of the decedent;

(2) An adult child of the decedent;

(3) A parent of the decedent;

(4) An adult brother or sister of the decedent;

(5) A person acting as a representative of the decedent under a signed authorization of the decedent;

(6) The guardian of the person of the decedent at the time of the decedent's death, if a guardian has been appointed; or

(7) In the absence of any person under paragraphs (1) through (6) of this subsection, any other person willing to assume the responsibility to act as the authorizing agent for purposes of arranging the final disposition of the decedent's body, including the personal representative of the decedent's estate, after attesting in writing that a good faith effort has been made to no avail to contact the persons described in paragraphs (1) through (6) of this subsection.

Article – Real Property

14–121.

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

(2) (i) "Burial site" means any natural or prepared physical location, whether originally located below, on, or above the surface of the earth into which human remains or associated funerary objects are deposited as a part of a death rite or ceremony of any culture, religion, or group.

(ii) "Burial site" includes the human remains and associated funerary objects that result from a shipwreck or accident and are intentionally left to remain at the site.

(3) "Cultural affiliation" means a relationship of shared group identity that can be reasonably traced historically between a present–day group, tribe, band, or clan and an identifiable earlier group.

(4) "Person in interest" means a person who:

(i) Is related by blood or marriage to the person interred in a burial site;

(II) IS A DOMESTIC PARTNER, AS DEFINED IN § 1–101 OF THE HEALTH – GENERAL ARTICLE, OF A PERSON INTERRED IN A BURIAL SITE;

[(ii)**] (III)** Has a cultural affiliation with the person interred in a burial site; or

[(iii)**] (IV)** Has an interest in a burial site that the Office of the State's Attorney for the county where the burial site is located recognizes is in the public interest after consultation with a local burial sites advisory board or, if such a board does not exist, the Maryland Historical Trust.

Article – Estates and Trusts

4–501.

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

(b) "Body" or "part of body" includes organs, tissues, bones, blood, and other body fluids.

(c) "Licensed hospital" includes any hospital licensed by the State Department of Health and Mental Hygiene under the laws of the State, and any hospital operated by the United States government, although not required to be licensed under the laws of the State.

(d) "Next of kin" includes spouse **AND DOMESTIC PARTNER, AS DEFINED IN § 1–101 OF THE HEALTH – GENERAL ARTICLE**.

(e) "Person" means any individual, corporation, government or governmental agency or subdivision, estate, trust, partnership or association, or any other legal entity.

(f) "Physician" or "surgeon" means any physician or surgeon licensed to practice under the laws of the State.

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 may not be construed to have any effect on § 2–201 of the Family Law Article.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 591

(Senate Bill 569)

AN ACT concerning

Secondhand Precious Metal Object Dealers and Pawnbrokers – Definition of Dealer

FOR the purpose of altering the definition of "dealer", as it relates to the regulation of secondhand precious metal object dealers, to mean an individual who arranges for the sale or delivery of a secondhand precious metal object on behalf of a person who does not hold a license to do business as a dealer; altering the definitions of "fixed business address" and "local law enforcement unit", as they relate to the regulation of secondhand precious metal object dealers, to clarify their scope; and generally relating to the regulation of secondhand precious metal object dealers and pawnbrokers.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 12–101(a), (e), and (i) and 12–201
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 12–101(b), (d), and (f)
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

12–101.

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

(b) (1) "Dealer" means**:**

(I) an individual who acquires commercially from the public or trades commercially with the public in secondhand precious metal objects**;**

(II) AN INDIVIDUAL WHO FOR COMPENSATION ARRANGES FOR THE SALE OR DELIVERY OF A SECONDHAND PRECIOUS METAL OBJECT ON BEHALF OF A PERSON WHO DOES NOT HOLD A LICENSE UNDER THIS TITLE; or

(III) [,] unless otherwise provided, a pawnbroker.

(2) "Dealer" includes a retail jeweler as to transactions in which the retail jeweler acquires commercially from the public or trades commercially with the public in secondhand precious metal objects.

(d) "Fixed business address" means a single physical location **IN MARYLAND** where a licensee regularly conducts business and at which the licensee or an employee of the licensee is physically present:

(1) during normal business hours; or

(2) other hours as provided in the application for the license which are sufficient to provide an authorized law enforcement officer or agent access to the licensee's place of business as provided in § 12–306 of this title.

(e) "License" means a license issued by the Secretary to do business as a dealer.

(f) "Local law enforcement unit" means the **MARYLAND** Department of State Police, a **MARYLAND** police department, or **MARYLAND** sheriff, as designated by resolution of the county or municipal governing body, with jurisdiction over any place where a dealer transacts business other than the dealer's fixed business address.

(i) "Precious metal object" means:

(1) a precious metal that is:

(i) gold;

(ii) iridium;

(iii) palladium;

(iv) platinum; or

(v) silver;

(2) a precious or semiprecious stone, or a pearl, that is or appears to have been attached to or inlaid in a precious metal listed in paragraph (1) of this subsection or any alloy of a precious metal; or

(3) an object that is composed of a precious metal listed in paragraph (1) of this subsection or any alloy of a precious metal if:

(i) the market value of the metal in the object lies principally in its precious metal component; or

(ii) at least 25% of the weight of the object is precious metal.

12–201.

(a) Except as otherwise provided in this title, an individual shall have a license before the individual does business as a dealer in the State.

(b) Except those pawnbrokers who are exempt from State licensing under § 12–102(c) of this title, all pawnbrokers must be licensed as dealers.

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

Approved by the Governor, May 22, 2008.

CHAPTER 592

(House Bill 422)

AN ACT concerning

Secondhand Precious Metal Object Dealers and Pawnbrokers – Definition of Dealer

FOR the purpose of altering the definition of dealer to mean an individual who arranges for the sale or delivery of a secondhand precious metal object on behalf of a person who does not hold a license to do business as a dealer; altering the definitions of "fixed business address" and "local law enforcement unit", as they relate to the regulation of secondhand precious metal object dealers, to clarify their scope; and generally relating to the regulation of secondhand precious metal object dealers and pawnbrokers.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 12–101(a), (e), and (i) and 12–201
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 12–101(b), (d), and (f)

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

12–101.

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

(b) (1) "Dealer" means**:**

(I) an individual who acquires commercially from the public or trades commercially with the public in secondhand precious metal objects**;**

(II) AN INDIVIDUAL WHO FOR COMPENSATION ARRANGES FOR THE SALE OR DELIVERY OF A SECONDHAND PRECIOUS METAL OBJECT ON BEHALF OF A PERSON THAT DOES NOT HOLD A LICENSE UNDER THIS TITLE; or

(III) [,**]** unless otherwise provided, a pawnbroker.

(2) "Dealer" includes a retail jeweler as to transactions in which the retail jeweler acquires commercially from the public or trades commercially with the public in secondhand precious metal objects.

(d) "Fixed business address" means a single physical location **IN MARYLAND** where a licensee regularly conducts business and at which the licensee or an employee of the licensee is physically present:

(1) during normal business hours; or

(2) other hours as provided in the application for the license which are sufficient to provide an authorized law enforcement officer or agent access to the licensee's place of business as provided in § 12–306 of this title.

(e) "License" means a license issued by the Secretary to do business as a dealer.

(f) "Local law enforcement unit" means the **MARYLAND** Department of State Police, a **MARYLAND** police department, or **MARYLAND** sheriff, as designated by resolution of the county or municipal governing body, with jurisdiction over any place where a dealer transacts business other than the dealer's fixed business address.

(i) "Precious metal object" means:

(1) a precious metal that is:

(i) gold;

(ii) iridium;

(iii) palladium;

(iv) platinum; or

(v) silver;

(2) a precious or semiprecious stone, or a pearl, that is or appears to have been attached to or inlaid in a precious metal listed in paragraph (1) of this subsection or any alloy of a precious metal; or

(3) an object that is composed of a precious metal listed in paragraph (1) of this subsection or any alloy of a precious metal if:

(i) the market value of the metal in the object lies principally in its precious metal component; or

(ii) at least 25% of the weight of the object is precious metal.

12–201.

(a) Except as otherwise provided in this title, an individual shall have a license before the individual does business as a dealer in the State.

(b) Except those pawnbrokers who are exempt from State licensing under § 12–102(c) of this title, all pawnbrokers must be licensed as dealers.

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

Approved by the Governor, May 22, 2008.

CHAPTER 593

(Senate Bill 570)

AN ACT concerning

State Emergency Medical Services Board – Public Access Automated External Defibrillator Program

FOR the purpose of renaming the Automated External Defibrillator Program to be the Public Access Automated External Defibrillator Program; identifying the purpose of the program; repealing the authority of the State Emergency Medical Services Board to set and require certain fees for the issuance and renewal of certain certificates; authorizing the Board to deny, suspend, revoke, or refuse to renew certain certificates, to approve certain educational and training programs that include training in automated external defibrillation, and to approve a certain protocol; repealing the authority of the Board to require certain facilities to produce certain records and equipment for inspection under certain circumstances; repealing the requirement that the Board pay certain fees to the Comptroller of the Treasury; exempting certain places of business from a certain requirement that certain facilities possess certain certificates; altering certain requirements relating to qualifying for a certain certificate; requiring certain facilities to report certain uses of an AED to the Maryland Institute for Emergency Medical Services Systems for certain review; repealing the authorization for certain individuals to operate an AED at certain facilities under certain circumstances; repealing the requirement that certain individuals follow certain protocols; repealing the authority of the Board to issue a cease and desist order or obtain injunctive relief under certain circumstances; ~~repealing the requirement that certain facilities satisfy certain requirements in order to be immune from certain liabilities;~~ providing that certain members of the regional council AED committee are not civilly liable for certain acts or omissions; ~~repealing certain requirements that certain individuals must meet in order to be immune from certain liabilities;~~ providing that certain immunities from civil liability are not affected by certain other provisions of this Act; defining certain terms; and generally relating to the Public Access Automated External Defibrillator Program.

BY repealing and reenacting, without amendments,
Article – Education
Section 13–501(g)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 13–517
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

13–501.

(g) "Institute" means the Maryland Institute for Emergency Medical Services Systems.

13–517.

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

(2) **[**"Authorized facility" means an organization, business, association, or agency that meets the requirements of the EMS Board for providing automated external defibrillation.

(3)**]** "Automated external defibrillator (AED)" means a medical heart monitor and defibrillator device that:

(i) Is cleared for market by the federal Food and Drug Administration;

(ii) Recognizes the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(iii) Determines, without intervention by an operator, whether defibrillation should be performed;

(iv) On determining that defibrillation should be performed, automatically charges; and

(v) 1. Requires operator intervention to deliver the electrical impulse; or

2. Automatically continues with delivery of electrical impulse.

[(4)**] (3)** "Certificate" means a certificate issued by the EMS Board to **[**an authorized**] A REGISTERED** facility.

[(5)**] (4)** "Facility" means an agency, association, corporation, firm, partnership, or other entity.

[(6)**] (5)** "Jurisdictional emergency medical services operational program" means the institution, agency, corporation, or other entity that has been approved by the EMS Board to provide oversight of emergency medical services for each of the local government and State and federal emergency medical services programs.

(6) "PROGRAM" MEANS THE PUBLIC ACCESS AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAM.

(7) "Regional administrator" means the individual employed by the Institute as regional administrator in each EMS region.

(8) "Regional council" means an EMS advisory body as created by the Code of Maryland Regulations 30.05.

(9) "Regional council AED committee" means a committee appointed by the regional council consisting of:

(i) The regional medical director;

(ii) The regional administrator; and

(iii) Three or more individuals with knowledge of and expertise in AEDs.

[(10) "Sponsoring physician" means a physician who:

(i) Is licensed to practice medicine under Title 14 of the Health Occupations Article;

(ii) Provides medical oversight to an authorized facility; and

(iii) Meets qualifications established by the EMS Board.**]**

(10) "REGISTERED FACILITY" MEANS AN ORGANIZATION, BUSINESS ASSOCIATION, AGENCY, OR OTHER ENTITY THAT MEETS THE REQUIREMENTS OF THE EMS BOARD FOR REGISTERING WITH THE PROGRAM.

(b) (1) There is **[**an**]** **A PUBLIC ACCESS** Automated External Defibrillator Program.

(2) The purpose of the Program is to **[**provide a means of authorizing a facility to make automated external defibrillation available to an individual who is a victim of sudden cardiac arrest if physician services or emergency medical services are

not immediately available**]** **COORDINATE AN EFFECTIVE STATEWIDE PUBLIC ACCESS DEFIBRILLATION PROGRAM**.

(3) The Program shall be administered by the EMS Board.

(c) The EMS Board may:

(1) Adopt regulations for the administration of the Program;

(2) **[**Set reasonable fees for the issuance and renewal of certificates and other services it provides under the Program provided that the fees set produce funds to approximate the cost of maintaining the certification program and the other services provided under the Program;

(3)**]** Issue and renew certificates to facilities that meet the requirements of this section;

[(4)**] (3)** Deny, suspend, revoke, or refuse to renew the certificate of **[**an authorized**]** **A REGISTERED** facility for failure to meet the requirements of this section;

[(5)**] (4)** Approve educational and training programs required under this section that:

(i) Are conducted by any private or public entity;

(ii) Include training in cardiopulmonary resuscitation **AND AUTOMATED EXTERNAL DEFIBRILLATION**; and

(iii) May include courses from nationally recognized entities such as the American Heart Association, the American Red Cross, and the National Safety Council;

[(6)**] (5)** Approve **[**protocols**]** **THE PROTOCOL** for the use of an **[**automated external defibrillator**] AED**; **AND**

[(7) Require each authorized facility on reasonable notice to produce for inspection:

(i) Maintenance records;

(ii) Training records; and

(iii) Equipment; and

(8)**] (6)** Delegate to the Institute any portion of its authority under this section.

(d) **[**(1) The EMS Board shall pay all fees collected under the provisions of this section to the Comptroller of the Treasury.

(2) The Comptroller of the Treasury shall distribute the fees to the Maryland Emergency Medical System Operations Fund established under § 13–955 of the Transportation Article.

(e)**]** (1) Each facility that desires to make automated external defibrillation available shall possess a valid certificate from the EMS Board.

(2) This subsection does not apply to:

(i) A jurisdictional emergency medical services operational program;

(ii) A licensed commercial ambulance service; **[**or**]**

(iii) A health care facility as defined in § 19–114 of the Health – General Article**; OR**

(IV) A PLACE OF BUSINESS FOR HEALTH CARE PRACTITIONERS WHO ARE LICENSED AS DENTISTS UNDER TITLE 4 OF THE HEALTH OCCUPATIONS ARTICLE OR AS PHYSICIANS UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE AND ARE AUTHORIZED TO USE AN AED IN ACCORDANCE WITH THAT LICENSE.

[(f)**] (E)** To qualify for a certificate a facility shall:

(1) **[**Have medical direction through:

(i) A sponsoring physician; or

(ii) The regional council AED committee;

(2) Be registered with the closest jurisdictional emergency medical services operational program;

(3)**]** Comply with **THE** written **[**protocols**] PROTOCOL** approved by the EMS Board for the use of an **[**automated external defibrillator**] AED** which **[**include:

(i) Notification**]** **INCLUDES NOTIFICATION** of the emergency medical services system through the use of the 911 universal emergency access number as soon as possible on the use of an **[**automated external defibrillator**]** **AED**; **[**and

(ii) Subsequent reporting of the use of an automated external defibrillator to the closest jurisdictional emergency medical services operational program;**]**

[(4)**]** **(2)** Have established automated external defibrillator maintenance, placement, operation, reporting, and quality improvement procedures as required by the EMS Board;

[(5) Ensure that:

(i) Each automated external defibrillator is maintained, operated, and tested according to manufacturers' guidelines; and

(ii) Written records of the maintenance and testing of each automated external defibrillator are maintained as required by the EMS Board; and

(6)**]** **(3)** **MAINTAIN EACH AED AND ALL RELATED EQUIPMENT AND SUPPLIES IN ACCORDANCE WITH THE STANDARDS ESTABLISHED BY THE DEVICE MANUFACTURER AND THE FEDERAL FOOD AND DRUG ADMINISTRATION; AND**

(4) Ensure that each individual who **[**operates**]** **IS EXPECTED TO OPERATE** an **[**automated external defibrillator**]** **AED** for the **[**authorized**]** **REGISTERED** facility has successfully completed an educational training course and refresher training as required by the EMS Board.

(F) A REGISTERED FACILITY SHALL REPORT THE USE OF AN AED TO THE INSTITUTE FOR REVIEW BY THE REGIONAL COUNCIL AED COMMITTEE.

(g) A facility that desires to establish or renew a certificate shall:

(1) Submit an application on the form that the EMS Board requires; **AND**

(2) **[**Pay to the EMS Board the application or renewal fee set by the EMS Board; and

(3)**]** Meet the requirements under this section.

(h) (1) The EMS Board shall issue a new or a renewed certificate to a facility that meets the requirements of this section.

(2) Each certificate shall include:

(i) The type of certificate;

(ii) The full name and address of the facility;

(iii) A unique identification number; and

(iv) The dates of issuance and expiration of the certificate.

[(i)**] (3)** A certificate is valid for 3 years.

[(j) An individual who is authorized to operate an automated external defibrillator at an authorized facility may administer automated external defibrillation to an individual who is reasonably believed to be a victim of sudden cardiac arrest if physician services or emergency medical services are not immediately available.

(k) An individual who is authorized to operate an automated external defibrillator at an authorized facility shall follow the protocols established by the EMS Board.

(l)**] (I)** The EMS Board may issue a cease and desist order or obtain injunctive relief**[**:

(1) If**] IF** a facility makes automated external defibrillation available in violation of this section**[**; or

(2) If an individual provides automated external defibrillation in violation of this section**]**.

[(m)**] (J)** (1) In addition to any other immunities available under statutory or common law, **[**an authorized**] A REGISTERED** facility is not civilly liable for any act or omission in the provision of automated external defibrillation if the ~~authorized~~ ***REGISTERED*** facility~~**[**~~:

(i) Has satisfied the requirements for making automated external defibrillation available under this section; and

(ii) Possesses~~**] POSSESSES**~~ a valid certificate at the time of the act or omission.

(2) In addition to any other immunities available under statutory or common law, **[**the sponsoring physician of an authorized facility**]** **A MEMBER OF THE REGIONAL COUNCIL AED COMMITTEE** is not civilly liable for any act or omission in the provision of automated external defibrillation.

(3) In addition to any other immunities available under statutory or common law, an individual is not civilly liable for any act or omission if:

(i) The individual is acting in good faith while rendering automated external defibrillation to a person who is a victim or reasonably believed by the individual to be a victim of a sudden cardiac arrest; ~~**AND**~~

(ii) ~~**[**~~The assistance or aid is provided in a reasonably prudent manner;

(iii)~~**]**~~ The automated external defibrillation is provided without fee or other compensation~~**[**~~; and

(iv) 1. The act or omission occurs while the individual is providing automated external defibrillation in accordance with the requirements of this section at ~~an authorized~~ ***A REGISTERED*** facility;

2. The individual has successfully completed an AED training course and is ~~authorized~~ ***EXPECTED*** to provide automated external defibrillation; or

3. The individual is using an automated external defibrillator obtained by a prescription issued by a physician~~**]**~~.

(4) The immunities in this subsection are not available if the conduct of the **[**authorized**]** **REGISTERED** facility amounts to gross negligence, willful or wanton misconduct, or intentionally tortious conduct.

(5) This subsection does not affect, and may not be construed as affecting, any immunities from civil or criminal liability or defenses established by any other provision of the Code or by common law to which **[**an authorized**]** **A REGISTERED** facility**, A MEMBER OF THE** ~~**AED**~~ **REGIONAL** ***COUNCIL AED*** **COMMITTEE,** or an individual may be entitled.

[(n)**]** **(K)** (1) **[**An authorized**]** **A REGISTERED** facility aggrieved by a decision of the Institute acting under the delegated authority of the EMS Board under this section shall be afforded an opportunity for a hearing before the EMS Board.

(2) **[**An authorized**]** **A REGISTERED** facility aggrieved by a decision of the EMS Board under this section shall be afforded an opportunity for a hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

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

Approved by the Governor, May 22, 2008.

CHAPTER 594

(Senate Bill 577)

AN ACT concerning

Individuals with Disabilities *and Parents of Minors with Disabilities* – Service Animals

FOR the purpose of altering certain provisions of law establishing certain rights and privileges for individuals with certain disabilities to include all individuals with disabilities *and the parents of a minor child with a disability*; altering certain provisions of law relating to use of service animals by individuals with certain disabilities to include all individuals with disabilities and the parents of ~~certain minor children with disabilities~~ *a minor child with a disability*; altering certain provisions of law relating to access by service animal trainers to certain places; altering the scope of certain provisions of law; defining certain terms; altering a certain definition; and generally relating to individuals with disabilities*, the parents of a minor child with a disability,* and service animals.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 7–701, 7–704, and 7–705
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

7–701.

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

(b) "Blind" means:

(1) a visual acuity not exceeding 20/200 in the better eye with corrective lenses; or

(2) a visual field of which the widest diameter subtends an angle of not more than 20 degrees.

(c) "Deaf" means a permanent hearing loss:

(1) that necessitates the use of amplification devices to hear oral communication; or

(2) for which amplification devices are ineffective.

(D) "DISABILITY" HAS THE MEANING STATED IN THE FEDERAL AMERICANS WITH DISABILITIES ACT OF 1990, 42 U.S.C. § 12102.

[(d)**] (E)** "Housing accommodations" means real property, or a portion of real property, that is:

(1) offered for compensation; and

(2) used or occupied, or intended to be used or occupied, as the residence or lodging of at least one individual.

[(e)**] (F)** "Mobility impaired" means an inability to carry objects or to move or travel without the use of an assistive device or service animal.

(G) "SERVICE ANIMAL" MEANS A GUIDE DOG, SIGNAL DOG, OR OTHER ANIMAL INDIVIDUALLY TRAINED TO DO WORK OR PERFORM TASKS FOR THE BENEFIT OF AN INDIVIDUAL WITH A DISABILITY, INCLUDING:

(1) GUIDING INDIVIDUALS WITH IMPAIRED VISION;

(2) ALERTING INDIVIDUALS WITH IMPAIRED HEARING TO AN INTRUDER OR SOUNDS;

(3) PROVIDING MINIMAL PROTECTION OR RESCUE WORK;

(4) PULLING A WHEELCHAIR;

(5) FETCHING DROPPED ITEMS; OR

(6) DETECTING THE ONSET OF A SEIZURE.

[(f)**] (H)** "Service animal trainer" means a person who trains service animals for**[**:

(1) blind or visually impaired individuals;

(2) deaf or hard of hearing individuals; or

(3) mobility impaired**]** individuals **WITH DISABILITIES**.

7–704.

(a) **[**Blind, visually impaired, deaf, and hard of hearing individuals**] INDIVIDUALS WITH DISABILITIES** ***AND THE PARENTS OF A MINOR CHILD WITH A DISABILITY*** have the same right as individuals without **[**those**]** disabilities to the full and free use of the roads, sidewalks, public buildings, public facilities, and other public places.

(b) (1) **[**Blind, visually impaired, deaf, and hard of hearing individuals**] INDIVIDUALS WITH DISABILITIES** ***AND THE PARENTS OF A MINOR CHILD WITH A DISABILITY*** are entitled to full and equal rights and privileges with respect to common carriers and other public conveyances or modes of transportation, places of public accommodations, and other places to which the general public is invited, subject only to any conditions and limitations of general application established by law.

(2) The failure of a blind or visually impaired pedestrian to carry a cane predominantly white or metallic in color, with or without a red tip, or **[**a deaf or hard of hearing pedestrian**] AN INDIVIDUAL WITH A DISABILITY** ***OR A PARENT OF A MINOR CHILD WITH A DISABILITY*** to use a service animal wearing an orange license tag or orange collar and on a leash, or to use a service animal in a place, accommodation, or conveyance listed in paragraph (1) of this subsection does not constitute contributory negligence per se.

(c) (1) This subsection does not apply to any accommodations or single family residence in which the occupants offer for compensation not more than one room.

(2) **[**A blind or visually impaired**] AN** individual **WITH A DISABILITY** ***OR A PARENT OF A MINOR CHILD WITH A DISABILITY*** is entitled to the same access as other members of the general public to housing accommodations in the State, subject to any conditions and limitations of general application established by law.

(3) **[**A blind, visually impaired, deaf, or hard of hearing**] AN** individual **WITH A DISABILITY** ***OR A PARENT OF A MINOR CHILD WITH A DISABILITY*** who has, obtains, or may wish to obtain a service animal is entitled to full and equal access to housing accommodations.

(4) **[**A blind, visually impaired, deaf, or hard of hearing**] AN** individual **WITH A DISABILITY OR A PARENT OF A MINOR CHILD WITH A DISABILITY** who is accompanied by a service animal may not be required to pay extra compensation for the service animal, but the individual may be liable for damages to the premises or facilities that the service animal causes.

7–705.

(a) The following individuals have all the same rights and privileges conferred by law on other individuals:

(1) a blind or visually impaired pedestrian using a service animal and not carrying a cane predominantly white or metallic in color, with or without a red tip;

(2) **[**a deaf or hard of hearing pedestrian**] AN INDIVIDUAL WITH A DISABILITY AND A PARENT OF A MINOR CHILD WITH A DISABILITY** using a service animal not wearing an orange license tag or orange collar and on a leash;

(3) **[**a blind, visually impaired, deaf, or hard of hearing pedestrian**] AN INDIVIDUAL WITH A DISABILITY AND A PARENT OF A MINOR CHILD WITH A DISABILITY** using a service animal in a place, accommodation, or conveyance listed in § 7–704(b) of this subtitle; and

(4) a service animal trainer who is accompanied by an animal that is being trained as a service animal.

(b) **[**(1) A mobility impaired individual may be accompanied by a service animal specially trained for that purpose in any place where a blind, visually impaired, deaf, or hard of hearing individual has the right to be accompanied by a service animal.

(2)**]** This **[**subsection**] SECTION** does not require a physical modification of any place or vehicle in order to admit **[**a mobility impaired**] AN** individual **WITH A DISABILITY** ***OR ANY OTHER INDIVIDUAL AUTHORIZED UNDER THIS SUBTITLE TO USE A SERVICE ANIMAL*** who is accompanied by a service animal.

(c) (1) Except as provided in paragraph (2) of this subsection, a service animal trainer may be accompanied by an animal that is being trained as a service

animal in any place where **[**a blind, visually impaired, deaf, hard of hearing, or mobility impaired**]** **AN** individual **WITH A DISABILITY** ***OR A PARENT OF A MINOR CHILD WITH A DISABILITY*** has the right to be accompanied by a service animal.

(2) An animal being trained as a service animal and accompanied by a service animal trainer may be excluded from a place described in paragraph (1) of this subsection if admitting the animal would create a clear danger of a disturbance or physical harm to an individual in the place.

(d) (1) **[**A blind, visually impaired, deaf, hard of hearing, or mobility impaired**]** **AN** individual **WITH A DISABILITY** ***OR A PARENT OF A MINOR CHILD WITH A DISABILITY*** who is accompanied by a service animal specially trained for that purpose in a place, accommodation, or conveyance listed in § 7–704(b) of this subtitle may not be required to pay extra compensation for the service animal, but the individual may be liable for any damages to the premises or facilities caused by the service animal.

(2) A service animal trainer who is accompanied by an animal that is being trained as a service animal may not be required to pay extra compensation for the animal, but the service animal trainer organization that certifies the service animal may be liable for any personal injuries or damages to the premises or facilities caused by the service animal.

(e) (1) (i) A person may not deny or interfere with the admittance of a service animal that accompanies **[**a blind, visually impaired, deaf, hard of hearing, or mobility impaired**]** **AN** individual **WITH A DISABILITY OR ~~THE~~** ***A*** **PARENT OF A MINOR CHILD WITH A DISABILITY** in violation of this section.

(ii) A person who violates subparagraph (i) of this paragraph is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 for each offense.

(2) (i) A person may not deny or interfere with the admittance of an animal being trained as a service animal that accompanies a service animal trainer.

(ii) Subject to subsection (c)(2) of this section, a person who violates subparagraph (i) of this paragraph is subject to a fine not exceeding $25 for each offense.

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

Approved by the Governor, May 22, 2008.

CHAPTER 595

(House Bill 767)

AN ACT concerning

Individuals With Disabilities and Parents of Minors with Disabilities – Service Animals

FOR the purpose of altering certain provisions of law establishing certain rights and privileges for individuals with certain disabilities to include all individuals with disabilities and the parents of a minor child with a disability; altering certain provisions of law relating to use of service animals by individuals with certain disabilities to include all individuals with disabilities and the parents of a minor child with a disability; altering certain provisions of law relating to access by service animal trainers to certain places; altering the scope of certain provisions of law; defining certain terms; altering a certain definition; and generally relating to individuals with disabilities, the parents of a minor child with a disability, and service animals.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 7–701, 7–704, and 7–705
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

7–701.

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

(b) "Blind" means:

(1) a visual acuity not exceeding 20/200 in the better eye with corrective lenses; or

(2) a visual field of which the widest diameter subtends an angle of not more than 20 degrees.

(c) "Deaf" means a permanent hearing loss:

(1) that necessitates the use of amplification devices to hear oral communication; or

(2) for which amplification devices are ineffective.

(D) "DISABILITY" HAS THE MEANING STATED IN THE FEDERAL AMERICANS WITH DISABILITIES ACT OF 1990, 42 U.S.C. § 12102.

[(d)**] (E)** "Housing accommodations" means real property, or a portion of real property, that is:

(1) offered for compensation; and

(2) used or occupied, or intended to be used or occupied, as the residence or lodging of at least one individual.

[(e)**] (F)** "Mobility impaired" means an inability to carry objects or to move or travel without the use of an assistive device or service animal.

(G) "SERVICE ANIMAL" MEANS A GUIDE DOG, SIGNAL DOG, OR OTHER ANIMAL INDIVIDUALLY TRAINED TO DO WORK OR PERFORM TASKS FOR THE BENEFIT OF AN INDIVIDUAL WITH A DISABILITY, INCLUDING:

(1) GUIDING INDIVIDUALS WITH IMPAIRED VISION;

(2) ALERTING INDIVIDUALS WITH IMPAIRED HEARING TO AN INTRUDER OR SOUNDS;

(3) PROVIDING MINIMAL PROTECTION OR RESCUE WORK;

(4) PULLING A WHEELCHAIR; ~~OR~~

(5) FETCHING DROPPED ITEMS; OR

(6) DETECTING THE ONSET OF A SEIZURE.

[(f)**] (H)** "Service animal trainer" means a person who trains service animals for**[**:

(1) blind or visually impaired individuals;

(2) deaf or hard of hearing individuals; or

(3) mobility impaired**]** individuals **WITH DISABILITIES**.

7–704.

(a) **[**Blind, visually impaired, deaf, and hard of hearing individuals**] INDIVIDUALS WITH DISABILITIES AND THE PARENTS OF A MINOR CHILD WITH A DISABILITY** have the same right as individuals without **[**those**]** disabilities to the full and free use of the roads, sidewalks, public buildings, public facilities, and other public places.

(b) (1) **[**Blind, visually impaired, deaf, and hard of hearing individuals**] INDIVIDUALS WITH DISABILITIES AND THE PARENTS OF A MINOR CHILD WITH A DISABILITY** are entitled to full and equal rights and privileges with respect to common carriers and other public conveyances or modes of transportation, places of public accommodations, and other places to which the general public is invited, subject only to any conditions and limitations of general application established by law.

(2) The failure of a blind or visually impaired pedestrian to carry a cane predominantly white or metallic in color, with or without a red tip, or **[**a deaf or hard of hearing pedestrian**] AN INDIVIDUAL WITH A DISABILITY OR ~~THE~~ *A* PARENT OF A MINOR CHILD WITH A DISABILITY** to use a service animal wearing an orange license tag or orange collar and on a leash, or to use a service animal in a place, accommodation, or conveyance listed in paragraph (1) of this subsection does not constitute contributory negligence per se.

(c) (1) This subsection does not apply to any accommodations or single family residence in which the occupants offer for compensation not more than one room.

(2) **[**A blind or visually impaired**] AN** individual **WITH A DISABILITY OR ~~THE~~ *A* PARENT OF A MINOR CHILD WITH A DISABILITY** is entitled to the same access as other members of the general public to housing accommodations in the State, subject to any conditions and limitations of general application established by law.

(3) **[**A blind, visually impaired, deaf, or hard of hearing**] AN** individual **WITH A DISABILITY OR ~~THE~~ *A* PARENT OF A MINOR CHILD WITH A DISABILITY** who has, obtains, or may wish to obtain a service animal is entitled to full and equal access to housing accommodations.

(4) **[**A blind, visually impaired, deaf, or hard of hearing**] AN** individual **WITH A DISABILITY OR ~~THE~~ *A* PARENT OF A MINOR CHILD WITH A DISABILITY** who is accompanied by a service animal may not be required to pay extra compensation for the service animal, but the individual may be liable for damages to the premises or facilities that the service animal causes.

7–705.

(a) The following individuals have all the same rights and privileges conferred by law on other individuals:

(1) a blind or visually impaired pedestrian using a service animal and not carrying a cane predominantly white or metallic in color, with or without a red tip;

(2) **[**a deaf or hard of hearing pedestrian**]** **AN INDIVIDUAL WITH A DISABILITY** ~~**OR THE**~~ ***AND A*** **PARENT OF A MINOR CHILD WITH A DISABILITY** using a service animal not wearing an orange license tag or orange collar and on a leash;

(3) **[**a blind, visually impaired, deaf, or hard of hearing pedestrian**]** **AN INDIVIDUAL WITH A DISABILITY** ~~**OR THE**~~ ***AND A*** **PARENT OF A MINOR CHILD WITH A DISABILITY** using a service animal in a place, accommodation, or conveyance listed in § 7–704(b) of this subtitle; and

(4) a service animal trainer who is accompanied by an animal that is being trained as a service animal.

(b) **[**(1) A mobility impaired individual may be accompanied by a service animal specially trained for that purpose in any place where a blind, visually impaired, deaf, or hard of hearing individual has the right to be accompanied by a service animal.

(2)**]** This **[**subsection**]** **SECTION** does not require a physical modification of any place or vehicle in order to admit **[**a mobility impaired**]** **AN** individual **WITH A DISABILITY OR ANY OTHER INDIVIDUAL AUTHORIZED UNDER THIS SUBTITLE TO USE A SERVICE ANIMAL** who is accompanied by a service animal.

(c) (1) Except as provided in paragraph (2) of this subsection, a service animal trainer may be accompanied by an animal that is being trained as a service animal in any place where **[**a blind, visually impaired, deaf, hard of hearing, or mobility impaired**]** **AN** individual **WITH A DISABILITY OR** ~~**THE**~~ ***A*** **PARENT OF A MINOR CHILD WITH A DISABILITY** has the right to be accompanied by a service animal.

(2) An animal being trained as a service animal and accompanied by a service animal trainer may be excluded from a place described in paragraph (1) of this subsection if admitting the animal would create a clear danger of a disturbance or physical harm to an individual in the place.

(d) (1) **[**A blind, visually impaired, deaf, hard of hearing, or mobility impaired**]** **AN** individual **WITH A DISABILITY OR ~~THE~~ *A* PARENT OF A MINOR CHILD WITH A DISABILITY** who is accompanied by a service animal specially trained for that purpose in a place, accommodation, or conveyance listed in § 7–704(b) of this subtitle may not be required to pay extra compensation for the service animal, but the individual may be liable for any damages to the premises or facilities caused by the service animal.

(2) A service animal trainer who is accompanied by an animal that is being trained as a service animal may not be required to pay extra compensation for the animal, but the service animal trainer organization that certifies the service animal may be liable for any personal injuries or damages to the premises or facilities caused by the service animal.

(e) (1) (i) A person may not deny or interfere with the admittance of a service animal that accompanies **[**a blind, visually impaired, deaf, hard of hearing, or mobility impaired**]** **AN** individual **WITH A DISABILITY OR ~~THE~~ *A* PARENT OF A MINOR CHILD WITH A DISABILITY** in violation of this section.

(ii) A person who violates subparagraph (i) of this paragraph is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 for each offense.

(2) (i) A person may not deny or interfere with the admittance of an animal being trained as a service animal that accompanies a service animal trainer.

(ii) Subject to subsection (c)(2) of this section, a person who violates subparagraph (i) of this paragraph is subject to a fine not exceeding $25 for each offense.

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

Approved by the Governor, May 22, 2008.

CHAPTER 596

(Senate Bill 579)

AN ACT concerning

Immunity from Liability – ~~Medical Emergency –~~ Use of Automated External Defibrillator

FOR the purpose of ~~providing immunity from civil liability under certain circumstances, notwithstanding certain other provisions of law, to an individual or facility that acquires an automated external defibrillator (AED) or that owns, manages, or is responsible for the premises where an AED is located, to a certain individual who retrieves an AED, or to a certain individual who uses, attempts to use, or fails to use an AED in response to a sudden cardiac arrest emergency at a facility; altering, under the Automated External Defibrillation Program of the Maryland Institute for Emergency Medical Services Systems,~~ altering the circumstances under which an individual is immune from civil liability for providing automated external defibrillation; providing that immunity from liability is not available to certain ~~persons~~ individuals for certain conduct that is grossly negligent, willful or wanton misconduct, or intentionally tortious conduct; and generally relating to immunity from liability for use of an automated external defibrillator.

~~BY repealing and reenacting, without amendments,~~
~~Article – Courts and Judicial Proceedings~~
~~Section 5–603(c)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

~~BY adding to~~
~~Article – Courts and Judicial Proceedings~~
~~Section 5–603(d)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Education
Section 13–517(a)(1) and (3) and (m)(5)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 13–517(m)(3) and (4)
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**~~

~~5–603.~~

~~(c) An individual who is not covered otherwise by this section is not civilly liable for any act or omission in providing assistance or medical aid to a victim at the scene of an emergency, if:~~

~~(1) The assistance or aid is provided in a reasonably prudent manner;~~

~~(2) The assistance or aid is provided without fee or other compensation; and~~

~~(3) The individual relinquishes care of the victim when someone who is licensed or certified by this State to provide medical care or services becomes available to take responsibility.~~

~~**(D) (1) IN THIS SUBSECTION, "AUTOMATED EXTERNAL DEFIBRILLATOR (AED)" MEANS A MEDICAL HEART MONITOR AND DEFIBRILLATOR DEVICE THAT:**~~

~~**(I) IS CLEARED FOR MARKET BY THE FEDERAL FOOD AND DRUG ADMINISTRATION;**~~

~~**(II) RECOGNIZES THE PRESENCE OR ABSENCE OF VENTRICULAR FIBRILLATION OR RAPID VENTRICULAR TACHYCARDIA;**~~

~~**(III) DETERMINES, WITHOUT INTERVENTION BY AN OPERATOR, WHETHER DEFIBRILLATION SHOULD BE PERFORMED;**~~

~~**(IV) ON DETERMINING THAT DEFIBRILLATION SHOULD BE PERFORMED, AUTOMATICALLY CHARGES; AND**~~

~~**(V) 1. REQUIRES OPERATOR INTERVENTION TO DELIVER THE ELECTRICAL IMPULSE; OR**~~

~~**2. AUTOMATICALLY CONTINUES WITH DELIVERY OF ELECTRICAL IMPULSE.**~~

~~**(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING INDIVIDUALS AND FACILITIES ARE IMMUNE FROM CIVIL LIABILITY FOR DAMAGES RELATING TO THE USE, POSSESSION, OR PURCHASE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR (AED) OR ARISING OUT OF ANY ACT**~~

~~OR OMISSION IN PREPARING FOR OR RESPONDING TO A SUSPECTED SUDDEN CARDIAC ARREST EMERGENCY:~~

~~(I) AN INDIVIDUAL OR FACILITY THAT ACQUIRES AN AED;~~

~~(II) AN INDIVIDUAL OR FACILITY THAT OWNS, MANAGES, OR IS OTHERWISE RESPONSIBLE FOR THE PREMISES ON WHICH AN AED IS LOCATED;~~

~~(III) AN INDIVIDUAL WHO RETRIEVES AN AED IN RESPONSE TO A PERCEIVED SUDDEN CARDIAC ARREST EMERGENCY AT A FACILITY; OR~~

~~(IV) AN INDIVIDUAL WHO USES, ATTEMPTS TO USE, OR FAILS TO USE AN AED IN RESPONSE TO A PERCEIVED SUDDEN CARDIAC ARREST EMERGENCY AT A FACILITY.~~

~~(3) THE IMMUNITY PROVIDED IN THIS SUBSECTION IS NOT AVAILABLE IF THE CONDUCT OF THE INDIVIDUAL OR FACILITY AMOUNTS TO GROSS NEGLIGENCE, WILLFUL OR WANTON MISCONDUCT, OR INTENTIONALLY TORTIOUS CONDUCT.~~

Article – Education

13–517.

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

(3) "Automated external defibrillator (AED)" means a medical heart monitor and defibrillator device that:

(i) Is cleared for market by the federal Food and Drug Administration;

(ii) Recognizes the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(iii) Determines, without intervention by an operator, whether defibrillation should be performed;

(iv) On determining that defibrillation should be performed, automatically charges; and

(v) 1. Requires operator intervention to deliver the electrical impulse; or

2. Automatically continues with delivery of electrical impulse.

(m) (3) In addition to any other immunities available under statutory or common law, an individual is not civilly liable for any act or omission if:

(i) The individual is acting in good faith while rendering automated external defibrillation to a person who is a victim or reasonably believed by the individual to be a victim of a sudden cardiac arrest; ~~**AND**~~

(ii) ~~**[**~~The assistance or aid is provided in a reasonably prudent manner; **AND**

(iii)~~**]**~~ The automated external defibrillation is provided without fee or other compensation**[**; and

(iv) 1. The act or omission occurs while the individual is providing automated external defibrillation in accordance with the requirements of this section at an authorized facility;

2. The individual has successfully completed an AED training course and is authorized to provide automated external defibrillation; or

3. The individual is using an automated external defibrillator obtained by a prescription issued by a physician**]**.

(4) The immunities in this subsection are not available if the conduct of the authorized facility **OR AN INDIVIDUAL** amounts to gross negligence, willful or wanton misconduct, or intentionally tortious conduct.

(5) This subsection does not affect, and may not be construed as affecting, any immunities from civil or criminal liability or defenses established by any other provision of the Code or by common law to which an authorized facility or an individual may be entitled.

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

Approved by the Governor, May 22, 2008.

CHAPTER 597

(House Bill 1134)

AN ACT concerning

Immunity from Liability – ~~Medical Emergency –~~ Use of Automated External Defibrillator

FOR the purpose of ~~providing immunity from civil liability under certain circumstances, notwithstanding certain other provisions of law, to an individual or facility that acquires an automated external defibrillator (AED) or that owns, manages, or is responsible for the premises where an AED is located, to a certain individual who retrieves an AED, or to a certain individual who uses, attempts to use, or fails to use an AED in response to a sudden cardiac arrest emergency at a facility; altering, under the Automated External Defibrillation Program of the Maryland Institute for Emergency Medical Services Systems,~~ altering the circumstances under which an individual is immune from civil liability for providing automated external defibrillation; providing that immunity from liability is not available to certain ~~persons~~ individuals for certain conduct that is grossly negligent, willful or wanton misconduct, or intentionally tortious conduct; and generally relating to immunity from liability for use of an automated external defibrillator.

~~BY repealing and reenacting, without amendments,~~
~~Article – Courts and Judicial Proceedings~~
~~Section 5–603(c)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

~~BY adding to~~
~~Article – Courts and Judicial Proceedings~~
~~Section 5–603(d)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Education
Section 13–517(a)(1) and (3) and (m)(5)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Education

Section 13–517(m)(3) and (4)
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~~

~~5–603.~~

~~(c) An individual who is not covered otherwise by this section is not civilly liable for any act or omission in providing assistance or medical aid to a victim at the scene of an emergency, if:~~

~~(1) The assistance or aid is provided in a reasonably prudent manner;~~

~~(2) The assistance or aid is provided without fee or other compensation; and~~

~~(3) The individual relinquishes care of the victim when someone who is licensed or certified by this State to provide medical care or services becomes available to take responsibility.~~

~~**(D) (1) IN THIS SUBSECTION, "AUTOMATED EXTERNAL DEFIBRILLATOR (AED)" MEANS A MEDICAL HEART MONITOR AND DEFIBRILLATOR DEVICE THAT:**~~

~~**(I) IS CLEARED FOR MARKET BY THE FEDERAL FOOD AND DRUG ADMINISTRATION;**~~

~~**(II) RECOGNIZES THE PRESENCE OR ABSENCE OF VENTRICULAR FIBRILLATION OR RAPID VENTRICULAR TACHYCARDIA;**~~

~~**(III) DETERMINES, WITHOUT INTERVENTION BY AN OPERATOR, WHETHER DEFIBRILLATION SHOULD BE PERFORMED;**~~

~~**(IV) ON DETERMINING THAT DEFIBRILLATION SHOULD BE PERFORMED, AUTOMATICALLY CHARGES; AND**~~

~~**(V) 1. REQUIRES OPERATOR INTERVENTION TO DELIVER THE ELECTRICAL IMPULSE; OR**~~

~~**2. AUTOMATICALLY CONTINUES WITH DELIVERY OF ELECTRICAL IMPULSE.**~~

~~**(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING INDIVIDUALS AND FACILITIES ARE IMMUNE FROM CIVIL LIABILITY FOR DAMAGES RELATING TO THE USE, POSSESSION, OR PURCHASE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR (AED) OR ARISING OUT OF ANY ACT OR OMISSION IN PREPARING FOR OR RESPONDING TO A SUSPECTED SUDDEN CARDIAC ARREST EMERGENCY:**~~

~~**(I) AN INDIVIDUAL OR FACILITY THAT ACQUIRES AN AED;**~~

~~**(II) AN INDIVIDUAL OR FACILITY THAT OWNS, MANAGES, OR IS OTHERWISE RESPONSIBLE FOR THE PREMISES ON WHICH AN AED IS LOCATED;**~~

~~**(III) AN INDIVIDUAL WHO RETRIEVES AN AED IN RESPONSE TO A PERCEIVED SUDDEN CARDIAC ARREST EMERGENCY AT A FACILITY; OR**~~

~~**(IV) AN INDIVIDUAL WHO USES, ATTEMPTS TO USE, OR FAILS TO USE AN AED IN RESPONSE TO A PERCEIVED SUDDEN CARDIAC ARREST EMERGENCY AT A FACILITY.**~~

~~**(3) THE IMMUNITY PROVIDED IN THIS SUBSECTION IS NOT AVAILABLE IF THE CONDUCT OF THE INDIVIDUAL OR FACILITY AMOUNTS TO GROSS NEGLIGENCE, WILLFUL OR WANTON MISCONDUCT, OR INTENTIONALLY TORTIOUS CONDUCT.**~~

Article – Education

13–517.

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

(3) "Automated external defibrillator (AED)" means a medical heart monitor and defibrillator device that:

(i) Is cleared for market by the federal Food and Drug Administration;

(ii) Recognizes the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(iii) Determines, without intervention by an operator, whether defibrillation should be performed;

(iv) On determining that defibrillation should be performed, automatically charges; and

(v) 1. Requires operator intervention to deliver the electrical impulse; or

2. Automatically continues with delivery of electrical impulse.

(m) (3) In addition to any other immunities available under statutory or common law, an individual is not civilly liable for any act or omission if:

(i) The individual is acting in good faith while rendering automated external defibrillation to a person who is a victim or reasonably believed by the individual to be a victim of a sudden cardiac arrest; ~~AND~~

(ii) ~~(~~**[**The assistance or aid is provided in a reasonably prudent manner; **AND**

(iii)~~)~~**]** The automated external defibrillation is provided without fee or other compensation**[**; and

(iv) 1. The act or omission occurs while the individual is providing automated external defibrillation in accordance with the requirements of this section at an authorized facility;

2. The individual has successfully completed an AED training course and is authorized to provide automated external defibrillation; or

3. The individual is using an automated external defibrillator obtained by a prescription issued by a physician**]**.

(4) The immunities in this subsection are not available if the conduct of the authorized facility **OR AN INDIVIDUAL** amounts to gross negligence, willful or wanton misconduct, or intentionally tortious conduct.

(5) This subsection does not affect, and may not be construed as affecting, any immunities from civil or criminal liability or defenses established by any other provision of the Code or by common law to which an authorized facility or an individual may be entitled.

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

Approved by the Governor, May 22, 2008.

CHAPTER 598

(Senate Bill 595)

AN ACT concerning

Health Insurance – Carrier Credentialing – Reimbursement of Providers of Health Care Services

FOR the purpose of requiring certain carriers to reimburse ~~providers~~ a certain group practice at a certain rate during a certain time period for certain health care services provided ~~to enrollees on or after a certain date~~ by a certain provider under certain circumstances; requiring a carrier to reimburse a provider as a nonparticipating provider under certain circumstances; prohibiting a health maintenance organization from denying payment to a provider under certain circumstances; prohibiting a certain provider from holding an enrollee of a carrier liable for a certain cost with certain exceptions; ~~authorizing a carrier to require a~~ *requiring a* group practice to disclose *in writing* certain information to an enrollee; ~~authorizing a carrier to require a certain disclosure to be in writing and acknowledged by an enrollee; authorizing a carrier to require a certain disclosure as a condition of reimbursement at a certain rate under certain circumstances;~~ defining certain terms; and generally relating to credentialing and reimbursement of providers of health care services.

BY repealing and reenacting, with amendments,
Article – Insurance
Section ~~15–112(d)~~ 15–112(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Insurance
Section 15–112(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Insurance
Section 15–112(q)
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

15–112.

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

(2) "ACCREDITED HOSPITAL" HAS THE MEANING STATED IN § 19–301 OF THE HEALTH – GENERAL ARTICLE.

[(2)**] (3)** "Ambulatory surgical facility" has the meaning stated in § 19–3B–01 of the Health – General Article.

[(3)**] (4)** (i) "Carrier" means:

1. an insurer;

2. a nonprofit health service plan;

3. a health maintenance organization;

4. a dental plan organization; or

5. any other person that provides health benefit plans subject to regulation by the State.

(ii) "Carrier" includes an entity that arranges a provider panel for a carrier.

[(4)**] (5)** "Credentialing intermediary" means a person to whom a carrier has delegated credentialing or recredentialing authority and responsibility.

[(5)**] (6)** "Enrollee" means a person entitled to health care benefits from a carrier.

[(6)**] (7)** "Hospital" has the meaning stated in § 19–301 of the Health – General Article.

(8) "PARTICIPATING PROVIDER" MEANS A PROVIDER ON A CARRIER'S PROVIDER PANEL.

[(7)**] (9)** "Provider" means a health care practitioner or group of health care practitioners licensed, certified, or otherwise authorized by law to provide health care services.

[(8)**] (10)** (i) "Provider panel" means the providers that contract either directly or through a subcontracting entity with a carrier to provide health care services to the carrier's enrollees under the carrier's health benefit plan.

(ii) "Provider panel" does not include an arrangement in which any provider may participate solely by contracting with the carrier to provide health care services at a discounted fee–for–service rate.

(d) (1) A provider that seeks to participate on a provider panel of a carrier shall submit an application to the carrier.

(2) (i) Subject to paragraph (3) of this subsection, the carrier, after reviewing the application, shall accept or reject the provider for participation on the carrier's provider panel.

(ii) If the carrier rejects the provider for participation on the carrier's provider panel, the carrier shall send to the provider at the address listed in the application written notice of the rejection.

(3) (i) Except as provided in paragraph (4) of this subsection, within 30 days after the date a carrier receives a completed application, the carrier shall send to the provider at the address listed in the application written notice of:

1. the carrier's intent to continue to process the provider's application to obtain necessary credentialing information; or

2. the carrier's rejection of the provider for participation on the carrier's provider panel.

(ii) The failure of a carrier to provide the notice required under subparagraph (i) of this paragraph is a violation of this article and the carrier is subject to the penalties provided by § 4–113(d) of this article.

(iii) Except as provided in subsection (p) of this section, if, under subparagraph (i)1 of this paragraph, a carrier provides notice to the provider of its intent to continue to process the provider's application to obtain necessary credentialing information, the carrier, within 120 days after the date the notice is provided, shall:

1. accept or reject the provider for participation on the carrier's provider panel; and

2. send written notice of the acceptance or rejection to the provider at the address listed in the application.

(iv) The failure of a carrier to provide the notice required under subparagraph (iii)2 of this paragraph is a violation of this article and the carrier is subject to the provisions of and penalties provided by §§ 4–113 and 4–114 of this article.

(4) (i) A carrier that receives an incomplete application shall return the application to the provider at the address listed in the application within 10 days after the date the application is received.

(ii) The carrier shall indicate to the provider what information is needed to make the application complete.

(iii) The provider may return the completed application to the carrier.

(iv) After the carrier receives the completed application, the carrier is subject to the time periods established in paragraph (3) of this subsection.

(5) A carrier may charge a reasonable fee for an application submitted to the carrier under this section.

~~**(6) IF A CARRIER ACCEPTS A PROVIDER FOR PARTICIPATION ON THE CARRIER'S PROVIDER PANEL, THE CARRIER SHALL REIMBURSE THE PROVIDER FOR ANY COVERED HEALTH CARE SERVICES THAT THE PROVIDER PROVIDES TO ENROLLEES OF THE CARRIER ON OR AFTER THE DATE THAT THE PROVIDER'S COMPLETED APPLICATION WAS SUBMITTED TO THE CARRIER.**~~

(Q) (1) NOTWITHSTANDING SUBSECTION (O)(1) OF THIS SECTION, A CARRIER SHALL REIMBURSE A GROUP PRACTICE ON THE CARRIER'S PROVIDER PANEL AT THE PARTICIPATING PROVIDER RATE FOR COVERED SERVICES PROVIDED BY A PROVIDER WHO IS NOT A PARTICIPATING PROVIDER IF:

(I) THE PROVIDER IS EMPLOYED BY OR A MEMBER OF THE GROUP PRACTICE;

(II) THE PROVIDER HAS APPLIED FOR ACCEPTANCE ON THE CARRIER'S PROVIDER PANEL AND THE CARRIER HAS NOTIFIED THE PROVIDER

OF THE CARRIER'S INTENT TO CONTINUE TO PROCESS THE PROVIDER'S APPLICATION TO OBTAIN NECESSARY CREDENTIALING INFORMATION;

(III) THE PROVIDER HAS A VALID LICENSE ISSUED BY A HEALTH OCCUPATIONS BOARD TO PRACTICE IN THE STATE; AND

(IV) THE PROVIDER:

1. IS CURRENTLY CREDENTIALED BY AN ACCREDITED HOSPITAL IN THE STATE; OR

2. HAS PROFESSIONAL LIABILITY INSURANCE.

(2) A CARRIER SHALL REIMBURSE A GROUP PRACTICE ON THE CARRIER'S PROVIDER PANEL IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION FROM THE DATE THE NOTICE REQUIRED UNDER SUBSECTION (D)(3)(I)1 OF THIS SECTION IS SENT TO THE PROVIDER UNTIL THE DATE THE NOTICE REQUIRED UNDER SUBSECTION (D)(3)(III)2 OF THIS SECTION IS SENT TO THE PROVIDER.

(3) A CARRIER THAT SENDS WRITTEN NOTICE OF REJECTION OF A PROVIDER FOR CREDENTIALING UNDER SUBSECTION (D)(3)(III)2 OF THIS SECTION SHALL REIMBURSE THE PROVIDER AS A NONPARTICIPATING PROVIDER FOR COVERED SERVICES PROVIDED ON OR AFTER THE DATE THE NOTICE IS SENT.

(4) A HEALTH MAINTENANCE ORGANIZATION MAY NOT DENY PAYMENT TO A PROVIDER UNDER THIS SUBSECTION SOLELY BECAUSE THE PROVIDER WAS NOT A PARTICIPATING PROVIDER AT THE TIME THE SERVICES WERE PROVIDED TO AN ENROLLEE.

(5) A PROVIDER WHO IS NOT A PARTICIPATING PROVIDER OF A CARRIER AND WHOSE GROUP PRACTICE IS ELIGIBLE FOR REIMBURSEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT HOLD AN ENROLLEE OF THE CARRIER LIABLE FOR THE COST OF ANY COVERED SERVICES PROVIDED TO THE ENROLLEE DURING THE TIME PERIOD DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, EXCEPT FOR ANY DEDUCTIBLE, COPAYMENT, OR COINSURANCE AMOUNT OWED BY THE ENROLLEE TO THE GROUP PRACTICE OR PROVIDER UNDER THE TERMS OF THE ENROLLEE'S CONTRACT OR CERTIFICATE.

(6) ~~(I)~~ ~~A CARRIER MAY REQUIRE A~~ *A* **GROUP PRACTICE** ~~TO~~ ***SHALL*** **DISCLOSE** ***IN WRITING*** **TO AN ENROLLEE AT THE TIME SERVICES ARE PROVIDED THAT:**

~~1.~~ ***(I)*** **THE TREATING PROVIDER IS NOT A PARTICIPATING PROVIDER;**

~~2.~~ ***(II)*** **THE TREATING PROVIDER HAS APPLIED TO BECOME A PARTICIPATING PROVIDER;**

~~3.~~ ***(III)*** **THE CARRIER HAS NOT COMPLETED ITS ASSESSMENT OF THE QUALIFICATIONS OF THE TREATING PROVIDER TO PROVIDE SERVICES AS A PARTICIPATING PROVIDER; AND**

~~4.~~ ***(IV)*** **ANY COVERED SERVICES RECEIVED MUST BE REIMBURSED BY THE CARRIER AT THE PARTICIPATING PROVIDER RATE.**

~~(II) A CARRIER MAY REQUIRE THE DISCLOSURE TO BE IN WRITING AND ACKNOWLEDGED BY THE ENROLLEE.~~

~~(III) A CARRIER MAY REQUIRE THE DISCLOSURE TO BE PROVIDED AS A CONDITION OF REIMBURSEMENT AT THE PARTICIPATING PROVIDER RATE UNDER THIS SUBSECTION IF:~~

~~1. THE CARRIER HAS A UNIFORM POLICY THAT THE DISCLOSURE IS A CONDITION OF REIMBURSEMENT AT THE PARTICIPATING PROVIDER RATE UNDER THIS SUBSECTION;~~

~~2. THE CARRIER DISCLOSES THE POLICY TO THE GROUP PRACTICE:~~

~~A. AT THE TIME OF CONTRACT EXECUTION;~~

~~B. 30 DAYS PRIOR TO IMPLEMENTATION OF THE POLICY;~~

~~C. 30 DAYS BEFORE A CHANGE IN THE POLICY; AND~~

~~D. AT THE REQUEST OF THE GROUP PRACTICE; AND~~

~~3. THE CARRIER PROVIDES A STATEMENT OF THE POLICY TO THE COMMISSIONER ON REQUEST.~~

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

Approved by the Governor, May 22, 2008.

CHAPTER 599

(Senate Bill 597)

AN ACT concerning

Recordation and Transfer Taxes – Exemptions – Domestic Partners

FOR the purpose of exempting from recordation tax and State and county transfer taxes certain instruments of writing transferring property between domestic partners and former domestic partners under certain circumstances; requiring the submission of certain documents under certain circumstances to qualify for certain exemptions; defining certain terms; providing for the construction of this Act; and generally relating to certain exemptions from recordation and transfer taxes.

BY adding to
Article – Tax – Property
Section 12–101(e–1) through (e–5)
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 12–108(c) and (d), 13–207(a)(2) and (3), and 13–403
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

12–101.

(E–1) "DOMESTIC PARTNER" MEANS AN INDIVIDUAL WITH WHOM ANOTHER INDIVIDUAL HAS ESTABLISHED A DOMESTIC PARTNERSHIP.

(E–2) "DOMESTIC PARTNERSHIP" MEANS A RELATIONSHIP BETWEEN TWO INDIVIDUALS WHO:

(1) ARE AT LEAST 18 YEARS OLD;

(2) ARE NOT RELATED TO THE OTHER BY BLOOD OR MARRIAGE WITHIN FOUR DEGREES OF CONSANGUINITY UNDER THE CIVIL LAW RULE;

(3) ARE NOT MARRIED OR A MEMBER OF A CIVIL UNION OR DOMESTIC PARTNERSHIP WITH ANOTHER INDIVIDUAL;

(4) AGREE TO BE IN A RELATIONSHIP OF MUTUAL INTERDEPENDENCE IN WHICH EACH DOMESTIC PARTNER CONTRIBUTES TO THE MAINTENANCE AND SUPPORT OF THE OTHER DOMESTIC PARTNER AND THE RELATIONSHIP, EVEN IF BOTH DOMESTIC PARTNERS ARE NOT REQUIRED TO CONTRIBUTE EQUALLY TO THE RELATIONSHIP; AND

(5) SHARE A COMMON RESIDENCE WHERE BOTH DOMESTIC PARTNERS LIVE, EVEN IF:

~~**(I) ONE DOMESTIC PARTNER LEAVES THE COMMON RESIDENCE ON A SHORT–TERM OR LONG–TERM BASIS, WITH THE INTENT TO RETURN TO THE COMMON RESIDENCE;**~~

~~**(II)**~~ ***(I)*** **ONLY ONE OF THE DOMESTIC PARTNERS HAS THE RIGHT TO LEGAL POSSESSION OF THE COMMON RESIDENCE; OR**

~~**(III)**~~ ***(II)*** **ONE OF THE DOMESTIC PARTNERS HAS AN ADDITIONAL RESIDENCE.**

(E–3) "EVIDENCE OF A DOMESTIC PARTNERSHIP" MEANS:

(1) AN AFFIDAVIT SIGNED UNDER PENALTY OF PERJURY BY TWO INDIVIDUALS STATING THAT THEY HAVE ESTABLISHED A DOMESTIC PARTNERSHIP; AND

(2) EVIDENCE OF ANY TWO OF THE FOLLOWING:

(I) JOINT LIABILITY OF THE INDIVIDUALS FOR A MORTGAGE OR OTHER LOAN OR FOR A LEASE;

(II) THE DESIGNATION OF ONE OF THE INDIVIDUALS AS THE PRIMARY BENEFICIARY UNDER A LIFE INSURANCE POLICY ON THE LIFE OF THE OTHER INDIVIDUAL OR UNDER A RETIREMENT PLAN OF THE OTHER INDIVIDUAL;

(III) THE DESIGNATION OF ONE OF THE INDIVIDUALS AS THE PRIMARY BENEFICIARY OF THE WILL OF THE OTHER INDIVIDUAL;

(IV) A DURABLE POWER OF ATTORNEY FOR HEALTH CARE OR FINANCIAL MANAGEMENT GRANTED BY ONE OF THE INDIVIDUALS TO THE OTHER INDIVIDUAL;

(V) JOINT OWNERSHIP OR LEASE BY THE INDIVIDUALS OF A MOTOR VEHICLE;

(VI) A JOINT CHECKING ACCOUNT, JOINT INVESTMENTS, OR A JOINT CREDIT ACCOUNT;

(VII) A JOINT RENTER'S OR HOMEOWNER'S INSURANCE POLICY;

(VIII) COVERAGE OF ONE OF THE INDIVIDUALS UNDER A HEALTH INSURANCE POLICY OF THE OTHER INDIVIDUAL;

(IX) JOINT RESPONSIBILITY FOR CHILDCARE, SUCH AS SCHOOL DOCUMENTS OR GUARDIANSHIP DOCUMENTS; OR

(X) A RELATIONSHIP OR COHABITATION CONTRACT~~; OR~~

~~(XI) DOCUMENTATION OF MARRIAGE, CIVIL UNION, OR DOMESTIC PARTNERSHIP ENTERED INTO UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE, LOCAL, OR FOREIGN JURISDICTION~~.

(E–4) "EVIDENCE OF DISSOLUTION OF A DOMESTIC PARTNERSHIP" MEANS ~~AN AFFIDAVIT SIGNED UNDER PENALTY OF PERJURY BY TWO INDIVIDUALS STATING THAT THEY ARE NO LONGER IN A DOMESTIC PARTNERSHIP~~:

~~(1) EVIDENCE THAT A DOMESTIC PARTNERSHIP HAD PREVIOUSLY EXISTED; AND~~

~~(2) (I) A DEATH CERTIFICATE; OR~~

(1) ***A DEATH CERTIFICATE; OR***

~~(II)~~ ***(2)*** **AN AFFIDAVIT SIGNED UNDER PENALTY OF PERJURY BY TWO INDIVIDUALS WHO FORMERLY ESTABLISHED A DOMESTIC PARTNERSHIP STATING THAT THE DOMESTIC PARTNERSHIP HAS BEEN DISSOLVED.**

(E–5) "FORMER DOMESTIC PARTNER" MEANS AN INDIVIDUAL WITH WHOM ANOTHER INDIVIDUAL HAD ESTABLISHED A DOMESTIC PARTNERSHIP THAT HAS SUBSEQUENTLY BEEN DISSOLVED.

12–108.

(c) **(1)** When property is transferred subject to a mortgage or deed of trust, the recordation tax does not apply to the principal amount of debt assumed by the transferee, if the instrument of writing transfers the property from the transferor to a:

[(1)**]** **(I)** spouse or former spouse;

[(2)**]** **(II)** son, daughter, stepson, or stepdaughter;

[(3)**]** **(III)** parent or stepparent;

[(4)**]** **(IV)** son–in–law, daughter–in–law, stepson–in–law, or stepdaughter–in–law;

[(5)**]** **(V)** parent–in–law or stepparent–in–law;

[(6)**]** **(VI)** brother, sister, stepbrother, or stepsister; **[**or**]**

[(7)**]** **(VII)** grandchild or stepgrandchild**; OR**

(VIII) DOMESTIC PARTNER OR FORMER DOMESTIC PARTNER.

(2) (I) TO QUALIFY AS A DOMESTIC PARTNER UNDER THIS SUBSECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF A DOMESTIC PARTNERSHIP.

(II) TO QUALIFY AS A FORMER DOMESTIC PARTNER UNDER THIS SUBSECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF DISSOLUTION OF A DOMESTIC PARTNERSHIP.

(3) THE EXEMPTION UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR TRANSFERS TO A DOMESTIC PARTNER OR FORMER DOMESTIC PARTNER OF THE TRANSFEROR APPLIES ONLY TO AN INSTRUMENT OF WRITING FOR ~~A COMMON RESIDENCE WHERE BOTH DOMESTIC PARTNERS OR FORMER DOMESTIC PARTNERS LIVE OR HAVE LIVED~~ *RESIDENTIAL PROPERTY*.

(d) **(1)** An instrument of writing that transfers property between **[**spouses or former spouses**]** **THE FOLLOWING INDIVIDUALS** is not subject to recordation tax**:**

(I) SPOUSES OR FORMER SPOUSES; OR

(II) DOMESTIC PARTNERS OR FORMER DOMESTIC PARTNERS.

(2) (I) TO QUALIFY AS A DOMESTIC PARTNER UNDER THIS SUBSECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF A DOMESTIC PARTNERSHIP.

(II) TO QUALIFY AS A FORMER DOMESTIC PARTNER UNDER THIS SUBSECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF DISSOLUTION OF A DOMESTIC PARTNERSHIP.

(3) THE EXEMPTION UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR TRANSFERS BETWEEN DOMESTIC PARTNERS OR FORMER DOMESTIC PARTNERS APPLIES ONLY TO AN INSTRUMENT OF WRITING FOR ~~A COMMON RESIDENCE WHERE BOTH DOMESTIC PARTNERS OR FORMER DOMESTIC PARTNERS LIVE OR HAVE LIVED~~ *RESIDENTIAL PROPERTY*.

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:

(2) § 12–108(c) of this article (Transfer between relatives **AND DOMESTIC PARTNERS**);

(3) § 12–108(d) of this article (Transfer between spouses **AND DOMESTIC PARTNERS**);

13–403.

(A) IN THIS SECTION, "DOMESTIC PARTNER", "EVIDENCE OF A DOMESTIC PARTNERSHIP", "EVIDENCE OF DISSOLUTION OF A DOMESTIC

PARTNERSHIP", AND "FORMER DOMESTIC PARTNER" HAVE THE MEANINGS STATED IN § 12–101 OF THIS ARTICLE.

(B) An instrument of writing that transfers property between spouses or former spouses **OR BETWEEN DOMESTIC PARTNERS OR FORMER DOMESTIC PARTNERS** in accordance with a property settlement **[**or**],** divorce decree**, OR DISSOLUTION OF A DOMESTIC PARTNERSHIP** is not subject to a county transfer tax.

(C) (1) TO QUALIFY AS A DOMESTIC PARTNER UNDER THIS SECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF A DOMESTIC PARTNERSHIP.

(2) TO QUALIFY AS A FORMER DOMESTIC PARTNER UNDER THIS SECTION, AN INDIVIDUAL SHALL SUBMIT EVIDENCE OF DISSOLUTION OF A DOMESTIC PARTNERSHIP.

(D) THE EXEMPTION UNDER SUBSECTION (B) OF THIS SECTION FOR TRANSFERS BETWEEN DOMESTIC PARTNERS OR FORMER DOMESTIC PARTNERS APPLIES ONLY TO AN INSTRUMENT OF WRITING FOR ~~A COMMON RESIDENCE WHERE BOTH DOMESTIC PARTNERS OR FORMER DOMESTIC PARTNERS LIVE OR HAVE LIVED~~ *RESIDENTIAL PROPERTY*.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to have any effect on § 2–201 of the Family Law Article.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 600

(Senate Bill 606)

AN ACT concerning

State Government – Brokerage and Investment ~~Banking~~ Management Services – Use of Minority Business Enterprises

FOR the purpose of requiring certain State entities responsible for the management of certain funds to attempt to use to a certain extent minority business enterprise brokerage and investment ~~banking~~ management services firms; specifying that brokerage and investment management services shall include services relating to certain asset classes under certain circumstances; requiring the entities to undertake steps to remove any barriers that limit participation by minority business enterprises in certain brokerage and investment ~~banking~~ management services opportunities; requiring the entities to adopt certain guidelines; requiring the entities to submit a certain annual report to certain persons on certain matters relating to minority business enterprise brokerage and investment ~~banking~~ management services firms; and generally relating to the use of minority business enterprise brokerage and investment ~~banking~~ management services firms for certain purposes by certain State entities.

BY repealing and reenacting, without amendments,
Article 95 – Treasurer
Section 22G(a), (b), (h), and (j)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 20–303
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 10–122
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–222
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–116
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 95 – Treasurer

22G.

(a) (1) There is a Local Government Investment Pool. The Local Government Investment Pool consists of the aggregate of all funds from local governments that are placed in the custody of the State and any funds of the State that are placed in the Local Government Investment Pool by the Treasurer for investment and reinvestment.

(2) The investment policies for the Local Government Investment Pool shall be established by the Treasurer.

(3) The Treasurer shall administer the Local Government Investment Pool on behalf of the participating local governments and, to the extent that State funds are included, on behalf of the State.

(4) The Treasurer shall develop such procedures necessary for the efficient administration of the Pool, including:

(i) Specification of minimum amounts which may be deposited in the Pool and minimum periods of time for which deposits shall be retained in the Pool;

(ii) Payment of amounts equivalent to administrative expenses from the earnings of the Pool; and

(iii) Distribution of the earnings in excess of expenses, or allocation of losses, to the several participants in a manner which equitably reflects the differing amount of their respective investments and the differing periods of time for which the amounts were in the custody of the Pool.

(b) (1) The Treasurer shall invest moneys in the Local Government Investment Pool in accordance with the provisions set forth in §§ 6–222 and 6–223 of the State Finance and Procurement Article.

(2) Notwithstanding any provisions of law to the contrary or any limitation or restriction contained in any other law, the Treasurer may invest, redeem, sell, exchange, and reinvest moneys in the Local Government Investment Pool in bankers' acceptances guaranteed by banking institutions.

(h) (1) Subject to the objectives and requirements of this section, the Treasurer shall formulate procedures for the investment and reinvestment of funds in the Investment Pool and the acquisition, retention, management, and disposition of investments of the Investment Pool.

(2) (i) The Treasurer may enter into a contractual agreement with a qualified Maryland fiscal agent and may compensate the agent for services rendered.

(ii) The agent may perform investment and administrative services which the Treasurer is authorized by this section to perform.

(j) For the purposes of this section, "local government" includes all of the legal entities, bodies, and agencies set out in § 22 of this article and local government insurance pools formed under Title 19, Subtitle 6 of the Insurance Article, but does not include the State and agencies of the State.

Article – Insurance

20–303.

(a) (1) A financial management committee of the Fund shall manage and invest all moneys collected by or for the Fund through premiums, earnings from investments, or from other sources.

(2) The financial management committee consists of the Executive Director and two members of the Board of Trustees whom the Board of Trustees chooses.

(3) Of the two members from the Board of Trustees:

(i) one shall be chosen from the members appointed by the Governor; and

(ii) one shall be chosen from the members appointed by the Association.

(b) (1) Whenever the amount of moneys in the Fund exceeds the amount that the Executive Director believes is likely to be required immediately, the financial management committee may manage the excess as it considers appropriate and invest the excess in investments legal for casualty insurers under §§ 5–601 through 5–609 of this article.

(2) If use of the excess becomes necessary or expedient, the financial management committee may collect, sell, or otherwise realize on the investment and any accrued interest.

(C) (1) (I) CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE FINANCIAL MANAGEMENT COMMITTEE, THE FINANCIAL MANAGEMENT COMMITTEE SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES TO THE COMMITTEE.

(II) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(2) (I) TO ASSIST IT IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE FINANCIAL MANAGEMENT COMMITTEE SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT ~~SERVICE~~ SERVICES OPPORTUNITIES AFFORDED BY THE FUND.

(II) THE MEASURES UNDERTAKEN BY THE FINANCIAL MANAGEMENT COMMITTEE SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE FUND'S WEBSITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE FUND.

(3) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS, THE FINANCIAL MANAGEMENT COMMITTEE SHALL DEVELOP GUIDELINES TO ASSIST THE COMMITTEE IN ~~ACHIEVING~~ IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE FUND ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE FINANCIAL MANAGEMENT COMMITTEE SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES

FIRMS USED BY THE FINANCIAL MANAGEMENT COMMITTEE IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE FUND ASSETS THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS; AND

~~(III) ACTIONS THE COMMITTEE UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR TO INCREASE THE USE OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS, INCLUDING ACTIONS TO ENCOURAGE OTHER BROKERAGE AND INVESTMENT BANKING FIRMS TO USE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS AS SUBCONTRACTORS.~~

(III) THE MEASURES THE FINANCIAL MANAGEMENT COMMITTEE UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION.

Article – Labor and Employment

10–122.

(A) If, at any time, the amount of money in the Fund exceeds the amount that the Board considers necessary for immediate use, the excess shall be invested in any investment authorized under Title 5, Subtitle 6 of the Insurance Article for insurance companies.

(B) (1) (I) CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE BOARD, THE BOARD SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES TO THE BOARD.

(II) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(2) (I) TO ASSIST IT IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY

MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT ~~SERVICE~~ SERVICES OPPORTUNITIES AFFORDED BY THE FUND.

(II) THE MEASURES UNDERTAKEN BY THE BOARD SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE BOARD'S WEBSITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE FUND.

(3) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS, THE BOARD SHALL DEVELOP GUIDELINES TO ASSIST IT IN ~~ACHIEVING~~ IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE FUND ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE BOARD SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS USED BY THE BOARD IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE FUND ASSETS THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS; AND

~~(III) ACTIONS THE BOARD UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR TO INCREASE THE USE OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS, INCLUDING ACTIONS TO ENCOURAGE OTHER BROKERAGE AND INVESTMENT BANKING FIRMS TO USE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS AS SUBCONTRACTORS.~~

(III) THE MEASURES THE BOARD UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION.

Article – State Finance and Procurement

6–222.

(a) The Treasurer may invest or reinvest unexpended or surplus money over which the Treasurer has custody in:

(1) an obligation for which the United States has pledged its faith and credit for the payment of the principal and interest;

(2) an obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress;

(3) a repurchase agreement collateralized in an amount not less than 102% of the principal amount by an obligation of the United States, its agencies or instrumentalities, provided the collateral is held by a custodian other than the seller designated by the buyer;

(4) bankers' acceptances guaranteed by a financial institution with a short–term debt rating in the highest letter and numerical rating by at least one nationally recognized statistical rating organization as designated by either the United States Securities and Exchange Commission or the Treasurer;

(5) with respect to amounts treated by the Internal Revenue Service as bond sale proceeds only, bonds, notes, or other obligations of investment grade in the highest quality letter and numerical rating by at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission issued by or on behalf of this or any other state or any agency, department, county, municipal or public corporation, special district, authority, or political subdivision thereof, or in any fund or trust that invests only in securities of the type described in this paragraph;

(6) commercial paper that has received the highest letter and numerical rating by at least two nationally recognized statistical rating organizations as designated by the United States Securities and Exchange Commission, provided that such commercial paper may not exceed 10% of the total investments made by the Treasurer under this subsection;

(7) money market mutual funds that:

(i) are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. § 80a–1 et seq., as amended;

(ii) are operated in accordance with Rule 2A–7 of the Investment Company Act of 1940, 17 C.F.R. § 270.2A–7, as amended; and

(iii) have received the highest possible rating from at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission; and

(8) any investment portfolio created under the Maryland Local Government Investment Pool defined under Article 95, § 22G of the Code that is administered by the Office of the State Treasurer.

(b) The Treasurer may sell, redeem, or exchange an investment or reinvestment made under this section in accordance with the limitations of this section.

(c) Subject to § 2–1246 of the State Government Article, the Treasurer shall report by January 3 of each year to the General Assembly on investment activities for unexpended or surplus money over which the Treasurer has custody which have been conducted during the previous fiscal year. At a minimum, the report shall specify for General Fund investments and all other investments:

(1) the inventory of investments with maturity dates and the book and market value as of June 30;

(2) the net income earned;

(3) the percentage share of each category of investment in the portfolio; and

(4) any sale of investments prior to the maturity date.

(d) An investment made pursuant to this section shall be made:

(1) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(2) in a manner designed to reasonably match the anticipated cash flow of the State so that sufficient funds are available to pay obligations upon proper presentation for payment;

(3) so that a reasonable amount of cash or cash equivalents is available for unanticipated cash needs;

(4) with due regard for minimizing risk while maximizing return;

(5) using competitive purchasing practices except when impractical;

(6) in accordance with a written investment policy;

(7) so that the securities and collateral may continue to be priced on a market to market basis; and

(8) to avoid the enhancement of the personal financial position of the Treasurer or any employee of the Treasurer who has responsibilities for such investments.

(E) (1) (I) ~~NOTWITHSTANDING SUBSECTIONS (A) THROUGH (D) OF THIS SECTION, CONSISTENT~~ CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THIS ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE TREASURER, THE TREASURER SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES UNDER THIS SECTION.

(II) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

(2) (I) TO ASSIST THE TREASURER IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE TREASURER SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT ~~SERVICE~~ SERVICES OPPORTUNITIES AFFORDED UNDER THIS SECTION.

(II) THE MEASURES UNDERTAKEN BY THE TREASURER SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE TREASURER'S WEBSITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE TREASURER.

(3) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS, THE TREASURER SHALL DEVELOP GUIDELINES TO ASSIST IN ~~ACHIEVING~~ IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE TREASURER ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY

BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES UNDER THIS SECTION.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE TREASURER SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS USED BY THE TREASURER IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS UNDER THE CUSTODY OF THE TREASURER THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS; AND

~~(III) ACTIONS THE TREASURER UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR TO INCREASE THE USE OF CERTIFIED MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS, INCLUDING ACTIONS TO ENCOURAGE OTHER BROKERAGE AND INVESTMENT BANKING FIRMS TO USE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS AS SUBCONTRACTORS.~~

(III) THE MEASURES THE TREASURER UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION.

Article – State Personnel and Pensions

21–116.

(a) By resolution, the Board of Trustees shall specify the powers of the Investment Committee.

(b) The Investment Committee shall advise the Board of Trustees and make recommendations on:

(1) the investment programs;

(2) compliance of the investment programs with the policies of the Board of Trustees; and

(3) bonding for employees of the State Retirement Agency in the form and amount required by law.

(c) (1) **[**The**]** **SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE** Board of Trustees shall adopt an investment policy manual that details:

(i) the functions of the Investment Division of the State Retirement Agency;

(ii) the goals and objectives of the several investment programs; and

(iii) the policies that govern the selection and retention of investments.

(2) The Investment Committee shall:

(i) prepare and maintain the investment policy manual; and

(ii) submit the investment policy manual, and any subsequent amendments to the manual, to the Board of Trustees for approval.

(D) (1) (I) CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE BOARD OF TRUSTEES, THE BOARD OF TRUSTEES SHALL DIRECT THE INVESTMENT COMMITTEE TO ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES TO THE BOARD.

(II) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(2) (I) TO ASSIST IT IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INVESTMENT COMMITTEE SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT ~~SERVICE~~ SERVICES OPPORTUNITIES AFFORDED UNDER THIS TITLE.

(II) THE MEASURES UNDERTAKEN BY THE INVESTMENT COMMITTEE SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE STATE RETIREMENT AGENCY'S WEBSITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE

BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE STATE RETIREMENT AGENCY.

(3) IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS AND THE INVESTMENT COMMITTEE, THE BOARD OF TRUSTEES SHALL DEVELOP GUIDELINES TO ASSIST THE INVESTMENT COMMITTEE IN ~~ACHIEVING~~ IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE STATE RETIREMENT AGENCY ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE INVESTMENT COMMITTEE SHALL SUBMIT A REPORT TO THE BOARD OF TRUSTEES, THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS USED BY THE INVESTMENT COMMITTEE IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS THAT ARE UNDER THE CONTROL OF THE INVESTMENT ~~DIVISION~~ *COMMITTEE* THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS; AND

~~**(III) ACTIONS THE INVESTMENT COMMITTEE UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR TO INCREASE THE USE OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS, INCLUDING ACTIONS TO ENCOURAGE OTHER BROKERAGE AND INVESTMENT BANKING FIRMS TO USE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS AS SUBCONTRACTORS.**~~

(III) THE MEASURES THE INVESTMENT COMMITTEE UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(II) ~~UNDER~~ *OF* THIS SUBSECTION.

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

Approved by the Governor, May 22, 2008.

CHAPTER 601

(House Bill 1277)

AN ACT concerning

State Government – Brokerage and Investment ~~Banking~~ Management Services – Use of ~~Certified~~ Minority Business Enterprises

FOR the purpose of requiring certain State entities responsible for the management of certain funds to attempt to use to a certain extent ~~certified~~ minority business enterprise brokerage and investment ~~banking~~ management services firms; specifying that brokerage and investment management services shall include services relating to certain asset classes under certain circumstances; requiring the entities to undertake steps to remove any barriers that limit participation by ~~certified~~ minority business enterprises in certain brokerage and investment ~~banking~~ management services opportunities; requiring the entities to adopt certain guidelines; requiring the entities to submit a certain annual report to certain persons on certain matters relating to ~~certified~~ minority business enterprise brokerage and investment ~~banking~~ management services firms; and generally relating to the use of ~~certified~~ minority business enterprise brokerage and investment ~~banking~~ management services firms for certain purposes by certain State entities.

BY repealing and reenacting, without amendments,
Article 95 – Treasurer
Section 22G(a), (b), (h), and (j)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 20–303
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 10–122
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement

Section 6–222
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–116
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 95 – Treasurer

22G.

(a) (1) There is a Local Government Investment Pool. The Local Government Investment Pool consists of the aggregate of all funds from local governments that are placed in the custody of the State and any funds of the State that are placed in the Local Government Investment Pool by the Treasurer for investment and reinvestment.

(2) The investment policies for the Local Government Investment Pool shall be established by the Treasurer.

(3) The Treasurer shall administer the Local Government Investment Pool on behalf of the participating local governments and, to the extent that State funds are included, on behalf of the State.

(4) The Treasurer shall develop such procedures necessary for the efficient administration of the Pool, including:

(i) Specification of minimum amounts which may be deposited in the Pool and minimum periods of time for which deposits shall be retained in the Pool;

(ii) Payment of amounts equivalent to administrative expenses from the earnings of the Pool; and

(iii) Distribution of the earnings in excess of expenses, or allocation of losses, to the several participants in a manner which equitably reflects the differing amount of their respective investments and the differing periods of time for which the amounts were in the custody of the Pool.

(b) (1) The Treasurer shall invest moneys in the Local Government Investment Pool in accordance with the provisions set forth in §§ 6–222 and 6–223 of the State Finance and Procurement Article.

(2) Notwithstanding any provisions of law to the contrary or any limitation or restriction contained in any other law, the Treasurer may invest, redeem, sell, exchange, and reinvest moneys in the Local Government Investment Pool in bankers' acceptances guaranteed by banking institutions.

(h) (1) Subject to the objectives and requirements of this section, the Treasurer shall formulate procedures for the investment and reinvestment of funds in the Investment Pool and the acquisition, retention, management, and disposition of investments of the Investment Pool.

(2) (i) The Treasurer may enter into a contractual agreement with a qualified Maryland fiscal agent and may compensate the agent for services rendered.

(ii) The agent may perform investment and administrative services which the Treasurer is authorized by this section to perform.

(j) For the purposes of this section, "local government" includes all of the legal entities, bodies, and agencies set out in § 22 of this article and local government insurance pools formed under Title 19, Subtitle 6 of the Insurance Article, but does not include the State and agencies of the State.

Article – Insurance

20–303.

(a) (1) A financial management committee of the Fund shall manage and invest all moneys collected by or for the Fund through premiums, earnings from investments, or from other sources.

(2) The financial management committee consists of the Executive Director and two members of the Board of Trustees whom the Board of Trustees chooses.

(3) Of the two members from the Board of Trustees:

(i) one shall be chosen from the members appointed by the Governor; and

(ii) one shall be chosen from the members appointed by the Association.

(b) (1) Whenever the amount of moneys in the Fund exceeds the amount that the Executive Director believes is likely to be required immediately, the financial management committee may manage the excess as it considers appropriate and invest the excess in investments legal for casualty insurers under §§ 5–601 through 5–609 of this article.

(2) If use of the excess becomes necessary or expedient, the financial management committee may collect, sell, or otherwise realize on the investment and any accrued interest.

(C) (1) (I) ~~THE~~ CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE FINANCIAL MANAGEMENT COMMITTEE, THE FINANCIAL MANAGEMENT COMMITTEE SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISES~~, AS DEFINED IN § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE,~~ TO PROVIDE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES TO THE COMMITTEE.

(II) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(2) (I) TO ASSIST IT IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE FINANCIAL MANAGEMENT COMMITTEE SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT ~~SERVICE~~ SERVICES OPPORTUNITIES AFFORDED BY THE FUND.

(II) THE MEASURES UNDERTAKEN BY THE FINANCIAL MANAGEMENT COMMITTEE SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE FUND'S WEBSITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE FUND.

(3) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS, THE FINANCIAL MANAGEMENT COMMITTEE SHALL DEVELOP GUIDELINES TO ASSIST THE COMMITTEE IN ~~ACHIEVING~~ IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE FUND ACHIEVE THE OBJECTIVE FOR

GREATER USE OF ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE FINANCIAL MANAGEMENT COMMITTEE SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS USED BY THE FINANCIAL MANAGEMENT COMMITTEE IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE FUND ASSETS THAT ARE UNDER THE INVESTMENT CONTROL OF ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS; AND

(III) ~~ACTIONS THE COMMITTEE UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR TO INCREASE THE USE OF CERTIFIED MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS, INCLUDING ACTIONS TO ENCOURAGE OTHER BROKERAGE AND INVESTMENT BANKING FIRMS TO USE CERTIFIED MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS AS SUBCONTRACTORS~~ THE MEASURES THE FINANCIAL MANAGEMENT COMMITTEE UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION.

Article – Labor and Employment

10–122.

(A) If, at any time, the amount of money in the Fund exceeds the amount that the Board considers necessary for immediate use, the excess shall be invested in any investment authorized under Title 5, Subtitle 6 of the Insurance Article for insurance companies.

(B) (1) (I) ~~THE~~ CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE BOARD, THE BOARD SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISES~~, AS DEFINED IN § 14–301 OF THE STATE FINANCE AND~~

~~PROCUREMENT ARTICLE,~~ TO PROVIDE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES TO THE BOARD.

(II) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(2) (I) TO ASSIST IT IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT ~~SERVICE~~ SERVICES OPPORTUNITIES AFFORDED BY THE FUND.

(II) THE MEASURES UNDERTAKEN BY THE BOARD SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE BOARD'S WEBSITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE FUND.

(3) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS, THE BOARD SHALL DEVELOP GUIDELINES TO ASSIST IT IN ~~ACHIEVING~~ IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE FUND ACHIEVE THE OBJECTIVE FOR GREATER USE OF ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE BOARD SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS USED BY THE BOARD IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE FUND ASSETS THAT ARE UNDER THE INVESTMENT CONTROL OF ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS; AND

(III) ~~**ACTIONS THE BOARD UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR TO INCREASE THE USE OF CERTIFIED MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS, INCLUDING ACTIONS TO ENCOURAGE OTHER BROKERAGE AND INVESTMENT BANKING FIRMS TO USE CERTIFIED MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS AS SUBCONTRACTORS**~~ **THE MEASURES THE BOARD UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION.**

Article – State Finance and Procurement

6–222.

(a) The Treasurer may invest or reinvest unexpended or surplus money over which the Treasurer has custody in:

(1) an obligation for which the United States has pledged its faith and credit for the payment of the principal and interest;

(2) an obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress;

(3) a repurchase agreement collateralized in an amount not less than 102% of the principal amount by an obligation of the United States, its agencies or instrumentalities, provided the collateral is held by a custodian other than the seller designated by the buyer;

(4) bankers' acceptances guaranteed by a financial institution with a short–term debt rating in the highest letter and numerical rating by at least one nationally recognized statistical rating organization as designated by either the United States Securities and Exchange Commission or the Treasurer;

(5) with respect to amounts treated by the Internal Revenue Service as bond sale proceeds only, bonds, notes, or other obligations of investment grade in the highest quality letter and numerical rating by at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission issued by or on behalf of this or any other state or any agency, department, county, municipal or public corporation, special district, authority, or political subdivision thereof, or in any fund or trust that invests only in securities of the type described in this paragraph;

(6) commercial paper that has received the highest letter and numerical rating by at least two nationally recognized statistical rating organizations as designated by the United States Securities and Exchange Commission, provided

that such commercial paper may not exceed 10% of the total investments made by the Treasurer under this subsection;

(7) money market mutual funds that:

(i) are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. § 80a–1 et seq., as amended;

(ii) are operated in accordance with Rule 2A–7 of the Investment Company Act of 1940, 17 C.F.R. § 270.2A–7, as amended; and

(iii) have received the highest possible rating from at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission; and

(8) any investment portfolio created under the Maryland Local Government Investment Pool defined under Article 95, § 22G of the Code that is administered by the Office of the State Treasurer.

(b) The Treasurer may sell, redeem, or exchange an investment or reinvestment made under this section in accordance with the limitations of this section.

(c) Subject to § 2–1246 of the State Government Article, the Treasurer shall report by January 3 of each year to the General Assembly on investment activities for unexpended or surplus money over which the Treasurer has custody which have been conducted during the previous fiscal year. At a minimum, the report shall specify for General Fund investments and all other investments:

(1) the inventory of investments with maturity dates and the book and market value as of June 30;

(2) the net income earned;

(3) the percentage share of each category of investment in the portfolio; and

(4) any sale of investments prior to the maturity date.

(d) An investment made pursuant to this section shall be made:

(1) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and

familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(2) in a manner designed to reasonably match the anticipated cash flow of the State so that sufficient funds are available to pay obligations upon proper presentation for payment;

(3) so that a reasonable amount of cash or cash equivalents is available for unanticipated cash needs;

(4) with due regard for minimizing risk while maximizing return;

(5) using competitive purchasing practices except when impractical;

(6) in accordance with a written investment policy;

(7) so that the securities and collateral may continue to be priced on a market to market basis; and

(8) to avoid the enhancement of the personal financial position of the Treasurer or any employee of the Treasurer who has responsibilities for such investments.

(E) (1) (I) ~~NOTWITHSTANDING SUBSECTIONS (A) THROUGH (D) OF THIS SECTION,~~ CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THIS ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE TREASURER, THE TREASURER SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISES~~, AS DEFINED IN § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE,~~ FOR BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES UNDER THIS SECTION.

(II) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

(2) (I) TO ASSIST THE TREASURER IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE TREASURER SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT ~~SERVICE~~ SERVICES OPPORTUNITIES AFFORDED UNDER THIS SECTION.

(II) THE MEASURES UNDERTAKEN BY THE TREASURER SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE TREASURER'S WEBSITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE TREASURER.

(3) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS, THE TREASURER SHALL DEVELOP GUIDELINES TO ASSIST IN ~~ACHIEVING~~ IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE TREASURER ACHIEVE THE OBJECTIVE FOR GREATER USE OF ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES UNDER THIS SECTION.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE TREASURER SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS USED BY THE TREASURER IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS UNDER THE CUSTODY OF THE TREASURER THAT ARE UNDER THE INVESTMENT CONTROL OF ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS; AND

(III) ~~ACTIONS THE TREASURER UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR TO INCREASE THE USE OF CERTIFIED MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS, INCLUDING ACTIONS TO ENCOURAGE OTHER BROKERAGE AND INVESTMENT BANKING FIRMS TO USE CERTIFIED MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS AS SUBCONTRACTORS~~ THE MEASURES THE TREASURER UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION.

Article – State Personnel and Pensions

21–116.

(a) By resolution, the Board of Trustees shall specify the powers of the Investment Committee.

(b) The Investment Committee shall advise the Board of Trustees and make recommendations on:

(1) the investment programs;

(2) compliance of the investment programs with the policies of the Board of Trustees; and

(3) bonding for employees of the State Retirement Agency in the form and amount required by law.

(c) (1) **[**The**]** **SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE** Board of Trustees shall adopt an investment policy manual that details:

(i) the functions of the Investment Division of the State Retirement Agency;

(ii) the goals and objectives of the several investment programs; and

(iii) the policies that govern the selection and retention of investments.

(2) The Investment Committee shall:

(i) prepare and maintain the investment policy manual; and

(ii) submit the investment policy manual, and any subsequent amendments to the manual, to the Board of Trustees for approval.

(D) (1) (I) ~~THE~~ CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE BOARD OF TRUSTEES, THE BOARD OF TRUSTEES SHALL DIRECT THE INVESTMENT COMMITTEE TO ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISES~~, AS DEFINED IN § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE,~~ TO PROVIDE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES TO THE BOARD.

(II) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(2) (I) TO ASSIST IT IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INVESTMENT COMMITTEE SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT ~~SERVICE~~ SERVICES OPPORTUNITIES AFFORDED UNDER THIS TITLE.

(II) THE MEASURES UNDERTAKEN BY THE INVESTMENT COMMITTEE SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE STATE RETIREMENT AGENCY'S WEBSITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE STATE RETIREMENT AGENCY.

(3) IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS AND THE INVESTMENT COMMITTEE, THE BOARD OF TRUSTEES SHALL DEVELOP GUIDELINES TO ASSIST THE INVESTMENT COMMITTEE IN ~~ACHIEVING~~ IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE STATE RETIREMENT AGENCY ACHIEVE THE OBJECTIVE FOR GREATER USE OF ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE INVESTMENT COMMITTEE SHALL SUBMIT A REPORT TO THE BOARD OF TRUSTEES, THE GOVERNOR'S OFFICE OF ~~BUSINESS DIVERSITY~~ MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE ~~CERTIFIED~~ MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS USED BY THE INVESTMENT COMMITTEE IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS THAT ARE UNDER THE CONTROL OF THE INVESTMENT ~~DIVISION~~ *COMMITTEE* THAT ARE UNDER THE INVESTMENT CONTROL OF ~~CERTIFIED~~ MINORITY

BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT ~~BANKING~~ MANAGEMENT SERVICES FIRMS; AND

(III) ~~ACTIONS THE INVESTMENT COMMITTEE UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR TO INCREASE THE USE OF CERTIFIED MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS, INCLUDING ACTIONS TO ENCOURAGE OTHER BROKERAGE AND INVESTMENT BANKING FIRMS TO USE CERTIFIED MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT BANKING FIRMS AS SUBCONTRACTORS~~ THE MEASURES THE INVESTMENT COMMITTEE UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION.

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

Approved by the Governor, May 22, 2008.

CHAPTER 602

(Senate Bill 607)

AN ACT concerning

Children – Records – Access by the Baltimore City Health Department

FOR the purpose of extending the termination date for certain provisions of law relating to certain records and reports concerning children and access by the Baltimore City Health Department; authorizing access to certain court records and police records by the Baltimore City Health Department under certain circumstances; ~~requiring the State Department of Education to disclose to the Baltimore City Health Department certain records concerning certain children under certain circumstances; requiring the Baltimore City Health Department to keep certain information confidential; providing that the Baltimore City Health Department shall be liable for the unauthorized release of certain information; requiring the Baltimore City Health Department to submit certain reports under certain circumstances;~~ requiring that certain records and reports concerning child abuse and neglect be disclosed to the Baltimore City Health Department under certain circumstances; requiring the Department of Juvenile Services to disclose to the Baltimore City Health Department certain records concerning certain children under certain circumstances; requiring the

Department of State Police to provide to the Baltimore City Health Department certain information concerning certain children under certain circumstances; ~~defining a certain term;~~ providing for the termination of this Act; and generally relating to records concerning children and access by the Baltimore City Health Department.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–827(a) and 3–8A–27(a) and (b)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

~~BY adding to~~
~~Article – Education~~
~~Section 2–107~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Human Services
Section 1–202(b) and 9–219(f)
Annotated Code of Maryland
(2007 Volume)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 2–308(d)
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 10 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 – Courts and Judicial Proceedings

3–827.

(a) (1) All court records under this subtitle pertaining to a child shall be confidential and their contents may not be divulged, by subpoena or otherwise, except by order of the court on good cause shown.

(2) This subsection does not prohibit review of a court record by:

(i) Personnel of the court;

(ii) A party;

(iii) Counsel for a party;

(iv) A Court–Appointed Special Advocate for the child;

(v) Authorized personnel of the Social Services Administration and local departments in order to conduct a child abuse or neglect investigation or to comply with requirements imposed under Title IV–E of the Social Security Act; or

(vi) The Baltimore City Health Department:

1. If the Baltimore City Health Department is providing treatment or care to a child who is the subject of the record, for a purpose relevant to the provision of the treatment or care;

2. IF THE RECORD CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~ DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; or

[2.**] 3.** If the record concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

(3) Information obtained from a court record is subject to the provisions of §§ 1–201, 1–202, 1–204, and 1–205 of the Human Services Article.

(4) (i) The Baltimore City Health Department shall be liable for the unauthorized release of a court record under this subsection.

(ii) Within 180 days after the Baltimore City Health Department reviews a court record under this subsection, the Baltimore City Health Department shall submit a report to the court detailing the purposes for which the record was used.

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;

(ii) Access to and confidential use of the record by the Baltimore City Health Department:

1. If the Baltimore City Health Department is providing treatment or care to a child who is the subject of the record, for a purpose relevant to the provision of the treatment or care;

2. IF THE RECORD CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~ DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; or

[2.**] 3.** If the record concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City; or

(iii) 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.

(3) (i) The Baltimore City Health Department shall be liable for the unauthorized release of a police record under this subsection.

(ii) Within 180 days after the Baltimore City Health Department accesses a police record under this subsection, the Baltimore City Health Department shall submit a report to the law enforcement agency from which the record was received detailing the purposes for which the record was used.

(b) (1) A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as provided in § 7–303 of the Education Article.

(2) This subsection does not prohibit access to and the use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal

Procedure Article in a proceeding in the court involving the child, by personnel of the court, the State's Attorney, counsel for the child, a court–appointed special advocate for the child, or authorized personnel of the Department of Juvenile Services.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, this subsection does not prohibit access to and confidential use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article by the Department of Juvenile Services or in an investigation and prosecution by a law enforcement agency.

(ii) The court record or fingerprints of a child described under §§ 10–215(a)(21) and (22), 10–216, and 10–220 of the Criminal Procedure Article may not be disclosed to:

1. A federal criminal justice agency or information center; or

2. Any law enforcement agency other than a law enforcement agency of the State or a political subdivision of the State.

(4) (i) This subsection does not prohibit access to and use of a court record by a judicial officer who is authorized under the Maryland Rules to determine a defendant's eligibility for pretrial release, counsel for the defendant, or the State's Attorney if:

1. The individual who is the subject of the court record is charged as an adult with an offense;

2. The access to and use of the court record is strictly limited for the purpose of determining the defendant's eligibility for pretrial release; and

3. The court record concerns an adjudication of delinquency that occurred within 3 years of the date the individual is charged as an adult.

(ii) The Court of Appeals may adopt rules to implement the provisions of this paragraph.

(5) (i) This subsection does not prohibit access to and confidential use of a court record by the Baltimore City Health Department:

1. If the Baltimore City Health Department is providing treatment or care to a child who is the subject of the record, for a purpose relevant to the provision of the treatment or care;

2. IF THE RECORD CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~**AS HAVING COMMITTED A DELINQUENT**~~ **DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY;** or

[2.**] 3.** If the record concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

(ii) 1. The Baltimore City Health Department shall be liable for the unauthorized release of a court record under this paragraph.

2. Within 180 days after the Baltimore City Health Department accesses a court record under this paragraph, the Baltimore City Health Department shall submit a report to the court detailing the purposes for which the record was used.

~~**Article – Education**~~

~~**2–107.**~~

~~**(A) IN THIS SECTION, "CONFIDENTIAL RECORD" MEANS A RECORD, REPORT, STATEMENT, NOTE, OR OTHER INFORMATION THAT INCLUDES INFORMATION CONCERNING A CHILD'S:**~~

~~**(1) DATE OF BIRTH;**~~

~~**(2) SCHOOL PLACEMENT;**~~

~~**(3) GRADE LEVEL PROMOTION HISTORY;**~~

~~**(4) ATTENDANCE HISTORY, INCLUDING SUSPENSION AND EXPULSION;**~~

~~**(5) PROGRESS REPORTS, INCLUDING REPORT CARDS OR TRANSCRIPTS; AND**~~

~~**(6) SPECIAL EDUCATION CLASSIFICATION OR DIAGNOSIS, INDIVIDUALIZED EDUCATION PLAN DOCUMENTATION, OR PSYCHO–EDUCATIONAL ASSESSMENT RESULTS.**~~

~~**(B) (1) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE DEPARTMENT SHALL DISCLOSE TO THE BALTIMORE CITY HEALTH DEPARTMENT ON A WRITTEN REQUEST:**~~

~~**(I) A CONFIDENTIAL RECORD CONCERNING A CHILD TO WHOM THE BALTIMORE CITY HEALTH DEPARTMENT IS PROVIDING TREATMENT OR CARE, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE;**~~

~~**(II) A CONFIDENTIAL RECORD CONCERNING A CHILD CONVICTED OF A CRIME OR ADJUDICATED AS HAVING COMMITTED A DELINQUENT ACT THAT CAUSED A DEATH OR NEAR FATALITY; AND**~~

~~**(III) A CONFIDENTIAL RECORD CONCERNING A VICTIM OF A CRIME OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY.**~~

~~**(2) (I) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL KEEP CONFIDENTIAL ANY INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**~~

~~**(II) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**~~

~~**(3) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH DEPARTMENT RECEIVES A CONFIDENTIAL RECORD UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BALTIMORE CITY HEALTH DEPARTMENT SHALL SUBMIT A REPORT TO THE DEPARTMENT DETAILING THE PURPOSES FOR WHICH THE CONFIDENTIAL RECORD WAS USED.**~~

Article – Human Services

1–202.

(b) A report or record concerning child abuse or neglect shall be disclosed:

(1) under a court order;

(2) under an order of an administrative law judge, if:

(i) the request for disclosure concerns a case pending before the Office of Administrative Hearings; and

(ii) provisions are made to comply with other State or federal confidentiality laws and to protect the identity of the reporter or other person whose life or safety is likely to be endangered by the disclosure; or

(3) on a written request, to the Baltimore City Health Department:

(i) if the Baltimore City Health Department is providing treatment or care to a child who is the subject of a report of child abuse or neglect, for a purpose relevant to the provision of the treatment or care;

(II) IF THE RECORD OR REPORT CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~ DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; or

[(ii)**] (III)** if the record or report concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City, for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

9–219.

(f) (1) Notwithstanding the provisions of this section, the Department shall disclose to the Baltimore City Health Department, on a written request:

(i) a confidential research record concerning a child to whom the Baltimore City Health Department is providing treatment or care, for a purpose relevant to the provision of the treatment or care;

(II) A CONFIDENTIAL RESEARCH RECORD CONCERNING A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~ DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; and

[(ii)**] (III)** a confidential research record concerning a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City, for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

(2) (i) The Baltimore City Health Department shall keep confidential any information provided under paragraph (1) of this subsection.

(ii) The Baltimore City Health Department shall be liable for the unauthorized release of information provided under paragraph (1) of this subsection.

(3) Within 180 days after the Baltimore City Health Department receives a confidential research record under paragraph (1) of this subsection, the Baltimore City Health Department shall submit a report to the Department detailing the purposes for which the confidential record was used.

Article – Public Safety

2–308.

(d) (1) The Department shall provide to the Baltimore City Health Department, on a written request, information concerning**:**

(I) a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City**; AND**

(II) A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~ DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY.

(2) The Baltimore City Health Department:

(i) shall keep confidential any information provided under paragraph (1) of this subsection;

(ii) may use the information solely to develop appropriate programs and policies aimed at reducing violence against children in Baltimore City; and

(iii) shall be liable for the unauthorized release of any information provided under paragraph (1) of this subsection.

(3) Within 180 days after the Baltimore City Health Department receives information under this subsection, the Baltimore City Health Department shall submit a report to the Department detailing the purposes for which the record was used.

Chapter 10 of the Acts of 2006

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005. It shall remain effective for a period of **[**3**] 6** years and, at the end of

September 30, **[**2008**] 2011**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. It shall remain effective until the taking effect of the termination provision specified in Section 2 of Chapter 10 of the Acts of the General Assembly of 2006, as amended by Section 1 of this Act. If that termination provision takes effect, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2008.

CHAPTER 603

(House Bill 768)

AN ACT concerning

Children – Records – Access by the Baltimore City Health Department

FOR the purpose of extending the termination date for certain provisions of law relating to certain records and reports concerning children and access by the Baltimore City Health Department; authorizing access to certain court records and police records by the Baltimore City Health Department under certain circumstances; ~~requiring the State Department of Education to disclose to the Baltimore City Health Department certain records concerning certain children under certain circumstances; requiring the Baltimore City Health Department to keep certain information confidential; providing that the Baltimore City Health Department shall be liable for the unauthorized release of certain information; requiring the Baltimore City Health Department to submit certain reports under certain circumstances;~~ requiring that certain records and reports concerning child abuse and neglect be disclosed to the Baltimore City Health Department under certain circumstances; requiring the Department of Juvenile Services to disclose to the Baltimore City Health Department certain records concerning certain children under certain circumstances; requiring the Department of State Police to provide to the Baltimore City Health Department certain information concerning certain children under certain circumstances; ~~defining a certain term;~~ providing for the termination of this Act; and generally relating to records concerning children and access by the Baltimore City Health Department.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings

Section 3–827(a) and 3–8A–27(a) and (b)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

~~BY adding to~~
~~Article – Education~~
~~Section 2–107~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Human Services
Section 1–202(b) and 9–219(f)
Annotated Code of Maryland
(2007 Volume)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 2–308(d)
Annotated Code of Maryland
(2003 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 10 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 – Courts and Judicial Proceedings

3–827.

(a) (1) All court records under this subtitle pertaining to a child shall be confidential and their contents may not be divulged, by subpoena or otherwise, except by order of the court on good cause shown.

(2) This subsection does not prohibit review of a court record by:

(i) Personnel of the court;

(ii) A party;

(iii) Counsel for a party;

(iv) A Court–Appointed Special Advocate for the child;

(v) Authorized personnel of the Social Services Administration and local departments in order to conduct a child abuse or neglect investigation or to comply with requirements imposed under Title IV–E of the Social Security Act; or

(vi) The Baltimore City Health Department:

1. If the Baltimore City Health Department is providing treatment or care to a child who is the subject of the record, for a purpose relevant to the provision of the treatment or care;

2. IF THE RECORD CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~ DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; or

[2.**] 3.** If the record concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

(3) Information obtained from a court record is subject to the provisions of §§ 1–201, 1–202, 1–204, and 1–205 of the Human Services Article.

(4) (i) The Baltimore City Health Department shall be liable for the unauthorized release of a court record under this subsection.

(ii) Within 180 days after the Baltimore City Health Department reviews a court record under this subsection, the Baltimore City Health Department shall submit a report to the court detailing the purposes for which the record was used.

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;

(ii) Access to and confidential use of the record by the Baltimore City Health Department:

1. If the Baltimore City Health Department is providing treatment or care to a child who is the subject of the record, for a purpose relevant to the provision of the treatment or care;

2. IF THE RECORD CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~ DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; or

[2.**] 3.** If the record concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City; or

(iii) 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.

(3) (i) The Baltimore City Health Department shall be liable for the unauthorized release of a police record under this subsection.

(ii) Within 180 days after the Baltimore City Health Department accesses a police record under this subsection, the Baltimore City Health Department shall submit a report to the law enforcement agency from which the record was received detailing the purposes for which the record was used.

(b) (1) A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as provided in § 7–303 of the Education Article.

(2) This subsection does not prohibit access to and the use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article in a proceeding in the court involving the child, by personnel of the court, the State's Attorney, counsel for the child, a court–appointed special advocate for the child, or authorized personnel of the Department of Juvenile Services.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, this subsection does not prohibit access to and confidential use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article by the Department of Juvenile Services or in an investigation and prosecution by a law enforcement agency.

(ii) The court record or fingerprints of a child described under §§ 10–215(a)(21) and (22), 10–216, and 10–220 of the Criminal Procedure Article may not be disclosed to:

1. A federal criminal justice agency or information center; or

2. Any law enforcement agency other than a law enforcement agency of the State or a political subdivision of the State.

(4) (i) This subsection does not prohibit access to and use of a court record by a judicial officer who is authorized under the Maryland Rules to determine a defendant's eligibility for pretrial release, counsel for the defendant, or the State's Attorney if:

1. The individual who is the subject of the court record is charged as an adult with an offense;

2. The access to and use of the court record is strictly limited for the purpose of determining the defendant's eligibility for pretrial release; and

3. The court record concerns an adjudication of delinquency that occurred within 3 years of the date the individual is charged as an adult.

(ii) The Court of Appeals may adopt rules to implement the provisions of this paragraph.

(5) (i) This subsection does not prohibit access to and confidential use of a court record by the Baltimore City Health Department:

1. If the Baltimore City Health Department is providing treatment or care to a child who is the subject of the record, for a purpose relevant to the provision of the treatment or care;

2. IF THE RECORD CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~ DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; or

[2.**] 3.** If the record concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

(ii) 1. The Baltimore City Health Department shall be liable for the unauthorized release of a court record under this paragraph.

2. Within 180 days after the Baltimore City Health Department accesses a court record under this paragraph, the Baltimore City Health Department shall submit a report to the court detailing the purposes for which the record was used.

~~**Article – Education**~~

~~**2–107.**~~

~~**(A) IN THIS SECTION, "CONFIDENTIAL RECORD" MEANS A RECORD, REPORT, STATEMENT, NOTE, OR OTHER INFORMATION THAT INCLUDES INFORMATION CONCERNING A CHILD'S:**~~

~~**(1) DATE OF BIRTH;**~~

~~**(2) SCHOOL PLACEMENT;**~~

~~**(3) GRADE LEVEL PROMOTION HISTORY;**~~

~~**(4) ATTENDANCE HISTORY, INCLUDING SUSPENSION AND EXPULSION;**~~

~~**(5) PROGRESS REPORTS, INCLUDING REPORT CARDS OR TRANSCRIPTS; AND**~~

~~**(6) SPECIAL EDUCATION CLASSIFICATION OR DIAGNOSIS, INDIVIDUALIZED EDUCATION PLAN DOCUMENTATION, OR PSYCHO–EDUCATIONAL ASSESSMENT RESULTS.**~~

~~**(B) (1) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE DEPARTMENT SHALL DISCLOSE TO THE BALTIMORE CITY HEALTH DEPARTMENT ON A WRITTEN REQUEST:**~~

~~**(I) A CONFIDENTIAL RECORD CONCERNING A CHILD TO WHOM THE BALTIMORE CITY HEALTH DEPARTMENT IS PROVIDING TREATMENT OR CARE, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE;**~~

~~**(II) A CONFIDENTIAL RECORD CONCERNING A CHILD CONVICTED OF A CRIME OR ADJUDICATED AS HAVING COMMITTED A DELINQUENT ACT THAT CAUSED A DEATH OR NEAR FATALITY; AND**~~

~~**(III) A CONFIDENTIAL RECORD CONCERNING A VICTIM OF A CRIME OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY.**~~

~~**(2) (I) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL KEEP CONFIDENTIAL ANY INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**~~

~~**(II) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**~~

~~**(3) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH DEPARTMENT RECEIVES A CONFIDENTIAL RECORD UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BALTIMORE CITY HEALTH DEPARTMENT SHALL SUBMIT A REPORT TO THE DEPARTMENT DETAILING THE PURPOSES FOR WHICH THE CONFIDENTIAL RECORD WAS USED.**~~

Article – Human Services

1–202.

(b) A report or record concerning child abuse or neglect shall be disclosed:

(1) under a court order;

(2) under an order of an administrative law judge, if:

(i) the request for disclosure concerns a case pending before the Office of Administrative Hearings; and

(ii) provisions are made to comply with other State or federal confidentiality laws and to protect the identity of the reporter or other person whose life or safety is likely to be endangered by the disclosure; or

(3) on a written request, to the Baltimore City Health Department:

(i) if the Baltimore City Health Department is providing treatment or care to a child who is the subject of a report of child abuse or neglect, for a purpose relevant to the provision of the treatment or care;

(II) IF THE RECORD OR REPORT CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~ DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; or

[(ii)**] (III)** if the record or report concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City, for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

9–219.

(f) (1) Notwithstanding the provisions of this section, the Department shall disclose to the Baltimore City Health Department, on a written request:

(i) a confidential research record concerning a child to whom the Baltimore City Health Department is providing treatment or care, for a purpose relevant to the provision of the treatment or care;

(II) A CONFIDENTIAL RESEARCH RECORD CONCERNING A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~ DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; and

[(ii)**] (III)** a confidential research record concerning a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City, for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

(2) (i) The Baltimore City Health Department shall keep confidential any information provided under paragraph (1) of this subsection.

(ii) The Baltimore City Health Department shall be liable for the unauthorized release of information provided under paragraph (1) of this subsection.

(3) Within 180 days after the Baltimore City Health Department receives a confidential research record under paragraph (1) of this subsection, the Baltimore City Health Department shall submit a report to the Department detailing the purposes for which the confidential record was used.

Article – Public Safety

2–308.

(d) (1) The Department shall provide to the Baltimore City Health Department, on a written request, information concerning**:**

(I) a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City**; AND**

(II) A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~ DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY.

(2) The Baltimore City Health Department:

(i) shall keep confidential any information provided under paragraph (1) of this subsection;

(ii) may use the information solely to develop appropriate programs and policies aimed at reducing violence against children in Baltimore City; and

(iii) shall be liable for the unauthorized release of any information provided under paragraph (1) of this subsection.

(3) Within 180 days after the Baltimore City Health Department receives information under this subsection, the Baltimore City Health Department shall submit a report to the Department detailing the purposes for which the record was used.

Chapter 10 of the Acts of 2006

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005. It shall remain effective for a period of **[**3**] 6** years and, at the end of September 30, **[**2008**] 2011**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. It shall remain effective until the taking effect of the termination provision specified in Section 2 of Chapter 10 of the Acts of the General Assembly of 2006, as amended by Section 1 of this Act. If that termination provision takes effect, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2008.

CHAPTER 604

(Senate Bill 608)

AN ACT concerning

Education – Veterans of the Afghanistan and Iraq Conflicts Scholarship – Extension

FOR the purpose of extending the date by which the Office of Student Financial Assistance may award an initial Veterans of the Afghanistan and Iraq Conflicts Scholarship; extending the date by which the Office may renew a Veterans of the Afghanistan and Iraq Conflicts Scholarship under certain circumstances; making certain technical changes; and generally relating to the Veterans of the Afghanistan and Iraq Conflicts Scholarship.

BY repealing and reenacting, with amendments,
Article – Education
Section 18–604
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

18–604.

(a) For purposes of this section, an individual served in the Afghanistan or Iraq conflict if the individual was a member of the uniform services of the United States who served in:

(1) Afghanistan or contiguous air space, as defined in federal regulations, on or after October 24, 2001, and before a terminal date to be prescribed by the United States Secretary of Defense; or

(2) Iraq or contiguous waters or air space, as defined in federal regulations, on or after March 19, 2003, and before a terminal date to be prescribed by the United States Secretary of Defense.

(b) There is a Veterans of the Afghanistan and Iraq Conflicts Scholarship.

(c) An individual may apply to the Office for a scholarship under this section if the individual:

(1) Is a resident of Maryland;

(2) (i) Is accepted for admission or enrolled in the regular undergraduate program at an eligible institution; or

(ii) Is accepted for admission or enrolled in a 2–year terminal certificate program in which the course work is acceptable for transfer credit for an accredited baccalaureate program in an eligible institution; and

(3) (i) 1. Is a veteran, as defined under § 9–901 of the State Government Article, who served in the Afghanistan or Iraq conflict;

2. Is an active duty member of the armed forces who served in the Afghanistan or Iraq conflict; or

3. Is a member of a reserve component of the armed forces of the United States or the Maryland National Guard who was activated as a result of the Afghanistan or Iraq conflict described in subsection (a) of this section; or

(ii) Is a son, daughter, or spouse of:

1. A veteran or active duty member of the armed forces who is serving or has served in the Afghanistan or Iraq conflict; or

2. A member of the reserve or Maryland National Guard who was activated as a result of the Afghanistan or Iraq conflict described in subsection (a) of this section.

(d) A scholarship awarded under this section shall supplement any federal education benefits for which a recipient qualifies as a result of an individual's military service or status as a dependent of a member of the armed forces or of a veteran of the armed forces.

(e) (1) Each scholarship may be used, at any eligible institution, to pay for educational expenses as defined by the Office, including:

(i) Tuition and mandatory fees; and

(ii) Room and board.

(2) The annual amount of a scholarship may not exceed 50% of the equivalent annual tuition, mandatory fees, and room and board of a resident

undergraduate student at the 4–year public institution of higher education within the University System of Maryland, other than the University of Maryland University College and University of Maryland, Baltimore, with the highest annual expenses for a full–time resident undergraduate.

(f) A scholarship recipient shall maintain a grade point average of at least 2.5 on a 4.0 scale.

(g) Each recipient of a scholarship under this section may hold the award for 5 years of full–time study or 8 years of part–time study.

(h) A scholarship recipient shall file for federal and State financial aid by March 1 of each year.

(i) (1) The Office may not award an initial scholarship to an individual **[**specified in subsection (c)(3) of this section**]** after June 30, **[**2012**] 2016**.

(2) The Office may renew a scholarship after June 30, **[**2012**] 2016**, if the individual received an initial scholarship before that date.

(j) A Senator or Delegate may authorize the Office to award all or a portion of the funds authorized under Subtitles 4 and 5 of this title to eligible recipients of scholarships awarded under this section.

(k) (1) Funds for the Veterans of the Afghanistan and Iraq Conflicts Scholarship shall be as provided in the annual budget of the Commission by the Governor.

(2) (i) There is a Veterans of the Afghanistan and Iraq Conflicts Scholarship Fund in the Commission.

(ii) The Commission:

1. May accept any gift or grant from any person or corporation for the Veterans of the Afghanistan and Iraq Conflicts Scholarship Fund;

2. Shall use any gift or grant that it receives for a scholarship from the Veterans of the Afghanistan and Iraq Conflicts Scholarship Fund; and

3. Shall deposit any gift or grant that it receives for the Veterans of the Afghanistan and Iraq Conflicts Scholarship Fund with the State Treasurer in a nonbudgeted account.

(3) (i) At the end of the fiscal year, the Commission shall prepare an annual report on the Veterans of the Afghanistan and Iraq Conflicts Scholarship Fund that includes an accounting of all financial receipts and expenditures to and from the Fund.

(ii) The Commission shall submit a copy of the report to the General Assembly as provided under § 2–1246 of the State Government Article.

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

Approved by the Governor, May 22, 2008.

CHAPTER 605

(Senate Bill 646)

AN ACT concerning

Credit Regulation – Debt Management Services

FOR the purpose of authorizing a person that is not a nonprofit organization to provide debt management services in the State; requiring a person that is licensed to provide debt management services to provide a certain notice to a consumer and to make certain determinations before providing debt management services for a consumer; altering certain requirements for a debt management services license; altering the information that must be included in a certain annual report to the Commissioner of Financial Regulation; altering the records that must be preserved by a licensee; altering certain definitions; repealing a certain defined term; making conforming changes; and generally relating to debt management services.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 12–901, 12–905(a), 12–907(a), 12–908(b)(11), 12–916(a)(1), 12–921(a), and 12–922(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 12–908(a)

Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article – Financial Institutions
Section 12–916(a)(3)
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

12–901.

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

(b) "Annual gross revenue" means income or revenue from all sources, before any expenses or taxes, computed according to generally accepted accounting principles for the preceding fiscal year.

(c) "Consultation fee" means a fee paid by a consumer to a debt management services provider in connection with the processing of any application that the consumer makes for debt management services.

(d) "Consumer" means an individual who:

(1) Resides in the State; and

(2) Is seeking debt management services or has entered into a debt management services agreement.

(e) "Consumer education program" means a program or plan that **[**seeks**]:**

(1) SEEKS to improve the financial literacy of consumers **REGARDING PERSONAL FINANCE, BUDGETING, AND CREDIT AND DEBT MANAGEMENT; AND**

(2) PROVIDES COUNSELING TAILORED TO THE NEEDS AND CIRCUMSTANCES OF THE CONSUMER WITH REGARD TO OPTIONS AND STRATEGIES FOR ADDRESSING THE CONSUMER'S DEBT PROBLEMS, INCLUDING:

(I) CREATING AND MAINTAINING A BUDGET;

(II) ESTABLISHING DEBT MANAGEMENT PAYMENT PLANS WITH CREDITORS;

(III) NEGOTIATING DIRECTLY WITH CREDITORS ON PAYMENT OR INTEREST RATE RELIEF; AND

(IV) FILING FOR BANKRUPTCY.

(f) "Debt management counselor" means a permanent, temporary, or contractual employee of a debt management services provider or its agent who provides counseling to consumers on behalf of the debt management services provider.

(g) "Debt management services" means receiving funds periodically from a consumer under an agreement with the consumer for the purpose of distributing the funds among the consumer's creditors in full or partial payment of the consumer's debts.

(h) "Debt management services agreement" means a written contract, plan, or agreement between a debt management services provider and a consumer for the performance of debt management services.

(i) "Debt management services provider" means **[**an organization**]** **A PERSON** that provides or offers to provide debt management services to a consumer.

(j) "Fund" means the Debt Management Services Fund established under § 12–905 of this subtitle.

(k) "Licensee" means **[**an organization**]** **A PERSON** licensed under this subtitle to provide debt management services.

(l) "Maintenance fee" means a fee paid by a consumer to a debt management services provider for the maintenance or servicing of the consumer's accounts with the consumer's creditors in accordance with a debt management services agreement.

[(m) "Organization" means a nonprofit organization that is exempt from taxation under § 501(c) of the Internal Revenue Code.**]**

[(n)**]** **(M)** "Relative" means any of the following who are related to an individual by blood, marriage, or adoption:

(1) A spouse;

(2) A child;

(3) A sibling;

(4) A parent;

(5) A grandparent;

(6) A grandchild;

(7) A stepparent;

(8) A stepchild;

(9) A stepsibling;

(10) An aunt; or

(11) An uncle.

[(o)**] (N)** "Resident agent" means an individual residing in the State or a Maryland corporation whose name, address, and designation as a resident agent are filed or recorded with the State Department of Assessments and Taxation in accordance with the provisions of the Corporations and Associations Article.

[(p)**] (O)** "Trust account" means an account that is:

(1) Established in a financial institution that is federally insured;

(2) Separate from the debt management services provider's operating account;

(3) Designated as a "trust account" or by another appropriate designation indicating that the funds in the account are not the funds of the licensee or its officers, employees, or agents;

(4) Unavailable to creditors of the debt management services provider; and

(5) Used to hold funds paid by consumers to a debt management services provider for disbursement to creditors of the consumers.

12–905.

(a) There is a Debt Management Services Fund that consists of:

(1) All revenue received for the licensing of **[**organizations**]** **PERSONS** that provide debt management services under this subtitle;

(2) Income from investments that the Treasurer makes for the Fund; and

(3) Except as provided in subsection (b) of this section, any other fee or revenue received by the Commissioner under this subtitle.

12–907.

(a) To qualify for a license, an applicant shall satisfy the Commissioner that:

(1) The applicant **[**is an organization;

(2) Each**] AND EACH** of the owners, officers, directors, and principals of the applicant has sufficient experience, character, financial responsibility, and general fitness to:

(i) Engage in the business of providing debt management services;

(ii) Warrant the belief that the debt management services business will be conducted lawfully, honestly, fairly, and efficiently; and

(iii) Command the confidence of the public;

[(3)**] (2)** Each agent acting on behalf of the applicant to manage a trust account required under § 12–917 of this subtitle has sufficient experience, character, financial responsibility, and general fitness to:

(i) Engage in the business of managing a trust account;

(ii) Warrant the belief that the management of the trust account will be conducted lawfully, honestly, fairly, and efficiently; and

(iii) Command the confidence of the public; **[**and**]**

[(4)**] (3)** The applicant has a net worth computed according to generally accepted accounting principles of at least $50,000, plus an additional net worth of $10,000 for each location at which debt management services will be provided to consumers, up to a maximum of $500,000 as provided in subsection (b) of this section**; AND**

(4) ~~WITHIN 3 MONTHS AFTER BEING HIRED~~ BEFORE PROVIDING COUNSELING TO A CONSUMER, EACH DEBT MANAGEMENT COUNSELOR EMPLOYED BY THE APPLICANT OR THE APPLICANT'S AGENT WILL RECEIVE

COMPREHENSIVE TRAINING IN COUNSELING SKILLS, PERSONAL FINANCE, BUDGETING, AND CREDIT AND DEBT MANAGEMENT.

12–908.

(a) To apply for a license, an applicant shall submit to the Commissioner an application on the form that the Commissioner provides.

(b) The application shall include:

(11) **[**Evidence**] IF APPLICABLE, EVIDENCE** of nonprofit status under § 501(c) of the Internal Revenue Code;

12–916.

(a) (1) A licensee may not perform debt management services for a consumer unless:

(i) **1.** The licensee provides the consumer with a consumer education program;

2. THE LICENSEE PROVIDES THE CONSUMER WITH A WRITTEN SUMMARY OF THE COUNSELING OPTIONS AND STRATEGIES FOR ADDRESSING THE CONSUMER'S DEBT PROBLEMS DEVELOPED UNDER § 12–901(E)(2) OF THIS SUBTITLE; AND

3. THE CONSUMER SIGNS AN ACKNOWLEDGMENT STATING THAT THE CONSUMER HAS REVIEWED THE WRITTEN SUMMARY AND HAS DECIDED TO PROCEED WITH ENTERING INTO A DEBT MANAGEMENT SERVICES AGREEMENT WITH THE LICENSEE;

(ii) The licensee, through a debt management counselor certified by an independent organization, has:

1. Prepared a financial analysis of and an initial budget plan for the consumer's debt obligations;

2. Provided a copy of the financial analysis and the initial budget plan to the consumer; and

3. Provided to the consumer, for all creditors identified by the consumer, a list of:

A. The creditors that the licensee reasonably expects to participate in the management of the consumer's debt under the debt management services agreement; and

B. The creditors that the licensee reasonably expects not to participate in the management of the consumer's debt under the debt management services agreement;

(iii) The licensee and the consumer have executed a debt management services agreement that describes the debt management services to be provided by the licensee to the consumer;

(iv) The licensee has a reasonable expectation based on the licensee's past experience that each creditor of the consumer that is listed as a participating creditor in the consumer's debt management services agreement will accept payment of the consumer's debts owed to the creditor as provided in the consumer's debt management services agreement; **[**and**]**

(V) THE LICENSEE HAS MADE A DETERMINATION, BASED ON THE LICENSEE'S ANALYSIS OF THE INFORMATION PROVIDED BY THE CONSUMER AND OTHERWISE AVAILABLE TO IT, THAT:

1. THE DEBT MANAGEMENT SERVICES ARE SUITABLE FOR THE CONSUMER; AND

2. THE CONSUMER WILL BE ABLE TO MEET THE PAYMENT OBLIGATIONS UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT; AND

[(v)**] (VI)** A copy of the completed debt management services agreement has been provided to the consumer.

(3) IN ADDITION TO THE REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION, BEFORE PROVIDING DEBT MANAGEMENT SERVICES FOR A CONSUMER, A DEBT MANAGEMENT SERVICES PROVIDER SHALL PROVIDE A WRITTEN NOTICE TO THE CONSUMER STATING:

(I) THAT IF THE CONSUMER ELECTS TO FILE FOR BANKRUPTCY, THE CONSUMER WILL BE REQUIRED UNDER FEDERAL BANKRUPTCY LAW TO RECEIVE PRE–BANKRUPTCY CREDIT COUNSELING SERVICES FROM A NONPROFIT CREDIT COUNSELING AGENCY THAT IS APPROVED BY THE UNITED STATES TRUSTEE PROGRAM;

(II) WHETHER THE DEBT MANAGEMENT SERVICES PROVIDER IS APPROVED BY THE UNITED STATES TRUSTEE PROGRAM TO PROVIDE PRE–BANKRUPTCY CREDIT COUNSELING SERVICES; AND

(III) THAT THE CONSUMER SHOULD CONTACT A FEDERAL BANKRUPTCY COURT TO OBTAIN A LIST OF CREDIT COUNSELING AGENCIES THAT ARE APPROVED BY THE UNITED STATES TRUSTEE PROGRAM.

12–921.

(a) (1) On or before April 30 of each year, a licensee shall report to the Commissioner on the debt management services business of the licensee conducted during the preceding calendar year.

(2) The annual report shall be on the form that the Commissioner requires.

(3) The report shall include:

(i) An audited financial statement that is prepared in accordance with generally accepted accounting principles and includes a balance sheet, income statement, statement of changes in fund balances, and statement of cash flow;

(ii) An alphabetical list of all debt management counselors who provided services for the licensee during the previous calendar year;

(iii) The number of consumers for whom the licensee provided debt management services under a debt management services agreement during the preceding calendar year;

(iv) The number of consumers who signed new debt management services agreements with the licensee during the preceding calendar year;

(v) The highest number of consumers for whom the licensee provided debt management services under a debt management services agreement during any month in the preceding calendar year; **[**and**]**

(vi) The amounts paid by consumers to the licensee, both in total and for each month, during the preceding calendar year, broken down by:

1. Payments to be disbursed to creditors; and

2. Payments for the licensee's services**;**

(VII) THE PERCENTAGE OF ALL CONSUMERS WHO RECEIVED A CONSUMER EDUCATION PROGRAM AND SUBSEQUENTLY EXECUTED A DEBT MANAGEMENT SERVICES AGREEMENT DURING THE PRECEDING CALENDAR YEAR;

(VIII) THE NUMBER OF CONSUMERS WHO SUCCESSFULLY COMPLETED A DEBT MANAGEMENT PLAN DURING THE PRECEDING CALENDAR YEAR;

(IX) THE NUMBER OF CONSUMERS WHO CEASED PARTICIPATING IN A DEBT MANAGEMENT PLAN WITHOUT SUCCESSFULLY COMPLETING THE PLAN DURING THE PRECEDING CALENDAR YEAR; AND

~~(VIII)~~ (X) A REPRESENTATIVE SAMPLE OF THE WRITTEN SUMMARY REQUIRED UNDER § 12–916(A)(1)(I)2 OF THIS SUBTITLE.

12–922.

(a) To enable the Commissioner to determine compliance with this subtitle, a licensee shall make and preserve the following books, accounts, and records for a period of at least 7 years:

(1) A general ledger containing all assets, liability, capital, income, and expense accounts;

(2) Each debt management services agreement between the licensee and a consumer;

(3) Books and records for each consumer with whom the licensee has a debt management services agreement; **[**and**]**

(4) Bank statements and bank reconciliation records**;**

(5) A COPY OF EACH WRITTEN SUMMARY REQUIRED UNDER § 12–916(A)(1)(I)2 OF THIS SUBTITLE; AND

(6) A COPY OF EACH SIGNED ACKNOWLEDGMENT REQUIRED UNDER § 12–916(A)(1)(I)3 OF THIS SUBTITLE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 606

(House Bill 947)

AN ACT concerning

Credit Regulation – Debt Management Services

FOR the purpose of authorizing a person that is not a nonprofit organization to provide debt management services in the State; requiring a person that is licensed to provide debt management services to provide a certain notice to a consumer and to make certain determinations before providing debt management services for a consumer; altering certain requirements for a debt management services license; altering the information that must be included in a certain annual report to the Commissioner of Financial Regulation; altering the records that must be preserved by a licensee; altering certain definitions; repealing a certain defined term; making conforming changes; and generally relating to debt management services.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 12–901, 12–905(a), 12–907(a), 12–908(b)(11), 12–916(a)(1), 12–921(a), and 12–922(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 12–908(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY adding to
Article – Financial Institutions
Section 12–916(a)(3)
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

12–901.

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

(b) "Annual gross revenue" means income or revenue from all sources, before any expenses or taxes, computed according to generally accepted accounting principles for the preceding fiscal year.

(c) "Consultation fee" means a fee paid by a consumer to a debt management services provider in connection with the processing of any application that the consumer makes for debt management services.

(d) "Consumer" means an individual who:

(1) Resides in the State; and

(2) Is seeking debt management services or has entered into a debt management services agreement.

(e) "Consumer education program" means a program or plan that **[**seeks**]:**

(1) SEEKS to improve the financial literacy of consumers **REGARDING PERSONAL FINANCE, BUDGETING, AND CREDIT AND DEBT MANAGEMENT; AND**

(2) PROVIDES COUNSELING TAILORED TO THE NEEDS AND CIRCUMSTANCES OF THE CONSUMER WITH REGARD TO OPTIONS AND STRATEGIES FOR ADDRESSING THE CONSUMER'S DEBT PROBLEMS, INCLUDING:

(I) CREATING AND MAINTAINING A BUDGET;

(II) ESTABLISHING DEBT MANAGEMENT PAYMENT PLANS WITH CREDITORS;

(III) NEGOTIATING DIRECTLY WITH CREDITORS ON PAYMENT OR INTEREST RATE RELIEF; AND

(IV) FILING FOR BANKRUPTCY.

(f) "Debt management counselor" means a permanent, temporary, or contractual employee of a debt management services provider or its agent who provides counseling to consumers on behalf of the debt management services provider.

(g) "Debt management services" means receiving funds periodically from a consumer under an agreement with the consumer for the purpose of distributing the

funds among the consumer's creditors in full or partial payment of the consumer's debts.

(h) "Debt management services agreement" means a written contract, plan, or agreement between a debt management services provider and a consumer for the performance of debt management services.

(i) "Debt management services provider" means **[**an organization**]** **A PERSON** that provides or offers to provide debt management services to a consumer.

(j) "Fund" means the Debt Management Services Fund established under § 12–905 of this subtitle.

(k) "Licensee" means **[**an organization**]** **A PERSON** licensed under this subtitle to provide debt management services.

(l) "Maintenance fee" means a fee paid by a consumer to a debt management services provider for the maintenance or servicing of the consumer's accounts with the consumer's creditors in accordance with a debt management services agreement.

[(m) "Organization" means a nonprofit organization that is exempt from taxation under § 501(c) of the Internal Revenue Code.**]**

[(n)**]** **(M)** "Relative" means any of the following who are related to an individual by blood, marriage, or adoption:

(1) A spouse;

(2) A child;

(3) A sibling;

(4) A parent;

(5) A grandparent;

(6) A grandchild;

(7) A stepparent;

(8) A stepchild;

(9) A stepsibling;

(10) An aunt; or

(11) An uncle.

[(o)**]** **(N)** "Resident agent" means an individual residing in the State or a Maryland corporation whose name, address, and designation as a resident agent are filed or recorded with the State Department of Assessments and Taxation in accordance with the provisions of the Corporations and Associations Article.

[(p)**]** **(O)** "Trust account" means an account that is:

(1) Established in a financial institution that is federally insured;

(2) Separate from the debt management services provider's operating account;

(3) Designated as a "trust account" or by another appropriate designation indicating that the funds in the account are not the funds of the licensee or its officers, employees, or agents;

(4) Unavailable to creditors of the debt management services provider; and

(5) Used to hold funds paid by consumers to a debt management services provider for disbursement to creditors of the consumers.

12–905.

(a) There is a Debt Management Services Fund that consists of:

(1) All revenue received for the licensing of **[**organizations**]** **PERSONS** that provide debt management services under this subtitle;

(2) Income from investments that the Treasurer makes for the Fund; and

(3) Except as provided in subsection (b) of this section, any other fee or revenue received by the Commissioner under this subtitle.

12–907.

(a) To qualify for a license, an applicant shall satisfy the Commissioner that:

(1) The applicant **[**is an organization;

(2) Each**]** **AND EACH** of the owners, officers, directors, and principals of the applicant has sufficient experience, character, financial responsibility, and general fitness to:

(i) Engage in the business of providing debt management services;

(ii) Warrant the belief that the debt management services business will be conducted lawfully, honestly, fairly, and efficiently; and

(iii) Command the confidence of the public;

[(3)**]** **(2)** Each agent acting on behalf of the applicant to manage a trust account required under § 12–917 of this subtitle has sufficient experience, character, financial responsibility, and general fitness to:

(i) Engage in the business of managing a trust account;

(ii) Warrant the belief that the management of the trust account will be conducted lawfully, honestly, fairly, and efficiently; and

(iii) Command the confidence of the public; **[**and**]**

[(4)**]** **(3)** The applicant has a net worth computed according to generally accepted accounting principles of at least $50,000, plus an additional net worth of $10,000 for each location at which debt management services will be provided to consumers, up to a maximum of $500,000 as provided in subsection (b) of this section**; AND**

(4) ~~**WITHIN 3 MONTHS AFTER BEING HIRED**~~ **BEFORE PROVIDING COUNSELING TO A CONSUMER, EACH DEBT MANAGEMENT COUNSELOR EMPLOYED BY THE APPLICANT OR THE APPLICANT'S AGENT WILL RECEIVE COMPREHENSIVE TRAINING IN COUNSELING SKILLS, PERSONAL FINANCE, BUDGETING, AND CREDIT AND DEBT MANAGEMENT**.

12–908.

(a) To apply for a license, an applicant shall submit to the Commissioner an application on the form that the Commissioner provides.

(b) The application shall include:

(11) **[**Evidence**]** **IF APPLICABLE, EVIDENCE** of nonprofit status under § 501(c) of the Internal Revenue Code;

12–916.

(a) (1) A licensee may not perform debt management services for a consumer unless:

(i) **1.** The licensee provides the consumer with a consumer education program;

2. THE LICENSEE PROVIDES THE CONSUMER WITH A WRITTEN SUMMARY OF THE COUNSELING OPTIONS AND STRATEGIES FOR ADDRESSING THE CONSUMER'S DEBT PROBLEMS DEVELOPED UNDER § 12–901(E)(2) OF THIS SUBTITLE; AND

3. THE CONSUMER SIGNS AN ACKNOWLEDGMENT STATING THAT THE CONSUMER HAS REVIEWED THE WRITTEN SUMMARY AND HAS DECIDED TO PROCEED WITH ENTERING INTO A DEBT MANAGEMENT SERVICES AGREEMENT WITH THE LICENSEE;

(ii) The licensee, through a debt management counselor certified by an independent organization, has:

1. Prepared a financial analysis of and an initial budget plan for the consumer's debt obligations;

2. Provided a copy of the financial analysis and the initial budget plan to the consumer; and

3. Provided to the consumer, for all creditors identified by the consumer, a list of:

A. The creditors that the licensee reasonably expects to participate in the management of the consumer's debt under the debt management services agreement; and

B. The creditors that the licensee reasonably expects not to participate in the management of the consumer's debt under the debt management services agreement;

(iii) The licensee and the consumer have executed a debt management services agreement that describes the debt management services to be provided by the licensee to the consumer;

(iv) The licensee has a reasonable expectation based on the licensee's past experience that each creditor of the consumer that is listed as a participating creditor in the consumer's debt management services agreement will

accept payment of the consumer's debts owed to the creditor as provided in the consumer's debt management services agreement; **[**and**]**

(V) THE LICENSEE HAS MADE A DETERMINATION, BASED ON THE LICENSEE'S ANALYSIS OF THE INFORMATION PROVIDED BY THE CONSUMER AND OTHERWISE AVAILABLE TO IT, THAT:

1. THE DEBT MANAGEMENT SERVICES ARE SUITABLE FOR THE CONSUMER; AND

2. THE CONSUMER WILL BE ABLE TO MEET THE PAYMENT OBLIGATIONS UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT; AND

[(v)**]** **(VI)** A copy of the completed debt management services agreement has been provided to the consumer.

(3) IN ADDITION TO THE REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION, BEFORE PROVIDING DEBT MANAGEMENT SERVICES FOR A CONSUMER, A DEBT MANAGEMENT SERVICES PROVIDER SHALL PROVIDE A WRITTEN NOTICE TO THE CONSUMER STATING:

(I) THAT IF THE CONSUMER ELECTS TO FILE FOR BANKRUPTCY, THE CONSUMER WILL BE REQUIRED UNDER FEDERAL BANKRUPTCY LAW TO RECEIVE PRE–BANKRUPTCY CREDIT COUNSELING SERVICES FROM A NONPROFIT CREDIT COUNSELING AGENCY THAT IS APPROVED BY THE UNITED STATES TRUSTEE PROGRAM;

(II) WHETHER THE DEBT MANAGEMENT SERVICES PROVIDER IS APPROVED BY THE UNITED STATES TRUSTEE PROGRAM TO PROVIDE PRE–BANKRUPTCY CREDIT COUNSELING SERVICES; AND

(III) THAT THE CONSUMER SHOULD CONTACT A FEDERAL BANKRUPTCY COURT TO OBTAIN A LIST OF CREDIT COUNSELING AGENCIES THAT ARE APPROVED BY THE UNITED STATES TRUSTEE PROGRAM.

12–921.

(a) (1) On or before April 30 of each year, a licensee shall report to the Commissioner on the debt management services business of the licensee conducted during the preceding calendar year.

(2) The annual report shall be on the form that the Commissioner requires.

(3) The report shall include:

(i) An audited financial statement that is prepared in accordance with generally accepted accounting principles and includes a balance sheet, income statement, statement of changes in fund balances, and statement of cash flow;

(ii) An alphabetical list of all debt management counselors who provided services for the licensee during the previous calendar year;

(iii) The number of consumers for whom the licensee provided debt management services under a debt management services agreement during the preceding calendar year;

(iv) The number of consumers who signed new debt management services agreements with the licensee during the preceding calendar year;

(v) The highest number of consumers for whom the licensee provided debt management services under a debt management services agreement during any month in the preceding calendar year; **[**and**]**

(vi) The amounts paid by consumers to the licensee, both in total and for each month, during the preceding calendar year, broken down by:

1. Payments to be disbursed to creditors; and

2. Payments for the licensee's services**;**

(VII) THE PERCENTAGE OF ALL CONSUMERS WHO RECEIVED A CONSUMER EDUCATION PROGRAM AND SUBSEQUENTLY EXECUTED A DEBT MANAGEMENT SERVICES AGREEMENT DURING THE PRECEDING CALENDAR YEAR;

(VIII) THE NUMBER OF CONSUMERS WHO SUCCESSFULLY COMPLETED A DEBT MANAGEMENT PLAN DURING THE PRECEDING CALENDAR YEAR;

(IX) THE NUMBER OF CONSUMERS WHO CEASED PARTICIPATING IN A DEBT MANAGEMENT PLAN WITHOUT SUCCESSFULLY COMPLETING THE PLAN DURING THE PRECEDING CALENDAR YEAR; AND

~~(VIII)~~ (X) A REPRESENTATIVE SAMPLE OF THE WRITTEN SUMMARY REQUIRED UNDER § 12–916(A)(1)(I)2 OF THIS SUBTITLE.

12–922.

(a) To enable the Commissioner to determine compliance with this subtitle, a licensee shall make and preserve the following books, accounts, and records for a period of at least 7 years:

(1) A general ledger containing all assets, liability, capital, income, and expense accounts;

(2) Each debt management services agreement between the licensee and a consumer;

(3) Books and records for each consumer with whom the licensee has a debt management services agreement; **[**and**]**

(4) Bank statements and bank reconciliation records**;**

(5) A COPY OF EACH WRITTEN SUMMARY REQUIRED UNDER § 12–916(A)(1)(I)2 OF THIS SUBTITLE; AND

(6) A COPY OF EACH SIGNED ACKNOWLEDGMENT REQUIRED UNDER § 12–916(A)(1)(I)3 OF THIS SUBTITLE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 607

(Senate Bill 649)

AN ACT concerning

Athletics – Mixed Martial Arts – Regulation by State Athletic Commission – Boxing and Wrestling Tax

FOR the purpose of prohibiting a person from participating as a mixed martial ~~artist~~ arts contestant in a certain contest in the State unless the person has a license issued by the State Athletic Commission; exempting certain amateur mixed martial arts from the requirements of this Act under certain circumstances; requiring a mixed martial ~~artist~~ arts contestant licensee to be examined by a certain physician under certain circumstances; requiring an applicant for a mixed martial ~~artist~~ arts contestant license or licensee to provide certain documentary evidence about the results of certain medical tests under certain circumstances; establishing certain application fees for certain licenses; establishing the scope of a mixed martial ~~artist~~ arts contestant license; altering the scope of certain licenses; *requiring the Commission to adopt certain regulations;* authorizing the Commission to deny, reprimand, suspend, or revoke a mixed martial ~~artist~~ arts contestant license under certain circumstances; requiring the Commission to suspend or revoke a mixed martial ~~artist~~ arts contestant license under certain circumstances; requiring the Commission to require an individual to be examined by a certain physician before the individual may participate as a mixed martial ~~artist~~ arts contestant in a contest under certain circumstances; authorizing the Commission to prohibit the individual from participating in a contest as a mixed martial ~~artist~~ arts contestant under certain circumstances; authorizing a mixed martial ~~artist~~ arts contestant to enter the ring only under certain circumstances; requiring a mixed martial ~~artist~~ arts contestant to submit to a certain urine test ~~and to wear certain gloves under certain circumstances~~; repealing certain requirements that a boxer or kick boxer wear certain gloves under certain circumstances; extending the application of certain prohibited acts and certain penalties to mixed martial ~~artists~~ arts contestants; altering certain prohibited acts; extending the application of the boxing and wrestling tax to gross receipts derived from mixed martial arts contests; altering the penalty for failure to pay a certain tax; providing for the applicability of certain provisions of this Act; defining a certain term; altering certain definitions; making stylistic changes; and generally relating to ~~the licensing of mixed martial artists and the regulation of mixed martial arts contests~~ *certain licensing and regulation* under the State Athletic Commission.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 4–101; and 4–301, 4–302, 4–303(a), 4–304(a), 4–304.1(a) and (b), 4–305(a), 4–308, 4–310, 4–314(a) and (c), 4–315, 4–316, 4–320, and 4–321 to be under the amended subtitle "Subtitle 3. Boxing, Kick Boxing, Wrestling, and Mixed Martial Arts"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General
Section 6–101
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 6–102
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

4–101.

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

(b) "Boxing" includes sparring.

(c) "Commission" means the State Athletic Commission.

(d) **(1)** "Contest" means a boxing, kick boxing, **[**or**]** wrestling~~**, OR MIXED MARTIAL ARTS**~~:

~~(1)~~ **(I)** competition;

~~(2)~~ **(II)** exhibition;

~~(3)~~ **(III)** match;

~~(4)~~ **(IV)** performance; or

~~(5)~~ **(V)** show.

(2) "CONTEST" INCLUDES A MIXED MARTIAL ARTS:

(I) COMPETITION;

(II) MATCH;

(III) PERFORMANCE; OR

(IV) SHOW.

(3) "CONTEST" DOES NOT INCLUDE A MIXED MARTIAL ARTS EXHIBITION.

~~**(E) "MIXED MARTIAL ARTS" MEANS A COMPETITION INVOLVING THE USE OF A COMBINATION OF TECHNIQUES FROM DIFFERENT DISCIPLINES OF THE MARTIAL ARTS, INCLUDING GRAPPLING, KICKING, AND STRIKING.**~~

(E) "MIXED MARTIAL ARTS" MEANS A COMPETITION IN WHICH CONTESTANTS USE INTERDISCIPLINARY FORMS OF FIGHTING, INCLUDING VARIOUS FORMS OF MARTIAL ARTS, INVOLVING:

(1) STRIKING WITH THE HANDS, FEET, KNEES, OR ELBOWS; AND

(2) GRAPPLING BY TAKE–DOWNS, THROWS, SUBMISSIONS, OR CHOKE HOLDS.

(F) "MIXED MARTIAL ARTS EXHIBITION" MEANS MIXED MARTIAL ARTS WHERE:

(1) CONTACT TO THE BODY IS PERMITTED IN ONLY A RESTRAINED MANNER;

(2) CONTACT TO THE HEAD IS NOT PERMITTED; AND

(3) NO CONTACT IS PERMITTED THAT MAY RESULT, OR IS INTENDED TO RESULT, IN PHYSICAL HARM TO AN OPPONENT.

Subtitle 3. Boxing, Kick Boxing, **[**and**]** Wrestling**, AND MIXED MARTIAL ARTS**.

4–301.

(a) In this subtitle, "license" means a license issued by the Commission.

(b) In this subtitle, "license" includes:

(1) a license to participate as a boxer in a contest;

(2) a license to participate as a kick boxer in a contest;

(3) a license to participate as a wrestler in a contest;

(4) A LICENSE TO PARTICIPATE AS A MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT IN A CONTEST;

[(4)**] (5)** a license to act as a manager for a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT**;

[(5)**] (6)** a license to act as a referee in a contest;

[(6)**] (7)** a license to act as a judge in a boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contest;

[(7)**] (8)** a license to act as a second in a contest;

[(8)**] (9)** a license to act as a matchmaker of a boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contest; and

[(9)**] (10)** a license to act as a promoter of a contest.

4–302.

(a) Except as provided in subsection (b) of this section, this subtitle does not apply to:

(1) intercollegiate, interscholastic, or intramural boxing, kick boxing, ~~[~~or~~]~~ wrestling~~, OR MIXED MARTIAL ARTS~~;

(2) amateur boxing, kick boxing, or wrestling conducted under the supervision of a nationally recognized amateur organization; **[**or**]**

(3) AMATEUR MIXED MARTIAL ARTS CONDUCTED UNDER THE SUPERVISION OF ~~A NATIONALLY RECOGNIZED~~ AN AMATEUR KICK BOXING ORGANIZATION OR MIXED MARTIAL ARTS ORGANIZATION ~~OR BOTH~~ THAT:

(I) HAS BEEN REVIEWED BY THE COMMISSION ON A BASIS THAT IS NEITHER ARBITRARY NOR CAPRICIOUS;

(II) HAS BEEN APPROVED BY THE COMMISSION;

(III) ADMINISTERS AND ENFORCES AMATEUR MIXED MARTIAL ARTS REGULATIONS ADOPTED BY THE COMMISSION; AND

(IV) DOES NOT HAVE A DIRECT OR INDIRECT FINANCIAL INTEREST IN:

1. **A MIXED MARTIAL ARTS CONTESTANT; OR**

2. **THE PROMOTION OF A MIXED MARTIAL ARTS CONTEST**~~**; OR**~~ **;**

[(3)**] (4)** martial arts where:

(i) contact to the body is permitted in only a restrained manner;

(ii) contact to the head is not permitted; and

(iii) no contact is permitted that may result, or is intended to result, in physical harm to an opponent**; OR**

(5) **A MIXED MARTIAL ARTS EXHIBITION**.

(b) Each boxer shall wear protective headgear in each amateur boxing match or exhibition.

4–303.

(a) A person may not participate as a boxer, kick boxer, **[**or**]** wrestler**, OR MIXED MARTIAL** ~~**ARTIST**~~ **ARTS CONTESTANT** in a contest in the State unless the person has an appropriate license.

4–304.

(a) A licensee shall be examined by a licensed physician who is chosen by the Commission and who specializes in neurology or neurosurgery prior to the licensee's first appearance as a contestant in a kick boxing **[**or**],** boxing**, OR MIXED MARTIAL ARTS** contest following the issuance or renewal of a license.

4–304.1.

(a) Each applicant for a license to participate as a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL** ~~**ARTIST**~~ **ARTS CONTESTANT** in a contest shall present documentary evidence, satisfactory to the Commission, that:

(1) within the prior 30–day period, the applicant has been tested for the presence of:

(i) antibodies to the human immunodeficiency virus (HIV);

(ii) the antigen of virus hepatitis B; and

(iii) antibodies to virus hepatitis C; and

(2) the results of all tests are negative.

(b) Whenever directed by the Commission, an individual who is licensed to participate as a boxer **[**or**]**, kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** in a contest shall present documentary evidence, satisfactory to the Commission, that:

(1) within 30 days prior to participating in a contest, the individual has been tested for the presence of:

(i) antibodies to the human immunodeficiency virus (HIV);

(ii) the antigen of virus hepatitis B; and

(iii) antibodies to virus hepatitis C; and

(2) the results of all tests are negative.

4–305.

(a) An applicant for a license shall:

(1) submit to the Commission an application on the form that the Commission provides; and

(2) pay to the Commission an application fee of:

(i) $10 for a license to participate as a boxer, kick boxer, **[**or**]** wrestler**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** in a contest or to act as a second in a contest;

(ii) $15 for a license to act as a referee or judge in a contest;

(iii) $25 for a license to act as a manager of a boxer **[**or**]**, kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT**;

(iv) $25 for a license to act as a matchmaker of a contest; or

(v) $150 for a license to act as a promoter of a contest.

4–308.

(a) A boxer license authorizes the licensee to participate as a boxer in a contest.

(b) A kick boxer license authorizes the licensee to participate as a kick boxer in a contest.

(c) A wrestler license authorizes the licensee to participate as a wrestler in a contest.

(D) A MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT LICENSE AUTHORIZES THE LICENSEE TO PARTICIPATE AS A MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT IN A CONTEST.

[(d)**] (E)** A manager license authorizes the licensee to act as a manager of a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT**.

[(e)**] (F)** A referee license authorizes the licensee to act as a referee in a contest.

[(f)**] (G)** A judge license authorizes the licensee to act as a judge in a boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contest.

[(g)**] (H)** A second license authorizes the licensee to act as a second in a contest.

[(h)**] (I)** A matchmaker license authorizes the licensee to act as a matchmaker of a boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contest.

[(i)**] (J)** A promoter license authorizes the licensee to act as a promoter of a contest.

4–310.

(a) (1) Subject to the hearing provisions of § 4–311 of this subtitle, the Commission may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person;

(ii) fraudulently or deceptively uses a license;

(iii) violates this title; or

(iv) violates a regulation adopted under this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Commission may impose a penalty of up to $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Commission shall consider:

1. the seriousness of the violation;

2. the good faith of the violator;

3. any previous violations;

4. the assets of the violator; and

5. the harmful effect of the violation on the general public and the sporting industry.

(b) In addition to the grounds in subsection (a) of this section, the Commission may deny a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** license to an applicant or suspend or revoke a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** license if the Commission finds that the applicant or licensee is not fit, based on the neurological examination required under §§ 4–304 and 4–314 of this subtitle and the recommendation of the physician who made the examination.

(c) Subject to the hearing provisions of § 4–311 of this subtitle, the Commission shall suspend or revoke a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** license and the boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** shall forfeit the **[**boxer's**]** purse or other compensation from the contest if the boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT**:

(1) refuses to submit to the urine test required under § 4–315(b) of this subtitle; or

(2) submits a urine sample that tests positive for the presence of a controlled dangerous substance defined in § 5–101 of the Criminal Law Article or other substance that the Commission prohibits by regulation.

(d) (1) Subject to the hearing provisions of § 4–311 of this subtitle, the Commission shall deny a promoter license to an applicant or revoke a promoter license if the applicant or licensee:

(i) fails to pay the boxing and wrestling tax required under Title 6 or Title 13 of the Tax – General Article; or

(ii) holds or participates in a fake boxing **[**or**],** wrestling**, OR MIXED MARTIAL ARTS** contest.

(2) If a person fails to pay the boxing and wrestling tax, the Commission shall:

(i) impose a penalty ~~of~~ ***NOT EXCEEDING*** ~~$500~~ **$5,000**; and

(ii) act to enforce the bond of the promoter.

4–314.

(a) The Commission shall require an individual to be examined by a licensed physician who is chosen by the Commission and who specializes in neurology or neurosurgery before the individual may participate as a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL** ~~**ARTIST**~~ **ARTS CONTESTANT** in a contest in the State if:

(1) the individual has participated as a contestant in more than 12 boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contests in or out of the State;

(2) a ringside physician recommends the examination; or

(3) in 2 successive boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contests the individual:

(i) receives a technical knockout as a result of a neurological injury; or

(ii) is knocked out.

(c) On the basis of the neurological examination and the recommendation of the physician who conducts the examination, the Commission may find that the individual is not fit and may prohibit the individual from participating in a boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contest in the State.

4–315.

(a) A boxer **[**or**],** kick boxer**, OR MIXED MARTIAL** ~~**ARTIST**~~ **ARTS CONTESTANT** shall be allowed to enter the ring only if:

(1) a physician approved by the Commission declares the boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** to be physically fit; and

(2) the boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** has complied with § 4–304.1 of this subtitle.

(b) Each boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** in a contest shall submit to a chemical test of the urine of the boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** to detect the presence of a controlled dangerous substance defined in § 5–101 of the Criminal Law Article or other substance that the Commission prohibits by regulation.

(c) ~~Each boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ARTIST** in a contest shall wear gloves that weigh at least 5 ounces.~~

~~(d)~~ The Commission shall set the length in rounds of each boxing **[**and**],** kick boxing**, AND MIXED MARTIAL ARTS** contest.

(D) (1) THE COMMISSION SHALL ADOPT REGULATIONS TO ENSURE THE SAFETY OF INDIVIDUALS WHO PARTICIPATE IN AMATEUR OR PROFESSIONAL MIXED MARTIAL ARTS CONTESTS.

(2) IN DEVELOPING THE REGULATIONS, THE COMMISSION SHALL CONSIDER:

(I) APPROPRIATE LIMITS ON ACCEPTABLE MANEUVERS;

(II) TIME LIMITS FOR CONTEST ROUNDS; AND

(III) RULES FOR TERMINATION OF A CONTEST.

4–316.

A boxer, kick boxer, **[**or**]** wrestler**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** who participates in a fake contest:

(1) for the first offense, shall be prohibited for a period of 6 months beginning immediately after the offense from participating in a contest that is held by a person licensed to act as a promoter of a contest; and

(2) for the second offense, shall be disqualified from attendance at or participation in a contest that is held by a person licensed to act as a promoter of a contest.

4–320.

A promoter may not allow a person who does not have an appropriate license to participate as a boxer, kick boxer, **[**or**]** wrestler**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** in a contest or to act as a manager, referee, judge, second, or matchmaker in a contest.

4–321.

A manager, second, matchmaker, promoter, or principal may not accept money or a gift from a boxer, exhibitor of boxing, kick boxer, **[**or**]** wrestler**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** in return for a special privilege or for discriminating in making a match.

Article – Tax – General

6–101.

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

(b) "Boxing or wrestling contest" means a boxing, kick boxing, sparring, **[**or**]** wrestling**, OR MIXED MARTIAL ARTS** contest, event, exhibition, or match.

(c) "Telecast" means:

(1) a closed circuit telecast;

(2) a subscription television broadcast; or

(3) a pay–per–view cable or satellite television broadcast.

6–102.

Except as provided in § 6–103 of this subtitle, a tax is imposed on gross receipts derived from:

(1) a charge for admission to a boxing or wrestling contest in the State; and

(2) a charge, by ticket or per event or occasion basis, to view a telecast of a boxing or wrestling contest in the State regardless of the origin of the telecast.

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

Approved by the Governor, May 22, 2008.

CHAPTER 608

(House Bill 795)

AN ACT concerning

Athletics – Mixed Martial Arts – Regulation by State Athletic Commission – Boxing and Wrestling Tax

FOR the purpose of prohibiting a person from participating as a mixed martial ~~artist~~ arts contestant in a certain contest in the State unless the person has a license issued by the State Athletic Commission; exempting certain amateur mixed martial arts from the requirements of this Act under certain circumstances; requiring a mixed martial ~~artist~~ arts contestant licensee to be examined by a certain physician under certain circumstances; requiring an applicant for a mixed martial ~~artist~~ arts contestant license or licensee to provide certain documentary evidence about the results of certain medical tests under certain circumstances; establishing certain application fees for certain licenses; establishing the scope of a mixed martial ~~artist~~ arts contestant license; altering the scope of certain licenses; requiring the Commission to adopt certain regulations; authorizing the Commission to deny, reprimand, suspend, or revoke a mixed martial ~~artist~~ arts contestant license under certain circumstances; requiring the Commission to suspend or revoke a mixed martial ~~artist~~ arts contestant license under certain circumstances; requiring the Commission to require an individual to be examined by a certain physician before the individual may participate as a mixed martial ~~artist~~ arts contestant in a contest under certain circumstances; authorizing the Commission to prohibit the individual from participating in a contest as a mixed martial ~~artist~~ arts contestant under certain circumstances; authorizing a mixed martial ~~artist~~ arts contestant to enter the ring only under certain circumstances; requiring a mixed martial ~~artist~~ arts contestant to submit to a certain urine test ~~and to wear certain gloves under certain circumstances~~; repealing certain requirements that a boxer or kick boxer wear certain gloves under certain circumstances; extending the application of certain prohibited acts and certain penalties to mixed martial ~~artists~~ arts contestants; altering certain prohibited acts; extending the application of the boxing and wrestling tax to gross receipts derived from mixed martial arts contests; altering the penalty for failure to pay a certain tax; providing for the applicability of certain provisions of this Act; defining a certain term; altering certain definitions; making stylistic changes;

and generally relating to ~~the~~ certain licensing ~~of mixed martial artists and the~~ and regulation ~~of mixed martial arts contests~~ under the State Athletic Commission.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 4–101; and 4–301, 4–302, 4–303(a), 4–304(a), 4–304.1(a) and (b), 4–305(a), 4–308, 4–310, 4–314(a) and (c), 4–315, 4–316, 4–320, and 4–321 to be under the amended subtitle "Subtitle 3. Boxing, Kick Boxing, Wrestling, and Mixed Martial Arts"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 6–101
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 6–102
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

4–101.

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

(b) "Boxing" includes sparring.

(c) "Commission" means the State Athletic Commission.

(d) **(1)** "Contest" means a boxing, kick boxing, ~~[~~or~~]~~ wrestling~~, OR MIXED MARTIAL ARTS~~:

~~(1)~~ **(I)** competition;

~~(2)~~ **(II)** exhibition;

~~(3)~~ **(III)** match;

~~(4)~~ **(IV)** performance; or

~~(5)~~ **(V)** show.

(2) "CONTEST" INCLUDES A MIXED MARTIAL ARTS:

(I) COMPETITION;

(II) MATCH;

(III) PERFORMANCE; OR

(IV) SHOW.

(3) "CONTEST" DOES NOT INCLUDE A MIXED MARTIAL ARTS EXHIBITION.

~~**(E) "MIXED MARTIAL ARTS" MEANS A COMPETITION INVOLVING THE USE OF A COMBINATION OF TECHNIQUES FROM DIFFERENT DISCIPLINES OF THE MARTIAL ARTS, INCLUDING GRAPPLING, KICKING, AND STRIKING.**~~

(E) "MIXED MARTIAL ARTS" MEANS A COMPETITION IN WHICH CONTESTANTS USE INTERDISCIPLINARY FORMS OF FIGHTING, INCLUDING VARIOUS FORMS OF MARTIAL ARTS, INVOLVING:

(1) STRIKING WITH THE HANDS, FEET, KNEES, OR ELBOWS; AND

(2) GRAPPLING BY TAKE–DOWNS, THROWS, SUBMISSIONS, OR CHOKE HOLDS.

(F) "MIXED MARTIAL ARTS EXHIBITION" MEANS MIXED MARTIAL ARTS WHERE:

(1) CONTACT TO THE BODY IS PERMITTED IN ONLY A RESTRAINED MANNER;

(2) CONTACT TO THE HEAD IS NOT PERMITTED; AND

(3) NO CONTACT IS PERMITTED THAT MAY RESULT, OR IS INTENDED TO RESULT, IN PHYSICAL HARM TO AN OPPONENT.

Subtitle 3. Boxing, Kick Boxing, **[**and**]** Wrestling**, AND MIXED MARTIAL ARTS**.

4–301.

(a) In this subtitle, "license" means a license issued by the Commission.

(b) In this subtitle, "license" includes:

(1) a license to participate as a boxer in a contest;

(2) a license to participate as a kick boxer in a contest;

(3) a license to participate as a wrestler in a contest;

(4) A LICENSE TO PARTICIPATE AS A MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT IN A CONTEST;

[(4)**] (5)** a license to act as a manager for a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT**;

[(5)**] (6)** a license to act as a referee in a contest;

[(6)**] (7)** a license to act as a judge in a boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contest;

[(7)**] (8)** a license to act as a second in a contest;

[(8)**] (9)** a license to act as a matchmaker of a boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contest; and

[(9)**] (10)** a license to act as a promoter of a contest.

4–302.

(a) Except as provided in subsection (b) of this section, this subtitle does not apply to:

(1) intercollegiate, interscholastic, or intramural boxing, kick boxing, ~~**[**~~or~~**]**~~ wrestling~~**, OR MIXED MARTIAL ARTS**~~;

(2) amateur boxing, kick boxing, or wrestling conducted under the supervision of a nationally recognized amateur organization; **[**or**]**

(3) AMATEUR MIXED MARTIAL ARTS CONDUCTED UNDER THE SUPERVISION OF ~~A NATIONALLY RECOGNIZED~~ AN AMATEUR KICK BOXING ORGANIZATION OR MIXED MARTIAL ARTS ORGANIZATION ~~OR BOTH~~ THAT:

(I) HAS BEEN REVIEWED BY THE COMMISSION ON A BASIS THAT IS NEITHER ARBITRARY NOR CAPRICIOUS;

(II) HAS BEEN APPROVED BY THE COMMISSION;

(III) ADMINISTERS AND ENFORCES AMATEUR MIXED MARTIAL ARTS REGULATIONS ADOPTED BY THE COMMISSION; AND

(IV) DOES NOT HAVE A DIRECT OR INDIRECT FINANCIAL INTEREST IN:

1. A MIXED MARTIAL ARTS CONTESTANT; OR

2. THE PROMOTION OF A MIXED MARTIAL ARTS CONTEST~~; OR~~;

[(3)**] (4)** martial arts where:

(i) contact to the body is permitted in only a restrained manner;

(ii) contact to the head is not permitted; and

(iii) no contact is permitted that may result, or is intended to result, in physical harm to an opponent**; OR**

(5) A MIXED MARTIAL ARTS EXHIBITION.

(b) Each boxer shall wear protective headgear in each amateur boxing match or exhibition.

4–303.

(a) A person may not participate as a boxer, kick boxer, **[**or**]** wrestler**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** in a contest in the State unless the person has an appropriate license.

4–304.

(a) A licensee shall be examined by a licensed physician who is chosen by the Commission and who specializes in neurology or neurosurgery prior to the licensee's

first appearance as a contestant in a kick boxing **[**or**],** boxing**, OR MIXED MARTIAL ARTS** contest following the issuance or renewal of a license.

4–304.1.

(a) Each applicant for a license to participate as a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL** ~~**ARTIST**~~ **ARTS CONTESTANT** in a contest shall present documentary evidence, satisfactory to the Commission, that:

(1) within the prior 30–day period, the applicant has been tested for the presence of:

(i) antibodies to the human immunodeficiency virus (HIV);

(ii) the antigen of virus hepatitis B; and

(iii) antibodies to virus hepatitis C; and

(2) the results of all tests are negative.

(b) Whenever directed by the Commission, an individual who is licensed to participate as a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL** ~~**ARTIST**~~ **ARTS CONTESTANT** in a contest shall present documentary evidence, satisfactory to the Commission, that:

(1) within 30 days prior to participating in a contest, the individual has been tested for the presence of:

(i) antibodies to the human immunodeficiency virus (HIV);

(ii) the antigen of virus hepatitis B; and

(iii) antibodies to virus hepatitis C; and

(2) the results of all tests are negative.

4–305.

(a) An applicant for a license shall:

(1) submit to the Commission an application on the form that the Commission provides; and

(2) pay to the Commission an application fee of:

(i) $10 for a license to participate as a boxer, kick boxer, **[**or**]** wrestler**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** in a contest or to act as a second in a contest;

(ii) $15 for a license to act as a referee or judge in a contest;

(iii) $25 for a license to act as a manager of a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT**;

(iv) $25 for a license to act as a matchmaker of a contest; or

(v) $150 for a license to act as a promoter of a contest.

4–308.

(a) A boxer license authorizes the licensee to participate as a boxer in a contest.

(b) A kick boxer license authorizes the licensee to participate as a kick boxer in a contest.

(c) A wrestler license authorizes the licensee to participate as a wrestler in a contest.

(D) A MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT LICENSE AUTHORIZES THE LICENSEE TO PARTICIPATE AS A MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT IN A CONTEST.

[(d)**] (E)** A manager license authorizes the licensee to act as a manager of a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT**.

[(e)**] (F)** A referee license authorizes the licensee to act as a referee in a contest.

[(f)**] (G)** A judge license authorizes the licensee to act as a judge in a boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contest.

[(g)**] (H)** A second license authorizes the licensee to act as a second in a contest.

[(h)**] (I)** A matchmaker license authorizes the licensee to act as a matchmaker of a boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contest.

[(i)**] (J)** A promoter license authorizes the licensee to act as a promoter of a contest.

4–310.

(a) (1) Subject to the hearing provisions of § 4–311 of this subtitle, the Commission may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person;

(ii) fraudulently or deceptively uses a license;

(iii) violates this title; or

(iv) violates a regulation adopted under this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Commission may impose a penalty of up to $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Commission shall consider:

1. the seriousness of the violation;

2. the good faith of the violator;

3. any previous violations;

4. the assets of the violator; and

5. the harmful effect of the violation on the general public and the sporting industry.

(b) In addition to the grounds in subsection (a) of this section, the Commission may deny a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** license to an applicant or suspend or revoke a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** license if the Commission finds that the applicant or licensee is not fit, based on the neurological examination required under §§ 4–304 and 4–314 of this subtitle and the recommendation of the physician who made the examination.

(c) Subject to the hearing provisions of § 4–311 of this subtitle, the Commission shall suspend or revoke a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL** ~~**ARTIST**~~ **ARTS CONTESTANT** license and the boxer **[**or**],** kick boxer**, OR MIXED MARTIAL** ~~**ARTIST**~~ **ARTS CONTESTANT** shall forfeit the **[**boxer's**]** purse or other compensation from the contest if the boxer **[**or**],** kick boxer**, OR MIXED MARTIAL** ~~**ARTIST**~~ **ARTS CONTESTANT**:

(1) refuses to submit to the urine test required under § 4–315(b) of this subtitle; or

(2) submits a urine sample that tests positive for the presence of a controlled dangerous substance defined in § 5–101 of the Criminal Law Article or other substance that the Commission prohibits by regulation.

(d) (1) Subject to the hearing provisions of § 4–311 of this subtitle, the Commission shall deny a promoter license to an applicant or revoke a promoter license if the applicant or licensee:

(i) fails to pay the boxing and wrestling tax required under Title 6 or Title 13 of the Tax – General Article; or

(ii) holds or participates in a fake boxing **[**or**],** wrestling**, OR MIXED MARTIAL ARTS** contest.

(2) If a person fails to pay the boxing and wrestling tax, the Commission shall:

(i) impose a penalty ~~of $500~~ **NOT EXCEEDING $5,000**; and

(ii) act to enforce the bond of the promoter.

4–314.

(a) The Commission shall require an individual to be examined by a licensed physician who is chosen by the Commission and who specializes in neurology or neurosurgery before the individual may participate as a boxer **[**or**],** kick boxer**, OR MIXED MARTIAL** ~~**ARTIST**~~ **ARTS CONTESTANT** in a contest in the State if:

(1) the individual has participated as a contestant in more than 12 boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contests in or out of the State;

(2) a ringside physician recommends the examination; or

(3) in 2 successive boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contests the individual:

(i) receives a technical knockout as a result of a neurological injury; or

(ii) is knocked out.

(c) On the basis of the neurological examination and the recommendation of the physician who conducts the examination, the Commission may find that the individual is not fit and may prohibit the individual from participating in a boxing **[**or**],** kick boxing**, OR MIXED MARTIAL ARTS** contest in the State.

4–315.

(a) A boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** shall be allowed to enter the ring only if:

(1) a physician approved by the Commission declares the boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** to be physically fit; and

(2) the boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** has complied with § 4–304.1 of this subtitle.

(b) Each boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** in a contest shall submit to a chemical test of the urine of the boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** to detect the presence of a controlled dangerous substance defined in § 5–101 of the Criminal Law Article or other substance that the Commission prohibits by regulation.

(c) ~~Each boxer **[**or**],** kick boxer**, OR MIXED MARTIAL ARTIST** in a contest shall wear gloves that weigh at least 5 ounces.~~

~~(d)~~ The Commission shall set the length in rounds of each boxing **[**and**],** kick boxing**, AND MIXED MARTIAL ARTS** contest.

(D) (1) THE COMMISSION SHALL ADOPT REGULATIONS TO ENSURE THE SAFETY OF INDIVIDUALS WHO PARTICIPATE IN AMATEUR OR PROFESSIONAL MIXED MARTIAL ARTS CONTESTS ~~AND EXHIBITIONS~~.

(2) IN DEVELOPING THE REGULATIONS, THE COMMISSION SHALL CONSIDER:

(I) APPROPRIATE LIMITS ON ACCEPTABLE MANEUVERS;

(II) TIME LIMITS FOR CONTEST ROUNDS; AND

(III) RULES FOR TERMINATION OF A CONTEST.

4–316.

A boxer, kick boxer, **[**or**]** wrestler**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** who participates in a fake contest:

(1) for the first offense, shall be prohibited for a period of 6 months beginning immediately after the offense from participating in a contest that is held by a person licensed to act as a promoter of a contest; and

(2) for the second offense, shall be disqualified from attendance at or participation in a contest that is held by a person licensed to act as a promoter of a contest.

4–320.

A promoter may not allow a person who does not have an appropriate license to participate as a boxer, kick boxer, **[**or**]** wrestler**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** in a contest or to act as a manager, referee, judge, second, or matchmaker in a contest.

4–321.

A manager, second, matchmaker, promoter, or principal may not accept money or a gift from a boxer, exhibitor of boxing, kick boxer, **[**or**]** wrestler**, OR MIXED MARTIAL ~~ARTIST~~ ARTS CONTESTANT** in return for a special privilege or for discriminating in making a match.

Article – Tax – General

6–101.

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

(b) "Boxing or wrestling contest" means a boxing, kick boxing, sparring, **[**or**]** wrestling**, OR MIXED MARTIAL ARTS** contest, event, exhibition, or match.

(c) "Telecast" means:

(1) a closed circuit telecast;

(2) a subscription television broadcast; or

(3) a pay–per–view cable or satellite television broadcast.

6–102.

Except as provided in § 6–103 of this subtitle, a tax is imposed on gross receipts derived from:

(1) a charge for admission to a boxing or wrestling contest in the State; and

(2) a charge, by ticket or per event or occasion basis, to view a telecast of a boxing or wrestling contest in the State regardless of the origin of the telecast.

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

Approved by the Governor, May 22, 2008.

CHAPTER 609

(Senate Bill 659)

AN ACT concerning

Carroll County – Local Ordinance Creating a County Police Department – Submission to Local Referendum

FOR the purpose of requiring the County Commissioners of Carroll County to submit an ordinance to a certain referendum under certain circumstances; requiring the County Commissioners to take certain actions to provide for and hold a certain referendum under certain circumstances; making the provisions of a certain local law effective on a certain date under certain circumstances; prohibiting the implementation of a certain local law under certain circumstances; making this Act an emergency measure; *providing for the termination of this Act*; and generally relating to a local referendum on the creation of a police department for Carroll County.

BY repealing and reenacting, with amendments,
Article 25 – County Commissioners
Section 3(q)

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 25 – County Commissioners

3.

(q) **(1)** To provide for the appointment of county police and to prescribe their duties and fix their compensation, but said commissioners may appoint a special commission or commissioner to be in charge of said county police.

(2) The provisions of this subsection shall not be applicable in Charles and Wicomico counties.

(3) (I) IF THE BOARD OF COUNTY COMMISSIONERS OF CARROLL COUNTY ENACTS, BY ORDINANCE, A LOCAL LAW THAT CREATES A POLICE DEPARTMENT FOR CARROLL COUNTY, THE COUNTY COMMISSIONERS SHALL SUBMIT THE ORDINANCE TO A LOCAL REFERENDUM OF THE LEGALLY QUALIFIED VOTERS OF CARROLL COUNTY TO BE HELD AT THE NEXT ENSUING GENERAL ELECTION IN THE STATE.

(II) 1. THE BOARD OF COUNTY COMMISSIONERS OF CARROLL COUNTY AND THE CARROLL COUNTY BOARD OF ELECTIONS SHALL DO THOSE THINGS NECESSARY AND PROPER TO PROVIDE FOR AND HOLD THE REFERENDUM REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH.

2. IF A MAJORITY OF THE VOTES CAST ON THE QUESTION BY THE LEGALLY QUALIFIED VOTERS OF CARROLL COUNTY ARE "FOR THE REFERRED LAW", THE PROVISIONS OF THE LOCAL LAW CREATING A POLICE DEPARTMENT FOR CARROLL COUNTY SHALL BECOME EFFECTIVE ON THE 30TH DAY FOLLOWING THE OFFICIAL CANVASS OF VOTES FOR THE REFERENDUM.

3. IF A MAJORITY OF THE VOTES CAST ON THE QUESTION BY THE LEGALLY QUALIFIED VOTERS OF CARROLL COUNTY ARE "AGAINST THE REFERRED LAW", THE PROVISIONS OF THE LOCAL LAW CREATING A POLICE DEPARTMENT FOR CARROLL COUNTY ARE OF NO EFFECT AND NULL AND VOID.

(III) IF THE BOARD OF COUNTY COMMISSIONERS OF CARROLL COUNTY ENACTS, BY ORDINANCE, A LOCAL LAW THAT CREATES A POLICE DEPARTMENT FOR CARROLL COUNTY BEFORE THE PROVISIONS OF THIS PARAGRAPH TAKE EFFECT, THE ORDINANCE SHALL HAVE NO EFFECT AND MAY NOT BE IMPLEMENTED.

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 members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. *It shall remain effective through December 31, 2010 and, at the end of December 31, 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 22, 2008.

CHAPTER 610

(Senate Bill 662)

AN ACT concerning

Agricultural Land Transfer Tax – ~~Rates~~ Surcharge and Distribution of Revenue

FOR the purpose of ~~altering certain agricultural land transfer tax rates;~~ imposing a certain surcharge under certain circumstances in addition to the agricultural land transfer tax imposed on certain instruments of writing; altering the distribution of certain revenues attributable to the agricultural land transfer tax; altering the distribution of the State transfer tax revenues under certain circumstances; providing that the Maryland Agricultural and Resource–Based Industry Development Corporation may use a certain percentage of certain funds for certain administrative costs; declaring the intent of the General Assembly that certain counties be encouraged to establish Priority Preservation Areas for agricultural land preservation as authorized under a certain act and that new funds that may be provided to the Maryland Agricultural Land Preservation Foundation for preservation easement acquisition ~~under a Critical Farm Program~~ *shall* be used only in Priority Preservation Areas on or after a certain date; *authorizing the use of certain funds for certain easement purchase payments approved by the Maryland Agricultural Land Preservation Foundation under certain circumstances;* 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 agricultural land transfer tax.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section ~~13–303(a)~~ 13–301(c) and 13–306(a) and (b)
Annotated Code of Maryland
(2007 Replacement Volume)

BY adding to
Article – Tax – Property
Section 13–303(d)
Annotated Code of Maryland
(2007 Replacement Volume)

~~BY repealing and reenacting, without amendments,~~
~~Article – Tax – Property~~
~~Section 13–306(b)~~
~~Annotated Code of Maryland~~
~~(2007 Replacement Volume)~~

BY repealing and reenacting, with amendments,
Article 41 – Governor – Executive and Administrative Departments
Section 13–513(c)
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 10–523
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 – Tax – Property

13–301.

(c) **(1)** "Agricultural land transfer tax" means the tax imposed under this subtitle.

(2) "AGRICULTURAL LAND TRANSFER TAX" INCLUDES THE SURCHARGE IMPOSED UNDER ~~§ 13–301(D)~~ *§ 13–303(D)* OF THIS SUBTITLE.

13–303.

~~(a) The agricultural land transfer tax applies at the following rates:~~

~~(1) for a transfer of 20 acres or more of agricultural land, [5%] **10%**;~~

~~(2) except as provided in item (3) of this subsection, for a transfer of less than 20 acres of agricultural land assessed for agricultural use or as unimproved agricultural land, [4%] **8%**; or~~

~~(3) for a transfer of less than 20 acres of agricultural land assessed as improved agricultural land or agricultural land with site improvements, [3%] **6%**.~~

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN ADDITION TO THE TAX IMPOSED UNDER THIS SECTION, A SURCHARGE IN AN AMOUNT EQUAL TO 25% OF THE TAX DETERMINED UNDER SUBSECTIONS (A) THROUGH (C) OF THIS SECTION IS IMPOSED ON AN INSTRUMENT OF WRITING THAT TRANSFERS TITLE TO AGRICULTURAL LAND.

(2) THE SURCHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN INSTRUMENT OF WRITING THAT TRANSFERS PROPERTY OF 2 ACRES OR LESS TO BE IMPROVED TO A CHILD OR GRANDCHILD OF THE OWNER.

13–306.

(a) (1) Except in Montgomery County and except as provided in subsection (b)(1) of this section for a certified county, each county collector shall remit from a special account to the Comptroller, as the Comptroller specifies:

(i) the revenue from**:**

1. the agricultural transfer tax that is attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland; **AND**

2. THE SURCHARGE IMPOSED UNDER § 13–303(D) OF THIS SUBTITLE; and

(ii) two–thirds of the balance of revenue from the agricultural land transfer tax that remains after the remittance under item (i) of this paragraph.

(2) In Montgomery County, if § 52–21(d) (1979) of the Montgomery County Code is in effect or a transfer tax substantially similar to that provision is in effect, the collector for Montgomery County shall remit to the Comptroller:

(i) the revenue from**:**

1. the agricultural transfer tax that is attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland; **AND**

2. THE SURCHARGE IMPOSED UNDER § 13–303(D) OF THIS SUBTITLE; and

(ii) one–third of the balance of revenue from the agricultural transfer tax that remains after the remittance under item (i) of this paragraph.

(3) The Comptroller shall deposit:

(i) up to $200,000 annually of the revenue remitted under paragraphs (1)(i) and (2)(i) of this subsection or subsection (b) of this section into the Woodland Incentives Fund established in § 5–307 of the Natural Resources Article; and

(ii) **OF** the revenue in excess of $200,000 annually remitted under paragraphs (1)(i) and (2)(i) of this subsection or subsection (b)(1) of this section and the revenue remitted under paragraphs (1)(ii) and (2)(ii) of this subsection or subsection (b)(2) of this section**:**

1. SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, FOR FISCAL YEAR ~~2010~~ *2009* AND EACH FISCAL YEAR THEREAFTER, $2,500,000 into the Maryland Agricultural Land Preservation Fund to be used for the purposes stated in § 2–505 of the Agriculture Article**;**

2. AFTER THE DISTRIBUTION MADE UNDER ITEM 1 OF THIS ITEM, ~~$4,000,000~~ *37.5% OF THE AGRICULTURAL LAND TRANSFER TAX REVENUE REMITTED TO THE COMPTROLLER, UP TO A MAXIMUM OF $4,000,000 ANNUALLY*, INTO A SPECIAL FUND TO BE USED BY THE MARYLAND AGRICULTURAL AND RESOURCE–BASED INDUSTRY DEVELOPMENT CORPORATION FOR ~~AN INSTALLMENT PURCHASE AGREEMENT PROGRAM FOR PRESERVATION EASEMENT ACQUISITION;~~

~~3. AFTER THE DISTRIBUTIONS MADE UNDER ITEMS 1 AND 2 OF THIS ITEM, $4,000,000 INTO A SPECIAL FUND TO BE USED BY THE~~

~~MARYLAND AGRICULTURAL AND RESOURCE–BASED INDUSTRY DEVELOPMENT CORPORATION FOR~~ THE NEXT GENERATION FARMLAND ACQUISITION PROGRAM;

3. AFTER THE DISTRIBUTIONS MADE UNDER ITEMS 1 AND 2 OF THIS ITEM, $4,000,000 INTO A SPECIAL FUND TO BE USED BY THE MARYLAND AGRICULTURAL AND RESOURCE–BASED INDUSTRY DEVELOPMENT CORPORATION FOR A PROGRAM OF FACILITATING PRESERVATION EASEMENT ACQUISITION THROUGH THE USE OF INSTALLMENT PURCHASE AGREEMENTS FOR EASEMENT PURCHASES THAT HAVE BEEN APPROVED BY THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION; *AND*

~~4. AFTER THE DISTRIBUTIONS MADE UNDER ITEMS 1 THROUGH 3 OF THIS ITEM, $4,000,000 INTO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND TO BE USED FOR THE CRITICAL FARMS PROGRAM UNTIL A TOTAL OF $16,000,000 HAS ACCUMULATED IN THE CRITICAL FARMS FUND; AND~~

~~5.~~ *4.* AFTER THE DISTRIBUTIONS MADE UNDER ITEMS 1 THROUGH ~~4~~ *3* OF THIS ITEM, THE REMAINDER INTO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND TO BE USED FOR THE PURPOSES STATED IN § 2–505 OF THE AGRICULTURE ARTICLE.

(4) (I) NOTWITHSTANDING § 13–209 OF THIS TITLE, IF SUFFICIENT REVENUES ARE NOT COLLECTED IN ANY FISCAL YEAR TO PROVIDE A TOTAL OF $4,000,000 INTO THE SPECIAL FUND ESTABLISHED UNDER PARAGRAPH ~~(3)(II)2~~ (3)(II)3 OF THIS SUBSECTION, ANY DEFICIENCY SHALL BE MADE UP BY REVENUES ~~COLLECTED~~ OTHERWISE REQUIRED TO BE DISTRIBUTED TO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND FROM THE TRANSFER TAX IMPOSED UNDER SUBTITLE 2 OF THIS TITLE.

(II) THE DISTRIBUTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE MADE PRIOR TO ANY DISTRIBUTION PROVIDED IN ~~§ 13–209~~ ~~§ 13–209(D)(2)~~ *§ 13–209(C) AND (D)(2)* OF THIS TITLE.

(5) FOR EACH FISCAL YEAR AFTER ~~2010~~ *2009*, THE AMOUNT DISTRIBUTED INTO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND UNDER PARAGRAPH (3)(II)1 OF THIS SUBSECTION SHALL BE INCREASED BY 5% OVER THE AMOUNT DISTRIBUTED FOR THE PRECEDING FISCAL YEAR.

(6) THE REVENUES REQUIRED TO BE DISTRIBUTED TO THE MARYLAND AGRICULTURAL AND RESOURCE–BASED INDUSTRY DEVELOPMENT

CORPORATION UNDER PARAGRAPHS (3) AND (4) OF THIS SUBSECTION SHALL BE DISTRIBUTED ON A QUARTERLY BASIS ON OR ABOUT THE FIRST DAY OF THE MONTH IN JULY, OCTOBER, JANUARY, AND APRIL.

(b) If a county is certified by the Department of Planning and the Maryland Agricultural Land Preservation Foundation under § 5–408 of the State Finance and Procurement Article as having established an effective county agricultural land preservation program, the collector for the county shall remit to the Comptroller:

(1) the revenue from**:**

(I) the agricultural land transfer tax that is attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland; **AND**

(II) THE SURCHARGE IMPOSED UNDER § 13–303(D) OF THIS SUBTITLE; and

(2) 25% of the balance of revenue from the agricultural land transfer tax that remains after the remittance under item (1) of this subsection.

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

Article 41 – Governor – Executive and Administrative Departments

13–513.

(c) (1) The Corporation may receive annual funding through an appropriation in the State budget.

(2) The Corporation may also receive funds for projects included in the budgets of State units.

(3) All unexpended and unencumbered funds appropriated to the Corporation shall remain with the Corporation for future uses.

(4) The Corporation shall conduct its financial affairs in such a manner that, by the year 2020, it shall be self–sufficient and in no further need of general operating support by the State.

(5) (i) In order to assist the Corporation in meeting the requirement specified in paragraph (4) of this subsection, the Governor shall include each year in the budget bill an appropriation to the Corporation for rural business development and assistance as follows:

1. For fiscal year 2008, $3,000,000;

2. For fiscal year 2009, $3,500,000; and

3. For each of fiscal years 2010 through 2020, $4,000,000.

(ii) In addition to any funds provided under subparagraph (i) of this paragraph, the Governor may include each year in the budget bill an appropriation to the Corporation in an amount up to $5,000,000 for rural land acquisition and easement programs, including programs to assist young and beginning farmers.

(6) (I) THE CORPORATION MAY USE UP TO 3% OF THE FUNDS RECEIVED UNDER ~~§ 13–306(A)(3)(II)2~~ § 13–306(A)(3)(II)3 OF THE TAX – ~~GENERAL~~ PROPERTY ARTICLE FOR ADMINISTRATIVE COSTS ASSOCIATED WITH AN INSTALLMENT PURCHASE AGREEMENT PROGRAM.

(II) THE CORPORATION MAY USE UP TO 3% OF THE FUNDS RECEIVED UNDER ~~§ 13–306(A)(3)(II)3~~ § 13–306(A)(3)(II)2 OF THE TAX – ~~GENERAL~~ PROPERTY ARTICLE FOR ADMINISTRATIVE COSTS ASSOCIATED WITH THE NEXT GENERATION FARMLAND ACQUISITION PROGRAM.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Economic Development

10–523.

(a) (1) The Corporation may receive annual funding through an appropriation in the State budget.

(2) The Corporation may also receive money for projects included in the budgets of State units.

(3) (i) To assist the Corporation in complying with subsection (c) of this section, the Governor shall include each year in the State budget bill an appropriation to the Corporation for rural business development and assistance for each of fiscal years 2010 through 2020 in the amount of $4,000,000.

(ii) In addition to any money provided under subparagraph (i) of this paragraph, the Governor may include each year in the State budget bill an appropriation to the Corporation in an amount not exceeding $5,000,000 for rural land

acquisition and easement programs, including programs to assist young and beginning farmers.

(b) All unexpended and unencumbered money appropriated to the Corporation shall remain with the Corporation for future use.

(c) The Corporation shall conduct its financial affairs so that, by the year 2020, it is self–sufficient and in no further need of general operating support by the State.

(D) (1) THE CORPORATION MAY USE UP TO 3% OF THE MONEY RECEIVED UNDER § 13–306(A)(3)(II)2 OF THE TAX – PROPERTY ARTICLE FOR ADMINISTRATIVE COSTS ASSOCIATED WITH THE NEXT GENERATION FARMLAND ACQUISITION PROGRAM.

(2) THE CORPORATION MAY USE UP TO 3% OF THE MONEY RECEIVED UNDER § 13–306(A)(3)(II)3 OF THE TAX – PROPERTY ARTICLE FOR ADMINISTRATIVE COSTS ASSOCIATED WITH AN INSTALLMENT PURCHASE AGREEMENT PROGRAM.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) counties be encouraged to establish Priority Preservation Areas for agricultural land preservation as authorized under Chapter 289 of the Acts of the General Assembly of 2006 (the Agricultural Stewardship Act); and

(2) subject to § 13–306 of the Tax – Property Article and § 5–408 of the State Finance and Procurement Article, new funds that may be provided to the Maryland Agricultural Land Preservation Foundation for preservation easement acquisition ~~under a Critical Farm Program~~ *shall* be used only in Priority Preservation Areas on or after July 1, 2010.

SECTION 5. AND BE IT FURTHER ENACTED, That, if used within a period of 2 years beginning on or after July 1, 2008, funds dedicated to the Installment Purchase Agreements program under § 13–306(a)(3)(ii)3 of the Tax – Property Article as enacted by this Act may be used for lump–sum easement purchase payments approved by the Maryland Agricultural Land Preservation Foundation.

SECTION ~~5.~~ *6.* AND BE IT FURTHER ENACTED, That Section 3 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 3 of this Act takes effect, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2.~~ ~~3.~~ ~~6.~~ *7.* AND BE IT FURTHER ENACTED, That, subject to the provisions of Section ~~5~~ *6* of this Act, this Act shall take effect July 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 611

(Senate Bill 675)

AN ACT concerning

Carroll County – County Commissioners

FOR the purpose of altering the boundaries for the County Commissioner Districts in Carroll County; establishing certain eligibility criteria for individuals serving as County Commissioners for Carroll County; repealing a certain requirement that a certain Commission Redistricting Committee recommend provisions for staggered terms of office for certain County Commissioners; making this Act an emergency measure; and generally relating to the County Commissioners of Carroll County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Carroll County
Section 3–101
Article 7 – Public Local Laws of Maryland
(2004 Edition and November 2007 Supplement, as amended)

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

Article 7 – Carroll County

3–101.

(a) The Board of County Commissioners for Carroll County consists of five Commissioners to be elected by Commissioner District.

(b) Each County Commissioner is entitled to:

(1) A salary of $45,000 a year; and

(2) An allowance for expenses incurred in the performance of the duties of that office, as provided in the county budget.

(C) AN INDIVIDUAL IS ELIGIBLE TO SERVE AS A COUNTY COMMISSIONER IF, ON THE DATE OF THE ELECTION:

(1) THE INDIVIDUAL IS AT LEAST 21 YEARS OF AGE;

(2) THE INDIVIDUAL IS A RESIDENT OF THE STATE OF MARYLAND AND CARROLL COUNTY;

(3) THE INDIVIDUAL HAS RESIDED IN CARROLL COUNTY FOR AT LEAST 1 YEAR PRECEDING THE DATE OF THE ELECTION; AND

(4) (I) IF THE DISTRICT TO WHICH THE INDIVIDUAL HAS BEEN ELECTED TO REPRESENT HAS BEEN ESTABLISHED FOR AT LEAST 6 MONTHS PRIOR TO THE ELECTION, THE INDIVIDUAL HAS RESIDED IN THE DISTRICT FOR AT LEAST 6 MONTHS; OR

(II) IF THE DISTRICT TO WHICH THE INDIVIDUAL HAS BEEN ELECTED TO REPRESENT HAS BEEN ESTABLISHED FOR LESS THAN 6 MONTHS PRIOR TO THE ELECTION, THE INDIVIDUAL HAS RESIDED IN THE DISTRICT FOR AS LONG AS IT HAS BEEN ESTABLISHED.

(D) THE FIVE COMMISSIONER DISTRICTS CONSIST OF THE FOLLOWING ELECTION DISTRICTS AND PRECINCTS AS THEY EXISTED ON DECEMBER 1, 2005:

(1) COMMISSIONER DISTRICT 1 CONSISTS OF CARROLL COUNTY ELECTION DISTRICTS 1, 2, 3, 6, AND 10;

(2) COMMISSIONER DISTRICT 2 CONSISTS OF CARROLL COUNTY ELECTION DISTRICTS 4 AND 8;

(3) COMMISSIONER DISTRICT 3 CONSISTS OF CARROLL COUNTY ELECTION DISTRICT 7, PRECINCTS 1 THROUGH 7, 9, AND 10;

(4) COMMISSIONER DISTRICT 4 CONSISTS OF CARROLL COUNTY ELECTION DISTRICT 7, PRECINCT 8, CARROLL COUNTY ELECTION DISTRICTS 9, 11, 12, AND 13, AND CARROLL COUNTY ELECTION DISTRICT 14, PRECINCTS 2 AND 3; AND

(5) COMMISSIONER DISTRICT 5 CONSISTS OF CARROLL COUNTY ELECTION DISTRICT 5 AND CARROLL COUNTY ELECTION DISTRICT 14, PRECINCT 1.

[(c)**]** **(E)** (1) On or before May 1, 2005, and on or before May 1 following the release of each decennial census of the United States thereafter, the County Commissioners shall appoint a Commission Redistricting Committee.

(2) (i) The Commission Redistricting Committee shall consist of seven members.

(ii) Of the seven members:

1. Three shall be recommended by the County Republican Central Committee;

2. Three shall be recommended by the County Democratic Central Committee; and

3. One shall be recommended by the County Board of Elections.

(iii) The Commission Redistricting Committee shall elect a Chairman from among its members.

(iv) The County Commissioners shall provide support staff to the Committee.

(3) The Commission Redistricting Committee shall recommend**[**:

(i) The**]** **THE** establishment of five Commissioner districts in the County of substantially equal population**[**; and

(ii) Provisions for staggered terms of office for the Board of County Commissioners**]**.

(4) On or before December 1, 2005, and on or before December 1 following the release of each decennial census of the United States thereafter, the Commission Redistricting Committee shall report its recommendations to the Carroll County Legislative Delegation to the General Assembly for consideration at the following legislative session.

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 22, 2008.

CHAPTER 612

(Senate Bill 679)

AN ACT concerning

Injured Workers' Insurance Fund – Regulation by the Maryland Insurance Commissioner

FOR the purpose of removing the Injured Workers' Insurance Fund from exceptions to certain provisions of law; providing that the Fund is subject to examination in accordance with certain provisions of law; ~~providing that the Fund is subject to certain provisions of law regarding rate making and rating;~~ authorizing the Maryland Insurance Commissioner to enforce certain provisions of law to which the Fund is subject; ~~removing a prohibition that an order of the Commissioner may not include a requirement that the Fund increase rates;~~ removing a prohibition that the Commissioner may not take any action to enforce certain provisions of law; ~~removing a requirement that certain information submitted by the Fund to the Governor comply as closely as possible to a certain form; requiring the Board for the Fund to determine a schedule of premium rates in accordance with certain provisions of law; requiring the Board for the Fund to adjust certain classes and rates in accordance with certain provisions of law;~~ requiring the Maryland Insurance Administration to conduct a certain study and identify certain of provisions of law; requiring the Administration to report to certain committees of the General Assembly on or before a certain date; making a stylistic change; and generally relating to regulation of the Injured Workers' Insurance Fund.

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~
~~Section 11–202 and 11–303~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2007 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 10–125(a) through (c)~~, 10–126, and 10–130~~

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 – Insurance~~

~~11–202.~~

~~(a) (1) This subtitle applies to all types of insurers.~~

~~(2) Except as provided in subsection (b) of this section, this subtitle applies to:~~

~~(i) property insurance;~~

~~(ii) casualty insurance;~~

~~(iii) surety insurance;~~

~~(iv) marine insurance; and~~

~~(v) wet marine and transportation insurance.~~

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

~~(1) reinsurance, except as provided in § 11–222 of this subtitle;~~

~~(2) insurance of vessels or craft or their cargoes, marine protection and indemnity insurance, or insurance of other risks commonly insured under policies of marine insurance, as distinguished from inland marine insurance;~~

~~(3) insurance against loss of or damage to aircraft including their accessories and equipment, or insurance against liability, other than workers' compensation insurance or employer's liability insurance, arising out of the ownership, maintenance, or use of aircraft;~~ **~~OR~~**

~~(4) title~~ **[**~~insurance; or~~

~~(5) the Injured Workers' Insurance Fund~~**] INSURANCE.**

~~(c) If a kind of insurance, subdivision or combination of kinds of insurance, or type of coverage is subject to this subtitle and is also subject to regulation by another rate regulatory provision of the statutes of the State, an insurer to which both~~

~~provisions are otherwise applicable shall file with the Commissioner a designation as to which rate regulatory provision is applicable to it with respect to that kind of insurance, subdivision or combination of kinds of insurance, or type of coverage.~~

~~11–303.~~

~~(a) Notwithstanding Subtitle 2 of this title, this subtitle applies to the establishment of rates for all types of insurance except:~~

~~(1) life insurance;~~

~~(2) annuities;~~

~~(3) health insurance;~~

~~(4) marine insurance described in § 11–202(b)(2) of this title;~~

~~(5) aircraft insurance described in § 11–202(b)(3)of this title;~~

~~(6) reinsurance;~~

~~(7) insurance provided under the Maryland Automobile Insurance Fund;~~

~~(8)~~ **[**~~insurance provided under the Injured Workers' Insurance Fund;~~

~~(9)~~**]** ~~title insurance;~~

[~~(10)~~**]** **~~(9)~~** ~~medical malpractice insurance;~~

[~~(11)~~**]** **~~(10)~~** ~~any form or plan of insurance regulated under § 27–217 of this article; and~~

[~~(12)~~**]** **~~(11)~~** ~~surety insurance.~~

~~(b) If and to the extent that the Commissioner finds that the application of any or all of the provisions of this subtitle is unnecessary to achieve the purposes of this subtitle, the Commissioner by rule may exempt a person or class of persons or a line or lines of insurance from any or all of those provisions.~~

Article – Labor and Employment

10–125.

(a) **[**Except as provided in subsection (b) of this section, the**]** **THE** Fund shall be:

(1) examined by the Commissioner in accordance with **[**§§ 2–205 and 2–207 through 2–209**]** **TITLE 2, SUBTITLE 2 (ENFORCEMENT)** of the Insurance Article; and

(2) subject to the following provisions of the Insurance Article:

(i) Title 4, Subtitle 3 (Risk Based Capital Standards for Insurers) as provided in subsection (d) of this section;

(ii) Title 5, Subtitles 1, 2, 4, and 9 (Assets and Liabilities, Reserves, Valuation of Assets and Reinsurance);

(iii) Title 9 (Impaired Entities); ~~**[**and**]**~~

~~**(IV) TITLE 11, SUBTITLES 2 AND 3 (PRIOR APPROVAL RATE MAKING AND COMPETITIVE RATING); AND**~~

~~**[**(iv)**]**~~ ~~**(V)**~~ §§ 3–124 (Bulk Reinsurance – Stock Insurers), 4–115 (Home Office; Location of Accounting Records and Assets), 4–116 (Annual and Interim Statements; Audited Financial Reports), and 4–118 (Qualified Independent Certified Public Accountants).

(b) (1) The Commissioner may **[**not take any action to**]** enforce any provision of the Insurance Article to which the Fund is subject under **[**subsection (a)**]** **SUBSECTIONS (A) AND (C)** of this section **[**except:

(i) the Commissioner may issue an order under Title 9 (Impaired Entities) of the Insurance Article; and

(ii) the Commissioner may take action authorized under §§ 4–305, 4–306, 4–307, and 4–308 of the Insurance Article relating to risk based capital standards for insurers**]**.

(2) Any order issued under this subsection~~**[**~~:

(i) may not include a requirement that the Fund increase rates; and

(ii)~~**]**~~ shall be subject to Title 2, Subtitle 2**[**,**]** of the Insurance Article.

(3) The Commissioner shall report to the Board on the results of any examination conducted under subsection (a)(1) of this section.

(c) (1) The Commissioner may examine or review the Fund for compliance with:

(i) Title 12, Subtitle 1 of the Insurance Article (Policy Forms and Provisions);

(ii) **[**except for § 19–403 (Setting Premium Rates),**]** Title 19, Subtitle 4 of the Insurance Article (Workers' Compensation Insurance); and

(iii) Title 27 of the Insurance Article (Unfair Trade Practices and Other Prohibited Practices).

(2) **[**The Commissioner may not take any action to enforce any provision of the Insurance Article under which the Commissioner has examined or reviewed compliance under this subsection.

(3)**]** The Commissioner shall report to the Board on the results of any examination or review conducted under this subsection.

~~10–126.~~

~~(a) Within 90 days after the close of each fiscal year, the Board shall submit to the Governor an annual report that includes a detailed statement of:~~

~~(1) the condition and expenses of the Fund in detail;~~

~~(2) growth of the Fund;~~

~~(3) changes in earned premiums of the Fund;~~

~~(4) changes in the number of policyholders of the Fund;~~

~~(5) the degree of the Fund's personnel flexibility;~~

~~(6) trends in the overall market share; and~~

~~(7) trends in the premium to expense ratio.~~

~~(b)~~ **[**~~(1)~~**]** ~~On or before October 1 of each year, the Fund shall submit to the Governor:~~

~~**[**(i)**] (1)** a copy of each policy form that the Fund will use during the next calendar year;~~

~~**[**(ii)**] (2)** the schedule of premium rates that the Fund will charge for the next calendar year;~~

~~**[**(iii)**] (3)** information about provision for claim payment, as defined in § 11–330(a) of the Insurance Article, for each class for which the Fund writes coverage; and~~

~~**[**(iv)**] (4)** other information that the Governor requests about premium rates, including classes, financial information, and losses.~~

~~**[**(2) (i) Information required under paragraph (1)(ii) through (iv) of this subsection shall be submitted on the form that the Governor requires.~~

~~(ii) The form shall conform as closely as possible to the form that a rating organization uses to comply with §§ 11–307, 11–329, and 11–330 of the Insurance Article.**]**~~

~~10–130.~~

~~(a) The Board shall adopt, by regulation, a schedule of premium rates, as provided in this section.~~

~~(b) **[**(1)**]** The Board shall determine the schedule **[**by:~~

~~(i) classifying all of the policyholders on the basis of the respective level of hazard of their enterprises; and~~

~~(ii) setting a premium rate for each class on the basis of:~~

~~1. its level of hazard; and~~

~~2. incentives to prevent injuries to employees.~~

~~(2) To determine the schedule, the Board shall use the rating system that, in the opinion of the Board:~~

~~(i) most accurately measures the level of hazard for each policyholder on the basis of the number of injuries that occur in the enterprises of the policyholder;~~

~~(ii) encourages the prevention of injuries; and~~

~~(iii) ensures the solvency of the Fund from year to year.~~

~~(3) The Board may set minimum premium rates.~~**~~] IN ACCORDANCE WITH TITLE 11 OF THE INSURANCE ARTICLE.~~**

~~(c) (1) The Board shall state premium rates as a percentage of the gross annual wages of employees to whom Title 9 of this article applies.~~

~~(2) For employees who work partly in and partly outside the State, the premium shall be based on wages for employment in the State.~~

~~(d) (1) Except as provided in paragraph (2) of this subsection, the schedule of premium rates in effect at the beginning of a calendar year remains in effect for the year.~~

~~(2) The Board shall adjust classes and rates~~ **~~[~~**~~as often as the Board determines to be just and advantageous to meet the criteria under subsection (b)(2) of this section and to reflect changes in levels of hazards~~**~~] IN ACCORDANCE WITH TITLE 11 OF THE INSURANCE ARTICLE.~~**

~~(e) (1) Except as provided in paragraph (2) of this subsection, the Board may not increase the policy rate of an employer on renewal of a policy by more than 20% unless the Board notifies the employer in writing at least 45 days before the effective date of the policy rate increase.~~

~~(2) This subsection does not apply to an increase based on the experience of the employer.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) The Maryland Insurance Administration shall study the impact of subjecting the Injured Workers' Insurance Fund to the provisions of law regarding rate making, rating, and rate review that are enforced by the Administration for other property and casualty insurers.

(2) The study shall include:

(i) an analysis of whether the Fund's current rate making practices produce actuarially sound rates;

(ii) a determination of the cost impact to the Fund for the Fund to be required to file rates with a rating organization; and

(iii) a comparison of the experience rating plan used by the Fund for small employers as compared to the experience rating plan established by a rating organization for small employers.

(b) The Administration shall identify other provisions of law relating to consumer protections and financial soundness that are enforced by the Administration and are applicable to other property and casualty insurers, but are not applicable to the Fund.

(c) In conducting its study and identification of other provisions of law under subsections (a) and (b) of this section, the Administration shall seek input, as appropriate, from the Injured Workers' Insurance Fund, the National Council on Compensation Insurance, Inc., the Maryland Association of Counties, the Maryland Municipal League, representatives of small businesses, and any other person that the Administration considers appropriate.

(d) On or before December 1, 2008, the Administration shall report, in accordance with § 2–1246 of the State Government Article, its findings and recommendations on how rates should be established for the Injured Workers' Insurance Fund to the Senate Finance Committee and the House Economic Matters Committee.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 613

(Senate Bill 682)

AN ACT concerning

Medical Assistance Program – Long–Term Care Eligibility – Consolidation Plan

FOR the purpose of requiring the Department of Health and Mental Hygiene and the Department of Human Resources, in consultation with certain groups, to develop a certain plan; requiring the Department of Health and Mental Hygiene and the Department of Human Resources to submit a certain report to the Governor and the General Assembly on or before a certain date; and generally

relating to the Medical Assistance Program and eligibility for long–term care services.

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

(a) (1) The Department of Health and Mental Hygiene and the Department of Human Resources, in consultation with LifeSpan Network and the Health Facilities Association of Maryland, shall develop a plan to integrate the functions necessary for the determination of Medical Assistance Program eligibility for long–term care services.

(2) The plan conducted under paragraph (1) of this subsection shall:

(i) transfer the workforce employed by the Department of Human Resources, including the local departments of social services, who determine long–term care Medical Assistance Program eligibility to the Department of Health and Mental Hygiene;

(ii) create uniform procedures, guidelines, and forms to be utilized by all employees in the determination of long–term care Medical Assistance Program eligibility; ~~and~~

(iii) streamline regulations, policies, and procedures related to the application for long–term care Medical Assistance Program services, including considering whether the face–to–face interview required under § 10.09.24.04 of the Code of Maryland Regulations should be eliminated for long–term care eligibility determinations; and

(iv) consider creating a financial and technical resource center for assisting caseworkers in determining long–term care eligibility.

(b) On or before ~~November~~ October 1, 2008, the Department of Health and Mental Hygiene and the Department of Human Resources shall submit a report on the implementation of the plan required under subsection (a) of this section to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

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

Approved by the Governor, May 22, 2008.

CHAPTER 614

(House Bill 1452)

AN ACT concerning

Medical Assistance Program – Long–Term Care Eligibility – Consolidation Plan

FOR the purpose of requiring the Department of Health and Mental Hygiene and the Department of Human Resources, in consultation with certain groups, to develop a certain plan; requiring the Department of Health and Mental Hygiene and the Department of Human Resources to submit a certain report to the Governor and the General Assembly on or before a certain date; and generally relating to the Medical Assistance Program and eligibility for long–term care services.

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

(a) (1) The Department of Health and Mental Hygiene and the Department of Human Resources, in consultation with LifeSpan Network and the Health Facilities Association of Maryland, shall develop a plan to integrate the functions necessary for the determination of Medical Assistance Program eligibility for long–term care services.

(2) The plan conducted under paragraph (1) of this subsection shall:

(i) transfer the workforce employed by the Department of Human Resources, including the local departments of social services, who determine long–term care Medical Assistance Program eligibility to the Department of Health and Mental Hygiene;

(ii) create uniform procedures, guidelines, and forms to be utilized by all employees in the determination of long–term care Medical Assistance Program eligibility; ~~and~~

(iii) streamline regulations, policies, and procedures related to the application for long–term care Medical Assistance Program services<u>, including considering whether the face–to–face interview required under § 10.09.24.04 of the Code of Maryland Regulations should be eliminated for long–term care eligibility determinations; and</u>

(iv) consider creating a financial and technical resource center for assisting caseworkers in determining long–term care eligibility.

(b) On or before ~~November~~ October 1, 2008, the Department of Health and Mental Hygiene and the Department of Human Resources shall submit a report on the implementation of the plan required under subsection (a) of this section to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

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

Approved by the Governor, May 22, 2008.

CHAPTER 615

(Senate Bill 695)

AN ACT concerning

Police and Court Records – Nuisance Crimes – Expungement

FOR the purpose of authorizing a person convicted of a certain crime who completed the sentence imposed for the conviction, including probation, to petition for the expungement of certain records maintained by the State pertaining to the conviction; prohibiting the petition from being filed during a certain time; providing that a person is not entitled to an expungement under certain circumstances; clarifying that a person who is not entitled to an expungement for a certain conviction is not entitled to an expungement of any other conviction; and generally relating to the expungement of police records, court records, and other records maintained by the State.

BY renumbering
Article – Criminal Procedure
Section 10–105(c)(6)
to be Section 10–105(c)(7)
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 10–105(a) and (e)(4) and 10–107(b)

Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

BY adding to
Article – Criminal Procedure
Section 10–105(c)(6)
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 10–105(c)(6) of Article – Criminal Procedure of the Annotated Code of Maryland be renumbered to be Section(s) 10–105(c)(7).

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

Article – Criminal Procedure

10–105.

(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, or who has been charged with a civil offense or infraction, except a juvenile offense, as a substitute for a criminal charge may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:

(1) the person is acquitted;

(2) the charge is otherwise dismissed;

(3) a probation before judgment is entered, unless the person is charged with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211 of the Criminal Law Article;

(4) a nolle prosequi or nolle prosequi with the requirement of drug or alcohol treatment is entered;

(5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge "stet" or stet with the requirement of drug or alcohol abuse treatment on the docket;

(6) the case is compromised under § 3–207 of the Criminal Law Article;

(7) the charge was transferred to the juvenile court under § 4–202 of this article; **[**or**]**

(8) the person:

(i) is convicted of only one criminal act, and that act is not a crime of violence; and

(ii) is granted a full and unconditional pardon by the Governor**;**

OR

(9) THE PERSON WAS CONVICTED OF A CRIME UNDER ANY STATE OR LOCAL LAW THAT PROHIBITS:

(I) URINATION OR DEFECATION IN A PUBLIC PLACE;

(II) PANHANDLING OR SOLICITING MONEY;

(III) DRINKING AN ALCOHOLIC BEVERAGE IN A PUBLIC PLACE;

(IV) OBSTRUCTING THE FREE PASSAGE OF ANOTHER IN A PUBLIC PLACE OR A PUBLIC CONVEYANCE;

~~**(V) WANTON TRESPASS ON PRIVATE PROPERTY;**~~

~~**(VI)**~~ **(V) SLEEPING ON OR IN PARK STRUCTURES, SUCH AS BENCHES OR DOORWAYS;**

~~**(VII)**~~ **(VI) LOITERING;**

~~**(VIII)**~~ **(VII) VAGRANCY;** ~~**OR**~~

~~**(IX)**~~ **(VIII) RIDING A TRANSIT VEHICLE WITHOUT PAYING THE APPLICABLE FARE OR EXHIBITING PROOF OF PAYMENT; OR** ~~**ANY OF THE ACTS SPECIFIED IN § 7–705 OF THE TRANSPORTATION ARTICLE.**~~

(IX) EXCEPT FOR CARRYING OR POSSESSING AN EXPLOSIVE, ACID, CONCEALED WEAPON, OR OTHER DANGEROUS ARTICLE AS PROVIDED IN § 7–705(B)(6) OF THE TRANSPORTATION ARTICLE, ANY OF THE ACTS SPECIFIED IN § 7–705 OF THE TRANSPORTATION ARTICLE.

(c) **(6) A PETITION FOR EXPUNGEMENT BASED ON THE CONVICTION OF A CRIME UNDER SUBSECTION (A)(9) OF THIS SECTION MAY NOT BE FILED WITHIN 3 YEARS AFTER THE CONVICTION OR SATISFACTORY COMPLETION OF THE SENTENCE, INCLUDING PROBATION, THAT WAS IMPOSED FOR THE CONVICTION, WHICHEVER IS LATER.**

(e) (4) The person is not entitled to expungement if:

(i) the petition is based on the entry of probation before judgment, a nolle prosequi, **[**or**]** a stet, including a nolle prosequi with the requirement of drug or alcohol treatment or a stet with the requirement of drug or alcohol abuse treatment, **A CONVICTION FOR A CRIME SPECIFIED IN SUBSECTION (A)(9) OF THIS SECTION,** or the grant of a pardon by the Governor; and

(ii) the person:

1. since the full and unconditional pardon **[**or**]**, entry, **OR CONVICTION** has been convicted of a crime other than a minor traffic violation; or

2. is a defendant in a pending criminal proceeding.

10–107.

(b) (1) If a person is not entitled to expungement of one charge **OR CONVICTION** in a unit, the person is not entitled to expungement of any other charge **OR CONVICTION** in the unit.

(2) The disposition of a charge for a minor traffic violation that arises from the same incident, transaction, or set of facts as a charge in the unit does not affect any right to expungement of a charge **OR CONVICTION** in the unit.

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

Approved by the Governor, May 22, 2008.

CHAPTER 616

(House Bill 685)

AN ACT concerning

Police and Court Records – Nuisance Crimes – Expungement

FOR the purpose of authorizing a person convicted of a certain crime who completed the sentence imposed for the conviction, including probation, to petition for the expungement of certain records maintained by the State pertaining to the conviction; prohibiting the petition from being filed during a certain time; providing that a person is not entitled to an expungement under certain circumstances; clarifying that a person who is not entitled to an expungement for a certain conviction is not entitled to an expungement of any other conviction; and generally relating to the expungement of police records, court records, and other records maintained by the State.

BY renumbering
Article – Criminal Procedure
Section 10–105(c)(6)
to be Section 10–105(c)(7)
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 10–105(a) and (e)(4) and 10–107(b)
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

BY adding to
Article – Criminal Procedure
Section 10–105(c)(6)
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 10–105(c)(6) of Article – Criminal Procedure of the Annotated Code of Maryland be renumbered to be Section(s) 10–105(c)(7).

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

Article – Criminal Procedure

10–105.

(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, or who has been charged with a civil offense or infraction, except a juvenile

offense, as a substitute for a criminal charge may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:

(1) the person is acquitted;

(2) the charge is otherwise dismissed;

(3) a probation before judgment is entered, unless the person is charged with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211 of the Criminal Law Article;

(4) a nolle prosequi or nolle prosequi with the requirement of drug or alcohol treatment is entered;

(5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge "stet" or stet with the requirement of drug or alcohol abuse treatment on the docket;

(6) the case is compromised under § 3–207 of the Criminal Law Article;

(7) the charge was transferred to the juvenile court under § 4–202 of this article; **[**or**]**

(8) the person:

(i) is convicted of only one criminal act, and that act is not a crime of violence; and

(ii) is granted a full and unconditional pardon by the Governor**;**

OR

(9) THE PERSON WAS CONVICTED OF A CRIME UNDER ANY STATE OR LOCAL LAW THAT PROHIBITS:

(I) URINATION OR DEFECATION IN A PUBLIC PLACE;

(II) PANHANDLING OR SOLICITING MONEY;

(III) DRINKING AN ALCOHOLIC BEVERAGE IN A PUBLIC PLACE;

(IV) OBSTRUCTING THE FREE PASSAGE OF ANOTHER IN A PUBLIC PLACE OR A PUBLIC CONVEYANCE;

~~(V) WANTON TRESPASS ON PRIVATE PROPERTY;~~

~~(VI)~~ (V) **SLEEPING ON OR IN PARK STRUCTURES, SUCH AS BENCHES OR DOORWAYS;**

~~(VII)~~ (VI) **LOITERING;**

~~(VIII)~~ (VII) **VAGRANCY;** ~~**OR**~~

~~(IX)~~ (VIII) **RIDING A TRANSIT VEHICLE WITHOUT PAYING THE APPLICABLE FARE OR EXHIBITING PROOF OF PAYMENT; OR** ~~**ANY OF THE ACTS SPECIFIED IN § 7–705 OF THE TRANSPORTATION ARTICLE.**~~

(IX) EXCEPT FOR CARRYING OR POSSESSING AN EXPLOSIVE, ACID, CONCEALED WEAPON, OR OTHER DANGEROUS ARTICLE AS PROVIDED IN § 7–705(B)(6) OF THE TRANSPORTATION ARTICLE, ANY OF THE ACTS SPECIFIED IN § 7–705 OF THE TRANSPORTATION ARTICLE.

(c) **(6) A PETITION FOR EXPUNGEMENT BASED ON THE CONVICTION OF A CRIME UNDER SUBSECTION (A)(9) OF THIS SECTION MAY NOT BE FILED WITHIN 3 YEARS AFTER THE CONVICTION OR SATISFACTORY COMPLETION OF THE SENTENCE, INCLUDING PROBATION, THAT WAS IMPOSED FOR THE CONVICTION, WHICHEVER IS LATER.**

(e) (4) The person is not entitled to expungement if:

(i) the petition is based on the entry of probation before judgment, a nolle prosequi, **[**or**]** a stet, including a nolle prosequi with the requirement of drug or alcohol treatment or a stet with the requirement of drug or alcohol abuse treatment, **A CONVICTION FOR A CRIME SPECIFIED IN SUBSECTION (A)(9) OF THIS SECTION,** or the grant of a pardon by the Governor; and

(ii) the person:

1. since the full and unconditional pardon **[**or**]**, entry, **OR CONVICTION** has been convicted of a crime other than a minor traffic violation; or

2. is a defendant in a pending criminal proceeding.

10–107.

(b) (1) If a person is not entitled to expungement of one charge **OR CONVICTION** in a unit, the person is not entitled to expungement of any other charge **OR CONVICTION** in the unit.

(2) The disposition of a charge for a minor traffic violation that arises from the same incident, transaction, or set of facts as a charge in the unit does not affect any right to expungement of a charge **OR CONVICTION** in the unit.

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

Approved by the Governor, May 22, 2008.

CHAPTER 617

(Senate Bill 711)

AN ACT concerning

Truth in Music Advertising Act

FOR the purpose of prohibiting a person from advertising or conducting a live musical performance or production in the State through the use of a false, deceptive, or misleading affiliation, connection, or association between a performing group and a recording group; providing for certain exceptions; authorizing the Attorney General to seek an injunction to prohibit a person from continuing or engaging in a violation under certain circumstances; authorizing a court to enter a judgment to restore to certain persons any money or real or personal property acquired by means of any prohibited practice; providing that a person who violates this Act is subject to a certain civil penalty; providing that each performance or production in violation of this Act is a separate violation; defining certain terms; and generally relating to the Truth in Music Advertising Act.

BY adding to
Article – Commercial Law
Section 11–1501 through 11–1504 to be under the new subtitle "Subtitle 15. Truth in Music Advertising Act"
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

SUBTITLE 15. TRUTH IN MUSIC ADVERTISING ACT.

11–1501.

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

(B) "PERFORMING GROUP" MEANS A VOCAL OR INSTRUMENTAL GROUP SEEKING TO USE THE NAME OF A RECORDING GROUP.

(C) "RECORDING GROUP" MEANS A VOCAL OR INSTRUMENTAL GROUP WITH AT LEAST ONE MEMBER WHO HAS:

(1) PREVIOUSLY RELEASED A COMMERCIAL SOUND RECORDING UNDER THAT GROUP'S NAME; AND

(2) A LEGAL RIGHT TO USE THE GROUP'S NAME DUE TO THE MEMBER'S USE OF OR OPERATION UNDER THE GROUP'S NAME WITHOUT HAVING ABANDONED THE NAME OR AFFILIATION WITH THE GROUP.

(D) "SOUND RECORDING" MEANS A WORK THAT RESULTS FROM THE FIXATION ON A MATERIAL OBJECT OF A SERIES OF MUSICAL, SPOKEN, OR OTHER SOUNDS REGARDLESS OF THE NATURE OF THE MATERIAL OBJECT, SUCH AS A DISK, TAPE, OR OTHER PHONORECORD, IN WHICH THE SOUNDS ARE EMBODIED.

11–1502.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON MAY NOT ADVERTISE OR CONDUCT A LIVE MUSICAL PERFORMANCE OR PRODUCTION IN THE STATE THROUGH THE USE OF A FALSE, DECEPTIVE, OR MISLEADING AFFILIATION, CONNECTION, OR ASSOCIATION BETWEEN A PERFORMING GROUP AND A RECORDING GROUP.

(B) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY IF:

(1) THE PERFORMING GROUP IS THE AUTHORIZED REGISTRANT AND OWNER OF A SERVICE MARK FOR THAT GROUP THAT IS REGISTERED WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE;

(2) AT LEAST ONE MEMBER OF THE PERFORMING GROUP WAS A MEMBER OF THE RECORDING GROUP AND THE MEMBER HAS A LEGAL RIGHT TO THE RECORDING GROUP NAME DUE TO THE MEMBER'S USE OF OR OPERATION UNDER THE GROUP NAME WITHOUT HAVING ABANDONED THE RECORDING GROUP NAME OR AFFILIATION WITH THE RECORDING GROUP;

(3) THE LIVE MUSICAL PERFORMANCE OR PRODUCTION IS IDENTIFIED IN ALL ADVERTISING AND PROMOTION AS A SALUTE ~~OR~~, TRIBUTE, PARODY, OR SATIRE AND THE PERFORMING GROUP NAME IS NOT SO CLOSELY RELATED OR SIMILAR TO THAT USED BY THE RECORDING GROUP THAT IT WOULD TEND TO CONFUSE OR MISLEAD THE PUBLIC;

(4) THE ADVERTISING DOES NOT RELATE TO A LIVE MUSICAL PERFORMANCE OR PRODUCTION IN THE STATE; OR

(5) THE PERFORMANCE OR PRODUCTION IS EXPRESSLY AUTHORIZED BY THE RECORDING GROUP.

11–1503.

(A) IF THE ATTORNEY GENERAL BELIEVES THAT A PERSON HAS ENGAGED IN OR WILL ENGAGE IN A VIOLATION OF § 11–1502 OF THIS SUBTITLE, AND AN INJUNCTION WOULD BE IN THE PUBLIC INTEREST, THE ATTORNEY GENERAL MAY SEEK AN INJUNCTION TO PROHIBIT A PERSON FROM CONTINUING OR ENGAGING IN THE VIOLATION.

(B) IF A COURT ISSUES A PERMANENT INJUNCTION UNDER SUBSECTION (A) OF THIS SECTION, THE COURT MAY ENTER A JUDGMENT TO RESTORE TO A PERSON ANY MONEY OR REAL OR PERSONAL PROPERTY ACQUIRED FROM THE PERSON BY MEANS OF ANY PROHIBITED PRACTICE.

(C) (1) IN ADDITION TO ANY RELIEF GRANTED UNDER SUBSECTION (B) OF THIS SECTION, A PERSON WHO VIOLATES § 11–1502 OF THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN $5,000 OR MORE THAN $15,000 FOR EACH VIOLATION.

(2) EACH PERFORMANCE OR PRODUCTION IN VIOLATION OF § 11–1502 OF THIS SUBTITLE IS CONSIDERED A SEPARATE VIOLATION.

11–1504.

THIS SUBTITLE MAY BE CITED AS THE "TRUTH IN MUSIC ADVERTISING ACT".

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

Approved by the Governor, May 22, 2008.

CHAPTER 618

(Senate Bill 717)

AN ACT concerning

Pharmacists – Administration of Vaccinations – Expanded Authority

FOR the purpose of expanding the authority of pharmacists to administer certain vaccinations to individuals under certain circumstances; authorizing the State Board of Pharmacy to set certain fees; ~~granting the Board sole authority to adopt certain regulations;~~ and generally relating to the expansion of the authority of pharmacists to administer vaccinations.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–508
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

12–508.

(a) **(1)** A pharmacist may administer **[**an influenza vaccination**]** ~~**VACCINATIONS**~~ to an individual, in accordance with regulations adopted under subsection (c) of this section.

(2) A PHARMACIST MAY ADMINISTER A VACCINATION FOR PNEUMOCOCCAL PNEUMONIA OR HERPES ZOSTER TO AN INDIVIDUAL IF:

(I) THE INDIVIDUAL IS AN ADULT;

(II) THE INDIVIDUAL HAS A PRESCRIPTION FROM A PHYSICIAN;

(III) THE PHARMACIST INFORMS THE PRESCRIBING PHYSICIAN THAT THE VACCINATION HAS BEEN ADMINISTERED;

(IV) IF THE PRESCRIBING PHYSICIAN IS NOT THE PATIENT'S PRIMARY CARE PHYSICIAN, THE PHARMACIST HAS MADE A REASONABLE EFFORT TO INFORM THE PATIENT'S PRIMARY CARE PHYSICIAN THAT THE VACCINATION HAS BEEN ADMINISTERED; AND

(V) THE VACCINATION IS ADMINISTERED IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER SUBSECTION (C) OF THIS SECTION.

(b) The Board shall set reasonable fees for the administration of **[**an influenza vaccination**]** **VACCINATIONS** in accordance with subsection (a) of this section.

(c) The Board**[**, with the Board of Physicians and the Board of Nursing,**]** shall **[**jointly**]** develop and adopt regulations to provide for patient safety and 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 22, 2008.

CHAPTER 619

(House Bill 551)

AN ACT concerning

Pharmacists – Administration of Vaccinations – Expanded Authority

FOR the purpose of expanding the authority of pharmacists to administer certain vaccinations to individuals under certain circumstances; authorizing the State Board of Pharmacy to set certain fees; ~~granting the Board sole authority to adopt certain regulations;~~ and generally relating to the expansion of the authority of pharmacists to administer vaccinations.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–508
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

12–508.

(a) **(1)** A pharmacist may administer ~~[~~an influenza vaccination~~]~~ ~~VACCINATIONS~~ to an individual, in accordance with regulations adopted under subsection (c) of this section.

(2) A PHARMACIST MAY ADMINISTER A VACCINATION FOR PNEUMOCOCCAL PNEUMONIA OR HERPES ZOSTER TO AN INDIVIDUAL IF:

(I) THE INDIVIDUAL IS AN ADULT;

(II) THE INDIVIDUAL HAS A PRESCRIPTION FROM A PHYSICIAN;

(III) THE PHARMACIST INFORMS THE PRESCRIBING PHYSICIAN THAT THE VACCINATION HAS BEEN ADMINISTERED; ~~AND~~

(IV) ***IF THE PRESCRIBING PHYSICIAN IS NOT THE PATIENT'S PRIMARY CARE PHYSICIAN, THE PHARMACIST HAS MADE A REASONABLE EFFORT TO INFORM THE PATIENT'S PRIMARY CARE PHYSICIAN THAT THE VACCINATION HAS BEEN ADMINISTERED; AND***

(V) **THE VACCINATION IS ADMINISTERED IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER SUBSECTION (C) OF THIS SECTION.**

(b) The Board shall set reasonable fees for the administration of **[**an influenza vaccination**]** **VACCINATIONS** in accordance with subsection (a) of this section.

(c) The Board**[**, with the Board of Physicians and the Board of Nursing,**]** shall **[**jointly**]** develop and adopt regulations to provide for patient safety and 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 22, 2008.

CHAPTER 620

(Senate Bill 755)

AN ACT concerning

Election Law – Slot Machine Gaming Referendum – Campaign Finance Reports ~~by Corporations~~

FOR the purpose of requiring ~~a corporation~~ certain persons to file certain information on a certain form ~~about itself and its activities~~ in connection with a certain slot machine gaming referendum; requiring ~~the corporation~~ certain persons thereafter to file certain campaign finance reports with regard to ~~its~~ expenditures in connection with a certain slot machine gaming referendum; ~~requiring a ballot issue committee that is formed to promote the success or defeat of a certain slot machine gaming referendum to file an additional campaign finance report at a certain time;~~ *altering certain definitions; defining certain terms;* and generally relating to expenditures and the filing of campaign finance reports by ~~a corporation~~ certain persons in connection with a certain slot machine gaming referendum.

BY repealing and reenacting, without amendments,
Article 1 – Rules of Interpretation
Section 15
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 4 of the Acts of the General Assembly of the 2007 Special Session

Section 10

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

Article 1 – Rules of Interpretation

15.

Unless such a construction would be unreasonable, the word person shall include corporation, partnership, business trust, or limited liability company.

Chapter 4 of the Acts of the Special Session of 2007

SECTION 10. AND BE IT FURTHER ENACTED, That:

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

(2) "Ballot issue committee" has the meaning stated in § 1–101(f) of the Election Law Article.

~~(3) "Campaign finance report" has the meaning stated in § 1–101(i) of the Election Law Article.~~

~~(4) "Campaign material **EXPENDITURE**" has the meaning stated in § 1–101(k) § 1–101(y) of the Election Law Article.~~

(3) "CAMPAIGN FINANCE REPORT" MEANS A REPORT, STATEMENT, AFFIDAVIT, OR OTHER DOCUMENT THAT IS:

(I) AUTHORIZED OR REQUIRED UNDER THE ELECTION LAW ARTICLE OR THIS ACT;

(II) RELATED TO THE CAMPAIGN FINANCE ACTIVITIES OF A CAMPAIGN FINANCE ENTITY OR A PERSON; AND

(III) FILED OR SUBMITTED ON A FORM PRESCRIBED BY THE STATE BOARD UNDER THE ELECTION LAW ARTICLE OR THIS ACT.

(4) "CAMPAIGN MATERIAL" HAS THE MEANING STATED IN § 1–101(K) OF THE ELECTION LAW ARTICLE.

(5) "EXPENDITURE" MEANS A GIFT, TRANSFER, DISBURSEMENT, OR PROMISE OF MONEY OR A THING OF VALUE BY OR ON BEHALF OF A CAMPAIGN

FINANCE ENTITY OR PERSON TO PROMOTE THE SUCCESS OR DEFEAT OF THE CONSTITUTIONAL AMENDMENT PROPOSED BY CHAPTER 5 (H.B. 4) OF THE ACTS OF THE GENERAL ASSEMBLY OF THE SPECIAL SESSION OF 2007.

(b) A ballot issue committee that is formed to promote the success or defeat of the constitutional amendment proposed by Chapter 5 (S.B. 4/H.B. 4) of the Acts of the General Assembly of the Special Session of 2007 shall file, in addition to the campaign finance reports required under § 13–309 of the Election Law Article, a campaign finance report**:**

(1) on or before the fourth Friday immediately preceding the 2008 general election**; AND**

(2) ON OR BEFORE THE SECOND FRIDAY IMMEDIATELY PRECEDING THE 2008 GENERAL ELECTION.

(c) A corporation **PERSON** that cumulatively spends **MAKES *CUMULATIVE* EXPENDITURES THAT TOTAL** more than $10,000 on campaign material to promote the success or defeat of the constitutional amendment proposed by Chapter 5 (S.B. 4/H.B. 4) of the Acts of the General Assembly of the Special Session of 2007 shall:

(1) **WITHIN 7 DAYS OF MAKING CUMULATIVE EXPENDITURES MORE THAN $10,000, FILE ON A FORM PRESCRIBED BY THE STATE BOARD OF ELECTIONS:**

(I) THE NAME OF THE CORPORATION PERSON;

(II) THE NAME OF THE OFFICER OF THE CORPORATION PERSON *INDIVIDUAL* WHO DIRECTS THE EXPENDITURES AND THE NAME OF THE INDIVIDUAL WHO ASSUMES RESPONSIBILITY AND LIABILITY FOR FILING CAMPAIGN FINANCE REPORTS AS REQUIRED UNDER TITLE 13, SUBTITLE 3 OF THE ELECTION LAW ARTICLE AND THIS ACT;

(III) THE BUSINESS ADDRESS OF THE CORPORATION PERSON; AND

(IV) WHETHER THE CORPORATION PERSON IS EXPENDING FUNDS TO SUPPORT OR OPPOSE THE CONSTITUTIONAL AMENDMENT;

(2) AFTER FILING THE FORM REQUIRED UNDER ITEM (1) OF THIS SUBSECTION, file **[**a**] ALL** campaign finance **[**report**] REPORTS** on the same dates**, IN THE SAME MANNER, AND SUBJECT TO THE SAME SANCTIONS,** as required for a

ballot issue committee under **[**§ 13–309**] TITLE 13, SUBTITLE 3** of the Election Law Article and this Act; and

[(2)**] (3)** ***EXCEPT FOR AN INDIVIDUAL WHO USES PERSONAL FUNDS AND ACTS INDEPENDENTLY OF OTHERS IN MAKING EXPENDITURES SUBJECT TO THIS SUBSECTION,*** include the information required under § 13–401 of the Election Law Article on all campaign material published or distributed by the ~~corporation~~ **PERSON** to promote the success or defeat of the constitutional amendment proposed by Chapter 5 (S.B. 4/H.B. 4) of the Acts of the General Assembly of the Special Session of 2007.

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

Approved by the Governor, May 22, 2008.

CHAPTER 621

(Senate Bill 798)

AN ACT concerning

St. Mary's County – Mobile Home Parks – Plans for Dislocated Residents

FOR the purpose of providing that, in St. Mary's County, if a mobile home park owner does not submit a certain plan for alternative arrangements for park residents with an application for a change in the land use of a park or does not comply with an approved plan, the application for the land use change may not be approved until certain conditions are met; requiring a certain plan for alternative arrangements for park residents submitted in St. Mary's County to include certain information; requiring a copy of a certain notice of termination to be sent to the County Commissioners if the use of land of a park in St. Mary's County is changed; and generally relating to mobile home parks in St. Mary's County.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 8A–202(c)(3) and 8A–1201
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

8A–202.

(c) (3) **(I)** If the use of land is changed, all residents shall be entitled to a 1–year prior written notice of termination notwithstanding the provisions of a longer term in a rental agreement.

(II) IN ST. MARY'S COUNTY, IF THE USE OF LAND IS CHANGED, THE PARK OWNER SHALL SEND TO THE COUNTY COMMISSIONERS A COPY OF THE WRITTEN NOTICE OF TERMINATION SENT TO THE RESIDENTS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

8A–1201.

(A) When a mobile home park owner submits an application for a change in the land use of a park, the owner shall submit, as part of the application, a plan for alternative arrangements for each resident to be dislocated as a result of the change.

(B) (1) THIS SUBSECTION APPLIES ONLY IN ST. MARY'S COUNTY.

(2) IF A MOBILE HOME PARK OWNER DOES NOT SUBMIT A PLAN FOR ALTERNATIVE ARRANGEMENTS FOR THE PARK RESIDENTS OR DOES NOT COMPLY WITH THE TERMS OF AN APPROVED PLAN, THE MOBILE HOME PARK OWNER IS IN DEFAULT OF THE PLAN AND THE APPLICATION FOR CHANGE OF LAND USE SUBMITTED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE APPROVED UNTIL THE OWNER SUBMITS AND COMPLIES WITH A PLAN.

(3) A PLAN FOR ALTERNATIVE ARRANGEMENTS FOR PARK RESIDENTS SHALL INCLUDE:

(I) A COMPLETE LIST OF PARK RESIDENTS, INCLUDING HOUSEHOLD SIZES, ADDRESSES, AND CONTACT INFORMATION FOR RESIDENTS;

(II) A RELOCATION CALENDAR OR TIMELINE AND WRITTEN MONTHLY UPDATES ON THE PROGRESS OF THE RELOCATION;

(III) A BUDGET REFLECTING THE AMOUNT OF MONEY ALLOCATED BY THE MOBILE HOME PARK OWNER TO BE GIVEN TO EACH RESIDENT TO COVER THE COSTS ASSOCIATED WITH MOVING THE RESIDENT'S MOBILE HOME, INCLUDING:

1. MOVING THE TRAILER;

2. DISCONNECTING AND RECONNECTING UTILITIES; AND

3. REMOVING AND REATTACHING AXLES, DECKS, RAILINGS, AND SIDE SKIRTING; AND

(IV) A LIST OF AREA MOBILE HOME PARKS WITH VACANCIES.

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

Approved by the Governor, May 22, 2008.

CHAPTER 622

(House Bill 816)

AN ACT concerning

St. Mary's County – Mobile Home Parks – Plans for Dislocated Residents

FOR the purpose of providing that, in St. Mary's County, if a mobile home park owner does not submit a certain plan for alternative arrangements for park residents with an application for a change in the land use of a park or does not comply with an approved plan, the application for the land use change may not be approved until certain conditions are met; requiring a certain plan for alternative arrangements for park residents submitted in St. Mary's County to include certain information; requiring a copy of a certain notice of termination to be sent to the County Commissioners if the use of land of a park in St. Mary's County is changed; and generally relating to mobile home parks in St. Mary's County.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 8A–202(c)(3) and 8A–1201
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

8A–202.

(c) (3) **(I)** If the use of land is changed, all residents shall be entitled to a 1–year prior written notice of termination notwithstanding the provisions of a longer term in a rental agreement.

(II) IN ST. MARY'S COUNTY, IF THE USE OF LAND IS CHANGED, THE PARK OWNER SHALL SEND TO THE COUNTY COMMISSIONERS A COPY OF THE WRITTEN NOTICE OF TERMINATION SENT TO THE RESIDENTS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

8A–1201.

(A) When a mobile home park owner submits an application for a change in the land use of a park, the owner shall submit, as part of the application, a plan for alternative arrangements for each resident to be dislocated as a result of the change.

(B) (1) THIS SUBSECTION APPLIES ONLY IN ST. MARY'S COUNTY.

(2) IF A MOBILE HOME PARK OWNER DOES NOT SUBMIT A PLAN FOR ALTERNATIVE ARRANGEMENTS FOR THE PARK RESIDENTS OR DOES NOT COMPLY WITH THE TERMS OF AN APPROVED PLAN, THE MOBILE HOME PARK OWNER IS IN DEFAULT OF THE PLAN AND THE APPLICATION FOR CHANGE OF LAND USE SUBMITTED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE APPROVED UNTIL THE OWNER SUBMITS AND COMPLIES WITH A PLAN.

(3) A PLAN FOR ALTERNATIVE ARRANGEMENTS FOR PARK RESIDENTS SHALL INCLUDE:

(I) A COMPLETE LIST OF PARK RESIDENTS, INCLUDING HOUSEHOLD SIZES, ADDRESSES, AND CONTACT INFORMATION FOR RESIDENTS;

(II) A RELOCATION CALENDAR OR TIMELINE AND WRITTEN MONTHLY UPDATES ON THE PROGRESS OF THE RELOCATION;

(III) A BUDGET REFLECTING THE AMOUNT OF MONEY ALLOCATED BY THE MOBILE HOME PARK OWNER TO BE GIVEN TO EACH RESIDENT TO COVER THE COSTS ASSOCIATED WITH MOVING THE RESIDENT'S MOBILE HOME, INCLUDING:

1. MOVING THE TRAILER;

2. DISCONNECTING AND RECONNECTING UTILITIES; AND

3. REMOVING AND REATTACHING AXLES, DECKS, RAILINGS, AND SIDE SKIRTING; AND

(IV) A LIST OF AREA MOBILE HOME PARKS WITH VACANCIES.

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

Approved by the Governor, May 22, 2008.

CHAPTER 623

(Senate Bill 817)

AN ACT concerning

Maryland Individual Tax Preparers Act

FOR the purpose of creating the State Board of Individual Tax Preparers in the Department of Labor, Licensing, and Regulation; providing for the composition of the Board and the appointment, terms, and expenses of the Board members; authorizing the Board to investigate certain complaints in a certain manner; authorizing the Board to seek a certain injunction under certain circumstances; authorizing the Board or its designee to administer oaths, hold hearings, take testimony, and issue subpoenas under certain circumstances; authorizing the Board to set certain fees for certain purposes; requiring certain individual tax preparers to pay certain fees; requiring the Board to pay certain fees to the State Comptroller; requiring the Comptroller to distribute certain fees to a certain fund; establishing a certain fund; providing for the purpose of the Fund; requiring the Board to administer the Fund; providing that the Fund is a special fund, requiring the State Treasurer to hold the Fund separately, and requiring the Comptroller to account for the Fund; providing for the contents of the Fund; providing for certain uses of the Fund; requiring the Treasurer to invest the money of the Fund in a certain manner and requiring certain investment earnings to be credited to the General Fund of the State; providing that certain expenditures must be made in accordance with the State budget; establishing certain powers and duties of the Board; requiring certain

individuals to be registered by the Board as individual tax preparers before performing certain work; establishing certain education and experience requirements for individual tax preparers; establishing certain registration and registration renewal requirements for individual tax preparers; establishing certain examination requirements for individual tax preparers; authorizing the Board to deny a registration to an applicant, refuse to renew a registration, reprimand a registered individual, suspend or revoke a registration, or impose certain penalties under certain circumstances; establishing certain prohibited acts; providing for certain criminal penalties; requiring certain fees and penalties collected by the Board to be used in a certain manner; requiring an individual tax preparer to make certain disclosures prior to rendering certain services; 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; providing for the staggering of certain terms; requiring the Board, in conjunction with relevant trade associations, to develop and implement a certain public awareness campaign; requiring the Board to grant a waiver of certain requirements under this Act to certain individuals under certain circumstances; requiring the Governor to include a certain appropriation in the State budget under certain circumstances; defining certain terms; and generally relating to the State Board of Individual Tax Preparers.

BY renumbering
Article – Business Regulation
Section 2–108(a)(23) through (33), respectively
to be Section 2–108(a)(24) through (34), respectively
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY renumbering
Article – State Government
Section 8–403(b)(32) through (69), respectively
to be Section 8–403(b)(33) through (70), respectively
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – Business Occupations and Professions
Section 21–101 through 21–502 to be under the new title "Title 21. Individual Tax Preparers"
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – Business Regulation
Section 2–108(a)(23)

Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Government
Section 8–403(b)(32)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 2–108(a)(23) through (33), respectively, of Article – Business Regulation of the Annotated Code of Maryland be renumbered to be Section(s) 2–108(a)(24) through (34), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8–403(b)(32) through (69), respectively, of Article – State Government of the Annotated Code of Maryland be renumbered to be Section(s) 8–403(b)(33) through (70), respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Business Occupations and Professions

TITLE 21. INDIVIDUAL TAX PREPARERS.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

21–101.

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

(B) "BOARD" MEANS THE STATE BOARD OF INDIVIDUAL TAX PREPARERS.

(C) "FUND" MEANS THE INDIVIDUAL TAX PREPARERS FUND ESTABLISHED UNDER § 21–208 OF THIS TITLE.

(D) "IN GOOD STANDING" MEANS AN INDIVIDUAL HAS NOT ENGAGED IN CONDUCT THAT WOULD JUSTIFY CENSURE, SUSPENSION, OR DISBARMENT FROM PRACTICE.

(E) "INDIVIDUAL TAX PREPARER" MEANS AN INDIVIDUAL WHO IS REGISTERED BY THE BOARD TO PROVIDE INDIVIDUAL TAX PREPARATION SERVICES.

(F) "PROVIDE INDIVIDUAL TAX PREPARATION SERVICES" MEANS TO PREPARE, ADVISE~~,~~ OR ASSIST IN THE PREPARATION OF, OR ASSUME FINAL RESPONSIBILITY FOR ANOTHER PERSON'S PREPARATION OF A FEDERAL OR STATE ~~PERSONAL~~ INCOME TAX RETURN OF ANOTHER FOR VALUABLE CONSIDERATION.

(G) "REGISTRATION" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, AN AUTHORIZATION ISSUED BY THE BOARD TO PROVIDE INDIVIDUAL TAX PREPARATION SERVICES.

21–102.

(A) THE PURPOSE OF THIS TITLE IS TO ESTABLISH A REGISTRATION PROGRAM TO ENSURE THAT QUALIFIED INDIVIDUALS PROVIDE INDIVIDUAL TAX PREPARATION SERVICES.

(B) THE FOLLOWING INDIVIDUALS ARE EXEMPT FROM THE REQUIREMENTS OF THIS TITLE:

(1) AN INDIVIDUAL IN GOOD STANDING WITH AN ACTIVE LICENSE ISSUED BY THE STATE BOARD OF PUBLIC ACCOUNTANCY OR A LICENSING AUTHORITY IN ANOTHER STATE;

(2) AN INDIVIDUAL IN GOOD STANDING AND ADMITTED TO PRACTICE LAW IN THE STATE OR IN ANOTHER STATE;

(3) AN INDIVIDUAL EMPLOYED BY A LOCAL, STATE, OR FEDERAL GOVERNMENTAL AGENCY BUT ONLY IN PERFORMANCE OF OFFICIAL DUTIES;

(4) AN INDIVIDUAL ENROLLED TO PRACTICE BEFORE THE INTERNAL REVENUE SERVICE WHO IS GOVERNED UNDER CIRCULAR 230; AND

(5) AN INDIVIDUAL SERVING AS AN EMPLOYEE OF OR ASSISTANT TO AN INDIVIDUAL TAX PREPARER OR AN INDIVIDUAL EXEMPTED UNDER THIS SUBSECTION IN THE PERFORMANCE OF OFFICIAL DUTIES FOR THE INDIVIDUAL TAX PREPARER OR THE INDIVIDUAL EXEMPTED UNDER THIS SUBSECTION.

SUBTITLE 2. STATE BOARD OF INDIVIDUAL TAX PREPARERS.

21–201.

THERE IS A STATE BOARD OF INDIVIDUAL TAX PREPARERS IN THE DEPARTMENT.

21–202.

(A) (1) THE BOARD CONSISTS OF EIGHT MEMBERS OF WHICH:

(I) SEVEN SHALL HAVE AT LEAST 5 YEARS OF TAX PREPARATION EXPERIENCE; AND

(II) ONE SHALL BE A MEMBER OF A NONPROFIT TAX PROGRAM OR NONPROFIT CONSUMER ADVOCATE PROGRAM.

(2) THE GOVERNOR SHALL APPOINT THE MEMBERS WITH THE ADVICE OF THE SECRETARY, THE COMPTROLLER, AND THE ATTORNEY GENERAL.

(3) MEMBERS OF THE FOLLOWING GROUPS SHALL BE CONSIDERED FOR MEMBERSHIP ON THE BOARD:

(I) A MEMBER OF A NONPROFIT TAX PROGRAM OR NONPROFIT CONSUMER ADVOCATE PROGRAM;

(II) A COMMERCIAL INDIVIDUAL TAX PREPARER WHO HAS BEEN IN PRACTICE IN THE STATE FOR MORE THAN 10 YEARS AND HAS AT LEAST 200 EMPLOYEES;

(III) A MEMBER OF THE MARYLAND ASSOCIATION OF CERTIFIED PUBLIC ACCOUNTANTS;

(IV) A MEMBER OF THE MARYLAND SOCIETY OF ACCOUNTANTS, INC.;

(V) A MEMBER OF THE MARYLAND STATE BAR ASSOCIATION; AND

(VI) A MEMBER OF THE NATIONAL ASSOCIATION OF ENROLLED AGENTS.

(B) EACH MEMBER OF THE BOARD SHALL BE:

(1) A CITIZEN OF THE UNITED STATES; AND

(2) A RESIDENT OF THE STATE.

(C) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(D) (1) THE TERM OF A MEMBER IS 4 YEARS AND BEGINS ON JULY 1.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JUNE 1, 2008.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) EACH MEMBER OF THE BOARD IS ELIGIBLE FOR REAPPOINTMENT BUT MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

(E) (1) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE, MISCONDUCT, NEGLECT OF DUTIES, OR OTHER SUFFICIENT CAUSE.

(2) THE GOVERNOR SHALL REMOVE A MEMBER WHO CEASES TO MEET THE REQUIREMENTS UNDER WHICH THE MEMBER WAS APPOINTED, AS PROVIDED UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION.

21–203.

(A) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR AND OTHER OFFICERS AS NECESSARY.

(B) THE MANNER OF ELECTION AND THE TERM OF AN OFFICER SHALL BE AS THE BOARD DETERMINES.

21–204.

(A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A QUORUM.

(B) THE BOARD SHALL MEET AT LEAST FIVE TIMES A YEAR, WITH AT LEAST TWO MEETINGS BEING HELD BETWEEN JANUARY 1 AND APRIL 15.

(C) EACH MEMBER OF THE BOARD IS ENTITLED TO:

(1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET; AND

(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(D) THE BOARD MAY EMPLOY STAFF IN ACCORDANCE WITH THE STATE BUDGET.

21–205.

(A) IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE BOARD MAY ADOPT:

(1) ANY BYLAW THAT IS NECESSARY TO DO THE BUSINESS OF THE BOARD; AND

(2) ANY REGULATION TO CARRY OUT THIS TITLE.

(B) IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE BOARD SHALL:

(1) ADOPT RULES OF PROFESSIONAL CONDUCT AS APPROPRIATE TO ESTABLISH A HIGH STANDARD OF INTEGRITY AND DIGNITY FOR THE PRACTICE OF INDIVIDUAL TAX PREPARATION;

(2) SELECT AND ADMINISTER EXAMINATIONS;

(3) ESTABLISH FEES;

(4) MAINTAIN A LIST OF ALL AUTHORIZED INDIVIDUAL TAX PREPARERS <u>REGISTERED BY THE BOARD</u>;

(5) MAINTAIN A RECORD OF ITS PROCEEDINGS;

(6) MAINTAIN RECORDS OF ALL COMPLAINTS REGARDING INDIVIDUAL TAX PREPARERS IN THE STATE; AND

(7) REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE.

21–206.

(A) THE BOARD MAY INVESTIGATE A COMPLAINT THAT ALLEGES A VIOLATION OF THIS TITLE.

(B) ON RECEIPT OF THE RESULTS OF AN INVESTIGATION MADE UNDER THIS SECTION, THE BOARD SHALL PROMPTLY TAKE ACTION THAT IS APPROPRIATE UNDER THIS TITLE TO ENSURE COMPLIANCE WITH THIS TITLE.

(C) (1) IF THE BOARD CONCLUDES THAT CONDUCT ALLEGED TO BE IN VIOLATION OF THIS TITLE WILL RESULT IN HARM TO A RESIDENT OF THE STATE, THE BOARD MAY SEEK A PERMANENT OR TEMPORARY INJUNCTION WITH RESPECT TO THE CONDUCT FROM THE CIRCUIT COURT OF THE COUNTY IN WHICH THE ALLEGED VIOLATION OCCURS.

(2) IN SEEKING AN INJUNCTION UNDER THIS SUBSECTION, THE BOARD IS NOT REQUIRED TO:

(I) POST BOND;

(II) ALLEGE OR PROVE THAT AN ADEQUATE REMEDY AT LAW DOES NOT EXIST; OR

(III) ALLEGE OR PROVE THAT SUBSTANTIAL OR IRREPARABLE DAMAGE WOULD RESULT FROM THE CONTINUED VIOLATION.

(3) A MEMBER OF THE BOARD MAY NOT BE HELD PERSONALLY LIABLE FOR ACTION TAKEN UNDER THIS SUBSECTION IN GOOD FAITH WITH REASONABLE GROUNDS.

(D) THE BOARD, OR A HEARING OFFICER DESIGNATED BY THE BOARD, MAY ADMINISTER OATHS, HOLD HEARINGS, AND TAKE TESTIMONY ABOUT ALL MATTERS WITHIN THE JURISDICTION OF THE BOARD.

(E) (1) THE BOARD OR ITS DESIGNEE MAY ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS TO TESTIFY OR THE PRODUCTION OF EVIDENCE IN CONNECTION WITH:

(I) A DISCIPLINARY ACTION BROUGHT UNDER THIS TITLE; OR

(II) A PROCEEDING BROUGHT FOR AN ALLEGED VIOLATION OF THIS TITLE.

(2) IF AN INDIVIDUAL FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE BOARD, A COURT OF COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

21–207.

(A) THE BOARD MAY SET REASONABLE FEES FOR THE REGISTRATION AND RENEWAL OF REGISTRATION OF INDIVIDUAL TAX PREPARERS.

(B) EACH INDIVIDUAL TAX PREPARER THAT REGISTERS UNDER THIS TITLE SHALL PAY TO THE BOARD:

(1) A REGISTRATION FEE AT THE TIME OF REGISTRATION; OR

(2) A RENEWAL FEE AT THE TIME OF RENEWAL OF REGISTRATION.

(C) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THIS SECTION TO THE STATE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE FUND.

21–208.

(A) THERE IS AN INDIVIDUAL TAX PREPARERS FUND.

(B) THE PURPOSE OF THE FUND IS TO APPROXIMATE THE COSTS ASSOCIATED WITH THE ADMINISTRATION AND ENFORCEMENT OF THIS TITLE.

(C) THE BOARD SHALL ADMINISTER THE FUND.

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

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

(E) THE FUND CONSISTS OF:

(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 21–207 OF THIS TITLE;

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

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

(F) THE FUND MAY BE USED ONLY FOR COSTS ASSOCIATED WITH THE ADMINISTRATION AND ENFORCEMENT OF THIS TITLE.

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

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

(H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

21–209.

(A) ON REQUEST OF ANY PERSON AND PAYMENT OF A REGISTRATION FEE SET BY THE BOARD, THE BOARD SHALL CONFIRM THE REGISTRATION STATUS AND QUALIFICATIONS OF ANY INDIVIDUAL WHO IS THE SUBJECT OF THE REQUEST.

(B) EACH REGISTRATION UNDER THIS SECTION:

(1) SHALL INCLUDE A STATEMENT OF THE REGISTRATION STATUS OF THE INDIVIDUAL WHO IS THE SUBJECT OF THE REQUEST; AND

(2) MAY INCLUDE:

(I) INFORMATION ABOUT THE EXAMINATION RESULTS AND OTHER QUALIFICATIONS OF THAT INDIVIDUAL;

(II) INFORMATION ABOUT THE DATES OF ISSUANCE OF THE REGISTRATION OF THAT INDIVIDUAL; AND

(III) INFORMATION ABOUT ANY DISCIPLINARY ACTION TAKEN AGAINST THAT INDIVIDUAL.

21–210.

THE BOARD EXERCISES ITS POWERS, DUTIES, AND FUNCTIONS SUBJECT TO THE AUTHORITY OF THE SECRETARY.

SUBTITLE 3. REGISTRATION.

21–301.

AN INDIVIDUAL SHALL BE REGISTERED BY THE BOARD BEFORE THE INDIVIDUAL MAY PROVIDE INDIVIDUAL TAX PREPARATION SERVICES IN THE STATE.

21–302.

(A) TO QUALIFY FOR A REGISTRATION, THE 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 POSSESS A HIGH SCHOOL DIPLOMA OR HAVE PASSED AN EQUIVALENCY EXAMINATION.

(E) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE APPLICANT SHALL PASS AN EXAMINATION GIVEN BY THE BOARD UNDER THIS SUBTITLE.

21–303.

AN APPLICANT FOR A REGISTRATION SHALL:

(1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE BOARD PROVIDES; AND

(2) PAY TO THE BOARD OR THE BOARD'S DESIGNEE AN EXAMINATION FEE SET BY THE BOARD IN AN AMOUNT NOT TO EXCEED THE COST OF THE REQUIRED EXAMINATION.

21–304.

(A) AN APPLICANT WHO OTHERWISE QUALIFIES FOR A REGISTRATION 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 GIVE EACH QUALIFIED APPLICANT NOTICE OF THE TIME AND PLACE OF EXAMINATION.

(D) (1) THE BOARD SHALL GIVE THE EXAMINATION PREPARED BY THE INTERNAL REVENUE SERVICE OR AN EQUIVALENT EXAMINATION BY AN INDEPENDENT NATIONAL OR STATE REGULATORY AUTHORITY AS DETERMINED BY THE BOARD.

(2) THE EXAMINATION GIVEN UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE LESS STRINGENT THAN THE INDIVIDUALS SECTION OF THE SPECIAL ENROLLMENT EXAMINATION FOR ENROLLED AGENTS.

~~(D)~~ (E) THE BOARD SHALL ADOPT REGULATIONS THAT ESTABLISH THE PASSING SCORE FOR AN EXAMINATION.

~~(E)~~ (F) (1) THE BOARD SHALL NOTIFY EACH APPLICANT OF THE APPLICANT'S EXAMINATION SCORE.

(2) ANY APPLICANT WHO REQUESTS AN APPOINTMENT WITHIN 60 DAYS AFTER THE DATE ON WHICH NOTIFICATION IS SENT MAY REVIEW THE APPLICANT'S ANSWERS TO THE EXAMINATION.

21–305.

(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, AN APPLICANT WHO FAILS AN EXAMINATION GIVEN UNDER § 21–304 OF THIS SUBTITLE MAY RETAKE THE EXAMINATION.

(B) (1) THE BOARD MAY NOT LIMIT THE NUMBER OF TIMES AN APPLICANT MAY TAKE AN EXAMINATION.

(2) THE BOARD MAY ADOPT REGULATIONS TO SET CONDITIONS FOR RETAKING THE EXAMINATION, INCLUDING A REQUIREMENT THAT THE APPLICANT:

(I) WAIT A REASONABLE PERIOD BETWEEN EXAMINATIONS; AND

(II) PREPARE TO RETAKE THE EXAMINATION IN A SPECIFIED MANNER.

(3) THE BOARD SHALL SET FEES FOR REEXAMINATION SO THAT:

(I) THE FEE FOR REEXAMINATION ON THE ENTIRE EXAMINATION DOES NOT EXCEED THE COST OF THE REQUIRED REEXAMINATION; AND

(II) THE FEE FOR REEXAMINATION ON LESS THAN THE ENTIRE EXAMINATION IS LESS THAN THE FEE SET FOR THE ENTIRE EXAMINATION.

21–306.

(A) IF AN APPLICANT QUALIFIES FOR A REGISTRATION UNDER THIS SUBTITLE, THE BOARD SHALL SEND THE APPLICANT A NOTICE THAT STATES THAT:

(1) THE APPLICANT HAS QUALIFIED FOR A REGISTRATION; AND

(2) ON RECEIPT OF A REGISTRATION FEE SET BY THE BOARD, THE BOARD WILL ISSUE A REGISTRATION TO THE APPLICANT.

(B) ON PAYMENT OF THE REGISTRATION FEE, THE BOARD SHALL ISSUE A REGISTRATION TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

21–307.

A REGISTRATION AUTHORIZES, WHILE THE REGISTRATION IS IN EFFECT, THE INDIVIDUAL TO PROVIDE INDIVIDUAL TAX PREPARATION SERVICES.

21–308.

(A) UNLESS A REGISTRATION IS RENEWED FOR A 2–YEAR TERM AS PROVIDED IN THIS SECTION, THE REGISTRATION EXPIRES ON THE SECOND DECEMBER 31 THAT COMES AFTER THE EFFECTIVE DATE OF THE REGISTRATION.

(B) AT LEAST 1 MONTH BEFORE A REGISTRATION EXPIRES, THE BOARD SHALL MAIL TO THE INDIVIDUAL, AT THE LAST KNOWN ADDRESS OF THE INDIVIDUAL:

(1) A RENEWAL APPLICATION FORM; AND

(2) A NOTICE THAT STATES:

(I) THE DATE ON WHICH THE CURRENT REGISTRATION EXPIRES;

(II) THE DATE BY WHICH THE BOARD MUST RECEIVE THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE REGISTRATION EXPIRES; AND

(III) THE AMOUNT OF THE RENEWAL FEE.

(C) BEFORE A REGISTRATION EXPIRES, THE INDIVIDUAL PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL 2–YEAR TERM IF THE INDIVIDUAL:

(1) OTHERWISE IS ENTITLED TO BE REGISTERED;

(2) PAYS TO THE BOARD A RENEWAL FEE, AS SET BY THE BOARD; AND

(3) SUBMITS TO THE BOARD:

(I) A RENEWAL APPLICATION ON THE FORM THAT THE BOARD PROVIDES; AND

(II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE CONTINUING EDUCATION REQUIREMENTS SET UNDER THIS SUBTITLE FOR REGISTRATION RENEWAL.

(D) THE BOARD SHALL RENEW THE REGISTRATION OF EACH INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(E) THE SECRETARY MAY DETERMINE THAT REGISTRATIONS ISSUED UNDER THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

21–309.

(A) (1) THE BOARD SHALL ADOPT REGULATIONS THAT CREATE, IN ACCORDANCE WITH THIS SECTION, CONTINUING EDUCATION REQUIREMENTS AS A CONDITION TO THE RENEWAL OF A REGISTRATION ISSUED UNDER THIS SUBTITLE.

(2) AN INDIVIDUAL SHALL COMPLETE AT LEAST 16 HOURS OF CONTINUING EDUCATION ACTIVITIES EVERY 2 YEARS.

(B) THE CONTINUING EDUCATION REQUIREMENTS SHALL:

(1) ENSURE REASONABLE KNOWLEDGE ABOUT THE CURRENT TRENDS IN FEDERAL AND STATE TAX PREPARATION SERVICES;

(2) ENSURE THAT THE PROGRAMS APPROVED FOR COMPLIANCE WITH THE CONTINUING EDUCATION REQUIREMENTS ARE AVAILABLE AT REASONABLE INTERVALS THROUGHOUT THE STATE; AND

(3) PROVIDE AN INDIVIDUAL WITH ALTERNATIVE WAYS BY WHICH TO QUALIFY THROUGH A VARIETY OF PROGRAMS, WHICH MAY INCLUDE:

(I) PROFESSIONAL DEVELOPMENT PROGRAMS;

(II) TECHNICAL SESSIONS OF PROFESSIONAL SOCIETIES OR CHAPTERS;

(III) COLLEGE COURSES APPROVED BY THE BOARD;

(IV) SEMINARS PROVIDED BY GOVERNMENTAL UNITS; AND

(V) OTHER SEMINARS OR SYMPOSIUMS RELATED TO TAX PREPARATION SERVICES.

(C) THE BOARD MAY APPOINT A CONTINUING EDUCATION COMMITTEE TO HELP THE BOARD IN CARRYING OUT THIS SECTION.

(D) (1) THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL PROVIDE A SYSTEM FOR REPORTING AND RECORDING THE PROGRAM HOURS EARNED BY THE INDIVIDUAL.

(2) THE BOARD MAY NOT REQUIRE AN INDIVIDUAL TO SUBMIT SCORES OR GRADES EARNED DURING PARTICIPATION BY THE INDIVIDUAL IN A PROGRAM.

(E) (1) THE BOARD MAY ENTER INTO WRITTEN AGREEMENTS WITH QUALIFIED PERSONS WISHING TO CONDUCT APPROVED PROGRAMS.

(2) A PERSON SEEKING APPROVAL BY THE BOARD FOR THIS PURPOSE SHALL:

(I) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE BOARD PROVIDES; AND

(II) PAY AN APPLICATION FEE, AS SET BY THE BOARD.

21–310.

THE BOARD SHALL ADOPT REGULATIONS FOR THE REINSTATEMENT OF THE REGISTRATION OF AN INDIVIDUAL WHO HAS FAILED TO RENEW A REGISTRATION FOR ANY REASON IF THE INDIVIDUAL:

(1) OTHERWISE IS ENTITLED TO BE REGISTERED;

(2) COMPLIES WITH THE CONTINUING EDUCATION REQUIREMENT THAT THE BOARD SETS FOR THIS PURPOSE; AND

(3) PAYS TO THE BOARD:

(I) ALL PAST DUE RENEWAL FEES; AND

(II) A REINSTATEMENT FEE, AS SET BY THE BOARD.

21–311.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 21–312 OF THIS SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS MEMBERS THEN SERVING, MAY DENY A REGISTRATION TO ANY APPLICANT, REPRIMAND ANY REGISTERED INDIVIDUAL, OR SUSPEND OR REVOKE A REGISTRATION IF THE APPLICANT OR REGISTERED INDIVIDUAL:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A REGISTRATION FOR THE APPLICANT OR REGISTERED INDIVIDUAL OR FOR ANOTHER;

(2) FRAUDULENTLY OR DECEPTIVELY USES A REGISTRATION;

(3) UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE, IS CONVICTED OF A FELONY OR A MISDEMEANOR, EITHER OF WHICH IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR REGISTERED INDIVIDUAL TO PROVIDE INDIVIDUAL TAX PREPARATION SERVICES;

(4) IS GUILTY OF NEGLIGENCE, INCOMPETENCE, OR MISCONDUCT WHILE PROVIDING INDIVIDUAL TAX PREPARATION SERVICES;

(5) VIOLATES ANY REGULATION ADOPTED UNDER THIS TITLE; OR

(6) VIOLATES ANY PROVISION OF THIS TITLE.

(B) (1) IN ADDITION TO REPRIMANDING OR SUSPENDING OR REVOKING A REGISTRATION UNDER THIS SUBSECTION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING $5,000 FOR EACH VIOLATION.

(2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:

(I) THE SERIOUSNESS OF THE VIOLATION;

(II) THE HARM CAUSED BY THE VIOLATION;

(III) THE GOOD FAITH OF THE REGISTERED INDIVIDUAL; AND

(IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE REGISTERED INDIVIDUAL.

(3) THE BOARD SHALL USE A PENALTY COLLECTED UNDER THIS SUBSECTION TO PROVIDE FOR THE ENFORCEMENT OF THIS SECTION.

21–312.

(A) EXCEPT AS OTHERWISE PROVIDED IN § 10–226 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER § 21–311 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) 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.

21–313.

AN INDIVIDUAL AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A CONTESTED CASE, AS DEFINED IN § 10–202 OF THE STATE GOVERNMENT ARTICLE, MAY TAKE AN APPEAL AS ALLOWED IN §§ 10–222 AND 10–223 OF THE STATE GOVERNMENT ARTICLE.

SUBTITLE 4. PROHIBITED ACTS; PENALTIES.

21–401.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT PROVIDE, ATTEMPT TO PROVIDE, OR OFFER TO PROVIDE INDIVIDUAL TAX PREPARATION SERVICES IN THE STATE UNLESS REGISTERED BY THE BOARD.

21–402.

UNLESS AUTHORIZED UNDER THIS TITLE TO PROVIDE INDIVIDUAL TAX PREPARATION SERVICES, AN INDIVIDUAL MAY NOT REPRESENT TO THE PUBLIC, BY USE OF A TITLE, INCLUDING "REGISTERED INDIVIDUAL TAX PREPARER" OR "INDIVIDUAL TAX PREPARER", BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL IS AUTHORIZED TO PROVIDE INDIVIDUAL TAX PREPARATION SERVICES IN THE STATE.

21–403.

(A) AN INDIVIDUAL TAX PREPARER SHALL MAINTAIN FOR A LENGTH OF TIME SPECIFIED BY THE BOARD THAT IS NOT MORE STRINGENT THAN A LENGTH OF TIME SPECIFIED UNDER FEDERAL LAW ALL RECORDS OF PERSONAL INCOME TAX RETURNS PREPARED BY THE INDIVIDUAL TAX PREPARER.

(B) (1) PRIOR TO RENDERING INDIVIDUAL TAX PREPARATION SERVICES, AN INDIVIDUAL TAX PREPARER SHALL DISCLOSE TO THE CUSTOMER, IN WRITING:

(I) THE INDIVIDUAL TAX PREPARER'S NAME, ADDRESS, AND TELEPHONE NUMBER;

~~(II) THE INDIVIDUAL TAX PREPARER'S EDUCATION AND TRAINING, INCLUDING EXAMINATIONS TAKEN AND SUCCESSFULLY PASSED;~~

(II) THAT THE INDIVIDUAL TAX PREPARER IS NOT A CERTIFIED PUBLIC ACCOUNTANT, AN ENROLLED AGENT, OR A TAX ATTORNEY;

(III) SERVICES THAT THE INDIVIDUAL TAX PREPARER IS QUALIFIED TO PROVIDE;

~~(IV) THAT THE INDIVIDUAL TAX PREPARER IS NOT A CERTIFIED PUBLIC ACCOUNTANT, AN ENROLLED AGENT, OR A TAX ATTORNEY;~~

(IV) THE INDIVIDUAL TAX PREPARER'S EDUCATION AND TRAINING, INCLUDING EXAMINATIONS TAKEN AND SUCCESSFULLY PASSED; AND

(V) ANY OTHER INFORMATION THAT THE BOARD REQUIRES.

(2) A DISCLOSURE REQUIRED UNDER THIS SUBSECTION SHALL BE PROVIDED TO A CUSTOMER:

(I) AT AN INITIAL MEETING BETWEEN THE INDIVIDUAL TAX PREPARER AND THE CUSTOMER; AND

(II) IF THE INDIVIDUAL TAX PREPARER MAINTAINS A WEBSITE, ON THE WEBSITE.

(C) AN INDIVIDUAL TAX PREPARER MAY NOT:

(1) FAIL TO SIGN A CUSTOMER'S INDIVIDUAL TAX RETURN;

(2) OBTAIN THE CUSTOMER'S SIGNATURE ON AN INDIVIDUAL TAX RETURN OR OTHER AUTHORIZING DOCUMENT PRIOR TO THE COMPLETION OF THE INDIVIDUAL TAX PREPARATION SERVICES; OR

(3) DISCLOSE INFORMATION RECEIVED FOR THE PURPOSES OF PREPARING A CUSTOMER'S FEDERAL OR STATE INCOME TAX RETURN, UNLESS:

(I) CONSENTED TO IN WRITING BY THE CUSTOMER;

(II) EXPRESSLY AUTHORIZED BY LAW;

(III) NECESSARY FOR THE PREPARATION OF THE TAX RETURN; OR

(IV) IN ACCORDANCE WITH A COURT ORDER.

21–404.

(A) A VIOLATION OF THIS TITLE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE AND IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

(B) IN ADDITION TO THE REMEDIES PROVIDED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE, AN INDIVIDUAL WHO IS AGGRIEVED BY A VIOLATION OF THIS TITLE MAY BRING AN ACTION AGAINST A PERSON WHO VIOLATES THIS TITLE TO RECOVER:

(1) $500 FOR EACH VIOLATION; AND

(2) ACTUAL DAMAGES SUSTAINED AS A RESULT OF THE VIOLATION.

SUBTITLE 5. SHORT TITLE; TERMINATION OF TITLE.

21–501.

THIS TITLE MAY BE CITED AS THE "MARYLAND INDIVIDUAL TAX PREPARERS ACT".

21–502.

SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE MARYLAND PROGRAM EVALUATION ACT, THIS TITLE AND ALL REGULATIONS ADOPTED UNDER THIS TITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1, 2016.

Article – Business Regulation

2–108.

(a) The following units are in the Department:

(23) THE STATE BOARD OF INDIVIDUAL TAX PREPARERS.

Article – State Government

8–403.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(32) INDIVIDUAL TAX PREPARERS, STATE BOARD OF (§ 21–201 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE: JULY 1, 2015);

SECTION 4. AND BE IT FURTHER ENACTED, That notwithstanding § 21–202(d)(1) of the Business Occupations and Professions Article as enacted by Section 3 of this Act, the terms of the initial members of the State Board of Individual Tax Preparers shall expire as follows:

(1) three members in 2011;

(2) three members in 2012; and

(3) two members in 2013.

SECTION 5. AND BE IT FURTHER ENACTED, That ~~an~~:

(a) An individual who provides tax preparation in the State has 2 years after the effective date of this Act to meet the requirements of Title 21 of the Business Occupations and Professions Article, as enacted by Section 3 of this Act.

(b) The State Board of Individual Tax Preparers, in conjunction with relevant trade associations, shall develop and implement a public awareness campaign to inform the public and relevant professionals of the registration requirements of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That the ~~Board~~ State Board of Individual Tax Preparers shall grant a waiver of the examination requirements for registration to any individual who:

(1) has obtained at least ~~10~~ 15 consecutive years of individual tax preparation experience;

(2) has completed at least 8 hours of annual continuing education; and

(3) is in good standing with the Internal Revenue Service, Department of Labor, Licensing, and Regulation, Office of the Comptroller, and Office of the Attorney General.

SECTION 7. AND BE IT FURTHER ENACTED, That beginning in fiscal year 2010, and for each fiscal year thereafter, if the fund balance of the Individual Tax Preparers Fund created under § 21–208 of the Business Occupations and Professions Article, as enacted under Section 3 of this Act, is insufficient to cover the costs of the administration and enforcement of Title 21 of the Business and Occupations Article relating to the State Board of Individual Tax Preparers, the Governor shall include a general fund appropriation in the State budget sufficient to cover the difference.

SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 624

(Senate Bill 841)

AN ACT concerning

Maryland Community Health Resources Commission – Modifications

FOR the purpose of ~~authorizing a certain member of the Maryland Community Health Resources Commission to be employed by a certain community health resource;~~ establishing the terms of Commission members; authorizing the Governor to remove a member under certain circumstances; establishing requirements for Commission decisions, compensation, and staff; authorizing the Commission to implement certain programs; repealing certain standing committees; requiring the Commission to adopt regulations that implement a certain subsidy program; ~~authorizing a community health resource that employs a member of the Commission to apply for and be eligible to receive a grant under certain circumstances;~~ establishing the terms of certain Commission members; extending the termination date of certain provisions; and generally relating to modifications to the Maryland Community Health Resources Commission.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 19–2102
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General

Section 19–2103, 19–2106, 19–2109(a), and 19–2201(f) ~~and (h)~~
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing
Article – Health – General
Section 19–2110
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 280 of the Acts of the General Assembly of 2005, as amended by Chapter 333 of the Acts of the General Assembly of 2001
Section 14

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

Article – Health – General

19–2102.

(a) There is a Maryland Community Health Resources Commission.

(b) The Commission is an independent commission that operates within the Department.

(c) The purpose of the Commission is to increase access to health care through community health resources.

19–2103.

(a) (1) The Commission consists of eleven members appointed by the Governor with the advice and consent of the Senate.

(2) Of the eleven members:

(i) One shall be a representative of a nonprofit health maintenance organization;

(ii) One shall be a representative of a nonprofit health service plan;

(iii) One shall be a representative of a Maryland hospital;

(iv) Four shall be individuals who:

1. Do not have any connection with the management or policy of a community health resource, nonprofit health service plan, or nonprofit health maintenance organization; and

2. Have a background or experience in health care;

(v) One shall be an individual who has a background or experience with an outpatient mental health clinic within the past 5 years; and

(vi) Three shall be individuals who have a background or experience with a community health resource within the past 5 years.

(3) At least two of the eleven members shall be health care professionals licensed in the State.

(b) To the extent practicable, when appointing members to the Commission, the Governor shall assure geographic balance and promote racial and gender diversity in the Commission's membership.

~~**(C) NOTWITHSTANDING §§ 15–502 AND 15–503 OF THE STATE GOVERNMENT ARTICLE, AND SUBJECT TO § 19–2201(H)(2) OF THIS TITLE, A MEMBER WHO IS REQUIRED TO HAVE A BACKGROUND OR EXPERIENCE WITH A COMMUNITY HEALTH RESOURCE WITHIN THE PAST 5 YEARS MAY BE EMPLOYED BY A COMMUNITY HEALTH RESOURCE THAT RECEIVES A GRANT FROM THE COMMISSION.**~~

~~**(D)**~~ **(C)** **(1) ON OR AFTER JULY 1, 2009, THE TERM OF A MEMBER IS 4 YEARS.**

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON JULY 1, 2009.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS, EXCEPT THAT A MEMBER APPOINTED BEFORE JULY 1, 2009, MAY SERVE ONE ADDITIONAL 4–YEAR TERM WHEN THE MEMBER'S CURRENT TERM EXPIRES.

(6) THE GOVERNOR MAY REMOVE A MEMBER FOR NEGLECT OF DUTY, INCOMPETENCE, OR MISCONDUCT.

19–2106.

(a) (1) A majority of the full authorized membership of the Commission is a quorum.

(2) **[**The Commission may not act on any matter unless at least six members in attendance concur.**] THE DECISION OF THE COMMISSION SHALL BE BY A MAJORITY OF THE QUORUM PRESENT AND VOTING.**

(b) The Commission shall meet at least six times a year, at the times and places that it determines.

(c) A member of the Commission **IS ENTITLED TO**:

(1) **[**May not receive compensation; but**] COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET; AND**

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

(d) (1) The Commission may employ a staff in accordance with the State budget.

(2) **(I) STAFF HIRED AFTER JUNE 30, 2005, ARE IN THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE OR ARE SPECIAL APPOINTMENTS IN THE STATE PERSONNEL MANAGEMENT SYSTEM.**

(II) The Commission, in consultation with the Secretary, shall determine the appropriate job classifications and grades for all staff.

19–2109.

(a) In addition to the duties set forth elsewhere in this subtitle, the Commission shall, to the extent budgeted resources permit:

(1) Establish by regulation the criteria to qualify as a community health resource under this subtitle;

(2) Establish by regulation the services that a community health resource shall provide to qualify as a community health resource under this subtitle; and

(3) Require community health resources to submit a plan to the Commission on how the community health resource will provide or arrange to provide mental health services;

(4) Identify and seek federal and State funding for the expansion of community health resources;

(5) Establish by regulation the criteria for community health resources to qualify for operating grants and procedures for applying for operating grants;

(6) Administer operating grant fund programs for qualifying community health resources;

(7) Taking into consideration regional disparities in income and the cost of medical services, establish guidelines for sliding scale fee payments at community health resources that are not federally qualified health centers, for individuals whose family income is between 100% and 200% of the federal poverty guidelines;

(8) Identify **AND IMPLEMENT** programs and policies to encourage specialist providers to serve individuals referred from community health resources;

(9) Identify **AND IMPLEMENT** programs and policies to encourage hospitals and community health resources to partner to increase access to health care services;

(10) Establish a reverse referral pilot program under which a hospital will identify and assist patients in accessing health care services through a community health resource;

(11) Work with community health resources, hospital systems, and others to develop a unified information and data management system for use by all community health resources that is integrated with the local hospital systems to track the treatment of individual patients and that provides real–time indicators of available resources;

(12) Work in cooperation with clinical education and training programs, area health education centers, and telemedicine centers to enhance access to quality primary and specialty health care for individuals in rural and underserved areas referred by community health resources;

(13) Evaluate the feasibility of developing a capital grant program for community health resources that are not federally qualified health centers;

(14) Develop an outreach program to educate and inform individuals of the availability of community health resources and assist individuals under 200% of the federal poverty level who do not have health insurance to access health care services through community health resources;

(15) Study school–based health center funding and access issues including:

(i) Reimbursement of school–based health centers by managed care organizations, insurers, nonprofit health service plans, and health maintenance organizations; and

(ii) Methods to expand school–based health centers to provide primary care services;

(16) Study access and reimbursement issues regarding the provision of dental services;

(17) Evaluate the feasibility of extending liability protection under the Maryland Tort Claims Act to health care practitioners who contract directly with a community health resource that is also a Maryland qualified health center or a school–based health center; and

(18) Establish criteria and mechanisms to pay for office–based specialty care visits, diagnostic testing, and laboratory tests for uninsured individuals with family income that does not exceed 200% of the federal poverty guidelines who are referred through community health resources.

[19–2110.

To facilitate its work, the Commission shall establish standing committees, including:

(1) The Committee on Capital and Operational Funding;

(2) The Committee on Hospital and Community Health Resources Relations;

(3) The Committee on School–based Community Health Clinic Center Expansion; and

(4) The Committee on Data Information Systems.**]**

19–2201.

(f) The Commission shall adopt regulations that:

(1) Establish the criteria for a community health resource to qualify for a grant;

(2) Establish the procedures for disbursing grants to qualifying community health resources;

(3) Develop a formula for disbursing grants to qualifying community health resources; **[**and**]**

(4) Establish criteria and mechanisms for funding a unified data information system**; AND**

(5) IN CONSULTATION WITH THE SECRETARY, IMPLEMENT A PROGRAM TO PROVIDE SUBSIDIES TO COMMUNITY HEALTH RESOURCES FOR OFFICE–BASED SPECIALTY CARE VISITS, DIAGNOSTIC TESTING, AND LABORATORY TESTS.

~~(h)~~ ~~**(1)**~~ ~~Grants awarded to a community health resource under this section may be used:~~

~~**[**(1)**]**~~ ~~**(I)**~~ ~~To provide operational assistance to a community health resource; and~~

~~**[**(2)**]**~~ ~~**(II)**~~ ~~For any other purpose the Commission determines is appropriate to assist a community health resource.~~

~~**(2) A COMMUNITY HEALTH RESOURCE THAT EMPLOYS A MEMBER OF THE COMMISSION MAY APPLY FOR AND BE ELIGIBLE TO RECEIVE A GRANT UNDER THIS SECTION IF THE MEMBER DOES NOT PARTICIPATE IN THE COMMISSION'S CONSIDERATION OF THE GRANT APPLICATION.**~~

Chapter 280 of the Acts of 2005, as amended by Chapter 21 of the Acts of 2006

SECTION 14. AND BE IT FURTHER ENACTED, That, subject to Section 13 of this Act, this Act shall take effect July 1, 2005. Section 3 of this Act shall remain effective for a period of **[**5**] 10** years and, at the end of June 30, **[**2010**] 2015**, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no further force and effect. Section 5 of this Act shall remain effective

for a period of 2 years and, at the end of June 30, 2007, with no further action required by the General Assembly, Section 5 of this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the members of the Community Health Resources Commission serving on July 1, 2009, shall expire as follows:

(1) three members in 2010;

(2) three members in 2011;

(3) three members in 2012; and

(4) two members in 2013.

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

Approved by the Governor, May 22, 2008.

CHAPTER 625

(House Bill 1279)

AN ACT concerning

Maryland Community Health Resources Commission – Modifications

FOR the purpose of ~~authorizing a certain member of the Maryland Community Health Resources Commission to be employed by a certain community health resource;~~ establishing the terms of Maryland Community Health Resources Commission members; authorizing the Governor to remove a member under certain circumstances; establishing requirements for Commission decisions, compensation, and staff; authorizing the Commission to implement certain programs; repealing certain standing committees; requiring the Commission to adopt regulations that implement a certain subsidy program; ~~authorizing a community health resource that employs a member of the Commission to apply for and be eligible to receive a grant under certain circumstances;~~ establishing the terms of certain Commission members; extending the termination date of certain provisions; and generally relating to modifications to the Maryland Community Health Resources Commission.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 19–2102
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–2103, 19–2106, 19–2109(a), and 19–2201(f) ~~and (h)~~
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing
Article – Health – General
Section 19–2110
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 280 of the Acts of the General Assembly of 2005, as amended by Chapter 333 of the Acts of the General Assembly of 2001
Section 14

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

Article – Health – General

19–2102.

(a) There is a Maryland Community Health Resources Commission.

(b) The Commission is an independent commission that operates within the Department.

(c) The purpose of the Commission is to increase access to health care through community health resources.

19–2103.

(a) (1) The Commission consists of eleven members appointed by the Governor with the advice and consent of the Senate.

(2) Of the eleven members:

(i) One shall be a representative of a nonprofit health maintenance organization;

(ii) One shall be a representative of a nonprofit health service plan;

(iii) One shall be a representative of a Maryland hospital;

(iv) Four shall be individuals who:

1. Do not have any connection with the management or policy of a community health resource, nonprofit health service plan, or nonprofit health maintenance organization; and

2. Have a background or experience in health care;

(v) One shall be an individual who has a background or experience with an outpatient mental health clinic within the past 5 years; and

(vi) Three shall be individuals who have a background or experience with a community health resource within the past 5 years.

(3) At least two of the eleven members shall be health care professionals licensed in the State.

(b) To the extent practicable, when appointing members to the Commission, the Governor shall assure geographic balance and promote racial and gender diversity in the Commission's membership.

(C) ~~**NOTWITHSTANDING §§ 15–502 AND 15–503 OF THE STATE GOVERNMENT ARTICLE, AND SUBJECT TO § 19–2201(H)(2) OF THIS TITLE, A MEMBER WHO IS REQUIRED TO HAVE A BACKGROUND OR EXPERIENCE WITH A COMMUNITY HEALTH RESOURCE WITHIN THE PAST 5 YEARS MAY BE EMPLOYED BY A COMMUNITY HEALTH RESOURCE THAT RECEIVES A GRANT FROM THE COMMISSION.**~~

~~**(D)**~~ **(1) ON OR AFTER JULY 1, 2009, THE TERM OF A MEMBER IS 4 YEARS.**

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON JULY 1, 2009.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS, EXCEPT THAT A MEMBER APPOINTED BEFORE JULY 1, 2009, MAY SERVE ONE ADDITIONAL 4–YEAR TERM WHEN THE MEMBER'S CURRENT TERM EXPIRES.

(6) THE GOVERNOR MAY REMOVE A MEMBER FOR NEGLECT OF DUTY, INCOMPETENCE, OR MISCONDUCT.

19–2106.

(a) (1) A majority of the full authorized membership of the Commission is a quorum.

(2) **[**The Commission may not act on any matter unless at least six members in attendance concur.**] THE DECISION OF THE COMMISSION SHALL BE BY A MAJORITY OF THE QUORUM PRESENT AND VOTING.**

(b) The Commission shall meet at least six times a year, at the times and places that it determines.

(c) A member of the Commission **IS ENTITLED TO**:

(1) **[**May not receive compensation; but**] COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET; AND**

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

(d) (1) The Commission may employ a staff in accordance with the State budget.

(2) **(I) STAFF HIRED AFTER JUNE 30, 2005, ARE IN THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE OR ARE SPECIAL APPOINTMENTS IN THE STATE PERSONNEL MANAGEMENT SYSTEM.**

(II) The Commission, in consultation with the Secretary, shall determine the appropriate job classifications and grades for all staff.

19–2109.

(a) In addition to the duties set forth elsewhere in this subtitle, the Commission shall, to the extent budgeted resources permit:

(1) Establish by regulation the criteria to qualify as a community health resource under this subtitle;

(2) Establish by regulation the services that a community health resource shall provide to qualify as a community health resource under this subtitle; and

(3) Require community health resources to submit a plan to the Commission on how the community health resource will provide or arrange to provide mental health services;

(4) Identify and seek federal and State funding for the expansion of community health resources;

(5) Establish by regulation the criteria for community health resources to qualify for operating grants and procedures for applying for operating grants;

(6) Administer operating grant fund programs for qualifying community health resources;

(7) Taking into consideration regional disparities in income and the cost of medical services, establish guidelines for sliding scale fee payments at community health resources that are not federally qualified health centers, for individuals whose family income is between 100% and 200% of the federal poverty guidelines;

(8) Identify **AND IMPLEMENT** programs and policies to encourage specialist providers to serve individuals referred from community health resources;

(9) Identify **AND IMPLEMENT** programs and policies to encourage hospitals and community health resources to partner to increase access to health care services;

(10) Establish a reverse referral pilot program under which a hospital will identify and assist patients in accessing health care services through a community health resource;

(11) Work with community health resources, hospital systems, and others to develop a unified information and data management system for use by all

community health resources that is integrated with the local hospital systems to track the treatment of individual patients and that provides real–time indicators of available resources;

(12) Work in cooperation with clinical education and training programs, area health education centers, and telemedicine centers to enhance access to quality primary and specialty health care for individuals in rural and underserved areas referred by community health resources;

(13) Evaluate the feasibility of developing a capital grant program for community health resources that are not federally qualified health centers;

(14) Develop an outreach program to educate and inform individuals of the availability of community health resources and assist individuals under 200% of the federal poverty level who do not have health insurance to access health care services through community health resources;

(15) Study school–based health center funding and access issues including:

(i) Reimbursement of school–based health centers by managed care organizations, insurers, nonprofit health service plans, and health maintenance organizations; and

(ii) Methods to expand school–based health centers to provide primary care services;

(16) Study access and reimbursement issues regarding the provision of dental services;

(17) Evaluate the feasibility of extending liability protection under the Maryland Tort Claims Act to health care practitioners who contract directly with a community health resource that is also a Maryland qualified health center or a school–based health center; and

(18) Establish criteria and mechanisms to pay for office–based specialty care visits, diagnostic testing, and laboratory tests for uninsured individuals with family income that does not exceed 200% of the federal poverty guidelines who are referred through community health resources.

[19–2110.

To facilitate its work, the Commission shall establish standing committees, including:

(1) The Committee on Capital and Operational Funding;

(2) The Committee on Hospital and Community Health Resources Relations;

(3) The Committee on School–based Community Health Clinic Center Expansion; and

(4) The Committee on Data Information Systems.**]**

19–2201.

(f) The Commission shall adopt regulations that:

(1) Establish the criteria for a community health resource to qualify for a grant;

(2) Establish the procedures for disbursing grants to qualifying community health resources;

(3) Develop a formula for disbursing grants to qualifying community health resources; **[**and**]**

(4) Establish criteria and mechanisms for funding a unified data information system**; AND**

(5) IN CONSULTATION WITH THE SECRETARY, IMPLEMENT A PROGRAM TO PROVIDE SUBSIDIES TO COMMUNITY HEALTH RESOURCES FOR OFFICE–BASED SPECIALTY CARE VISITS, DIAGNOSTIC TESTING, AND LABORATORY TESTS.

~~(h)~~ ~~**(1)**~~ ~~Grants awarded to a community health resource under this section may be used:~~

~~**[**(1)**]**~~ ~~**(I)**~~ ~~To provide operational assistance to a community health resource; and~~

~~**[**(2)**]**~~ ~~**(II)**~~ ~~For any other purpose the Commission determines is appropriate to assist a community health resource.~~

~~**(2) A COMMUNITY HEALTH RESOURCE THAT EMPLOYS A MEMBER OF THE COMMISSION MAY APPLY FOR AND BE ELIGIBLE TO RECEIVE A GRANT UNDER THIS SECTION IF THE MEMBER DOES NOT PARTICIPATE IN THE COMMISSION'S CONSIDERATION OF THE GRANT APPLICATION.**~~

Chapter 280 of the Acts of 2005, as amended by Chapter 21 of the Acts of 2006

SECTION 14. AND BE IT FURTHER ENACTED, That, subject to Section 13 of this Act, this Act shall take effect July 1, 2005. Section 3 of this Act shall remain effective for a period of **[**5**] 10** years and, at the end of June 30, **[**2010**] 2015**, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no further force and effect. Section 5 of this Act shall remain effective for a period of 2 years and, at the end of June 30, 2007, with no further action required by the General Assembly, Section 5 of this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the members of the Community Health Resources Commission serving on July 1, 2009, shall expire as follows:

(1) three members in 2010;

(2) three members in 2011;

(3) three members in 2012; and

(4) two members in 2013.

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

Approved by the Governor, May 22, 2008.

CHAPTER 626

(Senate Bill 852)

AN ACT concerning

Health Insurance – Public–Private Health Care Programs

FOR the purpose of requiring a person to be certified by the Maryland Insurance Commissioner before operating a public–private health care program in the State; establishing certain requirements an applicant for certification must meet; requiring the Commissioner to certify an applicant to operate a public–private health care program under certain circumstances; providing for

the expiration and renewal of a certification; requiring a certified nonprofit corporation to comply with and be subject to certain provisions of law; requiring a public–private health care program to disapprove an application under certain circumstances; authorizing the Commissioner to deny a certification to an applicant or refuse to renew, suspend, or revoke a certification under certain circumstances; requiring that all forms, agreements, advertising, or other documents provided to participants in a public–private health care program be truthful and not misleading and be made available to the Commissioner on request; authorizing the Commissioner to issue certain orders to enforce this Act and certain regulations; specifying the manner in which an order of the Commissioner may be served on certain persons; providing that a request for a hearing on an order of the Commissioner does not stay a certain portion of the order; authorizing the Commissioner to file a petition in a certain court to enforce certain orders; authorizing the Commissioner to recover for the use of the State certain attorney's fees and costs under certain circumstances; establishing certain civil penalties; authorizing the Commissioner to adopt certain regulations; specifying the purpose of certain provisions of this Act; defining certain terms; requiring the Maryland Insurance Administration to report to certain committees of the General Assembly on the Administration's recommendations for the continuation of public–private health care programs in the State on or before a certain date; providing for the termination of this Act; and generally relating to public–private health care programs.

BY adding to
Article – Insurance
Section 14–701 through ~~14–709~~ 14–710 to be under the new subtitle "Subtitle 7. Public–Private Health Care Programs"
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

SUBTITLE 7. PUBLIC–PRIVATE HEALTH CARE PROGRAMS.

14–701.

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

(B) "CERTIFIED NONPROFIT CORPORATION" MEANS A NONPROFIT CORPORATION CERTIFIED UNDER THIS SUBTITLE TO ESTABLISH AND OPERATE A PUBLIC–PRIVATE HEALTH CARE PROGRAM.

(C) "HEALTH CARE PROVIDER" MEANS ANY PERSON, INCLUDING A PHYSICIAN OR HOSPITAL, WHO IS LICENSED OR OTHERWISE AUTHORIZED TO PROVIDE HEALTH CARE SERVICES IN THE STATE.

(D) "HEALTH CARE SERVICES" HAS THE MEANING STATED IN § 19–701 OF THE HEALTH – GENERAL ARTICLE.

(E) "QUALIFYING INDIVIDUAL" MEANS AN INDIVIDUAL WHO:

(1) IS NOT ELIGIBLE FOR OR ENROLLED IN THE FEDERAL MEDICARE PROGRAM, THE MARYLAND PRIMARY ADULT CARE PROGRAM, OR THE MARYLAND CHILDREN'S HEALTH PROGRAM; ~~AND~~

~~(2) IS NOT COVERED UNDER A HEALTH BENEFIT PLAN ISSUED UNDER TITLE 15, SUBTITLE 12 OF THIS ARTICLE; AND~~

(2) IS NOT COVERED UNDER A HEALTH BENEFIT PLAN ISSUED UNDER TITLE 15, SUBTITLE 12 OF THIS ARTICLE; AND

~~(2)~~ (3) MEETS ANY OTHER ELIGIBILITY REQUIREMENTS ESTABLISHED BY A PUBLIC–PRIVATE HEALTH CARE PROGRAM.

(F) "PARTICIPANTS" MEANS QUALIFYING INDIVIDUALS ENROLLED IN A PUBLIC–PRIVATE HEALTH CARE PROGRAM.

(G) "PUBLIC–PRIVATE HEALTH CARE PROGRAM" MEANS A PROGRAM THAT:

(1) IS ESTABLISHED AND OPERATED BY A NONPROFIT CORPORATION THAT:

(I) HAS BEEN CERTIFIED BY THE COMMISSIONER UNDER THIS SUBTITLE; AND

(II) HAS ENTERED INTO A WRITTEN AGREEMENT WITH EACH COUNTY IN WHICH THE PROGRAM PROPOSES TO OPERATE; AND

(2) FOR A MEMBERSHIP FEE, PROVIDES OR ARRANGES FOR THE PROVISION OF HEALTH CARE SERVICES FOR PARTICIPANTS.

14–702.

THE PURPOSE OF THIS SUBTITLE IS TO REGULATE THE ESTABLISHMENT AND OPERATION OF PUBLIC–PRIVATE HEALTH CARE PROGRAMS.

14–703.

(A) A PERSON SHALL BE CERTIFIED BY THE COMMISSIONER BEFORE OPERATING A PUBLIC–PRIVATE HEALTH CARE PROGRAM IN THE STATE.

(B) AN APPLICANT FOR CERTIFICATION SHALL:

(1) BE A NONPROFIT CORPORATION THAT, IN ACCORDANCE WITH ITS CHARTER, IS ORGANIZED FOR THE PURPOSE OF ESTABLISHING AND OPERATING A PUBLIC–PRIVATE HEALTH CARE PROGRAM; AND

(2) FILE WITH THE COMMISSIONER:

(I) AN APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES CONTAINING THE INFORMATION THAT THE COMMISSIONER CONSIDERS NECESSARY;

(II) COPIES OF THE FOLLOWING DOCUMENTS, CERTIFIED BY AT LEAST TWO OF THE EXECUTIVE OFFICERS OF THE APPLICANT:

1. ARTICLES OF INCORPORATION OF THE APPLICANT THAT INCLUDE THE APPLICANT'S CORPORATE MISSION STATEMENT, AND ALL AMENDMENTS TO THE ARTICLES;

2. BYLAWS OF THE APPLICANT, AND ALL AMENDMENTS TO THE BYLAWS;

3. A LIST OF THE NAME, ADDRESS, AND BIOGRAPHICAL INFORMATION FOR EACH MEMBER OF THE BOARD OF DIRECTORS OF THE APPLICANT; AND

4. A LIST OF THE BEGINNING AND ENDING TERMS OF OFFICE OF EACH MEMBER OF THE BOARD OF DIRECTORS OF THE APPLICANT;

(III) THE WRITTEN AGREEMENT WITH EACH COUNTY IN WHICH THE APPLICANT PROPOSES TO OPERATE A PUBLIC–PRIVATE HEALTH CARE PROGRAM THAT SPECIFIES THE OBLIGATIONS OF EACH PARTY TO THE AGREEMENT;

(IV) A DESCRIPTION OF THE PUBLIC–PRIVATE HEALTH CARE PROGRAM THE APPLICANT PROPOSES TO OPERATE, INCLUDING:

1. THE CRITERIA USED TO DETERMINE WHO IS A QUALIFYING INDIVIDUAL;

2. THE ARRANGEMENTS FOR THE DELIVERY OF HEALTH CARE SERVICES;

3. THE PAYMENT OBLIGATIONS OF PARTICIPANTS; ~~AND~~

4. THE INTERNAL COMPLAINT PROCESS AVAILABLE TO PARTICIPANTS; AND

5. THE PROCEDURES TO BE USED TO MONITOR APPLICATIONS FOR ENROLLMENT TO DETERMINE WHETHER AN INDIVIDUAL HAS VOLUNTARILY TERMINATED COVERAGE UNDER A HEALTH BENEFIT PLAN ISSUED UNDER TITLE 15, SUBTITLE 12 OF THIS ARTICLE;

(V) ALL FORMS, AGREEMENTS, ADVERTISING, OR OTHER DOCUMENTS THAT WILL BE PROVIDED TO PARTICIPANTS; AND

(VI) ANY OTHER INFORMATION OR DOCUMENTS THAT THE COMMISSIONER CONSIDERS NECESSARY TO ENSURE COMPLIANCE WITH THIS SUBTITLE.

14–704.

(A) THE COMMISSIONER SHALL CERTIFY AN APPLICANT TO OPERATE A PUBLIC–PRIVATE HEALTH CARE PROGRAM IF THE COMMISSIONER IS SATISFIED THAT THE APPLICANT:

(1) HAS BEEN ORGANIZED IN GOOD FAITH FOR THE PURPOSE OF ESTABLISHING AND OPERATING A PUBLIC–PRIVATE HEALTH CARE PROGRAM;

(2) IS COMMITTED TO A NONPROFIT CORPORATE STRUCTURE; AND

(3) HAS SUFFICIENT FUNDS TO MEET ITS OBLIGATIONS UNDER THE PUBLIC–PRIVATE HEALTH CARE PROGRAM.

(B) A CERTIFICATION EXPIRES ON THE THIRD JUNE 30 FOLLOWING THE DATE ON WHICH THE CERTIFICATION WAS LAST ISSUED UNLESS IT IS RENEWED AS PROVIDED IN THIS SECTION.

(C) BEFORE A CERTIFICATION EXPIRES, A CERTIFIED NONPROFIT CORPORATION MAY RENEW IT FOR AN ADDITIONAL 3–YEAR TERM IF THE CERTIFIED NONPROFIT CORPORATION:

(1) OTHERWISE IS ENTITLED TO CERTIFICATION; AND

(2) FILES WITH THE COMMISSIONER A RENEWAL APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES.

(D) AN APPLICATION FOR RENEWAL OF A CERTIFICATION SHALL BE CONSIDERED MADE IN A TIMELY MANNER IF IT IS POSTMARKED ON OR BEFORE JUNE 30 OF THE YEAR OF RENEWAL.

14–705.

A CERTIFIED NONPROFIT CORPORATION SHALL:

(1) COMPLY WITH THIS SUBTITLE; AND

(2) BE SUBJECT TO §§ 27–203, 27–303(2), AND 27–304(1) THROUGH (15) OF THIS ARTICLE.

14–706.

<u>A PUBLIC–PRIVATE HEALTH CARE PROGRAM MAY NOT APPROVE AN APPLICATION FOR ENROLLMENT IF IT IS DETERMINED THAT THE INDIVIDUAL FOR WHOM THE APPLICATION WAS SUBMITTED WAS COVERED BY A HEALTH BENEFIT PLAN ISSUED UNDER TITLE 15, SUBTITLE 12 OF THIS ARTICLE THAT WAS VOLUNTARILY TERMINATED BY THE INDIVIDUAL WITHIN 6 MONTHS PRECEDING THE DATE OF THE APPLICATION.</u>

<u>14–707.</u>

(A) SUBJECT TO THE HEARING PROVISIONS OF TITLE 2, SUBTITLE 2 OF THIS ARTICLE, THE COMMISSIONER MAY DENY A CERTIFICATION TO AN APPLICANT OR REFUSE TO RENEW, SUSPEND, OR REVOKE THE CERTIFICATION OF A CERTIFIED NONPROFIT CORPORATION, IF AN OFFICER, DIRECTOR, OR EMPLOYEE OF THE APPLICANT OR CERTIFIED NONPROFIT CORPORATION:

(1) MAKES A MATERIAL MISSTATEMENT OR MISREPRESENTATION IN AN APPLICATION FOR CERTIFICATION;

(2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A CERTIFICATION FOR THE APPLICANT OR CERTIFIED NONPROFIT CORPORATION OR FOR ANOTHER;

(3) HAS BEEN CONVICTED OF A FELONY OR OF A MISDEMEANOR INVOLVING MORAL TURPITUDE;

(4) IN CONNECTION WITH THE PUBLIC–PRIVATE HEALTH CARE PROGRAM, COMMITS FRAUD OR ENGAGES IN ILLEGAL OR DISHONEST ACTIVITIES;

(5) HAS VIOLATED ANY PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE;

(6) PROVIDES A FALSE, FALSELY DISPARAGING, OR MISLEADING ORAL OR WRITTEN STATEMENT, VISUAL DESCRIPTION, OR OTHER REPRESENTATION OF ANY KIND THAT HAS THE CAPACITY, TENDENCY, OR EFFECT OF BEING DECEPTIVE OR MISLEADING; OR

(7) MAKES A REPRESENTATION THAT A PUBLIC–PRIVATE HEALTH CARE PROGRAM HAS A SPONSORSHIP, APPROVAL, CHARACTERISTIC, USE, OR BENEFIT THAT IT DOES NOT HAVE.

(B) SUBJECT TO THE HEARING PROVISIONS OF TITLE 2, SUBTITLE 2 OF THIS ARTICLE, THE COMMISSIONER MAY REFUSE TO RENEW, SUSPEND, OR REVOKE THE CERTIFICATION OF A CERTIFIED NONPROFIT CORPORATION IF THE CERTIFIED NONPROFIT CORPORATION OR THE PUBLIC–PRIVATE HEALTH CARE PROGRAM OPERATED BY THE CERTIFIED NONPROFIT CORPORATION FAILS TO CONTINUE TO SATISFY THE REQUIREMENTS OF THIS SUBTITLE.

~~14–707.~~ 14–708.

ALL FORMS, AGREEMENTS, ADVERTISING, OR OTHER DOCUMENTS PROVIDED BY A CERTIFIED NONPROFIT CORPORATION TO PARTICIPANTS SHALL BE:

(1) TRUTHFUL AND NOT MISLEADING IN FACT OR BY IMPLICATION; AND

(2) MADE AVAILABLE TO THE COMMISSIONER ON REQUEST.

~~**14–708.**~~ **14–709.**

(A) TO ENFORCE THIS SUBTITLE AND ANY REGULATIONS ADOPTED UNDER THIS SUBTITLE, THE COMMISSIONER MAY ISSUE AN ORDER THAT REQUIRES THE VIOLATOR TO:

(1) CEASE AND DESIST FROM THE IDENTIFIED VIOLATION AND FURTHER SIMILAR VIOLATIONS;

(2) TAKE SPECIFIC AFFIRMATIVE ACTION TO CORRECT THE VIOLATION; OR

(3) MAKE RESTITUTION OF MONEY, PROPERTY, OR OTHER ASSETS TO A PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION.

(B) (1) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION MAY BE SERVED ON A VIOLATOR WHO IS CERTIFIED UNDER THIS SUBTITLE IN THE MANNER PROVIDED IN § 2–204 OF THIS ARTICLE.

(2) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION MAY BE SERVED ON A VIOLATOR WHO IS NOT CERTIFIED UNDER THIS SUBTITLE IN THE MANNER PROVIDED IN § 2–204 OR § 4–207 OF THIS ARTICLE.

(C) A REQUEST FOR A HEARING ON AN ORDER ISSUED UNDER THIS SECTION DOES NOT STAY THAT PORTION OF THE ORDER THAT REQUIRES THE VIOLATOR TO CEASE AND DESIST FROM CONDUCT IDENTIFIED IN THE ORDER.

(D) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT OF ANY COUNTY TO ENFORCE AN ORDER ISSUED UNDER THIS SECTION, WHETHER OR NOT A HEARING HAS BEEN REQUESTED OR, IF REQUESTED, WHETHER OR NOT A HEARING HAS BEEN HELD.

(E) IF THE COMMISSIONER PREVAILS IN AN ACTION BROUGHT BY THE COMMISSIONER UNDER THIS SECTION, THE COMMISSIONER MAY RECOVER FOR THE USE OF THE STATE REASONABLE ATTORNEY'S FEES AND THE COSTS OF THE ACTION.

(F) (1) IN ADDITION TO ANY OTHER ENFORCEMENT ACTION TAKEN BY THE COMMISSIONER UNDER THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING $10,000 FOR EACH VIOLATION OF A PROVISION OF THIS SUBTITLE.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING $1,000 PER DAY FOR EACH DAY THAT A PERSON IS IN VIOLATION OF § 14–703(A) OF THIS SUBTITLE.

(G) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THIS SECTION DOES NOT LIMIT ANY REGULATORY POWER OF THE COMMISSIONER UNDER THIS ARTICLE.

~~14–709.~~ 14–710.

THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2010, the Maryland Insurance Administration shall report, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on the Administration's recommendations for the continuation of public–private health care programs in the State.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 5 years and, at the end of May 31, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2008.

CHAPTER 627

(House Bill 872)

AN ACT concerning

Health Insurance – Public–Private Health Care Programs

FOR the purpose of requiring a person to be certified by the Maryland Insurance Commissioner before operating a public–private health care program in the

State; establishing certain requirements an applicant for certification must meet; requiring the Commissioner to certify an applicant to operate a public–private health care program under certain circumstances; providing for the expiration and renewal of a certification; requiring a certified nonprofit corporation to comply with and be subject to certain provisions of law; requiring a public–private health care program to disapprove an application under certain circumstances; authorizing the Commissioner to deny a certification to an applicant or refuse to renew, suspend, or revoke a certification under certain circumstances; requiring that all forms, agreements, advertising, or other documents provided to participants in a public–private health care program be truthful and not misleading and be made available to the Commissioner on request; authorizing the Commissioner to issue certain orders to enforce this Act and certain regulations; specifying the manner in which an order of the Commissioner may be served on certain persons; providing that a request for a hearing on an order of the Commissioner does not stay a certain portion of the order; authorizing the Commissioner to file a petition in a certain court to enforce certain orders; authorizing the Commissioner to recover for the use of the State certain attorney's fees and costs under certain circumstances; establishing certain civil penalties; authorizing the Commissioner to adopt certain regulations; specifying the purpose of certain provisions of this Act; defining certain terms; requiring the Maryland Insurance Administration to report to certain committees of the General Assembly on the Administration's recommendations for the continuation of public–private health care programs in the State on or before a certain date; providing for the termination of this Act; and generally relating to public–private health care programs.

BY adding to
Article – Insurance
Section 14–701 through ~~14–709~~ 14–710 to be under the new subtitle "Subtitle 7. Public–Private Health Care Programs"
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

SUBTITLE 7. PUBLIC–PRIVATE HEALTH CARE PROGRAMS.

14–701.

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

(B) "CERTIFIED NONPROFIT CORPORATION" MEANS A NONPROFIT CORPORATION CERTIFIED UNDER THIS SUBTITLE TO ESTABLISH AND OPERATE A PUBLIC–PRIVATE HEALTH CARE PROGRAM.

(C) "HEALTH CARE PROVIDER" MEANS ANY PERSON, INCLUDING A PHYSICIAN OR HOSPITAL, WHO IS LICENSED OR OTHERWISE AUTHORIZED TO PROVIDE HEALTH CARE SERVICES IN THE STATE.

(D) "HEALTH CARE SERVICES" HAS THE MEANING STATED IN § 19–701 OF THE HEALTH – GENERAL ARTICLE.

(E) "QUALIFYING INDIVIDUAL" MEANS AN INDIVIDUAL WHO:

(1) IS NOT ELIGIBLE FOR OR ENROLLED IN THE FEDERAL MEDICARE PROGRAM, THE MARYLAND PRIMARY ADULT CARE PROGRAM, OR THE MARYLAND CHILDREN'S HEALTH PROGRAM; ~~AND~~

(2) IS NOT COVERED UNDER A HEALTH BENEFIT PLAN ISSUED UNDER TITLE 15, SUBTITLE 12 OF THIS ARTICLE; AND

~~(2)~~ (3) MEETS ANY OTHER ELIGIBILITY REQUIREMENTS ESTABLISHED BY A PUBLIC–PRIVATE HEALTH CARE PROGRAM.

(F) "PARTICIPANTS" MEANS QUALIFYING INDIVIDUALS ENROLLED IN A PUBLIC–PRIVATE HEALTH CARE PROGRAM.

(G) "PUBLIC–PRIVATE HEALTH CARE PROGRAM" MEANS A PROGRAM THAT:

(1) IS ESTABLISHED AND OPERATED BY A NONPROFIT CORPORATION THAT:

(I) HAS BEEN CERTIFIED BY THE COMMISSIONER UNDER THIS SUBTITLE; AND

(II) HAS ENTERED INTO A WRITTEN AGREEMENT WITH EACH COUNTY IN WHICH THE PROGRAM PROPOSES TO OPERATE; AND

(2) FOR A MEMBERSHIP FEE, PROVIDES OR ARRANGES FOR THE PROVISION OF HEALTH CARE SERVICES FOR PARTICIPANTS.

14–702.

THE PURPOSE OF THIS SUBTITLE IS TO REGULATE THE ESTABLISHMENT AND OPERATION OF PUBLIC–PRIVATE HEALTH CARE PROGRAMS.

14–703.

(A) A PERSON SHALL BE CERTIFIED BY THE COMMISSIONER BEFORE OPERATING A PUBLIC–PRIVATE HEALTH CARE PROGRAM IN THE STATE.

(B) AN APPLICANT FOR CERTIFICATION SHALL:

(1) BE A NONPROFIT CORPORATION THAT, IN ACCORDANCE WITH ITS CHARTER, IS ORGANIZED FOR THE PURPOSE OF ESTABLISHING AND OPERATING A PUBLIC–PRIVATE HEALTH CARE PROGRAM; AND

(2) FILE WITH THE COMMISSIONER:

(I) AN APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES CONTAINING THE INFORMATION THAT THE COMMISSIONER CONSIDERS NECESSARY;

(II) COPIES OF THE FOLLOWING DOCUMENTS, CERTIFIED BY AT LEAST TWO OF THE EXECUTIVE OFFICERS OF THE APPLICANT:

1. ARTICLES OF INCORPORATION OF THE APPLICANT THAT INCLUDE THE APPLICANT'S CORPORATE MISSION STATEMENT, AND ALL AMENDMENTS TO THE ARTICLES;

2. BYLAWS OF THE APPLICANT, AND ALL AMENDMENTS TO THE BYLAWS;

3. A LIST OF THE NAME, ADDRESS, AND BIOGRAPHICAL INFORMATION FOR EACH MEMBER OF THE BOARD OF DIRECTORS OF THE APPLICANT; AND

4. A LIST OF THE BEGINNING AND ENDING TERMS OF OFFICE OF EACH MEMBER OF THE BOARD OF DIRECTORS OF THE APPLICANT;

(III) THE WRITTEN AGREEMENT WITH EACH COUNTY IN WHICH THE APPLICANT PROPOSES TO OPERATE A PUBLIC–PRIVATE HEALTH CARE PROGRAM THAT SPECIFIES THE OBLIGATIONS OF EACH PARTY TO THE AGREEMENT;

(IV) A DESCRIPTION OF THE PUBLIC–PRIVATE HEALTH CARE PROGRAM THE APPLICANT PROPOSES TO OPERATE, INCLUDING:

1. THE CRITERIA USED TO DETERMINE WHO IS A QUALIFYING INDIVIDUAL;

2. THE ARRANGEMENTS FOR THE DELIVERY OF HEALTH CARE SERVICES;

3. THE PAYMENT OBLIGATIONS OF PARTICIPANTS; ~~AND~~

4. THE INTERNAL COMPLAINT PROCESS AVAILABLE TO PARTICIPANTS; AND

5. THE PROCEDURES TO BE USED TO MONITOR APPLICATIONS FOR ENROLLMENT TO DETERMINE WHETHER AN INDIVIDUAL HAS VOLUNTARILY TERMINATED COVERAGE UNDER A HEALTH BENEFIT PLAN ISSUED UNDER TITLE 15, SUBTITLE 12 OF THIS ARTICLE;

(V) ALL FORMS, AGREEMENTS, ADVERTISING, OR OTHER DOCUMENTS THAT WILL BE PROVIDED TO PARTICIPANTS; AND

(VI) ANY OTHER INFORMATION OR DOCUMENTS THAT THE COMMISSIONER CONSIDERS NECESSARY TO ENSURE COMPLIANCE WITH THIS SUBTITLE.

14–704.

(A) THE COMMISSIONER SHALL CERTIFY AN APPLICANT TO OPERATE A PUBLIC–PRIVATE HEALTH CARE PROGRAM IF THE COMMISSIONER IS SATISFIED THAT THE APPLICANT:

(1) HAS BEEN ORGANIZED IN GOOD FAITH FOR THE PURPOSE OF ESTABLISHING AND OPERATING A PUBLIC–PRIVATE HEALTH CARE PROGRAM;

(2) IS COMMITTED TO A NONPROFIT CORPORATE STRUCTURE; AND

(3) HAS SUFFICIENT FUNDS TO MEET ITS OBLIGATIONS UNDER THE PUBLIC–PRIVATE HEALTH CARE PROGRAM.

(B) A CERTIFICATION EXPIRES ON THE THIRD JUNE 30 FOLLOWING THE DATE ON WHICH THE CERTIFICATION WAS LAST ISSUED UNLESS IT IS RENEWED AS PROVIDED IN THIS SECTION.

(C) BEFORE A CERTIFICATION EXPIRES, A CERTIFIED NONPROFIT CORPORATION MAY RENEW IT FOR AN ADDITIONAL 3–YEAR TERM IF THE CERTIFIED NONPROFIT CORPORATION:

(1) OTHERWISE IS ENTITLED TO CERTIFICATION; AND

(2) FILES WITH THE COMMISSIONER A RENEWAL APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES.

(D) AN APPLICATION FOR RENEWAL OF A CERTIFICATION SHALL BE CONSIDERED MADE IN A TIMELY MANNER IF IT IS POSTMARKED ON OR BEFORE JUNE 30 OF THE YEAR OF RENEWAL.

14–705.

A CERTIFIED NONPROFIT CORPORATION SHALL:

(1) COMPLY WITH THIS SUBTITLE; AND

(2) BE SUBJECT TO §§ 27–203, 27–303(2), AND 27–304(1) THROUGH (15) OF THIS ARTICLE.

14–706.

A PUBLIC–PRIVATE HEALTH CARE PROGRAM MAY NOT APPROVE AN APPLICATION FOR ENROLLMENT IF IT IS DETERMINED THAT THE INDIVIDUAL FOR WHOM THE APPLICATION WAS SUBMITTED WAS COVERED BY A HEALTH BENEFIT PLAN ISSUED UNDER TITLE 15, SUBTITLE 12 OF THIS ARTICLE THAT WAS VOLUNTARILY TERMINATED BY THE INDIVIDUAL WITHIN 6 MONTHS PRECEDING THE DATE OF THE APPLICATION.

14–707.

(A) SUBJECT TO THE HEARING PROVISIONS OF TITLE 2, SUBTITLE 2 OF THIS ARTICLE, THE COMMISSIONER MAY DENY A CERTIFICATION TO AN APPLICANT OR REFUSE TO RENEW, SUSPEND, OR REVOKE THE CERTIFICATION OF A CERTIFIED NONPROFIT CORPORATION, IF AN OFFICER, DIRECTOR, OR EMPLOYEE OF THE APPLICANT OR CERTIFIED NONPROFIT CORPORATION:

(1) MAKES A MATERIAL MISSTATEMENT OR MISREPRESENTATION IN AN APPLICATION FOR CERTIFICATION;

(2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A CERTIFICATION FOR THE APPLICANT OR CERTIFIED NONPROFIT CORPORATION OR FOR ANOTHER;

(3) HAS BEEN CONVICTED OF A FELONY OR OF A MISDEMEANOR INVOLVING MORAL TURPITUDE;

(4) IN CONNECTION WITH THE PUBLIC–PRIVATE HEALTH CARE PROGRAM, COMMITS FRAUD OR ENGAGES IN ILLEGAL OR DISHONEST ACTIVITIES;

(5) HAS VIOLATED ANY PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE;

(6) PROVIDES A FALSE, FALSELY DISPARAGING, OR MISLEADING ORAL OR WRITTEN STATEMENT, VISUAL DESCRIPTION, OR OTHER REPRESENTATION OF ANY KIND THAT HAS THE CAPACITY, TENDENCY, OR EFFECT OF BEING DECEPTIVE OR MISLEADING; OR

(7) MAKES A REPRESENTATION THAT A PUBLIC–PRIVATE HEALTH CARE PROGRAM HAS A SPONSORSHIP, APPROVAL, CHARACTERISTIC, USE, OR BENEFIT THAT IT DOES NOT HAVE.

(B) SUBJECT TO THE HEARING PROVISIONS OF TITLE 2, SUBTITLE 2 OF THIS ARTICLE, THE COMMISSIONER MAY REFUSE TO RENEW, SUSPEND, OR REVOKE THE CERTIFICATION OF A CERTIFIED NONPROFIT CORPORATION IF THE CERTIFIED NONPROFIT CORPORATION OR THE PUBLIC–PRIVATE HEALTH CARE PROGRAM OPERATED BY THE CERTIFIED NONPROFIT CORPORATION FAILS TO CONTINUE TO SATISFY THE REQUIREMENTS OF THIS SUBTITLE.

~~14–707.~~ 14–708.

ALL FORMS, AGREEMENTS, ADVERTISING, OR OTHER DOCUMENTS PROVIDED BY A CERTIFIED NONPROFIT CORPORATION TO PARTICIPANTS SHALL BE:

(1) TRUTHFUL AND NOT MISLEADING IN FACT OR BY IMPLICATION; AND

(2) MADE AVAILABLE TO THE COMMISSIONER ON REQUEST.

~~14–708.~~ 14–709.

(A) TO ENFORCE THIS SUBTITLE AND ANY REGULATIONS ADOPTED UNDER THIS SUBTITLE, THE COMMISSIONER MAY ISSUE AN ORDER THAT REQUIRES THE VIOLATOR TO:

(1) CEASE AND DESIST FROM THE IDENTIFIED VIOLATION AND FURTHER SIMILAR VIOLATIONS;

(2) TAKE SPECIFIC AFFIRMATIVE ACTION TO CORRECT THE VIOLATION; OR

(3) MAKE RESTITUTION OF MONEY, PROPERTY, OR OTHER ASSETS TO A PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION.

(B) (1) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION MAY BE SERVED ON A VIOLATOR WHO IS CERTIFIED UNDER THIS SUBTITLE IN THE MANNER PROVIDED IN § 2–204 OF THIS ARTICLE.

(2) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION MAY BE SERVED ON A VIOLATOR WHO IS NOT CERTIFIED UNDER THIS SUBTITLE IN THE MANNER PROVIDED IN § 2–204 OR § 4–207 OF THIS ARTICLE.

(C) A REQUEST FOR A HEARING ON AN ORDER ISSUED UNDER THIS SECTION DOES NOT STAY THAT PORTION OF THE ORDER THAT REQUIRES THE VIOLATOR TO CEASE AND DESIST FROM CONDUCT IDENTIFIED IN THE ORDER.

(D) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT OF ANY COUNTY TO ENFORCE AN ORDER ISSUED UNDER THIS SECTION, WHETHER OR NOT A HEARING HAS BEEN REQUESTED OR, IF REQUESTED, WHETHER OR NOT A HEARING HAS BEEN HELD.

(E) IF THE COMMISSIONER PREVAILS IN AN ACTION BROUGHT BY THE COMMISSIONER UNDER THIS SECTION, THE COMMISSIONER MAY RECOVER FOR THE USE OF THE STATE REASONABLE ATTORNEY'S FEES AND THE COSTS OF THE ACTION.

(F) (1) IN ADDITION TO ANY OTHER ENFORCEMENT ACTION TAKEN BY THE COMMISSIONER UNDER THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING $10,000 FOR EACH VIOLATION OF A PROVISION OF THIS SUBTITLE.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING $1,000 PER DAY FOR EACH DAY THAT A PERSON IS IN VIOLATION OF § 14–703(A) OF THIS SUBTITLE.

(G) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THIS SECTION DOES NOT LIMIT ANY REGULATORY POWER OF THE COMMISSIONER UNDER THIS ARTICLE.

~~14–709.~~ 14–710.

THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2010, the Maryland Insurance Administration shall report, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on the Administration's recommendations for the continuation of public–private health care programs in the State.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 5 years and, at the end of May 31, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2008.

CHAPTER 628

(Senate Bill 875)

AN ACT concerning

Real Property – Payment of Interest After Foreclosure Sale – Garrett County

FOR the purpose of providing that, in Garrett County, the interest provided in a mortgage or note secured by a deed of trust is payable for a certain period of time following a foreclosure sale or until the audit of the sale is ratified, whichever occurs first; and generally relating to when the interest provided in a

mortgage or note secured by a deed of trust is payable after a foreclosure sale in Garrett County.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 7–105(d)
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

7–105.

(d) (1) Absent a provision to the contrary in a mortgage or note secured by a deed of trust, in the enumerated counties, the interest provided in a mortgage or note secured by a deed of trust is payable for the time period provided in paragraph (2) of this subsection or until the audit of the sale is ratified, whichever occurs first.

(2) Under paragraph (1) of this subsection, the time period following sale is:

(i) 60 days in Calvert, Cecil, Frederick, **GARRETT,** Kent, Queen Anne's, Talbot, Caroline, Charles, and St. Mary's counties; and

(ii) 180 days in Worcester County.

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

Approved by the Governor, May 22, 2008.

CHAPTER 629

(House Bill 901)

AN ACT concerning

Real Property – Payment of Interest After Foreclosure Sale – Garrett County

FOR the purpose of providing that, in Garrett County, the interest provided in a mortgage or note secured by a deed of trust is payable for a certain period of time following a foreclosure sale or until the audit of the sale is ratified, whichever occurs first; and generally relating to when the interest provided in a mortgage or note secured by a deed of trust is payable after a foreclosure sale in Garrett County.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 7–105(d)
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

7–105.

(d) (1) Absent a provision to the contrary in a mortgage or note secured by a deed of trust, in the enumerated counties, the interest provided in a mortgage or note secured by a deed of trust is payable for the time period provided in paragraph (2) of this subsection or until the audit of the sale is ratified, whichever occurs first.

(2) Under paragraph (1) of this subsection, the time period following sale is:

(i) 60 days in Calvert, Cecil, Frederick, **GARRETT,** Kent, Queen Anne's, Talbot, Caroline, Charles, and St. Mary's counties; and

(ii) 180 days in Worcester County.

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

Approved by the Governor, May 22, 2008.

CHAPTER 630

(Senate Bill 882)

AN ACT concerning

Certified Professional, Associate ~~Counselor~~, and Supervised Counselors–Alcohol and Drug – Qualifications

FOR the purpose of authorizing the State Board of Professional Counselors and Therapists to waive a certain requirement that an applicant for a certificate to practice as ~~an~~ a professional, associate, or supervised counselor–alcohol and drug complete a certain number of hours of clinically supervised experience in alcohol and drug counseling after the award of a ~~bachelor's~~ certain degree if the applicant has obtained certain experience approved by the Board; and generally relating to qualifications for certified professional, associate, and supervised counselors–alcohol and drug.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section ~~17–302.4~~ 17–302.3, 17–302.4, and 17–302.5
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article – Health Occupations
Section 17–302.6
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

17–302.3.

(a) Except as otherwise provided in this section, to qualify as a certified professional counselor–alcohol and drug an applicant shall meet the requirements of § 17–302 of this subtitle.

(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) The applicant shall have completed a minimum of 25 credit hours in alcohol and drug counselor training.

(3) The applicant shall have completed not less than 3 years with a minimum of 2,000 hours of **CLINICALLY** 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**, AS DETERMINED BY THE BOARD**.

(4) In this subsection, "alcohol and drug counselor training" includes but is not limited to 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.

17–302.4.

~~(A)~~ 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 or 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 **CLINICALLY** 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 as defined in § 17–302.3(d)(4) of this subtitle; 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 Accreditation of Healthcare Organizations or that is certified under Title 8, Subtitle 4 of the Health – General Article.

17–302.5.

To qualify as a certified supervised counselor–alcohol and drug an applicant shall:

(1) Hold an associate's degree in a health or 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 **CLINICALLY** 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 as defined in § 17–302.3(d)(4) of this subtitle; 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 which is accredited by the Joint Commission on Accreditation of Healthcare Organizations or that is certified under Title 8, Subtitle 4 of the Health – General Article.

17–302.6.

~~(B)~~ THE BOARD MAY WAIVE THE REQUIREMENT THAT AN APPLICANT UNDER § 17–302.3, § 17–302.4, OR § 17–302.5 OF THIS SUBTITLE COMPLETE ~~2 YEARS~~ THE REQUISITE AMOUNT OF CLINICALLY SUPERVISED EXPERIENCE IN ALCOHOL AND DRUG COUNSELING AFTER THE AWARD OF THE APPLICANT'S ~~BACHELOR'S~~ REQUIRED DEGREE ~~UNDER SUBSECTION (A)(2) OF THIS SECTION~~ IF THE APPLICANT, PRIOR TO THE AWARD OF THE ~~BACHELOR'S~~ REQUIRED DEGREE, OBTAINED A MINIMUM OF 5 YEARS OF CLINICALLY SUPERVISED EXPERIENCE IN ALCOHOL AND DRUG COUNSELING APPROVED BY THE BOARD.

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

Approved by the Governor, May 22, 2008.

CHAPTER 631

(Senate Bill 918)

AN ACT concerning

Long–Term Care Insurance – ~~Discrimination Based on Genetic Information or Tests – Prohibited~~ Prohibited Acts – Genetic Tests, Genetic Information, or Genetic Services

FOR the purpose of ~~repealing an exemption for long–term care insurance policies from the scope of certain provisions of law regulating the use and disclosure of certain genetic information, certain genetic tests, and the results of certain genetic tests by certain health insurance carriers in connection with health insurance policies and contracts; and generally relating to genetic tests, genetic information, and long–term care insurance~~ prohibiting a carrier or insurance producer of a carrier that provides long–term care insurance from requesting or requiring a genetic test or from using a genetic test, the results of a genetic test, genetic information, or a request for genetic services to take certain actions with regard to long–term care insurance; providing for a certain exception; defining certain terms; and generally relating to prohibited acts relating to genetic tests, genetic information, and genetic services with regard to long–term care insurance.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 18–101(a) and (d)
Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section ~~27–909~~ 18–120
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

18–101.

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

(d) "Carrier" means an insurer, nonprofit health service plan, health maintenance organization, or preferred provider organization.

~~27–909.~~

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

~~(2) "Gene product" means the biochemical material, either RNA or protein, made by a gene.~~

~~(3) (i) "Genetic information" means information:~~

~~1. about chromosomes, genes, gene products, or inherited characteristics that may derive from an individual or a family member;~~

~~2. obtained for diagnostic and therapeutic purposes; and~~

~~3. obtained at a time when the individual to whom the information relates is asymptomatic for the disease.~~

~~(ii) "Genetic information" does not include:~~

~~1. routine physical measurements;~~

~~2. chemical, blood, and urine analyses that are widely accepted and in use in clinical practice;~~

~~3. tests for use of drugs; or~~

~~4. tests for the presence of the human immunodeficiency virus.~~

~~(4) "Genetic services" means health services that are provided to obtain, assess, and interpret genetic information for diagnostic and therapeutic purposes and for genetic education and counseling.~~

~~(5) "Genetic test" means a laboratory test of human chromosomes, genes, or gene products that is used to identify the presence or absence of inherited or congenital alterations in genetic material that are associated with disease or illness.~~

~~(b) This section does not apply to life insurance policies, annuity contracts,~~ **[**~~long–term care insurance policies,~~**]** ~~or disability insurance policies.~~

~~(c) An insurer, nonprofit health service plan, or health maintenance organization may not:~~

~~(1) use a genetic test, the results of a genetic test, genetic information, or a request for genetic services, to 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;~~

~~(2) request or require a genetic test, the results of a genetic test, or genetic information for the purpose of determining whether or not to issue or renew health benefits coverage; or~~

~~(3) release identifiable genetic information or the results of a genetic test to any person who is not an employee of the insurer, nonprofit health service plan, or health maintenance organization or a participating health care provider who provides medical services to insureds or enrollees without the prior written authorization of the individual from whom the test results or genetic information was obtained.~~

~~(d) Disclosure of identifiable genetic information to an employee or health care provider authorized under subsection (c)(3) of this section shall only be for the purpose of:~~

~~(1) providing medical care to patients; or~~

~~(2) conducting research that has been approved by an institutional review board established in accordance with federal law.~~

~~(e) The authorization described in subsection (c)(3) of this section is required for each disclosure and shall describe the individual or entities making the disclosure, to whom the disclosure is to be made, and the information to be disclosed.~~

~~(f) (1) For purposes of this subsection, §§ 4–113, 4–114, 27–501, and 27–505 of this article apply to nonprofit health service plans and health maintenance organizations.~~

~~(2) The Commissioner may issue an order under §§ 4–113, 4–114, 27–501, and 27–505 of this article if the Commissioner finds a violation of this section.~~

18–120.

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

(2) (I) "GENETIC INFORMATION" MEANS INFORMATION DERIVED FROM A GENETIC TEST:

1. ABOUT CHROMOSOMES, GENES, GENE PRODUCTS, OR INHERITED CHARACTERISTICS THAT MAY DERIVE FROM AN INDIVIDUAL OR A FAMILY MEMBER;

2. NOT OBTAINED FOR DIAGNOSTIC AND THERAPEUTIC PURPOSES; AND

3. OBTAINED AT A TIME WHEN THE INDIVIDUAL TO WHOM THE INFORMATION RELATES IS ASYMPTOMATIC FOR THE DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT TO WHICH THE INFORMATION RELATES.

(II) "GENETIC INFORMATION" DOES NOT INCLUDE INFORMATION:

1. RELATING TO A DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT THAT IS OR HAS BEEN MANIFESTED OR FOR WHICH THE INDIVIDUAL IS OR HAS BEEN SYMPTOMATIC; OR

2. DERIVED FROM:

A. ROUTINE PHYSICAL MEASUREMENTS;

B. CHEMICAL, BLOOD, AND URINE ANALYSES;

C. TESTS FOR THE USE OF DRUGS;

D. TESTS FOR THE PRESENCE OF THE HUMAN IMMUNODEFICIENCY VIRUS; OR

E. TESTS FOR THE PURPOSE OF DIAGNOSING A MANIFESTED DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT.

(3) "GENETIC SERVICES" MEANS HEALTH SERVICES THAT ARE PROVIDED TO OBTAIN, ASSESS, OR INTERPRET GENETIC INFORMATION OR THE RESULTS OF GENETIC TESTS.

(4) (I) "GENETIC TEST" MEANS AN ANALYSIS OF HUMAN DNA, RNA, CHROMOSOMES, PROTEINS, OR METABOLITES THAT DETECTS GENOTYPES, MUTATIONS, OR CHROMOSOMAL CHANGES.

(II) "GENETIC TEST" DOES NOT INCLUDE:

1. ROUTINE PHYSICAL MEASUREMENTS;

2. CHEMICAL, BLOOD, AND URINE ANALYSES;

3. TESTS FOR THE USE OF DRUGS;

4. TESTS FOR THE PRESENCE OF THE HUMAN IMMUNODEFICIENCY VIRUS; OR

5. TESTS THAT ARE DIRECTLY RELATED TO A MANIFESTED DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT THAT COULD REASONABLY BE DETECTED BY A HEALTH CARE PROFESSIONAL WITH APPROPRIATE TRAINING AND EXPERTISE IN THE FIELD OF MEDICINE INVOLVED.

(B) In addition to the other practices prohibited under this article, a carrier or insurance producer of a carrier that provides long–term care insurance may not:

(1) employ a method of marketing that induces or tends to induce the purchase of long–term care insurance through undue pressure;

(2) use a method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance, and that contact will be made by an insurance producer or carrier; **[**or**]**

(3) knowingly make a misleading representation or an incomplete or fraudulent comparison of policies or carriers to induce a person to lapse, forfeit,

surrender, terminate, retain, pledge, assign, borrow on, or convert a policy or take out a policy with another carrier**[.]**;

(4) REQUEST OR REQUIRE A GENETIC TEST TO:

(I) DENY OR LIMIT THE AMOUNT, EXTENT, OR KIND OF LONG–TERM CARE INSURANCE COVERAGE AVAILABLE TO AN INDIVIDUAL; OR

(II) CHARGE A DIFFERENT RATE FOR THE SAME LONG–TERM CARE INSURANCE COVERAGE; OR

(5) USE A GENETIC TEST, THE RESULTS OF A GENETIC TEST, GENETIC INFORMATION, OR A REQUEST FOR GENETIC SERVICES TO:

(I) DENY OR LIMIT THE AMOUNT, EXTENT, OR KIND OF LONG–TERM CARE INSURANCE COVERAGE AVAILABLE TO AN INDIVIDUAL; OR

(II) CHARGE A DIFFERENT RATE FOR THE SAME LONG–TERM CARE INSURANCE.

(C) NOTWITHSTANDING SUBSECTION (B)(5) OF THIS SECTION, IF THE USE IS BASED ON SOUND ACTUARIAL PRINCIPLES, THE RESULTS OF A GENETIC TEST OR GENETIC INFORMATION MAY BE USED TO:

(1) DENY OR LIMIT THE AMOUNT, EXTENT, OR KIND OF LONG–TERM CARE INSURANCE COVERAGE MADE AVAILABLE TO AN INDIVIDUAL; OR

(2) CHARGE A DIFFERENT RATE FOR THE SAME LONG–TERM CARE INSURANCE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 632

(House Bill 29)

AN ACT concerning

Long–Term Care Insurance – ~~Discrimination Based on Genetic Information or Tests – Prohibited~~ Prohibited Acts – Genetic Tests, Genetic Information, or Genetic Services

FOR the purpose of prohibiting ~~insurers, nonprofit health service plans, health maintenance organizations, and preferred provider organizations from discriminating against an applicant or insured based on genetic information or the results of a genetic test in the issuance or renewal of long–term care insurance; providing that this Act does not prohibit the use of genetic information or the results of a genetic test under certain circumstances; defining certain terms; and generally relating to discrimination based on genetic information or genetic tests in issuing or renewing long–term care insurance~~ a carrier or insurance producer of a carrier that provides long–term care insurance from requesting or requiring a genetic test or from using a genetic test, the results of a genetic test, genetic information, or a request for genetic services to take certain actions with regard to long–term care insurance; providing for a certain exception; defining certain terms; and generally relating to prohibited acts relating to genetic tests, genetic information, and genetic services with regard to long–term care insurance.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 18–101(a) and (d)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY ~~adding to~~ repealing and reenacting, with amendments,
Article – Insurance
Section ~~18–105.1~~ 18–120
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

18–101.

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

(d) "Carrier" means an insurer, nonprofit health service plan, health maintenance organization, or preferred provider organization.

~~**18–105.1.**~~

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

~~**(2) "GENETIC INFORMATION" MEANS INFORMATION ABOUT CHROMOSOMES, GENES, GENE PRODUCTS, OR INHERITED CHARACTERISTICS THAT MAY DERIVE FROM AN INDIVIDUAL OR FAMILY MEMBER.**~~

~~**(3) "GENETIC TEST" MEANS A LABORATORY TEST OF HUMAN CHROMOSOMES, GENES, OR GENE PRODUCTS THAT IS USED TO IDENTIFY THE PRESENCE OR ABSENCE OF INHERITED OR CONGENITAL ALTERATIONS IN GENETIC MATERIAL THAT ARE ASSOCIATED WITH DISEASE OR ILLNESS.**~~

~~**(B) A CARRIER MAY NOT DISCRIMINATE AGAINST AN APPLICANT OR INSURED BASED ON GENETIC INFORMATION OR THE RESULTS OF A GENETIC TEST IN THE ISSUANCE OR RENEWAL OF LONG–TERM CARE INSURANCE.**~~

~~**(C) THIS SECTION DOES NOT PROHIBIT THE USE OF GENETIC INFORMATION OR THE RESULTS OF A GENETIC TEST BY A CARRIER IF THE USE IS ACTUARIALLY JUSTIFIED.**~~

18–120.

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

(2) (I) "GENETIC INFORMATION" MEANS INFORMATION DERIVED FROM A GENETIC TEST:

1. ABOUT CHROMOSOMES, GENES, GENE PRODUCTS, OR INHERITED CHARACTERISTICS THAT MAY DERIVE FROM AN INDIVIDUAL OR A FAMILY MEMBER;

2. NOT OBTAINED FOR DIAGNOSTIC AND THERAPEUTIC PURPOSES; AND

3. OBTAINED AT A TIME WHEN THE INDIVIDUAL TO WHOM THE INFORMATION RELATES IS ASYMPTOMATIC FOR THE DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT TO WHICH THE INFORMATION RELATES.

(II) "GENETIC INFORMATION" DOES NOT INCLUDE INFORMATION:

1. RELATING TO A DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT THAT IS OR HAS BEEN MANIFESTED OR FOR WHICH THE INDIVIDUAL IS OR HAS BEEN SYMPTOMATIC; OR

2. DERIVED FROM:

A. ROUTINE PHYSICAL MEASUREMENTS;

B. CHEMICAL, BLOOD, AND URINE ANALYSES;

C. TESTS FOR THE USE OF DRUGS;

D. TESTS FOR THE PRESENCE OF THE HUMAN IMMUNODEFICIENCY VIRUS; OR

E. TESTS FOR THE PURPOSE OF DIAGNOSING A MANIFESTED DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT.

(3) "GENETIC SERVICES" MEANS HEALTH SERVICES THAT ARE PROVIDED TO OBTAIN, ASSESS, OR INTERPRET GENETIC INFORMATION OR THE RESULTS OF GENETIC TESTS.

(4) (I) "GENETIC TEST" MEANS AN ANALYSIS OF HUMAN DNA, RNA, CHROMOSOMES, PROTEINS, OR METABOLITES THAT DETECTS GENOTYPES, MUTATIONS, OR CHROMOSOMAL CHANGES.

(II) "GENETIC TEST" DOES NOT INCLUDE:

1. ROUTINE PHYSICAL MEASUREMENTS;

2. CHEMICAL, BLOOD, AND URINE ANALYSES;

3. TESTS FOR THE USE OF DRUGS;

4. TESTS FOR THE PRESENCE OF THE HUMAN IMMUNODEFICIENCY VIRUS; OR

5. TESTS THAT ARE DIRECTLY RELATED TO A MANIFESTED DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT THAT COULD REASONABLY BE DETECTED BY A HEALTH CARE PROFESSIONAL WITH APPROPRIATE TRAINING AND EXPERTISE IN THE FIELD OF MEDICINE INVOLVED.

(B) In addition to the other practices prohibited under this article, a carrier or insurance producer of a carrier that provides long–term care insurance may not:

(1) employ a method of marketing that induces or tends to induce the purchase of long–term care insurance through undue pressure;

(2) use a method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance, and that contact will be made by an insurance producer or carrier; **[**or**]**

(3) knowingly make a misleading representation or an incomplete or fraudulent comparison of policies or carriers to induce a person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert a policy or take out a policy with another carrier**[**.**]; (4) REQUEST OR REQUIRE A GENETIC TEST TO:**

(I) DENY OR LIMIT THE AMOUNT, EXTENT, OR KIND OF LONG–TERM CARE INSURANCE COVERAGE AVAILABLE TO AN INDIVIDUAL; OR

(II) CHARGE A DIFFERENT RATE FOR THE SAME LONG–TERM CARE INSURANCE COVERAGE; OR

(5) USE A GENETIC TEST, THE RESULTS OF A GENETIC TEST, GENETIC INFORMATION, OR A REQUEST FOR GENETIC SERVICES TO:

(I) DENY OR LIMIT THE AMOUNT, EXTENT, OR KIND OF LONG–TERM CARE INSURANCE COVERAGE AVAILABLE TO AN INDIVIDUAL; OR

(II) CHARGE A DIFFERENT RATE FOR THE SAME LONG–TERM CARE INSURANCE.

(C) NOTWITHSTANDING SUBSECTION (B)(5) OF THIS SECTION, IF THE USE IS BASED ON SOUND ACTUARIAL PRINCIPLES, THE RESULTS OF A GENETIC TEST OR GENETIC INFORMATION MAY BE USED TO:

(1) DENY OR LIMIT THE AMOUNT, EXTENT, OR KIND OF LONG–TERM CARE INSURANCE COVERAGE MADE AVAILABLE TO AN INDIVIDUAL; OR

(2) CHARGE A DIFFERENT RATE FOR THE SAME LONG–TERM CARE INSURANCE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 633

(Senate Bill 924)

AN ACT concerning

Motor Vehicle Excise Tax – Leased Vehicles – ~~Residual Value~~ Application of Trade–In Value

FOR the purpose of ~~prohibiting a lessor from passing on to the lessee the portion of the motor vehicle excise tax paid by the lessor on the residual value of a leased vehicle; providing that a lessor is entitled to a refund of the portion of the motor vehicle excise tax paid by the lessor on the residual value of a leased vehicle; requiring a lessor to apply to the Motor Vehicle Administration on a certain form in order to obtain a refund; defining certain terms; and generally relating to the motor vehicle excise tax and the residual value of leased vehicles~~ altering the definition of "total purchase price" for the purposes of the vehicle excise tax to exclude from the computation of the tax as part of the consideration for the sale of a vehicle; requiring the Motor Vehicle Administration to adopt certain regulations; providing for the retroactive application of this Act; requiring the Administration to notify certain persons of certain rebates under certain circumstances; making this Act an emergency measure; defining certain terms; and generally relating to the motor vehicle excise tax.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–809(a)(3)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Transportation
Section ~~13–809.1~~ 13–809(f)
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

~~**13–809.1.**~~ 13–809.

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

~~**(2) "EXCISE TAX" MEANS THE EXCISE TAX IMPOSED BY THIS PART.**~~

~~**(3) "LEASE AGREEMENT" MEANS A CONTRACT IN THE FORM OF A BAILMENT OR LEASE FOR THE USE OF A MOTOR VEHICLE FOR A PERIOD OF TIME EXCEEDING 180 CONSECUTIVE DAYS, INCLUDING RENEWAL PERIODS, WHETHER OR NOT THE LESSEE HAS THE OPTION TO PURCHASE OR OTHERWISE BECOME THE OWNER OF THE MOTOR VEHICLE AT THE EXPIRATION OF THE LEASE.**~~

~~**(4) "RESIDUAL VALUE" MEANS THE VALUE OF A LEASED VEHICLE AT THE END OF THE LEASE TERM AS DETERMINED BY THE MANUFACTURER.**~~

~~**(B) AS PART OF A LEASE AGREEMENT, THE LESSOR MAY NOT PASS ON TO THE LESSEE THE PORTION OF THE EXCISE TAX PAID BY THE LESSOR ON THE RESIDUAL VALUE OF THE LEASED VEHICLE.**~~

~~**(C) (1) AFTER ENTERING INTO A LEASE AGREEMENT, THE LESSOR IS ENTITLED TO A REFUND OF THE PORTION OF THE EXCISE TAX PAID BY THE LESSOR ON THE RESIDUAL VALUE OF THE LEASED VEHICLE.**~~

~~**(2) TO OBTAIN A REFUND UNDER THIS SUBSECTION, THE LESSOR SHALL APPLY TO THE ADMINISTRATION ON A FORM THE ADMINISTRATION REQUIRES.**~~

(a) (3) **(I)** **[**"Total**]** **SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, "TOTAL** purchase price" means the price of a vehicle agreed on by the buyer and the seller, including any dealer processing charge, less an allowance for trade–in but with no allowance for other nonmonetary consideration.

(II) AS TO A PERSON TRADING IN A NONLEASED VEHICLE TO ENTER INTO A LEASE FOR A PERIOD OF MORE THAN 180 CONSECUTIVE DAYS, "TOTAL PURCHASE PRICE" MEANS THE RETAIL VALUE OF THE VEHICLE AS CERTIFIED BY THE DEALER, INCLUDING ANY DEALER PROCESSING CHARGE,

LESS AN ALLOWANCE FOR THE TRADE–IN OF THE NONLEASED VEHICLE BUT WITH NO ALLOWANCE FOR OTHER NONMONETARY CONSIDERATION.

(F) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply retroactively to affect the "total purchase price" resulting from a sale or lease transaction of a vehicle, as defined in § 13–809(a)(3)(ii) of the Transportation Article, for the purposes of computing the motor vehicle excise tax imposed on a vehicle that is leased under a lease agreement entered into on or after January 1, 2008.

SECTION 3. AND BE IT FURTHER ENACTED, That, for any individual or business entity that entered into a lease agreement for a vehicle for a period of more than 180 days on or after January 1, 2008, but before the effective date of this Act, the Motor Vehicle Administration, in consultation with the appropriate licensed dealer, shall notify the individual or business entity of any rebate owed to the individual or business entity as a result of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 22, 2008.

CHAPTER 634

(House Bill 1570)

AN ACT concerning

Motor Vehicle Excise Tax – Leased Vehicles – ~~Residual Value~~ Application of Trade–In Value

FOR the purpose of ~~prohibiting a lessor from passing on to the lessee the portion of the motor vehicle excise tax paid by the lessor on the residual value of a leased vehicle; providing that a lessor is entitled to a refund of the portion of the motor~~

~~vehicle excise tax paid by the lessor on the residual value of a leased vehicle; requiring a lessor to apply to the Motor Vehicle Administration on a certain form in order to obtain a refund; defining certain terms; and generally relating to the motor vehicle excise tax and the residual value of leased vehicles~~ altering the definition of "total purchase price" for the purposes of the vehicle excise tax to exclude from the computation of the tax part of the consideration for the sale of a vehicle; requiring the Motor Vehicle Administration to adopt certain regulations; providing for the retroactive application of this Act; requiring the Administration to notify certain persons of certain rebates under certain circumstances; making this Act an emergency measure; defining certain terms; and generally relating to the motor vehicle excise tax.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–809(a)(3)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Transportation
Section ~~13–809.1~~ 13–809(f)
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

~~13–809.1.~~ 13–809.

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

~~(2) "EXCISE TAX" MEANS THE EXCISE TAX IMPOSED BY THIS PART.~~

~~(3) "LEASE AGREEMENT" MEANS A CONTRACT IN THE FORM OF A BAILMENT OR LEASE FOR THE USE OF A MOTOR VEHICLE FOR A PERIOD OF TIME EXCEEDING 180 CONSECUTIVE DAYS, INCLUDING RENEWAL PERIODS, WHETHER OR NOT THE LESSEE HAS THE OPTION TO PURCHASE OR OTHERWISE BECOME THE OWNER OF THE MOTOR VEHICLE AT THE EXPIRATION OF THE LEASE.~~

~~**(4) "RESIDUAL VALUE" MEANS THE VALUE OF A LEASED VEHICLE AT THE END OF THE LEASE TERM AS DETERMINED BY THE MANUFACTURER.**~~

~~**(B) AS PART OF A LEASE AGREEMENT, THE LESSOR MAY NOT PASS ON TO THE LESSEE THE PORTION OF THE EXCISE TAX PAID BY THE LESSOR ON THE RESIDUAL VALUE OF THE LEASED VEHICLE.**~~

~~**(C) (1) AFTER ENTERING INTO A LEASE AGREEMENT, THE LESSOR IS ENTITLED TO A REFUND OF THE PORTION OF THE EXCISE TAX PAID BY THE LESSOR ON THE RESIDUAL VALUE OF THE LEASED VEHICLE.**~~

~~**(2) TO OBTAIN A REFUND UNDER THIS SUBSECTION, THE LESSOR SHALL APPLY TO THE ADMINISTRATION ON A FORM THE ADMINISTRATION REQUIRES.**~~

(a) (3) **(I)** **[**"Total**]** **SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, "TOTAL** purchase price" means the price of a vehicle agreed on by the buyer and the seller, including any dealer processing charge, less an allowance for trade–in but with no allowance for other nonmonetary consideration.

(II) AS TO A PERSON TRADING IN A NONLEASED VEHICLE TO ENTER INTO A LEASE FOR A PERIOD OF MORE THAN 180 CONSECUTIVE DAYS, "TOTAL PURCHASE PRICE" MEANS THE RETAIL VALUE OF THE VEHICLE AS CERTIFIED BY THE DEALER, INCLUDING ANY DEALER PROCESSING CHARGE, LESS AN ALLOWANCE FOR THE TRADE–IN OF THE NONLEASED VEHICLE BUT WITH NO ALLOWANCE FOR OTHER NONMONETARY CONSIDERATION.

(F) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply retroactively to affect the "total purchase price" resulting from a sale or lease transaction of a vehicle, as defined in § 13–809(a)(3)(ii) of the Transportation Article, for the purposes of computing the motor vehicle excise tax imposed on a vehicle that is leased under a lease agreement entered into on or after January 1, 2008.

SECTION 3. AND BE IT FURTHER ENACTED, That, for any individual or business entity that entered into a lease agreement for a vehicle for a period of more than 180 days on or after January 1, 2008, but before the effective date of this Act, the Motor Vehicle Administration, in consultation with the appropriate licensed dealer,

shall notify the individual or business entity of any rebate owed to the individual or business entity as a result of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 22, 2008.

CHAPTER 635

(Senate Bill 926)

AN ACT concerning

Procurement – Chesapeake Bay Trust – State Contracts and Grants

FOR the purpose of providing that the State procurement law does not apply to a contract or grant from a unit of State government to the Chesapeake Bay Trust for certain projects; providing that the State procurement law applies to certain expenditures by the Trust; excepting units of State government from a requirement under certain circumstances that the units adopt certain procurement policies and procedures; and generally relating to the application of the State procurement law to State contracts and grants awarded to the Chesapeake Bay Trust.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 8–1901
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–1909
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement

Section 11–202
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Finance and Procurement
Section 11–203(g)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 12–401(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 – Natural Resources

8–1901.

There is a Chesapeake Bay Trust established to promote public awareness and participation in the restoration and protection of the water quality and aquatic and land resources of the Chesapeake Bay and other aquatic and land resources of the State.

8–1909.

(a) Except as provided in subsection (b) of this section, in exercising its powers, the Trust:

(1) Is exempt from the provisions of the State Finance and Procurement Article, the provisions of Division I of the State Personnel and Pensions Article that govern the State Personnel Management System, the provisions of Division II and Title 37 of the State Personnel and Pensions Article, and the provisions of Article 78A of the Code; and

(2) May carry out its corporate purposes without obtaining the consent of any department, board, or agency of the State.

(b) The Trust is subject to the provisions of the State Finance and Procurement Article and Article 78A of the Code to the extent of State appropriations **OR CONTRACTS OR GRANTS FROM A UNIT OF STATE GOVERNMENT**, if any.

Article – State Finance and Procurement

11–202.

Except as otherwise expressly provided by law, this Division II applies to:

(1) each expenditure by a unit under a procurement contract;

(2) each procurement by a unit on behalf of another unit, governmental agency, or other entity; and

(3) each procurement by a unit, even if a resulting procurement contract will involve no expenditure by the State and will produce revenue for the State, for services that are to be provided for the benefit of:

(i) State officials, State employees, or students at a State facility, including a school, hospital, institution, or recreational facility;

(ii) clients or patients at a State hospital or State institution;

(iii) the public at a State recreational facility; or

(iv) the public at a State transportation facility or State higher education facility, as required by the Board.

11–203.

(G) THIS DIVISION II DOES NOT APPLY TO A CONTRACT OR GRANT AWARDED BY A UNIT OF STATE GOVERNMENT TO THE CHESAPEAKE BAY TRUST FOR A PROJECT INVOLVING THE RESTORATION OR PROTECTION OF THE CHESAPEAKE BAY AND OTHER AQUATIC AND LAND RESOURCES OF THE STATE.

12–401.

(a) (1) Except as provided in paragraph (2) of this subsection, each unit with an exemption from any provision of Division II of this article shall have written policies and procedures for the exempted unit's procurements.

(2) This section does not apply to:

(i) § 11–203(a)(1)(iii) of this article;

(ii) § 11–203(a)(2) of this article; **[**or**]**

(iii) § 11–203(e) of this article**; OR**

(IV) § 11–203(G) OF THIS ARTICLE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 636

(House Bill 1512)

AN ACT concerning

Procurement – Chesapeake Bay Trust – State Contracts and Grants

FOR the purpose of providing that the State procurement law does not apply to a contract or grant from a unit of State government to the Chesapeake Bay Trust for certain projects; providing that the State procurement law applies to certain expenditures by the Trust; excepting units of State government from a requirement under certain circumstances that the units adopt certain procurement policies and procedures; and generally relating to the application of the State procurement law to State contracts and grants awarded to the Chesapeake Bay Trust.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 8–1901
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–1909
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 11–202
Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Finance and Procurement
Section 11–203(g)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 12–401(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 – Natural Resources

8–1901.

There is a Chesapeake Bay Trust established to promote public awareness and participation in the restoration and protection of the water quality and aquatic and land resources of the Chesapeake Bay and other aquatic and land resources of the State.

8–1909.

(a) Except as provided in subsection (b) of this section, in exercising its powers, the Trust:

(1) Is exempt from the provisions of the State Finance and Procurement Article, the provisions of Division I of the State Personnel and Pensions Article that govern the State Personnel Management System, the provisions of Division II and Title 37 of the State Personnel and Pensions Article, and the provisions of Article 78A of the Code; and

(2) May carry out its corporate purposes without obtaining the consent of any department, board, or agency of the State.

(b) The Trust is subject to the provisions of the State Finance and Procurement Article and Article 78A of the Code to the extent of State appropriations **OR CONTRACTS OR GRANTS FROM A UNIT OF STATE GOVERNMENT**, if any.

Article – State Finance and Procurement

11–202.

Except as otherwise expressly provided by law, this Division II applies to:

(1) each expenditure by a unit under a procurement contract;

(2) each procurement by a unit on behalf of another unit, governmental agency, or other entity; and

(3) each procurement by a unit, even if a resulting procurement contract will involve no expenditure by the State and will produce revenue for the State, for services that are to be provided for the benefit of:

(i) State officials, State employees, or students at a State facility, including a school, hospital, institution, or recreational facility;

(ii) clients or patients at a State hospital or State institution;

(iii) the public at a State recreational facility; or

(iv) the public at a State transportation facility or State higher education facility, as required by the Board.

11–203.

(G) THIS DIVISION II DOES NOT APPLY TO A CONTRACT OR GRANT AWARDED BY A UNIT OF STATE GOVERNMENT TO THE CHESAPEAKE BAY TRUST FOR A PROJECT INVOLVING THE RESTORATION OR PROTECTION OF THE CHESAPEAKE BAY AND OTHER AQUATIC AND LAND RESOURCES OF THE STATE.

12–401.

(a) (1) Except as provided in paragraph (2) of this subsection, each unit with an exemption from any provision of Division II of this article shall have written policies and procedures for the exempted unit's procurements.

(2) This section does not apply to:

(i) § 11–203(a)(1)(iii) of this article;

(ii) § 11–203(a)(2) of this article; **[**or**]**

(iii) § 11–203(e) of this article**; OR**

(IV) § 11–203(G) OF THIS ARTICLE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 637

(Senate Bill 931)

AN ACT concerning

Dorchester County – School Buses – Length of Operation

FOR the purpose of altering the length of time a school bus may be operated in Dorchester County; providing for the termination of this Act; and generally relating to the length of time a school bus may be operated in Dorchester County.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–804
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

7–804.

(a) In this section, "school vehicle" has the meaning stated in § 11–154 of the Transportation Article.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 12 years.

(2) (i) In **DORCHESTER,** Somerset, Wicomico, and Worcester counties, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 15 years.

(ii) A school vehicle operating under subparagraph (i) of this paragraph shall be maintained as provided in subsection (c) of this section.

(3) Any school vehicle in operation or accepted before July 1, 2004, or under contract to be purchased before July 1, 2004, that meets the specifications of the Department and of the Motor Vehicle Administration for transit style school vehicles may be operated for 15 years.

(c) Notwithstanding the 12–year limitation in subsection (b)(1) of this section, a school vehicle may be operated for additional years if:

(1) The school vehicle is maintained under a preventive maintenance plan approved by the Motor Vehicle Administration and the Automotive Safety Enforcement Division of the Department of State Police that includes an inspection at the end of the 12th year and a minimum of 2 inspections by the Motor Vehicle Administration each year thereafter;

(2) Any structural repairs to the school vehicle necessitated by accident, metal fatigue, or any other cause are certified by an independent expert approved by the Motor Vehicle Administration to meet or exceed the manufacturer's original manufacturing standards;

(3) The school vehicle is equipped with:

(i) The body originally placed on the chassis by the manufacturer;

(ii) An 8 light warning system;

(iii) A left side stop arm;

(iv) A fire–retardant driver's seat;

(v) Fire–retardant barriers in the case of a school vehicle with a front engine; and

(vi) A fire–retardant rear seating area in the case of a school vehicle with a rear engine; and

(4) The State Superintendent grants approval.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of 3 years and, at the end of June 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 22, 2008.

CHAPTER 638

(House Bill 1455)

AN ACT concerning

Dorchester County – School Buses – Length of Operation

FOR the purpose of altering the length of time a school bus may be operated in Dorchester County; providing for the termination of this Act; and generally relating to the length of time a school bus may be operated in Dorchester County.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–804
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

7–804.

(a) In this section, "school vehicle" has the meaning stated in § 11–154 of the Transportation Article.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 12 years.

(2) (i) In **DORCHESTER,** Somerset, Wicomico, and Worcester counties, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 15 years.

(ii) A school vehicle operating under subparagraph (i) of this paragraph shall be maintained as provided in subsection (c) of this section.

(3) Any school vehicle in operation or accepted before July 1, 2004, or under contract to be purchased before July 1, 2004, that meets the specifications of the Department and of the Motor Vehicle Administration for transit style school vehicles may be operated for 15 years.

(c) Notwithstanding the 12–year limitation in subsection (b)(1) of this section, a school vehicle may be operated for additional years if:

(1) The school vehicle is maintained under a preventive maintenance plan approved by the Motor Vehicle Administration and the Automotive Safety Enforcement Division of the Department of State Police that includes an inspection at the end of the 12th year and a minimum of 2 inspections by the Motor Vehicle Administration each year thereafter;

(2) Any structural repairs to the school vehicle necessitated by accident, metal fatigue, or any other cause are certified by an independent expert approved by the Motor Vehicle Administration to meet or exceed the manufacturer's original manufacturing standards;

(3) The school vehicle is equipped with:

(i) The body originally placed on the chassis by the manufacturer;

(ii) An 8 light warning system;

(iii) A left side stop arm;

(iv) A fire–retardant driver's seat;

(v) Fire–retardant barriers in the case of a school vehicle with a front engine; and

(vi) A fire–retardant rear seating area in the case of a school vehicle with a rear engine; and

(4) The State Superintendent grants approval.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of 3 years and, at the end of June 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 22, 2008.

CHAPTER 639

(Senate Bill 937)

AN ACT concerning

Cecil County – Volunteer Length of Service Award Program – Age of Eligibility

FOR the purpose of authorizing certain members of volunteer fire departments, rescue squads, and ambulance corps to receive certain benefits at a certain age under the Volunteer Length of Service Award Program in Cecil County.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 7–209
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

7–209.

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

(2) "Board" means the Board of County Commissioners of Cecil County.

(3) "Program" means the Volunteer Length of Service Award Program.

(b) In Cecil County, the Board may establish and fund a Volunteer Length of Service Award Program for qualified members of volunteer fire departments, rescue squads, and ambulance corps.

(c) (1) The Board may adopt bylaws for the Program by resolution.

(2) In the bylaws, the Board may:

(i) define terms;

(ii) establish eligibility requirements for certification procedures based on length of service, number of hours of service, amount of training, number of hours of training, prior service, or any other criteria considered relevant by the Board based on requirements and procedures recommended by the Cecil County Fireman's Association;

(iii) establish appeals procedures for members who contest eligibility requirement determinations by the Board;

(iv) establish a benefits schedule and determine eligibility requirements, including age and length of service requirements;

(v) delegate recordkeeping responsibilities of the Program to the Program administrative committee of the Cecil County Fireman's Association;

(vi) delegate administration of the Program to the Cecil County treasurer, a committee or board, an insurer, a financial institution, or any other agency, group, or organization that the Board determines is competent to administer the Program;

(vii) subject to paragraph (3) of this subsection, establish disability, death, and survivor benefits for qualified individuals;

(viii) establish any other requirements, criteria, or benefits considered by the Board to be in the best interest of Cecil County and the best interest of the volunteer fire departments, rescue squads, and ambulance corps;

(ix) subject to paragraph (4) of this subsection, allocate from the general revenue of Cecil County or from any other source, funds for the Program; and

(x) establish any other provision for the administration of the Program.

(3) A surviving spouse benefit is discontinued when the survivor remarries.

(4) Funds for the Program allocated from the general revenue of Cecil County may not exceed:

(i) $35,000 during the first year of the Program;

(ii) $39,000 during the second year of the Program;

(iii) $44,000 during the third year of the Program;

(iv) $49,000 during the fourth year of the Program;

(v) $55,000 during the fifth year of the Program; and

(vi) an additional $10,000 for each additional year of the Program or whatever amount would make the Program actuarially sound by July 1, 2014.

(d) To carry out this section, the Board shall adopt the following provisions as part of the Program:

(1) a member who has certified credit volunteer service on or after January 1, 1979 or who discontinued active volunteer service before January 1, 1979 may receive credit for this service after being certified in accordance with this section to have performed 5 years of active volunteer service after January 1, 1979;

(2) a member who has completed 25 years of certified volunteer service and is under the age of 60 years may be qualified and will be eligible for benefits when the member reaches the age of 60 years if the member is certified to the 25 years of qualified service before January 1, 1984; **[**and**]**

(3) after January 1, 1984, **AND ON OR BEFORE JUNE 30, 2008,** a member who accumulates the proper number of points needed to qualify and certify for 25 years of service and who fails to remain active or maintain membership in a volunteer fire company is not disqualified or otherwise restricted from receiving benefits at the age of 60 years**[.]; AND**

(4) ON OR AFTER JULY 1, 2008, A MEMBER WHO ACCUMULATES THE PROPER NUMBER OF POINTS NEEDED TO QUALIFY AND CERTIFY FOR 25 YEARS OF SERVICE MAY RECEIVE BENEFITS AT THE AGE OF 55 YEARS.

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

Approved by the Governor, May 22, 2008.

CHAPTER 640

(House Bill 1495)

AN ACT concerning

Cecil County – Volunteer Length of Service Award Program – Age of Eligibility

FOR the purpose of authorizing certain members of volunteer fire departments, rescue squads, and ambulance corps to receive certain benefits at a certain age under the Volunteer Length of Service Award Program in Cecil County.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 7–209
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

7–209.

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

(2) "Board" means the Board of County Commissioners of Cecil County.

(3) "Program" means the Volunteer Length of Service Award Program.

(b) In Cecil County, the Board may establish and fund a Volunteer Length of Service Award Program for qualified members of volunteer fire departments, rescue squads, and ambulance corps.

(c) (1) The Board may adopt bylaws for the Program by resolution.

(2) In the bylaws, the Board may:

(i) define terms;

(ii) establish eligibility requirements for certification procedures based on length of service, number of hours of service, amount of training, number of hours of training, prior service, or any other criteria considered relevant by the Board based on requirements and procedures recommended by the Cecil County Fireman's Association;

(iii) establish appeals procedures for members who contest eligibility requirement determinations by the Board;

(iv) establish a benefits schedule and determine eligibility requirements, including age and length of service requirements;

(v) delegate recordkeeping responsibilities of the Program to the Program administrative committee of the Cecil County Fireman's Association;

(vi) delegate administration of the Program to the Cecil County treasurer, a committee or board, an insurer, a financial institution, or any other agency, group, or organization that the Board determines is competent to administer the Program;

(vii) subject to paragraph (3) of this subsection, establish disability, death, and survivor benefits for qualified individuals;

(viii) establish any other requirements, criteria, or benefits considered by the Board to be in the best interest of Cecil County and the best interest of the volunteer fire departments, rescue squads, and ambulance corps;

(ix) subject to paragraph (4) of this subsection, allocate from the general revenue of Cecil County or from any other source, funds for the Program; and

(x) establish any other provision for the administration of the Program.

(3) A surviving spouse benefit is discontinued when the survivor remarries.

(4) Funds for the Program allocated from the general revenue of Cecil County may not exceed:

(i) $35,000 during the first year of the Program;

(ii) $39,000 during the second year of the Program;

(iii) $44,000 during the third year of the Program;

(iv) $49,000 during the fourth year of the Program;

(v) $55,000 during the fifth year of the Program; and

(vi) an additional $10,000 for each additional year of the Program or whatever amount would make the Program actuarially sound by July 1, 2014.

(d) To carry out this section, the Board shall adopt the following provisions as part of the Program:

(1) a member who has certified credit volunteer service on or after January 1, 1979 or who discontinued active volunteer service before January 1, 1979 may receive credit for this service after being certified in accordance with this section to have performed 5 years of active volunteer service after January 1, 1979;

(2) a member who has completed 25 years of certified volunteer service and is under the age of 60 years may be qualified and will be eligible for benefits when the member reaches the age of 60 years if the member is certified to the 25 years of qualified service before January 1, 1984; **[**and**]**

(3) after January 1, 1984, **AND ON OR BEFORE JUNE 30, 2008,** a member who accumulates the proper number of points needed to qualify and certify for 25 years of service and who fails to remain active or maintain membership in a volunteer fire company is not disqualified or otherwise restricted from receiving benefits at the age of 60 years**[**.**]; AND**

(4) ON OR AFTER JULY 1, 2008, A MEMBER WHO ACCUMULATES THE PROPER NUMBER OF POINTS NEEDED TO QUALIFY AND CERTIFY FOR 25 YEARS OF SERVICE MAY RECEIVE BENEFITS AT THE AGE OF 55 YEARS.

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

Approved by the Governor, May 22, 2008.

CHAPTER 641

(Senate Bill 946)

AN ACT concerning

Hospital Regulation and Financing – Maryland Hospital Bond Program and User Fees of the Health Services Cost Review Commission

FOR the purpose of specifying that certain hospital plans must be acceptable to the Secretary of Health and Mental Hygiene, in consultation with the Maryland Health Care Commission; providing that the Maryland Hospital Bond Program shall provide for the payment and refinancing of certain public obligations issued on behalf of a hospital on or after a certain date under certain circumstances; requiring a hospital with public obligations issued on or after a certain date to provide to the Secretary a certain closure plan under certain circumstances; requiring a certain closure plan to include a certain plan for provision of care to certain patients and populations; repealing a prohibition on certain user fees for the Health Services Cost Review Commission increasing from one fiscal year to the next by more than a certain percentage amount; clarifying the circumstances under which the Commission can assess a certain fee; and generally relating to hospital regulation and financing.

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 10–340
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 10–343 and 10–346
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 – Health – General
Section 19–213(c) and 19–223
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 – Economic Development

10–340.

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

(b) "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(c) (1) "Closure cost" means costs incurred in connection with the closure or delicensing of a hospital.

(2) "Closure cost" includes expenses of operating a hospital, payments to employees, employee benefits, fees of consultants, insurance, security services, utilities, legal fees, capital costs, costs of terminating contracts with vendors, suppliers of goods and services and others, debt service, contingencies, and other necessary or appropriate costs and expenses.

(d) "Control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person through equity interest, membership interest, or contract other than a commercial contract for goods or nonmanagement services, or otherwise, whether or not the power is exercised or sought to be exercised.

(e) "Hospital" means an institution defined as a hospital under § 19–301 of the Health – General Article and that is licensed as a hospital by the Secretary of Health and Mental Hygiene under § 19–318 of the Health – General Article.

(f) "Program" means the Maryland Hospital Bond Program under this part.

(g) (1) "Public obligation" means a bond, note, evidence of indebtedness, or other obligation, to repay borrowed money issued by the Authority, the State, a unit, instrumentality, or public corporation of the State, a public body as defined in Article 31, § 9 of the Code, a county, or a municipal corporation.

(2) "Public obligation" does not include an obligation, or portion of an obligation, if:

(i) the principal of and interest on the obligation or the portion of the obligation is:

1. insured by an effective municipal bond insurance policy; and

2. issued on behalf of a hospital that voluntarily closed in accordance with § 19–120(l) of the Health – General Article; and

(ii) the proceeds of the obligation or the portion of the obligation are used to finance wholly or partly:

1. a facility or part of a facility that is used primarily to provide outpatient services at a location other than the hospital; or

2. a facility or part of a facility that is used primarily by physicians who are not employees of the hospital to provide services to nonhospital patients.

10–343.

(a) There is a Maryland Hospital Bond Program in the Authority.

(b) **[**The**]** **FOR PUBLIC ~~BODY~~ OBLIGATIONS ISSUED ON BEHALF OF A HOSPITAL BEFORE OCTOBER 1, 2008, THE** Program shall provide for the payment and refinancing of public obligations of a hospital, if:

(1) (i) the closure of the hospital is in accordance with § 19–120(l) of the Health – General Article; or

(ii) the delicensure of the hospital is in accordance with § 19–325 of the Health – General Article;

(2) a public obligation issued on behalf of the hospital is outstanding; and

(3) the hospital plan for closure or delicensure and the related financing plan is acceptable to**:**

(I) the Secretary of Health and Mental Hygiene**, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION;** and

(II) the Authority.

(C) FOR PUBLIC ~~BODY~~ OBLIGATIONS ISSUED ON BEHALF OF A HOSPITAL ON OR AFTER OCTOBER 1, 2008, THE PROGRAM SHALL PROVIDE FOR THE PAYMENT AND REFINANCING OF PUBLIC OBLIGATIONS OF A HOSPITAL, IF:

(1) (I) THE CLOSURE OF THE HOSPITAL IS IN ACCORDANCE WITH § 19–120(L) OF THE HEALTH – GENERAL ARTICLE; OR

(II) THE DELICENSURE OF THE HOSPITAL IS IN ACCORDANCE WITH § 19–325 OF THE HEALTH – GENERAL ARTICLE;

(2) A PUBLIC OBLIGATION ISSUED ON BEHALF OF THE HOSPITAL IS OUTSTANDING;

(3) THE HOSPITAL PLAN FOR CLOSURE OR DELICENSURE AND THE RELATED FINANCING PLAN IS ACCEPTABLE TO:

(I) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION; AND

(II) THE AUTHORITY; AND

(4) THE HEALTH SERVICES COST REVIEW COMMISSION DETERMINES THAT IMPLEMENTATION OF THE PROGRAM IS IN THE PUBLIC INTEREST, TAKING INTO ACCOUNT THE AMOUNT OF SYSTEM–WIDE SAVINGS TO THE HEALTH CARE SYSTEM IN THE STATE THAT MIGHT BE EXPECTED AS A RESULT OF THE CLOSURE.

10–346.

(a) (1) A hospital that intends to close or is scheduled to be delicensed shall provide the Authority and the Health Services Cost Review Commission with a written statement of any outstanding public obligations issued on its behalf.

(2) The statement shall include:

(i) the name of each issuer of the public obligation;

(ii) the outstanding principal amount of each public obligation;

(iii) the due dates for payment or any mandatory redemption or purchase of each public obligation;

(iv) the due dates for the payment of interest on each public obligation and the interest rates; and

(v) the documents and information about the public obligation that the Authority or the Health Services Cost Review Commission requests.

(B) (1) A HOSPITAL WITH PUBLIC OBLIGATIONS ISSUED ON OR AFTER OCTOBER 1, 2008, THAT INTENDS TO CLOSE OR IS SCHEDULED TO BE DELICENSED, SHALL PROVIDE TO THE SECRETARY OF HEALTH AND MENTAL HYGIENE A CLOSURE PLAN THAT IS ACCEPTABLE TO THE SECRETARY, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION.

(2) THE CLOSURE PLAN REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE THE PLAN OF THE HOSPITAL FOR THE PROVISION OF CARE TO ITS PATIENTS AND TO THE POPULATION IN ITS SERVICE AREA.

[(b)**] (C)** The hospital shall file the **[**statement**] ITEMS** required under **[**subsection (a)**] SUBSECTIONS (A) AND (B)** of this section:

(1) within 10 days after the date of filing the written notice of intent to close under § 19–120(l) of the Health – General Article with the Maryland Health Care Commission; or

(2) at least 150 days before the scheduled date of delicensure under § 19–325 of the Health – General Article.

Article – Health – General

19–213.

(c) (1) The total fees assessed by the Commission may not exceed $5,500,000.

(2) The total user fees assessed by the Commission may not exceed the Special Fund appropriation for the Commission by more than 20%.

(3) The user fees assessed by the Commission shall be used exclusively to cover the actual documented direct costs of fulfilling the statutory and regulatory duties of the Commission in accordance with the provisions of this subtitle and any administrative costs for services to the Commission provided by the Department.

(4) The Commission shall pay all funds collected from fees assessed in accordance with this section into the Health Services Cost Review Commission Fund.

(5) The user fees assessed by the Commission may be expended only for purposes authorized by the provisions of this subtitle.

(6) **[**The percentage amount by which total user fees assessed by the Commission under this section are increased from one fiscal year to the next may not exceed the percentage amount by which the annual update factor applicable to all Maryland general acute care hospitals is increased for the same fiscal year.

(7)**]** The amount specified in paragraph (1) of this subsection limits only the total user fees the Commission may assess in a fiscal year.

19–223.

The Commission shall assess a fee on all hospitals whose rates have been approved by the Commission to pay for:

(1) **[**The**] TO THE EXTENT PROVIDED FOR IN TITLE 10, SUBTITLE 3, PART IV OF THE ECONOMIC DEVELOPMENT ARTICLE, THE** amounts required by **[**subsection (k) of § 16A of Article 43C of the Code**] § 10–350 OF THE ECONOMIC DEVELOPMENT ARTICLE** with respect to public **[**body**]** obligations or closure costs of a closed or delicensed hospital **[**as defined in Article 43C, § 16A of the Code**]**; and

(2) Funding the Hospital Employees Retraining Fund.

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

Approved by the Governor, May 22, 2008.

CHAPTER 642

(Senate Bill 951)

AN ACT concerning

Public Safety – Industrialized ~~Building – Definition~~ Buildings – Exemptions

FOR the purpose of ~~excluding~~ exempting a certain building that has less than a certain width and length from certain inspection and certification standards and regulations adopted by the Department of Housing and Community Development for certain industrialized buildings; authorizing a manufacturer of a certain exempted building to elect to have the Department perform a certain determination for the purpose of the Department certifying and providing a certain insignia for the building under certain circumstances; and generally relating to industrialized buildings.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–301(d) and 12–307
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

12–301.

(d) (1) "Industrialized building" means a building assembly or system of building subassemblies manufactured in its entirety, or in substantial part, off site and transported to a site for installation or erection, with or without other specified components, as a finished building or as part of a finished building that comprises two or more industrialized building units.

(2) "Industrialized building" includes the electrical, plumbing, heating, ventilating, insulation, and other service systems of the building assembly or system of building subassemblies if the service systems are installed at the off site manufacture or assembly point.

(3) "Industrialized building" does not include:

(i) open frame construction that can be completely inspected on site; **[**or**]**

(ii) a manufactured home**; OR**

(III) A BUILDING 8 BODY FEET OR LESS IN WIDTH AND 40 BODY FEET OR LESS IN LENGTH THAT IS:

1. USED FOR BUSINESS PURPOSES, MOBILE OFFICES, OR STORAGE; AND

2. NOT OPEN TO THE GENERAL PUBLIC.

12–307.

(a) (1) The Department shall determine whether each proposed industrialized building meets the standards contained in the regulations of the Department.

(2) The determination shall include the evaluation and testing of the industrialized building and the quality control system at the factory of origin and at the building site.

(b) (1) The Department shall perform the determination required by subsection (a) of this section through its own personnel or through a designated agent.

(2) The designated agent shall be:

(i) qualified personnel of a local enforcement agency; or

(ii) a testing facility that is approved by the Department.

(3) The testing facility shall be:

(i) an architect or professional engineer whose registration is accepted by the State; or

(ii) a testing organization that is determined by the Department to be specifically qualified by reason of facilities, personnel, experience, and demonstrated reliability to investigate, test, and evaluate industrialized buildings or their component parts.

(4) In addition to evaluating and testing industrialized buildings or their component parts, the testing facility shall:

(i) list the units in compliance with the standards adopted by the Department;

(ii) provide adequate follow–up services at the point of manufacture to ensure that production units are in full compliance; and

(iii) provide for each unit an insignia in the form of a label, seal, or other evidence of compliance.

(C) A MANUFACTURER OF A BUILDING EXEMPTED FROM THE APPLICABILITY OF THIS SUBTITLE UNDER § 12–301(D)(3)(III) OF THIS SUBTITLE MAY ELECT TO HAVE THE DEPARTMENT PERFORM A DETERMINATION UNDER SUBSECTION (A) OF THIS SECTION FOR THE PURPOSE OF THE DEPARTMENT CERTIFYING AND PROVIDING AN INSIGNIA FOR THE BUILDING UNDER THIS SUBTITLE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 643

(House Bill 1476)

AN ACT concerning

Public Safety – Industrialized ~~Building – Definition~~ Buildings – Exemptions

FOR the purpose of ~~excluding~~ exempting a certain building that has less than a certain width and length from certain inspection and certification standards and regulations adopted by the Department of Housing and Community Development for certain industrialized buildings; authorizing a manufacturer of a certain exempted building to elect to have the Department perform a certain determination for the purpose of the Department certifying and providing a certain insignia for the building under certain circumstances; and generally relating to industrialized buildings.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–301(d) and 12–307
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

12–301.

(d) (1) "Industrialized building" means a building assembly or system of building subassemblies manufactured in its entirety, or in substantial part, off site and transported to a site for installation or erection, with or without other specified components, as a finished building or as part of a finished building that comprises two or more industrialized building units.

(2) "Industrialized building" includes the electrical, plumbing, heating, ventilating, insulation, and other service systems of the building assembly or system of building subassemblies if the service systems are installed at the off site manufacture or assembly point.

(3) "Industrialized building" does not include:

(i) open frame construction that can be completely inspected on site; **[**or**]**

(ii) a manufactured home**; OR**

(III) A BUILDING 8 BODY FEET OR LESS IN WIDTH AND 40 BODY FEET OR LESS IN LENGTH THAT IS:

1. USED FOR BUSINESS PURPOSES, MOBILE OFFICES, OR STORAGE; AND

2. NOT OPEN TO THE GENERAL PUBLIC.

12–307.

(a) (1) The Department shall determine whether each proposed industrialized building meets the standards contained in the regulations of the Department.

(2) The determination shall include the evaluation and testing of the industrialized building and the quality control system at the factory of origin and at the building site.

(b) (1) The Department shall perform the determination required by subsection (a) of this section through its own personnel or through a designated agent.

(2) The designated agent shall be:

(i) qualified personnel of a local enforcement agency; or

(ii) a testing facility that is approved by the Department.

(3) The testing facility shall be:

(i) an architect or professional engineer whose registration is accepted by the State; or

(ii) a testing organization that is determined by the Department to be specifically qualified by reason of facilities, personnel, experience, and demonstrated reliability to investigate, test, and evaluate industrialized buildings or their component parts.

(4) In addition to evaluating and testing industrialized buildings or their component parts, the testing facility shall:

(i) list the units in compliance with the standards adopted by the Department;

(ii) provide adequate follow–up services at the point of manufacture to ensure that production units are in full compliance; and

(iii) provide for each unit an insignia in the form of a label, seal, or other evidence of compliance.

(C) A MANUFACTURER OF A BUILDING EXEMPTED FROM THE APPLICABILITY OF THIS SUBTITLE UNDER § 12–301(D)(3)(III) OF THIS SUBTITLE MAY ELECT TO HAVE THE DEPARTMENT PERFORM A DETERMINATION UNDER SUBSECTION (A) OF THIS SECTION FOR THE PURPOSE OF THE DEPARTMENT CERTIFYING AND PROVIDING AN INSIGNIA FOR THE BUILDING UNDER THIS SUBTITLE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 644

(House Bill 40)

AN ACT concerning

Flexible Leave Act

FOR the purpose of authorizing employees of certain employers to use leave with pay for the illness of the employee's immediate family; providing that an employee may only use leave with pay that has been earned; providing that an employee who earns more than one type of leave with pay may elect the type and amount of leave with pay to be used; requiring an employee who uses leave with pay under this Act to comply with the terms of a collective bargaining agreement or employment policy with a certain exception; providing that the terms of a collective bargaining agreement or employment policy shall prevail under certain circumstances; prohibiting an employer from taking certain actions against an employee who exercises certain rights, files a complaint, testifies against, or assists in a certain action; providing that this Act does not affect leave granted under the federal Family and Medical Leave Act; defining certain terms; and generally relating to the Flexible Leave Act.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–801 and 3–802

Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY adding to
Article – Labor and Employment
Section 3–802
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

3–801.

(a) **(1)** In this **[**subtitle**]** **SECTION**, "employer" means a person engaged in a business, industry, profession, trade, or other enterprise in the State.

[(b)**]** **(2)** "Employer" includes:

[(1)**]** **(I)** a unit of State or local government that employs individuals who are not subject to the provisions of Title 9, Subtitle 5 of the State Personnel and Pensions Article; and

[(2)**]** **(II)** a person who acts directly or indirectly in the interest of another employer with an employee.

[3–802.**]**

[(a)**]** **(B)** This **[**subtitle**]** **SECTION** applies to an employer who provides leave with pay to an employee following the birth of the employee's child.

[(b)**]** **(C)** An employer who provides leave with pay to an employee following the birth of the employee's child shall provide the same leave with pay to an employee when a child is placed with the employee for adoption.

3–802.

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

(2) (I) "EMPLOYER" MEANS A PERSON *THAT EMPLOYS 15 OR MORE INDIVIDUALS AND IS* ENGAGED IN A BUSINESS, INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE STATE.

(II) "EMPLOYER" INCLUDES A PERSON WHO ACTS DIRECTLY OR INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.

(3) "IMMEDIATE FAMILY" INCLUDES A CHILD, SPOUSE, AND PARENT.

(4) (I) "LEAVE WITH PAY" MEANS TIME AWAY FROM WORK FOR WHICH AN EMPLOYEE RECEIVES COMPENSATION.

(II) "LEAVE WITH PAY" INCLUDES SICK LEAVE, VACATION TIME, AND COMPENSATORY TIME.

(B) THIS SECTION APPLIES TO AN EMPLOYER THAT PROVIDES LEAVE WITH PAY UNDER THE TERMS OF:

(1) A COLLECTIVE BARGAINING AGREEMENT; OR

(2) AN EMPLOYMENT POLICY.

(C) AN EMPLOYEE OF AN EMPLOYER MAY USE LEAVE WITH PAY FOR THE ILLNESS OF THE EMPLOYEE'S IMMEDIATE FAMILY.

(D) (1) AN EMPLOYEE OF AN EMPLOYER:

(I) MAY ONLY USE LEAVE WITH PAY UNDER THIS SECTION THAT HAS BEEN EARNED; AND

(II) WHO EARNS MORE THAN ONE TYPE OF LEAVE WITH PAY MAY ELECT THE TYPE AND AMOUNT OF LEAVE WITH PAY TO BE USED UNDER THIS SECTION.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN EMPLOYEE OF AN EMPLOYER WHO USES LEAVE UNDER THIS SECTION SHALL COMPLY WITH THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT OR EMPLOYMENT POLICY.

(3) IF THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT WITH AN EMPLOYER OR AN EMPLOYMENT POLICY OF AN EMPLOYER PROVIDE A LEAVE WITH PAY BENEFIT THAT IS EQUAL TO OR GREATER THAN THE BENEFIT

PROVIDED UNDER THIS SECTION, THE COLLECTIVE BARGAINING AGREEMENT OR EMPLOYMENT POLICY PREVAILS.

(E) AN EMPLOYER MAY NOT DISCHARGE, DEMOTE, SUSPEND, DISCIPLINE, OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE OR THREATEN TO TAKE ANY OF THESE ACTIONS AGAINST AN EMPLOYEE:

(1) WHO EXERCISES RIGHTS GRANTED UNDER THIS SECTION; OR

(2) WHO FILES A COMPLAINT, TESTIFIES AGAINST, OR ASSISTS IN AN ACTION BROUGHT AGAINST THE EMPLOYER FOR A VIOLATION OF THIS SECTION.

(F) THIS SECTION DOES NOT AFFECT LEAVE GRANTED UNDER THE FEDERAL FAMILY AND MEDICAL LEAVE ACT OF 1993.

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

Approved by the Governor, May 22, 2008.

CHAPTER 645

(House Bill 54)

AN ACT concerning

Property Tax – Credit – Accessibility Features

FOR the purpose of authorizing the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation to grant, by law, a tax credit against the county or municipal corporation property tax imposed on real property equipped with a certain accessibility ~~features~~ feature; authorizing the county or municipal corporation to provide, by law, for the amount and duration of the credit and certain other provisions to carry out the credit; defining a certain term; providing for the application of this Act; and generally relating to a local property tax credit for real property equipped with ~~credit~~ a certain accessibility ~~features~~ feature.

BY adding to
Article – Tax – Property

Section 9–248
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

9–248.

(A) IN THIS SECTION, "ACCESSIBILITY ~~FEATURES~~ FEATURE" MEANS:

(1) A NO–STEP ENTRANCE ALLOWING ACCESS INTO A RESIDENCE;

(2) INTERIOR PASSAGE DOORS PROVIDING AT LEAST A 32–INCH–WIDE CLEAR OPENING;

(3) GRAB BARS AROUND A TOILET, TUB, OR SHOWER INSTALLED TO SUPPORT AT LEAST 250 POUNDS;

(4) LIGHT SWITCHES, OUTLETS, AND THERMOSTATS PLACED IN WHEELCHAIR–ACCESSIBLE LOCATIONS;

(5) LEVER HANDLES ON DOORS; AND

(6) UNIVERSAL DESIGN FEATURES OR ~~THOSE ACCESSIBILITY FEATURES~~ ANY ACCESSIBILITY ENHANCING DESIGN FEATURE PRESCRIBED BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT UNDER § 12–202 OF THE PUBLIC SAFETY ARTICLE.

(B) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY GRANT, BY LAW, A TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON RESIDENTIAL REAL PROPERTY EQUIPPED WITH AN ACCESSIBILITY ~~FEATURES~~ FEATURE.

(C) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:

(1) THE AMOUNT AND DURATION OF THE TAX CREDIT UNDER THIS SECTION; ~~AND~~

(2) ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS SECTION;

(3) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND

~~(2)~~ (4) ANY OTHER PROVISION NECESSARY TO CARRY OUT THE CREDIT UNDER THIS SECTION.

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 22, 2008.

CHAPTER 646

(House Bill 165)

AN ACT concerning

Howard County – Criminal History Records Checks – Fingerprinting Requirement

Ho. Co. 05–08

FOR the purpose of ~~requiring a person who is the subject of a request from the County Administrator of Howard County for a criminal history records check that requires that information be obtained from the Federal Bureau of Investigation to submit to the Department of Public Safety and Correctional Services a complete and legible set of the person's fingerprints on standard fingerprint cards~~ altering certain provisions relating to requests for a criminal history records check for prospective employees of Howard County; requiring the Administrator of Howard County to apply to the Criminal Justice Information System Central Repository for a criminal history records check for a prospective employee of the county; requiring the Administrator to submit certain information and fees with the application; requiring the Central Repository to forward certain criminal history record information to the prospective employee and to the Administrator; specifying that certain information obtained from the Central Repository is confidential and may not be disseminated and shall be used only for a certain purpose; authorizing the subject of a criminal history

records check to contest, in a certain manner, the contents of the printed statement issued by the Central Repository; and generally relating to certain criminal history records checks in Howard County.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 10–233
Annotated Code of Maryland
(2001 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 Procedure

10–233.

(a) The County Administrator of Howard County ~~may request~~ **SHALL APPLY TO THE CENTRAL REPOSITORY FOR** a State and national criminal history records check ~~from the Central Repository for a~~ **FOR EACH** prospective employee of Howard County.

~~(b) The County Administrator of Howard County shall pay to the Department the fee that the Department imposes for each request made under subsection (a) of this section.~~

~~**(C) IF THE REQUEST FOR A CRIMINAL HISTORY RECORDS CHECK UNDER SUBSECTION (A) OF THIS SECTION REQUIRES THAT INFORMATION BE OBTAINED FROM THE FEDERAL BUREAU OF INVESTIGATION, THE PERSON WHO IS THE SUBJECT OF THE REQUEST SHALL SUBMIT TO THE DEPARTMENT A COMPLETE AND LEGIBLE SET OF THE PERSON'S FINGERPRINTS ON STANDARD FINGERPRINT CARDS.**~~

(B) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE ADMINISTRATOR OF HOWARD COUNTY SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(1) TWO COMPLETE SETS OF THE PROSPECTIVE EMPLOYEE'S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(2) THE FEE AUTHORIZED UNDER § 10–221(B)(7) OF THIS SUBTITLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

(3) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(C) IN ACCORDANCE WITH THIS SUBTITLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE PROSPECTIVE EMPLOYEE AND THE ADMINISTRATOR OF HOWARD COUNTY THE PROSPECTIVE EMPLOYEE'S CRIMINAL HISTORY RECORD INFORMATION.

(D) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

(1) IS CONFIDENTIAL AND MAY NOT BE DISSEMINATED; AND

(2) SHALL BE USED ONLY FOR THE EMPLOYMENT PURPOSE AUTHORIZED BY THIS SECTION.

(E) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED UNDER § 10–223 OF THIS SUBTITLE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 647

(House Bill 203)

AN ACT concerning

Wicomico County – Alcoholic Beverages Act of 2008

FOR the purpose of adding Wicomico County to the list of counties that authorize the holder of a Class 6 pub–brewery license to sell malt beverages for off–premises consumption in sealed refillable containers; adding Wicomico County to the list of counties that are authorized to issue a Class 7 micro–brewery (on– and off–sale) license; creating a Class B special wine license for the sale of wine for

consumption off the premises; specifying certain requirements for applicants for and holders of the Class B special wine license; specifying a fee and hours of sale; specifying a maximum alcohol content for wine sold under the Class B special wine license; authorizing the Board of License Commissioners to adopt certain regulations; authorizing the Board to issue a special Class C beer, beer and wine, or beer, wine and liquor license; specifying the privileges, application requirements, fee, days of use, and other requirements for holders of the special Class C licenses; adding Wicomico County to the list of counties that, on the death of a licensee, shall issue a new license under certain circumstances to the surviving spouse, partners, or senior officer without the necessity of further proceedings for the balance of the current license year; authorizing ~~a holder of a Class 6 pub–brewery license or a Class 7 micro–brewery license to have or hold a financial interest in certain retail alcoholic beverages licenses~~ the Board of License Commissioners to issue a Class 6 pub–brewery license or a Class 7 micro–brewery license to a holder of not more than a certain number of Class B beer, wine and liquor licenses under certain circumstances and subject to certain conditions and limitations; and generally relating to alcoholic beverages licenses in Wicomico County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–207(g), 2–208(b), 9–102(k), and 10–506(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 2–208(a) and 6–201(x)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 6–201(x)(4), 7–101(w), and 12–104(e)(5)
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

2–207.

(g) (1) This subsection applies only in the following jurisdictions:

(i) City of Annapolis;

(ii) Anne Arundel County;

(iii) Baltimore City;

(iv) Baltimore County;

(v) Calvert County;

(vi) Charles County;

(vii) Harford County;

(viii) Prince George's County; **[**and**]**

(ix) Talbot County**; AND**

(X) WICOMICO COUNTY.

(2) The holder of a Class 6 pub–brewery license may sell malt beverages for off–premises consumption in sealed refillable containers.

(3) The containers may be returned and at the time of refill shall be sealed by the pub–brewery licensee.

(4) A holder of a Class 6 pub–brewery license may not sell malt beverages to any retail alcoholic beverages licensee in this State for the purpose of a subsequent sale or distribution of that malt beverage under the retail license.

2–208.

(a) There is a Class 7 micro–brewery (on– and off–sale) license.

(b) The license shall be issued:

(1) By the State Comptroller;

(2) Only in the following jurisdictions:

(i) Allegany County;

(ii) Baltimore City;

(iii) Baltimore County;

(iv) The City of Annapolis;

(v) Anne Arundel County;

(vi) Calvert County;

(vii) Carroll County;

(viii) Charles County;

(ix) Dorchester County;

(x) Frederick County;

(xi) Garrett County;

(xii) Harford County;

(xiii) Howard County;

(xiv) Montgomery County;

(xv) Prince George's County; **[**and**]**

(xvi) Talbot County; **AND**

(XVII) WICOMICO COUNTY;

(3) (i) Only to a holder of a Class B beer, wine and liquor (on–sale) license that is issued for use on the premises of a restaurant located in a jurisdiction listed in paragraph (2) of this subsection; or

(ii) To a holder of a Class D alcoholic beverages license that is issued for use on the premises of the existing Class D license if the premises are located in the 22nd Alcoholic Beverages District of Prince George's County; and

(4) In addition to item (3) of this subsection, in Montgomery County only to a holder of a Class H beer and light wine license that is issued for use on the premises of a restaurant located in the County.

6–201.

(x) (1) This subsection applies only in Wicomico County.

(4) (I) THERE IS A CLASS B SPECIAL WINE (B–SWL) (OFF–SALE) LICENSE.

(II) A HOLDER OF A LICENSE UNDER THIS PARAGRAPH MAY SELL WINE FOR CONSUMPTION OFF THE LICENSED PREMISES.

(III) 1. THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A LICENSE UNDER THIS PARAGRAPH ONLY TO A HOLDER OF A CLASS B BEER, WINE AND LIQUOR (7–DAY) (ON–SALE) LICENSE THAT IS ISSUED FOR A RESTAURANT.

2. THE TERM OF A LICENSE UNDER THIS PARAGRAPH THAT IS ISSUED TO A SUCCESSFUL APPLICANT SHALL BE THE SAME AS THAT OF THE CLASS B BEER, WINE AND LIQUOR LICENSE HELD BY THE APPLICANT.

(IV) A HOLDER OF A LICENSE UNDER THIS PARAGRAPH AT A MINIMUM SHALL OFFER FOR SALE 5 DAYS PER WEEK:

1. BREAKFAST AND LUNCH;

2. BREAKFAST AND DINNER; OR

3. LUNCH AND DINNER.

(V) THE MEALS SHALL BE DESCRIBED IN A PRINTED MENU.

(VI) THE AREA USED FOR THE PREPARATION AND CONSUMPTION OF FOOD AND BEVERAGES SHALL OCCUPY AT LEAST 80% OF THE TOTAL SQUARE FOOT AREA OF THE LICENSED PREMISES.

(VII) AN APPLICANT FOR A LICENSE UNDER THIS PARAGRAPH SHALL COMPLETE THE FORM THAT THE BOARD OF LICENSE COMMISSIONERS PROVIDES.

(VIII) ADVERTISING, POSTING OF NOTICE, AND PUBLIC HEARING REQUIREMENTS FOR A LICENSE UNDER THIS PARAGRAPH ARE THE SAME AS THOSE FOR OTHER CLASS B LICENSES.

(IX) THE ANNUAL LICENSE FEE IS $1,500.

(X) OFF–SALE ALCOHOLIC BEVERAGES RECEIPTS SHALL BE INCLUDED IN THE CALCULATION OF AVERAGE DAILY RECEIPTS FROM THE SALE OF ALCOHOLIC BEVERAGES UNDER PARAGRAPH (2)(IV)1D OF THIS SUBSECTION.

(XI) SUBJECT TO SUBPARAGRAPH (XII) OF THIS PARAGRAPH, THE HOURS FOR SALE FOR A LICENSE UNDER THIS PARAGRAPH ARE:

1. 10 A.M. TO MIDNIGHT, MONDAY THROUGH SATURDAY; AND

2. 12:30 P.M. TO MIDNIGHT ON SUNDAY.

(XII) A LICENSE HOLDER MAY EXERCISE THE PRIVILEGES OF A LICENSE UNDER THIS PARAGRAPH ONLY IF THE LICENSED PREMISES IS OPEN FOR BUSINESS AS A RESTAURANT.

(XIII) WINE SOLD UNDER A LICENSE UNDER THIS PARAGRAPH SHALL HAVE A MAXIMUM ALCOHOL CONTENT OF 15.5%.

(XIV) THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION, INCLUDING A LIMIT ON THE NUMBER OF LICENSES TO BE ISSUED.

7–101.

(W) (1) THIS SUBSECTION APPLIES ONLY IN WICOMICO COUNTY.

(2) (I) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A SPECIAL CLASS C BEER, BEER AND WINE, OR BEER, WINE AND LIQUOR LICENSE.

(II) A SPECIAL LICENSE ENTITLES THE HOLDER TO EXERCISE ANY OF THE PRIVILEGES CONFERRED BY THAT CLASS OF LICENSE AT A BONA FIDE ENTERTAINMENT EVENT HELD BY A FIRE DEPARTMENT IN THE COUNTY.

(3) AN APPLICANT FOR A SPECIAL LICENSE SHALL SIGN AND SUBMIT TO THE BOARD OF LICENSE COMMISSIONERS AN APPLICATION IN THE FORM THAT THE BOARD PROVIDES.

(4) THE ANNUAL FEE FOR A SPECIAL LICENSE IS:

(I) $400, FOR NOT MORE THAN 10 DAYS;

(II) $800, FOR AT LEAST 11 BUT NOT MORE THAN 20 DAYS;

(III) $1,000, FOR AT LEAST 21 BUT NOT MORE THAN 30 DAYS; AND

(IV) $1,100, FOR AT LEAST 31 BUT NOT MORE THAN 40 DAYS.

(5) THE TOTAL NUMBER OF DAYS DURING WHICH A SPECIAL LICENSE MAY BE USED MAY NOT EXCEED 40 IN A CALENDAR YEAR.

(6) A LICENSE HOLDER SHALL NOTIFY THE BOARD OF LICENSE COMMISSIONERS IN WRITING AT LEAST 7 DAYS BEFORE EACH DAY WHEN THE LICENSE IS TO BE USED.

(7) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE ONLY ONE MULTIPLE EVENT LICENSE TO A LICENSE HOLDER IN A LICENSED YEAR.

(8) THIS SUBSECTION DOES NOT PREVENT A FIRE DEPARTMENT FROM OBTAINING A SINGLE EVENT SPECIAL CLASS C LICENSE AUTHORIZED ELSEWHERE UNDER THIS SECTION.

(9) THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

9–102.

(k) The provisions of subsections (a) and (a–1) of this section do not apply to licenses issued under**:**

(1) § 6–201 of this article if: **[**(1) the**]**

(I) THE resident applicant has been a resident of Wicomico County for at least two years prior to the application**[**, and (2) the**]; and**

(II) THE minimum capital investment in the premises is at least $200,000 or the premises have a fair market value of at least $200,000**; OR**

(2) § 12–104(E)(5) OF THIS ARTICLE.

10–506.

(b) Notwithstanding any provisions to the contrary in this article, upon the death of any married licensee, or upon the death of any licensee holding that license for the benefit of a partnership or corporation, upon application to the Comptroller or local licensing board, as the case may be, that granted the license, a new license shall be issued to the surviving spouse, the surviving partners for the benefit of the partnership, or the senior surviving officer for the benefit of the corporation without the necessity of any further proceedings for the balance of the current license year. A renewal license may be issued to the surviving spouse or to the surviving members of a partnership or corporation, if they qualify to hold license under this article. The provisions of this subsection apply only in the following subdivisions:

(1) Anne Arundel County;

(2) Baltimore County;

(3) Baltimore City;

(4) Caroline County;

(5) Charles County;

(6) Dorchester County; **[**and**]**

(7) Prince George's County**; AND**

(8) WICOMICO COUNTY.

12–104.

(e) **(5) (I) THIS PARAGRAPH APPLIES ONLY IN WICOMICO COUNTY.**

~~**(II) SUBJECT TO THE APPROVAL OF THE BOARD OF LICENSE COMMISSIONERS, IN ADDITION TO THE RETAIL LICENSE REQUIRED UNDER § 2–207 OR § 2–208 OF THIS ARTICLE, A CLASS 6 PUB–BREWERY LICENSEE OR A CLASS 7 MICRO–BREWERY LICENSEE MAY HOLD OR HAVE A FINANCIAL INTEREST IN RETAIL ALCOHOLIC BEVERAGES LICENSES THAT DO NOT APPLY TO PREMISES TO WHICH A CLASS 6 PUB–BREWERY LICENSE OR CLASS 7 MICRO–BREWERY LICENSE APPLIES.**~~

(II) SUBJECT TO SUBPARAGRAPHS (III) AND (IV) OF THIS PARAGRAPH, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE ONE CLASS 6 PUB–BREWERY LICENSE OR ONE CLASS 7 MICRO–BREWERY LICENSE, BUT NOT

BOTH, TO A PERSON THAT HOLDS NOT MORE THAN THREE CLASS B BEER, WINE AND LIQUOR LICENSES.

(III) A CLASS 6 PUB–BREWERY LICENSE OR A CLASS 7 MICRO–BREWERY LICENSE ISSUED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH MAY BE ISSUED ONLY FOR A LOCATION IN AN ENTERPRISE ZONE IN THE CITY OF SALISBURY.

(IV) A HOLDER OF A CLASS 7 MICRO–BREWERY LICENSE ISSUED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH MAY SELL BEER FOR OFF–PREMISES CONSUMPTION ONLY TO A WHOLESALER LICENSED UNDER THIS ARTICLE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 648

(House Bill 215)

AN ACT concerning

Alcohol and Drug Abuse Treatment Programs – Outcomes Evaluation

FOR the purpose of repealing certain requirements of the Alcohol and Drug Abuse Administration of the Department of Health and Mental Hygiene to conduct certain outcome research studies; requiring the Administration to annually evaluate all publicly funded substance abuse programs using certain federal national outcomes measures in order to make certain determinations about individuals who received treatment under the program; requiring the Administration to adopt certain regulations; abolishing the Alcohol and Drug Abuse Treatment Research Advisory Council; and generally relating to alcohol and drug abuse treatment programs.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 8–402
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

8–402.

(a) The Administration shall:

(1) Plan and encourage development of, and coordinate the facilities and services that offer treatment, care, or rehabilitation for alcohol and drug abusers; and

(2) Adopt regulations:

(i) To set standards for treatment, care, and rehabilitation of alcohol and drug abusers; and

(ii) To ensure that before a facility is certified under this title to provide treatment, care, or rehabilitation of alcohol or drug abusers, an opportunity to comment, concerning whether the facility meets certification requirements, is provided to representatives of the county government and, if in a municipal corporation, the municipal government and to private citizens in the community where the facility is proposed to be located.

(b) The Administration may establish and operate or identify facilities and services, including evaluation facilities to determine if an individual is a drug abuser or alcohol abuser or dependent on drugs or alcohol.

(c) A facility that the Administration operates or contracts to be operated is a health facility and is not, for any purpose, a correctional institution.

(d) An individual may not be discriminated against based on an inability to pay for any services provided by the Administration either directly or by contract.

(e) To carry out the purposes of this title, the Administration may contract with any appropriate public or private agency that has proper and adequate treatment facilities, services, and staff.

[(f) (1) The Administration shall evaluate the success and effectiveness of each alcohol abuse and drug abuse treatment program licensed or certified under this subtitle by performing outcome research studies on a representative sample of individuals who have received treatment under those programs to determine the extent to which the individuals:

(i) Have been successfully discharged from the treatment program; and

(ii) Have successfully controlled their alcohol and drug abuse problems after being discharged from the program.

(2) The Administration shall adopt any reasonable regulations necessary to permit the Administration to perform the outcome research studies required under paragraph (1) of this subsection.

(3) The outcome research studies shall be conducted in a manner to protect the confidentiality of the individual and in accordance with the provisions of Subtitle 6 of this title.

(4) The Administration shall establish an Alcohol and Drug Abuse Treatment Research Advisory Committee to:

(i) Develop the methodology necessary to conduct the outcome research studies; and

(ii) Advise the Administration on any reasonable regulations necessary to perform the outcome research studies in accordance with this subsection.**]**

(F) (1) THE ADMINISTRATION ANNUALLY SHALL EVALUATE ALL PUBLICLY FUNDED SUBSTANCE ABUSE TREATMENT PROGRAMS CERTIFIED UNDER THIS SUBTITLE USING FEDERAL OUTCOMES MEASURES OR OTHER SUBSEQUENTLY ADOPTED FEDERAL STANDARDS TO DETERMINE THE EXTENT THAT INDIVIDUALS WHO HAVE RECEIVED TREATMENT UNDER THESE PROGRAMS HAVE:

(I) BEEN SUCCESSFULLY RETAINED IN THE TREATMENT PROGRAM;

(II) BEEN SUCCESSFULLY DISCHARGED FROM THE TREATMENT PROGRAM;

(III) REDUCED SUBSTANCE USE;

(IV) SUCCESSFULLY ATTAINED, MAINTAINED, OR INCREASED THEIR EMPLOYMENT;

(V) DEMONSTRATED A DECREASE IN ENGAGING IN CRIMINAL ACTIVITY; AND

(VI) SUCCESSFULLY ESTABLISHED OR MAINTAINED STABLE LIVING ARRANGEMENTS.

(2) THE ADMINISTRATION SHALL ADOPT REGULATIONS NECESSARY TO ALLOW IT TO CONDUCT THE PERFORMANCE AND OUTCOME RESEARCH REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

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

Approved by the Governor, May 22, 2008.

CHAPTER 649

(House Bill 218)

AN ACT concerning

Department of Health and Mental Hygiene – Living at Home Waiver Program

FOR the purpose of renaming the Community Attendant Services and Support Program to be the Living at Home Waiver Program; transferring the authority for administering the Program from the Department of Human Resources to the Department of Health and Mental Hygiene; altering the eligibility age for eligible individuals under the Program; repealing a certain reporting requirement; and generally relating to the Living at Home Waiver Program.

BY repealing
Article – Human Services
Section 7–501 through 7–510 and the subtitle "Subtitle 5. Community Attendant Services and Supports Program"
Annotated Code of Maryland
(2007 Volume)

BY adding to
Article – Health – General
Section 15–801 through 15–809 to be under the new subtitle "Subtitle 8. Living at Home Waiver Program"
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 7–501 through 7–510 and the subtitle "Subtitle 5. Community Attendant Services and Supports Program" of Article – Human Services 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 – General

SUBTITLE 8. LIVING AT HOME WAIVER PROGRAM.

15–801.

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

(B) "AGENCY–PROVIDER MODEL" MEANS A METHOD OF PROVIDING COMMUNITY ATTENDANT SERVICES AND SUPPORTS FOR A CONSUMER BY A PERSONAL ASSISTANT WHO IS:

(1) EMPLOYED BY A PROVIDER AGENCY; AND

(2) SUPERVISED AND EVALUATED BY THE CONSUMER.

(C) "ATTENDANT SERVICES AND SUPPORTS" MEANS ANY OF THE FOLLOWING SERVICES FOR A CONSUMER, WHICH ARE CERTIFIED AS NECESSARY BY A HEALTH CARE PROFESSIONAL:

(1) DRESSING;

(2) PREPARING FOOD AND ASSISTING WITH EATING;

(3) BATHING AND PERSONAL HYGIENE;

(4) ASSISTING WITH ROUTINE BODILY FUNCTIONS, INCLUDING BOWEL AND URINARY CARE;

(5) MOVING INTO, OUT OF, OR TURNING IN BED;

(6) LAUNDERING AND OTHER CLOTHING CARE; AND

(7) CLEANING HOUSE AND PERFORMING OTHER SERVICES OF DAILY CARE, INCLUDING SHOPPING AND TRANSPORTATION, THAT THE CONSUMER AND THE DEPARTMENT REQUEST.

(D) "COMMUNITY ATTENDANT SERVICES AND SUPPORTS" MEANS ATTENDANT SERVICES AND SUPPORTS PROVIDED TO A CONSUMER:

(1) UNDER A PLAN OF SERVICES THAT IS:

(I) BASED ON AN ASSESSMENT OF THE CONSUMER'S FUNCTIONAL NEED; AND

(II) APPROVED BY THE CONSUMER OR THE CONSUMER'S REPRESENTATIVE; AND

(2) UNDER AN AGENCY–PROVIDER MODEL OR CONSUMER–DIRECTED MODEL.

(E) "CONSUMER" MEANS AN ELIGIBLE INDIVIDUAL WHO RECEIVES COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

(F) "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS ELIGIBLE FOR THE PROGRAM UNDER § 15–803 OF THIS SUBTITLE.

(G) "FUNCTIONAL NEED" MEANS THE NEED FOR ATTENDANT SERVICES AND SUPPORTS BASED ON THE ABILITIES AND LIMITATIONS OF THE CONSUMER, REGARDLESS OF MEDICAL DIAGNOSIS OR CATEGORY OF DISABILITY.

(H) "PERSONAL ASSISTANT" MEANS AN INDIVIDUAL WHO DIRECTLY PROVIDES ATTENDANT SERVICES AND SUPPORTS.

(I) "PROGRAM" MEANS THE LIVING AT HOME WAIVER PROGRAM.

(J) "REPRESENTATIVE" MEANS A PARENT, FAMILY MEMBER, GUARDIAN, ADVOCATE, OR AUTHORIZED REPRESENTATIVE OF AN INDIVIDUAL.

15–802.

(A) SUBJECT TO THE STATE BUDGET, THE DEPARTMENT SHALL ADMINISTER A COMPREHENSIVE PROGRAM OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

(B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE ATTENDANT SERVICES AND SUPPORTS TO INDIVIDUALS WITH DISABILITIES WHO WILL BE DISCHARGED OR DIVERTED FROM NURSING FACILITIES WITH COMMUNITY ATTENDANT SERVICES AND SUPPORTS PROVIDED THROUGH A MEDICAID HOME AND COMMUNITY–BASED SERVICES WAIVER.

(C) THE DEPARTMENT SHALL SEEK INPUT FROM ELIGIBLE INDIVIDUALS, THE INDIVIDUALS' REPRESENTATIVES, AND SERVICE PROVIDERS ABOUT THE PROGRAM.

15–803.

AN INDIVIDUAL IS ELIGIBLE FOR THE PROGRAM IF THE INDIVIDUAL:

(1) HAS A COGNITIVE, SENSORY, OR PHYSICAL DISABILITY;

(2) IS AT LEAST 18 YEARS OLD AND UNDER THE AGE OF ~~60~~ 65 YEARS AT THE TIME OF ENROLLMENT;

(3) REQUIRES THE LEVEL OF CARE PROVIDED IN A NURSING FACILITY;

(4) WILL BE DISCHARGED OR DIVERTED FROM A NURSING FACILITY;

(5) QUALIFIES FOR THE MEDICAID HOME AND COMMUNITY–BASED WAIVER SERVICES FOR ADULTS WITH PHYSICAL DISABILITIES;

(6) HAS A FUNCTIONAL NEED; AND

(7) HAS INCOME THAT DOES NOT EXCEED 300% OF SUPPLEMENTAL SECURITY INCOME.

15–804.

(A) EACH CONSUMER'S SERVICES SHALL BE BASED ON AN INDIVIDUALIZED SUPPORT PLAN THAT IS:

(1) JOINTLY DEVELOPED BY THE CONSUMER OR THE CONSUMER'S REPRESENTATIVE AND THE DEPARTMENT OR ITS DESIGNEE;

(2) APPROVED BY THE CONSUMER OR THE CONSUMER'S REPRESENTATIVE; AND

(3) GIVEN TO THE CONSUMER AND THE CONSUMER'S REPRESENTATIVE IN WRITING OR OTHER APPROPRIATE AND UNDERSTANDABLE FORMAT.

(B) THE INDIVIDUALIZED SUPPORT PLAN SHALL SPECIFY:

(1) THE SCOPE OF ATTENDANT SERVICES AND SUPPORTS AND THE HOURS THAT THE SERVICES ARE TO BE PROVIDED;

(2) ALTERNATIVE SOURCES FOR ATTENDANT SERVICES AND SUPPORTS, INCLUDING THE MEANS OF ENSURING SUBSTITUTE AND EMERGENCY ATTENDANT SERVICES AND SUPPORTS;

(3) A MECHANISM TO COORDINATE ATTENDANT SERVICES AND SUPPORTS WITH HEALTH CARE SERVICES THAT THE CONSUMER RECEIVES;

(4) AN INITIAL ASSESSMENT OF THE CONSUMER'S NEEDS AND THE FREQUENCY OF REASSESSMENT;

(5) THE METHOD OF SERVICE DELIVERY;

(6) THE DEGREE AND FREQUENCY OF SUPERVISION OF THE PERSONAL ASSISTANT NECESSARY FOR EFFECTIVE DELIVERY OF ATTENDANT SERVICES AND SUPPORTS;

(7) THE MEANS TO ADJUST SERVICES AND HOURS WHEN CHANGES ARE NEEDED; AND

(8) COMPLAINT AND APPEAL PROCEDURES.

15–805.

(A) (1) TO THE EXTENT POSSIBLE, A CONSUMER MAY SELECT, MANAGE, AND CONTROL THE CONSUMER'S COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

(2) A CONSUMER MAY CHOOSE BETWEEN A CONSUMER–DIRECTED INDIVIDUAL PROVIDER MODEL OR AN AGENCY–PROVIDER MODEL.

(3) UNDER A CONSUMER–DIRECTED MODEL, A CONSUMER MAY USE A FISCAL AGENT TO OBTAIN SERVICES.

(B) (1) ATTENDANT SERVICES AND SUPPORTS SHALL BE DESIGNED TO ASSIST A CONSUMER IN ACCOMPLISHING ACTIVITIES OF DAILY LIVING AND HEALTH–RELATED FUNCTIONS THROUGH:

(I) HANDS–ON ASSISTANCE;

(II) SUPERVISION; OR

(III) CUEING, PROMPTING, OR REMINDING THE CONSUMER ABOUT AN ACTIVITY.

(2) ATTENDANT SERVICES AND SUPPORTS SHALL BE PROVIDED IN A CONSUMER'S HOME OR OTHER INDEPENDENT OR SUPPORTED LIVING ENVIRONMENT, INCLUDING SCHOOL, WORK, RECREATIONAL, AND RELIGIOUS SETTINGS.

(3) ATTENDANT SERVICES AND SUPPORTS MAY NOT BE PROVIDED IN:

(I) A NURSING FACILITY;

(II) AN INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED; OR

(III) A FACILITY THAT PROVIDES FOOD, SHELTER, AND TREATMENT SERVICES TO FOUR OR MORE INDIVIDUALS UNRELATED TO THE PROPRIETOR.

(C) COMMUNITY ATTENDANT SERVICES AND SUPPORTS SHALL BE AVAILABLE 24 HOURS A DAY, 7 DAYS A WEEK, AND PROVIDE BACKUP AND EMERGENCY COMMUNITY ATTENDANT SERVICES AND SUPPORTS WHEN NECESSARY.

(D) (1) A CONSUMER MAY SELECT OR HIRE ANYONE, INCLUDING A FAMILY MEMBER, AS A PERSONAL ASSISTANT.

(2) BASED ON CONSUMER RECOMMENDATIONS, THE DEPARTMENT MAY WAIVE CERTAIN QUALIFICATIONS REQUIRED BY REGULATION FOR A PERSONAL ASSISTANT, IF THE PERSONAL ASSISTANT IS A FAMILY MEMBER OR IS KNOWN AND CHOSEN BY THE CONSUMER.

(3) A FAMILY MEMBER, EXCEPT THE CONSUMER'S SPOUSE, MAY RECEIVE MEDICAL ASSISTANCE PAYMENTS FOR PROVIDING SERVICES.

(4) THE DEPARTMENT SHALL OFFER A CONSUMER TRAINING ON:

(I) HOW TO SELECT, MANAGE, AND DISMISS AN ATTENDANT OR PERSONAL ASSISTANT; AND

(II) THE FINANCIAL MANAGEMENT OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS.

15–806.

A CONSUMER IS ELIGIBLE FOR MEDICAL ASSISTANCE IF THE CONSUMER:

(1) WOULD BE ELIGIBLE FOR MEDICAL ASSISTANCE IN A MEDICAL INSTITUTION OR NURSING HOME; AND

(2) NEEDS COMMUNITY ATTENDANT SERVICES AND SUPPORTS TO REMAIN IN OR TRANSITION TO THE COMMUNITY.

15–807.

(A) THE DEPARTMENT SHALL ADOPT A QUALITY ASSURANCE SYSTEM FOR THE PROGRAM, CONSISTENT WITH FEDERAL REQUIREMENTS REGARDING QUALITY OF WAIVER SERVICES.

(B) THE QUALITY ASSURANCE SYSTEM SHALL INCLUDE MEANINGFUL CONSUMER INPUT, INCLUDING CONSUMER SURVEYS, THAT MEASURE THE EXTENT TO WHICH CONSUMERS RECEIVE SERVICES DESCRIBED IN THEIR INDIVIDUALIZED SUPPORT PLANS AND CONSUMER SATISFACTION WITH THE SERVICES.

15–808.

WITH SIGNIFICANT CONSUMER PARTICIPATION, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT THIS SUBTITLE.

15–809.

(A) A COMMUNITY ATTENDANT SERVICES AND SUPPORTS PROVIDER SHALL INFORM THE CONSUMER OF THE CONSUMER'S RIGHTS WITH RESPECT TO:

(1) SELECTING, MANAGING, AND CHANGING THE CONSUMER'S COMMUNITY ATTENDANT SERVICES AND SUPPORTS; AND

(2) PRIVACY AND CONFIDENTIALITY.

(B) A CONSUMER WHO IS DISSATISFIED WITH THE PROGRAM MAY APPEAL TO THE DEPARTMENT.

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

Approved by the Governor, May 22, 2008.

CHAPTER 650

(House Bill 233)

AN ACT concerning

Physicians and Pharmacists – Therapy Management Contracts – Extension of Law

FOR the purpose of extending until a certain date the termination of the provisions of law relating to certain licensed physician–pharmacist agreements and certain licensed physician–pharmacist therapy contracts; and generally relating to therapy management contracts between licensed physicians and licensed pharmacists.

BY repealing and reenacting, with amendments,
Chapter 249 of the Acts of the General Assembly of 2002
Section 5

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

Chapter 249 of the Acts of 2002

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2002. It shall remain effective for a period of **[**5 years and 8 months**]** **8 YEARS** and, at the end of **[**May 31, 2008**]** **SEPTEMBER 30, 2010** with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 22, 2008.

CHAPTER 651

(House Bill 235)

AN ACT concerning

Maryland Medical Assistance Program – ~~Emergency Service Transporters – Payments~~ *Transporters*

FOR the purpose of repealing the statutory cap on reimbursement by the Department of Health and Mental Hygiene for emergency service transporters under the Maryland Medical Assistance Program and replacing it with a cap as specified by regulation adopted by the Department; *requiring the Department, in consultation with certain stakeholders, to study certain issues regarding the creation of a uniform nonemergency statewide transportation program to serve enrollees of the Maryland Medical Assistance Program; requiring the Department to report certain findings to certain committees of the General Assembly on or before a certain date;* and generally relating to ~~emergency~~ service transporters *for enrollees of the Maryland Medical Assistance Program*.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–114.1
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 – General

15–114.1.

(a) In this section, "emergency service transporter" means a public entity or volunteer fire, rescue, or emergency medical service that provides emergency medical services.

(b) If an emergency service transporter charges for its services and requests reimbursement from the Program, the Department shall reimburse the emergency service transporter, in an amount **[**not to exceed $100 per transport**]** **AS SPECIFIED BY REGULATIONS ADOPTED BY THE DEPARTMENT**, for the cost of:

(1) Transportation the emergency service transporter provides to a Program recipient to a facility in response to a 911 call; and

(2) Medical services the emergency service transporter provides to the Program recipient while transporting the Program recipient to a facility in response to a 911 call.

(c) The Department shall adopt any regulations necessary to carry out this section.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Department of Health and Mental Hygiene shall study:

(1) the feasibility of creating a uniform nonemergency statewide transportation program to serve enrollees of the Maryland Medical Assistance Program;

(2) any cost savings that might arise from the creation of a statewide program;

(3) any potential for quality improvement that would result from the creation of a statewide program; and

(4) the impact that creation of a statewide program would have on local health departments.

(b) In conducting the study, the Department shall consult with the appropriate stakeholders, including providers, consumers, and local health departments.

(c) On or before October 1, 2008, the Department shall report its findings under this section, 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.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ *July* 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 652

(House Bill 261)

AN ACT concerning

St. Mary's County – Deputy Sheriffs – Repeal of Residency Requirement

FOR the purpose of repealing the requirement for deputy sheriffs in St. Mary's County to establish legal residence in the county before receiving permanent status; and generally relating to deputy sheriffs in St. Mary's County.

BY repealing and reenacting, with amendments,
The Public Local Laws of St. Mary's County
Section 120–2 C.
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.

C.

[(1) Deputy sheriffs must establish legal residence in St. Mary's County prior to receiving permanent status.

(2)**]** Personnel in the Sheriff's office may not participate in any strike or work slowdown.

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

Approved by the Governor, May 22, 2008.

CHAPTER 653

(House Bill 269)

AN ACT concerning

State Board of Nursing – Powers and Duties – Licensing, Certification, and Regulation

FOR the purpose of authorizing the State Board of Nursing to accept a certain alternate method of criminal history records check under certain circumstances; providing that certain applicants may only be issued inactive licenses until the completion of a certain course or program; authorizing the Board to grant certain extensions of certain licenses and certificates under certain circumstances; altering the date on which a certain license expires; altering the date on which the Board shall begin a process for requiring criminal history records checks; altering the information to be considered by the Board on receipt of criminal history record information; altering the procedures for the expiration of a temporary license or temporary practice letter; provided that a temporary license may be extended for a certain time period under certain circumstances; authorizing the deputy director to authorize the Board to issue certain subpoenas and administer certain oaths under certain circumstances; requiring the Board to adopt regulations establishing categories of skilled nursing assistants in licensed developmental disabilities administration group homes; repealing the requirement that the Board adopt regulations establishing categories of skilled nursing assistants in licensed developmental disabilities administration alternate living units; limiting the time period in which a medication technician graduate may practice, without certification by the Board; making certain technical changes; making this Act an emergency measure; and generally relating to the regulation and licensing of nurses, nursing assistants, and medication technicians by the State Board of Nursing.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–303, 8–305, 8–308, 8–312, 8–315, 8–317, 8–6A–05(a)(2), 8–6A–07, 8–6A–08, and 8–6A–11
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

8–303.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) Two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

(D) IF AN APPLICANT HAS MADE TWO OR MORE UNSUCCESSFUL ATTEMPTS AT SECURING LEGIBLE FINGERPRINTS, THE BOARD MAY ACCEPT AN ALTERNATE METHOD OF CRIMINAL HISTORY RECORDS CHECK AS PERMITTED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

[(d)**](E)** Information obtained from the Central Repository under this section shall be:

(1) Confidential and may not be redisseminated; and

(2) Used only for the licensing purpose authorized by this title.

[(e)**](F)** The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

8–305.

(a) Except as otherwise provided in subsection (b) of this section, an applicant who otherwise qualifies for a license as a registered nurse or as a licensed practical nurse is entitled to be examined for that license as provided in this section.

(b) Subject to the hearing provisions of § 8–317 of this subtitle, the Board may deny the right to be examined for a license as a registered nurse or as a licensed practical nurse to any applicant who is found to have violated any provision of § 8–316 of this subtitle.

(c) The Board shall give examinations to applicants at least once each calendar year at the times and places that the Board determines.

(d) The Board shall determine the subjects, scope, form, and passing score for each examination given under this title.

(E) AN APPLICANT WHOSE NURSING EDUCATION PROGRAM WAS COMPLETED 5 OR MORE YEARS PRIOR TO PASSING THE LICENSURE EXAMINATION AND WHO HAS NOT PRACTICED FOR AT LEAST 1,000 HOURS IN THE PREVIOUS 5 YEARS MAY ONLY BE ISSUED AN INACTIVE LICENSE UNTIL SUBMISSION TO THE BOARD OF SATISFACTORY EVIDENCE THAT THE APPLICANT HAS SUCCESSFULLY COMPLETED:

(1) A NURSING REVIEW COURSE APPROVED BY THE BOARD; OR

(2) A PRECEPTORSHIP PROGRAM PROVIDED BY AN EMPLOYER AND APPROVED BY THE BOARD.

[(e)**](F)** (1) Except as provided in paragraph (2) of this subsection, an applicant who fails an examination may retake the examination if the applicant pays the reexamination fee set by the Board for each reexamination.

(2) The Board, by rule or regulation, may limit the number of times that an applicant may be reexamined after two failures and may limit the interval of time between reexaminations.

8–308.

(a) Subject to subsection (c) of this section, the Board shall issue the appropriate license to any applicant who meets the requirements for a license as:

(1) A registered nurse under this title; and

(2) A licensed practical nurse under this title.

(b) The Board shall show on each license:

(1) Any expiration date;

(2) The type of license; and

(3) Any certification.

(c) (1) On receipt of the criminal history record information of an applicant for licensure or certification forwarded to the Board in accordance with § 8–303 of this subtitle, in determining whether to grant a license or a certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates **[**that**]** **WHETHER** the applicant **[**does not pose**]** **POSES** a threat to the public health or safety.

(2) (I) [The**] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** Board may not issue a license or a certificate if the criminal history record information required under § 8–303 of this subtitle has not been received.

(II) THE BOARD MAY GRANT A 90–DAY EXTENSION OF A TEMPORARY LICENSE PENDING RECEIPT OF CRIMINAL HISTORY RECORD INFORMATION.

8–312.

(a) A license expires on the **[**last**] 28TH** day of the birth month of the licensee, unless the license is renewed for a 1–year term as provided in this section.

(b) At least 1 month before the license expires, the Board shall send to the licensee a renewal notice.

(c) Before a license expires, the licensee periodically may renew it for an additional term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board:

(i) A renewal fee set by the Board; or

(ii) A renewal fee that is set by the Board if the licensee certifies to the Board that the licensee provides professional services only as a volunteer; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires; and

(ii) Satisfactory evidence of completion of:

1. 1,000 hours of active nursing practice within the 5–year period immediately preceding the date of renewal;

2. A course of instruction, commonly known as a refresher course, approved by the Board; or

3. A preceptorship program provided by an employer and approved by the Board.

(d) **(1)** The Board may grant a 30–day extension, beyond a license's expiration date, to a licensee so that the licensee may renew the license before it expires.

(2) THE BOARD MAY GRANT TWO 90–DAY EXTENSIONS BEYOND A LICENSE'S EXPIRATION DATE PENDING RECEIPT OF CRIMINAL HISTORY RECORD INFORMATION.

(e) (1) Each licensee shall notify the Board in writing of any change in the name or address of the licensee within 60 days after the change occurred.

(2) If a licensee fails to notify the Board within the time required under this subsection, subject to the hearing provisions of § 8–317 of this subtitle, the Board may impose an administrative penalty of $100.

(f) (1) Subject to subsection (g) of this section, the Board shall renew the license of each licensee who meets the requirements of this section.

(2) A volunteer's license issued under paragraph (c)(2)(ii) of this section shall be clearly designated as a volunteer's license.

(g) (1) (i) Beginning **[**January 2008**]** **JULY 2009**, the Board shall begin a process requiring criminal history records checks in accordance with § 8–303 of this subtitle on:

1. Selected annual renewal applicants as determined by regulations adopted by the Board; and

2. Each former licensee who files for reinstatement under § 8–313 of this subtitle after failing to renew the license for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every 10 years thereafter.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 8–303 of this subtitle, in determining whether to renew a license, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates **[**that**]** **WHETHER** the licensee **[**does not pose**]** **POSES** a threat to the public health or safety.

(3) The Board may not renew a license if the criminal history record information required under § 8–303 of this subtitle has not been received.

8–315.

(a) The Board may issue a temporary license to any applicant who:

(1) Submits to a criminal history records check in accordance with § 8–303 of this subtitle;

(2) Is licensed by any other state;

(3) Submits to the Board:

(i) An application on the form required by the Board;

(ii) Written, verified evidence that the requirement of item (1) of this subsection is being met; and

(iii) Any other document required by the Board; and

(4) Pays the fee required by the Board.

(b) (1) A temporary license issued to an individual who is authorized to practice registered nursing in another state authorizes the holder to practice registered nursing in this State while the temporary license is effective.

(2) A temporary license issued to an individual who is authorized to practice licensed practical nursing in another state authorizes the holder to practice licensed practical nursing in this State while the temporary license is effective.

(c) (1) The Board may issue a temporary practice letter to a certified nurse practitioner or certified nurse–midwife who:

(i) Has been issued a temporary license under this subsection and has submitted a written agreement to the Board for formal approval;

(ii) Is authorized to practice as a registered nurse and has submitted an initial written agreement to the Board for formal approval; or

(iii) 1. Has had a written agreement approved by the Board;

2. Is changing practices or locations; and

3. Has submitted to the Board for formal approval a new written agreement for the new practice or location.

(2) The Board may not issue a temporary practice letter to a certified nurse practitioner or certified nurse–midwife under paragraph (1) of this subsection unless:

(i) The State Board of Physicians has received a written agreement submitted to the Board for formal approval of the scope of practice for which the temporary practice letter is requested; and

(ii) The State Board of Physicians has approved the issuance of the temporary practice letter.

(3) A temporary practice letter does not:

(i) Create any interest, right, or entitlement for the certified nurse practitioner, certified nurse–midwife, or collaborating physician that extends beyond the ending date of the practice letter;

(ii) Abrogate any procedures required by statute or regulation for approval of collaboration agreements; or

(iii) Establish any fact or any presumption concerning the final approval of a collaboration agreement.

(d) (1) **[**A**]** **EXCEPT AS PROVIDED IN THIS SUBTITLE, A** temporary license and temporary practice letter may not be renewed.

(2) Unless the Board **SUSPENDS OR** revokes a temporary license or temporary practice letter, each temporary license or temporary practice letter expires 90 days after the date of issue.

(3) A TEMPORARY LICENSE MAY BE EXTENDED UP TO AN ADDITIONAL 90 DAYS IF THE APPLICANT IS AWAITING THE COMPLETION OF CRIMINAL HISTORY RECORD INFORMATION.

(e) The Board shall revoke a temporary license or temporary certificate if the criminal history record information forwarded to the Board in accordance with § 8–303 of this subtitle reveals that the applicant, certificate holder, or licensee has been convicted or pled guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

8–317.

(a) Except as otherwise provided in the Administrative Procedure Act and in subsection (g) of this section, before the Board takes any action under § 8–312**[**,**]** **OR** § 8–316**[**,**]** **OF THIS SUBTITLE OR** § 8–404**[**,**]** or § 8–6A–10 of this title, it shall give the person against whom the action is contemplated an opportunity for a hearing before the Board.

(b) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(c) The hearing notice to be given to the person shall be sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the last known address of the person at least 30 days before the hearing.

(d) The person may be represented at the hearing by counsel.

(e) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(f) (1) Over the signature of the **[**president or**]** **PRESIDENT,** the executive director**, OR THE DEPUTY DIRECTOR AS AUTHORIZED BY THE EXECUTIVE DIRECTOR** of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(2) If a person, without lawful excuse, disobeys a subpoena from the Board or an order by the Board to take an oath, testify, or answer questions, on petition of the Board a court of competent jurisdiction may compel compliance with the subpoena and hold the individual in contempt of court.

(g) The Board may immediately suspend the license of a registered nurse or licensed practical nurse who is expelled from the rehabilitation program under § 8–208 of this title for noncompliance with the nurse's agreement if:

(1) Prior to suspending the license, the Board provides the nurse with an opportunity to show cause by written communication or nontestimonial presentation as to why the suspension should not occur; and

(2) The Board provides the nurse with an opportunity for a hearing, which:

(i) Shall occur within 30 days of written request by the nurse; and

(ii) Shall impose on the licensee the burden of proving by a preponderance of the evidence that the licensee is not addicted to drugs or alcohol.

(h) (1) After the Board conducts an investigation under this title, the Board may issue an advisory letter to the licensee or certificate holder.

(2) The Board may disclose an advisory letter issued under this subsection to the public.

(3) The issuance of an advisory letter under this subsection may not:

(i) Be considered a disciplinary action under §§ 8–316 and 8–6A–10 of this title; and

(ii) Be reported to any licensing entity, employer, or insurance company as a disciplinary action.

8–6A–05.

(a) The Board shall adopt regulations establishing:

(2) Categories of skilled nursing assistants in the following settings:

(i) Licensed nursing homes; and

(ii) Licensed developmental disabilities administration **[**alternative living units**]** **GROUP HOMES**;

8–6A–07.

(a) Subject to subsection (g) of this section, the Board shall issue a certificate to any applicant who meets the requirements of this subtitle.

(b) The certificate of an individual who has met the requirements for a certified nursing assistant shall include the title "certified nursing assistant".

(c) The certificate of an individual who routinely performs nursing tasks delegated by a registered nurse or licensed practical nurse for compensation and has also completed a Board–approved course in medication administration shall also include the title "certified medicine aide".

(d) The certificate of an individual who has met the requirements for a certified medication technician shall include the title "certified medication technician".

(e) The Board may issue a certificate to replace a lost, destroyed, or mutilated certificate, if the certificate holder pays the certificate replacement fee set by the Board.

(f) (1) The Board may issue a temporary practice certificate to an applicant who:

(i) Has met the appropriate certification requirements of this subtitle to the satisfaction of the Board;

(ii) Does not have a criminal record and has not been the subject of a health professional disciplinary action in this State or another jurisdiction; and

(iii) Does not have a criminal charge or a health professional disciplinary action pending in this State or another jurisdiction.

(2) Unless the Board **SUSPENDS OR** revokes a temporary practice certificate, the temporary practice certificate expires **[**60**] 90** days after issuance.

(3) A TEMPORARY PRACTICE CERTIFICATE MAY BE EXTENDED UP TO AN ADDITIONAL 90 DAYS IF THE APPLICANT IS AWAITING THE COMPLETION OF CRIMINAL HISTORY RECORD INFORMATION.

(G) A MEDICATION TECHNICIAN GRADUATE MAY PRACTICE FOR NO MORE THAN ~~60~~ 90 DAYS FROM THE DATE OF COMPLETION OF A MEDICATION TECHNICIAN TRAINING PROGRAM WITHOUT CERTIFICATION BY THE BOARD.

[(g)**](H)** (1) On receipt of the criminal history record information of an applicant for certification as a certified nursing assistant forwarded to the Board in accordance with § 8–303 of this title, in determining whether to grant a certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates **[**that**] WHETHER** the applicant **[**does not pose**] POSES** a threat to the public health or safety.

(2) The Board may not issue a certificate if the criminal history record information required under § 8–303 of this title has not been received.

8–6A–08.

(a) A certificate expires on the 28th day of the birth month of the nursing assistant or medication technician, unless the certificate is renewed for a 2–year term as provided in this section.

(b) At least 3 months before the certificate expires, the Board shall send to the nursing assistant or medication technician a renewal notice that states:

(1) The date on which the current certificate expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and

(3) The amount of the renewal fee.

(c) Before a certificate expires, a nursing assistant periodically may renew it for an additional term, if the certificate holder:

(1) Otherwise is entitled to be certified;

(2) Submits to the Board a renewal application on the form that the Board requires;

(3) Pays to the Board a renewal fee set by the Board; and

(4) Provides satisfactory evidence of completion of:

(i) 16 hours of active nursing assistant practice within the 2–year period immediately preceding the date of renewal; or

(ii) An approved nursing assistant training program.

(d) In addition to the requirements in subsection (c)(1), (2), and (3) of this section, a skilled nursing assistant shall:

(1) Provide satisfactory evidence of completion of 1,000 hours of practice as a skilled nursing assistant within the individual's specific category of nursing assistant, in the 2–year period preceding the date of renewal; and

(2) Successfully complete a Board–approved refresher course within the individual's specific category of nursing assistant.

(e) In addition to the requirements in subsection (c)(1), (2), and (3) of this section, a certified medicine aide shall:

(1) Provide satisfactory evidence of completion of 100 hours of practice as a certified medicine aide in the 2–year period preceding the date of renewal; and

(2) Successfully complete a Board–approved medicine aide continuing education program.

(f) Before a certificate expires, a medication technician periodically may renew it for an additional term, if the certificate holder:

(1) Otherwise is entitled to be certified;

(2) Submits to the Board a renewal application on the form that the Board requires;

(3) Pays to the Board a renewal fee set by the Board;

(4) Every 2 years, provides satisfactory evidence of completion of a Board–approved clinical refresher course; and

(5) Provides satisfactory evidence of completion of 100 hours of practice as a certified medication technician within the 2–year period preceding the date of renewal.

(g) **(1)** The Board may grant a 30–day extension, beyond a certificate's expiration date, to a certificate holder so that the certificate holder may renew the certificate before it expires.

(2) THE BOARD MAY GRANT TWO 90–DAY EXTENSIONS BEYOND A CERTIFICATE'S EXPIRATION DATE PENDING RECEIPT OF CRIMINAL HISTORY RECORD INFORMATION.

(h) The Board shall reinstate the certificate of a former certificate holder who has failed to renew the certificate for any reason if the former certificate holder meets the applicable renewal requirements of subsections (c) through (f) and (l)(1)(i)2 of this section.

(i) Subject to subsection (j) of this section, the Board shall renew the certificate of each nursing assistant or medication technician who meets the requirements of this section.

(j) (1) Within 30 days after a change has occurred, each certificate holder shall notify the Board in writing of any change in a name or address.

(2) If the certificate holder fails to notify the Board within the time required under this subsection, the Board may impose an administrative penalty of $25 on the certificate holder.

(k) The Board shall pay any penalty collected under this subsection to the General Fund of the State.

(l) (1) (i) Beginning **[**January 2008**]** **JULY 2009**, the Board shall begin a process requiring criminal history records checks in accordance with § 8–303 of this title on:

1. Selected applicants for certification as a certified nursing assistant who renew their certificates every 2 years as determined by regulations adopted by the Board; and

2. Each former certified nursing assistant who files for reinstatement under subsection (h) of this section after failing to renew the license for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every 10 years thereafter.

(2) On receipt of the criminal history record information of a certificate holder forwarded to the Board in accordance with § 8–303 of this title, in determining whether to renew the certificate, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates **[**that**]** **WHETHER** the certificate holder **[**does not pose**]** **POSES** a threat to the public health or safety.

(3) The Board may not renew a certificate if the criminal history record information required under § 8–303 of this title has not been received.

8–6A–11.

Any person aggrieved by a final decision of the Board under **[**§ 8–6A–12**]** **§ 8–6A–10** of this subtitle may only take a direct judicial appeal as allowed by the Administrative Procedure Act.

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 22, 2008.

CHAPTER 654

(House Bill 271)

AN ACT concerning

Medical Review Committees

FOR the purpose of ~~altering the definition of medical review committee to include~~ providing that, for purposes of certain provisions of law, the Maryland Health Care Commission or its staff is a medical review committee when performing certain functions ~~and~~ under certain circumstances; defining a certain term; and generally relating to medical review committees.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 1–401~~(a) and (b)~~
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Health Occupations~~
~~Section 1–401(c)~~
~~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

1–401.

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

(2) (i) "Alternative health care system" means a system of health care delivery other than a hospital or related institution.

(ii) "Alternative health care system" includes:

1. A health maintenance organization;

2. A preferred provider organization;

3. An independent practice association;

4. A community health center that is a nonprofit, freestanding ambulatory health care provider governed by a voluntary board of directors and that provides primary health care services to the medically indigent;

5. A freestanding ambulatory care facility as that term is defined in § 19–3B–01 of the Health – General Article; or

6. Any other health care delivery system that utilizes a medical review committee.

(3) "Medical review committee" means a committee or board that:

(i) Is within one of the categories described in subsection (b) of this section; and

(ii) Performs functions that include at least one of the functions listed in subsection (c) of this section.

(4) (i) "Provider of health care" means any person who is licensed by law to provide health care to individuals.

(ii) "Provider of health care" does not include any nursing institution that is conducted by and for those who rely on treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination.

(5) "The Maryland Institute for Emergency Medical Services Systems" means the State agency described in § 13–503 of the Education Article.

(6) "THE MARYLAND HEALTH CARE COMMISSION" MEANS THE STATE AGENCY DESCRIBED IN § 19–103 OF THE HEALTH – GENERAL ARTICLE.

(b) For purposes of this section, a medical review committee is:

(1) A regulatory board or agency established by State or federal law to license, certify, or discipline any provider of health care;

(2) A committee of the Faculty or any of its component societies or a committee of any other professional society or association composed of providers of health care;

(3) A committee appointed by or established in a local health department for review purposes;

(4) A committee appointed by or established in the Maryland Institute for Emergency Medical Services Systems;

(5) A committee of the medical staff or other committee, including any risk management, credentialing, or utilization review committee established in accordance with § 19–319 of the Health – General Article, of a hospital, related institution, or alternative health care system, if the governing board of the hospital, related institution, or alternative health care system forms and approves the committee or approves the written bylaws under which the committee operates;

(6) A committee or individual designated by the holder of a pharmacy permit, as defined in § 12–101 of this article, that performs the functions listed in subsection (c) of this section, as part of a pharmacy's ongoing quality assurance program;

(7) Any person, including a professional standard review organization, who contracts with an agency of this State or of the federal government to perform any of the functions listed in subsection (c) of this section;

(8) Any person who contracts with a provider of health care to perform any of those functions listed in subsection (c) of this section that are limited to the review of services provided by the provider of health care;

(9) An organization, established by the Maryland Hospital Association, Inc. and the Faculty, that contracts with a hospital, related institution, or alternative delivery system to:

(i) Assist in performing the functions listed in subsection (c) of this section; or

(ii) Assist a hospital in meeting the requirements of § 19–319(e) of the Health – General Article;

(10) A committee appointed by or established in an accredited health occupations school;

(11) An organization described under § 14–501 of this article that contracts with a hospital, related institution, or health maintenance organization to:

(i) Assist in performing the functions listed in subsection (c) of this section; or

(ii) Assist a health maintenance organization in meeting the requirements of Title 19, Subtitle 7 of the Health – General Article, the National Committee for Quality Assurance (NCQA), or any other applicable credentialing law or regulation;

(12) An accrediting organization as defined in § 14–501 of this article;

(13) A Mortality and Quality Review Committee established under § 5–801 of the Health – General Article; **[**or**]**

(14) A center designated by the Maryland Health Care Commission as the Maryland Patient Safety Center that performs the functions listed in subsection (c)(1) of this section**; OR**

(15) THE MARYLAND HEALTH CARE COMMISSION OR ITS STAFF, WHEN PERFORMING THE FUNCTIONS LISTED IN SUBSECTION ~~(C)(1) OR (2)~~ (C) OF THIS SECTION, PROVIDED THAT THE DATA OR MEDICAL INFORMATION UNDER REVIEW IS FURNISHED TO THE MARYLAND HEALTH CARE COMMISSION BY ANOTHER MEDICAL REVIEW COMMITTEE.

(c) For purposes of this section, a medical review committee:

(1) Evaluates and seeks to improve the quality of health care provided by providers of health care;

(2) Evaluates the need for and the level of performance of health care provided by providers of health care;

(3) Evaluates the qualifications, competence, and performance of providers of health care; or

(4) Evaluates and acts on matters that relate to the discipline of any provider of health care.

(d) (1) Except as otherwise provided in this section, the proceedings, records, and files of a medical review committee are not discoverable and are not admissible in evidence in any civil action.

(2) The proceedings, records, and files of a medical review committee are confidential and are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being reviewed and evaluated by the medical review committee if requested by the following:

(i) The Department of Health and Mental Hygiene to ensure compliance with the provisions of § 19–319 of the Health – General Article;

(ii) A health maintenance organization to ensure compliance with the provisions of Title 19, Subtitle 7 of the Health – General Article and applicable regulations;

(iii) A health maintenance organization to ensure compliance with the National Committee for Quality Assurance (NCQA) credentialing requirements; or

(iv) An accrediting organization to ensure compliance with accreditation requirements or the procedures and policies of the accrediting organization.

(3) If the proceedings, records, and files of a medical review committee are requested by any person from any of the entities in paragraph (2) of this subsection:

(i) The person shall give the medical review committee notice by certified mail of the nature of the request and the medical review committee shall be granted a protective order preventing the release of its proceedings, records, and files; and

(ii) The entities listed in paragraph (2) of this subsection may not release any of the proceedings, records, and files of the medical review committee.

(e) Subsection (d)(1) of this section does not apply to:

(1) A civil action brought by a party to the proceedings of the medical review committee who claims to be aggrieved by the decision of the medical review committee; or

(2) Any record or document that is considered by the medical review committee and that otherwise would be subject to discovery and introduction into evidence in a civil trial.

(f) (1) A person shall have the immunity from liability described under § 5–637 of the Courts and Judicial Proceedings Article for any action as a member of the

medical review committee or for giving information to, participating in, or contributing to the function of the medical review committee.

(2) A contribution to the function of a medical review committee includes any statement by any person, regardless of whether it is a direct communication with the medical review committee, that is made within the context of the person's employment or is made to a person with a professional interest in the functions of a medical review committee and is intended to lead to redress of a matter within the scope of a medical review committee's functions.

(g) Notwithstanding this section, §§ 14–410 and 14–412 of this article apply to:

(1) The Board of Physicians; and

(2) Any other entity, to the extent that it is acting in an investigatory capacity for the Board of Physicians.

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

Approved by the Governor, May 22, 2008.

CHAPTER 655

(House Bill 276)

AN ACT concerning

Garrett County – Alcoholic Beverages – Referendum on Sunday Sales in County Districts

FOR the purpose of authorizing Sunday sales of certain alcoholic beverages in those election districts of Garrett County in which voters approve a local referendum in favor of Sunday sales under certain circumstances; providing for the referendum and an effective date; requiring the Board of Supervisors of Elections of Garrett County to carry out certain duties; and generally relating to alcoholic beverages in Garrett County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 11–512(a)

Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–512(c)
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

11–512.

(a) This section applies only in Garrett County.

(c) (1) The provisions of this subsection apply **[**only**]** in**:**

(I) **[**election**]** **ELECTION** districts 11 and 15 **[**In those election districts**], IN WHICH** the voters **[**have**]** approved Sunday sales in the referendum authorized by law in November 1996**[**.**]; AND**

(II) ANY OTHER ELECTION DISTRICT IN WHICH THE VOTERS IN A REFERENDUM AUTHORIZED BY LAW APPROVE SUNDAY SALES AS SPECIFIED IN THIS SUBSECTION.

(2) This subsection only applies to on–premises sales by holders of Class C service club licenses and, subject to paragraph (4) of this subsection, holders of Class B licenses, special 2–day Class C licenses, special 6–day Class C licenses, and special 12–day Class C licenses.

(3) Sunday sales may begin, where permitted, at 1 p.m. and continue until 10 p.m.

(4) (i) This paragraph does not apply to a holder of a Class C service club license.

(ii) Sunday sales may be made only when the consumer places an order for a meal simultaneously or prior to placing an order for an alcoholic beverage or the consumer is otherwise entitled to a meal on the premises as part of a prearranged event, such as a banquet, where the alcoholic beverage is served. Bar or counter sales may be made as long as the consumer complies with the requirement of this paragraph.

(5) In addition to the usual license fee, the holder of a Class C service club license or Class B license who wants to provide Sunday sales and who is otherwise eligible to provide Sunday sales under this subsection shall pay an additional $250 for the privilege of Sunday sales.

(6) At the time the Class C service club license or Class B license is issued, the Board shall charge a $250 issuing fee.

SECTION 2. AND BE IT FURTHER ENACTED, That before this Act becomes effective, it shall be first submitted to a referendum of the legally qualified voters of election districts 1, 2, 3–1, 3–2, 4, 5, 6, 7, 8–1, 8–2, 9, 10, 12, 13, 14–1, 14–2, and 16 in Garrett County at the general election to be held in November of 2008. The Board of County Commissioners and the Board of Supervisors of Elections of Garrett County shall do those things necessary and proper to provide for and hold the referendum required by this section. If a majority of the votes cast in an election district on the question are "For the referred law", the provisions of this Act shall become effective in that election district on December 15, 2008, but if a majority of the votes cast in a particular election district on the question are "Against the referred law", the provisions of this Act are of no effect and null and void in that election district. The Board of Supervisors of Elections in Garrett County shall notify the State Department of Legislative Services concerning the results of the referendum in each election district.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act, and for the sole purpose of providing for the referendum required by Section 2 of this Act, this Act shall take effect July 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 656

(House Bill 278)

AN ACT concerning

Department of Health and Mental Hygiene – Powers of the Secretary

FOR the purpose of clarifying that the Secretary of Health and Mental Hygiene may conduct a survey to identify any ~~areas~~ area in this State that ~~have~~ has a substantial deficiency in ~~specific~~ certain medical or health care facilities ~~or~~, staff, or services; clarifying that the Secretary may provide counsel and other

help to establish medical or health care services in a certain underserved area; ~~clarifying that if the proposals considered or adopted by the Secretary are not feasible or successful to assure the public health of an identified underserved area of the State, the Secretary may provide the~~ authorizing the Secretary to provide needed health care facilities, staff, or services by ~~entering into~~ certain contracts or ~~approving~~, to facilitate the provision of State health care services to the underserved area, approve contracts with certain public or private health care entities ~~that facilitate the provision of State health care services to the underserved area~~; requiring the Secretary to consider market factors that may be contributing to a deficiency in general or specific medical or health care facilities, staff, or services in certain areas of the State; requiring the Secretary to maximize, to the extent feasible, the State's recovery of health care costs and expenses when seeking to ameliorate an identified deficiency in health care facilities, staff, or services; requiring the Secretary to consult with certain commissions and groups under certain circumstances; *providing that this Act may not be construed to have any impact on certain requirements for health care providers and health care facilities;* and generally relating to the powers of the Secretary of Health and Mental Hygiene with respect to health care facilities, staff, and services in underserved areas of the State.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 2–108
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Disparities in the financing and delivery of health care limit the availability of medical and other health care services to certain populations and areas of the State and compromise efforts to assure the public health of those medically underserved populations and areas; and

WHEREAS, It is necessary to clarify the Secretary's authority to utilize a variety of business arrangements that may be necessary to assure the public health and facilitate the flexible and efficient provision of State health care services to those underserved populations and areas; now, therefore,

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

Article – Health – General

2–108.

[The Secretary:**]**

[(1)**](A)** On the Secretary's initiative or on request of a community or voluntary, nonprofit organization, **THE SECRETARY** may **[**do**] CONDUCT** a survey to identify any area in this State that has a substantial deficiency in general **OR SPECIFIC** medical or health care facilities**, STAFF,** or services**[**;**].**

[(2)**](B)** In cooperation with appropriate county and State groups, **THE SECRETARY** may provide the community or organization with counsel and other help to establish medical or health care facilities **OR SERVICES** and to recruit medical or health care staff in **[**that**]** ~~**THE**~~ **AN UNDERSERVED** area **IDENTIFIED AS A RESULT OF THE SURVEY CONDUCTED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION[**; and**].**

[(3)**](C)** If **[**the efforts**]** ~~**PROPOSALS CONSIDERED OR ADOPTED**~~ **THE COUNSEL AND OTHER HELP PROVIDED** under **[**item (2)**] SUBSECTION (B)** of this section ~~are **[**unsuccessful,**] NOT FEASIBLE OR SUCCESSFUL**~~ **DO NOT RESULT IN FEASIBLE OR SUCCESSFUL PROPOSALS, OR IF OTHER ACTION IS NECESSARY TO ASSURE THE PUBLIC HEALTH OF THE UNDERSERVED AREA, THE SECRETARY** may**:**

(1) [provide**] PROVIDE** the **NEEDED HEALTH CARE** facilities **[**or**],** staff**, OR SERVICES** by contract with one or more physicians, hospitals, or other medical groups or personnel**; OR**

(2) ~~**APPROVE**~~ **TO FACILITATE THE PROVISION OF STATE HEALTH CARE SERVICES TO THE UNDERSERVED AREA, APPROVE A CONTRACT OR OTHER WRITTEN ARRANGEMENT WITH A PUBLIC OR PRIVATE HEALTH CARE ENTITY** ~~**THAT FACILITATES THE PROVISION OF STATE HEALTH CARE SERVICES TO THE UNDERSERVED AREA**~~**, INCLUDING:**

(I) A FEDERALLY QUALIFIED HEALTH CENTER;

(II) A HEALTH CARE FACILITY, AS DEFINED IN § 19–114 OF THIS ARTICLE;

(III) A HEALTH ~~**CARE PLAN OR INSURANCE PROVIDER**~~ **BENEFIT PLAN OR INSURANCE CARRIER;**

(IV) A HEALTH MAINTENANCE ORGANIZATION;

(V) A MANAGED CARE ORGANIZATION; AND

(VI) ANY OTHER ENTITY THAT FINANCES THE PROVISION OF OR DELIVERS HEALTH CARE SERVICES TO THE AREA.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(1) In conducting a survey under § 2–108(a) of the Health – General Article, as enacted by Section 1 of this Act, the Secretary of Health and Mental Hygiene shall consider market factors that may be contributing to an identified deficiency in general or specific medical or health care facilities, staff, or services in an area of the State;

(2) In authorizing action to ameliorate an identified deficiency in an area of the State, identified as a result of § 2–108(a) of the Health – General Article as enacted by Section 1 of this Act, the Secretary shall maximize, to the extent feasible, the State's recovery of State health care costs and expenses and reimbursement for State health care services, consistent with Title 16 of the Health – General Article; and

(3) Following the taking or approval of action under § ~~2–108(3)~~ 2–108(c) of the Health – General Article, as enacted by Section 1 of this Article, the Secretary shall consult with the ~~Maryland~~ State Health Services ~~and~~ Cost Review Commission, the Maryland Health Care Commission, and other appropriate regional and State groups concerning feasible means to encourage the establishment and expansion of private sector health care providers and services for underserved individuals in that area.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be construed to have any impact on the current requirements for any licensing and certification of health care providers and health care facilities, including certificate of need requirements.

SECTION ~~3.~~ *4.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 657

(House Bill 279)

AN ACT concerning

Board of Physical Therapy Examiners – Issuance of Temporary Licenses – Repeal

FOR the purpose of repealing the authority of the Board of Physical Therapy Examiners to issue temporary licenses; repealing a certain definition; making certain conforming changes to certain provisions of the law relating to the Board of Physical Therapy Examiners; and generally relating to the Board of Physical Therapy Examiners.

BY repealing
Article – Health Occupations
Section 13–101(k) and 13–313
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 13–315(a) and 13–316
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

13–101.

[(k) "Temporary license" means a license issued by the Board under and as limited by § 13–313 of this title to practice:

(1) Physical therapy; or

(2) Limited physical therapy.**]**

[13–313.

(a) (1) Subject to the provisions of this section, the Board shall issue a temporary license to an applicant who:

(i) Except as provided in paragraph (2) of this subsection and except for the examination requirements of this subtitle, has met the appropriate licensing requirements of this title to the satisfaction of the Board;

(ii) Submits to the Board:

1. An application on the form that the Board requires; and

2. Any other document required by the Board; and

(iii) Pays to the Board the application fee set by the Board.

(2) In addition to the requirements of paragraph (1) of this subsection, to be eligible for a temporary license an applicant educated outside of any state shall have been accepted for a preceptorship.

(b) (1) A temporary license issued to a physical therapist authorizes the holder to practice physical therapy while the temporary license is effective.

(2) A temporary license issued to a physical therapist assistant authorizes the holder to practice limited physical therapy while the temporary license is effective.

(c) (1) Unless the Board revokes a temporary license, a temporary license expires 90 days after issuance.

(2) If a holder of a temporary license applies for a license by examination but does not report to take the examination when scheduled, the temporary license expires on the date of the scheduled examination.

(d) The Board may extend a temporary license to complete a preceptorship.

(e) The Board shall issue a license to replace the temporary license of a holder, if the Board receives:

(1) The passing test scores of the holder; and

(2) Any other document that the Board requires.**]**

13–315.

(a) Unless the Board agrees to accept the surrender of a license, a licensed physical therapist, licensed physical therapist assistant, or holder of a restricted license **[**or temporary license**]** may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

13–316.

Subject to the hearing provisions of § 13–317 of this subtitle, the Board may deny a license**[**, temporary license,**]** or restricted license to any applicant, reprimand any licensee or holder of a **[**temporary license or**]** restricted license, place any licensee or holder of a **[**temporary license or**]** restricted license on probation, or suspend or revoke a license**[**, temporary license,**]** or restricted license if the applicant, licensee, or holder:

(1) Fraudulently or deceptively obtains or attempts to obtain a license**[**, temporary license,**]** or restricted license for the applicant, licensee, or holder or for another;

(2) Fraudulently or deceptively uses a license**[**, temporary license,**]** or restricted license;

(3) Unless specifically licensed with respect to the treatment, treats or attempts to treat a health condition of a patient or client by means other than physical therapy;

(4) In the case of an individual who is authorized to practice physical therapy is grossly negligent:

(i) In the practice of physical therapy;

(ii) In the direction of an individual who is authorized to practice limited physical therapy; or

(iii) In the supervision of a physical therapy aide;

(5) In the case of an individual who is authorized to practice limited physical therapy:

(i) Practices limited physical therapy other than as authorized by this title; or

(ii) Is grossly negligent while practicing limited physical therapy;

(6) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(7) Is convicted of a violation of a narcotic law;

(8) To an extent that impairs professional competence, habitually uses any:

(i) Drug; or

(ii) Alcoholic beverage;

(9) Pays or agrees to pay any sum to any person for bringing or referring a patient;

(10) Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or Veterans Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(11) Practices physical therapy or limited physical therapy with an unauthorized person or supervises or aids an unauthorized person in the practice of physical therapy or limited physical therapy;

(12) Willfully makes or files a false report or record in the practice of physical therapy or limited physical therapy;

(13) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(14) Submits a false statement to collect a fee;

(15) Violates any provision of this title or rule or regulation adopted by the Board;

(16) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial;

(17) Is professionally, physically, or mentally incompetent;

(18) Promotes the sale of devices, appliances, or goods to a patient or client so as to exploit the patient or client for financial gain;

(19) Commits an act of unprofessional conduct in the practice of physical therapy or limited physical therapy;

(20) Grossly overutilizes health care services;

(21) Is convicted under insurance fraud as defined in § 27–801 of the Insurance Article;

(22) Refuses, withholds from, denies, or discriminates against a patient or client with regard to the provision of professional services for which the licensee is licensed and qualified to render because the patient or client is HIV positive;

(23) Provides professional services while:

(i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(24) Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board; or

(25) Fails to meet accepted standards in delivering physical therapy or limited physical therapy care.

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

Approved by the Governor, May 22, 2008.

CHAPTER 658

(House Bill 280)

AN ACT concerning

Tax Credits for Qualifying Employees with Disabilities – Sunset Extension

FOR the purpose of extending certain termination provisions and dates of applicability for certain tax credits allowed to employers that hire certain qualifying individuals with disabilities; and generally relating to certain tax credits allowed to employers that hire certain qualifying employees facing certain employment barriers.

BY repealing and reenacting, with amendments,
Chapter 112 of the Acts of the General Assembly of 1997, as amended by Chapter 614 of the Acts of the General Assembly of 1998, Chapter 448 of the Acts of the General Assembly of 2000, Chapter 454 of the Acts of the

General Assembly of 2003, Chapter 394 of the Acts of the General Assembly of 2006, and Chapter 370 of the Acts of the General Assembly of 2007
Section 4 and 6

BY repealing and reenacting, with amendments,
Chapter 113 of the Acts of the General Assembly of 1997, as amended by Chapter 614 of the Acts of the General Assembly of 1998, Chapter 448 of the Acts of the General Assembly of 2000, Chapter 454 of the Acts of the General Assembly of 2003, Chapter 394 of the Acts of the General Assembly of 2006, and Chapter 370 of the Acts of the General Assembly of 2007
Section 4 and 6

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

Chapter 112 of the Acts of 1997, as amended by Chapter 614 of the Acts of 1998, Chapter 448 of the Acts of 2000, Chapter 454 of the Acts of 2003, Chapter 394 of the Acts of 2006, and Chapter 370 of the Acts of 2007

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be applicable to all taxable years beginning after December 31, 1996 but before January 1, **[**2011**]** ~~**2014**~~ ***2012***; provided, however, that the tax credit under § 21–309 of the Education Article, as enacted under Section 1 of this Act, shall be allowed only for employees hired on or after October 1, 1997 but before July 1, **[**2008**]** ~~**2011**~~ ***2009***; and provided further that any excess credits under § 21–309 of the Education Article may be carried forward and, subject to the limitations under § 21–309 of the Education Article, may be applied as a credit for taxable years beginning on or after January 1, **[**2011**]** ~~**2014**~~ ***2012***.

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect October 1, 1997. It shall remain in effect for a period of **[**10**]** ~~**13**~~ ***11*** years and 9 months and at the end of June 30, **[**2008**]** ~~**2011**~~ ***2009***, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 113 of the Acts of 1997, as amended by Chapter 614 of the Acts of 1998, Chapter 448 of the Acts of 2000, Chapter 454 of the Acts of 2003, Chapter 394 of the Acts of 2006, and Chapter 370 of the Acts of 2007

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be applicable to all taxable years beginning after December 31, 1996 but before January 1, **[**2011**]** ~~**2014**~~ ***2012***; provided, however, that the tax credit under § 21–309 of the Education Article, as enacted under Section 1 of this Act, shall be allowed only for

employees hired on or after October 1, 1997 but before July 1, **[**2008**]** ~~**2011**~~ ***2009***; and provided further that any excess credits under § 21–309 of the Education Article may be carried forward and, subject to the limitations under § 21–309 of the Education Article, may be applied as a credit for taxable years beginning on or after January 1, **[**2011**]** ~~**2014**~~ ***2012***.

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect October 1, 1997. It shall remain in effect for a period of **[**10**]** ~~**13**~~ ***11*** years and 9 months and at the end of June 30, **[**2008**]** ~~**2011**~~ ***2009***, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 22, 2008.

CHAPTER 659

(House Bill 358)

AN ACT concerning

Maryland Funding Accountability and Transparency Act of 2008

FOR the purpose of requiring the Department of Budget and Management to develop and operate a ~~specified~~ certain website that includes ~~specified~~ certain information for certain State ~~financial assistance and expenditures~~ payments; specifying certain parameters of the website; ~~authorizing the Secretary of Budget and Management to designate certain agencies to participate in the development, operation, or support of the website; authorizing the Secretary to determine the best and most appropriate data sources for the website~~ requiring the Chief of Information Technology in the Department of Budget and Management to conduct a certain study on expanding or replacing a certain website; providing for the termination of certain provisions of this Act; defining certain terms; ~~providing that certain provisions of law may not be construed to require the disclosure of certain confidential information;~~ and generally relating to a searchable website to be developed and operated by the Department of Budget and Management to provide information to the public on State ~~financial assistance and expenditures~~ payments.

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

~~Article – State Finance and Procurement~~
~~Section 3–101~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2007 Supplement)~~

BY adding to
Article – State Finance and Procurement
Section ~~3–207~~ 3–414
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

~~3–101.~~

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

~~(b) "Department" means the Department of Budget and Management.~~

~~(c) "Secretary" means the Secretary of Budget and Management.~~

~~**3–207.**~~

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

~~**(2) (I) "ENTITY" MEANS, WHETHER FOR PROFIT OR NOT FOR PROFIT, ANY:**~~

~~**1. CORPORATION, ASSOCIATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, SOLE PROPRIETORSHIP, OR OTHER LEGAL BUSINESS ENTITY;**~~

~~**2. OTHER GRANTEE, CONTRACTOR, SUBCONTRACTOR, OR SUBGRANTEE; OR**~~

~~**3. POLITICAL SUBDIVISION.**~~

~~**(II) "ENTITY" DOES NOT INCLUDE AN INDIVIDUAL WHO IS THE RECIPIENT OF STATE OR FEDERAL ASSISTANCE PAYMENTS OR A STATE EMPLOYEE WHO IS THE RECIPIENT OF STATE SALARY OR WAGES.**~~

~~(3) "SEARCHABLE WEBSITE" MEANS A WEBSITE THAT ALLOWS THE PUBLIC TO:~~

~~(I) SEARCH AND AGGREGATE STATE FUNDING BY ANY ELEMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION;~~

~~(II) ASCERTAIN THROUGH A SINGLE SEARCH THE TOTAL AMOUNT OF STATE FUNDING AWARDED TO AN ENTITY BY A STATE AWARD; AND~~

~~(III) DOWNLOAD DATA THAT RESULTS FROM A SEARCH.~~

~~(4) (I) "STATE AWARD" MEANS ANY STATE FINANCIAL ASSISTANCE OR EXPENDITURES OVER THE AMOUNT OF $25,000, INCLUDING:~~

~~1. GRANTS, SUBGRANTS, LOANS, AWARDS, COOPERATIVE AGREEMENTS, AND OTHER FORMS OF FINANCIAL ASSISTANCE; AND~~

~~2. CONTRACTS, SUBCONTRACTS, PURCHASE ORDERS, AND OTHER PAYMENTS.~~

~~(II) "STATE AWARD" DOES NOT INCLUDE FUNDS TRANSFERRED FROM ONE AGENCY TO ANOTHER.~~

~~(B) ON OR BEFORE JANUARY 1, 2009, THE DEPARTMENT SHALL DEVELOP AND OPERATE A SINGLE, SEARCHABLE WEBSITE, ACCESSIBLE BY THE PUBLIC AT NO COST, THAT INCLUDES FOR EACH STATE AWARD:~~

~~(1) THE NAME OF THE ENTITY RECEIVING THE AWARD AND, IF APPLICABLE, THE PARENT ENTITY OF THE RECIPIENT;~~

~~(2) THE AMOUNT OF THE AWARD;~~

~~(3) THE TRANSACTION TYPE;~~

~~(4) THE NAME OF THE AGENCY MAKING THE AWARD;~~

~~(5) THE BUDGET PROGRAM FUND SOURCE;~~

~~(6) A DESCRIPTIVE PURPOSE OF EACH FUNDING ACTION OR STATE AWARD;~~

~~(7) THE LOCATION OF THE ENTITY RECEIVING THE AWARD AND THE PRIMARY LOCATION OF PERFORMANCE UNDER THE AWARD; AND~~

~~(8) ANY OTHER RELEVANT INFORMATION SPECIFIED BY THE DEPARTMENT.~~

~~(C) THE SINGLE WEBSITE PROVIDED FOR IN SUBSECTION (B) OF THIS SECTION SHALL ALLOW THE USER TO:~~

~~(1) SEARCH DATA FOR FISCAL YEAR 2009 AND EACH FISCAL YEAR THEREAFTER;~~

~~(2) SEARCH ELECTRONICALLY BY FIELD IN A SINGLE SEARCH; AND~~

~~(3) PROVIDE INPUT REGARDING THE UTILITY OF THE SITE AND RECOMMENDATIONS FOR IMPROVEMENT.~~

~~(D) THE SECRETARY MAY:~~

~~(1) DESIGNATE ONE OR MORE STATE AGENCIES TO PARTICIPATE IN THE DEVELOPMENT, OPERATION, OR SUPPORT OF THE SINGLE WEBSITE AND SPECIFY THE SCOPE OF RESPONSIBILITIES OF THOSE AGENCIES; AND~~

~~(2) DETERMINE THE BEST AND MOST APPROPRIATE DATA SOURCE OR SOURCES FOR DEVELOPMENT AND OPERATION OF THE SINGLE WEBSITE.~~

3–414.

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

(2) (I) "PAYEE" MEANS ANY PARTY WHO RECEIVES FROM THE STATE AN AGGREGATE PAYMENT OF $25,000 IN A FISCAL YEAR.

(II) "PAYEE" DOES NOT INCLUDE:

1. A STATE EMPLOYEE WITH RESPECT TO THE EMPLOYEE'S COMPENSATION; OR

2. A STATE RETIREE WITH RESPECT TO THE RETIREE'S RETIREMENT ALLOWANCE.

(3) "SEARCHABLE WEBSITE" MEANS A WEBSITE CREATED IN ACCORDANCE WITH THIS SECTION THAT DISPLAYS AND SEARCHES STATE PAYMENT DATA.

(B) ON OR BEFORE JANUARY 1, 2009, THE DEPARTMENT SHALL DEVELOP AND OPERATE A SINGLE SEARCHABLE WEBSITE, ACCESSIBLE TO THE PUBLIC AT NO COST THROUGH THE INTERNET.

(C) THE SEARCHABLE WEBSITE SHALL CONTAIN STATE PAYMENT DATA, INCLUDING:

(1) THE NAME OF A PAYEE RECEIVING A PAYMENT;

(2) THE LOCATION OF A PAYEE BY POSTAL ZIP CODE;

(3) THE AMOUNT OF A PAYMENT; AND

(4) THE NAME OF AN AGENCY MAKING A PAYMENT.

(D) THE SEARCHABLE WEBSITE SHALL ALLOW THE USER TO:

(1) SEARCH DATA FOR FISCAL YEAR 2008 AND EACH YEAR THEREAFTER; AND

(2) SEARCH BY THE FOLLOWING DATA FIELDS:

(I) A PAYEE RECEIVING A PAYMENT;

(II) AN AGENCY MAKING A PAYMENT; AND

(III) THE ZIP CODE OF A PAYEE RECEIVING A PAYMENT.

(E) STATE AGENCIES SHALL:

~~(1) COMPLY WITH THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION; AND~~

~~(2)~~ PROVIDE APPROPRIATE ASSISTANCE TO THE SECRETARY TO ENSURE THE EXISTENCE AND ONGOING OPERATION OF THE SINGLE WEBSITE.

(F) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE THE DISCLOSURE OF INFORMATION THAT IS CONFIDENTIAL UNDER STATE OR FEDERAL LAW.

(G) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE "MARYLAND FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2008".

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Chief of Information Technology in the Department of Budget and Management shall conduct a study to assess the feasibility, approach, and cost to expand or replace the searchable website established under § 3–414 of the State Finance and Procurement Article enacted by this Act to allow the public, at no cost, to search and aggregate State funding by different elements, which may include:

(1) the name of an entity receiving an award and, if applicable, the parent entity of the recipient;

(2) the amount of an award;

(3) the transaction type;

(4) the name of an agency making an award;

(5) the budget program fund source;

(6) a descriptive purpose of each funding action or State award;

(7) the location of an entity receiving the award; and

(8) any other relevant information specified by the Department.

(b) The Department shall utilize the services of an outside expert to conduct this study.

(c) The Department shall consider the feasibility of including in the searchable website all State awards over the amount of $25,000 including:

(1) grants, subgrants, loans, awards, cooperative agreements, and other forms of financial assistance; and

(2) contracts, subcontracts, purchase orders, and other payments.

(d) On or before June 30, 2010, the Chief of Information Technology shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the implementation of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2008~~ July 1, 2008. Section 2 of this Act 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, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2008.

CHAPTER 660

(House Bill 432)

AN ACT concerning

Department of Labor, Licensing, and Regulation – Unemployment Insurance Claims – Lower Appeals Division

FOR the purpose of establishing a Lower Appeals Division in the Department of Labor, Licensing, and Regulation for unemployment insurance claims; requiring the Secretary of Labor, Licensing, and Regulation to appoint a chief hearing examiner as head of the Lower Appeals Division; requiring the chief hearing examiner to be in a certain professional service in accordance with certain provisions of law; requiring the chief hearing examiner, subject to the approval of the Secretary, to appoint certain personnel; requiring the Secretary to have certain authority over certain personnel; requiring the Lower Appeals Division to hear and decide certain appeals; requiring the Secretary to adopt certain regulations under certain circumstances; authorizing certain hearing examiners to administer certain oaths, certify certain acts, and take certain depositions; authorizing certain hearing examiners to issue certain subpoenas for certain purposes; specifying that certain subpoenas must be served in a certain manner; authorizing certain courts to pass certain orders directing certain compliance with certain subpoenas; prohibiting certain persons from being excused from attending certain proceedings for certain grounds; prohibiting prosecution or certain penalties or certain forfeitures under certain circumstances; authorizing certain prosecutions and certain punishment for certain perjury; requiring certain hearing examiners to conduct certain hearings or appeals in a certain manner; specifying that certain hearing examiners are not bound by certain rules of evidence or certain rules of procedure; requiring certain hearing

examiners to consider certain evidence; prohibiting certain hearing examiners from participating in certain proceedings; providing that the status of the Secretary as a party to a case may not constitute certain interest relating to certain hearing examiners; subjecting certain ex parte communications to certain provisions of law; providing for a certain exception to provisions of law relating to certain ex parte communications; authorizing certain hearing examiners to consolidate certain claims under certain circumstances; authorizing certain hearing officers who consolidate certain claims to make certain administrative and evidential determinations; requiring certain records to be kept; requiring certain testimony to be transcribed; authorizing certain compensation for certain witnesses; prohibiting the Lower Appeals Division from charging certain fees; requiring certain hearing examiners to give certain notice that includes certain information by certain methods; authorizing certain claimants to be represented by certain lawyers or certain agents; authorizing certain lawyers to charge and accept certain compensation; prohibiting certain agents from charging or accepting certain compensation; authorizing certain employers to appear pro se or with certain representation; prohibiting the solicitation of certain appearances on behalf of certain claimants; authorizing certain appeals; authorizing the Secretary to be a party to certain appeals; requiring certain hearing examiners to give certain opportunity for a fair hearing to certain parties, make certain findings, and affirm, modify, or reverse certain determinations or redeterminations under certain circumstances; requiring certain hearing examiners to provide certain parties certain notice and certain copies of certain decisions; providing that certain decisions of certain hearing examiners are final unless further review is initiated under certain provisions of law; clarifying certain personnel appointed by the Board of Appeals; requiring the Board of Appeals to hear and decide certain appeals from the Lower Appeals Division; authorizing the chief hearing examiner of the Lower Appeals Division to extend the time for certain appeals; authorizing certain claimants to appeal to the Lower Appeals Division under certain circumstances; correcting certain cross–references; providing for the correction of certain references by the publishers of the Annotated Code; defining certain terms; and generally relating to the Lower Appeals Division of the Department of Labor, Licensing, and Regulation.

BY renumbering

Article – Labor and Employment

Section 8–101(t) through (y), respectively; and 8–501 through 8–503, 8–504 through 8–508, and 8–510 through 8–512, respectively, and the subtitle "Subtitle 5. Board of Appeals of Department of Labor, Licensing, and Regulation"

to be Section 8–101(u) through (z), respectively; and 8–5A–01 through 8–5A–03 and 8–5A–05 through 8–5A–12, respectively, and the subtitle "Subtitle 5A. Board of Appeals of the Department of Labor, Licensing, and Regulation"

Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY repealing
Article – Labor and Employment
Section 8–509
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 8–101(a) and (f)
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY adding to
Article – Labor and Employment
Section 8–101(t); 8–501 through 8–508 to be under the new subtitle "Subtitle 5. Lower Appeals Division of the Department of Labor, Licensing, and Regulation"; and 8–5A–04
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8–602(c)(4), 8–621(d), and 8–806
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 8–5A–01
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8–5A–03(c)(1), 8–5A–05(a), 8–5A–07(a), (c), and (d), 8–5A–08, 8–5A–10(a) and (b), and 8–5A–11
Annotated Code of Maryland
(1999 Replacement Volume and 2007 Supplement)
(As enacted by Section 1 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–101(t) through (y), respectively; and 8–501 through 8–503, 8–504 through 8–508, and 8–510 through 8–512, respectively, and the subtitle "Subtitle 5. Board of Appeals of Department of Labor, Licensing, and Regulation" of Article – Labor and Employment of the Annotated Code of Maryland be renumbered to be Section(s) 8–101(u) through (z), respectively; and 8–5A–01 through 8–5A–03 and 8–5A–05 through 8–5A–12, respectively, and the subtitle "Subtitle 5A. Board of Appeals of the Department of Labor, Licensing, and Regulation".

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8–509 of Article – Labor and Employment of the Annotated Code of Maryland be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Labor and Employment

8–101.

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

(f) "Board of Appeals" means the Board of Appeals of the Department of Labor, Licensing, and Regulation.

(T) "LOWER APPEALS DIVISION" MEANS THE LOWER APPEALS DIVISION OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

SUBTITLE 5. LOWER APPEALS DIVISION OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

8–501.

THERE IS A LOWER APPEALS DIVISION IN THE DEPARTMENT.

8–502.

(A) (1) THE SECRETARY SHALL APPOINT A CHIEF HEARING EXAMINER AS HEAD OF THE LOWER APPEALS DIVISION.

(2) THE CHIEF HEARING EXAMINER SHALL BE IN THE PROFESSIONAL SERVICE IN ACCORDANCE WITH § 6–402 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) (1) SUBJECT TO THE APPROVAL OF THE SECRETARY, THE CHIEF HEARING EXAMINER SHALL APPOINT THE NUMBER OF HEARING EXAMINERS AND OTHER PERSONNEL NEEDED FOR THE EFFECTIVE PERFORMANCE OF THE LOWER APPEALS DIVISION.

(2) THE SECRETARY SHALL HAVE ADMINISTRATIVE AUTHORITY OVER ALL PERSONNEL.

8–503.

THE LOWER APPEALS DIVISION SHALL HEAR AND DECIDE APPEALS FROM THE DETERMINATIONS OF THE CLAIMS EXAMINERS.

8–504.

THE SECRETARY, WITH THE ADVICE OF THE CHIEF HEARING EXAMINER, SHALL ADOPT REGULATIONS, IN ACCORDANCE WITH § 10–206 OF THE STATE GOVERNMENT ARTICLE, TO GOVERN APPEALS AND HEARINGS BEFORE THE HEARING EXAMINERS.

8–505.

(A) TO ENFORCE THIS SUBTITLE, A HEARING EXAMINER MAY:

(1) ADMINISTER AN OATH;

(2) CERTIFY TO AN OFFICIAL ACT; AND

(3) TAKE A DEPOSITION.

(B) (1) TO ENFORCE THIS SUBTITLE, A HEARING EXAMINER MAY ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS TO TESTIFY OR FOR THE PRODUCTION OF BOOKS, CORRESPONDENCE, MEMORANDA, PAPERS, AND OTHER RECORDS.

(2) A SUBPOENA ISSUED UNDER THIS SUBSECTION SHALL BE SERVED IN ANY MANNER IN WHICH COURT SUBPOENAS ARE AUTHORIZED TO BE SERVED.

(3) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS SUBSECTION, ON A COMPLAINT FILED BY THE CHIEF HEARING EXAMINER OR AN AUTHORIZED REPRESENTATIVE OF THE CHIEF HEARING

EXAMINER, THE CIRCUIT COURT FOR THE COUNTY WHERE THE INVESTIGATION OR HEARING IS CONDUCTED OR THE PERSON IS PRESENT, RESIDES, OR TRANSACTS BUSINESS MAY PASS AN ORDER DIRECTING COMPLIANCE WITH THE SUBPOENA OR COMPELLING TESTIMONY.

(4) (I) A PERSON MAY NOT BE EXCUSED FROM ATTENDING A PROCEEDING AND TESTIFYING OR PRODUCING BOOKS, CORRESPONDENCE, MEMORANDA, PAPERS, AND OTHER RECORDS BEFORE A HEARING EXAMINER IN OBEDIENCE TO A SUBPOENA ISSUED UNDER THIS SECTION ON THE GROUND THAT THE TESTIMONY OR EVIDENCE REQUIRED OF THE PERSON MAY TEND TO INCRIMINATE THE PERSON OR SUBJECT THE PERSON TO A PENALTY OR FORFEITURE.

(II) AFTER HAVING CLAIMED THE PRIVILEGE OF THE PERSON AGAINST SELF–INCRIMINATION, A PERSON MAY NOT BE PROSECUTED OR SUBJECTED TO ANY PENALTY OR FORFEITURE BECAUSE OF ANY TRANSACTION, MATTER, OR THING ABOUT WHICH THE PERSON IS COMPELLED TO TESTIFY OR PRODUCE EVIDENCE.

(III) A PERSON MAY BE PROSECUTED AND PUNISHED FOR PERJURY COMMITTED IN TESTIFYING.

8–506.

(A) (1) A HEARING EXAMINER SHALL CONDUCT A HEARING OR APPEAL IN A MANNER THAT ASCERTAINS THE SUBSTANTIAL RIGHTS OF THE PARTIES.

(2) (I) A HEARING EXAMINER IS NOT BOUND BY STATUTORY OR COMMON LAW RULES OF EVIDENCE OR TECHNICAL RULES OF PROCEDURE.

(II) A HEARING EXAMINER SHALL CONSIDER EVIDENCE OFFERED IN ACCORDANCE WITH § 10–213 OF THE STATE GOVERNMENT ARTICLE.

(B) (1) (I) A HEARING EXAMINER MAY NOT PARTICIPATE IN ANY PROCEEDING IN WHICH THE HEARING EXAMINER HAS A DIRECT OR INDIRECT INTEREST.

(II) THE STATUS OF THE SECRETARY AS A PARTY TO A CASE MAY NOT CONSTITUTE A DIRECT OR INDIRECT INTEREST AS TO A HEARING EXAMINER.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, EX PARTE COMMUNICATIONS ARE SUBJECT TO § 10–219 OF THE STATE GOVERNMENT ARTICLE.

(II) SECTION 10–219(D) OF THE STATE GOVERNMENT ARTICLE DOES NOT APPLY TO EX PARTE COMMUNICATIONS UNDER THIS SUBTITLE.

(C) (1) A HEARING EXAMINER MAY CONSOLIDATE CLAIMS BY MORE THAN ONE INDIVIDUAL OR CLAIMS BY A SINGLE INDIVIDUAL FOR 2 OR MORE WEEKS OF UNEMPLOYMENT IF:

(I) THE SAME OR SUBSTANTIALLY SIMILAR EVIDENCE IS RELEVANT AND MATERIAL TO THE MATTERS AT ISSUE; AND

(II) IN THE JUDGMENT OF THE HEARING EXAMINER, THE CONSOLIDATION WOULD NOT BE PREJUDICIAL TO A PARTY.

(2) WHEN CLAIMS ARE CONSOLIDATED UNDER THIS SUBSECTION, THE HEARING EXAMINER MAY:

(I) SET THE SAME TIME AND PLACE FOR CONSIDERING EACH CLAIM;

(II) CONDUCT JOINT HEARINGS;

(III) MAKE A SINGLE RECORD OF THE PROCEEDINGS; AND

(IV) CONSIDER EVIDENCE THAT IS INTRODUCED IN A PROCEEDING FOR ONE CLAIM AS HAVING BEEN INTRODUCED FOR ANOTHER CLAIM.

(D) (1) A RECORD SHALL BE KEPT, IN ACCORDANCE WITH § 10–218 OF THE STATE GOVERNMENT ARTICLE, OF ALL TESTIMONY AND PROCEEDINGS BEFORE A HEARING EXAMINER.

(2) TESTIMONY SHALL BE TRANSCRIBED IF:

(I) JUDICIAL REVIEW IS INITIATED; OR

(II) THE HEARING EXAMINER OR THE BOARD OF APPEALS ORDERS A TRANSCRIPTION.

(E) (1) A WITNESS WHO IS SUBPOENAED UNDER THIS SUBTITLE IS ENTITLED TO COMPENSATION AT A RATE THAT THE CHIEF HEARING EXAMINER SETS.

(2) THE COMPENSATION OF A WITNESS WHO IS SUBPOENAED ON BEHALF OF THE LOWER APPEALS DIVISION OR A CLAIMANT SHALL BE CONSIDERED PART OF THE EXPENSE OF ADMINISTERING THIS TITLE.

(F) THE LOWER APPEALS DIVISION MAY NOT CHARGE A CLAIMANT A FEE IN ANY PROCEEDING UNDER THIS TITLE.

(G) (1) A HEARING EXAMINER PROMPTLY SHALL GIVE EACH PARTY TO A PROCEEDING BEFORE IT WRITTEN NOTICE OF ITS DECISION BY MAILING THE NOTICE TO EACH PARTY AT THE LAST KNOWN ADDRESS OF THE PARTY OR BUSINESS ADDRESS OF A LICENSEE IN ACCORDANCE WITH § 10–209(A) OF THE STATE GOVERNMENT ARTICLE, OR OTHERWISE DELIVERING THE NOTICE.

(2) THE NOTICE SHALL:

(I) INCLUDE THE FINDINGS OF FACT AND CONCLUSIONS OF LAW THAT SUPPORT THE DECISION;

(II) BE ACCOMPANIED BY ANY ORDER NECESSARY TO GIVE EFFECT TO THE DECISION; AND

(III) CONFORM TO THE REQUIREMENTS OF § 10–221 OF THE STATE GOVERNMENT ARTICLE.

8–507.

(A) IN A PROCEEDING BEFORE A HEARING EXAMINER, A CLAIMANT MAY BE REPRESENTED BY A LAWYER OR ANOTHER AGENT AUTHORIZED BY THE CLAIMANT.

(B) A LAWYER MAY CHARGE AND ACCEPT COMPENSATION IN AN AMOUNT NOT GREATER THAN THAT APPROVED BY THE CHIEF HEARING EXAMINER.

(C) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN AGENT MAY NOT CHARGE OR ACCEPT COMPENSATION FOR REPRESENTING A CLAIMANT IN A PROCEEDING BEFORE A HEARING EXAMINER.

(D) IN A PROCEEDING BEFORE A HEARING EXAMINER, AN EMPLOYER MAY APPEAR PRO SE OR BE REPRESENTED BY A LAWYER OR ANOTHER AGENT AUTHORIZED BY THE EMPLOYER.

(E) A PERSON MAY NOT SOLICIT, FOR THAT PERSON OR ANOTHER PERSON, THE BUSINESS OF APPEARING ON BEHALF OF A CLAIMANT IN A PROCEEDING BEFORE A HEARING EXAMINER.

8–508.

(A) AN INDIVIDUAL WHO FILES A CLAIM FOR BENEFITS OR AN EMPLOYER ENTITLED TO NOTICE OF A DETERMINATION OR REDETERMINATION OF THE CLAIM MAY FILE AN APPEAL WITH THE LOWER APPEALS DIVISION WITHIN 15 DAYS AFTER NOTICE OF THE DETERMINATION OR REDETERMINATION IS MAILED TO THE CLAIMANT OR EMPLOYER AT THE LAST KNOWN ADDRESS OF THE CLAIMANT OR EMPLOYER OR OTHERWISE IS DELIVERED.

(B) THE SECRETARY, AT THE SECRETARY'S DISCRETION, MAY BE A PARTY TO AN APPEAL FILED BY A CLAIMANT OR EMPLOYING UNIT WITH THE LOWER APPEALS DIVISION.

(C) UNLESS AN APPEAL FILED UNDER SUBSECTION (A) OF THIS SECTION IS WITHDRAWN OR REMOVED TO THE BOARD OF APPEALS, A HEARING EXAMINER SHALL:

(1) GIVE THE PARTIES A REASONABLE OPPORTUNITY FOR A FAIR HEARING IN ACCORDANCE WITH THE NOTICE PROVISIONS IN §§ 10–207 AND 10–208 OF THE STATE GOVERNMENT ARTICLE, EXCEPT THAT THE NOTICE IS NOT SUBJECT TO § 10–208(B)(4) AND (7) OF THE STATE GOVERNMENT ARTICLE;

(2) MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW, BASED ON A PREPONDERANCE OF EVIDENCE, IN ACCORDANCE WITH § 10–217 OF THE STATE GOVERNMENT ARTICLE; AND

(3) ON THE BASIS OF THE FINDINGS OF FACT AND CONCLUSIONS OF LAW, AFFIRM, MODIFY, OR REVERSE A DETERMINATION OR REDETERMINATION.

(D) THE HEARING EXAMINER PROMPTLY SHALL GIVE EACH PARTY:

(1) NOTICE OF THE DECISION OF THE HEARING EXAMINER IN ACCORDANCE WITH § 10–221 OF THE STATE GOVERNMENT ARTICLE; AND

(2) A COPY OF THE DECISION AND THE FINDINGS OF FACT AND CONCLUSIONS OF LAW THAT SUPPORT THE DECISION.

(E) THE DECISION OF THE HEARING EXAMINER IS FINAL UNLESS FURTHER REVIEW IS INITIATED UNDER § 8–5A–10 OF THIS TITLE.

8–5A–01.

There is a Board of Appeals in the Department.

8–5A–03.

(c) (1) Subject to the approval of the Board of Appeals, the Secretary shall appoint the number of **[**hearing examiners and other**]** personnel that the Board of Appeals needs for effective and proper performance of the appeals procedures under this **[**title**]** **SUBTITLE**.

8–5A–04.

THE BOARD SHALL HEAR AND DECIDE APPEALS FROM THE DECISIONS OF THE LOWER APPEALS DIVISION AND CLAIMS FOR BENEFITS REFERRED BY THE SECRETARY UNDER § 8–5A–09 OF THIS SUBTITLE.

8–5A–05.

(a) Except as provided in subsection (b) of this section, the Board of Appeals shall adopt reasonable regulations, in accordance with § 10–206 of the State Government Article, to govern appeals and hearings under this **[**title**]** **SUBTITLE**.

8–5A–07.

(a) (1) A **[**hearing examiner,**]** special examiner**[**,**]** and the Board of Appeals shall conduct a hearing or appeal in a manner that ascertains the substantial rights of the parties.

(2) (i) A **[**hearing examiner,**]** special examiner**[**,**]** and the Board of Appeals are not bound by statutory or common law rules of evidence or technical rules of procedure.

(ii) A **[**hearing examiner,**]** special examiner**[**,**]** and the Board of Appeals shall consider evidence offered in accordance with § 10–213 of the State Government Article.

(c) (1) A **[**hearing examiner,**]** special examiner**[**,**]** or the Board of Appeals may consolidate claims by more than 1 individual or claims by a single individual for 2 or more weeks of unemployment if:

(i) the same or substantially similar evidence is relevant and material to the matters at issue; and

(ii) in the judgment of the **[**hearing examiner,**]** special examiner**[**,**]** or the Board of Appeals, the consolidation would not be prejudicial to a party.

(2) When claims are consolidated under this subsection, the **[**hearing examiner,**]** special examiner**[**,**]** or Board of Appeals may:

(i) set the same time and place for considering each claim;

(ii) conduct joint hearings;

(iii) make a single record of the proceedings; and

(iv) consider evidence that is introduced in a proceeding for 1 claim as having been introduced for another claim.

(d) (1) A record shall be kept, in accordance with § 10–218 of the State Government Article, of all testimony and proceedings before a **[**hearing examiner,**]** special examiner**[**,**]** or the Board of Appeals.

(2) Testimony need not be transcribed unless:

(i) judicial review is initiated; or

(ii) the Board of Appeals orders a transcription.

8–5A–08.

(a) In a proceeding before a **[**hearing examiner,**]** special examiner**[**,**]** or the Board of Appeals, a claimant may be represented by a lawyer or another agent authorized by the claimant.

(b) An agent may not charge or accept compensation for representing a claimant in a proceeding before a **[**hearing examiner,**]** special examiner**[**,**]** or the Board of Appeals except that a lawyer may charge and accept compensation in an amount not greater than that approved by the Board of Appeals.

(c) In a proceeding before a **[**hearing examiner,**]** special examiner**[**,**]** or the Board of Appeals, an employer may appear for itself or be represented by a lawyer or another agent authorized by the employer.

(d) A person may not solicit, for that person or another person, the business of appearing on behalf of a claimant in a proceeding before a **[**hearing examiner,**]** special examiner**[**,**]** or the Board of Appeals.

8–5A–10.

(a) A party who wishes to file an appeal with the Board of Appeals shall do so within 15 days after notice of the decision of a hearing examiner **[**or determination of the Secretary**]** was mailed to the party at the last known address of the party or otherwise was delivered to the party.

(b) After a hearing examiner makes a final decision under § **[**8–509**]** **8–508** of this **[**subtitle**]** **TITLE**:

(1) if the hearing examiner does not affirm the determination or redetermination of a claim, the Board of Appeals shall allow an appeal by either the Secretary, or a party entitled to notice of the decision, or both; and

(2) if the hearing examiner affirms the determination or redetermination of a claim, the Board of Appeals may allow an appeal by a party entitled to notice of the decision.

8–5A–11.

[(a)**]** A decision of the Board of Appeals is final subject to judicial review under **[**§ 8–512**]** **§ 8–5A–12** of this subtitle.

[(b) A decision of the Board of Appeals under § 8–806(h) of this title is final within 10 days after mailing or other delivery of the notice of the decision.**]**

8–602.

(c) (4) The Board of Appeals shall give the parties a reasonable opportunity for a fair hearing as provided under Subtitle **[**5**] 5A** of this title.

8–621.

(d) Proceedings on appeal to the Board of Appeals from the amount of a bill or a redetermination of the amount shall be in accordance with Subtitle **[**5**] 5A** of this title.

8–806.

(a) (1) Except as provided in subsection (b) of this section a claims examiner promptly shall make a determination on a claim filed under § 8–805(a) of this subtitle.

(2) Whenever a determination involves resolution of a dispute of material fact, a claims examiner shall:

(i) conduct a predetermination proceeding; and

(ii) give each party notice of the time and place of the proceeding.

(b) (1) A claim shall be referred to the Board of Appeals if determination of the claim involves:

(i) a disqualification based on a stoppage of work due to a labor dispute;

(ii) multiple claims; or

(iii) a difficult issue of fact or law.

(2) The Board of Appeals promptly shall hear and decide each claim referred to it under this subsection.

(c) (1) Every initial determination shall state:

(i) whether the claimant has been paid the wages required by § 8–802 of this subtitle;

(ii) the weekly benefit amount of the claimant for the benefit year; and

(iii) the maximum benefits payable to the claimant for the benefit year.

(2) Each determination shall include a statement as to:

(i) whether a claimant is eligible for benefits for the week for which the determination is made;

(ii) the benefits to which the claimant is entitled; and

(iii) the reasons for the determination.

(d) (1) On determination of a claim, the Secretary promptly shall mail notice of the determination to the claimant at the last known address of the claimant or otherwise deliver it to the claimant.

(2) Except as provided in paragraph (3) of this subsection, on determination of a claim that involves application of § 8–903(a) of this title or disqualification under Subtitle 10 of this title, the Secretary promptly shall:

(i) mail notice of the determination to the last employing unit of the claimant at the last known address of the employing unit or otherwise deliver it to that employer; and

(ii) include in the notice the reasons for the determination.

(3) If, before a determination, an employer fails to indicate, in accordance with regulations of the Secretary, that a claimant may be disqualified or ineligible for benefits, the Secretary need not notify the employer of the determination.

(e) (1) A determination is final as to a claimant and an employer who is entitled to notice of the determination unless:

(i) within 15 days after the mailing or other delivery of the notice, the claimant or employer appeals the determination; or

(ii) after the time for an appeal on an initial determination has passed, the Secretary may make a redetermination under subsection (f) of this section.

(2) The **[**Board of Appeals**]** **CHIEF HEARING EXAMINER OF THE LOWER APPEALS DIVISION**, for good cause, may extend the time for an appeal under this subsection.

(f) (1) If an interested party does not appeal an initial determination, the Secretary may redetermine:

(i) the eligibility of the claimant to receive benefits;

(ii) the weekly benefit amount of the claimant;

(iii) the maximum benefits payable to the claimant in a benefit year; and

(iv) the decision to recover an overpayment.

(2) In accordance with subsection (d) of this section, the Secretary shall send notice of the redetermination to the claimant and an employer who is entitled to notice.

(3) A redetermination is final unless an appeal is filed in accordance with subsection (e) of this section.

(g) (1) Within 15 days after the date of mailing of the notice or the date of delivery, a claimant or employing unit entitled to notice of a determination or redetermination under this section may appeal to the **[**Board of Appeals**] LOWER APPEALS DIVISION**.

(2) The Secretary may, at the Secretary's discretion, be a party to an appeal filed by a claimant or employing unit with the **[**Board of Appeals**] LOWER APPEALS DIVISION**.

(3) Unless an appeal of a determination or redetermination under this section is withdrawn or removed to the Board of Appeals, a hearing examiner ~~designated by the Board of Appeals~~ shall:

(i) give the parties a reasonable opportunity for a fair hearing in accordance with the notice provisions in §§ 10–207 and 10–208 of the State Government Article, except that the provisions of § 10–208(b)(4) and (7) do not apply;

(ii) make findings of fact and conclusions of law; and

(iii) on the basis of those findings and conclusions, affirm, modify, or reverse a determination or redetermination.

(4) If an appeal involves an issue of whether employment that a claimant performed is covered employment:

(i) the hearing examiner shall give special notice of the issue and appeal to the Secretary and employer; and

(ii) on receipt of the notice, the Secretary and employer shall be parties to the proceeding and be given reasonable opportunity to offer evidence on that issue.

(5) The hearing examiner promptly shall mail to each party at the last known address of the party or otherwise deliver to the party:

(i) notice of the decision of the hearing examiner; and

(ii) a copy of the decision and the findings of fact and conclusions of law that support the decision.

(6) A decision under this subsection is final unless within 15 days after the mailing or other delivery of notice of the decision, further review is initiated under subsection (h) of this section.

(h) (1) When a party files an appeal of a decision under subsection (g) of this section:

(i) if the hearing examiner did not affirm the determination or redetermination of the claim, the Board of Appeals shall allow the appeal; and

(ii) if the hearing examiner affirmed the determination or redetermination, the Board of Appeals may allow the appeal.

(2) On the filing of an appeal or on its own motion, the Board of Appeals may affirm, modify, or reverse the findings and conclusions of a hearing examiner on the basis of evidence that was submitted previously in the case or that the Board of Appeals directs to be taken.

(3) The Board of Appeals promptly shall mail notice of its decision, including its findings and conclusions, to the last known address of each party or otherwise deliver the notice. The decision is final subject to judicial review after 10 days after the mailing or other delivery.

(4) If the Board of Appeals does not allow an appeal of a decision of a hearing examiner:

(i) the decision of the hearing examiner is considered to be a decision of the Board of Appeals;

(ii) the decision is subject to judicial review within the time and in the manner provided for a final decision of the Board of Appeals; and

(iii) the time for appeal begins on the date of the notice of the order of denial of the application for appeal to the Board of Appeals.

SECTION 4. AND BE IT FURTHER ENACTED, That the publishers of the Annotated Code, in consultation with the Department of Legislative Services, shall correct all erroneous references in the Code to the former "Subtitle 5. Board of Appeals of Department of Labor, Licensing, and Regulation", as amended by Section 1 of this Act to be "Subtitle 5A. Board of Appeals of the Department of Labor, Licensing, and Regulation", of the Labor and Employment Article.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 661

(House Bill 450)

AN ACT concerning

Department of Health and Mental Hygiene – Behavioral Health and Disabilities

FOR the purpose of altering the number of deputy secretaries to be appointed by the Secretary of Health and Mental Hygiene with the approval of the Governor; providing for the titles of the deputy secretaries to be appointed by the Secretary; requiring the Secretary to transfer responsibility for certain administrations within the Department to a certain deputy secretary; ~~requiring the Secretary to develop a certain integrated services and planning process and to identify and implement certain standards for dual–diagnosis throughout the State~~ requiring the Secretary to develop a certain system of services for certain individuals, to address systems change in a certain manner, and to identify and implement certain individualized treatment and supports; requiring the Secretary to make a certain report to the Governor and General Assembly on or before a certain date; and generally relating to the Department of Health and Mental Hygiene and behavioral health.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 2–103(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 – Health – General

2–103.

(a) (1) With the approval of the Governor, the Secretary shall appoint **[**3**]** **THE FOLLOWING FOUR** deputy secretaries**:**

(I) THE DEPUTY SECRETARY FOR BEHAVIORAL HEALTH AND DISABILITIES;

(II) THE DEPUTY SECRETARY FOR HEALTH CARE FINANCING;

(III) THE DEPUTY SECRETARY FOR OPERATIONS; AND

(IV) THE DEPUTY SECRETARY FOR PUBLIC HEALTH SERVICES.

(2) The deputy secretaries serve at the pleasure of the Secretary.

(3) The deputy secretaries are entitled to the salary provided in the State budget.

(4) The deputy secretaries have the duties provided by law or delegated by the Secretary.

SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary shall:

(1) transfer the Alcohol and Drug Abuse Administration, Developmental Disabilities Administration, and Mental ~~Health~~ Hygiene Administration from the authority of the Deputy Secretary for Public Health Services to the Deputy Secretary for Behavioral Health ~~Services~~ and Disabilities;

(2) ~~develop an integrated system and services planning process among the Alcohol and Drug Abuse Administration, Mental Health Administration, and Developmental Disabilities Administration that includes information on individuals with co-occurring disorders and addresses the following:~~

~~(i) system change and philosophy;~~

~~(ii) program standards and design;~~

~~(iii) utilization of system assessment and competency instruments across the Administrations;~~

~~(iv) clinical practice and treatment interventions;~~

~~(v) identification and utilization of several screening and assessment instruments;~~

~~(vi) integrated treatment plans;~~

~~(vii) clinical competencies and dual diagnosis training;~~

~~(viii) measurable system and clinical outcomes; and~~

~~(ix) utilization of the Four Quadrant Clinical Integration Model for Treatment; and~~

~~(3) identify and implement basic standards, including standards developed by the American Society of Addiction Medicine, for dual–diagnosis capabilities throughout the State; and~~ for individuals with co–occurring disorders, develop a coordinated system of individualized services, in the most integrated setting;

(3) address systems change to best serve individuals with co–occurring disorders, that includes:

(i) best practices, program standards, and design;

(ii) identification and utilization of screening and assessment tools;

(iii) integration of treatment plans and supports;

(iv) staff competencies and cross–disciplinary training; and

(v) measurable outcomes;

(4) identify and implement individualized treatment and supports, consistent with standards and best practices from each discipline; and

~~(4)~~ (5) on or before January 1, 2009, report to the Governor and General Assembly, in accordance with § 2–1246 of the State Government Article, on the implementation of this Act.

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

Approved by the Governor, May 22, 2008.

CHAPTER 662

(House Bill 484)

AN ACT concerning

Procurement – Unsolicited Proposals – ~~Repeal~~ *Extension* of Termination Date

FOR the purpose of ~~repealing~~ *extending* the termination date for the use of unsolicited proposals as a method of State procurement; adding lottery services to the services that may be procured using certain unsolicited proposals; repealing a certain interagency panel; repealing a requirement that certain procurement officers forward certain unsolicited proposals to a certain interagency panel for a certain determination; requiring certain procurement officers to get the approval of the Department of Budget and Management before awarding certain contracts; altering the maximum term of certain contracts based on unsolicited proposals; altering the maximum annual and total State expenditures under certain contracts based on unsolicited proposals; requiring certain agencies to report to the Board of Public Works on the status of certain educational outreach activities; authorizing the Board to adopt certain regulations; repealing a certain reporting requirement; repealing certain obsolete provisions; defining a certain term; and generally relating to unsolicited proposals.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 13–107.1
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing
Chapter 482 of the Acts of the General Assembly of 2002
Section 2

BY repealing and reenacting, with amendments,
Chapter 482 of the Acts of the General Assembly of 2002
Section 4

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

Article – State Finance and Procurement

13–107.1.

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

(2) "Business and economic development services" means services procured by the Department of Business and Economic Development.

(3) "Educational services" means services procured to provide or assist in providing training to third–party clients under a contract.

(4) "Health or social services" means services procured to provide or assist in providing support, care, or shelter to third–party clients under a contract.

(5) "LOTTERY SERVICES" MEANS SERVICES PROCURED BY THE MARYLAND STATE LOTTERY AGENCY.

(b) A procurement officer may enter into a contract based on an unsolicited proposal if the unsolicited proposal:

(1) is in writing;

(2) (i) contains a novel or innovative concept, application, approach, or method which, to the knowledge of the procurement officer, is not used by or available to another unit; or

(ii) demonstrates a novel capability of the offeror of the proposal;

(3) has not been previously submitted to the unit by another person;

(4) is for the delivery of:

(i) educational services;

(ii) health or social services; [or]

(iii) business and economic development services; [and] **OR**

(IV) LOTTERY SERVICES; AND

(5) meets a need of or is otherwise advantageous to the unit.

[(c) (1) There is an interagency panel consisting of representatives appointed by the Governor from the following:

(i) the Department of Health and Mental Hygiene;

(ii) the Department of Human Resources;

(iii) the Department of Labor, Licensing, and Regulation;

(iv) the Department of Juvenile Services;

(v) the Department of Disabilities;

(vi) the Department of Aging;

(vii) the Department of Business and Economic Development; and

(viii) the Council on Management and Productivity.

(2) (i) A procurement officer shall forward an unsolicited proposal submitted under this section to the interagency panel described under paragraph (1) of this subsection for review and a determination as to whether the unsolicited proposal meets the requirements of subsection (a) of this section.

(ii)**] (C) (1)** The **[**interagency panel**] PROCUREMENT OFFICER** shall make a determination as to whether the unsolicited proposal meets the requirements of subsection **[**(a)**] (B)** of this section **[**by a majority vote of the panel:

1. at a meeting of panel members or their designees;

2. by a telephone poll of panel members; or

3. in writing**]**.

[(iii)**] (2)** If the **[**interagency panel**] PROCUREMENT OFFICER** determines that the unsolicited proposal does not meet the requirements of subsection **[**(a)**] (B)** of this section, the procurement officer may not award a procurement contract based on the unsolicited proposal.

[(iv) 1.**] (3)(I)** The **[**interagency panel**] PROCUREMENT OFFICER** shall make a determination under **[**subparagraph (i) of this paragraph**]**

PARAGRAPH (1) OF THIS SUBSECTION within 30 days after receiving the unsolicited proposal for review.

[2.**] (II)** If the **[**interagency panel**] PROCUREMENT OFFICER** fails to make a determination under **[**subparagraph (i) of this paragraph**] PARAGRAPH (1) OF THIS SUBSECTION** within the 30–day period established under this subparagraph, the unsolicited proposal shall be deemed to have been disapproved **[**by the interagency panel**]**.

(d) If an unsolicited proposal meets the requirements of subsection (b) of this section, the offeror of the proposal is not required to be the only available source for the contract awarded under this section.

(e) Before awarding a procurement contract under this section, a procurement officer shall obtain:

(1) the approval of the head of the unit; **[**and**]**

(2) THE APPROVAL OF THE DEPARTMENT OF BUDGET AND MANAGEMENT; AND

[(2)**] (3)** any other approval required by law.

(f) The term, including extensions, of a contract awarded under this section may not exceed **[**2**] 3** years.

(g) State expenditures under a contract awarded under this section may not exceed **[**$1,000,000**] $2,000,000** annually**, AND MAY NOT EXCEED $4,000,000 FOR THE TOTAL CONTRACT**.

(h) (1) Except as provided under paragraph (2) of this subsection, a procurement officer shall treat the information contained in an unsolicited proposal as confidential information that is not subject to disclosure under any other State or local law.

(2) If a contract is awarded under this section, disclosure of the unsolicited proposal is governed by Title 10, Subtitle 6, Part III of the State Government Article.

(i) (1) Not less than 30 days before the execution and award of a contract based on an unsolicited proposal under this section, the contracting unit shall publish a general notice of the intent to award the contract as follows:

(i) [until July 1, 2006, in the Contract Weekly and in eMaryland Marketplace;

(ii) on and after July 1, 2006,] in eMaryland Marketplace; and

[(iii)] **(II)** in at least one newspaper of general circulation in:

1. the county of the agency to be served under the contract; and

2. if applicable, the county of the client population to be served by the agency under the contract.

(2) For purposes of this subsection:

(i) the Baltimore Sun and the Washington Post shall be considered newspapers of general circulation in the counties of the State; and

(ii) in Baltimore City, Baltimore County, and Anne Arundel County, the Baltimore Afro–American shall be considered a newspaper of general circulation.

(3) If, during the 30–day period established under paragraph (1) of this subsection, a person petitions the [interagency panel] **UNIT OF STATE GOVERNMENT CONDUCTING THE PROCUREMENT** for reconsideration of a determination of approval under subsection (b) of this section, the [interagency panel] **PROCUREMENT OFFICER** shall reconsider the determination of approval and make written findings affirming or reversing the determination of approval.

(j) In addition to publishing notice of the intent to award a contract based on an unsolicited proposal under subsection (i) of this section, not more than 30 days after the execution and approval of a procurement contract awarded under this section, a unit shall publish notice of the award [as follows:

(1) until July 1, 2006, in the Contract Weekly and in eMaryland Marketplace; and

(2) on and after July 1, 2006,] in eMaryland Marketplace.

(k) Repealed.

(l) The following agencies shall implement an educational outreach campaign on the availability of the unsolicited proposal method of procurement:

(1) the Department of Health and Mental Hygiene;

(2) the Department of Human Resources;

(3) the Department of Labor, Licensing, and Regulation;

(4) the Department of Juvenile Services;

(5) the Department of Disabilities;

(6) the Department of Aging; **[**and**]**

(7) the Department of Business and Economic Development**; AND**

(8) THE MARYLAND STATE LOTTERY AGENCY.

(M) ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE AGENCIES DESIGNATED IN SUBSECTION (L) OF THIS SECTION SHALL REPORT TO THE BOARD OF PUBLIC WORKS ON THE STATUS OF THE EDUCATIONAL OUTREACH CAMPAIGN, INCLUDING ACTIVITIES CONDUCTED IN THE PREVIOUS FISCAL YEAR AND PLANS FOR FUTURE EDUCATIONAL OUTREACH ACTIVITIES.

(N) THE BOARD OF PUBLIC WORKS MAY ADOPT REGULATIONS TO CARRY OUT THE REQUIREMENTS OF THIS SECTION.

Chapter 482 of the Acts of 2002

[SECTION 2. AND BE IT FURTHER ENACTED, That on or before September 30 of each year the Department of Budget and Management shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Commerce and Government Matters Committee, on the impact of this Act, including for the previous year:

(1) the number of unsolicited proposals awarded by each contracting unit;

(2) the monetary amounts of the contracts awarded under this Act;

(3) the goods or services for which contracts were awarded under this Act; and

(4) the number of contract awardees under this Act who were certified minority business enterprises.**]**

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2002. ~~[~~It shall remain effective for a period of ~~6~~ *11* years and, at the end of September 30, ~~2008~~ *2013*, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~]~~

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

Approved by the Governor, May 22, 2008.

CHAPTER 663

(House Bill 505)

AN ACT concerning

~~Public Transportation – Drivers and Operators~~ Transit Service for Disabled Persons – Criminal History Records Check and Training for Persons Providing Service

FOR the purpose of requiring the ~~Public Service Commission to include certain requirements in the terms and conditions for a motor carrier permit; requiring a person employed or offered employment as a driver or operator of a motor vehicle for a common carrier to make application for a certain criminal history records check and to submit proof of having successfully completed a certain course of instruction; requiring the Maryland State Department of Education and the Department of Disabilities jointly to develop the course~~ Maryland Transit Administration and certain of the Administration's contractors to apply for certain criminal history records checks for certain persons who provide transit service to disabled persons; requiring the Administration to ensure that employees of the Administration and of the Administration's contractors who provide transit service to disabled persons successfully complete certain training; and generally relating to criminal history records and training for ~~drivers and operators for a common carrier~~ certain persons who provide transit service to disabled persons.

~~BY repealing and reenacting, without amendments,~~
~~Article – Public Utility Companies~~
~~Section 1–101(e)~~
~~Annotated Code of Maryland~~
~~(1998 Volume and 2007 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Public Utility Companies~~
~~Section 9–203~~
~~Annotated Code of Maryland~~
~~(1998 Volume and 2007 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Transportation
Section 7–102.1(e)
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

BY adding to
Article – Transportation
Section 10–206.1
Annotated Code of Maryland
(2001 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 – Public Utility Companies~~

~~1–101.~~

~~(e) (1) "Common carrier" means a person, public authority, or federal, State, district, or municipal transportation unit that is engaged in the public transportation of persons for hire, by land, water, air, or any combination of them.~~

~~(2) "Common carrier" includes:~~

~~(i) an airline company;~~

~~(ii) a car company, motor vehicle company, automobile company, or motor bus company;~~

~~(iii) a power boat company, vessel–boat company, steamboat company, or ferry company;~~

~~(iv) a railroad company, street railroad company, or sleeping car company;~~

~~(v) a taxicab company;~~

~~(vi) a toll bridge company; and~~

~~(vii) a transit company.~~

~~(3) "Common carrier" does not include:~~

~~(i) a county revenue authority;~~

~~(ii) a toll bridge or other facility owned and operated by a county revenue authority; or~~

~~(iii) a vanpool or launch service.~~

~~9–203.~~

~~(a) **(1)** Subject to **PARAGRAPH (2) OF THIS SUBSECTION AND** subsections (b) and (c) of this section, the Commission may subject a motor carrier permit to terms and conditions that the Commission considers appropriate.~~

~~**(2) THE TERMS AND CONDITIONS FOR A MOTOR CARRIER PERMIT SHALL INCLUDE THE REQUIREMENT THAT A PERSON EMPLOYED OR OFFERED EMPLOYMENT AS A DRIVER OR OPERATOR OF A MOTOR VEHICLE FOR A COMMON CARRIER:**~~

~~**(I) APPLY TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES FOR A STATE CRIMINAL HISTORY RECORDS CHECK; AND**~~

~~**(II) SUBMIT PROOF OF HAVING SUCCESSFULLY COMPLETED A COURSE APPROVED BY THE COMMISSION THAT INCLUDES IN THE CURRICULUM APPROPRIATE ACCOMMODATIONS ACCOMPANIED WITH RESPECT AND COURTEOUS TREATMENT OF ALL PASSENGERS, INCLUDING DISABLED INDIVIDUALS.**~~

~~**(3) THE MARYLAND STATE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF DISABILITIES JOINTLY SHALL DEVELOP THE COURSE REQUIRED UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.**~~

~~(b) The duration of a motor carrier permit may not exceed 20 years.~~

~~(c) The Commission may authorize seasonal motor carrier permits for a part of the year.~~

Article – Transportation

7–102.1.

(e) **(1)** The public interest requires the development of an effective and efficient transit service to meet the special needs of elderly and handicapped persons.

(2) WHEN PROVIDING TRANSIT SERVICE TO MEET THE SPECIAL NEEDS OF DISABLED PERSONS, THE ADMINISTRATION SHALL:

(I) APPLY TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION, FOR STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS OF THE ADMINISTRATION'S EMPLOYEES WHO ARE OR WILL BE EMPLOYED TO PROVIDE TRANSIT SERVICE TO DISABLED PERSONS;

(II) ENSURE THAT ANY ENTITY THAT CONTRACTS WITH THE ADMINISTRATION TO PROVIDE TRANSIT SERVICE TO DISABLED PERSONS APPLIES TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION, FOR STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS OF THE CONTRACTOR'S EMPLOYEES WHO PROVIDE TRANSIT SERVICE TO DISABLED PERSONS; AND

(III) ENSURE THAT ALL EMPLOYEES OF THE ADMINISTRATION OR A CONTRACTOR OF THE ADMINISTRATION WHO ARE OR WILL BE EMPLOYED TO PROVIDE TRANSIT SERVICE TO DISABLED PERSONS SUCCESSFULLY COMPLETE A COURSE, JOINTLY DEVELOPED BY THE STATE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF DISABILITIES AND APPROVED BY THE ADMINISTRATION, ON MATTERS RELATING TO APPROPRIATE ACCOMMODATION, INCLUDING CUSTOMER SERVICE, SENSITIVITY, AND RESPECTFUL AND COURTEOUS TREATMENT OF ALL PASSENGERS, INCLUDING DISABLED PERSONS.

(3) (I) IN THIS PARAGRAPH, "CENTRAL REPOSITORY" HAS THE MEANING STATED IN § 10–201 OF THE CRIMINAL PROCEDURE ARTICLE.

(II) THE ADMINISTRATION OR CONTRACTOR SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH EMPLOYEE SUBJECT TO THIS SUBSECTION.

(III) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE ADMINISTRATION OR CONTRACTOR SHALL SUBMIT TO THE CENTRAL REPOSITORY:

1. TWO COMPLETE SETS OF THE EMPLOYEE'S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

2. THE FEE AUTHORIZED UNDER § 10–221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

3. THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(IV) IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE EMPLOYEE AND THE ADMINISTRATION OR CONTRACTOR A PRINTED STATEMENT OF THE EMPLOYEE'S CRIMINAL HISTORY RECORD INFORMATION.

(V) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SUBSECTION SHALL BE:

1. CONFIDENTIAL AND MAY NOT BE DISSEMINATED; AND

2. USED ONLY FOR THE PURPOSE AUTHORIZED BY THIS SUBSECTION.

(VI) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SUBSECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10–223 OF THE CRIMINAL PROCEDURE ARTICLE.

10–206.1.

(A) THE MARYLAND TRANSIT ADMINISTRATION SHALL ENSURE THAT TRANSIT SERVICE PROVIDED IN THE STATE IN ACCORDANCE WITH THIS SUBTITLE MEETS THE SPECIAL NEEDS OF DISABLED PERSONS.

(B) WHEN PROVIDING TRANSIT SERVICE TO MEET THE SPECIAL NEEDS OF DISABLED PERSONS, THE MARYLAND TRANSIT ADMINISTRATION SHALL:

(1) APPLY TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, FOR STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS OF THE MARYLAND TRANSIT ADMINISTRATION'S EMPLOYEES WHO ARE OR WILL BE EMPLOYED TO PROVIDE TRANSIT SERVICE TO DISABLED PERSONS;

(2) ENSURE THAT ANY ENTITY THAT CONTRACTS WITH THE MARYLAND TRANSIT ADMINISTRATION TO PROVIDE TRANSIT SERVICE TO DISABLED PERSONS APPLIES TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, FOR STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS OF THE CONTRACTOR'S EMPLOYEES WHO PROVIDE TRANSIT SERVICE TO DISABLED PERSONS; AND

(3) ENSURE THAT ALL EMPLOYEES OF THE MARYLAND TRANSIT ADMINISTRATION OR A CONTRACTOR OF THE ADMINISTRATION WHO ARE OR WILL BE EMPLOYED TO PROVIDE TRANSIT SERVICE TO DISABLED PERSONS SUCCESSFULLY COMPLETE A COURSE, JOINTLY DEVELOPED BY THE STATE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF DISABILITIES AND APPROVED BY THE MARYLAND TRANSIT ADMINISTRATION, ON MATTERS RELATING TO APPROPRIATE ACCOMMODATION, INCLUDING CUSTOMER SERVICE, SENSITIVITY, AND RESPECTFUL AND COURTEOUS TREATMENT OF ALL PASSENGERS, INCLUDING DISABLED PERSONS.

(C) (1) IN THIS SUBSECTION, "CENTRAL REPOSITORY" HAS THE MEANING STATED IN § 10–201 OF THE CRIMINAL PROCEDURE ARTICLE.

(2) THE MARYLAND TRANSIT ADMINISTRATION OR CONTRACTOR SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH EMPLOYEE SUBJECT TO THIS SUBSECTION.

(3) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE MARYLAND TRANSIT ADMINISTRATION OR CONTRACTOR SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(I) TWO COMPLETE SETS OF THE EMPLOYEE'S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(II) THE FEE AUTHORIZED UNDER § 10–221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(4) IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE EMPLOYEE AND THE MARYLAND TRANSIT ADMINISTRATION OR CONTRACTOR A PRINTED STATEMENT OF THE EMPLOYEE'S CRIMINAL HISTORY RECORD INFORMATION.

(5) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SUBSECTION SHALL BE:

(I) CONFIDENTIAL AND MAY NOT BE DISSEMINATED; AND

(II) USED ONLY FOR THE PURPOSE AUTHORIZED BY THIS SUBSECTION.

(6) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SUBSECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10–223 OF THE CRIMINAL PROCEDURE ARTICLE.

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

Approved by the Governor, May 22, 2008.

CHAPTER 664

(House Bill 535)

AN ACT concerning

Morbidity, Mortality, and Quality Review Committee – Pregnancy and Childhood

FOR the purpose of requiring the Secretary of Health and Mental Hygiene to devise and institute certain means to prevent and control morbidity and mortality associated with pregnancy, childbirth, infancy, and early childhood; requiring the Secretary to establish a Morbidity, Mortality, and Quality Review Committee in the Department of Health and Mental Hygiene; requiring the Committee to conduct certain case reviews and develop and implement certain interventions; requiring the Secretary to adopt certain regulations that include certain information; defining a certain term; and generally relating to the Morbidity, Mortality, and Quality Review Committee and pregnancy and childhood.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 1–401(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 1–401(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–107
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

1–401.

(b) For purposes of this section, a medical review committee is:

(1) A regulatory board or agency established by State or federal law to license, certify, or discipline any provider of health care;

(2) A committee of the Faculty or any of its component societies or a committee of any other professional society or association composed of providers of health care;

(3) A committee appointed by or established in a local health department for review purposes;

(4) A committee appointed by or established in the Maryland Institute for Emergency Medical Services Systems;

(5) A committee of the medical staff or other committee, including any risk management, credentialing, or utilization review committee established in accordance with § 19–319 of the Health – General Article, of a hospital, related institution, or alternative health care system, if the governing board of the hospital, related institution, or alternative health care system forms and approves the committee or approves the written bylaws under which the committee operates;

(6) A committee or individual designated by the holder of a pharmacy permit, as defined in § 12–101 of this article, that performs the functions listed in subsection (c) of this section, as part of a pharmacy's ongoing quality assurance program;

(7) Any person, including a professional standard review organization, who contracts with an agency of this State or of the federal government to perform any of the functions listed in subsection (c) of this section;

(8) Any person who contracts with a provider of health care to perform any of those functions listed in subsection (c) of this section that are limited to the review of services provided by the provider of health care;

(9) An organization, established by the Maryland Hospital Association, Inc. and the Faculty, that contracts with a hospital, related institution, or alternative delivery system to:

(i) Assist in performing the functions listed in subsection (c) of this section; or

(ii) Assist a hospital in meeting the requirements of § 19–319(e) of the Health – General Article;

(10) A committee appointed by or established in an accredited health occupations school;

(11) An organization described under § 14–501 of this article that contracts with a hospital, related institution, or health maintenance organization to:

(i) Assist in performing the functions listed in subsection (c) of this section; or

(ii) Assist a health maintenance organization in meeting the requirements of Title 19, Subtitle 7 of the Health – General Article, the National Committee for Quality Assurance (NCQA), or any other applicable credentialing law or regulation;

(12) An accrediting organization as defined in § 14–501 of this article;

(13) A Mortality and Quality Review Committee established under § 5–801 **OR A MORBIDITY, MORTALITY, AND QUALITY REVIEW COMMITTEE ESTABLISHED UNDER § 18–107** of the Health – General Article; or

(14) A center designated by the Maryland Health Care Commission as the Maryland Patient Safety Center that performs the functions listed in subsection (c)(1) of this section.

(c) For purposes of this section, a medical review committee:

(1) Evaluates and seeks to improve the quality of health care provided by providers of health care;

(2) Evaluates the need for and the level of performance of health care provided by providers of health care;

(3) Evaluates the qualifications, competence, and performance of providers of health care; or

(4) Evaluates and acts on matters that relate to the discipline of any provider of health care.

Article – Health – General

18–107.

(a) The Secretary shall:

(1) Devise and institute means to prevent and control **MORBIDITY AND MORTALITY ASSOCIATED WITH**:

[(i) Infant mortality;

(ii) Diseases of pregnancy;

(iii) Diseases of childbirth;

(iv) Diseases of infancy; and

(v) Diseases of early childhood; and**]**

(I) PREGNANCY;

(II) CHILDBIRTH;

(III) INFANCY; AND

(IV) EARLY CHILDHOOD; AND

(2) Promote the welfare and hygiene of maternity and infancy.

(B) (1) THE SECRETARY SHALL ESTABLISH A MORBIDITY, MORTALITY, AND QUALITY REVIEW COMMITTEE IN THE DEPARTMENT.

(2) THE COMMITTEE SHALL:

(I) CONDUCT CONFIDENTIAL AND ANONYMOUS CASE REVIEWS OF MORBIDITY AND MORTALITY ASSOCIATED WITH PREGNANCY, CHILDBIRTH, INFANCY, AND EARLY CHILDHOOD; AND

(II) DEVELOP AND IMPLEMENT INTERVENTIONS TO IMPROVE THE SYSTEM OF CARE FOR PREGNANCY, CHILDBIRTH, INFANCY, AND EARLY CHILDHOOD BASED ON THE FINDINGS FROM CASE REVIEWS CONDUCTED UNDER ITEM (I) OF THIS PARAGRAPH.

(3) (I) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.

(II) THE REGULATIONS SHALL INCLUDE:

1. THE TYPES OF CASE REVIEWS CONDUCTED BY THE COMMITTEE;

2. THE CONFIDENTIALITY OF CASE REVIEWS;

3. A DESCRIPTION OF THE TYPES OF RECORDS AND INFORMATION NEEDED BY THE COMMITTEE TO CONDUCT THE CASE REVIEWS UNDER THIS SECTION; AND

4. THE PROCESS FOR OBTAINING RECORDS, INCLUDING PATIENT MEDICAL RECORDS, AND ANY OTHER NECESSARY INFORMATION IN ACCORDANCE WITH § 4–305(B) OF THIS ARTICLE.

[(b)**] (C)** This section does not enable the Secretary:

(1) To take charge of a child if the parent, guardian, or other person who has custody of the child objects; or

(2) To treat the child for a disease without the consent of the parent, guardian, or other person who has custody of the child.

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

Approved by the Governor, May 22, 2008.

CHAPTER 665

(House Bill 577)

AN ACT concerning

Preservation of Right to Jury <u>or Judge</u> Trial Act

FOR the purpose of providing that any provision in ~~a~~ <u>an insurance</u> contract with a certain consumer that ~~requires the waiver of~~ ~~limits or waives a trial by jury or judge by requiring certain~~ *requires* <u>arbitration</u> is void and unenforceable ~~except under certain circumstances~~; *<u>providing a certain exception;</u>* providing for the application of this Act; defining a certain term; *<u>providing for a delayed effective date;</u>* and generally relating to the preservation of the right to trial by jury <u>or judge</u>.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–206

Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 3–206.1
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 – Courts and Judicial Proceedings

3–206.

(a) **[**A**]** **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A** written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy arising between the parties in the future is valid and enforceable, and is irrevocable, except upon grounds that exist at law or in equity for the revocation of a contract.

(b) This subtitle does not apply to an arbitration agreement between employers and employees or between their respective representatives unless it is expressly provided in the agreement that this subtitle shall apply.

3–206.1.

(A) IN THIS SECTION, "CONSUMER" MEANS A PARTY TO AN ARBITRATION AGREEMENT WHO, IN THE CONTEXT OF THE ARBITRATION AGREEMENT, IS AN INDIVIDUAL, NOT A BUSINESS, WHO SEEKS OR ACQUIRES, INCLUDING BY LEASE, ANY GOODS OR SERVICES PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES INCLUDING FINANCIAL SERVICES, HEALTH CARE SERVICES, OR REAL PROPERTY.

~~**(B) ANY PROVISION IN A AN INSURANCE CONTRACT WITH A CONSUMER THAT REQUIRES THE WAIVER OF LIMITS OR WAIVES A TRIAL BY JURY OR JUDGE BY REQUIRING BINDING OR NONBINDING ARBITRATION IS VOID AND UNENFORCEABLE UNLESS PREEMPTED BY FEDERAL LAW.**~~

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY PROVISION IN AN INSURANCE CONTRACT WITH A CONSUMER THAT REQUIRES ARBITRATION IS VOID AND UNENFORCEABLE.

(2) THIS SUBSECTION DOES NOT APPLY TO A PROVISION THAT ESTABLISHES AN APPRAISAL PROCESS TO DETERMINE THE VALUE OF PROPERTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contract entered into before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2008~~ *January 1, 2009*.

Approved by the Governor, May 22, 2008.

CHAPTER 666

(House Bill 628)

AN ACT concerning

Department of the Environment – Grants and Loans – Small, Minority, and Women's Business Enterprises

FOR the purpose of requiring applicants for certain financial assistance from certain funds to demonstrate that certain steps were taken to include certain small, minority, and women's business enterprises; authorizing the Department of the Environment to withhold certain financial assistance under certain circumstances; requiring certain agreements for grants from a certain fund to require grantees to demonstrate that certain steps were taken to include certain small business enterprises, minority business enterprises, and women's business enterprises; and generally relating to the small business enterprise, minority business enterprise, and women's business enterprise participation in environmental financial assistance programs.

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–345, 9–421, and 9–1605.2
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

9–345.

(a) There is a Water Pollution Control Fund consisting of moneys made available under water quality loan authorizations or by funds appropriated in the State budget.

(b) The Board of Public Works, upon the recommendation of the Secretary, may award financial assistance for the following types of projects:

(1) Construction of sewerage systems under §§ 9–347 and 9–348 of this subtitle;

(2) Industrial user pretreatment projects under § 9–349 of this subtitle;

(3) Best management practices to control or prevent agriculturally related nonpoint source pollution under § 9–350 of this subtitle and Title 8, Subtitle 7 of the Agriculture Article; and

(4) Practices to reduce pollution from stormwater runoff in existing urbanized areas under § 9–350 of this subtitle.

(c) (1) The Secretary, with the approval of the Board of Public Works, shall adopt rules and regulations that establish application procedures and criteria for the award of financial assistance under this subtitle. The criteria shall provide the basis for project priority rankings and shall include, as appropriate:

(i) The water quality or public health impacts caused by existing circumstances;

(ii) Previous efforts expended to correct any existing problem;

(iii) Financial capacity of the applicant;

(iv) The problem prevention aspects of a proposed project;

(v) Cost effectiveness of a proposed project;

(vi) Planning requirements;

(vii) Provisions for monitoring and review; and

(viii) Measures to assure accountability for all funds awarded under this subtitle.

(2) Project priority systems shall be established. Prior to adopting rules and regulations and establishing project priority rankings under this section, the Secretary shall consult with the Secretaries of Natural Resources, Agriculture, and Business and Economic Development and the Secretary of the Department of Planning.

(D) FOR FINANCIAL ASSISTANCE OVER $500,000 AWARDED UNDER THE FUND, THE APPLICANT SHALL DEMONSTRATE, TO THE SATISFACTION OF THE DEPARTMENT, THAT STEPS WERE TAKEN TO INCLUDE SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES BY:

(1) PLACING QUALIFIED SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES ON SOLICITATION LISTS;

(2) ASSURING THAT SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES ARE SOLICITED WHENEVER THEY ARE POTENTIAL SOURCES;

(3) DIVIDING TOTAL REQUIREMENTS, WHEN ECONOMICALLY FEASIBLE, INTO SMALL TASKS OR QUANTITIES TO PERMIT MAXIMUM PARTICIPATION OF SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES;

(4) ESTABLISHING DELIVERY SCHEDULES, WHERE THE REQUIREMENT PERMITS, THAT ENCOURAGE PARTICIPATION BY SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES; AND

(5) USING THE SERVICES AND ASSISTANCE OF THE MARYLAND DEPARTMENT OF TRANSPORTATION AND THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS IN IDENTIFYING AND SOLICITING SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES.

(E) IF THE STEPS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION ARE NOT DEMONSTRATED TO THE SATISFACTION OF THE DEPARTMENT, THE DEPARTMENT MAY WITHHOLD FINANCIAL ASSISTANCE FOR THE PROJECT.

9–421.

(a) Grants and loans may be awarded to any State or local governmental entity responsible by law for the provision of water supply systems in order to finance eligible costs of those systems that are necessary to satisfy State drinking water standards and policies or to protect the public health and comfort.

(b) State assistance under this Part II of Subtitle 4, may not exceed 87–1/2 percent of eligible costs for each project or part of a project.

(c) In the case of a project to be operated by a State–owned institution or facility, State financial assistance shall equal the total cost of the project less the amount of any federal grant made therefor.

(D) FOR FINANCIAL ASSISTANCE OVER $500,000 AWARDED UNDER THE FUND, THE APPLICANT SHALL DEMONSTRATE, TO THE SATISFACTION OF THE DEPARTMENT, THAT STEPS WERE TAKEN TO INCLUDE SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES BY:

(1) PLACING QUALIFIED SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES ON SOLICITATION LISTS;

(2) ASSURING THAT SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES ARE SOLICITED WHENEVER THEY ARE POTENTIAL SOURCES;

(3) DIVIDING TOTAL REQUIREMENTS, WHEN ECONOMICALLY FEASIBLE, INTO SMALL TASKS OR QUANTITIES TO PERMIT MAXIMUM PARTICIPATION OF SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES;

(4) ESTABLISHING DELIVERY SCHEDULES, WHERE THE REQUIREMENT PERMITS, THAT ENCOURAGE PARTICIPATION BY SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES; AND

(5) USING THE SERVICES AND ASSISTANCE OF THE MARYLAND DEPARTMENT OF TRANSPORTATION AND THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS IN IDENTIFYING AND SOLICITING SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES.

(E) IF THE STEPS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION ARE NOT DEMONSTRATED TO THE SATISFACTION OF THE DEPARTMENT, THE DEPARTMENT MAY WITHHOLD FINANCIAL ASSISTANCE FOR THE PROJECT.

9–1605.2.

(a) (1) There is a Bay Restoration Fund.

(2) It is the intent of the General Assembly that the Bay Restoration Fund be:

(i) Used, in part, to provide the funding necessary to upgrade any of the wastewater treatment facilities that are located in the State or used by citizens of the State in order to achieve enhanced nutrient removal where it is cost–effective to do so; and

(ii) Available for treatment facilities discharging into the Atlantic Coastal Bays or other waters of the State, but that priority be given to treatment facilities discharging into the Chesapeake Bay.

(3) The Bay Restoration Fund shall be maintained and administered by the Administration in accordance with the provisions of this section and any rules or program directives as the Secretary or the Board may prescribe.

(4) There is established a Bay Restoration Fee to be paid by any user of a wastewater facility, an onsite sewage disposal system, or a holding tank that:

(i) Is located in the State; or

(ii) Serves a Maryland user and is eligible for funding under this subtitle.

(b) (1) The Bay Restoration Fee is:

(i) Beginning January 1, 2005, for each residential dwelling that receives an individual sewer bill and each user of an onsite sewage disposal system or a holding tank that receives a water bill, $2.50 per month;

(ii) Beginning October 1, 2005, for each user of an onsite sewage disposal system that does not receive a water bill, $30 per year;

(iii) Beginning October 1, 2005, for each user of a sewage holding tank that does not receive a water bill, $30 per year; and

(iv) Beginning January 1, 2005, for a building or group of buildings under single ownership or management that receives a sewer bill and that contains multiple residential dwellings that do not receive an individual sewer bill or for a nonresidential user:

1. For each equivalent dwelling unit not exceeding 3,000 equivalent dwelling units, $2.50 per month;

2. For each equivalent dwelling unit exceeding 3,000 equivalent dwelling units and not exceeding 5,000 equivalent dwelling units, $1.25 per month; and

3. For each equivalent dwelling unit exceeding 5,000 equivalent dwelling units, zero.

(2) (i) For a residential dwelling that receives an individual sewer bill, a user of an onsite sewage disposal system or a holding tank that receives a water bill, a building or group of buildings under single ownership or management that receives a water and sewer bill and that contains multiple residential dwellings that do not receive an individual sewer bill, and a nonresidential user, the restoration fee shall be:

1. Stated in a separate line on the sewer or water bill, as appropriate, that is labeled "Bay Restoration Fee"; and

2. Collected for each calendar quarter, unless a local government or billing authority for a water or wastewater facility established some other billing period on or before January 1, 2004.

(ii) 1. A. If the user does not receive a water bill, for users of an onsite sewage disposal system and for users of a sewage holding tank, the county in which the onsite sewage disposal system or holding tank is located shall be responsible for collecting the restoration fee.

B. A county may negotiate with a municipal corporation located within the county for the municipal corporation to collect the restoration fee from onsite sewage disposal systems and holding tanks located in the municipal corporation.

2. The governing body of each county, in consultation with the Bay Restoration Fund Advisory Committee, shall determine the method and frequency of collecting the restoration fee under subsubparagraph 1 of this subparagraph.

(3) The total fee imposed under paragraph (1) of this subsection may not exceed $120,000 annually for a single site.

(4) (i) For purposes of measuring average daily wastewater flow, the local government or billing authority for a wastewater facility shall use existing methods of measurement, which may include water usage or other estimation methods.

(ii) The averaging period is:

1. The billing period established by the local government or billing authority; or

2. If a billing period is not established by the local government or billing authority, a quarter of a calendar year.

(5) THE BAY RESTORATION FEE UNDER THIS SUBSECTION MAY NOT BE REDUCED AS LONG AS BONDS ARE OUTSTANDING.

(c) A user of a wastewater facility is exempt from paying the restoration fee if:

(1) (i) 1. The user's wastewater facility's average annual effluent nitrogen and phosphorus concentrations, as reported in the facility's State discharge monitoring reports for the previous calendar year, demonstrate that the facility is achieving enhanced nutrient removal, as defined under § 9–1601(l) of this subtitle; or

2. The Department has determined that the wastewater facility does not discharge nitrogen or phosphorus and is not required to monitor for nitrogen or phosphorus in its discharge permit; and

(ii) The user's wastewater facility has not received a State or federal grant for that facility;

(2) (i) The user's wastewater facility discharges to groundwater and the annual average nutrient concentrations in the wastewater prior to discharge to groundwater have not exceeded 3 milligrams per liter total nitrogen and 0.3 milligrams per liter total phosphorus, as demonstrated by analysis of the groundwater from monitoring wells located on the property and as reported in discharge monitoring reports for the previous calendar year; and

(ii) The user's wastewater facility has not received a federal or State grant for that facility; or

(3) The Department determines that:

(i) The user's wastewater facility discharges noncontact cooling water, water from dewatering operations, or reclaimed wastewater from a facility whose users pay in to the Fund; and

(ii) The discharge does not result in a net increase in loading of nutrients compared to the intake water.

(d) (1) Subject to the approval of the Administration, a local government or a billing authority for a water or wastewater facility may establish a program to exempt from the requirements of this section a residential dwelling able to demonstrate substantial financial hardship as a result of the restoration fee.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the Bay Restoration Fee shall be collected by the local government or the billing authority for the water or wastewater facility, as appropriate, on behalf of the State.

(ii) For a wastewater facility without a billing authority, the Comptroller may collect the restoration fee from the facility owner.

(3) A local government, billing authority for a water or wastewater facility, or any other authorized collecting agency:

(i) May use all of its existing procedures and authority for collecting a water or sewer bill, an onsite sewage disposal system bill, or a holding tank bill in order to enforce the collection of the Bay Restoration Fee; and

(ii) Shall establish a segregated account for the deposit of funds collected under this section.

(e) (1) A local government, the billing authority for a water or wastewater facility, or any other authorized collecting agency shall complete and submit, under oath, a return and remit the restoration fees collected to the Comptroller:

(i) On or before the 20th day of the month that follows the calendar quarter in which the restoration fee was collected; and

(ii) For other periods and on other dates that the Comptroller may specify by regulation, including periods in which no restoration fee has been collected.

(2) Except to the extent of any inconsistency with this subsection, the provisions of Title 13 of the Tax – General Article that are applicable to the sales and

use tax shall govern the administration, collection, and enforcement of the restoration fee under this section.

(3) The Comptroller may adopt regulations necessary to administer, collect, and enforce the restoration fee.

(4) (i) From the restoration fee revenue, the Comptroller shall distribute to an administrative cost account the amount that is necessary to administer the fee, which may not exceed 0.5% of the fees collected by the Comptroller.

(ii) After making the distribution required under subparagraph (i) of this paragraph, the Comptroller shall deposit the restoration fee in the Bay Restoration Fund.

(5) The State Central Collection Unit may collect delinquent accounts under this section in accordance with § 3–302 of the State Finance and Procurement Article.

(f) (1) (i) The Bay Restoration Fund is a special, continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article and shall be available in perpetuity for the purpose of providing financial assistance in accordance with the provisions of this section.

(ii) Money in the Fund may not revert or be transferred to the General Fund **OR A SPECIAL FUND** of the State.

(2) The Bay Restoration Fund shall be available for the purpose of providing financial assistance in accordance with the provisions of this section for:

(i) Eligible costs of projects relating to planning, design, construction, and upgrades of wastewater facilities to achieve enhanced nutrient removal as required by the conditions of a grant agreement and a discharge permit; and

(ii) All projects identified in subsections (h) and (i) of this section.

(3) Subject to the provisions of any applicable bond resolution regarding the holding or application of amounts in the Bay Restoration Fund, the Treasurer shall separately hold, and the Comptroller shall account for, the Bay Restoration Fund.

(4) Subject to the provisions of any applicable bond resolution governing the investment of amounts in the Bay Restoration Fund, the Bay

Restoration Fund shall be invested and reinvested in the same manner as other State funds.

(5) Any investment earnings shall be retained to the credit of the Bay Restoration Fund.

(6) The Bay Restoration Fund shall be subject to audit by the Office of Legislative Audits as provided under § 2–1220 of the State Government Article.

(7) The Administration shall operate the Bay Restoration Fund in accordance with §§ 9–1616 through 9–1621 of this subtitle.

(g) There shall be deposited in the Bay Restoration Fund:

(1) Funds received from the restoration fee;

(2) Net proceeds of bonds issued by the Administration;

(3) Interest or other income earned on the investment of money in the Bay Restoration Fund; and

(4) Any additional money made available from any sources, public or private, for the purposes for which the Bay Restoration Fund has been established.

(h) (1) With regard to the funds collected under subsection (b)(1)(i), from users of an onsite sewage disposal system or holding tank that receive a water bill, (ii), and (iii) of this section, beginning in fiscal year 2006, the Comptroller shall:

(i) Establish a separate account within the Bay Restoration Fund; and

(ii) Disburse the funds as provided under paragraph (2) of this subsection.

(2) The Comptroller shall:

(i) Deposit 60% of the funds in the separate account to be used for:

1. Subject to paragraph (3) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area and then to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:

A. The costs attributable to upgrading an onsite sewage disposal system to the best available technology for the removal of nitrogen;

B. The cost difference between a conventional onsite sewage disposal system and a system that utilizes the best available technology for the removal of nitrogen; or

C. The cost of repairing or replacing a failing onsite sewage disposal system with a system that uses the best available technology for nitrogen removal or another wastewater treatment system; and

2. The reasonable costs of the Department, not to exceed 8% of the funds deposited into the separate account, to:

A. Implement an education, outreach, and upgrade program to advise owners of onsite sewage disposal systems and holding tanks on the proper maintenance of the systems and tanks and the availability of grants and loans under item 1 of this item;

B. Review and approve the design and construction of onsite sewage disposal system or holding tank upgrades;

C. Issue grants or loans as provided under item 1 of this item; and

D. Provide technical support for owners of upgraded onsite sewage disposal systems or holding tanks to operate and maintain the upgraded systems; and

(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture in order to fund cover crop activities.

(3) Funding for the costs identified in paragraph (2)(i)1 of this subsection shall be provided in the following order of priority:

(i) For owners of all levels of income, the costs identified in paragraph (2)(i)1A and B of this subsection; and

(ii) For low–income owners, as defined by the Department, the costs identified in paragraph (2)(i)1C of this subsection:

1. First, for best available technologies for nitrogen removal; and

2. Second, for other wastewater treatment systems.

(4) The Comptroller, in consultation with the Administration, may establish any other accounts and subaccounts within the Bay Restoration Fund as necessary to:

(i) Effectuate the purposes of this subtitle;

(ii) Comply with the provisions of any bond resolution;

(iii) Meet the requirements of any federal or State law or of any grant or award to the Bay Restoration Fund; and

(iv) Meet any rules or program directives established by the Secretary or the Board.

(i) (1) In this subsection, "eligible costs" means the additional costs that would be attributable to upgrading a wastewater facility from biological nutrient removal to enhanced nutrient removal, as determined by the Department.

(2) Funds in the Bay Restoration Fund shall be used only:

(i) To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a wastewater facility for flows up to the design capacity of the wastewater facility, as approved by the Department, to achieve enhanced nutrient removal in accordance with paragraph (3) of this subsection;

(ii) 1. In fiscal years 2005 through 2009, inclusive, for a portion of the costs of projects relating to combined sewer overflows abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations, not to exceed an annual total of $5,000,000; and

2. In fiscal years 2010 and thereafter, for a portion of the operation and maintenance costs related to the enhanced nutrient removal technology, which may not exceed 10% of the total restoration fee collected from users of wastewater facilities under this section by the Comptroller annually;

(iii) As a source of revenue or security for the payment of principal and interest on bonds issued by the Administration if the proceeds of the sale of the bonds will be deposited in the Bay Restoration Fund;

(iv) To earn interest on Bay Restoration Fund accounts;

(v) For the reasonable costs of administering the Bay Restoration Fund, which may not exceed 1.5% of the total restoration fees imposed on users of wastewater facilities that are collected by the Comptroller annually;

(vi) For the reasonable administrative costs incurred by a local government or a billing authority for a water or wastewater facility collecting the restoration fees, in an amount not to exceed 5% of the total restoration fees collected by that local government or billing authority;

(vii) For future upgrades of wastewater facilities to achieve additional nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7) of this subsection;

(viii) For costs associated with the issuance of bonds; and

(ix) Subject to the **ALLOCATION OF FUNDS AND THE** conditions under subsection (h) of this section, **FOR** projects related to the removal of nitrogen from onsite sewage disposal systems and cover crop activities.

(3) The grant agreement and State discharge permit, if applicable, shall require an owner of a wastewater facility to operate the enhanced nutrient removal facility in a manner that optimizes the nutrient removal capability of the facility in order to achieve enhanced nutrient removal performance levels.

(4) THE GRANT AGREEMENT SHALL REQUIRE A GRANTEE TO DEMONSTRATE, TO THE SATISFACTION OF THE DEPARTMENT, THAT STEPS WERE TAKEN TO INCLUDE SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES BY:

(I) PLACING QUALIFIED SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES ON SOLICITATION LISTS;

(II) ASSURING THAT SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES ARE SOLICITED WHENEVER THEY ARE POTENTIAL SOURCES;

(III) DIVIDING TOTAL REQUIREMENTS, WHEN ECONOMICALLY FEASIBLE, INTO SMALL TASKS OR QUANTITIES TO PERMIT MAXIMUM PARTICIPATION OF SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES;

(IV) ESTABLISHING DELIVERY SCHEDULES, WHERE THE REQUIREMENT PERMITS, THAT ENCOURAGE PARTICIPATION BY SMALL

BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES; AND

(V) USING THE SERVICES AND ASSISTANCE OF THE MARYLAND DEPARTMENT OF TRANSPORTATION AND THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS IN IDENTIFYING AND SOLICITING SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN'S BUSINESS ENTERPRISES.

(5) IF THE STEPS REQUIRED UNDER PARAGRAPH (4) OF THIS SUBSECTION ARE NOT DEMONSTRATED TO THE SATISFACTION OF THE DEPARTMENT, THE DEPARTMENT MAY WITHHOLD FINANCIAL ASSISTANCE FOR THE PROJECT.

[(4)**] (6)** (i) All wastewater facilities serving Maryland users that have contributed to the Bay Restoration Fund are eligible for grants under this section, including the Blue Plains Wastewater Treatment Plant in the District of Columbia.

(ii) Grants issued under paragraph (2)(i) of this subsection for upgrades to the Blue Plains Wastewater Treatment Plant may be awarded only if each party to the Blue Plains Intermunicipal Agreement of 1985 contributes a proportional share of the upgrade costs in accordance with the Blue Plains Intermunicipal Agreement of 1985, as revised and updated.

[(5)**] (7)** Priority for funding an upgrade of a wastewater facility shall be given to enhanced nutrient removal upgrades at wastewater facilities with a design capacity of 500,000 gallons or more per day.

[(6)**] (8)** (i) The eligibility and priority ranking of a project shall be determined by the Department based on criteria established in regulations adopted by the Department, in accordance with subsection (k) of this section.

(ii) The criteria adopted by the Department shall include, as appropriate, consideration of:

1. The cost–effectiveness in providing water quality benefit;

2. The water quality benefit to a body of water identified by the Department as impaired under Section 303(d) of the Clean Water Act;

3. The readiness of a wastewater facility to proceed to construction; and

4. The nitrogen and phosphorus loads discharged by a wastewater facility.

[(7)**] (9)** A wastewater facility that has not been offered or has not received funds from the Department under this section or from any other fund in the Department may not be required to upgrade to enhanced nutrient removal levels, except as otherwise required under federal or State law.

(j) (1) There is a Bay Restoration Fund Advisory Committee.

(2) The Committee consists of the following members:

(i) The Secretaries of the Environment, Agriculture, Planning, Natural Resources, and Budget and Management, or their designees;

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

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

(iv) Two individuals representing publicly owned wastewater facilities, appointed by the Governor;

(v) Two individuals representing environmental organizations, appointed by the Governor;

(vi) One individual each from the Maryland Association of Counties and the Maryland Municipal League, appointed by the Governor;

(vii) Two individuals representing the business community, appointed by the Governor;

(viii) Two individuals representing local health departments who have expertise in onsite sewage disposal systems, appointed by the Governor; and

(ix) One individual representing a university or research institute who has expertise in nutrient pollution, appointed by the Governor.

(3) The Governor shall appoint the chairman of the Committee from the designated members of the Committee.

(4) The Committee may consult with any stakeholder group as it deems necessary.

(5) (i) The term of a member is 4 years.

(ii) A member continues to serve until a successor is appointed.

(iii) The terms of the members appointed by the Governor are staggered as required by the terms provided for members of the Committee on October 1, 2004.

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

(v) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(6) The Committee shall:

(i) Perform an analysis of the cost of nutrient removal from wastewater facilities;

(ii) Identify additional sources for funding the Bay Restoration Fund;

(iii) Make recommendations to improve the effectiveness of the Bay Restoration Fund in reducing nutrient loadings to the waters of the State;

(iv) Make recommendations regarding the appropriate **INCREASE IN THE** restoration fee to be assessed in fiscal year 2008 and subsequent years as necessary to meet the financing needs of the Bay Restoration Fund;

(v) In consultation with the governing body of each county:

1. Identify users of onsite sewage disposal systems and holding tanks; and

2. Make recommendations to the governing body of each county on the best method of collecting the Bay Restoration Fee from the users of onsite sewage disposal systems and holding tanks that do not receive water bills;

(vi) Advise the Department on the components of an education, outreach, and upgrade program established within the Department under subsection (h)(2)(i)2 of this section;

(vii) Study the availability of money from the Fund for the supplemental assistance program within the Department to provide grants to smaller,

economically disadvantaged communities in the State to upgrade their wastewater collection and treatment facilities;

(viii) Advise the Secretary concerning the adoption of regulations as described in subsection (k) of this section; and

(ix) Beginning January 1, 2006, and every year thereafter, report to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly on its findings and recommendations.

(7) Members of the Committee:

(i) May not receive compensation; but

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

(8) The Department of the Environment, Department of Agriculture, Department of Planning, Department of Natural Resources, and Department of Budget and Management shall provide staff support for the Committee.

(k) (1) Beginning January 1, 2009, and every year thereafter, the Department and the Department of Planning shall jointly report on the impact that a wastewater treatment facility that was upgraded to enhanced nutrient removal during the calendar year before the previous calendar year with funds from the Bay Restoration Fund had on growth within the municipality or county in which the wastewater treatment facility is located.

(2) (i) In preparing the report required under paragraph (1) of this subsection, the Department of the Environment and the Department of Planning shall:

1. Include the number of permits issued for residential and commercial development to be served by the upgraded wastewater treatment facility; and

2. Determine what other appropriate information is to be included in the report.

(ii) In determining the information that should be included in the report under subparagraph (i) of this paragraph, the Department of the Environment and the Department of Planning shall act:

1. In consultation with the Bay Restoration Fund Advisory Committee; and

2. With the assistance of the municipality and county in which an upgraded wastewater treatment facility is located.

(3) The Department and the Department of Planning shall submit the report required under paragraph (1) of this subsection to the President of the Senate, the Speaker of the House, the Senate Budget and Taxation Committee, the Senate Education, Health, and Environmental Affairs Committee, the House Appropriations Committee, the House Environmental Matters Committee, and the Governor, in accordance with § 2–1246 of the State Government Article.

(l) The Department shall adopt regulations that are necessary or appropriate to carry out the provisions of this section.

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

Approved by the Governor, May 22, 2008.

CHAPTER 667

(House Bill 669)

AN ACT concerning

Motor Vehicle Excise Tax – Exemption for Returning Military Members

FOR the purpose of expanding the eligibility for a certain motor vehicle excise tax credit to include a member of the military who returns to Maryland from, or on, active duty and, within a certain time period, applies for titling and registration of a vehicle previously titled and registered in another state; and generally relating to the motor vehicle excise tax.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–809(c)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 6 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 – Transportation

13–809.

(c) (1) Except as provided in subsection (b)(2) of this section, the tax imposed by this section is 6 percent of the fair market value of the vehicle.

(2) If the vehicle formerly was a vehicle exempt from the tax imposed by this section, the tax shall be reduced by any amount previously paid by the present owner as a sales and use tax on the vehicle under Title 11 of the Tax – General Article.

(3) (i) 1. In this subparagraph, "military" includes the Commissioned Corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey.

2. If the vehicle was formerly titled and registered in another state and the present owner has paid a sales or excise tax to that state at a rate less than that imposed by this State, then the tax imposed shall apply but at a rate measured by the difference only between the tax rate paid to the other state and the tax rate imposed by this section, if the present owner:

A. Has not been a Maryland resident for more than 60 days; **[**or**]**

B. Is a member of the military on active duty and has not been a Maryland resident for more than 1 year**; OR**

C. IS A MARYLAND RESIDENT WHO IS A MEMBER OF THE MILITARY RETURNING TO MARYLAND FROM, OR ON, ACTIVE DUTY AND WHO APPLIES FOR TITLING AND REGISTRATION IN MARYLAND NO MORE THAN 1 YEAR AFTER RETURNING.

(ii) If the vehicle was formerly titled and registered in another state and the present owner requests to transfer the vehicle in accordance with § 13–810(c)(1) of this subtitle, the Administration shall change or correct the names contained in the certificate of title:

1. At the time the excise tax that is credited or imposed under this section is paid and a new title is issued; and

2. Without issuing multiple certificates of title or charging additional fees.

(iii) Except as provided in subsection (b)(2) of this section, the minimum tax imposed under this section shall be $100.

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

Approved by the Governor, May 22, 2008.

CHAPTER 668

(House Bill 722)

AN ACT concerning

Property – Tax Sale – Notification

FOR the purpose of requiring in certain circumstances that certain notification of a property tax sale be provided to the local area agency on aging; providing that failure to provide certain notification does not invalidate or otherwise affect the sale; and generally relating to tax sales.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–812
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

14–812.

At least 30 days before any property is first advertised for sale under this subtitle, the collector shall have mailed to the person who last appears as owner of the property on the collector's tax roll, at the last address shown on the tax roll, a statement giving the name of the person, and the amounts of taxes due. On the statement there shall also appear the following notice:

.....
"Date"

"This Is a Final Bill and Legal Notice to the Person Whose Name Appears on This Notice."

"According to collector's tax roll you are the owner of the property appearing on this notice. Some of the taxes listed are in arrears. Notice is given you that unless all taxes in arrears are paid on or before 30 days from the above date, the collector will proceed to sell the above property to satisfy your entire indebtedness. Interest and penalties must be added to the total at the time of payment."

~~IF AN~~ FOR ANY INDIVIDUAL WHO LAST APPEARS AS AN OWNER OF THE PROPERTY ON THE COLLECTOR'S TAX ROLL WHO HAS BEEN LISTED AS AN OWNER OF THE PROPERTY ON THE COLLECTOR'S TAX ROLL FOR AT LEAST THE LAST 25 YEARS ~~ACCORDING TO THE LAND RECORDS~~, THE COLLECTOR SHALL ~~MAIL~~ PROVIDE, AT LEAST 30 DAYS BEFORE THE PROPERTY IS FIRST ADVERTISED, A ~~COPY OF THE ABOVE STATEMENT~~ LIST THAT INCLUDES THE INDIVIDUAL'S NAME AND ADDRESS AND NOTICE TO THE AREA AGENCY, AS DEFINED IN § 10–101 OF THE HUMAN SERVICES ARTICLE.

In Baltimore County the above statement and notice shall also be posted by the collector at least 30 days before the property is first advertised, in a conspicuous place on the property to be sold.

Failure of the collector to mail the statement and notice to the last address of the person last assessed for the property, as it appears on the collector's tax roll, **TO MAIL, IF APPLICABLE, A ~~COPY OF~~ LIST INCLUDING THE NAME AND ADDRESS OF AN INDIVIDUAL RECEIVING THE STATEMENT WHO HAS BEEN LISTED AS AN OWNER OF THE PROPERTY ON THE COLLECTOR'S TAX ROLL FOR AT LEAST THE LAST 25 YEARS AND NOTICE TO THE AREA AGENCY,** or in Baltimore County to post the statement and notice on the property, or to include any taxes in the statement and notice, does not invalidate or otherwise affect any tax, except a tax that is required to be but has not been certified as provided in § 14–810 of this subtitle, or any sale made under this subtitle to enforce payment of taxes, nor prevent nor stay any proceedings under this subtitle, nor affect the title of any purchaser.

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

Approved by the Governor, May 22, 2008.

CHAPTER 669

(House Bill 749)

AN ACT concerning

Unemployment Insurance – Eligibility – Voluntary Quit to Follow a Spouse

FOR the purpose of providing that an individual who voluntarily quits employment to follow a spouse who is a member of the United States military ~~or an employee of a contractor of the United States military~~ under certain circumstances is eligible to receive unemployment insurance benefits; providing for the application of this Act; requiring the Department to provide a certain report to certain committees of the General Assembly on or before a certain date; and generally relating to unemployment insurance law.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8–1001
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

8–1001.

(a) (1) An individual who otherwise is eligible to receive benefits is disqualified from receiving benefits if the Secretary finds that unemployment results from voluntarily leaving work without good cause.

(2) A claimant who is otherwise eligible for benefits from the loss of full–time employment may not be disqualified from the benefits attributable to the full–time employment because the claimant voluntarily quit a part–time employment, if the claimant quit the part–time employment before the loss of the full–time employment.

(b) The Secretary may find that a cause for voluntarily leaving is good cause only if:

(1) the cause is directly attributable to, arising from, or connected with:

(i) the conditions of employment; **[**~~or~~**]**

(ii) the actions of the employing unit; or

(2) an individual:

(i) is laid off from employment through no fault of the individual;

(ii) obtains subsequent employment that pays weekly wages that total less than 50% of the weekly wage earned in the employment from which the individual was laid off; and

(iii) leaves the subsequent employment to attend a training program for which the individual has been chosen that:

1. is offered under the Maryland Workforce Investment Act; or

2. otherwise is approved by the Secretary~~; OR~~

~~(3) CAUSED BY AN INDIVIDUAL LEAVING EMPLOYMENT TO FOLLOW A SPOUSE IF:~~

~~(I) THE SPOUSE:~~

~~1. SERVES IN THE UNITED STATES MILITARY;~~

~~2. IS A CIVILIAN EMPLOYEE OF THE MILITARY OR OF A FEDERAL AGENCY INVOLVED IN MILITARY OPERATIONS; OR~~

~~3. WORKS FOR A CONTRACTOR OF THE UNITED STATES MILITARY; AND~~

~~(II) THE SPOUSE'S EMPLOYER REQUIRES A MANDATORY TRANSFER TO A NEW LOCATION~~.

(c) (1) A circumstance for voluntarily leaving work is valid only if it is:

(i) a substantial cause that is directly attributable to, arising from, or connected with conditions of employment or actions of the employing unit; **[**or**]**

(ii) of such necessitous or compelling nature that the individual has no reasonable alternative other than leaving the employment**; OR**

(III) CAUSED BY THE INDIVIDUAL LEAVING EMPLOYMENT TO FOLLOW A SPOUSE IF:

1. THE SPOUSE:

A. SERVES IN THE UNITED STATES MILITARY; OR

B. IS A CIVILIAN EMPLOYEE OF THE MILITARY OR OF A FEDERAL AGENCY INVOLVED IN MILITARY OPERATIONS; ~~OR~~

~~C. WORKS FOR A CONTRACTOR OF THE UNITED STATES MILITARY;~~ AND

2. THE SPOUSE'S EMPLOYER REQUIRES A MANDATORY TRANSFER TO A NEW LOCATION.

(2) For determination of the application of paragraph (1)(ii) of this subsection to an individual who leaves employment because of the health of the individual or another for whom the individual must care, the individual shall submit a written statement or other documentary evidence of the health problem from a hospital or physician.

(d) In addition to other circumstances for which a disqualification may be imposed, neither good cause nor a valid circumstance exists and a disqualification shall be imposed if an individual leaves employment:

(1) to become self–employed;

(2) to accompany a spouse to a new location or to join a spouse in a new location**, UNLESS THE REQUIREMENTS OF SUBSECTION ~~(B)(3)~~ (C)(1)(III) OF THIS SECTION ARE MET**; or

(3) to attend an educational institution.

(e) A disqualification under this section:

(1) shall begin with the first week for which unemployment is caused by voluntarily leaving without good cause; and

(2) subject to subsection (c) of this section, shall continue:

(i) if a valid circumstance exists, for a total of at least 5 but not more than 10 weeks, as determined by the Secretary based on the seriousness of the circumstance; or

(ii) if a valid circumstance does not exist, until the individual is reemployed and has earned wages for covered employment that equal at least 15 times the weekly benefit amount of the individual.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to individuals who file new claims for unemployment insurance benefits with an effective date on or after June 1, 2008.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before June 1, 2009, the Department of Labor, Licensing, and Regulation shall report to the House Economic Matters Committee and the Senate Finance Committee, in accordance with § 2–1246 of the State Government Article, on the implementation of this Act. The report shall include:

(a) The number of claims filed pursuant to this Act;

(b) The estimated fiscal impact of those claims;

(c) Any directives that govern administration or enforcement of this Act; and

(d) Any issues related to administration or enforcement of this Act.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 670

(House Bill 765)

AN ACT concerning

Public Safety – Correctional Officers – Minimum Age

FOR the purpose of altering a provision of law to require the Secretary of Public Safety and Correctional Services to adopt regulations to govern the policies and management of correctional facilities in the Department of Public Safety and

Correctional Services rather than the Division of Correction; requiring the Secretary to adopt certain regulations establishing a certain minimum age for a correctional officer hired on or after a certain date for employment in the Division of Pretrial Detention and Services or the Patuxent Institution, with a certain exception; and generally relating to correctional facilities.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 2–109
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

2–109.

(a) The Secretary shall adopt regulations for the office of the Secretary.

(b) (1) The Secretary shall review regulations proposed by a unit in the Department.

(2) The Secretary may approve, disapprove, or revise regulations proposed by a unit in the Department.

(c) (1) Except as provided in paragraph (2) of this subsection, the Secretary shall adopt regulations to govern the policies and management of correctional facilities in the **[**Division of Correction**]** **DEPARTMENT** in accordance with Title 10, Subtitle 1 of the State Government Article.

(2) Paragraph (1) of this subsection does not apply to a guideline pertaining to the routine internal management of correctional facilities in the Division of Correction.

(3) (i) Subject to subparagraph (ii) of this paragraph, the Secretary shall adopt regulations that provide for a requirement that**:**

1. a correctional officer hired on or after October 1, 2007, for employment in any unit of the Division of Correction shall be at least 21 years old**; AND**

2. A CORRECTIONAL OFFICER HIRED ON OR AFTER OCTOBER 1, 2008, FOR EMPLOYMENT IN ANY UNIT OF THE DIVISION OF

PRETRIAL DETENTION AND SERVICES OR THE PATUXENT INSTITUTION SHALL BE AT LEAST 21 YEARS OLD.

(ii) The regulations adopted under subparagraph (i) of this paragraph shall exempt any honorably discharged veteran or reserve member of the United States armed forces from the minimum age requirement.

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

Approved by the Governor, May 22, 2008.

CHAPTER 671

(House Bill 770)

AN ACT concerning

Washington County – Purchasing Goods and Services – Public Bidding

FOR the purpose of raising the threshold amount at which the procurement of goods and services in Washington County requires a public bidding process; providing that a certain requirement is subject to certain exceptions; authorizing the County Commissioners of Washington County or an employee of Washington County to enter into certain contracts regardless of a certain threshold amount requiring a public bidding process if a contract meets certain conditions; establishing that a contract of purchase or other expenditure does not need to be awarded to a certain lowest bidder under certain circumstances; and generally relating to the purchasing of goods and services by the County Commissioners of Washington County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Washington County
Section 1–106(a) and (b)(2)
Article 22 – Public Local Laws of Maryland
(2007 Edition)

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

Article 22 – Washington County

1–106.

(a) **(1)** Except as **OTHERWISE** provided in **[**subsection (d) of this section**]** **THIS SUBTITLE**, the County Commissioners or any employee of the county may not enter into any contract of sale or purchase or any contract for any county work, project, or other expenditure to which the county is a party where the amount involved in the contract exceeds **[**$25,000**] $50,000** without advertising for bids at least 1 week before the bid by publication in at least one newspaper that is published in the county or through electronic media.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION AND REGARDLESS OF WHETHER THE TOTAL CUMULATIVE PROCUREMENT EXCEEDS $50,000, IF A CONTRACT IS FOR AN INDETERMINATE AMOUNT OF GOODS OR SERVICES PROCURED ON AN AS–NEEDED BASIS OVER A PERIOD OF TIME, THE COUNTY COMMISSIONERS OR AN EMPLOYEE OF THE COUNTY MAY, WITHOUT ADVERTISING FOR BIDS, ENTER INTO A CONTRACT OF PURCHASE OR A CONTRACT FOR A COUNTY WORK PROJECT OR OTHER EXPENDITURE TO WHICH THE COUNTY IS A PARTY.

(b) (2) A contract of purchase or other expenditure shall be awarded to the lowest responsible bidder who submits a responsive bid**, UNLESS:**

(I) THE CONTRACT OF PURCHASE OR OTHER EXPENDITURE IS FOR THE PROCUREMENT OF PROFESSIONAL OR TECHNICAL SERVICES, INCLUDING ARCHITECTURAL, DESIGN ENGINEERING, LEGAL, MEDICAL, TECHNOLOGICAL, OR TECHNICAL SERVICES; AND

(II) THE COUNTY COMMISSIONERS HAVE AUTHORIZED THE AWARD OF THE CONTRACT ON THE BASIS OF THE QUALIFICATIONS, RESOURCES, AND EXPERIENCE OF THE BIDDER, REGARDLESS OF WHETHER THE BIDDER IS THE LOWEST BIDDER.

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

Approved by the Governor, May 22, 2008.

CHAPTER 672

(House Bill 807)

AN ACT concerning

Task Force to Study Financial Matters Relating to Long–Term Care Facilities

FOR the purpose of establishing a Task Force to Study Financial Matters Relating to Long–Term Care Facilities; providing for the membership and duties of the Task Force; providing for the designation of cochairs of the Task Force; requiring the Department of Legislative Services 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 General Assembly on or before ~~a certain date~~ certain dates; providing for the termination of this Act; and generally relating to the Task Force to study financial matters relating to long–term care facilities.

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

(a) There is a Task Force to Study Financial Matters Relating to Long–Term Care Facilities.

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

(1) ~~Two members~~ *One member* of the Senate of Maryland, ~~including one member of the Senate Finance Committee and one member of the Senate Budget and Taxation Committee,~~ appointed by the President of the Senate;

(2) ~~Two members~~ *One member* of the House of Delegates, ~~including one member from the House Health and Government Operations Committee and one member from the House Appropriations Committee,~~ appointed by the Speaker of the House;

(3) The Attorney General, or the Attorney General's designee;

(4) The Secretary of Aging, or the Secretary's designee;

(5) The Secretary of Health and Mental Hygiene, or the Secretary's designee;

(6) The Secretary of Disabilities, or the Secretary's designee; ~~and~~

(7) The Executive Director of the Maryland Health Care Commission, or the Executive Director's designee; and

~~(7)~~ (8) The following members, appointed by the Governor:

(i) ~~One representative of the Health Facilities Association of Maryland;~~

~~(ii) One representative of Mid–Atlantic Lifespan; and~~

~~(iii) One representative of a continuing care retirement community~~ A practicing Maryland attorney who has expertise in health care and has represented nursing homes in Maryland;

(ii) One representative of each of the following providers:

1. Continuing care retirement community;

2. Independently owned nursing facility;

3. Nonprofit nursing facility;

4. Direct care nursing home workers; and

5. Entity that owns three or more nursing facilities; and

(iii) One representative of each of the following organizations:

1. Health Facilities Association of Maryland;

2. Mid–Atlantic Lifespan;

3. AARP;

4. Alzheimer's Association;

5. United Seniors of Maryland;

6. A financial institution that specializes in health care financing; and

7. Voices for Quality Care.

(c) The ~~President of the Senate and the Speaker of the House of Delegates jointly shall designate a Senator and Delegate each to~~ *Senate member and the House of Delegates member shall* serve as cochairs.

(d) The Department of Legislative Services shall provide staff for the Task Force.

(e) A member of the Task Force may not receive compensation for serving 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 study financial matters relating to long–term care facilities, including:

(1) ~~Disclosure of ownership of long–term care facilities;~~

~~(2) Expanding the definition of controlling interest based on shifts in ownership structures to include all subsidiary operators;~~

~~(3) Developing financial triggers under which long–term care facilities must disclose impending financial difficulty; and~~

~~(4)~~ Whether there are trends in ownership of long–term care facilities in Maryland in comparison to any national trends regarding long–term care facility ownership;

(2) Whether any trends in long–term care facility ownership impact the quality of care offered to residents of long–term care facilities;

(3) Whether the Department of Health and Mental Hygiene should assert limitations or restrictions on certain types of ownership of long–term care facilities;

(4) Whether current laws governing ownership of long–term care facilities should be amended;

(5) Whether long–term care facilities should be required to have liability insurance; and

(6) Funding mechanisms for implementing recommendations of the Task Force that would require a State agency or division to acquire specific resources or expertise to address issues raised by the Task Force.

(g) (1) On or before ~~December 1~~ July 1, 2009, the Task Force shall submit ~~a final~~ an interim report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(2) On or before June 1, 2010, the Task Force shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 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 22, 2008.

CHAPTER 673

(House Bill 815)

AN ACT concerning

Health Insurance – Reimbursement of Health Care Practitioners – Information Provided by Carriers

FOR the purpose of increasing the number of fees on a schedule of certain services billed by certain health care practitioners that certain health insurance carriers must provide health care practitioners in a certain manner; requiring certain health insurance carriers to provide certain health care practitioners with a certain pharmaceutical formulary in a certain manner; and generally relating to reimbursement of health care practitioners by carriers under health insurance.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–113
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

15–113.

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

(2) "Carrier" means:

(i) an insurer;

(ii) a nonprofit health service plan;

(iii) a health maintenance organization;

(iv) a dental plan organization; or

(v) any other person that provides health benefit plans subject to regulation by the State.

(3) "Health care practitioner" means an individual who is licensed, certified, or otherwise authorized under the Health Occupations Article to provide health care services.

(b) A carrier may not reimburse a health care practitioner in an amount less than the sum or rate negotiated in the carrier's provider contract with the health care practitioner.

(c) This section does not prohibit a carrier from providing bonuses or other incentive–based compensation to a health care practitioner if the bonus or other incentive–based compensation:

(1) complies with the provisions of § 19–705.1 of the Health – General Article;

(2) promotes the delivery of medically appropriate care to an enrollee; and

(3) except for the provision of preventive health care services, is not based on the cost, or number of medical services provided, proposed, or recommended by the health care practitioner without reference to the medical appropriateness or necessity of the services.

(d) (1) A carrier shall provide a health care practitioner with a ~~written~~ copy of:

(i) a schedule of applicable fees for up to the **[**twenty**]** **FIFTY** most common services billed by a health care practitioner in that specialty;

(ii) a description of the coding guidelines used by the carrier that are applicable to the services billed by a health care practitioner in that specialty; ~~[~~and~~]~~

(iii) the information about the practitioner and the methodology that the carrier uses to determine whether to:

1. increase or reduce the practitioner's level of reimbursement; and

2. provide a bonus or other incentive–based compensation to the practitioner~~; AND~~

~~(IV) THE PHARMACEUTICAL FORMULARY THAT THE CARRIER USES~~.

(2) ~~A~~ **EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A** carrier shall provide the information required under paragraph (1) of this subsection **IN THE MANNER INDICATED** in each of the following instances:

(i) **IN WRITING** at the time of contract execution;

(ii) **IN WRITING OR ELECTRONICALLY** 30 days prior to a change; and

(iii) **IN WRITING OR ELECTRONICALLY** upon request of the health care practitioner.

(3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A CARRIER SHALL MAKE THE PHARMACEUTICAL FORMULARY THAT THE CARRIER USES AVAILABLE TO A HEALTH CARE PRACTITIONER ELECTRONICALLY.

(4) ON WRITTEN REQUEST OF A HEALTH CARE PRACTITIONER, A CARRIER SHALL PROVIDE THE INFORMATION REQUIRED UNDER PARAGRAPHS (1) AND (3) OF THIS SUBSECTION IN WRITING.

~~(3)~~ **(5)** The Administration may adopt regulations to carry out the provisions of this subsection.

(e) (1) A carrier that compensates health care practitioners wholly or partly on a capitated basis may not retain any capitated fee attributable to an enrollee or covered person during an enrollee's or covered person's contract year.

(2) A carrier is in compliance with paragraph (1) of this subsection if, within 45 days after an enrollee or covered person chooses or obtains health care from a health care practitioner, the carrier pays to the health care practitioner all accrued

but unpaid capitated fees attributable to that enrollee or person that the health care practitioner would have received had the enrollee or person chosen the health care practitioner at the beginning of the enrollee's or covered person's contract year.

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

Approved by the Governor, May 22, 2008.

CHAPTER 674

(House Bill 902)

AN ACT concerning

Carroll County – Alcoholic Beverages – Sunday Sales

FOR the purpose of authorizing holders of certain alcoholic beverages licenses in Carroll County to sell certain alcoholic beverages during certain hours on Sundays; extending the hours of sale on Sunday for holders of certain other alcoholic beverages licenses; making certain stylistic changes; and generally relating to alcoholic beverages in Carroll County.

BY adding to
Article 2B – Alcoholic Beverages
Section 11–302(j)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 11–303(a)(2), 5–401(h), and 11–507
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

11–302.

(J) IN CARROLL COUNTY, THE PRIVILEGES CONFERRED BY A CLASS A BEER AND LIGHT WINE LICENSE MAY BE EXERCISED FROM ~~NOON TO MIDNIGHT~~ 11 A.M. TO 6 P.M. ON SUNDAYS.

11–303.

(a) (2) The provisions of paragraph (1) of this subsection are superseded as follows:

(i) In Annapolis the hours may be fixed by the Mayor, Counselor, and Aldermen of the City of Annapolis;

(II) IN CARROLL COUNTY, THE PRIVILEGES CONFERRED BY A CLASS A BEER, WINE AND LIQUOR LICENSE MAY BE EXERCISED FROM 11 A.M. TO ~~11 P.M.~~ 6 P.M. ON SUNDAY;

[(ii)**] (III)** In Frederick County holders of a Class A beer, wine and liquor (off–sale) license may sell beer, wine and liquor for off–premises consumption on Sundays from 1 p.m. to midnight if they hold a special Sunday opening permit;

[(iii)**] (IV)** In Kent County the provisions of § 11–515 of this article apply;

[(iv)**] (V)** In St. Mary's County holders of a Class A–1 license may sell on Sunday; and

[(v)**] (VI)** In Talbot County the hours are from 8 a.m. to 12 midnight.

5–401.

(h) **(1)** **[**In Carroll County the**] THIS SUBSECTION APPLIES ONLY TO CARROLL COUNTY.**

(2) THE PRIVILEGES CONFERRED BY A CLASS D BEER AND LIGHT WINE LICENSE MAY BE EXERCISED FROM 11 A.M. TO 11 P.M. ON SUNDAY.

(3) THE annual license fee is $160.

11–507.

(a) This section applies only in Carroll County.

(b) (1) The following restrictions, limitations, and regulations apply.

(2) (i) Holders of "on–sale" licenses authorized under this article may sell, offer for sale, or dispense alcoholic beverages **[**during the hours of**]** **BETWEEN** 8 a.m. and 1 a.m. the following day and no other hours. Holders of these licenses may not sell, offer to sell or dispense any alcoholic beverages on Sunday except:

1. When the holder of that license is open for business on Saturday at midnight the licensee may remain open until 1 a.m. the Sunday immediately following;

2. Holders of Class C and H beer, wine and liquor licenses may reopen and may sell alcoholic beverages on Sundays between **[**the hours of 12 noon**]** **11 A.M.** and 1 a.m. the following Monday;

3. Holders of Class B beer, wine and liquor licenses may reopen and may sell alcoholic beverages on Sundays between **[**the hours of**]** 11 a.m. and 1 a.m. the following Monday; and

4. Holders of Class B beer and light wine, 7–day licenses may conduct "on–sales" of alcoholic beverages on Sundays between **[**the hours of 12 noon**]** **11 A.M.** and 1 a.m. the following Monday.

(ii) In all cases in which a closing time is indicated in this subsection a licensee may not permit the drinking of any alcoholic beverage on the premises 15 minutes following the closing time indicated.

(3) (i) Holders of "off–sale" licenses under this article **[**shall only**]** **MAY** sell, offer for sale, or dispense the beverages defined in this article between **[**the hours of**]** 8 a.m. and 11 p.m. on Monday through Saturday, and **[**at no other time**]** **BETWEEN 11 A.M. AND 11 P.M. ON SUNDAY**.

(ii) Holders of Class B beer and light wine, 7–day licenses may conduct "off–sales" of alcoholic beverages only between **[**the hours of**]** 8 a.m. and 11 p.m. on Monday through Saturday, and **[**at no other time**]** **BETWEEN 11 A.M. AND 11 P.M. ON SUNDAY**.

(4) A Class 4 manufacturer's licensee may sell wine on Sundays, in a sealed package or container which may not be opened or the contents consumed on the licensee's premises, subject to the other restrictions contained in § 2–205 of this article.

(5) A Class A wine licensee may sell wine on Sundays.

(6) The hours established in this subtitle for the sale of alcoholic beverages in Carroll County are hereby declared to be in accordance with Eastern Standard Time when such time is effective and the hours are declared to be in accordance with daylight time when such time is effective.

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

Approved by the Governor, May 22, 2008.

CHAPTER 675

(House Bill 942)

AN ACT concerning

Health Disparities – Institutions of Higher Education – Report

FOR the purpose of requiring ~~colleges and universities~~ universities, colleges, and programs of medicine, nursing, pharmacy, and dentistry in the State to submit a certain report to certain committees of the General Assembly and to the Office of Minority Health and Health Disparities on or before a certain date; and generally relating to ~~universities and colleges~~ universities, colleges, and programs of medicine, nursing, pharmacy, and dentistry and a certain report.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 20–1001(a) and (d) and 20–1004(15)
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

20–1001.

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

(d) "Office" means the Maryland Office of Minority Health and Health Disparities established under § 20–1002 of this subtitle.

20–1004.

The Office shall:

(15) Work collaboratively with universities and colleges of medicine, nursing, pharmacy, and dentistry in this State and other health care professional training programs to develop courses with cultural competency, sensitivity, and health literacy, that are designed to address the problem of racial and ethnic disparities in health care access, utilization, treatment decisions, quality, and outcomes;

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2008, ~~universities and colleges~~ universities, colleges, and higher education programs of medicine, nursing, pharmacy, and dentistry in the State, shall report to the Senate Finance Committee, *the Senate Education, Health, and Environmental Affairs Committee,* the House Health and Government Operations Committee, and the Office of Minority Health and Health Disparities, in accordance with § 2–1246 of the State Government Article, on the courses that have been developed independently by the ~~colleges and universities that comply with~~ universities, colleges, and higher education programs or through a collaboration with the Office of Minority Health and Health Disparities under § 20–1004(15) of the Health – General Article.

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

Approved by the Governor, May 22, 2008.

CHAPTER 676

(House Bill 1013)

AN ACT concerning

Prince George's County – Alcoholic Beverages – Class BH (Hotel) Licenses and Class B–DD (Development District) ~~Alcoholic Beverages~~ Licenses – Greenbelt Station

PG 310–08

FOR the purpose of altering the annual license fee for a BH (Hotel) license; altering the hours for licensed premises with a BH license to sell alcoholic beverages on Sunday; repealing the limitation on the number of BH licenses that an individual, partnership, or corporation may hold; repealing the limitation on the number of BH licenses that the Board of License Commissioners may issue; exempting BH licenses from certain limitations on granting licenses within certain distances of certain schools or churches; altering the areas in Prince George's County in which a Class B–DD (Development District) 7–day beer, wine and liquor license for on–sale consumption may be issued; specifying that a Class B–DD license may be issued under certain conditions for restaurants located within Greenbelt Station; clarifying the conditions for the issuance of a certain license; making stylistic changes; and generally relating to alcoholic beverages licenses in Prince George's County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–201(r)(1)(i), (4)(i), and (15)(i), (ii), (iii), (v), (vii), and (viii) and 9–217(a) and (e)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section ~~6–201(r)(15)(iv)~~ 6–201(r)(4)(ii), (iv), (vi), and (vii) and (15)(iv), (vi), and (ix), 9–201(a), and ~~9–217(f)(7)~~ 9–217(b)(15), (e)(5), and (f)(7)
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

6–201.

(r) (1) (i) This subsection applies only in Prince George's County.

(4) (i) There is a special Class B license known as Class BH, which may be issued only to hotels.

(ii) The annual license fee is **[**$3,850**] $5,000**.

(iv) Class BH licenses are subject to all other provisions pertaining to Class B beer, wine and liquor licenses, except that any restrictions against the sale of alcoholic beverages on Sunday appearing in § 11–517 of this article

and elsewhere in this article do not apply; and any alcoholic beverages may not be sold, served or consumed on the licensed premises on Sunday after 2 a.m. and before **[**12 noon**] 10 A.M**.

(vi) **[**Notwithstanding the provisions of § 9–102 of this article or other provisions of this article, an individual, partnership, or corporation may not hold or have an interest in more than four Class BH licenses.

(vii)**]** The Board shall adopt regulations to establish compliance with the provisions of this paragraph.

(15) (i) There is a Class B–DD (Development District) 7–day beer, wine and liquor license.

(ii) Only on–sale consumption is permitted.

(iii) The annual license fee is $2,750.

(iv) A Class B–DD license may be issued only for a restaurant within **[**an**] ANY SINGLE** area designated in § 9–217(f)(7) of this article.

(v) Ownership of a Class B–DD license may be transferred from one license holder to another if the license is to be used at the same location but may not be transferred for use at a different location.

(vi) 1. The Board of License Commissioners shall determine the number of Class B–DD licenses to be issued, the persons to whom Class B–DD licenses are to be issued, and the number of licenses each recipient may hold.

2. Notwithstanding subsubparagraph 1 of this subparagraph, the Board of License Commissioners may not issue a Class B–DD license to any restaurant located within **[**the**] A SINGLE** area described in § 9–217(f)(7) of this article, if, at the time of issuance:

A. There are four restaurants operating with a Class B–DD license within that area; or

B. The applicant for that license is the license holder of three Class B–DD licenses **[**for restaurants operating within that area**]**.

(vii) Notwithstanding any other provision of this article, a license holder may hold a Class B–DD license in addition to any other license issued under this article.

(viii) A Class B–DD license may not be issued to a restaurant located within a chain store, supermarket, discount house, drug store, or convenience store.

(ix) 1. A restaurant in **[**the Capital Plaza commercial**]** **A SINGLE** area described in § 9–217(f)(7) of this article is not eligible for a Class B–DD license unless:

A. It satisfies all of the requirements set forth in paragraph (1)(ii)3 of this subsection; and

B. Its average daily receipts from the sale of food and nonalcoholic beverages exceed its average daily receipts from the sale of alcoholic beverages.

2. The Board of License Commissioners may revoke a license in order to enforce the provisions of this subparagraph.

3. A license holder for a restaurant described in subsubparagraph 1 of this subparagraph shall submit a monthly report to the Board of License Commissioners of the restaurant's average daily receipts from the sale of food and nonalcoholic beverages and the restaurant's average daily receipts from the sale of alcoholic beverages to verify that the restaurant has met the requirements of subsubparagraph 1 of this subparagraph.

9–102.

(a) No more than one license provided by this article, except by way of renewal or as otherwise provided in this section, shall be issued in any county or Baltimore City, to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company, in Baltimore City or any county of the State, and no more than one license shall be issued for the same premises except as provided in §§ 2–201 through 2–208, 2–301, and 6–701 **OF THIS ARTICLE**, and nothing herein shall be construed to apply to **[**§ 6–201(r)(15)**]** **§ 6–201(R)(4) AND (15)**, § 7–101(b) and (c), § 8–202(g)(2)(ii) and (iii), § 8–508, or § 12–202 of this article.

9–217.

(a) This section applies only in Prince George's County.

(b) The number of licenses of each class of alcoholic beverage licenses may not exceed the following maximum amounts:

(15) **[**Beer, wine and liquor license, Class BH..... 25**]** **RESERVED.**

(e) (1) A license may not be granted to sell alcoholic beverages in any building located within 1,000 feet of a school building, or within 500 feet of a church. The 1,000 feet, or the 500 feet, as the case may be, is to be measured from the front door or main entrance, whichever is nearest the street abutting the premises, of the proposed licensed establishment along the nearest usual pedestrian route to the door closest to the licensed premises which is used as an entrance or exit to any school, or to the main entrance of the church building.

(5) This subsection does not apply to any license issued under § 6–201(r)(2), **(4),** (5), or (15) or § 7–101 of this article.

(f) (7) Subject to § 6–201(r)(15) of this article, the Board of License Commissioners may **[**issue up**] ISSUE:**

(I) UP to four Class B–DD **[**(development district)**] (DEVELOPMENT DISTRICT)** licenses for restaurants located within the Capital Plaza commercial area, consisting of commercial properties within the area bounded by the Baltimore–Washington Parkway on the west and northwest, Maryland Route 450 on the south, and Cooper Lane on the east and northeast**; AND**

(II) UP TO FOUR CLASS B–DD (DEVELOPMENT DISTRICT) LICENSES FOR RESTAURANTS LOCATED WITHIN THE AREA OF GREENBELT STATION, LOCATED INSIDE THE CAPITAL BELTWAY AND ADJACENT TO THE GREENBELT METRO STATION.

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

Approved by the Governor, May 22, 2008.

CHAPTER 677

(House Bill 1016)

AN ACT concerning

Prince George's County – Board of License Commissioners – Compensation of Board's Attorney

PG 330–08

FOR the purpose of clarifying a provision of law relating to the payment of certain legal fees to the attorney for the Prince George's County Board of License Commissioners for representing the Board in court; requiring the County Council of Prince George's County to pay the attorney for the Board up to a certain amount in a certain fiscal year under certain circumstances; providing that the payment made under this Act is in addition to the annual salary of the attorney for the Board as provided by law; stating a certain intent; providing for the termination of a certain provision of this Act; and generally relating to compensation for the attorney to the Prince George's County Board of License Commissioners.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 15–109(r)(1) and (6)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–109(r)(5)
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

15–109.

(r) (1) This subsection applies only in Prince George's County.

(5) (i) The attorney for the Board shall be appointed by, and serve at the will of, the Board.

(ii) The attorney shall receive an annual salary of $15,500.

(iii) In addition to the annual salary designated in subparagraph (ii) of this paragraph, the County Council shall pay to the attorney for the Board:

1. All court costs and expenses incurred therein by the attorney to the Board; and

2. Legal fees that the Board approves for representing the Board in court**[**, including fees approved by the Board but not paid in prior fiscal years**]**.

(iv) The Board shall establish the fee rate for representing the Board in court.

(6) (i) The County Council shall pay for all expenses of the Board of License Commissioners upon the submission of an annual budget.

(ii) In that budget, the salary of the members of the Board, the salary of the attorney for the Board, and any additional compensation for legal fees for the attorney for the Board, shall be approved as hereinbefore set forth.

(iii) All other expenses, including, but not restricted to, the compensation of the inspectors, the salary of the administrator as limited herein, compensation of other personnel, who shall be qualified and employed under the county merit system, printing, supplies, and office space, shall be at the discretion of the County Council.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(1) for fiscal year 2008 only, the County Council of Prince George's County, on the submission of a request of the Board of License Commissioners of Prince George's County, shall pay to the attorney for the Board of License Commissioners up to $53,500, as requested by the Board;

(2) the payment by the County Council of Prince George's County made in accordance with paragraph (1) of this section is in addition to the annual salary of $15,500 to be paid to the attorney for the Board of License Commissioners for fiscal year 2008, as provided under Article 2B, § 15–109(r)(5)(ii) of the Annotated Code of Maryland; and

(3) it is the intent of the General Assembly that the additional payments to the attorney for the Board of License Commissioners provided for under this section are prospective in effect and may not be construed to be retroactive payments to the attorney for the Board of License Commissioners.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. Section 2 of this Act shall remain effective for a period of 2 years and 1 month and, at the end of June 30, 2010, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2008.

CHAPTER 678

(House Bill 1030)

AN ACT concerning

Prince George's County – State's Attorney's Office – Composition and Salaries

PG 304–08

FOR the purpose of ~~repealing the method of determining~~ specifying the amount of the annual salary of the State's Attorney for Prince George's County ~~beginning with a~~ for ~~certain calendar year~~ years~~; specifying that the annual salary of the State's Attorney beginning with a certain calendar year shall equal the salary of a circuit court judge; providing that the County Executive and County Council may set the salary of the State's Attorney at a higher amount by enacting an ordinance before a certain deadline~~; repealing the maximum number of and maximum salary for deputy and assistant State's Attorneys for Prince George's County; specifying that the State's Attorney may appoint the number of deputy and assistant State's Attorneys that are authorized by law by the County Executive and County Council; specifying that the maximum salary for deputy and assistant State's Attorneys shall be as authorized by law by the County Executive and County Council; repealing the maximum annual salary of a certain administrative assistant to the State's Attorney; specifying that the maximum salary of a certain administrative assistant shall be as authorized by law by the County Executive and County Council; making stylistic changes; providing that this Act does not apply to the salary or compensation of the incumbent State's Attorney for Prince George's County; providing for the construction of this Act; and generally relating to the composition of and salaries in the office of the State's Attorney for Prince George's County.

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 15–417(a)
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)

BY repealing and reenacting, with amendments,
~~Article 10 – Legal Officials~~
~~Section 40(q)(1) through (4) and (7)~~
~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2007 Supplement)~~
Article – Criminal Procedure
Section 15–417(b), (c), and (d)(1)
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 10 – Legal Officials**~~

~~40.~~

~~(q)~~ ~~In Prince George's County:~~

~~(1)~~ ~~(i)~~ ~~The State's Attorney's annual salary shall be~~**[**~~:~~

~~1.~~ ~~$107,775 for calendar year 1999;~~

~~2.~~ ~~$107,775 for calendar year 2000;~~

~~3.~~ ~~$111,000 for calendar year 2001;~~

~~4.~~ ~~$114,300 for calendar year 2002;~~

~~5.~~ ~~$119,900 for calendar year 2003;~~

~~6.~~ ~~$119,900 for calendar year 2004; and~~

~~7.~~**]** ~~$125,500 for calendar year 2005 and for each subsequent calendar year~~ ~~**THROUGH CALENDAR YEAR 2010**~~.

~~(ii)~~ ~~**1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, BEGINNING IN CALENDAR YEAR 2011 AND FOR EACH SUBSEQUENT CALENDAR YEAR, THE STATE'S ATTORNEY'S ANNUAL SALARY SHALL EQUAL THE SALARY OF A CIRCUIT COURT JUDGE.**~~

~~**2. BY ENACTING AN ORDINANCE BEFORE THE ELECTION FILING DEADLINE FOR THE NEXT TERM OF OFFICE FOR THE STATE'S ATTORNEY, THE COUNTY COUNCIL MAY SET THE SALARY AT AN AMOUNT EXCEEDING THE SALARY OF A CIRCUIT COURT JUDGE.**~~

~~**(III)** The State's Attorney may not, except in connection with duties as State's Attorney, appear as counsel or represent any party professionally before any court, board, commission, or agency of this State or any county or political subdivision of this State.~~

~~**(IV)** The State's Attorney may not engage in the private practice of law but may participate in the pro bono program administered by the Prince George's County Bar Foundation.~~

~~(2) **(I)** The State's Attorney may appoint **[**two**]** **THE NUMBER OF** deputy State's Attorneys and **[**80**]** assistant State's Attorneys **AS AUTHORIZED BY LAW BY THE COUNTY COUNCIL.**~~

~~**(II)** The deputy State's Attorneys and assistant State's Attorneys serve at the pleasure of the State's Attorney.~~

~~(3) The annual salary of the deputy State's Attorneys shall be within the discretion of the State's Attorney, but may not exceed **[**$115,000. The salaries are to be paid by the county on the certification of the State's Attorney to the County Executive and**]** **A MAXIMUM SALARY AUTHORIZED BY LAW BY THE** County Council.~~

~~(4) The annual salary of the assistant State's Attorneys shall be within the discretion of the State's Attorney, but may not exceed **[**$107,000. The salaries are to be paid by the county on the certification of the State's Attorney to the County Executive and**]** **A MAXIMUM SALARY AUTHORIZED BY LAW BY THE** County Council.~~

~~(7) **(I)** The State's Attorney may appoint an administrative assistant to serve at the pleasure of the State's Attorney.~~

~~**(II)** The annual salary of the administrative assistant shall be within the discretion of the State's Attorney, but may not exceed **[**$64,000. The salary is to be paid by the county on the certification of the State's Attorney to the County Executive and**]** **A MAXIMUM SALARY AUTHORIZED BY LAW BY THE** County Council.~~

~~**(III)** The administrative assistant is not subject to the rules and regulations of the county merit system, but shall be entitled to all benefits provided for county employees under the merit system.~~

Article – Criminal Procedure

15–417.

(a) This section applies only in Prince George's County.

(b) (1) ~~(I)~~ The State's Attorney's salary is ~~$125,500 FOR CALENDAR YEAR 2008 AND FOR EACH SUBSEQUENT CALENDAR YEAR THROUGH CALENDAR YEAR 2010.~~

~~(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, BEGINNING IN CALENDAR YEAR 2011 AND FOR EACH SUBSEQUENT CALENDAR YEAR, THE STATE'S ATTORNEY'S ANNUAL SALARY SHALL EQUAL THE SALARY OF A CIRCUIT COURT JUDGE.~~

~~(III) BY ENACTING AN ORDINANCE BEFORE THE ELECTION FILING DEADLINE FOR THE NEXT TERM OF OFFICE FOR THE STATE'S ATTORNEY, THE COUNTY EXECUTIVE AND COUNTY COUNCIL MAY SET THE SALARY AT AN AMOUNT EXCEEDING THE SALARY OF A CIRCUIT COURT JUDGE~~ ***$150,000.***

(2) The State's Attorney's salary and expenses shall be paid in equal semimonthly installments.

(c) (1) The State's Attorney may appoint **[**two**]** **THE NUMBER OF** deputy State's Attorneys and **[**80**]** assistant State's Attorneys **AS AUTHORIZED BY LAW BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL**.

(2) The deputy and assistant State's Attorneys serve at the pleasure of the State's Attorney.

(3) The salary of a deputy State's Attorney shall be within the discretion of the State's Attorney but may not exceed **[**$115,000**]** **A MAXIMUM SALARY AUTHORIZED BY LAW BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL**.

(4) The salary of an assistant State's Attorney shall be within the discretion of the State's Attorney but may not exceed **[**$107,000**]** **A MAXIMUM SALARY AUTHORIZED BY LAW BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL**.

(5) The county shall pay the salaries of the deputy and assistant State's Attorneys**[**:

(i) on certification of the State's Attorney to the County Executive and County Council; and

(ii)**]** in equal semimonthly installments.

(6) The deputy and assistant State's Attorneys:

(i) shall perform the work directed by the State's Attorney or as authorized by law; and

(ii) under the direction of the State's Attorney, may present cases to the grand jury, sign indictments and criminal informations, and perform other necessary duties relating to the grand jury and the operation of the office.

(d) (1) (i) The State's Attorney may appoint an administrative assistant who serves at the pleasure of the State's Attorney.

(ii) The salary of the administrative assistant shall be within the discretion of the State's Attorney but may not exceed **[**$64,000**]** **A MAXIMUM SALARY AUTHORIZED BY LAW BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL**.

(iii) **[**The county shall pay the salary of the administrative assistant on certification of the State's Attorney to the County Executive and County Council.

(iv)**]** The administrative assistant is not subject to the regulations of the county merit system but is entitled to the same benefits as a county employee under the merit system.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the State's Attorney for Prince George's County in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the State's Attorney for Prince George's County shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be construed to authorize a different maximum salary than $115,000 for a deputy State's Attorney, $107,000 for an assistant State's Attorney, or $64,000 for an administrative assistant to the State's Attorney unless and until a different maximum salary for the office of deputy State's Attorney or assistant State's Attorney or the administrative assistant to the State's Attorney is authorized by law by the Prince George's County Executive and County Council. This Act may not be construed to authorize a different maximum number of deputy or assistant State's Attorneys than two deputy State's Attorneys or 80 assistant State's Attorneys unless and until a different maximum number of deputy or assistant State's Attorneys is authorized by law by the Prince George's County Executive and County Council.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 679

(House Bill 1038)

AN ACT concerning

Prince George's County – Master for Juvenile Causes – Authority

PG 303–08

FOR the purpose of repealing a certain restriction that ~~limits the authority of~~ prohibits judges of the Circuit Court for Prince George's County ~~to appoint or continue~~ from appointing or continuing the appointment of masters for juvenile causes ~~only to conduct~~ except for the purpose of conducting certain hearings; repealing a provision of law that prohibits a master in Prince George's County from conducting ~~an~~ a certain adjudicatory ~~or~~ hearing, a disposition hearing, or a peace order proceeding in a delinquency case; and generally relating to masters for juvenile causes in Prince George's County.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–807
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

3–807.

(a) (1) The judges of a circuit court may not appoint a master for juvenile causes arising under this subtitle and Subtitle 8A of this title unless the appointment and the appointee are approved by the Chief Judge of the Court of Appeals.

(2) The standards expressed in § 3–806(b) of this subtitle, with respect to the assignment of judges, are applicable to the appointment of masters.

(3) A master, at the time of appointment and at all times while serving as a master, shall be a member in good standing of the Maryland Bar.

[(4) (i) In Prince George's County, the judges of the circuit court may not appoint or continue the appointment of masters for juvenile causes, except for the purpose of conducting:

1. Probable cause hearings, detention hearings, arraignments, acceptances of admissions, and restitution hearings in delinquency cases under Subtitle 8A of this title;

2. Shelter care, adjudicatory, and disposition hearings in CINA cases under this subtitle; and

3. Voluntary placement hearings under this subtitle.

(ii) A master in Prince George's County may not conduct:

1. An adjudicatory hearing in delinquency cases under Subtitle 8A of this title, unless the adjudicatory hearing is limited to the acceptance of an admission;

2. A disposition hearing in delinquency cases under Subtitle 8A of this title; or

3. A peace order proceeding under Subtitle 8A of this title.**]**

(b) (1) A master appointed for juvenile causes may conduct hearings.

(2) Each proceeding shall be recorded, and the master shall make findings of fact, conclusions of law, and recommendations as to an appropriate order.

(3) The proposals and recommendations shall be in writing, and, within 10 days after the hearing, the original shall be filed with the court and a copy served on each party to the proceeding.

(c) (1) Any party, in accordance with the Maryland Rules, may file written exceptions to any or all of the master's findings, conclusions, and recommendations, but shall specify those items to which the party objects.

(2) The party who files exceptions may elect a hearing de novo or a hearing on the record before the court unless the party is the State in proceedings involving juvenile delinquency under Subtitle 8A of this title.

(3) If the State is the excepting party in proceedings involving juvenile delinquency, the hearing shall be on the record, supplemented by additional evidence as the judge considers relevant and to which the parties raise no objection.

(4) In either case, the hearing shall be limited to those matters to which exceptions have been taken.

(d) (1) The proposals and recommendations of a master for juvenile causes do not constitute orders or final action of the court.

(2) The proposals and recommendations shall be promptly reviewed by the court, and, in the absence of timely and proper exceptions, they may be adopted by the court and appropriate orders entered based on them.

(3) Detention, community detention, or shelter care may be ordered by a master pending court review of the master's findings, conclusions, and recommendations.

(e) If the court, on its own motion and in the absence of timely and proper exceptions, decides not to adopt the master's findings, conclusions, and recommendations, or any of them, the court shall conduct a de novo hearing, unless all parties and the court agree to a hearing on the record.

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

Approved by the Governor, May 22, 2008.

CHAPTER 680

(House Bill 1039)

AN ACT concerning

Prince George's County Hospital Authority

PG 403–08

~~FOR the purpose of establishing the Prince George's County Hospital Authority; providing for the mission of the Authority; providing that the Authority is an instrumentality of the State and a public corporation; providing that the exercise by the Authority of certain powers is the performance of an essential~~

~~public function; requiring the Authority to be subject to the State Open Meetings Law; exempting the Authority from certain provisions of State law; providing that the employees of the Authority are not State personnel as defined in a certain provision of State law; authorizing the Authority to take certain actions to fulfill its mission; requiring Prince George's County to automatically transfer a certain title under certain circumstances; requiring the Authority to allow the Secretary of Health and Mental Hygiene access to certain records, notes, contracts, and plans; requiring the county to provide the Authority with access to certain books and records; requiring the Authority to submit certain reports to the Governor and the General Assembly at certain times; requiring that the Authority be governed by a Board of Directors; providing for the membership of the Board; providing for the removal of Board members under certain circumstances; establishing certain duties of the Board; providing that a member of the Board is entitled to reimbursement for certain expenses; providing that an officer or director of the Authority is not liable personally for actions taken as an officer or director under certain circumstances; providing that Board members are subject to the provisions of the State ethics laws; specifying the terms of the initial members of the Board; requiring the Authority to enter into certain negotiations; providing that a certain agreement is contingent on the fulfillment of certain contingencies; providing for the powers and duties of the Authority; requiring the Authority to submit certain information to the State Treasurer, the Secretary of Health and Mental Hygiene, certain legislative committees, the County Executive, and the County Council within a certain time period; providing that a certain health care entity shall be recognized as a merged asset system under certain provisions of law; authorizing the Authority to issue revenue bonds for a certain purpose; establishing the rights and duties associated with revenue bonding authority; requiring Prince George's County to pay as a grant to the Authority certain amounts on or before a certain date and in certain fiscal years; authorizing the Authority to use the amounts paid by the county for certain purposes; authorizing the State under certain circumstances to redirect to the Authority certain State funds otherwise required to be paid to the county; requiring the Governor to include certain appropriations in the annual State budget bill for certain fiscal years for the operating costs of the Authority; requiring the Governor to include certain amounts in the annual State capital budget for the capital costs of the Authority; stating the intent of the General Assembly regarding certain State funding for the support of the Prince George's Hospital Center; defining certain terms; requiring the Department of Health and Mental Hygiene and the Department of Business and Economic Development to provide certain staffing and receive certain reimbursement; stating the intent of the General Assembly that State funding for certain purposes will not be affected by certain State support for the Prince George's County Hospital Authority; making this Act an emergency measure; and generally relating to the establishment of the Prince George's County Hospital Authority.~~

FOR the purpose of establishing the Prince George's County Hospital Authority; providing for the mission of the Authority; providing that the Authority is an instrumentality of the State and a public corporation; providing that the exercise by the Authority of certain powers is the performance of an essential public function; requiring the Authority to be subject to the State Open Meetings Law and the State Tort Claims Act; exempting the Authority from certain provisions of State law; providing that the employees of the Authority are not State personnel as defined in a certain provision of State law; *requiring the Authority to publish certain notices in certain newspapers of record;* authorizing the Authority to take certain actions to fulfill its mission; requiring the Authority to allow the Secretary of Health and Mental Hygiene and Prince George's County access to certain records, notes, contracts, and plans; requiring the County and Dimensions Health Corporation to provide certain persons access to certain books and records; requiring the Authority to submit a certain request for proposals and certain reports to the Governor, the Secretary, the State Treasurer, the Prince George's County Executive, the Prince George's County Council, the President of the Senate, the Speaker of the House of Delegates, and certain committees of the General Assembly at certain times; providing for the powers, duties, and funding of the Authority; ~~requiring the Authority to be governed by a Board of Directors;~~ providing for the membership of the ~~Board~~ *Authority*; providing for the removal of ~~Board~~ *Authority* members under certain circumstances; ~~establishing certain duties of the Board~~ *specifying the membership of the Authority that constitutes a quorum*; providing that a member of the ~~Board~~ *Authority* is entitled to reimbursement for certain expenses; providing that a member of the ~~Board~~ *Authority* is not liable personally for actions taken as a member under certain circumstances; providing that ~~Board~~ *Authority* members are subject to the provisions of the State ethics laws; specifying the terms of the members of the ~~Board~~ *Authority*; requiring the Governor, the County Executive, and the County Council to appoint certain representatives and reach certain agreements; providing that certain obligations shall be null and void under certain circumstances; requiring the Authority to establish and implement a certain bidding process for the transfer of a certain health care system to a new owner or owners; *establishing certain requirements a new owner or owners must meet;* requiring the Authority to establish certain time frames and deadlines for the bidding and selection processes; requiring the Authority to implement and adhere to a certain time frame and certain deadlines and requirements; providing that a certain agreement may be made contingent on certain conditions and shall include a certain plan; relieving the State and the County of their respective obligations under certain circumstances; requiring the Authority to develop certain plans; requiring the Authority to submit certain information to certain persons under certain circumstances; providing that a certain health care entity shall be recognized as a merged asset system under certain provisions of law; providing for the transfer of certain property to a new owner of a certain health care

system under certain circumstances; providing for certain compensation to the County for a certain acquisition under certain circumstances; authorizing the Governor to include a certain appropriation in the annual State budget bill for a certain fiscal year for the support of a certain health care system; requiring the Governor to include a certain appropriation in the annual State budget bill for a certain fiscal year for the support of a certain health care system under certain circumstances; requiring Prince George's County to make certain appropriations for the support of a certain health care system for certain fiscal years under certain circumstances; stating the intent of the General Assembly regarding certain State *and County* funding for the support of the Prince George's Hospital Center *and regarding the expenditure of funds appropriated to the Authority for operating expenses*; authorizing the transfer of certain funds from the Dedicated Purpose Account under certain circumstances; defining certain terms; requiring the Department of Health and Mental Hygiene and the Department of Business and Economic Development to provide certain staffing and receive certain reimbursement; stating the intent of the General Assembly that State funding for certain purposes will not be affected by certain State support for the Prince George's County Hospital Authority; making this Act an emergency measure; providing for the termination of this Act; and generally relating to the establishment of the Prince George's County Hospital Authority.

BY adding to
Article – Health – General
Section 24–1601 through ~~24–1609~~ 24–1608 to be under the new subtitle "Subtitle 16. Prince George's County Hospital 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 – Health – General

SUBTITLE 16. PRINCE GEORGE'S COUNTY HOSPITAL AUTHORITY.

~~**24–1601.**~~

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

~~**(B) "AUTHORITY" MEANS THE PRINCE GEORGE'S COUNTY HOSPITAL AUTHORITY.**~~

~~**(C) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.**~~

~~(D) "COUNTY" MEANS PRINCE GEORGE'S COUNTY.~~

~~(E) (1) "DIMENSIONS" MEANS DIMENSIONS HEALTH CORPORATION.~~

~~(2) "DIMENSIONS" INCLUDES ANY SUCCESSOR, ASSIGNEE, SUBSIDIARY, OR AFFILIATE OF DIMENSIONS HEALTH CORPORATION THAT OPERATES OR PROVIDES SERVICES AT:~~

~~(I) PRINCE GEORGE'S HOSPITAL CENTER;~~

~~(II) LAUREL REGIONAL HOSPITAL;~~

~~(III) BOWIE HEALTH CAMPUS;~~

~~(IV) GLADYS SPELLMAN SPECIALTY HOSPITAL AND NURSING CENTER; OR~~

~~(V) LARKIN CHASE NURSING AND REHABILITATION CENTER.~~

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

~~24–1602.~~

~~(A) THERE IS A BODY CORPORATE AND POLITIC KNOWN AS THE PRINCE GEORGE'S COUNTY HOSPITAL AUTHORITY.~~

~~(B) THE MISSION OF THE AUTHORITY IS TO:~~

~~(1) DEVELOP A LONG–TERM STRATEGY FOR DELIVERING HOSPITAL SERVICES AND RELATED HEALTH CARE IN THE COUNTY; AND~~

~~(2) PUT IN PLACE ORGANIZATIONAL AND OPERATING STRUCTURES THAT ARE:~~

~~(I) SELF–SUSTAINING; AND~~

~~(II) CONSISTENT WITH THE LONG–TERM STRATEGY, CAPABLE OF:~~

~~1. PROVIDING HIGH QUALITY, COMMUNITY–ORIENTED HEALTH CARE TO ALL COUNTY RESIDENTS; AND~~

~~2. MEETING THE SHORT–TERM AND LONG–TERM HEALTH CARE NEEDS OF COUNTY RESIDENTS.~~

~~(C) THE AUTHORITY IS AN INSTRUMENTALITY OF THE STATE AND A PUBLIC CORPORATION BY THAT NAME, STYLE, AND TITLE.~~

~~(D) (1) THE EXERCISE BY THE AUTHORITY OF THE POWERS CONFERRED BY THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION.~~

~~(2) THE AUTHORITY SHALL BE SUBJECT TO THE STATE OPEN MEETINGS LAW, TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE.~~

~~(3) THE AUTHORITY SHALL BE EXEMPT FROM THE FOLLOWING PROVISIONS OF MARYLAND LAW:~~

~~(I) THE STATE PERSONNEL AND PENSIONS ARTICLE;~~

~~(II) TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE;~~

~~(III) DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND~~

~~(IV) THE CLEARINGHOUSE PROVISIONS SET FORTH IN §§ 5–310, 5–504, AND 5–505 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(4) THE EMPLOYEES OF THE AUTHORITY ARE NOT STATE PERSONNEL AS DEFINED IN § 12–101 OF THE STATE GOVERNMENT ARTICLE.~~

~~(E) TO FULFILL ITS MISSION AND NOTWITHSTANDING ANY CONTRACTUAL PROVISIONS BETWEEN DIMENSIONS AND THE COUNTY, THE AUTHORITY MAY:~~

~~(1) ACQUIRE RIGHTS TO OR OPERATE ANY HEALTH CARE FACILITIES AND LEASEHOLD RIGHTS HELD OR OPERATED BY DIMENSIONS;~~

~~(2) SEEK, THROUGH A REQUEST FOR PROPOSALS OR OTHERWISE, A NEW OWNER OR OPERATOR FOR ANY HEALTH CARE FACILITY OPERATED BY DIMENSIONS;~~

~~(3) TRANSFER HEALTH CARE FACILITIES AND LEASEHOLD RIGHTS HELD OR OPERATED BY DIMENSIONS TO ANOTHER HEALTH CARE ENTITY;~~

~~(4) ENGAGE IN NEW HEALTH CARE ACTIVITIES CONSISTENT WITH THE AUTHORITY'S MISSION;~~

~~(5) BUILD OR ACQUIRE NEW COMMUNITY-ORIENTED HEALTH CARE FACILITIES; AND~~

~~(6) ISSUE REVENUE BONDS.~~

~~(F) THE TITLE TO ANY LAND OR ASSETS OWNED BY THE COUNTY THAT ARE UNDER THE POSSESSION OR CONTROL OF DIMENSIONS, AS A RESULT OF ANY LEASE AGREEMENT WITH THE COUNTY, SHALL AUTOMATICALLY TRANSFER TO:~~

~~(1) THE AUTHORITY, ON THE ACQUISITION BY THE AUTHORITY OF HEALTH CARE FACILITIES AND LEASEHOLD RIGHTS HELD OR OPERATED BY DIMENSIONS; OR~~

~~(2) ANOTHER HEALTH CARE ENTITY, ON THE TRANSFER TO THE HEALTH CARE ENTITY OF HEALTH CARE FACILITIES AND LEASEHOLD RIGHTS HELD OR OPERATED BY DIMENSIONS.~~

~~(G) (1) THE AUTHORITY SHALL ALLOW THE SECRETARY ACCESS TO ALL RECORDS, NOTES, CONTRACTS, AND PLANS OF THE AUTHORITY.~~

~~(2) THE COUNTY SHALL PROVIDE THE AUTHORITY WITH ACCESS TO ALL BOOKS AND RECORDS IN THE COUNTY'S POSSESSION RELATING TO DIMENSIONS AND THE PROPERTY ON WHICH DIMENSIONS' HOSPITAL FACILITIES ARE LOCATED.~~

~~(H) SIX MONTHS AFTER THE AUTHORITY IS ESTABLISHED AND ANNUALLY THEREAFTER, THE AUTHORITY SHALL SUBMIT A REPORT ON ITS PROGRESS IN FULFILLING ITS MISSION UNDER THIS SUBTITLE TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.~~

~~24–1603.~~

~~(A) (1) THE AUTHORITY SHALL BE GOVERNED BY A BOARD OF DIRECTORS.~~

~~(2) THE BOARD SHALL CONSIST OF FIVE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.~~

~~(3) EACH MEMBER OF THE BOARD SHALL RESIDE IN THE COUNTY.~~

~~(4) THE GOVERNOR SHALL DESIGNATE A MEMBER TO SERVE AS THE CHAIR OF THE BOARD.~~

~~(B) (1) THE TERM OF A MEMBER IS 3 YEARS.~~

~~(2) THE TERMS OF MEMBERS ARE STAGGERED.~~

~~(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.~~

~~(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.~~

~~(5) THE GOVERNOR MAY REMOVE A MEMBER FOR NEGLECT OF DUTY, INCOMPETENCE, OR MISCONDUCT.~~

~~(C) A MEMBER MAY NOT HAVE A FINANCIAL INTEREST IN:~~

~~(1) DIMENSIONS;~~

~~(2) ANY ENTITY AFFILIATED WITH DIMENSIONS; OR~~

~~(3) ANY ENTITY WITH WHICH THE AUTHORITY DOES BUSINESS.~~

~~(D) A MEMBER OF THE BOARD MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.~~

~~(E) THE BOARD SHALL BE THE GOVERNING BODY FOR ALL FACILITIES OWNED OR OPERATED BY THE AUTHORITY.~~

~~(F) THE BOARD SHALL APPROVE THE MEDICAL STAFF BYLAWS FOR EACH FACILITY OWNED OR OPERATED BY THE AUTHORITY.~~

~~(G) (1) AN OFFICER OR DIRECTOR OF THE AUTHORITY SHALL PERFORM THE OFFICER'S OR DIRECTOR'S DUTIES:~~

~~(I) IN GOOD FAITH;~~

~~(II) IN THE MANNER THE OFFICER OR DIRECTOR REASONABLY BELIEVES TO BE IN THE BEST INTERESTS OF THE AUTHORITY; AND~~

~~(III) WITH THE CARE AN ORDINARILY PRUDENT PERSON IN A LIKE POSITION WOULD USE UNDER SIMILAR CIRCUMSTANCES.~~

~~(2) AN OFFICER OR DIRECTOR WHO PERFORMS THE OFFICER'S OR DIRECTOR'S DUTIES IN ACCORDANCE WITH THE STANDARD PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL NOT BE LIABLE PERSONALLY FOR ACTIONS TAKEN AS AN OFFICER OR DIRECTOR.~~

~~(H) BOARD MEMBERS SHALL BE SUBJECT TO THE PROVISIONS OF THE STATE ETHICS LAWS, TITLE 15, SUBTITLES 1 THROUGH 7 OF THE STATE GOVERNMENT ARTICLE.~~

~~24–1604.~~

~~(A) THE AUTHORITY SHALL ENTER INTO NEGOTIATIONS WITH DIMENSIONS TO REACH DEFINITIVE AGREEMENTS REGARDING THE FOLLOWING:~~

~~(1) ACQUIRING TITLE AND RIGHTS TO SOME OR ALL PROPERTY, LEASEHOLD RIGHTS, AND OPERATING RIGHTS HELD OR USED BY DIMENSIONS; AND~~

~~(2) ASSUMING CERTAIN OBLIGATIONS AND LIABILITIES HELD BY DIMENSIONS, INCLUDING BOND INDEBTEDNESS AND PENSION LIABILITY.~~

~~(B) THE AUTHORITY MAY MAKE AN ACQUISITION OF THE TITLE AND RIGHTS OR AN ASSUMPTION OF THE OBLIGATIONS AND LIABILITIES DESCRIBED IN SUBSECTION (A) OF THIS SECTION CONTINGENT ON:~~

~~(1) RECEIVING COMMITMENTS FOR SPECIFIC FINANCIAL AID AND ASSISTANCE, INCLUDING LONG–TERM CAPITAL FINANCING OR OPERATING ASSISTANCE, FROM THE STATE OR COUNTY GOVERNMENT OR ELSEWHERE; OR~~

~~(2) THE SUCCESSFUL COMPLETION OF AGREEMENTS TO TRANSFER TITLE AND CONTROL OVER FACILITIES OR OPERATIONS, IN WHOLE OR IN PART, TO ANOTHER ENTITY.~~

~~(C) (1) THE AUTHORITY MAY OPERATE OR MANAGE ANY FACILITIES AND INTERESTS ACQUIRED UNTIL THE FACILITIES AND INTERESTS ARE TRANSFERRED TO ANOTHER ENTITY.~~

~~(2) CONSISTENT WITH ITS MISSION, WHILE THE AUTHORITY IS OPERATING OR MANAGING FACILITIES AND INTERESTS ACQUIRED, THE AUTHORITY MAY TAKE ANY LAWFUL AND NECESSARY ACTIONS, INCLUDING:~~

~~(I) HIRING STAFF, CONTRACTORS, CONSULTANTS, ATTORNEYS, ACCOUNTANTS, AND OTHER PROFESSIONALS;~~

~~(II) ENTERING INTO BUSINESS ARRANGEMENTS NECESSARY FOR THE EFFICIENT AND PROPER MANAGEMENT AND OPERATION OF THE HEALTH CARE FACILITIES;~~

~~(III) ENTERING INTO JOINT VENTURES, PARTNERSHIPS, AND OTHER AGREEMENTS TO ENHANCE THE OPERATIONS MANAGED BY THE AUTHORITY OR ANY SUBSEQUENT OPERATOR; AND~~

~~(IV) ENTERING INTO SHORT–TERM AND LONG–TERM ARRANGEMENTS FOR THE MANAGEMENT OR SATISFACTION OF ANY INDEBTEDNESS OR THE FUNDING OF ANY LONG–TERM LIABILITIES OWED BY DIMENSIONS RELATED TO THE HEALTH CARE FACILITIES IN THE COUNTY.~~

~~24–1605.~~

~~(A) CONSISTENT WITH ITS MISSION, THE AUTHORITY SHALL ACTIVELY APPROACH AND ENTER INTO NEGOTIATIONS WITH OTHER ENTITIES PROVIDING HEALTH CARE SERVICES INSIDE OR OUTSIDE THE STATE FOR THE SALE OR TRANSFER OF ANY OR ALL FACILITIES, RIGHTS, OR OPERATIONS THE AUTHORITY MAY HAVE ACQUIRED.~~

~~(B) THE AUTHORITY MAY ENTER INTO NEGOTIATIONS WITH OTHER ENTITIES, AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, ON A CONTINGENT BASIS AND BEFORE THE AUTHORITY ACQUIRES OWNERSHIP OR CONTROL OVER ANY FACILITIES.~~

~~(C) THE AUTHORITY MAY CONSULT WITH, AND FINANCE OR REFINANCE THE AUTHORITY'S ACQUISITIONS AND PROJECTS THROUGH, THE MARYLAND~~

~~HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY, IF THE AUTHORITY IS ELIGIBLE TO DO SO UNDER ARTICLE 43C OF THE CODE.~~

~~(D) ANY AGREEMENT FOR THE SALE OR TRANSFER OF FACILITIES, RIGHTS, OR OPERATIONS MAY BE MADE CONTINGENT ON THE RECEIPT OF SPECIFIC COMMITMENTS FROM THE STATE, THE COUNTY, OR A RELATED REGULATORY AGENCY.~~

~~(E) AT LEAST 60 DAYS BEFORE THE AUTHORITY COMPLETES THE SALE OR TRANSFER OF ANY MATERIAL PART OF THE PROPERTY OR OPERATIONS OF DIMENSIONS, THE AUTHORITY SHALL SUBMIT INFORMATION ON THE TERMS OF THE SALE OR TRANSFER TO THE SECRETARY, THE STATE TREASURER, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE FINANCE COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, THE COUNTY EXECUTIVE, AND THE COUNTY COUNCIL.~~

~~(F) ANY HEALTH CARE ENTITY THAT RECEIVES THE TRANSFER OF THE FACILITIES AND LEASEHOLD RIGHTS HELD OR OPERATED BY DIMENSIONS SHALL BE RECOGNIZED UNDER MARYLAND HEALTH PLANNING LAW AS A MERGED ASSET SYSTEM UNDER TITLE 19, SUBTITLE 1 OF THIS ARTICLE.~~

~~24–1606.~~

~~(A) (1) SUBJECT TO ANY LIMITATIONS UNDER THIS SUBTITLE OR OTHER APPLICABLE LAW, THE AUTHORITY SHALL HAVE ALL POWERS NECESSARY OR CONVENIENT FOR THE OPERATION, MANAGEMENT, CONTROL, AND USE OF THE AUTHORITY'S ASSETS.~~

~~(2) THE ENUMERATION OF SPECIFIC POWERS IN THIS SUBTITLE IS NOT INTENDED TO RESTRICT THE AUTHORITY'S POWER TO TAKE ANY LAWFUL ACTION THAT THE AUTHORITY DETERMINES IS NECESSARY OR CONVENIENT TO FURTHER ITS MISSION.~~

~~(B) IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS SUBTITLE, THE AUTHORITY MAY:~~

~~(1) ADOPT AND ALTER AN OFFICIAL SEAL;~~

~~(2) SUE AND BE SUED, PLEAD AND BE IMPLEADED;~~

~~(3) ADOPT BYLAWS, RULES, AND REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE;~~

~~**(4) MAINTAIN AN OFFICE AT THE PLACE DESIGNATED BY THE AUTHORITY;**~~

~~**(5) EMPLOY OR RETAIN ANY PERSONNEL THAT THE AUTHORITY DETERMINES TO BE NECESSARY AND FIX THEIR COMPENSATION;**~~

~~**(6) ENTER INTO ANY AGREEMENTS NECESSARY TO MANAGE ITS OWN AFFAIRS;**~~

~~**(7) ACQUIRE PROPERTY AND RIGHTS, INCLUDING, SUBJECT TO APPLICABLE LAW AND REGULATION, THE RIGHT TO CONSTRUCT, LEASE, OR OPERATE ADDITIONAL FACILITIES AS MAY BE NECESSARY AND APPROPRIATE TO THE FULFILLMENT OF THE MISSION OF THE AUTHORITY;**~~

~~**(8) APPLY FOR AND RECEIVE FUNDING FROM STATE, LOCAL, AND NATIONAL GOVERNMENTAL ENTITIES;**~~

~~**(9) APPLY FOR AND RECEIVE GRANTS, CONTRACTS, OR OTHER FUNDING; AND**~~

~~**(10) ENTER INTO SHORT–TERM AND LONG–TERM FINANCIAL ARRANGEMENTS, INCLUDING ISSUANCE OF DEBT AS PROVIDED IN § 24–1607 OF THIS SUBTITLE, AS NECESSARY TO FULFILL THE MISSION OF THE AUTHORITY.**~~

~~**24–1607.**~~

~~**(A) THE AUTHORITY MAY ISSUE REVENUE BONDS, IN ACCORDANCE WITH TITLE 8, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, FOR THE PURPOSE OF FULFILLING THE MISSION OF THE AUTHORITY.**~~

~~**(B) REVENUE BONDS SHALL BE AUTHORIZED BY A RESOLUTION OF THE AUTHORITY AND MAY BE ISSUED AS FIXED OR VARIABLE RATE BONDS.**~~

~~**(C) THE RESOLUTION OF THE AUTHORITY AUTHORIZING THE REVENUE BONDS:**~~

~~**(1) SHALL APPROVE THE TERMS AND CONDITIONS OF THE BONDS;**~~

~~**(2) SHALL DESCRIBE THE PROJECTS WHICH ARE TO BE FINANCED OR REFINANCED BY THE BONDS;**~~

~~(3) SHALL DESCRIBE THE SOURCES OF PAYMENT OF THE BONDS;~~

~~(4) MAY PROVIDE THAT THE BONDS MAY BE SUBJECT TO EARLY REDEMPTION AS DETERMINED BY THE AUTHORITY; AND~~

~~(5) SHALL PROVIDE THAT THE PROCEEDS OF THE BONDS SHALL BE INVESTED IN ACCORDANCE WITH § 6–222 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(D) AFTER CONSULTATION WITH THE MARYLAND HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY, THE REVENUE BONDS SHALL BE SOLD IN THE MANNER AND ON THE TERMS DETERMINED BY THE AUTHORITY AND, NOTWITHSTANDING § 8–206(B) OF THE STATE FINANCE AND PROCUREMENT ARTICLE, MAY BE SOLD AT A PRIVATE OR NEGOTIATED SALE.~~

~~(E) REVENUE BONDS MAY BE ISSUED UNDER THE PROVISIONS OF THIS SUBTITLE:~~

~~(1) WITHOUT OBTAINING THE CONSENT OF ANY DEPARTMENT, DIVISION, COMMISSION, BOARD, BUREAU, OR AGENCY OF THE STATE; OR~~

~~(2) WITHOUT ANY OTHER PROCEEDINGS OR THE OCCURRENCE OF ANY OTHER CONDITIONS OTHER THAN THOSE PROCEEDINGS OR CONDITIONS THAT ARE REQUIRED SPECIFICALLY BY PROVISIONS OF THIS SUBTITLE.~~

~~(F) (1) EACH REVENUE BOND ISSUED BY THE AUTHORITY UNDER THIS SUBTITLE SHALL STATE PLAINLY ON ITS FACE THAT THE BOND:~~

~~(I) WAS ISSUED UNDER THE PROVISIONS OF THIS SUBTITLE;~~

~~(II) DOES NOT CREATE OR CONSTITUTE ANY INDEBTEDNESS OR OBLIGATION OF THE STATE OR OF ANY POLITICAL SUBDIVISION OF THE STATE; AND~~

~~(III) DOES NOT PLEDGE THE FAITH OR CREDIT OF THE STATE OR ANY PUBLIC BODY WITHIN THE MEANING OF ARTICLE III, § 34 OF THE MARYLAND CONSTITUTION.~~

~~(2) THE REVENUE BONDS ISSUED UNDER THIS SUBTITLE DO NOT CONSTITUTE A DEBT OR OBLIGATION CONTRACTED BY THE STATE OR A PLEDGE OF THE FAITH OR CREDIT OF THE STATE OR ANY PUBLIC BODY WITHIN THE MEANING OF ARTICLE III, § 34 OF THE MARYLAND CONSTITUTION.~~

~~**(3) NEITHER THE REVENUE BONDS NOR THE INTEREST ON THE BONDS SHALL EVER:**~~

~~**(I) CONSTITUTE AN INDEBTEDNESS OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF ANY PUBLIC BODY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR CHARTER PROVISION OR STATUTORY LIMITATION; OR**~~

~~**(II) CONSTITUTE OR GIVE RISE TO ANY PECUNIARY LIABILITY OF ANY ISSUING PUBLIC BODY.**~~

~~**(G) THE REVENUE BONDS SHALL BE PAYABLE FROM AND SECURED SOLELY BY:**~~

~~**(1) ALL OR ANY PART OF THE FEES OR REVENUES GENERATED BY AN ACTIVITY OF THE AUTHORITY TO THE EXTENT LAWFULLY AVAILABLE FOR THAT PURPOSE;**~~

~~**(2) COUNTY GRANTS TO THE AUTHORITY;**~~

~~**(3) THE PROCEEDS OF THE BONDS AND INVESTMENT EARNINGS ON THE BONDS;**~~

~~**(4) ANY OTHER GRANT OR GIFT RECEIVED BY THE AUTHORITY TO THE EXTENT LAWFULLY AVAILABLE FOR THAT PURPOSE;**~~

~~**(5) RESERVES OR OTHER FUNDS ESTABLISHED FOR THE BONDS UNDER THE RESOLUTION OR TRUST AGREEMENT;**~~

~~**(6) ANY MONEYS THAT MAY LAWFULLY BE APPLIED TO THE PAYMENT OF THE BONDS, INCLUDING ANY APPROPRIATION BY THE STATE OR THE COUNTY MADE LAWFULLY AVAILABLE FOR THAT PURPOSE; OR**~~

~~**(7) ANY SOURCE OF FUNDS TO WHICH THE AUTHORITY HAS ACCESS TO THE EXTENT LAWFULLY AVAILABLE FOR THAT PURPOSE.**~~

~~**(H) ALL REVENUE BONDS ISSUED UNDER THE PROVISIONS OF THIS SUBTITLE SHALL HAVE ALL THE QUALITIES AND INCIDENTS OF NEGOTIABLE INSTRUMENTS UNDER THE LAWS OF THE STATE RELATING TO NEGOTIABLE INSTRUMENTS.**~~

~~**24–1608.**~~

~~(A) THE COUNTY SHALL PAY AS A GRANT TO THE AUTHORITY:~~

~~(1) ON OR BEFORE MAY 1, 2008, THE AMOUNT APPROPRIATED FOR DIMENSIONS IN THE COUNTY'S FISCAL YEAR 2008 BUDGET; AND~~

~~(2) IN EACH OF FISCAL YEARS 2009 THROUGH 2015, $17,000,000.~~

~~(B) THE AUTHORITY MAY USE THE AMOUNTS PAID BY THE COUNTY FOR:~~

~~(1) THE OPERATION OF THE AUTHORITY;~~

~~(2) CAPITAL INVESTMENT;~~

~~(3) SECURITY FOR REVENUE BONDS; OR~~

~~(4) ANY OTHER PURPOSE CONSISTENT WITH THE MISSION OF THE AUTHORITY.~~

~~(C) (1) IF THE COUNTY FAILS TO PAY THE AMOUNTS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE STATE, ACTING THROUGH THE COMPTROLLER OR OTHERWISE, SHALL IMMEDIATELY REDIRECT TO THE AUTHORITY STATE FUNDS OTHERWISE REQUIRED TO BE PAID TO THE COUNTY IN THE AMOUNT OF THE DELINQUENT PAYMENT.~~

~~(2) NOTWITHSTANDING § 2–608 OF THE TAX – GENERAL ARTICLE OR ANY OTHER PROVISION OF LAW, THE REDIRECTION OF FUNDS FROM THE COUNTY TO THE AUTHORITY AUTHORIZED UNDER THIS SUBSECTION MAY BE EFFECTED BY REDUCING ANY LOCAL AID OR GRANT FUNDS OTHERWISE PAYABLE TO THE COUNTY OR BY WITHHOLDING FROM THE COUNTY ANY INCOME TAX REVENUE OTHERWISE REQUIRED TO BE DISTRIBUTED TO THE COUNTY UNDER § 2–608 OF THE TAX – GENERAL ARTICLE AND PAYING OVER DIRECTLY TO THE AUTHORITY THE FUNDS OR REVENUE SO REDUCED OR WITHHELD.~~

~~24–1609.~~

~~(A) FOR EACH OF THE FISCAL YEARS 2010 THROUGH 2014, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL SUBMITTED TO THE GENERAL ASSEMBLY AN APPROPRIATION OF AT LEAST $10,000,000 FOR THE OPERATING COSTS OF THE AUTHORITY.~~

~~**(B) FOR EACH OF THE FISCAL YEARS 2010 THROUGH 2015, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL CAPITAL BUDGET AT LEAST $13,000,000 FOR THE CAPITAL COSTS OF THE AUTHORITY.**~~

~~**(C) IF THE AUTHORITY SELECTS A NEW OWNER OR OPERATOR FOR HEALTH CARE FACILITIES PREVIOUSLY OPERATED BY DIMENSIONS, THE AUTHORITY SHALL TRANSFER TO THAT OWNER OR OPERATOR FUNDS RECEIVED FROM THE STATE OR COUNTY AS THE AUTHORITY CONSIDERS APPROPRIATE.**~~

~~**(D) IF THE AUTHORITY SELECTS A NEW OWNER OR OPERATOR OF THE FACILITIES PREVIOUSLY OPERATED BY DIMENSIONS AND THAT OWNER OR OPERATOR'S CONTRACT TO OPERATE THE FACILITIES REQUIRES LESS FINANCIAL SUPPORT THAN THAT SPECIFIED UNDER THIS SUBTITLE, THE AUTHORITY SHALL REFUND ANY EXCESS TO THE STATE AND COUNTY, PRO RATA ACCORDING TO THEIR RESPECTIVE CONTRIBUTIONS UNDER THIS SUBTITLE.**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Board of the Prince George's County Hospital Authority, established under Section 1 of this Act, shall expire as follows:~~

~~(1) one member in 2009;~~

~~(2) two members in 2010; and~~

~~(3) two members in 2011.~~

24–1601.

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

(B) "AUTHORITY" MEANS THE PRINCE GEORGE'S COUNTY HOSPITAL AUTHORITY.

~~**(C) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.**~~

~~**(D)**~~ ***(C)*** **"COUNTY" MEANS PRINCE GEORGE'S COUNTY, *MARYLAND*.**

~~**(E)**~~ ***(D)*** **"COUNTY COUNCIL" MEANS THE PRINCE GEORGE'S COUNTY COUNCIL.**

~~**(F)**~~ ***(E)*** **"COUNTY EXECUTIVE" MEANS THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY.**

~~(G)~~ *(F)* (1) "DIMENSIONS" MEANS DIMENSIONS HEALTH CORPORATION.

(2) "DIMENSIONS" INCLUDES ANY SUCCESSOR, ASSIGNEE, SUBSIDIARY, OR AFFILIATE OF DIMENSIONS HEALTH CORPORATION, OR ANY HOLDER OF A FINANCIAL INTEREST IN DIMENSIONS HEALTH CORPORATION, THAT OPERATES OR PROVIDES SERVICES AT:

(I) PRINCE GEORGE'S HOSPITAL CENTER;

(II) LAUREL REGIONAL HOSPITAL;

(III) BOWIE HEALTH CAMPUS;

(IV) GLADYS SPELLMAN SPECIALTY HOSPITAL AND NURSING CENTER; OR

(V) LARKIN CHASE NURSING AND REHABILITATION CENTER.

~~(H)~~ *(G)* "PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM" MEANS THE HEALTH CARE FACILITIES, ASSETS, LEASEHOLD RIGHTS, LIABILITIES, AND OPERATIONS CURRENTLY HELD, CONDUCTED, OR OPERATED BY DIMENSIONS AT:

(I) PRINCE GEORGE'S HOSPITAL CENTER;

(II) LAUREL REGIONAL HOSPITAL;

(III) BOWIE HEALTH CAMPUS;

(IV) GLADYS SPELLMAN SPECIALTY HOSPITAL AND NURSING CENTER; OR

(V) LARKIN CHASE NURSING AND REHABILITATION CENTER.

~~(I)~~ *(H)* "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

24–1602.

(A) THERE IS A BODY CORPORATE AND POLITIC KNOWN AS THE PRINCE GEORGE'S COUNTY HOSPITAL AUTHORITY.

(B) THE MISSION OF THE AUTHORITY IS TO ESTABLISH AND IMPLEMENT AN OPEN, TRANSPARENT, AND COMPETITIVE BIDDING PROCESS FOR THE PURPOSE OF TRANSFERRING THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM TO ONE OR MORE NEW OWNERS.

(C) THE NEW OWNER OR OWNERS SELECTED THROUGH THE COMPETITIVE BIDDING PROCESS UNDER THIS SUBTITLE SHALL:

(1) PROVIDE ACCESS TO, IMPROVE, AND DELIVER HIGH QUALITY, COMMUNITY–ORIENTED HEALTH AND HOSPITAL SERVICES IN THE COUNTY THAT MEET THE HEALTH CARE NEEDS OF RESIDENTS OF THE COUNTY AND SURROUNDING JURISDICTIONS IN A MANNER CONSISTENT WITH PRINCIPLES OF STATE HEALTH PLANNING LAW UNDER TITLE 19, SUBTITLE 1 OF THIS ARTICLE; ***AND***

(2) BE A FINANCIALLY SELF–SUSTAINING ENTITY OR ENTITIES CAPABLE OF:

(I) OPERATING AND ACHIEVING THE GOALS SET FORTH IN ITEM (1) OF THIS SUBSECTION INDEPENDENTLY OF THE STATE AND THE COUNTY;

(II) DEVELOPING A PLAN TO SATISFY ANY LIABILITIES, INCLUDING LONG–TERM BOND INDEBTEDNESS, PENSION OBLIGATIONS, MALPRACTICE LIABILITIES, AND ANY ENCUMBRANCES PLACED BY DIMENSIONS ARISING FROM THE HEALTH CARE FACILITIES, ASSETS, LEASEHOLD RIGHTS, LIABILITIES, OR OPERATIONS HELD OR OPERATED BY DIMENSIONS;

(III) COVERING THE OPERATING AND CAPITAL EXPENSES ARISING FROM THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM; AND

(IV) ACHIEVING ACCESS TO LONG–TERM CAPITAL RESOURCES.

(D) THE AUTHORITY IS AN INSTRUMENTALITY OF THE STATE AND A PUBLIC CORPORATION BY THAT NAME, STYLE, AND TITLE.

(E) (1) THE EXERCISE BY THE AUTHORITY OF THE POWERS CONFERRED BY THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION.

(2) THE AUTHORITY SHALL BE SUBJECT TO:

(I) THE STATE OPEN MEETINGS LAW, TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE; AND

(II) THE STATE TORT CLAIMS ACT, TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

(3) THE AUTHORITY SHALL BE EXEMPT FROM THE FOLLOWING PROVISIONS OF STATE LAW:

(I) THE STATE PERSONNEL AND PENSIONS ARTICLE;

(II) TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE;

(III) DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(IV) THE CLEARINGHOUSE PROVISIONS SET FORTH IN §§ 5–310, 5–504, AND 5–505 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(4) THE EMPLOYEES OF THE AUTHORITY ARE NOT STATE PERSONNEL AS DEFINED IN § 12–101 OF THE STATE GOVERNMENT ARTICLE.

(5) THE AUTHORITY SHALL PUBLISH ALL NOTICES REQUIRED TO BE PUBLISHED UNDER THIS SUBTITLE IN NEWSPAPERS OF RECORD IN THE COUNTY AS PROVIDED BY SECTION 1008 OF THE COUNTY CHARTER.

(F) (1) THE AUTHORITY SHALL ALLOW THE SECRETARY AND THE COUNTY ACCESS TO ALL RECORDS, NOTES, CONTRACTS, AND PLANS OF THE AUTHORITY WHICH ARE NOT PROPRIETARY OR CONFIDENTIAL.

(2) THE COUNTY AND DIMENSIONS SHALL PROVIDE THE AUTHORITY, REPRESENTATIVES FROM THE STATE AND COUNTY PARTICIPATING IN THE NEGOTIATIONS TO REACH AGREEMENT ON THE PUBLIC FUNDING COMMITMENTS UNDER § 24–1604 OF THIS SUBTITLE, AND ALL ENTITIES PARTICIPATING IN THE BIDDING PROCESS SET FORTH IN § 24–1605 OF THIS SUBTITLE, TIMELY AND COMPLETE ACCESS TO ALL BOOKS AND RECORDS IN THE COUNTY'S POSSESSION OR CONTROL RELATING TO:

(I) DIMENSIONS;

(II) THE HEALTH CARE SERVICES PROVIDED BY DIMENSIONS;

(III) THE FACILITIES HELD OR OPERATED BY DIMENSIONS;

(IV) THE PROPERTY OR ASSETS UNDER THE POSSESSION OR CONTROL OF DIMENSIONS UNDER A LEASE AGREEMENT WITH THE COUNTY; AND

(V) ALL LIABILITIES ARISING FROM THESE SERVICES, OPERATIONS, FACILITIES, ASSETS, AND PROPERTY.

(G) (1) ON RELEASE OF THE REQUEST FOR PROPOSALS TO BE ISSUED IN ACCORDANCE WITH § 24–1605 OF THIS SUBTITLE, THE AUTHORITY IMMEDIATELY SHALL SUBMIT A COPY OF THE REQUEST FOR PROPOSALS TO THE GOVERNOR, THE SECRETARY, THE STATE TREASURER, THE COUNTY EXECUTIVE, THE COUNTY COUNCIL, AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF DELEGATES, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE FINANCE COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE.

(2) EVERY 3 MONTHS AFTER THE REQUEST FOR PROPOSALS IS ISSUED, THE AUTHORITY SHALL SUBMIT A STATUS REPORT ON ITS ABILITY TO FULFILL ITS MISSION WITHIN THE TIMEFRAMES AND DEADLINES REQUIRED UNDER THIS SUBTITLE TO THE GOVERNOR, THE SECRETARY, THE PRINCE GEORGE'S COUNTY EXECUTIVE, THE PRINCE GEORGE'S COUNTY COUNCIL AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF DELEGATES, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE FINANCE COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE.

24–1603.

(A) (1) THE AUTHORITY SHALL ~~BE GOVERNED BY A BOARD OF DIRECTORS.~~

~~(2)~~ ~~THE BOARD SHALL~~ CONSIST OF SEVEN MEMBERS APPOINTED AS FOLLOWS:

(I) THREE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR;

(II) THREE MEMBERS SHALL BE APPOINTED JOINTLY BY THE COUNTY EXECUTIVE AND THE COUNTY COUNCIL; AND

(III) ONE MEMBER SHALL BE APPOINTED JOINTLY BY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES.

~~(3)~~ *(2)* **THE GOVERNOR SHALL DESIGNATE A MEMBER TO SERVE AS THE CHAIR OF THE ~~BOARD~~ *AUTHORITY*.**

~~(4)~~ *(3)* **(I) THE GOVERNOR, THE COUNTY EXECUTIVE, THE COUNTY COUNCIL, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE OF DELEGATES SHALL APPOINT THEIR RESPECTIVE MEMBERS OF THE ~~BOARD~~ *AUTHORITY* NO LATER THAN 30 DAYS AFTER THE AUTHORITY IS ESTABLISHED.**

(II) THE ~~BOARD~~ *AUTHORITY* SHALL BEGIN ITS WORK IMMEDIATELY AFTER THE EARLIER OF:

1. ALL MEMBERS BEING APPOINTED; OR

2. 30 DAYS AFTER THE AUTHORITY IS ESTABLISHED.

(B) (1) THE TERM OF A MEMBER IS 2 YEARS.

(2) A MEMBER MAY BE REMOVED FOR NEGLECT OF DUTY, INCOMPETENCE, OR MISCONDUCT BY:

(I) THE GOVERNOR, IF THE MEMBER WAS APPOINTED BY THE GOVERNOR;

(II) THE JOINT ACTION OF THE COUNTY EXECUTIVE AND COUNTY COUNCIL, IF THE MEMBER WAS APPOINTED BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL; AND

(III) THE JOINT ACTION OF THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES, IF THE MEMBER WAS APPOINTED BY THE PRESIDENT AND SPEAKER.

(3) A MEMBER MAY NOT:

(I) BE A CURRENT OR FORMER ELECTED OFFICIAL OF STATE OR LOCAL GOVERNMENT; ~~OR~~

(II) HAVE A CURRENT OR PAST FINANCIAL INTEREST IN, OR OTHER AFFILIATION AS AN EMPLOYEE OR MEMBER OF THE BOARD *OF DIRECTORS* OF, DIMENSIONS OR ANY ENTITY AFFILIATED WITH DIMENSIONS~~.~~;

(III) HAVE A CURRENT OR PAST FINANCIAL INTEREST IN OR OTHER CONFLICT OF INTEREST WITH A POTENTIAL BIDDER;

(IV) BE A LOBBYIST LICENSED BY THE STATE ETHICS COMMISSION;

(V) BE A CHAIR OR TREASURER OF A POLITICAL COMMITTEE REGISTERED WITH THE STATE BOARD OF ELECTIONS OR THE FEDERAL ELECTIONS COMMISSION; OR

(VI) BE A MEMBER OF A POLITICAL PARTY CENTRAL COMMITTEE.

~~(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP OF THE BOARD SHALL CONSTITUTE A QUORUM.~~

~~(2) IF, AFTER 30 DAYS AFTER THE AUTHORITY IS ESTABLISHED NOT ALL MEMBERS OF THE BOARD HAVE BEEN APPOINTED, A MAJORITY OF THE MEMBERS WHO HAVE BEEN APPOINTED SHALL CONSTITUTE A QUORUM UNTIL ALL MEMBERS OF THE BOARD HAVE BEEN APPOINTED.~~

(C) A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP OF THE BOARD SHALL CONSTITUTE A QUORUM IN ACCORDANCE WITH § 3 OF ROBERT'S RULES OF ORDER, 10TH EDITION.

(D) HAVING BEEN GIVEN PRIOR NOTICE OF THE MATTER, THE ~~BOARD~~ *AUTHORITY* MAY ACT ON ANY MATTER WITH THE AUTHORIZATION OF A QUORUM BEING PRESENT AND VOTING.

(E) A MEMBER OF THE ~~BOARD~~ *AUTHORITY* IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) (1) A MEMBER OF THE AUTHORITY SHALL PERFORM THE MEMBER'S DUTIES:

(I) IN GOOD FAITH;

(II) IN THE MANNER THE MEMBER REASONABLY BELIEVES TO BE IN THE BEST INTERESTS OF THE AUTHORITY; AND

(III) WITHOUT INTENTIONAL OR RECKLESS DISREGARD OF THE CARE AN ORDINARILY PRUDENT PERSON IN A LIKE POSITION WOULD USE UNDER SIMILAR CIRCUMSTANCES.

(2) A MEMBER WHO PERFORMS THE MEMBER'S DUTIES IN ACCORDANCE WITH THE STANDARD PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION IS NOT LIABLE PERSONALLY FOR ACTIONS TAKEN AS A MEMBER.

(G) ~~BOARD~~ *AUTHORITY* MEMBERS SHALL BE SUBJECT TO THE PROVISIONS OF THE STATE ETHICS LAWS, TITLE 15, SUBTITLES 1 THROUGH 7 OF THE STATE GOVERNMENT ARTICLE.

24–1604.

(A) WITHIN 10 DAYS AFTER THE AUTHORITY IS ESTABLISHED, THE GOVERNOR SHALL APPOINT A REPRESENTATIVE, AND THE COUNTY EXECUTIVE AND COUNTY COUNCIL JOINTLY SHALL APPOINT A REPRESENTATIVE, TO CONDUCT NEGOTIATIONS TO REACH AGREEMENT ON THE FUNDING THE STATE AND THE COUNTY WILL COMMIT FOR SUPPORT OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM IN THE EVENT THAT THE BIDDING PROCESS ESTABLISHED UNDER § 24–1605 OF THIS SUBTITLE RESULTS IN AN AGREEMENT TO TRANSFER THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM TO A NEW OWNER OR OWNERS.

(B) WITHIN 60 DAYS AFTER THE AUTHORITY IS ESTABLISHED, THE GOVERNOR, THE COUNTY EXECUTIVE, AND THE COUNTY COUNCIL, WITH INPUT FROM THE PRESIDING OFFICERS AND FISCAL LEADERSHIP OF THE GENERAL ASSEMBLY, SHALL REACH AGREEMENT ON THE FUNDING THE STATE AND THE COUNTY WILL COMMIT FOR SUPPORT OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM IF THE BIDDING PROCESS ESTABLISHED UNDER § 24–1605 OF THIS SUBTITLE RESULTS IN AN AGREEMENT TO TRANSFER THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM TO A NEW OWNER OR OWNERS.

(C) THE AGREEMENT ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(1) THE AGGREGATE AMOUNT OF FUNDING;

(2) THE PERIOD OF YEARS OVER WHICH THE AGGREGATE AMOUNT OF FUNDING SHALL BE PROVIDED, AND THE AMOUNT OF FUNDING TO BE PROVIDED EACH YEAR; AND

(3) THE PERCENTAGE OF THE TOTAL FINANCIAL COMMITMENT FOR WHICH THE STATE AND THE COUNTY WILL EACH BE RESPONSIBLE.

(D) IF, AT THE END OF THE 60 DAYS, THE GOVERNOR, THE COUNTY EXECUTIVE, AND THE COUNTY COUNCIL HAVE FAILED TO REACH AGREEMENT BUT BELIEVE THAT AN EXTENSION OF TIME WOULD ENABLE THEM TO REACH THE AGREEMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE GOVERNOR, THE COUNTY EXECUTIVE, AND THE COUNTY COUNCIL:

(1) MAY EXTEND THEIR NEGOTIATIONS FOR UP TO BUT NOT MORE THAN 30 ADDITIONAL DAYS; AND

(2) SHALL NOTIFY THE AUTHORITY AND THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY OF THE EXTENSION OF TIME.

~~(D)~~ *(E)* (1) IF THE AGREEMENT FOR TRANSFER TO THE NEW OWNER OR OWNERS SELECTED THROUGH THE BIDDING PROCESS ESTABLISHED UNDER § 24–1605 OF THIS SUBTITLE REQUIRES LESS FINANCIAL SUPPORT FROM THE STATE AND THE COUNTY THAN THAT AGREED UPON UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION, THE STATE AND THE COUNTY'S FUNDING OBLIGATIONS SHALL BE REDUCED ON A PRO RATA BASIS.

(2) IF, WITHIN 60 DAYS AFTER THE ESTABLISHMENT OF THE AUTHORITY, *OR WITHIN 90 DAYS AFTER THE ESTABLISHMENT OF THE AUTHORITY IF THE PARTIES USE THE ADDITIONAL TIME AS SET FORTH IN SUBSECTION (D) OF THIS SECTION*, THE GOVERNOR, THE COUNTY EXECUTIVE, AND THE COUNTY COUNCIL FAIL TO REACH AGREEMENT IN ACCORDANCE WITH SUBSECTIONS (B) AND (C) OF THIS SECTION, THE NEXT QUARTERLY PAYMENT, AND ANY SUBSEQUENT PAYMENTS, DUE TO DIMENSIONS FROM THE STATE AND THE COUNTY UNDER § 24–1608 OF THIS SUBTITLE SHALL BE WITHHELD.

(3) IF THE GOVERNOR, THE COUNTY EXECUTIVE, AND THE COUNTY COUNCIL FAIL TO REACH AGREEMENT WITHIN 60 *OR 90* DAYS IN ACCORDANCE WITH SUBSECTIONS ~~(B) AND (C)~~ *(B), (C), AND (D)* OF THIS

SECTION, ALL OTHER OBLIGATIONS UNDER THIS SUBTITLE SHALL BE NULL AND VOID.

24–1605.

(A) EXCEPT AS OTHERWISE PROVIDED IN ~~§ 24–1604(D)(3)~~ *§ 24–1604(E)(3)* OF THIS SUBTITLE, ~~WITHIN 90 DAYS AFTER ITS ESTABLISHMENT,~~ THE AUTHORITY SHALL DEVELOP AND ISSUE A REQUEST FOR PROPOSALS FROM ENTITIES PROVIDING HEALTH CARE SERVICES INSIDE OR OUTSIDE THE STATE FOR THE SALE OR TRANSFER OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM~~.~~:

(1) IF THE AGREEMENT REQUIRED UNDER § 24–1604(B) OF THIS SUBTITLE IS REACHED WITHIN 60 DAYS, THE AUTHORITY SHALL ISSUE THE REQUEST FOR PROPOSALS WITHIN 90 DAYS AFTER THE ESTABLISHMENT OF THE AUTHORITY; AND

(2) IF THE AGREEMENT REQUIRED UNDER § 24–1604(B) OF THIS SUBTITLE IS REACHED WITHIN 90 DAYS AS SET FORTH IN § 24–1604(D) OF THIS SUBTITLE, THE AUTHORITY SHALL ISSUE THE REQUEST FOR PROPOSALS WITHIN 120 DAYS AFTER THE ESTABLISHMENT OF THE AUTHORITY.

(B) (1) THE REQUEST FOR PROPOSALS SHALL REQUIRE THAT BIDDERS SUBMIT A PROPOSAL THAT DOES NOT REQUEST OR ASSUME PUBLIC FUNDING IN EXCESS OF THE AMOUNT OF THE STATE AND THE COUNTY'S FUNDING COMMITMENTS AGREED UPON UNDER § 24–1604 OF THIS SUBTITLE AND SET FORTH IN THE REQUEST FOR PROPOSALS; AND

(2) RESPONSIVE BIDS MAY PROPOSE FINANCIAL SUPPORT AND RESOURCES IN EXCESS OF THE PUBLIC FUNDING COMMITMENT, BUT ANY SUCH ADDITIONAL SUPPORT SHALL BE PROVIDED BY SOURCES OTHER THAN THE STATE AND THE COUNTY.

(C) THE REQUEST FOR PROPOSALS SHALL ALLOW THE AUTHORITY TO ASSESS AND GIVE CONSIDERATION TO A BIDDER'S PLAN AND ABILITY TO:

(1) MEET THE GOALS SET FORTH IN § 24–1602(C) OF THIS SUBTITLE FOR ESTABLISHING A FINANCIALLY SELF–SUSTAINING HEALTH CARE SYSTEM WHICH SHALL PROVIDE HIGH QUALITY, COMMUNITY–ORIENTED HEALTH AND HOSPITAL SERVICES TO MEET THE NEEDS OF RESIDENTS OF THE COUNTY AND SURROUNDING JURISDICTIONS;

(2) MEET THE GOALS WITHOUT REQUIRING ANY STATE OR COUNTY FUNDING IN EXCESS OF THE AMOUNT AGREED UPON UNDER § 24–1604 OF THIS SUBTITLE AND PROVIDED IN THE REQUEST FOR PROPOSALS, WITH ANY ADDITIONAL FINANCIAL SUPPORT AND RESOURCES PROVIDED BY THE BIDDER OR SOURCES OTHER THAN THE STATE OR THE COUNTY;

(3) SUPPLEMENT THE PUBLIC FUNDING STREAM WITH ITS OWN OR OTHER FINANCIAL SUPPORT AND RESOURCES;

(4) DEVELOP A PLAN FOR SATISFACTION OF THE OBLIGATIONS AND LIABILITIES HELD BY DIMENSIONS, INCLUDING BOND INDEBTEDNESS, PENSION LIABILITY, MALPRACTICE LIABILITY, AND ANY REMAINING ENCUMBRANCES PLACED ON THE REAL PROPERTY, ASSETS, AND FACILITIES BY DIMENSIONS;

(5) ADDRESS THE CHRONIC PROBLEMS OF ATTRACTING AND RETAINING QUALIFIED MEDICAL PERSONNEL TO SERVE THE HEALTH CARE NEEDS OF RESIDENTS OF THE COUNTY AND SURROUNDING JURISDICTIONS; AND

(6) DEVELOP A PLAN FOR USE OF *ALL OF* THE REAL PROPERTY, ASSETS, AND FACILITIES CURRENTLY HELD OR OPERATED BY DIMENSIONS THAT SHALL SPECIFY:

~~**(I) THE PORTION OR PORTIONS OF THE REAL PROPERTY, ASSETS, AND FACILITIES TO BE ACQUIRED OR TRANSFERRED UNDER THE PROPOSAL;**~~

(I) THE PORTION OR PORTIONS OF THE REAL PROPERTY TO BE TRANSFERRED UNDER THE PROPOSAL;

(II) THE SPECIFIC PURPOSES FOR WHICH EACH PORTION OF THE REAL PROPERTY, ASSETS, AND FACILITIES ~~ACQUIRED OR~~ TRANSFERRED WILL BE USED; AND

(III) THE PROJECTED TIMELINE FOR THE USE AND DEVELOPMENT OF EACH PORTION OF THE REAL PROPERTY, ASSETS, AND FACILITIES TO BE ~~ACQUIRED OR~~ TRANSFERRED.

(D) THE ~~BOARD~~ *AUTHORITY* SHALL SELECT A BIDDER FROM AMONG THE ENTITIES SUBMITTING A PROPOSAL IN ACCORDANCE WITH ITS BY–LAWS ADOPTED UNDER § 24–1607 OF THIS SUBTITLE.

(E) ANY AGREEMENT FOR THE SALE OR TRANSFER OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM:

(1) MAY BE MADE CONTINGENT ON:

(I) THE RECEIPT OF SPECIFIC FUNDING COMMITMENTS FROM THE STATE AND THE COUNTY;

(II) IN ACCORDANCE WITH § 24–1606 OF THIS SUBTITLE, THE TRANSFER OF CLEAR LEGAL TITLE TO ALL REAL PROPERTY, ASSETS, AND FACILITIES TO BE ~~ACQUIRED BY OR~~ TRANSFERRED TO THE NEW OWNER OR OWNERS UNDER THE AGREEMENT; AND

~~**(III) ZONING OF THE REAL PROPERTY TO BE ACQUIRED BY OR TRANSFERRED TO THE NEW OWNER OR OWNERS TO PERMIT DEVELOPMENT CONSISTENT WITH THE SURROUNDING AREA AND NOT REZONED TO LIMIT OR REDUCE THE VALUE OR DEVELOPMENT POTENTIAL OF THE REAL PROPERTY;**~~

***(III) THE DEVELOPMENT POTENTIAL OF THE REAL PROPERTY REMAINING CONSISTENT WITH THE SURROUNDING AREAS AS NECESSARY TO IMPLEMENT THE AGREEMENT TO TRANSFER THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM;* AND**

(2) SHALL INCLUDE A PLAN FOR THE SATISFACTION OF ANY INDEBTEDNESS, LIABILITIES, OR ENCUMBRANCES ON THE REAL PROPERTY PLACED AND HELD BY DIMENSIONS AS OF THE EFFECTIVE DATE OF THE TRANSFER TO THE NEW OWNER OR OWNERS.

(F) ANY HEALTH CARE ENTITY THAT RECEIVES THE TRANSFER OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM SHALL BE RECOGNIZED AS A MERGED ASSET SYSTEM FOR CERTIFICATE OF NEED PURPOSES UNDER TITLE 19, SUBTITLE 1 OF THIS ARTICLE.

(G) (1) THE AUTHORITY SHALL ESTABLISH A TIME FRAME AND DEADLINES FOR THE SUBMISSION OF BIDS AND SELECTION OF A SUCCESSFUL BIDDER AFTER THE REQUEST FOR PROPOSAL IS ISSUED.

(2) THE TIME FRAME AND DEADLINES SHALL ENSURE THAT A SUCCESSFUL BIDDER SHALL BE SELECTED AND AN AGREEMENT TO TRANSFER THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM TO A NEW OWNER OR OWNERS SHALL BE REACHED IN TIME TO PRESENT THE PROPOSED AGREEMENT TO THE GOVERNOR, THE SECRETARY, THE STATE TREASURER, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE FINANCE COMMITTEE, THE

HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, THE ~~PRINCE GEORGE'S~~ COUNTY COUNCIL, AND THE ~~PRINCE GEORGE'S~~ COUNTY EXECUTIVE PRIOR TO THE BEGINNING OF THE 2009 SESSION OF THE GENERAL ASSEMBLY.

(3) THE AUTHORITY SHALL IMPLEMENT AND ADHERE STRICTLY TO THE TIME FRAME, DEADLINES, AND REQUIREMENTS ESTABLISHED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.

(H) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (I) OF THIS SECTION, IF THE AUTHORITY FAILS TO CONDUCT THE BIDDING PROCESS IN ACCORDANCE WITH THE REQUIREMENTS, TIME FRAME, AND DEADLINES SET FORTH IN THIS SUBTITLE, THE STATE AND THE COUNTY SHALL BE RELIEVED OF THEIR OBLIGATION TO COMMIT FINANCIAL SUPPORT TO THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM AS AGREED UPON UNDER § 24–1604(B) AND (C) OF THIS SUBTITLE.

(I) IF THE AUTHORITY, ACTING IN GOOD FAITH AND WITH ALL DUE DILIGENCE, CONDUCTS THE BIDDING PROCESS IN ACCORDANCE WITH THE REQUIREMENTS, TIMEFRAME, AND DEADLINES SET FORTH IN THIS SUBTITLE, BUT IN THE JUDGMENT OF A MAJORITY OF THE BOARD IS UNABLE TO MAKE A FINAL SELECTION OF A SUCCESSFUL BIDDER AND REACH FINAL AGREEMENT ON THE TRANSFER OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM BEFORE THE BEGINNING OF THE 2009 SESSION OF THE GENERAL ASSEMBLY:

(1) THE AUTHORITY SHALL SUBMIT A REPORT TO THE GOVERNOR, THE SECRETARY, THE STATE TREASURER, THE ~~PRINCE GEORGE'S~~ COUNTY EXECUTIVE, THE ~~PRINCE GEORGE'S~~ COUNTY COUNCIL, AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE FINANCE COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, BEFORE THE BEGINNING OF THE 2009 SESSION OF THE GENERAL ASSEMBLY;

(2) THE REPORT SHALL EXPLAIN WHY THE AUTHORITY IS UNABLE TO MAKE A TIMELY SELECTION OF A SUCCESSFUL BIDDER AND REACH A TIMELY AGREEMENT ON THE TRANSFER OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM, INCLUDING WHATEVER PROBLEMS THERE MAY HAVE BEEN WITH THE BIDS AND THE STATUS OF ANY ONGOING NEGOTIATIONS OVER THOSE BIDS; AND

(3) IF, IN THE JUDGMENT OF A MAJORITY OF THE AUTHORITY, AN EXTENSION OF TIME WOULD ENABLE IT TO COMPLETE THE PROCESS OF SELECTING A SUCCESSFUL BIDDER AND REACHING AGREEMENT ON THE TRANSFER OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM, THE REPORT SHALL REQUEST AN EXTENSION OF TIME FOR UP TO BUT NO MORE THAN 60 DAYS, SETTING FORTH THE AMOUNT OF TIME NEEDED AND THE AUTHORITY'S PLAN FOR COMPLETING THE PROCESS WITHIN THE PROPOSED PERIOD OF TIME.

(J) ON AGREEMENT OF THE GOVERNOR, THE COUNTY EXECUTIVE, THE COUNTY COUNCIL, AND THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY, THE AUTHORITY'S REQUEST FOR *AN* EXTENSION OF TIME SHALL BE GRANTED.

(K) IF, AT THE END OF THE EXTENSION OF TIME AND NOT MORE THAN 60 DAYS FROM THE BEGINNING OF THE 2009 GENERAL ASSEMBLY, THE AUTHORITY HAS NOT REACHED A FINAL AGREEMENT ON THE TRANSFER OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM TO A SUCCESSFUL BIDDER, THE STATE AND THE COUNTY SHALL BE RELIEVED OF THEIR OBLIGATION TO COMMIT FINANCIAL SUPPORT TO THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM AS AGREED UPON UNDER § 24–1604(B) AND (C) OF THIS SUBTITLE.

24–1606.

(A) (1) ON THE ~~BOARD'S~~ *AUTHORITY'S* SELECTION OF A NEW OWNER OR OWNERS IN ACCORDANCE WITH THE BIDDING PROCESS ESTABLISHED UNDER § 24–1605 OF THIS SUBTITLE, AND ON AGREEMENT FOR THE SALE OR TRANSFER OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM TO THE NEW OWNER OR OWNERS, DISPOSITION OF THE REAL PROPERTY, ASSETS, AND FACILITIES OWNED BY THE COUNTY THAT ARE UNDER THE POSSESSION OR CONTROL OF DIMENSIONS, AS A RESULT OF ANY LEASE AGREEMENT WITH THE COUNTY, SHALL OCCUR AS FOLLOWS:

(I) THE COUNTY SHALL TRANSFER TITLE TO ALL REAL PROPERTY, ASSETS, AND FACILITIES ~~THAT ARE ACQUIRED BY THE NEW OWNER OR OWNERS~~ *OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM* AS PART OF THE AGREEMENT FOR THE SALE OR TRANSFER OF THE *PRINCE GEORGE'S COUNTY* HEALTH CARE SYSTEM TO THE NEW OWNER OR OWNERS FOR COMPENSATION TO THE COUNTY AS PROVIDED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION; *AND*

(II) THE PROCESS FOR TRANSFER OF TITLE SHALL BE COMPLETED BY THE DATE OF FINAL IMPLEMENTATION OF THE AGREEMENT FOR THE SALE OR TRANSFER OF THE *PRINCE GEORGE'S COUNTY* HEALTH CARE SYSTEM; ~~AND~~.

~~(III) ANY PORTION OF THE REAL PROPERTY, ASSETS, AND FACILITIES THAT ARE NOT ACQUIRED BY A NEW OWNER OR OWNERS AS PART OF THE AGREEMENT FOR THE SALE OR TRANSFER OF THE HEALTH CARE SYSTEM SHALL REMAIN UNDER THE CONTROL AND OWNERSHIP OF THE COUNTY.~~

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, ANY PROPERTY ON WHICH THERE IS NO FACILITY DEFINED AS PART OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM AND WHICH THE NEW OWNER OR OWNERS OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM WILL NOT USE OR DEVELOP SHALL REMAIN UNDER THE CONTROL AND OWNERSHIP OF THE COUNTY.

~~(2)~~ *(3)* THE COUNTY SHALL SETTLE ALL ENCUMBRANCES THE COUNTY HAS PLACED OR BEEN INVOLVED IN PLACING *FOR ITS BENEFIT* ON THE REAL PROPERTY, ASSETS, AND FACILITIES TO BE ACQUIRED BY THE NEW OWNER OR OWNERS PRIOR TO THE TRANSFER OF TITLE, SO THAT, EXCEPT FOR ANY REMAINING ENCUMBRANCES PLACED AND HELD SOLELY BY DIMENSIONS, CLEAR LEGAL TITLE WILL BE CONVEYED.

(B) (1) THE COUNTY MAY NOT RECEIVE COMPENSATION OR CREDIT TOWARD ITS FINANCIAL OBLIGATIONS AS AGREED UPON UNDER § 24–1604 OF THIS SUBTITLE FOR THE REAL PROPERTY, ASSETS, AND FACILITIES ~~ACQUIRED BY THE NEW OWNER OR OWNERS~~ *OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM* THAT WILL BE USED FOR PURPOSES RELATED TO THE OPERATIONS OF A HEALTH CARE SYSTEM, *IN ACCORDANCE WITH THE GOALS SET FOR THE HEALTH CARE SYSTEM IN § 24–1602(C) OF THIS SUBTITLE*, SERVING THE RESIDENTS OF THE COUNTY AND SURROUNDING JURISDICTIONS.

(2) SPECIFIC PLANS FOR SUCH USE SHALL BE ESTABLISHED IN THE AGREEMENT FOR THE SALE OR TRANSFER OF THE *PRINCE GEORGE'S COUNTY* HEALTH CARE SYSTEM.

(3) THE DEVELOPMENT OF THE REAL PROPERTY, ASSETS, AND FACILITIES FOR PURPOSES RELATED TO THE OPERATION OF A HEALTH CARE SYSTEM SHALL OCCUR AND BE SUBSTANTIALLY UNDERWAY AT LEAST ~~ONE YEAR~~ *2 YEARS* BEFORE THE END OF THE PERIOD DURING WHICH THE STATE AND THE

COUNTY ARE PROVIDING FINANCIAL SUPPORT TO THE *PRINCE GEORGE'S COUNTY* HEALTH CARE SYSTEM.

(C) (1) FOR ANY PORTION OR PORTIONS OF THE REAL PROPERTY, ASSETS, OR FACILITIES ACQUIRED BY THE NEW OWNER OR OWNERS THAT WILL NOT BE USED FOR PURPOSES RELATED TO THE OPERATION OF A HEALTH CARE SYSTEM, IF ANY, THE COUNTY SHALL BE GIVEN A CREDIT TOWARDS ITS OBLIGATION FOR FINANCIAL SUPPORT OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM AS AGREED UPON UNDER § 24–1604 OF THIS SUBTITLE.

(2) THE AMOUNT OF THE CREDIT SHALL BE DETERMINED BY THE AVERAGE OF THREE INDEPENDENT APPRAISALS OF THE VALUE OF THAT PORTION OR PORTIONS OF THE REAL PROPERTY, ASSETS, OR FACILITIES, AS FOLLOWS:

(I) ~~TWO APPRAISALS~~ *ONE APPRAISAL* SHALL BE CONDUCTED BY QUALIFIED APPRAISERS EMPLOYED BY OR UNDER CONTRACT WITH THE STATE;

(II) ONE APPRAISAL SHALL BE CONDUCTED BY A QUALIFIED APPRAISER EMPLOYED BY OR UNDER CONTRACT WITH THE COUNTY; ~~AND~~

(III) ONE APPRAISAL SHALL BE CONDUCTED BY AN INDEPENDENT QUALIFIED APPRAISER SELECTED BY THE AUTHORITY THAT IS NEITHER UNDER CONTRACT WITH THE STATE NOR THE COUNTY; AND

~~(III)~~ *(IV)* THE APPRAISALS MAY NOT BE REDUCED BY THE AMOUNT OF ANY REMAINING ENCUMBRANCES PLACED AND HELD BY DIMENSIONS *OR THE COUNTY*.

(3) ANY CREDIT ~~SHALL BE~~ *MAY NOT BE* REDUCED BY THE AMOUNT OF FUNDING, IF ANY, REQUIRED TO REMOVE ANY ENCUMBRANCES PLACED BY OR WITH THE INVOLVEMENT OF THE COUNTY *FOR ITS BENEFIT* ON THE TITLE TO THE FACILITIES, ASSETS, AND REAL PROPERTY CONVEYED TO THE NEW OWNER OR OWNERS.

(4) ANY CREDIT SHALL BE APPLIED ON A PRO RATA BASIS FOR EACH YEAR OF THE COUNTY'S FUNDING OBLIGATION AS AGREED UPON UNDER § 24–1604 OF THIS SUBTITLE.

(D) IF THE AMOUNT OF THE CREDIT AS DETERMINED UNDER SUBSECTION (C)(2) AND (3) OF THIS SECTION EXCEEDS THE COUNTY'S TOTAL

OBLIGATION FOR FINANCIAL SUPPORT, THE NEW OWNER OR OWNERS SHALL PROMPTLY PAY THE BALANCE TO THE COUNTY.

24–1607.

(A) (1) SUBJECT TO ANY LIMITATIONS UNDER THIS SUBTITLE OR OTHER APPLICABLE LAW, THE AUTHORITY SHALL HAVE ~~ALL~~ *THE* POWERS NECESSARY OR CONVENIENT TO FURTHER ITS MISSION.

(2) THE ENUMERATION OF SPECIFIC POWERS IN THIS SUBTITLE IS NOT INTENDED TO RESTRICT THE AUTHORITY'S POWER TO TAKE ANY LAWFUL ACTION THAT THE AUTHORITY DETERMINES IS NECESSARY OR CONVENIENT TO FURTHER ITS MISSION.

(B) IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS SUBTITLE, THE AUTHORITY MAY:

(1) ADOPT AND ALTER AN OFFICIAL SEAL;

(2) SUE AND BE SUED, PLEAD AND BE IMPLEADED;

(3) ADOPT BYLAWS, RULES, AND REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE;

(4) MAINTAIN AN OFFICE ~~AT THE PLACE DESIGNATED BY THE AUTHORITY~~ *IN PRINCE GEORGE'S COUNTY*;

(5) EMPLOY OR RETAIN ANY PERSONNEL THAT THE AUTHORITY DETERMINES TO BE NECESSARY AND FIX THEIR COMPENSATION;

(6) ENTER INTO ANY AGREEMENTS NECESSARY TO MANAGE ITS OWN AFFAIRS; AND

(7) APPLY FOR AND RECEIVE GRANTS, CONTRACTS, OR OTHER PUBLIC OR PRIVATE FUNDING.

(C) THE AUTHORITY SHALL RECEIVE FUNDING IN AN AMOUNT NOT TO EXCEED $1,500,000, DIVIDED EVENLY BETWEEN THE STATE AND THE COUNTY FROM THE APPROPRIATIONS PROVIDED UNDER § 24–1608 OF THIS SUBTITLE.

24–1608.

(A) SUBJECT TO ~~§ 24–1604(D)(2)~~ *§ 24–1604(E)(2)* OF THIS SUBTITLE:

(1) FOR FISCAL YEAR 2009, THE GOVERNOR MAY INCLUDE IN THE BUDGET SUBMITTED TO THE GENERAL ASSEMBLY AN APPROPRIATION OF $12,000,000 FOR THE FINANCIAL SUPPORT OF THE FACILITIES, ASSETS, LEASEHOLD RIGHTS, LIABILITIES, AND OPERATIONS HELD OR OPERATED BY DIMENSIONS; AND

(2) FOR FISCAL YEAR 2009, THE COUNTY SHALL APPROPRIATE $12,000,000 FOR THE FINANCIAL SUPPORT OF THE FACILITIES, ASSETS, LEASEHOLD RIGHTS, LIABILITIES, AND OPERATIONS HELD OR OPERATED BY DIMENSIONS.

(B) SUBJECT TO ~~§ 24–1604(D)(2)~~ *§ 24–1604(E)(2)* OF THIS SUBTITLE, AND UNLESS AN AGREEMENT FOR THE SALE OR TRANSFER OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM TO A NEW OWNER OR OWNERS IS REACHED THAT RENDERS THE ACTION NO LONGER NECESSARY:

(1) THE GOVERNOR SHALL INCLUDE IN THE FISCAL YEAR 2010 BUDGET SUBMITTED TO THE GENERAL ASSEMBLY AN APPROPRIATION OF $12,000,000 FOR THE FINANCIAL SUPPORT OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM; AND

(2) FOR FISCAL YEAR 2010, THE COUNTY SHALL APPROPRIATE $12,000,000 FOR THE FINANCIAL SUPPORT OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM.

(C) ~~(1)~~ THE STATE AND THE COUNTY SHALL MAKE THEIR RESPECTIVE PAYMENTS TO DIMENSIONS IN QUARTERLY INCREMENTS OF $3,000,000 EACH, DUE AT THE BEGINNING OF EVERY QUARTER OF EACH FISCAL YEAR.

~~**(2) (I) IF SCHEDULED PAYMENTS ARE NOT MADE BY THE FIFTEENTH DAY AFTER EACH PAYMENT IS DUE, CHARGES SHALL ACCRUE ON ANY UNPAID PAYMENTS AT A SIMPLE RATE OF 1% PER MONTH.**~~

~~**(II) LATE PAYMENT CHARGES SHALL BE ADDED TO THE SCHEDULED PAYMENT EVERY THIRTY DAYS THEREAFTER.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the members ~~of the Board~~ of the Prince George's County Hospital Authority, established under Section 1 of this Act, shall expire within ~~two~~ *2* years ~~of~~ *after* the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene (DHMH) and the Department of Business and Economic Development (DBED) shall provide initial staffing for the Prince George's County Hospital Authority, established under Section 1 of this Act, until the Authority hires or retains staff of its own. The Authority shall reimburse the DHMH and DBED, respectively, for the cost of the initial staffing provided by them.

~~SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:~~

~~(1) notwithstanding § 7–210 or § 7–310 of the State Finance and Procurement Article or any other law, the Governor is authorized to transfer by approved budget amendment from the Dedicated Purpose Account, as provided in Supplemental Budget No. 4 for fiscal year 2008, an operating grant in the amount of $20,000,000 to the Prince George's County Hospital Authority for the purpose of operating support for the Prince George's Hospital Center;~~

~~(2) for fiscal year 2009, $10,000,000 may be appropriated for the purpose of providing an operating grant to the Prince George's County Hospital Authority;~~

~~(3) the State shall provide capital support for the Prince George's Hospital Center to be available in fiscal year 2008 in the amount of $13,000,000 as authorized in previously appropriated but unexpended capital funding in the 2004, 2005, and 2006 capital budgets; and~~

~~(4) in the fiscal year 2009 capital budget, the State may provide a grant to the Prince George's County Hospital Authority in the amount of $13,000,000 for capital support for the Prince George's Hospital Center.~~

SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the State, subject to the conditions set forth in this Act, shall provide support for the Prince George's Hospital Center in the amount of $12,000,000 for each of fiscal years 2009 and 2010.

SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, if it becomes necessary to sustain operations at the Prince George's County health care system, the State and the County shall each make an initial payment in equal amounts to Dimensions out of the $12,000,000 each has appropriated for fiscal year 2009 in advance of the beginning of fiscal year 2009.

SECTION ~~5.~~ *6.* AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, up to $20,000,000 may be transferred from the Dedicated Purpose Account established under § 7–310 of the State Finance and Procurement Article by approved budget amendment to the Department of Health and Mental Hygiene for the purpose of providing support to Dimensions for the operation of the

Prince George's County health care system pending implementation of the requirements of this Act.

SECTION 7. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the money for operating expenses that the Prince George's County Hospital Authority receives from the State and Prince George's County in accordance with § 24–1607(c) of the Health – General Article, as enacted by Section 1 of this Act, shall be used only for necessary expenses and kept at a minimum for the purpose of maximizing the funding for the continued operation of the Prince George's County health care system. Any money provided to the Prince George's County Hospital Authority for operating expenses that is neither used nor necessary for use by the Authority shall be transferred to the Dimensions Health Corporation or the new owner or owners of the Prince George's County health care system.

SECTION ~~5.~~ ~~6.~~ *8.* AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that State funding for education and public safety purposes will not be affected by any State support for the Prince George's County Hospital Authority.

SECTION ~~6.~~ ~~7.~~ *9.* 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.

SECTION ~~8.~~ *10.* AND BE IT FURTHER ENACTED, That this Act shall remain effective for a period of ~~two~~ *2* years *from the date it is enacted* and, at the end of ~~two years~~ *the 2–year period*, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2008.

CHAPTER 681

(House Bill 1048)

AN ACT concerning

Correctional Services – Maryland Correctional Enterprises – Revolving Fund

FOR the purpose of repealing a requirement that certain funds be transferred in certain fiscal years from the Maryland Correctional Enterprises' revolving fund

to a special fund to be used by the Maryland State Department of Education for certain purposes; and generally relating to Maryland Correctional Enterprises.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 3–507
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

3–507.

(a) The Department shall include the budget for Maryland Correctional Enterprises in the Department's budget.

(b) (1) Maryland Correctional Enterprises may establish a revolving fund to contain an amount that the Treasurer approves.

[(2) (i) For each of fiscal years 2006 through 2009, the first $1,000,000 in the revolving fund in excess of the amount required to operate Maryland Correctional Enterprises shall be transferred to a special fund to be used by the State Department of Education for the operation of educational programs in correctional institutions.

(ii) Money from the revolving fund shall supplement and may not supplant funding for the operation of educational programs in correctional institutions.**]**

[(3)**] (2)** (i) Subject to the provisions of subparagraph (ii) of this paragraph, the revolving fund may be used for general operating expenses and the purchase of capital assets.

(ii) The revolving fund may be used to provide financial assistance, up to $250,000 in a fiscal year, to the Division of Correction to establish and operate employment readiness training programs and transitional services to rehabilitate inmates currently or previously employed by Maryland Correctional Enterprises.

[(4)**] (3)** The revolving fund established under paragraph (1) of this subsection is not subject to § 7–302 of the State Finance and Procurement Article.

[(5)**] (4)** Maryland Correctional Enterprises shall submit an annual statement to the Comptroller and the Treasurer that provides an accurate and detailed accounting of all receipts and disbursements from the revolving fund.

(c) General Fund money may be appropriated to Maryland Correctional Enterprises to be used for the direct expenses of training inmates.

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

Approved by the Governor, May 22, 2008.

CHAPTER 682

(House Bill 1078)

AN ACT concerning

Prince George's County – Task Force to Study Locations in Prince George's County Best Suited for Use by State Agencies

PG 413–08

FOR the purpose of establishing a Task Force to Study Locations in Prince George's County Best Suited for Use by State Agencies; providing for the membership and duties of the Task Force; providing for the designation of a chair of the Task Force; requiring the Office of the County Executive for Prince George's County to provide staff for the Task Force; prohibiting members of the Task Force from receiving compensation, but authorizing certain reimbursement for certain expenses; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to Study Locations in Prince George's County Best Suited for Use by State Agencies.

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

(a) There is a Task Force to Study Locations in Prince George's County Best Suited for Use by State Agencies.

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

(1) ~~three~~ *two* members of the Senate of Maryland, appointed by the President of the Senate;

(2) ~~three~~ *two* members of the House of Delegates, appointed by the Speaker of the House;

(3) one representative from the Governor's office, appointed by the Governor;

(4) one member of the Prince George's County Council, appointed by the Prince George's County Council;

(5) one representative from the Prince George's County Economic Development Corporation, appointed by the Prince George's County Executive;

(6) the Prince George's County Executive, or the County Executive's designee;

(7) one representative from the Maryland–National Capital Park and Planning Commission;

~~(7)~~ *(8)* one representative from the Board of Public Works, appointed by the Governor; and

~~(8)~~ *(9)* the Secretary of General Services, or the Secretary's designee.

(c) The Governor shall designate the chair of the Task Force.

(d) The Office of the County Executive for Prince George's County shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation for serving on 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 and make recommendations regarding:

(1) locations in Prince George's County best suited for use by State agencies;

(2) which State agencies are expected to relocate to Prince George's County; and

(3) methods of encouraging State agencies to relocate to Prince George's County.

(g) On or before September 30, 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.

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 4 months and, at the end of September 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 22, 2008.

CHAPTER 683

(House Bill 1158)

AN ACT concerning

Safe Schools Reporting Act

FOR the purpose of authorizing a school staff member to report an incident of harassment or intimidation against a student; ~~repealing the sunset provision for the Safe Schools Reporting Act;~~ and generally relating to the Safe Schools Reporting Act.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–424
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Chapter 547 of the Acts of 2005~~
~~Section 2~~

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

Article – Education

7–424.

(a) In this section, "harassment or intimidation" means conduct, including verbal conduct, that:

(1) 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) Motivated by an actual or a perceived personal characteristic such as race, national origin, marital status, sex, sexual orientation, gender identity, religion, or disability; or

(ii) Threatening or seriously intimidating; and

(2) Occurs on school property, at a school activity or event, or on a school bus.

(b) (1) The Department shall require a county board to report incidents of harassment or intimidation against students attending a public school under the jurisdiction of the county board.

(2) An incident of harassment or intimidation may be reported by**:**

(I) **[**a**] A** student**;**

(II) **[**or the**] THE** parent, guardian, or close adult relative of a student**; OR**

(III) A SCHOOL STAFF MEMBER.

(c) (1) The Department shall create a standard victim of harassment or intimidation report form.

(2) Each victim of 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 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 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 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 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.

~~**Chapter 547 of the Acts of 2005**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2005. **[**It shall remain effective for a period of 4 years 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.**]**~~

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

Approved by the Governor, May 22, 2008.

CHAPTER 684

(House Bill 1185)

AN ACT concerning

Maryland Transit Administration – Public Transit Services – Efficiency and Performance Standards

FOR the purpose of repealing certain provisions of law relating to the percentage of operating costs that must be recovered from certain revenues for certain public transit services; establishing ~~a certain goal~~ *certain requirements* for the percentage of operating costs that must be recovered from certain revenues for certain public transit services; requiring the Administration to submit a certain annual report on farebox recovery to certain committees of the General Assembly; requiring the ~~Maryland Transit~~ Administration to implement certain performance indicators to track service efficiency for certain public transit

services; requiring the Administration to submit a certain annual report on certain performance indicators to certain committees of the General Assembly; requiring the Administration to provide for certain periodic management audits to be used when evaluating the performance of certain public transit services; *repealing certain termination provisions that relate to the percentage of operating costs that must be recovered from certain revenues for certain public transit services; altering a certain definition; requiring the Maryland Transit Administration to submit a certain report to certain committees of the General Assembly on or before a certain date;* and generally relating to performance standards for public transit services.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 7–208 ~~and 7–902~~, *7–902, and 10–207(a)(4)*
Annotated Code of Maryland
(2001 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Chapter 210 of the Acts of the General Assembly of 2000, as amended by Chapter 447 of the Acts of the General Assembly of 2004
Section 5

BY repealing and reenacting, with amendments,
Chapter 211 of the Acts of the General Assembly of 2000, as amended by Chapter 447 of the Acts of the General Assembly of 2004
Section 5

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

Article – Transportation

7–208.

(a) **[**(1)**]** Subject to the authority of the Secretary and, where applicable, the Maryland Transportation Authority, the Administration has jurisdiction:

[(i)**] (1)** Consistent with the provisions of Division II of the State Finance and Procurement Article, for planning, developing, constructing, acquiring, financing, and operating the transit facilities authorized by this title; and

[(ii)**] (2)** Over the services performed by and the rentals, rates, fees, fares, and other charges imposed for the services performed by transit facilities owned or controlled by the Administration.

[(2) (i) For fiscal years 1988 through 1992 and each fiscal year thereafter, the Administration shall recover from fares and other operating revenues at least 50 percent of the total operating costs for the mass transit bus and rail services under its jurisdiction. It is the intent of the General Assembly that the provisions of this paragraph shall apply on a system–wide basis and not on an individual transit line basis. However, given the anticipated efficiency of light rail technology, the Department is encouraged, after 2 years of light rail operation, to recover from fares and other operating revenues at least 60 percent of the total operating costs for light rail services.

(ii) The Administration shall obtain the fare recovery ratio through the establishment of reasonable fares in the Baltimore region and the implementation of cost containment measures as deemed necessary to meet the standard required under this paragraph.**]**

(B) (1) FOR FISCAL YEAR 2009 AND EACH FISCAL YEAR THEREAFTER, THE ~~ADMINISTRATION'S GOAL~~ *ADMINISTRATION* SHALL ~~BE TO~~ *SEPARATELY* RECOVER FROM FARES AND OTHER OPERATING REVENUES AT LEAST 35 PERCENT OF THE TOTAL OPERATING COSTS FOR:

(I) THE ADMINISTRATION'S BUS, LIGHT RAIL, AND METRO SUBWAY SERVICES IN THE BALTIMORE REGION; AND

(II) ALL PASSENGER RAILROAD SERVICES UNDER THE ADMINISTRATION'S CONTROL.

(2) THE ADMINISTRATION SHALL SUBMIT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, AN ANNUAL REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, HOUSE WAYS AND MEANS COMMITTEE, AND HOUSE APPROPRIATIONS COMMITTEE BY DECEMBER 1 OF EACH YEAR THAT INCLUDES:

(I) SEPARATE FAREBOX RECOVERY RATIOS FOR THE PRIOR FISCAL YEAR FOR:

1. BUS, LIGHT RAIL, AND METRO SUBWAY SERVICES PROVIDED BY THE ADMINISTRATION IN THE BALTIMORE REGION;

2. COMMUTER BUS SERVICE PROVIDED UNDER CONTRACT TO THE ADMINISTRATION IN THE BALTIMORE REGION; AND

3. MARYLAND AREA RAIL COMMUTER (MARC) SERVICE PROVIDED UNDER CONTRACT TO THE ADMINISTRATION;

(II) A DISCUSSION OF THE SUCCESS OR FAILURE TO ACHIEVE THE FAREBOX RECOVERY ~~GOAL~~ *REQUIREMENT* ESTABLISHED IN PARAGRAPH (1) OF THIS SUBSECTION; AND

(III) COMPARISONS OF FAREBOX RECOVERY RATIOS FOR THE ADMINISTRATION'S MASS TRANSIT SERVICES AND OTHER SIMILAR TRANSIT SYSTEMS NATIONWIDE.

~~(B)~~ (C) (1) FOR FISCAL YEAR 2009 AND EACH FISCAL YEAR THEREAFTER, THE ADMINISTRATION SHALL IMPLEMENT PERFORMANCE INDICATORS TO TRACK SERVICE EFFICIENCY FOR THE ADMINISTRATION'S MASS TRANSIT SERVICES, INCLUDING:

(I) OPERATING EXPENSES PER REVENUE VEHICLE MILE;

(II) OPERATING EXPENSES PER PASSENGER TRIP; AND

(III) PASSENGER TRIPS PER REVENUE VEHICLE MILE.

(2) THE ADMINISTRATION SHALL SUBMIT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, AN ANNUAL PERFORMANCE REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, HOUSE WAYS AND MEANS COMMITTEE, AND HOUSE APPROPRIATIONS COMMITTEE BY DECEMBER 1 OF EACH YEAR ON:

(I) THE STATUS OF THE PERFORMANCE INDICATORS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION FOR THE PRIOR FISCAL YEAR, INCLUDING A DISCUSSION OF THE FAILURE OR SUCCESS IN MEETING THE GOALS ESTABLISHED FOR THE PRIOR FISCAL YEAR BY THE ADMINISTRATION;

(II) THE STATUS OF MANAGING–FOR–RESULTS GOALS OF THE ADMINISTRATION AS THEY PERTAIN TO MASS TRANSIT SERVICE IN THE BALTIMORE AREA;

(III) COMPARISONS OF PERFORMANCE INDICATORS FOR THE ADMINISTRATION'S MASS TRANSIT SERVICES AND OTHER SIMILAR SYSTEMS NATIONWIDE; AND

(IV) THE ADMINISTRATION'S GOALS FOR EACH OF THE MEASURES IN PARAGRAPH (1) OF THIS SUBSECTION FOR THE NEXT FISCAL YEAR.

~~(C)~~ **(D)** **(1) THE ADMINISTRATION SHALL PROVIDE FOR AN INDEPENDENT MANAGEMENT AUDIT OF THE OPERATIONAL COSTS AND REVENUES OF THE ADMINISTRATION'S MASS TRANSIT SERVICES EVERY 4 YEARS.**

(2) THE AUDIT SHALL PROVIDE DATA ON FARES, COST CONTAINMENT MEASURES, COMPARISONS WITH OTHER SIMILAR MASS TRANSIT SYSTEMS, AND OTHER INFORMATION NECESSARY IN EVALUATING THE OPERATIONS OF THE ADMINISTRATION'S MASS TRANSIT SYSTEM.

(3) THE FINDINGS FROM THE AUDIT SHALL BE USED AS A BENCHMARK FOR THE ANNUAL PERFORMANCE REPORTS.

[(b)**]** ~~(D)~~ **(E)** The determinations of the Secretary, Administration, or Maryland Transportation Authority as to the type of service performed or the rentals, rates, fees, fares, and other charges imposed are not subject to judicial review or to the processes of any court.

[(c)**]** ~~(E)~~ **(F)** Notwithstanding any other provision of this title or the Public Utility Companies Article, the Public Service Commission does not have any jurisdiction over transit facilities owned or controlled by the Administration or over any contractor operating these facilities.

[(d)**]** ~~(F)~~ **(G)** Except as provided in this title, the Administration does not have any jurisdiction over transportation in the District by private carriers.

7–902.

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

(2) "Level of service" includes the number of round trips operated on a route and the number of stations along a route.

(3) "Route" means a passenger railroad service line described under subsections (b) through (d) of this section.

(b) The Administration shall continue to operate the following passenger railroad services at levels of service at least equivalent to the level of service established as of July 1, 1981:

(1) The CSX line between Brunswick and the District of Columbia;

(2) The Amtrak line between Penn Station in Baltimore and the District of Columbia; and

(3) The CSX line between Camden Station in Baltimore and the District of Columbia.

(c) The Administration shall continue to operate the passenger railroad service on the Amtrak line between Perryville and Penn Station in Baltimore at the level of service at least equivalent to the level of service established as of May 1, 1991.

(d) The Administration shall continue to operate the passenger services on the CSX line between Frederick and Point of Rocks at the level of service at least equivalent to the level of service established as of December 17, 2001.

[(e) The Administration shall recover at least 50 percent of total operating costs for all passenger railroad services under its control from fares and operating revenues. Notwithstanding § 7–208 of this title, the Maryland Transit Administration shall calculate for passenger rail services a separate farebox recovery ratio for the administrative purposes of determining a separate cost recovery ratio for each of the aforementioned transit modes from the calculation for mass transit, Metro, and light rail.**]**

[(f)**] (E)** (1) The Administration may not close a station on any route before June 30, 2008.

(2) Notwithstanding the provisions of this section, the Administration may close the Jessup Station on the CSX line between Camden Station in Baltimore and the District of Columbia at any time if the Administration finds that the ridership at the Jessup Station does not warrant keeping the station open.

[(g)**] (F)** The Administration shall adopt regulations to facilitate the transportation of bicycles on board passenger railroad services.

[(h)**] (G)** Before closing a station on a passenger railroad service line described in subsection (b) of this section, the Maryland Transit Administration shall review and report, in accordance with § 2–1246 of the State Government Article, to the Governor and the General Assembly, on the following:

(1) With respect to the Dickerson and Boyds MARC stations on the CSX line between Brunswick and the District of Columbia:

(i) The impact on traffic congestion along the Interstate 270, Md State Route 117, and Md State Route 28 corridors as a result of the station closures;

(ii) The impact of future growth in upper Montgomery and southern Frederick counties, particularly in Clarksburg over the next 5 years, and the

projected ridership for the Boyds and Dickerson stations as a result of that future growth;

(iii) The impact of the projected growth in upper Montgomery and southern Frederick counties on traffic congestion along the Interstate 270, Md State Route 117, and Md State Route 28 corridors and the transit alternatives that are contemplated to meet any increased demand;

(iv) The methodology used to compute average daily ridership;

(v) The impact on projected ridership on the line if the stations are closed and later reopened due to impending growth;

(vi) The projected ridership if train stops are increased from three stops each to nine stops each for trains arriving at Washington Union Station and from four stops each to ten stops each (to discharge passengers only) for trains departing Washington Union Station;

(vii) Under an expanded schedule, the estimated increase in train service as a result of increasing the number of stops;

(viii) Options to increase ridership at stations with low ridership, including investing in a ridership campaign to promote stations with low ridership;

(ix) The projected ridership after investing in a ridership campaign to promote the stations;

(x) The schedule for installing ticket vending machines at the stations and whether such vending machines have already been purchased;

(xi) Whether a vending machine that is scheduled to be installed at another station could temporarily be used at either or both of these stations;

(xii) The impact on riders boarding at these stations if vending machines are not installed at the stations;

(xiii) An evaluation of potential increased bus service to the stations, and parking lot expansion near the stations, including any possible options for parking lot expansion;

(xiv) Specific efforts undertaken to:

1. Attract new riders on the lines and to retain riders already using the lines; and

2. Improve access for individuals with disabilities;

(xv) Potential alternatives to closing stations that would achieve greater efficiency on the Brunswick and Camden CSX lines;

(xvi) Potential sources of alternative funding for the operating and capital costs of keeping the stations open, including collaboration with local governments; and

(xvii) The description of the $300,000 passenger warning system for the Dickerson Station and whether other possible, less costly, passenger warning systems were considered and the reasons why such systems were not employed; and

(2) With regard to the St. Denis Station on the CSX line between Camden Station in Baltimore and the District of Columbia:

(i) The information required under items (1)(vii) through (xvi) of this subsection;

(ii) The implications of closing a passenger railroad service facility that is a State or federally designated historic landmark or that is located in a State or federally designated historic district;

(iii) The impact on traffic congestion along the Interstate 95, Interstate 295, and Md State Route 100 corridors as a result of the station closure;

(iv) The effect of closing the St. Denis Station on ridership at the Halethorpe Station, including the effect on traffic and parking at the Halethorpe Station and in Arbutus;

(v) The projected ridership at the St. Denis Station if train stops are increased up to nine stops; and

(vi) The projected ridership at the St. Denis Station if service to and from Baltimore is resumed.

[(i)**] (H)** (1) Until a public hearing is held on the matter, the Administration may not establish or abandon a station on a route.

(2) The Administration shall give notice of a hearing at least 30 days before the hearing.

(3) The notice shall be:

(i) Published once a week for 2 successive weeks in two or more newspapers of wide circulation throughout the Administration's commuter rail service area; and

(ii) Posted in all of the Administration's offices, stations, and terminals and all of its commuter rail rolling stock in revenue service.

(4) The 30–day period begins when the notice first appears in the newspaper.

(5) (i) If the Administration gives inadequate notice of a public hearing on a matter described in paragraph (1) of this subsection, the Administration may not establish or abandon a station unless a legally sufficient public hearing is held.

(ii) For the purposes of this paragraph, notice shall be considered inadequate if:

1. The Administration does not comply with the newspaper publication requirement under paragraph (3)(i) of this subsection; or

2. At least 30% of the Administration's facilities are not posted as required under paragraph (3)(ii) of this subsection.

(6) The Administration may implement a change of policy on a matter described in paragraph (1) of this subsection only during the time period beginning 6 weeks after the date of the public hearing and ending 6 months after the date of the public hearing.

10–207.

(a) (4) "Service deficit" means costs less:

(i) The greater of:

1. Revenues collected under this section and § 10–205(b) of this subtitle; or

2. ***[****40****]*** ***35*** *percent of the costs; and*

(ii) All federal operating assistance.

Chapter 210 of the Acts of 2000, as amended by Chapter 447 of the Acts of 2004

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2000. [It shall remain effective for a period of 8 years and, at the end of June 30, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

Chapter 211 of the Acts of 2000, as amended by Chapter 447 of the Acts of 2004

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2000. [It shall remain effective for a period of 8 years and, at the end of June 30, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2009, the Maryland Transit Administration shall report to the Senate Budget and Taxation Committee, the House Ways and Means Committee, and the House Appropriations Committee, in accordance with § 2–1246 of the State Government Article, regarding the number of trips made on Baltimore core services, including bus, Metro subway, and light rail services, for which no revenue is received by the Maryland Transit Administration. The report also shall detail the categories of free rides and provide an estimate of the annual number of free trips. This data shall exclude trips taken by passengers who use a Maryland Transit Administration pass product, including reduced fare weekly, daily, or monthly passes.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 685

(House Bill 1186)

AN ACT concerning

Office of the State's Attorney – Repeal of Obsolete Provisions

FOR the purpose of repealing certain obsolete provisions concerning the Office of the State's Attorney, including provisions requiring the State's Attorney to aid the Comptroller and State Treasurer in adjusting accounts of county office holders, order execution to be issued for the recovery of certain moneys, and submit certain information to certain judges for certification before receiving certain funds; and generally relating to the Office of the State's Attorney.

BY repealing
Article – Criminal Procedure
Section 15–103, 15–106, and 15–107
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

[15–103.

(a) A State's Attorney:

(1) with respect to the county served by the State's Attorney, shall aid the Comptroller and State Treasurer in the adjustment of the accounts that the clerk of the circuit court, the register of wills, and the sheriff have with the State; and

(2) when required, shall advise the Comptroller and State Treasurer of the allowances that the Comptroller or State Treasurer should make the accountant for insolvency or nonresidence.

(b) For the services described in subsection (a) of this section and professional services in the collection of State revenue, the Comptroller may allow a State's Attorney 5% of all money sued for and paid into the State treasury.**]**

[15–106.

On the application of the sheriff for the county served by a State's Attorney, the State's Attorney shall order execution to be issued for the recovery of fines, penalties, forfeitures, and costs imposed by a court of record in the State.**]**

[15–107.

(a) This section does not apply to Allegany County, Anne Arundel County, Baltimore County, Calvert County, Garrett County, Montgomery County, Prince George's County, Washington County, or Worcester County.

(b) (1) A State's Attorney shall make a full and particular accounting of services rendered and expenses incurred by the State's Attorney and chargeable to the county.

(2) The accounting shall include:

(i) the time and place that services were rendered; and

(ii) the expenses that were incurred.

(3) The accounting may include:

(i) a reasonable trial fee for each case actually tried, allowable at the discretion of the court;

(ii) an appearance fee provided by law; and

(iii) reasonable compensation for other services performed.

(4) The State's Attorney shall submit the accounting to the judges of the circuit court of the county served by the State's Attorney with an affidavit as to the correctness of the accounting and the fairness of any charges.

(5) The judges of the circuit court shall examine the accounting submitted by the State's Attorney.

(6) If the accounting is fair, reasonable, and properly chargeable to the county, the judges of the circuit court shall certify the accounting.

(7) If the accounting is certified by a majority of the judges of the circuit court, the accounting shall be filed with the clerk of the board of county commissioners of the county served by the State's Attorney.

(c) On the filing of a certified accounting with the clerk of the board of county commissioners under subsection (b) of this section, the county commissioners shall:

(1) approve the accounting; and

(2) levy and collect the amount charged by the State's Attorney in the same time and manner that other county taxes are levied and collected.

(d) This section does not prohibit a board of county commissioners from providing the office of a State's Attorney a larger appropriation than the amount that is allowed and certified by the judges of the circuit court under subsection (b) of this section.**]**

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

Approved by the Governor, May 22, 2008.

CHAPTER 686

(House Bill 1187)

AN ACT concerning

Persons Who Operate Nursing Homes – Licensure

FOR the purpose of requiring ~~a person to be licensed by the Secretary of Health and Mental Hygiene before operating a nursing home; establishing the qualifications for licensure; requiring the Secretary to evaluate the background and qualifications of certain persons~~ an applicant for licensure or relicensure of a nursing home to include certain information in the application; requiring applicants to provide the Secretary with certain information; ~~requiring the Secretary to issue licenses to applicants who meet certain requirements; authorizing licensees to renew licenses under certain circumstances~~ authorizing the Secretary of Health and Mental Hygiene to make certain approvals or denials of licensure applications after a certain review; requiring licensees to report to the Secretary certain changes in the financial condition of a nursing home; ~~authorizing the Secretary to verify certain financial conditions~~ requiring the Secretary to convene a certain workgroup to make certain recommendations; requiring the Secretary to review certain recommendations and to publish certain regulations on or before a certain date; making certain exceptions; ~~requiring the Secretary to adopt certain regulations; defining certain terms;~~ and generally relating to the licensure of persons who operate nursing homes.

~~BY repealing and reenacting, with amendments,~~
~~Article – Health – General~~
~~Section 19–1401~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2007 Supplement)~~

BY adding to
Article – Health – General
Section 19–1401.1, 19–1401.2, and 19–1401.3 ~~19–1401.3, 19–1401.4, 19–1401.5, 19–1401.6, 19–1401.7, and 19–1401.8~~

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

~~19–1401.~~

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

~~(b) "Actual harm deficiency" means a condition existing in a nursing home or an action or inaction by the nursing home staff that has caused physical or emotional injury or impairment to a resident.~~

~~(c) "Concurrent review" means daily rounds by a licensed nurse which include:~~

~~(1) Appraisal and observation of each resident by the licensed nurse to determine any change in the resident's physical or mental status; and~~

~~(2) If there is a change in the resident's physical or mental status, an evaluation by the licensed nurse of:~~

~~(i) The resident's medications;~~

~~(ii) Laboratory values relating to the resident;~~

~~(iii) Clinical data relating to the resident, including the resident's:~~

~~1. Hydration and nutritional need;~~

~~2. Skin integrity;~~

~~3. Noted weight changes; and~~

~~4. Appetite;~~

~~(iv) Injuries sustained by the resident that result from accident or incidents involving the resident; and~~

~~(v) Any other relevant parameters affecting or reflecting the resident's physical and mental status.~~

~~**(D) (1) "CONTROLLING PERSON" MEANS A PERSON WHO HAS THE ABILITY, ACTING ALONE OR IN CONCERT WITH OTHERS, TO DIRECTLY OR INDIRECTLY INFLUENCE, DIRECT, OR CAUSE THE DIRECTION OF THE MANAGEMENT, EXPENDITURE OF MONEY, OR POLICIES OF A NURSING HOME OR ANOTHER PERSON.**~~

~~**(2) "CONTROLLING PERSON" INCLUDES:**~~

~~**(I) A MANAGEMENT COMPANY, LANDLORD, OR OTHER BUSINESS ENTITY THAT OPERATES OR CONTRACTS WITH OTHERS FOR THE OPERATION OF A NURSING HOME;**~~

~~**(II) ANY PERSON WHO IS A CONTROLLING PERSON OF A MANAGEMENT COMPANY OR OTHER BUSINESS ENTITY THAT OPERATES A NURSING HOME OR THAT CONTRACTS WITH ANOTHER PERSON FOR THE OPERATION OF A NURSING HOME; AND**~~

~~**(III) ANY OTHER INDIVIDUAL WHO, BECAUSE OF A PERSONAL, FAMILIAL, OR OTHER RELATIONSHIP WITH THE OWNER, MANAGER, LANDLORD, OR TENANT OF A NURSING HOME IS IN A POSITION OF ACTUAL CONTROL OR AUTHORITY WITH RESPECT TO THE NURSING HOME, WITHOUT REGARD TO WHETHER THE INDIVIDUAL IS FORMALLY NAMED AS AN OWNER, MANAGER, DIRECTOR, OFFICER, PROVIDER, CONSULTANT, CONTRACTOR, OR EMPLOYEE OF THE NURSING HOME.**~~

~~**(3) "CONTROLLING PERSON" DOES NOT INCLUDE A PERSON, INCLUDING AN EMPLOYEE, A LENDER, A SECURED CREDITOR, OR A LANDLORD, WHO DOES NOT EXERCISE ANY INFLUENCE OR CONTROL, WHETHER FORMAL OR ACTUAL, OVER THE OPERATION OF A NURSING HOME.**~~

~~**[**(d)**] (E)** "Deficiency" means a condition existing in a nursing home or an action or inaction by the nursing home staff that results in potential for more than minimal harm, actual harm, or serious and immediate threat to one or more residents.~~

~~**[**(e)**] (F)** "Nursing home" means a facility (other than a facility offering domiciliary or personal care as defined in Subtitle 3 of this title) which offers nonacute inpatient care to patients suffering from a disease, chronic illness, condition, disability of advanced age, or terminal disease requiring maximal nursing care without continuous hospital services and who require medical services and nursing services rendered by or under the supervision of a licensed nurse together with convalescent, restorative, or rehabilitative services.~~

~~[(f)] (G) "Ongoing pattern" means the occurrence of any potential for more than minimal harm or greater deficiency on two consecutive on–site visits as a result of annual surveys, follow–up visits, any unscheduled visits, or complaint investigations.~~

~~[(g)] (H) "Potential for more than minimal harm deficiency" means a condition existing in a nursing home or an action or inaction by the nursing home staff that has the potential to cause actual harm to a resident.~~

~~[(h)] (I) "Serious and immediate threat" means a situation in which immediate corrective action is necessary because a nursing home's noncompliance with one or more State regulations has caused or is likely to cause serious injury, harm, impairment to, or death of a resident receiving care in the nursing home.~~

~~[(i)] (J) "Sustained compliance" means a period of 30 days following the date of notice of corrective action with no deficiencies.~~

19–1401.1.

~~**A PERSON SHALL BE LICENSED BY THE SECRETARY BEFORE A PERSON MAY OPERATE A NURSING HOME.**~~

(A) IN ADDITION TO THE REQUIREMENTS FOR LICENSURE OF A RELATED INSTITUTION AS PROVIDED IN THIS TITLE, AN APPLICANT FOR INITIAL LICENSURE OR RELICENSURE OF A NURSING HOME SHALL INCLUDE IN THE APPLICATION THE IDENTITY OF:

(1) ANY PERSON WITH AN OWNERSHIP INTEREST IN THE NURSING HOME; AND

(2) ANY MANAGEMENT COMPANY, LANDLORD, OR OTHER BUSINESS ENTITY THAT WILL OPERATE OR CONTRACT WITH THE APPLICANT TO MANAGE THE NURSING HOME.

(B) AN APPLICANT FOR INITIAL LICENSURE SHALL SUBMIT TO THE SECRETARY OR THE SECRETARY'S DESIGNEE EVIDENCE:

(1) THAT AFFIRMATIVELY DEMONSTRATES THE ABILITY OF THE APPLICANT TO COMPLY WITH MINIMUM STANDARDS OF:

(I) MEDICAL CARE;

(II) NURSING CARE;

(III) FINANCIAL CONDITION; AND

(IV) OTHER APPLICABLE STATE OR FEDERAL LAWS AND REGULATIONS; AND

(2) REGARDING THE REGULATORY COMPLIANCE HISTORY AND FINANCIAL CONDITION OF ANY HEALTH CARE FACILITY OWNED OR OPERATED BY THE APPLICANT IN OTHER JURISDICTIONS.

19–1401.2.

~~(A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL MEET THE REQUIREMENTS OF THIS SUBTITLE.~~

~~(B) AN APPLICANT WHO IS AN INDIVIDUAL, AND ANY INDIVIDUAL WHO IS APPLYING ON BEHALF OF A CORPORATION, ASSOCIATION, OR GOVERNMENT AGENCY SHALL BE:~~

~~(1) AT LEAST 18 YEARS OLD; AND~~

~~(2) OF REPUTABLE AND RESPONSIBLE CHARACTER.~~

ON REVIEW OF THE INFORMATION REQUIRED UNDER § 19–1401.1 OF THIS SUBTITLE AND ANY OTHER INFORMATION THAT IS RELEVANT TO THE ABILITY OF THE APPLICANT TO OPERATE A NURSING HOME, THE SECRETARY MAY:

(1) APPROVE AN APPLICATION FOR A LICENSE OR LICENSE RENEWAL;

(2) DENY AN APPLICATION FOR A LICENSE OR LICENSE RENEWAL; OR

(3) APPROVE AN APPLICATION FOR LICENSE OR LICENSE RENEWAL SUBJECT TO CONDITIONS.

19–1401.3.

~~(A) AN APPLICANT FOR A LICENSE SHALL:~~

~~(1) SUBMIT AN APPLICATION TO THE SECRETARY; AND~~

~~(2) PAY TO THE SECRETARY AN APPLICATION FEE ESTABLISHED BY THE SECRETARY.~~

~~(B) THE APPLICATION:~~

~~(1) SHALL BE ON THE FORM THAT THE SECRETARY REQUIRES;~~

~~(2) SHALL BE SIGNED AND VERIFIED AS FOLLOWS:~~

~~(I) IF THE APPLICATION IS MADE BY AN INDIVIDUAL, BY THE INDIVIDUAL; OR~~

~~(II) IF THE APPLICATION IS MADE BY AN INDIVIDUAL WHO IS APPLYING ON BEHALF OF A CORPORATION, ASSOCIATION, OR GOVERNMENT AGENCY, BY TWO OFFICERS OF THE CORPORATION, ASSOCIATION, OR GOVERNMENT AGENCY; AND~~

~~(3) SHALL INCLUDE:~~

~~(I) THE NAME OF THE APPLICANT;~~

~~(II) THE NAME OF ANY PARTNER, OFFICER, DIRECTOR, OR MANAGING EMPLOYEE OF THE APPLICANT;~~

~~(III) THE NAME OF ANY PERSON WHO OWNS OR CONTROLS THE PHYSICAL PLANT OF A FACILITY IN WHICH THE NURSING HOME OPERATES OR PLANS TO OPERATE;~~

~~(IV) THE NAME OF ANY CONTROLLING PERSON WITH RESPECT TO THE NURSING HOME FOR WHICH A LICENSE IS REQUESTED;~~

~~(V) A STATEMENT THAT THE APPLICANT MEETS THE REQUIREMENTS OF THIS SUBTITLE;~~

~~(VI) THE LOCATION OF THE PROPOSED NURSING HOME;~~

~~(VII) THE NAME OF THE INDIVIDUAL WHO IS TO BE THE ADMINISTRATIVE HEAD OF THE PROPOSED NURSING HOME; AND~~

~~(VIII) ANY OTHER INFORMATION THAT THE SECRETARY REQUIRES.~~

~~(C) AN APPLICATION FEE MAY NOT BE REFUNDED.~~

~~(D) AN APPLICANT FOR INITIAL LICENSURE SHALL SUBMIT TO THE SECRETARY EVIDENCE THAT AFFIRMATIVELY DEMONSTRATES THE ABILITY OF THE APPLICANT TO:~~

~~(1) COMPLY WITH MINIMUM STANDARDS OF:~~

~~(I) MEDICAL CARE;~~

~~(II) NURSING CARE;~~

~~(III) FINANCIAL CONDITION; AND~~

~~(IV) ANY OTHER APPLICABLE STATE OR FEDERAL LAWS AND REGULATIONS; AND~~

~~(2) OBTAIN LIABILITY INSURANCE IN THE AMOUNT REQUIRED BY THE DEPARTMENT.~~

~~(E) THE SECRETARY SHALL EVALUATE THE BACKGROUND AND QUALIFICATIONS OF:~~

~~(1) A PARTNER, OFFICER, DIRECTOR, OR MANAGING EMPLOYEE OF THE APPLICANT;~~

~~(2) ANY PERSON WHO OWNS OR CONTROLS THE PHYSICAL PLANT OF A FACILITY IN WHICH THE NURSING HOME OPERATES OR PLANS TO OPERATE; AND~~

~~(3) A CONTROLLING PERSON WITH RESPECT TO THE NURSING HOME FOR WHICH A LICENSE IS REQUESTED.~~

~~(F) IN MAKING THE EVALUATION REQUIRED UNDER SUBSECTION (E) OF THIS SECTION, THE SECRETARY SHALL REQUIRE AN APPLICANT OR ANY OTHER PERSON DESCRIBED IN SUBSECTION (E) OF THIS SECTION WHO OPERATED A NURSING HOME IN ANOTHER JURISDICTION DURING THE 5–YEAR PERIOD PRECEDING THE DATE OF THE APPLICATION TO:~~

~~(1) FILE A SWORN AFFIDAVIT OF SATISFACTORY COMPLIANCE HISTORY; AND~~

~~(2) PROVIDE ANY OTHER INFORMATION REQUIRED BY THE SECRETARY TO SUBSTANTIATE THE:~~

~~(I) SATISFACTORY COMPLIANCE HISTORY; AND~~

~~(II) SOUNDNESS OF THE FINANCIAL CONDITION OF THE NURSING HOME.~~

~~19–1401.4.~~

~~THE SECRETARY SHALL ISSUE A LICENSE TO ANY APPLICANT IF THE APPLICANT MEETS THE REQUIREMENTS OF THIS SUBTITLE.~~

~~19–1401.5.~~

~~WHILE IT IS EFFECTIVE, A LICENSE AUTHORIZES THE LICENSEE TO OPERATE A NURSING HOME.~~

~~19–1401.6.~~

~~(A) A LICENSE EXPIRES ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE DATE, UNLESS IT IS RENEWED FOR A 2–YEAR TERM AS PROVIDED IN THIS SECTION.~~

~~(B) (1) BEFORE THE LICENSE EXPIRES, THE LICENSEE PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL 2–YEAR TERM, IF THE LICENSEE:~~

~~(I) OTHERWISE IS ENTITLED TO THE LICENSE;~~

~~(II) PAYS TO THE SECRETARY A RENEWAL FEE ESTABLISHED BY THE SECRETARY; AND~~

~~(III) SUBMITS TO THE SECRETARY:~~

~~1. A RENEWAL APPLICATION ON THE FORM THAT THE SECRETARY REQUIRES; AND~~

~~2. SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY REQUIREMENTS SET UNDER THIS SUBTITLE FOR LICENSE RENEWAL.~~

~~(2) THE LICENSEE SHALL SUBMIT TO THE SECRETARY EVIDENCE THAT AFFIRMATIVELY DEMONSTRATES THE ONGOING ABILITY OF THE LICENSEE:~~

~~(I) TO COMPLY WITH MINIMUM STANDARDS OF:~~

~~1. MEDICAL CARE;~~

~~2. NURSING CARE; AND~~

~~3. FINANCIAL CONDITION; AND~~

~~(II) TO DOCUMENT CURRENT LIABILITY INSURANCE COVERAGE IN AN AMOUNT REQUIRED BY THE SECRETARY.~~

~~(3) AS PART OF THE LICENSE RENEWAL APPLICATION PROCESS, THE SECRETARY SHALL CONSIDER THE BACKGROUND AND QUALIFICATIONS OF:~~

~~(I) A PARTNER, OFFICER, DIRECTOR, OR MANAGING EMPLOYEE OF THE APPLICANT;~~

~~(II) A PERSON WHO OWNS OR CONTROLS THE PHYSICAL PLANT OF A FACILITY IN WHICH THE NURSING HOME OPERATES OR PLANS TO OPERATE; AND~~

~~(III) A CONTROLLING PERSON WITH RESPECT TO THE NURSING HOME FOR WHICH RENEWAL OF A LICENSE IS REQUESTED.~~

~~(C) IN MAKING THE EVALUATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE SECRETARY SHALL REQUIRE AN APPLICANT OR ANY OTHER PERSON DESCRIBED IN SUBSECTION (B)(3) OF THIS SECTION WHO OPERATED A NURSING HOME IN ANOTHER JURISDICTION DURING THE 5–YEAR PERIOD PRECEDING THE DATE OF THE APPLICATION TO:~~

~~(1) FILE A SWORN AFFIDAVIT OF SATISFACTORY COMPLIANCE HISTORY; AND~~

~~(2) PROVIDE ANY OTHER INFORMATION REQUIRED BY THE SECRETARY TO SUBSTANTIATE THE:~~

~~(I) SATISFACTORY COMPLIANCE HISTORY; AND~~

~~(II) SOUNDNESS OF THE FINANCIAL CONDITION OF THE NURSING HOME.~~

~~(D) THE SECRETARY SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.~~

~~**19–1401.7.**~~

~~**(A) A LICENSEE SHALL REPORT SIGNIFICANT CHANGES IN THE NURSING HOME'S FINANCIAL CONDITION, INCLUDING CASH FLOW, OR ANY OTHER CIRCUMSTANCE THAT COULD ADVERSELY AFFECT THE NURSING HOME'S DELIVERY OF ESSENTIAL SERVICES, INCLUDING NURSING SERVICES, DIETARY SERVICES, AND UTILITIES, TO RESIDENTS OF THE NURSING HOME.**~~

~~**(B) THE SECRETARY MAY VERIFY THE FINANCIAL CONDITION OF A NURSING HOME IN ORDER TO IDENTIFY ANY RISK TO THE ABILITY OF THE NURSING HOME TO DELIVER ESSENTIAL SERVICES.**~~

~~**(C) A PERSON WHO KNOWINGLY FILES FALSE INFORMATION UNDER THIS SECTION SHALL BE SUBJECT TO CRIMINAL PROSECUTION.**~~

(A) A LICENSEE SHALL REPORT TO THE SECRETARY OR THE SECRETARY'S DESIGNEE ANY SIGNIFICANT CHANGE IN THE FINANCIAL CONDITION OF THE NURSING HOME, INCLUDING CASH FLOW OR ANY OTHER CIRCUMSTANCES THAT COULD ADVERSELY AFFECT THE NURSING HOME'S DELIVERY OF ESSENTIAL SERVICES TO PATIENTS, INCLUDING NURSING SERVICES, DIETARY SERVICES, AND UTILITIES.

~~**(D)**~~ **(B)** ~~**ANY**~~ **EXCEPT AS PROVIDED BY SUBSECTION (C) OF THIS SECTION, ANY INFORMATION OBTAINED BY THE SECRETARY UNDER THIS SECTION IS CONFIDENTIAL AND MAY NOT BE DISCLOSED WITHOUT THE CONSENT OF THE LICENSEE.**

~~**(E)**~~ **(C) THE PROVISIONS OF SUBSECTION (B)** ***OF*** **THIS SECTION DO NOT APPLY TO:**

(1) THE HOLDER OF A LICENSE THAT HAS BEEN SUSPENDED OR REVOKED; OR

(2) THE USE OF INFORMATION IN:

(I) AN ADMINISTRATIVE PROCEEDING INITIATED BY THE DEPARTMENT; OR

(II) A JUDICIAL PROCEEDING.

~~**19–1401.8.**~~

~~THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE, INCLUDING REGULATIONS THAT ESTABLISH MINIMUM REQUIREMENTS FOR A LICENSEE TO BE SELF–INSURED AS AN ALTERNATIVE TO OBTAINING LIABILITY INSURANCE THROUGH AN INSURER.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) the Secretary of Health and Mental Hygiene shall convene a workgroup consisting of representatives of advocacy organizations, nursing homes, and government agencies;

(b) the workgroup shall make recommendations to the Secretary regarding regulations on:

(1) the specific information to be required during the licensure and relicensure process established under § 19–1401.1 of the Health – General Article, as enacted by Section 1 of this Act;

(2) the significant changes in financial condition to be reported to the Secretary under § 19–1401.3 of the Health – General Article, as enacted by Section 1 of this Act; and

(3) any other issues related to the licensure of nursing homes; and

(c) on or before December 1, 2008, the Secretary shall review the recommendations of the workgroup established under subsection (a) of this section and shall publish regulations to implement Section 1 of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 687

(House Bill 1209)

AN ACT concerning

Safe Schools Reporting Act of 2005 – Sunset Repeal

FOR the purpose of repealing the termination date for a provision of law that requires the State Department of Education to require a county board of education to report certain incidents of harassment or intimidation against certain students.

BY repealing and reenacting, with amendments,
Chapter 547 of the Acts of the General Assembly of 2005
Section 2

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

Chapter 547 of the Acts of 2005

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2005. **[**It shall remain effective for a period of 4 years 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.**]**

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

Approved by the Governor, May 22, 2008.

CHAPTER 688

(House Bill 1219)

AN ACT concerning

Health Insurance – Health Care Provider Panels – Provider Contracts

FOR the purpose of repealing a prohibition that certain health insurance carriers that offer coverage for health care services in a certain manner may not require certain health care providers to serve on certain provider panels under certain circumstances; repealing a certain exception to the prohibition; repealing certain requirements for providers that elect to terminate participation on certain provider panels; prohibiting certain provider contracts from containing a provision that requires certain health care providers to participate in certain provider panels under certain circumstances; authorizing certain provider contracts to contain a requirement that certain providers participate in a certain managed care organization under certain circumstances; requiring certain provider contracts to disclose certain information; prohibiting certain

provider contracts from containing a provision requiring providers to accept certain schedules of fees under certain circumstances; prohibiting a provider contract from requiring providers to treat certain enrollees of certain carriers under certain circumstances; authorizing a provider contract, notwithstanding certain provisions of law, to include a provision that requires a provider, as a condition of participation, to accept a certain schedule of applicable fees; providing for a certain exception; requiring a provider that elects to terminate participation on a certain provider panel to provide certain notification and continue to furnish certain health care services for a certain period of time; providing for the application of this Act; providing for a delayed effective date; making certain provisions of law applicable to health maintenance organizations; defining certain terms; making stylistic changes; and generally relating to health care provider panels and provider contracts under health insurance.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 15–112(a)(1), (3), (5), (7), and (8)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing
Article – Insurance
Section 15–112(l)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–112(m), (n), (o), and (p)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Insurance
Section 15–112.2
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–706(i)
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 – Insurance

15–112.

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

(3) (i) "Carrier" means:

1. an insurer;

2. a nonprofit health service plan;

3. a health maintenance organization;

4. a dental plan organization; or

5. any other person that provides health benefit plans subject to regulation by the State.

(ii) "Carrier" includes an entity that arranges a provider panel for a carrier.

(5) "Enrollee" means a person entitled to health care benefits from a carrier.

(7) "Provider" means a health care practitioner or group of health care practitioners licensed, certified, or otherwise authorized by law to provide health care services.

(8) (i) "Provider panel" means the providers that contract either directly or through a subcontracting entity with a carrier to provide health care services to the carrier's enrollees under the carrier's health benefit plan.

(ii) "Provider panel" does not include an arrangement in which any provider may participate solely by contracting with the carrier to provide health care services at a discounted fee–for–service rate.

[(l) (1) (i) In this subsection the following words have the meanings indicated.

(ii) 1. "Health benefit plan" has the meaning stated in § 15–1201 of this title.

2. "Health benefit plan" includes dental plans and other health benefit plans that contract with dentists to offer dental care services.

(iii) "Provider panel" includes an arrangement in which any provider may participate solely by contracting with the carrier to provide health care services at a discounted fee–for–service rate.

(2) Except as provided in paragraph (3) of this subsection, a carrier that offers coverage for health care services through one or more health benefit plans or contracts with providers to offer health care services through one or more provider panels may not require a provider, as a condition of participation or continuation on a provider panel for one health benefit plan of a carrier, to serve also on a provider panel of another health benefit plan of the carrier.

(3) Subject to § 15–102.5 of the Health – General Article, a carrier that offers health care services as a managed care organization as defined under § 15–101(e) of the Health – General Article, may require a provider, as a condition of participation on a provider panel for one or more health benefit plans of the carrier, to serve on a provider panel of the managed care organization.

(4) If a provider elects to terminate participation on the provider panel of a health benefit plan, the provider shall:

(i) notify the carrier at least 90 days before the date of termination; and

(ii) for at least 90 days after the date of the notice of termination, continue to furnish health care services to an enrollee of the carrier for whom the provider was responsible for the delivery of health care services prior to the notice of termination.**]**

[(m)**] (L)** A carrier may not include in a contract with a provider, ambulatory surgical facility, or hospital a term or condition that:

(1) prohibits the provider, ambulatory surgical facility, or hospital from offering to provide services to the enrollees of another carrier at a lower rate of reimbursement;

(2) requires the provider, ambulatory surgical facility, or hospital to provide the carrier with the same reimbursement arrangement that the provider, ambulatory surgical facility, or hospital has with another carrier if the reimbursement arrangement with the other carrier is for a lower rate of reimbursement; or

(3) requires the provider, ambulatory surgical facility, or hospital to certify to the carrier that the reimbursement rate being paid by the carrier to the provider, ambulatory surgical facility, or hospital is not higher than the reimbursement rate being received by the provider, ambulatory surgical facility, or hospital from another carrier.

[(n)**] (M)** (1) A carrier shall update its provider information under subsection (j)(3)(ii) of this section within 15 working days after receipt of written notification from the participating provider of a change in the applicable information.

(2) Notification is presumed to have been received by a carrier:

(i) 3 working days after the date the participating provider placed the notification in the U.S. mail, if the participating provider maintains the stamped certificate of mailing for the notice; or

(ii) on the date recorded by the courier, if the notification was delivered by courier.

[(o)**] (N)** (1) A carrier may not require a provider that provides health care services through a group practice or health care facility that participates on the carrier's provider panel under a contract with the carrier to be considered a participating provider or accept the reimbursement fee schedule applicable under the contract when:

(i) providing health care services to enrollees of the carrier through an individual or group practice or health care facility that does not have a contract with the carrier; and

(ii) billing for health care services provided to enrollees of the carrier using a different federal tax identification number than that used by the group practice or health care facility under a contract with the carrier.

(2) A nonparticipating provider shall notify an enrollee:

(i) that the provider does not participate on the provider panel of the enrollee's carrier; and

(ii) of the anticipated total charges for the health care services.

[(p)**] (O)** The provisions of subsection (d)(3)(iii) of this section do not apply to a carrier that uses a credentialing intermediary that:

(1) is a hospital or academic medical center;

(2) is a participating provider on the carrier's provider panel; and

(3) acts as a credentialing intermediary for that carrier for health care practitioners that:

(i) participate on the carrier's provider panel; and

(ii) have privileges at the hospital or academic medical center.

15–112.2.

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

(2) "CARRIER" MEANS:

(I) AN INSURER;

(II) A NONPROFIT HEALTH SERVICE PLAN;

(III) A HEALTH MAINTENANCE ORGANIZATION; OR

(IV) A DENTAL PLAN ORGANIZATION.

(3) "DENTAL PROVIDER PANEL" MEANS A PROVIDER PANEL FOR ONE OR MORE DENTAL PLAN ~~ORGANIZATIONS~~ ORGANIZATIONS, INSURERS, OR NONPROFIT HEALTH SERVICE PLANS OFFERING CONTRACTS ONLY FOR DENTAL SERVICES.

(4) "ENROLLEE" MEANS A PERSON ENTITLED TO HEALTH CARE BENEFITS FROM A CARRIER.

(5) "HMO PROVIDER PANEL" MEANS A PROVIDER PANEL FOR ONE OR MORE HEALTH MAINTENANCE ORGANIZATIONS.

(6) "MANAGED CARE ORGANIZATION" HAS THE MEANING STATED IN § 15–101 OF THE HEALTH – GENERAL ARTICLE.

(7) "NON–HMO PROVIDER PANEL" MEANS A PROVIDER PANEL FOR ONE OR MORE NONPROFIT HEALTH SERVICE PLANS OR INSURERS.

(8) "PROVIDER" HAS THE MEANING STATED IN § 19–701 OF THE HEALTH – GENERAL ARTICLE.

(9) "PROVIDER CONTRACT" MEANS A CONTRACT:

(I) BETWEEN A PROVIDER AND A CARRIER, AN AFFILIATE OF A CARRIER, OR AN ENTITY THAT CONTRACTS WITH A PROVIDER TO SERVE A CARRIER; AND

(II) UNDER WHICH THE PROVIDER AGREES TO PROVIDE HEALTH CARE SERVICES TO ENROLLEES.

(10) "PROVIDER PANEL" MEANS THE PROVIDERS THAT CONTRACT EITHER DIRECTLY OR THROUGH A SUBCONTRACTING ENTITY WITH A CARRIER TO PROVIDE HEALTH CARE SERVICES TO ENROLLEES.

(B) (1) A PROVIDER CONTRACT MAY NOT CONTAIN A PROVISION THAT REQUIRES A PROVIDER, AS A CONDITION OF PARTICIPATING IN A NON–HMO PROVIDER PANEL, TO PARTICIPATE IN AN HMO PROVIDER PANEL OR DENTAL PROVIDER PANEL.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A PROVIDER CONTRACT MAY CONTAIN A PROVISION THAT REQUIRES A PROVIDER, AS A CONDITION OF PARTICIPATING IN A NON–HMO PROVIDER PANEL, AN HMO PROVIDER PANEL, OR A DENTAL PROVIDER PANEL, TO PARTICIPATE IN A MANAGED CARE ORGANIZATION.

(C) (1) THIS SUBSECTION DOES NOT APPLY TO A PROVIDER CONTRACT FOR A DENTAL PROVIDER PANEL.

(2) EACH PROVIDER CONTRACT SHALL DISCLOSE:

~~(1)~~ THE CARRIERS COMPRISING EACH PROVIDER PANEL~~; AND~~

~~(2) ALL SCHEDULES OF APPLICABLE FEES FOR UP TO THE 20 MOST COMMON SERVICES BILLED BY A PROVIDER IN THE SAME SPECIALTY AS THE PROVIDER FOR EACH PROVIDER PANEL AND EACH CARRIER IN THE PROVIDER PANEL~~.

(D) (1) THIS SUBSECTION DOES NOT APPLY TO A PROVIDER CONTRACT FOR A DENTAL PROVIDER PANEL.

(2) IF A PROVIDER CONTRACT INCLUDES MORE THAN ONE SCHEDULE OF APPLICABLE FEES, THE PROVIDER CONTRACT MAY NOT CONTAIN A PROVISION THAT REQUIRES A PROVIDER AS A CONDITION OF PARTICIPATION

TO ACCEPT EACH SCHEDULE OF APPLICABLE FEES INCLUDED IN THE PROVIDER CONTRACT.

~~(2)~~ (3) IF A PROVIDER REJECTS A SCHEDULE OF APPLICABLE FEES, THE PROVIDER CONTRACT MAY NOT REQUIRE THE PROVIDER TO TREAT THE ENROLLEES OF THE CARRIERS THAT REIMBURSE THE PROVIDER IN ACCORDANCE WITH ANY OF THE REJECTED SCHEDULES OF APPLICABLE FEES.

(4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION, A PROVIDER CONTRACT MAY INCLUDE A PROVISION THAT REQUIRES A PROVIDER, AS A CONDITION OF PARTICIPATION, TO ACCEPT EACH SCHEDULE OF APPLICABLE FEES FOR A CARRIER THAT IS NOT AFFILIATED THROUGH COMMON OWNERSHIP WITH THE ENTITY ARRANGING THE PROVIDER PANEL.

(E) IF A PROVIDER ELECTS TO TERMINATE PARTICIPATION ON A PROVIDER PANEL, THE PROVIDER SHALL:

(1) NOTIFY THE CARRIER AT LEAST 90 DAYS BEFORE THE DATE OF TERMINATION; AND

(2) FOR AT LEAST 90 DAYS AFTER THE DATE OF THE NOTICE OF TERMINATION, CONTINUE TO FURNISH HEALTH CARE SERVICES TO AN ENROLLEE OF THE CARRIER FOR WHOM THE PROVIDER WAS RESPONSIBLE FOR THE DELIVERY OF HEALTH CARE SERVICES BEFORE THE NOTICE OF TERMINATION.

Article – Health – General

19–706.

(i) The provisions of §§ 12–203(g), 15–105, 15–112, **15–112.2,** 15–113, 15–804, 15–812, 15–826, 15–828, and 15–836 of the Insurance Article shall apply to health maintenance organizations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all provider contracts issued or ~~delivered~~ *renewed* in the State on or after ~~January 1~~ *October 1*, 2009, or, for provider contracts in effect in the State on ~~January 1~~ *October 1*, 2009, but not subject to renewal ~~in 2009~~ *before October 1, 2010*, no later than ~~December 31, 2009~~ *October 1, 2010*.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June 1, 2008~~ ~~January 1~~ *October 1*, 2009.

Approved by the Governor, May 22, 2008.

CHAPTER 689

(House Bill 1245)

AN ACT concerning

Cecil County – Correctional Officers' Bill of Rights Act

FOR the purpose of providing for certain rights of a correctional officer in Cecil County relating to employment, investigation, and discipline under certain circumstances; providing for the procedures for the investigation or interrogation of a correctional officer; establishing procedures for an application for a show cause order under certain circumstances; establishing a certain limitation on administrative charges against a correctional officer in Cecil County; providing for procedures for a hearing board for an investigation against a correctional officer in Cecil County; providing for expungement of a record of a formal complaint against a correctional officer in Cecil County under certain circumstances; providing for certain disciplinary actions against a correctional officer in Cecil County under certain circumstances; providing that this Act supersedes inconsistent provisions of any other State or local law that conflicts with this Act to the extent of the conflict; providing for the effect of this Act in relation to the duties of a managing official; prohibiting certain false statements; establishing a criminal penalty for providing a false statement to certain persons; providing for the scope of this Act; defining certain terms; and generally relating to rights of a correctional officer in Cecil County.

BY adding to
Article – Correctional Services
Section 11–1001 through 11–1014 to be under the new subtitle "Subtitle 10. Correctional Officers' Bill of Rights"
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

SUBTITLE 10. CORRECTIONAL OFFICERS' BILL OF RIGHTS.

11–1001.

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

(B) "CORRECTIONAL OFFICER" HAS THE MEANING STATED IN § 8–201 OF THIS ARTICLE.

(C) (1) "HEARING" MEANS A PROCEEDING DURING AN INVESTIGATION CONDUCTED BY A HEARING BOARD TO TAKE TESTIMONY OR RECEIVE OTHER EVIDENCE.

(2) "HEARING" DOES NOT INCLUDE AN INTERROGATION AT WHICH NO TESTIMONY IS TAKEN UNDER OATH.

(D) "HEARING BOARD" MEANS A BOARD THAT IS AUTHORIZED BY THE MANAGING OFFICIAL TO HOLD A HEARING ON A COMPLAINT AGAINST A CORRECTIONAL OFFICER.

(E) "INTERNAL INVESTIGATION UNIT" MEANS THE INTERNAL INVESTIGATION UNIT OF A CORRECTIONAL FACILITY CHARGED WITH THE INVESTIGATION OF COMPLAINTS WITHIN A CORRECTIONAL FACILITY.

11–1002.

THIS SUBTITLE APPLIES ONLY IN CECIL COUNTY.

11–1003.

(A) EXCEPT AS OTHERWISE PROVIDED, THE PROVISIONS OF THIS SUBTITLE SUPERSEDE ANY INCONSISTENT PROVISIONS OF ANY OTHER STATE OR LOCAL LAW THAT CONFLICTS WITH THIS SUBTITLE TO THE EXTENT OF THE CONFLICT.

(B) THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF THE MANAGING OFFICIAL TO REGULATE THE COMPETENT AND EFFICIENT OPERATION AND MANAGEMENT OF A COUNTY CORRECTIONAL FACILITY BY ANY REASONABLE MEANS INCLUDING TRANSFER AND REASSIGNMENT IF:

(1) THAT ACTION IS NOT PUNITIVE IN NATURE; AND

(2) THE MANAGING OFFICIAL DETERMINES THAT ACTION TO BE IN THE BEST INTERESTS OF THE INTERNAL MANAGEMENT OF THE CORRECTIONAL FACILITY.

11–1004.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CORRECTIONAL OFFICER HAS THE SAME RIGHTS TO ENGAGE IN POLITICAL ACTIVITY AS A STATE EMPLOYEE.

(2) THE RIGHT OF A CORRECTIONAL OFFICER TO ENGAGE IN POLITICAL ACTIVITY DOES NOT APPLY WHEN THE CORRECTIONAL OFFICER IS ON DUTY OR ACTING IN AN OFFICIAL CAPACITY.

(B) A MANAGING OFFICIAL:

(1) MAY NOT PROHIBIT SECONDARY EMPLOYMENT BY A CORRECTIONAL OFFICER; BUT

(2) MAY ADOPT REASONABLE REGULATIONS THAT RELATE TO SECONDARY EMPLOYMENT BY A CORRECTIONAL OFFICER.

(C) A CORRECTIONAL OFFICER MAY NOT BE REQUIRED OR REQUESTED TO DISCLOSE AN ITEM OF THE CORRECTIONAL OFFICER'S PROPERTY, INCOME, ASSETS, SOURCE OF INCOME, DEBTS, OR PERSONAL OR DOMESTIC EXPENDITURES, INCLUDING THOSE OF A MEMBER OF THE CORRECTIONAL OFFICER'S FAMILY OR HOUSEHOLD, UNLESS:

(1) THE INFORMATION IS NECESSARY TO INVESTIGATE A POSSIBLE CONFLICT OF INTEREST WITH RESPECT TO THE PERFORMANCE OF THE CORRECTIONAL OFFICER'S OFFICIAL DUTIES; OR

(2) THE DISCLOSURE IS REQUIRED BY FEDERAL OR STATE LAW.

(D) A CORRECTIONAL OFFICER MAY NOT BE DISCHARGED, DISCIPLINED, DEMOTED, OR DENIED PROMOTION, TRANSFER, OR REASSIGNMENT, OR OTHERWISE DISCRIMINATED AGAINST IN REGARD TO THE CORRECTIONAL OFFICER'S EMPLOYMENT OR BE THREATENED WITH THAT TREATMENT BECAUSE THE CORRECTIONAL OFFICER:

(1) HAS EXERCISED OR DEMANDED THE RIGHTS GRANTED BY THIS SUBTITLE; OR

(2) HAS LAWFULLY EXERCISED CONSTITUTIONAL RIGHTS.

(E) A STATUTE MAY NOT ABRIDGE AND A CORRECTIONAL FACILITY MAY NOT ADOPT A REGULATION THAT PROHIBITS THE RIGHT OF A CORRECTIONAL OFFICER TO BRING SUIT THAT ARISES OUT OF THE CORRECTIONAL OFFICER'S DUTIES AS A CORRECTIONAL OFFICER.

(F) A CORRECTIONAL OFFICER MAY WAIVE IN WRITING ANY OR ALL RIGHTS GRANTED BY THIS SUBTITLE.

11–1005.

(A) THE INVESTIGATION OR INTERROGATION BY AN INTERNAL INVESTIGATION UNIT OF A CORRECTIONAL OFFICER FOR A REASON THAT MAY LEAD TO DISCIPLINARY ACTION, DEMOTION, OR DISMISSAL SHALL BE CONDUCTED IN ACCORDANCE WITH THIS SECTION.

(B) FOR PURPOSES OF THIS SECTION, THE INVESTIGATING OFFICER OR INTERROGATING OFFICER SHALL BE A SWORN LAW ENFORCEMENT OR CORRECTIONAL OFFICIAL OR AN INDIVIDUAL WITH FORMER LAW ENFORCEMENT OR CORRECTIONS EXPERIENCE.

(C) (1) A COMPLAINT AGAINST A CORRECTIONAL OFFICER THAT ALLEGES BRUTALITY IN THE EXECUTION OF THE CORRECTIONAL OFFICER'S DUTIES MAY NOT BE INVESTIGATED UNLESS THE COMPLAINT IS SWORN TO, BEFORE AN OFFICIAL AUTHORIZED TO ADMINISTER OATHS, BY:

(I) THE AGGRIEVED INDIVIDUAL;

(II) A MEMBER OF THE AGGRIEVED INDIVIDUAL'S IMMEDIATE FAMILY;

(III) AN INDIVIDUAL WITH FIRSTHAND KNOWLEDGE OBTAINED BECAUSE THE INDIVIDUAL WAS PRESENT AT AND OBSERVED THE ALLEGED INCIDENT; OR

(IV) THE PARENT OR GUARDIAN OF THE MINOR CHILD, IF THE ALLEGED INCIDENT INVOLVES A MINOR CHILD.

(2) UNLESS A COMPLAINT IS FILED WITHIN 90 DAYS AFTER THE ALLEGED BRUTALITY, AN INVESTIGATION THAT MAY LEAD TO DISCIPLINARY ACTION UNDER THIS SUBTITLE FOR BRUTALITY MAY NOT BE INITIATED.

(D) (1) THE CORRECTIONAL OFFICER UNDER INVESTIGATION SHALL BE INFORMED OF THE NAME, RANK, AND COMMAND OF:

(I) THE LAW ENFORCEMENT OR CORRECTIONAL OFFICIAL OR OTHER INDIVIDUAL IN CHARGE OF THE INVESTIGATION;

(II) THE INTERROGATING OFFICIAL; AND

(III) EACH INDIVIDUAL PRESENT DURING AN INTERROGATION.

(2) BEFORE AN INTERROGATION, THE CORRECTIONAL OFFICER UNDER INVESTIGATION SHALL BE INFORMED IN WRITING OF THE NATURE OF THE INVESTIGATION.

(E) IF THE CORRECTIONAL OFFICER UNDER INTERROGATION IS UNDER ARREST, OR IS LIKELY TO BE PLACED UNDER ARREST AS A RESULT OF THE INTERROGATION, THE CORRECTIONAL OFFICER SHALL BE INFORMED COMPLETELY OF ALL OF THE CORRECTIONAL OFFICER'S RIGHTS BEFORE THE INTERROGATION BEGINS.

(F) UNLESS THE SERIOUSNESS OF THE INVESTIGATION IS OF A DEGREE THAT AN IMMEDIATE INTERROGATION IS REQUIRED, THE INTERROGATION SHALL BE CONDUCTED AT A REASONABLE HOUR, PREFERABLY WHEN THE CORRECTIONAL OFFICER IS ON DUTY.

(G) (1) THE INTERROGATION SHALL TAKE PLACE:

(I) AT THE OFFICE OF THE COMMAND OF THE INVESTIGATING OFFICER OR AT THE OFFICE OF THE MANAGING OFFICIAL OF THE CORRECTIONAL FACILITY IN WHICH THE INCIDENT ALLEGEDLY OCCURRED, AS DESIGNATED BY THE INVESTIGATING OFFICIAL; OR

(II) AT ANOTHER REASONABLE AND APPROPRIATE PLACE.

(2) THE CORRECTIONAL OFFICER UNDER INVESTIGATION MAY WAIVE THE RIGHT DESCRIBED IN PARAGRAPH (1)(I) OF THIS SUBSECTION.

(H) (1) ALL QUESTIONS DIRECTED TO THE CORRECTIONAL OFFICER UNDER INTERROGATION SHALL BE ASKED BY AND THROUGH ONE INTERROGATING OFFICER DURING ANY ONE SESSION OF INTERROGATION CONSISTENT WITH PARAGRAPH (2) OF THIS SUBSECTION.

(2) EACH SESSION OF INTERROGATION SHALL:

(I) BE FOR A REASONABLE PERIOD; AND

(II) ALLOW FOR PERSONAL NECESSITIES AND REST PERIODS AS REASONABLY NECESSARY.

(I) THE CORRECTIONAL OFFICER UNDER INTERROGATION MAY NOT BE THREATENED WITH TRANSFER, DISMISSAL, OR DISCIPLINARY ACTION.

(J) (1) (I) ON REQUEST, THE CORRECTIONAL OFFICER UNDER INTERROGATION HAS THE RIGHT TO BE REPRESENTED BY COUNSEL OR ANOTHER RESPONSIBLE REPRESENTATIVE OF THE CORRECTIONAL OFFICER'S CHOICE WHO SHALL BE PRESENT AND AVAILABLE FOR CONSULTATION AT ALL TIMES DURING THE INTERROGATION.

(II) THE CORRECTIONAL OFFICER MAY WAIVE THE RIGHT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(2) (I) THE INTERROGATION SHALL BE SUSPENDED FOR A PERIOD NOT EXCEEDING 10 DAYS UNTIL REPRESENTATION IS OBTAINED.

(II) WITHIN THE 10–DAY PERIOD DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE MANAGING OFFICIAL, FOR GOOD CAUSE SHOWN, MAY EXTEND THE PERIOD FOR OBTAINING REPRESENTATION.

(3) DURING THE INTERROGATION, THE CORRECTIONAL OFFICER'S COUNSEL OR REPRESENTATIVE MAY:

(I) REQUEST A RECESS AT ANY TIME TO CONSULT WITH THE CORRECTIONAL OFFICER;

(II) OBJECT TO ANY QUESTION POSED; AND

(III) STATE ON THE RECORD OUTSIDE THE PRESENCE OF THE CORRECTIONAL OFFICER THE REASON FOR THE OBJECTION.

(K) (1) A COMPLETE RECORD SHALL BE KEPT OF THE ENTIRE INTERROGATION, INCLUDING ALL RECESS PERIODS, OF THE CORRECTIONAL OFFICER.

(2) THE RECORD MAY BE WRITTEN, TAPED, OR TRANSCRIBED.

(3) ON COMPLETION OF THE INVESTIGATION, AND ON REQUEST OF THE CORRECTIONAL OFFICER UNDER INVESTIGATION OR THE CORRECTIONAL OFFICER'S COUNSEL OR REPRESENTATIVE, A COPY OF THE RECORD OF THE INTERROGATION SHALL BE MADE AVAILABLE AT LEAST 10 DAYS BEFORE A HEARING.

(L) (1) THE INTERNAL INVESTIGATION UNIT MAY ORDER THE CORRECTIONAL OFFICER UNDER INVESTIGATION TO SUBMIT TO BLOOD ALCOHOL TESTS, BLOOD, BREATH, OR URINE TESTS FOR CONTROLLED DANGEROUS SUBSTANCES, POLYGRAPH EXAMINATIONS, OR INTERROGATIONS THAT SPECIFICALLY RELATE TO THE SUBJECT MATTER OF THE INVESTIGATION.

(2) IF THE INTERNAL INVESTIGATION UNIT ORDERS THE CORRECTIONAL OFFICER TO SUBMIT TO A TEST, EXAMINATION, OR INTERROGATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION AND THE CORRECTIONAL OFFICER REFUSES TO DO SO, THE INTERNAL INVESTIGATION UNIT MAY COMMENCE AN ACTION THAT MAY LEAD TO A PUNITIVE MEASURE AS A RESULT OF THE REFUSAL.

(3) IF THE INTERNAL INVESTIGATION UNIT ORDERS THE CORRECTIONAL OFFICER TO SUBMIT TO A TEST, EXAMINATION, OR INTERROGATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE RESULTS OF THE TEST, EXAMINATION, OR INTERROGATION ARE NOT ADMISSIBLE OR DISCOVERABLE IN A CRIMINAL PROCEEDING AGAINST THE CORRECTIONAL OFFICER.

(M) (1) IF THE INTERNAL INVESTIGATION UNIT ORDERS THE CORRECTIONAL OFFICER TO SUBMIT TO A POLYGRAPH EXAMINATION, THE RESULTS OF THE POLYGRAPH EXAMINATION MAY NOT BE USED AS EVIDENCE IN AN ADMINISTRATIVE HEARING UNLESS THE INTERNAL INVESTIGATION UNIT AND THE CORRECTIONAL OFFICER AGREE TO THE ADMISSION OF THE RESULTS.

(2) THE CORRECTIONAL OFFICER'S COUNSEL OR REPRESENTATIVE NEED NOT BE PRESENT DURING THE ACTUAL ADMINISTRATION OF A POLYGRAPH EXAMINATION BY A CERTIFIED POLYGRAPHER IF:

(I) THE QUESTIONS TO BE ASKED ARE REVIEWED WITH THE CORRECTIONAL OFFICER OR THE COUNSEL OR REPRESENTATIVE BEFORE THE ADMINISTRATION OF THE EXAMINATION;

(II) THE COUNSEL OR REPRESENTATIVE IS ALLOWED TO OBSERVE THE ADMINISTRATION OF THE EXAMINATION; AND

(III) A COPY OF THE FINAL REPORT OF THE EXAMINATION BY THE CERTIFIED POLYGRAPHER IS MADE AVAILABLE TO THE CORRECTIONAL OFFICER OR THE COUNSEL OR REPRESENTATIVE WITHIN A REASONABLE TIME, NOT EXCEEDING 10 DAYS, AFTER COMPLETION OF THE EXAMINATION.

(N) (1) ON COMPLETION OF AN INVESTIGATION AND AT LEAST 10 DAYS BEFORE A HEARING, THE CORRECTIONAL OFFICER UNDER INVESTIGATION SHALL BE:

(I) NOTIFIED OF THE NAME OF EACH WITNESS AND OF EACH CHARGE AND SPECIFICATION AGAINST THE CORRECTIONAL OFFICER; AND

(II) PROVIDED WITH A COPY OF THE INVESTIGATORY FILE AND ANY EXCULPATORY INFORMATION, IF THE CORRECTIONAL OFFICER AND THE CORRECTIONAL OFFICER'S REPRESENTATIVE AGREE TO:

1. EXECUTE A CONFIDENTIALITY AGREEMENT WITH THE INTERNAL INVESTIGATION UNIT NOT TO DISCLOSE ANY MATERIAL CONTAINED IN THE INVESTIGATORY FILE AND EXCULPATORY INFORMATION FOR ANY PURPOSE OTHER THAN TO DEFEND THE CORRECTIONAL OFFICER; AND

2. PAY A REASONABLE CHARGE FOR THE COST OF REPRODUCING THE MATERIAL.

(2) THE INTERNAL INVESTIGATION UNIT MAY EXCLUDE FROM THE EXCULPATORY INFORMATION PROVIDED TO A CORRECTIONAL OFFICER UNDER THIS SUBSECTION:

(I) THE IDENTITY OF CONFIDENTIAL SOURCES;

(II) NONEXCULPATORY INFORMATION; AND

(III) RECOMMENDATIONS AS TO CHARGES, DISPOSITION, OR PUNISHMENT.

(O) (1) THE INTERNAL INVESTIGATION UNIT MAY NOT INSERT ADVERSE MATERIAL INTO A FILE OF THE CORRECTIONAL OFFICER, EXCEPT THE FILE OF THE INTERNAL INVESTIGATION, UNLESS THE CORRECTIONAL OFFICER HAS AN OPPORTUNITY TO REVIEW, SIGN, RECEIVE A COPY OF, AND COMMENT IN WRITING ON THE ADVERSE MATERIAL.

(2) THE CORRECTIONAL OFFICER MAY WAIVE THE RIGHT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

11–1006.

(A) A CORRECTIONAL OFFICER WHO IS DENIED A RIGHT GRANTED BY THIS SUBTITLE MAY APPLY TO THE CIRCUIT COURT OF THE COUNTY WHERE THE CORRECTIONAL OFFICER IS REGULARLY EMPLOYED FOR AN ORDER THAT DIRECTS THE INTERNAL INVESTIGATION UNIT TO SHOW CAUSE WHY THE RIGHT SHOULD NOT BE GRANTED.

(B) THE CORRECTIONAL OFFICER MAY APPLY FOR THE SHOW CAUSE ORDER:

(1) EITHER INDIVIDUALLY OR THROUGH THE CORRECTIONAL OFFICER'S CERTIFIED OR RECOGNIZED EMPLOYEE ORGANIZATION; AND

(2) AT ANY TIME PRIOR TO THE BEGINNING OF A HEARING BY THE HEARING BOARD.

11–1007.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, AN INTERNAL INVESTIGATION UNIT MAY NOT BRING ADMINISTRATIVE CHARGES AGAINST A CORRECTIONAL OFFICER UNLESS THE UNIT FILES THE CHARGES WITHIN 1 YEAR AFTER THE ACT THAT GIVES RISE TO THE CHARGES COMES TO THE ATTENTION OF THE MANAGING OFFICIAL.

(B) THE 1–YEAR LIMITATION OF SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO CHARGES THAT RELATE TO CRIMINAL ACTIVITY OR EXCESSIVE FORCE.

11–1008.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND § 11–1012 OF THIS SUBTITLE, IF THE INVESTIGATION OR INTERROGATION OF A CORRECTIONAL OFFICER RESULTS IN A RECOMMENDATION OF DEMOTION, DISMISSAL, TRANSFER, LOSS OF PAY, REASSIGNMENT, OR SIMILAR ACTION THAT IS CONSIDERED PUNITIVE, THE CORRECTIONAL OFFICER IS ENTITLED TO A HEARING ON THE ISSUES BY A HEARING BOARD BEFORE THE MANAGING OFFICIAL TAKES THAT ACTION.

(2) A CORRECTIONAL OFFICER WHO HAS BEEN CONVICTED OF A FELONY IS NOT ENTITLED TO A HEARING UNDER THIS SECTION.

(B) (1) THE INTERNAL INVESTIGATION UNIT SHALL GIVE NOTICE TO THE CORRECTIONAL OFFICER OF THE RIGHT TO A HEARING BY A HEARING BOARD UNDER THIS SECTION.

(2) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL STATE THE TIME AND PLACE OF THE HEARING AND THE ISSUES INVOLVED.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION AND IN § 11–1012 OF THIS SUBTITLE, THE HEARING BOARD AUTHORIZED UNDER THIS SECTION SHALL CONSIST OF AT LEAST THREE MEMBERS WHO:

(I) ARE APPOINTED BY THE MANAGING OFFICIAL AND CHOSEN FROM CORRECTIONAL OFFICERS WITHIN THAT CORRECTIONAL FACILITY, OR FROM CORRECTIONAL OFFICERS OF ANOTHER CORRECTIONAL FACILITY WITH THE APPROVAL OF THE MANAGING OFFICIAL OF THE OTHER FACILITY; AND

(II) HAVE HAD NO PART IN THE INVESTIGATION OR INTERROGATION OF THE CORRECTIONAL OFFICER.

(2) AT LEAST ONE MEMBER OF THE HEARING BOARD SHALL BE OF THE SAME RANK AS THE CORRECTIONAL OFFICER AGAINST WHOM THE COMPLAINT IS FILED.

(3) (I) IF THE MANAGING OFFICIAL IS THE CORRECTIONAL OFFICER UNDER INVESTIGATION, THE MANAGING OFFICIAL OF ANOTHER CORRECTIONAL FACILITY IN THE STATE SHALL FUNCTION AS THE CORRECTIONAL OFFICER OF THE SAME RANK ON THE HEARING BOARD.

(II) IF THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY OF A COUNTY OR MUNICIPAL CORPORATION IS UNDER INVESTIGATION, THE OFFICIAL AUTHORIZED TO APPOINT THE MANAGING OFFICIAL'S SUCCESSOR SHALL SELECT THE MANAGING OFFICIAL OF ANOTHER CORRECTIONAL FACILITY TO FUNCTION AS THE CORRECTIONAL OFFICER OF THE SAME RANK ON THE HEARING BOARD.

(4) (I) A CORRECTIONAL FACILITY OR THE FACILITY'S SUPERIOR GOVERNMENTAL AUTHORITY THAT HAS RECOGNIZED AND CERTIFIED AN EXCLUSIVE COLLECTIVE BARGAINING REPRESENTATIVE MAY NEGOTIATE WITH THE REPRESENTATIVE AN ALTERNATIVE METHOD OF FORMING A HEARING BOARD.

(II) A CORRECTIONAL OFFICER MAY ELECT THE ALTERNATIVE METHOD OF FORMING A HEARING BOARD IF:

1. THE CORRECTIONAL OFFICER WORKS IN A CORRECTIONAL FACILITY DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND

2. THE CORRECTIONAL OFFICER IS INCLUDED IN THE COLLECTIVE BARGAINING UNIT.

(III) THE INTERNAL INVESTIGATION UNIT SHALL NOTIFY THE CORRECTIONAL OFFICER IN WRITING BEFORE A HEARING BOARD IS FORMED THAT THE CORRECTIONAL OFFICER MAY ELECT AN ALTERNATIVE METHOD OF FORMING A HEARING BOARD IF ONE HAS BEEN NEGOTIATED UNDER THIS PARAGRAPH.

(IV) IF THE CORRECTIONAL OFFICER ELECTS THE ALTERNATIVE METHOD, THAT METHOD SHALL BE USED TO FORM THE HEARING BOARD.

(V) A CORRECTIONAL FACILITY OR EXCLUSIVE COLLECTIVE BARGAINING REPRESENTATIVE MAY NOT REQUIRE A CORRECTIONAL OFFICER TO ELECT AN ALTERNATIVE METHOD OF FORMING A HEARING BOARD.

(VI) IF THE CORRECTIONAL OFFICER HAS BEEN OFFERED SUMMARY PUNISHMENT, AN ALTERNATIVE METHOD OF FORMING A HEARING BOARD MAY NOT BE USED.

(VII) THIS PARAGRAPH IS NOT SUBJECT TO BINDING ARBITRATION.

(D) (1) IN CONNECTION WITH A DISCIPLINARY HEARING, THE MANAGING OFFICIAL OR HEARING BOARD MAY ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND DOCUMENTS AS RELEVANT OR NECESSARY.

(2) THE SUBPOENAS MAY BE SERVED WITHOUT COST IN ACCORDANCE WITH THE MARYLAND RULES THAT RELATE TO SERVICE OF PROCESS ISSUED BY A COURT.

(3) EACH PARTY MAY REQUEST THE MANAGING OFFICIAL OR HEARING BOARD TO ISSUE A SUBPOENA OR ORDER UNDER THIS SUBTITLE.

(4) IN CASE OF DISOBEDIENCE OR REFUSAL TO OBEY A SUBPOENA SERVED UNDER THIS SUBSECTION, THE MANAGING OFFICIAL MAY APPLY WITHOUT COST TO THE CIRCUIT COURT OF A COUNTY WHERE THE SUBPOENAED PARTY RESIDES OR CONDUCTS BUSINESS, FOR AN ORDER TO COMPEL THE ATTENDANCE AND TESTIMONY OF THE WITNESS OR THE PRODUCTION OF THE BOOKS, PAPERS, RECORDS, AND DOCUMENTS.

(5) ON A FINDING THAT THE ATTENDANCE AND TESTIMONY OF THE WITNESS OR THE PRODUCTION OF THE BOOKS, PAPERS, RECORDS, AND DOCUMENTS IS RELEVANT OR NECESSARY:

(I) THE COURT MAY ISSUE WITHOUT COST AN ORDER THAT REQUIRES THE ATTENDANCE AND TESTIMONY OF WITNESSES OR THE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND DOCUMENTS; AND

(II) FAILURE TO OBEY THE ORDER MAY BE PUNISHED BY THE COURT AS CONTEMPT.

(E) (1) THE HEARING SHALL BE CONDUCTED BY A HEARING BOARD.

(2) THE HEARING BOARD SHALL GIVE THE INTERNAL INVESTIGATION UNIT AND CORRECTIONAL OFFICER AMPLE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ABOUT THE ISSUES INVOLVED.

(3) THE CORRECTIONAL FACILITY AND CORRECTIONAL OFFICER MAY BE REPRESENTED BY COUNSEL.

(4) EACH PARTY HAS THE RIGHT TO CROSS–EXAMINE WITNESSES WHO TESTIFY AND EACH PARTY MAY SUBMIT REBUTTAL EVIDENCE.

(F) (1) EVIDENCE WITH PROBATIVE VALUE THAT IS COMMONLY ACCEPTED BY REASONABLE AND PRUDENT INDIVIDUALS IN THE CONDUCT OF THEIR AFFAIRS IS ADMISSIBLE AND SHALL BE GIVEN PROBATIVE EFFECT.

(2) THE HEARING BOARD SHALL GIVE EFFECT TO THE RULES OF PRIVILEGE RECOGNIZED BY LAW AND SHALL EXCLUDE INCOMPETENT, IRRELEVANT, IMMATERIAL, AND UNDULY REPETITIOUS EVIDENCE.

(3) EACH RECORD OR DOCUMENT THAT A PARTY DESIRES TO USE SHALL BE OFFERED AND MADE A PART OF THE RECORD.

(4) DOCUMENTARY EVIDENCE MAY BE RECEIVED IN THE FORM OF COPIES OR EXCERPTS, OR BY INCORPORATION BY REFERENCE.

(G) (1) THE HEARING BOARD MAY TAKE NOTICE OF:

(I) JUDICIALLY COGNIZABLE FACTS; AND

(II) GENERAL, TECHNICAL, OR SCIENTIFIC FACTS WITHIN ITS SPECIALIZED KNOWLEDGE.

(2) THE HEARING BOARD SHALL:

(I) NOTIFY EACH PARTY OF THE FACTS SO NOTICED EITHER BEFORE OR DURING THE HEARING, OR BY REFERENCE IN PRELIMINARY REPORTS OR OTHERWISE; AND

(II) GIVE EACH PARTY AN OPPORTUNITY AND REASONABLE TIME TO CONTEST THE FACTS SO NOTICED.

(3) THE HEARING BOARD MAY UTILIZE ITS EXPERIENCE, TECHNICAL COMPETENCE, AND SPECIALIZED KNOWLEDGE IN THE EVALUATION OF THE EVIDENCE PRESENTED.

(H) (1) WITH RESPECT TO THE SUBJECT OF A HEARING CONDUCTED UNDER THIS SUBTITLE, THE MANAGING OFFICIAL SHALL ADMINISTER OATHS OR AFFIRMATIONS AND EXAMINE INDIVIDUALS UNDER OATH.

(2) IN CONNECTION WITH A DISCIPLINARY HEARING, THE MANAGING OFFICIAL OR A HEARING BOARD MAY ADMINISTER OATHS.

(I) (1) WITNESS FEES AND MILEAGE, IF CLAIMED, SHALL BE ALLOWED THE SAME AS FOR TESTIMONY IN A CIRCUIT COURT.

(2) WITNESS FEES, MILEAGE, AND THE ACTUAL EXPENSES NECESSARILY INCURRED IN SECURING THE ATTENDANCE OF WITNESSES AND THEIR TESTIMONY SHALL BE ITEMIZED AND PAID BY THE CORRECTIONAL FACILITY.

(J) AN OFFICIAL RECORD, INCLUDING TESTIMONY AND EXHIBITS, SHALL BE KEPT OF THE HEARING.

11–1009.

(A) (1) A DECISION, ORDER, OR ACTION TAKEN AS A RESULT OF A HEARING UNDER § 11–1008 OF THIS SUBTITLE SHALL BE IN WRITING AND ACCOMPANIED BY FINDINGS OF FACT.

(2) THE FINDINGS OF FACT SHALL CONSIST OF A CONCISE STATEMENT ON EACH ISSUE IN THE CASE.

(3) A FINDING OF NOT GUILTY TERMINATES THE ACTION.

(4) IF THE HEARING BOARD MAKES A FINDING OF GUILT, THE HEARING BOARD SHALL:

(I) RECONVENE THE HEARING;

(II) RECEIVE EVIDENCE; AND

(III) CONSIDER THE CORRECTIONAL OFFICER'S PAST JOB PERFORMANCE AND OTHER RELEVANT INFORMATION AS FACTORS BEFORE MAKING RECOMMENDATIONS TO THE MANAGING OFFICIAL.

(5) A COPY OF THE DECISION OR ORDER, FINDINGS OF FACT, CONCLUSIONS, AND WRITTEN RECOMMENDATIONS FOR ACTION SHALL BE DELIVERED OR MAILED PROMPTLY TO:

(I) THE CORRECTIONAL OFFICER OR THE CORRECTIONAL OFFICER'S COUNSEL OR REPRESENTATIVE OF RECORD; AND

(II) THE MANAGING OFFICIAL.

(B) (1) AFTER A DISCIPLINARY HEARING AND A FINDING OF GUILT, THE HEARING BOARD MAY RECOMMEND THE PENALTY IT CONSIDERS APPROPRIATE UNDER THE CIRCUMSTANCES, INCLUDING DEMOTION, DISMISSAL, TRANSFER, LOSS OF PAY, REASSIGNMENT, OR OTHER SIMILAR ACTION THAT IS CONSIDERED PUNITIVE.

(2) THE RECOMMENDATION OF A PENALTY SHALL BE IN WRITING.

(C) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE DECISION OF THE HEARING BOARD AS TO FINDINGS OF FACT AND ANY PENALTY IS FINAL IF:

(I) A MANAGING OFFICIAL IS AN EYEWITNESS TO THE INCIDENT UNDER INVESTIGATION; OR

(II) A MANAGING OFFICIAL HAS AGREED WITH AN EXCLUSIVE COLLECTIVE BARGAINING REPRESENTATIVE RECOGNIZED OR CERTIFIED UNDER APPLICABLE LAW THAT THE DECISION IS FINAL.

(2) THE DECISION OF THE HEARING BOARD THEN MAY BE APPEALED IN ACCORDANCE WITH § 11–1010 OF THIS SUBTITLE.

(3) PARAGRAPH (1)(II) OF THIS SUBSECTION IS NOT SUBJECT TO BINDING ARBITRATION.

(D) (1) WITHIN 30 DAYS AFTER RECEIPT OF THE RECOMMENDATIONS OF THE HEARING BOARD, THE MANAGING OFFICIAL SHALL:

(I) REVIEW THE FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS OF THE HEARING BOARD; AND

(II) ISSUE A FINAL ORDER.

(2) THE FINAL ORDER AND DECISION OF THE MANAGING OFFICIAL IS BINDING AND THEN MAY BE APPEALED IN ACCORDANCE WITH § 11–1010 OF THIS SUBTITLE.

(3) THE RECOMMENDATION OF A PENALTY BY THE HEARING BOARD IS NOT BINDING ON THE MANAGING OFFICIAL.

(4) THE MANAGING OFFICIAL SHALL CONSIDER THE CORRECTIONAL OFFICER'S PAST JOB PERFORMANCE AS A FACTOR BEFORE IMPOSING A PENALTY.

(5) THE MANAGING OFFICIAL MAY INCREASE THE RECOMMENDED PENALTY OF THE HEARING BOARD ONLY IF THE MANAGING OFFICIAL PERSONALLY:

(I) REVIEWS THE ENTIRE RECORD OF THE PROCEEDINGS OF THE HEARING BOARD;

(II) MEETS WITH THE CORRECTIONAL OFFICER AND ALLOWS THE CORRECTIONAL OFFICER TO BE HEARD ON THE RECORD;

(III) DISCLOSES AND PROVIDES IN WRITING TO THE CORRECTIONAL OFFICER, AT LEAST 10 DAYS BEFORE THE MEETING, ANY ORAL OR WRITTEN COMMUNICATION NOT INCLUDED IN THE RECORD OF THE HEARING BOARD ON WHICH THE DECISION TO CONSIDER INCREASING THE PENALTY IS WHOLLY OR PARTLY BASED; AND

(IV) STATES ON THE RECORD THE SUBSTANTIAL EVIDENCE RELIED ON TO SUPPORT THE INCREASE OF THE RECOMMENDED PENALTY.

11–1010.

(A) AN APPEAL FROM A DECISION MADE UNDER § 11–1009 OF THIS SUBTITLE SHALL BE TAKEN TO THE CIRCUIT COURT FOR THE COUNTY IN ACCORDANCE WITH MARYLAND RULE 7–202.

(B) A PARTY AGGRIEVED BY A DECISION OF A COURT UNDER THIS SUBTITLE MAY APPEAL TO THE COURT OF SPECIAL APPEALS.

11–1011.

(A) ON WRITTEN REQUEST, A CORRECTIONAL OFFICER MAY HAVE EXPUNGED FROM ANY FILE THE RECORD OF A FORMAL COMPLAINT MADE AGAINST THE CORRECTIONAL OFFICER IF:

(1) (I) THE INTERNAL INVESTIGATION UNIT THAT INVESTIGATED THE COMPLAINT:

1. EXONERATED THE CORRECTIONAL OFFICER OF ALL CHARGES IN THE COMPLAINT; OR

2. DETERMINED THAT THE CHARGES WERE UNSUSTAINED OR UNFOUNDED; OR

(II) A HEARING BOARD ACQUITTED THE CORRECTIONAL OFFICER, DISMISSED THE ACTION, OR MADE A FINDING OF NOT GUILTY; AND

(2) AT LEAST 3 YEARS HAVE PASSED SINCE THE FINAL DISPOSITION BY THE CORRECTIONAL FACILITY OR HEARING BOARD.

11–1012.

(A) THIS SUBTITLE DOES NOT PROHIBIT SUMMARY PUNISHMENT BY HIGHER–RANKING CORRECTIONAL OFFICERS AS DESIGNATED BY THE MANAGING OFFICIAL.

(B) (1) SUMMARY PUNISHMENT MAY BE IMPOSED FOR MINOR VIOLATIONS OF CORRECTIONAL FACILITY RULES AND REGULATIONS IF:

(I) THE FACTS THAT CONSTITUTE THE MINOR VIOLATION ARE NOT IN DISPUTE;

(II) THE CORRECTIONAL OFFICER WAIVES THE HEARING PROVIDED UNDER THIS SUBTITLE; AND

(III) THE CORRECTIONAL OFFICER ACCEPTS THE PUNISHMENT IMPOSED BY THE HIGHEST–RANKING CORRECTIONAL OFFICER, OR INDIVIDUAL ACTING IN THAT CAPACITY, OF THE UNIT TO WHICH THE CORRECTIONAL OFFICER IS ATTACHED.

(2) SUMMARY PUNISHMENT IMPOSED UNDER THIS SUBSECTION MAY NOT EXCEED SUSPENSION OF 3 DAYS WITHOUT PAY OR A FINE OF $150.

(C) (1) IF A CORRECTIONAL OFFICER IS OFFERED SUMMARY PUNISHMENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION AND REFUSES:

(I) THE MANAGING OFFICIAL MAY CONVENE A HEARING BOARD OF ONE OR MORE MEMBERS; AND

(II) THE HEARING BOARD HAS ONLY THE AUTHORITY TO RECOMMEND THE SANCTIONS PROVIDED IN THIS SECTION FOR SUMMARY PUNISHMENT.

(2) IF A SINGLE MEMBER HEARING BOARD IS CONVENED:

(I) THE MEMBER NEED NOT BE OF THE SAME RANK AS THE CORRECTIONAL OFFICER; BUT

(II) ALL OTHER PROVISIONS OF THIS SUBTITLE APPLY.

11–1013.

(A) THIS SUBTITLE DOES NOT PROHIBIT EMERGENCY SUSPENSION BY HIGHER–RANKING CORRECTIONAL OFFICERS AS DESIGNATED BY THE MANAGING OFFICIAL.

(B) (1) THE MANAGING OFFICIAL MAY IMPOSE EMERGENCY SUSPENSION WITH PAY IF IT APPEARS THAT THE ACTION IS IN THE BEST INTEREST OF THE INMATES, PUBLIC, AND THE CORRECTIONAL FACILITY.

(2) IF THE CORRECTIONAL OFFICER IS SUSPENDED WITH PAY, THE MANAGING OFFICIAL MAY SUSPEND THE CORRECTIONAL POWERS OF THE CORRECTIONAL OFFICER AND REASSIGN THE CORRECTIONAL OFFICER TO RESTRICTED DUTIES PENDING:

(I) A DETERMINATION BY A COURT WITH RESPECT TO A CRIMINAL VIOLATION; OR

(II) A FINAL DETERMINATION BY A HEARING BOARD WITH RESPECT TO A CORRECTIONAL FACILITY VIOLATION.

(3) A CORRECTIONAL OFFICER WHO IS SUSPENDED UNDER THIS SUBSECTION IS ENTITLED TO A PROMPT HEARING.

(C) (1) IF A CORRECTIONAL OFFICER IS CHARGED WITH A FELONY, THE MANAGING OFFICIAL MAY IMPOSE AN EMERGENCY SUSPENSION OF CORRECTIONAL POWERS WITHOUT PAY.

(2) A CORRECTIONAL OFFICER WHO IS SUSPENDED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS ENTITLED TO A PROMPT HEARING.

11–1014.

(A) A PERSON MAY NOT KNOWINGLY MAKE A FALSE STATEMENT, REPORT, OR COMPLAINT DURING AN INVESTIGATION OR PROCEEDING CONDUCTED UNDER THIS SUBTITLE.

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $500 OR BOTH.

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

Approved by the Governor, May 22, 2008.

CHAPTER 690

(House Bill 1351)

AN ACT concerning

Continuing Care Retirement Communities – Subscriber ~~Complaints and Investigations~~ Grievances

FOR the purpose of ~~adding to the requirements for a continuing care retirement community's internal grievance procedure; shortening the time frame within which certain subscribers have the right to meet with management of a provider;~~ requiring certain providers to submit certain information to the Department of Aging and to the Health Education and Advocacy Unit in the Office of the Attorney General on ~~a certain basis~~ or before a certain date; ~~authorizing the Health Education and Advocacy Unit to identify, investigate, and resolve certain complaints under certain circumstances;~~ and generally relating to continuing care retirement communities and subscriber ~~complaints and investigations~~ grievances.

~~BY repealing and reenacting, with amendments,~~
~~Article – Human Services~~
~~Section 10–428~~
~~Annotated Code of Maryland~~
~~(2007 Volume)~~

~~BY adding to~~
~~Article – Human Services~~
~~Section 10–430~~
~~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**~~

~~10–428.~~

~~(a) A provider shall establish an internal grievance procedure to address a subscriber's grievance.~~

~~(b) The internal grievance procedure shall **AT LEAST:**~~

~~(1) allow a subscriber to submit a written grievance to the provider **IN ANY FORM**;~~

~~**(2) ALLOW FOR THE ESTABLISHMENT OF A PANEL CONSISTING ONLY OF SUBSCRIBERS TO REVIEW AND PRESENT GRIEVANCES TO MANAGEMENT ON BEHALF OF A GRIEVANT WITHOUT FEAR OF REPRISAL;**~~

~~**[**(2)**] (3)** require the provider to send a written acknowledgment to the subscriber within 5 days after receipt of the written grievance;~~

~~**(4) REQUIRE THE PROVIDER TO ASSIGN PERSONNEL TO INVESTIGATE THE GRIEVANCE AND ITS CAUSE IN A PROMPT MANNER;**~~

~~**[**(3)**] (5)** give a subscriber who files a written grievance the right to meet with management of the provider within **[**45**] 30** days after receipt of the written grievance to present the subscriber's grievance; and~~

~~**[**(4)**] (6)** require the provider to respond within 45 days after receipt of the written grievance regarding the investigation and resolution of the grievance.~~

~~**(C) A PROVIDER SHALL SUBMIT THE FOLLOWING INFORMATION TO THE DEPARTMENT AND TO THE HEALTH EDUCATION AND ADVOCACY UNIT IN THE OFFICE OF THE ATTORNEY GENERAL ON A QUARTERLY BASIS:**~~

~~**(1) THE NUMBER OF WRITTEN GRIEVANCES SUBMITTED TO THE PROVIDER UNDER THIS SECTION;**~~

~~(2) THE NATURE OF THE GRIEVANCES; AND~~

~~(3) ANY ACTION TAKEN BY THE PROVIDER IN RESPONSE TO THE GRIEVANCES.~~

~~10–430.~~

~~IF A SUBSCRIBER IS NOT SATISFIED WITH THE RESOLUTION OF A GRIEVANCE AS DECIDED BY A PROVIDER UNDER § 10–428 OF THIS SUBTITLE, THE SUBSCRIBER MAY SUBMIT A COMPLAINT TO THE HEALTH EDUCATION AND ADVOCACY UNIT IN THE OFFICE OF THE ATTORNEY GENERAL TO IDENTIFY, INVESTIGATE, AND RESOLVE THE COMPLAINT:~~

~~(1) THAT IS MADE BY OR ON BEHALF OF A SUBSCRIBER; AND~~

~~(2) THAT RELATES TO ANY ACTION, INACTION, OR DECISION OF A PROVIDER OR A REPRESENTATIVE OF A PROVIDER OF LONG–TERM CARE SERVICES, A PUBLIC AGENCY, OR A HEALTH AND SOCIAL SERVICE AGENCY THAT MAY ADVERSELY AFFECT THE HEALTH, SAFETY, WELFARE, OR RIGHTS OF THE SUBSCRIBER, INCLUDING THE RIGHTS OF A SUBSCRIBER WITH RESPECT TO THE APPOINTMENT AND ACTIVITIES OF GUARDIANS AND REPRESENTATIVE PAYEES.~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, on or before December 1, 2008, a provider that has obtained a certificate of registration to provide continuing care under Title 10, Subtitle 4 of the Human Services Article shall submit the following information to the Department of Aging and to the Health Education and Advocacy Unit in the Office of the Attorney General:

(1) the number of written grievances submitted to the provider under § 10–428 of the Human Services Article during calendar year 2007;

(2) a brief summary of each grievance filed during calendar year 2007 using only nonindividually identifiable information; and

(3) any action taken by the provider regarding the resolution of each grievance filed during calendar year 2007.

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

Approved by the Governor, May 22, 2008.

CHAPTER 691

(House Bill 1358)

AN ACT concerning

Artificial Tanning Devices – Protection of Minors

FOR the purpose of prohibiting certain owners, employees, and operators of tanning facilities from allowing minors to use certain tanning devices unless ~~the minors have certain prescriptions or are accompanied by~~ certain individuals provide consent for the minors in a certain manner; requiring certain owners, employees, and operators of tanning facilities to require certain documentation before allowing certain individuals access to tanning facilities; authorizing the Secretary of Health and Mental Hygiene to impose certain penalties and adopt certain regulations; defining certain terms; providing for the construction of this Act; and generally relating to artificial tanning devices.

BY adding to
Article – Health – General
Section 20–106
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, The United States Food and Drug Administration and numerous leading national health care organizations estimate that, each year, approximately 1,000,000 Americans are stricken with skin cancer, a potentially deadly disease and the most common of all types of cancer; and

WHEREAS, The United States Food and Drug Administration and other organizations estimate that, on average, more than 1,000,000 people in the United States visit artificial tanning facilities each day and there is concern that consumers do not know that indoor, artificial tanning devices emit ultraviolet radiation, both UV–A and UV–B, that is similar to and sometimes more powerful than the ultraviolet radiation emitted by the sun; and

WHEREAS, More than 2,300,000 teenagers use artificial tanning devices each year, and more than 25% of American teenagers have used tanning booths three or more times; and

WHEREAS, The World Health Organization has declared that no person under the age of 18 years should use a tanning bed and the American Academy of

Dermatology has taken the position that no minor should be allowed to use artificial tanning devices; and

WHEREAS, It is in the public interest to protect children from the harmful effects of ultraviolet radiation through the use of artificial tanning devices by restricting minors' access to such devices unless authorized by a physician; now, therefore,

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

Article – Health – General

20–106.

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

(2) "TANNING DEVICE" MEANS ANY EQUIPMENT THAT EMITS RADIATION USED FOR TANNING OF THE SKIN, INCLUDING SUNLAMPS, TANNING BOOTHS, OR TANNING BEDS.

(3) "TANNING FACILITY" MEANS ANY PLACE WHERE A TANNING DEVICE IS USED FOR A FEE, MEMBERSHIP DUES, OR OTHER COMPENSATION.

(B) AN OWNER, EMPLOYEE, OR OPERATOR OF A TANNING FACILITY MAY NOT ALLOW A MINOR UNDER THE AGE OF 18 YEARS TO USE A TANNING DEVICE UNLESS THE ~~MINOR:~~

~~(1) HAS A WRITTEN PRESCRIPTION FROM A PHYSICIAN AUTHORIZING USE OF A TANNING DEVICE; OR~~

~~(2) IS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN WHEN USING A TANNING DEVICE~~ MINOR'S PARENT OR LEGAL GUARDIAN PROVIDES WRITTEN CONSENT ON THE PREMISES OF THE TANNING FACILITY AND IN THE PRESENCE OF AN OWNER, EMPLOYEE, OR OPERATOR OF THE TANNING FACILITY.

(C) THE OWNER, EMPLOYEE, OR OPERATOR OF A TANNING FACILITY SHALL REQUIRE APPROPRIATE DOCUMENTATION TO VERIFY THE AGE OF AN INDIVIDUAL BEFORE ALLOWING THE INDIVIDUAL ACCESS TO A TANNING DEVICE.

(D) (1) THE SECRETARY MAY IMPOSE ON A PERSON WHO VIOLATES THIS SECTION:

(I) FOR A FIRST VIOLATION, A CIVIL PENALTY NOT TO EXCEED $250;

(II) FOR A SECOND VIOLATION, A CIVIL PENALTY NOT TO EXCEED $500; AND

(III) FOR EACH SUBSEQUENT VIOLATION, A CIVIL PENALTY NOT TO EXCEED $1,000.

(2) THE SECRETARY MAY ADOPT REGULATIONS TO IMPLEMENT AND CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to preempt a county or municipal government from enacting and enforcing more stringent measures to regulate the use of tanning devices by minors.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 22, 2008.

CHAPTER 692

(House Bill 1391)

AN ACT concerning

Kids First Act

FOR the purpose of requiring the Comptroller to send a certain notice regarding eligibility for the Maryland Medical Assistance Program or the Maryland Children's Health Program to a ~~certain~~ taxpayer if certain income reported on a tax return for a certain tax year does not exceed a certain ~~amount~~ income eligibility standard; *requiring that the notice be developed by the Department of Health and Mental Hygiene;* requiring a taxpayer to report on the income tax return in a certain form the presence or absence of certain health care coverage for each dependent child; *providing that a taxpayer may not be penalized for not providing certain information or providing certain information that is*

inaccurate under certain circumstances; requiring the Comptroller, under certain circumstances, to send a taxpayer applications *and enrollment instructions* for the Maryland Medical Assistance Program and the Maryland Children's Health Program; *prohibiting the Comptroller from sending a certain notice and information to certain taxpayers;* ~~requiring the Comptroller to adopt certain regulations;~~ requiring the Department of Health and Mental Hygiene, in consultation with certain other State agencies, to study, make recommendations, and report on health care coverage and enrollment for certain children; requiring the Comptroller to publicize ~~widely the requirements of this Act for a certain purpose~~ the availability of the Maryland Medical Assistance Program and the Maryland Children's Health Program to certain taxpayers; ~~prohibiting a taxpayer from deducting a certain exemption for a dependent child unless the dependent child had health care coverage; providing for certain exceptions~~ requiring the Maryland Health Care Commission and the Office of the Comptroller to ~~study and make recommendations on the implementation of a certain health care coverage mandate and to report on their study and recommendations to the Governor and the General Assembly on or before certain dates~~ *conduct a certain study annually and report on the study to the Governor and the General Assembly on or before a certain date each year*; requiring the transfer of certain funds from the Maryland Health Care Provider Rate Stabilization Fund to the Office of the Comptroller for a certain purpose; defining a certain ~~terms~~ term; making a certain technical correction; ~~providing for the application of certain provisions of this Act; providing for delayed effective dates for certain provisions~~ providing for the termination of this Act; and generally relating to health care coverage ~~and income tax exemptions~~ for dependent children.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–1301(f)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–211
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)

BY adding to
Article – Tax – General
Section 10–211.1
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 – Insurance

15–1301.

(f) (1) "Creditable coverage" means coverage of an individual under:

(i) an employer sponsored plan;

(ii) a health benefit plan;

(iii) Part A or Part B of Title XVIII of the Social Security Act;

(iv) Title XIX **OR TITLE XXI** of the Social Security Act, other than coverage consisting solely of benefits under § 1928 of that Act;

(v) Chapter 55 of Title 10 of the United States Code;

(vi) a medical care program of the Indian Health Service or of a tribal organization;

(vii) a State health benefits risk pool;

(viii) a health plan offered under the Federal Employees Health Benefits Program (FEHBP), Title 5, Chapter 89 of the United States Code;

(ix) a public health plan as defined by federal regulations authorized by the Public Health Service Act, § 2701(c)(1)(i), as amended by P.L. 104–191; or

(x) a health benefit plan under § 5(e) of the Peace Corps Act, 22 U.S.C. 2504(e).

Article – Tax – General

10–211.

(a) Except as provided in subsection (b) of this section, whether or not a federal return is filed, to determine Maryland taxable income, an individual other than a fiduciary may deduct as an exemption:

(1) $3,200 for each exemption that the individual may deduct in the taxable year to determine federal taxable income under § 151 of the Internal Revenue Code;

(2) an additional $3,200 for each dependent, as defined in § 152 of the Internal Revenue Code, who is at least 65 years old on the last day of the taxable year;

(3) an additional $1,000 if the individual, on the last day of the taxable year, is at least 65 years old; and

(4) an additional $1,000 if the individual, on the last day of the taxable year, is a blind individual, as described in § 10–208(c) of this subtitle.

(b) (1) If an individual other than one described in **[**subsection (c) of this section**]** **PARAGRAPH (2) OF THIS SUBSECTION** has federal adjusted gross income for the taxable year greater than $100,000, the amount allowed for each exemption under subsection (a)(1) or (2) of this section is limited to:

(i) $2,400 if federal adjusted gross income for the taxable year does not exceed $125,000;

(ii) $1,800 if federal adjusted gross income for the taxable year is greater than $125,000 but not greater than $150,000;

(iii) $1,200 if federal adjusted gross income for the taxable year is greater than $150,000 but not greater than $200,000; and

(iv) $600 if federal adjusted gross income for the taxable year is greater than $200,000.

(2) If a married couple filing a joint return or an individual described in § 2 of the Internal Revenue Code as a head of household or as a surviving spouse has federal adjusted gross income for the taxable year greater than $150,000, the amount allowed for each exemption under subsection (a)(1) or (2) of this section is limited to:

(i) $2,400 if federal adjusted gross income for the taxable year does not exceed $175,000;

(ii) $1,800 if federal adjusted gross income for the taxable year is greater than $175,000 but not greater than $200,000;

(iii) $1,200 if federal adjusted gross income for the taxable year is greater than $200,000 but not greater than $250,000; and

(iv) $600 if federal adjusted gross income for the taxable year is greater than $250,000.

10–211.1.

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

~~(2) "APPLICABLE POVERTY INCOME LEVEL" MEANS THE AMOUNT SPECIFIED IN THE POVERTY INCOME STANDARD THAT CORRESPONDS TO THE NUMBER OF EXEMPTIONS THAT THE TAXPAYER IS ALLOWED AND CLAIMS UNDER § 10–211 OF THIS SUBTITLE.~~

~~(3)~~ ~~"HEALTH~~, "HEALTH CARE COVERAGE" MEANS CREDITABLE COVERAGE AS DEFINED IN § 15–1301 OF THE INSURANCE ARTICLE.

~~(4) "POVERTY INCOME STANDARD" MEANS THE MOST RECENT POVERTY INCOME GUIDELINES PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, AVAILABLE AS OF JULY 1 OF THE TAXABLE YEAR.~~

~~(5) "TAXPAYER" MEANS:~~

~~(I) AN INDIVIDUAL FILING AN INDIVIDUAL RETURN; OR~~

~~(II) A MARRIED COUPLE FILING A JOINT RETURN.~~

(B) *(1)* IF THE ~~FEDERAL ADJUSTED GROSS~~ INCOME, REPORTED ON THE TAX RETURN FOR ~~THE PREVIOUS TAXABLE YEAR~~ TAX YEAR 2007, OF A TAXPAYER WITH A DEPENDENT CHILD DOES NOT EXCEED ~~300% OF THE APPLICABLE POVERTY INCOME LEVEL~~ THE HIGHEST INCOME ELIGIBILITY STANDARD FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM, THE COMPTROLLER SHALL SEND A NOTICE TO THE TAXPAYER:

~~(1)~~ *(I)* INDICATING THAT THE DEPENDENT CHILD MAY BE ELIGIBLE FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM; AND

~~(2)~~ *(II)* PROVIDING INFORMATION ABOUT HOW TO ENROLL IN THE PROGRAMS.

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DEVELOPED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

(C) ~~**(1) A TAXPAYER MAY NOT DEDUCT AN EXEMPTION FOR A DEPENDENT CHILD UNDER § 10–211 OF THIS SUBTITLE UNLESS THE DEPENDENT CHILD FOR WHOM THE EXEMPTION IS CLAIMED:**~~

~~**(I) HAD HEALTH CARE COVERAGE ON DECEMBER 31 OF THE TAXABLE YEAR; AND**~~

~~**(II) DID NOT HAVE A BREAK IN HEALTH CARE COVERAGE OF 63 DAYS OR MORE DURING THE TAXABLE YEAR.**~~

~~**(2) THE COMPTROLLER SHALL PROVIDE FOR EXCEPTIONS TO PARAGRAPH (1) OF THIS SUBSECTION FOR A TAXPAYER:**~~

~~**(I) JUST ENTERING THE WORKFORCE;**~~

~~**(II) RECENTLY MOVING INTO THE STATE;**~~

~~**(III) WHO IS UNABLE TO OBTAIN HEALTH CARE COVERAGE FOR THE DEPENDENT CHILD BECAUSE THE DEPENDENT CHILD:**~~

~~**1. IS NOT ELIGIBLE FOR COVERAGE THROUGH:**~~

~~**A. ANY EMPLOYER–SPONSORED PLAN AVAILABLE TO THE TAXPAYER;**~~

~~**B. THE MARYLAND MEDICAL ASSISTANCE PROGRAM; OR**~~

~~**C. THE MARYLAND CHILDREN'S HEALTH PROGRAM;**~~

~~**2. HAS BEEN TURNED DOWN FOR HEALTH BENEFITS IN AN INDIVIDUAL PLAN; AND**~~

~~**3. HAS BEEN UNABLE TO ENROLL IN THE MARYLAND HEALTH INSURANCE PLAN BECAUSE THE MARYLAND HEALTH INSURANCE PLAN HAS REACHED ITS ENROLLMENT CAPACITY; OR**~~

~~**(IV) WHO OBJECTS TO HEALTH INSURANCE ON RELIGIOUS GROUNDS, PROVIDED THAT THE TAXPAYER FILES A SWORN AFFIDAVIT WITH**~~

~~THE TAX RETURN STATING THAT THE TAXPAYER'S SINCERELY HELD RELIGIOUS BELIEFS ARE THE BASIS OF THE TAXPAYER'S REFUSAL TO OBTAIN AND MAINTAIN HEALTH CARE COVERAGE FOR THE DEPENDENT CHILD.~~

~~(3)~~ (1) *(I)* **~~THE~~ BEGINNING WITH THE TAX RETURN FOR TAX YEAR 2008, THE TAXPAYER SHALL REPORT ON THE INCOME TAX RETURN, IN THE FORM REQUIRED BY THE COMPTROLLER, THE PRESENCE OR ABSENCE OF HEALTH CARE COVERAGE ~~THAT MEETS THE REQUIREMENTS OF THIS SUBSECTION~~ FOR EACH DEPENDENT CHILD FOR WHOM AN EXEMPTION IS CLAIMED.**

(II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A TAXPAYER MAY NOT BE PENALIZED IN ANY MANNER FOR NOT PROVIDING THE INFORMATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH OR PROVIDING INFORMATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT IS INACCURATE.

~~(4)~~ (2) *(I)* **IF THE TAXPAYER INDICATES ON THE INCOME TAX RETURN FOR TAX YEAR 2008 OR 2009 THAT A DEPENDENT CHILD DOES NOT HAVE HEALTH CARE COVERAGE, AND THE ~~FEDERAL ADJUSTED GROSS~~ INCOME ON THE TAXPAYER'S TAX RETURN DOES NOT EXCEED ~~300% OF THE APPLICABLE POVERTY INCOME LEVEL~~ THE HIGHEST LEVEL INCOME ELIGIBILITY STANDARD FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM, THE COMPTROLLER SHALL SEND THE TAXPAYER APPLICATIONS AND ENROLLMENT INSTRUCTIONS FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH PROGRAM~~, WITH INSTRUCTIONS~~.**

(II) THE COMPTROLLER MAY NOT SEND ANY NOTICE OR INFORMATION WITH THE APPLICATIONS AND ENROLLMENT INSTRUCTIONS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, OTHER THAN A NOTICE DEVELOPED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

~~(5) THE COMPTROLLER SHALL ADOPT REGULATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene, in consultation with the Maryland Insurance Administration and the Maryland Health Care Commission, shall:

(1) study and make recommendations for ~~determining the effectiveness for implementation of an auto-enrollment system into the Maryland Medical Assistance Program and the Maryland Children's Health Program for eligible~~

~~children~~ improving the processes for determining eligibility for the Maryland Medical Assistance Program and the Maryland Children's Health Program, including the feasibility of facilitating outreach or auto–enrollment through linkages with other electronic data sources;

(2) (i) study and make recommendations for increasing the availability and affordability of health care coverage for children with family income that exceeds 300% of the applicable poverty income level;

(ii) include as options in the study and recommendations:

1. buying into the Maryland Children's Health Program;

2. developing a State–sponsored health care coverage program with fewer mandates than the Maryland Children's Health Program; and

3. establishing a health benefit plan with child–appropriate benefits; and

(3) on or before January 1, 2009, report on its studies and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That:

~~(a) The Maryland Health Care Commission and the Office of the Comptroller shall study and make recommendations on the implementation of a health care coverage mandate for dependent children by 2011, if more than 3% of children in the State are estimated to be uninsured.~~

~~(b) The Commission and the Office shall incorporate in the study and recommendations:~~

(a) The Maryland Health Care Commission and the Office of the Comptroller annually shall study:

(1) the number of Maryland families, by income level, claiming the State income tax exemption for dependent children;

(2) the value to a family of the State income tax exemption for dependent children, by income level; *and*

(3) the effect of the provisions of § 10–211.1 of the Tax – General Article, as enacted by Section 1 of this Act, on the number and percentage of children in the State who are uninsured~~; and~~

~~(4) issues relating to the role of the State income tax exemption for dependent children in any mandate requiring parents to obtain health care coverage for their children, including:~~

~~(i) the need for special rules for noncustodial parents;~~

~~(ii) the need for changes in the information collected on the income tax form;~~

~~(iii) the manner in which a mandate should be enforced; and~~

~~(iv) any needed exceptions for taxpayers to a mandate, such as an exception for a taxpayer who:~~

~~1. is a recent resident of the State;~~

~~2. is just entering the workforce;~~

~~3. is in between jobs;~~

~~4. has been turned down for private insurance and is unable to enroll in the Maryland Health Insurance Plan;~~

~~5. claims a religious exception; or~~

~~6. is unable to obtain affordable private health insurance~~.

~~(c)~~ *(b)* The Commission and the Office shall~~:~~

~~(1)~~ report on their ~~study and recommendations~~ *findings from the study required under this section* to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on or before January 1~~, 2010; and~~ *of each year.*

~~(2) update the report on or before January 1, 2011, with any new information available.~~

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That the Comptroller shall publicize ~~widely the requirements of this Act to provide an adequate opportunity for taxpayers to obtain health care coverage for their~~ the availability of the Maryland Medical Assistance Program and the Maryland Children's Health Program to taxpayers with dependent children.

~~SECTION 4. AND BE IT FURTHER ENACTED, That § 10–211.1(c)(1) and (2) of the Tax – General Article, as enacted by Section 1 of this Act, shall take effect January 1, 2011, and shall be applicable to all taxable years beginning after December 31, 2010.~~

SECTION 5. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, for fiscal years 2010 and 2011, up to $300,000 each year shall be transferred from the Maryland Health Care Provider Rate Stabilization Fund established under Title 19, Subtitle 8 of the Insurance Article to the Office of the Comptroller to pay *only* for mailings of applications and enrollment instructions for the Maryland Medical Assistance Program and the Maryland Children's Health Program, in accordance with § 10–211.1 of the Tax – General Article, as enacted by Section 1 of this Act.

SECTION ~~5.~~ 6. AND BE IT FURTHER ENACTED, That ~~§ 10–211.1(b) and (c)(3) and (4) of the Tax – General Article, as enacted by Section 1 of this Act shall take effect January 1, 2009, and shall be applicable to all taxable years beginning after December 31, 2008.~~

~~SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Sections 4 and 5 of this Act,~~ this Act shall take effect July 1, 2008. It shall remain effective for a period of 3 years and, at the end of June 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 22, 2008.

CHAPTER 693

(House Bill 1395)

AN ACT concerning

~~Chronic Care and Prevention Partnership Act~~
Department of Health and Mental Hygiene and Maryland Health Quality and Cost Council – Chronic Care Management Plan

FOR the purpose of requiring the Department of Health and Mental Hygiene and the Maryland Health Quality and Cost Council to study chronic care management and develop a certain chronic care management plan; requiring the chronic care management plan to include certain plans; requiring the Department and the Council to consult with certain persons in developing the chronic care

management plan; authorizing the Council to accept certain funds; requiring the Department and the Council to submit the chronic care management plan 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 chronic care management plan. ~~establishing the Chronic Care and Prevention Program in the State; requiring the Secretary of Health and Mental Hygiene to develop and implement the Program in consultation with a certain task force; requiring the Secretary to seek to obtain certain waivers; authorizing the Secretary to accept certain grants and donations; establishing the Chronic Care and Prevention Program Fund; establishing the Task Force on Chronic Care and Prevention; establishing the composition and duties of the Task Force; establishing the duties of certain regional chronic care and prevention partnerships; authorizing the Secretary to transfer certain funds to the partnerships; authorizing the Secretary to establish a certain advisory council; defining certain terms; and generally relating to the establishment of the Chronic Care and Prevention Program in the State.~~

~~BY adding to~~
~~Article – Health – General~~
~~Section 13–2701 through 13–2708 to be under the new subtitle "Subtitle 27. State Chronic Care and Prevention Program"~~
~~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~~:

(a) The Department of Health and Mental Hygiene and the Maryland Health Quality and Cost Council shall study chronic care management and develop a chronic care management plan to improve the quality and cost–effectiveness of care for individuals who have or are at risk for a chronic disease.

(b) The chronic care management plan shall include plans for:

(1) patient self–management, in collaboration with a health care team;

(2) incentives for provision of care consistent with evidence–based standards;

(3) ways to engage communities to fight physical inactivity and obesity;

(4) identification of information technology that supports care management;

(5) linkages between financing mechanisms and performance measures;

(6) disseminating scientifically sound, evidence–based information to health care providers regarding prevention and treatment of targeted chronic conditions;

(7) coordinating with appropriate chronic care resources to collect data and evaluate the clinical, social, and economic impact of chronic care and prevention activities in different regions of the State; and

(8) considering best practices across the public and private sectors, including existing initiatives in Maryland, such as the P3 Program, and the experiences of other states.

(c) In developing the chronic care management plan, the Department of Health and Mental Hygiene and the Maryland Health Quality and Cost Council shall consult with:

(1) physicians;

(2) pharmacists;

(3) hospitals;

(4) health insurance carriers, including managed care organizations;

(5) patient advocates;

(6) community mental health providers; ~~and~~

(7) federally qualified health centers; and

~~(7)~~ *(8)* registered nurses.

(d) The Maryland Health Quality and Cost Council may accept funds from any source, including grants and donations, to cover costs associated with the study of chronic care management and development of the chronic care management plan.

(e) On or before December 1, 2009, the Department of Health and Mental Hygiene and the Maryland Health Quality and Cost Council shall submit the chronic care management plan to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

~~**Article – Health – General**~~

~~SUBTITLE 27. STATE CHRONIC CARE AND PREVENTION PROGRAM.~~

~~13–2701.~~

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

~~(B) "CHRONIC CARE AND PREVENTION PARTNERSHIP" MEANS A REGIONALLY BASED CONSORTIUM OF HEALTH CARE RESOURCES ESTABLISHED IN ACCORDANCE WITH THIS SUBTITLE FOR:~~

~~(1) PROMOTING THE HEALTH OF COMMUNITY RESIDENTS;~~

~~(2) PREVENTING CHRONIC CONDITIONS;~~

~~(3) DEVELOPING AND IMPLEMENTING ARRANGEMENTS FOR DELIVERING CARE FOR MANAGING CHRONIC CONDITIONS; AND~~

~~(4) DEVELOPING SIGNIFICANT PATIENT SELF–CARE EFFORTS AND SYSTEMIC SUPPORTS FOR THE PHYSICIAN–PATIENT RELATIONSHIP.~~

~~(C) "CHRONIC CARE INFORMATION TECHNOLOGY SYSTEM" MEANS THE DEVELOPMENT OF INFORMATION TECHNOLOGY THAT MAY BE USED TO IMPROVE THE PROVISION OF MEDICAL CARE FOR A CHRONIC CONDITION, INCLUDING EVIDENCE OF IMPROVED CLINICAL, SOCIAL, AND ECONOMIC OUTCOMES.~~

~~(D) "CHRONIC CARE PLAN" MEANS A PLAN OF CARE BETWEEN AN INDIVIDUAL AND THE INDIVIDUAL'S PRINCIPLE HEALTH CARE PROVIDER THAT EMPHASIZES PREVENTION OF MEDICAL COMPLICATIONS THROUGH:~~

~~(1) PATIENT EMPOWERMENT, INCLUDING PROVIDING INCENTIVES TO ENGAGE PATIENTS IN THEIR OWN CARE IN THE FORM OF FINANCIAL INCENTIVES OR OUT–OF–POCKET COST REDUCTIONS FOR COMPLIANCE AND ADHERENCE TO PROGRAM ELEMENTS;~~

~~(2) CLINICAL, SOCIAL, OR OTHER INTERVENTIONS DESIGNED TO MINIMIZE THE NEGATIVE EFFECTS OF THE CONDITION; AND~~

~~(3) COORDINATION OF HEALTH CARE PAID FOR UNDER THE ELIGIBLE INDIVIDUAL'S MEDICAID OR MARYLAND CHILDREN'S HEALTH PROGRAM.~~

~~(E) "CHRONIC CARE RESOURCES" MEANS HEALTH CARE PROVIDERS, ADVOCACY GROUPS, LOCAL HEALTH DEPARTMENTS, SCHOOLS OF PUBLIC HEALTH, HEALTH INSURANCE CARRIERS, AND INDIVIDUALS WITH EXPERTISE IN PUBLIC HEALTH AND HEALTH CARE DELIVERY, FINANCE, AND RESEARCH.~~

~~(F) "CHRONIC CONDITION" MEANS AN ESTABLISHED CLINICAL CONDITION THAT IS EXPECTED TO LAST MORE THAN 1 YEAR AND REQUIRES ONGOING CLINICAL MANAGEMENT.~~

~~(G) "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS:~~

~~(1) A RESIDENT OF THE STATE;~~

~~(2) HAS BEEN DIAGNOSED WITH A CHRONIC CONDITION OR IS AT ELEVATED RISK FOR A CHRONIC CONDITION; AND~~

~~(3) PARTICIPATES IN A STATE HEALTH PROGRAM, INCLUDING MEDICAID OR THE STATE CHILDREN'S HEALTH INSURANCE PLAN.~~

~~(H) "HEALTH CARE PROVIDER" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, FACILITY, OR INSTITUTION LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY LAW TO PROVIDE HEALTH CARE SERVICES IN THE STATE.~~

~~(I) "MEDICAID" MEANS THE HEALTH INSURANCE FOR THE AGED ACT, TITLE XIX OF THE SOCIAL SECURITY AMENDMENTS OF 1965, AS AMENDED.~~

~~(J) "STATE CHRONIC CARE AND PREVENTION PROGRAM" MEANS THE STATE'S PLAN FOR DEVELOPING A REGIONALLY BASED FOUNDATION FOR CHRONIC DISEASE PREVENTION AND TREATMENT, INCLUDING:~~

~~(1) FORMING REGIONAL CHRONIC CARE AND PREVENTION PARTNERSHIPS;~~

~~(2) DEVELOPING OPTIONS FOR DIRECTING CHRONIC CARE RESOURCES TO THE PARTNERSHIPS;~~

~~(3) COMMUNITY OUTREACH AND EDUCATION; AND~~

~~(4) COORDINATING WITH CHRONIC CARE INFORMATION TECHNOLOGY SYSTEM INITIATIVES.~~

~~13–2702.~~

~~(A) THERE IS A CHRONIC CARE AND PREVENTION PROGRAM IN THE STATE.~~

~~(B) THE SECRETARY SHALL BE RESPONSIBLE FOR DEVELOPING, PILOTING, AND IMPLEMENTING THE CHRONIC CARE AND PREVENTION PROGRAM IN CONSULTATION WITH THE TASK FORCE ON CHRONIC CARE AND PREVENTION ESTABLISHED UNDER § 13–2704 OF THIS SUBTITLE AND IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.~~

~~(C) THE SECRETARY SHALL SEEK TO OBTAIN ANY FEDERAL WAIVERS OR WAIVER MODIFICATIONS NEEDED TO IMPLEMENT THE PROGRAM.~~

~~(D) IF AUTHORIZED UNDER FEDERAL LAW, THE SECRETARY SHALL REQUIRE ELIGIBLE INDIVIDUALS TO RECERTIFY OR REAPPLY FOR MEDICAID, THE MARYLAND CHILDREN'S HEALTH PROGRAM, AND ANY OTHER STATE–FUNDED HEALTH PROGRAM NO MORE THAN ONCE EACH YEAR.~~

~~(E) THE SECRETARY MAY ACCEPT GRANTS AND DONATIONS TO FUND THE PILOT PHASE OF THE PROGRAM.~~

~~(F) THE SECRETARY MAY APPLY FOR FEDERAL, STATE, AND FOUNDATION GRANTS THAT MAY BE AVAILABLE FOR ANY PART OF THE PROGRAM, INCLUDING FUNDING THAT IS DEDICATED TO A SPECIFIC REGION OF THE STATE OR CHRONIC CONDITION.~~

~~(G) THE SECRETARY SHALL DEPOSIT ALL GRANTS AND DONATIONS INTO THE CHRONIC CARE AND PREVENTION PROGRAM FUND ESTABLISHED UNDER § 13–2703 OF THIS SUBTITLE.~~

~~13–2703.~~

~~(A) IN THIS SECTION, "FUND" MEANS THE CHRONIC CARE PREVENTION PROGRAM FUND.~~

~~(B) THERE IS A CHRONIC CARE PREVENTION PROGRAM FUND.~~

~~(C) THE PURPOSE OF THE FUND IS TO COVER THE COSTS OF FULFILLING THE STATUTORY DUTIES OF THE CHRONIC CARE PREVENTION PROGRAM.~~

~~(D) A DESIGNEE OF THE SECRETARY SHALL ADMINISTER THE FUND.~~

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

~~(2) THE 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 § 13–2702(G) OF THIS SUBTITLE;~~

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

~~(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND; AND~~

~~(4) ANY INVESTMENT EARNINGS OF THE FUND.~~

~~(G) THE FUND MAY BE USED ONLY FOR THE COSTS OF FULFILLING THE DUTIES OF THE CHRONIC CARE PREVENTION PROGRAM AS PROVIDED UNDER THIS SUBTITLE.~~

~~(H) (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 PAID INTO THE FUND.~~

~~(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.~~

~~13–2704.~~

~~(A) THERE IS A TASK FORCE ON CHRONIC CARE AND PREVENTION.~~

~~(B) THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS:~~

~~(1) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;~~

~~(2) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;~~

~~(3) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;~~

~~(4) THE INSURANCE COMMISSIONER, OR THE INSURANCE COMMISSIONER'S DESIGNEE;~~

~~(5) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY'S DESIGNEE; AND~~

~~(6) EIGHT INDIVIDUALS APPOINTED BY THE GOVERNOR, INCLUDING REPRESENTATIVES OF:~~

~~(I) THE MEDICAL AND CHIRURGICAL FACULTY;~~

~~(II) THE MARYLAND HOSPITAL ASSOCIATION;~~

~~(III) PRIVATE HEALTH INSURANCE CARRIERS WHO PROVIDE SERVICES TO MEDICAID AND THE MARYLAND CHILDREN'S HEALTH PROGRAM ENROLLEES;~~

~~(IV) A PATIENT ADVOCACY GROUP;~~

~~(V) PHYSICIANS WHO PROVIDE PRIMARY CARE TO LOW-INCOME OR UNINSURED RESIDENTS OF THE STATE;~~

~~(VI) PHARMACISTS WHO SERVE PREDOMINANTLY LOW-INCOME OR UNINSURED RESIDENTS OF THE STATE;~~

~~(VII) A LOCAL SCHOOL OF PUBLIC HEALTH; AND~~

~~(VIII) A PROFESSIONAL ORGANIZATION OF INDIVIDUALS WITH EXPERTISE IN HEALTH INFORMATION TECHNOLOGY.~~

~~(C) (1) IN PERFORMING ITS DUTIES, THE TASK FORCE MAY CONSULT WITH INDIVIDUALS AND ENTITIES THAT THE SECRETARY OF HEALTH AND MENTAL HYGIENE DEEMS APPROPRIATE.~~

~~(2) THE TASK FORCE SHALL CONDUCT FORUMS THROUGHOUT THE STATE WITH HEALTH CARE PROVIDERS, HEALTH CARE PROFESSIONAL ORGANIZATIONS, COMMUNITY AND NONPROFIT GROUPS, CONSUMERS, PRIVATE BUSINESSES, AND REPRESENTATIVES OF LOCAL SCHOOL SYSTEMS AND GOVERNMENTS TO RECEIVE INPUT ON THE CHARGES TO THE TASK FORCE UNDER SUBSECTION (E) OF THIS SECTION.~~

~~(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 CONCERNING THE ISSUES TO BE STUDIED BY THE TASK FORCE.~~

~~(E) THE TASK FORCE SHALL:~~

~~(1) DEVELOP RECOMMENDATIONS ON THE DEVELOPMENT AND PILOTING OF A CHRONIC CARE AND PREVENTION PARTNERSHIP PROGRAM IN THE STATE;~~

~~(2) RECOMMEND THE SIZE AND GEOGRAPHIC BOUNDARIES OF REGIONS OF THE STATE TO SERVE AS TERRITORIES FOR THE CHRONIC CARE AND PREVENTION PARTNERSHIPS SERVING THE STATE, INCLUDING ANY COMBINATION OF COUNTIES, MUNICIPALITIES, HOSPITALS, OR ANY OTHER ORGANIZATIONAL STRUCTURE THAT MAY PROVIDE AN AUTONOMOUS COMMUNITY BASE FOR THE DEVELOPMENT AND DELIVERY OF CHRONIC CARE AND PREVENTION SERVICES;~~

~~(3) PROPOSE ONE REGION TO SERVE AS A PILOT PROJECT FOR A REGIONAL CHRONIC CARE AND PREVENTION PARTNERSHIP;~~

~~(4) IDENTIFY PHYSICIANS, CLINICS, HOSPITALS, AND INSURANCE CARRIER PLANS THAT SERVE MEDICAID OR MARYLAND CHILDREN'S HEALTH PROGRAM PATIENTS AND SOLICIT THEIR PARTICIPATION; AND~~

~~(5) RECOMMEND TO THE SECRETARY A PER BENEFICIARY FEE STRUCTURE TO FUND A REGIONAL CHRONIC CARE AND PREVENTION PARTNERSHIP.~~

~~(F) 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 JUNE 1, 2009.~~

~~(G) 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.~~

~~13–2705.~~

~~(A) A REGIONAL CHRONIC CARE AND PREVENTION PARTNERSHIP SHALL DEVELOP, IMPLEMENT, AND ADMINISTER ITS REGION'S PLAN FOR CHRONIC CARE AND PREVENTION, INCLUDING ADMINISTRATIVE STRUCTURES FOR ENTERING INTO CONTRACTS, MANAGING FUNDS, DEVELOPING PUBLIC EDUCATION AND OUTREACH PROGRAMS, AND ARRANGING TO PROVIDE AND EVALUATE CHRONIC CARE AND PREVENTION MANAGEMENT SERVICES.~~

~~(B) A REGIONAL CHRONIC CARE AND PREVENTION PARTNERSHIP SHALL:~~

~~(1) SELECT, IN CONSULTATION WITH THE SECRETARY, THE CHRONIC CONDITIONS FOR WHICH CHRONIC CARE AND PREVENTION SERVICES WILL BE PROVIDED WITHIN THE REGION WITH CONSIDERATION GIVEN TO THE:~~

~~(I) PREVALENCE OF CHRONIC CONDITIONS IN THE REGION AND THE FACTORS THAT MAY LEAD TO THE DEVELOPMENT OF THE CONDITIONS;~~

~~(II) PREPARTNERSHIP FISCAL IMPACT TO THE STATE HEALTH CARE PROGRAMS PROVIDING CARE FOR ELIGIBLE INDIVIDUALS;~~

~~(III) AVAILABILITY OF SCIENTIFICALLY SOUND, EVIDENCE–BASED INFORMATION TO MANAGE THE CARE OF A CHRONIC CONDITION; AND~~

~~(IV) PUBLIC INPUT INTO THE SELECTION PROCESS;~~

~~(2) DETERMINE HOW TO IMPLEMENT CHRONIC CARE AND PREVENTION SERVICES ON A REGIONAL BASIS, INCLUDING ARRANGEMENTS WITH:~~

~~(I) COMMUNITY HEALTH CENTERS;~~

~~(II) PRIMARY CARE PHYSICIAN PRACTICES;~~

~~(III) HOSPITALS;~~

~~(IV) PROVIDERS OF CONTRACTED SERVICES;~~

~~(V) PHARMACIES;~~

~~(VI) SCHOOL–BASED HEALTH CLINICS;~~

~~(VII) SOCIAL WORKERS OR LICENSED PRACTICAL NURSES UTILIZED BY THE PARTNERSHIP TO SUPPORT CHRONIC CARE PLANS ENTERED INTO BY PHYSICIANS AND PATIENTS; AND~~

~~(VIII) ANY OTHER MECHANISM SUPPORTED BY THE PARTNERSHIP AND PARTICIPATING PROVIDERS;~~

~~(3) DEVELOP A MECHANISM FOR HEALTH CARE PROVIDERS TO PARTICIPATE AND MAKE A CHRONIC CARE PLAN AVAILABLE TO THEIR PATIENTS;~~

~~(4) IDENTIFY AND DISSEMINATE SCIENTIFICALLY SOUND, EVIDENCE–BASED INFORMATION TO HEALTH CARE PROVIDERS REGARDING PREVENTION AND TREATMENT OF TARGETED CHRONIC CONDITIONS;~~

~~(5) ASSIST IN THE IMPLEMENTATION OF PREVENTION AND PUBLIC OUTREACH PROGRAMS FOR CHRONIC CONDITIONS;~~

~~(6) RECOMMEND INCENTIVES FOR HEALTH INSURANCE CARRIERS AND HEALTH CARE PROVIDERS THAT PARTICIPATE IN MEDICAID AND THE MARYLAND CHILDREN'S HEALTH PROGRAM TO USE THE PROGRAM FOR ENROLLEES AND PATIENTS WITH A TARGETED CHRONIC CONDITION;~~

~~(7) RECOMMEND AND EVALUATE HEALTH INFORMATION TECHNOLOGY OPTIONS FOR ENHANCING THE ACCURACY AND EFFICIENCY OF COMMUNICATION NECESSARY TO THE DELIVERY OF CHRONIC CARE, INCLUDING~~

~~PRODUCING HEALTH INFORMATION LITERATURE IN MULTIPLE LANGUAGES AND AT THE APPROPRIATE READING LEVEL; AND~~

~~(8) COORDINATE WITH APPROPRIATE CHRONIC CARE RESOURCES TO DEVELOP AND IMPLEMENT A SYSTEM FOR THE COLLECTION OF DATA AND EVALUATION OF THE CLINICAL, SOCIAL, AND ECONOMIC IMPACT OF THE CHRONIC CARE AND PREVENTION ACTIVITIES INSTITUTED IN THE REGION.~~

~~(C) THE DIRECTORS OF THE PILOT PROJECTS SHALL REPORT TO THE SECRETARY EVERY 2 YEARS ON THEIR ACTIVITIES, INCLUDING THE:~~

~~(1) PERCENTAGE OF HEALTH CARE PROVIDERS WHO ARE PARTICIPATING;~~

~~(2) SUCCESS OF PATIENT EMPOWERMENT APPROACHES; AND~~

~~(3) RESULTS OF THE CLINICAL, SOCIAL, AND ECONOMIC OUTCOMES OF THE PROGRAM.~~

~~13–2706.~~

~~(A) THE SECRETARY SHALL AUTHORIZE THE TRANSFER OF FUNDS TO A CHRONIC CARE AND PREVENTION PARTNERSHIP.~~

~~(B) A PARTNERSHIP WHO RECEIVES FUNDS FROM THE SECRETARY IS ACCOUNTABLE FOR THE FUNDS.~~

~~(C) WHEN SELECTING A REGION FOR THE ESTABLISHMENT OF A CHRONIC CARE PREVENTION PARTNERSHIP, THE SECRETARY SHALL CONSIDER:~~

~~(1) THE RECOMMENDATIONS OF THE TASK FORCE; AND~~

~~(2) THE AVAILABILITY OF A PHYSICIAN LEADER TO:~~

~~(I) BE A MEDICAL DIRECTOR OF THE PARTNERSHIP; AND~~

~~(II) DEVELOP RELATIONSHIPS WITH APPROPRIATE CHRONIC CARE RESOURCES FOR ADMINISTERING THE PARTNERSHIP AND OVERSEEING THE EXPENDITURE OF FUNDS.~~

~~(D) A MEDICAL DIRECTOR OF A PARTNERSHIP SHALL WORK WITH THE MEDICAL DIRECTORS OF OTHER PARTNERSHIPS TO HELP ENSURE THAT THE PROGRAM ACHIEVES ITS PURPOSE.~~

~~(E) THE SECRETARY SHALL INCREASE AS PRACTICABLE THE NUMBER OF PARTNERSHIPS THROUGHOUT THE STATE TO EXPAND THE IMPACT OF THE PROGRAM ON A STATEWIDE BASIS.~~

~~(F) THE SECRETARY MAY ENTER INTO A CONTRACT FOR AN EVALUATION OF THE IMPACT OF THE PROGRAM ON:~~

~~(1) MEDICAID AND THE MARYLAND CHILDREN'S HEALTH PROGRAM EXPENDITURES; AND~~

~~(2) THE PREVALENCE AND SERIOUSNESS OF THE TARGETED CHRONIC CONDITIONS IN VARIOUS REGIONS OF THE STATE.~~

~~13–2707.~~

~~(A) THE SECRETARY SHALL ESTABLISH AN ADVISORY COUNCIL.~~

~~(B) THE ADVISORY COUNCIL CONSISTS OF THE MEDICAL DIRECTORS OF EACH CHRONIC CARE AND PREVENTION PARTNERSHIP.~~

~~(C) THE PURPOSE OF THE ADVISORY COUNCIL IS TO ENABLE THE MEDICAL DIRECTORS TO EXCHANGE INFORMATION REGARDING THE DEVELOPMENT OF EACH PARTNERSHIP AND THE CLINICAL, SOCIAL, AND ECONOMIC OUTCOMES OF THE PROGRAM.~~

~~(D) THE ADVISORY COUNCIL SHALL RECOMMEND TO THE SECRETARY ANY PROPOSALS FOR CHANGES TO THE PROGRAM, PROGRAM RESEARCH, AND ANY STATEWIDE INITIATIVES THAT WOULD BE BENEFICIAL TO THE CHRONIC CARE AND PREVENTION PARTNERSHIPS.~~

~~(E) (1) THE ADVISORY COUNCIL SHALL CONSIDER THE FEASIBILITY OF APPLYING THE PATIENT EMPOWERMENT AND CASE MANAGEMENT SERVICES TO PATIENTS NOT ELIGIBLE FOR MEDICAID OR THE MARYLAND CHILDREN'S HEALTH PROGRAM.~~

~~(2) IF THE ADVISORY COUNCIL CONCLUDES THAT CHRONIC CARE PLANS WOULD BE BENEFICIAL TO PATIENTS NOT ENROLLED IN MEDICAID OR THE MARYLAND CHILDREN'S HEALTH PROGRAM, IT SHALL PROPOSE A PER ENROLLEE FEE TO BE PAID TO THE PROGRAM BY OR ON BEHALF OF A PATIENT WHO ELECTS TO ENTER INTO A CHRONIC CARE PLAN SERVING THE REGION WHERE THE PATIENT RESIDES OR RECEIVES HEALTH CARE.~~

~~**13–2708.**~~

~~**(A) FUNDS FOR THE START–UP COSTS OF THE PROGRAM SHALL BE AS PROVIDED FOR IN THE ANNUAL BUDGET OF THE DEPARTMENT.**~~

~~**(B) THE SECRETARY SHALL EVALUATE ANY OPTIONS TO UTILIZE WAIVERS TO PAY THE PER MEMBER PER MONTH CASE MANAGEMENT FEES FROM MEDICAID AND THE MARYLAND CHILDREN'S HEALTH PROGRAM, AS APPROPRIATE.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 2 years and, at the end of May 31, 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 22, 2008.

CHAPTER 694

(House Bill 1425)

AN ACT concerning

Vehicle Laws – Gold Star Registration Plates

FOR the purpose of authorizing a recipient of the U.S. Department of Defense Gold Star as the surviving spouse, parent, or next of kin of a member of the armed forces whose life was lost in combat to apply under certain circumstances to the Motor Vehicle Administration for assignment of a special registration plate; requiring the surviving spouse, parent, or next of kin applying for a special Gold Star registration plate to provide certain proof to the Administration; requiring the special Gold Star registration plate to display certain information; clarifying language; and generally relating to eligibility for special vehicle registration plates.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–619.1
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

13–619.1.

(a) (1) The owner of a motor vehicle, or a lessee of the vehicle under a lease not intended as security, or a director, officer, employee, or partner of a business entity that owns the vehicle may apply to the Administration for the assignment of a special registration number and special registration plates under this section for a vehicle included in one of the following classes:

(i) A Class A (passenger) vehicle;

(ii) A Class E (truck) vehicle with a one ton or less manufacturer's rated capacity;

(iii) A Class M (multipurpose) vehicle; or

(iv) A Class D (motorcycle) vehicle.

(2) To be eligible for a special registration **DESCRIBED** under subsection (c)(2)(i) of this section, an applicant shall provide proof that is satisfactory to the Administration that the applicant is a recipient of an individually earned, combat–related, armed forces medal.

(3) To be eligible for a special registration **DESCRIBED** under subsection (c)(2)(ii) of this section, an applicant shall provide proof that is satisfactory to the Administration that the applicant is an honorably discharged veteran of a branch of the armed forces of the United States.

(4) TO BE ELIGIBLE FOR A SPECIAL REGISTRATION DESCRIBED UNDER SUBSECTION (C)(2)(III) OF THIS SECTION, AN APPLICANT SHALL PROVIDE PROOF THAT IS SATISFACTORY TO THE ADMINISTRATION THAT THE APPLICANT IS A RECIPIENT OF THE U.S. DEPARTMENT OF DEFENSE GOLD STAR FOR SURVIVING SPOUSES, PARENTS, AND NEXT OF KIN OF MEMBERS OF THE ARMED FORCES WHO LOST THEIR LIVES IN COMBAT.

(b) (1) In addition to the annual registration fee otherwise required under this title, an owner of a vehicle assigned a special registration under this section shall pay a fee as determined by the Administration each time new registration plates are issued for the vehicle. The fee shall be calculated to recover the costs incurred by the Administration in carrying out the provisions of this section.

(2) The additional fee charged under this section shall be retained by the Administration for the purpose of recovering the Administration's costs under this section, and may not be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8–403 or § 8–404 of this article.

(c) Special registration plates issued under this section:

(1) May consist of any combination of letters, numerals, or both; and

(2) Shall include:

(i) **FOR REGISTRATION PLATES ISSUED FOR AN APPLICANT DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION:**

1. An emblem or logo as authorized by the Administration that depicts the **APPLICANT'S ARMED FORCES** medal; and

2. Except on plates issued for Class D (motorcycle) vehicles, words describing the medal printed across the bottom of the plates; **[**or**]**

(ii) Words or an emblem or logo indicating that the special registration plate holder is an honorably discharged veteran of a branch of the armed forces of the United States**; OR**

(III) AN EMBLEM OR LOGO INDICATING THAT THE REGISTRATION PLATE HOLDER IS THE RECIPIENT OF THE U.S. DEPARTMENT OF DEFENSE GOLD STAR.

(d) (1) The Administration, in consultation with the U.S. Department of Defense and appropriate representatives of the various branches of the armed forces, shall adopt regulations specifying those armed forces medals that are of the type described in subsection (a)(2) of this section and which, when awarded to an individual, qualify that individual to apply for special registration under this section.

(2) The Administration may adopt other regulations as necessary to govern the issuance of special registration numbers and special registration plates under this section.

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

Approved by the Governor, May 22, 2008.

CHAPTER 695

(House Bill 1431)

AN ACT concerning

Procurement – Small Business Preference Program – Veteran–Owned and Disabled Veteran–Owned Small Businesses

FOR the purpose of increasing the amount of a percentage price preference that certain State agencies must establish for small businesses under certain circumstances; establishing a percentage price preference for certain small businesses that are a certain percentage owned and controlled by one or more veterans or disabled veterans; defining certain terms; and generally relating to the Small Business Preference Program.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–201 and 14–206
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

14–201.

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

(B) "DISABLED VETERAN" MEANS A VETERAN WHO HAS BEEN CERTIFIED BY THE U.S. DEPARTMENT OF VETERANS AFFAIRS AS HAVING A SERVICE–CONNECTED DISABILITY REGARDLESS OF THE DISABILITY RATING.

(C) "DISABLED VETERAN–OWNED SMALL BUSINESS" MEANS A SMALL BUSINESS THAT IS AT LEAST 51% OWNED AND CONTROLLED BY ONE OR MORE INDIVIDUALS WHO ARE DISABLED VETERANS.

[(b)**] (D)** "Small business" means a business that meets the qualifications established under § 14–203 of this subtitle.

[(c)**] (E)** "Small business preference" means a purchase request for which bids are invited from a list of qualified bidders that includes small businesses.

(F) "VETERAN" MEANS A VETERAN AS DEFINED IN 38 U.S.C. § 101(2) WHO IS DOMICILED IN MARYLAND.

(G) "VETERAN–OWNED SMALL BUSINESS" MEANS A SMALL BUSINESS THAT IS AT LEAST 51% OWNED AND CONTROLLED BY ONE OR MORE INDIVIDUALS WHO ARE VETERANS.

14–206.

(a) In this section, "percentage preference" means the percent of the lowest responsive bid submitted by a responsible bidder who is not a small business by which a responsive bid by a small business may:

(1) exceed the lowest bid; and

(2) be awarded a procurement contract under this subtitle.

(b) Subject to the approval of the Board, the Secretary of General Services, the Secretary of Transportation, and the Chancellor of the University System of Maryland each:

(1) shall establish a percentage preference, not to exceed **[**5%**] 8%**, for each industry**[**; and**] AS FOLLOWS:**

(I) A BASE PERCENTAGE PREFERENCE NOT TO EXCEED 5% FOR ALL SMALL BUSINESSES; AND

(II) TWO ADDITIONAL PREFERENCES TO THE PERCENTAGE PREFERENCE SET FORTH IN ITEM (I) OF THIS PARAGRAPH AS FOLLOWS:

1. 2% FOR VETERAN–OWNED SMALL BUSINESSES; AND

2. 3% FOR DISABLED VETERAN–OWNED SMALL BUSINESSES; AND

(2) may vary the percentage preference **DETERMINED IN ITEM (1)(I) OF THIS SUBSECTION** among industries to account for their particular characteristics.

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

Approved by the Governor, May 22, 2008.

CHAPTER 696

(House Bill 1435)

AN ACT concerning

State Employees – Veterans Seniority Points

FOR the purpose of altering the calculation, for purposes of a layoff, seniority points for State employees who are eligible veterans; defining a certain term; and generally relating to layoffs in the State Personnel Management System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 11–205
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

11–205.

(a) For purposes of a layoff, an appointing authority shall compute **[**the following**]** **THE TOTAL NUMBER OF SENIORITY** points for each employee subject to the layoff **AS FOLLOWS**:

(1) one point for each month of State employment;

(2) one point for each month of employment in the principal unit in which the layoff will occur; **[**and**]**

(3) one point for each month of employment in the job series in which the layoff will occur**;**

(4) TEN POINTS FOR AN ELIGIBLE VETERAN; AND

(5) TWO POINTS FOR AN ELIGIBLE VETERAN WHO HAS A SERVICE–CONNECTED DISABILITY OR IS A FORMER PRISONER OF WAR.

(b) An employee's seniority points are the total of the points determined under subsection (a) of this section.

(C) IN THIS SECTION, "ELIGIBLE VETERAN" HAS THE MEANING STATED IN § 7–207(C) OF THIS ARTICLE.

(D) AN ELIGIBLE VETERAN WHO IS CONVICTED OF A CRIME AFTER BEING DISCHARGED FROM OR COMPLETING MILITARY SERVICE IS INELIGIBLE FOR A CREDIT UNDER THIS SECTION.

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

Approved by the Governor, May 22, 2008.

CHAPTER 697

(House Bill 1481)

AN ACT concerning

State Board of Veterinary Medical Examiners – Animal Control Facilities – License to Administer Scheduled Drugs to Animals

FOR the purpose of repealing the authority of the State Board of Veterinary Medical Examiners to issue a special permit to a certain humane society or animal shelter to administer a certain drug to euthanize animals; authorizing the Board to issue a license, on application of an animal control facility, to allow the facility to administer certain drugs to sedate or euthanize animals; requiring the application to designate one individual responsible for the drugs; establishing an annual fee for the license; authorizing the Board to reject an application or suspend or revoke a license for certain reasons in accordance with certain procedures; requiring a licensed facility to comply with certain employee training requirements; authorizing a member of the Board or the Board's designated inspector to enter a licensed facility at any reasonable hour to enforce certain regulations; requiring the Board, in consultation with the Department of Health and Mental Hygiene to adopt regulations; repealing a provision that exempts a certain humane society or animal shelter with a special permit from certain registration requirements; defining a certain term;

altering a certain definition; making this Act an emergency measure; and generally relating to animal control facilities and a license to administer scheduled drugs to animals.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–305
Annotated Code of Maryland
(2007 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5–101(d)
Annotated Code of Maryland
(2002 Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 10–601(a) and (d)
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 – Agriculture

2–305.

(A) IN THIS SECTION, "ANIMAL CONTROL FACILITY" MEANS A HUMANE SOCIETY, AS DEFINED IN § 10–601 OF THE CRIMINAL LAW ARTICLE, OR A COUNTY OR MUNICIPAL DESIGNATED ANIMAL SHELTER.

(B) The Board, **[**upon**] ON** terms and conditions **[**it finds proper, shall**] SATISFACTORY TO THE BOARD, MAY** issue **A LICENSE** to **[**any humane society, as defined by § 10–601 of the Criminal Law Article, or county or municipal designated animal shelter which submits an application, a special permit authorizing purchase, possession, and use of sodium pentobarbital to euthanize injured, sick, homeless, and unwanted domestic animals**] AN ANIMAL CONTROL FACILITY TO ALLOW THE ANIMAL CONTROL FACILITY TO ADMINISTER DRUGS NEEDED TO SEDATE, EUTHANIZE, OR SEDATE AND EUTHANIZE ANIMALS**.

(C) (1) (I) THE OWNER OF AN ANIMAL CONTROL FACILITY SHALL APPLY FOR THE LICENSE.

(II) THE BOARD SHALL ISSUE A LICENSE IN THE NAME OF THE OWNER OF AN ANIMAL CONTROL FACILITY.

(2) The **[**permit**]** **APPLICATION** shall designate **[**the sole person responsible**]** **ONE INDIVIDUAL AT THE FACILITY RESPONSIBLE FOR THE DRUGS**.

(3) The **[**application for the special permit and the annual renewal of the permit shall be accompanied by a fee set by the Board. Any organization that has received a permit pursuant to this section is exempted from the registration requirement of §§ 5–301 and 5–304 of the Criminal Law Article as to pentobarbital**]** **ANNUAL LICENSE FEE IS $100**.

(D) IN ACCORDANCE WITH PROCEDURES SET OUT IN § 2–311 OF THIS SUBTITLE, THE BOARD MAY:

(1) REJECT AN APPLICATION FOR A LICENSE; OR

(2) SUSPEND OR REVOKE A LICENSE FOR FAILURE TO COMPLY WITH THE BOARD'S REGULATIONS.

(E) AN ANIMAL CONTROL FACILITY LICENSED UNDER THIS SECTION SHALL COMPLY WITH THE BOARD'S REQUIREMENTS RELATING TO EMPLOYEE TRAINING.

(F) A MEMBER OF THE BOARD, OR THE BOARD'S DESIGNATED INSPECTOR, MAY ENTER AN ANIMAL CONTROL FACILITY LICENSED UNDER THIS SECTION AT ANY REASONABLE HOUR TO ENFORCE THE BOARD'S REGULATIONS.

(G) IN CONSULTATION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE BOARD SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT THIS SECTION.

Article – Criminal Law

5–101.

(d) (1) "Authorized provider" means:

(i) a person licensed, registered, or otherwise allowed to administer, distribute, dispense, or conduct research on a controlled dangerous substance in the State in the course of professional practice or research; or

(ii) a pharmacy, laboratory, hospital, or other institution licensed, registered, or otherwise allowed to administer, distribute, dispense, or

conduct research on a controlled dangerous substance in the State in the course of professional practice or research.

(2) "Authorized provider" includes**:**

(I) a scientific investigator **[**and**];**

(II) an individual authorized by the State to practice medicine, dentistry, or veterinary medicine**; AND**

(III) AN ANIMAL CONTROL FACILITY LICENSED UNDER § 2–305 OF THE AGRICULTURE ARTICLE.

10–601.

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

(d) "Humane society" means a society or association incorporated in Maryland for the prevention of cruelty to animals.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect June 1, 2008~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 22, 2008.

CHAPTER 698

(House Bill 1498)

AN ACT concerning

Calvert County – Soft–Shell Clam Harvesting

FOR the purpose of altering in Calvert County the ~~distances~~ distance from the shoreline~~, a natural oyster bar, or a leased oyster bottom~~ within which a person may not catch or attempt to catch soft–shell clams with certain gear; making a technical correction; making a stylistic change; providing for the effective date of this Act; and generally relating to the catching of soft–shell clams in Calvert County.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–1037
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 260 of the Acts of the General Assembly of 2007)

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

Article – Natural Resources

4–1037.

A person may not catch or attempt to catch soft–shell clams with a hydraulic clam dredge or any other gear except hand–held tools, such as shovels and hoes, in the following areas:

(1) ~~(I)~~ **[**Within**]** ~~**EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, WITHIN**~~ 150 feet of a natural oyster bar or area leased under **[**the provisions of Subtitle 11**]** **SUBTITLE 11A OF THIS TITLE** and marked as required by that subtitle~~**; OR**~~

~~**(II) WITHIN 500 FEET IN CALVERT COUNTY**~~;

(2) Within 1,000 feet of any occupied duck blind where decoys are set out during waterfowl hunting season;

(3) Except for the William Preston Lane, Jr. Memorial Bridge and its parallel span, the Governor Thomas Johnson Memorial Bridge, and the area of the Choptank River Bridge that is within Talbot County, within 50 feet of any bulkhead, structure, wharf, pier, or piling that is erected in, over, or under the waters of the State under a permit granted by the State or federal governments;

(4) Within 300 feet of any private bathing beach running not more than 300 feet along the shore which is marked as required by rule and regulation or within 1,000 feet of any public bathing beach from May 1 to September 30. However, the owner or lessee of a single property may not claim protection for more than one private bathing beach contiguous to this property;

(5) (i) Within 50 feet of the mean high watermark of any shoreline in **[**Calvert,**]** Queen Anne's, Talbot, or Somerset counties;

(ii) Within 300 feet in Dorchester County; or

(iii) Within 150 feet in Anne Arundel County, **CALVERT,** St. Mary's County, or Kent County downriver from Nichols Point at the eastern side of the mouth of Langford Creek and within 300 feet upriver from Nichols Point;

(6) The Dorchester County waters of the Choptank River and its tributaries except as provided in §§ 4–1038(a) and 4–1039 of this subtitle; Brannock Bay; Little Choptank River; Tar Bay; Honga River; all waters east of a line running from the most southerly point of Holland Island to Holland Island Bar Light; all waters east of a line running from Richland Point to Okahanikan Point; and any areas reserved by the Department for production of seed oysters; and

(7) In the Atlantic Coastal Bays, as defined in § 8–1802 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008, the effective date of Chapter 260 of the Acts of the General Assembly of 2007. If the effective date of Chapter 260 is amended, this Act shall take effect on the taking effect of Chapter 260.

Approved by the Governor, May 22, 2008.

CHAPTER 699

(House Bill 1537)

AN ACT concerning

Real Property Assessments – Assessment Notice – Requirements

FOR the purpose of altering the circumstances under which a failure to send certain assessment notices within a certain time creates a certain irrebuttable presumption under certain circumstances; and generally relating to assessment notices sent by the State Department of Assessments and Taxation.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 8–401
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

8–401.

(a) When any change as provided in subsection (b) of this section occurs in the value or classification of any real property that a supervisor assesses, the supervisor shall notify the owner or other appropriate person by a written notice of the proposed change.

(b) A written notice is required for:

(1) an increase or decrease in an existing real property value;

(2) a change in the classification of the real property;

(3) establishment of an initial real property value;

(4) a decision on an assessment appeal or a petition to change an existing real property value or classification; and

(5) a revaluation or reclassification, if a valuation or classification has been appealed but not finally determined.

(c) The notice for subsection (b)(1) of this section shall include:

(1) the amount of the current value;

(2) the amount of the proposed value including a statement that the total amount of the proposed value is the value for purposes of appeal;

(3) the amount of the proposed value that will be the basis for the assessment in each year of the 3–year cycle;

(4) a statement:

(i) indicating the right to appeal; and

(ii) briefly describing the appeal process and the property owner's bill of rights; and

(5) a statement that valuation records are available as provided by § 14–201 of this article.

(d) In the instance of notices required in subsection (b)(2), (3), (4), and (5) of this section, the notice shall include:

(1) the amount of the current value;

(2) the amount of the proposed or final value;

(3) the amount of the proposed value that is the basis for the assessment in the applicable years of the 3–year cycle;

(4) a statement:

(i) indicating the right of appeal; and

(ii) briefly describing the appeal process and the property owner's bill of rights; and

(5) a statement that valuation records are available as provided by § 14–201 of this article.

(e) The notice shall be served as provided by § 8–402 of this subtitle on or before January 1 or any other date specified in this article.

(f) A failure to send a notice of any change in value or classification within 30 days after the date provided in subsection (e) of this section creates an irrebuttable presumption that in the instances specified in subsection (b)(1) through (4) of this section that the prior value has not changed unless:

(1) the property has been transferred for consideration to new ownership during the previous calendar year;

(2) the zoning classification of the property changed during the **CURRENT TRIENNIAL CYCLE OR THE** previous calendar year**, WHICHEVER IS EARLIER,** resulting in an increased value of the property;

(3) a substantial change occurred in the use **OR CHARACTER** of the property during the **CURRENT TRIENNIAL CYCLE OR THE** previous calendar year**, WHICHEVER IS EARLIER**;

(4) extensive improvements have been made on the property during the **CURRENT TRIENNIAL CYCLE OR THE** previous calendar year**, WHICHEVER IS EARLIER,** as provided in § 8–104(c)(1)(iii) of this title;

(5) due to an error in calculating or measuring improvements on the property the assessment for the previous taxable year was clearly erroneous; or

(6) the assessment has been decreased.

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

Approved by the Governor, May 22, 2008.

CHAPTER 700

(Senate Bill 251)

AN ACT concerning

Anne Arundel County – Well Drillers – Permit Fee

FOR the purpose of requiring the Anne Arundel County Board of Health to set the permit ~~fee~~ fees for well drillers so as to produce funds to ~~approximate the~~ reflect the actual cost of certain services; establishing a certain limitation on the amount of the fee charged for a well drilled to replace an existing well; and generally relating to the well drillers permit fee in Anne Arundel County.

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1307
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

9–1307.

(a) In applying for a permit to drill a well, the well driller shall give the Department any information the Department requires.

(b) As a condition to issuing a permit to drill a well, the Department may require that samples of the materials encountered in drilling the well be preserved and submitted to the Department.

(c) (1) (i) A county board of health may establish a permit fee to defray county expenses in inspecting wells, collecting water samples, and issuing certificates of potability.

(ii) For an interim certificate of potability, a county board of health shall accept initial test results prepared by a private State certified laboratory.

(2) (i) The fee may be charged before a permit required under § 9–1306 of this subtitle is issued.

(ii) **[**The**] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE** fee may not exceed $160 per well or $160 per cluster of wells to be used exclusively to transfer heat to or from the ground or groundwater.

(III) IN ANNE ARUNDEL COUNTY ONLY~~,~~:

1. SUBJECT TO ITEM 2 OF THIS SUBPARAGRAPH, THE FEE CHARGED SHALL BE SET SO AS TO PRODUCE FUNDS TO ~~APPROXIMATE THE~~ REFLECT THE ACTUAL COST OF INSPECTING WELLS, COLLECTING WATER SAMPLES, AND ISSUING CERTIFICATES OF POTABILITY BY THE ANNE ARUNDEL COUNTY BOARD OF HEALTH; AND

2. FOR A WELL DRILLED TO REPLACE AN EXISTING WELL THE FEE CHARGED SHALL BE NO MORE THAN 50% OF THE FEE AS CALCULATED UNDER ITEM 1 OF THIS SUBPARAGRAPH.

(3) A permit shall be issued within a reasonable period of time after receipt of the application and shall be valid for a period of 12 months from the date of issuance by the approved delegated permitting authority.

(d) A county board of health may waive a fee for a well that is drilled to replace a well not in conformity with the regulations adopted under § 9–1305 of this subtitle.

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 24, 2008.

CHAPTER 701

(House Bill 303)

AN ACT concerning

Anne Arundel County – Well Drillers – Permit Fee

FOR the purpose of requiring the Anne Arundel County Board of Health to set the permit ~~fee~~ fees for well drillers so as to produce funds to ~~approximate the~~ reflect the actual cost of certain services; establishing a certain limitation on the amount of the fee charged for a well drilled to replace an existing well; and generally relating to the well drillers permit fee in Anne Arundel County.

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1307
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

9–1307.

(a) In applying for a permit to drill a well, the well driller shall give the Department any information the Department requires.

(b) As a condition to issuing a permit to drill a well, the Department may require that samples of the materials encountered in drilling the well be preserved and submitted to the Department.

(c) (1) (i) A county board of health may establish a permit fee to defray county expenses in inspecting wells, collecting water samples, and issuing certificates of potability.

(ii) For an interim certificate of potability, a county board of health shall accept initial test results prepared by a private State certified laboratory.

(2) (i) The fee may be charged before a permit required under § 9–1306 of this subtitle is issued.

(ii) **[**The**]** **EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE** fee may not exceed $160 per well or $160 per cluster of wells to be used exclusively to transfer heat to or from the ground or groundwater.

(III) IN ANNE ARUNDEL COUNTY ONLY~~,~~:

1. SUBJECT TO ~~SUBPARAGRAPH~~ *ITEM* 2 OF THIS SUBPARAGRAPH, THE FEE CHARGED SHALL BE SET SO AS TO PRODUCE FUNDS TO ~~APPROXIMATE THE~~ REFLECT THE ACTUAL COST OF INSPECTING WELLS, COLLECTING WATER SAMPLES, AND ISSUING CERTIFICATES OF POTABILITY BY THE ANNE ARUNDEL COUNTY BOARD OF HEALTH; AND

2. FOR A WELL DRILLED TO REPLACE AN EXISTING WELL THE FEE CHARGED SHALL BE NO MORE THAN 50% OF THE FEE AS CALCULATED UNDER ~~SUBPARAGRAPH~~ *ITEM* 1 OF THIS SUBPARAGRAPH.

(3) A permit shall be issued within a reasonable period of time after receipt of the application and shall be valid for a period of 12 months from the date of issuance by the approved delegated permitting authority.

(d) A county board of health may waive a fee for a well that is drilled to replace a well not in conformity with the regulations adopted under § 9–1305 of this subtitle.

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 24, 2008.

CHAPTER 702

(Senate Bill 745)

AN ACT concerning

Alcoholic Beverages – Definitions – Beer

FOR the purpose of altering the definition of beer as used in certain provisions of State law; making certain stylistic changes; and generally relating to alcoholic beverages.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 1–102(a)(1) and (2)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 1–102(a)(3)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 5–101(a) and (b)
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 5–101(d)
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 2B – Alcoholic Beverages

1–102.

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

(2) (i) "Alcoholic beverages" means alcohol, brandy, whiskey, rum, gin, cordial, beer, ale, porter, stout, wine, cider, and any other spirituous, vinous, malt or fermented liquor, liquid, or compound, by whatever name called, which contains, except as provided in subparagraph (ii) of this paragraph, one–half of one percent or more of alcohol by volume, which is fit for beverage purposes.

(ii) "Alcoholic beverages" does not include a confectionery food product that contains up to 5 percent of alcohol by volume and is regulated by the Department of Health and Mental Hygiene under § 21–209 of the Health – General Article.

(3) (i) "Beer" means any brewed alcoholic beverage**[**, and includes beer, ale, porter and stout**]**.

(ii) **[**For the purposes of this article and the Tax – General Article, hard cider, as defined in paragraph (9–1) of this subsection, shall be considered as beer in all respects.**] "BEER" INCLUDES:**

1. BEER;

2. ALE;

3. PORTER;

4. STOUT;

5. HARD CIDER; AND

6. ALCOHOLIC BEVERAGES THAT CONTAIN:

A. 6% OR LESS ALCOHOL BY VOLUME, DERIVED PRIMARILY FROM THE FERMENTATION OF GRAIN, WITH NOT MORE THAN 49% OF THE BEVERAGE'S OVERALL ALCOHOL CONTENT BY VOLUME OBTAINED FROM FLAVORS AND OTHER ADDED NONBEVERAGE INGREDIENTS CONTAINING ALCOHOL; OR

B. MORE THAN 6% ALCOHOL BY VOLUME, DERIVED PRIMARILY FROM THE FERMENTATION OF GRAIN, WITH NOT MORE THAN 1.5% OF THE BEVERAGE'S OVERALL ALCOHOL CONTENT BY VOLUME OBTAINED FROM FLAVORS AND OTHER ADDED NONBEVERAGE INGREDIENTS CONTAINING ALCOHOL.

Article – Tax – General

5–101.

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

(b) (1) "Alcoholic beverage" means a spirituous, vinous, malt, or fermented liquor, liquid, or compound that:

(i) is fit for beverage purposes; and

(ii) contains one–half of 1% or more of alcohol by volume.

(2) "Alcoholic beverage" includes:

(i) beer;

(ii) distilled spirits; and

(iii) wine.

(d) (1) "Beer" means a brewed alcoholic beverage.

(2) "Beer" includes:

(i) ale;

(ii) porter; **[**and**]**

(iii) stout**;**

(IV) HARD CIDER, AS DEFINED IN § 1–102(A)(9–1) OF THIS ARTICLE; AND

(V) ALCOHOLIC BEVERAGES THAT CONTAIN:

1. 6% OR LESS ALCOHOL BY VOLUME, DERIVED PRIMARILY FROM THE FERMENTATION OF GRAIN, WITH NOT MORE THAN 49% OF THE BEVERAGE'S OVERALL ALCOHOL CONTENT BY VOLUME OBTAINED FROM FLAVORS AND OTHER ADDED NONBEVERAGE INGREDIENTS CONTAINING ALCOHOL; OR

2. MORE THAN 6% ALCOHOL BY VOLUME, DERIVED PRIMARILY FROM THE FERMENTATION OF GRAIN, WITH NOT MORE THAN 1.5% OF THE BEVERAGE'S OVERALL ALCOHOL CONTENT BY VOLUME OBTAINED FROM FLAVORS AND OTHER ADDED NONBEVERAGE INGREDIENTS CONTAINING ALCOHOL.

[(3) For the purposes of this title, hard cider, as defined in Article 2B, § 1–102(a)(9–1) of the Code, shall be considered as beer in all respects.**]**

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 24, 2008.

JOINT RESOLUTIONS SIGNED
BY THE
PRESIDENT OF THE SENATE
AND THE
SPEAKER OF THE HOUSE OF DELEGATES

No Joint Resolutions were passed by both Houses during the 2008 Session.