LAWS

OF THE

STATE OF MARYLAND

ENACTED

At the Session of the General Assembly Begun and Held in the
City of Annapolis on the Fourteenth Day of January 2009
and Ending on the Thirteenth Day of April 2009

VOLUME V

The Department of Legislative Services
General Assembly of Maryland
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Chapter 676

(House Bill 489)

AN ACT concerning

Allegany County – Upper Potomac River Commission – Savage River Dam – Borrowing Authority

FOR the purpose of repealing a certain limitation on the amount the County Commissioners of Allegany County may borrow for a capital outlay on behalf of the Upper Potomac River Commission; repealing a requirement that certain voters approve the capital outlay; authorizing the County Commissioners to borrow certain money~~, by resolution,~~ for the capital outlay as authorized under certain provisions of law; repealing a requirement that the sale of certain bonds be advertised in a certain manner; repealing a requirement that the bonds be issued in a certain manner; repealing a requirement that certain bonds bear a certain interest rate, contain interest coupons, be in a certain denomination, and mature within a certain number of years; ~~requiring the County Commissioners to determine the form of certain bonds, including any interest coupons, the date of maturity, the denomination of the bonds, and the date for payment of principal and interest; authorizing the bonds to be redeemable before their maturity at certain prices;~~ authorizing the County Commissioners to issue certain bonds under certain code home rule powers; repealing a requirement that the voters of Allegany County approve borrowing certain money; repealing a requirement that the County Commissioners make a certain tax levy; making stylistic changes and technical corrections; and generally relating to the authority of the County Commissioners of Allegany County to borrow certain money on behalf of the Upper Potomac River Commission.

BY repealing and reenacting, with amendments,
The Public Local Laws of Allegany County
Section 76–7
Article 1 – Public Local Laws of Maryland
(1983 Edition and July 2008 Supplement, as amended)

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

Article 1 – Allegany County

Chapter 76

Upper Potomac River District

76–7.

A. If the County Commissioners of Allegany County shall at any time hereafter deem it advisable and expedient for the welfare of the citizens of **[**said county**]** **ALLEGANY COUNTY** to make a capital outlay or expenditure of money to assist the Commission in aid of the acquisition**, [**and/or**]** construction**, [**and/or**]** **OR** maintenance of any lands, structures, buildings, dams, impounding reservoirs, stream beds, waterways, roadways, rights–of–way, water rights or watersheds and appurtenances within the district **[**and thereafter such capital outlay of expenditure is approved by the voters of said county as is hereafter provided for, said**]** **THE** County Commissioners **[**are authorized and empowered to**]** **MAY**~~**, BY RESOLUTION,**~~ borrow any amount necessary for such purpose **[**up to but not exceeding two hundred thousand dollars ($200,000.)**]** from any governmental agency authorized to make such a loan at reasonable interest rates, or **[**they are hereby authorized and empowered to**]** issue and sell bonds **[**to an amount not exceeding two hundred thousand dollars ($200,000.)**]** ~~**ON THE FULL FAITH AND CREDIT OF ALLEGANY COUNTY IN SUCH AMOUNTS AS THE COUNTY COMMISSIONERS MAY CONSIDER TO BE NECESSARY FOR THE COMMISSION TO CARRY ON ITS WORK**~~ **AS AUTHORIZED UNDER ARTICLE 25B, §§ 14 THROUGH 21 OF THE** ~~**CODE**~~ ***ANNOTATED CODE OF MARYLAND***.

~~**B.** Should a bond issue be decided upon, then the County Commissioners of Allegany County **[**are hereby directed to**]** **SHALL** advertise, in such newspapers printed and published in Allegany County as may be determined by **[**said**]** **THE** County Commissioners, at least once a week for four (4) successive weeks, the sale of **[**said**]** **THE** bonds. **[**Said**]** **THE** advertisement shall state the time and place where bids, conditioned as may be required, will be opened, and **[**said**]** **THE** County Commissioners shall reserve unto themselves the right to reject any and all bids.~~

~~**C.** **[**Said**]** **THE** bonds shall be signed on behalf of the County Commissioners of Allegany County by the President and countersigned by the Clerk thereof and shall bear the Corporate Seal of said Allegany County.~~

~~**D.** **[**They shall bear interest, payable semiannually and at the rate of not over five percent (5%) per annum, for which interest coupons are to be attached to said bonds. They shall be in the denomination of one hundred dollars ($100.) or any multiple thereof and shall mature and become payable not over fifteen (15) years from the date thereof,**]** **THE COUNTY COMMISSIONERS OF ALLEGANY COUNTY SHALL DETERMINE THE FORM OF THE BONDS, INCLUDING ANY INTEREST COUPONS TO BE ATTACHED TO THE BONDS, THE DATE OF MATURITY OF THE BONDS, THE DENOMINATION OR DENOMINATIONS OF THE BONDS, AND THE PLACE OR PLACES OF PAYMENT OF PRINCIPAL AND INTEREST, WHICH MAY BE AT ANY BANK OR TRUST COMPANY WITHIN OR WITHOUT THE STATE. THE BONDS MAY BE REDEEMABLE BEFORE THEIR MATURITY OR MATURITIES, AT THE OPTION OF THE COUNTY COMMISSIONERS, AT THE PRICE OR PRICES AND UNDER THE~~

~~TERMS AND CONDITIONS AS MAY BE FIXED BY THE COUNTY COMMISSIONERS PRIOR TO ISSUANCE OF THE BONDS.~~

B. THE BONDS ISSUED UNDER THIS CHAPTER SHALL BE EXEMPT FROM THE PROVISIONS OF ARTICLE 31, §§ 9 THROUGH 11 OF THE ANNOTATED CODE OF MARYLAND.

~~E.~~ **C.** **[**and said**] THE** bonds and interest **[**thereon**] ON THE BONDS** shall be exempt from all state, county and municipal taxation in the State of Maryland.

~~F.~~ **D.** **[**Upon**] ON** the procuring of said loan or the sale of said bonds, the County Commissioners of Allegany County **[**are hereby authorized and directed to**] SHALL** give all the proceeds of **[**said**] THE** loan or sale to the Commission, to be used by it in carrying out the purposes and intentions of this chapter**[**,**].**

~~G. THE COUNTY COMMISSIONERS OF ALLEGANY COUNTY [and thereafter they are hereby authorized and directed to] SHALL make a special tax levy upon the assessable property of [said county] ALLEGANY COUNTY annually from year to year so long as the same may be necessary to meet all the interest and principal payments which may become due upon said loan or bonds according to the original tenor of either[;]. [provided, however, that before said County Commissioners shall borrow any of said money or issue said bonds or any of them, the question of the advisability of making such a capital outlay or expenditure shall be first submitted to a vote of the qualified voters of Allegany County, after adequate notice thereof by advertisement, at either a general election or at a special election called for that purpose, and if, at the election where said question is submitted, the number of ballots cast upon said question and reading "Against the Upper Potomac River Control Capital Expenditure of ..... Thousand Dollars" (amount of bond issue to be inserted) shall exceed the number of ballots cast upon said question and reading "For the Upper Potomac River Capital Expenditure of ..... Thousand Dollars" (amount of bond issue to be inserted), then the provisions of this section of this chapter and only this section of this chapter shall be void and inoperative, and no loan shall be made and no bonds sold hereunder for said purpose by said County Commissioners of Allegany County.]~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 677

(House Bill 533)

AN ACT concerning

Cooperative Purchasing Agreements – Requirements and Expansion of Use

FOR the purpose of requiring that certain procurement contracts entered into by State and local entities include certain provisions that facilitate certain other State, local, and not–for–profit entities to participate in the contracts; authorizing State and local entities to enter into certain agreements for the cooperative or joint administration of programs with other State or local entities; ~~requiring that State and local entities make certain efforts to determine if another State or local entity is participating in a certain contract before initiating a certain procurement;~~ authorizing ~~State and~~ local entities to participate in certain State or local contracts if certain determinations are made; ~~authorizing certain not–for–profit entities to participate in certain State or local contracts if certain bidding is used; authorizing that in certain fiscal years, certain secretaries may withhold certain percentages of funds distributed under certain programs to local entities under certain circumstances;~~ providing certain legislative intent; requiring certain units of State government to publish on a website a list of certain procurement solicitations; requiring the Procurement Advisory Council in the Board of Public Works to report to certain committees of the General Assembly on or before a certain date; defining certain terms; and generally relating to requirements and expansion of use for cooperative purchasing agreements.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 13–110
Annotated Code of Maryland
(2006 Replacement Volume and 2008 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

13–110.

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

(2) "COOPERATIVE ENTITY" MEANS ONE OR MORE STATE OR LOCAL ENTITIES THAT ENTER INTO AN AGREEMENT FOR THE COOPERATIVE OR JOINT ADMINISTRATION OF PROGRAMS.

[(2)**] (3)** "Governmental entity" means:

(i) the federal government or an agency or other instrumentality of the federal government;

(ii) another state or an agency or other instrumentality of another state;

(iii) a bistate or multistate agency;

(iv) a county, municipal corporation, or other political subdivision of the State or of another state, or an agency or other instrumentality of the political subdivision;

(v) a bicounty or multicounty agency;

(vi) a primary procurement unit; or

(vii) an affiliation, alliance, consortium, or group composed solely of governmental entities that is established for purposes of promoting intergovernmental cooperative purchasing.

[(3)**] (4)** "Intergovernmental cooperative purchasing agreement" means a contract:

(i) 1. entered into by at least one governmental entity and a person selected in a manner that is consistent with the purposes set forth under § 11–201 of this article;

2. that is available for use by the governmental entity entering the contract and at least one additional governmental entity which may, but need not be, an original party to the contract; and

3. that is intended to promote efficiency and savings that can result from intergovernmental cooperative purchasing; or

(ii) between a primary procurement unit and a person who, at the time the intergovernmental cooperative purchasing agreement is awarded, has a contract with the federal government or an agency or other instrumentality of the federal government, and who agrees to provide the unit with identical prices, terms, and conditions as stipulated in the federal contract.

(5) (I) "LOCAL ENTITY" MEANS A COUNTY, MUNICIPAL CORPORATION, BICOUNTY OR MULTICOUNTY AGENCY, PUBLIC AUTHORITY, SPECIAL TAXING DISTRICT, OR OTHER POLITICAL SUBDIVISION OR UNIT OF A POLITICAL SUBDIVISION OF THIS STATE.

(II) "LOCAL ENTITY" INCLUDES BOARDS OF EDUCATION AND LIBRARY BOARDS THAT RECEIVE FUNDING FROM THE STATE.

(6) "NOT–FOR–PROFIT ENTITY" MEANS A CORPORATION INCORPORATED IN THE STATE, OR OTHERWISE QUALIFIED TO DO BUSINESS IN THE STATE:

~~(I)~~ THAT HAS BEEN DETERMINED BY THE INTERNAL REVENUE SERVICE TO BE EXEMPT FROM TAXATION UNDER § 501(C)(3), (4), OR (6) OF THE INTERNAL REVENUE CODE~~; AND~~

~~(II) THAT HAS ANNUAL REVENUES NOT GREATER THAN $750,000~~.

(7) "STATE ENTITY" MEANS A DEPARTMENT, BOARD, COMMISSION, AGENCY, OR A SUBUNIT IN THE EXECUTIVE~~, LEGISLATIVE, OR JUDICIAL~~ BRANCH OF STATE GOVERNMENT.

(b) (1) Subject to § 12–107 of this article, whenever a primary procurement unit procurement officer determines that it is in the best interest of the State to sponsor or participate in an intergovernmental cooperative purchasing agreement, with the approval of the unit head and subject to any other approval required by law, the primary procurement unit may become a party to or participate under the agreement.

(2) A determination under this subsection shall be in writing and include a statement that the intergovernmental cooperative purchasing agreement:

(i) will provide cost benefits to the State, promote administrative efficiencies, or promote intergovernmental cooperation; and

(ii) is not intended to evade the purposes of this Division II.

[(c) (1)**] (3)** If a primary procurement unit sponsors an intergovernmental cooperative purchasing agreement:

(i) the contract shall be awarded in the same manner as the contract would be awarded under this Division II if the unit was the sole participant under the contract; and

(ii) all procedures under this Division II, including procedures governing contract claims and protests, shall apply.

[(2) A political subdivision of the State may participate under any intergovernmental cooperative purchasing agreement sponsored by a primary procurement unit in a manner consistent with the terms of the agreement.**]**

[(d)**] (4)** If a primary procurement unit participates in an intergovernmental cooperative purchasing agreement, any protest or contract claim

involving the agreement shall be handled in accordance with the terms of the agreement.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH PROCUREMENT CONTRACT FOR SUPPLIES OR SERVICES ENTERED INTO BY A STATE OR LOCAL ENTITY SHALL INCLUDE A PROVISION THAT FACILITATES OTHER STATE AND LOCAL ENTITIES AND NOT–FOR–PROFIT ENTITIES TO PARTICIPATE IN THE CONTRACT.

(2) (I) THIS SUBSECTION DOES NOT APPLY TO:

1. A PROCUREMENT FOR A CAPITAL FACILITY, IMPROVEMENT, OR OTHER UNIQUE PURCHASE; OR

2. ~~SMALL PROCUREMENT AS DEFINED BY § 13–109 OF THIS SUBTITLE~~ A PROCUREMENT WITH A PROJECTED VALUE OF LESS THAN $100,000.

(II) THIS SUBSECTION DOES NOT APPLY IF THE STATE OR LOCAL ENTITY DETERMINES THAT INCLUDING THE PROVISION WOULD:

1. UNDERMINE THE DESIRED TIMING OR EFFECT OF THE PROCUREMENT;

2. INTERFERE WITH THE *STATE OR* LOCAL ENTITY'S ABILITY TO MEET:

A.* THE MINORITY BUSINESS ENTERPRISE GOALS PROVIDED UNDER § 14–302 OF THIS ARTICLE OR *ANY OTHER MINORITY BUSINESS ENTERPRISE PROGRAM SPONSORED BY THE LOCAL ENTITY; OR

***B.* THE SMALL BUSINESS RESERVE PROGRAM REQUIREMENTS UNDER § 14–502 OF THIS ARTICLE *OR ANY OTHER SMALL BUSINESS PROCUREMENT PROGRAM SPONSORED BY THE LOCAL ENTITY*; OR**

3. NOT BE IN THE BEST INTEREST OF THE ENTITY.

(D) (1) A STATE OR LOCAL ENTITY MAY ENTER INTO AN AGREEMENT FOR THE COOPERATIVE OR JOINT ADMINISTRATION OF PROGRAMS WITH ONE OR MORE OTHER STATE OR LOCAL ENTITIES.

(2) A COOPERATIVE ENTITY ESTABLISHED UNDER THIS SECTION MAY ADMINISTER THE PROGRAMS AND EXERCISE THE POWERS AND DUTIES

SPECIFICALLY DELEGATED TO THE COOPERATIVE ENTITY BY THE AGREEMENT THAT ESTABLISHED THE COOPERATIVE ENTITY.

(3) AN AGREEMENT DESCRIBED UNDER THIS SUBSECTION DOES NOT RELIEVE A STATE OR LOCAL ENTITY OR OTHER PARTICIPANT OF THE AGREEMENT FROM ANY OBLIGATION OR RESPONSIBILITY IMPOSED ON THE ENTITY BY LAW.

~~(E) BEFORE INITIATING A PROCUREMENT FOR SUPPLIES OR SERVICES, A STATE OR LOCAL ENTITY SHALL MAKE A REASONABLE EFFORT TO DETERMINE IF ANOTHER STATE OR LOCAL ENTITY IS PARTICIPATING IN A CONTRACT FOR THE SAME SUPPLIES OR SERVICES.~~

~~(F)~~ (E) NOTWITHSTANDING ANY OTHER LAW, A ~~STATE OR~~ LOCAL ENTITY MAY PARTICIPATE IN AN EXISTING STATE OR LOCAL CONTRACT DRAFTED IN ACCORDANCE WITH THIS SECTION, IF THE GOVERNING BODY OF THE ENTITY DETERMINES THAT PARTICIPATION WOULD:

(1) PROVIDE A COST SAVINGS IN PURCHASE PRICE OR ADMINISTRATIVE BURDEN; OR

(2) FURTHER OTHER POLICY GOALS INCLUDING OPERATIONAL AND ENERGY–EFFICIENCY GOALS RELATED TO THE PURCHASE, OPERATION, OR MAINTENANCE OF THE SUPPLY OR SERVICE.

~~(G) A NOT–FOR–PROFIT ENTITY MAY PARTICIPATE IN A STATE OR LOCAL CONTRACT DRAFTED IN ACCORDANCE WITH THIS SECTION IF THE STATE OR LOCAL ENTITY USES AUCTION BIDDING IN ACCORDANCE WITH § 13–111 OF THIS SUBTITLE.~~

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

~~(II) "PROGRAM" MEANS:~~

~~1. THE FOUNDATION PROGRAM OR ANY OTHER PROGRAM FOR BASIC CURRENT EXPENSES FUNDED IN ACCORDANCE WITH TITLE 5, SUBTITLE 2 OF THE EDUCATION ARTICLE;~~

~~2. THE COUNTY–STATE MINIMUM LIBRARY PROGRAM OR ANY OTHER PROGRAM FUNDED IN ACCORDANCE WITH TITLE 23, SUBTITLE 5 OF THE EDUCATION ARTICLE;~~

~~3. LOCAL HEALTH PROGRAMS FUNDED IN ACCORDANCE WITH TITLE 2, SUBTITLE 5 OF THE HEALTH – GENERAL ARTICLE; AND~~

~~4. HIGHWAY USER PROGRAMS FUNDED IN ACCORDANCE WITH TITLE 8, SUBTITLE 4 OF THE TRANSPORTATION ARTICLE.~~

~~(III) "SECRETARY" MEANS:~~

~~1. THE SUPERINTENDENT OF SCHOOLS;~~

~~2. THE SECRETARY OF HEALTH AND MENTAL HYGIENE; OR~~

~~3. THE SECRETARY OF TRANSPORTATION.~~

~~(2) A SECRETARY MAY WITHHOLD FUNDS DISTRIBUTED UNDER A PROGRAM TO A LOCAL ENTITY AS FOLLOWS:~~

~~(I) FOR FISCAL YEAR 2010, A SECRETARY MAY WITHHOLD UP TO .5% UNLESS THE LOCAL ENTITY:~~

~~1. REPORTS THAT THE LOCAL ENTITY HAS ENTERED OR DEMONSTRATES THAT IT ACTIVELY PARTICIPATES IN AT LEAST ONE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT;~~

~~2. SUBMITS A PLAN FOR IMPLEMENTING AN INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT; OR~~

~~3. DEMONSTRATES THAT PROCUREMENT FOR THE LOCAL ENTITY OCCURS THROUGH ANOTHER GOVERNMENTAL ENTITY THAT COMPLIES WITH ITEM 1 OR 2 OF THIS ITEM;~~

~~(II) FOR FISCAL YEAR 2011, A SECRETARY MAY WITHHOLD UP TO .5% UNLESS THE LOCAL ENTITY:~~

~~1. DEMONSTRATES THAT THE LOCAL ENTITY ACTIVELY PARTICIPATES IN AT LEAST ONE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT; OR~~

~~2. DEMONSTRATES THAT PROCUREMENT FOR THE LOCAL ENTITY OCCURS THROUGH ANOTHER GOVERNMENTAL ENTITY THAT THAT ACTIVELY PARTICIPATES IN AT LEAST ONE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT; AND~~

~~(III) FOR FISCAL YEAR 2012, A SECRETARY MAY WITHHOLD UP TO 1% UNLESS THE LOCAL ENTITY:~~

~~1. DEMONSTRATES THAT THE LOCAL ENTITY ACTIVELY PARTICIPATES IN AT LEAST ONE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT; OR~~

~~2. DEMONSTRATES THAT PROCUREMENT FOR THE LOCAL ENTITY OCCURS THROUGH ANOTHER GOVERNMENTAL ENTITY THAT THAT ACTIVELY PARTICIPATES IN AT LEAST ONE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly intends for State and local entities to collaborate on how to promote communication and efficiency in procurement.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of General Services, the Department of Transportation, the Department of Information Technology, and the Department of Budget and Management shall ~~work with the Maryland Association of Counties and the Maryland Municipal League to develop educational tools for counties and municipalities on procurement efficiencies and price saving, including seminars, pamphlets, and newsletters~~ publish on a website a list of all procurement solicitations reasonably expected to have a projected value of $100,000 or more that are submitted by a procurement agency in accordance with COMAR 21.11.03.08.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) On or before December 1, 2009, the Procurement Advisory Council in the Board of Public Works shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on:

(1) the extent of collaboration and cooperation that exists among State and local entities for public purchasing;

(2) means in place for making information about State and local contracts available to other State and local entities; ~~and~~

(3) means and methods for expanding items (1) and (2) of this subsection in order to improve cost effectiveness and efficiency in procurement; and

(4) methods for maximizing the opportunity for small businesses to compete for intergovernmental cooperative purchasing contracts that are not solicited through eMaryland Marketplace.

(b) In developing the report, the Procurement Advisory Council shall consult with:

(1) the Department of Budget and Management;

(2) the Department of General Services;

(3) the Department of Information Technology;

(4) the Maryland Association of Counties;

(5) the Maryland Municipal League;

(6) the Maryland Association of Boards of Education; ~~and~~

(7) the Maryland Department of Transportation; and

~~(7)~~ *(8)* any other State, local, or regional entity participating in or providing information on public procurement.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 678

(House Bill 548)

AN ACT concerning

Caroline County – Department of Corrections Employment Applicants – Lie Detector Tests

FOR the purpose of exempting from the prohibition against an employer requiring or demanding, as a condition of employment, that an individual submit to or take a lie detector or similar test, individuals who apply for employment with the Caroline County Department of Corrections either as a correctional officer or in any other capacity that involves direct contact with an inmate in the Department; and generally relating to the Caroline County Department of Corrections.

BY repealing and reenacting, without amendments,
Article – Labor and Employment

Section 3–702(a), (b)(3) and (4), and (c)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–702(b)(5)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Labor and Employment

3–702.

(a) In this section, "employer" means:

(1) a person engaged in a business, industry, profession, trade, or other enterprise in the State;

(2) the State;

(3) a county; and

(4) a municipal corporation in the State.

(b) (3) This section does not apply to an individual who applies for employment or is employed:

(i) as a law enforcement officer, as defined in § 3–101 of the Public Safety Article;

(ii) as an employee of a law enforcement agency of the State, a county, or a municipal corporation;

(iii) as a communications officer of the Calvert County Control Center;

(iv) as a correctional officer of the Calvert County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Detention Center;

(v) as a correctional officer of the Washington County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Center; or

(vi) as a correctional officer of:

1. the Baltimore City Jail;

2. the Baltimore County Detention Center;

3. the Cecil County Detention Center;

4. the Charles County Detention Center;

5. the Frederick County Adult Detention Center;

6. the Harford County Detention Center; or

7. the St. Mary's County Detention Center.

(4) This section does not apply to an applicant for employment as a correctional officer with the Department of Corrections for Prince George's County.

(5) This section does not apply to an applicant for employment with **EITHER** the Anne Arundel County Department of Detention Facilities **OR THE CAROLINE COUNTY DEPARTMENT OF CORRECTIONS**:

(i) as a correctional officer; or

(ii) in any other capacity that involves direct contact with an inmate in **EITHER** the Anne Arundel County Department of Detention Facilities **OR THE CAROLINE COUNTY DEPARTMENT OF CORRECTIONS**.

(c) An employer may not require or demand, as a condition of employment, prospective employment, or continued employment, that an individual submit to or take a lie detector or similar test.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 679

(House Bill 550)

AN ACT concerning

Special Police Commissions – Recommended Denial of Application – Appeals

FOR the purpose of requiring the Secretary of State Police, on completion of a certain investigation of an applicant for a special police commission, to notify the applicant of the final decision of the Secretary on whether to recommend the denial or the granting of the application to the Governor; authorizing any person aggrieved by a final decision of the Secretary to take an appeal as a contested case in accordance with the Administrative Procedures Act; requiring the Secretary to transmit to the Governor the final disposition of any appeal made by a person aggrieved by a certain decision; and generally relating to special police commissions.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3–305
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 3–306
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 10–202(a) and (d)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Public Safety

3–305.

(a) (1) The Secretary shall investigate the character, reputation, and qualifications of each applicant for a commission.

(2) The investigation shall include an investigation of the applicant's criminal record, including checking records of local police departments and the Federal Bureau of Investigation.

(3) The Secretary shall conduct the investigation in accordance with rules and regulations adopted by the Secretary.

(B) (1) ON COMPLETION OF THE INVESTIGATION, THE SECRETARY SHALL NOTIFY THE APPLICANT OF THE FINAL DECISION OF THE SECRETARY ON WHETHER TO RECOMMEND THE DENIAL OR THE GRANTING OF THE APPLICATION TO THE GOVERNOR.

(2) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE SECRETARY TO RECOMMEND THE DENIAL OF AN APPLICATION UNDER THIS SECTION MAY TAKE AN APPEAL AS A CONTESTED CASE IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

[(b)**] (C)** (1) The Secretary shall transmit to the Governor:

(i) the results of the investigation;

(ii) a recommendation on denying or granting the application; **[**and**]**

(iii) the reasons for the recommendation**; AND**

(IV) THE FINAL DISPOSITION OF ANY APPEAL MADE BY AN AGGRIEVED PERSON DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION.

(2) The Governor may accept the recommendation of the Secretary but need not issue a commission approved by the Secretary if the Governor believes it not to be in the best interest of the State to do so.

3–306.

(a) The Governor shall issue a commission to each applicant approved by the Governor.

(b) The commission shall indicate:

(1) the term of the commission; and

(2) the property that the commission is intended to cover or the purpose for which the commission is issued.

Article – State Government

10–202.

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

(d) (1) "Contested case" means a proceeding before an agency to determine:

(i) a right, duty, statutory entitlement, or privilege of a person that is required by statute or constitution to be determined only after an opportunity for an agency hearing; or

(ii) the grant, denial, renewal, revocation, suspension, or amendment of a license that is required by statute or constitution to be determined only after an opportunity for an agency hearing.

(2) "Contested case" does not include a proceeding before an agency involving an agency hearing required only by regulation unless the regulation expressly, or by clear implication, requires the hearing to be held in accordance with this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 680

(House Bill 569)

AN ACT concerning

Criminal Procedure – De Novo Appeal – Stay of Sentence

FOR the purpose of authorizing a circuit court, in a criminal appeal that is tried de novo, to stay a sentence of imprisonment and release the defendant pending trial under certain circumstances; and generally relating to de novo appeals and stays of sentence in criminal appeals cases.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 12–401
Annotated Code of Maryland
(2006 Replacement Volume and 2008 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

12–401.

(a) A party in a civil case may appeal from a final judgment entered in the District Court.

(b) In a criminal case:

(1) The State may appeal from a final judgment entered in the District Court:

(i) If the State alleges that the trial judge failed to impose the sentence specifically mandated by the Code; or

(ii) Granting a motion to dismiss, or quashing or dismissing a charging document.

(2) The defendant may appeal even from a final judgment entered in the District Court though imposition or execution of sentence has been suspended.

(c) Notwithstanding any other provision of law, an appeal taken under subsection (b)(1)(ii) of this section shall be:

(1) To the circuit court solely for the purpose of reviewing the judgment of the District Court; and

(2) Heard on the record made in the District Court.

(d) (1) A defendant who has been found guilty of a municipal infraction, as defined in Article 23A, § 3(b)(1) of the Code or a Code violation under § 10–119 of the Criminal Law Article, may appeal from the final judgment entered in the District Court.

(2) The costs and procedures for taking the appeal shall be as provided for appeals from criminal cases in the District Court.

(3) Except, however, as provided in subsection (f) of this section, the appellate court shall docket and hear the appeal as a civil appeal from the District Court.

(e) (1) Except as provided in paragraph (2) of this subsection, an appeal shall be taken by filing an order for appeal with the clerk of the District Court within 30 days from the date of the final judgment from which appealed.

(2) If the final judgment was entered in a case filed under § 8–332, § 8–401, § 8–402, § 14–109, or § 14–120 of the Real Property Article, the order for appeal shall be filed within the time prescribed by the particular section.

(f) In a civil case in which the amount in controversy exceeds $5,000 exclusive of interest, costs, and attorney's fees if attorney's fees are recoverable by law

or contract, in any matter arising under § 4–401(7)(ii) of this article, and in any case in which the parties so agree, an appeal shall be heard on the record made in the District Court. In every other case, including a criminal case in which sentence has been imposed or suspended following a plea of nolo contendere or guilty, and an appeal in a municipal infraction or Code violation case, an appeal shall be tried de novo.

(g) In a criminal appeal that is tried de novo**[**, there**]:**

(1) THERE is no right to a jury trial unless the offense charged is subject to a penalty of imprisonment or unless there is a constitutional right to a jury trial for that offense**; AND**

(2) ON THE FILING OF A NOTICE OF APPEAL, THE CIRCUIT COURT MAY STAY A SENTENCE OF IMPRISONMENT IMPOSED BY THE DISTRICT COURT AND RELEASE THE DEFENDANT PENDING TRIAL IN THE CIRCUIT COURT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 681

(House Bill 580)

AN ACT concerning

Foster Kids Coverage Act

FOR the purpose of requiring the Maryland Medical Assistance Program to provide, subject to certain conditions, certain health care services for independent foster care adolescents; defining a certain term; and generally relating to Maryland Medical Assistance Program services for independent foster care adolescents.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 15–101(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health – General
Section 15–101(d–1)
Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–103(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

15–101.

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

(D–1) "INDEPENDENT FOSTER CARE ADOLESCENT" MEANS AN INDIVIDUAL:

(1) WHO IS UNDER 21 YEARS OF AGE; AND

(2) WHO, ON THE INDIVIDUAL'S 18TH BIRTHDAY, WAS IN FOSTER CARE UNDER THE RESPONSIBILITY OF THE STATE.

15–103.

(a) (1) The Secretary shall administer the Maryland Medical Assistance Program.

(2) The Program:

(i) Subject to the limitations of the State budget, shall provide medical and other health care services for indigent individuals or medically indigent individuals or both;

(ii) Shall provide, subject to the limitations of the State budget, comprehensive medical and other health care services for all eligible pregnant women whose family income is at or below 250 percent of the poverty level, as permitted by the federal law;

(iii) Shall provide, subject to the limitations of the State budget, comprehensive medical and other health care services for all eligible children currently under the age of 1 whose family income falls below 185 percent of the poverty level, as permitted by federal law;

(iv) Shall provide, subject to the limitations of the State budget, family planning services to women currently eligible for comprehensive medical care and other health care under item (ii) of this paragraph for 5 years after the second month following the month in which the woman delivers her child;

(v) Shall provide, subject to the limitations of the State budget, comprehensive medical and other health care services for all children from the age of 1 year up through and including the age of 5 years whose family income falls below 133 percent of the poverty level, as permitted by the federal law;

(vi) Shall provide, subject to the limitations of the State budget, comprehensive medical care and other health care services for all children who are at least 6 years of age but are under 19 years of age whose family income falls below 100 percent of the poverty level, as permitted by federal law;

(vii) Shall provide, subject to the limitations of the State budget, comprehensive medical care and other health care services for all legal immigrants who meet Program eligibility standards and who arrived in the United States before August 22, 1996, the effective date of the federal Personal Responsibility and Work Opportunity Reconciliation Act, as permitted by federal law;

(viii) Shall provide, subject to the limitations of the State budget and any other requirements imposed by the State, comprehensive medical care and other health care services for all legal immigrant children under the age of 18 years and pregnant women who meet Program eligibility standards and who arrived in the United States on or after August 22, 1996, the effective date of the federal Personal Responsibility and Work Opportunity Reconciliation Act;

(ix) Beginning on July 1, 2008, shall provide, subject to the limitations of the State budget, and as permitted by federal law, comprehensive medical care and other health care services for all parents and caretaker relatives:

1. Who have a dependent child living in the parents' or caretaker relatives' home; and

2. Whose annual household income is at or below 116 percent of the poverty level;

(X) SHALL PROVIDE, SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, AND AS PERMITTED BY FEDERAL LAW, COMPREHENSIVE MEDICAL CARE AND OTHER HEALTH CARE SERVICES FOR INDEPENDENT FOSTER CARE ADOLESCENTS:

1. WHO ARE NOT OTHERWISE ELIGIBLE FOR PROGRAM BENEFITS; AND

2. WHOSE ANNUAL HOUSEHOLD INCOME IS AT OR BELOW 300 PERCENT OF THE POVERTY LEVEL;

[(x)**] (XI)** May include bedside nursing care for eligible Program recipients; and

[(xi)**] (XII)** Shall provide services in accordance with funding restrictions included in the annual State budget bill.

(3) Subject to restrictions in federal law or waivers, the Department may impose cost–sharing on Program recipients.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 682

(House Bill 610)

AN ACT concerning

Health Insurance – ~~Discrimination or Rebates –~~ Bona Fide Wellness Programs – Incentives

FOR the purpose of ~~altering the conditions under which it is not discrimination or a rebate for~~ authorizing an insurer, a nonprofit health service plan, a health maintenance organization, or a dental plan organization to provide reasonable incentives for participation in a bona fide wellness program under certain circumstances; ~~providing that it is not discrimination or a rebate for a carrier to provide reasonable incentives for participation in a bona fide wellness program if the bona fide wellness program satisfies certain requirements;~~ authorizing a carrier to condition an incentive for a bona fide wellness program on an individual satisfying a standard that is related to a health factor under certain circumstances; providing that a bona fide wellness program shall be construed in a certain manner if certain conditions are met; ~~providing that an incentive may not be construed in a certain manner unless certain conditions are met;~~ establishing requirements for certain alternative standards or waivers of certain standards; authorizing the use of certain language to satisfy certain requirements; authorizing the Maryland Insurance Commissioner to request a review of a bona fide wellness program; requiring the expense of the review to be paid in a certain manner; altering the conditions under which it is not discrimination or a rebate for a carrier to provide reasonable incentives for participation in a bona fide wellness program; making certain provisions

applicable to health maintenance organizations; defining certain terms; *altering certain definitions;* and generally relating to ~~exceptions to prohibitions against discrimination or rebates for~~ incentives for participation in bona fide wellness programs offered with health insurance.

BY adding to
Article – Health – General
Section 19–706(ttt)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 15–509
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Insurance
Section *15–10A–01(a), 15–1201(a), and* 27–210(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section *15–10A–01(b)(1), 15–1201(r), and* 27–210(h)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–706.

(TTT) THE PROVISIONS OF § 15–509 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

15–509.

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

(2) "BONA FIDE WELLNESS PROGRAM" MEANS A PROGRAM THAT IS DESIGNED TO:

(I) PROMOTE HEALTH OR PREVENT OR DETECT DISEASE OR ILLNESS;

(II) REDUCE OR AVOID POOR CLINICAL OUTCOMES;

(III) PREVENT COMPLICATIONS FROM MEDICAL CONDITIONS;

(IV) PROMOTE HEALTHY BEHAVIORS ~~AND LIFESTYLE CHOICES~~; OR

(V) PREVENT AND CONTROL INJURY.

(3) "CARRIER" MEANS:

(I) AN INSURER;

(II) A NONPROFIT HEALTH SERVICE PLAN;

(III) A HEALTH MAINTENANCE ORGANIZATION; OR

(IV) A DENTAL PLAN ORGANIZATION.

(4) "HEALTH FACTOR" MEANS, IN RELATION TO AN INDIVIDUAL, ANY OF THE FOLLOWING HEALTH STATUS–RELATED FACTORS:

(I) HEALTH STATUS;

(II) MEDICAL CONDITION;

(III) CLAIMS EXPERIENCE;

(IV) RECEIPT OF HEALTH CARE;

(V) MEDICAL HISTORY;

~~(VI) GENETIC INFORMATION;~~

~~(VII)~~ *(VI)* EVIDENCE OF INSURABILITY; OR

~~(VIII)~~ *(VII)* DISABILITY.

(5) "INCENTIVE" MEANS:

(I) A DISCOUNT OF A PREMIUM OR CONTRIBUTION;

(II) A WAIVER OF ALL OR PART OF A COST–SHARING MECHANISM, SUCH AS DEDUCTIBLES, COPAYMENTS, OR COINSURANCE;

(III) THE ABSENCE OF A SURCHARGE;

(IV) THE VALUE OF A BENEFIT THAT OTHERWISE WOULD NOT BE PROVIDED UNDER THE POLICY OR CONTRACT; OR

(V) A REBATE AS PERMITTED UNDER § 27–210 OF THIS ARTICLE.

(B) (1) A CARRIER MAY PROVIDE REASONABLE INCENTIVES TO AN INDIVIDUAL WHO IS AN INSURED, A SUBSCRIBER, OR A MEMBER FOR PARTICIPATION IN A BONA FIDE WELLNESS PROGRAM OFFERED BY THE CARRIER IF:

(I) THE CARRIER DOES NOT MAKE PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM A CONDITION OF COVERAGE UNDER A POLICY OR CONTRACT;

(II) PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM IS VOLUNTARY AND A PENALTY IS NOT IMPOSED ON AN INSURED, SUBSCRIBER, OR MEMBER FOR NONPARTICIPATION;

(III) THE CARRIER DOES NOT MARKET THE BONA FIDE WELLNESS PROGRAM IN A MANNER THAT REASONABLY COULD BE CONSTRUED TO HAVE AS ITS PRIMARY PURPOSE THE PROVISION OF AN INCENTIVE OR INDUCEMENT TO PURCHASE COVERAGE FROM THE CARRIER; AND

(IV) THE BONA FIDE WELLNESS PROGRAM DOES NOT CONDITION AN INCENTIVE ON AN INDIVIDUAL SATISFYING A STANDARD THAT IS RELATED TO A HEALTH FACTOR.

(2) NOTWITHSTANDING PARAGRAPH (1)(IV) OF THIS SUBSECTION, A CARRIER MAY CONDITION AN INCENTIVE FOR A BONA FIDE WELLNESS PROGRAM ON AN INDIVIDUAL SATISFYING A STANDARD THAT IS RELATED TO A HEALTH FACTOR IF:

(I) 1. ALL INCENTIVES FOR PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM DO NOT EXCEED 20% OF THE COST OF EMPLOYEE–ONLY COVERAGE UNDER THE PLAN; OR

2. WHEN THE PLAN PROVIDES COVERAGE FOR A SPOUSE OR DEPENDENT CHILDREN, ALL INCENTIVES FOR PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM DO NOT EXCEED 20% OF THE COST OF THE COVERAGE IN WHICH THE EMPLOYEE AND THE SPOUSE OR DEPENDENT CHILDREN ARE ENROLLED;

(II) THE BONA FIDE WELLNESS PROGRAM IS REASONABLY DESIGNED TO PROMOTE HEALTH OR PREVENT DISEASE, AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION;

(III) THE BONA FIDE WELLNESS PROGRAM GIVES INDIVIDUALS ELIGIBLE FOR THE BONA FIDE WELLNESS PROGRAM THE OPPORTUNITY TO QUALIFY FOR THE INCENTIVE UNDER THE BONA FIDE WELLNESS PROGRAM AT LEAST ONCE A YEAR;

(IV) THE BONA FIDE WELLNESS PROGRAM IS AVAILABLE TO ALL SIMILARLY SITUATED INDIVIDUALS; AND

(V) INDIVIDUALS ARE PROVIDED A REASONABLE ALTERNATIVE STANDARD OR A WAIVER OF THE STANDARD.

(C) A BONA FIDE WELLNESS PROGRAM SHALL BE CONSTRUED TO BE REASONABLY DESIGNED TO PROMOTE HEALTH OR PREVENT DISEASE IF THE BONA FIDE WELLNESS PROGRAM:

(1) HAS A REASONABLE CHANCE OF IMPROVING THE HEALTH OF OR PREVENTING DISEASE IN PARTICIPATING INDIVIDUALS; ~~AND~~

(2) IS NOT OVERLY BURDENSOME;

(3) IS NOT A SUBTERFUGE FOR DISCRIMINATING BASED ON A HEALTH FACTOR; AND

(4) IS NOT HIGHLY SUSPECT IN THE METHOD CHOSEN TO PROMOTE HEALTH OR PREVENT DISEASE.

(D) (1) A CARRIER SHALL PROVIDE A REASONABLE ALTERNATIVE STANDARD, OR A WAIVER OF THE OTHERWISE APPLICABLE STANDARD, FOR OBTAINING THE INCENTIVE FOR ANY INDIVIDUAL FOR WHOM IT IS:

(I) UNREASONABLY DIFFICULT DUE TO A MEDICAL CONDITION TO SATISFY THE OTHERWISE APPLICABLE STANDARD; OR

(II) MEDICALLY INADVISABLE TO ATTEMPT TO SATISFY THE OTHERWISE APPLICABLE STANDARD.

(2) A CARRIER MAY SEEK VERIFICATION, SUCH AS A STATEMENT FROM AN INDIVIDUAL'S HEALTH CARE PROVIDER, THAT A HEALTH FACTOR MAKES IT UNREASONABLY DIFFICULT OR MEDICALLY INADVISABLE FOR THE INDIVIDUAL TO SATISFY OR ATTEMPT TO SATISFY THE OTHERWISE APPLICABLE STANDARD.

(3) (I) A CARRIER SHALL DISCLOSE THE AVAILABILITY OF A REASONABLE ALTERNATIVE STANDARD OR A WAIVER OF THE OTHERWISE APPLICABLE STANDARD IN ALL POLICY FORMS PERTAINING TO THE BONA FIDE WELLNESS PROGRAM.

(II) A CARRIER MAY MEET THE DISCLOSURE REQUIREMENTS OF THIS PARAGRAPH BY USING THE FOLLOWING LANGUAGE OR SUBSTANTIALLY SIMILAR LANGUAGE:

"IF IT IS UNREASONABLY DIFFICULT DUE TO A MEDICAL CONDITION FOR YOU TO ACHIEVE THE STANDARDS FOR THE INCENTIVE UNDER THIS PROGRAM, OR IF IT IS MEDICALLY INADVISABLE FOR YOU TO ATTEMPT TO ACHIEVE THE STANDARDS FOR THE INCENTIVE UNDER THIS PROGRAM, CALL US AT (INSERT TELEPHONE NUMBER), AND WE WILL WORK WITH YOU TO DEVELOP ANOTHER WAY TO QUALIFY FOR THE INCENTIVE.".

(E) (1) IN DETERMINING IF A CARRIER'S BONA FIDE WELLNESS PROGRAM MEETS THE REQUIREMENTS OF THIS SECTION, THE COMMISSIONER MAY REQUEST A REVIEW OF THE BONA FIDE WELLNESS PROGRAM BY AN INDEPENDENT REVIEW ORGANIZATION FROM THE LIST COMPILED UNDER § 15–10A–05(B) OF THIS TITLE.

(2) THE EXPENSE OF THE REVIEW OF THE BONA FIDE WELLNESS PROGRAM BY AN INDEPENDENT REVIEW ORGANIZATION SHALL BE PAID BY THE CARRIER, IN THE MANNER PROVIDED UNDER § 15–10A–05(H) OF THIS TITLE.

15–10A–01.

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

(b) (1) "Adverse decision" means:

(I) *a utilization review determination by a private review agent, a carrier, or a health care provider acting on behalf of a carrier that:*

[*(i)****]*** ***1.*** *a proposed or delivered health care service covered under the member's contract is or was not medically necessary, appropriate, or efficient; and*

[*(ii)****]*** ***2.*** *may result in noncoverage of the health care service****; OR***

(II) A DENIAL BY A CARRIER OF A REQUEST BY A MEMBER FOR AN ALTERNATIVE STANDARD OR A WAIVER OF A STANDARD TO SATISFY THE REQUIREMENTS OF A BONA FIDE WELLNESS PROGRAM UNDER § 15–509 OF THIS TITLE.

15–1201.

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

(r) "Wellness benefit" means a benefit ***[****offered as a rider to a health benefit plan that provides coverage for a program or activity****]*** *that:*

(1) ***[****is designed to:*

(i) prevent or detect disease or illness;

(ii) reduce or avoid poor clinical outcomes;

(iii) prevent complications from medical conditions; or

*(iv) promote healthy behaviors and lifestyle choices;****] INCLUDES A BONA FIDE WELLNESS PROGRAM AS DEFINED IN § 15–509 OF THIS TITLE;*** *and*

(2) complies with regulations adopted by the Commission.

27–210.

(a) Sections 27–208 and 27–209 of this subtitle may not be construed to include within the definition of discrimination or rebates any of the practices set forth in this section.

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

~~(ii) "Bona fide wellness program" means a program that is designed to:~~

~~1. **PROMOTE HEALTH OR** prevent or detect disease or illness;~~

~~2. reduce or avoid poor clinical outcomes;~~

~~3. prevent complications from medical conditions; **[**or**]**~~

~~4. promote healthy behaviors and lifestyle choices**; OR**~~

~~**5. PREVENT AND CONTROL INJURY.**~~

~~(iii) "Carrier" means:~~

~~1. an insurer;~~

~~2. a nonprofit health service plan;~~

~~3. a health maintenance organization; or~~

~~4. a dental plan organization.~~

~~**(IV) "HEALTH FACTOR" MEANS, IN RELATION TO AN INDIVIDUAL, ANY OF THE FOLLOWING HEALTH STATUS–RELATED FACTORS:**~~

~~**1. HEALTH STATUS;**~~

~~**2. MEDICAL CONDITION;**~~

~~**3. CLAIMS EXPERIENCE;**~~

~~**4. RECEIPT OF HEALTH CARE;**~~

~~**5. MEDICAL HISTORY;**~~

~~**6. GENETIC INFORMATION;**~~

~~**7. EVIDENCE OF INSURABILITY; OR**~~

~~**8. DISABILITY.**~~

~~**(V) "INCENTIVE" MEANS:**~~

~~**1. A DISCOUNT OR REBATE OF A PREMIUM OR CONTRIBUTION;**~~

~~2. A WAIVER OF ALL OR PART OF A COST–SHARING MECHANISM, SUCH AS DEDUCTIBLES, COPAYMENTS, OR COINSURANCE;~~

~~3. THE ABSENCE OF A SURCHARGE; OR~~

~~4. THE VALUE OF A BENEFIT THAT WOULD OTHERWISE NOT BE PROVIDED UNDER THE POLICY OR CONTRACT.~~

(H) (1) IN THIS SUBSECTION, "BONA FIDE WELLNESS PROGRAM" HAS THE MEANING STATED IN § 15–509 OF THIS ARTICLE.

(2) It is not discrimination or a rebate for a carrier to provide reasonable incentives to an individual who is an insured, a subscriber, or a member for participation in a bona fide wellness program offered by the carrier ~~if:~~

~~(i) the carrier does not make participation in the bona fide wellness program a condition of coverage under a policy or contract;~~

~~(ii) participation in the bona fide wellness program is voluntary and a penalty is not imposed on an insured, subscriber, or member for nonparticipation;~~

~~[(iii) an insured, subscriber, or member is not required to achieve any specific outcome in order to receive an incentive for participation in the bona fide wellness program; and]~~

~~[(iv)] (III) the carrier does not market the bona fide wellness program in a manner that reasonably could be construed to have as its primary purpose the provision of an incentive or inducement to purchase coverage from the carrier; AND~~

~~(IV) 1. THE BONA FIDE WELLNESS PROGRAM DOES NOT CONDITION AN INCENTIVE ON AN INDIVIDUAL SATISFYING A STANDARD THAT IS RELATED TO A HEALTH FACTOR; OR~~

~~2. A. THE BONA FIDE WELLNESS PROGRAM DOES CONDITION AN INCENTIVE ON AN INDIVIDUAL SATISFYING A STANDARD THAT IS RELATED TO A HEALTH FACTOR;~~

~~B. THE USE OF THE HEALTH FACTOR IS NOT OTHERWISE PROHIBITED BY LAW; AND~~

~~C. THE BONA FIDE WELLNESS PROGRAM MEETS THE REQUIREMENTS OF PARAGRAPH (3) OF THIS SUBSECTION~~ IN ACCORDANCE WITH § 15–509 OF THIS ARTICLE.

[(3) Any incentive offered for participation in a bona fide wellness program:

(i) shall be reasonably related to the bona fide wellness program; and

(ii) may not have a value that exceeds any limit established in regulations adopted by the Commissioner.]

~~(3) AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, A BONA FIDE WELLNESS PROGRAM MAY CONDITION AN INCENTIVE ON AN INDIVIDUAL SATISFYING A STANDARD THAT IS RELATED TO A HEALTH FACTOR IF:~~

~~(I) 1. ANY INCENTIVE FOR PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM, COUPLED WITH THE INCENTIVE FOR OTHER BONA FIDE WELLNESS PROGRAMS WITH RESPECT TO THE POLICY OR CONTRACT THAT REQUIRE SATISFACTION OF A STANDARD RELATED TO A HEALTH FACTOR, DOES NOT EXCEED 20% OF THE COST OF EMPLOYEE-ONLY COVERAGE UNDER THE PLAN; OR~~

~~2. WHEN THE PLAN PROVIDES COVERAGE FOR A SPOUSE OR DEPENDENT CHILDREN, THE INCENTIVE FOR PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM DOES NOT EXCEED 20% OF THE COST OF THE COVERAGE IN WHICH THE EMPLOYEE AND THE SPOUSE OR DEPENDENT CHILDREN ARE ENROLLED;~~

~~(II) THE BONA FIDE WELLNESS PROGRAM IS REASONABLY DESIGNED TO PROMOTE HEALTH OR PREVENT DISEASE, AS PROVIDED UNDER PARAGRAPH (4) OF THIS SUBSECTION;~~

~~(III) THE BONA FIDE WELLNESS PROGRAM GIVES INDIVIDUALS ELIGIBLE FOR THE BONA FIDE WELLNESS PROGRAM THE OPPORTUNITY TO QUALIFY FOR THE INCENTIVE UNDER THE BONA FIDE WELLNESS PROGRAM AT LEAST ONCE A YEAR;~~

~~(IV) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, THE BONA FIDE WELLNESS PROGRAM IS AVAILABLE TO ALL SIMILARLY SITUATED INDIVIDUALS; AND~~

~~(V) THE CARRIER DISCLOSES IN ALL POLICY OR CONTRACT MATERIALS DESCRIBING THE TERMS OF THE BONA FIDE WELLNESS PROGRAM THE AVAILABILITY OF A REASONABLE ALTERNATIVE STANDARD OR THE POSSIBILITY OF A WAIVER OF THE OTHERWISE APPLICABLE STANDARD, AS PROVIDED UNDER PARAGRAPHS (5) AND (6) OF THIS SUBSECTION.~~

~~(4) A BONA FIDE WELLNESS PROGRAM SHALL BE CONSTRUED TO BE REASONABLY DESIGNED TO PROMOTE HEALTH OR PREVENT DISEASE IF THE BONA FIDE WELLNESS PROGRAM:~~

~~(I) HAS A REASONABLE CHANCE OF IMPROVING THE HEALTH OF OR PREVENTING DISEASE IN PARTICIPATING INDIVIDUALS; AND~~

~~(II) 1. IS NOT OVERLY BURDENSOME;~~

~~2. IS NOT A SUBTERFUGE FOR DISCRIMINATING BASED ON A HEALTH FACTOR; AND~~

~~3. IS NOT HIGHLY SUSPECT IN THE METHOD CHOSEN TO PROMOTE HEALTH OR PREVENT DISEASE.~~

~~(5) (I) AN INCENTIVE MAY NOT BE CONSTRUED TO BE AVAILABLE TO ALL SIMILARLY SITUATED INDIVIDUALS FOR A PERIOD UNLESS THE BONA FIDE WELLNESS PROGRAM ALLOWS A REASONABLE ALTERNATIVE STANDARD, OR A WAIVER OF THE OTHERWISE APPLICABLE STANDARD, FOR OBTAINING THE INCENTIVE FOR ANY INDIVIDUAL FOR WHOM, FOR THAT PERIOD, IT IS:~~

~~1. UNREASONABLY DIFFICULT DUE TO A MEDICAL CONDITION TO SATISFY THE OTHERWISE APPLICABLE STANDARD; OR~~

~~2. MEDICALLY INADVISABLE TO ATTEMPT TO SATISFY THE OTHERWISE APPLICABLE STANDARD.~~

~~(II) A CARRIER MAY SEEK VERIFICATION, SUCH AS A STATEMENT FROM AN INDIVIDUAL'S HEALTH CARE PROVIDER, THAT A HEALTH FACTOR MAKES IT UNREASONABLY DIFFICULT OR MEDICALLY INADVISABLE FOR THE INDIVIDUAL TO SATISFY OR ATTEMPT TO SATISFY THE OTHERWISE APPLICABLE STANDARD.~~

~~(6) THE FOLLOWING LANGUAGE, OR SUBSTANTIALLY SIMILAR LANGUAGE, MAY BE USED TO SATISFY THE REQUIREMENTS OF PARAGRAPH (3)(V) OF THIS SUBSECTION:~~

~~"IF IT IS UNREASONABLY DIFFICULT DUE TO A MEDICAL CONDITION FOR YOU TO ACHIEVE THE STANDARDS FOR THE INCENTIVE UNDER THIS PROGRAM, OR IF IT IS MEDICALLY INADVISABLE FOR YOU TO ATTEMPT TO ACHIEVE THE STANDARDS FOR THE INCENTIVE UNDER THIS PROGRAM, CALL US AT (INSERT TELEPHONE NUMBER), AND WE WILL WORK WITH YOU TO DEVELOP ANOTHER WAY TO QUALIFY FOR THE INCENTIVE.".~~

~~[~~(4)~~]~~ ~~(7)~~ The Commissioner shall adopt regulations to implement the provisions of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 683

(Senate Bill 638)

AN ACT concerning

Health Insurance – ~~Discrimination or Rebates –~~ Bona Fide Wellness Programs – Incentives

FOR the purpose of ~~altering the conditions under which it is not discrimination or a rebate for~~ authorizing an insurer, a nonprofit health service plan, a health maintenance organization, or a dental plan organization to provide reasonable incentives for participation in a bona fide wellness program under certain circumstances; ~~providing that it is not discrimination or a rebate for a carrier to provide reasonable incentives for participation in a bona fide wellness program if the bona fide wellness program satisfies certain requirements;~~ authorizing a carrier to condition an incentive for a bona fide wellness program on an individual satisfying a standard that is related to a health factor under certain circumstances; providing that a bona fide wellness program shall be construed in a certain manner if certain conditions are met; ~~providing that an incentive may not be construed in a certain manner unless certain conditions are met;~~ establishing requirements for certain alternative standards or waivers of certain standards; authorizing the use of certain language to satisfy certain requirements; authorizing the Maryland Insurance Commissioner to request a review of a bona fide wellness program; requiring the expense of the review to be paid in a certain manner; altering the conditions under which it is not discrimination or a rebate for a carrier to provide reasonable incentives for participation in a bona fide wellness program; making certain provisions applicable to health maintenance organizations; defining certain terms; altering

certain definitions; and generally relating to ~~exceptions to prohibitions against discrimination or rebates for~~ incentives for participation in bona fide wellness programs offered with health insurance.

BY adding to
Article – Health – General
Section 19–706(ttt)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 15–509
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Insurance
Section 15–10A–01(a), 15–1201(a) and 27–210(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–10A–01(b)(1), 15–1201(r), and 27–210(h)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–706.

(TTT) THE PROVISIONS OF § 15–509 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

15–509.

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

(2) "BONA FIDE WELLNESS PROGRAM" MEANS A PROGRAM THAT IS DESIGNED TO:

(I) PROMOTE HEALTH OR PREVENT OR DETECT DISEASE OR ILLNESS;

(II) REDUCE OR AVOID POOR CLINICAL OUTCOMES;

(III) PREVENT COMPLICATIONS FROM MEDICAL CONDITIONS;

(IV) PROMOTE HEALTHY BEHAVIORS; OR

(V) PREVENT AND CONTROL INJURY.

(3) "CARRIER" MEANS:

(I) AN INSURER;

(II) A NONPROFIT HEALTH SERVICE PLAN;

(III) A HEALTH MAINTENANCE ORGANIZATION; OR

(IV) A DENTAL PLAN ORGANIZATION.

(4) "HEALTH FACTOR" MEANS, IN RELATION TO AN INDIVIDUAL, ANY OF THE FOLLOWING HEALTH STATUS–RELATED FACTORS:

(I) HEALTH STATUS;

(II) MEDICAL CONDITION;

(III) CLAIMS EXPERIENCE;

(IV) RECEIPT OF HEALTH CARE;

(V) MEDICAL HISTORY;

(VI) EVIDENCE OF INSURABILITY; OR

(VII) DISABILITY.

(5) "INCENTIVE" MEANS:

(I) A DISCOUNT OF A PREMIUM OR CONTRIBUTION;

(II) A WAIVER OF ALL OR PART OF A COST–SHARING MECHANISM, SUCH AS DEDUCTIBLES, COPAYMENTS, OR COINSURANCE;

(III) THE ABSENCE OF A SURCHARGE;

(IV) THE VALUE OF A BENEFIT THAT OTHERWISE WOULD NOT BE PROVIDED UNDER THE POLICY OR CONTRACT; OR

(V) A REBATE AS PERMITTED UNDER § 27–210 OF THIS ARTICLE.

(B) (1) A CARRIER MAY PROVIDE REASONABLE INCENTIVES TO AN INDIVIDUAL WHO IS AN INSURED, A SUBSCRIBER, OR A MEMBER FOR PARTICIPATION IN A BONA FIDE WELLNESS PROGRAM OFFERED BY THE CARRIER IF:

(I) THE CARRIER DOES NOT MAKE PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM A CONDITION OF COVERAGE UNDER A POLICY OR CONTRACT;

(II) PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM IS VOLUNTARY AND A PENALTY IS NOT IMPOSED ON AN INSURED, SUBSCRIBER, OR MEMBER FOR NONPARTICIPATION;

(III) THE CARRIER DOES NOT MARKET THE BONA FIDE WELLNESS PROGRAM IN A MANNER THAT REASONABLY COULD BE CONSTRUED TO HAVE AS ITS PRIMARY PURPOSE THE PROVISION OF AN INCENTIVE OR INDUCEMENT TO PURCHASE COVERAGE FROM THE CARRIER; AND

(IV) THE BONA FIDE WELLNESS PROGRAM DOES NOT CONDITION AN INCENTIVE ON AN INDIVIDUAL SATISFYING A STANDARD THAT IS RELATED TO A HEALTH FACTOR.

(2) NOTWITHSTANDING PARAGRAPH (1)(IV) OF THIS SUBSECTION, A CARRIER MAY CONDITION AN INCENTIVE FOR A BONA FIDE WELLNESS PROGRAM ON AN INDIVIDUAL SATISFYING A STANDARD THAT IS RELATED TO A HEALTH FACTOR IF:

(I) 1. ALL INCENTIVES FOR PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM DO NOT EXCEED 20% OF THE COST OF EMPLOYEE–ONLY COVERAGE UNDER THE PLAN; OR

2. WHEN THE PLAN PROVIDES COVERAGE FOR FAMILY MEMBERS, ALL INCENTIVES FOR PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM DO NOT EXCEED 20% OF THE COST OF THE COVERAGE IN WHICH THE FAMILY MEMBERS ARE ENROLLED;

(II) THE BONA FIDE WELLNESS PROGRAM IS REASONABLY DESIGNED TO PROMOTE HEALTH OR PREVENT DISEASE, AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION;

(III) THE BONA FIDE WELLNESS PROGRAM GIVES INDIVIDUALS ELIGIBLE FOR THE BONA FIDE WELLNESS PROGRAM THE OPPORTUNITY TO QUALIFY FOR THE INCENTIVE UNDER THE BONA FIDE WELLNESS PROGRAM AT LEAST ONCE A YEAR;

(IV) THE BONA FIDE WELLNESS PROGRAM IS AVAILABLE TO ALL SIMILARLY SITUATED INDIVIDUALS; AND

(V) INDIVIDUALS ARE PROVIDED A REASONABLE ALTERNATIVE STANDARD OR A WAIVER OF THE STANDARD AS REQUIRED UNDER SUBSECTION (D)(1) OF THIS SECTION.

(C) A BONA FIDE WELLNESS PROGRAM SHALL BE CONSTRUED TO BE REASONABLY DESIGNED TO PROMOTE HEALTH OR PREVENT DISEASE IF THE BONA FIDE WELLNESS PROGRAM:

(1) HAS A REASONABLE CHANCE OF IMPROVING THE HEALTH OF OR PREVENTING DISEASE IN PARTICIPATING INDIVIDUALS;

(2) IS NOT OVERLY BURDENSOME;

(3) IS NOT A SUBTERFUGE FOR DISCRIMINATING BASED ON A HEALTH FACTOR; AND

(4) IS NOT HIGHLY SUSPECT IN THE METHOD CHOSEN TO PROMOTE HEALTH OR PREVENT DISEASE.

(D) (1) A CARRIER SHALL PROVIDE A REASONABLE ALTERNATIVE STANDARD, OR A WAIVER OF THE OTHERWISE APPLICABLE STANDARD, FOR OBTAINING THE INCENTIVE FOR ANY INDIVIDUAL FOR WHOM IT IS:

(I) UNREASONABLY DIFFICULT DUE TO A MEDICAL CONDITION TO SATISFY THE OTHERWISE APPLICABLE STANDARD; OR

(II) MEDICALLY INADVISABLE TO ATTEMPT TO SATISFY THE OTHERWISE APPLICABLE STANDARD.

(2) A CARRIER MAY SEEK VERIFICATION, SUCH AS A STATEMENT FROM AN INDIVIDUAL'S HEALTH CARE PROVIDER, THAT A HEALTH FACTOR MAKES IT UNREASONABLY DIFFICULT OR MEDICALLY INADVISABLE FOR THE INDIVIDUAL TO SATISFY OR ATTEMPT TO SATISFY THE OTHERWISE APPLICABLE STANDARD.

(3) (I) A CARRIER SHALL DISCLOSE THE AVAILABILITY OF A REASONABLE ALTERNATIVE STANDARD OR A WAIVER OF THE OTHERWISE APPLICABLE STANDARD IN ALL POLICY FORMS PERTAINING TO THE BONA FIDE WELLNESS PROGRAM.

(II) A CARRIER MAY MEET THE DISCLOSURE REQUIREMENTS OF THIS PARAGRAPH BY USING THE FOLLOWING LANGUAGE OR SUBSTANTIALLY SIMILAR LANGUAGE:

"IF IT IS UNREASONABLY DIFFICULT DUE TO A MEDICAL CONDITION FOR YOU TO ACHIEVE THE STANDARDS FOR THE INCENTIVE UNDER THIS PROGRAM, OR IF IT IS MEDICALLY INADVISABLE FOR YOU TO ATTEMPT TO ACHIEVE THE STANDARDS FOR THE INCENTIVE UNDER THIS PROGRAM, CALL US AT (INSERT TELEPHONE NUMBER), AND WE WILL WORK WITH YOU TO DEVELOP ANOTHER WAY TO QUALIFY FOR THE INCENTIVE.".

(E) (1) IN DETERMINING IF A CARRIER'S BONA FIDE WELLNESS PROGRAM MEETS THE REQUIREMENTS OF THIS SECTION, THE COMMISSIONER MAY REQUEST A REVIEW OF THE BONA FIDE WELLNESS PROGRAM BY AN INDEPENDENT REVIEW ORGANIZATION FROM THE LIST COMPILED UNDER § 15–10A–05(B) OF THIS TITLE.

(2) THE EXPENSE OF THE REVIEW OF THE BONA FIDE WELLNESS PROGRAM BY AN INDEPENDENT REVIEW ORGANIZATION SHALL BE PAID BY THE CARRIER, IN THE MANNER PROVIDED UNDER § 15–10A–05(H) OF THIS TITLE.

15–10A–01.

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

(b) (1) "Adverse decision" means**:**

(I) a utilization review determination by a private review agent, a carrier, or a health care provider acting on behalf of a carrier that:

[(i)**]** **1.** a proposed or delivered health care service covered under the member's contract is or was not medically necessary, appropriate, or efficient; and

[(ii)**]** **2.** may result in noncoverage of the health care service**; OR**

(II) A DENIAL BY A CARRIER OF A REQUEST BY A MEMBER FOR AN ALTERNATIVE STANDARD OR A WAIVER OF A STANDARD TO SATISFY THE REQUIREMENTS OF A BONA FIDE WELLNESS PROGRAM UNDER § 15–509 OF THIS TITLE.

15–1201.

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

(r) "Wellness benefit" means a benefit **[**offered as a rider to a health benefit plan that provides coverage for a program or activity**]** that:

(1) **[**is designed to:

(i) prevent or detect disease or illness;

(ii) reduce or avoid poor clinical outcomes;

(iii) prevent complications from medical conditions; or

(iv) promote healthy behaviors and lifestyle choices;**] INCLUDES A BONA FIDE WELLNESS PROGRAM AS DEFINED IN § 15–509 OF THIS TITLE;** and

(2) complies with regulations adopted by the Commission.

27–210.

(a) Sections 27–208 and 27–209 of this subtitle may not be construed to include within the definition of discrimination or rebates any of the practices set forth in this section.

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

~~(ii) "Bona fide wellness program" means a program that is designed to:~~

~~1. **PROMOTE HEALTH OR** prevent or detect disease or illness;~~

~~2. reduce or avoid poor clinical outcomes;~~

~~3. prevent complications from medical conditions; or~~

~~4. promote healthy behaviors and lifestyle choices.~~

~~(iii) "Carrier" means:~~

~~1. an insurer;~~

~~2. a nonprofit health service plan;~~

~~3. a health maintenance organization; or~~

~~4. a dental plan organization.~~

~~(IV) "HEALTH FACTOR" MEANS, IN RELATION TO AN INDIVIDUAL, ANY OF THE FOLLOWING HEALTH STATUS–RELATED FACTORS:~~

~~1. HEALTH STATUS;~~

~~2. MEDICAL CONDITION;~~

~~3. CLAIMS EXPERIENCE;~~

~~4. RECEIPT OF HEALTH CARE;~~

~~5. MEDICAL HISTORY;~~

~~6. GENETIC INFORMATION;~~

~~7. EVIDENCE OF INSURABILITY; OR~~

~~8. DISABILITY.~~

~~(V) "INCENTIVE" MEANS:~~

~~1. A DISCOUNT OR REBATE OF A PREMIUM OR CONTRIBUTION;~~

~~2. A WAIVER OF ALL OR PART OF A COST–SHARING MECHANISM, SUCH AS DEDUCTIBLES, COPAYMENTS, OR COINSURANCE;~~

~~3. THE ABSENCE OF A SURCHARGE; OR~~

~~4. THE VALUE OF A BENEFIT THAT WOULD OTHERWISE NOT BE PROVIDED UNDER THE POLICY OR CONTRACT.~~

(H) (1) IN THIS SUBSECTION, "BONA FIDE WELLNESS PROGRAM" HAS THE MEANING STATED IN § 15–509 OF THIS ARTICLE.

(2) It is not discrimination or a rebate for a carrier to provide reasonable incentives to an individual who is an insured, a subscriber, or a member for participation in a bona fide wellness program offered by the carrier ~~if:~~

~~(i) the carrier does not make participation in the bona fide wellness program a condition of coverage under a policy or contract;~~

~~(ii) participation in the bona fide wellness program is voluntary and a penalty is not imposed on an insured, subscriber, or member for nonparticipation;~~

~~[(iii) an insured, subscriber, or member is not required to achieve any specific outcome in order to receive an incentive for participation in the bona fide wellness program; and]~~

~~[(iv)] (III) the carrier does not market the bona fide wellness program in a manner that reasonably could be construed to have as its primary purpose the provision of an incentive or inducement to purchase coverage from the carrier; AND~~

~~(IV) 1. THE BONA FIDE WELLNESS PROGRAM DOES NOT CONDITION AN INCENTIVE ON AN INDIVIDUAL SATISFYING A STANDARD THAT IS RELATED TO A HEALTH FACTOR; OR~~

~~2. A. THE BONA FIDE WELLNESS PROGRAM DOES CONDITION AN INCENTIVE ON AN INDIVIDUAL SATISFYING A STANDARD THAT IS RELATED TO A HEALTH FACTOR;~~

~~B. THE USE OF THE HEALTH FACTOR IS NOT OTHERWISE PROHIBITED BY LAW; AND~~

~~C. THE BONA FIDE WELLNESS PROGRAM MEETS THE REQUIREMENTS OF PARAGRAPH (3) OF THIS SUBSECTION~~ **IN ACCORDANCE WITH § 15–509 OF THIS ARTICLE**.

~~[~~(3) Any incentive offered for participation in a bona fide wellness program:

(i) shall be reasonably related to the bona fide wellness program; and

(ii) may not have a value that exceeds any limit established in regulations adopted by the Commissioner.]

~~(3) AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, A BONA FIDE WELLNESS PROGRAM MAY CONDITION AN INCENTIVE ON AN INDIVIDUAL SATISFYING A STANDARD THAT IS RELATED TO A HEALTH FACTOR IF:~~

~~(I) 1. ANY INCENTIVE FOR PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM, COUPLED WITH THE INCENTIVE FOR OTHER BONA FIDE WELLNESS PROGRAMS WITH RESPECT TO THE POLICY OR CONTRACT THAT REQUIRE SATISFACTION OF A STANDARD RELATED TO A HEALTH FACTOR, DOES NOT EXCEED 20% OF THE COST OF EMPLOYEE–ONLY COVERAGE UNDER THE PLAN; OR~~

~~2. WHEN THE PLAN PROVIDES COVERAGE FOR A SPOUSE OR DEPENDENT CHILDREN, THE INCENTIVE FOR PARTICIPATION IN THE BONA FIDE WELLNESS PROGRAM DOES NOT EXCEED 20% OF THE COST OF THE COVERAGE IN WHICH THE EMPLOYEE AND THE SPOUSE OR DEPENDENT CHILDREN ARE ENROLLED;~~

~~(II) THE BONA FIDE WELLNESS PROGRAM IS REASONABLY DESIGNED TO PROMOTE HEALTH OR PREVENT DISEASE, AS PROVIDED UNDER PARAGRAPH (4) OF THIS SUBSECTION;~~

~~(III) THE BONA FIDE WELLNESS PROGRAM GIVES INDIVIDUALS ELIGIBLE FOR THE BONA FIDE WELLNESS PROGRAM THE OPPORTUNITY TO QUALIFY FOR THE INCENTIVE UNDER THE BONA FIDE WELLNESS PROGRAM AT LEAST ONCE A YEAR;~~

~~(IV) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, THE BONA FIDE WELLNESS PROGRAM IS AVAILABLE TO ALL SIMILARLY SITUATED INDIVIDUALS; AND~~

~~(V) THE CARRIER DISCLOSES IN ALL POLICY OR CONTRACT MATERIALS DESCRIBING THE TERMS OF THE BONA FIDE WELLNESS PROGRAM THE AVAILABILITY OF A REASONABLE ALTERNATIVE STANDARD OR THE POSSIBILITY OF A WAIVER OF THE OTHERWISE APPLICABLE STANDARD, AS PROVIDED UNDER PARAGRAPHS (5) AND (6) OF THIS SUBSECTION.~~

~~(4) A BONA FIDE WELLNESS PROGRAM SHALL BE CONSTRUED TO BE REASONABLY DESIGNED TO PROMOTE HEALTH OR PREVENT DISEASE IF THE BONA FIDE WELLNESS PROGRAM:~~

~~(I) HAS A REASONABLE CHANCE OF IMPROVING THE HEALTH OF OR PREVENTING DISEASE IN PARTICIPATING INDIVIDUALS; AND~~

~~(II) 1. IS NOT OVERLY BURDENSOME;~~

~~2. IS NOT A SUBTERFUGE FOR DISCRIMINATING BASED ON A HEALTH FACTOR; AND~~

~~3. IS NOT HIGHLY SUSPECT IN THE METHOD CHOSEN TO PROMOTE HEALTH OR PREVENT DISEASE.~~

~~(5) (I) AN INCENTIVE MAY NOT BE CONSTRUED TO BE AVAILABLE TO ALL SIMILARLY SITUATED INDIVIDUALS FOR A PERIOD UNLESS THE BONA FIDE WELLNESS PROGRAM ALLOWS A REASONABLE ALTERNATIVE STANDARD, OR A WAIVER OF THE OTHERWISE APPLICABLE STANDARD, FOR OBTAINING THE INCENTIVE FOR ANY INDIVIDUAL FOR WHOM, FOR THAT PERIOD, IT IS:~~

~~1. UNREASONABLY DIFFICULT DUE TO A MEDICAL CONDITION TO SATISFY THE OTHERWISE APPLICABLE STANDARD; OR~~

~~2. MEDICALLY INADVISABLE TO ATTEMPT TO SATISFY THE OTHERWISE APPLICABLE STANDARD.~~

~~(II) A CARRIER MAY SEEK VERIFICATION, SUCH AS A STATEMENT FROM AN INDIVIDUAL'S HEALTH CARE PROVIDER, THAT A HEALTH FACTOR MAKES IT UNREASONABLY DIFFICULT OR MEDICALLY INADVISABLE FOR THE INDIVIDUAL TO SATISFY OR ATTEMPT TO SATISFY THE OTHERWISE APPLICABLE STANDARD.~~

~~(6) THE FOLLOWING LANGUAGE, OR SUBSTANTIALLY SIMILAR LANGUAGE, MAY BE USED TO SATISFY THE REQUIREMENTS OF PARAGRAPH (3)(V) OF THIS SUBSECTION:~~

~~"IF IT IS UNREASONABLY DIFFICULT DUE TO A MEDICAL CONDITION FOR YOU TO ACHIEVE THE STANDARDS FOR THE INCENTIVE UNDER THIS PROGRAM, OR IF IT IS MEDICALLY INADVISABLE FOR YOU TO ATTEMPT TO ACHIEVE THE STANDARDS FOR THE INCENTIVE UNDER THIS PROGRAM, CALL US AT (INSERT TELEPHONE NUMBER), AND WE WILL WORK WITH YOU TO DEVELOP ANOTHER WAY TO QUALIFY FOR THE INCENTIVE.".~~

~~[~~(4)~~]~~ ~~(7)~~ The Commissioner shall adopt regulations to implement the provisions of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 684

(House Bill 626)

AN ACT concerning

Criminal Law – Controlled Dangerous Substance – Manufacture

FOR the purpose of removing the prohibition on the manufacture of a controlled dangerous substance from the portion of the law that prohibits distributing and dispensing a controlled dangerous substance and placing it with the portion of the law that prohibits the manufacture, distribution, or possession of certain equipment used to produce controlled dangerous substances; establishing that a violation of the prohibition against manufacturing a controlled dangerous substance or manufacturing, distributing, or possessing a machine, equipment, instrument, implement, device, or a combination of them is an "underlying crime" for purposes of defining a criminal gang; and generally relating to controlled dangerous substances.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5–602, 5–603, and 9–801
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

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

Article – Criminal Law

5–602.

Except as otherwise provided in this title, a person may not:

(1) **[**manufacture, distribute,**]** **DISTRIBUTE** or dispense a controlled dangerous substance; or

(2) possess a controlled dangerous substance in sufficient quantity reasonably to indicate under all circumstances an intent to **[**manufacture, distribute,**]** **DISTRIBUTE** or dispense a controlled dangerous substance.

5–603.

Except as otherwise provided in this title, a person may not **MANUFACTURE A CONTROLLED DANGEROUS SUBSTANCE, OR** manufacture, distribute, or possess a machine, equipment, instrument, implement, device, or a combination of them that is adapted to produce a controlled dangerous substance under circumstances that reasonably indicate an intent to use it to produce, sell, or dispense a controlled dangerous substance in violation of this title.

9–801.

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

(b) "Coerce" means to compel or attempt to compel another by threat of harm or other adverse consequences.

(c) "Criminal gang" means a group or ongoing association of three or more persons whose members:

(1) individually or collectively engage in a pattern of criminal gang activity;

(2) have as one of their primary objectives or activities the commission of one or more underlying crimes, including acts by juveniles that would be underlying crimes if committed by adults; and

(3) have in common an identifying sign, symbol, name, leader, or purpose.

(d) "Pattern of criminal gang activity" means the commission of, attempted commission of, conspiracy to commit, or solicitation of two or more underlying crimes or acts by a juvenile that would be an underlying crime if committed by an adult, provided the crimes or acts were not part of the same incident.

(e) "Solicit" has the meaning stated in § 11–301 of this article.

(f) "Underlying crime" means:

(1) a crime of violence as defined under § 14–101 of this article;

(2) a felony violation of § 3–203, § 3–701, § 4–503, § 5–602, **§ 5–603,** § 6–103, § 6–109, § 6–202, § 6–203, § 6–204, § 7–104, § 7–105, § 9–302, § 9–303, or § 9–305 of this article; or

(3) a felony violation of § 5–133 of the Public Safety Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 685

(House Bill 631)

AN ACT concerning

~~Criminal Law – Assault on~~ Transportation – Interfering with Transit Operators and School ~~Employees~~ Bus Drivers – ~~Enhanced~~ Penalties

FOR the purpose of prohibiting a person from ~~intentionally causing or attempting to cause serious physical injury to a person operating a transit vehicle or to a school employee working in a public school; prohibiting a person from causing physical injury to another if the person knows or has reason to know that the person is operating a transit vehicle or is a school employee; providing certain penalties for violations of this Act; providing that a sentence shall only be imposed under this Act if there has been a certain increase in a certain offense under this Act; providing a method to track offense statistics for the purposes of imposing a penalty under this Act; requiring a penalty imposed under this Act to be in addition to any sentence imposed for a certain violation; prohibiting a court from suspending any part of the mandatory minimum sentence provided in this Act; providing that a person is not eligible for parole during the mandatory minimum sentence imposed by this Act; defining certain terms; and generally relating to assault on~~ obstructing, hindering, *or* interfering ~~with, or otherwise disrupting or disturbing~~ *with* school bus drivers or certain transit station agents, conductors, or station attendants while engaged in the performance of certain official duties; providing certain penalties for a violation of this Act; increasing a certain penalty for obstructing, hindering, *or* interfering ~~with, or otherwise disrupting or disturbing~~ *with* the operation or operator of a transit vehicle; defining a certain term; and generally relating to prohibitions against interfering with a transit operator or school ~~employee~~ bus driver.

BY adding to
Article – Education

Section 26–104
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – ~~Criminal Law~~ Transportation
Section ~~3–201, 3–202, and 3–203~~ 7–705
Annotated Code of Maryland
~~(2002 Volume and 2008 Supplement)~~ (2008 Replacement Volume)

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

~~**Article – Criminal Law**~~

~~3–201.~~

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

~~(b) "Assault" means the crimes of assault, battery, and assault and battery, which retain their judicially determined meanings.~~

~~(c) (1) "Law enforcement officer" has the meaning stated in § 3–101(e)(1) of the Public Safety Article without application of § 3–101(e)(2).~~

~~(2) "Law enforcement officer" includes:~~

~~(i) a correctional officer at a correctional facility; and~~

~~(ii) an officer employed by the WMATA Metro Transit Police, subject to the jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan Area Transit Authority Compact, which is codified in § 10–204 of the Transportation Article.~~

~~(d) "Serious physical injury" means physical injury that:~~

~~(1) creates a substantial risk of death; or~~

~~(2) causes permanent or protracted serious:~~

~~(i) disfigurement;~~

~~(ii) loss of the function of any bodily member or organ; or~~

~~(iii) impairment of the function of any bodily member or organ.~~

~~(E) "SCHOOL EMPLOYEE" MEANS AN EMPLOYEE OF A PUBLIC SCHOOL, AS DEFINED IN § 1–101 OF THE EDUCATION ARTICLE.~~

~~(F) "TRANSIT VEHICLE" HAS THE MEANING STATED IN § 7–101 OF THE TRANSPORTATION ARTICLE.~~

~~3–202.~~

~~(a) (1) A person may not intentionally cause or attempt to cause serious physical injury to another.~~

~~(2) A person may not commit an assault with a firearm, including:~~

~~(i) a handgun, antique firearm, rifle, shotgun, short–barreled shotgun, or short–barreled rifle, as those terms are defined in § 4–201 of this article;~~

~~(ii) an assault pistol, as defined in § 4–301 of this article;~~

~~(iii) a machine gun, as defined in § 4–401 of this article; and~~

~~(iv) a regulated firearm, as defined in § 5–101 of the Public Safety Article.~~

~~(3) A PERSON MAY NOT COMMIT A VIOLATION OF PARAGRAPH (1) OR (2) OF THIS SUBSECTION INVOLVING A VICTIM WHO:~~

~~(I) IS OPERATING A TRANSIT VEHICLE AT THE TIME OF THE VIOLATION; OR~~

~~(II) IS A SCHOOL EMPLOYEE, WORKING IN A PUBLIC SCHOOL AT THE TIME OF THE VIOLATION.~~

~~(b) [A] SUBJECT TO SUBSECTION (C) OF THIS SECTION, A person who violates this section is guilty of the felony of assault in the first degree and on conviction is subject to imprisonment not exceeding 25 years.~~

~~(C) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PERSON WHO IS CONVICTED OF A VIOLATION UNDER SUBSECTION (A)(3) OF THIS SECTION SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN 2 YEARS AND NOT EXCEEDING 4 YEARS AND IS SUBJECT TO A FINE NOT EXCEEDING $2,500.~~

~~(II) 1. A SENTENCE MAY ONLY BE IMPOSED UNDER THIS PARAGRAPH IF THERE HAS BEEN AN INCREASE IN THE STATE OVER THE PREVIOUS 2 YEARS IN THE NUMBER OF VIOLATIONS OF SUBSECTION (A)(3) OF~~

~~THIS SECTION AGAINST PERSONS IN THE CATEGORY OF WHICH THE VICTIM IS A MEMBER.~~

~~2. THE NUMBER OF ASSAULTS SHALL BE TRACKED USING:~~

~~A. FOR TRANSIT OPERATORS, THE MARYLAND TRANSIT ADMINISTRATION POLICE FORCE ASSAULT STATISTICS AND THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY "FIVE YEAR CRIME REPORT"; AND~~

~~B. FOR SCHOOL EMPLOYEES, THE MARYLAND STATE DEPARTMENT OF EDUCATION "SUSPENSIONS: MARYLAND PUBLIC SCHOOLS" STATISTICS ON SUSPENSIONS FOR A PHYSICAL ATTACK BY STUDENTS ON TEACHER/STAFF.~~

~~(2) A SENTENCE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONSECUTIVE TO AND NOT CONCURRENT WITH ANY SENTENCE IMPOSED UNDER SUBSECTION (B) OF THIS SECTION.~~

~~(3) NOTWITHSTANDING § 14–102 OF THIS ARTICLE, THE COURT MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 2 YEARS.~~

~~(4) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 2 YEARS.~~

~~(5) EXCEPT AS PROVIDED IN § 4–305 OF THE CORRECTIONAL SERVICES ARTICLE, A PERSON SENTENCED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 2 YEARS.~~

~~3–203.~~

~~(a) A person may not commit an assault.~~

~~(b) Except as provided in subsection (c) of this section, a person who violates subsection (a) of this section is guilty of the misdemeanor of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $2,500 or both.~~

~~(c) (1) In this subsection, "physical injury" means any impairment of physical condition, excluding minor injuries.~~

~~(2) A person may not intentionally cause physical injury to another if:~~

~~(I) the person knows or has reason to know that the other is a law enforcement officer engaged in the performance of the officer's official duties;~~

~~(II) THE OTHER IS OPERATING A TRANSIT VEHICLE; OR~~

~~(III) THE OTHER IS A SCHOOL EMPLOYEE, WORKING IN A PUBLIC SCHOOL AT THE TIME OF THE VIOLATION.~~

~~(3) [A] SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A person who violates paragraph (2) of this subsection is guilty of the felony of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $5,000 or both.~~

~~(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PERSON WHO IS CONVICTED OF A VIOLATION OF PARAGRAPH (2)(II) OR (III) OF THIS SUBSECTION SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN 1 YEAR AND NOT EXCEEDING 3 YEARS AND IS SUBJECT TO A FINE NOT EXCEEDING $2,500.~~

~~(II) 1. A SENTENCE MAY ONLY BE IMPOSED UNDER THIS PARAGRAPH IF THERE HAS BEEN AN INCREASE IN THE STATE OVER THE PREVIOUS 2 YEARS IN THE NUMBER OF VIOLATIONS OF PARAGRAPH (2)(II) OR (III) OF THIS SUBSECTION AGAINST PERSONS IN THE CATEGORY OF WHICH THE VICTIM IS A MEMBER.~~

~~2. THE NUMBER OF ASSAULTS SHALL BE TRACKED USING:~~

~~A. FOR TRANSIT OPERATORS, THE MARYLAND TRANSIT ADMINISTRATION POLICE FORCE ASSAULT STATISTICS AND THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY "FIVE YEAR CRIME REPORT"; AND~~

~~B. FOR SCHOOL EMPLOYEES, THE MARYLAND STATE DEPARTMENT OF EDUCATION "SUSPENSIONS: MARYLAND PUBLIC SCHOOLS" STATISTICS ON SUSPENSIONS FOR A PHYSICAL ATTACK BY STUDENTS ON TEACHER/STAFF.~~

~~(III) A SENTENCE IMPOSED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE CONSECUTIVE TO AND NOT CONCURRENT WITH ANY SENTENCE IMPOSED UNDER SUBSECTION (C)(3) OF THIS SECTION.~~

~~(IV) NOTWITHSTANDING § 14–102 OF THIS ARTICLE, THE COURT MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 1 YEAR.~~

~~(V) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 1 YEAR.~~

~~(VI) EXCEPT AS PROVIDED IN § 4–305 OF THE CORRECTIONAL SERVICES ARTICLE, A PERSON SENTENCED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 1 YEAR.~~

Article – Education

26–104.

(A) IN THIS SECTION, "SCHOOL BUS DRIVER" MEANS THE DRIVER OF A SCHOOL VEHICLE AS DEFINED IN § 11–154 OF THE TRANSPORTATION ARTICLE WHILE EMPLOYED BY OR UNDER CONTRACT WITH A LOCAL SCHOOL SYSTEM.

(B) A PERSON MAY NOT OBSTRUCT, HINDER, *OR* INTERFERE ~~WITH, OR OTHERWISE DISRUPT OR DISTURB~~ *WITH* A SCHOOL BUS DRIVER WHILE THE SCHOOL BUS DRIVER IS ENGAGED IN THE PERFORMANCE OF THE SCHOOL BUS DRIVER'S OFFICIAL DUTIES.

(C) ANY PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000, IMPRISONMENT NOT EXCEEDING ~~18 MONTHS~~ *90 DAYS*, OR BOTH.

Article – Transportation

7–705.

(a) It is unlawful for any person entering a transit facility or transit vehicle owned or controlled by the Administration for the purpose of obtaining transit service or a train owned or controlled by the Administration or operated by a railroad company under contract to the Administration to provide passenger railroad service to:

(1) Fail to pay the applicable fare charged by the Administration in the required manner; or

(2) Fail to:

(i) Pay the applicable fare;

(ii) Exhibit proof of payment; or

(iii) Provide truthful identification.

(b) It is unlawful for any person to engage in any of the following acts in any transit vehicle or transit facility, designed for the boarding of a transit vehicle, which is owned or controlled by the Administration or a train owned or controlled by the Administration or operated by a railroad company under contract to the Administration to provide passenger railroad service:

(1) Expectorate;

(2) Smoke or carry a lighted or smoldering pipe, cigar, or cigarette;

(3) Consume food or drink, or carry any open food or beverage container;

(4) Discard litter, except into receptacles designated for that purpose;

(5) Play or operate any radio, cassette, cartridge, tape player, or similar electronic device or musical instruments, unless such device is connected to an earphone that limits the sound to the hearing of the individual user;

(6) Carry or possess any explosives, acids, concealed weapons or other dangerous articles;

(7) Carry or possess any live animals, except seeing–eye animals and hearing–ear animals properly harnessed and accompanied by a blind person or a deaf person, and small animals properly packaged;

(8) **[**Obstruct, hinder, interfere with, or otherwise disrupt or disturb the operation or operator of a transit vehicle or railroad passenger car;

(9)**]** Board any transit vehicle through the rear exit door, unless so directed by an employee or agent of the Maryland Transit Administration;

[(10)**] (9)** Urinate or defecate, except in restrooms;

[(11)**] (10)** Fail to move to the rear of any transit vehicle when requested to do so by the operator or a police officer;

[(12)**] (11)** Fail to vacate a seat designated for the elderly or handicapped when requested to do so by the transit vehicle operator, train conductor, or a police officer; or

[(13)**] (12)** Except by contract with the Administration, solicit the purchase of any goods or services.

(c) As used in this section, "elderly and handicapped person" means any person who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable to use transit facilities and transit services or railroad facilities and railroad services as effectively as a person who is not so affected.

(d) The provisions of subsection (b)(3), (5), **[**(9)**] (8)**, and **[**(13)**] (12)** of this section do not apply to charter bus service rendered by the Administration. The provisions of subsection (b)(2) and **[**(13)**] (12)** of this section do not apply to excursion train service rendered by the Administration or by a railroad company under contract to the Administration. The provisions of subsection (b)(3) of this section do not apply to any railroad service rendered by the Administration or by a railroad company under contract to the Administration.

(e) **[**Any**] EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, ANY** person who violates any provision of this section is guilty of a misdemeanor and is subject to a fine of not more than $500 for each offense.

(F) (1) IT IS UNLAWFUL FOR ANY PERSON TO OBSTRUCT, HINDER, *OR* INTERFERE WITH~~, OR OTHERWISE DISRUPT OR DISTURB~~:

(I) THE OPERATION OR OPERATOR OF A TRANSIT VEHICLE OR RAILROAD PASSENGER CAR; OR

(II) A PERSON ENGAGED IN OFFICIAL DUTIES AS A STATION AGENT, CONDUCTOR, OR STATION ATTENDANT WHO IS EMPLOYED BY:

1. THE ADMINISTRATION;

2. AN ENTITY THAT PROVIDES TRANSIT SERVICE UNDER CONTRACT WITH THE ADMINISTRATION;

3. A LOCAL GOVERNMENT AGENCY OR PUBLIC TRANSIT AUTHORITY;

4. A PRIVATE ENTITY THAT PROVIDES PUBLIC TRANSIT SERVICE; OR

5. AN ENTITY THAT PROVIDES TRANSIT SERVICE UNDER A TRANSPORTATION COMPACT UNDER TITLE 10 OF THIS ARTICLE.

(2) ANY PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND IS SUBJECT TO A FINE OF NOT MORE THAN $1,000, IMPRISONMENT NOT EXCEEDING ~~18 MONTHS~~ *90 DAYS*, OR BOTH, FOR EACH OFFENSE.

[(f)**] (G)** This section does not prohibit enforcement of any other State or local law or regulation that is consistent with the provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 686

(House Bill 635)

AN ACT concerning

Criminal Procedure – Occupational Licenses or Certificates – ~~Issuance of a Certificate of Employability~~ Criminal Conviction

FOR the purpose of ~~requiring a certain parole and probation agent, at the request of a sentencing court, to provide a certain report on granting a certain certificate of employability to a certain offender;~~ establishing the policy of the State to encourage the employment of nonviolent ex–offenders and to ~~provide a process for ex–offenders~~ remove barriers to their ability to demonstrate fitness for occupational licenses or certificates required by the State; ~~requiring certain State departments, boards, and commissions that issue certain occupational licenses or certificates to follow certain procedures in deciding whether to issue a license or certificate to a certain applicant who presents a certain certificate of employability; providing that this Act does not apply to certain licenses; authorizing a circuit court, the District Court, or the Maryland Parole Commission, on the request of a certain offender, to issue a certain certificate to an offender convicted of a nonviolent offense; authorizing a court to issue a certain certificate or to order the Division of Parole and Probation to conduct an investigation and recommend whether the court should issue a certain certificate to an eligible offender; authorizing the Commission to issue a certain certificate if an offender is on parole or mandatory supervision or if the eligible offender was released without conditions or has satisfied certain conditions of release; authorizing the Commission, under certain circumstances, to issue a certain certificate of employability to an offender who is under the supervision of the Commission through the authority of the Interstate Compact on Adult~~

~~Offender Supervision; establishing certain requirements for a court or the Commission to consider in issuing a certain certificate; authorizing a court or the Commission to limit the scope of a certain certificate; authorizing a court to issue a new certificate expanding the scope of a certain certificate; authorizing a court or the Commission to revoke the certificate under certain conditions; requiring an offender to surrender a revoked certificate on written notification by the issuing court or the Commission; establishing that a certain certificate is a temporary certificate until a certain offender is discharged from parole or mandatory supervision; authorizing the Commission to revoke a temporary certificate for certain violations after providing certain notice and after holding a certain hearing on the violation; requiring the Commission to issue a permanent certificate on discharge of the eligible offender from parole or mandatory supervision under certain conditions; establishing the offense of the knowing use of a revoked certificate; establishing certain penalties; requiring certain State departments, boards, and commissions to follow, notwithstanding any other provision of law, certain procedures in the consideration of an application for an occupational license or certificate of an applicant who has been convicted of a felony or misdemeanor under federal or State law; prohibiting a department, board, or commission from denying an occupational license or certificate to a certain applicant who has a certain certificate of employability, with certain exceptions; authorizing a department, board, or commission to deny an occupational license or certificate to an applicant with a certain certificate under certain circumstances; requiring a department, board, or commission to consider certain factors in making a certain determination; requiring a department, board, or commission to follow certain procedures to give an applicant notice and an opportunity to be heard before the department, board, or commission denies a certain applicant an occupational license or certificate under certain circumstances;~~ prohibiting certain departments of State government from denying an occupational license or certificate to a certain applicant solely on the basis that the applicant has previously been convicted of a crime, with certain exceptions; requiring certain departments to consider certain factors when making a certain determination; providing that this Act does not apply to certain persons; defining a certain ~~terms~~ term; and generally relating to occupational licenses or certificates ~~and the issuance of a certificate of employability~~.

~~BY repealing and reenacting, with amendments,~~
~~Article – Correctional Services~~
~~Section 6–112(a)(1)~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, without amendments,~~
~~Article – Criminal Law~~
~~Section 14–101(a)~~
~~Annotated Code of Maryland~~
~~(2002 Volume and 2008 Supplement)~~

BY adding to
Article – Criminal Procedure
Section ~~6–301 through 6–307 to be under the new subtitle "Subtitle 3. Certificate of Employability"~~ 1–209
Annotated Code of Maryland
(2008 Replacement Volume)

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

~~**Article – Correctional Services**~~

~~6–112.~~

~~(a) (1) On request of a court, a parole and probation agent of the Division shall:~~

~~(i) provide the court with a presentence investigation report **THAT MAY INCLUDE A REPORT ON GRANTING THE DEFENDANT A CERTIFICATE OF EMPLOYABILITY IN ACCORDANCE WITH TITLE 6, SUBTITLE 3 OF THE CRIMINAL PROCEDURE ARTICLE**;~~

~~(ii) conduct other investigations; and~~

~~(iii) perform other probationary services.~~

~~**Article – Criminal Law**~~

~~14–101.~~

~~(a) In this section, "crime of violence" means:~~

~~(1) abduction;~~

~~(2) arson in the first degree;~~

~~(3) kidnapping;~~

~~(4) manslaughter, except involuntary manslaughter;~~

~~(5) mayhem;~~

~~(6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;~~

~~(7) murder;~~

~~(8) rape;~~

~~(9) robbery under § 3–402 or § 3–403 of this article;~~

~~(10) carjacking;~~

~~(11) armed carjacking;~~

~~(12) sexual offense in the first degree;~~

~~(13) sexual offense in the second degree;~~

~~(14) use of a handgun in the commission of a felony or other crime of violence;~~

~~(15) child abuse in the first degree under § 3–601 of this article;~~

~~(16) sexual abuse of a minor under § 3–602 of this article if:~~

~~(i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and~~

~~(ii) the offense involved:~~

~~1. vaginal intercourse, as defined in § 3–301 of this article;~~

~~2. a sexual act, as defined in § 3–301 of this article;~~

~~3. an act in which a part of the offender's body penetrates, however slightly, into the victim's genital opening or anus; or~~

~~4. the intentional touching, not through the clothing, of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;~~

~~(17) an attempt to commit any of the crimes described in items (1) through (16) of this subsection;~~

~~(18) continuing course of conduct with a child under § 3–315 of this article;~~

~~(19) assault in the first degree;~~

~~(20) assault with intent to murder;~~

~~(21) assault with intent to rape;~~

~~(22) assault with intent to rob;~~

~~(23) assault with intent to commit a sexual offense in the first degree; and~~

~~(24) assault with intent to commit a sexual offense in the second degree.~~

Article – Criminal Procedure

~~**SUBTITLE 3. CERTIFICATE OF EMPLOYABILITY.**~~

~~**6–301.**~~ **1–209.**

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

~~**(B) "COMMISSION" MEANS THE MARYLAND PAROLE COMMISSION.**~~

~~**(C) "CRIME OF VIOLENCE" HAS THE MEANING STATED IN § 14–101 OF THE CRIMINAL LAW ARTICLE.**~~

~~**(D) (1) "DEPARTMENT" MEANS:**~~

(A) (1) IN THIS SECTION, "DEPARTMENT" MEANS:

(I) THE DEPARTMENT OF AGRICULTURE;

(II) THE DEPARTMENT OF THE ENVIRONMENT;

(III) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

(IV) THE DEPARTMENT OF HUMAN RESOURCES;

(V) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION; OR

(VI) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES~~; OR~~

~~**(VII) THE DEPARTMENT OF STATE POLICE.**~~

(2) "DEPARTMENT" INCLUDES ANY UNIT OF A DEPARTMENT SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION.

~~(E) "ELIGIBLE OFFENDER" MEANS A PERSON WHO HAS BEEN CONVICTED OF A CRIME THAT IS NOT A CRIME OF VIOLENCE.~~

~~(F) "EMPLOYABILITY" MEANS THE PERMANENT OR PROVISIONAL REMOVAL OF A BAR TO LICENSURE OR CERTIFICATION FOR AN OCCUPATION REQUIRING A LICENSE OR CERTIFICATE ISSUED BY A DEPARTMENT, BOARD, OR COMMISSION.~~

~~6–302.~~

(B) THIS SECTION DOES NOT APPLY TO A PERSON WHO WAS PREVIOUSLY CONVICTED OF A CRIME OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE.

(C) IT IS THE POLICY OF THE STATE TO ENCOURAGE THE EMPLOYMENT OF NONVIOLENT EX–OFFENDERS AND~~, TOWARD THAT END, TO PROVIDE A PROCESS THROUGH WHICH NONVIOLENT EX–OFFENDERS MAY~~ REMOVE BARRIERS TO THEIR ABILITY TO DEMONSTRATE FITNESS FOR OCCUPATIONAL LICENSES OR CERTIFICATIONS REQUIRED BY THE STATE.

~~6–303.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SUBTITLE APPLIES TO AN APPLICATION FOR A LICENSE OR CERTIFICATE TO PRACTICE AN OCCUPATION OR PROFESSION THAT IS ISSUED BY A DEPARTMENT, BOARD, OR COMMISSION.~~

~~(2) THIS SUBTITLE DOES NOT APPLY TO AN APPLICATION FOR A LICENSE ISSUED UNDER TITLE 11, SUBTITLE 5 OR SUBTITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE.~~

~~(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF AN APPLICANT FOR A LICENSE OR CERTIFICATE PRESENTS TO A DEPARTMENT, BOARD, OR COMMISSION A CERTIFICATE OF EMPLOYABILITY, THE DEPARTMENT, BOARD, OR COMMISSION SHALL FOLLOW THE PROCEDURES SET FORTH IN § 6–307 OF THIS SUBTITLE IN DECIDING WHETHER TO GRANT THE LICENSE OR CERTIFICATE TO THE APPLICANT.~~

~~6–304.~~

~~(A) (1) ON REQUEST OF AN ELIGIBLE OFFENDER AND SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CERTIFICATE OF EMPLOYABILITY MAY BE ISSUED TO THE ELIGIBLE OFFENDER BY:~~

~~(I) A CIRCUIT COURT OR THE DISTRICT COURT; OR~~

~~(II) THE COMMISSION.~~

~~(2) (I) THE COURT MAY ISSUE THE CERTIFICATE OF EMPLOYABILITY TO AN ELIGIBLE OFFENDER:~~

~~1. AT THE TIME SENTENCE IS PRONOUNCED;~~

~~2. AT THE TIME OF THE REVIEW OF A SENTENCE; OR~~

~~3. AT ANY TIME AFTER AN EVENT SPECIFIED IN ITEM 1 OR 2 OF THIS PARAGRAPH.~~

~~(II) A COURT MAY ORDER THE DIVISION OF PAROLE AND PROBATION TO CONDUCT AN INVESTIGATION OF AN ELIGIBLE OFFENDER IN ACCORDANCE WITH § 6–112 OF THE CORRECTIONAL SERVICES ARTICLE AND RECOMMEND, BASED ON THE RESULTS OF THE INVESTIGATION, WHETHER A CERTIFICATE OF EMPLOYABILITY SHOULD BE ISSUED.~~

~~(3) SUBJECT TO § 6–305 OF THIS SUBTITLE, THE COMMISSION MAY ISSUE A CERTIFICATE OF EMPLOYABILITY TO AN ELIGIBLE OFFENDER:~~

~~(I) WHO HAS BEEN COMMITTED TO THE JURISDICTION OF THE DIVISION OF CORRECTION AT THE TIME THE ELIGIBLE OFFENDER IS RELEASED FROM A CORRECTIONAL INSTITUTION UNDER CONDITIONS OF:~~

~~1. PAROLE; OR~~

~~2. MANDATORY SUPERVISED RELEASE;~~

~~(II) WHO IS RELEASED WITHOUT CONDITIONS OR WHOSE CONDITIONS OF RELEASE HAVE BEEN SATISFIED; OR~~

~~(III) WHOSE JUDGMENT OF CONVICTION WAS RENDERED BY A COURT OF ANOTHER JURISDICTION BUT WHO NOW RESIDES IN THIS STATE UNDER THE SUPERVISION OF THE COMMISSION IN ACCORDANCE WITH TITLE 6, SUBTITLE 2 OF THE CORRECTIONAL SERVICES ARTICLE.~~

~~(B) A COURT OR THE COMMISSION MAY NOT ISSUE A CERTIFICATE OF EMPLOYABILITY UNLESS IT IS SATISFIED THAT:~~

~~(1) THE PERSON REQUESTING THE CERTIFICATE IS AN ELIGIBLE OFFENDER AND HAS NOT BEEN CONVICTED OF A CRIME OF VIOLENCE; AND~~

~~(2) THE RELIEF GRANTED BY THE CERTIFICATE IS CONSISTENT WITH:~~

~~(I) THE REHABILITATION OF THE ELIGIBLE OFFENDER; AND~~

~~(II) THE PUBLIC INTEREST.~~

~~(C) (1) A COURT OR THE COMMISSION MAY LIMIT THE SCOPE OF APPLICABILITY OF A CERTIFICATE OF EMPLOYABILITY TO ONE OR MORE OCCUPATIONS OR MAY RELIEVE AN ELIGIBLE OFFENDER OF ALL BARS TO OCCUPATIONAL LICENSES OR CERTIFICATES.~~

~~(2) AT ANY TIME, THE COURT OR THE COMMISSION THAT HAS ISSUED A CERTIFICATE OF EMPLOYABILITY, ON REQUEST OF AN ELIGIBLE OFFENDER, MAY ISSUE A NEW CERTIFICATE TO EXPAND THE SCOPE OF THE RELIEF PREVIOUSLY GRANTED IF THE COURT OR THE COMMISSION IS SATISFIED THAT THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION HAVE BEEN MET.~~

~~(D) (1) A COURT OR THE COMMISSION MAY REVOKE A PREVIOUSLY ISSUED CERTIFICATE OF EMPLOYABILITY AND SHALL NOTIFY AN ELIGIBLE OFFENDER IN WRITING OF THE REVOCATION IF:~~

~~(I) THE ELIGIBLE OFFENDER COMMITS A CRIME OF VIOLENCE; OR~~

~~(II) THE COURT OR THE COMMISSION NO LONGER IS SATISFIED THAT THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION ARE BEING MET.~~

~~(2) ON WRITTEN NOTIFICATION OF THE REVOCATION OF A CERTIFICATE OF EMPLOYABILITY, THE ELIGIBLE OFFENDER SHALL SURRENDER THE CERTIFICATE TO THE COURT OR THE COMMISSION.~~

~~6–305.~~

~~(A) IF THE COMMISSION ISSUES A CERTIFICATE OF EMPLOYABILITY TO AN ELIGIBLE OFFENDER IN ACCORDANCE WITH § 6–304 OF THIS SUBTITLE, THE CERTIFICATE OF EMPLOYABILITY:~~

~~(1) IS A TEMPORARY CERTIFICATE UNTIL THE COMMISSION DISCHARGES THE ELIGIBLE OFFENDER FROM PAROLE OR MANDATORY SUPERVISION; AND~~

~~(2) MAY BE REVOKED BY THE COMMISSION FOR VIOLATIONS OF THE CONDITIONS OF PAROLE OR MANDATORY SUPERVISION IF, AFTER GIVING THE ELIGIBLE OFFENDER NOTICE OF THE HEARING, A HEARING EXAMINER CONDUCTS A HEARING AT WHICH THE ELIGIBLE OFFENDER IS GIVEN AN OPPORTUNITY TO EXPLAIN THE VIOLATION.~~

~~(B) IF THE COMMISSION DOES NOT REVOKE THE CERTIFICATE OF EMPLOYABILITY UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSION SHALL REISSUE THE CERTIFICATE AS A PERMANENT CERTIFICATE ON DISCHARGE OF THE ELIGIBLE OFFENDER FROM PAROLE OR MANDATORY SUPERVISION.~~

~~6–306.~~

~~AN ELIGIBLE OFFENDER WHO KNOWINGLY USES OR ATTEMPTS TO USE A REVOKED CERTIFICATE OF EMPLOYABILITY IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING $500 OR BOTH.~~

~~6–307.~~

~~(A) THIS SECTION APPLIES ONLY TO THE AUTHORITY OF A DEPARTMENT, BOARD, OR COMMISSION TO DENY A LICENSE OR CERTIFICATE TO AN APPLICANT BECAUSE OF A CONVICTION OF A FELONY OR MISDEMEANOR UNDER FEDERAL OR STATE LAW.~~

~~(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A DEPARTMENT, BOARD, OR COMMISSION MAY NOT DENY AN OCCUPATIONAL LICENSE OR CERTIFICATE TO AN ELIGIBLE OFFENDER WHO PRESENTS TO THE DEPARTMENT, BOARD, OR COMMISSION A CERTIFICATE OF EMPLOYABILITY ISSUED TO THE ELIGIBLE OFFENDER UNDER THIS SUBTITLE UNLESS THE DEPARTMENT, BOARD, OR COMMISSION DETERMINES THAT:~~

(D) A DEPARTMENT MAY NOT DENY AN OCCUPATIONAL LICENSE OR CERTIFICATE TO AN APPLICANT SOLELY ON THE BASIS THAT THE APPLICANT

HAS PREVIOUSLY BEEN CONVICTED OF A CRIME, UNLESS THE DEPARTMENT DETERMINES THAT:

(1) THERE IS A DIRECT RELATIONSHIP BETWEEN ~~ONE OR MORE OF~~ THE ~~ELIGIBLE OFFENDER'S~~ APPLICANT'S PREVIOUS ~~CONVICTIONS~~ CONVICTION AND THE SPECIFIC OCCUPATIONAL LICENSE OR CERTIFICATE SOUGHT; OR

(2) THE ISSUANCE OF THE LICENSE OR CERTIFICATE WOULD INVOLVE AN UNREASONABLE RISK TO PROPERTY OR TO THE SAFETY OR WELFARE OF SPECIFIC INDIVIDUALS OR THE GENERAL PUBLIC.

~~(C)~~ (E) IN MAKING THE DETERMINATION UNDER SUBSECTION ~~(B)~~ (D) OF THIS SECTION, THE DEPARTMENT~~, BOARD, OR COMMISSION~~ SHALL CONSIDER:

(1) THE POLICY OF THE STATE EXPRESSED IN ~~§ 6-302~~ SUBSECTION (C) OF THIS ~~SUBTITLE~~ SECTION;

(2) THE SPECIFIC DUTIES AND RESPONSIBILITIES REQUIRED OF A LICENSEE OR CERTIFICATE HOLDER;

(3) WHETHER THE ~~ELIGIBLE OFFENDER'S~~ APPLICANT'S PREVIOUS ~~CONVICTIONS HAVE~~ CONVICTION HAS ANY IMPACT ON THE ~~ELIGIBLE OFFENDER'S~~ APPLICANT'S FITNESS OR ABILITY TO PERFORM THE DUTIES AND RESPONSIBILITIES AUTHORIZED BY THE LICENSE OR CERTIFICATE;

(4) THE AGE OF THE ~~ELIGIBLE OFFENDER~~ APPLICANT AT THE TIME OF THE ~~LAST~~ CONVICTION AND THE AMOUNT OF TIME THAT HAS ELAPSED SINCE THE ~~LAST~~ CONVICTION;

(5) THE SERIOUSNESS OF ~~ANY PREVIOUS OFFENSES~~ THE OFFENSE FOR WHICH THE ~~ELIGIBLE OFFENDER~~ APPLICANT WAS CONVICTED;

~~(6) THE CIRCUMSTANCES AND FACTORS CONSIDERED CONCERNING THE ISSUANCE OF THE CERTIFICATE OF EMPLOYABILITY BY A COURT OR THE COMMISSION;~~

~~(7)~~ (6) OTHER INFORMATION PROVIDED BY THE ~~ELIGIBLE OFFENDER~~ APPLICANT OR ON THE ~~ELIGIBLE OFFENDER'S~~ APPLICANT'S BEHALF WITH REGARD TO THE ~~ELIGIBLE OFFENDER'S~~ APPLICANT'S REHABILITATION AND GOOD CONDUCT; AND

~~(8)~~ (7) THE LEGITIMATE INTEREST OF THE DEPARTMENT~~, BOARD, OR~~ ~~COMMISSION~~ IN PROTECTING PROPERTY AND THE SAFETY AND WELFARE OF SPECIFIC INDIVIDUALS OR THE GENERAL PUBLIC.

~~**(D) IN ACCORDANCE WITH ITS PROCEDURES, A DEPARTMENT, BOARD, OR COMMISSION SHALL PROVIDE TO AN ELIGIBLE OFFENDER REASONABLE NOTICE AND AN OPPORTUNITY FOR A HEARING BEFORE AN APPLICATION FOR AN OCCUPATIONAL LICENSE OR CERTIFICATE IS DENIED UNDER THIS SECTION.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 687

(House Bill 644)

AN ACT concerning

Procurement – Apprenticeship Training Programs

FOR the purpose of establishing a State Apprenticeship Training Fund in the Department of Labor, Licensing, and Regulation; requiring certain payments and certain penalties to be deposited in the Fund; providing for the administration of the Fund; requiring the Secretary of Labor, Licensing, and Regulation to use money in the Fund for a certain purpose; requiring certain contractors and subcontractors to provide certain written verification to a certain unit in accordance with certain requirements under certain circumstances; *requiring organizations that have registered apprenticeship programs and receive certain funds to certify to the Secretary that the funds are used solely for the purpose of improving or expanding apprenticeship training in the State; requiring the Secretary to adopt regulations that establish a process for auditing organizations that have registered apprenticeship programs to ensure that certain funds received are used solely to improve and expand apprenticeship programs in the State;* requiring certain contractors and subcontractors to make certain payments in a certain manner under certain circumstances; requiring certain contractors and subcontractors to make certain payments to certain employees in wages; specifying that payments made by certain contractors and subcontractors fulfill certain obligations under certain provisions of law; specifying that certain payments made by certain contractors and subcontractors are permissible deductions under certain provisions of law; requiring a contractor to report certain payments on certain records; authorizing a contractor or subcontractor to make a certain request; requiring

the Secretary to make a good–faith effort to accommodate a certain request; establishing certain penalties for certain violations; requiring the Secretary to adopt certain regulations; authorizing the Secretary to file a lawsuit under certain circumstances; requiring a court to require a contractor or subcontractor to pay certain penalties and costs under certain circumstances; defining certain terms; and generally relating to apprenticeship training programs.

BY adding to
Article – State Finance and Procurement
Section 17–601 through 17–606 to be under the new subtitle "Subtitle 6. Apprenticeship Requirements for Public Works Contracts"
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

SUBTITLE 6. APPRENTICESHIP REQUIREMENTS FOR PUBLIC WORKS CONTRACTS.

17–601.

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

(B) "APPRENTICESHIP TRAINING PROGRAM" MEANS AN APPRENTICESHIP TRAINING PROGRAM THAT IS REGISTERED WITH, AND APPROVED BY, THE APPRENTICESHIP AND TRAINING COUNCIL OR THE U.S. DEPARTMENT OF LABOR.

(C) "COVERED CRAFT" MEANS A CLASSIFICATION OF WORKERS LISTED IN THE PREVAILING WAGE DETERMINATION APPLICABLE TO THE COVERED PROJECT.

(D) "COVERED PROJECT" MEANS A PROJECT FOR THE CONSTRUCTION OF A PUBLIC WORK, AS DEFINED UNDER § 17–201 OF THIS TITLE, THAT IS VALUED AT $500,000 OR MORE.

(E) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

(F) "FUND" MEANS THE STATE APPRENTICESHIP TRAINING FUND ESTABLISHED UNDER § 17–602 OF THIS SUBTITLE.

(G) "PARTICIPATES IN AN APPRENTICESHIP TRAINING PROGRAM" MEANS THAT A CONTRACTOR OR SUBCONTRACTOR MAKES REGULAR FINANCIAL CONTRIBUTIONS FOR EACH COVERED CRAFT TO APPRENTICESHIP TRAINING PROGRAMS FOR COVERED CRAFTS DURING THE TERM OF THE COVERED PROJECT THAT ARE AT LEAST EQUAL TO THE HOURLY FRINGE BENEFIT CONTRIBUTION RATES REQUIRED FOR APPRENTICESHIP TRAINING BY THE APPLICABLE PREVAILING WAGE DETERMINATION FOR THE PROJECT, AS SPECIFIED BY THE SECRETARY.

(H) "SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND REGULATION.

17–602.

(A) THERE IS A STATE APPRENTICESHIP TRAINING FUND IN THE DEPARTMENT.

(B) THE FUND CONSISTS OF:

(1) PAYMENTS MADE BY CONTRACTORS OR SUBCONTRACTORS IN ACCORDANCE WITH THIS SUBTITLE; AND

(2) PENALTIES COLLECTED AS A RESULT OF VIOLATIONS OF THIS SUBTITLE.

(C) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THIS ARTICLE.

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

(E) THE SECRETARY SHALL USE MONEY IN THE FUND TO:

(1) PROMOTE PREAPPRENTICESHIP PROGRAMS AND OTHER WORKFORCE DEVELOPMENT PROGRAMS IN THE STATE'S PUBLIC SECONDARY SCHOOLS AND COMMUNITY COLLEGES THAT ASSIST STUDENTS IN PREPARING FOR AND ENTERING APPRENTICESHIP TRAINING PROGRAMS; AND

(2) PAY ANY COSTS ASSOCIATED WITH CARRYING OUT THE PROVISIONS OF THIS SUBTITLE.

17–603.

(A) A CONTRACTOR THAT IS AWARDED A PROCUREMENT CONTRACT FOR A COVERED PROJECT SHALL PROVIDE TO A UNIT, AS A CONDITION OF RECEIVING THE CONTRACT, WRITTEN VERIFICATION THAT:

(1) THE CONTRACTOR PARTICIPATES IN AN APPRENTICESHIP TRAINING PROGRAM *FOR EACH COVERED CRAFT* ~~FOR EACH COVERED CRAFT~~ IN WHICH IT WILL EMPLOY PERSONS FOR THE COVERED PROJECT; ~~OR~~

(2) THE CONTRACTOR WILL MAKE PAYMENTS TO THE FUND; OR

(3) THE CONTRACTOR WILL MAKE PAYMENTS *IN AMOUNTS DETERMINED UNDER § 17–605 OF THIS SUBTITLE* TO A REGISTERED APPRENTICESHIP PROGRAM OR TO AN ORGANIZATION THAT HAS REGISTERED APPRENTICESHIP PROGRAMS *FOR THE PURPOSE OF SUPPORTING THESE PROGRAMS*.

(B) THE WRITTEN VERIFICATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE PROVIDED BY A CONTRACTOR TO THE UNIT RESPONSIBLE FOR THE PROJECT BEFORE THE CONTRACTOR COMMENCES PERFORMANCE UNDER THE PROCUREMENT CONTRACT.

(C) ORGANIZATIONS THAT HAVE REGISTERED APPRENTICESHIP PROGRAMS AND RECEIVE FUNDS FROM CONTRACTORS UNDER SUBSECTION (A)(3) OF THIS SECTION SHALL CERTIFY TO THE SECRETARY THAT ALL FUNDS RECEIVED ARE USED SOLELY FOR THE PURPOSE OF IMPROVING OR EXPANDING APPRENTICESHIP TRAINING IN THE STATE.

(D) THE SECRETARY SHALL ADOPT REGULATIONS TO ESTABLISH A PROCESS FOR AUDITING ORGANIZATIONS THAT PROVIDE REGISTERED APPRENTICESHIP PROGRAMS TO ENSURE THAT ALL FUNDS RECEIVED UNDER SUBSECTION (A)(3) OF THIS SECTION ARE USED SOLELY TO IMPROVE AND EXPAND APPRENTICESHIP PROGRAMS IN THE STATE.

17–604.

(A) A SUBCONTRACTOR THAT PERFORMS WORK VALUED AT $100,000 OR MORE FOR A COVERED PROJECT SHALL PROVIDE TO A UNIT WRITTEN VERIFICATION THAT:

(1) THE SUBCONTRACTOR PARTICIPATES IN AN APPRENTICESHIP TRAINING PROGRAM *FOR EACH COVERED CRAFT* ~~FOR EACH COVERED CRAFT~~ IN WHICH IT WILL EMPLOY PERSONS FOR THE COVERED PROJECT; ~~OR~~

(2) THE SUBCONTRACTOR WILL MAKE PAYMENTS TO THE FUND; OR

(3) THE SUBCONTRACTOR WILL MAKE PAYMENTS *IN AMOUNTS DETERMINED UNDER § 17–605 OF THIS SUBTITLE* TO A REGISTERED APPRENTICESHIP PROGRAM OR TO AN ORGANIZATION THAT HAS REGISTERED APPRENTICESHIP PROGRAMS *FOR THE PURPOSE OF SUPPORTING THESE PROGRAMS*.

(B) THE WRITTEN VERIFICATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE PROVIDED BY A SUBCONTRACTOR TO THE UNIT RESPONSIBLE FOR THE PROJECT BEFORE THE SUBCONTRACTOR COMMENCES PERFORMANCE UNDER THE PROCUREMENT CONTRACT.

(C) ORGANIZATIONS THAT HAVE REGISTERED APPRENTICESHIP PROGRAMS AND RECEIVE FUNDS FROM CONTRACTORS UNDER SUBSECTION (A)(3) OF THIS SECTION SHALL CERTIFY TO THE SECRETARY THAT ALL FUNDS RECEIVED ARE USED SOLELY FOR THE PURPOSE OF IMPROVING OR EXPANDING APPRENTICESHIP TRAINING IN THE STATE.

(D) THE SECRETARY SHALL ADOPT REGULATIONS TO ESTABLISH A PROCESS FOR AUDITING ORGANIZATIONS THAT PROVIDE REGISTERED APPRENTICESHIP PROGRAMS TO ENSURE THAT ALL FUNDS RECEIVED UNDER SUBSECTION (A)(3) OF THIS SECTION ARE USED SOLELY TO IMPROVE AND EXPAND APPRENTICESHIP PROGRAMS IN THE STATE.

17–605.

(A) (1) A CONTRACTOR OR SUBCONTRACTOR THAT ELECTS TO MAKE PAYMENTS TO THE FUND IN ACCORDANCE WITH THIS SUBTITLE SHALL MAKE PAYMENTS ~~THAT ARE EQUAL TO THE FRINGE BENEFIT CONTRIBUTION AMOUNT REQUIRED FOR APPRENTICESHIP TRAINING FOR THE COVERED CRAFT BY THE APPLICABLE PREVAILING WAGE DETERMINATION FOR THE PROJECT, AS SPECIFIED BY THE SECRETARY~~, AS DETERMINED BY THE SECRETARY, NOT TO EXCEED 25 CENTS PER HOUR FOR EACH EMPLOYEE IN EACH COVERED CRAFT WHO IS EMPLOYED BY THE CONTRACTOR OR SUBCONTRACTOR ON THE COVERED PROJECT.

(2) IF THE PREVAILING WAGE DETERMINATION FOR A COVERED CRAFT INCLUDES A FRINGE BENEFIT CONTRIBUTION FOR APPRENTICESHIP PROGRAMS THAT EXCEEDS 25 CENTS, THE CONTRACTOR OR SUBCONTRACTOR SHALL PAY THE DIFFERENCE TO THE EMPLOYEES IN THE COVERED CRAFT IN WAGES.

(3) PAYMENTS MADE UNDER THIS SECTION FULFILL ANY OBLIGATIONS OF THE CONTRACTOR OR SUBCONTRACTOR REGARDING CONTRIBUTIONS FOR APPRENTICESHIP PROGRAMS INCLUDED IN THE PREVAILING WAGE DETERMINATION UNDER § 17–208 OF THIS TITLE.

(4) PAYMENTS MADE UNDER PARAGRAPH (1) OF THIS SECTION ARE PERMISSIBLE DEDUCTIONS UNDER § 17–215(B) OF THIS TITLE.

~~(2)~~ (5) PAYMENTS MADE TO THE FUND IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE ON A MONTHLY BASIS.

(B) (1) IF THE SECRETARY DETERMINES THAT A CONTRACTOR OR SUBCONTRACTOR FOR A COVERED PROJECT HAS MADE CONTRIBUTIONS TO AN APPRENTICESHIP TRAINING PROGRAM AT RATES LOWER THAN THOSE REQUIRED BY THIS SUBTITLE, THE CONTRACTOR OR SUBCONTRACTOR SHALL MAKE PAYMENTS TO THE FUND FOR THE DIFFERENCE BETWEEN ITS CONTRIBUTION AND THE CONTRIBUTION RATE REQUIRED BY THIS SUBTITLE.

(2) PAYMENTS MADE TO THE FUND IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE ON A MONTHLY BASIS.

(C) A CONTRACTOR SHALL REPORT ALL APPRENTICESHIP PAYMENTS MADE UNDER THIS SUBTITLE ON PREVAILING WAGE PAYROLL RECORDS REQUIRED BY § 17–220 OF THIS TITLE.

(D) (1) A CONTRACTOR OR SUBCONTRACTOR THAT MAKES CONTRIBUTIONS TO THE FUND, *REGISTERED APPRENTICESHIP PROGRAM, OR AN ORGANIZATION THAT HAS REGISTERED APPRENTICESHIP PROGRAMS* MAY REQUEST THAT ITS CONTRIBUTIONS BE DIRECTED TO A SPECIFIC PREAPPRENTICESHIP OR WORKFORCE DEVELOPMENT PROGRAM.

(2) THE SECRETARY SHALL MAKE A GOOD–FAITH EFFORT TO ACCOMMODATE REQUESTS RECEIVED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

17–606.

(A) A CONTRACTOR OR SUBCONTRACTOR THAT FAILS TO MEET THE REQUIREMENTS OF THIS SUBTITLE SHALL BE LIABLE FOR AN AMOUNT EQUAL TO TWICE THE AMOUNT OF UNPAID APPRENTICESHIP TRAINING CONTRIBUTIONS REQUIRED BY THIS SUBTITLE.

(B) (1) IN THIS SUBSECTION, "WILLFULLY" MEANS REPRESENTATIONS OR OMISSIONS KNOWN TO BE FALSE OR MADE WITH

DELIBERATE IGNORANCE OR RECKLESS DISREGARD FOR THEIR TRUTH OR FALSITY.

(2) ANY PERSON, FIRM, OR CORPORATION THAT IS FOUND TO HAVE MADE WILLFULLY A FALSE OR FRAUDULENT REPRESENTATION OR OMISSION REGARDING A MATERIAL FACT IN CONNECTION WITH PREVAILING WAGE RECORDS REQUIRED BY THIS SECTION SHALL BE LIABLE FOR A CIVIL PENALTY IN AN AMOUNT OF UP TO $1,000 FOR EACH EMPLOYEE AND EACH FALSIFIED RECORD.

(3) PENALTIES SHALL BE RECOVERABLE IN CIVIL ACTIONS AND PAID TO THE STATE.

(C) (1) THE SECRETARY SHALL ADOPT REGULATIONS TO ESTABLISH ADMINISTRATIVE PROCEDURES FOR THE COLLECTION OF PAYMENTS UNDER THIS SUBTITLE.

(2) (I) THE SECRETARY MAY FILE SUIT TO ENFORCE THIS SECTION IN ANY COURT OF COMPETENT JURISDICTION.

(II) IN AN ACTION FILED UNDER THIS SUBSECTION, THE COURT SHALL REQUIRE THE CONTRACTOR OR SUBCONTRACTOR TO PAY THE AMOUNT REQUIRED BY SUBSECTION (A) OF THIS SECTION, INCLUDING INTEREST, REASONABLE COUNSEL FEES, AND COURT COSTS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 688

(House Bill 653)

AN ACT concerning

Fire Safety Performance Standard for Cigarettes – Sale or Distribution for Consumer Testing Under Controlled Settings

FOR the purpose of providing that cigarettes sold or distributed for the purpose of consumer testing in a controlled setting are not subject to certain certification requirements as to having met a certain fire safety performance standard;

providing that cigarette manufacturers may submit to the Comptroller, as confidential under seal, certain information about cigarettes that are required to be certified as having met a certain fire safety performance standard; providing that certain information submitted to the Comptroller under this Act as confidential under seal is not subject to certain disclosures and may be used for certain purposes; defining certain terms; providing for the termination of this Act; and generally relating to consumer testing of cigarettes for fire safety performance purposes.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 16–601 and 16–602(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – Business Regulation
Section 16–602.1
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Business Regulation

16–601.

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

(b) "Cigarette" has the meaning stated in § 16–101 of this title.

(c) "Commission" means the State Fire Prevention Commission.

(D) "CONSUMER TESTING" MEANS AN ASSESSMENT OF CIGARETTES THAT IS CONDUCTED BY A MANUFACTURER OR CONDUCTED UNDER THE CONTROL AND DIRECTION OF A MANUFACTURER FOR THE PURPOSE OF EVALUATING CONSUMER ACCEPTANCE OF THE CIGARETTES BY USING ONLY THE QUANTITY OF CIGARETTES THAT IS REASONABLY NECESSARY FOR THE ASSESSMENT.

[(d)**] (E)** "Manufacturer" means:

(1) a person that manufactures or otherwise produces, or causes to be manufactured or produced, cigarettes intended for sale in this State, including cigarettes intended for sale in the United States through an importer;

(2) the first purchaser anywhere that intends to resell in the United States cigarettes that the original manufacturer or maker does not intend for sale in the United States; or

(3) a person that is a successor of a person listed in item (1) or (2) of this subsection.

[(e)**] (F)** "Quality control and quality assurance program" means laboratory procedures implemented to ensure that:

(1) operator bias, systematic and nonsystematic methodological errors, and equipment–related problems do not affect the results of the testing; and

(2) the testing repeatability remains within the required repeatability value for any test trial used to certify cigarettes under this subtitle.

[(f)**] (G)** "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory fall 95% of the time.

[(g)**] (H)** "Retailer" has the meaning stated in § 16–201 of this title.

(I) (1) "SALE" MEANS THE EXCHANGE OR TRANSFER, OR THE AGREEMENT TO EXCHANGE OR TRANSFER, TITLE OR POSSESSION OF PROPERTY IN ANY MANNER OR BY ANY MEANS FOR CONSIDERATION.

(2) "SALE" INCLUDES:

(I) THE GIVING OR DISTRIBUTION OF CIGARETTES AS SAMPLES, PRIZES, GIFTS, OR IN CONNECTION WITH CONSUMER TESTING; AND

(II) THE EXCHANGE OF CIGARETTES FOR ANY CONSIDERATION OTHER THAN MONEY.

[(h)**] (J)** "Subwholesaler" has the meaning stated in § 16–201 of this title.

[(i)**] (K)** "Vending machine operator" has the meaning stated in § 16–201 of this title.

[(j)**] (L)** "Wholesaler" has the meaning stated in § 16–201 of this title.

16–602.

(a) [Cigarettes] **EXCEPT AS PROVIDED IN § 16–602.1 OF THIS SUBTITLE, CIGARETTES** may not be manufactured in this State or sold or offered for sale to any person in this State unless:

(1) the cigarettes have been tested in accordance with the test method and meet the performance standard specified in this section; and

(2) the manufacturer has filed a written certification with the Comptroller in accordance with § 16–603 of this subtitle.

16–602.1.

(A) CIGARETTES THAT ARE SOLD OR DISTRIBUTED FOR THE PURPOSE OF CONSUMER TESTING IN A CONTROLLED SETTING IN WHICH THE CIGARETTES ARE EITHER SMOKED ON THE SITE OF THE TESTING OR RETURNED TO THE TESTING ADMINISTRATOR AT THE CONCLUSION OF THE TESTING ARE NOT SUBJECT TO THE CERTIFICATION REQUIREMENTS OF § 16–602 OF THIS SUBTITLE.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, CIGARETTES THAT ARE SOLD OR DISTRIBUTED FOR THE PURPOSE OF CONSUMER TESTING IN ANY SETTING OTHER THAN A CONTROLLED SETTING AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION ARE SUBJECT TO THE CERTIFICATION REQUIREMENTS OF § 16–602 OF THIS SUBTITLE.

(2) A MANUFACTURER CERTIFICATION UNDER THIS SUBSECTION MAY NOT BE SUBJECT TO § 16–605 OF THIS SUBTITLE.

(C) (1) (I) THE MANUFACTURER MAY SUBMIT TO THE COMPTROLLER, AS "CONFIDENTIAL UNDER SEAL", DESCRIPTORS FOR EACH CIGARETTE SOLD OR DISTRIBUTED FOR THE PURPOSE OF CONSUMER TESTING UNDER SUBSECTION (B)(1) OF THIS SECTION.

(II) DESCRIPTORS SHALL INCLUDE BRAND, STYLE, LENGTH, CIRCUMFERENCE, FLAVOR, AND PACKAGE.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE INFORMATION SUBMITTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION:

(I) IS NOT SUBJECT TO DISCLOSURE UNDER STATE LAW OR DISCOVERY IN CIVIL LITIGATION; AND

(II) MAY BE USED BY THE COMPTROLLER OR THE ATTORNEY GENERAL FOR THE PURPOSE OF ENFORCING THE PROVISIONS OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. It shall remain effective until the taking effect of the termination provision specified in Section 5 of Chapter 497 of the Acts of the General Assembly of 2007. If that termination provision takes effect, this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

Approved by the Governor, May 19, 2009.

Chapter 689

(House Bill 706)

AN ACT concerning

Electronic Health Records – Regulation and Reimbursement

FOR the purpose of requiring the Maryland Medical Assistance Program to reimburse certain health care providers in accordance with certain provisions of this Act; ~~requiring the Maryland Health Care Commission, in consultation with the Department of Health and Mental Hygiene and the Maryland Insurance Administration, to adopt certain regulations on or before a certain date requiring certain payors to include certain costs in a certain reimbursement structure; requiring the Commission to designate a certain health information exchange on or before a certain date; requiring the Commission to determine the appropriate level of additional reimbursement in a certain manner; providing that certain regulations shall apply to certain entities under certain circumstances; requiring the Commission, in consultation with the Department and the Administration, to adopt certain regulations that specify certain certification requirements on or before a certain date;~~ requiring the Maryland Health Care Commission and the Health Services Cost Review Commission to designate a health information exchange for the State on or before a certain date; requiring the Maryland Health Care Commission, on or before a certain date, to report on progress in implementing certain provisions of this Act; requiring, on or before a certain date, the Maryland Health Care Commission, following consultation with certain stakeholders, to post on its website for a public comment and submit to the Governor and certain legislative committees, a report on certain aspects of health information technology; requiring the committees to have a certain period of time for review and comment; requiring, on or before a certain date, the Maryland Health Care Commission, in consultation with the Department of Health and Mental Hygiene and others, to

adopt regulations that require certain payors to provide incentives to health care providers to promote the adoption and certain use of electronic health records; establishing certain requirements for the incentives; providing that the incentives may include certain items and services; specifying that the regulations need not require incentives for certain types of health care providers; requiring the regulations to apply to certain entities under certain circumstances; requiring the Health Services Cost Review Commission and the Department, in consultation with certain other entities, to take certain actions that relate to the American Recovery and Reinvestment Act of 2009 and certain rules and regulations; requiring the Maryland Health Care Commission, on or before a certain date, to report to the Governor and the General Assembly on certain progress achieved and recommendations for changes that may be necessary for certain adoption and use of electronic health records; requiring the Maryland Health Care Commission to designate ~~a~~ certain management service ~~organization~~ organizations on or before a certain date; authorizing the Maryland Health Care Commission to use certain grants and loans in a certain manner; requiring certain health care providers to use certain electronic health records on ~~or~~ and after a certain date; ~~prohibiting certain payors from reimbursing certain health care providers on or after a certain date under certain circumstances; providing that certain provisions of this Act shall apply to certain entities under certain circumstances;~~ providing that certain provisions of this Act apply to health maintenance organizations; requiring ~~certain carriers~~ State–regulated payors to ~~reimburse~~ provide incentives to certain health care providers in accordance with certain provisions of this Act; requiring the Secretary of Budget and Management to ensure that the State Employee and Retiree Health and Welfare Benefits Program complies with certain provisions of this Act; defining certain terms; and generally relating to the regulation of and reimbursement for the use of electronic health records.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 1–101(a) and (c), 15–101(a) and (h), and 19–101
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health – General
Section 15–105.2; 19–142 ~~through 19–145~~ and 19–143 to be under the new part "Part IV. Electronic Health Records – Regulation and Reimbursement"; and 19–706(ttt)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 15–132
Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 2–501(a) and (b)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–503(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 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.

(c) "Department" means the Department of Health and Mental Hygiene.

15–101.

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

(h) "Program" means the Maryland Medical Assistance Program.

15–105.2.

THE PROGRAM SHALL REIMBURSE HEALTH CARE PROVIDERS IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 19, SUBTITLE 1, PART IV OF THIS ARTICLE.

19–101.

In this subtitle, "Commission" means the Maryland Health Care Commission.

PART IV. ELECTRONIC HEALTH RECORDS – REGULATION AND REIMBURSEMENT.

19–142.

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

(B) "CARRIER" MEANS:

(1) AN INSURER;

(2) A NONPROFIT HEALTH SERVICE PLAN;

(3) A HEALTH MAINTENANCE ORGANIZATION; OR

(4) ~~A DENTAL PLAN ORGANIZATION; OR~~

~~(5)~~ ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS SUBJECT TO REGULATION BY THE STATE.

(C) "ELECTRONIC HEALTH RECORD" MEANS AN ELECTRONIC RECORD OF HEALTH–RELATED INFORMATION ON AN INDIVIDUAL THAT:

(1) INCLUDES PATIENT DEMOGRAPHIC AND CLINICAL HEALTH INFORMATION; AND

(2) HAS THE CAPACITY TO:

(I) PROVIDE CLINICAL DECISION SUPPORT;

(II) SUPPORT PHYSICIAN ORDER ENTRY;

(III) CAPTURE AND QUERY INFORMATION RELEVANT TO HEALTH CARE QUALITY; AND

(IV) EXCHANGE ELECTRONIC HEALTH INFORMATION WITH AND INTEGRATE THE INFORMATION FROM OTHER SOURCES.

(D) (1) "HEALTH BENEFIT PLAN" MEANS A HOSPITAL OR MEDICAL POLICY, CONTRACT, OR CERTIFICATE ISSUED BY A CARRIER.

(2) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE:

(I) COVERAGE FOR ACCIDENT OR DISABILITY INCOME INSURANCE;

(II) COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY INSURANCE;

(III) LIABILITY INSURANCE, INCLUDING GENERAL LIABILITY INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;

(IV) WORKERS' COMPENSATION OR SIMILAR INSURANCE;

(V) AUTOMOBILE OR PROPERTY MEDICAL PAYMENT INSURANCE;

(VI) CREDIT–ONLY INSURANCE;

(VII) COVERAGE FOR ON–SITE MEDICAL CLINICS;

(VIII) DENTAL OR VISION INSURANCE;

(IX) LONG–TERM CARE INSURANCE OR BENEFITS FOR NURSING HOME CARE, HOME HEALTH CARE, COMMUNITY–BASED CARE, OR ANY COMBINATION OF THESE;

(X) COVERAGE ONLY FOR A SPECIFIED DISEASE OR ILLNESS;

(XI) HOSPITAL INDEMNITY OR OTHER FIXED INDEMNITY INSURANCE; OR

(XII) THE FOLLOWING BENEFITS IF OFFERED AS A SEPARATE INSURANCE POLICY:

1. MEDICARE SUPPLEMENTAL HEALTH INSURANCE, AS DEFINED IN § 1882(G)(1) OF THE SOCIAL SECURITY ACT;

2. COVERAGE SUPPLEMENTAL TO THE COVERAGE PROVIDED UNDER CHAPTER 55 OF TITLE 10, U.S.C.; OR

3. SIMILAR SUPPLEMENTAL COVERAGE PROVIDED TO COVERAGE UNDER AN EMPLOYER–SPONSORED PLAN.

~~(D)~~ (E) (1) "HEALTH CARE PROVIDER" MEANS:

(I) A PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION OR IN AN APPROVED EDUCATION OR TRAINING PROGRAM; OR

(II) A FACILITY WHERE HEALTH CARE IS PROVIDED TO PATIENTS OR RECIPIENTS, INCLUDING:

1. A FACILITY, AS DEFINED IN § 10–101(E) OF THIS ARTICLE;

2. A HOSPITAL, AS DEFINED IN § 19–301 OF THIS TITLE;

3. A RELATED INSTITUTION, AS DEFINED IN § 19–301 OF THIS TITLE;

4. AN OUTPATIENT CLINIC;

5. A FREESTANDING MEDICAL FACILITY, AS DEFINED IN § 19–3A–01 OF THIS TITLE;

6. AN AMBULATORY SURGICAL FACILITY, AS DEFINED IN § 19–3B–01 OF THIS TITLE; AND

7. A NURSING HOME, AS DEFINED IN § 19–1401 OF THIS TITLE.

(2) "HEALTH CARE PROVIDER" DOES NOT INCLUDE A HEALTH MAINTENANCE ORGANIZATION AS DEFINED IN § 19–701 OF THIS TITLE.

~~(E)~~ (F) "HEALTH INFORMATION EXCHANGE" MEANS A STATEWIDE INFRASTRUCTURE THAT PROVIDES ORGANIZATIONAL AND TECHNICAL CAPABILITIES TO ENABLE THE ELECTRONIC EXCHANGE OF HEALTH INFORMATION BETWEEN HEALTH CARE PROVIDERS AND OTHER HEALTH SERVICES ORGANIZATIONS AUTHORIZED BY THE COMMISSION.

~~(F)~~ (G) "MANAGEMENT SERVICE ORGANIZATION" MEANS AN ORGANIZATION THAT OFFERS ~~MULTIPLE~~ ONE OR MORE HOSTED ELECTRONIC HEALTH RECORD SOLUTIONS AND OTHER MANAGEMENT SERVICES TO MULTIPLE HEALTH CARE PROVIDERS.

~~(G) "MEDICARE" MEANS THE HEALTH INSURANCE FOR THE AGED ACT, TITLE XVIII OF THE SOCIAL SECURITY AMENDMENTS OF 1965, AS AMENDED.~~

(H) (1) "STATE–REGULATED PAYOR" MEANS:

~~(1) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;~~

~~(2)~~ (I) THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM; AND

~~(3)~~ (II) A CARRIER ISSUING OR DELIVERING HEALTH BENEFIT PLANS IN THE STATE.

(2) "STATE–REGULATED PAYOR" DOES NOT INCLUDE A MANAGED CARE ORGANIZATION AS DEFINED IN TITLE 15, SUBTITLE 1 OF THIS ARTICLE.

19–143.

~~(A) ON OR BEFORE OCTOBER 1, 2010, THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT AND THE MARYLAND INSURANCE ADMINISTRATION, SHALL:~~

~~(1) ADOPT REGULATIONS THAT REQUIRE STATE–REGULATED PAYORS TO INCLUDE IN THEIR REIMBURSEMENT STRUCTURE FOR HEALTH CARE PROVIDERS THE COST OF THE ADOPTION OF ELECTRONIC HEALTH RECORDS BY HEALTH CARE PROVIDERS; AND~~

~~(2) DESIGNATE A HEALTH INFORMATION EXCHANGE FOR THE STATE THAT:~~

~~(I) INCORPORATES PRIVACY RULES THAT ARE CONSISTENT WITH EXISTING FEDERAL AND STATE LAWS AND REGULATIONS; AND~~

~~(II) MAKES ITS SERVICES AVAILABLE TO HEALTH CARE PROVIDERS, STATE–REGULATED PAYORS AND OTHER HEALTH CARE SERVICES ORGANIZATIONS AS AUTHORIZED BY THE COMMISSION.~~

~~(B) (1) THE COMMISSION SHALL DETERMINE THE APPROPRIATE LEVEL OF ADDITIONAL REIMBURSEMENT TO BE REQUIRED UNDER THIS SECTION, TAKING INTO ACCOUNT ANY GRANTS OR LOANS THAT ARE AVAILABLE TO HEALTH CARE PROVIDERS FROM THE FEDERAL GOVERNMENT.~~

~~(2) THE COMMISSION MAY NOT REQUIRE ADDITIONAL REIMBURSEMENT UNDER THIS SECTION FOR A HOSPITAL THAT IS REGULATED BY THE HEALTH SERVICES COST REVIEW COMMISSION.~~

~~(C) IF FEDERAL LAW IS AMENDED TO ALLOW THE STATE TO REGULATE SELF–INSURED ENTITIES AND MEDICARE, REGULATIONS ADOPTED UNDER THIS SECTION SHALL APPLY TO REIMBURSEMENT BY SELF–INSURED ENTITIES AND MEDICARE.~~

~~19–144.~~

~~(A) (1) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT AND THE MARYLAND INSURANCE ADMINISTRATION, SHALL ADOPT REGULATIONS THAT SPECIFY CERTIFICATION REQUIREMENTS FOR ELECTRONIC HEALTH RECORDS.~~

~~(2) THE COMMISSION SHALL INCLUDE IN REGULATIONS ADOPTED UNDER THIS SUBSECTION A REQUIREMENT THAT ELECTRONIC HEALTH RECORDS MUST MEET ANY STANDARDS FOR ELECTRONIC HEALTH RECORDS THAT ARE PROVIDED FOR IN FEDERAL LAW.~~

~~(B) (1) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION SHALL DESIGNATE A MANAGEMENT SERVICE ORGANIZATION TO OFFER HOSTED ELECTRONIC HEALTH RECORDS AND OTHER MANAGEMENT SERVICES THROUGHOUT THE STATE.~~

~~(2) THE COMMISSION MAY USE AVAILABLE GRANTS AND LOANS FROM THE FEDERAL GOVERNMENT TO HELP SUBSIDIZE THE USE OF THE MANAGEMENT SERVICE ORGANIZATION BY HEALTH CARE PROVIDERS.~~

~~19–145.~~

~~(A) ON OR AFTER OCTOBER 1, 2014, EVERY HEALTH CARE PROVIDER IN THE STATE SHALL USE ELECTRONIC HEALTH RECORDS THAT ARE:~~

~~(1) CERTIFIED IN ACCORDANCE WITH STANDARDS ADOPTED BY THE COMMISSION; AND~~

~~(2) HAVE INTEROPERABILITY WITH, ARE CONNECTED TO, AND EXCHANGING DATA WITH THE HEALTH INFORMATION EXCHANGE DESIGNATED BY THE COMMISSION UNDER § 19–143 OF THIS SUBTITLE.~~

~~(B) (1) ON OR AFTER OCTOBER 1, 2014, A STATE–REGULATED PAYOR MAY NOT REIMBURSE A HEALTH CARE PROVIDER THAT DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION FOR HEALTH CARE SERVICES.~~

~~(2) IF FEDERAL LAW IS AMENDED TO ALLOW THE STATE TO REGULATE SELF–INSURED ENTITIES AND MEDICARE, THIS SUBSECTION SHALL APPLY TO REIMBURSEMENT BY SELF–INSURED ENTITIES AND MEDICARE.~~

~~(C) ON OR AFTER OCTOBER 1, 2014, A HOSPITAL THAT IS REGULATED BY THE HEALTH SERVICES COST REVIEW COMMISSION THAT DOES NOT MEET~~

~~THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION MAY NOT BE REIMBURSED BY ANY PAYOR FOR HEALTH CARE SERVICES.~~

(A) ON OR BEFORE OCTOBER 1, 2009, THE COMMISSION AND THE HEALTH SERVICES COST REVIEW COMMISSION SHALL DESIGNATE A HEALTH INFORMATION EXCHANGE FOR THE STATE.

(B) ON OR BEFORE JANUARY 1, 2010, THE COMMISSION SHALL:

(1) 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 PROGRESS IN IMPLEMENTING THE REQUIREMENTS OF SUBSECTIONS (A) AND (D) OF THIS SECTION; AND

(2) INCLUDE IN THE REPORT RECOMMENDATIONS FOR LEGISLATION SPECIFYING HOW INCENTIVES REQUIRED FOR STATE–REGULATED PAYORS THAT ARE NATIONAL CARRIERS SHALL TAKE INTO ACCOUNT EXISTING CARRIER ACTIVITIES THAT PROMOTE THE ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS.

(C) (1) ON OR BEFORE JANUARY 1, 2011, FOLLOWING CONSULTATIONS WITH APPROPRIATE STAKEHOLDERS, THE COMMISSION SHALL POST ON ITS WEBSITE FOR PUBLIC COMMENT AND SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE A REPORT ON:

(I) THE DEVELOPMENT OF A COORDINATED PUBLIC–PRIVATE APPROACH TO IMPROVE THE STATE'S HEALTH INFORMATION INFRASTRUCTURE;

(II) ANY CHANGES IN STATE LAWS THAT ARE NECESSARY TO PROTECT THE PRIVACY AND SECURITY OF HEALTH INFORMATION STORED IN ELECTRONIC HEALTH RECORDS OR EXCHANGED THROUGH A HEALTH INFORMATION EXCHANGE IN THE STATE;

(III) ANY CHANGES IN STATE LAWS THAT ARE NECESSARY TO PROVIDE FOR THE EFFECTIVE OPERATION OF A HEALTH INFORMATION EXCHANGE;

(IV) ANY ACTIONS THAT ARE NECESSARY TO ALIGN FUNDING OPPORTUNITIES UNDER THE FEDERAL AMERICAN RECOVERY AND

REINVESTMENT ACT OF 2009 WITH OTHER STATE AND PRIVATE SECTOR INITIATIVES RELATED TO HEALTH INFORMATION TECHNOLOGY, INCLUDING:

1. THE PATIENT–CENTERED MEDICAL HOME;

2. THE ELECTRONIC HEALTH RECORD DEMONSTRATION PROJECT SUPPORTED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES;

3. THE HEALTH INFORMATION EXCHANGE; AND

4. THE MEDICAID INFORMATION TECHNOLOGY ARCHITECTURE INITIATIVE; AND

(V) RECOMMENDED LANGUAGE FOR THE REGULATIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.

(2) THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE SHALL HAVE 60 DAYS FROM RECEIPT OF THE REPORT FOR REVIEW AND COMMENT.

(D) (1) ON OR BEFORE SEPTEMBER 1, 2011, THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT, PAYORS, AND HEALTH CARE PROVIDERS, SHALL ADOPT REGULATIONS THAT REQUIRE STATE–REGULATED PAYORS TO PROVIDE INCENTIVES TO HEALTH CARE PROVIDERS TO PROMOTE THE ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS.

(2) INCENTIVES REQUIRED UNDER THE REGULATIONS:

(I) SHALL HAVE MONETARY VALUE;

(II) SHALL FACILITATE THE USE OF ELECTRONIC HEALTH RECORDS BY HEALTH CARE PROVIDERS IN THE STATE;

(III) TO THE EXTENT FEASIBLE, SHALL RECOGNIZE AND BE CONSISTENT WITH EXISTING PAYOR INCENTIVES THAT PROMOTE THE ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS;

(IV) SHALL TAKE INTO ACCOUNT:

1. INCENTIVES PROVIDED TO HEALTH CARE PROVIDERS UNDER MEDICARE AND MEDICAID; AND

2. ANY GRANTS OR LOANS THAT ARE AVAILABLE TO HEALTH CARE PROVIDERS FROM THE FEDERAL GOVERNMENT; AND

(V) MAY INCLUDE:

1. INCREASED REIMBURSEMENT FOR SPECIFIC SERVICES;

2. LUMP SUM PAYMENTS;

3. GAIN–SHARING ARRANGEMENTS;

4. REWARDS FOR QUALITY AND EFFICIENCY;

5. IN–KIND PAYMENTS; AND

6. OTHER ITEMS OR SERVICES TO WHICH A SPECIFIC MONETARY VALUE CAN BE ASSIGNED.

(3) THE REGULATIONS NEED NOT REQUIRE INCENTIVES FOR THE ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS, FOR EACH TYPE OF HEALTH CARE PROVIDER LISTED IN § 19–142(E) OF THIS SUBTITLE.

(4) IF FEDERAL LAW IS AMENDED TO ALLOW THE STATE TO REGULATE PAYMENTS MADE BY ENTITIES THAT SELF–INSURE THEIR HEALTH BENEFIT PLANS, REGULATIONS ADOPTED UNDER THIS SECTION SHALL APPLY TO THOSE ENTITIES TO THE SAME EXTENT TO WHICH THEY APPLY TO STATE–REGULATED PAYORS.

(E) THE HEALTH SERVICES COST REVIEW COMMISSION, IN CONSULTATION WITH HOSPITALS, PAYORS, AND THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES, SHALL TAKE THE ACTIONS NECESSARY TO:

(1) ASSURE THAT HOSPITALS IN THE STATE RECEIVE THE PAYMENTS PROVIDED UNDER § 4102 OF THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND ANY SUBSEQUENT FEDERAL RULES AND REGULATIONS; AND

(2) IMPLEMENT ANY CHANGES IN HOSPITAL RATES REQUIRED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES TO ENSURE COMPLIANCE WITH § 4102 OF THE FEDERAL AMERICAN RECOVERY AND

REINVESTMENT ACT OF 2009 AND ANY SUBSEQUENT FEDERAL RULES AND REGULATIONS.

(F) THE DEPARTMENT, IN CONSULTATION WITH THE COMMISSION, SHALL DEVELOP A MECHANISM TO ASSURE THAT HEALTH CARE PROVIDERS THAT PARTICIPATE IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM RECEIVE THE PAYMENTS PROVIDED FOR ADOPTION AND USE OF ELECTRONIC HEALTH RECORDS TECHNOLOGY UNDER § 4201 OF THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND ANY SUBSEQUENT FEDERAL RULES AND REGULATIONS.

(G) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON PROGRESS ACHIEVED TOWARD ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS BY HEALTH CARE PROVIDERS IN THE STATE AND RECOMMENDATIONS FOR ANY CHANGES IN STATE LAWS THAT MAY BE NECESSARY TO ACHIEVE OPTIMAL ADOPTION AND USE.

(H) (1) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION SHALL DESIGNATE ONE OR MORE MANAGEMENT SERVICE ORGANIZATIONS TO OFFER SERVICES THROUGHOUT THE STATE.

(2) THE COMMISSION MAY USE FEDERAL GRANTS AND LOANS TO HELP SUBSIDIZE THE USE OF THE DESIGNATED MANAGEMENT SERVICE ORGANIZATIONS BY HEALTH CARE PROVIDERS.

(I) ON AND AFTER THE LATER OF JANUARY 1, 2015, OR THE DATE ESTABLISHED FOR THE IMPOSITION OF PENALTIES UNDER § 4102 OF THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009:

(1) EACH HEALTH CARE PROVIDER USING AN ELECTRONIC HEALTH RECORD THAT SEEKS PAYMENT FROM A ~~STATE–DESIGNATED~~ STATE–REGULATED PAYOR SHALL USE ELECTRONIC HEALTH RECORDS THAT ARE:

(I) CERTIFIED BY A NATIONAL CERTIFICATION ORGANIZATION DESIGNATED BY THE COMMISSION; AND

(II) CAPABLE OF CONNECTING TO AND EXCHANGING DATA WITH THE HEALTH INFORMATION EXCHANGE DESIGNATED BY THE COMMISSION UNDER SUBSECTION (A) OF THIS SECTION; AND

(2) THE INCENTIVES REQUIRED UNDER SUBSECTION ~~(C)~~ (D) OF THIS SECTION MAY INCLUDE REDUCTIONS IN PAYMENTS TO A HEALTH CARE PROVIDER THAT DOES NOT USE ELECTRONIC HEALTH RECORDS THAT MEET THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION.

19–706.

(TTT) THE PROVISIONS OF § 15–132 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

15–132.

~~**(A) IN THIS SECTION, "CARRIER" MEANS:**~~

~~**(1) AN INSURER;**~~

~~**(2) A NONPROFIT HEALTH SERVICE PLAN;**~~

~~**(3) A HEALTH MAINTENANCE ORGANIZATION;**~~

~~**(4) A DENTAL PLAN ORGANIZATION; OR**~~

~~**(5) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS SUBJECT TO REGULATION BY THE STATE.**~~

~~**(B) A CARRIER SHALL REIMBURSE HEALTH CARE PROVIDERS IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 19, SUBTITLE 1, PART IV OF THE HEALTH – GENERAL ARTICLE.**~~

(A) IN THIS SECTION, "CARRIER" HAS THE MEANING STATED IN § 19–142 OF THE HEALTH – GENERAL ARTICLE.

(B) A CARRIER SHALL PROVIDE INCENTIVES TO HEALTH CARE PROVIDERS IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 19, SUBTITLE 1, PART IV OF THE HEALTH – GENERAL ARTICLE.

Article – State Personnel and Pensions

2–501.

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

(b) "Program" means the State Employee and Retiree Health and Welfare Benefits Program.

2–503.

(a) The Secretary shall:

(1) adopt regulations for the administration of the Program;

(2) ensure that the Program complies with all federal and State laws governing employee benefit plans; **[**and**]**

(3) each year, recommend to the Governor the State share of the costs of the Program**; AND**

(4) ENSURE THAT THE PROGRAM COMPLIES WITH TITLE 19, SUBTITLE 1, PART IV OF THE HEALTH – GENERAL ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 690

(House Bill 735)

AN ACT concerning

State Personnel – At–Will Employment – Reforms and Reports

FOR the purpose of repealing certain provisions of law that designate certain positions and employees as being in the executive service or management service or as special appointments in the State Personnel Management System; ~~requiring the Secretary of Budget and Management to designate management service positions in the System that must be filled without regard to certain criteria and that may be filled with regard to certain criteria;~~ ~~requiring the Secretary of Budget and Management to provide certain information~~ *altering the information that the Secretary of Budget and Management must provide* to the Governor and the General Assembly ~~on certain management service positions~~; *providing for the application of certain provisions of law*; ~~providing that certain management service positions may be filled with regard to certain criteria; altering the criteria for designating certain positions in the professional service; altering the criteria for designating certain positions in the management service;~~ repealing a provision of law that designates individuals in certain

positions in the management service or the executive service as special appointments; *establishing that certain staff members in the Office of the Attorney General are special appointments who may not be determined to be political special appointments under certain provisions of State personnel law;* excluding from the scope of certain provisions of law governing appointments in the skilled service and the professional service the recruitment for and the appointment to a ~~professional service position~~ position in the skilled service or professional service under certain circumstances; requiring the Department to adopt certain regulations relating to the recruitment for and appointment to certain positions; altering the circumstances under which an appointing authority may select a candidate for a certain position by recruitment; *requiring the Secretary of Budget and Management to determine position categories for special appointments in the Department of Business and Economic Development;* repealing a certain obsolete provision relating to certain professional assistants; repealing a certain requirement that certain employees in certain demonstration sites be in the management service or a special appointment in the System; establishing the Joint Committee on Fair Practices and State Personnel Oversight; specifying the membership of the Joint Committee; specifying the duties of the Joint Committee; repealing certain provisions of law relating to the Joint Committee on Fair Practices; making certain conforming changes; requiring the Secretary of Budget and Management and the Secretary of Transportation to compile a list of certain employees on or before a certain date of ~~a~~ certain years; requiring the Secretary of Transportation to provide a certain list of employees to the Secretary of Budget and Management on or before a certain date of certain years; requiring the Secretary of Budget and Management to submit a certain report on or before a certain date of certain years; requiring the Secretary of Budget and Management to conduct a certain evaluation of certain special appointments and report the results of the evaluation on or before certain dates; *providing that certain at–will positions that are encumbered on a certain date shall remain at–will positions until they are vacant;* and generally relating to State personnel, employment categories, and special appointments.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section ~~4–201~~ 2–302(e), 4–302, ~~5–208, 6–402, 6–403,~~ 5–206, ~~6–405(a)~~ *6–405*, 7–201, and 7–203
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 3–215(b) and 4–204
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Economic Development
Section 2–115
Annotated Code of Maryland
(2008 Volume)

BY repealing and reenacting, with amendments,
Article – Education
Section 2–104(c)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing
Article – Family Law
Section 10–119.2(f)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 10–119.2(g) through (j)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–107, 19–206, and 19–2106(d)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–204(d)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 5A–316
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – State Government
Section 2–10A–08 and 8–3A–02
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 6–105(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing
Chapter 347 of the Acts of the General Assembly of 1996
Section 7 1.

Preamble

WHEREAS, It is the intent of the General Assembly to provide additional merit system protections to State employees while allowing State agencies to maintain recruitment flexibility; and

WHEREAS, The General Assembly recognizes that a streamlined and efficient hiring process is essential for the State to effectively compete with the private sector for highly qualified applicants; now, therefore,

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

Article – State Personnel and Pensions

2–302.

(e) (1) At least annually, the Secretary shall report on the Equal Employment Opportunity Program established in § 5–202 of this article to the **[**Legislative**]** Joint Committee on Fair Practices **AND STATE PERSONNEL OVERSIGHT**.

(2) The head of a personnel system in the Legislative and Judicial branches may report periodically on equal employment opportunity programs and policies in effect in that personnel system to the **[**Legislative**]** Joint Committee on Fair Practices **AND STATE PERSONNEL OVERSIGHT**.

~~4–201.~~

~~(a) This section does not apply to those units of State government with an independent personnel system.~~

~~(b) In the State Personnel Management System the Secretary shall:~~

~~(1) establish classes;~~

~~(2) assign a rate of pay to each class;~~

~~(3) ensure that each class comprises one or more positions:~~

~~(i) that are similar in their duties and responsibilities;~~

~~(ii) that are similar in the general qualifications required to perform those duties and responsibilities;~~

~~(iii) to which the same standards and, if required, tests of fitness can be applied; and~~

~~(iv) to which the same rates of pay can be applied;~~

~~(4) give each class a descriptive classification title;~~

~~(5) prepare a description of each class; and~~

~~(6) (i) create additional classes; and~~

~~(ii) abolish, combine, or modify existing classes.~~

~~(c) The Secretary shall:~~

~~(1) assign a class to the skilled service, professional service, management service, or executive service, as appropriate; [and]~~

~~**(2) DESIGNATE MANAGEMENT SERVICE POSITIONS IN THE STATE PERSONNEL MANAGEMENT SYSTEM THAT:**~~

~~**(I) MUST BE FILLED WITHOUT REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION; OR**~~

~~**(II) IN ACCORDANCE WITH § 6–403(B) OF THIS ARTICLE, MAY BE FILLED WITH REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION; AND**~~

~~**[**(2)**] (3)** designate special appointment positions in the State Personnel Management System that:~~

~~(i) must be filled without regard to political affiliation, belief, or opinion; or~~

~~(ii) in accordance with § 6–405(b) of this article, may be filled with regard to political affiliation, belief, or opinion.~~

4–302.

(a) ***THIS SECTION DOES NOT APPLY TO THE UNIVERSITY SYSTEM OF MARYLAND.***

(B) The Secretary shall submit to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly an annual report **COVERING ALL UNITS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT, INCLUDING A UNIT WITH AN INDEPENDENT PERSONNEL SYSTEM,** for each fiscal year that:

(1) provides information about ~~the various personnel areas under the Secretary's jurisdiction, including~~:

(i) employee performance and efficiency;

(ii) use of leave by State employees;

(iii) incentive awards;

(iv) whistleblower proceedings;

(v) each denial of a pay increase, each disciplinary suspension, each grievance, each involuntary demotion, and each rejection on probation; and

(vi) a summary of the equal employment opportunity report required under § 5–204 of this article, including hiring, firing, promotions, terminations, and rejections on probation, by race, sex, and age;

(2) provides statistics and rankings that compare minority group State employees to all State employees in all job categories;

(3) provides information about part–time work and, in the Secretary's discretion, alternate work schedules, work days, and work locations;

(4) provides information on the total number of~~:~~

~~(I) MANAGEMENT SERVICE POSITIONS DESIGNATED WITH REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION; AND~~

~~(II)~~ positions designated as special appointments, including special appointments designated with regard to political affiliation, belief, or opinion; and

(5) makes any recommendations about conditions in State employment that the Secretary considers advisable.

~~(b)~~ ***(C)*** The report required by this section shall be submitted on or before January 1 following the fiscal year to which it applies.

5–206.

(a) The Governor, with the advice of the Joint Committee on **[**Fair Practices,**]** **FAIR PRACTICES AND STATE PERSONNEL OVERSIGHT,** shall appoint an Equal Employment Opportunity Coordinator.

(b) The Coordinator shall:

(1) administer and enforce the Program; and

(2) investigate and, as appropriate, resolve complaints that involve allegations of violations of this subtitle.

~~5–208.~~

~~(a) All personnel actions concerning an employee in the Executive Branch of State government shall be made in accordance with § 2–302 of this article.~~

~~(b) Personnel actions concerning an employee or applicant for employment in the skilled service or professional service of the State Personnel Management System or comparable position in an independent personnel system in the Executive Branch of State government shall also be made without regard to:~~

~~(1) political affiliation, belief, or opinion; or~~

~~(2) any other nonmerit factor.~~

~~(c)~~ ~~**(1)**~~ **[**~~All~~**]** ~~**EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,** personnel actions concerning an employee or applicant in the management service shall also be made without regard to the employee's political affiliation, belief, or opinion.~~

~~**[**(d) (1)**] (2)** Except as provided in paragraph **[**(2)**] (3)** of this subsection, personnel actions concerning special appointments or applicants for special appointment in the State Personnel Management System or comparable positions in an independent personnel system in the Executive Branch of State government shall be made without regard to political affiliation, belief, or opinion.~~

~~**[**(2)**] (3)** For the positions that are designated by the Secretary under § 4–201(c)(2)(ii) **AND (3)(II)** of this article or by the Secretary of Transportation under § 2–103.4(b)(2) of the Transportation Article, personnel actions concerning special appointments or applicants for special appointment in the State Personnel Management System or comparable positions in an independent personnel system in~~

~~the Executive Branch of State government may be made with regard to political affiliation, belief, or opinion.~~

~~**[**(e)**] (D)** The protections of this section are in addition to whatever legal or constitutional protections an employee or applicant has.~~

~~6–402.~~

~~(a) Except as otherwise provided by law, a position in the Executive Branch of State government is in the professional service if the position:~~

~~(1) **(I) PRIMARILY INVOLVES DIRECT RESPONSIBILITY FOR THE OVERSIGHT OF PERSONNEL; AND**~~

~~**(II) DOES NOT INVOLVE A SIGNIFICANT POLICY ROLE OR PROVIDE DIRECT SUPPORT TO A MEMBER OF THE EXECUTIVE SERVICE; OR**~~

~~**(2) (I)** 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)**] (II)** normally requires a professional license, advanced degree, or both.~~

~~(b) The professional service includes any other position that is determined by the Secretary to be in the professional service.~~

~~6–403.~~

~~(a) Except as otherwise provided by law, a position in the Executive Branch of State government is in the management service if the position:~~

~~(1) **(I)** primarily involves direct responsibility for the oversight and management of personnel and financial resources;~~

~~**[**(2)**] (II)** requires the exercise of discretion and independent judgment; and~~

~~**[**(3)**] (III)** is not in the executive service**; OR**~~

~~**(2) INVOLVES A SIGNIFICANT POLICY ROLE OR PROVIDES DIRECT SUPPORT TO A MEMBER OF THE EXECUTIVE SERVICE.**~~

~~**(B) A MANAGEMENT SERVICE POSITION MAY BE FILLED WITH REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION IF THE SECRETARY DETERMINES THAT THE POSITION:**~~

~~(1) RELATES TO POLITICAL INTERESTS OR CONCERNS SO AS TO WARRANT THAT POLITICAL AFFILIATION BE A REQUIREMENT FOR THE POSITION; AND~~

~~(2) (I) REQUIRES THE PROVISION OF MEANINGFUL DIRECT OR INDIRECT INPUT INTO THE POLICY–MAKING PROCESS; OR~~

~~(II) PROVIDES ACCESS TO CONFIDENTIAL INFORMATION AND:~~

~~1. REQUIRES SUBSTANTIAL INTERVENTION OR COLLABORATION IN THE FORMULATION OF PUBLIC POLICY; OR~~

~~2. REQUIRES THE PROVISION OF DIRECT ADVICE OR THE RENDERING OF DIRECT SERVICES TO AN APPOINTING AUTHORITY.~~

~~[(b)] (C) The management service includes any other position that is determined by the Secretary to be in the management service.~~

6–405.

(a) Except as otherwise provided by law, individuals in the following positions in the skilled service**[**,**]** **AND** professional service**[**, management service, or executive service**]** are considered special appointments:

(1) a position to which an individual is directly appointed by the Governor by an appointment that is not provided for by the Maryland Constitution;

(2) a position to which an individual is directly appointed by the Board of Public Works;

(3) as determined by the Secretary, a position which performs a significant policy role or provides direct support to a member of the executive service;

(4) a position that is assigned to the Government House;

(5) a position that is assigned to the Governor's Office; and

(6) any other position that is specified by law to be a special appointment.

(b) ***[****A****] EXCEPT AS PROVIDED UNDER § 6–105(A) OF THE STATE GOVERNMENT ARTICLE, A*** *position that is a special appointment may be filled with regard to political affiliation, belief, or opinion if the Secretary determines that the position:*

(1) relates to political interests or concerns so as to warrant that political affiliation be a requirement for the position; and

(2) (i) requires the provision of meaningful direct or indirect input into the policy–making process; or

(ii) provides access to confidential information and:

1. requires substantial intervention or collaboration in the formulation of public policy; or

2. requires the provision of direct advice or the rendering of direct services to an appointing authority.

7–201.

(a) **(1)** This subtitle does not apply to a special appointment position in the skilled service or professional service.

(2) (I) THIS SUBTITLE DOES NOT APPLY TO THE RECRUITMENT FOR OR THE APPOINTMENT TO A POSITION IN THE SKILLED SERVICE OR PROFESSIONAL SERVICE ~~POSITION~~ IF THE APPOINTING AUTHORITY:

1. DECIDES TO RECRUIT FOR THE POSITION UNDER § 7–203(2) OF THIS SUBTITLE;

2. DEMONSTRATES THAT THE POSITION, BASED ON THE POSITION DESCRIPTION, IS DIFFICULT TO FILL ~~FROM A LIST OF ELIGIBLE CANDIDATES~~;

3. DEMONSTRATES THAT THE RECRUITMENT MUST OCCUR IN A TIMELY MANNER; AND

4. NOTIFIES THE DEPARTMENT OF THE RECRUITMENT.

(II) A RECRUITMENT AND APPOINTMENT UNDER THIS PARAGRAPH SHALL OCCUR ~~UNDER GUIDELINES ISSUED BY THE SECRETARY.~~ IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT.

(III) *1.* THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS PARAGRAPH.

2. THE REGULATIONS ADOPTED UNDER THIS SUBPARAGRAPH SHALL PROVIDE, AT A MINIMUM, THAT FOR POSITIONS DESIGNATED AS SPECIAL APPOINTMENTS ON JANUARY 1, 2009, AN APPOINTING AUTHORITY SHALL RETAIN THE SAME RECRUITMENT AUTHORITY THAT THE APPOINTING AUTHORITY POSSESSED ON JANUARY 1, 2009.

(b) Each unit shall fill vacant skilled service and professional service positions in accordance with a position selection plan.

(c) To ensure compliance with State and federal employment laws and to ensure consistency in recruitment and hiring practices in the State Personnel Management System, the Department shall:

(1) assist units in developing application forms, position selection plans, selection tests, and announcement forms; and

(2) review and audit recruitment and hiring practices of all appointing authorities at least once every 3 years.

(d) On request of a unit that is not able to conduct all or part of its own recruitment or selection testing for a position because it lacks the appropriate resources, the Department, consistent with its resources, shall assist the unit in conducting the requested recruitment and selection testing.

7–203.

An appointing authority may select candidates for a position:

(1) from an existing list of eligible candidates;

(2) **[**if no existing list of eligible candidates exists or**]** if the appointing authority decides to recruit for the position, by recruitment; *or* ~~or~~

(3) from a special list of eligible candidates whom the Division of Rehabilitation Services of the Department of Education certifies as being physically capable and adequately trained to qualify for the position~~; OR~~

~~(4) IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER § 7–201(A)(2)(III) OF THIS SUBTITLE~~.

Article – Correctional Services

3–215.

(b) (1) Except as otherwise provided in this subtitle, all officers and other employees of the Division shall be appointed and removed in accordance with the provisions of the State Personnel and Pensions Article.

(2) The following positions are in the executive service, the management service, or are special appointments of the skilled service or the professional service in the State Personnel Management System:

(i) Commissioner;

(ii) Deputy Commissioner;

(iii) Assistant Commissioner;

(iv) industries general manager;

(v) **[**chaplain;

(vi)**]** warden;

[(vii)**] (VI)** facility administrator; and

[(viii)**] (VII)** assistant warden.

(3) (i) The warden of a correctional facility is the appointing officer for the officers and other employees of that facility.

(ii) The Commissioner is the appointing officer for the other officers and employees in the Division.

4–204.

(a) The Institution shall have the following staff:

(1) two associate directors, one of whom is a competent psychiatrist with at least 3 years of experience in the practice or teaching of psychiatry and one of whom is a competent behavioral scientist with at least 3 years of experience in the practice or teaching of the individual's specialty in behavioral science;

(2) a warden;

(3) at least three additional psychiatrists or clinical psychologists;

(4) at least four State licensed certified social workers–clinical; and

(5) other professional and nonprofessional staff, as provided in the State budget.

(b) (1) The associate directors shall assist primarily in discharging the diagnostic and remediation functions of the Institution.

(2) The warden shall assist primarily in discharging the custodial function of the Institution.

(c) The staff members of the Institution are entitled to compensation as provided in the State budget.

(d) (1) Except as provided in paragraph (3) of this subsection or any other law, the staff members of the Institution are in the skilled service or professional service in the State Personnel Management System.

(2) With the approval of the Secretary, the Director shall appoint an individual to any position that the Secretary determines to be professional, including:

(i) each associate director;

(ii) each social worker;

(iii) each sociologist;

(iv) each physician; and

(v) each psychologist.

(3) The Director and each individual appointed under paragraph **[**(2)**]** **(2)(I)** of this subsection are in the executive service, in the management service, or a special appointment in the State Personnel Management System.

Article – Economic Development

2–115.

[(a) An employee of the Department who is hired on or after July 1, 1995, is in the executive service or management service in the State Personnel Management System, or is a special appointment.

(b) A position held by a classified service employee on June 30, 1995, remains a classified service position or its equivalent in the State Personnel Management System until the position becomes vacant.

(c)**]** ***(A)*** In accordance with the State budget, the Secretary shall set the compensation of Department employees.

(B) THE SECRETARY OF BUDGET AND MANAGEMENT SHALL DETERMINE POSITION CATEGORIES FOR SPECIAL APPOINTMENTS IN THE DEPARTMENT.

Article – Education

2–104.

(c) (1) All professional assistants**[**, grade 31 and above,**]** shall serve at the pleasure of the State Board and the State Superintendent.

(2) All other professional assistants shall be removed in accordance with procedures set by the State Board.

Article – Family Law

10–119.2.

[(f) (1) Notwithstanding any other provision of law, all employees hired in a demonstration site after its designation as a demonstration site shall be in the management service or special appointments in the State Personnel Management System.

(2) If a position in a demonstration site is held by a classified service employee prior to its designation as a demonstration site, the position remains a classified service position or its equivalent in the State Personnel Management System until the position becomes vacant, at which time the position shall become a management service or special appointment position.**]**

[(g)**] (F)** The Secretary shall establish a performance incentive program to provide pay incentives for employees in a demonstration site.

[(h)**] (G)** In accordance with subsection **[**(i)**] (H)** of this section, a demonstration site may conduct a conciliation conference.

[(i)**] (H)** (1) If a complaint is filed to modify or enforce a duty of support in the circuit court of a jurisdiction in which a demonstration site is located, the court may issue a writ of summons to order the parties to appear and to produce documents at a conciliation conference.

(2) If a party fails to appear or fails to produce the documents required under this subsection, a representative of the demonstration site may apply, upon affidavit, to the court for a body attachment.

(3) If a party fails or refuses to obey a court order to appear or produce the documents required under this subsection at a conciliation conference, the court

may issue a body attachment or compel compliance in any other manner available to the court to enforce its order.

[(j)**] (I)** The powers of the Secretary to carry out the provisions of this section shall be construed liberally.

Article – Health – General

19–107.

(a) (1) A majority of the full authorized membership of the Commission is a quorum.

(2) 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 each year, at the times and places that it determines.

(c) Each member of the Commission 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) (1) The Commission may employ a staff in accordance with the State budget.

(2) **[**(i) Staff hired after September 30, 1999, are in the executive service, 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.

19–206.

(a) A majority of the full authorized membership of the Commission is a quorum. However, the Commission may not act on any matter unless at least 4 members in attendance concur.

(b) The Commission shall meet at least 6 times a year, at the times and places that it determines.

(c) Each member of the Commission 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) (1) The Commission may employ a staff in accordance with the State budget.

(2) **[**(i) Staff hired after September 30, 1999, are in the executive service, 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.

(3) The Deputy Director and each principal section chief of the Commission serve at the pleasure of the Commission.

(4) The Commission, in consultation with the Secretary, may determine the appropriate job classifications and, subject to the State budget, the compensation for the Executive Director, Deputy Director, and each principal section chief of the Commission.

19–2106.

(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.

Article – Health Occupations

14–204.

(d) (1) The Secretary may employ a staff for the Board in accordance with the State budget. The Secretary may designate one of the staff as an executive director.

(2) **[**Staff hired after September 30, 1992, are in the executive service, management service, or are special appointments in the State Personnel Management System.

(3)**]** The Secretary shall determine the appropriate job classifications and grades for all staff.

Article – State Finance and Procurement

5A–316.

(a) (1) The trustees shall appoint a Director, with the approval of the Governor.

(2) The Director is the chief administrative officer of the Trust.

(b) The Director shall have:

(1) knowledge in architecture, history, archeology, or another appropriate discipline relating to historic preservation; and

(2) experience in historic preservation or related fields.

(c) The Director serves at the pleasure of the Board and may be removed with the concurrence of the Governor.

(d) (1) The Director is entitled to the salary provided in the State budget.

(2) The Director may employ a staff in accordance with the State budget.

(e) **[**Each position with the Trust is a special appointment in the State Personnel Management System.

(f)**]** Under the direction of the Board, the Director shall perform the duties and functions that the Board prescribes.

Article – State Government

2–10A–08.

(A) THERE IS A JOINT COMMITTEE ON FAIR PRACTICES AND STATE PERSONNEL OVERSIGHT.

(B) (1) THE JOINT COMMITTEE CONSISTS OF EIGHT MEMBERS.

(2) OF THE EIGHT MEMBERS:

(I) FOUR SHALL BE MEMBERS OF THE SENATE, APPOINTED BY THE PRESIDENT OF THE SENATE; AND

(II) FOUR SHALL BE MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE.

(C) THE MEMBERS OF THE JOINT COMMITTEE SERVE AT THE PLEASURE OF THE PRESIDING OFFICER WHO APPOINTED THEM.

(D) THE PRESIDENT AND THE SPEAKER JOINTLY SHALL APPOINT A SENATOR AND A DELEGATE TO SERVE AS COCHAIRS.

(E) THE JOINT COMMITTEE SHALL HAVE OVERSIGHT OVER:

(1) EMPLOYMENT POLICIES AND PERSONNEL SYSTEMS IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, INCLUDING:

(I) THE STATE PERSONNEL MANAGEMENT SYSTEM;

(II) THE MARYLAND DEPARTMENT OF TRANSPORTATION'S HUMAN RESOURCES MANAGEMENT SYSTEM; AND

(III) THE PERSONNEL SYSTEMS OF STATE INSTITUTIONS OF HIGHER EDUCATION;

(2) MATTERS IN STATE GOVERNMENT OF EQUAL EMPLOYMENT OPPORTUNITY POLICIES AND PRACTICES; AND

(3) PROCUREMENT PRACTICES MADE UNDER EXECUTIVE ORDER.

(F) THE PURPOSES OF THE JOINT COMMITTEE ARE TO:

(1) REVIEW REPORTS;

(2) EVALUATE THE EFFECTIVENESS OF PROGRAMS, POLICIES, AND PRACTICES; AND

(3) IDENTIFY AREAS OF CONCERN AND, AS APPROPRIATE, RECOMMEND CORRECTIVE MEASURES TO THE GOVERNOR AND THE GENERAL ASSEMBLY.

6–105.

(a) (1) The Attorney General may employ a staff in accordance with the State budget.

(2) Staff members appointed under this subsection:

(i) ***NOTWITHSTANDING ANY OTHER LAW, AND EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,*** *are deemed special appointments within the meaning of* ***[****§ 6–405****] § 6–405(A)*** *of the State Personnel and Pensions Article;* ***[****and****]***

(II) MAY NOT BE DETERMINED TO BE SPECIAL APPOINTMENTS UNDER § 6–405(B) OF THE STATE PERSONNEL AND PENSIONS ARTICLE; AND

[*(ii)****] (III)*** *serve at the pleasure of the Attorney General.*

(3) THE FOLLOWING POSITIONS ARE SPECIAL APPOINTMENTS UNDER § 6–405(B) OF THE STATE PERSONNEL AND PENSIONS ARTICLE:

(I) DEPUTY ATTORNEY GENERAL;

(II) SPECIAL ASSISTANT TO THE ATTORNEY GENERAL;

(III) EXECUTIVE COUNSEL TO THE ATTORNEY GENERAL;

(IV) DIRECTOR OR CHIEF OF A DIVISION OR UNIT IN THE OFFICE; AND

(V) PRINCIPAL COUNSEL TO A STATE UNIT.

[*(3)****] (4)*** *(i) Staff appointed under this subsection is entitled to compensation as provided in the State budget.*

(ii) Unless the State budget provides otherwise, the salary of a Deputy Attorney General, assistant Attorney General, or special attorney appointed under this subsection is payable from the funds of the Office.

[*(4)****] (5)*** *Staff is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.*

8–3A–02.

(A) ON OR BEFORE DECEMBER 1 OF EACH GUBERNATORIAL ELECTION YEAR:

(1) THE SECRETARY OF BUDGET AND MANAGEMENT SHALL COMPILE A LIST OF THE POSITION, PAY GRADE, ~~TITLE, AND NAME~~ AND TITLE OF

EACH EMPLOYEE IN THE STATE PERSONNEL MANAGEMENT SYSTEM WHO IS EMPLOYED WITH REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION UNDER § 4–201(C)(2)(II) ~~AND (3)(II)~~ OF THE STATE PERSONNEL AND PENSIONS ARTICLE; AND

(2) THE SECRETARY OF TRANSPORTATION SHALL COMPILE A LIST OF THE POSITION, PAY GRADE, ~~TITLE, AND NAME~~ AND TITLE OF EACH EMPLOYEE IN THE MARYLAND DEPARTMENT OF TRANSPORTATION'S HUMAN RESOURCE SYSTEM WHO IS EMPLOYED WITH REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION UNDER § 2–103.4(B)(2)(II) OF THE TRANSPORTATION ARTICLE.

(B) THE SECRETARY OF TRANSPORTATION SHALL PROVIDE THE LIST OF EMPLOYEES REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION TO THE SECRETARY OF BUDGET AND MANAGEMENT ON OR BEFORE DECEMBER 15 OF EACH GUBERNATORIAL ELECTION YEAR.

(C) IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, ON OR BEFORE DECEMBER 31 OF EACH GUBERNATORIAL ELECTION YEAR, THE SECRETARY OF BUDGET AND MANAGEMENT SHALL SUBMIT A REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE OF DELEGATES ON THE TOTAL NUMBER OF STATE EMPLOYEES EMPLOYED WITH REGARD TO POLITICAL AFFILIATION, BELIEF, OR OPINION UNDER THIS SECTION.

Chapter 347 of the Acts of 1996

SECTION 7. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

[1. Legislative Joint Committee on Fair Practices.

(a) There is a Joint Committee on Fair Practices, which has oversight over matters in State government of equal employment opportunity policies and practices and procurement practices made under Executive Order.

(b) The Joint Committee shall be comprised of:

(1) three members of the Senate, appointed by the President of the Senate; and

(2) three members of the House of Delegates, appointed by the Speaker of the House.

(c) The purpose of the Joint Committee shall be to:

(1) review reports;

(2) evaluate the effectiveness of programs, policies, and practices; and

(3) identify areas of concern, and, as appropriate, recommend corrective measures to the Governor and the General Assembly.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Secretary of Budget and Management, in consultation with the appropriate department secretaries and agency heads, shall evaluate all skilled and professional service positions considered special appointments under § 6–405(a)(3) of the State Personnel and Pensions Article to determine whether these positions should continue to be considered special appointments in the State Personnel Management System.

(b) The Secretary shall:

(1) on or before ~~November 1, 2010~~ July 1, 2011, complete the evaluation required under subsection (a) of this section; and

(2) on or before January 1, ~~2011~~ 2012, in accordance with § 2–1246 of the State Government Article, report the results of the evaluation to the Governor and the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That an at–will position in the executive service or management service or that is designated as a special appointment that is encumbered on the effective date of this Act and the status of which would change as a result of Section 1 of this Act shall remain an at–will position until the position becomes vacant.

SECTION ~~3.~~ *4.* AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 691

(House Bill 798)

AN ACT concerning

Real Property – Residential Mortgages and Deeds of Trust – Recordation and Foreclosure

FOR the purpose of altering the definition of "residential property" for purposes of certain residential property foreclosure procedures and certain provisions concerning the recordation of an instrument securing a mortgage loan on residential property; clarifying the application of a certain provision concerning a mortgagor's or grantor's right to cure a default before a foreclosure sale; and generally relating to foreclosure procedures and recording instruments in the land records.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 3–104.1 and 7–105.1(a) and (h)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Real Property
Section 7–105.1(b) and (c)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Real Property

3–104.1.

(a) In this section, "residential property" means real property improved by four or fewer single family dwelling units **THAT ARE <u>DESIGNED PRINCIPALLY AND ARE</u> INTENDED FOR HUMAN HABITATION**.

(b) When recorded, a mortgage, deed of trust, or any other instrument securing a mortgage loan on residential property shall contain:

(1) (i) The name and Maryland mortgage originator license number of the mortgage originator that originated the loan secured by the instrument; or

(ii) An affidavit by the person that originated the mortgage loan secured by the instrument that the individual who originated the loan is exempt from the licensing requirement under Title 11, Subtitle 6 of the Financial Institutions Article; and

(2) (i) The name and Maryland mortgage lender license number of the mortgage lender that made the loan secured by the instrument; or

(ii) An affidavit by the lender that made the mortgage loan secured by the instrument that the lender is exempt from the licensing requirement under Title 11, Subtitle 5 of the Financial Institutions Article.

(c) The Commissioner of Financial Regulation shall adopt regulations to implement the provisions of this section, including:

(1) Minimum requirements for the inclusion of licensing information when a mortgage, deed of trust, or other instrument securing a mortgage loan on residential property is recorded; and

(2) Consequences, including penalties, for the failure to include licensing information when a mortgage, deed of trust, or other instrument securing a mortgage loan on residential property is recorded.

7–105.1.

(a) In this section, "residential property" means real property improved by four or fewer single family dwelling units **THAT ARE <u>DESIGNED PRINCIPALLY AND ARE</u> INTENDED FOR HUMAN HABITATION**.

(b) (1) Except as provided in paragraph (2) of this subsection, an action to foreclose a mortgage or deed of trust on residential property may not be filed until the later of:

(i) 90 days after a default in a condition on which the mortgage or deed of trust provides that a sale may be made; or

(ii) 45 days after the notice of intent to foreclose required under subsection (c) of this section is sent.

(2) (i) The secured party may petition the circuit court for leave to immediately commence an action to foreclose the mortgage or deed of trust if:

1. The loan secured by the mortgage or deed of trust was obtained by fraud or deception;

2. No payments have ever been made on the loan secured by the mortgage or deed of trust;

3. The property subject to the mortgage or deed of trust has been destroyed; or

4. The default occurred after the stay has been lifted in a bankruptcy proceeding.

(ii) The court may rule on the petition with or without a hearing.

(iii) If the petition is granted, the action may be filed at any time after a default in a condition on which the mortgage or deed of trust provides that a sale may be made and the secured party need not send the written notice of intent to foreclose required under subsection (c) of this section.

(c) (1) Except as provided in subsection (b)(2)(iii) of this section, at least 45 days before the filing of an action to foreclose a mortgage or deed of trust on residential property, the secured party shall send a written notice of intent to foreclose to the mortgagor or grantor and the record owner.

(2) The notice of intent to foreclose shall be sent:

(i) By certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service; and

(ii) By first–class mail.

(3) A copy of the notice of intent to foreclose shall be sent to the Commissioner of Financial Regulation.

(4) The notice of intent to foreclose shall:

(i) Be in the form that the Commissioner of Financial Regulation prescribes by regulation; and

(ii) Contain:

1. The name and telephone number of:

A. The secured party;

B. The mortgage servicer, if applicable; and

C. An agent of the secured party who is authorized to modify the terms of the mortgage loan;

2. The name and license number of the Maryland mortgage lender and mortgage originator, if applicable;

3. The amount required to cure the default and reinstate the loan, including all past due payments, penalties, and fees; and

4. Any other information that the Commissioner of Financial Regulation requires by regulation.

(h) (1) The mortgagor or grantor **OF RESIDENTIAL PROPERTY** has the right to cure the default by paying all past due payments, penalties, and fees and reinstate the loan at any time up to 1 business day before the foreclosure sale occurs.

(2) The secured party or an authorized agent of the secured party shall, on request, provide to the mortgagor or grantor or the mortgagor's or grantor's attorney within a reasonable time the amount necessary to cure the default and reinstate the loan and instructions for delivering the payment.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 692

(Senate Bill 807)

AN ACT concerning

Real Property – Residential Mortgages and Deeds of Trust – Recordation and Foreclosure

FOR the purpose of altering the definition of "residential property" for purposes of certain residential property foreclosure procedures and certain provisions concerning the recordation of an instrument securing a mortgage loan on residential property; clarifying the application of a certain provision concerning a mortgagor's or grantor's right to cure a default before a foreclosure sale; and generally relating to foreclosure procedures and recording instruments in the land records.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 3–104.1 and 7–105.1(a) and (h)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Real Property
Section 7–105.1(b) and (c)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Real Property

3–104.1.

(a) In this section, "residential property" means real property improved by four or fewer single family dwelling units **THAT ARE <u>DESIGNED PRINCIPALLY AND ARE</u> INTENDED FOR HUMAN HABITATION**.

(b) When recorded, a mortgage, deed of trust, or any other instrument securing a mortgage loan on residential property shall contain:

(1) (i) The name and Maryland mortgage originator license number of the mortgage originator that originated the loan secured by the instrument; or

(ii) An affidavit by the person that originated the mortgage loan secured by the instrument that the individual who originated the loan is exempt from the licensing requirement under Title 11, Subtitle 6 of the Financial Institutions Article; and

(2) (i) The name and Maryland mortgage lender license number of the mortgage lender that made the loan secured by the instrument; or

(ii) An affidavit by the lender that made the mortgage loan secured by the instrument that the lender is exempt from the licensing requirement under Title 11, Subtitle 5 of the Financial Institutions Article.

(c) The Commissioner of Financial Regulation shall adopt regulations to implement the provisions of this section, including:

(1) Minimum requirements for the inclusion of licensing information when a mortgage, deed of trust, or other instrument securing a mortgage loan on residential property is recorded; and

(2) Consequences, including penalties, for the failure to include licensing information when a mortgage, deed of trust, or other instrument securing a mortgage loan on residential property is recorded.

7–105.1.

(a) In this section, "residential property" means real property improved by four or fewer single family dwelling units **THAT ARE <u>DESIGNED PRINCIPALLY AND ARE</u> INTENDED FOR HUMAN HABITATION**.

(b) (1) Except as provided in paragraph (2) of this subsection, an action to foreclose a mortgage or deed of trust on residential property may not be filed until the later of:

(i) 90 days after a default in a condition on which the mortgage or deed of trust provides that a sale may be made; or

(ii) 45 days after the notice of intent to foreclose required under subsection (c) of this section is sent.

(2) (i) The secured party may petition the circuit court for leave to immediately commence an action to foreclose the mortgage or deed of trust if:

1. The loan secured by the mortgage or deed of trust was obtained by fraud or deception;

2. No payments have ever been made on the loan secured by the mortgage or deed of trust;

3. The property subject to the mortgage or deed of trust has been destroyed; or

4. The default occurred after the stay has been lifted in a bankruptcy proceeding.

(ii) The court may rule on the petition with or without a hearing.

(iii) If the petition is granted, the action may be filed at any time after a default in a condition on which the mortgage or deed of trust provides that a sale may be made and the secured party need not send the written notice of intent to foreclose required under subsection (c) of this section.

(c) (1) Except as provided in subsection (b)(2)(iii) of this section, at least 45 days before the filing of an action to foreclose a mortgage or deed of trust on residential property, the secured party shall send a written notice of intent to foreclose to the mortgagor or grantor and the record owner.

(2) The notice of intent to foreclose shall be sent:

(i) By certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service; and

(ii) By first–class mail.

(3) A copy of the notice of intent to foreclose shall be sent to the Commissioner of Financial Regulation.

(4) The notice of intent to foreclose shall:

(i) Be in the form that the Commissioner of Financial Regulation prescribes by regulation; and

(ii) Contain:

1. The name and telephone number of:

A. The secured party;

B. The mortgage servicer, if applicable; and

C. An agent of the secured party who is authorized to modify the terms of the mortgage loan;

2. The name and license number of the Maryland mortgage lender and mortgage originator, if applicable;

3. The amount required to cure the default and reinstate the loan, including all past due payments, penalties, and fees; and

4. Any other information that the Commissioner of Financial Regulation requires by regulation.

(h) (1) The mortgagor or grantor **OF RESIDENTIAL PROPERTY** has the right to cure the default by paying all past due payments, penalties, and fees and reinstate the loan at any time up to 1 business day before the foreclosure sale occurs.

(2) The secured party or an authorized agent of the secured party shall, on request, provide to the mortgagor or grantor or the mortgagor's or grantor's attorney within a reasonable time the amount necessary to cure the default and reinstate the loan and instructions for delivering the payment.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 693

(House Bill 811)

AN ACT concerning

State Treasurer – Local Government Units – Local Debt Policies

FOR the purpose of requiring a certain report of the financial officer of a political subdivision to be submitted to the State Treasurer; requiring certain additional information to be included in the report; requiring certain financial officers to submit a certain updated report on request of the State Treasurer; repealing a requirement that certain local government investment guidelines include a certain form; requiring each local government unit to adopt a certain local debt policy; requiring a copy of the policy to be mailed to the State Treasurer; requiring the State Treasurer to send a certain notice if the State Treasurer makes certain findings regarding the policy; requiring a certain local ~~governing body~~ government unit to revise the policy under certain circumstances; requiring a local ~~governing body~~ government unit to submit a certain revised policy under certain circumstances; requiring the State Treasurer to contact a certain local government if certain requirements are not met; requiring certain financial officers to provide certain information requested by the State Treasurer; altering a certain penalty provision; altering certain definitions; defining certain terms; repealing obsolete language; making stylistic changes; making technical corrections; and generally relating to local debt policies of local government units.

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 2–101
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 95 – Treasurer
Section 22F
Annotated Code of Maryland
(2003 Replacement Volume and 2008 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

2–101.

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

(2) "Department" means the Department of Legislative Services.

(3) "Financial officer" means the treasurer or other financial officer of a political subdivision.

(4) "Political subdivision" includes:

(i) A county;

(ii) A municipal corporation in the State;

(iii) A special taxing district in the State; and

(iv) A public corporation of the State.

(b) (1) Except as provided in paragraph (2) of this subsection, if a political subdivision is authorized to incur debt to be redeemed from a fee, charge, or the proceeds of a levy, then within 120 days after the end of the fiscal year of the political subdivision, its financial officer shall submit **TO THE DEPARTMENT AND STATE TREASURER**, subject to § 2–1246 of the State Government Article, **[**to the Department**]** a comprehensive report on the financial condition of the political subdivision as of the end of that fiscal year.

(2) If a political subdivision subject to the provisions of paragraph (1) of this subsection has a population of more than 400,000, the report required under paragraph (1) of this subsection may be submitted within 180 days after the end of the fiscal year of the political subdivision.

(c) A report under this section shall be on the form that the Department provides.

(d) A report under this section shall include the affidavit of the financial officer and all of the following information that applies to the political subdivision:

(1) The assessed valuation of taxable and tangible property in the political subdivision;

(2) The total indebtedness of the political subdivision;

(3) The following categories of the total indebtedness:

(i) Bond indebtedness that is redeemable from the proceeds of general and ad valorem taxes;

(ii) Temporary or floating indebtedness;

(iii) Obligations that are incurred in anticipation of tax collection;

(iv) Current bills payable;

(v) Contingent liability that results from the guaranty of an obligation of another political subdivision; and

(vi) Self–liquidating bond indebtedness;

(4) As to self–liquidating bond indebtedness:

(i) The amount of indebtedness for each project; and

(ii) The source of the revenue for its liquidation;

(5) As to each sinking fund for retirement of obligations:

(i) Each obligation for which the fund is established;

(ii) The amount of the fund; and

(iii) The manner in which money in the fund is invested;

(6) As to the tax levy for the fiscal year for which the report is made:

(i) The amount of the levy imposed;

(ii) The amount of the levy collected; and

(iii) Separate items for:

1. The amount of any special assessment levied; and

2. The amount of that assessment collected;

(7) As to the tax levy for each of the 3 fiscal years immediately preceding the fiscal year for which the report is made:

(i) The amount of the levy imposed; and

(ii) The amount of uncollected taxes;

(8) As to the population of the political subdivision:

(i) The population in the most recent federal census; and

(ii) Any official or unofficial population estimates for the fiscal year for which the report is made;

(9) A copy of the most recent actuarial report on the pension system of the political subdivision, unless it is a county or municipal corporation and a member of the State pension system; **[**and**]**

(10) **AS TO ALL CATEGORIES OF INDEBTEDNESS:**

(I) VARIABLE INTEREST RATE DEBT INSTRUMENTS;

(II) INTEREST RATE EXCHANGE AGREEMENTS OR SWAPS; AND

(III) OTHER DERIVATIVES, INCLUDING FUTURES AND OPTIONS; AND

(11) Any other information about the financial affairs of the political subdivision that the Department finds pertinent or appropriate and necessary to show accurately the financial condition of the political subdivision.

(e) **ON REQUEST OF THE STATE TREASURER, A FINANCIAL OFFICER SHALL SUBMIT AN UPDATED REPORT ON THE INDEBTEDNESS OF THE POLITICAL SUBDIVISION AS REQUIRED IN SUBSECTION (D) OF THIS SECTION.**

(F) (1) A financial officer may not fail **TO**:

(i) **[**To submit**] SUBMIT** a report under this section; or

(ii) **[**Within 15 days after receiving notice that the Department finds the report inadequate, to resubmit**] RESUBMIT** a report that meets the requirements of this section **WITHIN 15 DAYS AFTER RECEIVING NOTICE THAT THE DEPARTMENT FINDS THE REPORT INADEQUATE**.

(2) ~~A~~ **IF A** financial officer ~~who~~ violates any provision of this subsection**, THE POLITICAL SUBDIVISION EMPLOYING THE FINANCIAL OFFICER** is ~~personally~~ liable to the State for a penalty of $10 for each day or part of a day for which the report is overdue.

Article 95 – Treasurer

22F.

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

(2) "Chief executive" means:

(i) For Baltimore City, the Mayor;

(ii) For a nonhome rule county, the chairman or president of the board of county commissioners;

(iii) For a charter county, the elected county executive or, if the county does not have an elected executive, the chairman or president of the county council;

(iv) For a code home rule county, the chairman or president of the board of county commissioners;

(v) For a community college, a designee of the board of trustees;

(vi) For a municipal corporation, the mayor or, if the municipal corporation does not have a mayor, the chairman or president of the municipal governing body; **[**and**]**

(vii) For the Washington Suburban Sanitary Commission, the Chairman of the Commission**;**

(VIII) FOR A PUBLIC CORPORATION, THE CHIEF EXECUTIVE OFFICER; AND

(IX) FOR AN AUTHORITY, THE EXECUTIVE DIRECTOR OR EXECUTIVE SECRETARY.

(3) (i) "Community college" includes a regional community college established under Title 16, Subtitle 2 of the Education Article.

(ii) "Community college" does not include the Baltimore City Community College.

(4) **"FINANCIAL OFFICER" MEANS THE TREASURER OR OTHER FINANCIAL OFFICER OF A LOCAL GOVERNMENT UNIT WHO IS RESPONSIBLE FOR THE INVESTMENT OF PUBLIC FUNDS OR THE ISSUANCE AND MANAGEMENT OF DEBT OF THE LOCAL GOVERNMENT UNIT.**

(5) "Governing body" means:

(i) For Baltimore City, the ~~Mayor and City Council of Baltimore~~ **BALTIMORE CITY BOARD OF ESTIMATES**;

(ii) For a nonhome rule county, the county commissioners;

(iii) For a charter county, as provided by local law, the county council or the county executive and the county council;

(iv) For a code county, the county commissioners;

(v) For a community college, the board of trustees;

(vi) For a municipal corporation, the body provided by the municipal charter; **[**and**]**

(vii) For the Washington Suburban Sanitary Commission, the Commission**;**

(VIII) FOR A PUBLIC CORPORATION, THE BOARD OF DIRECTORS; AND

(IX) FOR AN AUTHORITY, THE BOARD OF THE AUTHORITY.

[(5) "Investment manager" means the director of finance, treasurer, or other official of a local government unit who is responsible for the investment of public funds of the local government unit.**]**

(6) "Local government unit" means:

(i) Baltimore City;

(ii) A community college;

(iii) A county;

(iv) A municipal corporation; **[**or**]**

(v) The Washington Suburban Sanitary Commission**;**

(VI) A PUBLIC CORPORATION AUTHORIZED TO ISSUE DEBT; OR

(VII) AN AUTHORITY OF THE STATE AUTHORIZED TO ISSUE DEBT.

(7) (i) "Public funds" means any revenue held by a local government unit as part of:

1. A general fund;

2. A special fund;

3. A capital improvement fund;

4. A debt service fund;

5. An enterprise fund;

6. An internal service fund; or

7. Except as otherwise provided in subparagraph (ii) of this paragraph, any other account of the local government unit.

(ii) "Public funds" does not include revenues held as part of a pension fund, other postemployment benefits fund, or trust fund account.

(b) This section and the local government investment guidelines adopted by the State Treasurer under this section supersede any local law, including any charter provision, or any other public general law to the extent of any conflict.

(c) (1) (i) After consulting with local government officials, the State Treasurer shall adopt by regulation local government investment guidelines to govern the investment of public funds by local government units in a manner that will facilitate sound cash management while protecting the public and assuring that a local government unit has access to its public funds as required.

(ii) The State Treasurer's local government investment guidelines shall:

1. State the types of investments in which public funds may be invested;

2. Include guidance for the prudent investment of public funds based on cash flow projections, income, liquidity, investment ratings, and risk;

3. Require that investments by a board of education and a board of library trustees are in compliance with the local investment policy of the respective county; and

4. Prohibit borrowing of funds for the express purpose of investing those funds.

[(iii) The State Treasurer's local government investment guidelines shall include a form that local government units shall use to comply with subsection (e) of this section. The form shall be adaptable to the investment needs of each local government unit and shall require sufficient detail to identify all pertinent aspects of an investment portfolio, including any realized losses. The form also shall require that each county include investments managed in accounts for or by the board of education and the board of library trustees of the county. The form shall provide for certification as required under subsection (e) of this section.**]**

(2) (i) **[**On or before September 1, 1995, the**]** **THE** governing body of each local government unit shall adopt by resolution a local investment policy that:

1. Is consistent with the local government investment guidelines adopted by the State Treasurer; and

2. Meets the individual needs of the local government unit.

(ii) Promptly after the adoption of a local investment policy, the local government unit shall mail a certified copy to the State Treasurer.

(iii) If the State Treasurer determines that the local investment policy is not consistent with the local government investment guidelines adopted by the State Treasurer, the State Treasurer shall notify the local government unit and the governing body of the local government unit shall prepare and submit a revised local investment policy that is consistent with the State Treasurer's guidelines.

(3) If the governing body of a local government unit amends its local investment policy, the local government shall submit its new policy to the State Treasurer consistent with the provisions of paragraph (2) of this subsection.

[(d)**]** **(4)** **[**An investment manager**]** **A FINANCIAL OFFICIAL** may not invest public funds of the local government unit in a manner inconsistent with the local investment policy.

(D) (1) (I) ON OR BEFORE SEPTEMBER 1, 2009, ~~THE GOVERNING BODY OF~~ EACH LOCAL GOVERNMENT UNIT SHALL ADOPT BY RESOLUTION, MOTION, OR ORDINANCE A LOCAL DEBT POLICY THAT:

1. IS CONSISTENT WITH THE MARYLAND CONSTITUTION, ARTICLES 23A, 24, AND 31 AND ALL OTHER APPLICABLE STATUTES, CHARTERS, AND LOCAL LAWS; AND

2. MEETS THE INDIVIDUAL NEEDS OF THE LOCAL GOVERNMENT UNIT.

(II) PROMPTLY AFTER THE ADOPTION OF A LOCAL DEBT POLICY, THE LOCAL GOVERNMENT UNIT SHALL MAIL A CERTIFIED COPY TO THE STATE TREASURER.

(III) IF THE STATE TREASURER DETERMINES THAT THE LOCAL DEBT POLICY IS NOT CONSISTENT WITH THE MARYLAND CONSTITUTION,

ARTICLES 23A, 24, AND 31 OR OTHER APPLICABLE STATUTES, CHARTERS, OR LOCAL LAW:

1. THE STATE TREASURER SHALL NOTIFY THE LOCAL GOVERNMENT UNIT; AND

2. THE ~~GOVERNING BODY OF THE~~ LOCAL GOVERNMENT UNIT SHALL PREPARE AND SUBMIT A REVISED LOCAL DEBT POLICY.

(2) IF THE ~~GOVERNING BODY OF A~~ LOCAL GOVERNMENT UNIT AMENDS ITS LOCAL DEBT POLICY, THE LOCAL GOVERNMENT SHALL SUBMIT ITS REVISED POLICY TO THE STATE TREASURER CONSISTENT WITH THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION.

(e) **[**(1) This subsection only applies to a local government unit whose total annual expenditures for total operations, as reported in the most recent publication by the Department of Legislative Services entitled "Local Government Finances in Maryland", exceed $1,000,000.

(2) (i) On or before January 15 and July 15 of each year, beginning October 1995 and continuing through October 1999, the investment manager shall complete the form adopted by the State Treasurer to report all investments of the local government unit on the close of the final day of the immediately preceding half of the fiscal year.

(ii) The investment manager shall certify the accuracy of the form and that the investments reported on the form are in compliance with the local investment policy and promptly submit the form to the chief executive.

(3) (i) On or before January 30 and July 30 of each year, beginning October 1995 and continuing through October 1999, the chief executive shall review the form received from the investment manager.

(ii) The chief executive shall certify the date on which the form was received and that the chief executive has reviewed the form to verify that the information complies with the local investment policy and promptly mail a copy of the completed certified form to the State Treasurer.

(4) The State Treasurer shall review the forms to verify that the chief executive, a governing body, or an independent auditor engaged by the chief executive or a governing body has certified their compliance with this section and the local government investment guidelines.

(f)**]** (1) The State Treasurer shall contact the local government unit to seek compliance if a local government unit fails to:

(i) Adopt a local investment policy that is consistent with the local government investment guidelines adopted by the State Treasurer; or

(ii) **[**Comply with the reporting requirements under subsection (e) of this section**] ADOPT A LOCAL DEBT POLICY IN ACCORDANCE WITH (D)(1)(I) OF THIS SECTION**.

(2) **ON REQUEST OF THE STATE TREASURER, A FINANCIAL OFFICER SHALL PROVIDE TO THE STATE TREASURER, IN THE FORMAT AND TIME FRAME REQUESTED:**

(I) A REPORT OF THE LOCAL GOVERNMENT INVESTMENT PORTFOLIO; OR

(II) A REPORT OF THE LOCAL GOVERNMENT DEBT PORTFOLIO IN THE FORMAT REQUIRED UNDER ARTICLE 24, § 2–101 OF THE CODE.

(3) If the local government unit **[**continues to fail**] FAILS** to comply with this subsection, the State Treasurer shall notify in writing the Joint Committee on the Management of Public Funds.

[(3)**] (4)** The Joint Committee on the Management of Public Funds may request the Attorney General to seek judicial enforcement against the local government unit.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 694

(House Bill 843)

AN ACT concerning

Continuing Care Retirement Communities – ~~Subscriber Complaints and Investigations~~ Internal Grievance Procedure and Mediation

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; authorizing subscribers ~~to submit a certain request to the Long–Term Care Ombudsman under certain circumstances; requiring the Long–Term Care Ombudsman to provide certain written conclusions to certain individuals and to the Department of Aging~~ and providers to seek certain mediation services within a certain time after the conclusion of a certain internal grievance procedure; and generally relating to continuing care retirement communities and ~~subscriber complaints and investigations~~ internal grievance procedures and mediation.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 10–428
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)

~~BY adding to~~
~~Article – Human Services~~
~~Section 10–430~~
~~Annotated Code of Maryland~~
~~(2007 Volume and 2008 Supplement)~~

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 **OR GROUP OF SUBSCRIBERS** **COLLECTIVELY** to submit a written grievance to the provider ~~**IN ANY FORM**~~**;**

~~**(2) ALLOW FOR THE ESTABLISHMENT OF A PANEL CONSISTING OF AT LEAST THREE 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)**~~ **(3) REQUIRE THE PROVIDER TO ASSIGN PERSONNEL TO INVESTIGATE THE GRIEVANCE** ~~**AND ITS CAUSE IN A PROMPT MANNER**~~**;**

[(3)**]** ~~**(5)**~~ **(4)** 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)**~~ **(5)** require the provider to respond within 45 days after receipt of the written grievance regarding the investigation and resolution of the grievance.

(C) (1) WITHIN 30 DAYS AFTER THE CONCLUSION OF AN INTERNAL GRIEVANCE PROCEDURE ESTABLISHED UNDER THIS SECTION, A SUBSCRIBER OR PROVIDER MAY SEEK MEDIATION THROUGH ONE OF THE COMMUNITY MEDIATION CENTERS IN THE STATE OR ANOTHER MEDIATION PROVIDER.

(2) IF A PROVIDER OR SUBSCRIBER SEEKS MEDIATION UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE MEDIATION SHALL BE NONBINDING; AND

(II) THE PROVIDER AND SUBSCRIBER MAY NOT BE REPRESENTED BY COUNSEL.

~~**10–430.**~~

~~**(A) 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 REQUEST TO THE LONG–TERM CARE OMBUDSMAN TO INVESTIGATE AND REVIEW THE COMPLAINT.**~~

~~**(B) THE LONG–TERM CARE OMBUDSMAN SHALL PROVIDE WRITTEN CONCLUSIONS RELATED TO THE INVESTIGATION AND REVIEW OF THE COMPLAINT TO THE GRIEVANT, THE MANAGEMENT OF THE RELEVANT CONTINUING CARE RETIREMENT COMMUNITY, AND THE DEPARTMENT.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 695

(House Bill 864)

AN ACT concerning

Howard County – Roadside Solicitation of Money or Donations – Prohibition

Ho. Co. 9–09

FOR the purpose of prohibiting a person from standing in a State highway or the highway right–of–way in Howard County to solicit money or donations from an occupant of a vehicle; making the provisions of this Act severable; and generally relating to restrictions on the use of State highways in Howard County for solicitation.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 11–127 and 21–507(a) and (b)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Transportation
Section 21–507(h)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Transportation

11–127.

"Highway" means:

(1) The entire width between the boundary lines of any way or thoroughfare of which any part is used by the public for vehicular travel, whether or not the way or thoroughfare has been dedicated to the public and accepted by any proper authority; and

(2) For purposes of the application of State laws, the entire width between the boundary lines of any way or thoroughfare used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the State.

21–507.

(a) Except for the occupant of a disabled vehicle who seeks the aid of another vehicle, a person may not stand in a roadway to solicit a ride, employment, or business from the occupant of any vehicle.

(b) A person may not stand on or near a highway to solicit any other person to watch or guard any vehicle while it is parked or about to be parked on a highway.

(H) IN HOWARD COUNTY, A PERSON MAY NOT STAND IN A STATE HIGHWAY OR THE HIGHWAY RIGHT–OF–WAY TO SOLICIT MONEY OR DONATIONS OF ANY KIND FROM THE OCCUPANT OF A VEHICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 696

(House Bill 911)

AN ACT concerning

Counties – Purchase of Development Rights – Carroll County

FOR the purpose of authorizing Carroll County to enter into an agreement to purchase development rights under certain circumstances; authorizing Carroll County to determine, by resolution, certain provisions, terms, conditions, and the duration of a certain agreement; providing that a certain payment obligation in a certain agreement shall be a general obligation of Carroll County and may not be subject to a certain annual appropriation; authorizing Carroll County to undertake a certain payment obligation without regard to certain limitations and without complying with certain procedures; providing that the exercise of certain authority constitutes the exercise of certain borrowing authority; providing that a certain agreement, the transfer or assignment of a certain agreement, and the payment required by a certain agreement are exempt from certain taxes; and generally relating to the purchase of development rights by Carroll County.

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 20–101
Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 20–102
Annotated Code of Maryland
(2005 Replacement Volume and 2008 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

20–101.

This title applies only in:

(1) Anne Arundel County;

(2) Baltimore County;

(3) **CARROLL COUNTY;**

(4) Howard County; and

[(4)**] (5)** Prince George's County.

20–102.

(a) A county may enter into an agreement to purchase development rights.

(b) Except as otherwise provided in this title, a county may determine by resolution the provisions, terms, conditions, and the duration of an agreement authorized under this title.

(c) A payment obligation in an agreement authorized under this title:

(1) Shall be a general obligation of the county to which its full faith and credit and unlimited taxing power is pledged; and

(2) May not be subject to annual appropriation by the county.

(d) A county may undertake a payment obligation in an agreement authorized under this title:

(1) Without regard to any limitations contained in its charter or other applicable public local law or public general law that would otherwise apply; and

(2) Without complying with any procedures contained in its charter or other applicable public local or public general law that otherwise would be required.

(e) The exercise of the authority granted in this title to enter into an agreement with a payment obligation for a term of years constitutes the exercise of borrowing authority.

(f) An agreement authorized under this title, the transfer or assignment of the agreement, and any payment required by the agreement shall be exempt from taxation by the State or any county, municipal corporation, or public agency.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 697

(House Bill 923)

AN ACT concerning

Higher Education – Community Colleges – BRAC – Exemption from Out–of–State and Out–of–County Fees

FOR the purpose of exempting certain employees and their family members as part of the Base Realignment and Closure (BRAC) process from paying a certain out–of–state or out–of–county fee at community colleges in the State; authorizing each board of community college trustees to waive a certain out–of–state fee and out–of–county or out–of–region fee for certain students; requiring that certain students be included as in–State residents for a certain computation of State aid; authorizing the Board of Trustees of Baltimore City Community College to waive a certain out–of–state fee for certain students; defining a certain term; and generally relating to an exemption from the out–of–state and out–of–county fees for BRAC employees and their family members.

BY repealing and reenacting, with amendments,
Article – Education
Section 16–310(a)(1) and (b)(1)
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to

Article – Education
Section 16–310(a)(6) and (b)(4) and 16–505(g)(2)(iv) *and (v)*
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

16–310.

(a) (1) Subject to paragraphs (2), (3), (4), **[**and**]** (5)**, AND (6)** of this subsection and subsection (f) of this section, any student who attends a community college in this State and is not a resident of this State shall pay, in addition to the student tuition and fees payable by a county resident, an out–of–state fee, at least equal to:

(i) 60% of the county share per full–time equivalent student as determined under § 16–305 of this subtitle; and

(ii) The marginal cost component of the State share per full–time equivalent student as determined under § 16–305(c)(5) of this subtitle.

(6) (I) IN THIS PARAGRAPH, "BRAC" MEANS THE BASE REALIGNMENT AND CLOSURE PROCESS AS ANNOUNCED BY THE UNITED STATES DEPARTMENT OF DEFENSE.

(II) EACH BOARD OF COMMUNITY COLLEGE TRUSTEES MAY WAIVE THE OUT–OF–STATE FEE AS DETERMINED IN PARAGRAPH (1) OF THIS SUBSECTION FOR A STUDENT WHO RESIDES IN THE STATE BUT DOES NOT MEET THE IN–STATE RESIDENCY REQUIREMENT FOR TUITION PURPOSES AND HAS MOVED TO THE STATE AS AN EMPLOYEE OR A FAMILY MEMBER OF AN EMPLOYEE AS PART OF BRAC.

(III) ANY BRAC EMPLOYEE OR FAMILY MEMBER OF A BRAC EMPLOYEE ATTENDING A COMMUNITY COLLEGE IN THE STATE WHO SATISFIES THE REQUIREMENTS ESTABLISHED IN THIS PARAGRAPH SHALL BE INCLUDED AS AN IN–STATE RESIDENT FOR COMPUTATION OF THE STATE AID TO COMMUNITY COLLEGES IN ACCORDANCE WITH § 16–305 OF THIS SUBTITLE.

(b) (1) Subject to the provisions of paragraphs (2) **[**and**]**, (3)**, AND (4)** of this subsection and subsection (g) of this section, any student who attends a community college not supported by the county in which the student resides shall pay, in addition to the student tuition and fees payable by a resident of a county that supports the community college, an out–of–county or out–of–region fee at least equal

to 60% of the county share per full–time equivalent student as determined under § 16–305 of this subtitle.

(4) (I) IN THIS PARAGRAPH, "BRAC" MEANS THE BASE REALIGNMENT AND CLOSURE PROCESS AS ANNOUNCED BY THE UNITED STATES DEPARTMENT OF DEFENSE.

(II) EACH BOARD OF COMMUNITY COLLEGE TRUSTEES MAY WAIVE THE OUT–OF–COUNTY FEE OR OUT–OF–REGION FEE AS DETERMINED IN PARAGRAPH (1) OF THIS SUBSECTION FOR A STUDENT WHO RESIDES IN THE ~~STATE~~ COUNTY BUT DOES NOT MEET THE IN–COUNTY RESIDENCY REQUIREMENT FOR TUITION PURPOSES AND HAS MOVED TO THE STATE AS AN EMPLOYEE OR A FAMILY MEMBER ~~OR~~ OF AN EMPLOYEE AS PART OF BRAC.

16–505.

(g) (2) **(IV) THE BOARD OF TRUSTEES MAY WAIVE THE OUT–OF–STATE FEE AS DETERMINED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR A STUDENT WHO RESIDES IN THE STATE BUT DOES NOT MEET THE IN–STATE RESIDENCY REQUIREMENT FOR TUITION PURPOSES AND HAS MOVED TO THE STATE AS AN EMPLOYEE OR A FAMILY MEMBER OF AN EMPLOYEE AS PART OF THE BASE REALIGNMENT AND CLOSURE PROCESS AS ANNOUNCED BY THE UNITED STATES DEPARTMENT OF DEFENSE.**

(V) ANY STUDENT ATTENDING THE COLLEGE WHO RECEIVES A TUITION WAIVER UNDER SUBPARAGRAPH (IV) OF THIS PARAGRAPH SHALL BE INCLUDED AS AN IN–STATE RESIDENT FOR COMPUTATION OF STATE AID TO THE COLLEGE IN ACCORDANCE WITH § 16–512 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 698

(House Bill 933)

AN ACT concerning

Prince George's County – Roadside Solicitation of Money or Donations – Permit Program

PG 419–09

FOR the purpose of authorizing the County Council of Prince George's County ~~or the governing body of a municipal corporation in Prince George's County~~ to enact a permit program to allow ~~certain individuals and certain representatives of fire companies or bona fide religious, fraternal, civic, war veterans', or charitable organizations to stand in a roadway, median divider, or intersection and solicit money or donations from the occupant of a vehicle; requiring that an ordinance or resolution authorized by this Act require that an applicant for a permit submit certain information, provide that a permit is effective for one day, and provide that an individual or a qualified organization may obtain one permit per calendar year; making technical and conforming changes~~ a person to stand in a roadway, median divider, or intersection to solicit money or donations from the occupant of a vehicle; requiring an applicant for a permit to provide certain information to the county within a certain period before the date on which the permit is to be effective; prohibiting the term of a certain permit from exceeding a certain period; limiting the number of certain permits that may be issued to the same person in a calendar year; requiring a certain person to display a certain permit in a certain manner while soliciting; *providing for the termination of this Act;* and generally relating to a permit program for roadside solicitation of money or donations in Prince George's County.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–507
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Transportation

21–507.

(a) Except for the occupant of a disabled vehicle who seeks the aid of another vehicle, a person may not stand in a roadway to solicit a ride, employment, or business from the occupant of any vehicle.

(b) A person may not stand on or near a highway to solicit any other person to watch or guard any vehicle while it is parked or about to be parked on a highway.

(c) In Carroll County, Charles County, Frederick County, Harford County, and Washington County, a person may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(d) (1) This subsection applies to Prince George's County.

(2) (i) **[**A**] EXCEPT AS PROVIDED IN SUBSECTION ~~(G)~~ (H) OF THIS SECTION, A** person may not stand in a highway to solicit money or donations of any kind from the occupant of a vehicle.

(ii) An adult may not cause, encourage, allow, or petition a child under the age of 15 years to violate subparagraph (i) of this paragraph.

(iii) In this paragraph, "highway" includes:

1. Rights–of–way, roadway surfaces, roadway subgrades, shoulders, median dividers, drainage facilities and structures, related stormwater management facilities and structures, roadway cuts, roadway fills, guardrails, bridges, highway grade separation structures, railroad grade separations, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, and other structures forming an integral part of a street, road, or highway, including bicycle and walking paths; and

2. Any other property acquired for the construction, operation, or use of the highway.

(3) A child under the age of 15 years may not be found guilty or adjudicated delinquent for a violation of paragraph (2)(i) of this subsection if an adult caused, encouraged, allowed, or petitioned the child in violation of paragraph (2)(ii) of this subsection.

(4) This subsection shall be enforced:

(i) By the issuance of a warning that informs the offender of the requirements of this subsection if it is the offender's first violation; and

(ii) Under § 27–101 of this article if it is the offender's second or subsequent violation.

(e) (1) This subsection applies to Anne Arundel County.

(2) (i) A person may not stand in a highway to:

1. Solicit money or donations of any kind from the occupant of a vehicle; or

2. Advertise any message.

(ii) "Highway" includes:

1. Rights–of–way, roadway surfaces, roadway subgrades, shoulders, median dividers, drainage facilities and structures, related

stormwater management facilities and structures, roadway cuts, roadway fills, guardrails, bridges, highway grade separation structures, railroad grade separations, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, and other structures forming an integral part of a street, road, or highway, including bicycle and walking paths; and

2. Any other property acquired for the construction, operation, or use of the highway.

~~(f) (1) This subsection applies only to Cecil County.~~

~~(2) [In this subsection, "qualified organization" means a fire company or bona fide religious, fraternal, civic, war veterans', or charitable organization.~~

~~(3)]~~ ~~Except as provided in [paragraph (4) of this subsection]~~ ~~**SUBSECTION (G) OF THIS SECTION**~~, ~~in Cecil County a person may not:~~

~~(i) Stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle; or~~

~~(ii) Cause, encourage, allow, or petition another to stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.~~

~~[(4)]~~ ~~**(G) (1) IN THIS SUBSECTION, "QUALIFIED ORGANIZATION" MEANS A FIRE COMPANY OR BONA FIDE RELIGIOUS, FRATERNAL, CIVIC, WAR VETERANS', OR CHARITABLE ORGANIZATION.**~~

~~[(i)]~~ ~~**(2)**~~ ~~The County Commissioners of Cecil County~~~~**, THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY,**~~ ~~or the governing body of a municipal corporation in Cecil County~~ ~~**OR PRINCE GEORGE'S COUNTY**~~ ~~may, by appropriate resolution or ordinance, enact a permit program to allow individuals who are at least 18 years old and representatives of qualified organizations who are at least 18 years old to solicit money or donations from the occupant of a vehicle by standing in a roadway, median divider, or intersection.~~

~~[(ii)]~~ ~~**(3)**~~ ~~If the County Commissioners~~ ~~**OF CECIL COUNTY, THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY,**~~ ~~or the governing body of a municipal corporation in [the county enact]~~ ~~**CECIL COUNTY OR PRINCE GEORGE'S COUNTY ENACTS**~~ ~~a resolution or ordinance establishing a permit program authorized by this [paragraph]~~ ~~**SUBSECTION**~~, ~~the resolution or ordinance shall:~~

~~[1.]~~ ~~**(I)**~~ ~~Require an applicant for a permit to submit proof that the individual or qualified organization has a plan for safely soliciting money or donations from the proposed location;~~

~~**[**2.**] (II)** Provide that a permit is effective for a period of 1 calendar day; and~~

~~**[**3.**] (III)** Allow an individual or a qualified organization to obtain only one permit per calendar year.~~

~~**[**(g)**] (II)** (1) In Montgomery County, a child under the age of 18 years may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.~~

~~(2) This subsection shall be enforced by the issuance of a warning that informs the offender of the requirements of this subsection.~~

(f) (1) This subsection applies only to Cecil County.

(2) In this subsection, "qualified organization" means a fire company or bona fide religious, fraternal, civic, war veterans', or charitable organization.

(3) Except as provided in paragraph (4) of this subsection, in Cecil County a person may not:

(i) Stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle; or

(ii) Cause, encourage, allow, or petition another to stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(4) (i) The County Commissioners of Cecil County or the governing body of a municipal corporation in Cecil County may, by appropriate resolution or ordinance, enact a permit program to allow individuals who are at least 18 years old and representatives of qualified organizations who are at least 18 years old to solicit money or donations from the occupant of a vehicle by standing in a roadway, median divider, or intersection.

(ii) If the County Commissioners or the governing body of a municipal corporation in the county enact a resolution or ordinance establishing a permit program authorized by this paragraph, the resolution or ordinance shall:

1. Require an applicant for a permit to submit proof that the individual or qualified organization has a plan for safely soliciting money or donations from the proposed location;

2. Provide that a permit is effective for a period of 1 calendar day; and

3. Allow an individual or a qualified organization to obtain only one permit per calendar year.

(g) (1) In Montgomery County, a child under the age of 18 years may not stand in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.

(2) This subsection shall be enforced by the issuance of a warning that informs the offender of the requirements of this subsection.

(H) (1) THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, BY APPROPRIATE RESOLUTION OR ORDINANCE, MAY ENACT A PERMIT PROGRAM TO ALLOW A PERSON TO STAND IN A ROADWAY, MEDIAN DIVIDER, OR INTERSECTION TO SOLICIT MONEY OR DONATIONS FROM THE OCCUPANT OF A VEHICLE.

(2) AT LEAST 15 DAYS BEFORE THE DATE ON WHICH THE PERMIT APPLIED FOR IS TO BE EFFECTIVE, AN APPLICANT SHALL FILE WITH THE COUNTY AN APPLICATION THAT CONTAINS THE FOLLOWING INFORMATION:

(I) THE NAME, ADDRESS, AND AGE OF EACH PERSON WHO WILL SOLICIT;

(II) THE NAME AND ADDRESS OF THE EMPLOYING OR SPONSORING PERSON, AGENCY, OR ENTITY;

(III) THE EXACT LOCATION WHERE EACH SOLICITOR WILL BE ASSIGNED;

(IV) THE PURPOSE OF THE SOLICITATION;

(V) THE TIME FRAME AND DURATION OF THE SOLICITATION;

(VI) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF A CONTACT PERSON WHO WILL BE ABLE TO PROVIDE ADDITIONAL INFORMATION TO THE COUNTY OR ITS DESIGNEE; AND

(VII) ANY OTHER INFORMATION REQUIRED BY THE COUNTY.

(3) THE TERM OF A PERMIT MAY NOT EXCEED 24 HOURS.

(4) NO MORE THAN 4 PERMITS MAY BE ISSUED TO THE SAME PERSON IN A CALENDAR YEAR.

(5) A PERSON TO WHOM A PERMIT IS ISSUED SHALL CONSPICUOUSLY DISPLAY THE PERMIT WHILE SOLICITING.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. *It shall remain effective for a period of 2 years and, at the end of September 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.*

Approved by the Governor, May 19, 2009.

Chapter 699

(House Bill 955)

AN ACT concerning

Maryland Horse Industry Board – Equine Activities

FOR the purpose of providing that certain activities are not subject to certain provisions of law relating to the Maryland Horse Industry Board; requiring that equine activities be treated as agricultural activities for the purposes of certain provisions of law; defining a certain term; and generally relating to the Maryland Horse Industry Board and equine activities.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–701 and 2–702
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY adding to
Article – Agriculture
Section 2–702.1
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Agriculture

2–701.

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

(b) "Board" means the Maryland Horse Industry Board.

(c) "Boarding stable" means an establishment that stables five or more horses and receives compensation for these services.

(d) **"EQUINE ACTIVITIES" INCLUDES TEACHING EQUESTRIAN SKILLS, PARTICIPATING IN EQUESTRIAN COMPETITIONS, EXHIBITIONS OR OTHER DISPLAYS OF EQUESTRIAN SKILLS, AND CARING FOR, BREEDING, BOARDING, RENTING, RIDING, OR TRAINING HORSES.**

(E) "Equine dealer, breeding stables, or rescue stables" includes an establishment in which five or more horses are sold or transferred each year.

[(e)**]** **(F)** "Horse" includes horses and ponies.

[(f)**]** **(G)** (1) "Horse riding and rental stables" means an establishment in connection with which one or more horses are let for hire to be ridden or driven, either with or without the furnishing of riding or driving instruction.

(2) "Horse riding and rental stables" includes:

(i) Boarding stables;

(ii) Equine dealer, breeding stables, or rescue stables; and

(iii) Sales barns.

[(g)**]** **(H)** "Sales barns" includes an establishment where horses are sold.

2–702.

[Horse**]** **EXCEPT AS PROVIDED IN § 2–702.1 OF THIS SUBTITLE, HORSE** racing and standardbred stables **[**and**]** **OR** farms using horses for **[**agricultural purposes**]** **WORKING OR CULTIVATING THE SOIL OR HERDING OR CUTTING LIVESTOCK** are not subject to the provisions of this subtitle.

2–702.1.

EQUINE ACTIVITIES SHALL BE TREATED AS AGRICULTURAL ACTIVITIES FOR THE PURPOSES OF THIS ~~ARTICLE~~ SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 700

(House Bill 962)

AN ACT concerning

Prince George's County – Alcoholic Beverages – Wine Festival License

PG 322–09

FOR the purpose of authorizing the Prince George's County Board of License Commissioners to issue a wine festival license to certain persons for the sale of wine at the Prince George's County Wine Festival *each year*; establishing certain licensing requirements; requiring license holders to display and sell certain wine; providing for a license fee; requiring the Board to set the date and location for the Festival and to assure that the primary focus of the Festival is the promotion of Maryland wine; establishing certain requirements concerning the delivery and return of products displayed and sold at the Festival; requiring the Board to adopt certain regulations; defining certain terms; and generally relating to an alcoholic beverages license issued for the Prince George's County Wine Festival.

BY adding to
Article 2B – Alcoholic Beverages
Section 8–310.2
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

8–310.2.

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

(2) "BOARD" MEANS THE PRINCE GEORGE'S COUNTY BOARD OF LICENSE COMMISSIONERS.

(3) "FESTIVAL" MEANS THE PRINCE GEORGE'S COUNTY WINE FESTIVAL.

(B) ***(1)*** ~~**THIS**~~ ***EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS*** **SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.**

(2) THIS SECTION DOES NOT APPLY IN THE 24TH LEGISLATIVE DISTRICT.

(C) THE BOARD MAY ISSUE ~~**A**~~ ***ONE*** **WINE FESTIVAL LICENSE** ***EACH YEAR*****.**

(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, AN APPLICANT FOR A WINE FESTIVAL LICENSE SHALL BE A HOLDER OF A RETAIL ALCOHOLIC BEVERAGES LICENSE, A CLASS 3 WINERY LICENSE, OR A CLASS 4 LIMITED WINERY LICENSE.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A HOLDER OF A WINE FESTIVAL LICENSE MAY DISPLAY AND SELL WINE AT THE FESTIVAL FOR CONSUMPTION ON OR OFF THE PREMISES ON THE DAYS AND FOR THE HOURS DESIGNATED FOR THE FESTIVAL.

(2) THE WINE SHALL BE:

(I) MANUFACTURED AND PROCESSED IN ANY STATE;

(II) PRICE FILED IN ACCORDANCE WITH REGULATIONS THAT THE COMPTROLLER ADOPTS; AND

(III) DISTRIBUTED IN THE STATE BY THE TIME THE APPLICATION FOR THE WINE FESTIVAL LICENSE IS FILED.

(F) THIS SECTION DOES NOT PROHIBIT THE HOLDER OF A WINE FESTIVAL LICENSE FROM HOLDING ANOTHER ALCOHOLIC BEVERAGES LICENSE OF A DIFFERENT CLASS OR NATURE.

(G) (1) THE BOARD:

(I) MAY ESTABLISH THE LICENSE FEE;

(II) SHALL CHOOSE A LOCATION IN THE COUNTY FOR THIS FESTIVAL WHICH IS NOT LICENSED UNDER THIS ARTICLE;

(III) SHALL ASSURE THAT THE PRIMARY FOCUS OF THE FESTIVAL IS THE PROMOTION OF MARYLAND WINE; AND

(IV) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ANNUALLY MAY SELECT ONE WEEKEND, FRIDAY THROUGH SUNDAY INCLUSIVE, FOR THE FESTIVAL.

(2) THE WEEKEND CHOSEN FOR THE FESTIVAL MAY NOT:

(I) BE LONGER THAN 3 DAYS;

~~(I)~~ *(II)* OCCUR WITHIN 14 DAYS BEFORE OR AFTER THE MARYLAND WINE FESTIVAL IN CARROLL COUNTY; AND

~~(II)~~ *(III)* CONFLICT WITH THE DATES CHOSEN FOR:

1. THE ANNE ARUNDEL COUNTY BEER AND WINE FESTIVAL;

2. THE CALVERT COUNTY WINE FESTIVAL;

3. THE CHARLES COUNTY BEER AND WINE FESTIVAL; OR

4. THE HOWARD COUNTY WINE FESTIVAL.

(H) (1) PRODUCTS DISPLAYED AND SOLD SHALL BE:

(I) INVOICED TO THE HOLDER OF THE WINE FESTIVAL LICENSE BY A LICENSED STATE WHOLESALER, WINERY, OR LIMITED WINERY; AND

(II) DELIVERED TO THE FESTIVAL FROM THE LICENSED PREMISES OF THE WHOLESALER, WINERY, OR LIMITED WINERY.

(2) WHENEVER A WINE FESTIVAL LICENSE IS ISSUED UNDER THIS SECTION, HOLDERS OF WHOLESALE, WINERY, OR LIMITED WINERY LICENSES MAY ENTER INTO AN AGREEMENT WITH THE HOLDER OF A WINE FESTIVAL LICENSE TO DELIVER WINE 2 DAYS BEFORE THE EFFECTIVE DATE, AND TO ACCEPT RETURNS 2 DAYS AFTER THE EXPIRATION DATE OF THE WINE FESTIVAL LICENSE.

(I) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 701

(House Bill 969)

AN ACT concerning

Prince George's County – Alcoholic Beverages – Bottle Clubs

PG 316–09

FOR the purpose of prohibiting certain bottle clubs in Prince George's County from evading certain laws relating to hours of operation and to the selling, giving, serving, dispensing, keeping, or allowing to be consumed alcoholic beverages and certain other beverages; repealing a provision rendered unnecessary by this Act; defining a certain term; and generally relating to bottle clubs in Prince George's County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 20–108.1
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

20–108.1.

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

(2) (I) "BOTTLE CLUB" MEANS A PREMISES OR ESTABLISHMENT THAT:

1. IS SUBJECT TO ANY LICENSE ISSUED BY THE STATE OR PRINCE GEORGE'S COUNTY; AND

2. *A.* SERVES, GIVES, DISPENSES, KEEPS, OR ALLOWS TO BE CONSUMED BY A PATRON ALCOHOLIC BEVERAGES FROM SUPPLIES THAT THE PATRON PURCHASED, RESERVED, OR OTHERWISE BROUGHT TO THE PREMISES OR ESTABLISHMENT; *OR*

***B. SERVES, GIVES, DISPENSES, OR ALLOWS TO BE CONSUMED BY A PATRON PAYING ADMISSION ALCOHOLIC BEVERAGES FROM SUPPLIES PURCHASED OR OTHERWISE BROUGHT TO THE PREMISES OR ESTABLISHMENT BY AN OWNER OR OPERATOR OR AN AGENT OF AN OWNER OR OPERATOR*.**

(II) "BOTTLE CLUB" INCLUDES A RESTAURANT, HOTEL, CLUB, ROOM, DANCE STUDIO, DISCO, PLACE OF PUBLIC ENTERTAINMENT, OR OTHER PLACE OPEN TO THE PUBLIC.

(III) "BOTTLE CLUB" DOES NOT INCLUDE ANY ESTABLISHMENT FOR WHICH A LICENSE FOR THE PREMISES HAS BEEN ISSUED UNDER THE PROVISIONS OF THIS ARTICLE.

[(2)**] (3)** "Place of public entertainment" means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display listed under § 10–405(c) through (f) of this article.

[(3)**] (4)** "Setups" includes drinking containers and ice.

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

(c) (1) A person may not serve or dispense setups or serve, dispense, keep, or allow to be consumed any alcoholic beverages or other component parts of mixed alcoholic drinks in a place of public entertainment.

(2) **[**A person who operates a business establishment for profit that is not licensed under this article may not knowingly allow customers to bring alcoholic beverages for consumption into the establishment**] AN OWNER OR OPERATOR OF A BOTTLE CLUB MAY NOT:**

(I) EVADE THE ALCOHOLIC BEVERAGE LICENSE LAWS IN THE COUNTY, INCLUDING LAWS GOVERNING THE HOURS OF OPERATION; AND

(II) SELL, GIVE, SERVE, DISPENSE, KEEP, OR ALLOW TO BE CONSUMED IN THE BOTTLE CLUB ANY ALCOHOLIC BEVERAGE, SETUPS, OR OTHER COMPONENT PARTS OF MIXED ALCOHOLIC DRINKS.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding $10,000 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 702

(House Bill 973)

AN ACT concerning

Maryland Horse Industry Fund – Assessments on Commercial Equine Feed

FOR the purpose of altering the amount of the assessment that the Secretary of Agriculture may impose on commercial equine feed sold in the State; *prohibiting certain funds from reverting to the General Fund;* and generally relating to the *Maryland Horse Industry Board and the* authority of the Secretary of Agriculture to impose assessments on commercial equine feed.

BY repealing and reenacting, without amendments,
Article – Agriculture
Section 2–708.2(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section *2–708.2(e) and* 6–107.2
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Agriculture

2–708.2.

(a) In this section, "Fund" means the Maryland Horse Industry Fund.

(e) At the end of a fiscal year, any unspent or unencumbered balance in the Fund ***[****shall****]*** ***MAY NOT*** *revert to the General Fund of the State****[****, in accordance with §§ 7–302 and 7–303 of the State Finance and Procurement Article****]****.*

6–107.2.

(a) The Secretary may establish an assessment of up to **[**$2**]** **$6** per ton on commercial equine feed that is sold in Maryland.

(b) The assessment shall be paid by the person registering the feed according to the collection and reporting guidelines established by the Secretary by regulation.

(c) Any assessments collected shall be paid into the Maryland Horse Industry Fund as provided in § 2–708.2 of this article.

(d) The Secretary shall adopt regulations to:

(1) Allow a person who purchases commercial equine feed in the State to request reimbursement of any assessment that was paid on the feed; and

(2) Require that a purchaser of feed be notified, at the point of sale, of the possibility of reimbursement.

(e) Notwithstanding any other provision of this subtitle, any funds collected under this section may be used only for education, research, and promotional materials and activities intended to benefit the Maryland equine industry.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 703

(House Bill 975)

AN ACT concerning

State Retirement and Pension System – Military Service Credit – Clarification and Simplification

FOR the purpose of altering the definition of "military service" as it relates to service credit for members of State or local retirement or pension systems to include active and inactive duty for training; providing certain death and disability benefits to certain individuals who are members of a State or local retirement or pension system who die or becomes disabled on or after a certain date while performing certain military service; requiring a State or local retirement or pension system to provide certain benefits to certain individuals depending on certain choices the State or local retirement system may make with regard to the distribution of certain benefits; clarifying that certain members of the

Maryland National Guard who are on active or inactive duty for training that interrupts the member's service may receive a certain amount of service credit under certain circumstances; repealing certain obsolete language; and generally relating to clarifying and simplifying the military service credit provisions for the State or local retirement or pension systems.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 38–101(d), 38–102, and 38–103(d)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 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

38–101.

(d) "Military service" means:

(1) induction into the armed forces of the United States for training and service under the Selective Training and Service Act of 1940 or a subsequent act of a similar nature;

(2) membership in a reserve component of the armed forces of the United States**:**

(I) on active duty or ordered or assigned to active duty; **OR**

(II) ON ACTIVE DUTY FOR TRAINING OR INACTIVE DUTY FOR TRAINING THAT INTERRUPTS A MEMBER'S SERVICE;

(3) enlistment into the armed forces of the United States;

(4) membership in the Maryland National Guard; or

(5) with respect to a person separated from employment on or after July 1, 1991, active duty with the commissioned corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey from:

(i) December 7, 1941, to December 31, 1946, both inclusive;

(ii) June 25, 1950, to January 31, 1955, both inclusive; or

(iii) December 22, 1961, to May 7, 1975, both inclusive.

38–102.

(A) [During] **EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, DURING** a period that a member of a State or local retirement or pension system is absent from employment for military service, the member or the member's estate, under a State or local retirement or pension system, is not entitled to:

(1) ordinary disability benefits;

(2) accidental disability benefits;

(3) death benefits;

(4) optional allowances; or

(5) other disability or death benefits.

(B) (1) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO:

(I) IS A MEMBER OF A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM AS DEFINED IN § 37–101(R) OF THIS ARTICLE; AND

(II) DIES ON OR AFTER JANUARY 1, 2007, WHILE PERFORMING QUALIFIED MILITARY SERVICE AS DEFINED IN CHAPTER 43, TITLE 38 OF THE UNITED STATES CODE.

(2) TO THE EXTENT REQUIRED BY § 401(A)(37) OF THE INTERNAL REVENUE CODE, AN INDIVIDUAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL RECEIVE ANY ADDITIONAL BENEFITS THAT THE SYSTEM PROVIDES FOR ANY MEMBER WHO RESUMES EMPLOYMENT AFTER COMPLETING MILITARY SERVICE AND THEN DIES, INCLUDING ANY DEATH BENEFITS THAT ARE CONTINGENT ON A MEMBER'S DEATH WHILE EMPLOYED.

(C) (1) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO:

(I) IS A MEMBER OF A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM AS DEFINED IN § 37–101(R) OF THIS ARTICLE; AND

(II) BECOMES DISABLED OR DIES ON OR AFTER JANUARY 1, 2007, WHILE PERFORMING QUALIFIED MILITARY SERVICE AS DEFINED IN CHAPTER 43, TITLE 38 OF THE UNITED STATES CODE.

(2) (I) TO THE EXTENT PERMITTED BY § 414(U)(8) OF THE INTERNAL REVENUE CODE, A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM MAY PROVIDE THAT, FOR BENEFIT ACCRUAL PURPOSES, AN INDIVIDUAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE TREATED AS HAVING RETURNED TO EMPLOYMENT ON THE DAY BEFORE THE DEATH OR DISABILITY AND THEN TERMINATED ON THE DATE OF DEATH OR DISABILITY.

(II) IF A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM PROVIDES BENEFITS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE SYSTEM MAY CHOOSE TO PROVIDE EITHER PARTIAL OR FULL BENEFITS, BUT WHICHEVER OPTION IS CHOSEN, IT SHALL BE APPLIED TO ALL SIMILARLY SITUATED MEMBERS IN A REASONABLY EQUIVALENT MANNER.

(D) (1) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO:

(I) IS A MEMBER OF A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM AS DEFINED IN § 37–101(R) OF THIS ARTICLE; AND

(II) ON OR AFTER JANUARY 1, 2009, RECEIVES DIFFERENTIAL WAGE PAYMENTS FROM AN EMPLOYER WHILE PERFORMING QUALIFIED MILITARY SERVICE AS DEFINED IN CHAPTER 43, TITLE 38 OF THE UNITED STATES CODE.

(2) (I) TO THE EXTENT PERMITTED BY § 3401(H) OF THE INTERNAL REVENUE CODE, AN INDIVIDUAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE TREATED AS EMPLOYED BY THE EMPLOYER DESCRIBED IN PARAGRAPH (1)(II) OF THIS SUBSECTION WHILE PERFORMING QUALIFIED MILITARY SERVICE AND THE DIFFERENTIAL WAGE PAYMENTS SHALL BE TREATED AS COMPENSATION.

(II) TO THE EXTENT PERMITTED BY § 414(U)(12) OF THE INTERNAL REVENUE CODE, A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM MAY PROVIDE BENEFITS TO THE INDIVIDUAL BASED ON THE DIFFERENTIAL WAGE PAYMENTS.

(III) IF A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM PROVIDES BENEFITS UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE BENEFITS SHALL BE PROVIDED TO ALL SIMILARLY SITUATED MEMBERS IN A REASONABLY EQUIVALENT MANNER.

38–103.

(d) (1) Subject to paragraph (2)(i) of this subsection, a member of a State or local retirement or pension system shall receive service credit for a period of absence from employment while in military service if:

(i) the employment of the member under subsection (a)(2) of this section is active or the employee is reinstated as a regular employee on a leave of absence; and

(ii) membership in a State or local retirement or pension system is a requirement of employment.

(2) (i) For an absence for military service **[**on or after January 1, 1946**]**, service credit for the military service may not exceed 5 years.

(ii) 1. This subparagraph applies only to a member of a State system.

2. Subject to subparagraph (i) of this paragraph and in addition to any service credit received under paragraph (1) of this subsection, a member of the Maryland National Guard who has been activated under Title 10 of the United States Code, **AND WHO IS ON ACTIVE OR INACTIVE DUTY FOR TRAINING THAT INTERRUPTS THE MEMBER'S SERVICE** shall receive service credit at the rate of 4 months for each full year for military service, not to exceed a total of 36 months.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 704

(House Bill 978)

AN ACT concerning

Task Force to Study Motor Vehicle Towing Practices – Extension

FOR the purpose of extending the expiration date for the Task Force to Study Motor Vehicle Towing Practices; extending the due date by which the Task Force is required to report its findings and recommendations; and generally relating to the Task Force to Study Motor Vehicle Towing Practices.

BY repealing and reenacting, with amendments,
Chapter 514 of the Acts of the General Assembly of 2008
Section 1 and 2

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

Chapter 514 of the Acts of 2008

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

(a) There is a Task Force to Study Motor Vehicle Towing Practices in the State.

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

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

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

(3) one representative from the Motor Vehicle Administration, appointed by the Motor Vehicle Administrator;

(4) two representatives from the motor vehicle insurance industry, appointed by the Governor;

(5) two representatives from two different county police departments who are involved with the county's towing policies and the disposition of abandoned motor vehicles, appointed by the Governor;

(6) two representatives of the Towing and Recovery Professionals of Maryland, appointed by the president of that organization;

(7) two representatives of the Maryland Association of Counties, appointed by the president of the Association;

(8) one representative of the Maryland Retailers Association, appointed by the president of the Association;

(9) one representative of the Maryland Bankers Association, appointed by the president of the Association;

(10) one representative of the Maryland Automobile Dealers Association, appointed by the president of the Association;

(11) one representative of the Apartment and Office Building Association, appointed by the president of the Association;

(12) one representative of the Maryland Auto and Truck Recyclers Association, appointed by the Executive Director of the Association;

(13) one representative of a Maryland branch of the American Automobile Association (AAA) appointed by the branch president of the Association;

(14) two representatives of the Maryland Municipal League, appointed by the Executive Director of the League; and

(15) the following members appointed by the Governor:

(i) two members representing the interests of commercial and residential property owners; and

(ii) two members from the general public.

(c) The Governor shall designate the chair of the Task Force.

(d) The Motor Vehicle Administration shall provide staff for the Task Force.

(e) A member of the Task Force:

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

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

(f) The Task Force shall study:

(1) the State and local laws governing towing practices, including the storage and disposal of towed vehicles, and any recommended changes to these laws;

(2) the costs, benefits, and feasibility of a State program of licensure or registration for the towing industry;

(3) issues related to notice given by a private property owner to the owner of a motor vehicle before towing the vehicle;

(4) issues related to notice given by a police department to the motor vehicle owner, a secured party, or an insurer of an abandoned motor vehicle in police custody;

(5) issues related to notice given by a private tower to the motor vehicle owner, a secured party, an insurer, or the local police department of a towed vehicle in the possession of a private tower;

(6) issues related to State preemption of local authority governing the towing or removal of motor vehicles; and

(7) any other issues that the Task Force considers relevant to motor vehicle towing practices in the State.

(g) On or before December 31, **[**2008**] 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 7 MONTHS** and, at the end of **[**May**] DECEMBER** 31, 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 June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 705

(House Bill 1021)

AN ACT concerning

Prince George's County – ~~1–Day~~ 3–Day Beer, Wine and Liquor License

PG 312–09

FOR the purpose of establishing a special ~~1–day~~ 3–day Class C beer, wine and liquor license in Prince George's County; specifying that the special license may be issued to a nonprofit organization ~~that has its principal place of business in a certain legislative district~~ for use ~~in a waterfront entertainment complex, as defined by the County Executive of Prince George's County~~ *at the National Harbor*; specifying that the holder of the special license may sell beer, wine, or liquor for consumption on or off the premises; setting a certain license fee; restricting the number of days that a special license may be issued; ~~specifying that a special license be signed by a certain officer of the nonprofit organization;~~ specifying that the holder of a special license may purchase beer, wine, or liquor only from a certain person; specifying that beer, wine, or liquor may be donated by a certain person; making this Act an emergency measure; and generally relating to alcoholic beverages licenses in Prince George's County.

BY adding to

Article 2B – Alcoholic Beverages
Section 7–101(w)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

7–101.

(W) (1) THIS SUBSECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(2) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A SPECIAL ~~1–DAY~~ 3–DAY CLASS C BEER, WINE AND LIQUOR LICENSE TO A NONPROFIT ORGANIZATION THAT~~:~~

~~(I) IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE; AND~~

~~(II) HAS ITS PRINCIPAL PLACE OF BUSINESS IN THE 26TH LEGISLATIVE DISTRICT~~ IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.

(3) THE SPECIAL LICENSE ENTITLES THE HOLDER TO SELL BEER, WINE, OR LIQUOR ~~FOR CONSUMPTION ON OR OFF THE PREMISES~~ ~~IN A WATERFRONT ENTERTAINMENT COMPLEX, AS DEFINED BY THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY~~ *AT THE NATIONAL HARBOR.*

(4) BEER, WINE, AND LIQUOR SOLD UNDER THE SPECIAL LICENSE MAY BE CONSUMED ON OR OFF THE PREMISES.

~~(4)~~ (5) THE FEE FOR A SPECIAL LICENSE IS $150 PER DAY.

~~(5)~~ (6) THE SPECIAL LICENSE MAY NOT BE ISSUED TO ANY ONE ORGANIZATION FOR MORE THAN ~~4~~ 3 CONSECUTIVE DAYS ~~OR FOR MORE THAN 8~~ ~~6 DAYS~~ IN A SINGLE CALENDAR YEAR.

~~(6) THE SPECIAL LICENSE SHALL BE SIGNED BY AT LEAST ONE OFFICER OF THE ORGANIZATION WHO IS A RESIDENT OF THE 26TH LEGISLATIVE DISTRICT AND A REGISTERED VOTER AND TAXPAYER OF THE COUNTY.~~

(7) (I) A HOLDER OF THE SPECIAL LICENSE ~~MAY~~ SHALL PURCHASE BEER, WINE, OR LIQUOR ONLY FROM A WHOLESALER LICENSED IN THE STATE.

(II) A WHOLESALER LICENSED IN THE STATE MAY DONATE ALCOHOLIC BEVERAGES TO THE HOLDER OF THE SPECIAL LICENSE.

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 19, 2009.

Chapter 706

(House Bill 1037)

AN ACT concerning

Prince George's County – Alcoholic Beverages Licenses – Successor Corporations

PG 301–09

FOR the purpose of specifying that in Prince George's County, if a certain number of corporations with interests in certain alcoholic beverages licenses undergo a merger, consolidation, or share exchange that results in a single successor corporation *during a certain period of time*, the total number of licenses that the successor corporation may hold is ~~the greater of certain alternatives~~ *the sum of a certain number of licenses held by the successor corporation at a certain time*; specifying that an indirect interest in a license is evidenced by certain relationships; exempting this Act from a restriction on the number of licenses that may be issued to a person; and generally relating to alcoholic beverages licenses in Prince George's County.

BY adding to
Article 2B – Alcoholic Beverages
Section 8–217(e)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages
Section 9–102(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

8–217.

(E) (1) IN PRINCE GEORGE'S COUNTY, IF TWO CORPORATIONS WITH DIRECT OR INDIRECT INTERESTS IN ALCOHOLIC BEVERAGES LICENSES FOR USE BY RESTAURANTS UNDERGO A MERGER, CONSOLIDATION, OR SHARE EXCHANGE THAT RESULTS IN A SINGLE SUCCESSOR CORPORATION *DURING THE TIME PERIOD BEGINNING ON SEPTEMBER 1, 2007 AND ENDING ON JUNE 1, 2008*, THE TOTAL NUMBER OF ALCOHOLIC BEVERAGES LICENSES THAT THE SUCCESSOR CORPORATION MAY HOLD IS THE ~~GREATER OF:~~

~~(I)~~ ~~THE~~ SUM OF THE LICENSES HELD BY ~~EACH CORPORATION BEFORE~~ *THE TWO CORPORATIONS AFTER* THE SUCCESSOR CORPORATION WAS FORMED *IF THE NUMBER OF LICENSES HELD IS 8 OR LESS*~~;~~ ~~OR~~

~~(II) THE MAXIMUM NUMBER OF LICENSES ANY ONE OF THE CORPORATIONS WAS ENTITLED TO BE ISSUED BEFORE THE SUCCESSOR CORPORATION WAS FORMED~~.

(2) AN INDIRECT INTEREST IN A LICENSE IS EVIDENCED BY ANY OF THE FOLLOWING RELATIONSHIPS INVOLVING THE LICENSEE AND ANOTHER LICENSEE OR THE LICENSEE AND AN APPLICANT FOR A LICENSE:

(I) A COMMON PARENT COMPANY;

(II) A FRANCHISE AGREEMENT;

(III) A LICENSING AGREEMENT;

(IV) A CONCESSION AGREEMENT;

(V) MEMBERSHIP BY THE LICENSEE AND THE OTHER PERSON IN A CHAIN OF BUSINESSES COMMONLY OWNED AND OPERATED AND SO PORTRAYED TO THE PUBLIC;

(VI) SHARING OF DIRECTORS OR STOCKHOLDERS OR SHARING OF DIRECTORS OR STOCKHOLDERS OF PARENT COMPANIES OR SUBSIDIARIES;

(VII) COMMON DIRECT OR INDIRECT SHARING OF PROFIT FROM THE SALE OF ALCOHOLIC BEVERAGES; OR

(VIII) SHARING OF A COMMON TRADE NAME, TRADEMARK, LOGO, THEME, OR MODE OF OPERATION IDENTIFIABLE BY THE PUBLIC, EXCEPT HOTELS AND MOTELS.

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)(4), (15), and (17), § 7–101(b) and (c), § 8–202(g)(2)(ii) and (iii), **§ 8–217(E),** § 8–508, or § 12–202 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 707

(House Bill 1081)

AN ACT concerning

Prior Authorizations of State Debt to Fund Capital Projects – Alterations

FOR the purpose of amending certain prior Acts of the General Assembly that authorized the creation of State Debt through the issuance, sale, and delivery of general obligation bonds, the proceeds of which were designated for funding certain capital projects; altering the grantees under certain projects; altering and expanding the authorized uses of certain grants; requiring certain loan proceeds to be encumbered by the Board of Public Works or expended for certain purposes by a certain date; altering the name of certain projects; altering the name of certain grants; extending the deadline by which certain grantees must

present evidence to the Board of Public Works that certain matching funds will be provided; repealing a requirement that a certain grantee provide and expend a certain matching fund; ~~requiring that the construction and equipping of certain underground utilities be located on certain streets;~~ altering the location of certain projects; authorizing certain grantees to provide and expend a certain type of matching fund; altering the name of certain grantees; providing that the Department of the Interior may not be required to become a party to a certain grant agreement; repealing a requirement that certain grantees grant a certain easement to the Maryland Historical Trust; altering the purpose of certain prior authorized Qualified Zone Academy Bonds Loans to authorize certain purposes allowed under federal law; authorizing the Comptroller to advance certain funds authorized under any Qualified Zone Academy Bonds Loans; making other technical changes; and generally relating to amending prior authorizations of State Debt by the General Assembly to fund certain capital projects.

BY repealing and reenacting, with amendments,
Chapter 196 of the Acts of the General Assembly of 1998
Section 1

BY repealing and reenacting, with amendments,
Chapter 555 of the Acts of the General Assembly of 1999, as amended by Chapter 30 of the Acts of the General Assembly of 2001, Chapter 188 of the Acts of the General Assembly of 2002, Chapter 550 of the Acts of the General Assembly of 2006, and Chapter 219 of the Acts of the General Assembly of 2008
Section 1

BY repealing and reenacting, with amendments,
Chapter 322 of the Acts of the General Assembly of 2000
Section 1(1) and (3)

BY repealing and reenacting, with amendments,
Chapter 440 of the Acts of the General Assembly of 2000, as amended by Chapter 94 of the Acts of the General Assembly of 2007
Section 1

BY repealing and reenacting, with amendments,
Chapter 563 of the Acts of the General Assembly of 2000
Section 1

BY repealing and reenacting, with amendments,
Chapter 582 of the Acts of the General Assembly of 2000
Section 1

BY repealing and reenacting, with amendments,
Chapter 139 of the Acts of the General Assembly of 2001
Section 1(1) and (3)

BY repealing and reenacting, without amendments,
Chapter 432 of the Acts of the General Assembly of 2001, as amended by Chapter 219 of the Acts of the General Assembly of 2008
Section 1(1)

BY repealing and reenacting, with amendments,
Chapter 432 of the Acts of the General Assembly of 2001, as amended by Chapter 219 of the Acts of the General Assembly of 2008
Section 1(3)

BY repealing and reenacting, with amendments,
Chapter 462 of the Acts of the General Assembly of 2001
Section 1

BY repealing and reenacting, with amendments,
Chapter 650 of the Acts of the General Assembly of 2001
Section 1

BY repealing and reenacting, with amendments,
Chapter 680 of the Acts of the General Assembly of 2001, as amended by Chapter 32 of the Acts of the General Assembly of 2003, Chapter 30 of the Acts of the General Assembly of 2004, and Chapter 219 of the Acts of the General Assembly of 2008
Section 1

BY repealing and reenacting, with amendments,
Chapter 715 of the Acts of the General Assembly of 2001, as amended by Chapter 94 of the Acts of the General Assembly of 2002
Section 1

BY repealing and reenacting, with amendments,
Chapter 290 of the Acts of the General Assembly of 2002
Section 1(3) Item DE02.01(A) and ZA00 (EE) and (OO)

BY repealing and reenacting, with amendments,
Chapter 55 of the Acts of the General Assembly of 2003
Section 1(1) and (3)

BY repealing and reenacting, with amendments,
Chapter 204 of the Acts of the General Assembly of 2003
Section 12(3) Item (I) and (V)

BY repealing and reenacting, with amendments,
Chapter 431 of the Acts of the General Assembly of 2005
Section 1(1) and (3)

BY repealing and reenacting, with amendments,
Chapter 204 of the Acts of the General Assembly of 2003, as amended by Chapter 432 of the Acts of the General Assembly of 2004
Section 13(3)(i) Item (AV), (BD), and (BF) and (ii) Item (O) and (Q)

BY repealing and reenacting, with amendments,
Chapter 432 of the Acts of the General Assembly of 2004
Section 1(3) Item QG00(A)

BY repealing and reenacting, with amendments,
Chapter 445 of the Acts of the General Assembly of 2005
Section 1(3) Item ZA01(AY) and (BE) and ZA02(K) and (BJ)

BY repealing and reenacting, with amendments,
Chapter 445 of the Acts of the General Assembly of 2005, as amended by Chapter 66 of the Acts of the General Assembly of 2007
Section 1(3) Item ZA01(BN)

BY repealing and reenacting, with amendments,
Chapter 445 of the Acts of the General Assembly of 2005, as amended by Chapter 85 of the Acts of the General Assembly of 2007
Section 1(3) Item ZA01(BM)

BY repealing and reenacting, with amendments,
Chapter 445 of the Acts of the General Assembly of 2005, as amended by Chapter 65 of the Acts of the General Assembly of 2007 and Chapter 219 of the Acts of the General Assembly of 2008
Section 1(3) Item ZA01(AR) and ZA02(AV)

BY repealing and reenacting, with amendments,
Chapter 46 of the Acts of the General Assembly of 2006
Section 1(3) Item ~~ZA00(T)~~ ~~ZA01(BT)~~ *DE02.01(B), ZA01(BT),* and ZA02(BI)

BY repealing and reenacting, with amendments,
Chapter 46 of the Acts of the General Assembly of 2006, as amended by Chapter 219 of the Acts of the General Assembly of 2008
Section 1(3) Item ZA01(CA) and (CP) and ZA02(AZ) and (BU)

BY repealing and reenacting, with amendments,
Chapter 488 of the Acts of the General Assembly of 2007
Section 1(3) Item ~~ZA00(P), ZA01(AM), (AS), and (AT), and ZA02(AW), (AX), and (BH)~~ ZA01(C), *(H),* (AM), (AS), (AT), (BA), and (BG) and ~~ZA02(D)~~ *ZA02(C), (D), (AS),* (AW), (AX), (BH), and (BS)

BY repealing and reenacting, with amendments,
Chapter 585 of the Acts of the General Assembly of 2007
Section 1

BY repealing and reenacting, with amendments,
Chapter 336 of the Acts of the General Assembly of 2008
Section 1(3) Item RD00(A), ZA00(M) *and (U)* ~~and (S)~~, ZA01(F), *(K),* (AJ), (BA), (BP), ~~and (BQ,)~~ (BQ), ~~and~~ (CF), *and (CN),* and ZA02(C), (BA) ~~and (BB),~~ (BB), (BF), and (BH)

BY adding to
Chapter 336 of the Acts of the General Assembly of 2008
Section 1(3) Item RD00(A1) and (A2)

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

Chapter 196 of the Acts of 1998

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Baltimore City – St. James Academy Education Center Loan of 1998 in a total principal amount equal to the lesser of (i) $500,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of Directors of St. James Academy (referred to hereafter in this Act as "the grantee") for the repair, renovation, reconstruction, construction, and capital equipping of a building at 1008 West Lafayette Street for use as a comprehensive education center for children and youth.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, 2000, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) No portion of the proceeds of the loan or any of the matching funds may be used for the furtherance of sectarian religious instruction, or in connection with the design, acquisition, or construction of any building used or to be used as a place of sectarian religious worship or instruction, or in connection with any program or department of divinity for any religious denomination. Upon the request of the Board of Public Works, the grantee shall submit evidence satisfactory to the Board that none of the proceeds of the loan or any matching funds have been or are being used for a purpose prohibited by this Act.

(7) THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2011. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2011, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8–129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

Chapter 555 of the Acts of 1999, as amended by Chapter 30 of the Acts of 2001, Chapter 188 of the Acts of 2002, Chapter 550 of the Acts of 2006, and Chapter 219 of the Acts of 2008

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Baltimore City – **[**Community Initiatives**] BLUFORD DREW JEMISON** Academy Loan of 1999 in a total principal amount equal to the lesser of (i) $200,000 or (ii) the amount of the

matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of Directors of **[**Community Initiatives**]** **BLUFORD DREW JEMISON ACADEMY**, Inc. (referred to hereafter in this Act as "the grantee") for the planning, design, construction, renovation, reconstruction, repair, and capital equipping of the **[**Community Initiatives**]** **BLUFORD DREW JEMISON** Academy, an educational institution to serve underserved inner–city students **[**from kindergarten through grade 12 in a multi–cultural urban environment**]**.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property or in kind contributions. The fund may consist of funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, **[**2004**]** **2011**, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) No portion of the proceeds of the loan or any of the matching funds may be used for the furtherance of sectarian religious instruction, or in connection with the design, acquisition, or construction of any building used or to be used as a place of sectarian religious worship or instruction, or in connection with any program or department of divinity for any religious denomination. Upon the request of the Board of Public Works, the grantee shall submit evidence satisfactory to the Board that none of the proceeds of the loan or any matching funds have been or are being used for a purpose prohibited by this Act.

(7) The proceeds of the loan must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, **[**2009**] 2011**. If any funds authorized by this Act remain unexpended or unencumbered after June 1, **[**2009**] 2011**, the amount of the unencumbered or unexpended authorization shall be canceled and be of no further effect. If bonds have been issued for the loan, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.

Chapter 322 of the Acts of 2000

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the **[**Aging School Program –**]** Qualified Zone Academy Bonds Loan of 2000 in a total principal amount of $9,828,000. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation qualified zone academy bonds, as defined in § 1397E(d)(1) of the Internal Revenue Code of the United States, as amended, authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article, Article 31, § 22 of the Code, and § 1397E of the Internal Revenue Code, as amended.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller, and held separately in a qualified zone academy bond account, and expended, on approval by the Board of Public Works, for the following public purposes: as a grant to the Interagency Committee on School Construction **OR THE MARYLAND STATE DEPARTMENT OF EDUCATION** (referred to hereafter in this Act as "the grantee") for **[**the**]** allocation to eligible school systems under the Aging School Program for the renovation, repair, and capital improvements of qualified zone academies, as defined in § 1397E(d)(4)(A) of the Internal Revenue Code, as amended, and in accordance with the Aging School Program of the Interagency Committee on School Construction, as provided under § 5–303 of the Education Article of the Annotated Code of Maryland**, AND TO PROVIDE EQUIPMENT**

FOR USE AT SUCH ACADEMIES AS ALLOWED UNDER § 1397E OF THE INTERNAL REVENUE CODE, AS AMENDED, AS OF THE DATE THE LOAN IS MADE.

Chapter 440 of the Acts of 2000, as amended by Chapter 94 of the Acts of 2007

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Baltimore City – Park Heights **[**Golf Range and Family Sports Park**]** **SPORTS COMPLEX** Loan of 2000 in a total principal amount equal to the lesser of (i) **[**$250,00**]** **$250,000** or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the **[**Board of Directors of Park Heights Golf Range and Family Sports Park, Inc.**]** **MAYOR AND CITY COUNCIL OF BALTIMORE CITY** (referred to hereafter in this Act as "the grantee") for the planning, design, construction, and capital equipping of a **[**family sports park, golf driving range, miniature golf park, and related buildings, to be located on Reisterstown Road in Baltimore, Maryland**]** **SPORTS COMPLEX AND RELATED AMENITIES, LOCATED IN BALTIMORE CITY**.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. The fund may consist of real property. No part of the fund may consist of in kind contributions or funds expended prior to the effective date of this

Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, 2002, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) The proceeds of the loan must be encumbered by the Board of Public Works or expended for the purposes provided in this Act no later than June 1, **[**2009**] 2011**.

Chapter 563 of the Acts of 2000

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Prince George's County – St. Paul Community Centre Loan of 2000 in a total principal amount equal to the lesser of (i) $400,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

*(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of Directors of the Saint Paul Community Development Corporation (referred to hereafter in this Act as "the grantee") for the construction and capital equipping of a building for the St. Paul Community Centre in **[**Capitol Heights, Prince George's County,**]** **TEMPLE HILLS,** to be used as an expansion of an existing day care center and for office space.*

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property or in kind contributions. The fund may consist of funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, 2002, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2011. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2011, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8–129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

Chapter 582 of the Acts of 2000

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Prince George's County – Bethel **[**Recreation Center**]** **SENIOR FACILITIES** Loan of 2000 in a total principal amount equal to the lesser of (i) $250,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of Trustees of Union Bethel A.M.E. Church (referred to hereafter in this Act as "the grantee") for the planning, design, construction, and capital equipping of the Bethel **[**Recreation Center for use as a gymnasium, cafe and bookstore, and community meeting area**]** **SENIOR FACILITIES**, to be located in Brandywine, Maryland.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. The fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, 2002, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) No portion of the proceeds of the loan or any of the matching funds may be used for the furtherance of sectarian religious instruction, or in connection with the design, acquisition, or construction of any building used or to be used as a place of sectarian religious worship or instruction, or in connection with any program or department of divinity for any religious denomination. Upon the request of the Board of Public Works, the grantee shall submit evidence satisfactory to the Board that none of the proceeds of the loan or any matching funds have been or are being used for a purpose prohibited by this Act.

(7) THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2011. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2011, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED

AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8–129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

Chapter 139 of the Acts of 2001

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the **[**Aging School Program –**]** Qualified Zone Academy Bonds Loan of 2001 in a total principal amount of $8,270,000. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation qualified zone academy bonds, as defined in § 1397E(d)(1) of the Internal Revenue Code of the United States, as amended, authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article, Article 31, § 22 of the Code, and § 1397E of the Internal Revenue Code, as amended.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller, and held separately in a qualified zone academy bond account, and expended, on approval by the Board of Public Works, for the following public purposes: as a grant to the Interagency Committee on School Construction **OR THE MARYLAND STATE DEPARTMENT OF EDUCATION** (referred to hereafter in this Act as "the grantee") for **[**the**]** allocation to eligible school systems under the Aging School Program for the renovation, repair, and capital improvements of qualified zone academies, as defined in § 1397E(d)(4)(A) of the Internal Revenue Code, as amended, and in accordance with the Aging School Program of the Interagency Committee on School Construction, as provided under § 5–303 of the Education Article of the Annotated Code of Maryland**, AND TO PROVIDE EQUIPMENT FOR USE AT SUCH ACADEMIES AS ALLOWED UNDER § 1397E OF THE INTERNAL REVENUE CODE, AS AMENDED, AS OF THE DATE THE LOAN IS MADE**.

Chapter 432 of the Acts of 2001, as amended by Chapter 219 of the Acts of 2008

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Anne Arundel County – Historic London Town Visitors Center and Museum Loan of 2001 in a total principal amount equal to the lesser of (i) $200,000 or (ii) the amount of the matching

fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the **[**Board of Directors of The London Town Foundation, Inc.**]** **COUNTY EXECUTIVE AND COUNTY COUNCIL OF ANNE ARUNDEL COUNTY** (referred to hereafter in this Act as "the grantee") for the planning, design, construction, and capital equipping of a visitors center and museum**, INCLUDING EXHIBITS, DISPLAY CASES, AND RELATED LIGHTING, LOCATED** at Historic London Town and Gardens at 839 Londontown Road in Edgewater, Maryland.

Chapter 462 of the Acts of 2001

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Prince George's County – Ebenezer Community Life Center Loan of 2001 in a total principal amount equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of Directors of Ebenezer Community Development Corporation (referred to hereafter in this Act as "the grantee") for the design, renovation, reconstruction, and capital equipping of two existing buildings on Whitfield Chapel Road in Lanham, and the design and

construction and capital equipping of a new wing, to serve as a mixed educational, administrative, and fellowship complex.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of in kind contributions. The fund may consist of real property and funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, 2003, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) No portion of the proceeds of the loan or any of the matching funds may be used for the furtherance of sectarian religious instruction, or in connection with the design, acquisition, or construction of any building used or to be used as a place of sectarian religious worship or instruction, or in connection with any program or department of divinity for any religious denomination. Upon the request of the Board of Public Works, the grantee shall submit evidence satisfactory to the Board that none of the proceeds of the loan or any matching funds have been or are being used for a purpose prohibited by this Act.

(7) THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2011. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2011, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8–129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

Chapter 650 of the Acts of 2001

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Prince George's County – Bethel **[**Recreation Center**]** **SENIOR FACILITIES** Loan of 2001 in a total principal amount equal to the lesser of (i) $250,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of Trustees of Union Bethel A.M.E. Church (referred to hereafter in this Act as "the grantee") for the planning, design, construction, and capital equipping of the Bethel **[**Recreation Center for use as a gymnasium, cafe and bookstore, and community meeting area**]** **SENIOR FACILITIES**, to be located in Brandywine, Maryland.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. The fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, 2003, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan

in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) No portion of the proceeds of the loan or any of the matching funds may be used for the furtherance of sectarian religious instruction, or in connection with the design, acquisition, or construction of any building used or to be used as a place of sectarian religious worship or instruction, or in connection with any program or department of divinity for any religious denomination. Upon the request of the Board of Public Works, the grantee shall submit evidence satisfactory to the Board that none of the proceeds of the loan or any matching funds have been or are being used for a purpose prohibited by this Act.

(7) THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2011. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2011, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8–129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

Chapter 680 of the Acts of 2001, as amended by Chapter 32 of the Acts of 2003, Chapter 30 of the Acts of 2004, and Chapter 219 of the Acts of 2008

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Prince George's County – Palmer Park Boys and Girls Club Loan of 2001 in **[**a**]** **THE** total principal amount **[**equal to the lesser**]** of **[**(i)**]** $200,000 **[**or (ii) the amount of the matching fund provided in accordance with Section 1(5) below**]**. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the

Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of Directors of the Palmer Park Boys and Girls Club, Inc. (referred to hereafter in this Act as "the grantee") for the planning, design, repair, renovation, and capital equipping of a facility at Barlowe Road in Palmer Park to house the Palmer Park Boys and Girls Club.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) **[**Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. The fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, 2005, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6)**]** The proceeds of the loan must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, **[**2009.**] 2011.** If any funds authorized by this Act remain unexpended or unencumbered after June 1, **[**2009,**] 2011,** the amount of the unencumbered or unexpended authorization shall be canceled and be of no further effect. If bonds have been issued for the loan, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.

Chapter 715 of the Acts of 2001, as amended by Chapter 94 of the Acts of 2002

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Baltimore City – East Baltimore Community Recreation and Learning Center Loan of 2001 in a total principal amount equal to the lesser of (i) $500,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds

authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Mayor and City Council of the City of Baltimore (referred to hereafter in this Act as "the grantee") for the acquisition, planning, design, and construction of a facility to be located at 2101 East Biddle Street in Baltimore to be used as a community recreation and learning center.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of in kind contributions or funds expended prior to the effective date of this Act. The fund may consist of real property. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, 2003, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2011. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2011, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR

UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8–129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

Chapter 290 of the Acts of 2002

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

(3) DE02.01 BOARD OF PUBLIC WORKS

STATE GOVERNMENT CENTER – ANNAPOLIS
(Anne Arundel County)

(A) Legislative Facilities. Provide a portion of the funds to design, construct, renovate, and equip legislative facilities in Annapolis**. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROCEEDS OF THIS LOAN MUST BE ENCUMBERED BY THE BOARD OF PUBLIC WORKS OR EXPENDED FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2011** 19,750,000

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(EE) Park Heights **[**Golf Range and Family**]** Sports Complex. Provide a grant to the **[**Board of Directors of the Park Heights Golf Range and Family Sports Park, Inc.**] MAYOR AND CITY COUNCIL OF BALTIMORE CITY** to assist in the acquisition, design, and construction of the Park Heights **[**Golf Range and Family**]** Sports Complex**. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROCEEDS OF THE LOAN MUST BE ENCUMBERED BY THE BOARD OF PUBLIC WORKS OR EXPENDED FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2011**(Baltimore City) 500,000

(OO) **[**Wheaton Multi–Purpose**]** ~~**VICTORY**~~ ~~Youth Center~~ ***MACDONALD KNOLLS CENTER***. Provide a grant to the Board of Directors of ~~Victory Youth Center, Inc.~~ ***CHI CENTERS, INC.*** **[**to assist in**] FOR** the **[**design,**]** construction, ***RECONSTRUCTION,*** **REPAIR, RENOVATION,** and capital equipping of **[**a multi–purpose youth facility**] THE** ~~**VICTORY YOUTH CENTER FACILITY, LOCATED IN DARNESTOWN**~~ ***MACDONALD KNOLLS CENTER, LOCATED IN SILVER SPRING*****. THE PROCEEDS OF THE LOAN MUST BE ENCUMBERED BY THE BOARD OF PUBLIC WORKS OR EXPENDED FOR THE PURPOSES PROVIDED IN THIS ACT**

NO LATER THAN JUNE 1, 2011 (Montgomery County) 175,000

Chapter 55 of the Acts of 2003

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the **[**Aging School Program –**]** Qualified Zone Academy Bonds Loan of 2003 in a total principal amount of $9,043,000. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation qualified zone academy bonds, as defined in § 1397E(d)(1) of the Internal Revenue Code of the United States, as amended, authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article, Article 31, § 22 of the Code, and § 1397E of the Internal Revenue Code, as amended.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller, and held separately in a qualified zone academy bond account, and expended, on approval by the Board of Public Works, for the following public purposes: as a grant to the Interagency Committee on School Construction **OR THE MARYLAND STATE DEPARTMENT OF EDUCATION** (referred to hereafter in this Act as "the grantee") for **[**the**]** allocation to eligible school systems under the Aging School Program for the renovation, repair, and capital improvements of qualified zone academies, as defined in § 1397E(d)(4)(A) of the Internal Revenue Code, as amended, and in accordance with the Aging School Program of the Interagency Committee on School Construction, as provided under § 5–303 of the Education Article of the Annotated Code of Maryland**, AND TO PROVIDE EQUIPMENT FOR USE AT SUCH ACADEMIES AS ALLOWED UNDER § 1397E OF THE INTERNAL REVENUE CODE, AS AMENDED, AS OF THE DATE THE LOAN IS MADE**.

Chapter 204 of the Acts of 2003

SECTION 12. AND BE IT FURTHER ENACTED, That:

(3)

(I) Bethel **[**Recreation Center**]** **SENIOR FACILITIES**. Provide a grant equal to the lesser of (i) $250,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Union Bethel A.M.E. Church for the planning, design, construction, and capital equipping of the Bethel **[**Recreation Center for use as a gymnasium, cafe and bookstore, and community meeting

area] **SENIOR FACILITIES**, located in Brandywine. Notwithstanding the provisions of Section 12(5) of this Act, the matching fund may include real property, in kind contributions, or funds expended prior to the effective date of this Act **AND THE GRANTEE HAS UNTIL JUNE 1, 2011, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Prince George's County) 250,000

(V) Ebenezer Community Life Center. Provide a grant equal to the lesser of (i) $200,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Ebenezer Community Development Corporation for the renovation, reconstruction, and capital equipping of two existing buildings on Whitfield Chapel Road in Lanham, and the construction and capital equipping of a new wing, to serve as a mixed educational, administrative, and fellowship complex. Notwithstanding the provisions of Section 12(5) of this Act, the matching fund may include real property or funds expended prior to the effective date of this Act**. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROCEEDS OF THE LOAN MUST BE ENCUMBERED BY THE BOARD OF PUBLIC WORKS OR EXPENDED FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2011** (Prince George's County) 200,000

Chapter 431 of the Acts of 2005

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the **[**Aging School Program –**]** Qualified Zone Academy Bonds Loan of 2005 in a total principal amount of $9,364,000. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation qualified zone academy bonds, as defined in § 1397E(d)(1) of the Internal Revenue Code of the United States, as amended, authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Annotated Code of Maryland, and § 1397E of the Internal Revenue Code, as amended.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller, and held separately in a qualified zone academy bond account, and expended, on approval by the Board of Public Works,

for the following public purposes: as a grant to the Interagency Committee on School Construction (referred to hereafter in this Act as "the grantee") for **[**the**]** allocation to eligible school systems under the Aging School Program for the renovation, repair, and capital improvements of qualified zone academies, as defined in § 1397E(d)(4)(A) of the Internal Revenue Code, as amended, and in accordance with the Aging School Program of the Interagency Committee on School Construction, as provided under § 5–303 of the Education Article of the Annotated Code of Maryland**, AND TO PROVIDE EQUIPMENT FOR USE AT SUCH ACADEMIES AS ALLOWED UNDER § 1397E OF THE INTERNAL REVENUE CODE, AS AMENDED, AS OF THE DATE THE LOAN IS MADE**.

Chapter 204 of the Acts of 2003, as amended by Chapter 432 of the Acts of 2004

SECTION 13. AND BE IT FURTHER ENACTED, That:

(3)

(i) $15,200,000 for the following projects initially approved by the Senate:

(AV) **[**Wheaton Multi–Service**]** **VICTORY** Youth **[**Facility**]** **CENTER**. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Victory Youth Center, Inc. for the **[**planning, design, and demolition of existing buildings and related site work, development,**]** **REPAIR, RENOVATION,** construction, and capital equipping of the **[**Wheaton Multi–Service**]** **VICTORY** Youth **[**Facility**]** **CENTER**, located in **[**Wheaton**]** **DARNESTOWN** (Montgomery County) 100,000

(BD) Ivy Youth and Family Center. Provide a grant equal to the lesser of (i) $300,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Ivy Community Charities of Prince George's County, Inc. for the acquisition, planning, design, construction, and capital equipping of the Ivy Youth and Family Center, located in **[**Landover**]** **PRINCE GEORGE'S COUNTY**. Notwithstanding Section 13(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act **AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2011** (Prince George's County) 300,000

(BF) Marlton Gazebo. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the Marlton Gazebo Foundation for the planning, design,

construction, repair, reconstruction, and capital equipping of the Marlton Gazebo, located in Upper Marlboro. Notwithstanding Section 13(5) of this Act, the matching fund may consist of in kind contributions **OR FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT** (Prince George's County) 100,000

(ii) $2,500,000 for the following projects initially approved by the House:

(O) **[**Wheaton Multi–Service**]** ~~**VICTORY** Youth **[**Facility**] CENTER**~~ ***MACDONALD KNOLLS CENTER***. Provide a grant equal to the lesser of (i) $200,000 or (ii) the amount of the matching fund provided, to the Board of Directors of ~~Victory Youth Center, Inc.~~ ***CHI CENTERS, INC.*** for the **[**planning, design, and demolition of existing buildings and related site work, development,**]** **REPAIR, RENOVATION,** ***RECONSTRUCTION,*** construction, and capital equipping of the **[**Wheaton Multi–Service**]** ~~**VICTORY** Youth **[**Facility**] CENTER**, located in **[**Wheaton (Montgomery County)**] SOUTHEAST WASHINGTON, D.C. (STATEWIDE)**~~ ***MACDONALD KNOLLS CENTER, LOCATED IN SILVER SPRING (MONTGOMERY COUNTY)*** 200,000

(Q) Ivy Youth and Family Center. Provide a grant equal to the lesser of (i) $200,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Ivy Community Charities of Prince George's County, Inc. for the acquisition, planning, design, construction, and capital equipping of the Ivy Youth and Family Center, located in **[**Landover**] PRINCE GEORGE'S COUNTY**. Notwithstanding Section 13(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act **AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2011** (Prince George's County) 200,000

Chapter 432 of the Acts of 2004

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

(3)

QG00 *POLICE AND CORRECTIONAL TRAINING*

COMMISSIONS

(A) *Public Safety Training Center. Provide funds to equip two renovated dormitory buildings and design* ***AND CONSTRUCT*** *the remaining components of the Center (Carroll County)* *940,000*

Chapter 445 of the Acts of 2005

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

(3) ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

(AY) Bethel **[**Recreation Center**]** **SENIOR FACILITIES**. Provide a grant equal to the lesser of (i) $250,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Union Bethel A.M.E. Church, Inc. for the planning, design, construction, and capital equipping of the Bethel **[**Recreation Center for use as a gymnasium, cafe and bookstore, and community meeting area**]** **SENIOR FACILITIES**, located in Brandywine. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act**. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2011, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Prince George's County) 250,000

(BE) Knights of St. John Hall. Provide a grant of $200,000 to the Board of Trustees of Knights of St. John Hall, Inc. for the repair, renovation, and capital equipping of the historic meeting hall**, INCLUDING AN ADDITION TO THE HISTORIC HALL,** of the Knights of St. John, located in Bowie (Prince George's County) 200,000

ZA02 LOCAL SENATE INITIATIVES

(K) **[**Tipton Airport Control Tower**]** **BENSON–HAMMOND HOUSE RENOVATION**. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the **[**Anne Arundel County Tipton Airport Authority**]** **BOARD OF DIRECTORS OF THE ANNE ARUNDEL COUNTY HISTORICAL SOCIETY, INC.** for the **REPAIR,** renovation**, RECONSTRUCTION, AND CAPITAL EQUIPPING** of the **[**control tower at Tipton Airport for use as an educational

exhibit and organizational meeting place] **BENSON–HAMMOND HOUSE AND RELATED OUTBUILDINGS**, located in [Odenton] **LINTHICUM**. Notwithstanding Section 1(5) of this Act, the matching fund may consist of **REAL PROPERTY, IN KIND CONTRIBUTIONS, OR** funds expended prior to the effective date of this Act (Anne Arundel County) 100,000

(BJ) Knights of St. John Hall. Provide a grant of $50,000 to the Board of Trustees of Knights of St. John Hall, Inc. for the repair, renovation, and capital equipping of the historic meeting hall**, INCLUDING AN ADDITION TO THE HISTORIC HALL,** of the Knights of St. John, located in Bowie (Prince George's County) 50,000

Chapter 445 of the Acts of 2005, as amended by Chapter 66 of the Acts of 2007

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

(3) ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

(BN) Frederick Douglass Memorial. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the [Frederick Douglass Memorial Action Coalition] ***TOWN OF EASTON*** *for the design and construction of a monument to the life and legacy of Frederick Douglass, to be located in Easton. Notwithstanding Section 1(5) of this Act, the matching fund may include real property, in kind contributions, or funds expended prior to the effective date of this Act and the grantee has until June 1, [2009,]* ***2011,*** *to present evidence that a matching fund will be provided (Talbot County) 100,000*

Chapter 445 of the Acts of 2005, as amended by Chapter 85 of the Acts of 2007

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

(3) ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

(BM) Sotterley Plantation. Provide a grant equal to the lesser of (i) $50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of **HISTORIC** Sotterley [Foundation], Inc. for the planning, design, acquisition, construction, installation, and capital equipping of [security upgrades]

EXISTING FACILITIES for Sotterley Plantation, located in Hollywood, subject to a requirement that the grantee grant and convey an historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions and the grantee must present evidence that a matching fund will be provided by June 1, **[**2009**] 2011** (St. Mary's County) 50,000

Chapter 445 of the Acts of 2005, as amended by Chapter 65 of the Acts of 2007 and Chapter 219 of the Acts of 2008

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

(3) ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

(AR) Old Blair High School Auditorium. Provide a grant equal to the lesser of (i) $300,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Old Blair Auditorium Project, Inc. for the repair, renovation, construction, reconstruction, and capital equipping of the Old Blair High School Auditorium located in Silver Spring. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act and the grantee must present evidence that a matching fund will be provided by June 1, **[**2009.**] 2011** (Montgomery County) 300,000

ZA02 LOCAL SENATE INITIATIVES

(AV) Old Blair High School Auditorium. Provide a grant equal to the lesser of (i) $300,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Old Blair Auditorium Project, Inc. for the repair, renovation, construction, reconstruction, and capital equipping of the Old Blair High School Auditorium located in Silver Spring. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act and the grantee must present evidence that a matching fund will be provided by June 1, **[**2009.**] 2011** (Montgomery County) 300,000

Chapter 46 of the Acts of 2006

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

(3) ~~ZA00 MISCELLANEOUS GRANT PROGRAMS~~

~~(T) Annapolis Underground Wiring. Provide a grant equal to the lesser of (i) $600,000 or (ii) the amount of the matching fund provided, to the Mayor and City Council of the City of Annapolis to assist in the construction and equipping of underground utilities **ON CORNHILL STREET, FLEET STREET, AND PINKNEY STREET** in the City of Annapolis. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Anne Arundel County)~~ ..... ~~600,000~~

DE02.01 *BOARD OF PUBLIC WORKS*

STATE GOVERNMENT CENTER – BALTIMORE
(Baltimore City)

*(B) 2100 Guilford Avenue – Addition. Provide funds to supplement previous appropriations to design**, [**and**]** construct**, AND RENOVATE** an addition to State Office Building Number 3 at 2100 Guilford Avenue. Any funds not needed to complete this project may be used to design and construct other capital facilities renewal projects statewide* *1,800,000*

ZA01 LOCAL SENATE INITIATIVES

(BT) Ebenezer Community Life Center. Provide a grant equal to the lesser of (i) $150,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Ebenezer Community Development Corporation for the planning, design, construction, renovation, reconstruction, and capital equipping of the Community Life Center, located in Lanham. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act**. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROCEEDS OF THE LOAN MUST BE ENCUMBERED BY THE BOARD OF PUBLIC WORKS OR EXPENDED FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2011** (Prince George's County) 150,000

ZA02 LOCAL HOUSE OF DELEGATES INITIATIVES

(BI) College Park City Hall. Provide a grant equal to the lesser of (i) $400,000 or (ii) the amount of the matching fund provided, to the Mayor and City Council of the City of College Park for

the design **[**and**]**, engineering**, AND CONSTRUCTION** of a new City Hall for the City of College Park, located in College Park (Prince George's County) 400,000

Chapter 46 of the Acts of 2006, as amended by Chapter 219 of the Acts of 2008

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

(3) ZA01 LOCAL SENATE INITIATIVES

(CA) New Revival Center of Renewal. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of New Revival Center of Renewal, Inc. for the acquisition of property for the New Revival Center of Renewal, located in **[**Waldorf**]** **PRINCE GEORGE'S COUNTY**. Notwithstanding Section 1(5) of this Act, the grantee has until June 1, **[**2009**]** **2010**, to present evidence that a matching fund will be provided (Prince George's County)..... 100,000

(CP) Our House Youth Home. Provide a grant equal to the lesser of (i) $175,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Our House Youth Home, Inc. for the construction and capital equipping of a new dormitory at Our House Youth Home, located in Olney, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the grantee has until June 1, **[**2009**]** **2010**, to present evidence that a matching fund will be provided (Montgomery County) 175,000

ZA02 LOCAL HOUSE INITIATIVES

(AZ) Our House Youth Home. Provide a grant equal to the lesser of (i) $250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Our House Youth Home, Inc. for the construction and capital equipping of a new dormitory at Our House Youth Home, located in Olney, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the grantee has until June 1, **[**2009**]** **2010**, to present evidence that a matching fund will be provided (Montgomery County) 250,000

(BU) New Revival Center of Renewal. Provide a grant equal to the

lesser of (i) $80,000 or (ii) the amount of the matching fund provided, to the Board of Directors of New Revival Center of Renewal, Inc. for the acquisition of property for the New Revival Center of Renewal, located in **[**Waldorf**]** **PRINCE GEORGE'S COUNTY**. Notwithstanding Section 1(5) of this Act, the grantee has until June 1, **[**2009**]** **2010**, to present evidence that a matching fund will be provided (Prince George's County)..... 80,000

Chapter 488 of the Acts of 2007

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

(3) ~~ZA00 MISCELLANEOUS GRANT PROGRAMS~~

~~(P) Annapolis Underground Wiring. Provide a grant equal to the lesser of (i) $600,000 or (ii) the amount of the matching fund provided, to the Mayor and City Council of the City of Annapolis to assist in the construction and capital equipping of underground utilities ON CORNHILL STREET, FLEET STREET, AND PINKNEY STREET in the City of Annapolis. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Anne Arundel County)~~ ..... ~~600,000~~

ZA01 LOCAL HOUSE INITIATIVES

(C) Martin Luther King, Jr., National Memorial Project. Provide a grant equal to the lesser of (i) $250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Washington, D.C. Martin Luther King, Jr., National Memorial Project Foundation, Inc. for the design and construction of a national memorial to Martin Luther King, Jr., located in Washington, D.C. **PROVIDED THAT THE DEPARTMENT OF THE INTERIOR MAY NOT BE REQUIRED TO BECOME A PARTY TO THE GRANT AGREEMENT** (Statewide) 250,000

(H) Hope House. Provide a grant of $100,000 to the Board of Directors of Addiction Recovery, Inc. for the repair, renovation, and capital equipping of Hope House, an alcohol and drug addiction residential treatment facility, located in Crownsville, subject to a requirement that the grantee provide and expend a matching fund of $50,000. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind

contributions. ***NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2011, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED*** *(Statewide)* *100,000*

(AM) Agriculture Activity Center Expansion. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the ~~County Executive and County Council of Montgomery County~~ **MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION** for the construction, repair, reconstruction, and capital equipping of the Agriculture Activity Center at the Agricultural History Farm Park, located in Derwood**. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2011, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Montgomery County) 100,000

(AS) Warren Historical Site – Loving Charity Hall. Provide a grant equal to the lesser of (i) $175,000 or (ii) the amount of the matching fund provided, **[**to the Board of Directors of the Warren Historic Medley District, Inc. and**]** to the Board of Directors of the Warren Historic Site Committee, Inc. for the reconstruction, repair, renovation, construction, and capital equipping of Loving Charity Hall, located in Martinsburg, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Acts, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act**. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2011, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Montgomery County) 175,000

(AT) **[**Wheaton Multi–Service**]** ~~**VICTORY** Youth **[**Facility**] CENTER**~~ ***MACDONALD KNOLLS CENTER***. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of ~~Victory Youth Center, Inc.~~ ***CHI CENTERS, INC.*** for the **[**planning, design, and demolition of existing buildings and related site work, development,**]** **REPAIR, RENOVATION,** ***RECONSTRUCTION,*** construction, and capital equipping of **[**a multi–service youth facility,**]** **THE** ~~**VICTORY YOUTH CENTER,** located in **[**Wheaton (Montgomery County)**] SOUTHEAST WASHINGTON, D.C. (STATEWIDE)**~~ ***MACDONALD KNOLLS***

CENTER, LOCATED IN SILVER SPRING (MONTGOMERY COUNTY) 100,000

(BA) Marlton Gazebo. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the Marlton Gazebo Foundation for the planning, design, construction, repair, reconstruction, and capital equipping of the Marlton Gazebo, located in Upper Marlboro**[**, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust**]**. Notwithstanding Section 1(5) of this Act, the matching fund may consist of **IN KIND CONTRIBUTIONS OR** funds expended prior to the effective date of this Act (Prince George's County) 100,000

(BG) Delta Alumnae Community Development Center. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Prince George's County Delta Alumnae Foundation, Inc. for the acquisition, planning, design, construction, and capital equipping of a community development center, located in **[**Suitland.**]** **PRINCE GEORGE'S COUNTY.** Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions**. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2011, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Prince George's County) 100,000

ZA02 LOCAL SENATE INITIATIVES

*(C) Hope House. Provide a grant of $100,000 to the Board of Directors of Addiction Recovery, Inc. for the repair, renovation, and capital equipping of Hope House, an alcohol and drug addiction residential treatment facility, located in Crownsville, subject to a requirement that the grantee provide and expend a matching fund of $50,000. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions**. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2011, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Statewide)* *100,000*

(D) Martin Luther King, Jr., National Memorial Project. Provide a grant equal to the lesser of (i) $250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Washington, D.C. Martin Luther King, Jr., National Memorial Project Foundation, Inc. for the design and

construction of a national memorial to Martin Luther King, Jr., located in Washington, D.C. **PROVIDED THAT THE DEPARTMENT OF THE INTERIOR MAY NOT BE REQUIRED TO BECOME A PARTY TO THE GRANT AGREEMENT** (Statewide) 250,000

(AS) *Cecil County Breeder's Fair. Provide a grant in the amount of $50,000 to the Board of Directors of the Cecil County Breeder's Fair, Inc. for the* ***ACQUISITION,*** *repair, renovation, reconstruction, and capital equipping,* ***INCLUDING ACQUISITION OF AN AERATOR,*** *of the race track at Fair Hill, located in Fair Hill (Cecil County)* *50,000*

(AW) Agriculture Activity Center Expansion. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the ~~County Executive and County Council of Montgomery County~~ **MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION** for the construction, repair, reconstruction, and capital equipping of the Agriculture Activity Center at the Agricultural History Farm Park, located in Derwood**. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2011, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Montgomery County) 100,000

(AX) Damascus Heritage Museum. Provide a grant of $200,000, to the Board of Directors of the Damascus Heritage Society, Inc. for the acquisition, planning, and design of the Damascus Heritage Museum, located in Damascus, subject to a requirement that the grantee provide and expend a matching fund of $100,000. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions**. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2011, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Montgomery County) 200,000

(BH) **[**Wheaton Multi–Service**]** ~~**VICTORY** Youth **[**Facility**] CENTER**~~ ***MACDONALD KNOLLS CENTER***. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of ~~Victory Youth Center, Inc.~~ ***CHI CENTERS, INC.*** for the **[**planning, design, and demolition of existing buildings and related site work, development,**]** **REPAIR, RENOVATION,** ***RECONSTRUCTION,*** construction, and capital equipping of **[**a multi–service youth

facility,**]** **THE** ~~**VICTORY YOUTH CENTER,** located in **[**Wheaton**]**~~ **DARNESTOWN** ***MACDONALD KNOLLS CENTER, LOCATED IN SILVER SPRING*** (Montgomery County) 100,000

(BS) Palmer Park Boys and Girls Club. Provide a grant equal to **[**the lesser of (i)**]** $175,000 **[**or (ii) the amount of the matching fund provided**]**, to the Board of Directors of the Palmer Park Boys and Girls Club, Inc. for the planning, design, repair, renovation, and capital equipping of the Palmer Park Boys and Girls Club facility, located in Palmer Park**[**. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act**]** (Prince George's County) 175,000

Chapter 585 of the Acts of 2007

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the **[**Aging School Program –**]** Qualified Zone Academy Bonds Loan of 2007 in a total principal amount of $11,126,000. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation qualified zone academy bonds, as defined in **[**§ 1397E(d)(1)**]** **§§ 54E AND 1397E** of the Internal Revenue Code of the United States, as amended, authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Annotated Code of Maryland, and **[**§ 1397E**]** **§§ 54E AND 1397E** of the Internal Revenue Code, as amended.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article. Notwithstanding § 8–123 of the State Finance and Procurement Article, the Board of Public Works may sell the 3 bonds authorized herein at one or more private sales that best meet the terms and conditions of sale set by the Board.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller, and held separately in a qualified zone academy bond account, and expended, on approval by the Board of Public Works, for the following public purposes: as a grant to the Interagency Committee on School Construction **OR THE MARYLAND STATE DEPARTMENT OF EDUCATION** (referred to hereafter in this Act as "the grantee") for **[**the**]** allocation to eligible school systems

under the Aging School Program for the renovation, repair, and capital improvements of qualified zone academies, as defined in **[**§ 1397E(d)(4)(A)**]** **§§ 54E AND 1397E(D)(4)(A)** of the Internal Revenue Code, as amended, and in accordance with the Aging School Program of the Interagency Committee on School Construction, as provided under § 5–303 of the Education Article of the Annotated Code of Maryland**, AND TO PROVIDE EQUIPMENT FOR USE AT SUCH ACADEMIES AS ALLOWED UNDER §§ 54E AND 1397E OF THE INTERNAL REVENUE CODE, AS AMENDED, AS OF THE DATE THE LOAN IS MADE**.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest, if any, on the bonds as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) (a) The grantee shall document the provision of a matching fund as provided in this paragraph.

(b) No part of the matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property. The fund shall consist of private business contributions, which may consist of funds or in kind contributions, as required under **[**§ 1397E(d)(2)**]** **§§ 54E AND 1397E(D)(2)** of the Internal Revenue Code, as amended. In case of any dispute as to what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final.

(c) The grantee shall present evidence to the satisfaction of the Board of Public Works of the provision and documentation of the matching fund, and the Board of Public Works shall authorize the disbursement of the proceeds of the grant under the provisions of this Act for the purposes set forth in Section 1(3) above.

(d) As the grantee documents the provision of the matching fund and meets other requirements of **[**§ 1397E**]** **§§ 54E AND 1397E** of the Internal Revenue Code, as amended, the Board of Public Works shall authorize the disbursement of an installment of the proceeds of the grant in proportion to the matching fund documented at that time by the grantee.

(e) This method of documentation of the matching fund shall continue until the first to occur of the disbursement of the total amount of the grant or June 1, 2009.

(f) The grantee has until **[**June**]** **NOVEMBER** 1, 2009, to present the final evidence satisfactory to the Board of Public Works that the total matching fund will be provided and documented. If satisfactory evidence is presented, the Board shall certify this fact to the State Treasurer, and the final proceeds of the loan proportional to the final installment of the matching fund shall be expended for the purposes provided in this Act. After **[**June**]** **NOVEMBER** 1, 2009, any amount of the loan that

has not been authorized by the Board of Public Works for disbursement shall be canceled and be of no further effect.

(6) THE COMPTROLLER MAY ADVANCE FUNDS TO THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION OR THE MARYLAND STATE DEPARTMENT OF EDUCATION FOR ANY EXPENDITURES AUTHORIZED UNDER ANY QUALIFIED ZONE ACADEMY BOND ENABLING ACT, PROVIDED THAT IF QUALIFIED ZONE ACADEMY BONDS HAVE NOT BEEN ISSUED UNDER THE AUTHORITY OF THAT ACT, THE NEXT ENSUING SALE OF QUALIFIED ZONE ACADEMY BONDS SHALL INCLUDE THE ISSUANCE OF BONDS UNDER THE AUTHORITY OF THAT ACT IN AN AMOUNT AT LEAST EQUIVALENT TO THE AMOUNT OF THE FUNDS SO ADVANCED.

Chapter 336 of the Acts of 2008

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

~~(3) ZA00 MISCELLANEOUS GRANT PROGRAMS~~

(3) RD00 ST. MARY'S COLLEGE OF MARYLAND
(St. Mary's County)

(A) Anne Arundel Hall Reconstruction. Provide funds for detailed design of the Anne Arundel Hall reconstruction **[**and initial construction funds to prepare the site for the federally–funded pedestrian bridge**]** ..... **[**1,050,000**]**
250,000

(A1) REPLACEMENT FACILITIES. PROVIDE FUNDS FOR THE DESIGN AND CONSTRUCTION OF A STORAGE FACILITY AND WOODSHOP **660,000**

(A2) METAL STORAGE BUILDING. PROVIDE FUNDS FOR THE CONSTRUCTION AND EXPANSION OF THE NEW METAL STORAGE BUILDING **140,000**

ZA00 *MISCELLANEOUS GRANT PROGRAMS*

(M) Maryland Independent College and University Association – Sojourner–Douglass College – Science and Allied Health Facility. Provide a grant equal to the lesser of (i) $3,250,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Sojourner–Douglass College to assist in the design and construction of the expansion and renovation of a

newly acquired building located at 249 N. Aisquith Street in Baltimore, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of **IN KIND CONTRIBUTIONS OR** funds expended prior to the effective date of this Act (Baltimore City) 3,250,000

~~(S)~~ ~~Annapolis Underground Wiring. Provide a grant equal to the lesser of (i) $600,000 or (ii) the amount of the matching fund provided, to the Mayor and City Council of the City of Annapolis to assist in the construction and capital equipping of underground utilities ON CORNHILL STREET, FLEET STREET, AND PINKNEY STREET in the City of Annapolis. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Anne Arundel County)~~ ..... ~~600,000~~

(U) *The Emmart–Pierpoint Safe House. Provide a grant [equal to the lesser] of [(i)] $100,000 [or (ii) the amount of the matching fund provided,] to the Board of Directors of The Friends of Cherry Hill AUMP, Inc. for the construction, renovation, and capital equipping of the Emmart–Pierpoint Safe House, located in Baltimore County. [Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act] (Baltimore County)* *100,000*

ZA01 LOCAL SENATE INITIATIVES

(F) National Children's Museum. Provide a grant equal to the lesser of (i) $1,000,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the National Children's Museum, Inc. for the acquisition, **PLANNING, DESIGN,** construction, and capital equipping of the National Children's Museum, located in Oxon Hill. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or funds expended prior to the effective date of this Act (Statewide) 1,000,000

(K) *Annapolis Summer Garden Theatre. Provide a grant equal to the lesser of (i) $50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Annapolis Summer Garden Theatre, Inc. for the repair, renovation, restoration, and reconstruction of the Annapolis Summer Garden Theatre including repair to the roof, located in Annapolis[, subject to a*

requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust] *(Anne Arundel County)* *50,000*

(AJ) Weinberg Village V Senior Apartment Building. Provide a grant equal to the lesser of (i) $250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Comprehensive Housing Assistance, Inc. and the Board of Directors of the Harry and Jeanette Weinberg Village V Limited Partnership for the **ACQUISITION,** planning, design, construction, repair, and capital equipping of the Weinberg Village V Senior Apartment Building, located in Owings Mills (Baltimore County) 250,000

(BA) Churchville Library Green Building and Science Center. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the **BOARD OF TRUSTEES OF THE** Harford County Public Library **[**Foundation**]** for the construction and capital equipping of a green building and science center, located in Churchville (Harford County) 100,000

(BP) Sharp Street United Methodist Church Modular Building. Provide a grant equal to the lesser of (i) $50,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Sharp Street United Methodist Church, Inc. for the acquisition, planning, design, construction, and capital equipping of a modular building for use as a food pantry, located in **[**Silver**]** **SANDY** Spring, ~~subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust~~. Notwithstanding Section 1(5) of this Act, the matching fund may consist of **REAL PROPERTY AND** in kind contributions (Montgomery County) 50,000

(BQ) The Arc of Montgomery County Group Homes. Provide a grant equal to the lesser of (i) $125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of The Arc of Montgomery County, Inc. for the construction, repair, renovation, reconstruction, and capital equipping of **[**a**]** group **[**home**]** **HOMES**, located in **[**Rockville**]** **MONTGOMERY COUNTY**. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act (Montgomery County) 125,000

(CF) Palmer Park Boys and Girls Club. Provide a grant equal to

[the lesser of (i)] $200,000 [or (ii) the amount of the matching fund provided], to the Board of Directors of the Palmer Park Boys and Girls Club, Inc. for the planning, design, repair, renovation, and capital equipping of the Palmer Park Boys and Girls Club facility, located in Palmer Park[. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property] (Prince George's County) 200,000

(CN) *Oxford Community Center. Provide a grant equal to the lesser of (i) $50,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Oxford Community Center, Inc. for the design, repair, renovation, reconstruction, and capital equipping of the Oxford Community Center, located in [Oxford, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust.]* ***OXFORD.*** *Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act (Talbot County)* *50,000*

ZA02 LOCAL HOUSE INITIATIVES

(C) National Children's Museum. Provide a grant equal to the lesser of (i) $1,000,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the National Children's Museum, Inc. for the acquisition, **PLANNING, DESIGN,** construction, and capital equipping of the National Children's Museum, located in Oxon Hill. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or funds expended prior to the effective date of this Act (Statewide) 1,000,000

(BA) Sharp Street United Methodist Church Modular Building. Provide a grant equal to the lesser of (i) $50,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Sharp Street United Methodist Church, Inc. for the acquisition, planning, design, construction, and capital equipping of a modular building for use as a food pantry, located in [Silver] **SANDY** Spring~~, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust~~. Notwithstanding Section 1(5) of this Act, the matching fund may consist of **REAL PROPERTY AND** in kind contributions (Montgomery County) 50,000

(BB) The Arc of Montgomery County Group Homes. Provide a grant equal to the lesser of (i) $125,000 or (ii) the amount of

the matching fund provided, to the Board of Directors of The Arc of Montgomery County, Inc. for the construction, repair, renovation, reconstruction, and capital equipping of **[**a**]** group **[**home**]** **HOMES**, located in **[**Rockville**]** **MONTGOMERY COUNTY**. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act (Montgomery County) 125,000

(BF) Capitol Heights Municipal Building. Provide a grant equal to the lesser of (i) $150,000 or (ii) the amount of the matching fund provided, to the Mayor and Town Council of the Town of Capitol Heights for the acquisition, planning, design, construction, repair, renovation, and reconstruction of a municipal building, located in Capitol Heights**.** **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF REAL PROPERTY OR FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT** (Prince George's County) 150,000

(BH) Delta Alumnae Community Development Center. Provide a grant equal to the lesser of (i) $150,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Prince George's County Delta Alumnae Foundation for the acquisition, planning, and design of a community development center, located in **[**Suitland.**]** **PRINCE GEORGE'S COUNTY.** Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions**.** **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2011, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Prince George's County) 150,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 708

(House Bill 1105)

AN ACT concerning

Private Wastewater Treatment Act of 2009

FOR the purpose of prohibiting a person from installing a certain privately owned ~~on–site wastewater treatment~~ individual sewerage system under certain circumstances; defining a certain term; and generally relating to privately owned on–site wastewater treatment systems.

BY adding to
Article – Environment
Section 9–1108
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Environment

9–1108.

(A) IN THIS SECTION, "~~ON–SITE TREATMENT SYSTEM" MEANS A PRIVATELY OWNED ON–SITE WASTEWATER TREATMENT SYSTEM THAT DISCHARGES INTO SURFACE WATERS OF THE STATE~~ INDIVIDUAL SEWERAGE SYSTEM" MEANS A PRIVATELY OWNED SYSTEM OF SEWERS, PIPING AND TREATMENT TANKS OR OTHER FACILITIES THAT:

(1) SERVES ONLY A SINGLE LOT FOR THE DISPOSAL OF SEWAGE; AND

(2) DISCHARGES TO THE SURFACE WATERS OF THE STATE.

(B) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PERSON MAY NOT INSTALL AN ~~ON–SITE TREATMENT SYSTEM~~ INDIVIDUAL SEWERAGE SYSTEM IN THE STATE. ~~IF:~~

~~(1) THE LOT ON WHICH THE SYSTEM IS TO BE LOCATED:~~

~~(I) FAILS A SOIL PERCOLATION TEST; AND~~

~~(II) IS NOT SERVED BY A PUBLICLY OWNED WASTEWATER TREATMENT FACILITY; OR~~

~~(2) THE ON–SITE TREATMENT SYSTEM IS INCONSISTENT WITH A COUNTY WATER AND SEWER PLAN.~~

(C) SUBJECT TO THE DEPARTMENT'S APPROVAL, A PERSON MAY INSTALL AN INDIVIDUAL SEWERAGE SYSTEM IN THE STATE FOR RESIDENTIAL USE IF AN EXISTING ON–SITE SEWAGE DISPOSAL SYSTEM FAILS AND CANNOT BE REPAIRED OR REPLACED BY ANY MEANS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 709

(House Bill 1135)

AN ACT concerning

Maryland–National Capital Park and Planning Commission – Workers' Compensation – Lyme Disease Presumption

MC/PG 103–09

FOR the purpose of ~~applying the occupational disease presumption under the workers' compensation law to employees in the service and labor bargaining unit or trades bargaining unit~~ providing that certain employees of the Maryland–National Capital Park and Planning Commission who contract Lyme disease ~~under certain circumstances~~ are presumed, under certain circumstances, to have an occupational disease that was suffered in the line of duty and is compensable in a certain manner; providing that a certain presumption only applies for a certain period of time under certain circumstances; providing that employees ~~in the service and labor bargaining unit or trades bargaining unit~~ who are eligible for benefits under this Act shall receive the benefits in addition to certain retirement benefits, subject to a certain adjustment; providing for the termination of this Act; and generally relating to the occupational disease presumption for Lyme disease under the workers' compensation law.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–503(d) and (e)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Labor and Employment

9–503.

(d) (1) **(I)** A paid law enforcement employee of the Department of Natural Resources who is a covered employee under § 9–207 of this title and a park police officer ~~OR EMPLOYEE IN THE SERVICE AND LABOR BARGAINING UNIT OR TRADES BARGAINING UNIT~~ of the Maryland–National Capital Park and Planning Commission is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if the employee:

~~(i)~~ **1.** is suffering from Lyme disease; and

~~(ii)~~ **2.** was not suffering from Lyme disease before assignment to a position that regularly places the employee in an outdoor wooded environment.

~~(2)~~ **(II)** The presumption under this subsection for a park police officer ~~OR EMPLOYEE IN THE SERVICE AND LABOR BARGAINING UNIT OR TRADES BARGAINING UNIT~~ of the Maryland–National Capital Park and Planning Commission shall only apply:

~~(i)~~ **1.** during the time that the park police officer ~~OR EMPLOYEE~~ is assigned to a position that regularly places the park police officer ~~OR EMPLOYEE~~ in an outdoor wooded environment; and

~~(ii)~~ **2.** for 3 years after the last date that the park police officer ~~OR EMPLOYEE~~ was assigned by the Maryland–National Capital Park and Planning Commission to a position that regularly placed the officer ~~OR EMPLOYEE~~ in an outdoor wooded environment.

(2) (I) AN EMPLOYEE OF THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION OTHER THAN A PARK POLICE OFFICER IS PRESUMED TO HAVE AN OCCUPATIONAL DISEASE THAT WAS SUFFERED IN THE LINE OF DUTY AND IS COMPENSABLE UNDER THIS TITLE IF THE EMPLOYEE:

1. IS SUFFERING FROM LYME DISEASE; AND

2. WAS NOT SUFFERING FROM LYME DISEASE BEFORE ASSIGNMENT TO A POSITION THAT REGULARLY PLACES THE EMPLOYEE IN AN OUTDOOR WOODED ENVIRONMENT.

(II) THE PRESUMPTION UNDER THIS PARAGRAPH SHALL APPLY ONLY IF:

1. FOR THE 12–MONTH PERIOD BEFORE THE FILING OF THE CLAIM FOR WORKERS' COMPENSATION UNDER THIS SECTION, THE EMPLOYEE:

A. HAS NOT BEEN EMPLOYED BY THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION AS A SEASONAL OR INTERMITTENT EMPLOYEE; AND

B. HAS BEEN EMPLOYED BY THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION ON A FULL–TIME BASIS;

2. THE EMPLOYEE'S ASSIGNMENT TO A POSITION THAT REGULARLY PLACES THE EMPLOYEE IN AN OUTDOOR WOODED ENVIRONMENT LASTED FOR AT LEAST 1 YEAR; AND

3. THE EMPLOYEE FILES THE CLAIM FOR WORKERS' COMPENSATION ON OR BEFORE THE THIRD ANNIVERSARY OF THE LAST DATE THAT THE EMPLOYEE WAS ASSIGNED TO A POSITION THAT REGULARLY PLACED THE EMPLOYEE IN AN OUTDOOR WOODED ENVIRONMENT.

(e) (1) Except as provided in paragraph (2) of this subsection, any paid firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire Marshal, paid police officer, paid law enforcement employee of the Department of Natural Resources, a park police officer **OR EMPLOYEE** ~~**IN THE SERVICE AND LABOR BARGAINING UNIT OR TRADES BARGAINING UNIT**~~ of the Maryland–National Capital Park and Planning Commission, deputy sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery County correctional officer, deputy sheriff of Prince George's County, or Prince George's County correctional officer who is eligible for benefits under subsection (a), (b), (c), or (d) of this section or the dependents of those individuals shall receive the benefits in addition to any benefits that the individual or the dependents of the individual is entitled to receive under the retirement system in which the individual was a participant at the time of the claim.

(2) The benefits received under this title shall be adjusted so that the weekly total of those benefits and retirement benefits does not exceed the weekly salary that was paid to the paid law enforcement employee of the Department of Natural Resources, a park police officer **OR EMPLOYEE** ~~**IN THE SERVICE AND LABOR BARGAINING UNIT OR TRADES BARGAINING UNIT**~~ of the Maryland–National Capital Park and Planning Commission, firefighter, fire fighting instructor, sworn member of the Office of the State Fire Marshal, police officer, deputy sheriff, or Prince George's County or Montgomery County correctional officer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. It shall remain effective for a period of 6 years and, at the end of

September 30, 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 19, 2009.

Chapter 710

(House Bill 1183)

AN ACT concerning

Juvenile Law – Hearings

FOR the purpose of requiring the juvenile court, on petition of the State's Attorney, to exclude the general public from *the testimony of a victim during* a hearing or other proceeding in a case in which the victim of an alleged delinquent act is a child, except under certain circumstances; and generally relating to hearings in the juvenile court.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–8A–13
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Courts and Judicial Proceedings

3–8A–13.

(a) A petition shall allege that a child is either delinquent or in need of supervision. If it alleges delinquency, it shall set forth in clear and simple language the alleged facts which constitute the delinquency, and shall also specify the laws allegedly violated by the child. If it alleges that the child is in need of supervision, the petition shall set forth in clear and simple language the alleged facts supporting that allegation.

(b) Petitions alleging delinquency or violation of § 3–8A–30 of this subtitle shall be prepared and filed by the State's Attorney. A petition alleging delinquency shall be filed within 30 days after the receipt of a referral from the intake officer, unless that time is extended by the court for good cause shown. Petitions alleging that a child is in need of supervision shall be filed by the intake officer.

(c) A peace order request shall be filed by the intake officer in accordance with § 3–8A–19.1(b)(1) of this subtitle or the State's Attorney in accordance with § 3–8A–19.1(b)(2) of this subtitle.

(d) The form of petitions, peace order requests, and all other pleadings under this subtitle, and except as otherwise provided in this subtitle, the procedures to be followed by the court under this subtitle, shall be as specified in the Maryland Rules.

(e) The State's Attorney, upon assigning the reasons, may dismiss in open court a petition alleging delinquency.

(f) (1) The court shall conduct all hearings under this subtitle in an informal manner.

(2) In any proceeding in which a child is alleged to be in need of supervision or to have committed a delinquent act that would be a misdemeanor if committed by an adult or in a peace order proceeding, the court may exclude the general public from a hearing, and admit only the victim and those persons having a direct interest in the proceeding and their representatives.

(3) **(I)** Except as provided in **[**paragraph (4) of this subsection**]** **SUBPARAGRAPH (II) OF THIS PARAGRAPH**, in a case in which a child is alleged to have committed a delinquent act that would be a felony if committed by an adult, the court shall conduct in open court any hearing or other proceeding at which the child has a right to appear.

[(4)**]** **(II)** For good cause shown, the court may exclude the general public from a hearing or other proceeding in a case in which a child is alleged to have committed a delinquent act that would be a felony if committed by an adult and admit only the victim and those persons having a direct interest in the proceeding and their representatives.

[(5)**]** **(4)** **(I)** Except as provided in **[**paragraph (6) of this subsection**]** **SUBPARAGRAPH (II) OF THIS PARAGRAPH**, the court shall announce**[**,**]** in open court**[**,**]** adjudications and dispositions in cases where a child is alleged to have committed a delinquent act which would be a felony if committed by an adult.

[(6)**]** **(II)** For good cause shown, the court may exclude the general public from a proceeding at which an adjudication or disposition is announced and admit only the victim and those persons having a direct interest in the proceeding and their representatives.

(5) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION, IN A CASE IN WHICH THE VICTIM OF AN ALLEGED DELINQUENT ACT IS A CHILD, ON PETITION OF THE STATE'S ATTORNEY, THE COURT SHALL EXCLUDE THE GENERAL PUBLIC FROM *THE TESTIMONY OF THE VICTIM DURING* A HEARING OR

OTHER PROCEEDING, INCLUDING A PROCEEDING AT WHICH AN ADJUDICATION OR DISPOSITION IS ANNOUNCED, AND ADMIT *DURING THE TESTIMONY OF THE VICTIM* ONLY THE VICTIM AND THOSE PERSONS HAVING A DIRECT INTEREST IN THE PROCEEDING AND THEIR REPRESENTATIVES, UNLESS THE COURT FINDS GOOD CAUSE TO ~~CONDUCT THE HEARING OR PROCEEDING~~ *RECEIVE THE TESTIMONY OF THE VICTIM* IN OPEN COURT.

(g) The court shall try cases without a jury.

(h) The court shall hear and rule on a petition seeking an order for emergency medical treatment on an expedited basis.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 711

(House Bill 1196)

AN ACT concerning

Domestic Violence – Protective Orders – Notification of Service

FOR the purpose of requiring ~~a court clerk or District Court commissioner~~ the Department of Public Safety and Correctional Services to notify a certain petitioner of the service of an interim protective order, a temporary protective order, or a final protective order on a respondent ~~if the petitioner has filed with the court or the commissioner's office a notification request form that includes the petitioner's telephone number or electronic mail address~~; requiring the ~~Administrative Office of the Courts~~ Department to develop a certain notification request form and procedures for notification; specifying a law enforcement officer shall ~~make a return~~ provide a certain electronic notice of service of a certain protective order within a certain period of time of the service; making this Act subject to a certain contingency; *providing for the termination of this Act;* and generally relating to notification of service of protective orders.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 4–504 ~~and~~, 4–504.1(f), and 4–505(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Family Law
Section ~~4–505(b) and~~ 4–506(g)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

4–504.

(a) A petitioner may seek relief from abuse by filing with a court, or with a commissioner under the circumstances specified in § 4–504.1(a) of this subtitle, a petition that alleges abuse of any person eligible for relief by the respondent.

(b) (1) The petition shall:

(i) be under oath; and

(ii) include any information known to the petitioner of:

1. the nature and extent of the abuse for which the relief is being sought, including information known to the petitioner concerning previous injury resulting from abuse by the respondent;

2. each previous action between the parties in any court;

3. each pending action between the parties in any court;

4. the whereabouts of the respondent, if known;

5. if financial relief is requested, information known to the petitioner regarding the financial resources of the respondent; and

6. in a case of alleged child abuse or alleged abuse of a vulnerable adult, the whereabouts of the child or vulnerable adult and any other information relating to the abuse of the child or vulnerable adult.

(2) If the petition states that disclosure of the address of a person eligible for relief would risk further abuse of a person eligible for relief, or reveal the confidential address of a shelter for domestic violence victims, that address may be omitted from all documents filed with a commissioner or filed with, or transferred to, a court. If disclosure is necessary to determine jurisdiction or consider any venue issue, it shall be made orally and in camera and may not be disclosed to the respondent.

(c) The petitioner may not be required to pay a filing fee or costs for the issuance or service of:

(1) an interim protective order;

(2) a temporary protective order;

(3) a final protective order; or

(4) a witness subpoena.

(D) (1) IF A PETITIONER HAS ~~FILED WITH THE COURT OR THE COMMISSIONER'S OFFICE A NOTIFICATION REQUEST FORM THAT INCLUDES THE PETITIONER'S TELEPHONE NUMBER OR ELECTRONIC MAIL ADDRESS, THE COURT CLERK OR COMMISSIONER~~ REQUESTED NOTIFICATION OF THE SERVICE OF A PROTECTIVE ORDER, THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL:

(I) NOTIFY THE PETITIONER OF THE SERVICE ON THE RESPONDENT OF AN INTERIM OR A TEMPORARY PROTECTIVE ORDER WITHIN ONE HOUR ~~OF RECEIPT OF THE RETURN OF SERVICE FROM~~ AFTER A LAW ENFORCEMENT OFFICER ELECTRONICALLY NOTIFIES THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OF THE SERVICE; AND

(II) NOTIFY THE PETITIONER OF THE SERVICE ON THE RESPONDENT OF A ~~TEMPORARY OR~~ FINAL PROTECTIVE ORDER WITHIN ONE HOUR ~~OF~~ AFTER KNOWLEDGE OF SERVICE OF THE ORDER ON THE RESPONDENT.

(2) THE ~~ADMINISTRATIVE OFFICE OF THE COURTS~~ DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL DEVELOP ~~THE~~ A NOTIFICATION REQUEST FORM AND PROCEDURES FOR NOTIFICATION UNDER THIS ~~SECTION~~ SUBSECTION.

(3) THE COURT CLERK OR COMMISSIONER SHALL PROVIDE THE NOTIFICATION REQUEST FORM TO A PETITIONER.

4–504.1.

(f) A law enforcement officer shall:

(1) immediately on receipt of a petition and interim protective order, serve them on the respondent named in the order; ~~and~~

(2) [immediately after] ~~WITHIN TWO HOURS OF~~ service, make a return of service to the commissioner's office or, if the Office of the District Court Clerk is open for business, to the Clerk**; AND**

(3) WITHIN TWO HOURS AFTER SERVICE OF THE ORDER ON THE RESPONDENT, ELECTRONICALLY NOTIFY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OF THE SERVICE.

4–505.

(b) (1) Except as provided in paragraph (2) of this subsection, a law enforcement officer ~~immediately shall~~ **SHALL:**

(I) IMMEDIATELY serve the temporary protective order on the alleged abuser under this section**; AND**

(II) WITHIN TWO HOURS AFTER SERVICE OF THE ORDER ON THE RESPONDENT, ELECTRONICALLY NOTIFY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OF THE SERVICE.

(2) A respondent who has been served with an interim protective order under § 4–504.1 of this subtitle shall be served with the temporary protective order in open court or, if the respondent is not present at the temporary protective order hearing, by first–class mail at the respondent's last known address.

(3) There shall be no cost to the petitioner for service of the temporary protective order.

4–506.

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2009~~ January 1, 2010, contingent on the receipt by the Governor's Office of Crime Control and Prevention of federal funds under the American Recovery and Reinvestment Act of 2009 to fund implementation of the notification requirements under this Act and if federal funds are not received for this purpose by January 1,

2010, this Act shall be null and void without the necessity of further action by the General Assembly. *It shall remain effective for a period of 2 years and, at the end of December 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 19, 2009.

Chapter 712

(House Bill 1227)

AN ACT concerning

Juvenile Proceedings – Expungement of ~~Police Records~~ Criminal Charge Transferred to Juvenile Court

FOR the purpose of ~~requiring the expungement of certain police records in connection with juvenile proceedings relating to a delinquent act if certain procedures are met; establishing that for certain detentions or confinements in a juvenile proceeding occurring on or after a certain date, the person detained or confined is entitled to expungement of certain police records; requiring a certain law enforcement unit to take certain actions within a certain amount of time after release of a certain person entitled to expungement of a certain police record; requiring certain entities to take certain actions within a certain amount of time after receipt of a certain notice of expungement; establishing that a police record that is expunged under certain circumstances may not be expunged by obliteration for a certain period of time; providing for the circumstances under which certain records can be accessed; authorizing a person entitled to expungement of a police record to use a certain legal remedy and recover certain costs under certain circumstances; providing that a person is entitled to expungement of a criminal charge under certain circumstances; repealing certain procedures and time requirements for the expungement of a certain criminal charge; prohibiting a person who is entitled to expungement of certain police records under certain circumstances from being required to pay any fees or costs in connection with the expungement; defining certain terms; and generally relating to juvenile proceedings and expungement of police records~~ altering provisions relating to the expungement of certain criminal records to require a court to grant a petition for expungement of a criminal charge transferred to the juvenile court; repealing provisions limiting the circumstances under which a person may file, and a court is required or authorized to grant, a petition for expungement of a criminal charge transferred to the juvenile court; and generally relating to the expungement of criminal charges transferred to the juvenile court.

BY repealing and reenacting, with amendments,

Article – Criminal Procedure
Section ~~10–101, 10–105, and~~ 10–106
Annotated Code of Maryland
(2008 Replacement Volume)

~~BY adding to~~
~~Article – Criminal Procedure~~
~~Section 10–103.2 and 10–103.3~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume)~~

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

Article – Criminal Procedure

~~10–101.~~

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

~~(b) "Central Repository" means the Criminal Justice Information System Central Repository in the Department.~~

~~(c) (1) "Court record" means an official record of a court that the clerk of a court or other court personnel keeps about:~~

~~(i) a criminal proceeding; [or]~~

~~(ii) **A JUVENILE PROCEEDING; OR**~~

~~**(III)** any other proceeding[, except a juvenile proceeding,] concerning a civil offense or infraction enacted under State or local law as a substitute for a criminal charge.~~

~~(2) "Court record" includes:~~

~~(i) a record of a violation of the Transportation Article for which a term of imprisonment may be imposed; and~~

~~(ii) an index, docket entry, charging document, pleading, memorandum, transcription of proceedings, electronic recording, order, and judgment.~~

~~**(D) "DELINQUENCY PETITION" MEANS A PETITION FILED UNDER § 3–8A–10 OF THE COURTS ARTICLE ALLEGING THAT A CHILD IS A DELINQUENT CHILD.**~~

~~**(E) "DELINQUENT ACT" MEANS AN ACT WHICH WOULD BE A CRIME IF COMMITTED BY AN ADULT.**~~

~~**[**(d)**] (F)** "Expunge" means to remove information from public inspection in accordance with this subtitle.~~

~~**[**(e)**] (G)** "Expungement" with respect to a court record or a police record means removal from public inspection:~~

~~(1) by obliteration;~~

~~(2) by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; or~~

~~(3) if access to a court record or police record can be obtained only by reference to another court record or police record, by the expungement of it or the part of it that provides access.~~

~~**[**(f)**] (H) (1)** "Law enforcement unit" means a State, county, or municipal police department or unit, the office of a sheriff, the office of a State's Attorney, the Office of the State Prosecutor, or the Office of the Attorney General of the State.~~

~~**(2) "LAW ENFORCEMENT UNIT" INCLUDES THE DEPARTMENT OF JUVENILE SERVICES FOR A JUVENILE PROCEEDING.**~~

~~**[**(g)**] (I)** "Minor traffic violation" means a nonincarcerable violation of the Maryland Vehicle Law or any other traffic law, ordinance, or regulation.~~

~~**[**(h)**] (J)** "Police record" means an official record that a law enforcement unit, booking facility, or the Central Repository maintains about the arrest and detention of, or further proceeding against, a person for:~~

~~(1) a criminal charge;~~

~~(2) a suspected violation of a criminal law;~~

~~(3) **A SUSPECTED DELINQUENT ACT;**~~

~~**(4)** a violation of the Transportation Article for which a term of imprisonment may be imposed; or~~

~~**[**(4)**] (5)** a civil offense or infraction**[**, except a juvenile offense,**]** enacted under State or local law as a substitute for a criminal charge.~~

~~**10–103.2.**~~

~~(A) FOR DETENTIONS OR CONFINEMENTS IN A JUVENILE PROCEEDING OCCURRING BEFORE OCTOBER 1, 2009, A PERSON WHO AS A MINOR IS DETAINED OR CONFINED BY A LAW ENFORCEMENT UNIT FOR THE SUSPECTED COMMISSION OF A DELINQUENT ACT MAY REQUEST THE EXPUNGEMENT OF THE POLICE RECORD IF THE PERSON IS RELEASED:~~

~~(1) WITHOUT THE FILING OF A DELINQUENCY PETITION OR PEACE ORDER; OR~~

~~(2) IN ACCORDANCE WITH AN INFORMAL ADJUSTMENT PROCEDURE UNDER § 3–8A–10 OF THE COURTS ARTICLE.~~

~~(B) (1) ON RECEIPT OF A TIMELY FILED REQUEST, THE LAW ENFORCEMENT UNIT PROMPTLY SHALL INVESTIGATE AND TRY TO VERIFY THE FACTS STATED IN THE REQUEST.~~

~~(2) IF THE LAW ENFORCEMENT UNIT FINDS THE FACTS ARE TRUE, THE LAW ENFORCEMENT UNIT SHALL:~~

~~(I) SEARCH DILIGENTLY FOR EACH POLICE RECORD ABOUT THE DETENTION OR CONFINEMENT OF THE PERSON;~~

~~(II) EXPUNGE EACH POLICE RECORD IT HAS ABOUT THE DETENTION OR CONFINEMENT WITHIN 60 DAYS AFTER RECEIPT OF THE REQUEST; AND~~

~~(III) SEND A COPY OF THE REQUEST AND THE LAW ENFORCEMENT UNIT'S VERIFICATION OF THE FACTS IN THE REQUEST TO:~~

~~1. THE CENTRAL REPOSITORY;~~

~~2. EACH BOOKING FACILITY OR LAW ENFORCEMENT UNIT THAT THE LAW ENFORCEMENT UNIT BELIEVES MAY HAVE A POLICE RECORD ABOUT THE DETENTION OR CONFINEMENT; AND~~

~~3. THE PERSON REQUESTING THE EXPUNGEMENT.~~

~~(C) WITHIN 60 DAYS AFTER RECEIPT OF THE REQUEST, THE CENTRAL REPOSITORY, BOOKING FACILITY, AND ANY OTHER LAW ENFORCEMENT UNIT SHALL SEARCH DILIGENTLY FOR AND EXPUNGE A POLICE RECORD ABOUT THE DETENTION OR CONFINEMENT.~~

~~(D) IF THE LAW ENFORCEMENT UNIT TO WHICH THE PERSON HAS SENT A REQUEST FINDS THAT THE PERSON IS NOT ENTITLED TO AN EXPUNGEMENT~~

~~OF THE POLICE RECORD, THE LAW ENFORCEMENT UNIT, WITHIN 60 DAYS AFTER RECEIPT OF THE REQUEST, SHALL ADVISE THE PERSON IN WRITING OF:~~

~~(1) THE DENIAL OF THE REQUEST FOR EXPUNGEMENT; AND~~

~~(2) THE REASONS FOR THE DENIAL.~~

~~(E) (1) (I) IF A REQUEST BY THE PERSON FOR EXPUNGEMENT OF A POLICE RECORD IS DENIED UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE PERSON MAY APPLY FOR AN ORDER OF EXPUNGEMENT IN THE DISTRICT COURT THAT HAS PROPER VENUE AGAINST THE LAW ENFORCEMENT UNIT.~~

~~(II) THE PERSON SHALL FILE THE APPLICATION WITHIN 30 DAYS AFTER THE WRITTEN NOTICE OF THE DENIAL IS MAILED OR DELIVERED TO THE PERSON.~~

~~(2) AFTER NOTICE TO THE LAW ENFORCEMENT UNIT, THE COURT SHALL HOLD A HEARING.~~

~~(3) IF THE COURT FINDS THAT THE PERSON IS ENTITLED TO EXPUNGEMENT OF THE POLICE RECORD, THE COURT SHALL ORDER THE LAW ENFORCEMENT UNIT TO EXPUNGE THE POLICE RECORD.~~

~~(4) IF THE COURT FINDS THAT THE PERSON IS NOT ENTITLED TO EXPUNGEMENT OF THE POLICE RECORD, THE COURT SHALL DENY THE APPLICATION.~~

~~(5) (I) THE LAW ENFORCEMENT UNIT IS A PARTY TO THE PROCEEDING.~~

~~(II) EACH PARTY TO THE PROCEEDING IS ENTITLED TO APPELLATE REVIEW ON THE RECORD, AS PROVIDED IN THE COURTS ARTICLE FOR APPEALS IN CIVIL CASES FROM THE DISTRICT COURT.~~

~~(F) A PERSON WHO IS ENTITLED TO EXPUNGEMENT OF THE POLICE RECORD UNDER THIS SECTION MAY NOT BE REQUIRED TO PAY ANY FEES OR COSTS IN CONNECTION WITH THE EXPUNGEMENT.~~

~~10–103.3.~~

~~(A) FOR DETENTIONS OR CONFINEMENTS IN A JUVENILE PROCEEDING OCCURRING ON OR AFTER OCTOBER 1, 2009, A PERSON WHO AS A MINOR IS DETAINED OR CONFINED BY A LAW ENFORCEMENT UNIT FOR THE SUSPECTED COMMISSION OF A DELINQUENT ACT IS ENTITLED TO EXPUNGEMENT OF ALL~~

~~POLICE RECORDS, INCLUDING PHOTOGRAPHS AND FINGERPRINTS, RELATING TO THE MATTER IF THE PERSON IS RELEASED:~~

~~(1) WITHOUT THE FILING OF A DELINQUENCY PETITION OR PEACE ORDER; OR~~

~~(2) IN ACCORDANCE WITH AN INFORMAL ADJUSTMENT PROCEDURE UNDER § 3–8A–10 OF THE COURTS ARTICLE.~~

~~(B) WITHIN 60 DAYS AFTER RELEASE OF THE PERSON ENTITLED TO EXPUNGEMENT OF A POLICE RECORD UNDER SUBSECTION (A) OF THIS SECTION, THE LAW ENFORCEMENT UNIT SHALL:~~

~~(1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH POLICE RECORD ABOUT THE DETENTION OR CONFINEMENT OF THE PERSON; AND~~

~~(2) SEND A NOTICE OF EXPUNGEMENT CONTAINING ALL RELEVANT FACTS ABOUT THE EXPUNGEMENT AND UNDERLYING DETENTION OR CONFINEMENT TO:~~

~~(I) THE CENTRAL REPOSITORY;~~

~~(II) EACH BOOKING FACILITY OR LAW ENFORCEMENT UNIT THAT THE LAW ENFORCEMENT UNIT BELIEVES MAY HAVE A POLICE RECORD ABOUT THE DETENTION OR CONFINEMENT; AND~~

~~(III) THE PERSON ENTITLED TO THE EXPUNGEMENT.~~

~~(C) WITHIN 60 DAYS AFTER RECEIPT OF THE NOTICE, THE CENTRAL REPOSITORY, A BOOKING FACILITY, AND ANY OTHER LAW ENFORCEMENT UNIT SHALL:~~

~~(1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH POLICE RECORD ABOUT THE DETENTION OR CONFINEMENT OF THE PERSON; AND~~

~~(2) ADVISE IN WRITING THE PERSON ENTITLED TO EXPUNGEMENT OF A POLICE RECORD THAT THE CENTRAL REPOSITORY, BOOKING FACILITY, OR OTHER LAW ENFORCEMENT UNIT IS IN COMPLIANCE WITH THE COURT'S ORDER TO EXPUNGE A POLICE RECORD.~~

~~(D) (1) A POLICE RECORD EXPUNGED UNDER THIS SECTION MAY NOT BE EXPUNGED BY OBLITERATION UNTIL 3 YEARS AFTER THE DATE OF EXPUNGEMENT.~~

~~(2) DURING THE 3–YEAR PERIOD DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE RECORDS SHALL BE REMOVED TO A SEPARATE SECURE AREA TO WHICH PERSONS WHO DO NOT HAVE A LEGITIMATE REASON FOR ACCESS ARE DENIED ACCESS.~~

~~(3) FOR PURPOSES OF THIS SUBSECTION, A LEGITIMATE REASON FOR ACCESSING THE RECORDS INCLUDES USING THE RECORDS FOR PURPOSES OF PROCEEDINGS RELATING TO THE DETENTION OR CONFINEMENT.~~

~~(E) IF A LAW ENFORCEMENT UNIT, A BOOKING FACILITY, OR THE CENTRAL REPOSITORY FAILS TO EXPUNGE A POLICE RECORD AS REQUIRED UNDER SUBSECTION (B) OR (C) OF THIS SECTION, THE PERSON ENTITLED TO EXPUNGEMENT OF A POLICE RECORD MAY:~~

~~(1) SEEK REDRESS BY MEANS OF ANY APPROPRIATE LEGAL REMEDY; AND~~

~~(2) RECOVER COURT COSTS.~~

~~(F) A PERSON WHO IS ENTITLED TO EXPUNGEMENT OF A POLICE RECORD UNDER THIS SECTION MAY NOT BE REQUIRED TO PAY ANY FEES OR COSTS IN CONNECTION WITH THE EXPUNGEMENT.~~

~~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 OR A JUVENILE OFFENSE may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:~~

~~(1) the person is acquitted;~~

~~(2) the charge is otherwise dismissed;~~

~~(3) a probation before judgment is entered, unless the person is charged with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211 of the Criminal Law Article;~~

~~(4) a nolle prosequi or nolle prosequi with the requirement of drug or alcohol treatment is entered;~~

~~(5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge "stet" or stet with the requirement of drug or alcohol abuse treatment on the docket;~~

~~(6) the case is compromised under § 3–207 of the Criminal Law Article;~~

~~(7) the charge was transferred to the juvenile court under § 4–202 of this article;~~

~~**(8) THE DECISION ON THE DELINQUENCY PETITION WAS THAT THERE WAS A FINDING OF FACTS NOT SUSTAINED;**~~

~~**[**(8)**] (9)** 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)**] (10)** the person was convicted of a crime **OR FOUND INVOLVED IN A JUVENILE PROCEEDING** under any State or local law that prohibits:~~

~~(i) urination or defecation in a public place;~~

~~(ii) panhandling or soliciting money;~~

~~(iii) drinking an alcoholic beverage in a public place;~~

~~(iv) obstructing the free passage of another in a public place or a public conveyance;~~

~~(v) sleeping on or in park structures, such as benches or doorways;~~

~~(vi) loitering;~~

~~(vii) vagrancy;~~

~~(viii) riding a transit vehicle without paying the applicable fare or exhibiting proof of payment; or~~

~~(ix) except for carrying or possessing an explosive, acid, concealed weapon, or other dangerous article as provided in § 7–705(b)(6) of the~~

~~Transportation Article, any of the acts specified in § 7–705 of the Transportation Article.~~

~~(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person shall file a petition in the court in which the proceeding began.~~

~~(2) If the proceeding began in one court and was transferred to another court, the person shall file the petition in the court to which the proceeding was transferred.~~

~~(3) (i) If the proceeding in a court of original jurisdiction was appealed to a court exercising appellate jurisdiction, the person shall file the petition in the appellate court.~~

~~(ii) The appellate court may remand the matter to the court of original jurisdiction.~~

~~(c) (1) Except as provided in paragraph (2) of this subsection, a petition for expungement based on an acquittal, a nolle prosequi, or a dismissal may not be filed within 3 years after the disposition, unless the petitioner files with the petition a written general waiver and release of all the petitioner's tort claims arising from the charge.~~

~~(2) A petition for expungement based on a probation before judgment or a stet with the requirement of drug or alcohol abuse treatment may not be filed earlier than the later of:~~

~~(i) the date the petitioner was discharged from probation or the requirements of obtaining drug or alcohol abuse treatment were completed; or~~

~~(ii) 3 years after the probation was granted or stet with the requirement of drug or alcohol abuse treatment was entered on the docket.~~

~~(3) A petition for expungement based on a nolle prosequi with the requirement of drug or alcohol treatment may not be filed until the completion of the required treatment.~~

~~(4) A petition for expungement based on a full and unconditional pardon by the Governor may not be filed later than 10 years after the pardon was signed by the Governor.~~

~~(5) Except as provided in paragraph (2) of this subsection, a petition for expungement based on a stet or a compromise under § 3–207 of the Criminal Law Article may not be filed within 3 years after the stet or compromise.~~

~~(6) A petition for expungement based on the conviction of a crime under subsection~~ **[**~~(a)(9)~~**] (A)(10)** ~~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.~~

~~(7) A court may grant a petition for expungement at any time on a showing of good cause.~~

~~(d) (1) The court shall have a copy of a petition for expungement served on the State's Attorney.~~

~~(2) Unless the State's Attorney files an objection to the petition for expungement within 30 days after the petition is served, the court shall pass an order requiring the expungement of all police records and court records about the charge.~~

~~(e) (1) If the State's Attorney files a timely objection to the petition, the court shall hold a hearing.~~

~~(2) If the court at the hearing finds that the person is entitled to expungement, the court shall order the expungement of all police records and court records about the charge.~~

~~(3) If the court finds that the person is not entitled to expungement, the court shall deny the petition.~~

~~(4) The person is not entitled to expungement if:~~

~~(i) the petition is based on the entry of probation before judgment, a nolle prosequi, a stet, including a nolle prosequi with the requirement of drug or alcohol treatment or a stet with the requirement of drug or alcohol abuse treatment, a conviction for a crime specified in subsection~~ **[**~~(a)(9)~~**]** ~~**(A)(10)** of this section, or the grant of a pardon by the Governor; and~~

~~(ii) the person:~~

~~1. since the full and unconditional pardon, 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.~~

~~(f) Unless an order is stayed pending an appeal, within 60 days after entry of the order, every custodian of the police records and court records that are subject to the order of expungement shall advise in writing the court and the person who is seeking expungement of compliance with the order.~~

~~(g) (1) The State's Attorney is a party to the proceeding.~~

~~(2) A party aggrieved by the decision of the court is entitled to appellate review as provided in the Courts Article.~~

~~10–106.~~

~~(a) [In this section, "delinquency petition" means a petition filed under § 3–8A–10 of the Courts Article alleging that a child is a delinquent child.~~

~~(b)] A person [may file a petition for] IS ENTITLED TO expungement of a criminal charge transferred to the juvenile court under § 4–202 of this article[:~~

~~(1) after the date of the decision not to file a delinquency petition; or~~

~~(2) after the decision on the delinquency petition of facts–not–sustained].~~

~~(B) A PERSON WHO IS ENTITLED TO EXPUNGEMENT UNDER THIS SECTION MAY NOT BE REQUIRED TO PAY ANY FEES OR COSTS IN CONNECTION WITH THE EXPUNGEMENT.~~

~~[(c) The court may grant a petition for expungement to a person when the person becomes 21 years old, if a charge transferred under § 4–202 of this article resulted in the adjudication of the person as a delinquent child.~~

~~(d) A court shall grant a petition for expungement of a criminal charge that was transferred to the juvenile court under § 4–202 of this article, if:~~

~~(1) the charge that was transferred under § 4–202 of this article did not result in the filing of a delinquency petition; or~~

~~(2) the decision on the delinquency petition was that there was a finding of facts–not–sustained.]~~

10–106.

(a) In this section, "delinquency petition" means a petition filed under § 3–8A–10 of the Courts Article alleging that a child is a delinquent child.

(b) A person may file**, AND A COURT SHALL GRANT,** a petition for expungement of a criminal charge transferred to the juvenile court under § 4–202 of this article**[**:

(1) after the date of the decision not to file a delinquency petition; or

(2) after the decision on the delinquency petition of facts–not–sustained.

(c) The court may grant a petition for expungement to a person when the person becomes 21 years old, if a charge transferred under § 4–202 of this article resulted in the adjudication of the person as a delinquent child.

(d) A court shall grant a petition for expungement of a criminal charge that was transferred to the juvenile court under § 4–202 of this article, if:

(1) the charge that was transferred under § 4–202 of this article did not result in the filing of a delinquency petition; or

(2) the decision on the delinquency petition was that there was a finding of facts–not–sustained**]**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 713

(House Bill 1263)

AN ACT concerning

Mercury Switch Removal from Vehicles

FOR the purpose of requiring motor vehicle manufacturers to develop a mercury minimization plan that includes information on mercury switch removal from motor vehicles; requiring certain manufacturers to submit a certain plan to the Department of the Environment within a certain number of days after the enactment date of this Act; establishing certain requirements for a mercury minimization plan; requiring vehicle manufacturers to pay certain costs associated with mercury switch removal; ~~requiring~~ authorizing the Department to review the plan and make a determination about the ~~status~~ adequacy of the plan within a certain number of days; requiring a vehicle recycler to remove mercury switches from end–of–life vehicle inventory and vehicles processed into ~~their~~ *the vehicle recycler's* inventory within a certain period of time; authorizing the Department to impose certain penalties for violators of a mercury minimization plan; authorizing a scrap ~~recycling~~ *processing* facility to accept end–of–life vehicles that contain mercury switches under certain circumstances; providing that certain fees, fines, and penalties be deposited in the State Recycling Trust Fund; defining certain terms; authorizing the Department to adopt rules and regulations to administer the plan; requiring an annual report containing certain information to be submitted to the Department; requiring certain vehicle manufacturers to report certain information to the Department

on or before a certain date; ~~requiring the Department to make a certain determination; making this Act subject to a certain contingency; requiring the Department to forward a copy of a certain determination to the Department of Legislative Services; providing for the termination of this Act under certain circumstances;~~ requiring the Department to submit a certain report to the General Assembly each year on or before a certain date; establishing a certain capture rate goal for a certain year; defining certain terms; *providing for the termination of this Act;* and generally relating to mercury switch removal from motor vehicles.

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–904 ~~and 6–905~~ , 6–905, and 19–1707(f)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY adding to
Article – Environment
Section 6–905.4 through 6–905.6
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Environment

6–904.

The General Assembly finds that:

(1) Mercury is a persistent and toxic pollutant that bioaccumulates in the environment;

(2) Consumption of mercury–contaminated fish poses a significant health threat;

(3) Combustion of municipal and other solid waste is a source of mercury pollution;

(4) MANUFACTURE OF NEW STEEL FROM MERCURY–CONTAINING SCRAP STEEL IS A SIGNIFICANT SOURCE OF MERCURY POLLUTION;

[(4)**] (5)** Both industry and government are working to reduce the content of mercury in products and to control the release of mercury into the environment;

[(5)**] (6)** Accidental mercury spills, breakages, and releases have occurred at schools in the United States, exposing students, teachers, and administrators to mercury emissions; **[**and**]**

[(6)**] (7)** Removal of mercury and mercury containing products from the waste stream prior to combustion or disposal is an effective way to reduce mercury pollution**; AND**

(8) THE VOLUNTARY NATIONAL VEHICLE MERCURY SWITCH ~~REMOVAL~~ RECOVERY PROGRAM HAS NOT REMOVED A SUFFICIENT PERCENTAGE OF MERCURY–CONTAINING SWITCHES IN THE STATE TO PROTECT THE ENVIRONMENT.

6–905.

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

(B) "CAPTURE RATE" MEANS THE ANNUAL REMOVAL, COLLECTION, AND RECOVERY OF MERCURY SWITCHES AS A PERCENTAGE OF TOTAL NUMBER OF MERCURY SWITCHES AVAILABLE FROM END–OF–LIFE VEHICLES FOR THAT YEAR.

(C) "END–OF–LIFE VEHICLE" MEANS A MOTOR VEHICLE THAT IS SOLD, GIVEN, OR OTHERWISE CONVEYED TO A VEHICLE RECYCLER OR SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY FOR THE PURPOSE OF RESALE OF ITS PARTS OR RECYCLING.

[(b)**] (D)** "Manufacturer" means a person that:

(1) Produces a product;

(2) For a multicomponent product, produces or assembles the final product; or

(3) Serves as an importer or domestic distributor of a product produced outside of the United States.

[(c)**] (E)** "Marketer" means a person that manufactures, assembles, sells, distributes, affixes a brand name or private label to, or licenses the use of a brand name on:

(1) A fever thermometer containing mercury; or

(2) A thermostat containing mercury.

[(d)**] (F)** "Mercury–added product" means any of the following products if containing elemental mercury or a mercury compound that has been added to the product for any reason:

(1) Dyes or pigments;

(2) Electric switches; and

(3) Fluorescent lamps.

(G) "MERCURY MINIMIZATION PLAN" MEANS A PLAN FOR REMOVING, COLLECTING, AND RECOVERING MERCURY SWITCHES FROM AN END–OF–LIFE VEHICLE.

(H) "MERCURY SWITCH" MEANS ANY LIGHT SWITCH OR ANTILOCK BRAKING SYSTEM SWITCH THAT CONTAINS MERCURY AND THAT IS INSTALLED BY A MANUFACTURER IN A MOTOR VEHICLE.

(I) "MERCURY SWITCH ASSEMBLY" MEANS A ~~LIGHT,~~ LIGHT *SWITCH ASSEMBLY* OR AN ANTILOCK BRAKING ~~SYSTEM, OR OTHER~~ SYSTEM SWITCH ASSEMBLY THAT CONTAINS A MERCURY SWITCH.

[(e)**] (J)** "Motor vehicle" has the meaning stated in § 11–135 of the Transportation Article.

[(f)**] (K)** "Reclamation facility" means a site:

(1) Where equipment is used to recapture mercury from mercury–added fluorescent lamps for the purpose of recycling or reusing the mercury; or

(2) That collects mercury containing components from mercury–added fluorescent lamps for the eventual recapture and recycling or reuse of the mercury.

(L) "SCRAP ~~RECYCLING~~ PROCESSING FACILITY" MEANS A ~~FIXED LOCATION WHERE MACHINERY AND EQUIPMENT ARE USED FOR PROCESSING AND MANUFACTURING SCRAP METAL INTO PREPARED GRADES AND THE PRINCIPAL PRODUCT IS SCRAP IRON, STEEL, OR NONFERROUS METALLIC SCRAP~~ FACILITY:

(1) THAT PROCESSES IRON, STEEL, AND NONFERROUS SCRAP METAL; AND

(2) THE PRINCIPAL PRODUCT OF WHICH IS SCRAP IRON, SCRAP STEEL, AND NONFERROUS SCRAP FOR SALE AND REMELTING PURPOSES.

[(g)**] (M)** "Thermostat" means a device that regulates temperature in an enclosed area by controlling heating, cooling, or ventilation equipment.

(N) "VEHICLE MANUFACTURER" MEANS A PERSON THAT:

(1) IS THE LAST PERSON IN THE PRODUCTION OR ASSEMBLY PROCESS OF A NEW MOTOR VEHICLE THAT USES MERCURY SWITCHES; OR

(2) SERVES AS AN IMPORTER OR DOMESTIC DISTRIBUTOR OF A MOTOR VEHICLE THAT USES MERCURY SWITCHES PRODUCED OUTSIDE OF THE UNITED STATES.

(O) (1) "VEHICLE RECYCLER" MEANS A PERSON ENGAGED IN THE BUSINESS OF ~~ACQUIRING, DISMANTLING, OR DESTROYING SIX OR MORE END–OF–LIFE VEHICLES IN A CALENDAR YEAR FOR THE PRIMARY PURPOSE OF RESALE AND PARTS.~~:

(I) DISMANTLING, DESTROYING, OR SCRAPPING ANY VEHICLE FOR THE PURPOSE OF RESELLING ANY OF ITS USABLE PARTS; OR

(II) OTHERWISE ACQUIRING VEHICLES FOR THE BENEFIT OF THEIR PARTS OR THE MATERIALS IN THEM.

(2) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, ANY REFERENCE TO A WRECKER IN ANY STATUTE, RULE, OR REGULATION SHALL APPLY TO A VEHICLE RECYCLER.

6–905.4.

(A) THIS SECTION APPLIES TO ~~A~~ VEHICLE ~~MANUFACTURER~~ MANUFACTURERS THAT ~~SELLS~~ SOLD MOTOR VEHICLES WITHIN THE STATE THAT CONTAINED MERCURY SWITCHES.

(B) (1) ON OR BEFORE SEPTEMBER 30, 2009, ~~A~~ VEHICLE ~~MANUFACTURER~~ MANUFACTURERS, INDIVIDUALLY OR AS A GROUP, SHALL DEVELOP A MERCURY MINIMIZATION PLAN AND SUBMIT IT TO THE DEPARTMENT FOR REVIEW AND APPROVAL.

(2) A VEHICLE MANUFACTURER IN THE STATE THAT ALREADY HAS PROCESSES AND PROCEDURES IN PLACE THAT MEET OR EXCEED THE REQUIREMENTS OF THIS SECTION MAY PROPOSE THE USE OF THOSE PROCESSES AND PROCEDURES IN ITS MERCURY MINIMIZATION PLAN.

(C) THE PLAN SHALL CONTAIN:

(1) INFORMATION IDENTIFYING THE MAKE, MODEL, AND YEAR OF VEHICLES THAT MAY CONTAIN A MERCURY SWITCH, INCLUDING:

(I) THE LOCATION OF THE SWITCH;

(II) THE LOCATION OF A MERCURY SWITCH ASSEMBLY; AND

(III) INFORMATION REGARDING THE SAFE AND ENVIRONMENTALLY SOUND METHOD FOR REMOVING THE SWITCH FROM END–OF–LIFE VEHICLES;

(2) EDUCATIONAL MATERIAL AND TRAINING MATERIALS TO ASSIST A VEHICLE RECYCLER OR A SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY UNDERTAKING A SAFE METHOD FOR REMOVAL OF MERCURY SWITCHES AND ASSEMBLIES, INCLUDING INFORMATION ON THE HAZARDS AND PROPER HANDLING OF MERCURY;

(3) A PROPOSAL FOR THE METHOD OF STORAGE OR DISPOSAL OF MERCURY SWITCHES AND ASSEMBLIES, INCLUDING THE METHOD OF PACKAGING AND SHIPPING;

(4) A PROPOSAL FOR THE STORAGE OF MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES COLLECTED AND RECOVERED IN THE EVENT THAT APPROPRIATE MANAGEMENT TECHNOLOGIES ARE NOT AVAILABLE;

(5) A PLAN FOR IMPLEMENTING AND FINANCING THE REMOVAL, COLLECTION, AND RECOVERY SYSTEM, IN ACCORDANCE WITH ITEM (6) OF THIS SUBSECTION; AND

(6) INFORMATION THAT ESTABLISHES THE FINANCING OF THE REMOVAL, COLLECTION, AND RECOVERY SYSTEM FOR THE PROPER MANAGEMENT OF MERCURY SWITCHES, INCLUDING:

(I) PAYMENT BY A VEHICLE MANUFACTURER FOR THE COSTS ASSOCIATED WITH THE REMOVAL, COLLECTION, AND RECOVERY FOR THE PROPER MANAGEMENT OF MERCURY SWITCHES;

(II) ESTABLISHMENT BY A VEHICLE MANUFACTURER OF A METHOD TO ENSURE THE PROMPT PAYMENT TO A VEHICLE RECYCLER, A SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY, AND THE DEPARTMENT;

(III) PAYMENT BY A MANUFACTURER OF THE FOLLOWING COSTS:

1. A MINIMUM OF ~~$3~~ $4 FOR EACH MERCURY LIGHT SWITCH *OR LIGHT SWITCH ASSEMBLY* ~~OR MERCURY SWITCH ASSEMBLY~~ AND $6 FOR EACH ANTILOCK ~~BREAKING~~ *BRAKING SYSTEM* SWITCH *ASSEMBLY* REMOVED BY A VEHICLE RECYCLER IN ACCORDANCE WITH § 6–905.5 OF THIS SUBTITLE AS PARTIAL COMPENSATION FOR THE LABOR AND OTHER COSTS INCURRED BY A VEHICLE RECYCLER IN THE REMOVAL OF THE MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY;

2. A MINIMUM OF ~~$3~~ $4 FOR EACH MERCURY LIGHT SWITCH *OR LIGHT SWITCH ASSEMBLY* ~~OR MERCURY SWITCH ASSEMBLY~~ AND $6 FOR EACH ANTILOCK ~~BREAKING~~ *BRAKING SYSTEM* SWITCH *ASSEMBLY* REMOVED BY A SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY IN ACCORDANCE WITH § 6–905.5 OF THIS SUBTITLE AS PARTIAL COMPENSATION FOR THE LABOR AND OTHER COSTS INCURRED BY A SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY IN THE REMOVAL OF THE MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY; AND

3. $1 FOR EACH MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY REMOVED BY A VEHICLE RECYCLER OR BY A SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY IN ACCORDANCE WITH § 6–905.5 OF THIS SUBTITLE TO THE STATE RECYCLING TRUST FUND AS PARTIAL COMPENSATION FOR THE DEPARTMENT FOR COSTS INCURRED IN ADMINISTERING AND ENFORCING THE PROVISIONS OF THIS SUBTITLE;

(IV) PACKAGING FOR TRANSPORTING MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES TO RECYCLING, STORAGE, OR DISPOSAL FACILITIES;

(V) SHIPPING OF MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES TO RECYCLING, STORAGE, OR DISPOSAL FACILITIES;

(VI) RECYCLING, STORAGE, OR DISPOSAL OF THE MERCURY SWITCH ASSEMBLIES TO RECYCLING, STORAGE, OR DISPOSAL FACILITIES;

(VII) PREPARATION AND DISTRIBUTION TO VEHICLE RECYCLERS AND SCRAP ~~RECYCLING~~ *PROCESSING* FACILITIES OF THE EDUCATIONAL MATERIALS REQUIRED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION; AND

(VIII) MAINTENANCE OF ALL APPROPRIATE RECORD KEEPING SYSTEMS.

(D) (1) WITHIN ~~60~~ 90 DAYS AFTER RECEIVING A MERCURY MINIMIZATION PLAN, THE DEPARTMENT ~~SHALL~~ MAY APPROVE, DISAPPROVE, OR CONDITIONALLY APPROVE THE ENTIRE MERCURY MINIMIZATION PLAN.

(2) THE DEPARTMENT MAY RECEIVE INPUT FROM A REPRESENTATIVE OF A VEHICLE RECYCLER, SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY, OR ANY OTHER STAKEHOLDER AS THE DEPARTMENT DETERMINES NECESSARY.

(3) ~~IF THE ENTIRE MERCURY MINIMIZATION PLAN IS APPROVED, THE~~ THE VEHICLE MANUFACTURER SHALL BEGIN IMPLEMENTATION OF THE MERCURY MINIMIZATION PLAN WITHIN 30 DAYS AFTER ~~APPROVAL, OR AS OTHERWISE DETERMINED~~ SUBMITTAL, UNLESS OTHERWISE DIRECTED BY THE DEPARTMENT.

(4) (I) IF THE ENTIRE MERCURY MINIMIZATION PLAN IS DISAPPROVED, THE DEPARTMENT SHALL INFORM THE VEHICLE MANUFACTURER OF THE REASONS FOR THE DISAPPROVAL.

(II) THE MANUFACTURER HAS 30 DAYS AFTER RECEIVING NOTICE OF THE DISAPPROVED PLAN TO SUBMIT A NEW MERCURY MINIMIZATION PLAN.

(5) (I) THE DEPARTMENT MAY ~~APPROVE~~ DISAPPROVE THOSE PARTS OF A MERCURY MINIMIZATION PLAN THAT DO NOT MEET THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION ~~AND DISAPPROVE ANY PARTS THAT DO NOT COMPLY WITH THE REQUIREMENTS~~.

(II) A MANUFACTURER SHALL:

1. IMPLEMENT THE APPROVED PARTS OF A PLAN NOT DISAPPROVED WITHIN 30 DAYS AFTER ~~APPROVAL~~ SUBMITTAL OR AS OTHERWISE ~~DETERMINED~~ DIRECTED BY THE DEPARTMENT; AND

2. SUBMIT A REVISED MERCURY MINIMIZATION PLAN FOR THE DISAPPROVED PARTS WITHIN 30 DAYS AFTER RECEIVING NOTIFICATION OF THE DISAPPROVAL FROM THE DEPARTMENT.

(III) THE DEPARTMENT ~~SHALL~~ MAY REVIEW AND APPROVE, CONDITIONALLY APPROVE, OR DISAPPROVE A REVISED MERCURY MINIMIZATION PLAN WITHIN 30 DAYS AFTER RECEIVING THE PLAN.

~~(6) (I) ON OR AFTER 90 DAYS FROM THE DATE THE DEPARTMENT RECEIVES A MERCURY MINIMIZATION PLAN, IF THE~~

~~DEPARTMENT HAS NEITHER APPROVED NOR DISAPPROVED THE MERCURY MINIMIZATION PLAN IN ACCORDANCE WITH THIS SUBSECTION, THE MERCURY MINIMIZATION PLAN SHALL BE CONSIDERED CONDITIONALLY APPROVED.~~

~~(II) A VEHICLE MANUFACTURER SHALL IMPLEMENT A CONDITIONALLY EFFECTIVE MERCURY MINIMIZATION PLAN WITHIN 30 DAYS AFTER RECEIVING APPROVAL OR AS OTHERWISE DETERMINED BY THE DEPARTMENT.~~

(E) THE DEPARTMENT MAY COMPLETE, ON BEHALF OF A VEHICLE MANUFACTURER, ANY PORTION OF A MERCURY MINIMIZATION PLAN THAT HAS NOT BEEN APPROVED BY JANUARY 1, 2010.

(F) THE DEPARTMENT MAY REVIEW A MERCURY MINIMIZATION PLAN ~~APPROVED~~ SUBMITTED IN ACCORDANCE WITH THIS SECTION AND RECOMMEND MODIFICATIONS IT CONSIDERS NECESSARY AT ANY TIME IF THE DEPARTMENT DETERMINES THAT THE APPROVED MERCURY MINIMIZATION PLAN IS DEFICIENT OR NOT MEETING THE GOALS OF THIS ACT.

(G) THE DEPARTMENT MAY ADOPT REGULATIONS TO ADMINISTER THE PROVISIONS OF THIS SECTION.

6–905.5.

(A) THIS SECTION APPLIES TO ANY PERSON THAT HAS ANY PART OF THE IMPLEMENTATION OF A MERCURY MINIMIZATION PLAN IN ACCORDANCE WITH § 6–905.4 OF THIS SUBTITLE.

(B) (1) UNLESS A MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY IS INACCESSIBLE DUE TO SIGNIFICANT DAMAGE TO THE VEHICLE IN THE AREA SURROUNDING THE LOCATION OF THE MERCURY SWITCH, ~~WITHIN 30 DAYS AFTER THE APPROVAL OR CONDITIONAL APPROVAL OF A MERCURY MINIMIZATION PLAN,~~ ON AND AFTER DECEMBER 1, 2009, A VEHICLE RECYCLER THAT SELLS, GIVES, OR OTHERWISE CONVEYS OWNERSHIP OF AN END–OF–LIFE VEHICLE TO A SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY FOR ~~RECYCLING~~ *PROCESSING* SHALL REMOVE ALL MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES IDENTIFIED IN THE APPROVED MERCURY MINIMIZATION ~~PLAN FROM~~ PLAN:

(I) FROM THE END–OF–LIFE VEHICLE BEFORE DELIVERY TO A SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY;

(II) FROM THE END–OF–LIFE VEHICLE AT THE TIME THE VEHICLE IS PROCESSED, BUT NOT LATER THAN 180 DAYS AFTER THE RECEIPT OF AN END–OF–LIFE VEHICLE; AND

(III) ON OR BEFORE DECEMBER 31, 2010, FOR RECYCLING, FROM THE VEHICLE RECYCLER'S INVENTORY IN EXISTENCE AS OF SEPTEMBER 30, 2009.

~~(2) THE CAPTURE RATE GOAL FOR A MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY SHALL BE AT LEAST 90%.~~

~~(3)~~ (2) IF THE MOTOR VEHICLE IS DAMAGED, THE DAMAGE SHALL BE NOTED ON THE NORMAL BUSINESS RECORDS OF THE VEHICLE RECYCLER THAT DELIVERED THE END–OF–LIFE VEHICLE TO THE SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY.

~~(4)~~ (3) IF THE MERCURY SWITCH ASSEMBLY IS CORRODED, DAMAGED, OR MOLDED IN A WAY AS TO MAKE REMOVAL OF THE MERCURY PELLET FROM THE MERCURY SWITCH ASSEMBLY IMPRACTICAL OR POSE A DANGER OF DAMAGE TO THE PELLET, THE ENTIRE MERCURY SWITCH ASSEMBLY SHALL BE REMOVED.

(C) (1) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, A SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY MAY AGREE TO ACCEPT AN END–OF–LIFE VEHICLE CONTAINING MERCURY SWITCHES THAT HAS NOT BEEN INTENTIONALLY FLATTENED, CRUSHED, OR BALED.

(2) A SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY SHALL BE RESPONSIBLE FOR REMOVING THE MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES IDENTIFIED IN THE MERCURY MINIMIZATION PLAN APPROVED IN ACCORDANCE WITH § 6–905.4 OF THIS SUBTITLE BEFORE THE END–OF–LIFE VEHICLE IS INTENTIONALLY FLATTENED, CRUSHED, BALED, OR SHREDDED.

(D) (1) A VEHICLE RECYCLER OR SCRAP ~~RECYCLING~~ *PROCESSING* FACILITY THAT REMOVES A MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY IN ACCORDANCE WITH THIS SECTION SHALL MAINTAIN ELECTRONIC RECORDS DOCUMENTING THE NUMBER OF MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES COLLECTED, THE NUMBER OF END–OF–LIFE VEHICLES CONTAINING MERCURY SWITCHES, AND THE NUMBER OF END–OF–LIFE VEHICLES PROCESSED FOR RECYCLING.

(2) THE RECORDS REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION SHALL BE KEPT FOR 3 YEARS AND MADE AVAILABLE FOR REVIEW BY THE DEPARTMENT ON THE REQUEST OF THE DEPARTMENT.

(E) A PERSON MAY NOT FALSELY REPRESENT THAT MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES HAVE BEEN REMOVED FROM AN END–OF–LIFE VEHICLE BEING SOLD, GIVEN, OR OTHERWISE CONVEYED FOR RECYCLING IF THAT PERSON HAS NOT REMOVED THE MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES, OR ARRANGED WITH ANOTHER PERSON TO REMOVE THE MERCURY SWITCHES OR MERCURY SWITCH ASSEMBLIES.

(F) ON REMOVAL, MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES SHALL BE COLLECTED, STORED, TRANSPORTED, RECYCLED, AND OTHERWISE HANDLED AS REQUIRED BY THE MERCURY MINIMIZATION PLAN APPROVED IN ACCORDANCE WITH § 6–905.4 OF THIS SUBTITLE AND WITH ANY PROVISIONS OR REGULATIONS CONCERNING WASTE IN ACCORDANCE WITH TITLE 9 OF THIS ARTICLE.

(G) (1) ON OR ~~AFTER 1 YEAR OF THE IMPLEMENTATION OF A MERCURY MINIMIZATION PLAN APPROVED IN ACCORDANCE WITH § 6–905.4 OF THIS SUBTITLE~~ BEFORE JANUARY 31 OF EACH YEAR, A MANUFACTURER SHALL REPORT TO THE DEPARTMENT CONCERNING THE IMPLEMENTATION OF THE MERCURY MINIMIZATION PLAN.

(2) THE REPORT SHALL INCLUDE:

(I) A DETAILED DESCRIPTION AND DOCUMENTATION OF THE CAPTURE RATE ACHIEVED, IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION;

(II) A DESCRIPTION OF ADDITIONAL OR ALTERNATIVE ACTIONS THAT MAY BE IMPLEMENTED TO IMPROVE THE MERCURY MINIMIZATION PLAN AND ITS IMPLEMENTATION IN THE EVENT THAT A MERCURY SWITCH OR MERCURY SWITCH ASSEMBLY CAPTURE RATE OF AT LEAST 90% FOR THE PREVIOUS CALENDAR YEAR IS NOT ACHIEVED;

(III) THE NUMBERS OF MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES COLLECTED, END–OF–LIFE VEHICLES CONTAINING MERCURY SWITCHES, AND ~~END–OF–LIFE VEHICLES~~ MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES PROCESSED FOR RECYCLING;

(IV) A DESCRIPTION OF HOW THE MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES WERE MANAGED; AND

(V) A DESCRIPTION OF THE AMOUNTS PAID TO COVER THE COSTS OF IMPLEMENTING THE MERCURY MINIMIZATION PLAN.

(H) THE DEPARTMENT MAY DISCONTINUE THE REQUIREMENT FOR THE ANNUAL REPORT IF IT DETERMINES THAT MERCURY SWITCHES IN END–OF–LIFE VEHICLES WILL, BY THE END OF DECEMBER 2020, NO LONGER POSE A SIGNIFICANT THREAT TO THE ENVIRONMENT OR TO PUBLIC HEALTH.

(I) AFTER DECEMBER 1, 2011, IF THE DEPARTMENT DETERMINES THAT AN INSUFFICIENT NUMBER OF MERCURY SWITCHES HAVE BEEN RECYCLED, THE DEPARTMENT MAY PROPOSE NEW STRATEGIES TO INCREASE SWITCH REMOVAL AND RECYCLING, INCLUDING ADDITIONAL FUNDING SOURCES.

(J) (1) ON OR BEFORE OCTOBER 1 EACH YEAR, THE DEPARTMENT OF THE ENVIRONMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON:

(I) THE NUMBER OF MERCURY SWITCHES AND MERCURY SWITCH ASSEMBLIES RECOVERED FROM VEHICLES;

(II) THE CAPTURE RATE OF SWITCH RECOVERY ACHIEVED;

(III) THE NUMBER OF SWITCHES PROJECTED TO BE RECOVERED;

(IV) THE AMOUNT AND USE OF FUNDS PAID INTO THE STATE RECYCLING TRUST FUND FOR THE ADMINISTRATION OF THIS ACT; AND

(V) ANY RECOMMENDATIONS TO IMPROVE THE PROVISIONS OF THIS ACT OR TO INCREASE THE CAPTURE RATE OF MERCURY SWITCHES FROM VEHICLES.

(2) THE DEPARTMENT SHALL ALSO INFORM THE GENERAL ASSEMBLY IF THE DEPARTMENT DETERMINES THAT MERCURY SWITCHES IN END–OF–LIFE VEHICLES NO LONGER POSE A SIGNIFICANT RISK TO THE ENVIRONMENT OR TO PUBLIC HEALTH.

~~(I)~~ (K) THE DEPARTMENT ~~SHALL~~ MAY ADOPT REGULATIONS TO ADMINISTER THE PROVISIONS OF THIS SECTION.

6–905.6.

~~(A) IF A PERSON VIOLATES ANY PROVISION OR ANY REGULATION ADOPTED IN ACCORDANCE WITH § 6–905.5 OF THIS SUBTITLE, THE DEPARTMENT:~~

~~(1) MAY ISSUE AN ORDER THAT:~~

~~(I) SPECIFIES THE PROVISION THAT ALLEGEDLY HAS BEEN VIOLATED;~~

~~(II) STATES THE ACTIONS NECESSARY TO CORRECT THE VIOLATION AND THE TIME ALLOWED FOR CORRECTION; AND~~

~~(III) STATES THE PROCEDURE FOR REQUESTING A HEARING TO RESPOND TO THE VIOLATION ALLEGED IN THE ORDER, IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION;~~

~~(2) MAY IMPOSE AN ADMINISTRATIVE PENALTY NOT TO EXCEED:~~

~~(I) $7,500 FOR A FIRST OFFENSE;~~

~~(II) $10,000 FOR A SECOND OFFENSE; AND~~

~~(III) $25,000 FOR A THIRD AND EVERY SUBSEQUENT OFFENSE;~~

~~(3) MAY NOT LEVY AN ASSESSMENT IN ACCORDANCE WITH THIS SECTION UNTIL AFTER THE VIOLATOR HAS BEEN NOTIFIED OF THE VIOLATION BY CERTIFIED MAIL OR PERSONAL SERVICE;~~

~~(4) MAY BRING AN ACTION FOR AN INJUNCTION AGAINST ANY PERSON THAT VIOLATES ANY PROVISION OR A REGULATION OR ORDER ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH § 6–905.5 OF THIS SUBTITLE; AND~~

~~(5) MAY PETITION THE ATTORNEY GENERAL TO BRING A CRIMINAL ACTION IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.~~

~~(B) (1) THE DEPARTMENT SHALL PROVIDE NOTICE OF A VIOLATION BY CERTIFIED MAIL OR PERSONAL SERVICE.~~

~~(2) A PERSON THAT RECEIVES NOTICE SHALL HAVE 20 DAYS AFTER RECEIVING THE NOTICE TO REQUEST A HEARING.~~

~~(3) AFTER THE HEARING, IF THE DEPARTMENT FINDS THAT A VIOLATION HAS OCCURRED, THE ORDER SHALL BECOME A FINAL ORDER.~~

~~(4) AFTER THE 20–DAY REQUEST PERIOD, IF NO HEARING IS REQUESTED, THE ORDER SHALL BECOME A FINAL ORDER.~~

~~(C) IF THE DEPARTMENT PURSUES ANY OF THE REMEDIES SPECIFIED UNDER THIS SECTION, THE DEPARTMENT IS NOT PRECLUDED FROM SEEKING ANY OTHER REMEDY AFFORDED IT UNDER THIS SECTION.~~

~~(D) ANY PENALTY IMPOSED UNDER THIS SECTION MAY BE COLLECTED, WITH COSTS, IN A SUMMARY PROCEEDING IN ACCORDANCE WITH THE PROCEDURES OF THE COURT.~~

~~(E) IN ANY ACTION FOR AN INJUNCTION, THE COURT MAY GRANT TEMPORARY OR INTERLOCUTORY RELIEF, INCLUDING:~~

~~(1) A TEMPORARY OR PERMANENT INJUNCTION; OR~~

~~(2) AN ASSESSMENT OF THE VIOLATOR FOR THE REASONABLE COSTS OF:~~

~~(I) ANY INSPECTION THAT LED TO THE ESTABLISHMENT OF THE VIOLATION; AND~~

~~(II) PREPARING AND LITIGATING THE ACTION BROUGHT UNDER SUBSECTION (A)(4) OF THIS SECTION.~~

~~(F) (1) A PERSON WHO WILLFULLY OR NEGLIGENTLY VIOLATES THE PROVISIONS OF § 6–905.5 OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION OF A FIRST OFFENSE IS SUBJECT TO A FINE OF AT LEAST $2,500 BUT NOT EXCEEDING $25,000.~~

~~(2) A SECOND OFFENSE UNDER THIS SUBSECTION SHALL SUBJECT THE VIOLATOR TO A FINE OF AT LEAST $5,000 BUT NOT EXCEEDING $50,000.~~

~~(3) A PERSON THAT KNOWINGLY MAKES A FALSE STATEMENT, REPRESENTATION, OR CERTIFICATION IN ANY APPLICATION, RECORD, OR OTHER DOCUMENT FILED OR REQUIRED TO BE MAINTAINED UNDER THIS SUBTITLE OR THAT FALSIFIES, TAMPERS WITH, OR KNOWINGLY RENDERS INACCURATE ANY MONITORING DEVICE OR METHOD REQUIRED TO BE MAINTAINED IN ACCORDANCE WITH THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $10,000.~~

(A) A PERSON THAT VIOLATES ANY PROVISION OF § 6–905.4 OR § 6–905.5 OF THIS SUBTITLE, OR ANY REGULATION ADOPTED TO IMPLEMENT THE PROVISIONS OF § 6–905.4 OR § 6–905.5 OF THIS SUBTITLE, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING $1,000;

(2) FOR A SECOND OFFENSE, A FINE NOT EXCEEDING $2,500; AND

(3) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING $5,000.

(B) A PERSON THAT VIOLATES ANY PROVISION OF § 6–905.4 OR § 6–905.5 OF THIS SUBTITLE, OR ANY REGULATION ADOPTED TO IMPLEMENT THE PROVISIONS OF § 6–905.4 OR § 6–905.5 OF THIS SUBTITLE, IS LIABLE FOR A CIVIL PENALTY TO BE COLLECTED IN A CIVIL ACTION IN THE CIRCUIT COURT FOR ANY COUNTY IN THE STATE NOT EXCEEDING:

(1) $1,000 FOR A FIRST OFFENSE;

(2) $2,500 FOR A SECOND OFFENSE; OR

(3) $5,000 FOR A THIRD OR SUBSEQUENT OFFENSE.

(C) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY, AFTER AN OPPORTUNITY FOR A HEARING, THE DEPARTMENT MAY IMPOSE A FINE FOR EACH VIOLATION OF § 6–905.4 OR § 6–905.5 OF THIS SUBTITLE, OR OF ANY REGULATION ADOPTED UNDER § 6–905.4 OR § 6–905.5 OF THIS SUBTITLE, NOT EXCEEDING:

(I) $1,000 FOR A FIRST OFFENSE;

(II) $2,500 FOR A SECOND OFFENSE; OR

(III) $5,000 FOR A THIRD OR SUBSEQUENT OFFENSE.

(2) THE DEPARTMENT SHALL CONSIDER THE FOLLOWING IN ASSESSING THE FINE IN PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE WILLFULNESS OF THE VIOLATION;

(II) THE EXTENT TO WHICH THE VIOLATION WAS KNOWN, BUT UNCORRECTED, BY THE VIOLATOR;

(III) THE EXTENT TO WHICH THE VIOLATION RESULTED IN ACTUAL HARM TO HUMAN HEALTH OR THE ENVIRONMENT;

(IV) THE NATURE AND DEGREE OF INJURY TO, OR INTERFERENCE WITH, GENERAL WELFARE AND HEALTH; AND

(V) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION BY THE VIOLATOR.

(D) EACH DAY A VIOLATION CONTINUES IS A SEPARATE OFFENSE UNDER THIS SECTION.

(E) FINES AND PENALTIES COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED IN THE STATE RECYCLING TRUST FUND.

9–1707.

(f) (1) There is a State Recycling Trust Fund.

(2) The Fund shall consist of:

(i) The newsprint recycling incentive fee;

(ii) The telephone directory recycling incentive fee collected under § 9–1709 of this subtitle;

(iii) The covered electronic device manufacturer registration fee collected under § 9–1728 of this subtitle;

(iv) **THE MERCURY ~~LIGHT~~ SWITCH~~, ANTILOCK BRAKING SWITCH,~~ OR MERCURY SWITCH ASSEMBLY REMOVAL FEES COLLECTED UNDER § 6–905.4(C)(6)(III)3 OF THIS ARTICLE;**

(V) All fines and penalties collected under this subtitle **AND UNDER §§ 6–905.4 AND 6–905.6 OF THIS ARTICLE**;

[(v)**]** **(VI)** Money appropriated in the State budget to the Fund; and

[(vi)**]** **(VII)** Any other money from any other source accepted for the benefit of the Fund.

(3) The Secretary shall administer the Fund.

(4) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(5) At the end of each fiscal year, any unspent or unencumbered balance in the Fund that exceeds $2,000,000 shall revert to the General Fund of the State in accordance with § 7–302 of the State Finance and Procurement Article.

(6) In accordance with the State budget, the Fund shall be used only:

(i) To provide grants to the counties to be used by the counties to develop and implement local recycling plans;

(ii) To provide grants to counties that have addressed methods for the separate collection and recycling of covered electronic devices in accordance with § 9–1703(c)(1) of this subtitle;

(iii) To provide grants to municipalities to be used by the municipalities to implement local covered electronic device recycling programs; and

(iv) To carry out the purposes of the Office of Recycling under this subtitle **AND UNDER TITLE 6, SUBTITLE 9 OF THIS ARTICLE**.

(7) (i) The Treasurer shall invest the money in the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~(a) On or before November 1, 2009, each vehicle manufacturer that sells motor vehicles in the State shall report to the Department of the Environment on how many mercury switches or mercury switch assemblies were captured in Maryland by the vehicle manufacturer under the National Vehicle Mercury Switch Removal Program during the 12–month period ending September 30, 2009.~~

~~(b) On or before December 1, 2009, the Department of the Environment shall determine whether the National Vehicle Mercury Switch Removal Program has captured at least 103,600 mercury switches or mercury switch assemblies in Maryland during the 12–month period ending September 30, 2009.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

~~(a) Section 1 of this Act shall take effect January 1, 2010, contingent on a determination under Section 2 of this Act by the Department of the Environment that fewer than 103,600 mercury switches or mercury switch assemblies were captured in Maryland under the National Vehicle Mercury Switch Removal Program during the 12–month period ending September 30, 2009.~~

~~(b) If the Department makes a determination under subsection (a) of this section:~~

~~(1) That fewer than 103,600 mercury switches or mercury switch assemblies were captured in Maryland under the National Vehicle Mercury Switch Removal Program during the 12-month period ending September 30, 2009, Section 1 of this Act shall take effect on January 1, 2010; or~~

~~(2) That at least 103,600 mercury switches or mercury switch assemblies were captured in Maryland under the National Vehicle Mercury Switch Removal Program during the 12-month period ending September 30, 2009, 30 days after the Department makes the determination, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

~~(c) Within 5 days after making a determination under subsection (a) of this section, the Department shall forward a copy of the determination to the Department of Legislative Services, 90 State Circle, Annapolis, Maryland.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the capture rate goal for a mercury switch or mercury switch assembly shall be at least 90% in 2010.

SECTION ~~4.~~ 3. AND BE IT FURTHER ENACTED, That~~, subject to Section 3 of this Act,~~ this Act shall take effect July 1, 2009. *It shall remain effective for a period of 8 years and 6 months and, at the end of December 31, 2017, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.*

Approved by the Governor, May 19, 2009.

Chapter 714

(House Bill 1273)

AN ACT concerning

~~**Criminal Law – Limited Immunity – Seeking Medical Assistance for Alcohol or Drug-Related Overdose**~~

Criminal Procedure – Medical Emergency After Alcohol or Drug Ingestion – Mitigating Factor

FOR the purpose of ~~providing that a certain person who seeks medical assistance for a person experiencing an alcohol or a drug-related overdose may not be charged with or prosecuted for a certain crime under certain circumstances; providing that a certain person who seeks medical assistance for a person experiencing an~~

~~alcohol or a drug–related overdose may not be detained on a certain warrant under certain circumstances; providing that a person who seeks medical assistance for a person experiencing an alcohol or a drug–related overdose may not be required to provide personal identifying information except for a certain purpose of assisting in certain medical treatment; creating a certain exception; providing that a certain person experiencing an alcohol or a drug–related overdose may not be charged with or prosecuted for a certain crime under certain circumstances; providing that a certain person experiencing an alcohol or a drug–related overdose may not be detained on a certain warrant under certain circumstances;~~ providing that the act of seeking medical assistance for ~~a~~ another ~~certain~~ person who is experiencing a medical emergency after ingesting alcohol or drugs may be used as a mitigating factor in a certain criminal prosecution; and generally relating to ~~limited immunity for seeking medical assistance for an alcohol or a drug–related overdose~~ medical emergencies after alcohol or drug ingestion.

BY adding to
Article – Criminal ~~Law~~ Procedure
Section ~~5–601.1~~ 1–209
Annotated Code of Maryland
~~(2002 Volume and 2008 Supplement)~~
(2008 Replacement Volume)

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

Article – Criminal ~~Law~~ Procedure

~~**5–601.1.**~~

~~**(A) (1) A PERSON WHO, IN GOOD FAITH, SEEKS MEDICAL ASSISTANCE FOR A PERSON EXPERIENCING AN ALCOHOL OR A DRUG–RELATED OVERDOSE MAY NOT BE:**~~

~~**(I) CHARGED WITH OR PROSECUTED FOR POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE UNDER § 5–601 OF THIS SUBTITLE IF THE EVIDENCE FOR THE CRIMINAL PROSECUTION WAS OBTAINED SOLELY AS A RESULT OF SEEKING MEDICAL ASSISTANCE;**~~

~~**(II) DETAINED ON AN OUTSTANDING WARRANT FOR ANOTHER NONVIOLENT CRIME IF THE SEEKING OF MEDICAL ASSISTANCE IS THE REASON FOR THE ENCOUNTER WITH LAW ENFORCEMENT; OR**~~

~~**(III) REQUIRED TO PROVIDE ANY PERSONAL IDENTIFYING INFORMATION FOR ANY PURPOSE OTHER THAN ASSISTING IN THE MEDICAL**~~

~~TREATMENT OF THE PERSON EXPERIENCING AN ALCOHOL OR A DRUG–RELATED OVERDOSE.~~

~~(2) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO PROVIDED, SOLD, GAVE, OR EXCHANGED FOR OTHER GOODS OR SERVICES THE ALCOHOL OR DRUGS CAUSING THE OVERDOSE TO THE PERSON FOR WHOM MEDICAL ASSISTANCE IS SOUGHT.~~

~~(B) A PERSON WHO EXPERIENCES AN ALCOHOL OR A DRUG–RELATED OVERDOSE AND IS IN NEED OF MEDICAL ASSISTANCE MAY NOT BE:~~

~~(1) CHARGED WITH OR PROSECUTED FOR POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE UNDER § 5–601 OF THIS SUBTITLE IF THE EVIDENCE FOR THE CRIMINAL PROSECUTION WAS OBTAINED SOLELY AS A RESULT OF THE OVERDOSE AND THE SEEKING OF MEDICAL ASSISTANCE; AND~~

~~(2) DETAINED ON AN OUTSTANDING WARRANT FOR ANOTHER NONVIOLENT CRIME IF THE SEEKING OF MEDICAL ASSISTANCE IS THE REASON FOR THE ENCOUNTER WITH LAW ENFORCEMENT.~~

1–209.

~~(C)~~ **THE ACT OF SEEKING MEDICAL ASSISTANCE FOR ~~A~~ ANOTHER PERSON WHO IS EXPERIENCING ~~AN ALCOHOL OR A DRUG–RELATED OVERDOSE~~ A MEDICAL EMERGENCY AFTER INGESTING ALCOHOL OR DRUGS MAY BE USED AS A MITIGATING FACTOR IN A CRIMINAL PROSECUTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 715

(House Bill 1297)

AN ACT concerning

Procurement – Minority Business Enterprises – Prime Contractors

FOR the purpose of requiring the Board of Public Works to adopt regulations that ~~require that the solicitation documents include certain information; requiring the Board also to adopt regulations establishing goals for the participation of~~

~~certified minority business enterprises as prime contractors, concerning the availability of minority business enterprises to respond competitively as prime contractors for certain procurements;~~ promote and provide for the counting and reporting of certified minority business enterprises as prime contractors; requiring certain units to include information in a certain report to the Governor's Office of Minority Affairs concerning the participation of minority business enterprises as prime contractors or as subcontractors in certain procurements; and generally relating to the participation of minority business enterprises as prime contractors in State procurements.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–303 and 14–305
Annotated Code of Maryland
(2006 Replacement Volume and 2008 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

14–303.

(a) (1) (i) In accordance with Title 10, Subtitle 1 of the State Government Article, the Board shall adopt regulations consistent with the purposes of this Division II to carry out the requirements of this subtitle.

(ii) The Board shall keep a record of the number of waivers requested and the number of waivers granted each year under subsection (b)(8) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article.

(2) The regulations shall establish procedures to be followed by units, prospective contractors, and successful bidders or offerors to maximize notice to, and the opportunity to participate in the procurement process by, a broad range of minority business enterprises.

(b) These regulations shall include:

(1) provisions designating one agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on:

~~(I) THE AVAILABILITY OF MINORITY BUSINESS ENTERPRISES TO RESPOND COMPETITIVELY AS A PRIME CONTRACTOR;~~

[(i)] ~~(II)~~ the potential subcontract opportunities available in the prime procurement contract; and

[(ii)] ~~(III)~~ the availability of certified minority business enterprises to respond competitively to the potential subcontract opportunities;

(3) a requirement that the unit provide a current list of certified minority business enterprises to each prospective contractor;

(4) provisions to ensure the uniformity of requests for bids on subcontracts;

(5) provisions relating to the timing of requests for bids on subcontracts and of submission of bids on subcontracts;

(6) provisions designed to ensure that a fiscal disadvantage to the State does not result from an inadequate response by minority business enterprises to a request for bids;

(7) provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority business enterprise portion of the joint venture;

(8) consistent with § 14–302(a)(5) of this subtitle, provisions relating to any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation;

(9) provisions requiring a monthly submission to the unit by minority business enterprises acknowledging all payments received in the preceding 30 days under a contract governed by this subtitle;

(10) a requirement that a unit shall verify and maintain data concerning payments received by minority business enterprises, including a requirement that, upon completion of a project, the unit shall compare the total dollar value actually received by minority business enterprises with the amount of contract dollars initially awarded, and an explanation of any discrepancies therein;

(11) a requirement that a unit verify that minority business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(12) provisions establishing a graduation program based on the financial viability of the minority business enterprise, using annual gross receipts or other economic indicators as may be determined by the Board;

(13) a requirement that a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation identify the specific commitment of certified minority business enterprises at the time of submission; **[**and**]**

(14) PROVISIONS ~~ESTABLISHING GOALS FOR THE PARTICIPATION~~ PROMOTING AND PROVIDING FOR THE COUNTING AND REPORTING OF CERTIFIED MINORITY BUSINESS ENTERPRISES AS PRIME CONTRACTORS; AND

[(14)**] (15)** other provisions that the Board considers necessary or appropriate to encourage participation by minority business enterprises and to protect the integrity of the procurement process.

(c) The regulations adopted under this section shall specify that a unit may not allow a business to participate as if it were a certified minority business enterprise if the business's certification is pending.

14–305.

(a) (1) Within 90 days after the end of the fiscal year, each unit shall report to the Governor's Office of Minority Affairs and the certification agency.

(2) A report under this subsection shall for the preceding fiscal year:

(i) state the total number and value of procurement contracts between the unit and certified minority business enterprises, by specific category of minority business enterprise**, INCLUDING WHETHER THE MINORITY BUSINESS ENTERPRISE PARTICIPATED AS A PRIME CONTRACTOR OR AS A SUBCONTRACTOR**;

(ii) indicate the percentage that those procurement contracts represent, by specific category of minority business enterprise, of the total number and value of procurement contracts; and

(iii) contain other such information as required by the Governor's Office of Minority Affairs and the certification agency and approved by the Board.

(3) A report under this subsection shall be in a form prescribed by the Governor's Office of Minority Affairs and the certification agency and approved by the Board.

(b) (1) On or before December 31 of each year, the Governor's Office of Minority Affairs shall submit to the Board of Public Works and, subject to § 2–1246 of the State Government Article, to the Legislative Policy Committee a report summarizing the information the Office receives under subsection (a) of this section.

(2) This report may be prepared in conjunction with the annual report required under § 9–306 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 716

(House Bill 1304)

AN ACT concerning

Anne Arundel County – Alcoholic Beverages Act of 2009

FOR the purpose of ~~altering~~ imposing certain alcoholic beverages license fees in Anne Arundel County; establishing certain hotel–limited service licenses in the county; authorizing the Board of License Commissioners to issue the hotel–limited service licenses to certain persons; providing for the privileges and annual fees for the hotel–limited service licenses; requiring the Board to obtain criminal records of alcoholic beverages license applicants from certain governmental units, require applicants for licenses to be fingerprinted, and forward the fingerprints to certain governmental units; *establishing a certain nonrefundable license renewal fee;* ~~establishing a certain nonrefundable license renewal fee~~ requiring the Anne Arundel County Board of License Commissioners to prepare an annual budget; specifying the contents of the budget; requiring the Board to submit the budget to the Comptroller for approval and to transmit the budget after it is approved to certain delegations in the General Assembly on or before a certain date; authorizing the Board to engage the services of a certain person for a certain purpose; requiring the county government to provide the Board with certain information; authorizing the Board to issue a special outdoor license *and a special outdoor entertainment license* ~~and a special outdoor entertainment license~~ to holders of certain licenses; providing for the privileges, annual ~~fees~~ fee, and renewal requirement for special outdoor licenses ~~and special outdoor entertainment licenses~~; authorizing the Board to employ a part–time deputy chief inspector at a certain annual salary; altering the number of part–time inspectors that the Board may employ; *altering the annual salary of the attorney for the Board;* ~~altering the annual salary of the attorney for the Board;~~ adding Anne Arundel County to a list of jurisdictions in which a certain court may remand certain proceedings to the local licensing board; altering the penalty the Board may impose for a violation that is cause for suspension of a license; making certain stylistic changes; defining certain terms; providing for the application of ~~certain sections~~

a certain provision of this Act; and generally relating to alcoholic beverages in Anne Arundel County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 1–102(b), ~~5–101(c)(1), 5–201(c), 5–202(d), 5–301(c), 5–401(c)(1)(i), 6–101(c), 6–201(c), 6–301(c)(2), (5)(ii), (6)(ii), and (7)(ii), 6–401(c)(3), 7–101(b)(2)(i) and (d)(2),~~ 8–202(d)(4)(ii) ~~and (5), (c)(3), (h)(4)(i), and (i)(4)(i), 8–202.1(f), 10–204(c),~~ 12–202(a), 15–112(c)(3) *and (5)(iii)* ~~and (5)(iii)~~, 16–101(e)(4), and 16–507(c)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing
Article 2B – Alcoholic Beverages
Section 5–201(c)(3)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 4–201(a)(1), ~~5–101(a)(1), 5–202(b)(1), 5–301(a)(1), 5–401(a)(1), 6–101(a)(1), 6–301(a)(1), (c)(1), (5)(i), (6)(i), and (7)(i), 6–401(a)(1) and (c)(1), 7–101(b)(1)(i),~~ 8–202(a), (b)(1) and (2), ~~(c)(1), (h)(3), and~~ (i)(1), ~~8–202.1(a) and (c)(1),~~ and 15–112(c)(1)(i)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 4–201(b)(7), 8–202(j), ~~and~~ 10–103(b)(13)(xv), *and 10–301(u)*~~, and 10–301(u)~~
Annotated Code of Maryland
(2005 Replacement Volume and 2008 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.

(b) (1) In this article the following words have the meanings indicated within the specified subdivisions.

(2) IN ANNE ARUNDEL COUNTY, "TAXPAYER" MEANS AN INDIVIDUAL WHO OWNS REAL PROPERTY IN THE INDIVIDUAL'S OWN NAME,

INDIVIDUALLY OR JOINTLY WITH OTHERS, AND PAYS REAL PROPERTY TAXES TO ANNE ARUNDEL COUNTY.

[(2)**] (3)** In Prince George's and St. Mary's counties "taxpayer" means a resident who pays either real estate tax, income tax, or both.

[(3)**] (4)** In Wicomico County, "bowling alley" means an establishment in which the primary business activity is to provide bowling lanes and bowling activities for the public, and which may be equipped with a dining room or snack bar area for the sale of food and beverages.

[(4)**] (5)** In Worcester **[**County**] COUNTY,** "taxpayer" means an individual who owns real estate in Worcester County in his own name, either individually or jointly with others, and actually pays real estate tax in Worcester County.

4–201.

(a) A Class A light wine license may be issued only in:

(1) Anne Arundel County;

(b) **(7) IN ANNE ARUNDEL COUNTY THE ANNUAL FEE FOR THIS LICENSE IS $60.**

~~5–101.~~

~~(a) (1) A Class A beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer and light wines at retail, in any quantity to any consumers, at the place described in the license. The holder shall deliver the beer and light wines in a sealed package or container, which package or container may not be opened nor its contents consumed on the premises where sold.~~

~~(c) (1) In Anne Arundel County the annual license fee is **[**$200**] $240**.~~

5–201.

(c) ~~(1) This subsection applies only in Anne Arundel County.~~

~~(2) The annual license fee for a Class B beer and light wine license is **[**$400**] $480**.~~

[(3) (i) There is a Class B–LSH (limited service hotel) beer and light wine license for use in a hotel that contains more than 100 rooms and operates a kitchen licensed as a food service facility.

(ii) The annual license fee is $2,000.

(iii) A Class B–LSH license authorizes the licensee to sell beer and light wine in containers to registered guests, who may consume the beverage in their hotel rooms or remove unopened containers from the hotel premises.**]**

~~5–202.~~

~~(b) (1) A Class H beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes the holder to keep for sale and sell beer and light wines at retail at any hotel or restaurant, at the place described in the license, for consumption on the premises.~~

~~(d) In Anne Arundel County the annual license fee is~~ **[**~~$300~~**]** ~~**$360**.~~

~~5–301.~~

~~(a) (1) Except as provided in subsection (n) of this section, a Class C beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer and light wines at retail to bona fide members and their guests, at any club, at the place described in the license, for consumption on the premises only.~~

~~(e) In Anne Arundel County the annual license fee is~~ **[**~~$100~~**]** ~~**$120**.~~

~~5–401.~~

~~(a) (1) A Class D beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes its holder to keep for sale and to sell beer and light wines at retail, at the place described in the license, for consumption on the premises or elsewhere. The license may not be issued for any drugstore.~~

~~(e) (1) (i) In Anne Arundel County the annual license fee is~~ **[**~~$400~~**]** ~~**$480**.~~

~~6–101.~~

~~(a) (1) A Class A beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes the holder to keep for sale and to sell all alcoholic beverages at retail, in any quantity, at the place described in the license. The licensee shall deliver the alcoholic beverages in a sealed package or container and the package or container may not be opened nor its contents consumed on the premises where sold.~~

~~(c) In Anne Arundel County the annual license fee is [$600] **$720**.~~

~~6–201.~~

~~(c) (1) The provisions of this subsection apply only in Anne Arundel County and do not apply to the City of Annapolis.~~

~~(2) The annual fee for a Class B license is [$900] **$1,080**.~~

~~(3) (i) A Class H beer, wine and liquor license authorizes the holder to keep for sale and sell beer, wine and liquor at retail at any restaurant for consumption on the premises.~~

~~(ii) The annual fee for this license is [$800] **$960**.~~

~~6–301.~~

~~(a) (1) Except as provided in subsection (n) of this section, a Class C beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at any club, at the place described in the license, for consumption on the premises only.~~

~~(c) (1) This subsection applies only in Anne Arundel County.~~

~~(2) The annual license fee is [$400] **$480**.~~

~~(5) (i) There is a special Class C (yacht club) license.~~

~~(ii) The annual license fee is [$1,500] **$1,800**.~~

~~(6) (i) There is a special Class C (golf and country club) license.~~

~~(ii) The annual license fee is [$1,500] **$1,800**.~~

~~(7) (i) There is a special Class C (country club) license.~~

~~(ii) The annual license fee is [$625] **$750**.~~

~~6–401.~~

~~(a) (1) A Class D beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at the~~

~~place described in it, for consumption on the premises or elsewhere. A license may not be issued for any drugstore.~~

~~(c) (1) This subsection applies only in Anne Arundel County.~~

~~(3) (i) The annual license fee for a limited Class D license is [$900] $1,080.~~

~~(ii) The annual license fee for a Class D on– and off–sale license is [$1,000] $1,200.~~

~~7–101.~~

~~(b) (1) (i) Subject to subsection (a) of this section, a special Class C beer license or a special Class C beer and wine license entitles the holder to exercise any of the privileges conferred by the respective classes of licenses for the use of any person holding any bona fide entertainment conducted by any club, society or association at the place described in the license, for a period not exceeding seven consecutive days from the effective date thereof.~~

~~(2) In Anne Arundel County:~~

~~(i) The fee is [$10] $25 per day; and~~

~~(d) (2) In Anne Arundel County:~~

~~(i) A special beer, wine and liquor license, Class C licensee may purchase beer from a wholesaler;~~

~~(ii) The fee is [$25] $50 per day; and~~

~~(iii) The provisions of §§ 10–103(b) and 10–202 of this article and § 10–501 of the State Government Article do not apply to an applicant for the license.~~

8–202.

(a) This section applies only in Anne Arundel County.

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

(2) "Board" means the Board of License Commissioners.

(d) (4) (ii) A "special Sunday license" may not be issued to any person**:**

1. WHO HOLDS A HOTEL–LIMITED SERVICE LICENSE UNDER SUBSECTION (J) OF THIS SECTION; OR

2. **[**who**]** **WHO** does not hold an alcoholic beverages license of some other class issued by the Board**.**

~~(5) (i) The annual fee for each beer and light wine "special Sunday license" is **[**$50**] $60**.~~

~~(ii) The annual fee for each beer, wine and liquor "special Sunday license" is **[**$100**] $120**.~~

~~(e) (1) There is a racetrack license.~~

~~(3) The license fee is **[**$50**] $60** per day to be paid on January 1 for the racing of the preceding year, payable to the Board. It entitles the holder to sell at one or more locations within its park.~~

~~(h) (3) The Board may issue a resort complex license covering "on–sales" of beer, wine and liquor to any person, for the sale of any and all alcoholic beverages within the confines of the resort complex. This license shall be issued only to the person, firm, or corporation owning or leasing a resort complex.~~

~~(4) (i) The annual license fee is **[**$1,500**] $1,800**.~~

~~(i) (1) There is a motel/hotel–restaurant license.~~

~~(4) (i) The annual license fee for each separate establishment is **[**$3,000**] $3,600**.~~

(J) (1) (I) THERE IS A BEER AND WINE (HOTEL–LIMITED SERVICE) (ON–SALE) LICENSE.

(II) THERE IS A BEER, WINE AND LIQUOR (HOTEL–LIMITED SERVICE) (ON–SALE) LICENSE.

(2) THE BOARD MAY ISSUE A LICENSE UNDER PARAGRAPH (1)(I) OR (II) OF THIS SUBSECTION ONLY TO A PERSON WHO OWNS OR LEASES A HOTEL THAT CONTAINS AT LEAST 50 ROOMS AND OPERATES A KITCHEN LICENSED AT LEAST AS A FOOD SERVICE FACILITY.

(3) A LICENSE ISSUED UNDER THIS SUBSECTION ENTITLES THE HOLDER TO SELL ALCOHOLIC BEVERAGES EVERY DAY AT ONE OR MORE LOCATIONS WITHIN THE HOTEL.

(4) THE ANNUAL LICENSE FEE IS:

(I) $2,400 FOR A BEER AND WINE (HOTEL–LIMITED SERVICE) LICENSE; AND

(II) $2,800 FOR A BEER, WINE AND LIQUOR (HOTEL–LIMITED SERVICE) LICENSE.

(5) THE ANNUAL LICENSE FEE SHALL BE PAID ON MAY 1 TO THE BOARD.

~~8–202.1.~~

~~(a) This section applies only in Anne Arundel County.~~

~~(c) (1) There is a 7–day Class BLX (deluxe restaurant) (on–sale) beer, wine and liquor license.~~

~~(f) The annual license fee is~~ **[**~~$1,000~~**] $1,200**~~.~~

10–103.

(b) (13) **(XV) 1. A. IN THIS SUBPARAGRAPH, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

B. "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

C. "BOARD" MEANS THE ANNE ARUNDEL COUNTY BOARD OF LICENSE COMMISSIONERS.

2. IN ANNE ARUNDEL COUNTY, THE BOARD SHALL APPLY TO THE CENTRAL REPOSITORY FOR STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS FOR EACH ALCOHOLIC BEVERAGES LICENSE APPLICANT.

3. AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE BOARD SHALL SUBMIT TO THE CENTRAL REPOSITORY:

A. TWO COMPLETE SETS OF THE APPLICANT'S FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

B. THE FEE AUTHORIZED UNDER § 10–221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

C. THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

4. IN ACCORDANCE WITH §§ 10–201 THROUGH 10–234 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE APPLICANT AND THE BOARD THE APPLICANT'S CRIMINAL HISTORY RECORD INFORMATION.

5. INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SUBPARAGRAPH SHALL BE:

A. CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND

B. USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED UNDER THIS SUBPARAGRAPH.

6. THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SUBPARAGRAPH MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY UNDER § 10–223 OF THE CRIMINAL PROCEDURE ARTICLE.

~~10–301.~~

~~(U) IN ANNE ARUNDEL COUNTY, AN APPLICANT FOR A RENEWAL OF A LICENSE SHALL PAY TO THE LOCAL COLLECTING AGENT A NONREFUNDABLE RENEWAL FEE OF $50 IN ADDITION TO THE ANNUAL LICENSE FEE.~~

~~10–204.~~

~~(c) (1) Except for licenses granted to places of business located in the City of Annapolis, the Anne Arundel County Board of License Commissioners shall:~~

~~(i) Collect all alcoholic beverages license fees; and~~

~~(ii) Issue all alcoholic beverages licenses authorized under this article for Anne Arundel County.~~

~~(2) (i) The Anne Arundel County Board of License Commissioners shall remit to the county all fees collected by the Board.~~

~~(ii) The county shall pay from the receipts the salaries and expenses of the Board and of its employees, as approved by the State Comptroller, and shall devote the balance of the receipts to the general purposes of the county.~~

~~(3) (I) FOR EACH FISCAL YEAR BEGINNING JULY 1 AND ENDING JUNE 30 OF THE SUBSEQUENT YEAR, THE ANNE ARUNDEL COUNTY BOARD OF LICENSE COMMISSIONERS SHALL PREPARE AN ANNUAL BUDGET THAT LISTS ALL SIGNIFICANT COMPONENTS OF THE BOARD'S REVENUE AND EXPENSES, INCLUDING PAYROLL, RENT, AND COSTS OF JANITORIAL SERVICES AND UTILITIES.~~

~~(II) THE BOARD SHALL:~~

~~1. SUBMIT THE BUDGET TO THE COMPTROLLER FOR APPROVAL; AND~~

~~2. AFTER THE BUDGET REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH IS APPROVED BY THE COMPTROLLER, BUT ON OR BEFORE JANUARY 15 OF EACH YEAR, TRANSMIT THE BUDGET AND RECOMMENDATIONS REGARDING WHETHER ADJUSTMENTS SHOULD BE MADE TO ALCOHOLIC BEVERAGES LICENSE FEES TO THE CHAIR OF THE ANNE ARUNDEL COUNTY SENATE DELEGATION AND THE CHAIR OF THE ANNE ARUNDEL COUNTY HOUSE DELEGATION IN THE GENERAL ASSEMBLY.~~

~~(III) TO HELP PREPARE THE BUDGET:~~

~~1. THE BOARD MAY ENGAGE THE SERVICES OF AN OUTSIDE FINANCIAL ADVISOR; AND~~

~~2. THE COUNTY GOVERNMENT SHALL PROVIDE TO THE BOARD ALL INFORMATION REASONABLY REQUESTED BY THE BOARD.~~

~~[(3)] (4) The City Clerk of the City of Annapolis shall:~~

~~(i) Collect all alcoholic beverages license fees for licenses granted to places of business located in the City of Annapolis; and~~

~~(ii) Issue all alcoholic beverages licenses authorized under this article for the City of Annapolis.~~

~~[(4)] (5) (i) The City Clerk of the City of Annapolis shall remit to the City of Annapolis all fees collected by the City Clerk.~~

~~(ii) The City of Annapolis shall devote the receipts to the general purposes of the City.~~

10–30.

(U) IN ANNE ARUNDEL COUNTY, AN APPLICANT FOR A RENEWAL OF A LICENSE SHALL PAY TO THE LOCAL COLLECTING AGENT A NONREFUNDABLE RENEWAL FEE OF $50 IN ADDITION TO THE ANNUAL LICENSE FEE.

12–202.

(a) In Anne Arundel County no holder of any class of alcoholic beverage license or the holder of a club license shall permit the playing of music of any kind (except one radio speaker or one television screen), or dancing, floor shows, or any other similar type of entertainment on the licensed premises or on adjacent property over which the licensee has ownership or control, except:

(1) Any holder of a Class B, Class D, or Class H license shall be permitted to play recorded music of any kind, or live music with no more than two musicians if the licensee obtains a special music license. A special music license may be issued in the same manner as any other special license. The annual fee for the license shall be $100. Dancing, floor shows, or other similar live entertainment may not be permitted.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, any holder of a Class B, Class D or Class H license shall be permitted to have music, dancing and other legal forms of entertainment, provided the licensee obtains a special dancing license which shall be issued in the same manner as any other special license. The annual fee shall be $400 when issued to a licensee holding a beer, wine and liquor license and $200 when issued to a licensee holding a beer and wine license.

(ii) A Class H license that is located within 1,000 feet in a straight line from entry to entry from a church or school may not obtain a special dancing license.

(3) Any holder of a Class C license shall be permitted to have music, dancing and other legal forms of entertainment, provided the licensee obtains a special dancing license which shall be issued in the same manner as any other special license at no additional charge.

(4) (I) THE BOARD MAY ISSUE A SPECIAL OUTDOOR LICENSE TO A HOLDER OF A CLASS B, CLASS C, CLASS D, OR CLASS H LICENSE.

(II) A SPECIAL OUTDOOR LICENSE UNDER THIS PARAGRAPH ENTITLES THE HOLDER TO PROVIDE OUTDOOR TABLE SERVICE TO CUSTOMERS ON THE GROUNDS OF THE LICENSED ESTABLISHMENT.

(III) THE ANNUAL FEE FOR A SPECIAL OUTDOOR LICENSE IS ~~$200~~ ~~$100~~ ~~*$200*~~ *$100*.

(IV) BEFORE A SPECIAL OUTDOOR LICENSE IS RENEWED, A HOLDER SHALL OBTAIN APPROVAL FROM THE BOARD.

(5) *(I)* ~~(I)~~ THE BOARD MAY ~~ISSUE A SPECIAL OUTDOOR ENTERTAINMENT LICENSE~~ ~~GRANT PERMISSION~~ *ISSUE A SPECIAL OUTDOOR ENTERTAINMENT LICENSE* TO A HOLDER OF A CLASS B, CLASS C, CLASS D, AND CLASS H LICENSE WHO ALSO HOLDS A SPECIAL DANCING LICENSE OR A SPECIAL MUSIC LICENSE UNDER PARAGRAPH (1), (2), OR (3) OF THIS SUBSECTION~~.~~.

~~(II) A SPECIAL OUTDOOR ENTERTAINMENT LICENSE UNDER THIS PARAGRAPH ENTITLES THE HOLDER TO PROVIDE:~~

~~1. THE TO PROVIDE THE SAME FORM OF ENTERTAINMENT OUTDOORS THAT THE HOLDER IS ALLOWED TO PROVIDE INDOORS UNDER THE HOLDER'S SPECIAL DANCING LICENSE OR SPECIAL MUSIC LICENSE; AND~~

(II) A SPECIAL OUTDOOR ENTERTAINMENT LICENSE UNDER THIS PARAGRAPH ENTITLES THE HOLDER TO PROVIDE:

1. THE SAME FORM OF ENTERTAINMENT OUTDOORS THAT THE HOLDER IS ALLOWED TO PROVIDE INDOORS UNDER THE HOLDER'S SPECIAL DANCING LICENSE OR SPECIAL MUSIC LICENSE; AND

2. OUTDOOR TABLE SERVICE OR CAFE SERVICE~~.~~

~~*(III) THE ANNUAL FEE FOR A SPECIAL OUTDOOR ENTERTAINMENT LICENSE IS $500.*~~

~~*(IV) BEFORE A SPECIAL OUTDOOR ENTERTAINMENT LICENSE IS RENEWED, THE HOLDER OF THE LICENSE SHALL OBTAIN APPROVAL FROM THE BOARD*~~

~~2. OUTDOOR TABLE SERVICE OR CAFE SERVICE.~~

~~(III) THE ANNUAL FEE FOR A SPECIAL OUTDOOR ENTERTAINMENT LICENSE IS $500.~~

~~(IV) BEFORE A SPECIAL OUTDOOR ENTERTAINMENT LICENSE IS RENEWED, THE HOLDER OF THE LICENSE SHALL OBTAIN APPROVAL FROM THE BOARD~~**.**

[(4)**] (6)** All special licenses set forth in paragraphs (1), (2), **[**and**]** (3)**, [**above**] (4), AND (5) OF THIS SUBSECTION** shall be authorized by the Board of License Commissioners for Anne Arundel County only when the Board finds:

(i) That the use of the licensed premises for such purposes shall not be in violation of any fire, health, or building regulation of Anne Arundel County,

(ii) That the applicant can adequately control the persons using the licensed premises,

(iii) That the granting of such special license is necessary for the accommodation of the public,

(iv) That the operation of the premises under such special license will not unduly disturb the peace of the residents of the neighborhood in which the place of business is located, and

(v) That in the opinion of the Board the granting of such special license will not be detrimental to the general public welfare.

15–112.

(c) (1) (i) This subsection applies only in Anne Arundel County.

(3) **(I)** In addition to the powers given to the Board in subsection (a) of this section, the Board may employ one part–time chief inspector at an annual salary of $10,000**, ONE PART–TIME DEPUTY CHIEF INSPECTOR AT AN ANNUAL SALARY OF $8,000** and **[**19**] 18** part–time inspectors at an annual salary of $6,000 each.

(II) In addition to **[**this**] A** salary **STATED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH,** each of the inspectors shall receive a monthly expense of $300 per month, subject to the approval of the State Comptroller.

~~(5) The Board of License Commissioners:~~

~~(iii) Shall employ an attorney at an annual salary of [$12,000] $20,000.~~

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

~~**Article 2B – Alcoholic Beverages**~~

(5) The Board of License Commissioners:

(iii) Shall employ an attorney at an annual salary of ***[****$12,000****]*** ***$20,000****.*

16–101.

(e) (4) (i) If the court reverses the action of the local licensing board it shall file with the papers a written statement of the reasons. The court may modify, as well as affirm or reverse, the action of the local licensing board. Costs shall be awarded as in other civil cases.

(ii) In addition to the other powers of the court provided in this article, the court may remand the proceedings to the local licensing board in the following jurisdictions:

1. ANNE ARUNDEL COUNTY;

[1.**] 2.** Baltimore City;

[2.**] 3.** Carroll County;

[3.**] 4.** Charles County;

[4.**] 5.** Frederick County;

[5.**] 6.** Harford County;

[6.**]7.** Howard County;

[7.**]8.** Montgomery County;

[8.**] 9.** Prince George's County; and

[9.**] 10.** St. Mary's County.

16–507.

~~(e) (1) **(I)** In Anne Arundel County the Board of License Commissioners may impose a fine of not more than **[**$1,000 in lieu of suspension of a license**] $2,500 OR SUSPEND THE LICENSE OR BOTH,** for any violation that is cause for suspension under the alcoholic beverage laws affecting Anne Arundel County**, MAY IMPOSE THE FOLLOWING PENALTIES:**~~

~~(I) **FOR A FIRST OFFENSE, A FINE NOT EXCEEDING $2,500;**~~

~~(II) **FOR A SECOND OFFENSE, A FINE NOT EXCEEDING $2,500 OR SUSPENSION OF THE LICENSE FOR A PERIOD NOT EXCEEDING 120 DAYS OR BOTH; OR**~~

~~(III) **FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING $2,500 OR A SUSPENSION OF THE LICENSE FOR A PERIOD TO BE DETERMINED BY THE BOARD OR BOTH**.~~

~~(II) **A FINE OR SUSPENSION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS IN ADDITION TO ANY OTHER TERM OR CONDITION THAT THE BOARD MAY IMPOSE AS A RESULT OF THE VIOLATION.**~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act may not be applied to any case for which a final judgment has been rendered and for which all judicial appeals have been exhausted before the effective date of this Act.~~

(c) (1) ***(I)*** *In Anne Arundel County the Board of License Commissioners may impose a fine of not more than* ***[****$1,000 in lieu of suspension of a license****] $2,500 OR SUSPEND THE LICENSE OR BOTH*** *for any violation that is cause for suspension under the alcoholic beverage laws affecting Anne Arundel County.*

(II) A FINE OR SUSPENSION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS IN ADDITION TO ANY OTHER TERM OR CONDITION THAT THE BOARD MAY IMPOSE AS A RESULT OF THE VIOLATION.

SECTION 2. AND BE IT FURTHER ENACTED, That Article 2B, § 16–101(e)(4)(ii)1, as enacted by Section 1 of this Act, ~~shall be construed to apply retroactively and shall be applied to and interpreted to affect all matters on judicial review in the Circuit Court for Anne Arundel County on or after August 1, 2008~~ may not be applied to any case for which a final judgment has been rendered and for which all judicial appeals have been exhausted before the effective date of this Act.

SECTION ~~4.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June 1, 2009~~ *July 1, 2009*.

Approved by the Governor, May 19, 2009.

Chapter 717

(House Bill 1305)

AN ACT concerning

Environment – Coal Combustion Byproducts – Department Regulations – Transport and Beneficial Use

FOR the purpose of requiring the Department of the Environment to ~~adopt~~ submit certain regulations regarding coal combustion byproducts to the Joint Committee on Administrative, Executive, and Legislative Review by a certain date; defining certain terms; and generally relating to the regulation of coal combustion byproducts.

BY adding to
Article – Environment
Section 9–281 to be under the new part "Part VII. Coal Combustion Byproducts"
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Environment

9–279. RESERVED.

9–280. RESERVED.

PART VII. COAL COMBUSTION BYPRODUCTS.

9–281.

(A) (1) IN THIS SECTION, "COAL COMBUSTION BYPRODUCT" MEANS THE RESIDUE GENERATED BY OR RESULTING FROM THE BURNING OF COAL.

(2) "COAL COMBUSTION BYPRODUCT" INCLUDES:

(I) FLY ASH;

(II) BOTTOM ASH;

(III) BOILER SLAG;

(IV) POZZOLAN, AS DEFINED IN § 15–407 OF THIS ARTICLE; AND

(V) SOLID RESIDUALS REMOVED BY AIR POLLUTION CONTROL DEVICES FROM THE FLUE GAS AND COMBUSTION CHAMBERS OF COAL–BURNING FURNACES AND BOILERS.

(B) ON OR BEFORE DECEMBER 31, 2009, THE DEPARTMENT SHALL ~~ADOPT~~ SUBMIT TO THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW REGULATIONS REGARDING:

(1) ~~THE~~ FUGITIVE AIR EMISSIONS FROM THE TRANSPORTATION OF COAL COMBUSTION BYPRODUCTS IN THE STATE; AND

(2) THE PERMISSIBLE BENEFICIAL USES OF COAL COMBUSTION BYPRODUCTS IN THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 718

(House Bill 1321)

AN ACT concerning

Juvenile Law – Truancy Reduction Pilot Program – Repeal of Sunset

FOR the purpose of repealing the termination date of provisions of law relating to a Truancy Reduction Pilot Program; clarifying that certain provisions of law relating to a Truancy Reduction Pilot Program apply only in certain counties and under certain circumstances; authorizing a certain school official to file a certain petition with the juvenile court if the court stetted a certain charge; providing for the transfer of certain cases under certain circumstances; requiring the Chief Judge of the Court of Appeals to report to the General Assembly on each Truancy Reduction Pilot Program on or before a certain date each year; and generally relating to a Truancy Reduction Pilot Program.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–8C–01, 3–8C–04, 3–8C–08, 3–8C–09, and 3–8C–10
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Courts and Judicial Proceedings
Section 3–8C–02, 3–8C–03, 3–8C–05, 3–8C–06, and 3–8C–07
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 3–8C–08 and 3–8C–11
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 7–301 (a) and (e)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Education
Section 7–301(e–1)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Chapter 551 of the Acts of the General Assembly of 2004, as amended by
Chapter 648 of the Acts of the General Assembly of 2007
Section 4

BY repealing and reenacting, with amendments,
Chapter 648 of the Acts of the General Assembly of 2007
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

3–8C–01.

This subtitle applies only **[**in Dorchester County, Harford County, Prince George's County, Somerset County, Wicomico County, and Worcester County**]:**

(1) IN A COUNTY IN WHICH THE CIRCUIT ADMINISTRATIVE JUDGE HAS ESTABLISHED A TRUANCY REDUCTION PILOT PROGRAM UNDER § 3–8C–02 OF THIS SUBTITLE; AND

(2) TO THE EXTENT THAT FUNDS ARE PROVIDED IN AN ANNUAL STATE BUDGET FOR A TRUANCY REDUCTION PILOT PROGRAM.

3–8C–02.

(a) (1) The Circuit Administrative Judge of the First Circuit may establish a Truancy Reduction Pilot Program in one or more of the juvenile courts in Dorchester County, Somerset County, Wicomico County, and Worcester County.

(2) The Circuit Administrative Judge of the Third Circuit may establish a Truancy Reduction Pilot Program in the juvenile court in Harford County.

(3) The Circuit Administrative Judge of the Seventh Circuit may establish a Truancy Reduction Pilot Program in the juvenile court in Prince George's County.

(b) After consultation with the administrative judges of the first, third, and seventh circuits, the Chief Judge of the Court of Appeals may accept a gift or grant to implement the pilot programs in each respective circuit.

3–8C–03.

(a) A child who is required under § 7–301 of the Education Article to attend school may not fail to do so without lawful excuse.

(b) A violation of this section is a Code violation and is a civil offense.

(c) Adjudication of a Code violation under this section is not a criminal conviction for any purpose and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

3–8C–04.

(a) An authorized school official may file with the juvenile court a petition alleging a violation of this subtitle.

(b) If a child is under the age of 12 years, an authorized school official may file a petition under this subtitle only if:

(1) A criminal charge was filed under § 7–301 of the Education Article against the person with legal custody or care and control of the child at the time of the alleged violation; and

(2) The court dismissed **OR STETTED** the charge in accordance with § 7–301(e–1) of the Education Article.

3–8C–05.

(a) A petition under this subtitle shall allege that a child who is required to attend school failed to attend school without lawful excuse and shall set forth in clear and simple language the facts supporting the allegation.

(b) (1) Whenever a petition is filed under this subtitle the court shall hold an adjudicatory hearing.

(2) The rules of evidence under Title 5 of the Maryland Rules shall apply at an adjudicatory hearing under this section.

(3) The allegations in a petition under this subtitle shall be proved by a preponderance of the evidence.

3–8C–06.

(a) Unless a petition filed under this subtitle is dismissed, the court shall hold a separate disposition hearing after the adjudicatory hearing.

(b) The court shall hold a disposition hearing on the same day as the adjudicatory hearing unless, on its own motion or motion of a party, the court finds good cause to delay the disposition hearing to a later day.

(c) If the court delays a disposition hearing, it shall be held no later than 15 days after the conclusion of the adjudicatory hearing unless good cause is shown.

(d) In making a disposition on a petition filed under this subtitle, the court may order the child to:

(1) Attend school;

(2) Perform community service;

(3) Attend counseling, including family counseling;

(4) Attend substance abuse evaluation and treatment;

(5) Attend mental health evaluation and treatment; or

(6) Keep a curfew with the hours set by the court.

(e) Cases under this subtitle are eligible for family support services as provided in the Maryland Rules.

3–8C–07.

A criminal defendant under this subtitle is subject to:

(1) Any conditions of probation authorized under § 6–220 of the Criminal Procedure Article; and

(2) Any additional condition of probation that would promote the child's attendance in school.

3–8C–08.

(A) (1) IF A PETITION IS FILED UNDER THIS SUBTITLE IN A COUNTY OTHER THAN THE COUNTY WHERE THE CHILD IS LIVING OR DOMICILED, THE COURT ON ITS OWN MOTION, OR ON MOTION OF A PARTY, MAY TRANSFER THE PROCEEDINGS TO THE COUNTY OF RESIDENCE OR DOMICILE AT ANY TIME PRIOR TO FINAL TERMINATION OF JURISDICTION.

(2) IN ITS DISCRETION, THE COURT TO WHICH THE CASE IS TRANSFERRED MAY TAKE FURTHER ACTION.

(B) EVERY DOCUMENT, SOCIAL HISTORY, AND RECORD ON FILE WITH THE CLERK OF THE COURT PERTAINING TO THE CASE SHALL ACCOMPANY THE TRANSFER.

[3–8C–08.**] 3–8C–09.**

Except as otherwise provided in this subtitle, the Maryland Rules govern the format of the petition and the procedures to be followed by the court and the parties under this subtitle.

[3–8C–09.**] 3–8C–10.**

The court shall retain jurisdiction under this subtitle until every condition of the court's order is satisfied.

[3–8C–10.**] 3–8C–11.**

A party may appeal a final judgment entered under this subtitle as provided in Title 12 of this article and in the Maryland Rules.

3–8C–12.

ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE CHIEF JUDGE OF THE COURT OF APPEALS SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON EACH TRUANCY REDUCTION PILOT PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

Article – Education

7–301.

(a) (1) Except as otherwise provided in this section, each child who resides in this State and is 5 years old or older and under 16 shall attend a public school regularly during the entire school year unless the child is otherwise receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age.

(e) (1) Any person who induces or attempts to induce a child to absent himself unlawfully from school or employs or harbors any child who is absent unlawfully from school while school is in session is guilty of a misdemeanor and on conviction is subject to a fine not to exceed $500 or imprisonment not to exceed 30 days, or both.

(2) Any person who has legal custody or care and control of a child who is 5 years old or older and under 16 who fails to see that the child attends school or receives instruction under this section is guilty of a misdemeanor and:

(i) For a first conviction is subject to a fine not to exceed $50 per day of unlawful absence or imprisonment not to exceed 10 days, or both; and

(ii) For a second or subsequent conviction is subject to a fine not to exceed $100 per day of unlawful absence or imprisonment not to exceed 30 days, or both.

(3) As to any sentence imposed under this section, the court may suspend the fine or the prison sentence and establish terms and conditions which would promote the child's attendance. The suspension authority provided for in this subsection is in addition to and not in limitation of the suspension authority under § 6–221 of the Criminal Procedure Article.

(e–1) (1) This subsection applies only **[**in Dorchester County, Harford County, Prince George's County, Somerset County, Wicomico County, and Worcester County**]:**

(I) IN A COUNTY IN WHICH A THE CIRCUIT ADMINISTRATIVE JUDGE HAS ESTABLISHED A TRUANCY REDUCTION PILOT PROGRAM UNDER § 3–8C–02 OF THE COURTS ARTICLE; AND

(II) TO THE EXTENT THAT FUNDS ARE PROVIDED IN AN ANNUAL STATE BUDGET FOR A TRUANCY REDUCTION PILOT PROGRAM.

(2) A charge under this section may be filed in the juvenile court and assigned to a truancy docket for disposition under Title 3, Subtitle 8C of the Courts Article.

(3) (i) For a person with legal custody or care and control of a child at the time of an alleged violation of this section, it is an affirmative defense to a charge under this section that the person made reasonable and substantial efforts to see that the child attended school as required by law but was unable to cause the child to attend school.

(ii) If the court finds the affirmative defense is valid, the court shall dismiss the charge under this section against the defendant.

(4) The court may condition marking a charge under this section stet on participation of the defendant in the appropriate Truancy Reduction Pilot Program under Title 3, Subtitle 8C of the Courts Article.

Chapter 551 of the Acts of 2004, as amended by Chapter 648 of the Acts of 2007

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect July 1, 2004. **[**It shall remain effective for a period of 5 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.**]**

Chapter 648 of the Acts of 2007

SECTION 2. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of Chapter 551 of the Acts of the General Assembly of 2004 as amended by this Act, this Act shall take effect July 1, 2007. **[**This Act shall remain effective until the taking effect of the termination provision specified in Section 4 of Chapter 551 of the Acts of the General Assembly of 2004 as amended by this Act. If that termination provision takes effect, 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, 2009.

Approved by the Governor, May 19, 2009.

Chapter 719

(House Bill 1330)

AN ACT concerning

Creation of a State Debt – Community Development Administration – Local Government Infrastructure Financing Program

FOR the purpose of authorizing the creation of State Debt in the total principal amount up to $2,000,000, the proceeds to be used as grants or loans to the Community Development Administration of the Department of Housing and Community Development to replenish certain capital reserve funds created under the Local Government Infrastructure Financing Program; providing for disbursement of the loan proceeds; stating the intent of the General Assembly that certain bonds only be issued under certain circumstances; stating the intent of the General Assembly that this bond authorization is excluded from the Capital Debt Affordability limit; stating the intent of the General Assembly that the Administration reimburse, within a certain number of years, the Annuity Bond Fund for the principal and interest costs for the debt authorized under this Act; authorizing the Comptroller to advance certain funds under certain circumstances; exempting this Act from a certain termination provision under the State Finance and Procurement Article; making this Act contingent on the taking effect of another Act; and generally providing for the issuance and sale of bonds evidencing the Local Government Infrastructure Financing Program Capital Reserve Fund Loan of 2009.

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Local Government Infrastructure Financing Program Capital Reserve Fund Loan of 2009 in the total principal amount up to $2,000,000. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes: as a grant or loan to the Community Development Administration of the Department of Housing and Community Development to replenish certain capital reserve funds created under the Local Government Infrastructure Financing Program as provided for under § 4–233.1 of the Housing and Community Development Article.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issue of the bonds.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that general obligation bonds authorized by this Act only be issued if the amount held in a capital reserve fund created under § 4–233.1 of the Housing and Community Development Article falls below the minimum capital reserve requirement established for that fund.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the $2,000,000 of general obligation bonds authorized by this Act not be included as part of the annual general obligation debt limit recommended by the Capital Debt Affordability Committee, in accordance with § 8–112 of the State Finance and Procurement Article, unless and until the bonds authorized by this Act are issued. Further, it is the intent of the General Assembly that the Community Development Administration develop a repayment schedule, in consultation with the Comptroller, to reimburse the Annuity Bond Fund, within five years of the issuance of debt authorized under this Act, for the principal and interest costs of any debt issued.

SECTION 4. AND BE IT FURTHER ENACTED, That the Comptroller may, upon the request of the Community Development Administration, advance funds to replenish any capital reserve fund established pursuant to § 4–233.1 of the Housing and Community Development Article, provided that if general obligation bonds have not been issued under the authority of this Act, the next ensuing sale of general obligation bonds shall include the issuance of bonds under the authority of this Act in an amount at least equivalent to the amount of the funds so advanced.

SECTION 5. AND BE IT FURTHER ENACTED, That this enabling Act may not be subject to or terminate under § 8–128 of the State Finance and Procurement Article.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, contingent on the taking effect of ~~Chapter ____ (S.B. ____/H.B. ____)(9lr3035)~~ Chapter 627/628 (S.B. 931/H.B. 1331) of the Acts of the General Assembly of 2009, and if ~~Chapter ____ (S.B. ____/H.B. ____)(9lr3035)~~ Chapter 627/628 (S.B. 931/H.B. 1331) does not become effective, this Act shall be null and void without the necessity of further action by the General Assembly.

Approved by the Governor, May 19, 2009.

Chapter 720

(House Bill 1347)

AN ACT concerning

Criminal Procedure – Drug or Alcohol Abuse – Court–Ordered Evaluation and Treatment of Defendant

FOR the purpose of authorizing a circuit court or the District Court to extend probation for a certain defendant for a certain period of time for the purpose of a commitment to the Department of Health and Mental Hygiene for drug or alcohol abuse treatment; requiring the Division of Parole and Probation to supervise the extended probation period of a defendant while committed to the Department; authorizing the court to further extend the probation period only under certain circumstances; altering the circumstances under which a court may order the Department to evaluate a defendant to determine if the defendant may benefit from treatment for drug or alcohol abuse or dependency; making conforming changes; and generally relating to court–ordered evaluation and treatment of a defendant for drug or alcohol abuse.

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 6–222(a)
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Criminal Procedure
Section 6–222(d) and (e)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 8–505(a) and 8–507(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 8–507(b) and (f)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Criminal Procedure

6–222.

(a) A circuit court or the District Court may:

(1) impose a sentence for a specified time and provide that a lesser time be served in confinement;

(2) suspend the remainder of the sentence; and

(3) (i) order probation for a time longer than the sentence but, subject to subsections (b) and (c) of this section, not longer than:

1. 5 years if the probation is ordered by a circuit court; or

2. 3 years if the probation is ordered by the District Court; or

(ii) if a defendant convicted of sexual abuse of a minor under § 3–602 of the Criminal Law Article or a crime involving a minor under § 3–303, § 3–304, § 3–305, § 3–306, or § 3–307 of the Criminal Law Article, consents in writing, order probation for a time longer than the sentence that was imposed on the defendant, but not longer than:

1. 10 years if the probation is ordered by a circuit court; or

2. 6 years if the probation is ordered by the District Court.

(D) (1) FOR THE PURPOSE OF A COMMITMENT TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR TREATMENT UNDER § 8–507 OF THE HEALTH – GENERAL ARTICLE, THE COURT MAY EXTEND THE PROBATION FOR 1 YEAR BEYOND THE TIME ALLOWED UNDER SUBSECTION (A)(3)(I) OF THIS SECTION.

(2) AN EXTENSION OF PROBATION UNDER THIS SUBSECTION SHALL BE SUPERVISED BY THE DIVISION OF PAROLE AND PROBATION.

(E) THE COURT MAY EXTEND THE PROBATION BEYOND THE TIME ALLOWED UNDER SUBSECTION (D) OF THIS SECTION ONLY IF:

(1) THE DEFENDANT CONSENTS IN WRITING; AND

(2) THE EXTENSION IS ONLY FOR A COMMITMENT TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR TREATMENT UNDER § 8–507 OF THE HEALTH – GENERAL ARTICLE.

Article – Health – General

8–505.

(a) (1) Before or during a criminal trial **[**or**],** before **OR AFTER** sentencing, **OR BEFORE OR DURING A TERM OF PROBATION,** the court may order the Department to evaluate a defendant to determine whether, by reason of drug or alcohol abuse, the defendant is in need of and may benefit from treatment if:

(i) It appears to the court that the defendant has an alcohol or drug abuse problem; or

(ii) The defendant alleges an alcohol or drug dependency.

(2) A court shall set and may change the conditions under which an examination is to be conducted under this section.

(3) The Department shall ensure that each evaluation under this section is conducted in accordance with regulations adopted by the Department.

8–507.

(a) Subject to the limitations in this section, a court that finds in a criminal case **OR DURING A TERM OF PROBATION** that a defendant has an alcohol or drug dependency may commit the defendant as a condition of release, after conviction, or at any other time the defendant voluntarily agrees to participate in treatment, to the Department for treatment that the Department recommends, even if:

(1) The defendant did not timely file a motion for reconsideration under Maryland Rule 4–345; or

(2) The defendant timely filed a motion for reconsideration under Maryland Rule 4–345 which was denied by the court.

(b) Before a court commits a defendant to the Department under this section, the court shall:

(1) Offer the defendant the opportunity to receive treatment;

(2) Obtain the written consent of the defendant:

(i) To receive treatment; and

(ii) To have information reported back to the court;

(3) Order an evaluation of the defendant under § 8–505 or § 8–506 of this subtitle;

(4) Consider the report on the defendant's evaluation; and

(5) Find that the treatment that the Department recommends to be appropriate and necessary.

(f) For a defendant committed for treatment under this section, a court shall order supervision of the defendant:

(1) By an appropriate pretrial release agency, if the defendant is released pending trial;

(2) By the Division of Parole and Probation under appropriate conditions in accordance with §§ 6–219 through 6–225 of the Criminal Procedure Article and Maryland Rule 4–345, if the defendant is released on probation; or

(3) By the Department, if the defendant remains in the custody of a local correctional facility.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 721

(House Bill 1364)

AN ACT concerning

Charles County – Alcoholic Beverages – License Suspensions

FOR the purpose of repealing the provision preventing the suspension of an alcoholic beverages license in Charles County from taking effect on certain days under certain circumstances; and generally relating to alcoholic beverages licenses in Charles County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages

Section 16–507(j)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing
Article 2B – Alcoholic Beverages
Section 16–507(j)(4)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 16–507(j)(5)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

16–507.

(j) (1) Notwithstanding any provision of this Code to the contrary, in Charles County, the Board of License Commissioners may impose a fine not to exceed $1,000 or suspend an alcoholic beverage license, for any violation of the alcoholic beverage laws affecting Charles County. All moneys collected under this subsection shall be deposited into the general funds of the county.

[(4) (i) Except as provided in subparagraph (ii) of this paragraph, if a license is suspended for 4 days or less, then the suspension may not be on a Friday, Saturday, or Sunday.

(ii) If a license is suspended for 4 days or less and the licensed premises is only open on Friday, Saturday, or Sunday, or a combination of those days, then the suspension may be on a Friday, Saturday, or Sunday.**]**

[(5)**] (4)** A fine levied by the Charles County Board of License Commissioners under this subsection shall be levied in accordance with the provisions of § 10–1001 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 722

(House Bill 1370)

AN ACT concerning

Charles County – Special Taxing Districts – Hotel Rental Taxes

FOR the purpose of authorizing Charles County to impose a certain hotel rental tax in a special taxing district for the financing of certain costs related to the development of resort hotels and conference centers within a waterfront planned community; requiring that Charles County may not impose a certain hotel rental tax outside a certain special taxing district; requiring that a certain hotel rental tax is in addition to a certain county hotel rental tax and that the rate of a certain hotel rental tax may not exceed the rate of a certain county hotel rental tax in effect on a certain date; requiring that the proceeds from the hotel rental tax may be used only for certain purposes; and generally relating to the authority of Charles County to impose certain hotel rental taxes to provide financing for certain hotels and conference centers.

BY repealing and reenacting, without amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9–1301(a)(1) and (3), (b), and (c)(1) and (2)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9–1301(c)(4), (f), and (o)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 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.

(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.

(b) This section applies only to Anne Arundel County, Calvert County, Cecil County, Charles County, Garrett County, Harford County, Howard County, Prince George's County, St. Mary's County, Washington County, and Wicomico County.

(c) (1) Subject to the provisions of this section, and for the purpose stated in paragraph (2) of this subsection, the county may:

(i) Create a special taxing district;

(ii) Levy ad valorem or special taxes; and

(iii) Issue bonds and other obligations.

(2) The purpose of the authority granted under paragraph (1) of this subsection is to provide financing, refinancing, or reimbursement for the cost of the design, construction, establishment, extension, alteration, or acquisition of adequate storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting, parking, parks and recreation facilities, libraries, schools, transit facilities, solid waste facilities, and other infrastructure improvements as necessary, whether situated within the special taxing district or outside the special taxing district if the infrastructure improvement is reasonably related to other infrastructure improvements within the special taxing district, for the development and utilization of the land, each with respect to any defined geographic region within the county.

(4) **(I)** Charles County may exercise the authority granted under this section only in commercial or light industrial zones.

(II) CHARLES COUNTY MAY EXERCISE THE AUTHORITY GRANTED UNDER THIS SECTION TO:

1. IMPOSE HOTEL RENTAL TAXES; AND

2. PROVIDE FINANCING, REFINANCING, OR REIMBURSEMENT OF COSTS FOR THE PURPOSES UNDER PARAGRAPH (2) OF THIS SUBSECTION RELATING TO THE DEVELOPMENT OF RESORT HOTELS AND CONFERENCE CENTERS WITHIN A WATERFRONT PLANNED COMMUNITY.

(III) CHARLES COUNTY MAY NOT IMPOSE A HOTEL RENTAL TAX UNDER THIS PARAGRAPH OUTSIDE A SPECIAL TAXING DISTRICT ESTABLISHED UNDER THIS SECTION.

(IV) 1. THE HOTEL RENTAL TAX AUTHORIZED UNDER THIS PARAGRAPH IS IN ADDITION TO THE HOTEL RENTAL TAX AUTHORIZED UNDER SUBTITLE 3 OF THIS TITLE.

2. THE RATE OF THE HOTEL RENTAL TAX AUTHORIZED UNDER THIS PARAGRAPH MAY NOT EXCEED THE RATE OF THE HOTEL RENTAL TAX IMPOSED UNDER SUBTITLE 3 OF THIS TITLE IN EFFECT ON THE DATE THE GOVERNING BODY OF CHARLES COUNTY CREATES A SPECIAL TAXING DISTRICT UNDER THIS SECTION.

(V) THE PROCEEDS FROM THE HOTEL RENTAL TAX AUTHORIZED UNDER THIS PARAGRAPH MAY BE USED ONLY FOR THE PURPOSES AUTHORIZED UNDER THIS SECTION.

(f) (1) Before issuing these bonds, the governing body of the county shall:

(i) Designate by resolution an area or areas as a special taxing district;

(ii) Subject to paragraph (2) of this subsection, adopt a resolution creating a special fund with respect to the special taxing district; and

(iii) Provide for the levy of an ad valorem or special tax on all real and personal property within the special taxing district at a rate or amount designed to provide adequate revenues to pay the principal of, interest on, and redemption premium, if any, on the bonds, to replenish any debt service reserve fund, and for any other purpose related to the ongoing expenses of or security for the bonds.

Ad valorem taxes shall be levied in the same manner, upon the same assessments, for the same period or periods, and as of the same date or dates of finality as are now or may hereafter be prescribed for general ad valorem tax purposes within the district, and shall be discontinued when all of the bonds have been paid in full. Special taxes shall be levied pursuant to subsection (o) of this section.

(2) The resolution creating a special fund under paragraph (1)(ii) of this subsection shall:

(i) Pledge to the special fund the proceeds of the ad valorem or special tax to be levied as provided under paragraph (1)(iii) of this subsection; and

(ii) Require that the proceeds from the tax be paid into the special fund.

(3) IN CHARLES COUNTY, THE TAXES PROVIDED UNDER THIS SUBSECTION FOR PAYMENT OF THE BONDS AND PLEDGED TO THE SPECIAL FUND MAY INCLUDE THE HOTEL RENTAL TAX AUTHORIZED UNDER SUBSECTION (C)(4) OF THIS SECTION.

(o) (1) **(I)** As an alternative to levying ad valorem taxes under this section, the governing body of the county may levy special taxes on property in a special taxing district to cover the cost of infrastructure improvements.

(II) ~~**AS AN ALTERNATIVE**~~ **IN ADDITION TO LEVYING AD VALOREM TAXES OR SPECIAL TAXES UNDER THIS SECTION, CHARLES COUNTY MAY IMPOSE A HOTEL RENTAL TAX IN A SPECIAL TAXING DISTRICT TO PROVIDE FINANCING, REFINANCING, OR REIMBURSEMENT OF COSTS FOR THE PURPOSES UNDER SUBSECTION (C)(2) OF THIS SECTION RELATING TO THE DEVELOPMENT OF RESORT HOTELS AND CONFERENCE CENTERS WITHIN A WATERFRONT PLANNED COMMUNITY.**

(2) In determining the basis for and amount of **[**the**]** **A** tax **IMPOSED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION**, the cost of an improvement may be calculated and levied:

(i) Equally per front foot, lot, parcel, dwelling unit, or square foot;

(ii) According to the value of the property as determined by the governing body, with or without regard to improvements on the property; or

(iii) In any other reasonable manner that results in fairly allocating the cost of the infrastructure improvements.

(3) The governing body of the county may provide by ordinance or resolution for:

(i) A maximum amount to be assessed with respect to any parcel of property located within a special taxing district;

(ii) A tax year or other date after which no further special taxes under this section shall be levied or collected on a parcel; and

(iii) The circumstances under which the special tax levied against any parcel may be increased, if at all, as a consequence of delinquency or default by the owner of that parcel or any other parcel within the special taxing district.

(4) The governing body by ordinance or resolution may establish procedures allowing for the prepayment of special taxes under this section.

(5) Special taxes levied under this subsection shall be collected and secured in the same manner as general ad valorem taxes unless otherwise provided in the ordinance or resolution and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for general ad valorem taxes.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 723

(House Bill 1385)

AN ACT concerning

Juvenile Services – Employee Criminal History Record Information – *Initial Criminal History Records Check and* Disclosure of New Information

FOR the purpose of requiring the Criminal Justice Information System Central Repository to provide to the Department of Juvenile Services and ~~the employee any changes in the employee's criminal history after the initial criminal history records check~~ an employee of the Department a revised printed statement of the employee's criminal history record information under certain circumstances; *altering the time within which the Department is required to apply for an initial criminal history records check for an employee;* and generally relating to juvenile services.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 9–209(a)
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)

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

Article – Human Services

9–209.

(a) (1) ~~Within the first month~~ ***ON OR BEFORE THE FIRST DAY*** of employment with the Department, the Department shall apply to the Criminal Justice Information System Central Repository in the Department of Public Safety and Correctional Services for a federal and State criminal history records check for each employee of the Department.

(2) The Criminal Justice Information System Central Repository shall provide the requested information in accordance with Title 10, Subtitle 2 of the Criminal Procedure Article.

(3) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY AFTER THE DATE OF THE CRIMINAL HISTORY RECORDS CHECK, THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY SHALL PROVIDE TO THE DEPARTMENT AND THE EMPLOYEE A REVISED PRINTED STATEMENT OF THE EMPLOYEE'S CRIMINAL HISTORY RECORD INFORMATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 724

(House Bill 1406)

AN ACT concerning

Business and Economic Development – Maryland Public Art Initiative – Sunset Repeal

FOR the purpose of repealing the termination provision applicable to the Maryland Public Art Initiative Program, the Maryland Public Art Fund, and the Maryland Commission on Public Art within the Department of Business and Economic Development; and generally relating to the Maryland Public Art Initiative Program, the Maryland Public Art Fund, and the Maryland Commission on Public Art.

BY repealing and reenacting, with amendments,
Chapter 393 of the Acts of the General Assembly of 2005
Section 2

BY repealing
Chapter 306 of the Acts of the General Assembly of 2008
Section 21

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

Chapter 393 of the Acts of 2005

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2005. **[**It shall remain effective for a period of 5 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.**]**

Chapter 306 of the Acts of 2008

[SECTION 21. AND BE IT FURTHER ENACTED, That Title 4, Subtitle 6, of the Economic Development Article and the subtitle "Subtitle 6. Maryland Public Art Initiative Program" as enacted by Section 2 of this Act, shall remain effective until the taking effect of the termination provision specified in Section 2 of Chapter 393 of the Acts of the General Assembly of 2005. If that termination provision takes effect, Title 4, Subtitle 6 of the Economic Development Article and the subtitle "Subtitle 6. Maryland Public Art Initiative Program", as enacted by Section 2 of this Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 725

(House Bill 1413)

AN ACT concerning

State Board of Veterinary Medical Examiners – Veterinary Education – Continuing Education Requirements

FOR the purpose of ~~repealing a certain limitation on~~ altering the number of hours of annual continuing education that the State Board of Veterinary Medical Examiners may require as a condition for a license renewal; and generally relating to the State Board of Veterinary Medical Examiners.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–306(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Agriculture

2–306.

(a) (1) The Board has the exclusive power to establish and alter the standards of preliminary and professional education and training requirements of applicants for the examination for a license.

(2) The Board may establish an annual **[**12–hour**]** continuing education requirement **OF AT LEAST 12 HOURS** as a condition to any license renewal.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 726

(House Bill 1414)

AN ACT concerning

Community Legacy Program – Neighborhood Intervention Project Applications and Financial Assistance Fund

FOR the purpose of authorizing the Secretary of Housing and Community Development to approve a community legacy project or neighborhood intervention project without the approval of the Community Legacy Board under certain circumstances; repealing certain provisions relating to neighborhood intervention projects; establishing the purposes of a neighborhood intervention project; establishing certain eligibility requirements to receive financial assistance for a neighborhood intervention project; prohibiting the Board from allocating more than a certain percentage of the Community Legacy Financial Assistance Fund to neighborhood intervention projects; prohibiting the Board from awarding more than a certain amount to a neighborhood intervention project except under certain circumstances; authorizing the Secretary to reserve up to a certain percentage of money in the Fund for emergency use or urgent projects under certain circumstances; and generally relating to the Community Legacy Program within the Department of Housing and Community Development.

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 6–205 and 6–213
Annotated Code of Maryland
(2006 Volume and 2008 Supplement)

BY repealing
Article – Housing and Community Development
Section 6–210
Annotated Code of Maryland
(2006 Volume and 2008 Supplement)

BY adding to
Article – Housing and Community Development
Section 6–210
Annotated Code of Maryland
(2006 Volume and 2008 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

6–205.

(a) A sponsor may file one or more applications in accordance with the schedules that the Board establishes.

(b) An application shall set forth:

(1) a description of one or more community legacy areas where the sponsor proposes to develop a community legacy plan or to carry out a community legacy project using the standards listed in § 6–206 of this subtitle;

(2) a detailed description of the proposed community legacy plan or proposed community legacy project;

(3) the amount and type of financial assistance sought;

(4) the ability of the sponsor to carry out the proposed community legacy plan or community legacy project;

(5) the strength and quality of partnerships created among the federal government, the State government, political subdivisions, community development organizations, and other private organizations to develop the community legacy plan or carry out the community legacy project, including:

(i) financial support;

(ii) dedication of staff and resources; and

(iii) commitment to and development of local smart growth policies;

(6) proposed benchmarks for evaluating whether the proposed community legacy plan or community legacy project results in a desired outcome for a proposed community legacy area, such as:

(i) stabilizing it;

(ii) reversing its social, economic, or physical decline; or

(iii) encouraging growth in it; and

(7) the process used to seek and receive public input on the proposed community legacy plan or community legacy project, including the nature and extent of public support or opposition.

(c) **[**A**] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A** community legacy plan or a community legacy project does not take effect until its sponsor has submitted to the Board an application for its approval and the Board has approved it.

(D) THE SECRETARY MAY APPROVE A COMMUNITY LEGACY PROJECT WITHOUT THE APPROVAL OF THE BOARD IN THE CASE OF AN EMERGENCY OR

WHEN THE PROJECT REQUIRES URGENT APPROVAL IF THE PROJECT IS FUNDED FROM THE RESERVE ESTABLISHED UNDER § 6–213(H) OF THIS SUBTITLE.

[6–210.

(a) (1) A community development financial institution may sponsor a neighborhood intervention project to give financial assistance to individuals or business entities that are owner–occupants, community development organizations, or political subdivisions to:

(i) buy properties that need rehabilitation and are in otherwise stable neighborhoods; and

(ii) redevelop the properties through rehabilitation, demolition, reconstruction, or re–use.

(2) To receive financial assistance for a neighborhood intervention project, a community development financial institution shall agree to use the financial assistance, and any repayments and prepayments, primarily to make loans for the purposes listed under paragraph (1) of this subsection.

(b) (1) A political subdivision or its governmental unit may sponsor a neighborhood intervention project to demolish property improvements that are:

(i) dangerous for use or occupancy;

(ii) so deteriorated that rehabilitation is not feasible; and

(iii) located in otherwise stable neighborhoods.

(2) A political subdivision or its governmental unit may sponsor a neighborhood intervention project to demolish improvements on property to prepare the property for revitalization, redevelopment, or re–use as a part of a redevelopment plan that the Board approves.

(3) To receive financial assistance for a neighborhood intervention project under paragraph (1)(i), (ii), or (iii) of this subsection, a political subdivision shall agree to repay the financial assistance to the Community Legacy Financial Assistance Fund, up to the amount the political subdivision receives from:

(i) the net proceeds of the sale of the property on which the demolition took place; or

(ii) any payment to the political subdivision relating to the property, including any payment for the costs of demolishing the improvements on the property.

(c) (1) For an application that requests financial assistance only for a neighborhood intervention project, the Board may waive the requirements of §§ 6–205(b)(1) and 6–206 of this subtitle regarding the designation of a community legacy area and a community legacy plan.

(2) On request from a sponsor, the Board may grant a full or partial waiver of the requirements of subsections (b)(3)(i) or (ii) or (e)(4) or (5) of this section.

(d) (1) The Board annually shall allocate at least 10% of the Community Legacy Financial Assistance Fund to neighborhood intervention projects.

(2) The Board may not award more than $500,000 for any neighborhood intervention project.

(e) To receive financial assistance for a neighborhood intervention project to demolish improvements and prepare property for revitalization, redevelopment, or re–use as a part of a redevelopment plan, the sponsor must provide evidence, at the time of application:

(1) of a legal interest in the property through:

(i) ownership of the property;

(ii) a contract, option, or other legal right to acquire the property; or

(iii) the right to demolish the improvements on the property;

(2) of an intention to revitalize, redevelop, or re–use the property as part of a redevelopment plan approved by the Board;

(3) of compliance with the requirements of §§ 5A–325 and 5A–326 of the State Finance and Procurement Article and § 13–1112(b) of the Financial Institutions Article;

(4) that the sponsor will contribute an amount at least equal to the financial assistance from the Program towards the demolition of the improvements on the property;

(5) of an agreement to repay the financial assistance to the Community Legacy Financial Assistance Fund, up to the amount received by the sponsor from:

(i) the net proceeds of the sale of the property; or

(ii) any payments to the sponsor relating to the property, including any payment for the costs incurred in demolishing the improvements on the property; and

(6) that the financial assistance from the Program shall be the least amount necessary to complete the project.**]**

6–210.

(A) THE PURPOSES OF A NEIGHBORHOOD INTERVENTION PROJECT ARE TO PROVIDE FINANCIAL ASSISTANCE FOR:

(1) BUYING PROPERTIES THAT NEED REHABILITATION AND REDEVELOPING THE PROPERTIES THROUGH REHABILITATION, DEMOLITION, RECONSTRUCTION, OR RE–USE; OR

(2) DEMOLISHING PROPERTY IMPROVEMENTS AND PREPARING PROPERTY FOR REVITALIZATION, REDEVELOPMENT, OR RE–USE.

(B) TO BE ELIGIBLE FOR FINANCIAL ASSISTANCE FOR A NEIGHBORHOOD INTERVENTION PROJECT, AN APPLICANT SHALL BE:

(1) A POLITICAL SUBDIVISION; OR

(2) A COMMUNITY DEVELOPMENT FINANCE INSTITUTION.

(C) TO BE ELIGIBLE FOR FINANCIAL ASSISTANCE, THE APPLICANT MUST PROVIDE EVIDENCE AT THE TIME OF APPLICATION THAT:

(1) THE APPLICANT HAS A LEGAL INTEREST IN THE PROPERTY THROUGH:

(I) OWNERSHIP OF THE PROPERTY;

(II) A CONTRACT, OPTION, OR OTHER LEGAL RIGHT TO ACQUIRE THE PROPERTY; OR

(III) THE RIGHT TO DEMOLISH THE IMPROVEMENTS ON THE PROPERTY;

(2) THE APPLICANT INTENDS TO REVITALIZE, REDEVELOP, SELL, OR RE–USE THE PROPERTY AS PART OF A REDEVELOPMENT STRATEGY FOR THE PROPERTY OR A REDEVELOPMENT PLAN;

(3) THE APPLICANT HAS COMPLIED WITH THE REQUIREMENTS OF §§ 5A–325 AND 5A–326 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND § 13–1112(B) OF THE FINANCIAL INSTITUTIONS ARTICLE;

(4) THE FINANCIAL ASSISTANCE FROM THE PROGRAM IS THE LEAST AMOUNT NECESSARY TO COMPLETE THE PROJECT; AND

(5) THE PROJECT MEETS ANY OTHER CONDITION THAT THE BOARD MAY REQUIRE UNDER THIS SUBTITLE.

(D) UNLESS WAIVED BY THE BOARD OR THE SECRETARY ACTING UNDER SUBSECTION (F) OF THIS SECTION, A NEIGHBORHOOD INTERVENTION PROJECT SHALL MEET THE ADDITIONAL FOLLOWING REQUIREMENTS:

(1) THE PROJECT SHALL BE LOCATED IN A COMMUNITY LEGACY AREA AND BE A PART OF A COMMUNITY LEGACY PLAN IN ACCORDANCE WITH §§ 6–205(B)(1) AND 6–206 OF THIS SUBTITLE; AND

(2) FOR A PROJECT UNDER SUBSECTION (A)(2) OF THIS SECTION, THE APPLICANT SHALL AGREE TO REPAY THE FINANCIAL ASSISTANCE TO THE COMMUNITY LEGACY FINANCIAL ASSISTANCE FUND, UP TO THE AMOUNT THE APPLICANT RECEIVES FROM:

(I) THE NET PROCEEDS OF THE SALE OF THE PROPERTY ON WHICH THE DEMOLITION TOOK PLACE; OR

(II) ANY PAYMENT TO THE APPLICANT RELATING TO THE PROPERTY, INCLUDING ANY PAYMENT FOR THE COSTS OF DEMOLISHING THE IMPROVEMENTS ON THE PROPERTY.

(E) (1) THE BOARD MAY NOT ALLOCATE ANNUALLY MORE THAN 15% OF THE COMMUNITY LEGACY FINANCIAL ASSISTANCE FUND TO NEIGHBORHOOD INTERVENTION PROJECTS.

(2) THE BOARD MAY NOT AWARD MORE THAN $500,000 FOR ANY NEIGHBORHOOD INTERVENTION PROJECT.

(3) THE RESTRICTIONS IN PARAGRAPHS (1) AND (2) OF THIS SUBSECTION DO NOT APPLY TO PROJECTS APPROVED BY THE SECRETARY UNDER SUBSECTION (F) OF THIS SECTION.

(F) THE SECRETARY MAY APPROVE A NEIGHBORHOOD INTERVENTION PROJECT WITHOUT THE APPROVAL OF THE BOARD IN THE CASE OF AN

EMERGENCY OR WHEN THE PROJECT REQUIRES URGENT APPROVAL IF THE PROJECT IS FUNDED FROM THE RESERVE ESTABLISHED UNDER § 6–213(H) OF THIS SUBTITLE.

6–213.

(a) In this section, "Fund" means the Community Legacy Financial Assistance Fund.

(b) There is a Community Legacy Financial Assistance Fund.

(c) The Fund shall be used to carry out this subtitle.

(d) (1) The Secretary shall administer the Fund in accordance with the recommendations of the Board.

(2) The State Treasurer shall hold and the Comptroller shall account for the Fund.

(e) The Fund is a continuing, nonlapsing special fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(f) The Fund consists of:

(1) money appropriated in the State budget to the Fund;

(2) earnings from the investment of money in the Fund;

(3) repayments and prepayments of financial assistance provided by the Program; and

(4) any other money accepted for the benefit of the Fund from any governmental or private source.

(g) Notwithstanding any other law, the State Treasurer may invest money in the Fund in the same way as money is invested by the State Retirement and Pension System.

(H) IN ANY FISCAL YEAR, THE SECRETARY MAY HOLD UP TO 10% OF THE MONEY IN THE FUND IN RESERVE FOR EMERGENCY USE OR URGENT PROJECTS IN ACCORDANCE WITH THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 727

(House Bill 1418)

AN ACT concerning

Agricultural Land Preservation – Condemnation of Land Under Easement

FOR the purpose of providing that ~~a certain law does not prohibit certain governmental agencies from condemning~~ condemnation, for certain purposes, of land subject to certain agricultural land preservation programs ~~for certain purposes,~~ is subject to approval by the Board of Public Works after review and recommendation of the Maryland Agricultural Land Preservation Foundation; requiring the condemning authority to meet certain requirements; defining a certain term; and generally relating to condemnation of land under easement to the Maryland Agricultural Land Preservation Foundation.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–515(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Agriculture

2–515.

(a) **(1)** [This] **SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS SUBSECTION, THIS** subtitle does not prohibit an agency of the State or of a county **OR OTHER GOVERNMENTAL AUTHORITY** from acquiring by condemnation land which is under an agricultural preservation easement held by the Foundation or a county agricultural land preservation program if such acquisition is for a public purpose.

(2) (I) IN THIS PARAGRAPH, "ECONOMIC OR RESIDENTIAL DEVELOPMENT" DOES NOT INCLUDE:

1. ROADS;

2. WATER LINES OR PIPELINES;

3. SEWER LINES OR PIPELINES;

4. POWER TRANSMISSION LINES OR NATURAL GAS PIPELINES; OR

5. STORMWATER OR DRAINAGE FACILITIES.

(II) IF THE PURPOSE OF THE CONDEMNATION OF LAND UNDER A FOUNDATION EASEMENT IS EITHER FOR ECONOMIC OR RESIDENTIAL DEVELOPMENT OR PARKLAND, THE ACQUISITION OF THE LAND SHALL BE SUBJECT TO APPROVAL BY THE BOARD OF PUBLIC WORKS AFTER REVIEW AND RECOMMENDATION OF THE FOUNDATION.

~~(II)~~ (III) THE CONDEMNING AUTHORITY SHALL DEMONSTRATE THAT:

1. A GREATER PUBLIC PURPOSE EXISTS THAN THAT SERVED BY THE FOUNDATION EASEMENT; AND

2. THERE IS NO REASONABLE ALTERNATIVE SITE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 728

(House Bill 1429)

AN ACT concerning

Business and Economic Development – BRAC Community Enhancement Act

FOR the purpose of *requiring the Secretary of Business and Economic Development to notify members of certain county delegations to the General Assembly after receipt of an application for designation or expansion of a BRAC Revitalization and Incentive Zone;* altering the effective date of the BRAC Revitalization and Incentive Zones; altering the date that local governing bodies make certain certifications to the State Department of Assessments and Taxation; altering the date that the State Department of Assessments and Taxation makes certain calculations for amounts due to certain political subdivisions; providing for the

application of this Act; and generally relating to BRAC Revitalization and Incentive Zones.

BY adding to
Article – Economic Development
Section 5–1302(c)
Annotated Code of Maryland
(2008 Volume)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 5–1304(a) and 5–1306(d)
Annotated Code of Maryland
(2008 Volume)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 2–222(d)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Economic Development

5–1302.

(C) AFTER THE SECRETARY'S RECEIPT OF AN APPLICATION FOR DESIGNATION OF AN AREA AS A BRAC REVITALIZATION AND INCENTIVE ZONE OR EXPANSION OF AN EXISTING ZONE UNDER § 5–1305 OF THIS SUBTITLE, THE SECRETARY SHALL NOTIFY THE MEMBERS OF THE COUNTY DELEGATION TO THE GENERAL ASSEMBLY FOR EACH COUNTY IN WHICH A ZONE IS PROPOSED TO BE LOCATED.

5–1304.

(a) (1) Within 60 days after a submission date, the Secretary may designate one or more BRAC Revitalization and Incentive Zones from among the areas described in the applications timely submitted.

(2) The designation of an area as a BRAC Revitalization and Incentive Zone is effective for 10 years**, BEGINNING ON THE DATE THE FIRST PROPERTY IN THE BRAC REVITALIZATION AND INCENTIVE ZONE BECOMES A QUALIFIED PROPERTY, AS DEFINED IN § 2–222 OF THE TAX – PROPERTY ARTICLE**.

(3) The Secretary may not designate more than six BRAC Revitalization and Incentive Zones in a calendar year.

(4) A county may not receive more than two BRAC Revitalization and Incentive Zones.

(5) The precise location and boundaries of a BRAC Revitalization and Incentive Zone may be determined only on application to and approval by the Secretary.

5–1306.

(d) The benefits set forth in this section are available for 10 years after the date that **[**an area is designated as a BRAC Revitalization and Incentive Zone**]** **THE FIRST PROPERTY IN THE BRAC REVITALIZATION AND INCENTIVE ZONE BECOMES A QUALIFIED PROPERTY, AS DEFINED IN § 2–222 OF THE TAX – PROPERTY ARTICLE**.

Article – Tax – Property

2–222.

(d) (1) After a BRAC Revitalization and Incentive Zone is designated by the Secretary of Business and Economic Development, on or before **[**November**]** **FEBRUARY** 1 of each year, the appropriate governing body shall certify to the Department:

(i) any real property in the BRAC Revitalization and Incentive Zone that is qualified property for the next taxable year; and

(ii) the date that the real property became qualified property.

(2) (i) On or before **[**December**]** **MARCH** 1 of each year, the Department shall calculate the amount determined for each political subdivision under subsection (b)(2) of this section for the next fiscal year.

(ii) The Comptroller shall pay the amounts due the political subdivisions under this section quarterly.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed retroactively and shall be applicable to all BRAC Revitalization and Incentive Zones designated after October 1, 2008.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, and shall be applicable to all BRAC Revitalization and Incentive Zones designated after October 1, 2008.

Approved by the Governor, May 19, 2009.

Chapter 729

(House Bill 1447)

AN ACT concerning

Correctional Services – Mandatory Supervision – Minimum Term of Confinement Requirement

FOR the purpose of altering the minimum term of confinement that an inmate must be serving to be granted a conditional release from confinement by the Division of Correction; and generally relating to release on mandatory supervision from a State correctional facility.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 7–501
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

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

Article – Correctional Services

7–501.

The Division of Correction shall grant a conditional release from confinement to an inmate who:

(1) is serving a term of confinement of more than **[**12**]** **18** months;

(2) was sentenced on or after July 2, 1970, to the jurisdiction of the Division of Correction; and

(3) has served the term or terms, less diminution credit awarded under Title 3, Subtitle 7 and Title 11, Subtitle 5 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 730

(House Bill 1451)

AN ACT concerning

Military Personnel and Service–Disabled Veterans No–Interest Loan Program

FOR the purpose of altering the name of the Military Service–Related Loan Program in the Department of Business and Economic Development to be the Military Personnel and Service–Disabled Veterans No–Interest Loan Program; altering certain definitions and eligibility criteria under the Program; altering certain permitted uses of loans made under the Program; *stating the intent of the General Assembly that priority be given to certain applications under certain circumstances;* and generally relating to the Military Personnel and Service–Disabled Veterans No–Interest Loan Program.

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 5–1001
Annotated Code of Maryland
(2008 Volume)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 5–1002 and 5–1003 to be under the amended subtitle "Subtitle 10. Military Personnel and Service–Disabled Veterans No–Interest Loan Program"
Annotated Code of Maryland
(2008 Volume)

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

Article – Economic Development

Subtitle 10. Military **[**Service–Related**]** **PERSONNEL AND SERVICE–DISABLED VETERANS NO–INTEREST** Loan Program.

5–1001.

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

(b) "Service–disabled veteran" means a veteran with a disability that is service–connected, as defined in 38 U.S.C. § 101(16).

(c) (1) "Small business employer" means an employer who employed an average of 50 or fewer employees on business days during the calendar year preceding the determination of eligibility for a loan under this subtitle.

(2) For purposes of paragraph (1) of this subsection, all persons treated as a single employer under § 414(b), (c), (m), or (o) of the Internal Revenue Code shall be treated as a single employer under this subtitle.

5–1002.

Subject to the availability of funds, the Department, in consultation with the Department of Veterans Affairs, shall establish a program to provide no–interest loans under this subtitle to:

(1) small business employers of military reservists and National Guard personnel who are called to active duty;

(2) businesses owned by military reservists and National Guard personnel who are called to active duty; **[**and**]**

(3) service–disabled veterans**;**

(4) BUSINESSES OWNED BY SERVICE–DISABLED VETERANS; AND

(5) BUSINESSES EMPLOYING A SERVICE–DISABLED VETERAN.

5–1003.

Loans shall be made under this subtitle for the purposes of:

(1) providing financial support to:

(i) a business owned by a military reservist or National Guard member who is called to active duty; or

(ii) a small business employer of a military reservist or National Guard member who is called to active duty;

(2) making the home, motor vehicle, or place of employment of a service–disabled veteran accessible to individuals with disabilities, including purchasing equipment necessary to enable a business to employ a service–disabled veteran; and

(3) defraying other necessary expenses, as determined by the Department of Veterans Affairs, incurred by **[**a service–disabled veteran or**]:**

(I) a business employing a service–disabled veteran as a result of the veteran's disability**;**

(II) A SERVICE–DISABLED VETERAN; OR

(III) A BUSINESS OWNED BY A SERVICE–DISABLED VETERAN.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, where similar factors are present, priority be given to the applications of service–disabled veterans for financial assistance under this Act.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 731

(House Bill 1452)

AN ACT concerning

Waiver of Examination Requirements – BRAC – Stationary Engineers, Plumbers, Gas Fitters, and Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors

FOR the purpose of requiring the State Board of Stationary Engineers, the State Board of Plumbing, and the State Board of Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors to waive examination requirements for certain applicants affected by the Base Realignment and Closure process under certain circumstances; limiting the waiver to a certain time period and to certain applicants; and generally relating to the State Board of Stationary Engineers, the State Board of Plumbers, and the State Board of Heating, Ventilation, Air–Conditioning, and Refrigeration Contractors.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 6.5–307 and 12–305.1
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – Business Occupations and Professions
Section 12–305.2
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 9A–305
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Business Occupations and Professions

6.5–307.

(a) Subject to the limitations in subsections (b) and (c) of this section, on the affirmative vote of a majority of its voting members then serving, the Board may waive the examination requirements of this title for an individual who is licensed in another state **OR IN A LOCALITY IN ANOTHER STATE** to provide stationary engineer services.

(b) The Board may grant a waiver under this section only if the applicant:

(1) pays to the Board the nonrefundable application fee required under § 6.5–304 of this subtitle; and

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this subtitle;

(ii) holds an active license in good standing in the other state **OR THE LOCALITY**;

(iii) holds a license that is equivalent to the State license; and

(iv) became licensed in the other state **OR THE LOCALITY** after meeting the state's **OR LOCALITY'S** requirements that are at least equivalent to the licensing requirements of the State, including the number of years of work experience equivalent to the experience required under § 6.5–303(c) of this subtitle.

(c) The Board may grant a waiver only if the state **OR THE LOCALITY** in which the applicant is licensed waives the examination of licensees of this State to a

similar extent as the State waives the examination requirements for individuals licensed in that state **OR LOCALITY**.

(D) (1) IN THIS SUBSECTION, "BRAC" MEANS THE BASE REALIGNMENT AND CLOSURE PROCESS AS ANNOUNCED BY THE UNITED STATES DEPARTMENT OF DEFENSE.

(2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (A), (B), AND (C) OF THIS SECTION, THE BOARD SHALL GRANT A WAIVER TO AN APPLICANT WHO FILES A REQUEST BEFORE JULY 1, 2012, IF THE APPLICANT:

~~(1)~~ (I) PAYS TO THE BOARD THE NONREFUNDABLE APPLICATION FEE REQUIRED UNDER § 6.5–304 OF THIS SUBTITLE;

~~(2)~~ (II) HOLDS AN ACTIVE STATIONARY ENGINEER'S LICENSE IN GOOD STANDING FROM VIRGINIA OR NEW JERSEY, OR FROM A LOCALITY OF ONE OF THOSE STATES, THAT IS EQUIVALENT TO THE STATE LICENSE;

~~(3)~~ (III) HAS EXPERIENCE IN THE PROVISION OF STATIONARY ENGINEER SERVICES THAT MEETS THE TIME REQUIREMENTS OF § 6.5–303 OF THIS SUBTITLE; AND

~~(4)~~ (IV) ~~INTENDS TO RELOCATE THE APPLICANT'S PLACE OF RESIDENCE FROM VIRGINIA OR NEW JERSEY TO THIS STATE~~ HAS RELOCATED TO THE STATE AS A FAMILY MEMBER OF A BRAC EMPLOYEE.

12–305.1.

(a) Subject to the provisions of this section, the Board may waive the examination requirements for a master plumber license or a journey plumber license for an individual who is licensed to provide plumbing services in another state on the affirmative vote of at least a majority of the authorized membership of the Board.

(b) The Board may grant a waiver under this section only if an applicant:

(1) pays the appropriate fee required under § 12–306 of this subtitle; and

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this title;

(ii) holds an active license in good standing in the other state;

(iii) holds a license that is equivalent to the State license; and

(iv) became licensed in the other state after meeting requirements that are at least equivalent to the licensing requirements of this State.

(c) The Board may grant a waiver only if the state in which the applicant is licensed waives the examination of licensees of this State to a similar extent as this State waives the examination requirements for individuals licensed in that state.

(D) (1) IN THIS SUBSECTION, "BRAC" MEANS THE BASE REALIGNMENT AND CLOSURE PROCESS AS ANNOUNCED BY THE UNITED STATES DEPARTMENT OF DEFENSE.

(2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (A), (B), AND (C) OF THIS SECTION, THE BOARD SHALL GRANT A WAIVER TO AN APPLICANT WHO FILES A REQUEST BEFORE JULY 1, 2012, IF THE APPLICANT:

~~(1)~~ (I) PAYS THE APPROPRIATE FEE REQUIRED UNDER § 12–306 OF THIS SUBTITLE;

~~(2)~~ (II) HOLDS AN ACTIVE VIRGINIA OR NEW JERSEY MASTER PLUMBER'S LICENSE OR AN ACTIVE VIRGINIA JOURNEY PLUMBER'S LICENSE IN GOOD STANDING THAT IS EQUIVALENT TO THE STATE LICENSE;

~~(3)~~ (III) HAS EXPERIENCE IN THE PROVISION OF PLUMBING SERVICES THAT MEETS THE TIME REQUIREMENTS OF § 12–302 OF THIS SUBTITLE; AND

~~(4)~~ (IV) ~~INTENDS TO RELOCATE THE APPLICANT'S PLACE OF RESIDENCE FROM VIRGINIA OR NEW JERSEY TO THIS STATE~~ HAS RELOCATED TO THE STATE AS A FAMILY MEMBER OF A BRAC EMPLOYEE.

12–305.2.

(A) (1) IN THIS SUBSECTION, "BRAC" MEANS THE BASE REALIGNMENT AND CLOSURE PROCESS AS ANNOUNCED BY THE UNITED STATES DEPARTMENT OF DEFENSE.

(2) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD SHALL WAIVE THE EXAMINATION REQUIREMENTS FOR A JOURNEY NATURAL GAS FITTERS LICENSE FOR AN INDIVIDUAL WHO IS LICENSED TO PROVIDE GAS FITTING SERVICES AS A JOURNEYMAN IN VIRGINIA.

(B) THE BOARD SHALL GRANT A WAIVER UNDER THIS SECTION TO AN APPLICANT WHO FILES A REQUEST BEFORE JULY 1, 2012, IF THE APPLICANT:

(1) PAYS THE APPROPRIATE FEE REQUIRED UNDER § 12–306 OF THIS SUBTITLE;

(2) PROVIDES ADEQUATE EVIDENCE THAT THE APPLICANT:

(I) MEETS THE QUALIFICATIONS OTHERWISE REQUIRED BY THIS TITLE;

(II) HOLDS AN ACTIVE LICENSE IN GOOD STANDING IN VIRGINIA;

(III) HOLDS A LICENSE THAT IS EQUIVALENT TO THE STATE LICENSE; AND

(IV) HAS EXPERIENCE IN THE PROVISION OF NATURAL GAS SERVICES THAT MEETS THE TIME REQUIREMENTS OF § 12–302 OF THIS SUBTITLE; AND

(3) ~~INTENDS TO RELOCATE THE APPLICANT'S PLACE OF RESIDENCE FROM VIRGINIA TO THIS STATE~~ HAS RELOCATED TO THE STATE AS A FAMILY MEMBER OF A BRAC EMPLOYEE.

Article – Business Regulation

9A–305.

(a) Subject to the limitations in subsections (b) and (c) of this section, on the affirmative vote of at least a majority of the authorized membership of the Board, the Board may waive the examination requirements of this title for an individual who is licensed in another state to provide heating, ventilation, air–conditioning, or refrigeration services as a journeyman, journeyman restricted, master, master restricted, or limited heating, ventilation, air–conditioning, and refrigeration contractor.

(b) The Board may grant a waiver under this section only if the applicant:

(1) pays the appropriate application fee required by § 9A–207 of this title; and

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this title;

(ii) holds an active license in good standing in the other state;

(iii) holds a license that is equivalent to the State license; and

(iv) became licensed in the other state after meeting, in that state, requirements that are at least equivalent to the licensing requirements of this State, including the number of years of work experience equivalent to the experience required under § 9A–302(b), (c), and (d) of this subtitle.

(c) The Board may grant a waiver only if the state in which the applicant is licensed waives the examination of licensees of this State to a similar extent as this State waives the examination requirements for individuals licensed in that state.

(D) (1) IN THIS SUBSECTION, "BRAC" MEANS THE BASE REALIGNMENT AND CLOSURE PROCESS AS ANNOUNCED BY THE UNITED STATES DEPARTMENT OF DEFENSE.

(2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (A), (B), AND (C) OF THIS SECTION, THE BOARD SHALL GRANT A WAIVER TO AN APPLICANT WHO FILES A REQUEST BEFORE JULY 1, 2012, IF THE APPLICANT:

~~(1)~~ (I) PAYS THE APPROPRIATE APPLICATION FEE REQUIRED UNDER § 9A–207 OF THIS TITLE;

~~(2)~~ (II) HOLDS AN ACTIVE VIRGINIA LICENSE IN GOOD STANDING THAT IS EQUIVALENT TO THE STATE LICENSE;

~~(3)~~ (III) HAS EXPERIENCE IN THE PROVISION OF HEATING, VENTILATION, AIR–CONDITIONING, OR REFRIGERATION SERVICES THAT MEETS THE TIME REQUIREMENTS OF § 9A–302 OF THIS SUBTITLE; AND

~~(4)~~ (IV) ~~INTENDS TO RELOCATE THE APPLICANT'S PLACE OF RESIDENCE FROM VIRGINIA TO THIS STATE~~ HAS RELOCATED TO THE STATE AS A FAMILY MEMBER OF A BRAC EMPLOYEE.

SECTION 2. AND BE IT FURTHER ENACTED, That, the State Board of Stationary Engineers, the State Board of Plumbing, and the State Board of Heating, Ventilation, Air Conditioning, and Refrigeration Contractors shall require applicants seeking to waive the examination requirement based on relocation to the State through the Base Realignment and Closure process to furnish to the respective board documentation verifying that their relocation to the State is a direct result of a family member's involvement in the Base Realignment and Closure process.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 732

(House Bill 1463)

AN ACT concerning

Charles County – Alcoholic Beverages Sales – Proximity to Churches

FOR the purpose of repealing a prohibition in Charles County against issuing a license to sell alcoholic beverages in a building within a certain distance of a church or other place of worship; and generally relating to alcoholic beverages licenses in Charles County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 9–209(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–209(d)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

9–209.

(a) This section applies only in Charles County.

(d) (1) Except as provided in paragraphs (2) and (3) of this subsection, the Board of License Commissioners may not issue any license to sell alcoholic beverages in any building the nearest wall of which measured in a direct line is within 500 feet of the property line of any **[**church or other place of worship or any**]** school accredited by the State Board of Education.

(2) This subsection is not applicable in the event the **[**church or other place of worship or the**]** school locates its building within 500 feet of any licensed premises after the licensed premises are located there.

(3) This subsection does not apply to a Class B (on–sale) beer, wine and liquor license that is issued for a premises located in a municipal corporation in Charles County.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 733

(House Bill 1465)

AN ACT concerning

Maryland National Guard Tuition Assistance Program

FOR the purpose of authorizing the Military Department to provide tuition assistance for certain credit courses to certain members of the Maryland National Guard; *requiring certain members to remain active members for a certain period of time under certain circumstances;* altering a certain definition; and generally relating to the Maryland National Guard Tuition Assistance Program.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 13–405
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

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

Article – Public Safety

13–405.

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

(2) "Institution" means:

(i) any campus of the University System of Maryland, any community college established under Title 16 of the Education Article, Morgan State University, or St. Mary's College;

(ii) any private institution of higher education that grants a member a tuition waiver of at least 50%;

(iii) any public postsecondary vocational–technical or trade school; or

(iv) any private postsecondary vocational–technical or trade school that grants a member a tuition waiver of at least 50%.

(3) "Member" means an individual who:

(i) is regularly enlisted in the National Guard; or

(ii) holds a commission in the National Guard as:

1. an officer in the grade of major or below; or

2. a warrant officer.

(4) (i) "Tuition" means the basic instructional charge for undergraduate**, GRADUATE, PROFESSIONAL, VOCATIONAL–TECHNICAL, AND TRADE SCHOOL** credit courses and related fees at an institution.

(ii) "Tuition" does not include charges for self–supporting programs.

(b) ***(1)*** To the extent that funds are provided in the State budget, the Department may provide assistance equal to 50% of the cost of in–State tuition for any regularly scheduled undergraduate credit course, **GRADUATE CREDIT COURSE, PROFESSIONAL CREDIT COURSE,** vocational–technical course, or trade course for any active member attending an institution who is certified as eligible by the Adjutant General.

(2) A MEMBER WHO RECEIVES ASSISTANCE UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR AN UNDERGRADUATE CREDIT, VOCATIONAL–TECHNICAL, OR TRADE COURSE SHALL REMAIN AN ACTIVE MEMBER FOR AT LEAST 2 YEARS FOLLOWING THE COMPLETION OF THE COURSE.

(3) A MEMBER WHO RECEIVES ASSISTANCE UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR A GRADUATE OR PROFESSIONAL CREDIT COURSE SHALL REMAIN AN ACTIVE MEMBER FOR AT LEAST 4 YEARS FOLLOWING THE COMPLETION OF THE COURSE.

(c) (1) The Adjutant General may not certify a member as eligible unless the member is:

(i) enlisted and has at least 24 months remaining to serve on the current enlistment of the member; or

(ii) an officer or warrant officer and agrees in writing to serve for a minimum of 24 months.

(2) The 24–month requirement runs from the first day of classes for the semester.

(d) If a recipient of tuition assistance under this section is discharged from the National Guard for a reason designated by the Adjutant General, the assistance terminates and the member shall reimburse the Department the amount of tuition assistance received for that semester within 30 days of discharge.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 734

(House Bill 1472)

AN ACT concerning

Health Insurance – Senior Prescription Drug Assistance Program – Funding

FOR the purpose of clarifying that a certain transfer of funds to the Senior Prescription Drug Assistance Program by a certain nonprofit health service plan is in addition to a certain subsidy that is required to be provided to the Program; clarifying that the transfer of certain funds to the Program is not subject to certain limitations on the amount of a certain subsidy to the Program; altering the year in which a certain requirement must be met for a certain corporation to be required to transfer certain funds to the Program; requiring a certain corporation to notify the Program on or before a certain date each year whether the corporation will transfer certain funds to the Program; <u>requiring the corporation's determination on the transfer of certain funds to be based on a certain risk–based capital calculation;</u> requiring a certain corporation to transfer certain funds to the Program in a certain manner; and generally relating to funding for the Senior Prescription Drug Assistance Program.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 14–106(e), 14–106.2, and 14–513
Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

Article – Insurance

14–106.

(e) The subsidy **THAT A NONPROFIT HEALTH SERVICE PLAN IS** required **[**under**] TO PROVIDE TO** the Senior Prescription Drug Assistance Program **UNDER SUBSECTION (D)(1)(III) OF THIS SECTION** may not exceed:

(1) for the period of January 1, 2006 through June 30, 2006, $8,000,000;

(2) for fiscal years 2008 through 2010, $14,000,000; and

(3) for any year, the value of the nonprofit health service plan's premium tax exemption under § 6–101(b) of this article.

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 **WITH THE CALENDAR YEAR THAT STARTS ON** January 1, 2009, and each **[**January 1**] CALENDAR YEAR** 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**] A** corporation **SUBJECT TO THIS SECTION** 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 ~~**IF**~~ **IF THE CORPORATION HAS A SURPLUS THAT EXCEEDS 800% OF THE CONSOLIDATED RISK–BASED CAPITAL REQUIREMENTS APPLICABLE TO THE CORPORATION BASED ON THE CORPORATION'S ANNUAL REQUIRED STATUTORY FILING DUE MARCH 1 OF** ~~**IN**~~ **THE MOST RECENT PRECEDING CALENDAR YEAR FOR WHICH:**

(1) THE CORPORATION HAS FILED AN ANNUAL STATEMENT WITH THE ADMINISTRATION; AND

(2) THE FILING OF THE ANNUAL STATEMENT PRECEDED THE START OF THE CALENDAR YEAR FOR WHICH PAYMENT IS TO BE MADE.

(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**] MOST RECENT** preceding calendar year **FOR WHICH:**

(I) THE CORPORATION HAS FILED AN ANNUAL STATEMENT WITH THE ADMINISTRATION; AND

(II) THE FILING OF THE ANNUAL STATEMENT PRECEDED THE START OF THE CALENDAR YEAR FOR WHICH PAYMENT IS TO BE MADE; or

(2) the federal government eliminates the coverage gap in the Medicare Part D prescription drug benefit.

(D) (1) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, A CORPORATION THAT IS SUBJECT TO THIS SECTION SHALL NOTIFY THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM WHETHER THE CORPORATION WILL ~~PROVIDE~~ TRANSFER $4,000,000 TO THE PROGRAM UNDER THIS SECTION DURING THE CALENDAR YEAR THAT STARTS ON THE IMMEDIATELY FOLLOWING JANUARY 1.

(2) THE CORPORATION'S DETERMINATION ON THE TRANSFER OF FUNDS SHALL BE BASED ON THE RISK–BASED CAPITAL CALCULATION THAT IS DUE ON MARCH 1 OF THE SAME CALENDAR YEAR IN WHICH THE CORPORATION GIVES THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(E) A CORPORATION THAT IS SUBJECT TO THIS SECTION SHALL PAY THE $4,000,000 TO THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM IN QUARTERLY INSTALLMENTS OF $1,000,000, BEGINNING NOT LATER THAN OCTOBER 1 FOR THE CALENDAR YEAR THAT STARTS ON THE IMMEDIATELY FOLLOWING JANUARY 1.

(F) THE TRANSFER OF FUNDS THAT A CORPORATION IS REQUIRED TO MAKE TO THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM UNDER SUBSECTION (B) OF THIS SECTION:

(1) IS IN ADDITION TO THE SUBSIDY THAT A NONPROFIT HEALTH SERVICE PLAN IS REQUIRED TO PROVIDE TO THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM UNDER § 14–106(D)(1)(III) OF THIS SUBTITLE; AND

(2) IS NOT SUBJECT TO THE LIMITATION ON THE AMOUNT OF THE SUBSIDY TO THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM IMPOSED BY § 14–106(E) OF THIS SUBTITLE.

14–513.

(a) 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) 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 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 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**] IN ADDITION TO THE AMOUNT DEPOSITED UNDER SUBSECTION (C) OF THIS SECTION, 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 735

(House Bill 1473)

AN ACT concerning

Military Department – Classification, Organization, and Authority

FOR the purpose of altering the application of certain provisions specifically applicable to organized militia and the Maryland Defense Force; correcting the wording of the oath of office for commissioned officers of the National Guard; clarifying the status, roles, and missions of the Maryland Defense Force; clarifying that, although the Governor is commander–in–chief of the Maryland Defense Force, the Adjutant General maintains operational control over it and appoints its commander; prohibiting the Maryland Defense Force or a member of the Maryland Defense Force from accepting certain gifts and other things of value under certain circumstances; and generally relating to the Military Department.

BY renumbering
Article – Public Safety
Section 13–702(e)
to be Section 13–409
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 13–409 and 13–702
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 13–501, 13–502, 13–503, 13–504, 13–506, 13–508, 13–601, 13–602, 13–604, 13–605, 13–607, 13–608, 13–703, 13–704, and 13–708
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

BY adding to
Article – Public Safety
Section 13–509
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

BY repealing
Article – Public Safety
Section 13–603 and 13–606
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

BY renumbering
Article – Public Safety
Section 13–705 through 13–708, respectively
to be Section 13–704 through 13–707, respectively
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 13–702(e) of Article – Public Safety of the Annotated Code of Maryland be renumbered to be Section(s) 13–409.

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

Article – Public Safety

[13–704.**] 13–406.**

(a) This section:

(1) applies when the **[**organized militia**] NATIONAL GUARD** is ordered out for State active duty or training by the Governor or by the Governor's authority; and

(2) does not apply to the **[**organized militia**] NATIONAL GUARD** when ordered to duty incident to an order into the active military service of the United States.

(b) Subject to subsection (d) of this section:

(1) an officer, warrant officer, and enlisted individual shall receive the same pay, including longevity pay, subsistence, per diem, and allowances, as an officer, warrant officer, and enlisted individual of like grade and length of service in the United States Army or Air Force; and

(2) an individual ordered to active duty other than for training shall be paid a daily rate of at least 12 times the hourly federal minimum wage in effect at the time of active duty.

(c) An enlisted individual who meets the qualifications that the Governor sets in small arms practice or for proficiency in the various duties of the branch or arm to which the individual belongs shall receive the following increase in pay of the individual's grade for 1 year beginning on the first January 1 after qualification:

(1) experts – 20%;

(2) sharpshooters, gunners, drivers, and medical, first class – 15%; and

(3) marksmen, gunners, drivers, and medical, second class – 10%.

(d) On the recommendation of the Adjutant General, the Governor may reduce the rates of pay, including longevity pay and qualification pay under subsections (b) and (c) of this section.

[13–602.**] 13–407.**

A commissioned officer of the **[**organized militia**] NATIONAL GUARD** shall take the following oath of office:

"I, ..., do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of Maryland, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the State of Maryland; that I **[**make**] TAKE** this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of ..... in the National Guard of the United States and of the State of Maryland upon which I am about to enter, so help me God."

[13–604.**] 13–408.**

An officer **OF THE NATIONAL GUARD** shall take rank from the date that the officer was commissioned and in the manner the United States Department of Defense provides by regulation.

13–409.

[(1)**] (A)** Any individual who is ordered into active duty for the National Guard in response to the foreign terrorist attacks in the United States on September 11, 2001, shall receive a service bar in recognition of this service.

[(2)**] (B)** The service bar shall depict the State flag and "9–11".

13–501.

(a) (1) [The Governor may organize and maintain in the State a Maryland Defense Force] **THERE IS ESTABLISHED IN THE STATE A MARYLAND DEFENSE FORCE WITHIN THE MILITARY DEPARTMENT**.

(2) [The Governor may disband or reduce the size of the Maryland Defense Force at any time] **THE GOVERNOR IS THE COMMANDER–IN–CHIEF OF THE MARYLAND DEFENSE FORCE**.

(3) THE MARYLAND DEFENSE FORCE IS UNDER THE OPERATIONAL CONTROL OF THE ADJUTANT GENERAL.

(4) THERE IS A COMMANDING GENERAL OF THE MARYLAND DEFENSE FORCE WHO IS APPOINTED BY THE ADJUTANT GENERAL AND SERVES AS SUCH AT THE PLEASURE OF THE ADJUTANT GENERAL.

(b) The Maryland Defense Force is **A COMPONENT OF THE ORGANIZED MILITIA OF THE STATE** in addition to and separate from the National Guard.

(C) THE MARYLAND DEFENSE FORCE SHALL HAVE THE PRIMARY MISSION OF PROVIDING COMPETENT AND SUPPLEMENTAL PROFESSIONAL, TECHNICAL, AND MILITARY SUPPORT TO THE MARYLAND ARMY NATIONAL GUARD, THE MARYLAND AIR NATIONAL GUARD, AND THE MARYLAND EMERGENCY MANAGEMENT AGENCY. THE MARYLAND DEFENSE FORCE SHALL ALSO HAVE OTHER DUTIES AND MISSIONS AS IT MAY BE ASSIGNED FROM TIME TO TIME BY COMPETENT AUTHORITY.

13–502.

(a) (1) The Governor may adopt regulations to carry out this title governing the enlistment, organization, administration, equipment, maintenance, training, and discipline of the Maryland Defense Force.

(2) The Governor may prescribe a uniform for the Maryland Defense Force.

(b) As [the Governor considers] **IS** practicable and desirable, regulations adopted under this section shall conform to [existing] **APPLICABLE** law and regulations that govern the National Guard**, EXCEPT THOSE LAWS AND REGULATIONS THAT APPLY TO THE NATIONAL GUARD WHEN ACTING SOLELY UNDER TITLE 10 OF THE UNITED STATES CODE**.

(c) **(1)** The regulations shall prohibit the Maryland Defense Force or a member of the Maryland Defense Force from accepting gifts, donations, gratuities, or anything of value from a person [in connection with the member's service] in

EXCHANGE FOR SPECIFIC AND ISOLATED SERVICES RENDERED BY the Maryland Defense Force.

(2) THIS PROVISION MAY NOT BE INTERPRETED OTHERWISE TO PROHIBIT GIFTS, BEQUESTS, AND THE LIKE FROM ANY INDIVIDUAL OR ORGANIZATION TO THE MARYLAND DEFENSE FORCE OR ANY FOUNDATION OR THE LIKE ESTABLISHED TO SUPPORT ITS ACTIVITIES.

13–503.

(a) The Maryland Defense Force consists of:

(1) commissioned or assigned officers; and

(2) **[**able–bodied citizens of the State**] QUALIFIED INDIVIDUALS** who volunteer to serve **AND ARE COMMISSIONED, APPOINTED, OR ENLISTED IN THE MARYLAND DEFENSE FORCE**.

(b) An individual may not be commissioned or enlisted in the Maryland Defense Force if the individual:

(1) is not a citizen of the United States; **[**or**]**

(2) **[**has been expelled or dishonorably discharged from a military or naval organization of this State or another state or from the United States armed forces.**] HAS BEEN DISMISSED FROM OR RECEIVED A BAD CONDUCT DISCHARGE OR A DISHONORABLE DISCHARGE, OR ANY DISCHARGE OTHER THAN UNDER HONORABLE CONDITIONS, FROM A MILITARY OR NAVAL ORGANIZATION OF THIS STATE OR OF ANOTHER STATE, OR FROM ANY OF THE UNITED STATES ARMED FORCES OR ITS AUXILIARIES, OR HAS BEEN CONVICTED OF AN OFFENSE UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR, NO MATTER WHAT PUNISHMENT WAS ACTUALLY IMPOSED; OR**

(3) DOES NOT MEET THE QUALIFICATIONS FOR COMMISSIONING, APPOINTMENT, OR ENLISTMENT SPECIFIED IN REGULATIONS GOVERNING THE MARYLAND DEFENSE FORCE.

(c) A civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil groups may not enlist in the Maryland Defense Force as an organization or unit.

(D) (1) ALL MEMBERS OF THE MARYLAND DEFENSE FORCE SERVE ON A VOLUNTARY BASIS AND WITHOUT PAY, UNLESS UNDER ORDERS, APPROVED BY THE ADJUTANT GENERAL, SPECIFYING THAT THEIR SERVICE IS WITH PAY.

(2) IF AN ORDER APPROVED BY THE ADJUTANT GENERAL SPECIFIES THAT THE SERVICE OF A MEMBER OF THE MARYLAND DEFENSE FORCE IS WITH PAY, THE MEMBER MAY BE COMPENSATED IN ACCORDANCE WITH § 13–406 OF THIS TITLE.

13–504.

(a) **[**A member of the Maryland Defense Force who is ordered to active duty by the Governor or by the Governor's authority is entitled to the compensation specified for officers and enlisted individuals as provided under § 13–704 of this title.**] AN OFFICER OR WARRANT OFFICER COMMISSIONED OR APPOINTED IN THE MARYLAND DEFENSE FORCE SHALL TAKE THE OATH PRESCRIBED IN § 13–509 OF THIS SUBTITLE.**

(b) **[**An officer commissioned in the Maryland Defense Force shall take an oath substantially in the form required for officers of the organized militia, substituting "Maryland Defense Force" where necessary in the oath.**] AN INDIVIDUAL WHO ENLISTS IN THE MARYLAND DEFENSE FORCE SHALL TAKE AN OATH SUBSTANTIALLY IN THE FORM REQUIRED FOR ENLISTED PERSONNEL OF THE NATIONAL GUARD, SUBSTITUTING "MARYLAND DEFENSE FORCE" WHERE NECESSARY IN THE OATH.**

(c) **[**An individual who enlists in the Maryland Defense Force shall take an oath substantially in the form required for enlisted personnel of the organized militia, substituting "Maryland Defense Force" where necessary in the oath.**]**

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE ENLISTMENT PERIOD IN THE MARYLAND DEFENSE FORCE IS 2 YEARS AND MAY BE RENEWED.

(2) IN THE CASE THAT A STATE OF WAR EXISTS BETWEEN THE UNITED STATES AND ANY OTHER NATION, OR THAT THERE IS A FEDERAL OR STATE DECLARATION OF EMERGENCY PRESENTLY IN FORCE IN THE STATE, ALL ENLISTMENTS SHALL CONTINUE UNTIL 3 MONTHS AFTER SAID STATE OF WAR OR EMERGENCY ENDS, UNLESS THE ENLISTED INDIVIDUAL IS DISCHARGED SOONER BY PROPER AUTHORITY.

[(d) (1) Except as provided in paragraph (2) of this subsection, the enlistment period in the Maryland Defense Force is 2 years and may be renewed.

(2) If the National Guard is called into active federal service, all enlistments shall continue until 6 months after the National Guard has been released

from active federal service unless the enlisted individual is discharged sooner by the proper authority.**]**

[(e)**] (D)** The Governor may accept the resignation of an officer or grant a discharge to an enlisted individual at any time.

13–506.

(a) **(1)** Except as provided in subsections (b) and (c) of this section, the Maryland Defense Force may not be required to serve outside the State.

(2) THIS SECTION DOES NOT APPLY TO ANY INSTANCE IN WHICH THE MARYLAND DEFENSE FORCE AS PART OF THE ORGANIZED MILITIA OF THE STATE IS ORDERED INTO SERVICE OF THE UNITED STATES BY THE PRESIDENT PURSUANT TO THE CONSTITUTION AND LAWS OF THE UNITED STATES.

(b) (1) On request of the governor of another state, the Governor of this State may order the Maryland Defense Force to serve outside the State to assist the military or **[**law enforcement forces of the other state that are actually defending that state**] OTHER PUBLIC SAFETY FORCES OF THE REQUESTING STATE**.

(2) The Governor of this State may recall the Maryland Defense Force from the other state.

(c) If fresh pursuit is authorized by law of another state, any organization, unit, or detachment of the Maryland Defense Force, on the order of the commanding officer of the organization, unit, or detachment, may continue in fresh pursuit of insurrectionists, saboteurs, or enemies outside of this State into the other state until:

(1) the insurrectionists, saboteurs, or enemies are apprehended; or

(2) the military or law enforcement forces of the other state or forces of the United States have had a reasonable opportunity to pursue or apprehend the insurrectionists, saboteurs, or enemies.

(d) (1) An organization, unit, or detachment of the Maryland Defense Force shall surrender without unnecessary delay an individual apprehended in another state to the military or law enforcement force of:

(i) the state of apprehension; or

(ii) the United States.

(2) The surrender of an individual apprehended under paragraph (1) of this subsection to the military or law enforcement forces of another state is not a

waiver by this State of the right to extradite or prosecute the individual for a crime committed in this State.

13–508.

(a) **(1)** This title does not authorize the Maryland Defense Force to be ordered or drafted into the military service of the United States**, EXCEPT BY ORDER OF THE PRESIDENT OF THE UNITED STATES ACTING PURSUANT TO THE CONSTITUTION AND LAWS OF THE UNITED STATES**.

(2) THIS PROVISION MAY NOT BE CONSTRUED TO PROHIBIT SERVICE OF THE MARYLAND DEFENSE FORCE OR PERSONNEL THEREOF IN MISSIONS IN WHICH FEDERAL MILITARY PERSONNEL ARE ALSO SERVING OR IN COMMAND.

(b) An individual is not exempt from military service under the laws of the United States because the individual is enlisted **[**or**]**, commissioned**, OR APPOINTED** in the Maryland Defense Force.

13–509.

A COMMISSIONED OFFICER OF THE MARYLAND DEFENSE FORCE SHALL TAKE THE FOLLOWING OATH OF OFFICE:

"I, ..., DO SOLEMNLY SWEAR THAT I WILL SUPPORT AND DEFEND THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THE STATE OF MARYLAND, AGAINST ALL ENEMIES, FOREIGN AND DOMESTIC; THAT I WILL BEAR TRUE FAITH AND ALLEGIANCE TO THE SAME; THAT I WILL OBEY THE ORDERS OF THE PRESIDENT OF THE UNITED STATES AND OF THE GOVERNOR OF THE STATE OF MARYLAND; THAT I TAKE THIS OBLIGATION FREELY, WITHOUT ANY MENTAL RESERVATION OR PURPOSE OF EVASION, AND THAT I WILL WELL AND FAITHFULLY DISCHARGE THE DUTIES OF THE OFFICE OF ..... IN THE MARYLAND DEFENSE FORCE UPON WHICH I AM ABOUT TO ENTER, SO HELP ME GOD."

[13–601.**] 13–510.**

(a) **(1)** The Governor shall appoint and commission each **COMMISSIONED** officer **OR APPOINT EACH WARRANT OFFICER** of the organized militia on recommendation **[**by:

(1) the brigade commander if a commanding officer of a unit of a brigade; or

(2) the commanding officer of the respective unit or chief of the respective staff corps or department if any other officer**]** **OF THE ADJUTANT GENERAL**.

(2) THE APPOINTMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION DO NOT REQUIRE CONFIRMATION BY THE SENATE OF MARYLAND.

(b) (1) Each individual **COMMISSIONED OR** appointed as an officer **OR WARRANT OFFICER** shall be:

(i) an officer**, WARRANT OFFICER,** or enlisted individual of the National Guard;

(ii) a retired**[**, reserve,**]** or former officer **OR WARRANT OFFICER** of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard **OR ANY AUXILIARY THEREOF**;

(iii) **[**an enlisted individual from**] AN INDIVIDUAL WITH PRIOR ENLISTED SERVICE IN** the United States Army, Navy, Marine Corps, Air Force, or Coast Guard **[**or a formerly enlisted individual who received an honorable discharge**], OR ANY AUXILIARY THEREOF**;

(iv) a graduate of the United States Military Academy, Naval Academy, **COAST GUARD ACADEMY, MERCHANT MARINE ACADEMY,** or Air Force Academy;

(v) a graduate of a school, college, university, or officers' training school who received military instruction under the supervision of an officer of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard who certified the graduate's fitness for appointment as a commissioned officer; or

(vi) **[**a civilian**] AN INDIVIDUAL NOT OTHERWISE IDENTIFIED IN ITEMS (I) THROUGH (V) OF THIS PARAGRAPH** who is specially qualified for **[**duty in the technical branches or staff corps and departments**] SERVICE BY ACHIEVEMENT IN ANY PROFESSIONAL, TECHNICAL, OR PUBLIC SERVICE CAPACITY OR OTHERWISE DISPLAYS EXTRAORDINARY QUALIFICATIONS FOR COMMISSIONING AS AN OFFICER OF THE MARYLAND DEFENSE FORCE**.

(2) Before taking office, each **[**individual appointed as an officer shall take the oath as required by § 13–602 of this subtitle**] MEMBER OF THE NATIONAL GUARD SHALL TAKE THE OATH PRESCRIBED IN § 13–407 OF THIS TITLE AND EACH MEMBER OF THE MARYLAND DEFENSE FORCE SHALL TAKE THE OATH PRESCRIBED IN § 13–509 OF THIS SUBTITLE**.

(c) When **INITIALLY** appointed, a general officer or colonel **OF THE ORGANIZED MILITIA** must:

(1) be an officer in the National Guard of a grade of **[**field officer**] O–4 OR HIGHER**; or

(2) have **[**been**] SERVED** in **[**active service in**] ANY COMPONENT OR AUXILIARY OF** the United States Army, Navy, Marine Corps, Air Force, or Coast Guard or National Guard with **[**a**] THE** grade **OF O–4 OR** higher **[**than captain**]**.

(d) When **INITIALLY** appointed, a lieutenant–colonel or major of the line must have had **[**active**]** service as an officer for at least 2 years in **ANY COMPONENT OR AUXILIARY OF** the United States Army, Navy, Marine Corps, Air Force, or Coast Guard or National Guard.

(E) SUBSECTIONS (C) AND (D) OF THIS SECTION DO NOT APPLY IN THE CASE OF:

(1) OFFICERS PROMOTED TO THE GRADE OF MAJOR OR ABOVE FROM WITHIN THE MARYLAND DEFENSE FORCE; OR

(2) OFFICERS QUALIFIED UNDER SUBSECTION (B)(1)(VI) OF THIS SECTION.

[13–605.**] 13–601.**

(a) (1) On the recommendation of the Adjutant General, the Governor may grant to an officer of the organized militia a brevet commission of the next higher grade than the regular commission held by the officer.

(2) The Governor may grant a brevet commission to an officer of the organized militia of a grade equal to the highest grade in which the officer previously served in the organized militia or in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard.

(b) A brevet commission carries only the rights or privileges that are allowed in like cases in the military service of the United States.

[13–607.**] 13–602.**

A commission of an officer **OF THE ORGANIZED MILITIA** may be vacated:

(1) on resignation;

(2) through absence without leave for 3 months;

(3) on recommendation of an efficiency board; **[**or**]**

(4) under a sentence of a court–martial**; OR**

(5) ON CONVICTION OF A CRIME PUNISHABLE BY INCARCERATION FOR 1 YEAR OR MORE IN ANY STATE OR FEDERAL COURT.

[13–603.

(a) Each individual appointed as an officer shall pass the tests that the Governor requires on physical, moral, and professional fitness.

(b) The Governor shall appoint a board of three commissioned officers from the United States Army or Air Force or the National Guard to conduct the examination required by subsection (a) of this section.**]**

[13–608.**] 13–603.**

(a) A commissioned officer **OF THE ORGANIZED MILITIA** tendering a resignation shall receive an honorable discharge if:

(1) the Governor accepts the resignation;

(2) the officer is not under arrest or returned to a military court for a deficiency or delinquency;

(3) the officer is not indebted to the State; and

(4) the accounts of the officer for money or public property are correct.

(b) (1) If the Governor accepts the resignation of an officer who, at the time of the resignation, is under arrest, under charges, or returned to a military court for an offense, deficiency, or delinquency, the officer shall:

(i) cease to be an officer; and

(ii) receive a discharge in a form that the Governor directs.

(2) An officer who resigns under paragraph (1) of this subsection is not eligible to receive a commission unless the officer:

(i) reenlists; and

(ii) performs at least 100% of duty in each year of the reenlistment for 2 successive years.

[13–606.

(a) Except as otherwise provided in this title or by regulations of the United States Department of Defense, a commissioned officer may not be removed from office unless the officer consents to the removal.

(b) A commissioned officer shall be discharged if:

(1) an efficiency board of three commissioned officers, senior in rank to the officer whose fitness for service is under investigation, appointed to determine the moral character, capacity, or general fitness for service of the commissioned officer makes an unfavorable finding; and

(2) the official authorized to appoint the efficiency board approves of the findings of the efficiency board.**]**

13–702.

(a) This section applies to the Maryland Defense Force **[**when the Maryland Defense Force exists under law**]** **AND THE NATIONAL GUARD**.

(b) The Governor may order the militia into State active duty:

(1) in times of or on reasonable apprehension of imminent public crisis, disaster, rioting, catastrophe, insurrection, invasion, tumult, or breach of peace;

(2) when martial law is declared;

(3) to enforce the laws; or

(4) to carry on any function of the militia of the State.

(c) (1) To enforce the laws, a member of the militia in State active duty has all the authority of a peace or law enforcement officer.

(2) The authority of the member extends throughout the State during the State active duty.

(d) Whenever the militia is in State active duty, the ranking officer of the militia ordered into State active duty or that officer's subordinates on State active duty shall:

(1) cooperate with local law enforcement authorities; or

(2) if the exigencies of the case require and subject only to order from the Governor:

(i) direct and control local law enforcement authorities and the Department of State Police; and

(ii) assume all the powers vested in these subordinated law enforcement authorities.

13–703.

(a) An officer**, WARRANT OFFICER,** or noncommissioned officer may warn officers and enlisted individuals for duty by:

(1) stating the substance of the order or reading the order to the individual warned;

(2) leaving a copy of the order at the last known place of residence or business of the individual; **[**or**]**

(3) mailing a copy of the order to the last known residence or business address of the individual**; OR**

(4) SENDING THE SUBSTANCE OF THE ORDER VIA ELECTRONIC COMMUNICATION, INCLUDING TELEPHONE, CELLULAR PHONE, FACSIMILE, OR ELECTRONIC MAIL.

(b) (1) If required by the officer issuing the order, the officer or noncommissioned officer giving warning shall make a return of warning containing the name of the individual warned and the time, place, and manner of warning.

(2) A return of warning:

(i) may be verified by the officer or noncommissioned officer's oath, which may be administered by an officer; and

(ii) if verified, at the trial of an individual returned as a delinquent is evidence of the facts stated in the return and is to be considered as if the officer or noncommissioned officer had testified to those facts before a court–martial at trial.

13–708.

(a) A member of the organized militia ordered into State active duty by proper authority is not liable civilly or criminally for **[**an**]** **ANY** act done while discharging a duty.

(b) (1) The court shall require a person to file security for the payment of costs that may be awarded to the defendant when the person prosecutes or begins a suit or proceeding:

(i) against an officer of the organized militia for an act done by the officer in the officer's official capacity in the discharge of a duty under this title;

(ii) against a person acting under the authority or order of an officer of the organized militia; or

(iii) by virtue of a warrant that an officer of the militia lawfully issues.

(2) In all cases, the defendant may make a general denial and give evidence.

(3) If the case is dismissed or a verdict or judgment is rendered against the plaintiff, the defendant shall recover treble costs.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 13–705 through 13–708, respectively, of Article – Public Safety of the Annotated Code of Maryland be renumbered to be Section(s) 13–704 through 13–707, respectively.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 736

(House Bill 1475)

AN ACT concerning

Maryland Veterans Behavioral Health – Expansion

FOR the purpose of expanding behavioral health coordination to certain additional veterans who served on active duty in the uniformed services of the United States; requiring the provision of certain behavioral health services under certain circumstances in certain additional areas of the State; and generally relating to the provision of behavioral health services for veterans in the State.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–2701 and 13–2702

Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

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.

(j) "Veteran" means a Maryland resident who**[**:

(1) Served**]** **SERVED** on active duty in the 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**]**.

(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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 737

(House Bill 1480)

AN ACT concerning

Interagency Committee on Aging Services – Membership

FOR the purpose of adding the Secretary of Veterans Affairs, the Director of the Governor's Office of the Deaf and Hard of Hearing, and the Chair of the Commission on Aging to the Interagency Committee on Aging Services; and generally relating to membership of the Interagency Committee on Aging Services.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 10–302
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)

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

Article – Human Services

10–302.

(a) The Interagency Committee consists of the following members:

(1) the Secretary of Aging;

(2) the Secretary of Disabilities;

(3) the Secretary of Health and Mental Hygiene;

(4) the Secretary of Housing and Community Development;

(5) the Secretary of Human Resources;

(6) the Secretary of Labor, Licensing, and Regulation;

(7) the Secretary of Transportation;

(8) THE SECRETARY OF VETERANS AFFAIRS;

(9) THE DIRECTOR OF THE GOVERNOR'S OFFICE OF THE DEAF AND HARD OF HEARING;

(10) THE CHAIR OF THE COMMISSION ON AGING;

[(8)**] (11)** a representative from an area agency appointed by the Governor from a list submitted by the Maryland Association of Area Agencies on Aging; and

[(9)**] (12)** a member of the public appointed by the Governor.

(b) (1) The term of a member appointed by the Governor under subsection **[**(a)(8) or (9)**] (A)(11) OR (12)** of this section is 2 years.

(2) A member appointed by the Governor under subsection **[**(a)(8) or (9)**] (A)(11) OR (12)** of this section may not be reappointed for more than 2 additional terms.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 738

(House Bill 1521)

AN ACT concerning

Department of Transportation – Prospective and Current Employees – Criminal History Records Checks

FOR the purpose of authorizing the Secretary of Transportation to request from the Criminal Justice Information System Central Repository State and national criminal history records checks for certain prospective and current employees; establishing certain procedures to apply for a criminal history records check; requiring the Central Repository to forward criminal history record information to the current or prospective employee under certain circumstances; providing that certain information is confidential and may be used only for certain purposes; authorizing a person who is the subject of a criminal history records check under this Act to contest certain information in the record; authorizing the Secretary to adopt certain regulations, guidelines, and policies to implement this Act; and generally relating to State and national criminal history records checks for prospective and current employees of the Department of Transportation.

BY repealing and reenacting, with amendments,
Article – Transportation

Section 2–103.4(b)(1)
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Transportation
Section 2–103.4(b–1)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Transportation

2–103.4.

(b) (1) In the exercise of the Secretary's powers under this section, the Secretary may:

(i) Create and abolish any position other than positions specifically provided for in this article; and

(ii) **[**Determine**]** **SUBJECT TO SUBSECTION (B–1) OF THIS SECTION, DETERMINE** the qualifications, appointment, removal, tenure, terms of employment, and compensation of employees unless otherwise prohibited by law.

(B–1) (1) IN THIS SUBSECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(2) (I) IN THE EXERCISE OF THE SECRETARY'S POWERS UNDER SUBSECTION (B) OF THIS SECTION, THE SECRETARY MAY REQUEST~~, WITH REFERENCE TO A PROSPECTIVE OR CURRENT EMPLOYEE OF THE DEPARTMENT,~~ A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FROM THE CENTRAL REPOSITORY FOR:

1. A PROSPECTIVE EMPLOYEE; OR

2. A CURRENT EMPLOYEE FOR WHOM A CRIMINAL HISTORY RECORDS CHECK IS REQUIRED BY FEDERAL OR STATE LAW.

(II) THE SECRETARY SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK

FOR EACH PROSPECTIVE OR CURRENT EMPLOYEE FOR WHOM A RECORDS CHECK IS SOUGHT.

(III) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE SECRETARY SHALL SUBMIT TO THE CENTRAL REPOSITORY:

1. TWO COMPLETE SETS OF THE PROSPECTIVE OR CURRENT 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 CRIMINAL HISTORY RECORD INFORMATION; 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 PROSPECTIVE OR CURRENT EMPLOYEE AND THE DEPARTMENT THE PROSPECTIVE OR CURRENT EMPLOYEE'S CRIMINAL HISTORY RECORD INFORMATION.

(V) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS PARAGRAPH:

1. IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND

2. MAY BE USED ONLY FOR THE EMPLOYMENT PURPOSE AUTHORIZED BY THIS SECTION.

(3) A PERSON WHO IS 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.

(4) THE SECRETARY MAY ADOPT REGULATIONS, GUIDELINES, AND POLICIES TO CARRY OUT THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 739

(House Bill 1545)

AN ACT concerning

Correctional Services – Power of the Director of the Division of Parole and Probation – Authorization to Execute Warrants

FOR the purpose of adding to the powers of the Director of the Division of Parole and Probation the power to authorize certain employees of the Division to execute warrants for the arrest of probationers for whom a warrant is issued for an alleged violation of probation; and generally relating to the power of the Director of the Division of Parole and Probation.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 6–106
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

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

Article – Correctional Services

6–106.

(a) The Director may authorize parole and probation employees of the Division to:

(1) execute warrants for the retaking of offenders;

(2) EXECUTE WARRANTS FOR THE ARREST OF PROBATIONERS FOR WHOM A WARRANT IS ISSUED FOR AN ALLEGED VIOLATION OF PROBATION;

[(2)**] (3)** obtain and execute search warrants as authorized under § 6–109 of this subtitle; and

[(3)**] (4)** arrest offenders in the program as authorized under § 2–207 of the Criminal Procedure Article.

(b) A parole and probation employee who is authorized to make arrests under this section shall:

(1) meet the minimum qualifications required by the Maryland Police Training Commission; and

(2) complete satisfactorily the training prescribed by the Maryland Police Training Commission.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 740

(House Bill 1554)

AN ACT concerning

Linked Deposit Program – Loans to Minority Business Enterprises

FOR the purpose of altering the process for certain minority business enterprises to apply directly to certain financial institutions for a certain program; prohibiting a minority business enterprise from being considered decertified for purposes of a certain program loan under certain circumstances; providing for the termination of this Act; and generally relating to the Linked Deposit Program.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–211
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

6–211.

(a) (1) There is a Linked Deposit Program in the Department of Housing and Community Development.

(2) The purpose of the Linked Deposit Program is to stimulate opportunities for minority business enterprises to have access to credit by assisting these businesses in obtaining loans at lower than market interest rates.

(b) A loan qualifies under the Linked Deposit Program if the loan:

(1) satisfies the financial institution's lending criteria;

(2) has a term not exceeding 10 years;

(3) is made to a minority business enterprise certified under Title 14, Subtitle 3 of this article;

(4) has an interest rate that is 2 percentage points below the interest rate the financial institution would charge for a loan for a similar purpose and a similar term; and

(5) has points or fees charged at loan closing not exceeding 1 percent of the loan amount.

(c) The Department of Housing and Community Development shall:

(1) confirm with the certification agency designated under Title 14, Subtitle 3 of this article that each loan under the Linked Deposit Program is made to a business that is certified as a minority business enterprise;

(2) establish procedures for notification by the certification agency designated under Title 14, Subtitle 3 of this article if a business that has an outstanding balance of a loan under the Linked Deposit Program is no longer certified;

[(3) receive electronic loan applications from minority business enterprises;

(4) forward loan applications to lenders;**]**

[(5)**] (3)** require minority business enterprises **AND LENDERS** to notify the Department concerning final loan disposition; and

[(6)**] (4)** report annually to the Governor, the Treasurer, and, in accordance with § 2–1246 of the State Government Article, the General Assembly on overall performance of the Linked Deposit Program.

(d) The Treasurer may establish the Linked Deposit Program for investment of deposits in any financial institution that:

(1) the Treasurer has designated as a depository for State money; and

(2) makes a loan in accordance with subsection (b) of this section.

(e) (1) The Treasurer may purchase one or more certificates of deposit that are equal to:

(i) the amount of the loan made by the financial institution in accordance with subsection (b) of this section; or

(ii) the aggregate amount of two or more loans made by one or more financial institutions in accordance with subsection (b) of this section.

(2) In purchasing a certificate of deposit under this subsection, the Treasurer may accept a rate that is 2 percentage points below current market rates or an index selected by the Treasurer.

(3) The Treasurer may use up to $50,000,000 to purchase certificates of deposit in an amount equivalent to the amount financial institutions loan to certified minority business enterprises.

(f) **(1)** **[**Upon**]** **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON** notification by the Department of Housing and Community Development that a minority business enterprise participating in the Linked Deposit Program is no longer certified under Title 14, Subtitle 3 of this article, the Treasurer shall reduce the amount of the certificate of deposit with the participating financial institution by the outstanding balance of the loan made under this section to the decertified minority business enterprise.

(2) A MINORITY BUSINESS ENTERPRISE THAT LOSES ITS CERTIFICATION DUE TO REVENUE OR EMPLOYEE GROWTH MAY NOT BE CONSIDERED DECERTIFIED FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION.

(g) (1) A loan assisted by a linked deposit is not a debt of the State or a pledge of the credit of the State.

(2) The Treasurer and the State are not liable to any financial institution for payment of the principal or interest on a loan assisted by a linked deposit.

(h) The Department of Housing and Community Development and the Treasurer may adopt regulations to carry out this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. It shall remain effective for a period of 12 years and, at the end of September 30, 2021, 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 19, 2009.

Chapter 741

(House Bill 1555)

AN ACT concerning

Financial Institutions – Enhanced Supervision – Branch Banking

FOR the purpose of authorizing the Commissioner of Financial Regulation to assess civil penalties against certain banking institutions and credit unions for certain violations after notice and hearing; authorizing certain out–of–state banks to establish certain branches in the State in a certain manner under certain circumstances; requiring certain reciprocity for the establishment of de novo bank branches; establishing an expedited process for certain banks to establish certain branches on payment of a certain fee and under certain circumstances; authorizing the Commissioner to take certain actions relating to establishment of certain branches; providing that this Act does not limit the authority of an out–of–state bank to establish additional branches in the State; defining certain terms; and generally relating to the supervision of banking institutions and credit unions and the establishment of branches.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 2–108(a)(5), 5–1003, 5–1005, and 5–1006
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 2–108(b), 5–808(a), and 6–906(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to
Article – Financial Institutions
Section 5–808.1, 5–808.2, 6–906.1, and 6–906.2
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Financial Institutions

2–108.

(a) The Commissioner shall charge and collect, in advance, the following nonrefundable fees:

(5) Subject to subsection (b) of this section, a branch fee for **[**a notice of intention**]:**

(I) AN APPLICATION of a banking institution or other–state bank to open a branch under **[**§ 5–1003**] §§ 5–1003 AND 5–1005(A)** of this article……$600**;**
OR

(II) AN EXPEDITED NOTICE OF A BANKING INSTITUTION OR OTHER–STATE BANK TO OPEN A BRANCH UNDER §§ 5–1003 AND 5–1005(B) OF THIS ARTICLE……$400

(b) The branch fee under subsection (a)(5) of this section does not apply to:

(1) A branch that is acquired by a banking institution through a merger or consolidation with, or transfer to the banking institution of all or substantially all of the assets of, a bank or an insured depository institution; or

(2) An other–state bank chartered by a state that does not charge a fee to a banking institution for establishing a branch in that state.

5–808.

(a) The Commissioner may order any banking institution to cease and desist from:

(1) An unsafe or unsound banking practice;

(2) A practice that is injurious to the public interest; or

(3) A violation of a law, rule, or regulation that relates to the Commissioner's supervision of the institution.

5–808.1.

(A) AFTER NOTICE AND A HEARING, THE COMMISSIONER MAY ASSESS A CIVIL PENALTY AGAINST A BANKING INSTITUTION THAT THE COMMISSIONER DETERMINES HAS:

(1) VIOLATED A CEASE AND DESIST ORDER ISSUED BY THE COMMISSIONER UNDER § 5–808 OF THIS SUBTITLE; OR

(2) ENGAGED IN:

(I) AN UNSAFE OR UNSOUND BANKING PRACTICE; OR

(II) A PRACTICE THAT IS INJURIOUS TO THE PUBLIC INTEREST~~; OR~~

~~(III) A VIOLATION OF A LAW, RULE, OR REGULATION THAT RELATES TO THE COMMISSIONER'S SUPERVISION OF THE BANKING INSTITUTION~~.

(B) THE CIVIL PENALTY MAY NOT EXCEED:

(1) $1,000 PER VIOLATION; AND

(2) $1,000 PER VIOLATION FOR EACH DAY THAT THE VIOLATION CONTINUES.

(C) (1) A CIVIL PENALTY SHALL BE ASSESSED BY WRITTEN NOTICE OF ASSESSMENT SERVED ON THE PERSON TO BE ASSESSED.

(2) THE NOTICE OF ASSESSMENT SHALL STATE THE:

(I) AMOUNT OF THE CIVIL PENALTY;

(II) LEGAL AUTHORITY FOR THE ASSESSMENT; AND

(III) MATTERS OF FACT OR LAW CONSTITUTING THE GROUNDS FOR THE ASSESSMENT.

(3) THE NOTICE OF ASSESSMENT SHALL CONSTITUTE A FINAL ORDER FOR PURPOSES OF JUDICIAL REVIEW PURSUANT TO § 10–221 OF THE STATE GOVERNMENT ARTICLE.

(D) IN DETERMINING THE AMOUNT OF THE CIVIL PENALTY TO BE ASSESSED, THE COMMISSIONER SHALL CONSIDER:

(1) THE SERIOUSNESS OF THE VIOLATION;

(2) THE GOOD FAITH OF THE VIOLATOR;

(3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

(4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC AND THE BANKING INDUSTRY;

(5) THE ASSETS OF THE VIOLATOR; AND

(6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE CIVIL PENALTY.

(E) (1) A CIVIL PENALTY ASSESSED UNDER THIS SECTION SHALL BE DUE AND PAYABLE WITHIN 30 DAYS AFTER THE COMMISSIONER ISSUES THE NOTICE OF ASSESSMENT.

(2) THE COMMISSIONER MAY REDUCE OR SET ASIDE A CIVIL PENALTY.

(F) THE COMMISSIONER SHALL PAY ALL CIVIL PENALTIES COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND OF THE STATE.

5–808.2.

(A) IN THIS SECTION, "EXTRAORDINARY CIRCUMSTANCES" MEANS A SITUATION PRESENTING SPECIFIC CONCERNS ABOUT THE PROMPT WITHDRAWAL OF MONEY FROM, OR THE SAFETY AND SOUNDNESS OF, A BANKING INSTITUTION.

(B) IN EXTRAORDINARY CIRCUMSTANCES AND WITH THE CONSENT OF THE BANKING INSTITUTION, THE COMMISSIONER MAY CLOSE TO THE PUBLIC A HEARING CONCERNING THE ASSESSMENT OF A CIVIL PENALTY, AN ORDER TO CEASE AND DESIST, OR ANY OTHER FORMAL ENFORCEMENT ACTION BY THE COMMISSIONER.

5–1003.

(a) A banking institution or an out–of–state bank may establish a branch in this State by:

(1) **[**Opening**] SUBJECT TO SUBSECTION (B) OF THIS SECTION, OPENING** a de novo branch;

(2) Purchasing an existing branch from a bank or an insured depository institution; or

(3) Converting former headquarters or retaining former branches following:

(i) The purchase of all or substantially all of the assets of a bank or an insured depository institution; or

(ii) A merger or a consolidation with a bank or an insured depository institution.

(b) **AN OUT–OF–STATE BANK MAY ESTABLISH A DE NOVO BRANCH IN THIS STATE UNDER SUBSECTION (A)(1) OF THIS SECTION ONLY IF THE HOME STATE OF THE OUT–OF–STATE BANK ALLOWS A BANKING INSTITUTION TO OPEN A DE NOVO BRANCH IN ITS STATE.**

(C) A banking institution or an out–of–state bank may not establish or maintain a branch in this State on the premises or property of an affiliate if the affiliate engages in commercial activities.

5–1005.

(A) **[**A**]** **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A** banking institution that proposes to establish a branch in this State or in another state shall:

(1) File with the Commissioner, at least 30 days before the intended opening date, a notice of intention to open a branch; and

(2) Submit to the Commissioner any information the Commissioner requires in order to evaluate the proposed branch.

(B) A WELL–CAPITALIZED BANKING INSTITUTION WITH A COMPOSITE CAMELS RATING OF ONE OR TWO MAY ESTABLISH A BRANCH IN THIS STATE BY FILING WITH THE COMMISSIONER AN EXPEDITED NOTICE, IN THE FORM THAT THE COMMISSIONER REQUIRES, AT LEAST 30 DAYS BEFORE THE INTENDED OPENING DATE.

5–1006.

(A) **[**In**]** **SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN** deciding whether to approve a branch of a banking institution, the Commissioner shall consider:

(1) If the branch is to be established in this State, whether the establishment of the branch will promote the public convenience;

(2) Whether the applicant has sufficient capital to support the branch; and

(3) Whether the applicant is generally operating in compliance with the provisions of this article.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A WELL–CAPITALIZED BANKING INSTITUTION WITH A COMPOSITE CAMELS RATING OF ONE OR TWO MAY OPEN A BRANCH IN THIS STATE WITHOUT THE APPROVAL OF THE COMMISSIONER 30 DAYS AFTER FILING AN EXPEDITED NOTICE FOR THE PROPOSED BRANCH UNDER § 5–1005(B) OF THIS SUBTITLE.

(2) THE COMMISSIONER MAY:

(I) REQUIRE THE SUBMISSION OF ADDITIONAL INFORMATION REGARDING THE PROPOSED ESTABLISHMENT OF A BRANCH DURING THE 30–DAY PERIOD THAT THE EXPEDITED NOTICE IS PENDING; AND

(II) PROHIBIT THE ESTABLISHMENT OF THE BRANCH WITHIN THE 30–DAY PERIOD IF THE COMMISSIONER DETERMINES THAT ESTABLISHMENT OF THE BRANCH IS NOT CONSISTENT WITH THE STANDARDS SET FORTH IN SUBSECTION (A) OF THIS SECTION.

6–906.

(a) The Commissioner shall order any credit union to cease and desist from:

(1) An unsafe or unsound practice;

(2) A practice that is injurious to the public interest; or

(3) A violation of laws or rules or regulations that relate to the Commissioner's supervision of the credit union.

6–906.1.

(A) AFTER NOTICE AND A HEARING, THE COMMISSIONER MAY ASSESS A CIVIL PENALTY AGAINST A CREDIT UNION THAT THE COMMISSIONER DETERMINES HAS:

(1) VIOLATED A CEASE AND DESIST ORDER ISSUED BY THE COMMISSIONER UNDER § 6–906 OF THIS SUBTITLE; OR

(2) ENGAGED IN:

(I) AN UNSAFE OR UNSOUND PRACTICE; OR

(II) A PRACTICE THAT IS INJURIOUS TO THE PUBLIC INTEREST~~; OR~~

~~(III) A VIOLATION OF A LAW, RULE, OR REGULATION THAT RELATES TO THE COMMISSIONER'S SUPERVISION OF THE CREDIT UNION~~.

(B) THE CIVIL PENALTY MAY NOT EXCEED:

(1) $1,000 PER VIOLATION; AND

(2) $1,000 PER VIOLATION FOR EACH DAY THAT THE VIOLATION CONTINUES.

(C) (1) A CIVIL PENALTY SHALL BE ASSESSED BY WRITTEN NOTICE OF ASSESSMENT SERVED ON THE PERSON TO BE ASSESSED.

(2) THE NOTICE OF ASSESSMENT SHALL STATE THE:

(I) AMOUNT OF THE CIVIL PENALTY;

(II) LEGAL AUTHORITY FOR THE ASSESSMENT; AND

(III) MATTERS OF FACT OR LAW CONSTITUTING THE GROUNDS FOR THE ASSESSMENT.

(3) THE NOTICE OF ASSESSMENT SHALL CONSTITUTE A FINAL ORDER FOR PURPOSES OF JUDICIAL REVIEW PURSUANT TO § 10–221 OF THE STATE GOVERNMENT ARTICLE.

(D) IN DETERMINING THE AMOUNT OF THE CIVIL PENALTY TO BE ASSESSED, THE COMMISSIONER SHALL CONSIDER:

(1) THE SERIOUSNESS OF THE VIOLATION;

(2) THE GOOD FAITH OF THE VIOLATOR;

(3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

(4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC AND THE CREDIT UNION INDUSTRY;

(5) THE ASSETS OF THE VIOLATOR; AND

(6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE CIVIL PENALTY.

(E) (1) A CIVIL PENALTY ASSESSED UNDER THIS SECTION SHALL BE DUE AND PAYABLE WITHIN 30 DAYS AFTER THE COMMISSIONER ISSUES THE NOTICE OF ASSESSMENT.

(2) THE COMMISSIONER MAY REDUCE OR SET ASIDE A CIVIL PENALTY.

(F) THE COMMISSIONER SHALL PAY ALL CIVIL PENALTIES COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND OF THE STATE.

6–906.2.

(A) IN THIS SECTION, "EXTRAORDINARY CIRCUMSTANCES" MEANS A SITUATION PRESENTING SPECIFIC CONCERNS ABOUT THE PROMPT WITHDRAWAL OF MONEY FROM, OR THE SAFETY AND SOUNDNESS OF, A CREDIT UNION.

(B) IN EXTRAORDINARY CIRCUMSTANCES AND WITH THE CONSENT OF THE CREDIT UNION, THE COMMISSIONER MAY CLOSE TO THE PUBLIC A HEARING CONCERNING THE ASSESSMENT OF A CIVIL PENALTY, AN ORDER TO CEASE AND DESIST, OR ANY OTHER FORMAL ENFORCEMENT ACTION BY THE COMMISSIONER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not limit the authority of an out–of–state bank to establish additional branches in this State as permitted under the federal Riegle–Neal Interstate Banking and Branching Efficiency Act of 1994, including the provisions of the Act codified as 12 U.S.C. §§ 36(d), (e)(1), and (g)(2)(B), 1828 (d)(4)(B)(ii), and 1831u(d)(2), if the out–of–state bank's application to establish a branch in this State is approved by the Federal Deposit Insurance Corporation or the Office of the Comptroller of the Currency before July 1, 2009.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 742

(House Bill 1561)

AN ACT concerning

Maryland Veterans Trust Fund

FOR the purpose of establishing the Maryland Veterans Trust Fund in the Department of Veterans Affairs for certain purposes; providing for the uses and administration of the Fund; authorizing the deposit of certain gifts and grants in the Fund under certain circumstances; authorizing the award of certain grants and loans to certain persons under certain circumstances from the Fund; requiring certain units and persons to advise the Secretary of Veterans Affairs on the administration of the Fund; requiring the Secretary to adopt certain regulations; stating a certain intent concerning certain funding; requiring the Secretary to report each year to the General Assembly on the Fund; and generally relating to the Maryland Veterans Trust Fund.

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–912
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – State Government
Section 9–913
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – State Government

9–912.

(a) To carry out the responsibilities and goals of the Department **[**concerning the home**]**, the Department may acquire, hold, use, improve, and convey property.

(b) In addition to any other power under this section and subject to Title 7 of the State Finance and Procurement Article, to carry out the purposes or goals of the Department, the **[**home**]** **DEPARTMENT MAY**:

(1) **[**may**]** accept a gift or grant; and

(2) unless the terms of a gift or grant require otherwise, and subject to the approval of the Secretary**[**, may**]**:

(i) spend the principal and income of the gift or grant **THROUGH GRANTS OR LOANS TO:**

1. VETERANS AND THEIR FAMILIES;

2. PUBLIC AND PRIVATE PROGRAMS THAT SUPPORT VETERANS AND THEIR FAMILIES; OR

3. ANY OTHER PROGRAMS THAT THE SECRETARY CONSIDERS APPROPRIATE; or

(ii) invest all or part of the principal and income in:

1. general obligations of the State; or

2. any other security.

(c) **(1) GIFTS AND GRANTS THAT THE DEPARTMENT ACCEPTS UNDER SUBSECTION (B) OF THIS SECTION SHALL BE DEPOSITED IN THE MARYLAND VETERANS TRUST FUND UNDER § 9–913 OF THIS SUBTITLE.**

(2) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT A PROGRAM FOR GIFTS AND GRANTS MADE UNDER SUBSECTION (B)(2) OF THIS SECTION.

(D) (1) In addition to any other power under this section, the Department may lease any part of the home property for use as a concession or other commercial purpose that is consistent with the purposes of the Department. However, the Department may not lease its property merely for investment purposes.

(2) Notwithstanding any other law, unless the lease expressly provides for redemption by the tenant, the lease is not subject to redemption.

9–913.

(A) IN THIS SECTION, "FUND" MEANS THE MARYLAND VETERANS TRUST FUND.

(B) THERE IS A MARYLAND VETERANS TRUST FUND IN THE DEPARTMENT.

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

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

(D) (1) THE SECRETARY SHALL ADMINISTER THE FUND.

(2) THE MARYLAND VETERANS COMMISSION, THE MARYLAND VETERANS' HOME COMMISSION, AND PROGRAM DIRECTORS SHALL ADVISE THE SECRETARY ON THE ADMINISTRATION OF THE FUND.

(E) THE FUND CONSISTS OF GIFTS AND GRANTS THAT THE DEPARTMENT RECEIVES UNDER § 9–912(B) OF THIS SUBTITLE.

(F) MONEY IN THE FUND MAY ONLY BE USED TO:

(1) MAKE GRANTS AND LOANS UNDER § 9–912(B)(2)(I) OF THIS SUBTITLE;

(2) BE INVESTED UNDER § 9–912(B)(2)(II) OF THIS SUBTITLE; AND

(3) PAY THE COSTS OF ADMINISTERING THE FUND THROUGH DISTRIBUTION TO AN ADMINISTRATIVE COST ACCOUNT IN THE DEPARTMENT.

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

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

(H) MONEY EXPENDED FROM THE FUND IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT WOULD OTHERWISE BE APPROPRIATED TO THE DEPARTMENT.

(I) (1) ON OR BEFORE AUGUST 31 OF EACH YEAR, THE SECRETARY SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, ON THE STATUS OF THE FUND.

(2) THE REPORT SHALL INCLUDE:

(I) THE GROSS AMOUNT OF GIFTS AND GRANTS CREDITED TO THE FUND;

(II) THE COSTS OF ADMINISTRATION OF THE FUND; AND

(III) A DETAILED ACCOUNTING OF THE USE OF THE FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 743

(House Bill 1567)

AN ACT concerning

Clean Energy Loan Programs

FOR the purpose of authorizing certain political subdivisions to enact an ordinance or a resolution establishing a Clean Energy Loan Program for a certain purpose; requiring the Program to require a property owner to repay a certain loan through a surcharge on the owner's property tax bill; *requiring the surcharge to be limited to a certain amount;* providing that a person who acquires property subject to a certain surcharge assumes the obligation to pay the surcharge; ~~providing that a certain surcharge constitutes a lien on certain property;~~ requiring a certain local law to provide for certain eligibility requirements for participation in the Program and certain loan terms and conditions; authorizing a political subdivision to issue bonds for a certain purpose; establishing procedures for the issuance of certain bonds; authorizing a certain political subdivision to make certain specifications when issuing certain bonds; stating the intent of the General Assembly; requiring certain bonds to be subject to certain requirements and limitations under certain circumstances; ~~requiring that a certain county may not issue certain bonds unless the amount of the bonds is first authorized by the General Assembly;~~ providing for the terms and conditions of certain bonds; providing for a certain exemption from certain taxes under certain circumstances; providing that a finding by a political subdivision for certain purposes is conclusive as to certain matters under certain circumstances; defining certain terms; and generally relating to the Clean Energy Loan Programs.

BY adding to
Article 24 – Political Subdivisions – Miscellaneous Provisions

Section 9–1501 through 9–1507 to be under the new subtitle "Subtitle 15. Clean Energy Loan Programs"
Annotated Code of Maryland
(2005 Replacement Volume and 2008 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

SUBTITLE 15. CLEAN ENERGY LOAN PROGRAMS.

9–1501.

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

(B) "BOND" MEANS A BOND, NOTE, OR OTHER SIMILAR INSTRUMENT THAT A POLITICAL SUBDIVISION ISSUES UNDER THIS SUBTITLE.

(C) "CHIEF EXECUTIVE" MEANS THE PRESIDENT, CHAIR, MAYOR, COUNTY EXECUTIVE, OR ANY OTHER CHIEF EXECUTIVE OFFICER OF A POLITICAL SUBDIVISION.

(D) "POLITICAL SUBDIVISION" MEANS A COUNTY OR MUNICIPAL CORPORATION.

(E) "PROGRAM" MEANS A CLEAN ENERGY LOAN PROGRAM.

9–1502.

(A) A POLITICAL SUBDIVISION MAY ENACT AN ORDINANCE OR A RESOLUTION ESTABLISHING A CLEAN ENERGY LOAN PROGRAM.

(B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE LOANS TO: ~~RESIDENTIAL~~

(1) RESIDENTIAL PROPERTY OWNERS, *INCLUDING LOW INCOME RESIDENTIAL PROPERTY OWNERS*, FOR THE FINANCING OF ENERGY EFFICIENCY AND RENEWABLE ENERGY PROJECTS; AND

(2) COMMERCIAL PROPERTY OWNERS FOR THE FINANCING OF:

(I) ENERGY EFFICIENCY PROJECTS; AND

(II) RENEWABLE ENERGY PROJECTS WITH AN ELECTRIC GENERATING CAPACITY OF NOT MORE THAN 100 KILOWATTS.

(C) *(1)* THE PROGRAM SHALL REQUIRE A PROPERTY OWNER TO REPAY A LOAN PROVIDED UNDER THE PROGRAM THROUGH A SURCHARGE ON THE OWNER'S PROPERTY TAX BILL.

(2) A SURCHARGE SHALL BE LIMITED TO AN AMOUNT THAT ALLOWS THE POLITICAL SUBDIVISION TO RECOVER THE COSTS ASSOCIATED WITH ISSUING BONDS TO FINANCE THE LOAN AND COSTS ASSOCIATED WITH ADMINISTERING THE PROGRAM.

(D) A PERSON WHO ACQUIRES PROPERTY SUBJECT TO A SURCHARGE UNDER THIS SECTION, WHETHER BY PURCHASE OR OTHER MEANS, ASSUMES THE OBLIGATION TO PAY THE SURCHARGE.

(E) ~~A SURCHARGE UNDER THIS SECTION, INCLUDING ANY INTEREST AND PENALTIES, CONSTITUTES A LIEN AGAINST THE PROPERTY.~~

~~(F)~~ *(1)* AN ORDINANCE OR RESOLUTION ENACTED UNDER SUBSECTION (A) OF THIS SECTION SHALL PROVIDE FOR:

~~(1)~~ *(I)* ELIGIBILITY REQUIREMENTS FOR PARTICIPATION IN THE PROGRAM, INCLUDING ELIGIBILITY REQUIREMENTS FOR:

~~(I)~~ *1.* ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY DEVICES; AND

~~(II)~~ *2.* PROPERTY AND PROPERTY OWNERS; AND

~~(2)~~ *(II)* LOAN TERMS AND CONDITIONS.

(2) ELIGIBILITY REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A REQUIREMENT THAT THE POLITICAL SUBDIVISION, IN A MANNER SUBSTANTIALLY SIMILAR TO THAT REQUIRED FOR A MORTGAGE LOAN UNDER §§ 12–127, 12–311, 12–409.1, 12–925, AND 12–1029 OF THE COMMERCIAL LAW ARTICLE, GIVE DUE REGARD TO THE PROPERTY OWNER'S ABILITY TO REPAY A LOAN PROVIDED UNDER THE PROGRAM.

9–1503.

(A) A POLITICAL SUBDIVISION MAY ISSUE BONDS FOR THE PURPOSE OF FINANCING LOANS MADE THROUGH THE PROGRAM.

(B) TO ISSUE A BOND, A POLITICAL SUBDIVISION SHALL ADOPT AN ORDINANCE OR A RESOLUTION THAT SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BOND.

(C) AS THE POLITICAL SUBDIVISION CONSIDERS APPROPRIATE TO EFFECT THE PROGRAM, THE ORDINANCE OR RESOLUTION MAY:

(1) SPECIFY THE ITEMS LISTED IN SUBSECTION (D) OF THIS SECTION;

(2) AUTHORIZE THE FINANCE BOARD OF THE POLITICAL SUBDIVISION TO SPECIFY THOSE ITEMS BY RESOLUTION OR ORDINANCE; OR

(3) AUTHORIZE THE CHIEF EXECUTIVE OF THE POLITICAL SUBDIVISION TO SPECIFY THOSE ITEMS BY EXECUTIVE ORDER.

(D) FOR EACH ISSUANCE OF A BOND, THE POLITICAL SUBDIVISION MAY SPECIFY:

(1) THE PRINCIPAL AMOUNT;

(2) THE INTEREST RATE OR, FOR FLOATING OR VARIABLE RATES OF INTEREST, THE METHOD TO DETERMINE THE INTEREST RATE;

(3) THE MANNER AND TERMS OF SALE, INCLUDING WHETHER BY COMPETITIVE OR NEGOTIATED SALE;

(4) THE TIME OF EXECUTION, ISSUANCE, AND DELIVERY;

(5) THE FORM AND DENOMINATION;

(6) THE SOURCE, MANNER, TIMES, AND PLACES TO PAY PRINCIPAL OR INTEREST;

(7) CONDITIONS FOR REDEMPTION BEFORE MATURITY;

(8) THE PURPOSES FOR WHICH PROCEEDS MAY BE SPENT;

(9) THE SOURCE OF SECURITY; AND

(10) OTHER PROVISIONS THAT THE GOVERNING BODY OF THE POLITICAL SUBDIVISION DETERMINES ARE NECESSARY OR DESIRABLE TO EFFECT THE PROGRAM.

9–1504.

(A) THE GENERAL ASSEMBLY INTENDS THAT GENERAL OBLIGATION DEBT MAY BE INCURRED BY ISSUING BONDS IF THE PURPOSES FOR THE DEBT INCLUDE THE PURPOSES FOR ISSUING BONDS UNDER THIS SUBTITLE.

(B) SUBJECT TO ~~SUBSECTIONS~~ SUBSECTION (C) ~~AND (D)~~ OF THIS SECTION, A POLITICAL SUBDIVISION MAY ISSUE BONDS TO FINANCE LOANS MADE UNDER THE PROGRAM IN ACCORDANCE WITH THE PROCEDURES OF THE POLITICAL SUBDIVISION FOR AUTHORIZATION TO SELL AND ISSUE BONDS.

(C) A BOND ISSUED IN ACCORDANCE WITH AN ORDINANCE OR A RESOLUTION THAT PLEDGES THE FULL FAITH AND CREDIT OF A POLITICAL SUBDIVISION IS SUBJECT TO:

(1) ANY APPLICABLE REQUIREMENTS OF THE MARYLAND CONSTITUTION AND THE POLITICAL SUBDIVISION'S CHARTER AND LAWS ON REFERENDUM FOR THE ISSUANCE OF GENERAL OBLIGATION DEBT; AND

(2) EACH LIMITATION IMPOSED BY PUBLIC GENERAL LAW, PUBLIC LOCAL LAW, OR CHARTER ON GENERAL OBLIGATION DEBT OF THE POLITICAL SUBDIVISION.

~~**(D) (1) THIS SUBSECTION DOES NOT APPLY TO A COUNTY THAT IS SUBJECT TO ARTICLE 25A OR ARTICLE 25B OF THE CODE.**~~

~~**(2) A COUNTY MAY NOT ISSUE BONDS THAT ARE SECURED BY THE FULL FAITH AND CREDIT OF THE COUNTY UNLESS THE AMOUNT OF BONDS TO BE ISSUED BY THE COUNTY UNDER THIS SUBTITLE IS FIRST AUTHORIZED BY THE GENERAL ASSEMBLY.**~~

9–1505.

(A) A BOND:

(1) MAY BE IN BEARER FORM;

(2) MAY BE REGISTRABLE AS TO PRINCIPAL ALONE OR AS TO BOTH PRINCIPAL AND INTEREST; AND

(3) IS A "SECURITY" UNDER § 8–102 OF THE COMMERCIAL LAW ARTICLE, WHETHER OR NOT THE BOND IS ONE OF A CLASS OR SERIES OR IS DIVISIBLE INTO A CLASS OR SERIES OF INSTRUMENTS.

(B) (1) A BOND SHALL BE SIGNED MANUALLY OR IN FACSIMILE BY THE CHIEF EXECUTIVE OF THE POLITICAL SUBDIVISION.

(2) AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON A BOND REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

(3) THE SEAL OF THE POLITICAL SUBDIVISION SHALL BE AFFIXED TO THE BOND AND ATTESTED BY THE CLERK OR OTHER SIMILAR ADMINISTRATIVE OFFICER OF THE POLITICAL SUBDIVISION.

(C) (1) A BOND SHALL MATURE NOT LATER THAN 40 YEARS AFTER THE DATE OF ISSUE.

(2) BONDS MAY BE ISSUED AS SERIAL BONDS OR TERM BONDS WITH PROVISIONS FOR A MANDATORY SINKING FUND OR OTHER ANNUAL PRINCIPAL REDEMPTION BEGINNING NOT LATER THAN 3 YEARS AFTER THE DATE OF ISSUE.

(D) (1) A BOND SHALL BE SOLD IN THE MANNER, AT PUBLIC OR PRIVATE (NEGOTIATED) SALE, AND ON THE TERMS AT, ABOVE, OR BELOW PAR, AS THE POLITICAL SUBDIVISION CONSIDERS BEST.

(2) A BOND IS NOT SUBJECT TO ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE.

9–1506.

(A) A BOND, THE TRANSFER OF A BOND, THE INTEREST PAYABLE ON A BOND, THE INCOME DERIVED FROM A BOND, AND THE PROFIT REALIZED ON SALE OR EXCHANGE OF A BOND ARE EXEMPT FROM STATE AND LOCAL TAXES.

(B) A POLITICAL SUBDIVISION MAY ISSUE BONDS UNDER THIS SUBTITLE WITHOUT REGARD TO THEIR FEDERAL TAX STATUS.

9–1507.

FOR PURPOSES OF AN ACTION INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND OR SECURITY FOR A BOND, A FINDING BY A POLITICAL SUBDIVISION IS CONCLUSIVE AS TO:

(1) THE PUBLIC PURPOSE OF AN ACTION TAKEN UNDER THIS SUBTITLE; AND

(2) ANY OTHER MATTER RELATING TO THE ISSUANCE OF A BOND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 744

(Senate Bill 486)

AN ACT concerning

Criminal Procedure – Petition for Writ of Actual Innocence – Newly Discovered Evidence

FOR the purpose of authorizing a convicted person to file a petition for writ of actual innocence in a certain court if the person claims that there is newly discovered evidence that meets certain requirements; establishing requirements for a petition filed under this Act; requiring the court to hold a hearing on the petition under certain circumstances, with a certain exception; authorizing the court to take certain actions in ruling on the petition; requiring the court to state on the record the reasons for its ruling on the petition; establishing that a petitioner in a proceeding under this Act has the burden of proof; and generally relating to newly discovered evidence and petitions for writs of actual innocence.

BY adding to
Article – Criminal Procedure
Section 8–301 to be under the new subtitle "Subtitle 3. Newly Discovered Evidence"
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Criminal Procedure

SUBTITLE 3. NEWLY DISCOVERED EVIDENCE.

8–301.

(A) A CONVICTED PERSON, AT ANY TIME, MAY FILE A PETITION FOR WRIT OF ACTUAL INNOCENCE IN THE CIRCUIT COURT FOR THE COUNTY IN

WHICH THE CONVICTION WAS IMPOSED IF THE PERSON CLAIMS THAT THERE IS NEWLY DISCOVERED EVIDENCE THAT:

(1) CREATES A *SUBSTANTIAL OR* ~~SUBSTANTIAL OR~~ SIGNIFICANT POSSIBILITY THAT THE RESULT MAY HAVE BEEN DIFFERENT, AS THAT STANDARD HAS BEEN JUDICIALLY DETERMINED; AND

(2) COULD NOT HAVE BEEN DISCOVERED IN TIME TO MOVE FOR A NEW TRIAL UNDER MARYLAND RULE 4–331.

(B) A PETITION FILED UNDER THIS SECTION SHALL:

(1) BE IN WRITING;

(2) STATE IN DETAIL THE GROUNDS ON WHICH THE PETITION IS BASED;

(3) DESCRIBE THE NEWLY DISCOVERED EVIDENCE;

(4) CONTAIN OR BE ACCOMPANIED BY A REQUEST FOR HEARING IF A HEARING IS SOUGHT; AND

(5) DISTINGUISH THE NEWLY DISCOVERED EVIDENCE CLAIMED IN THE PETITION FROM ANY CLAIMS MADE IN PRIOR PETITIONS.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COURT SHALL HOLD A HEARING ON A PETITION FILED UNDER THIS SECTION IF THE PETITION SATISFIES THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION AND A HEARING WAS REQUESTED.

(2) THE COURT MAY DISMISS A PETITION WITHOUT A HEARING IF THE COURT FINDS THAT THE PETITION FAILS TO STATE A CLAIM OR ASSERT GROUNDS ON WHICH RELIEF MAY BE GRANTED.

(D) (1) IN RULING ON A PETITION FILED UNDER THIS SECTION, THE COURT MAY SET ASIDE THE VERDICT, RESENTENCE, GRANT A NEW TRIAL, OR CORRECT THE SENTENCE, AS THE COURT CONSIDERS APPROPRIATE.

(2) THE COURT SHALL STATE THE REASONS FOR ITS RULING ON THE RECORD.

(E) A PETITIONER IN A PROCEEDING UNDER THIS SECTION HAS THE BURDEN OF PROOF.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 745

(Senate Bill 629)

AN ACT concerning

Harford County – Board of Education – Selection of Members

FOR the purpose of requiring that certain members of the Harford County Board of Education be elected; requiring that certain members of the county board be appointed within a certain period of time; establishing the composition of the county board; providing for the qualifications, terms of office, and the filling of a vacancy of certain members of the county board; establishing a procedure for the election and appointment of members of the county board; authorizing the Harford County Board of Elections to adopt certain regulations; providing for the election, terms, qualifications, and duty of a certain student member of the county board; establishing certain removal, hearing, and appeal procedures for certain members of the county board; providing for the election of the president and vice president of the county board; providing for the termination of the terms of certain appointed members of the county board; requiring the Governor to ensure a certain makeup of the county board; defining a certain term; and generally relating to the Harford County Board of Education.

BY renumbering
Article – Education
Section 3–111 and 3–112, respectively
to be Section 3–6A–05 and 3–6A–04, respectively
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Education
Section 3–108(a) and 3–114
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Education
Section 3–6A–01 through 3–6A–03 to be under the new subtitle "Subtitle 6A. Harford County"

Annotated Code of Maryland
(2008 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 3–111 and 3–112, respectively, of Article – Education of the Annotated Code of Maryland be renumbered to be Section(s) 3–6A–05 and 3–6A–04, respectively.

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

Article – Education

3–108.

(a) **(1)** Except **[**for the Baltimore City Board of School Commissioners established under § 3–108.1 of this subtitle, counties listed in § 3–114 of this subtitle, and subject to the provisions of § 3–110 of this subtitle with respect to the Anne Arundel County Board of Education, the**]** **AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** Governor shall appoint the members of each county board from the residents of that county.

(2) THE MEMBERS OF THE FOLLOWING COUNTY BOARDS OF EDUCATION SHALL BE SELECTED AS FOLLOWS:

(I) THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS IN ACCORDANCE WITH § 3–108.1 OF THIS SUBTITLE;

(II) THE HARFORD COUNTY BOARD OF EDUCATION IN ACCORDANCE WITH § 3–6A–01 OF THIS TITLE;

(III) THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION IN ACCORDANCE WITH § 3–110 OF THIS SUBTITLE; AND

(IV) THE COUNTY BOARDS OF EDUCATION IN THE COUNTIES LISTED IN § 3–114 OF THIS SUBTITLE IN ACCORDANCE WITH THE PROVISIONS OF THAT SECTION.

3–114.

(a) In the following counties, the members of the county board shall be elected:

(1) Allegany;

(2) Calvert;

(3) Carroll;

(4) Cecil;

(5) Charles;

(6) Dorchester;

(7) Frederick;

(8) Garrett;

(9) Howard;

(10) Kent;

(11) Prince George's;

(12) Montgomery;

(13) Queen Anne's;

(14) St. Mary's;

(15) Somerset;

(16) Talbot;

(17) Washington; and

(18) Worcester.

(B) IN HARFORD COUNTY, IN ACCORDANCE WITH SUBTITLE 6A OF THIS TITLE, THE MEMBERS OF THE COUNTY BOARD SHALL BE A COMBINATION OF MEMBERS WHO ARE ELECTED AND APPOINTED.

[(b)**] (C)** An individual subject to the authority of the county board may not serve as a member of the county board. At the time of filing a certificate of candidacy for election to a county board, a person shall certify to the local board of supervisors of election whether or not he is subject to the authority of the county board. The Governor shall not issue a commission of election to a person who has certified affirmatively and who is elected to a county board until the member–elect offers proof that he is no longer subject to the authority of the county board.

[(c)] **(D)** The election of the county boards shall be held as provided in Subtitles 2 through 14 of this title and the Election Law Article.

SUBTITLE 6A. HARFORD COUNTY.

3–6A–01.

(A) (1) IN THIS SUBTITLE, "ELECTED MEMBER" MEANS A VOTING MEMBER ELECTED UNDER SUBSECTION (D) OR (E) OF THIS SECTION OR A MEMBER APPOINTED TO AN ELECTED POSITION ON THE HARFORD COUNTY BOARD OF EDUCATION UNDER SUBSECTION (E)(2) OF THIS SECTION.

(2) "ELECTED MEMBER" DOES NOT INCLUDE A:

(I) COUNTY SUPERINTENDENT OF SCHOOLS SERVING AS AN EX OFFICIO MEMBER OF THE COUNTY BOARD; OR

(II) NONVOTING STUDENT MEMBER SELECTED UNDER SUBSECTION (F) OF THIS SECTION.

(B) THE COUNTY BOARD CONSISTS OF:

(1) SIX ELECTED MEMBERS;

(2) THREE APPOINTED MEMBERS;

(3) THE COUNTY SUPERINTENDENT OF SCHOOLS, WHO IS AN EX OFFICIO NONVOTING MEMBER; AND

(4) ONE NONVOTING STUDENT MEMBER.

(C) (1) (I) A MEMBER FROM A COUNCILMANIC DISTRICT SHALL BE A RESIDENT OF THAT DISTRICT.

(II) A MEMBER FROM A COUNCILMANIC DISTRICT WHO NO LONGER RESIDES IN THAT DISTRICT MAY NOT CONTINUE AS A MEMBER OF THE COUNTY BOARD.

(2) A MEMBER OF THE COUNTY BOARD SHALL BE A REGISTERED VOTER OF THE COUNTY FOR AT LEAST 3 YEARS PRIOR TO THE DATE OF THE BEGINNING OF THE TERM OF OFFICE OF THE MEMBER.

(D) (1) OF THE NINE VOTING MEMBERS OF THE COUNTY BOARD:

(I) ONE MEMBER SHALL BE ELECTED FROM EACH OF THE SIX COUNCILMANIC DISTRICTS ONLY BY THE VOTERS OF THAT COUNCILMANIC DISTRICT; AND

(II) THREE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR.

(2) THE ELECTED MEMBERS SHALL BE ELECTED AT A GENERAL ELECTION AS REQUIRED BY SUBSECTION (E) OF THIS SECTION.

(3) THE APPOINTED MEMBERS SHALL BE APPOINTED, WHEN APPROPRIATE, WITHIN 90 DAYS OF THE GENERAL ELECTION.

(E) (1) EXCEPT FOR THE NONVOTING MEMBERS, A MEMBER SERVES FOR A TERM OF 4 YEARS BEGINNING JULY 1 AFTER THE ELECTION OR APPOINTMENT OF THE MEMBER AND UNTIL A SUCCESSOR IS ELECTED OR APPOINTED AND QUALIFIES.

(2) (I) UNLESS OTHERWISE DISQUALIFIED UNDER THIS SECTION, A MEMBER OF THE COUNTY BOARD IS ELIGIBLE FOR REELECTION OR REAPPOINTMENT.

(II) A VOTING MEMBER MAY NOT SERVE FOR MORE THAN TWO CONSECUTIVE TERMS AS A VOTING MEMBER.

~~**(3) THE TERMS OF THE APPOINTED MEMBERS SHALL BE STAGGERED AS FOLLOWS:**~~

~~**(I) TWO MEMBERS SHALL BE APPOINTED IN 2012 AND EVERY 4 YEARS THEREAFTER; AND**~~

~~**(II) ONE MEMBER SHALL BE APPOINTED IN 2014 AND EVERY 4 YEARS THEREAFTER.**~~

~~**(4)**~~ **(3) THE HARFORD COUNTY BOARD OF ELECTIONS MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION.**

(F) (1) THE HARFORD COUNTY COUNCIL SHALL APPOINT A QUALIFIED INDIVIDUAL TO FILL ANY VACANCY OF AN ELECTED MEMBER ON THE COUNTY BOARD FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES.

(2) THE GOVERNOR SHALL APPOINT A QUALIFIED INDIVIDUAL TO FILL ANY VACANCY OF AN APPOINTED MEMBER OF THE COUNTY BOARD FOR

THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(G) (1) THE NONVOTING STUDENT MEMBER OF THE COUNTY BOARD SHALL BE ELECTED BY THE HIGH SCHOOL STUDENTS OF THE COUNTY IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE HARFORD COUNTY PUBLIC SCHOOL SYSTEM.

(2) THE STUDENT MEMBER SHALL:

(I) BE AN ELEVENTH OR TWELFTH GRADE STUDENT, IN GOOD STANDING, AND REGULARLY ENROLLED IN THE HARFORD COUNTY PUBLIC SCHOOL SYSTEM;

(II) BE A STUDENT GOVERNMENT ASSOCIATION REPRESENTATIVE AT THE STUDENT'S HIGH SCHOOL;

(III) SERVE FOR 1 YEAR BEGINNING ON JULY 1 AFTER THE ELECTION OF THE MEMBER;

(IV) BE A NONVOTING MEMBER; AND

(V) ADVISE THE COUNTY BOARD ON THE THOUGHTS AND FEELINGS OF STUDENTS IN THE HARFORD COUNTY PUBLIC SCHOOLS.

(3) UNLESS INVITED TO ATTEND BY AN AFFIRMATIVE VOTE OF A MAJORITY OF THE COUNTY BOARD, THE STUDENT MEMBER MAY NOT ATTEND AN EXECUTIVE SESSION OF THE COUNTY BOARD.

3–6A–02.

(A) THE STATE BOARD MAY REMOVE A VOTING MEMBER OF THE COUNTY BOARD FOR:

(1) IMMORALITY;

(2) MISCONDUCT IN OFFICE;

(3) INCOMPETENCY;

(4) WILLFUL NEGLECT OF DUTY; OR

(5) FAILURE TO ATTEND, WITHOUT GOOD CAUSE, AT LEAST 75% OF THE SCHEDULED MEETINGS OF THE COUNTY BOARD IN ANY 1 CALENDAR YEAR.

(B) BEFORE REMOVING A MEMBER, THE STATE BOARD SHALL SEND THE MEMBER A COPY OF THE CHARGES AND GIVE THE MEMBER AN OPPORTUNITY TO REQUEST A HEARING WITHIN 10 DAYS.

(C) IF THE MEMBER REQUESTS A HEARING WITHIN THE 10–DAY PERIOD:

(1) THE STATE BOARD PROMPTLY SHALL HOLD A HEARING, BUT A HEARING MAY NOT BE SET WITHIN 10 DAYS AFTER THE STATE BOARD SENDS THE MEMBER A NOTICE OF THE HEARING; AND

(2) THE MEMBER SHALL HAVE AN OPPORTUNITY TO BE HEARD PUBLICLY BEFORE THE STATE BOARD IN THE MEMBER'S OWN DEFENSE, IN PERSON OR BY COUNSEL.

(D) A MEMBER REMOVED UNDER THIS SECTION HAS THE RIGHT TO A DE NOVO REVIEW OF THE REMOVAL BY THE CIRCUIT COURT FOR HARFORD COUNTY.

3–6A–03.

(A) THE COUNTY BOARD SHALL ELECT A PRESIDENT AND VICE PRESIDENT FROM AMONG THE VOTING COUNTY BOARD MEMBERS.

(B) THE COUNTY BOARD SHALL ELECT A PRESIDENT AND VICE PRESIDENT AT ITS FIRST MEETING IN JULY AS REQUIRED TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

(C) THE PRESIDENT AND VICE PRESIDENT SHALL SERVE A TERM OF 2 YEARS.

(D) IF THERE IS A VACANCY IN THE OFFICE OF PRESIDENT OR VICE PRESIDENT, THE COUNTY BOARD SHALL FILL THE VACANCY WITHIN 30 DAYS AFTER THE VACANCY OCCURS.

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the appointed members of the Harford County Board of Education shall expire as follows:

(a) The term of the one appointed member whose term is scheduled to expire on June 30, 2010, the term of the one appointed member whose term is scheduled to expire on June 30, 2011, and one of the two appointed members whose term is

scheduled to expire on June 30, 2012, shall terminate at the end of June 30, 2011, and the members elected from the councilmanic districts A, B, and D at the general election in November 2010, shall succeed those appointed members and serve for a term of 4 years until a successor is elected and qualifies.

(b) The Governor shall appoint two members in 2010, and the two appointed members shall serve for a term of 4 years beginning on July 1, 2011, until a successor is appointed and qualifies.

(c) The term of the one appointed member whose term is scheduled to expire on June 30, 2012, and the two appointed members whose terms are scheduled to expire on June 30, 2013, shall terminate at the end of June 30, 2015, and the members elected from the councilmanic districts C, E, and F at the general election in November 2014 shall succeed those appointed members and serve for a term of 4 years until a successor is elected and qualifies.

(d) The term of the one appointed member whose term is scheduled to expire on June 30, 2015, shall terminate at the end of June 30, 2015, and the member appointed by the Governor in 2014 shall succeed the appointed member whose term expires on June 30, 2015, and serve for a term of 4 years until a successor is appointed and qualifies.

SECTION 4. AND BE IT FURTHER ENACTED, That, in appointing members to the Harford County Board of Education, the Governor shall ensure, to the extent practicable, that the total makeup of the county board reflects gender, ethnic, and racial diversity.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 746

(House Bill 639)

AN ACT concerning

Harford County – Board of Education – Selection of Members

FOR the purpose of requiring that certain members of the Harford County Board of Education be elected; requiring that certain members of the county board be appointed within a certain period of time; establishing the composition of the county board; providing for the qualifications, terms of office, and the filling of a vacancy of certain members of the county board; establishing a procedure for

the election and appointment of members of the county board; authorizing the Harford County Board of Elections to adopt certain regulations; providing for the election, terms, qualifications, and duty of a certain student member of the county board; establishing certain removal, hearing, and appeal procedures for certain members of the county board; providing for the election of the president and vice president of the county board; providing for the termination of the terms of certain appointed members of the county board; requiring the Governor to ensure a certain makeup of the county board; defining a certain term; and generally relating to the Harford County Board of Education.

BY renumbering
Article – Education
Section 3–111 and 3–112, respectively
to be Section 3–6A–05 and 3–6A–04, respectively
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Education
Section 3–108(a) and 3–114
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Education
Section 3–6A–01 through 3–6A–03 to be under the new subtitle "Subtitle 6A. Harford County"
Annotated Code of Maryland
(2008 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 3–111 and 3–112, respectively, of Article – Education of the Annotated Code of Maryland be renumbered to be Section(s) 3–6A–05 and 3–6A–04, respectively.

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

Article – Education

3–108.

(a) **(1)** Except **[**for the Baltimore City Board of School Commissioners established under § 3–108.1 of this subtitle, counties listed in § 3–114 of this subtitle, and subject to the provisions of § 3–110 of this subtitle with respect to the Anne Arundel County Board of Education, the**]** **AS PROVIDED IN PARAGRAPH (2) OF THIS**

SUBSECTION, THE Governor shall appoint the members of each county board from the residents of that county.

(2) THE MEMBERS OF THE FOLLOWING COUNTY BOARDS OF EDUCATION SHALL BE SELECTED AS FOLLOWS:

(I) THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS IN ACCORDANCE WITH § 3–108.1 OF THIS SUBTITLE;

(II) THE HARFORD COUNTY BOARD OF EDUCATION IN ACCORDANCE WITH § 3–6A–01 OF THIS TITLE;

(III) THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION IN ACCORDANCE WITH § 3–110 OF THIS SUBTITLE; AND

(IV) THE COUNTY BOARDS OF EDUCATION IN THE COUNTIES LISTED IN § 3–114 OF THIS SUBTITLE IN ACCORDANCE WITH THE PROVISIONS OF THAT SECTION.

3–114.

(a) In the following counties, the members of the county board shall be elected:

(1) Allegany;

(2) Calvert;

(3) Carroll;

(4) Cecil;

(5) Charles;

(6) Dorchester;

(7) Frederick;

(8) Garrett;

(9) Howard;

(10) Kent;

(11) Prince George's;

(12) Montgomery;

(13) Queen Anne's;

(14) St. Mary's;

(15) Somerset;

(16) Talbot;

(17) Washington; and

(18) Worcester.

(B) IN HARFORD COUNTY, IN ACCORDANCE WITH SUBTITLE 6A OF THIS TITLE, THE MEMBERS OF THE COUNTY BOARD SHALL BE A COMBINATION OF MEMBERS WHO ARE ELECTED AND APPOINTED.

[(b)**] (C)** An individual subject to the authority of the county board may not serve as a member of the county board. At the time of filing a certificate of candidacy for election to a county board, a person shall certify to the local board of supervisors of election whether or not he is subject to the authority of the county board. The Governor shall not issue a commission of election to a person who has certified affirmatively and who is elected to a county board until the member–elect offers proof that he is no longer subject to the authority of the county board.

[(c)**] (D)** The election of the county boards shall be held as provided in Subtitles 2 through 14 of this title and the Election Law Article.

SUBTITLE 6A. HARFORD COUNTY.

3–6A–01.

(A) (1) IN THIS SUBTITLE, "ELECTED MEMBER" MEANS A VOTING MEMBER ELECTED UNDER SUBSECTION (D) OR (E) OF THIS SECTION OR A MEMBER APPOINTED TO AN ELECTED POSITION ON THE HARFORD COUNTY BOARD OF EDUCATION UNDER SUBSECTION (E)(2) OF THIS SECTION.

(2) "ELECTED MEMBER" DOES NOT INCLUDE A:

(I) COUNTY SUPERINTENDENT OF SCHOOLS SERVING AS AN EX OFFICIO MEMBER OF THE COUNTY BOARD; OR

(II) NONVOTING STUDENT MEMBER SELECTED UNDER SUBSECTION (F) OF THIS SECTION.

(B) THE COUNTY BOARD CONSISTS OF:

(1) SIX ELECTED MEMBERS;

(2) THREE APPOINTED MEMBERS;

(3) THE COUNTY SUPERINTENDENT OF SCHOOLS, WHO IS AN EX OFFICIO NONVOTING MEMBER; AND

(4) ONE NONVOTING STUDENT MEMBER.

(C) (1) (I) A MEMBER FROM A COUNCILMANIC DISTRICT SHALL BE A RESIDENT OF THAT DISTRICT.

(II) A MEMBER FROM A COUNCILMANIC DISTRICT WHO NO LONGER RESIDES IN THAT DISTRICT MAY NOT CONTINUE AS A MEMBER OF THE COUNTY BOARD.

(2) A MEMBER OF THE COUNTY BOARD SHALL BE A REGISTERED VOTER OF THE COUNTY FOR AT LEAST 3 YEARS PRIOR TO THE DATE OF THE BEGINNING OF THE TERM OF OFFICE OF THE MEMBER.

(D) (1) OF THE NINE VOTING MEMBERS OF THE COUNTY BOARD:

(I) ONE MEMBER SHALL BE ELECTED FROM EACH OF THE SIX COUNCILMANIC DISTRICTS ONLY BY THE VOTERS OF THAT COUNCILMANIC DISTRICT; AND

(II) THREE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR.

(2) THE ELECTED MEMBERS SHALL BE ELECTED AT A GENERAL ELECTION AS REQUIRED BY SUBSECTION (E) OF THIS SECTION.

(3) THE APPOINTED MEMBERS SHALL BE APPOINTED, WHEN APPROPRIATE, WITHIN 90 DAYS OF THE GENERAL ELECTION.

(E) (1) EXCEPT FOR THE NONVOTING MEMBERS, A MEMBER SERVES FOR A TERM OF 4 YEARS BEGINNING JULY 1 AFTER THE ELECTION OR APPOINTMENT OF THE MEMBER AND UNTIL A SUCCESSOR IS ELECTED OR APPOINTED AND QUALIFIES.

(2) (I) UNLESS OTHERWISE DISQUALIFIED UNDER THIS SECTION, A MEMBER OF THE COUNTY BOARD IS ELIGIBLE FOR REELECTION OR REAPPOINTMENT.

(II) A VOTING MEMBER MAY NOT SERVE FOR MORE THAN TWO CONSECUTIVE TERMS AS A VOTING MEMBER.

~~(3) THE TERMS OF THE APPOINTED MEMBERS SHALL BE STAGGERED AS FOLLOWS:~~

~~(I) TWO MEMBERS SHALL BE APPOINTED IN 2012 AND EVERY 4 YEARS THEREAFTER; AND~~

~~(II) ONE MEMBER SHALL BE APPOINTED IN 2014 AND EVERY 4 YEARS THEREAFTER.~~

~~(4)~~ (3) THE HARFORD COUNTY BOARD OF ELECTIONS MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION.

(F) (1) THE HARFORD COUNTY COUNCIL SHALL APPOINT A QUALIFIED INDIVIDUAL TO FILL ANY VACANCY OF AN ELECTED MEMBER ON THE COUNTY BOARD FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES.

(2) THE GOVERNOR SHALL APPOINT A QUALIFIED INDIVIDUAL TO FILL ANY VACANCY OF AN APPOINTED MEMBER OF THE COUNTY BOARD FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(G) (1) THE NONVOTING STUDENT MEMBER OF THE COUNTY BOARD SHALL BE ELECTED BY THE HIGH SCHOOL STUDENTS OF THE COUNTY IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE HARFORD COUNTY PUBLIC SCHOOL SYSTEM.

(2) THE STUDENT MEMBER SHALL:

(I) BE AN ELEVENTH OR TWELFTH GRADE STUDENT, IN GOOD STANDING, AND REGULARLY ENROLLED IN THE HARFORD COUNTY PUBLIC SCHOOL SYSTEM;

(II) BE A STUDENT GOVERNMENT ASSOCIATION REPRESENTATIVE AT THE STUDENT'S HIGH SCHOOL;

(III) SERVE FOR 1 YEAR BEGINNING ON JULY 1 AFTER THE ELECTION OF THE MEMBER;

(IV) BE A NONVOTING MEMBER; AND

(V) ADVISE THE COUNTY BOARD ON THE THOUGHTS AND FEELINGS OF STUDENTS IN THE HARFORD COUNTY PUBLIC SCHOOLS.

(3) UNLESS INVITED TO ATTEND BY AN AFFIRMATIVE VOTE OF A MAJORITY OF THE COUNTY BOARD, THE STUDENT MEMBER MAY NOT ATTEND AN EXECUTIVE SESSION OF THE COUNTY BOARD.

3–6A–02.

(A) THE STATE BOARD MAY REMOVE A VOTING MEMBER OF THE COUNTY BOARD FOR:

(1) IMMORALITY;

(2) MISCONDUCT IN OFFICE;

(3) INCOMPETENCY;

(4) WILLFUL NEGLECT OF DUTY; OR

(5) FAILURE TO ATTEND, WITHOUT GOOD CAUSE, AT LEAST 75% OF THE SCHEDULED MEETINGS OF THE COUNTY BOARD IN ANY 1 CALENDAR YEAR.

(B) BEFORE REMOVING A MEMBER, THE STATE BOARD SHALL SEND THE MEMBER A COPY OF THE CHARGES AND GIVE THE MEMBER AN OPPORTUNITY TO REQUEST A HEARING WITHIN 10 DAYS.

(C) IF THE MEMBER REQUESTS A HEARING WITHIN THE 10–DAY PERIOD:

(1) THE STATE BOARD PROMPTLY SHALL HOLD A HEARING, BUT A HEARING MAY NOT BE SET WITHIN 10 DAYS AFTER THE STATE BOARD SENDS THE MEMBER A NOTICE OF THE HEARING; AND

(2) THE MEMBER SHALL HAVE AN OPPORTUNITY TO BE HEARD PUBLICLY BEFORE THE STATE BOARD IN THE MEMBER'S OWN DEFENSE, IN PERSON OR BY COUNSEL.

(D) A MEMBER REMOVED UNDER THIS SECTION HAS THE RIGHT TO A DE NOVO REVIEW OF THE REMOVAL BY THE CIRCUIT COURT FOR HARFORD COUNTY.

3–6A–03.

(A) THE COUNTY BOARD SHALL ELECT A PRESIDENT AND VICE PRESIDENT FROM AMONG THE VOTING COUNTY BOARD MEMBERS.

(B) THE COUNTY BOARD SHALL ELECT A PRESIDENT AND VICE PRESIDENT AT ITS FIRST MEETING IN JULY AS REQUIRED TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

(C) THE PRESIDENT AND VICE PRESIDENT SHALL SERVE A TERM OF 2 YEARS.

(D) IF THERE IS A VACANCY IN THE OFFICE OF PRESIDENT OR VICE PRESIDENT, THE COUNTY BOARD SHALL FILL THE VACANCY WITHIN 30 DAYS AFTER THE VACANCY OCCURS.

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the appointed members of the Harford County Board of Education shall expire as follows:

(a) The terms of the one appointed member whose term is scheduled to expire on June 30, 2010, the term of one appointed member whose term is scheduled to expire on June 30, 2011, and one of the two appointed members whose terms is scheduled to expire on June 30, 2012, shall terminate at the end of June 30, 2011, and the members elected from the councilmanic districts A, B, and D at the general election in November 2010, shall succeed those appointed members and serve for a term of 4 years until a successor is elected and qualifies.

(b) The Governor shall appoint two members in 2010, and the two appointed members shall serve for a term of 4 years beginning on July 1, 2011, until a successor is appointed and qualifies.

(c) The term of the one appointed member whose term is scheduled to expire on June 30, 2012, and the two appointed members whose terms are scheduled to expire on June 30, 2013, shall terminate at the end of June 30, 2015, and the members elected from the councilmanic districts C, E, and F at the general election in November 2014 shall succeed those appointed members and serve for a term of 4 years until a successor is elected and qualifies.

(d) The term of the one appointed member whose term is scheduled to expire on June 30, 2015, shall terminate at the end of June 30, 2015, and the member appointed by the Governor in 2014 shall succeed the appointed member whose term

expires on June 30, 2015, and serve for a term of 4 years until a successor is appointed and qualifies.

SECTION 4. AND BE IT FURTHER ENACTED, That, in appointing members to the Harford County Board of Education, the Governor shall ensure, to the extent practicable, that the total makeup of the county board reflects gender, ethnic, and racial diversity.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 747

(Senate Bill 668)

AN ACT concerning

Vehicle Laws – Manufacturers, Distributors, and Factory Branches – Prohibited Acts

FOR the purpose of establishing that a manufacturer, distributor, or factory branch may not take certain actions through an affiliate; requiring a sales objective or other program for measuring the performance of vehicle dealers to be fair and based on ~~certain factors under certain circumstances~~ *accurate information*; ~~prohibiting a manufacturer, distributor, or factory branch from denying certain benefits to a dealer under certain circumstances~~ *authorizing a dealer that claims that application of a performance standard or program is unfair or unreasonable to request a certain hearing under certain circumstances; establishing that a manufacturer, distributor, or factory branch has a certain burden of proof*; prohibiting a manufacturer, distributor, or factory branch from offering or advertising, or allowing its dealers to offer or advertise, certain programs or terms unless all dealers *of the same line make* are allowed to offer or advertise the programs or terms; establishing the burden of proof when a manufacturer, distributor, or factory branch denies certain benefits to a dealer under certain circumstances; prohibiting a manufacturer, distributor, or factory branch from requiring a dealer to alter or replace an existing dealership facility or from denying or threatening to deny certain benefits to a dealer under certain circumstances; prohibiting a manufacturer, distributor, or factory branch from reducing the price of a motor vehicle charged to a dealer or providing different financing terms to a dealer in exchange for a certain agreement by the dealer; specifying the conditions under which a manufacturer, distributor, or factory branch may offer certain promotional items for the sale of a vehicle by its dealers; prohibiting a manufacturer, distributor, or factory branch from

discriminating among its dealers under certain circumstances; requiring a manufacturer, distributor, or factory branch that has a certain franchise or other contract with a dealer to allow the dealer to make certain purchases in a certain manner and to receive certain rights to incentive payments; prohibiting a manufacturer, distributor, or factory branch from exercising a right of first refusal under certain circumstances related to a transfer of a dealer's business ~~or a proposed change in the executive management of a dealer's business~~; *requiring a manufacturer, distributor, or factory branch to pay certain expenses when exercising a certain right of first refusal under certain circumstances*; prohibiting a manufacturer, distributor, or factory branch from imposing certain conditions on the approval of a certain sale or transfer of the ownership of a dealership; establishing that a manufacturer, distributor, or factory branch commits a certain violation for taking certain actions; authorizing a dealer to request a certain hearing under certain circumstances; authorizing the Motor Vehicle Administrator to take certain actions; authorizing an applicant for approval of a sale, assignment, or transfer of ownership of a dealership or a dealer to bring a certain action in the circuit court under certain circumstances and within a certain period of time; altering the period of time during which a certain claim may be charged back under certain circumstances; prohibiting a manufacturer, distributor, or factory branch from refusing to pay or claiming reimbursement from a dealer for sales, incentives, or payments related to a motor vehicle sold by a dealer and exported or resold by the purchaser under certain circumstances; ~~establishing a conclusive presumption that a dealer has no knowledge of certain facts under certain circumstances;~~ prohibiting a manufacturer, distributor, or factory branch from giving certain benefits, payments, or gifts directly to an employee; requiring that certain benefits, payments, or gifts from a manufacturer, distributor, or factory branch to an employee be given to the dealer and distributed in a certain manner; authorizing a dealer to retain certain costs; requiring a manufacturer, distributor, or factory branch*, or a manufacturer of motor homes*, to make certain payments or reimbursements to ~~a dealer~~ *certain dealers* under certain circumstances; altering a certain definition; and generally relating to manufacturers, distributors, and factory branches.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 15–207, 15–208, 15–211, and 15–212.1
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Transportation
Section 15–212.2
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation
Section 15–213
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Transportation

15–207.

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

(2) (i) "Coerce" means to compel or attempt to compel by threat of harm, breach of contract, or other adverse consequences**, INCLUDING THE LOSS OF ANY BENEFIT MADE AVAILABLE TO OTHER DEALERS *OF THE SAME LINE MAKE* IN THE STATE**.

(II) "COERCE" INCLUDES TO ACT IN A MANNER THAT VIOLATES § 15–206.1 OF THIS SUBTITLE.

[(ii)**] (III)** "Coerce" does not include to argue, urge, recommend, or persuade.

(3) "Require" means to impose upon a dealer a provision not required by law or previously agreed to by a dealer in a franchise agreement, excluding business decisions by a manufacturer, distributor, or factory branch which are uniformly applied to all Maryland dealers in new vehicles of the manufacturer, distributor, or factory branch.

(b) A manufacturer, distributor, or factory branch, whether directly or through an agent, employee, **AFFILIATE,** or representative, may not coerce any dealer to make any agreement with the manufacturer, distributor, or factory branch **OR THEIR AGENT, EMPLOYEE, AFFILIATE, OR REPRESENTATIVE**.

(c) A manufacturer, distributor, or factory branch, whether directly or through an agent, employee, **AFFILIATE,** or representative, may not coerce any dealer to order or accept delivery of any vehicle, any equipment, parts, or accessories for a vehicle, or any other commodity that is not required by law or by the dealer's franchise or that was not ordered voluntarily by the dealer.

(d) A manufacturer, distributor, or factory branch, whether directly or through an agent, employee, **AFFILIATE,** or representative, may not require or coerce a dealer, by franchise agreement or otherwise, or as a condition to the renewal or continuation of a franchise agreement, to:

(1) Exclude from the use of the dealer's facilities a dealership for which the dealer has a franchise agreement to utilize the facilities; or

(2) Materially change the dealer's facilities or method of conducting business if the change would impose substantial financial hardship on the business of the dealer.

(e) (1) A manufacturer, distributor, or factory branch, whether directly or through an agent, employee, **AFFILIATE,** or representative, may not require or coerce a dealer to adhere to performance standards that are not applied uniformly to other similarly situated dealers.

(2) **(I)** A performance standard**, SALES OBJECTIVE,** or program for measuring dealership performance that may have a material effect on a dealer**, INCLUDING THE DEALER'S RIGHT TO PAYMENT UNDER ANY INCENTIVE OR REIMBURSEMENT PROGRAM,** and the application of the standard**, SALES OBJECTIVE,** or program by a manufacturer, distributor, or factory branch shall be fair, reasonable, equitable, and based on accurate information~~, INCLUDING:~~

~~1. THE DEMOGRAPHIC CHARACTERISTICS OF THE POPULATION IN THE DEALER'S ASSIGNED MARKET AREA, WITH EMPHASIS ON CAR AND TRUCK BRAND PREFERENCES OF CONSUMERS WHO PURCHASE NEW CARS AND TRUCKS AT RETAIL; AND~~

~~2. THE GEOGRAPHIC CHARACTERISTICS THAT AFFECT CAR AND TRUCK SHOPPING PATTERNS IN THE DEALER'S ASSIGNED MARKET AREA.~~

(II) ~~A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT DENY THE BENEFITS OF MEETING A STANDARD OR SALES OBJECTIVE TO A DEALER WHO PRESENTS DOCUMENTATION OR REASONABLE EVIDENCE THAT THE STANDARD OR SALES OBJECTIVE WAS MET AND THE BENEFIT WAS PROVIDED TO THE CONSUMER~~ ***A DEALER THAT CLAIMS THAT THE APPLICATION OF A PERFORMANCE STANDARD, SALES OBJECTIVE, OR PROGRAM FOR MEASURING DEALERSHIP PERFORMANCE IS UNFAIR OR UNREASONABLE DUE TO THE DEMOGRAPHIC CHARACTERISTICS OF THE POPULATION IN THE DEALER'S ASSIGNED MARKET AREA, INCLUDING CAR AND TRUCK PREFERENCES OF CONSUMERS, OR DUE TO THE GEOGRAPHIC CHARACTERISTICS THAT AFFECT CAR AND TRUCK SHOPPING PATTERNS IN THE DEALER'S ASSIGNED MARKETING AREA, MAY FILE A CLAIM IN A COURT OF COMPETENT JURISDICTION TO DETERMINE WHETHER THE APPLICATION OF THE PERFORMANCE STANDARD OR PROGRAM IS UNFAIR OR UNREASONABLE UNDER THIS PARAGRAPH***.

(III) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH HAS THE BURDEN OF PROVING THAT THE PERFORMANCE STANDARD, SALES OBJECTIVE, OR PROGRAM FOR MEASURING DEALERSHIP PERFORMANCE IS FAIR AND REASONABLE UNDER THIS PARAGRAPH.

(3) (i) If the performance standard is based on a survey, it must be shown that:

1. The survey was designed with experts;

2. The proper universe was examined;

3. A representative sample was chosen; and

4. The data was accurately reported.

(ii) The manufacturer, distributor, or factory branch shall establish the objectivity of the survey process and provide this information to any dealer of the same line make covered by the survey on request.

(f) A franchise agreement or other contract offered to a dealer by a manufacturer, distributor, or factory branch may not contain any provision requiring a dealer to pay the attorney's fees of the manufacturer, distributor, or factory branch related to disputes involving the franchise.

(g) (1) (i) If the dealer is an entity other than an individual, the dealer shall designate an individual to represent the dealer to do business with the manufacturer, distributor, or factory branch.

(ii) Approval of the individual may not be withheld by the manufacturer, distributor, or factory branch unless the individual is unfit due to lack of good moral character or fails to meet reasonable general business experience requirements.

(2) A dealer shall have a reasonable amount of time to:

(i) Designate a representative or a successor if a change is required for any reason; and

(ii) Obtain approval of the representative or successor designated under item (i) of this paragraph, including time for a hearing, in the event of any objection by the manufacturer, distributor, or factory branch.

(3) At a hearing resulting from an objection to the approval of the designated individual, the manufacturer, distributor, or factory branch has the burden of proving that the designated individual is not of good moral character or fails to meet reasonable general business experience requirements.

(H) (1) (I) ANY CONSUMER REBATES, DEALER INCENTIVES, PRICE OR INTEREST RATE REDUCTIONS, OR FINANCE TERMS THAT A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH OFFERS OR ADVERTISES, OR ALLOWS ITS DEALERS TO OFFER OR ADVERTISE, SHALL BE OFFERED TO ALL DEALERS *OF THE SAME LINE MAKE*.

(II) ~~A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH SHALL PROVIDE FOR OR PAY TO EACH DEALER AT LEAST THE AVERAGE BENEFIT, INCENTIVE, OR REBATE PER VEHICLE THAT THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH PAID TO ALL DEALERS DURING THE SALES PROGRAM TIME PERIOD.~~

~~(III)~~ ANY MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH THAT DENIES THE BENEFIT OF ANY CONSUMER REBATES, DEALER INCENTIVES, PRICE OR INTEREST RATE REDUCTIONS, OR FINANCE TERMS TO A DEALER ON THE BASIS THAT THE DEALER FAILED TO COMPLY WITH PERFORMANCE STANDARDS HAS THE BURDEN OF PROVING THAT THE PERFORMANCE STANDARDS COMPLY WITH THE PROVISIONS OF THIS SECTION.

(2) UNLESS A DEALER VIOLATES A STATE OR LOCAL LAW INTENDED TO PROTECT THE PUBLIC, A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT:

(I) REQUIRE A DEALER TO ALTER OR REPLACE AN EXISTING DEALERSHIP FACILITY; OR

(II) DENY, OR THREATEN TO DENY, ANY BENEFIT GENERALLY AVAILABLE TO ALL DEALERS FOR A DEALER'S FAILURE TO ALTER OR REPLACE AN EXISTING DEALERSHIP FACILITY.

(3) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT REDUCE THE PRICE OF A MOTOR VEHICLE CHARGED TO A DEALER OR PROVIDE DIFFERENT FINANCING TERMS TO A DEALER IN EXCHANGE FOR THE DEALER'S AGREEMENT TO:

(I) MAINTAIN AN EXCLUSIVE SALES OR SERVICE FACILITY;

(II) BUILD OR ALTER A SALES OR SERVICE FACILITY; OR

(III) PARTICIPATE IN A FLOOR PLAN OR OTHER FINANCING ARRANGEMENT.

(I) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY OFFER REBATES, CASH INCENTIVES, OR OTHER PROMOTIONAL ITEMS FOR THE SALE OF A VEHICLE BY ITS DEALERS IF:

(1) THE SAME REBATE, CASH INCENTIVE, OR PROMOTION IS OFFERED TO ALL OF ITS ~~DEALERS;~~ *DEALERS OF THE SAME LINE MAKE; AND*

(2) ~~THE REBATE, CASH INCENTIVE, OR PROMOTION IS BASED SOLELY ON THE SALE OF AN INDIVIDUAL VEHICLE AND IS NOT INCREASED FOR MEETING A PERFORMANCE STANDARD; AND~~

~~(3) THERE IS NO INCREASED REBATE, CASH INCENTIVE, OR PROMOTION FOR MULTIPLE SALES OF A VEHICLE THAT EXCEEDS THE PRODUCT OF THE INDIVIDUAL VEHICLE REBATE, INCENTIVE, OR PROMOTION MULTIPLIED BY THE NUMBER OF VEHICLES SOLD~~ *ANY REBATE, CASH INCENTIVE, OR PROMOTION THAT IS BASED ON THE SALE OF AN INDIVIDUAL VEHICLE IS NOT INCREASED FOR MEETING A PERFORMANCE STANDARD UNLESS THE STANDARD IS REASONABLE CONSIDERING ALL EXISTING CIRCUMSTANCES*.

(J) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT DISCRIMINATE AMONG ITS DEALERS IN ANY PROGRAM THAT PROVIDES ASSISTANCE TO ITS DEALERS, INCLUDING INTERNET LISTINGS, SALES LEADS, WARRANTY POLICY ADJUSTMENTS, MARKETING PROGRAMS, AND DEALER RECOGNITION PROGRAMS.

15–208.

(a) A manufacturer may not refuse to deliver new motor vehicles, new two–stage vehicles, or truck component parts, as the case may be, to a licensed dealer or distributor, in reasonable quantities and within a reasonable time after receipt of a written order, if:

(1) The manufacturer specifically advertises that these vehicles or truck component parts are available for immediate delivery; and

(2) The dealer or distributor has a franchise or other contract with the manufacturer for the sale of these vehicles or truck component parts to the public.

(b) A distributor may not refuse to deliver new motor vehicles, or new two–stage vehicles, as the case may be, to a licensed dealer, in reasonable quantities and within a reasonable time after receipt of a written order, if:

(1) The distributor specifically advertises that these vehicles are available for immediate delivery; and

(2) The dealer has a franchise or other contract with the distributor for the sale of these vehicles to the public.

(c) A factory branch may not refuse to deliver new motor vehicles, or new two–stage vehicles, as the case may be, to a licensed dealer, in reasonable quantities and within a reasonable time after receipt of a written order, if:

(1) The factory branch specifically advertises that these vehicles are available for immediate delivery; and

(2) The dealer has a franchise or other contract with the factory branch for the sale of these vehicles to the public.

(d) A failure to deliver vehicles because of a labor strike, government regulation, or other cause not the fault of the manufacturer, distributor, or factory branch is not a violation of this section.

(E) IF A DEALER HAS A FRANCHISE OR OTHER CONTRACT WITH A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH FOR THE SALE OF VEHICLES OR TRUCK COMPONENT PARTS OF A SPECIFIC LINE OR MAKE, THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH SHALL ALLOW THE DEALER TO:

(1) PURCHASE THE VEHICLES OR TRUCK COMPONENT PARTS AT THE SAME PRICE AND ON THE SAME TERMS AS ALL OTHER DEALERS WITH A FRANCHISE OR OTHER CONTRACT FOR THE SALE OF VEHICLES OR TRUCK COMPONENT PARTS OF THE SAME LINE OR MAKE; AND

(2) RECEIVE THE SAME RIGHT TO INCENTIVE PAYMENTS THAT IS GIVEN TO ALL OTHER DEALERS WITH A FRANCHISE OR OTHER CONTRACT FOR THE SALE OF VEHICLES OR TRUCK COMPONENT PARTS OF THE SAME LINE OR MAKE.

15–211.

(a) A manufacturer, whether directly or through an agent, employee, **AFFILIATE,** or representative, may not prevent, by contract or otherwise, any owner, partner, or stockholder of any dealership from transferring any ownership interest in the dealership to any other person.

(b) A distributor, whether directly or through an agent, employee, **AFFILIATE,** or representative, may not prevent, by contract or otherwise, any owner, partner, or stockholder of any dealership from transferring any ownership interest in the dealership to any other person.

(c) A factory branch, whether directly or through an agent, employee, **AFFILIATE,** or representative, may not prevent, by contract or otherwise, any owner, partner, or stockholder of any dealership from transferring any ownership interest in the dealership to any other person.

(d) **(1)** A dealer or an owner, partner, or stockholder of a dealership may not sell, assign, or otherwise transfer a franchise or any right under a franchise without the consent of the manufacturer.

(2) NOTWITHSTANDING THE TERMS OF ANY FRANCHISE AGREEMENT OR AGREEMENT RELATED TO A FRANCHISE, A MANUFACTURER MAY NOT EXERCISE A RIGHT OF FIRST REFUSAL IN THE EVENT OF:

~~(I)~~ ~~A~~ *A* SALE OR TRANSFER OR PROPOSED SALE OR TRANSFER OF A DEALER'S BUSINESS OR ANY EQUITY INTEREST IN A DEALER'S BUSINESS~~; OR~~

~~(II) ANY PROPOSED CHANGE IN THE EXECUTIVE MANAGEMENT OF A DEALER'S BUSINESS~~ ***TO A PERSON WHO MEETS THE MANUFACTURER'S REASONABLE QUALIFICATIONS FOR OWNERSHIP AND IS:***

(I) A MEMBER OF THE DEALER'S IMMEDIATE FAMILY;

(II) A QUALIFIED MANAGER WITH AT LEAST 2 YEARS MANAGEMENT EXPERIENCE AT THE DEALER'S BUSINESS;

(III) AN EXISTING DEALER IN GOOD STANDING; OR

(IV) A BUSINESS ENTITY CONTROLLED BY A PERSON DESCRIBED IN ITEM (I), (II), OR (III) OF THIS PARAGRAPH.

(3) IF A MANUFACTURER EXERCISES A RIGHT OF FIRST REFUSAL IN THE EVENT OF A SALE OR TRANSFER OR PROPOSED SALE OR TRANSFER OF THE DEALER'S BUSINESS OR AN EQUITY INTEREST IN THE DEALER'S BUSINESS, THE MANUFACTURER SHALL PAY THE REASONABLE EXPENSES, INCLUDING CUSTOMARY ATTORNEY'S FEES, INCURRED BY THE PROSPECTIVE PURCHASER IN NEGOTIATING AND IMPLEMENTING THE CONTRACT FOR THE PROPOSED SALE OR TRANSFER, PROVIDED THAT THE DEALER HAS GIVEN THE MANUFACTURER AT LEAST 45 DAYS' NOTICE OF AN INTENT TO SELL OR TRANSFER.

(e) **[**However, the**]** **A** manufacturer may not unreasonably withhold consent to the transfer of a franchise under subsection (d) of this section.

(f) **(1)** A dealer or an owner, partner, or stockholder of a dealership may not sell, assign, or otherwise transfer a franchise or any right under a franchise without the consent of the distributor.

(2) NOTWITHSTANDING THE TERMS OF ANY AGREEMENT RELATED TO THE FRANCHISE, A DISTRIBUTOR MAY NOT EXERCISE A RIGHT OF FIRST REFUSAL IN THE EVENT OF:

~~(I)~~ ~~A~~ *A* SALE OR TRANSFER OR PROPOSED SALE OR TRANSFER OF A DEALER'S BUSINESS OR ANY EQUITY INTEREST IN A DEALER'S BUSINESS~~; OR~~

~~(II)~~ ~~ANY PROPOSED CHANGE IN THE EXECUTIVE MANAGEMENT OF A DEALER'S BUSINESS~~ *TO A PERSON WHO MEETS THE DISTRIBUTOR'S REASONABLE QUALIFICATIONS FOR OWNERSHIP AND IS:*

(I) A MEMBER OF THE DEALER'S IMMEDIATE FAMILY;

(II) A QUALIFIED MANAGER WITH AT LEAST 2 YEARS MANAGEMENT EXPERIENCE AT THE DEALER'S BUSINESS;

(III) AN EXISTING DEALER IN GOOD STANDING; OR

(IV) A BUSINESS ENTITY CONTROLLED BY A PERSON DESCRIBED IN ITEM (I), (II), OR (III) OF THIS PARAGRAPH.

***(3) IF A DISTRIBUTOR EXERCISES A RIGHT OF FIRST REFUSAL IN THE EVENT OF A SALE OR TRANSFER OR PROPOSED SALE OR TRANSFER OF THE DEALER'S BUSINESS OR AN EQUITY INTEREST IN THE DEALER'S BUSINESS, THE DISTRIBUTOR SHALL PAY THE REASONABLE EXPENSES, INCLUDING CUSTOMARY ATTORNEY'S FEES, INCURRED BY THE PROSPECTIVE PURCHASER IN NEGOTIATING AND IMPLEMENTING THE CONTRACT FOR THE PROPOSED SALE OR TRANSFER, PROVIDED THAT THE DEALER HAS GIVEN THE DISTRIBUTOR AT LEAST 45 DAYS' NOTICE OF AN INTENT TO SELL OR TRANSFER*.**

(g) However, the distributor may not unreasonably withhold consent to the transfer of a franchise under subsection (f) of this section.

(h) **(1)** A dealer or an owner, partner, or stockholder of a dealership may not sell, assign, or otherwise transfer a franchise or any right under a franchise without the consent of the factory branch.

(2) NOTWITHSTANDING THE TERMS OF ANY AGREEMENT RELATED TO THE FRANCHISE, A FACTORY BRANCH MAY NOT EXERCISE A RIGHT OF FIRST REFUSAL IN THE EVENT OF:

~~(I)~~ ~~A~~ *A* **SALE OR TRANSFER OR PROPOSED SALE OR TRANSFER OF A DEALER'S BUSINESS OR ANY EQUITY INTEREST IN A DEALER'S BUSINESS**~~; OR~~

~~(II) ANY PROPOSED CHANGE IN THE EXECUTIVE MANAGEMENT OF A DEALER'S BUSINESS~~ ***TO A PERSON WHO MEETS THE FACTORY BRANCH'S REASONABLE QUALIFICATIONS FOR OWNERSHIP AND IS:***

(I) A MEMBER OF THE DEALER'S IMMEDIATE FAMILY;

(II) A QUALIFIED MANAGER WITH AT LEAST 2 YEARS MANAGEMENT EXPERIENCE AT THE DEALER'S BUSINESS;

(III) AN EXISTING DEALER IN GOOD STANDING; OR

(IV) A BUSINESS ENTITY CONTROLLED BY A PERSON DESCRIBED IN ITEM (I), (II), OR (III) OF THIS PARAGRAPH.

(3) IF A FACTORY BRANCH EXERCISES A RIGHT OF FIRST REFUSAL IN THE EVENT OF A SALE OR TRANSFER OR PROPOSED SALE OR TRANSFER OF THE DEALER'S BUSINESS OR AN EQUITY INTEREST IN THE DEALER'S BUSINESS, THE FACTORY BRANCH SHALL PAY THE REASONABLE EXPENSES, INCLUDING CUSTOMARY ATTORNEY'S FEES, INCURRED BY THE PROSPECTIVE PURCHASER IN NEGOTIATING AND IMPLEMENTING THE CONTRACT FOR THE PROPOSED SALE OR TRANSFER, PROVIDED THAT THE DEALER HAS GIVEN THE FACTORY BRANCH AT LEAST 45 DAYS' NOTICE OF AN INTENT TO SELL OR TRANSFER.

(i) However, the factory branch may not unreasonably withhold consent to the transfer of a franchise under subsection (h) of this section.

(J) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT IMPOSE A CONDITION ON THE APPROVAL OF THE SALE OR TRANSFER OF THE OWNERSHIP OF A DEALERSHIP, BY THE SALE OF THE BUSINESS, STOCK TRANSFER, OR OTHERWISE, IF THE CONDITION WOULD VIOLATE THE PROVISIONS OF THIS TITLE IF IMPOSED ON AN EXISTING DEALER.

(K) (1) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH VIOLATES THIS SECTION IF, WITHOUT A STATEMENT OF SPECIFIC GROUNDS CONSISTENT WITH THIS TITLE FOR THE ACTION, THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH TAKES ACTION TO PREVENT OR REFUSE TO APPROVE:

(I) THE SALE, ASSIGNMENT, OR TRANSFER OF THE OWNERSHIP OF A DEALERSHIP BY THE SALE OF THE BUSINESS, STOCK TRANSFER, OR OTHERWISE;

(II) THE SALE, TRANSFER, OR ASSIGNMENT OF A DEALER FRANCHISE; OR

(III) A CHANGE IN THE EXECUTIVE MANAGEMENT OR PRINCIPAL OPERATOR OF THE DEALERSHIP.

(2) (I) AN EXISTING DEALER DENIED THE SALE, ASSIGNMENT, TRANSFER, OR CHANGE UNDER THIS SECTION MAY REQUEST THAT THE ADMINISTRATOR CONDUCT A HEARING TO REVIEW THE DENIAL OR THE IMPOSITION OF A CONDITION IN VIOLATION OF THIS SECTION.

(II) IF THE ADMINISTRATOR FINDS THAT THE ACTION LEADING TO THE DENIAL OR THE IMPOSITION OF A CONDITION WAS IN VIOLATION OF THIS SECTION, THE ADMINISTRATOR MAY ORDER THE SALE, ASSIGNMENT, OR TRANSFER TO BE APPROVED BY THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH WITHOUT IMPOSITION OF THE CONDITION.

(3) (I) AN APPLICANT FOR APPROVAL OF A SALE, ASSIGNMENT, OR TRANSFER OF OWNERSHIP OF A DEALERSHIP OR AN EXISTING DEALER DENIED THE SALE, ASSIGNMENT, OR TRANSFER MAY INSTITUTE AN ACTION FOR DAMAGES IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE DEALER'S PRINCIPAL PLACE OF BUSINESS IS LOCATED, IF:

1. THE EXISTING DEALER DOES NOT REQUEST A HEARING BY THE ADMINISTRATOR; AND

2. THE ACTION TAKEN IN VIOLATION OF THIS SECTION TO DENY THE SALE, ASSIGNMENT, OR TRANSFER OF OWNERSHIP OR THE CHANGE IN EXECUTIVE MANAGEMENT OR THE CONDITION IMPOSED ON THE SALE, ASSIGNMENT, OR TRANSFER IS THE PROXIMATE CAUSE OF THE FAILURE OF THE CONTRACT FOR THE SALE, ASSIGNMENT, OR TRANSFER OF OWNERSHIP OF THE DEALERSHIP.

(II) AN ACTION FOR DAMAGES UNDER THIS SECTION MUST BE INSTITUTED WITHIN 2 YEARS OF THE VIOLATION OF THIS SECTION.

15–212.1.

(a) Upon the filing of a claim, a manufacturer, factory branch, or distributor shall compensate a dealer for any incentive or reimbursement program sponsored by

the manufacturer, factory branch, or distributor, under the terms of which the dealer is eligible for compensation.

(b) (1) A claim filed under this section shall be:

(i) In the manner and form prescribed by the manufacturer, factory branch, or distributor; and

(ii) Approved or disapproved within 30 days of receipt.

(2) A claim not approved or disapproved within 30 days of receipt shall be deemed approved.

(3) Payment of a claim filed under this section shall be made within 30 days of approval.

(c) (1) If a claim filed under this section is shown by the manufacturer, factory branch, or distributor to be false or unsubstantiated, the manufacturer, factory branch, or distributor may charge back the claim within **[**9**]** ~~**2**~~ ***6*** months from the **[**end**]** **PAYMENT** of the incentive or reimbursement **[**program**]**.

(2) This paragraph does not limit the right of a manufacturer, factory branch, or distributor to:

(i) Conduct an audit of any claim filed under this section; or

(ii) Charge back for any claim that is proven to be fraudulent.

(3) An audit under this paragraph shall be conducted according to generally accepted accounting principles.

(D) ~~**(1)**~~ **A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT REFUSE TO PAY, OR CLAIM REIMBURSEMENT FROM, A DEALER FOR SALES, INCENTIVES, OR PAYMENTS RELATED TO A MOTOR VEHICLE SOLD BY THE DEALER BECAUSE THE PURCHASER OF THE MOTOR VEHICLE EXPORTED OR RESOLD THE MOTOR VEHICLE IN VIOLATION OF THE POLICY OF THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH UNLESS THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH CAN SHOW THAT, AT THE TIME OF SALE, THE DEALER** ~~**HAD SPECIFIC KNOWLEDGE**~~ ***KNEW OR SHOULD HAVE KNOWN*** **OF THE PURCHASER'S INTENTION TO EXPORT OR RESELL THE MOTOR VEHICLE.**

~~**(2) THERE IS A CONCLUSIVE PRESUMPTION THAT THE DEALER HAD NO ACTUAL KNOWLEDGE UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE VEHICLE IS TITLED OR REGISTERED IN ANY STATE IN THE UNITED STATES.**~~

(E) (1) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT GIVE ANY INCENTIVE PAYMENT, REIMBURSEMENT PAYMENT, CASH, GIFT, OR ANYTHING OF VALUE TOTALING MORE THAN $200 IN ANY CALENDAR YEAR DIRECTLY TO AN EMPLOYEE OF THE DEALER.

(2) ANY INCENTIVE PAYMENT, REIMBURSEMENT PAYMENT, CASH, GIFT, OR ANYTHING OF VALUE FROM A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH TO AN EMPLOYEE SHALL BE MADE TO THE DEALER WHO SHALL DISBURSE THE FUNDS TO THE EMPLOYEE AS PART OF THE PAYROLL PROCESS AFTER MAKING THE APPROPRIATE DEDUCTIONS.

(3) THE DEALER MAY RETAIN A REASONABLE PORTION OF ANY PAYMENTS UNDER PARAGRAPH (2) OF THIS SUBSECTION TO COVER THE COST OF PROCESSING THE PAYMENTS.

15–212.2.

(A) **IF A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH TERMINATES, SUSPENDS, REFUSES TO RENEW, OR CLOSES A DEALER'S FRANCHISE OR REFUSES TO SUPPLY NEW VEHICLES TO A DEALER WHO HOLDS A FRANCHISE, THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH SHALL:**

(1) REIMBURSE THE DEALER FOR ANY COSTS THE DEALER INCURRED FOR FACILITY UPGRADES OR ALTERATIONS ~~REQUESTED OR SUGGESTED~~ *REQUIRED* BY THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH *WITHIN THE PREVIOUS 2 YEARS*;

(2) PAY THE DEALER AT LEAST THE DEALER COST, PLUS ANY CHARGES BY THE FRANCHISOR, DISTRIBUTOR, OR FACTORY BRANCH, FOR DISTRIBUTION, DELIVERY, AND TAXES PAID BY THE DEALER, LESS ALL ALLOWANCES PAID TO THE DEALER BY THE FRANCHISOR FOR ANY NEW, *UNDAMAGED* MOTOR VEHICLES ~~OF THE CURRENT OR 1–YEAR PRIOR MODEL YEAR~~ *PURCHASED WITHIN 18 MONTHS OF THE DATE OF THE TERMINATION, SUSPENSION, REFUSAL TO RENEW, CLOSURE, OR REFUSAL TO SUPPLY,* WHETHER ACQUIRED FROM THE FRANCHISOR OR FROM ANOTHER DEALER OF THE SAME LINE MAKE IN THE ORDINARY COURSE OF BUSINESS;

(3) PAY THE DEALER AT LEAST THE DEALER *ACQUISITION* COST~~, AS SHOWN IN THE PRICE CATALOG OF THE FRANCHISOR CURRENT AT THE TIME OF REPURCHASE,~~ OF EACH NEW, UNUSED, UNDAMAGED, AND UNSOLD PART OR ACCESSORY IF THE PART OR ACCESSORY IS IN THE CURRENT PARTS CATALOG AND IS:

(I) STILL IN THE ORIGINAL, RESALABLE MERCHANDISING PACKAGE AND IN UNBROKEN LOTS; OR

(II) IN THE CASE OF SHEET METAL, IN THE ORIGINAL PACKAGING OR A COMPARABLE SUBSTITUTE FOR THE ORIGINAL PACKAGING;

(4) PAY THE DEALER AT LEAST THE FAIR MARKET VALUE OF EACH UNDAMAGED SIGN OWNED BY THE DEALER THAT BEARS A TRADEMARK, TRADE NAME, OR COMMERCIAL SYMBOL USED OR CLAIMED BY THE FRANCHISOR IF THE SIGN WAS PURCHASED FROM OR AT THE REQUEST OF THE FRANCHISOR;

(5) PAY THE DEALER AT LEAST THE FAIR MARKET VALUE OF ALL SPECIAL TOOLS AND AUTOMOTIVE SERVICE EQUIPMENT OWNED BY THE DEALER THAT WERE RECOMMENDED AND DESIGNATED AS SPECIAL TOOLS OR EQUIPMENT BY THE FRANCHISOR, IF THE TOOLS AND EQUIPMENT ARE IN USEABLE AND GOOD CONDITION EXCEPT FOR NORMAL WEAR AND TEAR; AND

(6) PAY THE DEALER AT LEAST THE REASONABLE COST OF TRANSPORTING, HANDLING, PACKING, AND LOADING MOTOR VEHICLE PARTS, SIGNS, TOOLS, AND SPECIAL EQUIPMENT SUBJECT TO REPURCHASE UNDER THIS SECTION.

(B) (1) IF A MANUFACTURER OF MOTOR HOMES TERMINATES OR CANCELS A MOTOR HOME DEALER, THE MANUFACTURER SHALL REIMBURSE THE DEALER, LESS ANY ALLOWANCES, DISCOUNTS, OR REBATES PAID TO THE DEALER BY THE MANUFACTURER, FOR AT LEAST:

(I) THE TOTAL NET INVENTORY INVOICE COSTS;

(II) ANY CHARGES BY THE MANUFACTURER FOR DISTRIBUTION DELIVERY; AND

(III) ANY INVENTORY RELATED TAXES PAID BY THE DEALER.

(2) THIS SUBSECTION ONLY APPLIES TO MOTOR HOMES IN INVENTORY THAT:

(I) ARE NEW AND UNTITLED;

(II) WERE ACQUIRED FROM THE MANUFACTURER WITHIN 18 MONTHS BEFORE THE EFFECTIVE DATE OF THE NOTICE OF TERMINATION OR CANCELLATION;

(III) HAVE NOT BEEN USED, OTHER THAN FOR DEMONSTRATION PURPOSES; AND

(IV) HAVE NOT BEEN ALTERED OR DAMAGED.

15–213.

Notwithstanding any administrative or criminal sanctions imposed by this subtitle, if a person suffers financial injury or other damage as a result of a violation of this subtitle by any other person, whether or not that other person has been found guilty of a criminal violation, the injured person may recover damages and reasonable attorneys' fees in any court of competent jurisdiction.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ *June* 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 748

(Senate Bill 905)

AN ACT concerning

Orphans' Court – Minors – Guardianship of Person

FOR the purpose of providing that an orphans' court may exercise jurisdiction over the guardianship of the person of a minor regardless of whether the minor has property, may inherit property, or is destitute under certain circumstances; providing that an orphans' court may transfer a certain matter to a circuit court under certain circumstances; providing that an orphans' court may waive certain costs; providing for the application of this Act; and generally relating to the jurisdiction of an orphans' court concerning the guardianship of the person of a minor.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 13–105
Annotated Code of Maryland
(2001 Replacement Volume and 2008 Supplement)

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

Article – Estates and Trusts

13–105.

(a) **(1)** The orphans' courts and the circuit courts have concurrent jurisdiction over guardians of the person of a minor and over protective proceedings for minors.

(2) Upon petition of an interested person, a matter initiated in the orphans' court may be transferred to the circuit court.

(b) The circuit courts have exclusive jurisdiction over protective proceedings for disabled persons.

(C) (1) AN ORPHANS' COURT MAY EXERCISE JURISDICTION OVER GUARDIANSHIP OF THE PERSON OF A MINOR IF THE PRESIDING JUDGE OF THE ORPHANS' COURT IS A MEMBER OF THE BAR, REGARDLESS OF WHETHER THE MINOR WHO IS THE SUBJECT OF THE PETITION FOR GUARDIANSHIP OF THE PERSON HAS PROPERTY, MAY INHERIT PROPERTY, OR IS DESTITUTE.

(2) AN ORPHANS' COURT THAT EXERCISES JURISDICTION OR IS REQUESTED TO EXERCISE JURISDICTION UNDER THIS SUBSECTION MAY:

(I) TRANSFER THE MATTER TO THE CIRCUIT COURT ON A FINDING THAT THE BEST INTERESTS OF THE CHILD REQUIRE UTILIZATION OF THE EQUITABLE POWERS OF THE CIRCUIT COURT; AND

(II) WAIVE THE COSTS, IF ANY, OF A TRANSFER UNDER THIS PARAGRAPH.

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 petition for guardianship of the person of a minor filed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 749

(House Bill 634)

AN ACT concerning

Orphans' Court – Minors – Guardianship of Person

FOR the purpose of providing that an orphans' court may exercise jurisdiction over the guardianship of the person of a minor regardless of whether the minor has property, may inherit property, or is destitute under certain circumstances; providing that an orphans' court may transfer a certain matter to a circuit court under certain circumstances; providing that an orphans' court may waive certain costs; providing for the application of this Act; and generally relating to the jurisdiction of an orphans' court concerning the guardianship of the person of a minor.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 13–105
Annotated Code of Maryland
(2001 Replacement Volume and 2008 Supplement)

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

Article – Estates and Trusts

13–105.

(a) **(1)** The orphans' courts and the circuit courts have concurrent jurisdiction over guardians of the person of a minor and over protective proceedings for minors.

(2) Upon petition of an interested person, a matter initiated in the orphans' court may be transferred to the circuit court.

(b) The circuit courts have exclusive jurisdiction over protective proceedings for disabled persons.

(C) (1) AN ORPHANS' COURT MAY EXERCISE JURISDICTION OVER GUARDIANSHIP OF THE PERSON OF A MINOR IF THE PRESIDING JUDGE OF THE ORPHANS' COURT IS A MEMBER OF THE BAR, REGARDLESS OF WHETHER THE MINOR WHO IS THE SUBJECT OF THE PETITION FOR GUARDIANSHIP OF THE PERSON HAS PROPERTY, MAY INHERIT PROPERTY, OR IS DESTITUTE.

(2) AN ORPHANS' COURT THAT EXERCISES JURISDICTION OR IS REQUESTED TO EXERCISE JURISDICTION UNDER THIS SUBSECTION MAY:

(I) TRANSFER THE MATTER TO THE CIRCUIT COURT ON A FINDING THAT THE BEST INTERESTS OF THE CHILD REQUIRE UTILIZATION OF THE EQUITABLE POWERS OF THE CIRCUIT COURT; AND

(II) WAIVE THE COSTS, IF ANY, OF A TRANSFER UNDER THIS PARAGRAPH.

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 petition for guardianship of the person of a minor filed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.

Chapter 750

(House Bill 952)

AN ACT concerning

Continuing Care ~~– Department of Aging and Maryland Insurance Administration – Transfer of Oversight~~ Agreements and Related Agreements

~~FOR the purpose of transferring oversight of continuing care from the Department of Aging to the Maryland Insurance Administration; requiring the Administration, in consultation with certain groups, to conduct a certain review and to provide a certain report to the General Assembly on or before a certain date; making certain stylistic and technical changes; requiring the publisher of the Annotated Code of Maryland to make certain corrective changes; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the oversight of continuing care.~~

FOR the purpose of requiring the Department of Aging to review and approve or disapprove certain continuing care agreements and any other related agreements within a certain number of days; authorizing the Department to submit comments to or request additional information from a provider who has submitted certain agreements to the Department; providing for the suspension of a certain review period; requiring the Department to provide a certain written notice to certain providers if the Department does not approve a certain agreement; providing for a certain appeal under certain circumstances; requiring the Department to limit its review of certain modifications to certain

agreements in a certain manner; providing that certain providers are not required to submit certain agreements or requests for modification to the Department for approval; and generally relating to the oversight of continuing care.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 10–445
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)

~~BY transferring~~
~~Article – Human Services~~
~~Section 10–401 through 10–405 and the part "Part I. Definitions; General Provisions"; 10–407 through 10–416 and the part "Part II. Continuing Care in a Retirement Community – Certificates of Registration"; 10–419 through 10–429 and the part "Part III. Providers"; 10–432 through 10–441 and the part "Part IV. Facilities and Assets"; 10–444 through 10–450 and the part "Part V. Continuing Care Agreements"; 10–453 through 10–460 and the part "Part VI. Continuing Care at Home"; 10–463 through 10–469 and the part "Part VII. Financial Review"; 10–472 through 10–493 and the part "Part VIII. Delinquency Proceedings"; and 10–496 through 10–499 and the part "Part IX. Prohibited Acts; Penalties; Remedies", and the subtitle "Subtitle 4. Continuing Care", respectively~~
~~Annotated Code of Maryland~~
~~(2007 Volume and 2008 Supplement)~~
~~to be~~
~~Article – Insurance~~
~~Section 30–101 through 30–105 and the subtitle "Subtitle 1. Definitions; General Provisions"; 30–201 through 30–210 and the subtitle "Subtitle 2. Continuing Care in a Retirement Community – Certificates of Registration"; 30–301 through 30–311 and the subtitle "Subtitle 3. Providers"; 30–401 through 30–410 and the subtitle "Subtitle 4. Facilities and Assets"; 30–501 through 30–507 and the subtitle "Subtitle 5. Continuing Care Agreements"; 30–601 through 30–608 and the subtitle "Subtitle 6. Continuing Care at Home"; 30–701 through 30–707 and the subtitle "Subtitle 7. Financial Review"; 30–801 through 30–822 and the subtitle "Subtitle 8. Delinquency Proceedings"; and 30–901 through 30–904 and the "Subtitle 9. Prohibited Acts; Penalties; Remedies", and the title "Title 30. Continuing Care", respectively~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~

~~Section 30–101, 30–102, 30–103, 30–105, 30–201, 30–202, 30–203, 30–204, 30–205, 30–206, 30–207, 30–208, 30–209, 30–210, 30–302, 30–303, 30–304, 30–305, 30–306, 30–307, 30–309, 30–311, 30–401, 30–402, 30–403, 30–404, 30–405, 30–406, 30–407, 30–409, 30–410, 30–501, 30–502, 30–503, 30–601, 30–602, 30–603, 30–604, 30–605, 30–606, 30–607, 30–608, 30–701, 30–702, 30–703, 30–704, 30–705, 30–706, 30–707, 30–801, 30–802, 30–803, 30–804, 30–805, 30–806, 30–807, 30–808, 30–809, 30–810, 30–813, 30–814, 30–816, 30–817, 30–818, 30–819, 30–820, 30–821, 30–822, 30–901, 30–902, 30–903, and 30–904~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2008 Supplement)~~
~~(As enacted by Section 1 of this Act)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~
~~Section 30–102~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2008 Supplement)~~
~~(As enacted by Chapter 503 of the Acts of the General Assembly of 2007 and Section 1 of this Act)~~

~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 10–401 through 10–405 and the part "Part I. Definitions; General Provisions"; 10–407 through 10–416 and the part "Part II. Continuing Care in a Retirement Community – Certificates of Registration"; 10–419 through 10–429 and the part "Part III. Providers"; 10–432 through 10–441 and the part "Part IV. Facilities and Assets"; 10–444 through 10–450 and the part "Part V. Continuing Care Agreements"; 10–453 through 10–460 and the part "Part VI. Continuing Care at Home"; 10–463 through 10–469 and the part "Part VII. Financial Review"; 10–472 through 10–493 and the part "Part VIII. Delinquency Proceedings"; and 10–496 through 10–499 and the part "Part IX. Prohibited Acts; Penalties; Remedies", and the subtitle "Subtitle 4. Continuing Care", respectively, of Article – Human Services of the Annotated Code of Maryland be transferred to be Section(s) 30–101 through 30–105 and the subtitle "Subtitle 1. Definitions; General Provisions"; 30–201 through 30–210 and the subtitle "Subtitle 2. Continuing Care in a Retirement Community – Certificates of Registration"; 30–301 through 30–311 and the subtitle "Subtitle 3. Providers"; 30–401 through 30–410 and the subtitle "Subtitle 4. Facilities and Assets"; 30–501 through 30–507 and the subtitle "Subtitle 5. Continuing Care Agreements"; 30–601 through 30–608 and the subtitle "Subtitle 6. Continuing Care at Home"; 30–701 through 30–707 and the subtitle "Subtitle 7. Financial Review"; 30–801 through 30–822 and the subtitle "Subtitle 8. Delinquency Proceedings"; 30–901 through 30–904 and the subtitle "Subtitle 9. Prohibited Acts; Penalties; Remedies", and the title "Title 30. Continuing Care", respectively, of Article – Insurance of the Annotated Code of Maryland.~~

SECTION ~~2. AND BE IT FURTHER ENACTED~~ 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – ~~Insurance~~ Human Services

10–445.

(a) (1) **(I)** If a provider's feasibility study has been approved under § 10–409 of this subtitle, the Department **[**shall decide whether to approve a continuing care agreement within 180 days after receipt of a complete agreement**], WITHIN 120 DAYS AFTER RECEIPT OF A CONTINUING CARE AGREEMENT OR ANY OTHER RELATED AGREEMENT SUBMITTED BY A PROVIDER, SHALL DETERMINE WHETHER THE AGREEMENT COMPLIES WITH THE REQUIREMENTS OF THIS SUBTITLE.**

(II) AT ANY TIME DURING THE REVIEW PROCESS, THE DEPARTMENT MAY SUBMIT COMMENTS TO OR REQUEST ADDITIONAL INFORMATION FROM THE PROVIDER TO DETERMINE WHETHER THE AGREEMENT COMPLIES WITH THE REQUIREMENTS OF THIS SUBTITLE.

(III) IF THE DEPARTMENT SUBMITS COMMENTS OR A REQUEST FOR ADDITIONAL INFORMATION UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE 120–DAY REVIEW PERIOD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS SUSPENDED.

(IV) ON RECEIPT OF ANY REQUESTED INFORMATION OR MODIFICATIONS TO THE AGREEMENT NECESSITATED BY THE DEPARTMENT'S COMMENTS UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE DEPARTMENT, WITHIN THE NUMBER OF DAYS REMAINING IN THE 120–DAY REVIEW PERIOD, SHALL:

1. COMPLETE ITS REVIEW TO DETERMINE WHETHER THE AGREEMENT MEETS THE REQUIREMENTS OF THIS SUBTITLE; AND

2. APPROVE OR DISAPPROVE THE AGREEMENT.

(V) 1. IF THE DEPARTMENT DOES NOT APPROVE THE AGREEMENT, THE DEPARTMENT SHALL NOTIFY THE PROVIDER IN WRITING, INCLUDING CITATIONS TO THE SPECIFIC PROVISIONS OF LAW THAT THE DEPARTMENT DETERMINED WERE NOT COMPLIED WITH IN THE AGREEMENT.

2. A PROVIDER MAY APPEAL THE DISAPPROVAL OF AN AGREEMENT UNDER SUBPARAGRAPH (IV) OF THIS PARAGRAPH UNDER THE PROVISIONS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(2) If the Department does not act within **[**180**]** **120** days, the agreement is deemed approved.

(b) The provider shall maintain the continuing care agreement at the facility and make it available for inspection by the Department of Health and Mental Hygiene under Title 19, Subtitle 18, of the Health – General Article **AND TITLE 10, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE**.

(C) IF A PROVIDER IS SEEKING APPROVAL FOR A MODIFICATION TO AN APPROVED CONTINUING CARE AGREEMENT OR OTHER RELATED AGREEMENT, THE DEPARTMENT SHALL LIMIT ITS REVIEW TO:

(1) THE SECTION OF THE AGREEMENT BEING MODIFIED AND ANY SECTIONS DIRECTLY AFFECTED BY THE MODIFICATION; AND

(2) ANY SECTION OF THE AGREEMENT THAT MAY HAVE BEEN AFFECTED BY A CHANGE IN THE LAW OR A REGULATION THAT WAS ENACTED AFTER THE DEPARTMENT APPROVED THE AGREEMENT.

(D) IF THE PROVIDER EXECUTES A SEPARATE ASSISTED LIVING AGREEMENT OR COMPREHENSIVE CARE AGREEMENT, THE PROVIDER IS NOT REQUIRED TO SUBMIT THE ASSISTED LIVING AGREEMENT OR COMPREHENSIVE CARE AGREEMENT OR ANY REQUESTS FOR MODIFICATIONS TO THE DEPARTMENT FOR APPROVAL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

~~30–101.~~

~~(a) In this **[**subtitle**]** **TITLE** the following words have the meanings indicated.~~

~~(b) "Assisted living program" has the meaning stated in § 19–1801 of the Health – General Article.~~

~~(c) "Certified financial statement" means a complete audit prepared and certified by an independent certified public accountant.~~

~~(d) "Continuing care" means:~~

~~(1) continuing care in a retirement community; or~~

~~(2) continuing care at home.~~

~~(e) "Continuing care agreement" means an agreement between a provider and a subscriber to provide continuing care.~~

~~(f) (1) "Continuing care at home" means providing medical, nursing, or other health related services directly or by contractual arrangement:~~

~~(i) to an individual who is at least 60 years of age and not related by blood or marriage to the provider;~~

~~(ii) for the life of the individual or for a period exceeding 1 year; and~~

~~(iii) under a written agreement that requires a transfer of assets or an entrance fee notwithstanding periodic charges.~~

~~(2) "Continuing care at home" includes providing assistance with the physical maintenance of the individual's dwelling.~~

~~(g) "Continuing care in a retirement community" means providing shelter and providing either medical and nursing or other health related services or making the services readily accessible through the provider or an affiliate of the provider, whether or not the services are specifically offered in the written agreement for shelter:~~

~~(1) to an individual who is at least 60 years of age and not related by blood or marriage to the provider;~~

~~(2) for the life of the individual or for a period exceeding 1 year; and~~

~~(3) under one or more written agreements that require a transfer of assets or an entrance fee notwithstanding periodic charges.~~

~~(h) (1) "Contractual entrance fee refund" means a repayment of all or part of a subscriber's entrance fee to the subscriber or the subscriber's estate or designated beneficiary, as required by the terms of the continuing care agreement.~~

~~(2) "Contractual entrance fee refund" does not include a payment required under~~ **[**~~§ 10–446 or § 10–448~~**] § 30–503 OR § 30–505** ~~of this~~ **[**~~subtitle~~**] TITLE.**

~~(i) "Conversion" means converting a physical plant that provides housing or shelter into a facility if:~~

~~(1) the residential accommodations exist before a statement of intent is filed under~~ **[**~~§ 10–409(b)~~**] § 30–203(B)** ~~of this~~ **[**~~subtitle~~**] TITLE**~~; and~~

~~(2) at least 60% of the available residential accommodations of the facility owner were occupied during the [two] 2 fiscal years prior to the filing of a statement of intent.~~

~~(j) "Deposit" means a portion of an entrance fee.~~

~~(k) (1) "Entrance fee" means a sum of money or other consideration paid initially or in deferred payments, that:~~

~~(i) assures a subscriber continuing care for the life of the subscriber or for a period exceeding 1 year; and~~

~~(ii) is at least three times the weighted average of the monthly cost of the periodic fees charged for independent living and assisted living units.~~

~~(2) "Entrance fee" includes a fee of similar form and application, regardless of title.~~

~~(3) "Entrance fee" does not include a surcharge.~~

~~(l) (1) "Expansion" means any single new capital addition to an existing facility that meets either of the following criteria:~~

~~(i) if independent or assisted living units are to be constructed, the number of units to be constructed is less than or equal to 25% of the number of existing independent and assisted living units; or~~

~~(ii) if independent or assisted living units are not to be constructed, the total projected cost exceeds the sum of:~~

~~1. 10% of the total operating expenses, less depreciation, amortization, and interest expense of the facility as shown on the certified financial statement for the most recent fiscal year for which a certified financial statement is available; and~~

~~2. the amount of the existing reserves properly allocable to, and allocated for, the expansion.~~

~~(2) "Expansion" does not include renovation and normal repair and maintenance.~~

~~(m) "Facility" means a physical plant in which continuing care in a retirement community is provided in accordance with this subtitle.~~

~~(n) "Financial difficulty" means current or impending financial conditions that impair or may impair the ability of a provider to meet existing or future obligations.~~

~~(o) "Governing body" means a board of directors, board of trustees, or similar group that ultimately directs the affairs of a provider, but whose members are not required to have an equity interest in the provider.~~

~~(p) (1) "Health related services" means services that are needed by a subscriber to maintain the subscriber's health.~~

~~(2) "Health related services" includes:~~

~~(i) priority admission to a nursing home or assisted living program; or~~

~~(ii) except for the provision of meals, assistance with the activities of daily living.~~

~~(q) "Person" includes a governmental entity or unit.~~

~~(r) "Processing fee" means a fee imposed by a provider for determining the financial, mental, and physical eligibility of an applicant for entrance into a facility.~~

~~(s) "Provider" means a person who:~~

~~(1) undertakes to provide continuing care; and~~

~~(2) is:~~

~~(i) the owner or operator of a facility; or~~

~~(ii) an applicant for or the holder of a preliminary, initial, or renewal certificate of registration.~~

~~(t) "Records" means information maintained by a provider for the proper operation of a facility under this subtitle.~~

~~(u) (1) "Renovation" means any single capital improvement to, or replacement of, all or part of an existing facility that will not increase the number of independent or assisted living units and for which the total projected cost exceeds the sum of:~~

~~(i) 20% of the total operating expenses, less depreciation, amortization, and interest expense of the facility as shown on the certified financial statement for the most recent fiscal year for which a certified financial statement is available; and~~

~~(ii) the amount of existing reserves properly allocable to, and allocated for, the renovation.~~

~~(2) "Renovation" does not include normal repair or maintenance.~~

~~(v) "Subscriber" means an individual for whom a continuing care agreement is purchased.~~

~~(w) (1) "Surcharge" means a separate and additional charge that:~~

~~(i) is imposed simultaneously with the entrance fee; and~~

~~(ii) may be required of some, but not all, subscribers because of a condition or circumstance that applies only to those subscribers.~~

~~(2) "Surcharge" does not include a second person entrance fee.~~

~~30–103.~~

~~(a) The [Department] ADMINISTRATION shall:~~

~~(1) administer this [subtitle] TITLE;~~

~~(2) prepare and furnish all forms necessary or desirable under this [subtitle] TITLE;~~

~~(3) establish and collect reasonable filing fees to carry out this [subtitle] TITLE;~~

~~(4) adopt regulations necessary to enforce this [subtitle] TITLE; and~~

~~(5) prepare and distribute relevant public information and educational materials designed to advise individuals, institutions, and organizations of their rights and responsibilities under this [subtitle] TITLE.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection, the [Department] ADMINISTRATION shall make available to interested persons any information required to be provided to the [Department] ADMINISTRATION under this [subtitle] TITLE and publicize the availability of the information.~~

~~(2) (i) A feasibility study filed under [§ 10–408] § 30–202 of this [subtitle] TITLE may not be disclosed until the [Department] ADMINISTRATION issues an initial certificate of registration for the project.~~

~~(ii) Information required to be provided under [§ 10–434(b)(2)] § 30–403(B)(2) of this [subtitle] TITLE shall be disclosed only to the extent required under the Public Information Act.~~

~~30–105.~~

~~(a) In this section, "Fund" means the Continuing Care Fund.~~

~~(b) There is a Continuing Care Fund.~~

~~(c) The purpose of the Fund is to defray the costs of administering this [subtitle] TITLE.~~

~~(d) The [Department of Aging] ADMINISTRATION shall administer the Fund.~~

~~(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.~~

~~(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.~~

~~(f) The Fund consists of:~~

~~(1) all fees collected under this [subtitle] TITLE;~~

~~(2) money appropriated in the State budget to the Fund;~~

~~(3) investment earnings of the Fund; and~~

~~(4) any other money from any other source accepted for the benefit of the Fund.~~

~~(g) The Fund may be used only for the purposes specified in this [subtitle] TITLE.~~

~~(h) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.~~

~~(2) Any investment earnings of the Fund shall be paid into the Fund.~~

~~(i) Expenditures from the Fund may be made only in accordance with the State budget.~~

~~(j) Money expended from the Fund for administering this [subtitle] TITLE is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for administering this [subtitle] TITLE.~~

~~30–201.~~

~~This [part] SUBTITLE applies only to continuing care in a retirement community operations.~~

~~30–202.~~

~~(a) A provider shall comply with the applicable provisions of [§§ 10–409 through 10–415] §§ 30–203 THROUGH 30–209 of this subtitle before the provider may:~~

~~(1) offer continuing care in a retirement community;~~

~~(2) enter into or renew continuing care agreements;~~

~~(3) begin construction of a new facility;~~

~~(4) begin construction of an expansion to or renovation of an existing facility; or~~

~~(5) collect deposits for continuing care in this State.~~

~~(b) (1) A new capital addition to a facility that will result in the construction of a number of independent and assisted living units that is greater than 25% of the number of existing units is considered new development and is subject to [§§ 10–409 through 10–411] §§ 30–203 THROUGH 30–205 of this subtitle.~~

~~(2) A new capital addition to a facility that does not involve the construction of independent or assisted living units and that does not meet the standard of [§ 10–401(l)(1)(ii)] § 30–101(L)(1)(II) of this [subtitle] TITLE is not subject to review by the [Department] ADMINISTRATION under [§§ 10–409 through 10–415] §§ 30–203 THROUGH 30–209 of this subtitle.~~

~~(3) A capital improvement or replacement that does not meet the standard of [§ 10–401(w)] § 30–101(W) of this [subtitle] TITLE is not subject to review by the [Department] ADMINISTRATION under [§§ 10–409 through 10–415] §§ 30–203 THROUGH 30–209 of this subtitle.~~

~~(c) A provider that has more than one facility offering continuing care shall make a separate application for each facility for preliminary, initial, and renewal certificates of registration.~~

~~30–203.~~

~~(a) A provider may not collect deposits for continuing care or begin construction of a new facility until the [Department] ADMINISTRATION approves a feasibility study.~~

~~(b) A person who intends to submit a feasibility study under subsection (c) of this section shall file with the [Department] ADMINISTRATION a statement of intent to provide continuing care at least 30 days before the person submits the feasibility study to the [Department] ADMINISTRATION.~~

~~(c) A feasibility study shall:~~

~~(1) be filed in a form satisfactory to the [Department] ADMINISTRATION; and~~

~~(2) include at least the following information:~~

~~(i) a statement of the purpose of the proposed construction or conversion;~~

~~(ii) documentation of the financial resources of the provider;~~

~~(iii) a statement of the capital expenditures necessary to accomplish the project and the plan for acquiring the necessary capital;~~

~~(iv) a plan demonstrating the financial feasibility of the proposed project, including future funding sources;~~

~~(v) a study that demonstrates the market for the project;~~

~~(vi) an actuarial forecast reviewed by a qualified actuary;~~

~~(vii) a statement of the planned fee structure, including any proposed escalator or other automatic adjustment provision;~~

~~(viii) a description of the facility proposed to be used or being used for continuing care;~~

~~(ix) a copy of the proposed escrow and deposit agreements; and~~

~~(x) the form and substance of any proposed advertisement, advertising campaign, or promotional material for the facility that is available at the time of filing.~~

~~(d) The [Department] ADMINISTRATION may approve a feasibility study if the [Department] ADMINISTRATION determines that:~~

~~(1) the number of comprehensive care or assisted living beds in the facility for which licenses are required by the Department of Health and Mental Hygiene is not inconsistent with the State health plan;~~

~~(2) a reasonable financial plan has been submitted for developing and operating the project;~~

~~(3) a market for the facility appears to exist;~~

~~(4) a recognized authority prepared the feasibility study;~~

~~(5) the actuarial forecast supports the projections for the project;~~

~~(6) the [Department] ADMINISTRATION has approved the escrow agreement and deposit agreement; and~~

~~(7) the approved escrow agreement is executed by the provider and the financial institution.~~

~~30–204.~~

~~(a) A provider may collect deposits from prospective subscribers if:~~

~~(1) the [Department] ADMINISTRATION has approved the provider's feasibility study; and~~

~~(2) funds collected are maintained in an escrow account.~~

~~(b) Each deposit agreement shall comply with the requirements of subsection (c) or (d) of this section.~~

~~(c) If a deposit agreement is used for a deposit on a unit for which the provider has not received written approval to withdraw deposits, the deposit agreement shall:~~

~~(1) state that all deposits and entrance fees will be held in escrow until:~~

~~(i) an initial certificate of registration for the unit is issued;~~

~~(ii) construction is completed;~~

~~(iii) a certificate of occupancy, or its equivalent, is issued by the local jurisdiction; and~~

~~(iv) the provider has the appropriate licenses or certificates from the Department of Health and Mental Hygiene, the Maryland Health Care Commission, and the [Department] ADMINISTRATION;~~

~~(2) describe the disposition of any interest earned on deposits and entrance fees;~~

~~(3) state the amount of any processing fee and whether it will be refunded if the deposit agreement is canceled; and~~

~~(4) describe the disposition of the deposit if the deposit agreement is canceled before the continuing care agreement is executed.~~

~~(d) If a deposit agreement is used for a deposit on a unit for which the provider has received written approval to withdraw deposits, the deposit agreement shall:~~

~~(1) state that the provider may use all deposits and entrance fees at any time; or~~

~~(2) describe any applicable limitations on the use of deposits and entrance fees.~~

~~30–205.~~

~~(a) A provider may not enter into a continuing care agreement until the~~ **[**~~Department~~**] ADMINISTRATION** ~~issues a preliminary certificate of registration.~~

~~(b) An application for a preliminary certificate of registration shall be filed in a form satisfactory to the~~ **[**~~Department~~**] ADMINISTRATION.**

~~(c) An application shall include at least the following information:~~

~~(1) the name and address of the facility and the name and address of any affiliate, parent, or subsidiary;~~

~~(2) the organizational structure and management of the provider, including:~~

~~(i) for a corporation or limited liability company, its name, the state in which it is incorporated or formed, and the name of the chief executive officer;~~

~~(ii) for a partnership, the names of the general partners, the state governing its formation, and the name of the primary individual responsible for managing it;~~

~~(iii) for an unincorporated association, the names of the members, the state governing its activities, and the name of the primary individual responsible for managing it;~~

~~(iv) for a partnership that has a corporation or limited liability company as one or more of its general partners, the name of each corporation or~~

~~limited liability company, the state in which it is incorporated or formed, and the name of the chief executive officer;~~

~~(v) for a trust, the name of the trustee, the names of the owners of beneficial interests in the trust, the state governing it, and the name of the primary individual responsible for overseeing its activities;~~

~~(vi) the name and occupation of each officer, director, trustee, managing or general partner, and each person with a 10% or greater financial equity or beneficial interest in the provider and a description of the person's financial interest in or occupation with the provider;~~

~~(vii) the name and address of any entity in which a person identified in item (vi) of this paragraph has a 10% or greater financial interest and that is anticipated to provide goods, premises, or services with a value of $10,000 or more to the facility or provider in a fiscal year and a description of the goods, premises, or services and their anticipated cost to the facility or provider, which need not include salary, wage, or benefit information of employees of the provider; and~~

~~(viii) a statement whether the provider is qualified, or intends to qualify, as a tax exempt organization under the Internal Revenue Code;~~

~~(3) a copy of the corporate charter, partnership agreement, articles of association, membership agreement, trust agreement, or similar instrument or agreement governing the legal organization of the provider;~~

~~(4) (i) a certified financial statement of the provider for as many of the most recent fiscal years, not exceeding 3 years, for which certified financial statements are obtainable under generally accepted accounting principles; and~~

~~(ii) if the provider's fiscal year ended more than 90 days before the date the application is filed, an income statement, which need not be certified, covering the period between the end of the fiscal year and a date not more than 90 days before the date the application is filed;~~

~~(5) a statement of any affiliation with a religious, charitable, or other nonprofit organization, the extent of the affiliation, and the extent, if any, to which the affiliate organization will be responsible for the provider's financial and contractual obligations;~~

~~(6) a copy of the proposed continuing care agreement;~~

~~(7) a copy of any priority admission agreements between the provider and any health care provider for health related services;~~

~~(8) a statement of the current fee structure, including escalator or other automatic adjustment provisions;~~

~~(9) a statement of the role of any publicly funded benefit or insurance program in the financing of care;~~

~~(10) the form and substance of any advertisement, advertising campaign, or other promotional material for the facility that has not been previously submitted to the [Department] ADMINISTRATION; and~~

~~(11) other reasonable and pertinent information that the [Department] ADMINISTRATION requires.~~

~~(d) The [Department] ADMINISTRATION shall issue a preliminary certificate of registration to a provider if:~~

~~(1) the feasibility study has been approved; and~~

~~(2) the [Department] ADMINISTRATION determines that:~~

~~(i) the proposed continuing care agreement meets the requirements of [§§ 10–444, 10–445, 10–446, and 10–448] §§ 30–501, 30–502, 30–503, AND 30–505 of this [subtitle] TITLE;~~

~~(ii) all of the financial and organizational materials required to be submitted under subsection (c) of this section have been submitted to the [Department] ADMINISTRATION; and~~

~~(iii) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead.~~

~~(e) If a preliminary certificate of registration is not issued within 6 months after the feasibility study is approved, or a longer time allowed by the [Department] ADMINISTRATION for good cause shown, the provider shall refund all deposits and stop marketing continuing care under that application.~~

~~(f) A provider that plans to advertise before an initial certificate of registration is issued under [§ 10–412] § 30–206 of this subtitle shall submit to the [Department] ADMINISTRATION the form and substance of any advertisement, advertising campaign, or other promotional material before it may be used.~~

~~30–206.~~

~~(a) A provider may not provide continuing care until the [Department] ADMINISTRATION issues an initial certificate of registration.~~

~~(b) An application for an initial certificate of registration shall be filed in a form satisfactory to the~~ **[**~~Department~~**] ADMINISTRATION.**

~~(c) An application shall include at least the following information:~~

~~(1) for a project other than a conversion, verification that continuing care agreements have been executed with subscribers for at least 65% of the independent living units and~~ **THAT** ~~at least 10% of the total entrance fee for each contracted unit has been collected;~~

~~(2) for a conversion project, verification that at least 80% of the accommodations in the project that are not licensed as assisted living or comprehensive care beds are occupied or reserved in accordance with:~~

~~(i) leases;~~

~~(ii) continuing care agreements executed with subscribers who have paid a deposit that:~~

~~1. equals at least 10% of the total entrance fee; and~~

~~2. has been deposited by the provider under an escrow agreement approved by the~~ **[**~~Department~~**] ADMINISTRATION**~~; or~~

~~(iii) other appropriate contractual arrangements;~~

~~(3) verification that the provider has received a written commitment for permanent long–term financing; and~~

~~(4) if construction financing is required, verification that the provider has applied for the financing.~~

~~(d) (1) If requested by the permanent financing lender, the~~ **[**~~Department~~**] ADMINISTRATION** ~~may issue a letter stating that the requirements of subsection (c)(1) of this section have been met.~~

~~(2) If requested by the construction lender, the~~ **[**~~Department~~**] ADMINISTRATION** ~~may issue a letter stating that:~~

~~(i) the requirements of subsection (c)(1) and (3) of this section have been met; and~~

~~(ii) the initial certificate of registration will be issued on the closing of the construction loan.~~

~~(e) (1) The [Department] ADMINISTRATION shall issue an initial certificate of registration to a provider if the [Department] ADMINISTRATION determines that:~~

~~(i) the provider has a preliminary certificate of registration;~~

~~(ii) the provider has submitted the required documents;~~

~~(iii) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead;~~

~~(iv) for a project other than a conversion, continuing care agreements have been executed with subscribers for at least 65% of the independent living units and at least 10% of the entrance fee has been paid as a deposit for each contracted unit;~~

~~(v) for a conversion project, at least 80% of the accommodations in the project that are not licensed as assisted living or comprehensive care beds are occupied or reserved in accordance with:~~

~~1. leases;~~

~~2. continuing care agreements executed with subscribers who have paid a deposit that:~~

~~A. equals at least 10% of the total entrance fee; and~~

~~B. has been deposited by the provider under an escrow agreement approved by the [Department] ADMINISTRATION; or~~

~~3. other appropriate contractual arrangements;~~

~~(vi) if construction financing is required, closing on the financing has occurred; and~~

~~(vii) the provider has a commitment for permanent long-term financing.~~

~~(2) The [Department] ADMINISTRATION may issue the initial certificate of registration for a period not exceeding 18 months.~~

~~(f) A deposit held in escrow may not be used until:~~

~~(1) an initial certificate of registration has been issued;~~

~~(2) construction is completed;~~

~~(3) the provider has a certificate of occupancy or the equivalent from the appropriate local jurisdiction; and~~

~~(4) the provider has the appropriate licenses or certificates from the Department of Health and Mental Hygiene or the [Department] ADMINISTRATION.~~

~~(g) If an initial certificate of registration is not issued within 24 months after the issuance of a preliminary certificate of registration, or a longer time allowed by the [Department] ADMINISTRATION for good cause shown, the provider shall refund all deposits and stop offering continuing care under that application.~~

~~30–207.~~

~~(a) (1) Each year, within 120 days after the end of a provider's fiscal year, the provider shall file an application for a renewal certificate of registration in a form satisfactory to the [Department] ADMINISTRATION.~~

~~(2) A renewal application shall contain:~~

~~(i) any additions or changes to the information required by [§§ 10–408 through 10–410] §§ 30–202 THROUGH 30–204 of this subtitle;~~

~~(ii) an audited financial statement for the preceding fiscal year prepared in accordance with an audit guide that the [Department] ADMINISTRATION adopts;~~

~~(iii) an operating budget for the current fiscal year and a projected operating budget for the next fiscal year;~~

~~(iv) a cash flow projection for the current fiscal year and the next [two] 2 fiscal years;~~

~~(v) a projection of the life expectancy and the number of residents who will require nursing home care;~~

~~(vi) an actuarial study reviewed by a qualified actuary and submitted every 3 years, unless the provider is exempted from the requirement for an actuarial study by regulations adopted by the [Department] ADMINISTRATION exempting categories of providers that the [Department] ADMINISTRATION determines have substantially limited long–term care liability exposure;~~

~~(vii) the form and substance of any proposed advertisement, advertising campaign, or other promotional material not previously submitted to the [Department] ADMINISTRATION; and~~

~~(viii) any further information that the [Department] ADMINISTRATION requires.~~

~~(b) (1) The [Department] ADMINISTRATION may charge a late fee if the application and accompanying information are not received by the [Department] ADMINISTRATION within 120 days after the end of the provider's fiscal year.~~

~~(2) Failure to file the required information within 90 days after the due date is a violation of this [subtitle] TITLE.~~

~~(c) The [Department] ADMINISTRATION shall issue a renewal certificate of registration if the [Department] ADMINISTRATION determines that:~~

~~(1) the required documents have been filed;~~

~~(2) any revised continuing care agreements meet the requirements of this [subtitle] TITLE;~~

~~(3) if the provider has been found to be in financial difficulty, the provider has complied with [Part VII] SUBTITLE 7 of this [subtitle] TITLE;~~

~~(4) when appropriate, the facility has been licensed or certified by the Department of Health and Mental Hygiene or the [Department] ADMINISTRATION; and~~

~~(5) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted to the [Department] ADMINISTRATION are not deceptive, misleading, or likely to mislead.~~

~~30–208.~~

~~(a) A provider may not begin construction of a renovation until the provider receives written approval from the [Department] ADMINISTRATION.~~

~~(b) (1) A provider shall file with the [Department] ADMINISTRATION a request for approval for each renovation.~~

~~(2) At least 30 days before filing the request, the provider shall submit to the [Department] ADMINISTRATION a written statement of intent to file a request for approval of a renovation.~~

~~(3) A request for approval of a renovation shall be in a form satisfactory to the [Department] ADMINISTRATION.~~

~~(4) A request for approval shall include:~~

~~(i) a statement of the purpose of and need for the renovation;~~

~~(ii) a financial plan that demonstrates to the satisfaction of the [Department] ADMINISTRATION that the renovation will not have an unreasonably adverse effect on the financial ability of the provider to provide continuing care in accordance with its continuing care agreements and this [subtitle] TITLE at the facility to be renovated and at the provider's other facilities in the State; and~~

~~(iii) any other information that the [Department] ADMINISTRATION requires.~~

~~(c) The [Department] ADMINISTRATION shall approve a renovation if the [Department] ADMINISTRATION determines that the proposed renovation will not have an unreasonably adverse effect on the financial ability of the provider to provide continuing care in accordance with its continuing care agreements and this [subtitle] TITLE.~~

~~30–209.~~

~~(a) A provider may not begin construction of an expansion until the provider receives written approval from the [Department] ADMINISTRATION.~~

~~(b) (1) A provider shall file with the [Department] ADMINISTRATION a request for approval for each expansion.~~

~~(2) At least 30 days before filing the request, the provider shall submit to the [Department] ADMINISTRATION a written statement of intent to file a request for approval of an expansion.~~

~~(3) A request for approval of an expansion shall be in a form satisfactory to the [Department] ADMINISTRATION.~~

~~(4) A request for approval shall include:~~

~~(i) a statement of the purpose of and need for the expansion;~~

~~(ii) if the expansion involves living units, a plan that demonstrates to the satisfaction of the [Department] ADMINISTRATION that a market exists for the additional living units;~~

~~(iii) a financial plan that demonstrates to the satisfaction of the [Department] ADMINISTRATION that the expansion will not have an unreasonably adverse effect on the financial ability of the provider to provide continuing care in accordance with its continuing care agreements and this [subtitle] TITLE at the facility to be expanded and at the provider's other facilities in the State; and~~

~~(iv) any other information that the [Department] ADMINISTRATION requires.~~

~~(c) The [Department] ADMINISTRATION shall approve an expansion and, if appropriate, issue a new certificate of registration if the [Department] ADMINISTRATION determines that the proposed expansion will not have an unreasonably adverse effect on the financial ability of the provider to provide continuing care in accordance with its continuing care agreements and this [subtitle] TITLE.~~

~~30–210.~~

~~(a) For cause, the [Department] ADMINISTRATION may:~~

~~(1) deny a feasibility study approval; or~~

~~(2) deny, suspend, or revoke a preliminary, initial, or renewal certificate of registration.~~

~~(b) (1) Grounds for a denial, suspension, or revocation include:~~

~~(i) violation of this subtitle;~~

~~(ii) violation of a regulation the [Department] ADMINISTRATION adopts under this [subtitle] TITLE;~~

~~(iii) misrepresentation; or~~

~~(iv) submission of a false financial statement.~~

~~(2) The [Department] ADMINISTRATION shall set forth in writing its reasons for a denial, suspension, or revocation.~~

~~(c) Title 10, Subtitle 2 of the State Government Article governs the appeal of a denial, revocation, or suspension.~~

~~30–302.~~

~~(a) Interest expenses may be excluded from the calculation of net operating expenses for a fiscal year, if the provider funded a debt service reserve or other interest reserve under requirements imposed by a financial institution or under applicable financing documents, to the extent the reserve fund included amounts to cover interest for that fiscal year.~~

~~(b) (1) Except as otherwise provided in this [part] SUBTITLE, a provider shall set aside for each facility subject to this [subtitle] TITLE operating reserves equal to 15% of the facility's net operating expenses for the most recent fiscal year for which a certified financial statement is available.~~

~~(2) The provider shall keep the operating reserves in a reasonably liquid form in the judgment of the provider.~~

~~(c) (1) A provider shall meet the requirements of subsection (b) of this section within 10 full fiscal years after the date of its initial certificate of registration.~~

~~(2) A provider shall set aside at least 10% of the reserves required under subsection (b) of this section at the end of each fiscal year after the date of its initial certificate of registration, up to a total of 100% at the end of the 10th fiscal year.~~

~~(3) The [Department] ADMINISTRATION may allow a provider to modify the minimum rate required under paragraph (2) of this subsection or extend the time to meet the requirements of subsection (b) of this section if the modification is necessary to maintain the financial viability of the facility.~~

~~30–303.~~

~~(a) (1) A provider shall compute operating reserves for each facility as of the end of the facility's most recent fiscal year.~~

~~(2) When a provider files an application for a renewal certificate of registration, the provider shall show compliance with operating reserve requirements by including with the application:~~

~~(i) a letter to the [Department] ADMINISTRATION from a certified public accountant that states the amount set aside; or~~

~~(ii) a certified financial statement that states the amount set aside.~~

~~(b) A provider may apply toward the operating reserves required by [§ 10–420(b)] § 30–302(B) of this subtitle any reserves, except debt service reserves, that are maintained under applicable financing document requirements if the reserves are available to the provider to meet the facility's operating expenses.~~

~~(c) For the purpose of computing a provider's operating reserves, investments held to the credit of the reserves shall be calculated at their market value as of the end of the provider's most recent fiscal year for which a certified financial statement is available.~~

~~30–304.~~

~~(a) A provider shall notify the [Department] ADMINISTRATION in writing immediately on the withdrawal of any amount from the funds available to satisfy the operating reserves required by [§ 10–420(b)] § 30–302(B) of this subtitle.~~

~~(b) Within 30 days after making a withdrawal described in subsection (a) of this section, the provider shall submit to the [Department] ADMINISTRATION a written plan for restoring the reserves to the level required by [§ 10–420(b)] § 30–302(B) of this subtitle.~~

~~30–305.~~

~~(a) For a facility that has not been the subject of a conversion and that has residents who are not parties to continuing care agreements, the provider shall set aside operating reserves equal to at least 15% of the pro rata proportion of the net operating expenses calculated under subsection (b) of this section.~~

~~(b) The pro rata proportion of the net operating expenses equals the number of units in the facility for which the [Department] ADMINISTRATION has issued a certificate of registration divided by the total number of accommodations in the facility multiplied by the net operating expenses for the most recent fiscal year for which a certified financial statement is available.~~

~~30–306.~~

~~(a) (1) A provider shall give without cost a disclosure statement for each facility for which the provider holds a preliminary, initial, or renewal certificate of registration:~~

~~(i) to a prospective subscriber before the earlier of payment of any part of the entrance fee or execution of a continuing care agreement; and~~

~~(ii) annually to any subscriber who requests a disclosure statement.~~

~~(2) A provider shall submit its initial disclosure statement to the [Department] ADMINISTRATION for review at least 45 days before giving the statement to any prospective subscriber.~~

~~(b) (1) A provider shall revise the disclosure statement annually and file it with the [Department] ADMINISTRATION within 120 days after the end of the provider's fiscal year.~~

~~(2) The [Department] ADMINISTRATION shall review the disclosure statement solely to ensure compliance with [§ 10–425] § 30–307 of this subtitle.~~

~~(c) (1) An amended disclosure statement is subject to each requirement of this~~ **[**~~subtitle~~**] TITLE.**

~~(2) A provider shall file an amended disclosure statement with the~~ **[**~~Department~~**] ADMINISTRATION** ~~when it is delivered to a subscriber or prospective subscriber.~~

~~30–307.~~

~~(a) A disclosure statement shall include:~~

~~(1) the name, address, and description of the facility and the identity of the owner or owners of the facility and the land on which it is located;~~

~~(2) the name and address of the provider and of any parent or subsidiary;~~

~~(3) the organizational structure and management of the provider, including:~~

~~(i) for a corporation or limited liability company, its name, the state in which it is incorporated or formed, and the name of the chief executive officer;~~

~~(ii) for a partnership, the names of the general partners, the state governing its formation, and the name of the primary individual responsible for managing it;~~

~~(iii) for an unincorporated association, the names of the members, the state governing its activities, and the name of the primary individual responsible for managing it;~~

~~(iv) for a partnership that has a corporation or limited liability company as one or more of its general partners, the name of each corporation or limited liability company, the state in which it is incorporated or formed, and the name of the chief executive officer;~~

~~(v) for a trust, the name of the trustee, the names of the owners of beneficial interests in the trust, the state governing it, and the name of the primary individual responsible for overseeing its activities; and~~

~~(vi) a statement whether the provider is qualified, or intends to qualify, as a tax–exempt organization under the Internal Revenue Code;~~

~~(4) the name and occupation of each officer, director, trustee, managing or general partner, and each person with a 10% or greater equity or beneficial interest in the provider, and a description of the person's financial interest in or occupation with the provider;~~

~~(5) the name and address of any entity in which a person identified in item (4) of this subsection has a 10% or greater financial interest and that is anticipated to provide goods, premises, or services with a value of $10,000 or more to the facility or provider in a fiscal year and a description of the goods, premises, or services and their anticipated cost to the facility or provider, which need not include salary, wage, or benefit information of employees of the provider;~~

~~(6) a description of any matter in which an individual identified in item (4) of this subsection:~~

~~(i) has been convicted of a felony or pleaded nolo contendere to a felony charge, if the felony involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;~~

~~(ii) has been held liable or enjoined in a civil action by final judgment, if the civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation as a fiduciary;~~

~~(iii) has been subject to an effective injunctive or restrictive order of a court of record in an action that arose out of or related to business activity or health care, including an action that affected a license to operate a facility or service for senior, impaired, or dependent persons; or~~

~~(iv) in the past 10 years, had a state or federal license or permit suspended or revoked because a governmental unit brought an action that arose out of or related to business activity or health care, including an action that affected a license to operate a facility or service for senior, impaired, or dependent persons;~~

~~(7) a description of the provider's form of governance and the composition of its governing body, and a statement that the provider will satisfy the requirements of~~ **[**~~§§ 10–426 and 10–427~~**] §§ 30–308 AND 30–309** ~~of this subtitle;~~

~~(8) a statement of any affiliation of the provider with a religious, charitable, or other nonprofit organization, and the extent of the organization's responsibility for the financial and contractual obligations of the provider;~~

~~(9) if the facility will be managed on a day–to–day basis by a person other than an individual who is directly employed by the provider, the name of the proposed manager or management company and a description of the business experience of the manager or company in operating or managing similar facilities;~~

~~(10) a copy of the most recent certified financial statement obtainable under generally accepted accounting principles;~~

~~(11) a description of the long–term financing for the facility;~~

~~(12) a cash flow forecast for the current and the next~~ **[**~~two~~**]** ~~**2**~~ ~~fiscal years;~~

~~(13) a description of any activity related to a renovation, expansion, or new development during the preceding fiscal year or proposed for the current fiscal year;~~

~~(14) a description of:~~

~~(i) the steps that have been or will be taken to comply with the operating reserve requirements under~~ **[**~~§ 10–420(b)~~**]** ~~**§ 30–302(B)**~~ ~~of this subtitle; and~~

~~(ii) the provider's investment policy related to the required reserves, including how often and by whom the reserve fund investment is reviewed;~~

~~(15) a description of the financial arrangements that the provider has made, if any, to address the renewal and replacement of the buildings and improvements at the facility, such as the establishment of a renewal and replacement fund;~~

~~(16) if the facility has not reached 85% occupancy of its independent living units, a summary of the feasibility study;~~

~~(17) if applicable, a description of the conditions under which the provider may be issued an initial certificate of registration and may use escrowed deposits;~~

~~(18) a description of all basic fees, including entrance fees, fees for health related services, and periodic fees that the provider collects from subscribers, and the amount and frequency of any fee changes during the previous 5 years or, if the facility has been in operation less than 5 years, for each year of operation;~~

~~(19) a summary of the basic services provided or proposed to be provided at the facility under the continuing care agreement, including the extent to which health related services are provided, that clearly states which services are indicated in the agreement as included in the basic fee and which services are or will be made available at or by the facility at an extra charge;~~

~~(20) if applicable, a statement that it is the provider's policy to impose a surcharge on some, but not all, subscribers because of a condition or circumstance that applies only to those subscribers and that the surcharge is not part of the entrance fee refund required under~~ **[**~~§ 10–448~~**]** ~~**§ 30–505**~~ ~~of this~~ **[**~~subtitle~~**]** ~~**TITLE**~~~~;~~

~~(21) a description of the role of any resident association;~~

~~(22) a description of the internal grievance procedure;~~

~~(23) a statement that the provider will amend its disclosure statement whenever the provider or the [Department] ADMINISTRATION considers an amendment necessary to prevent the disclosure statement from containing:~~

~~(i) a material misstatement of a fact required by this section to be stated in the disclosure statement; or~~

~~(ii) an omission of a material fact required by this section to be stated in the disclosure statement; and~~

~~(24) any other material information about the facility or the provider that the [Department] ADMINISTRATION requires or that the provider wishes to include.~~

~~(b) The disclosure statement shall contain a cover page that states, in a prominent location and type face:~~

~~(1) the date of the disclosure statement; and~~

~~(2) that the issuance of a certificate of registration does not:~~

~~(i) constitute approval, recommendation, or endorsement of the facility by the [Department] ADMINISTRATION; or~~

~~(ii) evidence or attest to the accuracy or completeness of the information in the disclosure statement.~~

~~(c) (1) This subsection applies to a provider that:~~

~~(i) has a continuing care agreement that includes a provision to provide assisted living program services; and~~

~~(ii) does not execute a separate assisted living agreement.~~

~~(2) In addition to any other requirement of this section, the disclosure statement shall contain the following information about the assisted living program:~~

~~(i) the name and address and a description of each facility that the provider operates;~~

~~(ii) a statement regarding the relationship of the provider to other providers or services if the relationship affects the care of the resident;~~

~~(iii) a description of any special programming, staffing, and training provided by the program for individuals with particular needs or conditions such as cognitive impairment;~~

~~(iv) notice of:~~

~~1. the availability of locks for storage;~~

~~2. the availability of locks for the subscriber's room;~~

~~3. the security procedures that the provider will implement to protect the subscriber and the subscriber's property; and~~

~~4. the provider's right, if any, to enter a subscriber's room;~~

~~(v) a statement of the obligations of the provider, the subscriber, or the subscriber's agent for:~~

~~1. arranging or overseeing medical care;~~

~~2. monitoring the subscriber's health status;~~

~~3. purchasing or renting essential or desired equipment and supplies; and~~

~~4. ascertaining the cost of and purchasing durable medical equipment;~~

~~(vi) an explanation of the assisted living program's complaint or grievance procedure; and~~

~~(vii) notice of any material changes in the assisted living program.~~

~~(3) The provider shall:~~

~~(i) give to each subscriber annually and without cost revisions to the disclosure statement provisions under paragraph (2) of this subsection;~~

~~(ii) ensure that each subscriber or the subscriber's agent initials the revised disclosure statement to acknowledge the revisions; and~~

~~(iii) make copies of the initialed disclosure statements available for inspection by the Department of Health and Mental Hygiene under Title 19, Subtitle 18 of the Health – General Article.~~

~~30–309.~~

~~(a) (1) If a provider has a governing body, at least one of the provider's subscribers shall be a full and regular member of the governing body.~~

~~(2) If the provider owns or operates more than three facilities in the State, the governing body shall include at least one of the provider's subscribers for every three facilities in the State.~~

~~(3) Subject to paragraph (4) of this subsection, a member of the governing body who is selected to meet the requirements of this subsection shall be a subscriber at a facility in the State and be selected according to the same general written standards and criteria used to select other members of the governing body.~~

~~(4) The governing body shall confer with the resident association at each of the provider's facilities before the subscriber officially joins the governing body.~~

~~(5) The **[**Secretary**] COMMISSIONER** may waive the requirements of this subsection for a provider in the process of decertifying as a provider, if the **[**Secretary**] COMMISSIONER** determines that there are no subscribers willing and able to serve on the governing body.~~

~~(b) (1) If a provider does not have a governing body, the provider shall appoint a select committee of its officers or partners to meet at least twice a year with the resident association at each of its facilities to address concerns of the subscribers and to ensure that the opinions of subscribers are relayed to all officers or partners of the provider.~~

~~(2) If a facility does not have a resident association, the committee shall meet with a reasonable number of representatives, not required to exceed **[**fifteen**] 15**, that the subscribers elect.~~

~~30–311.~~

~~A provider shall make readily available to its subscribers for review at the facility copies of all materials that the provider submits to the **[**Department**] ADMINISTRATION** that are required to be disclosed under the Public Information Act.~~

~~30–401.~~

~~(a) (1) This section and **[**§§ 10–433 through 10–435**] §§ 30–402 THROUGH 30–404** of this subtitle do not apply to a transfer of ownership of a facility, or a transfer of ownership or control of a person that owns or controls a facility, if:~~

~~(i) the transfer is part of a business reorganization; and~~

~~(ii) the same person or persons holding a majority of ownership or right to control before the business reorganization will retain, directly or indirectly, a majority of ownership or right to control after the business reorganization.~~

~~(2) The provider shall notify the [Department] ADMINISTRATION and the facility's subscribers 30 days before any reorganization described in paragraph (1) of this subsection.~~

~~(b) Unless the [Department] ADMINISTRATION approves the sale or transfer in accordance with [§§ 10–433 through 10–435] §§ 30–402 THROUGH 30–404 of this subtitle, a provider that holds a preliminary, initial, or renewal certificate of registration or a person with an ownership interest in or a right to control the provider, through governing body appointments or contractual or similar arrangements, may not sell or otherwise transfer, directly or indirectly:~~

~~(1) more than 50% of the provider's ownership of a facility; or~~

~~(2) more than 50% of the ownership of or right to control a person that owns or controls a facility.~~

~~(c) Any series of sales or other transfers described in subsection (b) of this section that occur in a 12–month period shall be aggregated for purposes of this section and [§§ 10–433 through 10–435] §§ 30–402 THROUGH 30–404 of this subtitle.~~

~~30–402.~~

~~(a) (1) At least 90 days before the proposed effective date of a sale or other transfer, a provider subject to [§ 10–432(b)] § 30–401(B) of this subtitle shall file with the [Department] ADMINISTRATION a statement of intent to transfer ownership or control.~~

~~(2) At least 65 days before the proposed effective date of the sale or other transfer, a provider subject to [§ 10–432(b)] § 30–401(B) of this subtitle and any proposed new provider shall give written notice of the proposed sale or other transfer, including notice of the place and time of the meeting required by [§ 10–434(b)] § 30–403(B) of this subtitle, to the subscribers of the affected facility and the [Department] ADMINISTRATION.~~

~~(b) (1) The written notice to the [Department] ADMINISTRATION required under subsection (a)(2) of this section shall include:~~

~~(i) the name and address of the existing provider and any proposed new provider and the office of each to which comments may be sent under [§ 10–434] § 30–403 of this subtitle;~~

~~(ii) the name and address of the affected facility;~~

~~(iii) the organizational structure and management of the provider and the facility after the proposed sale or other transfer is completed, including:~~

~~1. if the provider is to be a corporation or limited liability company, its name, its state of incorporation or formation, and the name of the chief executive officer;~~

~~2. if the provider is to be a partnership, the names of the general partners, the state governing its formation, and the name of the primary individual responsible for managing it;~~

~~3. if the provider is to be an unincorporated association, the names of the members, the state governing its activities, and the name of the primary individual responsible for managing it;~~

~~4. if the provider is to be a trust, the trustee's name, the names of the owners of beneficial interests in the trust, the state that governs it, and the name of the primary individual responsible for overseeing its activities;~~

~~5. if the provider is to be a partnership that has a corporation or limited liability company as one or more of its general partners, the name of each corporation or limited liability company, its state of incorporation or formation, and the name of its chief executive officer; and~~

~~6. the name and occupation of each officer, director, trustee, general partner, principal, and each person who will have a 10% or greater equity or beneficial interest in the provider or in a person that owns or controls the provider;~~

~~(iv) a copy of the corporate charter, partnership agreement, articles of association, membership agreement, or trust agreement that will govern the legal organization of the provider after the sale or transfer;~~

~~(v) a statement of any affiliation with a religious, charitable, or other nonprofit organization after the proposed sale or transfer and the extent, if any, of the affiliate organization's responsibility for the financial and contractual obligations of the provider;~~

~~(vi) the name and address of any business or professional entity in which a person identified in item (iii)6 of this paragraph has a 10% or greater financial interest and that is likely to provide goods, premises, or services with a value of $10,000 or more a year to the facility or provider after the sale or transfer, and a description of the goods, premises, or services;~~

~~(vii) the name of the proposed manager or management company that will manage the day-to-day operations of the facility after the sale or other~~

~~transfer, and a description of the business experience of the manager or company in operating or managing similar facilities;~~

~~(viii) a description of any matter in which a person identified in item (iii)6 of this paragraph:~~

~~1. has been convicted of a felony or pleaded nolo contendere to a felony charge, if the felony involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;~~

~~2. has been held liable or enjoined in a civil action by final judgment, if the civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation as a fiduciary;~~

~~3. was subject to an effective injunctive or restrictive order of a court of record in an action that arose out of or related to business activity or health care, including an action that affected a license to operate a facility or service for senior, impaired, or dependent persons; or~~

~~4. within the past 10 years, had a state or federal license or permit suspended or revoked because of an action brought by a governmental unit arising out of or relating to business activity or health care, including actions affecting a license to operate a facility or service for senior, impaired, or dependent persons;~~

~~(ix) a financial plan provided by the entity that will be the provider after the proposed sale or other transfer is completed in a form reasonably acceptable to the [Department] ADMINISTRATION that demonstrates the projected effects of the sale or transfer on the financial operations of the provider and the facility, including any obligations of the provider to make payments in connection with the sale or transfer from the financial resources of the provider or the facility; and~~

~~(x) a statement by the entity that will be the provider after the proposed sale or transfer is completed that demonstrates that the sale or transfer is not likely to have an unreasonably adverse effect on:~~

~~1. the provider's financial stability; or~~

~~2. the provider's capacity to perform its continuing care agreement obligations to subscribers.~~

~~(2) In addition to the information required to be provided under paragraph (1) of this subsection, a provider subject to [§ 10–432(b)] § 30–401(B) of this subtitle and any proposed new provider shall provide to the [Department] ADMINISTRATION any other information that the [Department] ADMINISTRATION requires to evaluate the proposed transaction.~~

~~(3) On request, the existing provider and any proposed new provider shall give to a subscriber of the affected facility the information included in the written notice to the [Department] ADMINISTRATION under paragraph (1) of this subsection.~~

~~30–403.~~

~~(a) Within 15 days after the notice required under [§ 10–433(a)(2)] § 30–402(A)(2) of this subtitle is given, subscribers may submit to the existing provider, any proposed new provider, and the [Department] ADMINISTRATION written questions and comments about the proposed sale or transfer.~~

~~(b) (1) Within 25 days after the notice required under [§ 10–433(a)(2)] § 30–402(A)(2) of this subtitle is given, representatives of the existing provider and any proposed new provider shall hold a meeting with not more than 15 representatives chosen by the subscribers of the affected facility to discuss the proposed sale or transfer.~~

~~(2) The subscriber representatives shall give their names and addresses to the existing provider, any proposed new provider, and the [Department] ADMINISTRATION.~~

~~(3) Representatives of the [Department] ADMINISTRATION may attend the meeting.~~

~~(c) Within 10 days after the meeting required under subsection (b) of this section, subscribers may submit to the existing provider, any proposed new provider, and the [Department] ADMINISTRATION additional written comments about the proposed sale or transfer.~~

~~30–404.~~

~~(a) (1) After reviewing the information required by [§§ 10–433 and 10–434] §§ 30–402 AND 30–403 of this subtitle, the [Department] ADMINISTRATION shall determine whether the sale or transfer satisfies the standard for approval set forth in subsection (b) of this section.~~

~~(2) The [Department] ADMINISTRATION shall make the determination within 50 days after the date of the notice required under [§ 10–433(a)(2)] § 30–402(A)(2) of this subtitle unless extended by the [Department] ADMINISTRATION for good cause.~~

~~(3) The [Department] ADMINISTRATION shall notify the existing provider, any proposed new provider, and the subscriber representatives in writing of the determination and the reasons for it and, if applicable, that the [Department]~~

~~**ADMINISTRATION** intends to transfer the certificate of registration to the new provider.~~

~~(b) The **[**Department**]** **ADMINISTRATION** shall approve a sale or other transfer of ownership or control unless the **[**Department**]** **ADMINISTRATION** determines that the sale or transfer is likely to have an unreasonably adverse effect on:~~

~~(1) the financial stability of the provider; or~~

~~(2) the capacity of the provider to perform continuing care agreement obligations to subscribers.~~

~~(c) (1) In accordance with Title 10, Subtitle 2 of the State Government Article, the provider may appeal the **[**Department's**]** **ADMINISTRATION'S** decision on the proposed sale or transfer.~~

~~(2) A person other than the provider may not appeal the **[**Department's**]** **ADMINISTRATION'S** decision or be a party in interest to the proceedings.~~

~~(3) The **[**Department**]** **ADMINISTRATION** shall give prompt notice of any appeal and of any decision issued in the appeal to the subscriber representatives.~~

~~(d) A sale or other transfer of ownership or control subject to this section and **[**§§ 10–432 through 10–434**]** **§§ 30–401 THROUGH 30–403** of this subtitle may not be completed until 15 days after the later of:~~

~~(1) the day the **[**Department**]** **ADMINISTRATION** issues the notice required under subsection (a)(3) of this section of its decision to approve the sale or transfer; or~~

~~(2) if an appeal is taken under subsection (c) of this section, the day the administrative law judge issues a decision to allow the sale or transfer.~~

~~30–405.~~

~~(a) This section does not apply to:~~

~~(1) a transaction undertaken under a contractual obligation in effect on October 1, 1996;~~

~~(2) a transaction made in the ordinary course of business of operating a facility;~~

~~(3) a refund under a contract entered into in the ordinary course of business;~~

~~(4) a transfer of cash, securities, or other investment property in connection with an ordinary investment transaction;~~

~~(5) a grant of a mortgage, deed of trust, or security interest to an unrelated third party;~~

~~(6) a transaction involving an easement, right–of–way, road widening, or similar conveyance for the benefit of a public body or a utility;~~

~~(7) a transaction made for an expansion or renovation; or~~

~~(8) any other sale, transfer, or other disposition exempted by the [Department] ADMINISTRATION by regulation.~~

~~(b) (1) A provider that holds a preliminary, initial, or renewal certificate of registration may not sell, transfer, or otherwise dispose of more than 10% of its total assets in any 12–month period unless the [Department] ADMINISTRATION approves the sale, transfer, or disposition in accordance with [§§ 10–437 and 10–438] §§ 30–406 AND 30–407 of this subtitle.~~

~~(2) A provider may not sell, transfer, or otherwise dispose of assets equal to or less than 10% of its total assets if the sale, transfer, or disposition is likely, according to standards set by regulation, to have an unreasonably adverse effect on:~~

~~(i) the financial stability of the provider; or~~

~~(ii) the capacity of the provider to perform its obligations under its continuing care agreements.~~

~~(3) Determinations of total assets shall be based on the provider's latest certified financial statements available at the time the sale, transfer, or other disposition is made.~~

~~30–406.~~

~~(a) A provider subject to [§ 10–436(b)(1)] § 30–405(B)(1) of this subtitle shall:~~

~~(1) at least 60 days before the sale, transfer, or other disposition, file with the [Department] ADMINISTRATION a statement of intent to sell, transfer, or otherwise dispose of assets; and~~

~~(2) at least 30 days before the sale, transfer, or other disposition, give written notice to the [Department] ADMINISTRATION of the proposed sale, transfer, or other disposition of assets.~~

~~(b) The statement of intent required to be filed with the [Department] ADMINISTRATION under subsection (a)(1) of this section shall include:~~

~~(1) identification of each asset to be sold, transferred, or otherwise disposed of;~~

~~(2) if the provider is subject to [§ 10–436(b)(1)] § 30–405(B)(1) of this subtitle because of a series of sales, transfers, or other dispositions that have exceeded cumulatively 10% of its total assets, identification of each asset that has been sold, transferred, or disposed of; and~~

~~(3) the reason for the sale, transfer, or other disposition identified in item (1) of this subsection.~~

~~(c) The notice to the [Department] ADMINISTRATION required under subsection (a)(2) of this section shall include:~~

~~(1) a statement that demonstrates that the proposed sale, transfer, or other disposition is not likely to have an unreasonably adverse effect on:~~

~~(i) the financial stability of the provider; or~~

~~(ii) the capacity of the provider to perform its obligations under its continuing care agreements; and~~

~~(2) any other information that the [Department] ADMINISTRATION requires.~~

~~30–407.~~

~~(a) (1) After reviewing the information required by [§ 10–437] § 30–406 of this subtitle, the [Department] ADMINISTRATION shall determine whether the sale, transfer, or other disposition satisfies the standard for approval set forth in subsection (b) of this section.~~

~~(2) The [Department] ADMINISTRATION shall make its determination and notify the provider in writing within 25 days after the date of the notice required by [§ 10–437(a)(2)] § 30–406(A)(2) of this subtitle, unless extended by the [Department] ADMINISTRATION for good cause.~~

~~(3) If the [Department] ADMINISTRATION does not approve the proposed sale, transfer, or other disposition, the [Department] ADMINISTRATION shall include the reasons for its determination in the written notice to the provider.~~

~~(b) The [Department] ADMINISTRATION shall approve the sale, transfer, or other disposition of assets unless it determines that the sale, transfer, or disposition is likely to have an unreasonably adverse effect on:~~

~~(1) the financial stability of the provider; or~~

~~(2) the capacity of the provider to perform its obligations under its continuing care agreements.~~

~~(c) (1) By regulation, the [Department] ADMINISTRATION shall adopt reasonable objective financial standards for a proposed sale, transfer, or other disposition of assets.~~

~~(2) If the [Department] ADMINISTRATION determines that the provider has met the objective financial standards, the [Department] ADMINISTRATION shall approve the proposed sale, transfer, or other disposition of assets.~~

~~(3) If the [Department] ADMINISTRATION determines that the provider has not met the objective financial standards, the [Department] ADMINISTRATION may approve a proposed sale, transfer, or other disposition of assets if it satisfies the requirements set forth in subsection (b) of this section.~~

~~(d) (1) In accordance with Title 10, Subtitle 2 of the State Government Article, the provider may appeal the [Department's] ADMINISTRATION'S decision on the proposed sale, transfer, or other disposition of assets.~~

~~(2) A person other than the provider may not appeal the [Department's] ADMINISTRATION'S decision or be a party in interest to the proceedings.~~

~~(e) A sale, transfer, or other disposition of assets subject to this [part] SUBTITLE may not be completed until 5 days after the later of:~~

~~(1) the day the [Department] ADMINISTRATION issues the notice required under subsection (a)(2) of this section of its decision to approve the sale, transfer, or other disposition; or~~

~~(2) if an appeal is taken under subsection (d) of this section, the day the administrative law judge issues a decision to allow the sale, transfer, or other disposition of assets.~~

~~30–409.~~

~~(a) A provider may not remove a record or asset of the provider related to the operation of a facility or the provision of services under a continuing care agreement from the State unless the [Department] ADMINISTRATION consents in writing.~~

~~(b) Consent shall be based on the provider's submission of satisfactory evidence that the removal:~~

~~(1) will facilitate and make the operations of the provider more economical; and~~

~~(2) will not diminish the service or protection to be given to the provider's subscribers in the State.~~

~~30–410.~~

~~(a) The [Department] ADMINISTRATION may:~~

~~(1) inspect a facility that offers continuing care;~~

~~(2) examine the facility's books and records; and~~

~~(3) audit or observe a service provided under a continuing care agreement.~~

~~(b) If all or part of a facility is subject to licensure by the Department of Health and Mental Hygiene, the [Department] ADMINISTRATION shall coordinate its inspections under this section with the Department of Health and Mental Hygiene to avoid duplication.~~

~~30–501.~~

~~(a) Except as provided in subsection (b)(23) of this section, a requirement of this section does not apply to any continuing care agreement entered into before the effective date of the requirement.~~

~~(b) In a form acceptable to the [Department] ADMINISTRATION, each continuing care agreement shall:~~

~~(1) show the total consideration paid by the subscriber for continuing care, including the value of all property transferred, donations, entrance fees, subscriptions, monthly fees, and any other fees paid or payable by or on behalf of a subscriber;~~

~~(2) specify all services that are to be provided by the provider to each subscriber, such as food, shelter, medical care, nursing care, or other health related~~

~~services, including in detail all items that each subscriber will receive, and whether the items will be provided for life or for a designated time period;~~

~~(3) designate the classes of subscribers according to types of payment plans;~~

~~(4) subject to subsection (c) of this section, describe the procedures to be followed by the provider when the provider temporarily or permanently changes the subscriber's accommodations within the facility or transfers the subscriber to another health facility;~~

~~(5) describe the policies that will be implemented if the subscriber becomes unable to pay the monthly fees;~~

~~(6) state the policy of the provider concerning changes in accommodations and the procedure to implement that policy if the number of persons occupying an individual unit changes;~~

~~(7) provide in clear and understandable language, in boldface type, and in the largest type used in the body of the agreement:~~

~~(i) the terms governing the refund of any portion of the entrance fee if the provider discharges the subscriber or the subscriber cancels the agreement; and~~

~~(ii) whether monthly fees, if charged, will be subject to periodic increases;~~

~~(8) state the terms under which an agreement is canceled by the death of the subscriber;~~

~~(9) provide that charges for care paid in advance in a lump sum may not be increased or changed for the duration of the agreed–upon care;~~

~~(10) state that the subscriber has received, at least **[**two**]** **2** weeks before signing the agreement, the current version of the written rules of the provider;~~

~~(11) describe the living quarters;~~

~~(12) if applicable, state the conditions under which a subscriber may assign a unit for the use of another individual;~~

~~(13) state the provider's religious or charitable affiliations and the extent, if any, to which the affiliate organization is responsible for the provider's financial and contractual obligations;~~

~~(14) state the subscriber's and provider's respective rights and obligations concerning:~~

~~(i) use of the facility; and~~

~~(ii) any real and personal property of the subscriber placed in the provider's custody;~~

~~(15) state that subscribers have the right to organize and operate a subscriber association at the facility and to meet privately to conduct business;~~

~~(16) state that there is an internal grievance procedure to address a subscriber's grievance;~~

~~(17) state the fee adjustments, if any, that will be made if the subscriber is voluntarily absent from the facility for an extended period of time;~~

~~(18) specify the circumstances, if any, under which the subscriber will be required to apply for Medicaid, Medicare, public assistance, or any public benefit program and whether the facility participates in Medicare or medical assistance;~~

~~(19) state that the subscriber received a copy of the latest certified financial statement at least [two] 2 weeks before signing the agreement and that the subscriber has reviewed the statement;~~

~~(20) provide that, on request, the provider will make available to the subscriber any certified financial statement submitted to the [Department] ADMINISTRATION;~~

~~(21) if applicable, describe the conditions under which the provider may be issued an initial certificate of registration and the conditions under which the provider may use escrowed deposits, and state the amount of the subscriber's deposit;~~

~~(22) state that fees collected by a provider under the terms of a continuing care agreement may only be used for purposes set forth in the agreement;~~

~~(23) allow a subscriber to designate a beneficiary to receive any refundable portion of the entrance fee that is owed due to the death of the subscriber on or after the date of occupancy, if the designation is:~~

~~(i) in writing;~~

~~(ii) witnessed by at least two competent witnesses;~~

~~(iii) not contingent; and~~

~~(iv) specified in percentages and accounts for 100% of the refund due;~~

~~(24) state the funeral and burial services, if any, that the provider will provide; and~~

~~(25) contain the following statement in boldface type and in the largest type used in the agreement: "A preliminary certificate of registration or certificate of registration is not an endorsement or guarantee of this facility by the State of Maryland. The Maryland [Department of Aging] INSURANCE ADMINISTRATION urges you to consult with an attorney and a suitable financial advisor before signing any documents.".~~

~~(c) A subscriber's accommodations may be changed only to protect the health or safety of the subscriber or the general and economic welfare of other residents.~~

~~(d) A continuing care agreement may contain, in a form acceptable to the [Department] ADMINISTRATION, any other appropriate provision to effectuate the purpose of the agreement.~~

~~(e) (1) This subsection applies if:~~

~~(i) a provider's continuing care agreement includes a provision to provide assisted living program services; and~~

~~(ii) the provider does not execute a separate assisted living agreement.~~

~~(2) In addition to any other requirement of this section, the continuing care agreement shall include the following provisions concerning the assisted living program:~~

~~(i) a statement of the level of care that the assisted living program is licensed to offer;~~

~~(ii) a description of the procedures to be followed by the provider for notifying the subscriber of the level of care the subscriber needs if the subscriber transfers to an assisted living program;~~

~~(iii) a statement indicating the options available to a subscriber if the subscriber's level of care, after admission to an assisted living program, exceeds the level of care for which the provider is licensed;~~

~~(iv) based on a sample list of assisted living program services that the Department of Health and Mental Hygiene maintains, a statement of which services are provided by the assisted living program and which services are not;~~

~~(v) a statement of the obligations of the provider and the subscriber or the subscriber's agent for handling the subscriber's finances;~~

~~(vi) a statement of the obligations of the provider and the subscriber or the subscriber's agent for disposition of the subscriber's property on the subscriber's discharge or death; and~~

~~(vii) the applicable rate structure and payment provisions covering:~~

~~1. all rates to be charged to the subscriber, including:~~

~~A. service packages;~~

~~B. fee-for-service rates; and~~

~~C. any other nonservice-related charges;~~

~~2. criteria to be used for imposing additional charges to provide additional services, if the subscriber's service and care needs change;~~

~~3. payment arrangements and fees, if known, for third-party services not covered by the continuing care agreement, but arranged for by the subscriber, the subscriber's agent, or the assisted living program;~~

~~4. identification of the persons responsible to pay all fees and charges and a clear indication of whether the person's responsibility is or is not limited to the extent of the subscriber's funds;~~

~~5. a provision for notice at least 45 days before any rate increase, except for an increase necessitated by a change in the subscriber's medical condition; and~~

~~6. fair and reasonable billing and payment policies.~~

~~30-502.~~

~~(a) (1) If a provider's feasibility study has been approved under~~ **[**~~§ 10-409~~**] § 30-203** ~~of this~~ **[**~~subtitle~~**] TITLE**~~, the~~ **[**~~Department~~**] ADMINISTRATION** ~~shall decide whether to approve a continuing care agreement within 180 days after receipt of a complete agreement.~~

~~(2) If the~~ **[**~~Department~~**] ADMINISTRATION** ~~does not act within 180 days, the agreement is deemed approved.~~

~~(b) The provider shall maintain the continuing care agreement at the facility and make it available for inspection by the Department of Health and Mental Hygiene under Title 19, Subtitle 18, of the Health – General Article.~~

~~30–503.~~

~~(a) A subscriber may rescind a continuing care agreement for any reason before the date of occupancy by the subscriber.~~

~~(b) (1) A continuing care agreement is automatically canceled if, before the date of occupancy:~~

~~(i) the subscriber dies;~~

~~(ii) the provider determines that the subscriber is ineligible for admission to the facility; or~~

~~(iii) the subscriber terminates the continuing care agreement because of a substantial change in the subscriber's physical, mental, or financial condition.~~

~~(2) Within 30 days after a continuing care agreement is canceled under this subsection, the subscriber or the subscriber's legal representative shall receive a full refund of all money paid to the provider, less:~~

~~(i) a processing fee approved by the [Department] ADMINISTRATION; and~~

~~(ii) any special additional costs incurred by the provider due to modifications in the structure or furnishings of the unit specifically requested by the subscriber, if:~~

~~1. the costs do not exceed the costs of modification and the reasonable costs of restoration actually incurred by the provider; and~~

~~2. the costs were set forth in writing in a separate addendum to the agreement signed by the subscriber.~~

~~(c) (1) If the subscriber rescinds the continuing care agreement within 90 days after entering into the agreement and before the date of occupancy for any reason other than the reasons specified in subsection (b)(1) of this section, the provider shall refund the amount described in subsection (b)(2) of this section to the subscriber or the subscriber's legal representative within 30 days after the date of rescission.~~

~~(2) If the subscriber rescinds the continuing care agreement more than 90 days after entering into the agreement and before the date of occupancy for any~~

~~reason other than the reasons specified in subsection (b)(1) of this section, the provider may retain up to 25% of the subscriber's entrance fee deposit.~~

~~(d) (1) A subscriber may rescind a continuing care agreement at any time if a term of the agreement violates this [subtitle] TITLE and the subscriber is injured by the violation.~~

~~(2) The subscriber is entitled to treble damages for extensive injuries arising from a violation.~~

~~(e) (1) An applicant for admission to a facility who withdraws the application before executing a continuing care agreement shall receive a refund of all money paid to the provider except a processing fee approved by the [Department] ADMINISTRATION.~~

~~(2) The refund shall be paid within 60 days after the applicant withdraws the application.~~

~~30–601.~~

~~This [part] SUBTITLE applies only to continuing care at home operations.~~

~~30–602.~~

~~(a) The [Department] ADMINISTRATION shall adopt regulations that:~~

~~(1) set standards for continuing care at home providers; and~~

~~(2) provide for the certification of continuing care at home providers and the annual renewal of certificates of registration.~~

~~(b) In addition to the provisions required under subsection (a) of this section, the regulations adopted by the [Department] ADMINISTRATION shall, at a minimum:~~

~~(1) provide for and encourage the establishment of continuing care at home programs;~~

~~(2) for an individual who is employed by or under contract with a continuing care at home provider and who will enter a subscriber's home to provide continuing care at home services:~~

~~(i) set minimum requirements;~~

~~(ii) require a criminal history records check, if the individual will have routine, direct access to a subscriber; and~~

~~(iii) require the provider to screen and verify the individual's character references;~~

~~(3) establish standards for the renewal of certificates of registration;~~

~~(4) establish standards for entrance fees, deposits, and the number of executed agreements necessary to begin operations;~~

~~(5) establish conditions for the release of deposits and entrance fees from escrow accounts;~~

~~(6) establish standards for when and how a subscriber or provider may rescind a continuing care at home agreement before continuing care at home services are provided to the subscriber;~~

~~(7) allow a subscriber to rescind a continuing care at home agreement at any time if the terms of the agreement violate this subtitle; and~~

~~(8) establish that a provider may terminate an agreement or discharge a subscriber only for just cause and establish procedures to carry out the termination or discharge.~~

~~30–603.~~

~~(a) A provider may not collect deposits to provide continuing care at home services until the~~ **[**~~Department~~**]** **ADMINISTRATION** ~~approves a feasibility study.~~

~~(b) A provider that intends to develop a continuing care at home program and provide continuing care at home services shall file a statement of intent with the~~ **[**~~Department~~**]** **ADMINISTRATION** ~~at least 30 days before submitting the feasibility study required under this section.~~

~~(c) A feasibility study shall:~~

~~(1) be filed in a form satisfactory to the~~ **[**~~Department~~**]** **ADMINISTRATION**~~; and~~

~~(2) include at least the following information:~~

~~(i) a statement of the purpose of the program and the need for the proposed services;~~

~~(ii) documentation of the financial resources of the provider;~~

~~(iii) a plan demonstrating the financial feasibility of the proposed program, including future funding sources;~~

~~(iv) an actuarial forecast that has been reviewed by a qualified actuary;~~

~~(v) a study demonstrating the proposed market for the program;~~

~~(vi) the form and substance of any proposed advertisements, advertising campaigns, or other promotional materials for the program that is available at the time of filing;~~

~~(vii) a detailed statement of the covered services; and~~

~~(viii) any other information that the [Department] ADMINISTRATION requires.~~

~~(d) The [Department] ADMINISTRATION shall approve a feasibility study filed under this section if the [Department] ADMINISTRATION determines that:~~

~~(1) the proposed use of new or existing health facilities is not inconsistent with the State health plan;~~

~~(2) a reasonable financial plan has been developed to provide continuing care at home services, including the number of agreements to be executed before beginning operations and the criteria to release funds from escrow;~~

~~(3) a market for the continuing care at home program appears to exist;~~

~~(4) the feasibility study was prepared by a recognized authority;~~

~~(5) the provider has submitted all proposed advertisements, advertising campaigns, and other promotional materials for the program;~~

~~(6) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead;~~

~~(7) the actuarial forecast supports the market for the program;~~

~~(8) the approved escrow agreement and deposit agreement state the conditions for the release of deposits and entrance fees from escrow;~~

~~(9) a copy of the escrow agreement executed by the provider and the financial institution has been filed with the [Department] ADMINISTRATION; and~~

~~(10) any other information requested by the [Department] ADMINISTRATION has been submitted and approved.~~

~~30–604.~~

~~(a) A provider may collect deposits from prospective subscribers if:~~

~~(1) the [Department] ADMINISTRATION has approved the provider's feasibility study; and~~

~~(2) the provider maintains the funds collected in an escrow account.~~

~~(b) Deposits collected under subsection (a) of this section shall be held in escrow until:~~

~~(1) the provider has been issued a certificate of registration under [§ 10–458] § 30–606 of this [subtitle] TITLE; or~~

~~(2) a later time that the [Department] ADMINISTRATION may set by regulation.~~

~~30–605.~~

~~(a) A provider may not enter into an agreement to provide continuing care at home services until the [Department] ADMINISTRATION issues a preliminary certificate of registration to the provider.~~

~~(b) An application for a preliminary certificate of registration shall:~~

~~(1) be filed in a form satisfactory to the [Department] ADMINISTRATION; and~~

~~(2) include at least the following information:~~

~~(i) a copy of the proposed continuing care at home agreement, which shall include the following statement set forth in print no smaller than the largest type used in the body of the agreement:~~

~~"A certificate of registration is not an endorsement or guarantee of this continuing care at home provider by the State of Maryland. The Maryland [Department of Aging] INSURANCE ADMINISTRATION urges you to consult an attorney and a suitable financial advisor before signing any documents.";~~

~~(ii) the form and substance of any proposed advertisements, advertising campaigns, or other promotional material for the program that is available at the time of filing the application and that has not been filed previously with the [Department] ADMINISTRATION; and~~

~~(iii) any other information that the [Department] ADMINISTRATION requires.~~

~~(c) The [Department] ADMINISTRATION shall issue a preliminary certificate of registration to a provider if the [Department] ADMINISTRATION determines that:~~

~~(1) the proposed continuing care at home agreement is satisfactory;~~

~~(2) the provider has submitted all proposed advertisements, advertising campaigns, and other promotional materials for the program;~~

~~(3) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead;~~

~~(4) the information and documents submitted with the feasibility study under [§ 10–455] § 30–603 of this subtitle are current and accurate or have been updated to make them accurate; and~~

~~(5) the provider has submitted any other information that the [Department] ADMINISTRATION requests.~~

~~30–606.~~

~~(a) A provider may not provide continuing care at home services until the [Department] ADMINISTRATION issues a certificate of registration to the provider.~~

~~(b) An application for a certificate of registration shall:~~

~~(1) be filed in a form satisfactory to the [Department] ADMINISTRATION; and~~

~~(2) include at least the following information:~~

~~(i) verification that the required number of agreements has been executed and the corresponding deposits collected;~~

~~(ii) the form and substance of any proposed advertisements, advertising campaigns, or other promotional material for the program that are available at the time of filing and that have not been filed previously with the [Department] ADMINISTRATION;~~

~~(iii) verification that any other license or certificate required by other appropriate State units has been issued to the provider; and~~

~~(iv) any other information that the [Department] ADMINISTRATION requires.~~

~~(c) The [Department] ADMINISTRATION shall issue a certificate of registration to a provider if the [Department] ADMINISTRATION determines that:~~

~~(1) the information and documents submitted with the feasibility study and application for a preliminary certificate of registration are current and accurate or have been updated to make them accurate;~~

~~(2) the required number of agreements has been executed and the corresponding deposits collected;~~

~~(3) any other license or certificate required by other appropriate State units has been issued to the provider;~~

~~(4) the provider has submitted all proposed advertisements, advertising campaigns, and other promotional materials for the program;~~

~~(5) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead; and~~

~~(6) the provider has submitted any other information that the [Department] ADMINISTRATION required.~~

~~(d) If a provider intends to advertise before the [Department] ADMINISTRATION issues a certificate of registration under subsection (c) of this section, the provider shall submit to the [Department] ADMINISTRATION any advertisement, advertising campaign, or other promotional materials before using it.~~

~~(e) If a certificate of registration is not issued to a provider within 24 months after the [Department] ADMINISTRATION approves a feasibility study, or a longer time allowed by the [Department] ADMINISTRATION for good cause shown, the provider shall refund all deposits collected and stop offering continuing care at home services under that application.~~

~~30–607.~~

~~(a) (1) Each year, within 120 days after the end of a provider's fiscal year, the provider shall file an application for a renewal certificate of registration with the [Department] ADMINISTRATION.~~

~~(2) An application shall:~~

~~(i) be filed in a form satisfactory to the [Department] ADMINISTRATION; and~~

~~(ii) contain any reasonable and pertinent information that the [Department] ADMINISTRATION requires.~~

~~(b) The [Department] ADMINISTRATION shall issue a renewal certificate of registration if the [Department] ADMINISTRATION determines that:~~

~~(1) all required documents have been filed and are satisfactory;~~

~~(2) any revised agreements for continuing care at home services meet the [Department's] ADMINISTRATION'S requirements;~~

~~(3) the proposed use of new or existing health facilities is not inconsistent with the State health plan;~~

~~(4) the provider has submitted all proposed advertisements, advertising campaigns, and other promotional materials for the program; and~~

~~(5) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead.~~

~~30–608.~~

~~(a) For cause, the [Department] ADMINISTRATION may:~~

~~(1) deny a feasibility study approval; or~~

~~(2) deny, suspend, or revoke a preliminary, initial, or renewal certificate of registration.~~

~~(b) (1) Grounds for a denial, suspension, or revocation include:~~

~~(i) violation of this subtitle;~~

~~(ii) violation of a regulation the [Department] ADMINISTRATION adopts under this subtitle;~~

~~(iii) misrepresentation; or~~

~~(iv) submission of a false financial statement.~~

~~(2) The [Department] ADMINISTRATION shall set forth in writing its reasons for a denial, suspension, or revocation.~~

~~(c) Title 10, Subtitle 2 of the State Government Article governs the appeal of a denial, revocation, or suspension.~~

~~30–701.~~

~~In this **[**part**]** **SUBTITLE**, "Committee" means the Financial Review Committee established in **[**§ 10–464**]** **§ 30–702** of this subtitle.~~

~~30–702.~~

~~There is a Financial Review Committee in the **[**Department**]** **ADMINISTRATION**.~~

~~30–703.~~

~~(a) (1) The Committee consists of seven members appointed by the **[**Secretary**]** **COMMISSIONER**.~~

~~(2) Of the seven members:~~

~~(i) two shall be knowledgeable in the field of continuing care;~~

~~(ii) two shall be certified public accountants;~~

~~(iii) one shall be from the financial community; and~~

~~(iv) two shall be consumer members.~~

~~(3) In appointing the consumer members, the **[**Secretary**]** **COMMISSIONER** shall give a preference to subscribers of continuing care facilities.~~

~~(b) (1) The term of a member is 3 years.~~

~~(2) The terms of members are staggered as required by the terms provided for members on October 1, 2007.~~

~~(3) A member may serve consecutive terms.~~

~~(c) The Committee shall elect its chair.~~

~~(d) A member:~~

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

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

~~(e) A member is immune from civil liability as provided in § 5–514 of the Courts Article.~~

~~(f) A member may not participate in a review of a provider's financial condition if that member has an interest, as defined under the Maryland Public Ethics Law in § 15–102 of the State Government Article, in the provider.~~

~~(g) The deliberations of the Committee and communications between the Department and the Committee, including recommendations of the Committee, shall be confidential.~~

~~30–704.~~

~~(a) (1) The [Department] ADMINISTRATION may refer to the Committee for its consideration:~~

~~(i) a provider's application for a renewal certificate of registration after review by the [Department] ADMINISTRATION; or~~

~~(ii) a finding of possible financial difficulty, at any time.~~

~~(2) The [Department] ADMINISTRATION shall provide to the Committee any materials the [Department] ADMINISTRATION considers necessary.~~

~~(b) (1) The Committee shall review the referral from the [Department] ADMINISTRATION and may request additional information from the [Department] ADMINISTRATION.~~

~~(2) Except as provided in subsection (c) of this section, within 45 days after receipt of a referral, the Committee shall notify the [Department] ADMINISTRATION in writing whether the Committee recommends that the [Department] ADMINISTRATION:~~

~~(i) find the provider in financial difficulty; and~~

~~(ii) find that the financial difficulty, if any, includes a significant risk of financial failure in accordance with [§ 10–469] § 30–707 of this subtitle.~~

~~(3) In making a recommendation to the [Department] ADMINISTRATION, the Committee shall state the reason for the recommendation.~~

~~(c) (1) The Committee may request from the [Secretary] COMMISSIONER one 30–day extension of the deadline under subsection (b)(2) of this section.~~

~~(2) The [Secretary] COMMISSIONER may grant or deny the extension.~~

~~30–705.~~

~~(a) Within 25 days after receipt of the Committee's recommendations, the [Department] ADMINISTRATION shall consider the recommendations and make a final determination of whether financial difficulty exists and, if so, whether there is a significant risk of financial failure in accordance with [§ 10–469] § 30–707 of this subtitle.~~

~~(b) If the [Department] ADMINISTRATION determines that the provider is in financial difficulty it shall immediately notify the provider by certified mail, return receipt requested, and inform the provider whether the [Department] ADMINISTRATION has determined that there is a significant risk of financial failure.~~

~~(c) The provider shall:~~

~~(1) advise its subscribers of the [Department's] ADMINISTRATION'S determination in a meeting to be held by the provider with representatives of the subscribers;~~

~~(2) hold the meeting within 10 days after the provider's receipt of notice from the [Department] ADMINISTRATION; and~~

~~(3) advise the [Department] ADMINISTRATION of the date, time, and location of the meeting.~~

~~30–706.~~

~~(a) (1) A provider notified of financial difficulty by the [Department] ADMINISTRATION shall prepare and submit to the [Department] ADMINISTRATION for its approval a 5–year financial plan to correct the causes of the financial difficulty.~~

~~(2) The financial plan shall be submitted within 60 days after receipt of notification.~~

~~(3) The provider may request one 30–day extension from the [Secretary] COMMISSIONER.~~

~~(4) The [Secretary] COMMISSIONER may grant or deny the extension.~~

~~(b) (1) The [Department] ADMINISTRATION shall respond to the provider within 60 days after receipt of the proposed financial plan.~~

~~(2) The [Department] ADMINISTRATION may:~~

~~(i) work with the provider to establish the financial plan; and~~

~~(ii) consult with the Committee before approving the financial plan.~~

~~(c) (1) On approval, the financial plan shall be implemented.~~

~~(2) The provider shall make available to its subscribers copies of its approved financial plan.~~

~~(d) The provider shall:~~

~~(1) submit to the [Department] ADMINISTRATION an annual progress report for the term of its financial plan; and~~

~~(2) revise its financial plan if the [Department] ADMINISTRATION determines that revisions are necessary.~~

~~(e) The [Department] ADMINISTRATION may withhold the renewal certificate of registration or withdraw a preliminary, initial, or renewal certificate of registration if:~~

~~(1) the provider does not prepare a financial plan;~~

~~(2) the provider is unwilling or unable to prepare a financial plan;~~

~~(3) the financial plan is inadequate to correct the current or impending financial condition that necessitated the financial plan; or~~

~~(4) the provider fails to implement the financial plan.~~

~~30–707.~~

~~The [Department] ADMINISTRATION may determine that there exists a significant risk of the financial failure of a provider based on one or more of the following findings or circumstances:~~

~~(1) the provider has failed to meet loan covenants that give a lender or a bond trustee the option to exercise remedies on its collateral;~~

~~(2) an actuarial report has been provided to the [Department] ADMINISTRATION reflecting significant underfunding of future liabilities that are unlikely to be readily addressed;~~

~~(3) there is a significant shortfall by the provider in maintaining required reserves for a significant period of time;~~

~~(4) a significant balloon payment or future loan payment will become due within the next 12 months and the provider is unable to demonstrate that it will obtain a modification from its lender, have the resources to make the payment, or have the ability to refinance;~~

~~(5) there has been a significant decline in the occupancy rate that is likely to have a material adverse financial impact on the provider;~~

~~(6) there has been a material adverse change in debt service coverage ratio for an extended period of time that reduces the ratio to less than 1.0;~~

~~(7) there has been a significant decline in days cash on hand that is unrelated to additions to property, plant, and equipment or other community enhancements and that could result in an inability to pay obligations of the provider as they become due;~~

~~(8) there has been a significant increase in the operating ratio, adjusted for unrealized gains and losses on investments, that could result in the inability of the provider to meet its obligations; or~~

~~(9) the refusal or inability of the provider to provide accurate information or data required to be submitted to the [Department] ADMINISTRATION under this [subtitle] TITLE and related regulations.~~

~~30–801.~~

~~(a) In this [part] SUBTITLE the following words have the meanings indicated.~~

~~(b) "Creditor" means a person with a claim against a provider.~~

~~(c) "Delinquency proceeding" means a proceeding under this subtitle to liquidate, rehabilitate, reorganize, or conserve a provider.~~

~~(d) "General assets" means:~~

~~(1) all property that is not specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons or a limited class of persons;~~

~~(2) to the extent that property of a provider is specifically encumbered, the amount of the property or its proceeds that exceeds the amount necessary to discharge the encumbrance; and~~

~~(3) assets held in trust and assets held on deposit for the security or benefit of all subscribers and creditors in the United States.~~

~~(e) "Receiver" includes a conservator, rehabilitator, and liquidator.~~

~~(f) (1) "Secured claim" means a claim that:~~

~~(i) is secured by mortgage, trust deed, pledge, deposit as security, escrow, or otherwise; or~~

~~(ii) has become a lien on specific assets through judicial process.~~

~~(2) "Secured claim" does not include a special deposit claim or a claim against general assets.~~

~~(g) (1) "Special deposit claim" means a claim secured by a deposit required by law for the security or benefit of a limited class of persons.~~

~~(2) "Special deposit claim" does not include a claim against general assets.~~

~~(h) "Transfer" means:~~

~~(1) the sale or other direct or indirect disposition of property or an interest in property;~~

~~(2) the fixing of a lien on property or an interest in property; or~~

~~(3) the retention of a security title to property delivered to a debtor.~~

~~30–802.~~

~~Notwithstanding any other provision of law and subject to [§ 10–493] § 30–822 of this subtitle, a delinquency proceeding is the exclusive method of liquidating, rehabilitating, reorganizing, or conserving a provider.~~

~~30–803.~~

~~The [Secretary, deputy secretary, special deputy secretary] COMMISSIONER, DEPUTY COMMISSIONER, SPECIAL DEPUTY COMMISSIONER, or any person acting as receiver in a rehabilitation, liquidation, or conservation of a provider as a result of a court order shall have the same immunity from liability that [the Maryland Insurance~~

~~Commissioner, deputy commissioner, special deputy commissioner, or~~**]** ~~any person acting as receiver in a rehabilitation, liquidation, or conservation of an insurer would have under § 5–410 of the Courts Article.~~

~~30–804.~~

~~(a) (1) This subsection applies even if a paper or instrument is not:~~

~~(i) executed by the~~ **[**~~Secretary~~**]** ~~**COMMISSIONER** or a deputy, employee, or attorney of record of the~~ **[**~~Secretary~~**]** ~~**COMMISSIONER**; and~~

~~(ii) connected with the commencement of an action or proceeding by or against the~~ **[**~~Secretary~~**]** ~~**COMMISSIONER** or with the subsequent conduct of the action or proceeding.~~

~~(2) Subject to subsection (b) of this section, the~~ **[**~~Secretary~~**]** ~~**COMMISSIONER** may not be required to pay to a public officer in the State a fee for filing, recording, or issuing a transcript or certificate or for authenticating a paper or instrument that relates to the exercise by the~~ **[**~~Secretary~~**]** ~~**COMMISSIONER** of a power or duty of the~~ **[**~~Secretary~~**]** ~~**COMMISSIONER** under this~~ **[**~~subtitle~~**]** ~~**TITLE**.~~

~~(b) (1) The~~ **[**~~Secretary or deputy secretary~~**]** ~~**COMMISSIONER OR DEPUTY COMMISSIONER**, when acting as receiver or ancillary receiver under this~~ **[**~~subtitle~~**]** ~~**TITLE**, shall pay all court costs out of the assets of the provider before any distribution to creditors or termination of rehabilitation.~~

~~(2) In all cases, court costs and those specified in subsection (a) of this section shall:~~

~~(i) be charged in the accounts of the~~ **[**~~Secretary~~**]** ~~**COMMISSIONER** to the court; or~~

~~(ii) be paid by the provider as a condition of termination of the action or proceeding.~~

~~30–805.~~

~~(a) (1) In a delinquency proceeding in which the~~ **[**~~Secretary~~**]** ~~**COMMISSIONER** has been appointed receiver, the~~ **[**~~Secretary~~**]** ~~**COMMISSIONER** may:~~

~~(i) appoint one or more special deputy~~ **[**~~secretaries~~**]** ~~**COMMISSIONERS** to act for the~~ **[**~~Secretary~~**]** ~~**COMMISSIONER**; and~~

~~(ii) employ counsel, clerks, and assistants.~~

~~(2) Compensation of the special deputies, counsel, clerks, and assistants and all expenses of taking possession of the provider and of conducting the delinquency proceeding shall be:~~

~~(i) set by the [Secretary] COMMISSIONER, subject to approval by the court; and~~

~~(ii) paid out of the assets or funds of the provider.~~

~~(3) Within the limits of duties imposed on a special deputy concerning a delinquency proceeding, the special deputy:~~

~~(i) has all powers given to the receiver; and~~

~~(ii) in the exercise of those powers, is subject to all the duties imposed on the receiver concerning the delinquency proceeding.~~

~~(b) In a civil proceeding filed against a special deputy [secretary] COMMISSIONER appointed under this subtitle, the special deputy [secretary] COMMISSIONER is entitled to representation by the Attorney General as specified in Title 12, Subtitle 3, Part II of the State Government Article.~~

~~30–806.~~

~~(a) The Circuit Court of Baltimore City:~~

~~(1) has exclusive original jurisdiction over delinquency proceedings; and~~

~~(2) may issue all necessary and proper orders to carry out this [subtitle] TITLE.~~

~~(b) If service is made in accordance with the Maryland Rules or other applicable law, a court with subject matter jurisdiction over an action brought under this [subtitle] TITLE also has jurisdiction over:~~

~~(1) an officer, director, manager, trustee, organizer, promoter, or attorney in fact of a provider against which a delinquency proceeding has been commenced, in an action resulting from or incidental to the person's relationship with the provider;~~

~~(2) a person that, at the time of or after commencement of the delinquency proceeding, held or was in control of assets in which the receiver claims an interest on behalf of the provider, in an action concerning the assets of the provider; and~~

~~(3) a person obligated to the provider in any way, in an action on or incidental to the obligation.~~

~~(c) The venue of all delinquency proceedings is in Baltimore City.~~

~~30–807.~~

~~(a) The [Secretary] **COMMISSIONER** shall commence a delinquency proceeding against a provider by applying to the court for an order that directs the provider to show cause why the court should not grant the relief requested.~~

~~(b) (1) The court may consider an application for commencement of a delinquency proceeding only if the application is filed by the [Secretary] **COMMISSIONER** in the name of the State.~~

~~(2) After a hearing under the terms of the show cause order, the court:~~

~~(i) shall grant or deny the application; and~~

~~(ii) may order other relief as the nature of the case and the interests of the creditors, stockholders, members, subscribers, or the public may require.~~

~~30–808.~~

~~(a) The [Secretary] **COMMISSIONER** may apply to the court for an order that directs the [Secretary] **COMMISSIONER** to conserve or rehabilitate a provider, if the provider:~~

~~(1) is a provider for which the [Department] **ADMINISTRATION** has made a determination of significant risk of financial failure under [Part VII] **SUBTITLE 7** of this [subtitle] **TITLE**;~~

~~(2) has refused to submit to the [Secretary] **COMMISSIONER** or a deputy or examiner of the [Secretary] **COMMISSIONER**, for reasonable examination, any of the property, books, records, accounts, or affairs of the provider, or of a subsidiary or related company of the provider within the provider's control;~~

~~(3) has concealed or removed its assets or records;~~

~~(4) has willfully violated its charter, articles of incorporation, a State law, or an order of the [Secretary] **COMMISSIONER**;~~

~~(5) after reasonable notice, has failed promptly and effectively to terminate the employment, status, and influence over the management of the provider~~

~~of a person that has executive authority in fact over the provider and has refused to be examined under oath about the affairs of the provider in the State or elsewhere;~~

~~(6) has been or is the subject of an application for appointment of a receiver, trustee, custodian, sequestrator, or similar fiduciary of the provider or its property in an action that was not filed under this~~ **[**~~subtitle~~**] TITLE**~~, regardless of whether the appointment:~~

~~(i) has been made;~~

~~(ii) may deny the courts of the State jurisdiction; or~~

~~(iii) may prejudice an orderly delinquency proceeding under this subtitle;~~

~~(7) has consented to the order for conservation or rehabilitation through a majority of its directors, stockholders, members, or subscribers;~~

~~(8) has failed to pay a final judgment rendered against it in the State on a continuing care agreement issued or assumed by the provider, within 60 days after the latest of:~~

~~(i) the day on which the judgment became final;~~

~~(ii) the day on which the time for taking an appeal expired; or~~

~~(iii) the day on which an appeal was dismissed before final termination;~~

~~(9) after examination by the~~ **[**~~Secretary~~**] COMMISSIONER**~~, is found to be in a condition in which further transaction of its business will be hazardous to its subscribers, bondholders, creditors, or the public;~~

~~(10) has failed to remove a person that has executive authority in fact over the provider after the~~ **[**~~Secretary~~**] COMMISSIONER** ~~has found that person to be dishonest or untrustworthy in a manner that may affect the business of the provider;~~

~~(11) has reasonable cause to know, or should have known, that there has been:~~

~~(i) embezzlement of funds from the provider;~~

~~(ii) wrongful sequestration or diversion of assets of the provider;~~

~~(iii) forgery or fraud that affects the provider; or~~

~~(iv) other illegal conduct in, by, or with respect to the provider;~~

~~(12) is controlled directly or indirectly by a person that the [Secretary] COMMISSIONER finds to be untrustworthy; or~~

~~(13) has failed to file a financial report required by law within the time allowed by law and, after written demand by the [Secretary] COMMISSIONER, has failed to give an immediate and adequate explanation.~~

~~(b) (1) If the appointment of the [Secretary] COMMISSIONER as receiver is not then in effect, and even if no previous order has directed the [Secretary] COMMISSIONER to rehabilitate a provider, the [Secretary] COMMISSIONER may apply to the court for an order that appoints the [Secretary] COMMISSIONER as receiver and that directs the [Secretary] COMMISSIONER to liquidate the provider if the provider:~~

~~(i) has not done business for at least 1 year;~~

~~(ii) is a provider determined to have a significant risk of financial failure under [Part VII] SUBTITLE 7 of this [subtitle] TITLE and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute an action or proceeding to liquidate its business or affairs, to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian, or sequestrator under any law except this title;~~

~~(iii) is doing business in a fraudulent manner; or~~

~~(iv) is in a condition in which further rehabilitation efforts on any grounds specified in subsection (a) of this section appear to be useless.~~

~~(2) If at any time during a rehabilitation proceeding the [Secretary] COMMISSIONER determines that further efforts to rehabilitate the provider would be useless, the [Secretary] COMMISSIONER may apply to the court for an order of liquidation.~~

~~30–809.~~

~~(a) (1) An order to rehabilitate a provider shall:~~

~~(i) appoint the [Secretary] COMMISSIONER as rehabilitator;~~

~~(ii) direct the [Secretary] COMMISSIONER:~~

~~1. to take possession of the property of the provider and conduct the business of the provider under the general supervision of the court; and~~

~~2. to take action the court directs to remove the causes and conditions that have made rehabilitation necessary;~~

~~(iii) vest title to all property of the provider in the rehabilitator; and~~

~~(iv) require the rehabilitator to make accountings to the court that:~~

~~1. are at intervals as the court specifies in its order, but not less frequently than two times each year; and~~

~~2. include the opinion of the rehabilitator about the likelihood of success of the rehabilitation.~~

~~(2) Issuance of an order of rehabilitation:~~

~~(i) does not constitute an anticipatory breach of any contract of the provider; and~~

~~(ii) is not grounds for retroactive revocation or retroactive cancellation of a contract of the provider, unless the rehabilitator revokes or cancels the contract.~~

~~(b) (1) Subject to paragraph (2) of this subsection, the [Secretary] COMMISSIONER, or an interested person on due notice to the [Secretary] COMMISSIONER, may apply to the court at any time for an order that:~~

~~(i) terminates a rehabilitation proceeding; and~~

~~(ii) allows the provider to resume possession of its property and the conduct of its business.~~

~~(2) An order under this subsection may not be issued unless, after a hearing, the court determines that the purposes of the rehabilitation proceeding have been fully accomplished.~~

~~(c) (1) An order to liquidate the business of a provider shall direct the [Secretary] COMMISSIONER promptly to:~~

~~(i) take possession of the property of the provider;~~

~~(ii) liquidate the business of the provider;~~

~~(iii) deal with the property and business of the provider in the name of the [Secretary] COMMISSIONER or in the name of the provider, as the court directs; and~~

~~(iv) notify each creditor that may have a claim against the provider to present the creditor's claim.~~

~~(2) The [Secretary] COMMISSIONER may apply for, and the court may issue, an order to dissolve the corporate existence of a provider:~~

~~(i) on application of the [Secretary] COMMISSIONER for an order to liquidate the provider; or~~

~~(ii) at any time after the court has granted the order of liquidation.~~

~~(d) An order to conserve the assets of a provider shall require the [Secretary] COMMISSIONER promptly to take possession of and conserve the property of the provider in the State, subject to further direction by the court.~~

~~30–810.~~

~~(a) In this section, "appointed receiver" means a person, other than the [Secretary] COMMISSIONER, that the court appoints as a conservator, rehabilitator, or receiver under this section.~~

~~(b) (1) On motion of the court or the [Secretary] COMMISSIONER, the court may issue an order that appoints or substitutes a person other than the [Secretary] COMMISSIONER as conservator, rehabilitator, or receiver:~~

~~(i) on initial application by the [Secretary] COMMISSIONER for an order to appoint the [Secretary] COMMISSIONER as conservator, rehabilitator, or receiver under this [subtitle] TITLE; or~~

~~(ii) at any time during the course of a conservatorship, rehabilitation, or receivership under this [subtitle] TITLE.~~

~~(2) An appointed receiver has the same powers and duties that the [Secretary] COMMISSIONER has under this [subtitle] TITLE as conservator, rehabilitator, or receiver.~~

~~(c) (1) In addition to any other report required by the court, the court shall require an appointed receiver at least quarterly to file with the [Secretary] COMMISSIONER and court a report about:~~

~~(i) the status of the conservatorship, rehabilitation, or receivership; and~~

~~(ii) the activities of the appointed receiver since the last report filed under this paragraph.~~

~~(2) The report required under paragraph (1) of this subsection at a minimum shall include:~~

~~(i) information of the character required by Title 13 of the Maryland Rules that applies to receivers generally;~~

~~(ii) any other information necessary to provide a complete report on the financial affairs and condition of the conservatorship, rehabilitation, or receivership;~~

~~(iii) a complete account of all efforts by the appointed receiver since the last report:~~

~~1. to sell or dispose of the remaining business or assets of the provider; or~~

~~2. to otherwise bring to a prompt conclusion the conservatorship, rehabilitation, or receivership; and~~

~~(iv) copies of any actuarial or other evaluations of the business and assets under the control of the appointed receiver.~~

~~(3) The report shall be audited unless for good cause the court waives the audit.~~

~~(d) Subject to any protective order that the court considers appropriate, information filed under seal shall be provided to the [Secretary] COMMISSIONER.~~

~~(e) The appointed receiver shall give the [Secretary] COMMISSIONER full access to all documents and records related to the conservatorship, rehabilitation, or receivership that are in the possession of the appointed receiver.~~

~~(f) The [Secretary] COMMISSIONER may be a party to a conservatorship, rehabilitation, or receivership for which there is an appointed receiver.~~

~~(g) (1) Subject to approval of the court, the [Secretary] COMMISSIONER may negotiate for sale of all or part of the assets or business of the provider placed in conservatorship, rehabilitation, or receivership.~~

~~(2) The appointed receiver:~~

~~(i) shall cooperate fully in any sales negotiation under paragraph (1) of this subsection; and~~

~~(ii) may object to the terms of a sale of the assets or business of the provider that results from the negotiation.~~

~~(3) After notice and an opportunity to be heard, the court may limit the efforts of the [Secretary] COMMISSIONER to undertake or continue negotiations for the sale of the assets or business of the provider if the negotiations would impair the ability of the appointed receiver to engage in similar negotiations or discharge other responsibilities.~~

~~(h) (1) If the [Secretary] COMMISSIONER determines that an appointed receiver is not adequately discharging the duties and responsibilities of the position, the [Secretary] COMMISSIONER may file with the court an application that seeks to discharge the appointed receiver and to appoint the [Secretary] COMMISSIONER as conservator, rehabilitator, or receiver or to appoint another receiver.~~

~~(2) If the [Secretary] COMMISSIONER establishes by a preponderance of the evidence that grounds exist for discharge of an appointed receiver, the court shall grant the application of the [Secretary] COMMISSIONER to discharge the appointed receiver and to appoint the [Secretary] COMMISSIONER as conservator, rehabilitator, or receiver or to appoint another receiver.~~

~~30–813.~~

~~(a) To facilitate the rehabilitation, liquidation, conservation, or dissolution of a provider under this [subtitle] TITLE, the [Secretary] COMMISSIONER, subject to the approval of the court, may:~~

~~(1) borrow money;~~

~~(2) execute, acknowledge, and deliver notes or other evidences of indebtedness for the loan;~~

~~(3) secure the repayment of the loan by the mortgage, pledge, assignment, or transfer in trust of all or part of the property of the provider; and~~

~~(4) take any other action necessary and proper to consummate the loan and to provide for its repayment.~~

~~(b) The [Secretary] COMMISSIONER is not obligated personally or in an official capacity to repay a loan made under this section.~~

~~30–814.~~

~~(a) Whenever under this [subtitle] TITLE a receiver is to be appointed in a delinquency proceeding for a provider, the court shall:~~

~~(1) appoint the [Secretary] COMMISSIONER as receiver; and~~

~~(2) order the [Secretary] COMMISSIONER promptly to take possession of the assets of the provider and to administer the assets under the orders of the court.~~

~~(b) Beginning on the date of issuance of an order that directs the [Secretary] COMMISSIONER to rehabilitate or liquidate a provider, the [Secretary] COMMISSIONER as receiver is vested by operation of law with title to and may take possession of all of the property, contracts, rights of action, books, and records of the provider, wherever located.~~

~~(c) The filing of the order that directs possession to be taken, or a certified copy of the order, in an office where instruments affecting title to property are required to be filed provides the same notice as would be provided by a deed, bill of sale, or other evidence of title that is so filed.~~

~~(d) (1) The [Secretary] COMMISSIONER as receiver shall administer properly all assets that come into the possession or control of the [Secretary] COMMISSIONER.~~

~~(2) If considered desirable to protect the assets, the court at any time may require a bond from the [Secretary] COMMISSIONER or deputy [secretary] COMMISSIONER.~~

~~(3) On taking possession of the assets of a provider and subject to the direction of the court, the [Secretary] COMMISSIONER immediately shall:~~

~~(i) conduct the business of the provider; or~~

~~(ii) take action authorized by this [subtitle] TITLE to rehabilitate, liquidate, or conserve the affairs or assets of the provider.~~

~~30–816.~~

~~(a) A transfer of or lien on the property of a provider is voidable if the transfer or lien is:~~

~~(1) made or created within 4 months before the issuance of a show cause order under this [subtitle] TITLE;~~

~~(2) made or created with the intent to give a creditor a preference or to enable the creditor to obtain a greater percentage of the debt than another creditor of the same class; and~~

~~(3) accepted by the creditor having reasonable cause to believe that the preference will occur.~~

~~(b) Each director, officer, employee, stockholder, member, subscriber, and any other person acting on behalf of a provider that is concerned in a voidable transfer under subsection (a) of this section and each person that, as a result of the voidable transfer, receives any property of the provider or benefits from the voidable transfer:~~

~~(1) is personally liable; and~~

~~(2) shall account to the [Secretary] COMMISSIONER.~~

~~(c) The [Secretary] COMMISSIONER as receiver in a delinquency proceeding may:~~

~~(1) avoid a transfer of or lien on the property of a provider that a creditor, stockholder, subscriber, or member of the provider might have avoided; and~~

~~(2) recover the transferred property or its value from the person that received it unless that person was a bona fide holder for value before the date of issuance of a show cause order under this [subtitle] TITLE.~~

~~30–817.~~

~~(a) (1) The [Secretary] COMMISSIONER shall deposit moneys collected in a delinquency proceeding in a State or national bank, savings bank, or trust company.~~

~~(2) Deposits made by the [Secretary] COMMISSIONER under paragraph (1) of this subsection have priority of payment equal to any other priority specified by the banking laws of this State if the depository:~~

~~(i) is an institution organized and supervised under the laws of this State; and~~

~~(ii) becomes insolvent or liquidates voluntarily or involuntarily.~~

~~(3) The [Secretary] COMMISSIONER may deposit all or part of the moneys collected in a national bank or trust company as a trust fund.~~

~~(b) To the extent that an investment or account is insured by the Federal Deposit Insurance Corporation, the [Secretary] COMMISSIONER may invest in shares of or deposits in a savings and loan association or building and loan association.~~

~~30–818.~~

~~(a) (1) If on issuance of an order of liquidation under this [subtitle] TITLE or at any time during a liquidation proceeding the provider is not clearly solvent, the court, after notice it considers proper and a hearing, shall issue an order that the provider is an impaired provider.~~

~~(2) Notwithstanding any previous notice given to creditors, after issuance of an order under paragraph (1) of this subsection, the [Secretary] COMMISSIONER shall notify each person that may have a claim against the provider that the claim is forever barred unless the person files the claim with the [Secretary] COMMISSIONER at a place and within the time specified in the notice.~~

~~(3) The time specified in the notice:~~

~~(i) shall be as set by the court for filing claims; but~~

~~(ii) may not be less than 6 months after issuance of the order that the provider is an impaired provider.~~

~~(4) The notice shall be given in the manner and for the reasonable period of time that the court orders.~~

~~(b) (1) Each claimant shall set forth in reasonable detail:~~

~~(i) the amount of the claim or the basis on which the amount can be determined;~~

~~(ii) the facts on which the claim is based; and~~

~~(iii) any priority asserted by the claimant.~~

~~(2) Each claim shall:~~

~~(i) be verified by the affidavit of the claimant or a person authorized to act on behalf of the claimant who has knowledge of the facts; and~~

~~(ii) be supported by any documents that may be material to the claim.~~

~~(3) Each claim shall be filed with the receiver in the State on or before the last date specified under this [subtitle] TITLE for filing of claims.~~

~~(c) The receiver shall:~~

~~(1) report a claim to the court:~~

~~(i) within 10 days after receiving the claim; or~~

~~(ii) within an additional period set by the court for good cause shown; and~~

~~(2) recommend in the report action to be taken on the claim.~~

~~(d) (1) On receipt of the report of the receiver, the court shall:~~

~~(i) set a time for hearing the claim; and~~

~~(ii) direct the claimant or receiver to give notice as the court determines to each person that appears to the court to be interested in the claim.~~

~~(2) The notice given in accordance with this subsection shall:~~

~~(i) specify the time and place of the hearing; and~~

~~(ii) state concisely:~~

~~1. the amount and nature of the claim;~~

~~2. any priority asserted by the claimant; and~~

~~3. the recommendation of the receiver about the claim.~~

~~(e) (1) At the hearing specified under subsection (d) of this section:~~

~~(i) each person with an interest in the claim may appear; and~~

~~(ii) the court shall issue an order in which the court allows in part, or disallows the claim.~~

~~(2) An order under this subsection is a final order subject to appeal.~~

~~30–819.~~

~~(a) In this section, "preferred claim" means a claim that is given priority of payment from the general assets of a provider under the laws of the State or the United States.~~

~~(b) (1) The first $500 of compensation or wages owed to an officer or employee of a provider for services rendered within 3 months before the commencement of a delinquency proceeding against the provider shall be paid before payment of any other debt or claim.~~

~~(2) Subject to paragraph (3) of this subsection, the [Secretary] COMMISSIONER may pay the compensation required to be paid under this subsection as soon as practicable after commencement of the delinquency proceeding.~~

~~(3) At all times, the [Secretary] COMMISSIONER shall reserve funds that the [Secretary] COMMISSIONER believes are sufficient for expenses of administration.~~

~~(4) The priority required under this subsection is instead of any other similar priority that may be authorized by law as to wages or compensation.~~

~~(c) Priority over all other claims in a liquidation proceeding, other than claims for wages specified in subsection (b) of this section, expenses of administration, and taxes, shall be given to claims by subscribers that arise from continuing care agreements with the provider, including claims to the statutory refund required by [§ 10–448] § 30–505 of this [subtitle] TITLE.~~

~~(d) (1) The owner of a secured claim against a provider for which a receiver has been appointed in this State or another state may:~~

~~(i) surrender the security and file the claim as a general creditor; or~~

~~(ii) have the claim discharged by resort to the security.~~

~~(2) If the owner of a secured claim has the claim discharged by resort to the security, any deficiency shall be treated as a claim against the general assets of the provider on the same basis as the claims of unsecured creditors.~~

~~(3) The amount of a deficiency is conclusive if adjudicated by a court of competent jurisdiction in a proceeding in which the receiver has been given notice and an opportunity to be heard.~~

~~(4) If the amount of a deficiency is not conclusive, the amount shall be determined in a delinquency proceeding in the State.~~

~~30–820.~~

~~(a) (1) Subject to paragraph (2) of this subsection, contingent and unliquidated claims may not share in a distribution of the assets of a provider that has been adjudicated to be an impaired provider by an order issued under this [subtitle] TITLE.~~

~~(2) If properly presented, a contingent and unliquidated claim shall be considered and may be allowed to share if:~~

~~(i) the claim becomes absolute against the provider on or before the last day for filing claims against the assets of the provider; or~~

~~(ii) there is a surplus and the liquidation is subsequently conducted on the basis that the provider is solvent.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection, a claim of a person that has a secured claim may not be allowed at a sum greater than the difference between:~~

~~(i) the value of the claim without security; and~~

~~(ii) the value of the security itself on:~~

~~1. the date of issuance of the liquidation order; or~~

~~2. another date set by the court for determining rights and liabilities as provided in subsection (c) of this section.~~

~~(2) If the claimant surrenders the security to the [Secretary] COMMISSIONER, the claim shall be allowed in the full amount for which it is valued.~~

~~(c) Subject to the provisions of this [subtitle] TITLE on the rights of claimants holding contingent claims, and unless otherwise directed by the court, the rights and liabilities of a provider and creditors, stockholders, members, subscribers, and other persons interested in the estate of the provider are fixed on the date on which the order that directs the liquidation of the provider is filed in the office of the clerk of the court that issued the order.~~

~~30–821.~~

~~(a) Except as provided in subsection (b) of this section, in all cases of mutual debts and credits between a provider and another person in connection with a delinquency proceeding, the debts and credits shall be offset and the balance only shall be allowed or paid.~~

~~(b) An offset may not be allowed in favor of another person if:~~

~~(1) on the date of issuance of a liquidation order or otherwise, as specified in [§ 10–491(e)] § 30–820(C) of this subtitle, the obligation of the provider to the person would not entitle the person to share as a claimant in the assets of the provider; or~~

~~(2) the obligation of the provider to the person was purchased by or transferred to the person for use as an offset.~~

~~30–822.~~

~~If a provider is the subject of a bankruptcy or receivership action, the claims of subscribers shall be administered in accordance with~~ **[**~~§ 10–490(c)~~**] § 30–819(C)** ~~of this subtitle for the purpose of any legal action in conjunction with the bankruptcy or receivership.~~

~~30–901.~~

~~(a) A person may not maintain or operate a facility offering continuing care without having obtained an initial or renewal certificate of registration.~~

~~(b) A person may not disseminate prohibited advertising or promotional materials.~~

~~(c) A person may not provide false registration information to the~~ **[**~~Department~~**] ADMINISTRATION**~~.~~

~~(d) (1) A person who violates any provision of this~~ **[**~~subtitle~~**] TITLE** ~~is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $1,000 or both.~~

~~(2) Each violation of this subtitle constitutes a separate offense.~~

~~30–902.~~

~~(a) The~~ **[**~~Secretary~~**] COMMISSIONER** ~~may impose a civil money penalty against a provider for an action or inaction that violates this~~ **[**~~subtitle~~**] TITLE** ~~or any regulation adopted by the~~ **[**~~Department~~**] ADMINISTRATION** ~~under this~~ **[**~~subtitle~~**] TITLE**~~.~~

~~(b) (1) Before imposing a civil money penalty under subsection (a) of this section, the~~ **[**~~Department~~**] ADMINISTRATION** ~~shall issue a notice of violation to the provider.~~

~~(2) The notice shall state:~~

~~(i) when the provider must submit a plan of correction that is acceptable to the~~ **[**~~Department~~**] ADMINISTRATION**~~;~~

~~(ii) when each identified violation must be substantially corrected, which may not be less than 30 days; and~~

~~(iii) that failure to submit an acceptable plan of correction as required under item (i) of this paragraph or to correct an identified violation may result in an order imposing a civil money penalty under subsection (d) of this section.~~

~~(c) If at the expiration of the time set forth in the notice required under subsection (b) of this section the **[**Department**]** **ADMINISTRATION** determines a violation has not been corrected, the **[**Secretary**]** **COMMISSIONER** may:~~

~~(1) extend the time in which the violation must be corrected; or~~

~~(2) impose a civil money penalty under subsection (d) of this section.~~

~~(d) (1) The **[**Secretary**]** **COMMISSIONER** may impose a civil money penalty not exceeding $5,000 for each violation.~~

~~(2) In setting the amount of a civil money penalty under this section, the **[**Secretary**]** **COMMISSIONER** shall consider the following factors:~~

~~(i) the number, nature, and seriousness of the violations;~~

~~(ii) the degree of risk to the health, life, or physical or financial safety of the subscribers caused by the violations;~~

~~(iii) the efforts made by the provider to correct the violations;~~

~~(iv) whether the amount of the proposed civil money penalty will jeopardize the financial ability of the provider to continue operating; and~~

~~(v) other factors as justice may require.~~

~~(3) If a civil money penalty is imposed under this section, the **[**Department**]** **ADMINISTRATION** shall issue an order stating:~~

~~(i) the basis on which the order is made;~~

~~(ii) each regulation or statute violated;~~

~~(iii) each civil money penalty imposed and the total amount of the civil money penalty imposed; and~~

~~(iv) the manner in which the amount of the civil money penalty was calculated.~~

~~(4) (i) The **[**Department**]** **ADMINISTRATION** shall provide written notice to a provider of the imposition of a civil money penalty.~~

~~(ii) The notice shall be served on the provider by certified mail and shall include the order and a statement on how to file an administrative appeal.~~

~~(5) If a civil money penalty is imposed under this section, the provider has the right to appeal from the order in accordance with Title 10, Subtitle 2 of the State Government Article.~~

~~(e) (1) A provider shall pay a civil money penalty to the [Department] ADMINISTRATION within 10 days after the provider receives a final order imposing the civil money penalty.~~

~~(2) An order imposing a civil money penalty is final when the provider has exhausted all opportunities to contest the civil penalty in accordance with Title 10, Subtitle 2 of the State Government Article.~~

~~(3) If a provider does not comply with this section, the [Department] ADMINISTRATION may file a civil action to recover the penalty.~~

~~(4) The [Department] ADMINISTRATION shall deposit all civil money penalties collected under this section into the General Fund.~~

~~30–903.~~

~~(a) (1) Any subscriber injured by a violation of this [subtitle] TITLE may bring an action for equitable relief or an action for damages in any court of general jurisdiction.~~

~~(2) In an action described in paragraph (1) of this subsection, the court may award reasonable attorney's fees to a subscriber in whose favor a judgment is entered.~~

~~(b) The [Department] ADMINISTRATION may bring an action for an appropriate temporary restraining order or injunction for a violation of this [subtitle] TITLE.~~

~~30–904.~~

~~(a) The [Department] ADMINISTRATION may use the receivership provisions of [Part VIII of this subtitle] SUBTITLE 8 OF THIS TITLE to protect the interests of subscribers in:~~

~~(1) the substantial advance payments subscribers have made in the form of entrance fees and, when applicable, periodic fees, for future continuing care without necessarily having any ownership in or control of the provider or the facility;~~

~~(2) the insurance aspects of continuing care agreements, as applicable; and~~

~~(3) the continued delivery of services committed to under continuing care agreements.~~

~~(b) The [Department] ADMINISTRATION may petition for the appointment of a receiver:~~

~~(1) if there is a threat of immediate closure of a facility;~~

~~(2) if the provider is not honoring its contracts with its subscribers;~~

~~(3) to prohibit the improper diversion of the provider's assets and records from the facility or the State; or~~

~~(4) if the [Department] ADMINISTRATION has made a determination of a significant risk of financial failure in accordance with [§§ 10–467 and 10–469] §§ 30–705 AND 30–707 of this [subtitle] TITLE.~~

~~(c) The [Department] ADMINISTRATION may petition for the appointment of a receiver before the provider files a plan of correction.~~

~~(d) The receiver may rehabilitate, conserve, or liquidate as provided by the order of appointment and [Part VIII of this subtitle] SUBTITLE 8 OF THIS TITLE.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article – Insurance**~~

~~30–102.~~

~~(a) (1) A continuing care at home provider is subject to each provision of this [subtitle] TITLE except [Part II] SUBTITLE 2 and [§§ 10–446 and 10–448] §§ 30–503 AND 30–505 OF THIS TITLE.~~

~~(2) A continuing care in a retirement community provider is subject to each provision of this [subtitle] TITLE except [Part VI] SUBTITLE 6 OF THIS TITLE.~~

~~(b) (1) A continuing care operation that is subject to the provisions of this [subtitle] TITLE is not subject to:~~

~~(i) the Maryland Health Maintenance Organization Act under Title 19, Subtitle 7 of the Health – General Article;~~

~~(ii) except for § 15–603 of [the Insurance Article, the Insurance Article] THIS ARTICLE, OTHER PROVISIONS OF THIS ARTICLE;~~

~~(iii) Title 8 of the Real Property Article;~~

~~(iv) any county or municipal landlord–tenant law; or~~

~~(v) § 19–310.1 of the Health – General Article.~~

~~(2) If a provider contractually utilizes the services of a licensed home health agency or residential service agency and is not itself directly providing the type of services provided by a home health agency or residential service agency, the provider is not subject to Title 19, Subtitles 4 and 4A of the Health – General Article.~~

~~(3) Except as provided in paragraphs (1) and (2) of this subsection, a continuing care at home provider is subject to all other applicable licensing or certification requirements of State law.~~

~~(c) This [subtitle] TITLE does not apply to an agreement that is regulated as insurance under [the Insurance Article] THIS ARTICLE.~~

~~(d) A provider that offers assisted living program services as part of a continuum of care in accordance with a continuing care agreement may:~~

~~(1) execute a separate assisted living resident agreement and a separate assisted living disclosure statement; or~~

~~(2) meet the requirements of [§§ 10–425(c) and 10–444(c)] §§ 30–307(C) AND 30–501(E) of this [subtitle] TITLE.~~

~~(e) The liability of a provider to the Department of Health and Mental Hygiene under § 15–603 of [the Insurance Article] THIS ARTICLE shall be limited to the amount of the refund that would be due to the subscriber if the subscriber were dismissed under [§ 10–448] § 30–505 of this [subtitle] TITLE at the time of enrollment in services provided by or paid wholly or partly by the Department of Health and Mental Hygiene.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article – Insurance**~~

~~30–102.~~

~~(a) (1) A continuing care at home provider is subject to each provision of this [subtitle] TITLE except [Part II] SUBTITLE 2 and [§§ 10–446 and 10–448] §§ 30–503 AND 30–505 OF THIS TITLE.~~

~~(2) A continuing care in a retirement community provider is subject to each provision of this [subtitle] TITLE except [Part VI] SUBTITLE 6 OF THIS TITLE.~~

~~(b) (1) A continuing care operation that is subject to the provisions of this [subtitle] TITLE is not subject to:~~

~~(i) the Maryland Health Maintenance Organization Act under Title 19, Subtitle 7 of the Health – General Article;~~

~~(ii) except for § 15–603 of [the Insurance Article, the Insurance Article] THIS ARTICLE, OTHER PROVISIONS OF THIS ARTICLE;~~

~~(iii) Title 8 of the Real Property Article; or~~

~~(iv) any county or municipal landlord–tenant law.~~

~~(2) If a provider contractually utilizes the services of a licensed home health agency or residential service agency and is not itself directly providing the type of services provided by a home health agency or residential service agency, the provider is not subject to Title 19, Subtitles 4 and 4A of the Health – General Article.~~

~~(3) Except as provided in paragraphs (1) and (2) of this subsection, a continuing care at home provider is subject to all other applicable licensing or certification requirements of State law.~~

~~(c) This [subtitle] TITLE does not apply to an agreement that is regulated as insurance under [the Insurance Article] THIS ARTICLE.~~

~~(d) A provider that offers assisted living program services as part of a continuum of care in accordance with a continuing care agreement may:~~

~~(1) execute a separate assisted living resident agreement and a separate assisted living disclosure statement; or~~

~~(2) meet the requirements of [§§ 10–425(e) and 10–444(e)] §§ 30–307(C) AND 30–501(E) of this [subtitle] TITLE.~~

~~(e) The liability of a provider to the Department of Health and Mental Hygiene under § 15–603 of [the Insurance Article] THIS ARTICLE shall be limited to the amount of the refund that would be due to the subscriber if the subscriber were dismissed under [§ 10–448] § 30–505 of this [subtitle] TITLE at the time of enrollment in services provided by or paid wholly or partly by the Department of Health and Mental Hygiene.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That the Maryland Insurance Administration, in consultation with LifeSpan Network and the continuing care~~

~~retirement community, shall conduct a comprehensive review of the statutory and regulatory provisions governing continuing care to determine methods for streamlining and simplifying the continuing care process. On or before January 1, 2010, the Administration shall report, in accordance with § 2–1246 of the State Government Article, to the Governor and General Assembly on the review and any changes or actions taken as a result of the review.~~

~~SECTION 6. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross–references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2009 that affects provisions enacted by this Act. The publisher shall adequately describe such correction in an editor's note following the section affected.~~

~~SECTION 7. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect on the taking effect of the termination provision specified in Section 6 of Chapter 503 of the Acts of the General Assembly of 2007. If that termination provision takes effect, Section 3 of this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.~~

~~SECTION 8. AND BE IT FURTHER ENACTED, That, except as provided in Section 7 of this Act, this Act shall take effect October 1, 2009.~~

Enacted under Article II, § 17(c) of the Maryland Constitution, May 31, 2009.

Chapter 751

(House Bill 960)

AN ACT concerning

Prince George's County – Board of Education – ~~Elected Members~~ ~~Members – Benefits~~ *Expenditures*

PG 407–09

FOR the purpose of providing that certain elected members of the Prince George's County Board of Education ~~are entitled to~~ may be provided certain health insurance and other fringe benefits provided to certain employees of the Board of Education; *prohibiting the Prince George's County Board of Education from expending any funds for certain purposes;* providing for the application of this Act; *making this Act an emergency measure;* and generally relating to ~~benefits for elected members~~ *expenditures* of the Prince George's County Board of Education.

BY repealing and reenacting, with amendments,
Article – Education
Section 3–1003
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Education

3–1003.

(a) **(1)** From and after December 4, 2006, at the beginning of each member's full term, the chair of the County Board is entitled to receive $19,000 annually as compensation and the other elected members are each entitled to receive $18,000 annually as compensation.

(2) EACH ELECTED MEMBER OF THE COUNTY BOARD ~~IS ENTITLED TO~~ MAY BE PROVIDED HEALTH INSURANCE AND OTHER FRINGE BENEFITS REGULARLY PROVIDED TO EMPLOYEES OF THE BOARD OF EDUCATION UNDER THE SAME TERMS AND CONDITIONS EXTENDED TO OTHER EMPLOYEES OF THE BOARD OF EDUCATION.

(b) (1) After submitting vouchers under the rules and regulations adopted by the County Board, the chair and the other members, including the student member, are entitled to the allowances for travel and other expenses provided in the Prince George's County budget.

(2) A member of the County Board may not be reimbursed more than $7,000 in travel and other expenses incurred in a single fiscal year.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, the Prince George's County Board of Education may not expend any funds for the purpose of leasing, acquiring, or purchasing property under or in connection with a lease entered into in June of 2008 for consolidation of administrative offices of the Board.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That *Section 1 of* this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any member of the Prince George's County Board of Education elected before November, 2010.

~~SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.~~

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.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 31, 2009.

Joint Resolutions

Signed by the President of the Senate
and the Speaker of the House of Delegates

Joint Resolution 1

(Senate Joint Resolution 2)

A Senate Joint Resolution concerning

The Jim McKay Maryland Million

FOR the purpose of urging the Maryland Million LTD to rename the day of racing known as the Maryland Million in memory of Jim McKay, rename a certain trophy in memory of Jim McKay, and continue to sponsor Maryland Million races annually at Laurel Park, except under certain circumstances; and generally relating to the dedication of the Maryland Million to the memory of Jim McKay.

Preamble

WHEREAS, For 23 years, the Maryland Million has been the Maryland horse racing event second only in importance to the Preakness Stakes and is among the premier sire stakes events in the nation; and

WHEREAS, The Maryland Million is a festive event featuring races for nominated horses sired by stallions who stand in Maryland and are themselves nominated to the Maryland Million; and

WHEREAS, Evidence of the success of the Maryland Million is that since the event was founded in 1986, 22 other states have created special racing days for state–bred or state–sired horses; and

WHEREAS, Legendary sportscaster Jim McKay, whose favorite sport was horse racing, was a member of the Jockey Club, horse racing's governing body, and the recipient of many horse racing awards; and

WHEREAS, Jim McKay was a long–time, great friend of Maryland racing; and

WHEREAS, The Maryland Million was founded by Jim McKay, who not only conceived the idea but who also raised money, solicited sponsorships, and spent countless hours to win the backing of stallion owners to make the event a reality; and

WHEREAS, A fitting and lasting tribute to Jim McKay would be to dedicate the Maryland Million in his memory; now, therefore, be it

RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That the General Assembly urges the Maryland Million LTD to:

(1) rename the Maryland Million as the Jim McKay Maryland Million;

(2) rename the winner's trophy awarded in the Maryland Million Classic Race in memory of Jim McKay; and

(3) continue to sponsor annually the Maryland Million races at Laurel Park, unless:

(i) the horse racing licensee is prevented from conducting the races by weather, an act of God, or other circumstances beyond the control of the licensee; or

(ii) the horse racing licensee and the Maryland Million LTD agree to another location that is approved by the State Racing Commission; and be it further

RESOLVED, That a copy of this Resolution be forwarded by the Department of Legislative Services to the Honorable Martin O'Malley, Governor of Maryland; the Honorable Thomas V. Mike Miller, Jr., President of the Senate of Maryland; the Honorable Michael E. Busch, Speaker of the House of Delegates; and Wayne A. Harrison, President of Maryland Million LTD, P.O. Box 427, Timonium, Maryland 21094.

Signed by the President and the Speaker, May 7, 2009.

Vetoed Bills

and

Messages

from the

Governor of Maryland

Forty-eight bills were vetoed by the Governor following the 2009 Regular Session of the General Assembly. Twenty-seven of these bills originated in the Senate and twenty-one of them originated in the House of Delegates. Pursuant to the provisions of Section 17 of Article II of the Maryland Constitution, these bills will be returned to the General Assembly immediately after the Legislature has organized at the next Regular or Special Session to be reconsidered in order to determine whether the veto is sustained or overridden.

2009 Session

List of Senate Bills Vetoed

(Bill numbers in **bold** indicate policy vetoes. Bill numbers in *italics* indicate technical vetoes. All other vetoes are duplicative.)

Bill No.	Subject	Page
SB 21	Dorchester County – School Bus Length of Operation – Sunset Repeal	4227
SB 22	Caroline County – Sheriff's Salary	4228
SB 23	Caroline County – Department of Corrections Employment Applicants – Lie Detector Tests	4229
SB 37	Caroline County – Alcoholic Beverages – Special Multiple Event Licenses	4232
SB 72	Higher Education – Institutions of Postsecondary Education – Exempt Institutions	4235
SB 96	Income Tax – Mandatory Income Tax Return Preparer Requirements	4237
SB 116	State Board of Veterinary Medical Examiners – Sunset Extension and Program Evaluation	4240
SB 118	State Athletic Commission – Sunset Extension and Program Evaluation	4243
SB 159	Commercial Real Property – Action to Abate Drug Nuisance – Prior Notice Requirement	4245
SB 172	Maryland Homeowners Association Act – Closed Meetings of Homeowners Association	4250
SB 178	State Retirement and Pension System – Investments	4253
SB 226	State Retirement and Pension System – Participating Governmental Units	4255
SB 227	Baltimore City – Newly Constructed Dwelling Property Tax Credit – Modification and Reauthorization	4258
SB 231	State Health Services Cost Review Commission – Health Care Facilities – Required Forms	4262
SB 274	Tax Increment Financing and Special Taxing Districts – Transit–Oriented Development	4265
SB 334	Talbot County – Alcoholic Beverages – Limited Wineries	4281
SB 380	Health Maintenance Organizations – Payments to Nonparticipating Providers	4283
SB 450	Allegany County – Upper Potomac River Commission – Savage River Dam – Borrowing Authority	4290
SB 458	State Treasurer – Local Government Units – Local Debt Policies.	4293
SB 591	State Retirement and Pension System – Military Service Credit – Clarification and Simplification	4303

Bill No.	Subject	Page
SB 593	State Retirement and Pension System – Board of Trustees – Attendance and Educational Training	4308
SB 607	Frederick County – Overdue Water and Sewer Charge – Restoration of Service Penalty	4311
SB 721	Private Wastewater Treatment Act of 2009	4313
SB 767	Fire, Rescue, and Emergency Medical Services in Anne Arundel County – Agreements with Federal Government – Reimbursement	4316
SB 780	Counties – Purchase of Development Rights – Carroll County	4318
SB 884	Frederick County – Alcoholic Beverages – Wine Festival License.	4321
SB 932	Creation of a State Debt – Community Development Administration – Local Government Infrastructure Financing Program	4323

List of House Bills Vetoed

(Bill numbers in **bold** indicate policy vetoes. Bill numbers in *italics* indicate technical vetoes. All other vetoes are duplicative.)

Bill No.	Subject	Page
HB 43	Talbot County – School Buses – Length of Operation	4327
HB 59	State Board of Well Drillers – Sunset Extension and Program Evaluation	4329
HB 80	Frederick County – Alcoholic Beverages – Part–Time Inspectors	4331
HB 111	Dorchester County – Sheriff – Salary	4336
HB 112	Dorchester County Board of Education – Annual Election of Board Officers	4339
HB 169	Tax Sales – Fees	4341
HB 269	Caroline County – Tax Sales – Auctioneer Fees	4342
HB 292	Financial Institutions – Mortgage Lenders and Mortgage Loan Originators	4345
HB 400	Anne Arundel County – Alcoholic Beverages – Yacht Club License	4396
HB 402	Education – Baltimore City Community College – Academic Facility Bonds	4398
HB 455	Caroline County Board of Education – Election and Appointment of Members – Referendum	4404
HB 466	State Retirement Agency – Monitoring of Telephone Calls – Quality Assurance	4416
HB 553	Maryland Condominium Act – Closed Meetings of Board of Directors	4418
HB 572	Washington Metropolitan Area Transit Authority – Finance and Governance	4420
HB 741	Baltimore City Land Bank Authority – Recodification	4427
HB 809	State Debt – Annuity Bond Fund – Payment of Fiscal Agents	4450
HB 931	Cecil County – Public Facilities Bond Bill	4452
HB 976	Carroll County – Public Facilities Bonds	4456
HB 977	State Retirement and Pension System – Compliance with Federal Tax Provisions	4462
HB 1245	Frederick County – Deer Hunting on Private Property – Sundays	4466
HB 1454	Baltimore City – Alcoholic Beverages – Beer, Wine, and Liquor Tasting License	4469

Vetoed Senate Bills and Messages

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 21 – *Dorchester County – School Bus Length of Operation – Sunset Repeal*.

This bill repeals the termination date for a provision of law that alters the length of time a school bus may be operated in Dorchester County.

House Bill 110, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 21.

Sincerely,

Martin O'Malley
Governor

Senate Bill 21

AN ACT concerning

Dorchester County – School ~~Buses –~~ *Bus* Length of Operation – Sunset Repeal

FOR the purpose of repealing the termination date for a provision of law that ~~authorizes school buses that meet certain criteria to be operated in Dorchester County for a certain length of time.~~ *alters the length of time a school bus may be operated in Dorchester County; and generally relating to school buses in Dorchester County.*

BY repealing and reenacting, with amendments,
Chapter 637 of the Acts of the General Assembly of 2008
Section 2

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

Chapter 637 of the Acts of 2008

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.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 22 – *Caroline County – Sheriff's Salary*.

This bill increases the salary of the Sheriff of Caroline County from $65,000 to $80,000 and provides that the Act does not apply to the salary or compensation of the incumbent Sheriff of Caroline County.

House Bill 429, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 22.

Sincerely,

Martin O'Malley
Governor

Senate Bill 22

AN ACT concerning

Caroline County – Sheriff's Salary

FOR the purpose of altering the salary of the Sheriff of Caroline County; providing that this Act does not apply to the salary or compensation of the incumbent Sheriff of Caroline County; and generally relating to the salary of the Sheriff of Caroline County.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–309(g)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Courts and Judicial Proceedings

2–309.

(g) (1) The Sheriff of Caroline County shall receive an annual salary of **[**$65,000**] $80,000**.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the Sheriff of Caroline County in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the Sheriff of Caroline County shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 23 – *Caroline County – Department of Corrections Employment Applicants – Lie Detector Tests*.

This bill exempts, from the prohibition against an employer requiring or demanding, as a condition of employment, that an individual submit to or take a lie detector or similar test, individuals who apply for employment with the Caroline County Department of Corrections either as a correctional officer or in any other capacity that involves direct personal contact with an inmate in the Department.

House Bill 548, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 23.

Sincerely,

Martin O'Malley
Governor

Senate Bill 23

AN ACT concerning

Caroline County – Department of Corrections Employment Applicants – ~~Polygraph Examinations~~ *Lie Detector Tests*

FOR the purpose of exempting from the prohibition against an employer requiring or demanding, as a condition of employment, that an individual submit to or take a lie detector or similar test, individuals who apply for employment with the Caroline County ~~Detention Center~~ *Department of Corrections either* as a correctional officer or ~~for any other position~~ *in any other capacity* that involves direct ~~personal~~ contact with an inmate in the ~~Center~~ *Department*; and generally relating to the Caroline County ~~Detention Center~~ *Department of Corrections*.

BY repealing and reenacting, ~~with~~ *without* amendments,
Article – Labor and Employment
Section ~~3–702(b)(3)~~ *3–702(a), (b)(3) and (4), and (c)*
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–702(b)(5)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Labor and Employment

3–702.

(a) In this section, "employer" means:

(1) a person engaged in a business, industry, profession, trade, or other enterprise in the State;

(2) the State;

(3) a county; and

(4) a municipal corporation in the State.

(b) (3) This section does not apply to an individual who applies for employment or is employed:

(i) as a law enforcement officer, as defined in § 3–101 of the Public Safety Article;

(ii) as an employee of a law enforcement agency of the State, a county, or a municipal corporation;

(iii) as a communications officer of the Calvert County Control Center;

(iv) as a correctional officer of the Calvert County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Detention Center;

~~(V) AS A CORRECTIONAL OFFICER OF THE CAROLINE COUNTY DETENTION CENTER OR IN ANY OTHER CAPACITY THAT INVOLVES DIRECT PERSONAL CONTACT WITH AN INMATE IN THE CENTER;~~

[(v)**]** ~~(VI)~~ as a correctional officer of the Washington County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Center; or

[(vi)**]** ~~(VII)~~ as a correctional officer of:

1. the Baltimore City Jail;

2. the Baltimore County Detention Center;

3. the Cecil County Detention Center;

4. the Charles County Detention Center;

5. the Frederick County Adult Detention Center;

6. the Harford County Detention Center; or

7. the St. Mary's County Detention Center.

(4) This section does not apply to an applicant for employment as a correctional officer with the Department of Corrections for Prince George's County.

*(5) This section does not apply to an applicant for employment with **EITHER** the Anne Arundel County Department of Detention Facilities **OR THE CAROLINE COUNTY DEPARTMENT OF CORRECTIONS**:*

(i) as a correctional officer; or

*(ii) in any other capacity that involves direct contact with an inmate in **EITHER** the Anne Arundel County Department of Detention Facilities **OR THE CAROLINE COUNTY DEPARTMENT OF CORRECTIONS**.*

(c) An employer may not require or demand, as a condition of employment, prospective employment, or continued employment, that an individual submit to or take a lie detector or similar test.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 37 – *Caroline County – Alcoholic Beverages – Special Multiple Event Licenses*.

Among other things, Senate Bill 37 authorizes in Caroline County an applicant to purchase special multiple event alcoholic beverages licenses; specifies license fees; prohibits the total number of days for which special multiple event licenses may be issued to a single applicant from exceeding 40 days in a calendar year; and requires that fees for special multiple event licenses be paid in advance.

House Bill 46, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 37.

Sincerely,

Martin O'Malley
Governor

Senate Bill 37

AN ACT concerning

Caroline County – Alcoholic Beverages – Special Multiple Event Licenses

FOR the purpose of authorizing in Caroline County an applicant to purchase special multiple event alcoholic beverages licenses; specifying certain license fees; prohibiting the total number of days for which special multiple event licenses may be issued to a single applicant from exceeding a certain number of days; requiring that fees for special multiple event licenses be paid in advance; prohibiting the Board of License Commissioners from issuing certain refunds under certain circumstances; providing for certain restrictions on the issuance of special multiple event licenses; requiring that a certain server be on the licensed premises whenever alcoholic beverages are served under the license; and generally relating to alcoholic beverages licenses in Caroline County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 7–101(j)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 7–101(j)(7)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

7–101.

(j) (1) The provisions of this subsection apply only in Caroline County.

(7) (I) INSTEAD OF PURCHASING INDIVIDUAL EVENT LICENSES FOR A PARTICULAR CLASS OF LICENSE, AN APPLICANT MAY PURCHASE A SPECIAL MULTIPLE EVENT LICENSE FOR THE SAME CLASS OF LICENSE.

(II) FEES FOR A SPECIAL MULTIPLE EVENT LICENSE ARE:

1. ~~$125~~ $250 FOR NOT MORE THAN 10 EVENTS PER YEAR;

2. ~~$250~~ $500 FOR NOT MORE THAN 20 EVENTS PER YEAR;

3. ~~$375~~ $750 FOR NOT MORE THAN 30 EVENTS PER YEAR; AND

4. ~~$500~~ $1,000 FOR NOT MORE THAN 40 EVENTS PER YEAR.

(III) THE TOTAL NUMBER OF DAYS FOR WHICH SPECIAL MULTIPLE EVENT LICENSES MAY BE ISSUED TO A SINGLE APPLICANT MAY NOT EXCEED 40 DAYS PER CALENDAR YEAR.

(IV) 1. THE APPLICANT SHALL PAY IN ADVANCE THE FEE FOR A SPECIAL MULTIPLE EVENT LICENSE.

2. THE BOARD MAY NOT ISSUE A REFUND IF THE HOLDER OF THE LICENSE IN A CALENDAR YEAR HOLDS FEWER THAN THE NUMBER OF EVENTS THAT THE HOLDER IS ENTITLED TO CONDUCT.

(V) A SPECIAL MULTIPLE EVENT LICENSE SHALL BE ISSUED:

1. FOR ONE PREMISES ONLY; AND

2. SUBJECT TO SUBPARAGRAPH (VI) OF THIS PARAGRAPH, TO THE SAME APPLICANT FOR ALL EVENTS FOR WHICH THE LICENSE IS ISSUED, UNLESS THE BOARD IN WRITING APPROVES A SUBSTITUTE APPLICANT.

(VI) THE BOARD MAY HOLD A HEARING BEFORE APPROVING A SUBSTITUTE APPLICANT UNDER SUBPARAGRAPH (V)2 OF THIS PARAGRAPH.

(VII) A SERVER WHO IS CURRENTLY CERTIFIED AS HAVING COMPLETED AN ALCOHOL AWARENESS PROGRAM SHALL BE ON THE PREMISES FOR WHICH A SPECIAL MULTIPLE EVENT LICENSE IS ISSUED WHENEVER ALCOHOLIC BEVERAGES ARE SERVED UNDER THE LICENSE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House
Annapolis, MD 20414

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 72 – *Higher Education – Institutions of Postsecondary Education – Exempt Institutions*.

Senate Bill 72 prohibits an institution of postsecondary education that may operate without a certificate of approval issued by the Maryland Higher Education Commission (MHEC) from making reference to its approval or exemption from approval on any certificate, diploma, academic transcript or in advertisements, publications, or on a web site. A violator is subject to a fine of up to $5,000 for each violation.

This legislation is designed to protect Maryland students by prohibiting organizations that are exempt from accreditation by MHEC from making a reference to that exemption in diplomas or other documents. The State has received numerous complaints from students that some institutions are misleading students by advertising their exemption as approval of the program by MHEC. Institutions that are exempt do not undergo review of their programs by MHEC and do not have accreditation.

While I support the intent of Senate Bill 72, the Attorney General informed me in a letter dated May 15, 2009, that in his view, the legislation "presents an unconstitutional restraint on truthful commercial speech" in violation of the First Amendment of the United States Constitution. In the Attorney General's view, the legislation not only prohibits misleading advertising by exempt institutions, it also prohibits truthful advertising in violation of the First Amendment. The Attorney General further stated in his letter that if signed into law, the prohibition against truthful advertising, even if not enforced, "would unconstitutionally chill the free speech rights of these exempt institutions." As a result, the Attorney General recommended the bill not become law.

Based on the Attorney General's opinion, I have vetoed Senate Bill 72. Legislation can be adopted next year that provides the necessary protection for students while still meeting the Constitutional standards for commercial free speech.

Sincerely,

Martin O'Malley
Governor

Senate Bill 72

AN ACT concerning

Higher Education – Institutions of Postsecondary Education – Exempt Institutions

FOR the purpose of prohibiting certain institutions of postsecondary education that are exempt from approval by the Maryland Higher Education Commission from making certain references and representations; establishing certain penalties for certain violations; and generally relating to references and representations by certain institutions of postsecondary education.

BY repealing and reenacting, without amendments,
Article – Education
Section 11–202(c)
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Education
Section 11–202(h) and (i)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

11–202.

(c) Subject to the requirements imposed by subsection (d) of this section, the following institutions of postsecondary education may operate without a certificate of approval from the Commission:

(1) A nonpublic institution of higher education operating under a charter granted by the General Assembly;

(2) A religious degree–granting institution which certifies, in accordance with procedures established by the Commission, that it:

(i) Is founded and operated by a church or organization of churches as an integral part of the religious ministry of that church or organization;

(ii) Offers sectarian instruction only designed for and aimed at persons who hold or seek to learn particular religious faiths or beliefs of churches or religious organizations, and provides only educational programs for religious vocations; and

(iii) States on the diploma or degree the religious nature of the degree; and

(3) A church or other religious institution offering a postsecondary instructional program leading to a diploma or certificate only if designed for and aimed at persons who hold or seek to learn the particular religious faith or beliefs of that church or religious organization, and providing only educational programs for religious purposes.

(H) AN INSTITUTION OF POSTSECONDARY EDUCATION AUTHORIZED TO OPERATE WITHOUT A CERTIFICATE OF APPROVAL UNDER SUBSECTION (C)(2) OR (3) OF THIS SECTION MAY NOT:

(1) MAKE ANY REFERENCE TO APPROVAL OR EXEMPTION BY THE COMMISSION ON ANY CERTIFICATE, DIPLOMA, ACADEMIC TRANSCRIPT, OR OTHER DOCUMENT ISSUED BY THE INSTITUTION; OR

(2) MAKE ANY REPRESENTATION AS TO APPROVAL OR EXEMPTION BY THE COMMISSION ON ANY ADVERTISEMENT OR PUBLICATION, OR ON A WEBSITE.

(I) A PERSON WHO VIOLATES SUBSECTION (H) OF THIS SECTION IS SUBJECT TO A FINE NOT EXCEEDING $5,000 FOR EACH VIOLATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 96 – *Income Tax – Mandatory Income Tax Return Preparer Requirements*.

This bill requires income tax return preparers who prepare more than a specified number of State income tax returns in a tax year to file the returns electronically. The bill authorizes the Comptroller's Office to impose a $50 penalty on any tax professional who fails to file an electronic return as required by the bill and exempts a tax professional from the requirements of the bill under specified circumstances.

House Bill 810, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 96.

Sincerely,

Martin O'Malley
Governor

Senate Bill 96

AN ACT concerning

Income Tax – Mandatory Income Tax Return Preparer Requirements

FOR the purpose of requiring certain income tax return preparers under certain circumstances to file certain income tax returns by electronic means as prescribed by the Comptroller; imposing certain penalties for certain violations; exempting certain returns and providing for certain waivers under certain circumstances; defining certain terms; providing for the application of this Act; and generally relating to mandatory electronic filing of certain income tax returns by certain income tax return preparers under certain circumstances.

BY adding to
Article – Tax – General
Section 10–824 and 13–717
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Tax – General

10–824.

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

(2) (I) "INCOME TAX RETURN PREPARER" MEANS A PERSON WHO FOR COMPENSATION PREPARES A SUBSTANTIAL PORTION OR MORE OF A QUALIFIED RETURN OR EMPLOYS ONE OR MORE PERSONS TO PREPARE FOR COMPENSATION A SUBSTANTIAL PORTION OR MORE OF A QUALIFIED RETURN.

(II) "INCOME TAX RETURN PREPARER" DOES NOT INCLUDE A PERSON WHO MERELY PERFORMS THOSE ACTS DESCRIBED UNDER § 7701(A)(36)(B) OF THE INTERNAL REVENUE CODE.

(3) "QUALIFIED RETURN" MEANS ANY ORIGINAL RETURN OF INDIVIDUAL INCOME TAX IMPOSED BY THIS TITLE, REGARDLESS OF WHETHER A TAX IS DUE OR A REFUND IS CLAIMED.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN INCOME TAX RETURN PREPARER SHALL FILE ALL QUALIFIED RETURNS THAT THE INCOME TAX RETURN PREPARER PREPARES BY ELECTRONIC MEANS AS PRESCRIBED BY THE COMPTROLLER IF:

(1) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2008, BUT BEFORE JANUARY 1, 2010, THE INCOME TAX RETURN PREPARER HAS PREPARED MORE THAN ~~200~~ 300 QUALIFIED RETURNS IN THE PRIOR TAXABLE YEAR; ~~AND~~

(2) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2009, BUT BEFORE JANUARY 1, 2011, THE INCOME TAX RETURN PREPARER HAS PREPARED MORE THAN 200 QUALIFIED RETURNS IN THE PRIOR TAXABLE YEAR; AND

~~(2)~~ (3) FOR ANY TAXABLE YEAR BEGINNING AFTER DECEMBER 31, ~~2009~~ 2010, THE INCOME TAX RETURN PREPARER HAS PREPARED MORE THAN 100 QUALIFIED TAX RETURNS IN THE PRIOR TAXABLE YEAR.

(C) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO A QUALIFIED RETURN IF:

(1) THE TAXPAYER HAS INDICATED ON THE QUALIFIED RETURN THAT THE TAXPAYER DOES NOT WANT THE RETURN FILED BY ELECTRONIC MEANS; OR

(2) THE INCOME TAX RETURN PREPARER PREPARING THE QUALIFIED RETURN HAS REQUESTED AND RECEIVED A WAIVER FROM THE COMPTROLLER.

(D) ~~(1)~~ ON WRITTEN REQUEST FOR A WAIVER BY AN INCOME TAX RETURN PREPARER WHO IS SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE COMPTROLLER MAY GRANT THE INCOME TAX RETURN PREPARER ~~UP TO~~ A ~~12-MONTH~~ WAIVER OF THE REQUIREMENTS OF THIS SECTION IF THE INCOME TAX RETURN PREPARER IS ABLE TO ESTABLISH TO THE SATISFACTION OF THE COMPTROLLER EITHER REASONABLE CAUSE FOR NOT FILING THE RETURN BY ELECTRONIC MEANS OR THAT THERE IS NO FEASIBLE MEANS OF FILING THE RETURN BY ELECTRONIC MEANS WITHOUT UNDUE HARDSHIP.

~~(2) IF THE COMPTROLLER GRANTS THE WAIVER, THE INCOME TAX RETURN PREPARER MAY FILE SIGNED PAPER RETURNS FOR THE PERIOD ALLOWED UNDER THE WAIVER.~~

13–717.

(A) AN INCOME TAX RETURN PREPARER WHO IS SUBJECT TO § 10–824 OF THIS ARTICLE AND WHO FAILS TO FILE A RETURN AS REQUIRED IN § 10–824 OF THIS ARTICLE SHALL PAY A PENALTY OF $50 FOR THAT FAILURE, UNLESS IT IS SHOWN THAT THE FAILURE IS DUE TO REASONABLE CAUSE AND IS NOT DUE TO WILLFUL NEGLECT.

(B) THE TOTAL AMOUNT OF THE PENALTIES ASSESSED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT EXCEED $500 FOR ALL RETURNS FILED BY AN INCOME TAX RETURN PREPARER FOR ANY TAXABLE YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009, and shall be applicable to all taxable years beginning after December 31, 2008.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 116 – *State Board of Veterinary Medical Examiners – Sunset Extension and Program Evaluation*.

Senate Bill 116 continues the State Board of Veterinary Medical Examiners in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to July 1, 2021, the termination provisions relating to the statutory and regulatory authority of the Board. The bill also requires that an evaluation of the Board be performed on or before July 1, 2020 and requires the Board to make a specified report on or before October 1, 2009.

House Bill 62, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 116.

Sincerely,

Martin O'Malley
Governor

Senate Bill 116

AN ACT concerning

State Board of Veterinary Medical Examiners – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Veterinary Medical Examiners in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board to submit a certain report on or before a certain date; and generally relating to the State Board of Veterinary Medical Examiners.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–316
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(66)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Agriculture

2–316.

The provisions of this subtitle creating the State Board of Veterinary Medical Examiners and relating to the regulation of veterinarians and any regulations promulgated under this subtitle are of no effect and may not be enforced after July 1, **[**2011**] 2021**.

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:

(66) Veterinary Medical Examiners, State Board of (§ 2–302 of the Agriculture Article: July 1, **[**2010**] 2020**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2009, the State Board of Veterinary Medical Examiners shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee, in accordance with § 2–1246 of the State Government Article. The report shall address the following issues as outlined in the Department of Legislative Services preliminary sunset evaluation dated December 2008:

(1) Registered veterinary technicians;

(2) Penalty authority;

(3) Public outreach; and

(4) Disciplinary caseload.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 118 – *State Athletic Commission – Sunset Extension and Program Evaluation*.

This bill continues the State Athletic Commission, in accordance with the provisions of the Maryland Program Evaluation Act (sunset law), by extending to July 1, 2021 the termination provisions relating to the statutory and regulatory authority of the Commission. The bill also requires that an evaluation of the Commission be performed on or before July 1, 2020 and that the Commission make a specified report on or before October 1, 2013.

House Bill 61, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 118.

Sincerely,

Martin O'Malley
Governor

Senate Bill 118

AN ACT concerning

State Athletic Commission – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Athletic Commission in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Commission; requiring that an evaluation of the Commission and the statutes and regulations that relate to the Commission be performed on or before a certain date; requiring the Commission to submit a certain report on or before a certain date; and generally relating to the State Athletic Commission.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 4–208
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(5)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Business Regulation

4–208.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this subtitle and Subtitle 3 of this title and all regulations adopted under this subtitle and Subtitle 3 of this title shall terminate on July 1, **[**2011**] 2021**.

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:

(5) Athletic Commission, State (§ 4–201 of the Business Regulation Article: July 1, **[**2010**] 2020**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the State Athletic Commission shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on the Commission's implementation of mixed martial arts regulation. The report shall include, at a minimum, the following data on mixed martial arts by fiscal year for fiscal years 2009 through 2013:

(1) the number of licensees;

(2) the number of shows;

(3) any complaints regarding activities; and

(4) the amount of revenue from the boxing and wrestling tax attributable to mixed martial arts events.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 159 – *Commercial Real Property – Action to Abate Drug Nuisance – Prior Notice Requirement.*

This bill alters advance notification requirements concerning specified drug–related nuisances on commercial real property in Baltimore City.

House Bill 99, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 159.

Sincerely,

Martin O'Malley
Governor

Senate Bill 159

AN ACT concerning

Commercial Real Property – Action to Abate Drug Nuisance – ~~Repeal of~~ Prior Notice Requirement

FOR the purpose of ~~repealing~~ altering certain advance notification requirements concerning certain drug–related nuisances on commercial real property; and generally relating to nuisances and commercial real property.

BY repealing and reenacting, without amendments,
Article – Real Property
Section 14–120(a)(1) and (5) and (e) through (q)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 14–120(d)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Real Property~~
~~Section 14–120(e) through (q)~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2008 Supplement)~~

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

Article – Real Property

14–120.

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

(5) "Nuisance" means a property that is used:

(i) By persons who assemble for the specific purpose of illegally administering a controlled dangerous substance;

(ii) For the illegal manufacture, or distribution of:

1. A controlled dangerous substance; or

2. Controlled paraphernalia, as defined in § 5–101 of the Criminal Law Article; or

(iii) For the illegal storage or concealment of a controlled dangerous substance in sufficient quantity to reasonably indicate under all the circumstances an intent to manufacture, distribute, or dispense:

1. A controlled dangerous substance; or

2. Controlled paraphernalia, as defined in § 5–101 of the Criminal Law Article.

~~[~~(d) (1) **(I)** ~~An~~ **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN** action may not be brought under this section concerning a commercial property until ~~45~~ **30** days after the tenant, if any, and owner of record receive notice from a person entitled to bring an action under this section that a nuisance exists.

(II) IN BALTIMORE CITY, AN ACTION MAY NOT BE BROUGHT UNDER THIS SECTION CONCERNING A COMMERCIAL PROPERTY UNTIL 15 DAYS AFTER THE TENANT, IF ANY, AND OWNER OF RECORD RECEIVE NOTICE FROM A PERSON ENTITLED TO BRING AN ACTION UNDER THIS SECTION THAT A NUISANCE EXISTS.

(2) The notice shall specify:

(i) The date and time of day the nuisance was first discovered; and

(ii) The location on the property where the nuisance is allegedly occurring.

(3) The notice shall be:

(i) Hand delivered to the tenant, if any, and the owner of record; or

(ii) Sent by certified mail to the tenant, if any, and the owner of record.]

[(e)] ~~(D)~~ (1) In addition to any service of process required by the Maryland Rules, the plaintiff shall cause to be posted in a conspicuous place on the property no later than 48 hours before the hearing the notice required under paragraph (2) of this subsection.

(2) The notice shall indicate:

(i) The nature of the proceedings;

(ii) The time and place of the hearing; and

(iii) The name and telephone number of the person to contact for additional information.

[(f)] ~~(E)~~ A plaintiff is entitled to relief under this section whether or not an adequate remedy exists at law.

[(g)] ~~(F)~~ (1) If, after a hearing, the court determines that a nuisance exists, the court may order any appropriate injunctive or other equitable relief.

(2) Notwithstanding any other provision of law, and in addition to or as a component of any remedy ordered under paragraph (1) of this subsection, the court may order:

(i) A tenant who knew or should have known of the existence of the nuisance to vacate the property within 72 hours; or

(ii) An owner or operator of the property to submit for court approval a plan of correction to ensure, to the extent reasonably possible, that the property will not again be used for a nuisance if:

1. The owner or operator is a party to the action; and

2. The owner or operator knew or should have known of the existence of the nuisance.

[(h)] ~~(G)~~ (1) (i) If a tenant fails to comply with an order under subsection [(g)] ~~(F)~~ of this section and the owner or operator, and tenant, are parties to the action, the court, after a hearing, may order restitution of the possession of the property to the owner or operator.

(ii) If the court orders restitution of the possession of the property under subparagraph (i) of this paragraph, the court shall immediately issue

its warrant to the sheriff or constable commanding execution of the warrant within 5 days after issuance of the warrant.

(2) If an owner, including an owner–occupant, fails to comply with an order under subsection **[**(g)**]** ~~(F)~~ of this section, after a hearing the court may, in addition to issuing a contempt order or an order for any other relief, order that:

(i) The property be sold, at the owner's expense, in accordance with the Maryland Rules governing judicial sales; or

(ii) The property be demolished if the property is unfit for habitation and the estimated cost of rehabilitation significantly exceeds the estimated market value of the property after rehabilitation.

(3) If an owner–occupant fails to comply with an order under subsection **[**(g)**]** ~~(F)~~ of this section regarding a nuisance in the owner–occupied unit of the property, after a hearing the court may, in addition to issuing a contempt order or an order for any other relief, order that:

(i) The owner–occupied unit be vacated within 72 hours; and

(ii) The owner–occupied unit remain unoccupied for a period not to exceed 1 year or until the property is sold in an arm's length transaction.

[(i)**]** ~~(H)~~ Except as provided in paragraph **[**(g)(2)**]** ~~(F)(2)~~ of this section, the court may order appropriate relief under subsection **[**(g)**]** ~~(F)~~ of this section without proof that a defendant knew of the existence of the nuisance.

[(j)**]** ~~(I)~~ In any action brought under this section:

(1) Evidence of the general reputation of the property is admissible to corroborate testimony based on personal knowledge or observation, or evidence seized during the execution of a search and seizure warrant, but shall not, in and of itself, be sufficient to establish the existence of a nuisance under this section; and

(2) Evidence that the nuisance had been discontinued at the time of the filing of the complaint or at the time of the hearing does not bar the imposition of appropriate relief by the court under subsection **[**(g)**]** ~~(F)~~ of this section.

[(k)**]** ~~(J)~~ The court may award court costs and reasonable attorney's fees to a community association that is the prevailing plaintiff in an action brought under this section.

[(l)**]** ~~(K)~~ An action under this section shall be heard within 14 days after service of process on the parties.

~~[~~(m)~~]~~ ~~(L)~~ This section does not abrogate any equitable or legal right or remedy under existing law to abate a nuisance.

~~[~~(n)~~]~~ ~~(M)~~ (1) An appeal from a judgment or order under this section shall be filed within 10 days after the date of the order or judgment.

(2) If either party files a request for oral argument, the court shall hear the oral argument within 7 days after the request is filed.

(3) (i) If the appellant files a request for oral argument, the request shall be filed at the time of the filing of the appeal.

(ii) If the appellee files a request for oral argument, the request shall be filed within 2 days of receiving notice of the appeal.

~~[~~(o)~~]~~ ~~(N)~~ Provisions of the Real Property Article or public local laws applicable to actions between a landlord and tenant are not applicable to actions brought against a landlord or a tenant under this section.

~~[~~(p)~~]~~ ~~(O)~~ All proceedings under this section are equitable in nature.

~~[~~(q)~~]~~ ~~(P)~~ (1) Except as provided in paragraph (2) of this subsection, when necessary to accomplish the purposes of this section, a law enforcement officer, an attorney in a municipal or county attorney's office, or an attorney in an office of the State's Attorney may disclose the contents of an executed search warrant and papers filed in connection with the search warrant to:

(i) An officer or director of the community association in which the nuisance is located, or the attorney representing the community association;

(ii) An owner, tenant, or operator of the searched property or an agent of the owner, tenant, or operator of the searched property; or

(iii) An attorney in a municipal or county attorney's office.

(2) An affidavit may not be disclosed under this subsection while under seal in accordance with § 1–203 of the Criminal Procedure Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

The Honorable Thomas V. Mike Miller, Jr.

President of the Senate
State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 172 – *Maryland Homeowners Association Act – Closed Meetings of Homeowners Association.*

Senate Bill 172 repeals a specified condition on which a meeting of the board of directors or other governing body of a homeowners association or a committee of a homeowners association may be held in closed session. The bill also alters conditions on which a meeting of a governing body or committee of a homeowners association may be held in closed session.

House Bill 552, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 172.

Sincerely,

Martin O'Malley
Governor

Senate Bill 172

AN ACT concerning

Maryland Homeowners Association Act – Closed Meetings of Homeowners Association

FOR the purpose of repealing a certain condition on which a meeting of the board of directors or other governing body of a homeowners association or a committee of a homeowners association may be held in closed session; <u>altering certain conditions on which a meeting of a governing body or committee of a homeowners association may be held in closed session; authorizing a governing body or committee of a homeowners association to hold a meeting in closed session in order to discuss an individual owner assessment account;</u> and generally relating to closed meetings of a homeowners association.

BY repealing and reenacting, without amendments,
Article – Real Property
Section 11B–111(1) and (5)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11B–111(4)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Real Property

11B–111.

Except as provided in this title, and notwithstanding anything contained in any of the documents of the homeowners association:

(1) Subject to the provisions of paragraph (4) of this section, all meetings of the homeowners association, including meetings of the board of directors or other governing body of the homeowners association or a committee of the homeowners association, shall be open to all members of the homeowners association or their agents;

(4) A meeting of the board of directors or other governing body of the homeowners association or a committee of the homeowners association may be held in closed session only for the following purposes:

(i) Discussion of matters pertaining to employees and personnel;

(ii) Protection of the privacy or reputation of individuals in matters not related to the homeowners association's business;

(iii) Consultation with legal counsel **ON LEGAL MATTERS**;

(iv) Consultation with staff personnel, consultants, attorneys, **BOARD MEMBERS,** or other persons in connection with pending or potential litigation **OR OTHER LEGAL MATTERS**;

(v) Investigative proceedings concerning possible or actual criminal misconduct;

(vi) Consideration of the terms or conditions of a business transaction in the negotiation stage if the disclosure could adversely affect the economic interests of the homeowners association; ~~OR~~

(vii) Compliance with a specific constitutional, statutory, or judicially imposed requirement protecting particular proceedings or matters from public disclosure; **[**or

(viii) On an individually recorded affirmative vote of two–thirds of the board or committee members present, some other exceptional reason so compelling as to override the general public policy in favor of open meetings;**]** ~~and~~ **OR**

(VIII) DISCUSSION OF INDIVIDUAL OWNER ASSESSMENT ACCOUNTS; AND

(5) If a meeting is held in closed session under paragraph (4) of this section:

(i) An action may not be taken and a matter may not be discussed if it is not permitted by paragraph (4) of this section; and

(ii) A statement of the time, place, and purpose of a closed meeting, the record of the vote of each board or committee member by which the meeting was closed, and the authority under this section for closing a meeting shall be included in the minutes of the next meeting of the board of directors or the committee of the homeowners association.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 178 – *State Retirement and Pension System – Investments*.

This bill raises the cap on management fees that the Board of Trustees of the State Retirement and Pension System (SRPS) can pay to external asset managers, not including managers of real estate and alternative assets. It also clarifies the authority of chief investment officer of SRPS to invest in alternative investment vehicles and select external investment managers.

House Bill 448, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 178.

Sincerely,

Martin O'Malley
Governor

Senate Bill 178

AN ACT concerning

State Retirement and Pension System – ~~Investment Manager Service Fees~~ Investments

FOR the purpose of authorizing the Chief Investment Officer for the State Retirement and Pension System to select and invest in certain investment vehicles on behalf of the State Retirement and Pension System; providing that certain external investment managers for the State Retirement System shall be selected by the Chief Investment Officer; increasing certain limitations on certain fees paid by the Board of Trustees to certain investment managers; and generally relating to ~~investment manager service fees~~ investments for the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–122(d), 21–123(g), and 21–315(d)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – State Personnel and Pensions

21–122.

(d) **[**The**]** **ON BEHALF OF THE SEVERAL SYSTEMS, THE** Chief Investment Officer:

(1) may hire external investment managers to invest the assets of the several systems; **[**and**]**

(2) **MAY SELECT AND INVEST IN SPECIFIC INVESTMENT VEHICLES, INCLUDING LIMITED PARTNERSHIPS, PRIVATE EQUITY FUND INVESTMENTS, AND PRIVATE REAL ESTATE FUND INVESTMENTS; AND**

(3) may terminate the appointment of an external investment manager.

21–123.

(g) Any direct owned real estate purchased as an investment by the State Retirement and Pension System shall be managed by an external investment manager selected by the **[**Board of Trustees**] CHIEF INVESTMENT OFFICER**.

21–315.

(d) (1) Each quarter of the fiscal year the Board of Trustees shall estimate one–fourth of an amount, not exceeding **[**0.3%**] 0.5%** of the market value as of the last day of the preceding quarter of invested assets that are externally managed exclusive of assets invested in real estate or alternative investments, necessary to procure and retain investment management services other than external real estate or alternative investment management services.

(2) The Board of Trustees is not limited in the amount of investment manager fees that the Board of Trustees may pay as necessary for external real estate or alternative investment management services.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 226 – *State Retirement and Pension System – Participating Governmental Units*.

This bill requires employees of local governments whose employer choose to participate in the State Retirement and Pension System as a participating

governmental unit to elect participation by the effective date of the authorizing legislation of the local government.

House Bill 473, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 226.

Sincerely,

Martin O'Malley
Governor

Senate Bill 226

AN ACT concerning

State Retirement and Pension System – Participating Governmental Units

FOR the purpose of clarifying the definition of a "local pension system" for participating governmental units ~~in~~ withdrawing from the State Retirement and Pension System; altering the period of time that certain employees of certain participating governmental units have to elect to participate in certain systems of the State Retirement and Pension System; and generally relating to participating governmental units in the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section ~~31–101(h),~~ 31–111(a), ~~31–2A–01(f),~~ 31–2A–04, ~~31–2B–01(c), and~~ 31–2B–04, and 31–301(d)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 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

~~31–101.~~

~~(h) "Local pension system" means a retirement or pension system of an eligible governmental unit that exists before participation by the governmental unit in the [employees' systems] EMPLOYEES' RETIREMENT SYSTEM, THE EMPLOYEES' PENSION SYSTEM, THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM, OR THE CORRECTIONAL OFFICERS' PENSION SYSTEM.~~

31–111.

(a) Except as provided in subsection (b) of this section and §§ 31–111.1, 31–111.3, and 31–111.4 of this subtitle, if an employee of a participating governmental unit joins the Employees' Pension System **[**within 1 year after**]** **ON** the effective date, the employee is entitled to service credit for employment with the participating governmental unit before the effective date.

~~31–2A–01.~~

~~(f)~~ **[**~~(1)~~**]** ~~"Local pension system" [means a retirement or pension system of an eligible governmental unit.~~

~~(2) "Local pension system" includes the Employees' Retirement System and the Employees' Pension System if the eligible governmental unit participates under Subtitle 1 of this title~~**]** ~~**HAS THE MEANING STATED IN § 30–101(H) OF THIS ARTICLE.**~~

31–2A–04.

If a law enforcement officer, firefighter, or paramedic joins the Law Enforcement Officers' Pension System **[**within 6 months after**]** **ON** the effective date, the member is entitled to credit for employment with the participating governmental unit before the effective date.

~~31–2B–01.~~

~~(e)~~ **[**~~(1)~~**]** ~~"Local pension system" [means a retirement or pension system of an eligible governmental unit.~~

~~(2) "Local pension system" includes the Employees' Retirement System and the Employees' Pension System if the eligible governmental unit participates under Subtitle 1 of this title~~**]** ~~**HAS THE MEANING STATED IN § 30–101(H) OF THIS ARTICLE.**~~

31–2B–04.

If a local detention center officer joins the Correctional Officers' Retirement System **[**within 6 months after**]** **ON** the effective date, the member is entitled to credit for employment with the participating governmental unit before the effective date.

31–301.

(d) **(1)** "Local pension system" **[**has the meaning stated in § 31–101 of this title**]** **MEANS A RETIREMENT OR PENSION SYSTEM OF AN ELIGIBLE GOVERNMENTAL UNIT**.

(2) "LOCAL PENSION SYSTEM" INCLUDES THE EMPLOYEES' RETIREMENT SYSTEM, EMPLOYEES' PENSION SYSTEM, LAW ENFORCEMENT OFFICERS' PENSION SYSTEM, OR CORRECTIONAL OFFICERS' RETIREMENT SYSTEM IF THE ELIGIBLE GOVERNMENTAL UNIT PARTICIPATES UNDER THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 227 – *Baltimore City – Newly Constructed Dwelling Property Tax Credit – Modification and Reauthorization*.

This bill modifies the existing Baltimore City property tax credit for newly constructed dwellings and extends the tax credit's termination date from June 30, 2009 to June 30, 2014. The bill also authorizes Baltimore City to establish maximum limits on the cumulative amount of the tax credit that may be allowed for any year and establishes two application periods for the tax credit. Additionally, the bill grants a one–time amnesty period for owners who previously failed to meet the application deadline and who were denied the tax credit.

House Bill 143, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 227.

Sincerely,

Martin O'Malley
Governor

Senate Bill 227

AN ACT concerning

Baltimore City – Newly Constructed Dwelling Property Tax Credit – Modification and Reauthorization

FOR the purpose of authorizing the Mayor and City Council of Baltimore City to establish certain maximum limits for a certain property tax credit; authorizing the Mayor and City Council of Baltimore City to establish certain application periods; authorizing the Mayor and City Council of Baltimore City to establish a one–time application amnesty period subject to certain restrictions; altering the termination date applicable to certain provisions; requiring the Mayor and City Council of Baltimore City to establish necessary and appropriate procedures to carry out the property tax credit; defining a certain term; and generally relating to the newly constructed dwelling property tax credit in Baltimore City.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–304(d)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

9–304.

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

(ii) 1. "Newly constructed dwelling" means residential real property that has not been previously occupied since its construction and for which the building permit for construction was issued on or after October 1, 1994.

2. "Newly constructed dwelling" includes a "vacant dwelling" as defined in subsection (c)(1) of this section that has been rehabilitated in compliance with applicable local laws and regulations and has not been previously occupied since the rehabilitation.

~~(iii) "Homeowner" has the meaning stated in § 9–105(a)(3) of this title.~~

(III) "OWNER" MEANS "HOMEOWNER" AS DEFINED IN § 9–105 OF THIS TITLE.

(2) The Mayor and City Council of Baltimore City may grant, by law, a property tax credit under this subsection against the county property tax imposed on newly constructed dwellings that are owned by qualifying owners.

(3) A property tax credit granted under this subsection may not exceed the amount of county property tax imposed on the real property, less the amount of any other credit applicable in that year, multiplied by:

(i) 50% for the first taxable year in which the property qualifies for the tax credit;

(ii) 40% for the second taxable year in which the property qualifies for the tax credit;

(iii) 30% for the third taxable year in which the property qualifies for the tax credit;

(iv) 20% for the fourth taxable year in which the property qualifies for the tax credit;

(v) 10% for the fifth taxable year in which the property qualifies for the tax credit; and

(vi) 0% for each taxable year thereafter.

(4) NOTWITHSTANDING THE CREDIT AMOUNT CALCULATED UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY ESTABLISH, BY LAW, MAXIMUM LIMITS ON THE CUMULATIVE PROPERTY TAX CREDIT ALLOWED UNDER THIS SUBSECTION OR ON THE AMOUNT OF THE CREDIT ALLOWED FOR ANY YEAR.

[(4)**] (5)** Owners of newly constructed dwellings may qualify for the tax credit authorized by this subsection by:

(i) purchasing a newly constructed dwelling;

(ii) occupying the newly constructed dwelling as their principal residence;

(iii) filing a State income tax return during the period of the tax credit as a resident of Baltimore City; and

(iv) satisfying other requirements as may be provided by the Mayor and City Council of Baltimore City.

(6) (I) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY PROVIDE, BY LAW, FOR TWO APPLICATION PERIODS DURING WHICH ~~HOMEOWNERS~~ OWNERS CAN APPLY FOR THE PROPERTY TAX CREDIT UNDER

THIS SUBSECTION, ONE THAT IS BASED ON THE PURCHASE DATE OF THE DWELLING AND ONE THAT IS BASED ON THE DATE OF THE ASSESSMENT NOTICE.

(II) 1. THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY PROVIDE, BY LAW, FOR A ONE–TIME AMNESTY PERIOD FOR ~~HOMEOWNERS~~ OWNERS WHO WERE PREVIOUSLY DENIED THE TAX CREDIT FOR FAILING TO MEET THE APPLICATION DEADLINE.

2. THE AMNESTY PERIOD SHALL BEGIN AT THE TIME THE TAX CREDIT IS REAUTHORIZED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY AND SHALL END 60 DAYS THEREAFTER.

3. ONLY ~~HOMEOWNERS~~ OWNERS WHO WERE ELIGIBLE FOR THE TAX CREDIT ON OR AFTER JANUARY 1, 2005, MAY BE ELIGIBLE TO APPLY FOR THE CREDIT DURING THE AMNESTY PERIOD.

4. IF GRANTED, THE TAX CREDIT SHALL BE APPLIED AGAINST THE ~~HOMEOWNER'S~~ OWNER'S PROPERTY TAXES AS LONG AS THE ~~HOMEOWNER~~ OWNER REMAINS THE OWNER–OCCUPANT OF THE DWELLING FOR WHICH THE CREDIT IS RECEIVED.

(III) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY SHALL PROVIDE FOR ~~THE~~ ANY PROCEDURES NECESSARY AND APPROPRIATE FOR IMPLEMENTING THE APPLICATION AND AMNESTY PERIODS.

[(5)**] (7)** The Mayor and City Council of Baltimore City may provide for **ADDITIONAL** procedures necessary and appropriate for the submission of an application for and the granting of a property tax credit under this subsection, including procedures for granting partial credits for eligibility for less than a full taxable year.

[(6)**] (8)** The estimated amount of all tax credits received by owners under this subsection in any fiscal year shall be reported by the Director of Finance of Baltimore City as a "tax expenditure" for that fiscal year and shall be included in the publication of the City's budget for any subsequent fiscal year with the estimated or actual City property tax revenue for the applicable fiscal year.

[(7)**] (9)** (i) After June 30, **[**2009**] 2014**, additional owners of newly constructed dwellings may not be granted a credit under this subsection.

(ii) This paragraph does not apply to an owner's continuing receipt of a credit as allowed in paragraph (3) of this subsection, with respect to a property for which a tax credit under this subsection was received for a taxable year ending on or before June 30, **[**2009**] 2014**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 231 – *State Health Services Cost Review Commission – Health Care Facilities – Required Forms*.

This bill requires specified health care facilities to submit to the State Health Services Cost Review Commission a specified form at a specified time.

House Bill 487, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 231.

Sincerely,

Martin O'Malley
Governor

Senate Bill 231

AN ACT concerning

State Health Services Cost Review Commission – Health Care Facilities – ~~Annual Reports of Compensation~~ Required Forms

FOR the purpose of requiring certain health care facilities to submit to the State Health Services Cost Review Commission ~~annual reports of certain compensation~~ a certain form at certain times; and generally relating to ~~the reporting of the compensation of officers, directors, and executives of health care facilities and of regulated lobbyists engaged by those facilities~~ filing of required forms by health care facilities.

BY repealing and reenacting, with amendments,
Article – Health – General
Section ~~19–212~~ 19–216

Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

~~19–212.~~

~~The Commission shall:~~

~~(1) Require each facility to disclose publicly:~~

~~(i) Its financial position; and~~

~~(ii) As computed by methods that the Commission determines, the verified total costs incurred by the facility in providing health services;~~

~~(2) Review for reasonableness and certify the rates of each facility;~~

~~(3) Keep informed as to whether a facility has enough resources to meet its financial requirements;~~

~~(4) Concern itself with solutions if a facility does not have enough resources;~~ **[**~~and~~**]**

~~(5) Assure each purchaser of health care facility services that:~~

~~(i) The total costs of all hospital services offered by or through a facility are reasonable;~~

~~(ii) The aggregate rates of the facility are related reasonably to the aggregate costs of the facility; and~~

~~(iii) Rates are set equitably among all purchasers of services without undue discrimination~~~~**; AND**~~

~~**(6) REQUIRE EACH FACILITY TO SUBMIT TO THE COMMISSION AN ANNUAL REPORT OF THE COMPENSATION, INCLUDING SALARIES, BONUSES, AND PERQUISITES, OF:**~~

~~**(I) EACH OFFICER, DIRECTOR, AND EXECUTIVE OF THE FACILITY AND ANY PARENT COMPANY OR SUBSIDIARY OF THE FACILITY; AND**~~

~~(II) ANY INDIVIDUAL ENGAGED BY A FACILITY OR A PARENT COMPANY OR SUBSIDIARY OF THE FACILITY AS A REGULATED LOBBYIST, AS DEFINED UNDER § 15–102 OF THE STATE GOVERNMENT ARTICLE, FOR THE PURPOSE OF LOBBYING THE GENERAL ASSEMBLY ON BEHALF OF THE FACILITY.~~

19–216.

(a) At the end of the fiscal year for a facility**,** at least 120 days following a merger or a consolidation**,** and at any other interval that the Commission sets, the facility shall file:

(1) A balance sheet that details its assets, liabilities, and net worth;

(2) A statement of income and expenses; **[**and**]**

(3) THE MOST RECENT FORM 990 THAT THE FACILITY FILED WITH THE INTERNAL REVENUE SERVICE; AND

[(3)**]** **(4)** Any other report that the Commission requires about costs incurred in providing services.

(b) (1) A report under this section shall:

(i) Be in the form that the Commission requires;

(ii) Conform to the uniform accounting and financial reporting system adopted under this subtitle; and

(iii) Be certified as follows:

1. For the University of Maryland Hospital, by the Legislative Auditor; or

2. For any other facility, by its certified public accountant.

(2) If the Commission requires, responsible officials of a facility also shall attest that, to the best of their knowledge and belief, the report has been prepared in conformity with the uniform accounting and financial reporting system adopted under § 19–211 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 274 – *Tax Increment Financing and Special Taxing Districts – Transit–Oriented Development*.

This bill authorizes the Maryland Economic Development Corporation (MEDCO) to enter into agreements with specified counties and municipalities to use proceeds from a special taxing district, including tax incremental financing, to repay debt service on bonds issued by MEDCO on behalf of transit–oriented development projects.

House Bill 300, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 274.

Sincerely,

Martin O'Malley
Governor

Senate Bill 274

AN ACT concerning

Tax Increment Financing and Special Taxing Districts – Transit–Oriented Development

FOR the purpose of authorizing certain counties and municipal corporations to finance the costs of public improvements located in or supporting a transit–oriented development and owned by the Maryland Economic Development Corporation, the State, or certain other governmental units; authorizing certain counties and municipal corporations to designate special taxing districts, create special funds and provide for the levy of certain taxes and to pledge tax increment revenue pertaining to a development district to secure payment of obligations issued by the Corporation for infrastructure improvements located in or supporting a transit–oriented development; authorizing certain counties and municipal corporations to pledge under an agreement that amounts deposited in any special fund be paid to secure bonds issued by the Corporation for certain purposes; authorizing certain counties and municipal corporations through the levy of certain tax revenues, to fund the costs of infrastructure improvements,

or operation and maintenance of those infrastructure improvements, located in or supporting a transit–oriented development; authorizing certain counties and municipal corporations to use certain alternative local tax revenues for tax increment financing in connection with a certain transit–oriented development; adding a certain county to the list of counties authorized to exercise certain powers concerning the creation of special taxing districts; providing for the construction of this Act; making the provisions of this Act severable; defining certain terms; and generally relating to the use of special, ad valorem, tax increment, and alternative local tax revenues by certain counties and municipal corporations.

BY renumbering
Article – Economic Development
Section 12–201(j), (k), (l), (m), (n), and (o), respectively
to be Section 12–201(k), (l), (m), (n), (o), and (p), respectively
Annotated Code of Maryland
(2008 Volume)

BY repealing and reenacting, with amendments,
Article 23A – Corporations – Municipal
Section 44A(a), (b), (e), and (f)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article 23A – Corporations – Municipal
Section 44A(d)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9–1301(a), (b), (c)(2), (f), (g), and (l)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 9–1301(c)(1) and (e)(3)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Economic Development
Section 12–201(j) and (q)
Annotated Code of Maryland
(2008 Volume)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 12–209 and 12–210
Annotated Code of Maryland
(2008 Volume)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 7–101(m)
Annotated Code of Maryland
(2008 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 12–201(j), (k), (l), (m), (n), and (o), respectively, of Article – Economic Development of the Annotated Code of Maryland be renumbered to be Section(s) 12–201(k), (l), (m), (n), (o), and (p), respectively.

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

Article 23A – Corporations – Municipal

44A.

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

(2) "Bond" means a revenue bond, note, or other similar instrument issued by a municipal corporation in accordance with this section.

(3) "Cost" includes the cost of:

(i) Construction, reconstruction, and renovation, and acquisition of all lands, structures, property, real or personal, rights, rights–of–way, franchises, easements, and interests acquired or to be acquired by the **[**municipal corporation**]** **MARYLAND ECONOMIC DEVELOPMENT CORPORATION, THE STATE, ANY UNIT OR DEPARTMENT OR POLITICAL SUBDIVISION OF THE STATE,** or any other governmental unit having jurisdiction over the infrastructure improvement;

(ii) All machinery and equipment including machinery and equipment needed to expand or enhance municipal services to the special taxing district;

(iii) Financing charges and interest prior to and during construction, and, if deemed advisable by the municipal corporation, 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) "MEDCO OBLIGATION" MEANS ANY BOND, NOTE, OR OTHER SIMILAR INSTRUMENT THAT THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION ISSUES UNDER AUTHORITY OTHER THAN THIS SECTION TO FINANCE THE PURPOSES SPECIFIED IN SUBSECTION (B)(2) OR (D)(3) OF THIS SECTION ONLY WITH RESPECT TO INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT.

(5) "TRANSIT–ORIENTED DEVELOPMENT" HAS THE MEANING STATED IN § 7–101 OF THE TRANSPORTATION ARTICLE.

(b) (1) Subject to the provisions of this section, and for the purpose stated in paragraph (2) of this subsection, each municipal corporation in the State may:

(i) Create a special taxing district;

(ii) Levy ad valorem or special taxes; and

(iii) Issue bonds and other obligations.

(2) **(I)** The purpose of the authority granted under paragraph (1) of this subsection is to provide financing, refinancing, or reimbursement for the cost of the design, construction, establishment, extension, alteration, or acquisition of adequate storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting, parking, parks and recreation facilities, libraries, schools, and other infrastructure improvements as necessary, whether situated within the special taxing district or the municipal corporation or outside of the municipal corporation if notification is given to the governmental unit having jurisdiction over the infrastructure improvement and if the infrastructure improvement is reasonably related to other infrastructure improvements within the special taxing district, for the

development and utilization of the land, each with respect to any defined geographic region within the municipal corporation.

(II) THE AUTHORITY GRANTED UNDER PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION ALSO MAKES AVAILABLE A SOURCE OF FUNDING FOR PAYMENT OF COSTS OF:

1. INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT; AND

2. OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT.

(d) (1) Bonds shall be payable from the special fund required under subsection (e) of this section.

(2) The governing body of a municipal corporation that issues bonds under this section may also:

(i) Establish sinking funds;

(ii) Establish debt service reserve funds;

(iii) Pledge other assets and revenues towards the payments of the principal and interest; or

(iv) Provide for municipal bond insurance or any other type of financial guaranty of the bonds.

(3) All proceeds received from any bonds issued and sold shall be applied solely to pay the cost of infrastructure improvements, including:

(i) Costs of design, construction, establishment, extension, alteration, or acquisition of infrastructure improvements;

(ii) Costs of issuing bonds;

(iii) Payment of the principal and interest on loans, money advances, or indebtedness incurred by a municipal corporation for any of the purposes stated in subsection (b)(2) of this section, including the refunding of bonds previously issued under this section; and

(iv) Funding of a debt service reserve fund or payment of interest prior to, during, or for a limited period of time after construction.

(e) (1) **(I)** **[**Before issuing these bonds, the**]** **THE** governing body of the municipal corporation **[**shall**]** **MAY**:

[(i)**]** **1.** Designate by resolution an area or areas as a special taxing district;

[(ii)**]** **2.** Subject to paragraph (2) of this subsection, adopt a resolution creating a special fund with respect to the special taxing district; and

[(iii)**]** **3.** Provide for the levy of an ad valorem or special tax on all real and personal property within the special taxing district at a rate or amount designed to provide adequate revenues to pay the principal of, interest on, and redemption premium, if any, on the bonds, to replenish any debt service reserve fund, and for any other purpose related to the ongoing expenses of or security for the bonds**, AND, AS THE GOVERNING BODY OF THE MUNICIPAL CORPORATION DETERMINES** ~~**AND UNDER AN AGREEMENT DESCRIBED IN SUBSECTION (G)(3) OF THIS SECTION**~~**, TO:**

A. PAY COSTS OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT;

B. PAY COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT; OR

C. SECURE PAYMENT BY THE MUNICIPAL CORPORATION OF ITS OBLIGATIONS UNDER ~~**THE**~~ **AN AGREEMENT DESCRIBED IN SUBSECTION (F)(3) OF THIS SECTION**.

(II) Ad valorem taxes shall be levied in the same manner, upon the same assessments, for the same period or periods, and as of the same date or dates of finality as are now or may hereafter be prescribed for general ad valorem tax purposes within the district**[**, and shall be discontinued when all of the bonds have been paid in full**]**. ~~Special taxes shall be levied pursuant to subsection (n) of this section.~~

(III) Special taxes shall be levied pursuant to subsection (n) of this section.

(2) The resolution creating a special fund under paragraph **[**(1)(ii)**]** **(1)(I)2** of this subsection shall:

(i) Pledge to the special fund the proceeds of the ad valorem or special tax to be levied as provided under paragraph **[**(1)(iii)**]** **(1)(I)3** of this subsection; and

(ii) Require that the proceeds from the tax be paid into the special fund.

(f) **(1)** **[**When**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WHEN** no bonds authorized by this section **AND NO MEDCO OBLIGATIONS DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION** are outstanding with respect to a special taxing district, and the governing body of the municipal corporation **[**so**]** determines**[**,**]** **NOT TO USE MONEYS IN THE SPECIAL FUND FOR THE PAYMENT OF COSTS OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT OR THE PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT:**

(I) THE SPECIAL TAXING DISTRICT SHALL BE TERMINATED; AND

(II) ANY moneys **REMAINING** in the special fund **ON THE DATE OF TERMINATION OF THE SPECIAL TAXING DISTRICT** may be paid to the general fund of the municipal corporation.

(2) WHEN NO BONDS AUTHORIZED BY THIS SECTION ARE OUTSTANDING WITH RESPECT TO A SPECIAL TAXING DISTRICT, AND THE GOVERNING BODY OF THE MUNICIPAL CORPORATION SO DETERMINES, MONEYS IN THE SPECIAL FUND MAY BE:

(I) USED FOR ANY PURPOSES DESCRIBED IN THIS SECTION;

(II) ACCUMULATED FOR PAYMENT OF DEBT SERVICE ON BONDS SUBSEQUENTLY ISSUED UNDER THIS SECTION;

(III) USED TO PAY OR REIMBURSE THE MUNICIPAL CORPORATION FOR DEBT SERVICE THAT THE MUNICIPAL CORPORATION IS OBLIGATED TO PAY OR HAS PAID, EITHER AS A GENERAL OR A LIMITED OBLIGATION, ON MEDCO OBLIGATIONS, OR ANY BOND, NOTE, OR OTHER SIMILAR INSTRUMENT ISSUED BY THE STATE, OR ANY UNIT, DEPARTMENT, OR POLITICAL SUBDIVISION OF THE STATE, THE PROCEEDS OF WHICH HAVE BEEN USED FOR ANY OF THE PURPOSES SPECIFIED IN THIS SECTION; OR

(IV) PAID TO THE MUNICIPAL CORPORATION TO PROVIDE FUNDS TO BE USED FOR ANY LEGAL PURPOSES AS THE GOVERNING BODY OF THE MUNICIPAL CORPORATION MAY DETERMINE.

(3) (I) A MUNICIPAL CORPORATION THAT HAS CREATED A SPECIAL FUND FOR A SPECIAL TAXING DISTRICT MAY PLEDGE UNDER AN AGREEMENT THAT AMOUNTS DEPOSITED TO THE SPECIAL FUND SHALL, AS THE GOVERNING BODY OF THE MUNICIPAL CORPORATION MAY DETERMINE, BE PAID OVER TO:

1. SECURE PAYMENT ON MEDCO OBLIGATIONS;

2. PROVIDE FOR THE PAYMENT OF COSTS OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT; AND

3. PROVIDE FOR THE PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT.

(II) THE AGREEMENT SHALL:

1. BE AUTHORIZED BY ORDINANCE OR RESOLUTION OF THE MUNICIPAL CORPORATION;

2. BE IN WRITING;

3. BE EXECUTED ON BEHALF OF THE MUNICIPAL CORPORATION MAKING THE PLEDGE, THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION, AND THE OTHER PERSONS OR ENTITIES THAT THE GOVERNING BODY OF THE MUNICIPAL CORPORATION DETERMINES; AND

4. RUN TO THE BENEFIT OF AND BE ENFORCEABLE ON BEHALF OF THE HOLDERS OF ANY MEDCO OBLIGATIONS SECURED BY THE AGREEMENT.

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**]** **MARYLAND ECONOMIC DEVELOPMENT CORPORATION, OR THE STATE, ANY UNIT OR DEPARTMENT OR POLITICAL SUBDIVISION OF THE STATE, OR ANY OTHER GOVERNMENTAL UNIT HAVING JURISDICTION OF THE INFRASTRUCTURE IMPROVEMENT**;

(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.

(5) "MEDCO OBLIGATION" MEANS ANY BOND, NOTE, OR OTHER SIMILAR INSTRUMENT THAT THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION ISSUES UNDER AUTHORITY OTHER THAN THIS SECTION TO FINANCE THE PURPOSES SPECIFIED IN SUBSECTION (C)(2) OR (E)(3) OF THIS SECTION ONLY WITH RESPECT TO INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT.

(6) "TRANSIT–ORIENTED DEVELOPMENT" HAS THE MEANING STATED IN § 7–101 OF THE TRANSPORTATION ARTICLE.

(b) This section applies only to Anne Arundel County, **BALTIMORE COUNTY,** Calvert County, Cecil County, Charles County, Garrett County, Harford County, Howard County, Prince George's County, St. Mary's County, Washington County, and Wicomico County.

(c) (1) Subject to the provisions of this section, and for the purpose stated in paragraph (2) of this subsection, the county may:

(i) Create a special taxing district;

(ii) Levy ad valorem or special taxes; and

(iii) Issue bonds and other obligations.

(2) **(I)** The purpose of the authority granted under paragraph (1) of this subsection is to provide financing, refinancing, or reimbursement for the cost of the design, construction, establishment, extension, alteration, or acquisition of adequate storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting, parking, parks and recreation facilities, libraries, schools, transit facilities, solid waste facilities, and other infrastructure improvements as necessary, whether situated within the special taxing district or outside the special taxing district if the infrastructure improvement is reasonably related to other infrastructure improvements within the special taxing district, for the development and utilization of the land, each with respect to any defined geographic region within the county.

(II) THE AUTHORITY GRANTED UNDER PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION ALSO MAKES AVAILABLE A SOURCE OF FUNDING FOR PAYMENT OF COSTS OF:

1. INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT; AND

2. OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT.

(e) (3) All proceeds received from any bonds issued and sold shall be applied solely to pay the cost of infrastructure improvements, including:

(i) Costs of design, construction, establishment, extension, alteration, or acquisition of infrastructure improvements;

(ii) Costs of issuing bonds;

(iii) Payment of the principal and interest on loans, money advances, or indebtedness incurred by the county for any of the purposes stated in subsection (c)(2) of this section, including the refunding of bonds previously issued under this section; and

(iv) Funding of a debt service reserve fund or payment of interest prior to, during, or for a limited period of time after construction.

(f) (1) **(I)** **[**Before issuing these bonds, the**]** **THE** governing body of the county **[**shall**]** **MAY**:

[(i)**]** **1.** Designate by resolution an area or areas as a special taxing district;

[(ii)**]** **2.** Subject to paragraph (2) of this subsection, adopt a resolution creating a special fund with respect to the special taxing district; and

[(iii)**]** **3.** Provide for the levy of an ad valorem or special tax on all real and personal property within the special taxing district at a rate or amount designed to provide adequate revenues to pay the principal of, interest on, and redemption premium, if any, on the bonds, to replenish any debt service reserve fund, and for any other purpose related to the ongoing expenses of or security for the bonds**, AND, AS THE GOVERNING BODY OF THE COUNTY DETERMINES ~~AND UNDER AN AGREEMENT DESCRIBED IN SUBSECTION (G)(3) OF THIS SECTION~~, TO:**

A. PAY COSTS OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT;

B. ~~COSTS~~ PAY COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT; OR

C. SECURE PAYMENT BY THE ~~MUNICIPAL CORPORATION~~ COUNTY OF ITS OBLIGATIONS UNDER ~~THE~~ AN AGREEMENT DESCRIBED IN SUBSECTION (G)(3) OF THIS SECTION.

(II) Ad valorem taxes shall be levied in the same manner, upon the same assessments, for the same period or periods, and as of the same date or dates of finality as are now or may hereafter be prescribed for general ad valorem tax purposes within the district**[**, and shall be discontinued when all of the bonds have been paid in full**]**.

(III) Special taxes shall be levied pursuant to subsection (o) of this section.

(2) The resolution creating a special fund under paragraph **[**(1)(ii)**]** **(1)(I)2** of this subsection shall:

(i) Pledge to the special fund the proceeds of the ad valorem or special tax to be levied as provided under paragraph **[**(1)(iii)**]** **(1)(I)3** of this subsection; and

(ii) Require that the proceeds from the tax be paid into the special fund.

(g) (1) Except as provided in paragraph (2) of this subsection, when no bonds authorized by this section **AND NO MEDCO OBLIGATIONS DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION** are outstanding with respect to a special taxing district **AND THE GOVERNING BODY OF THE COUNTY DETERMINES NOT TO USE MONEYS IN THE SPECIAL FUND FOR PAYMENT OF COSTS OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT, OR THE PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURES IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT**:

(i) The special taxing district shall be terminated; and

(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 county.

(2) When no bonds authorized by this section are outstanding with respect to a special taxing district ~~in Prince George's County~~ and the **[**Prince George's County Council**]** **GOVERNING BODY OF THE COUNTY** so determines, moneys in the special fund may be:

(i) Used for any of the purposes described in this section;

(ii) Accumulated for payment of debt service on bonds subsequently issued under this section;

(iii) Used to pay or reimburse the county for debt service **[**which**]** **THAT** the county is obligated to pay or has **[**paid (whether such obligation is**]** **PAID, EITHER AS A** general or **[**limited)**]** **LIMITED OBLIGATION** on ~~bonds issued by the State of Maryland, any agency, department or political subdivision thereof, or the revenue authority of Prince George's County,~~ **MEDCO OBLIGATIONS**~~,~~ **OR ANY BOND, NOTE, OR OTHER SIMILAR INSTRUMENT ISSUED BY THE STATE,** ~~**OR**~~ **BY ANY UNIT, DEPARTMENT, OR POLITICAL SUBDIVISION OF THE STATE, OR BY THE REVENUE AUTHORITY OF PRINCE GEORGE'S COUNTY,** the proceeds of which have been used for any of the purposes specified in this section; or

(iv) Paid to the county to provide funds to be used for any legal purpose as **[**may be determined by**]** the **GOVERNING BODY OF THE** county **MAY DETERMINE**.

(3) (I) A COUNTY THAT HAS CREATED A SPECIAL FUND FOR A SPECIAL TAXING DISTRICT MAY PLEDGE, UNDER AN AGREEMENT, THAT AMOUNTS DEPOSITED TO THE SPECIAL FUND SHALL, AS THE GOVERNING BODY OF THE COUNTY MAY DETERMINE, BE PAID OVER TO:

1. SECURE PAYMENT ON MEDCO OBLIGATIONS;

2. PROVIDE FOR THE PAYMENT OF COSTS OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT; AND

3. PROVIDE FOR THE PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT.

(II) THE AGREEMENT SHALL:

1. BE AUTHORIZED BY ORDINANCE OR RESOLUTION OF THE COUNTY;

2. BE IN WRITING;

3. BE EXECUTED ON BEHALF OF THE COUNTY MAKING THE PLEDGE, THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION, AND THE OTHER PERSONS OR ENTITIES THAT THE GOVERNING BODY OF THE COUNTY DETERMINES; AND

4. RUN TO THE BENEFIT OF AND BE ENFORCEABLE ON BEHALF OF THE HOLDERS OF ANY MEDCO OBLIGATIONS SECURED BY THE AGREEMENT.

(l) The powers granted under this section shall be regarded as supplemental and additional to powers conferred by other laws, and may not be regarded as in derogation of any powers now existing**, INCLUDING POWERS PROVIDED IN ARTICLE 25, ARTICLE 25A, OR ARTICLE 25B OF THE CODE**.

Article – Economic Development

12–201.

(J) "MEDCO OBLIGATION" MEANS A BOND, NOTE, OR OTHER SIMILAR INSTRUMENT THAT THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION ISSUES UNDER AUTHORITY OTHER THAN THIS SUBTITLE TO FINANCE THE COST OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT–ORIENTED DEVELOPMENT.

(Q) "TRANSIT–ORIENTED DEVELOPMENT" HAS THE MEANING STATED IN § 7–101 OF THE TRANSPORTATION ARTICLE.

12–209.

(a) Subject to subsection **[**(b)**] (C)** of this section, the special fund for the development district may be used for any of the following purposes as determined by the governing body of the political subdivision:

(1) a purpose specified in § 12–207 of this subtitle;

(2) accumulated to pay debt service on bonds to be issued later;

(3) payment or reimbursement of debt service**, OR PAYMENTS UNDER AN AGREEMENT DESCRIBED IN SUBSECTION (B) OF THIS SECTION,** that the political subdivision is obliged under a general or limited obligation to pay, or has paid, on **OR RELATING TO** bonds issued by the State, a political subdivision, or the revenue authority of Prince George's County if the proceeds were used for a purpose specified in § 12–207 of this subtitle; or

(4) payment to the political subdivision for any other legal purpose.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE POLITICAL SUBDIVISION THAT HAS CREATED A SPECIAL FUND FOR A DEVELOPMENT DISTRICT MAY PLEDGE UNDER AN AGREEMENT THAT AMOUNTS DEPOSITED TO THE SPECIAL FUND SHALL BE PAID OVER TO SECURE PAYMENT ON MEDCO OBLIGATIONS.

(2) THE AGREEMENT SHALL:

(I) BE IN WRITING;

(II) BE EXECUTED BY THE POLITICAL SUBDIVISION MAKING THE PLEDGE, THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION, AND THE OTHER PERSONS THAT THE GOVERNING BODY OF THE POLITICAL SUBDIVISION DETERMINES; AND

(III) RUN TO THE BENEFIT OF AND BE ENFORCEABLE ON BEHALF OF THE HOLDERS OF THE MEDCO OBLIGATIONS SECURED BY THE AGREEMENT.

[(b)**] (C)** If bonds are outstanding with respect to a development district, the special fund may be used as described in subsection (a) of this section in any fiscal year only if:

(1) the balance of the special fund exceeds the unpaid debt service payable on the bonds in the fiscal year; and

(2) the special fund is not restricted so as to prohibit the use.

[(c)**] (D)** The issuance of bonds pledging the full faith and credit of the political subdivision shall comply with appropriate county or municipal charter requirements.

12–210.

(a) (1) Subject to paragraph (2) of this subsection, the governing body of a political subdivision that is not the issuer may pledge under an agreement that its property taxes levied on the tax increment shall be paid into the special fund for the development district.

(2) The agreement shall:

(i) be in writing;

(ii) be executed by the governing bodies of the issuer and the political subdivision making the pledge; and

(iii) run to the benefit of and be enforceable on behalf of any bondholder.

(b) The governing body of Prince George's County may also pledge hotel rental tax revenues to the special fund.

(C) THE GOVERNING BODY OF A POLITICAL SUBDIVISION, INCLUDING THE ISSUER, MAY PLEDGE BY OR UNDER A RESOLUTION, INCLUDING BY AN AGREEMENT WITH THE ISSUER, AS APPLICABLE, THAT ALTERNATIVE LOCAL TAX REVENUES GENERATED WITHIN, OR THAT ARE OTHERWISE DETERMINED TO BE ATTRIBUTABLE TO, A DEVELOPMENT DISTRICT THAT IS A TRANSIT–ORIENTED DEVELOPMENT BE PAID, AS PROVIDED IN THE RESOLUTION, INTO THE SPECIAL FUND TO:

(1) SECURE THE PAYMENT OF DEBT SERVICE ON BONDS OR MEDCO OBLIGATIONS; OR

(2) BE APPLIED TO THE OTHER PURPOSES STATED IN § 12–209 OF THIS SUBTITLE.

Article – Transportation

7–101.

(m) "Transit–oriented development" means a mix of private or public parking facilities, commercial and residential structures, and uses, improvements, and facilities customarily appurtenant to such facilities and uses, that:

(1) Is part of a deliberate development plan or strategy involving:

(i) Property that is adjacent to the passenger boarding and alighting location of a planned or existing transit station; or

(ii) Property, any part of which is located within one–half mile of the passenger boarding and alighting location of a planned or existing transit station;

(2) Is planned to maximize the use of transit, walking, and bicycling by residents and employees; and

(3) Is designated as a transit–oriented development by:

(i) The Secretary in consultation with the secretaries of Business and Economic Development, General Services, Housing and Community Development, the Environment, and Planning; and

(ii) The local government or multicounty agency with land use and planning responsibility for the relevant area.

SECTION 3. AND BE IT FURTHER ENACTED, That nothing contained in this Act may be construed to impair, in any way, the validity of any bonds, notes, or other obligations issued under Article 23A, § 44A of the Code, Article 24, § 9–1301 of the Code, or §§ 12–201 through 12–213, inclusive, of the Economic Development Article or the validity of any actions taken pursuant to any such authorities.

SECTION 4. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance, including any covenant, agreement or action provided for herein to be performed, 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 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 334 – *Talbot County – Alcoholic Beverages – Limited Wineries*.

Senate Bill 334 authorizes a holder of a Class 4 manufacturer's (limited winery) license in Talbot County to produce wine and pomace brandy at each warehouse for which the holder has been issued an individual storage permit. The bill also prohibits a holder from serving or selling wine and pomace brandy to the public at a warehouse.

House Bill 105, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 334.

Sincerely,

Martin O'Malley
Governor

Senate Bill 334

AN ACT concerning

Talbot County – Alcoholic Beverages – Limited Wineries

FOR the purpose of authorizing a holder of a Class 4 manufacturer's (limited winery) license in Talbot County to produce wine and pomace brandy at each warehouse for which the holder has been issued an individual storage permit; prohibiting a holder from serving or selling wine and pomace brandy to the public at a warehouse; making a stylistic change; and generally relating to holders of Class 4 manufacturer's licenses in Talbot County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 2–205(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–205(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 2–205(d)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

2–205.

(a) In this section, "pomace brandy" means brandy that is distilled from the pulpy residue of the wine press, including the skins, pips, and stalks of grapes.

(b) A Class 4 manufacturer's license:

(1) Is a limited winery license;

(2) Authorizes the holder to establish and operate in this State a plant for fermenting and bottling wine and distilling and bottling pomace brandy made from Maryland agriculture products at the location described in the license, unless the Secretary of Agriculture determines that there is insufficient supply available of Maryland agriculture products;

(3) **[**Permits**]** **SUBJECT TO SUBSECTION (D) OF THIS SECTION, ALLOWS** the license holder to:

(i) Sell and deliver this wine and pomace brandy to any wholesale licensee or permit holder in this State, or person outside of this State, authorized to acquire it;

(ii) Sell this wine and pomace brandy made at the plant to persons participating in a guided tour of the facility. The purchase is limited to one

quart of each brand per person per year. Any person who has attained the Maryland legal drinking age may purchase the wine. The licensee may operate only in one location in the State;

(iii) Serve at no charge not more than 6 ounces of wine and pomace brandy made at the licensed facility to a person who is participating in a guided tour of the facility, provided the person has attained the Maryland legal drinking age;

(iv) Sell by the glass wine and pomace brandy produced by the licensee to persons participating in a guided tour of the facility or attending a scheduled promotional event or other organized activity at the licensed premises; and

(v) Store on its licensed premises, in a segregated area approved by the Comptroller, the product of other Class 4 limited wineries to be used at bona fide Maryland Winery Association promotional activities, provided records are maintained and reports filed as may be required by the Comptroller; and

(4) Limits the license holder to distilling and bottling not more than 200 gallons of pomace brandy each year.

(D) A HOLDER OF A CLASS 4 MANUFACTURER'S LICENSE IN TALBOT COUNTY:

(1) MAY PRODUCE WINE AND POMACE BRANDY AT EACH WAREHOUSE FOR WHICH THE HOLDER HAS BEEN ISSUED AN INDIVIDUAL STORAGE PERMIT; BUT

(2) MAY NOT SERVE OR SELL WINE AND POMACE BRANDY AT A WAREHOUSE TO THE PUBLIC.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 380 – *Health Maintenance Organizations – Payments to Nonparticipating Providers*.

This bill requires health maintenance organizations to pay specified health care providers for specified evaluation and management services no less than a specified rate and requires a health maintenance organization to calculate a specified average rate in a specified manner.

House Bill 255, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 380.

Sincerely,

Martin O'Malley
Governor

Senate Bill 380

AN ACT concerning

Health Maintenance Organizations – Payments to Nonparticipating Providers

FOR the purpose of ~~altering the rate that a health maintenance organization must pay to certain trauma physicians for certain covered services provided to certain enrollees of the health maintenance organization;~~ requiring health maintenance organizations to pay certain health care providers for certain evaluation and management services no less than the greater of certain rates; requiring health maintenance organizations to pay certain health care providers for certain services that are not evaluation and management services no less than the greater of certain rates; requiring a health maintenance organization to calculate a certain average rate in a certain manner; requiring the Maryland Health Care Commission to annually review certain payments and report certain findings to the Maryland Insurance Administration; authorizing the Administration to take certain actions to investigate and enforce a violation of certain provisions of this Act; requiring the Administration, in consultation with the Commission, to adopt certain regulations; defining certain terms; providing for a delayed effective date; providing for the termination of this Act; and generally relating to payments by health maintenance organizations to nonparticipating providers.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–710.1
Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–710.1.

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

(2) **[**"Enrollee" means a subscriber or member of the health maintenance organization.

(3)**]** "Adjunct claims documentation" means an abstract of an enrollee's medical record which describes and summarizes the diagnosis and treatment of, and services rendered to, the enrollee, including, in the case of trauma rendered in a trauma center, an operative report, a discharge summary, a Maryland Ambulance Information Systems form, or a medical record.

(3) "BERENSON–EGGERS TYPE OF SERVICE CODE" MEANS A CODE IN A CLASSIFICATION SYSTEM DEVELOPED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES THAT GROUPS CURRENT PROCEDURAL TERMINOLOGY CODES TOGETHER BASED ON CLINICAL CONSISTENCY.

(4) "ENROLLEE" MEANS A SUBSCRIBER OR MEMBER OF A HEALTH MAINTENANCE ORGANIZATION.

(5) "EVALUATION AND MANAGEMENT SERVICE" MEANS ANY SERVICE WITH A BERENSON–EGGERS TYPE OF SERVICE CODE IN THE CATEGORY OF EVALUATION AND MANAGEMENT.

[(4)**] (6)** "Institute" means the Maryland Institute for Emergency Medical Services Systems.

(7) "MEDICARE ECONOMIC INDEX" MEANS THE FIXED–WEIGHT INPUT PRICE INDEX THAT:

(I) MEASURES THE WEIGHTED AVERAGE ANNUAL PRICE CHANGE FOR VARIOUS INPUTS NEEDED TO PRODUCE PHYSICIAN SERVICES; AND

(II) IS USED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES IN THE CALCULATION OF REIMBURSEMENT OF PHYSICIAN SERVICES UNDER TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT.

(8) "SIMILARLY LICENSED PROVIDER" MEANS:

(I) FOR A PHYSICIAN:

1. A PHYSICIAN WHO IS BOARD CERTIFIED OR ELIGIBLE IN THE SAME PRACTICE SPECIALTY; OR

2. A GROUP PHYSICIAN PRACTICE THAT CONTAINS BOARD CERTIFIED OR ELIGIBLE PHYSICIANS IN THE SAME PRACTICE SPECIALTY;

(II) FOR A HEALTH CARE PROVIDER THAT IS NOT A PHYSICIAN, A HEALTH CARE PROVIDER THAT HOLDS THE SAME TYPE OF LICENSE.

[(5)**] (9)** (i) "Trauma center" means a primary adult resource center, level I trauma center, level II trauma center, level III trauma center, or pediatric trauma center that has been designated by the institute to provide care to trauma patients.

(ii) "Trauma center" includes an out–of–state pediatric facility that has entered into an agreement with the institute to provide care to trauma patients.

[(6)**] (10)** "Trauma patient" means a patient that is evaluated or treated in a trauma center and is entered into the State trauma registry as a trauma patient.

[(7)**] (11)** "Trauma physician" means a licensed physician who has been credentialed or designated by a trauma center to provide care to a trauma patient at a trauma center.

(b) **[**(1)**]** In addition to any other provisions of this subtitle, for a covered service rendered to an enrollee of a health maintenance organization by a health care provider not under written contract with the health maintenance organization, the health maintenance organization or its agent:

[(i)**] (1)** Shall pay the health care provider within 30 days after the receipt of a claim in accordance with the applicable provisions of this subtitle; and

[(ii)**] (2)** Shall pay the claim submitted by:

[1.**] (I)** A hospital at the rate approved by the Health Services Cost Review Commission;

[2.**] (II)** A trauma physician for trauma care rendered to a trauma patient in a trauma center, at the greater of:

[A.**] 1.** **[**140% of the rate paid by the Medicare program, as published by the Centers for Medicare and Medicaid Services, for the same covered service, to a similarly licensed provider~~**] 125% OF THE AVERAGE RATE THE HEALTH MAINTENANCE ORGANIZATION PAID AS OF JANUARY 1 OF THE PREVIOUS CALENDAR YEAR IN THE SAME GEOGRAPHIC AREA, AS DEFINED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, FOR THE SAME COVERED SERVICE, TO SIMILARLY LICENSED PROVIDERS UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION**~~; or

[B.**] 2.** **[**The rate as of January 1, 2001 that the health maintenance organization paid in the same geographic area, as published by the Centers for Medicare and Medicaid Services, for the same covered service, to a similarly licensed provider~~**] 140% OF THE RATE PAID BY MEDICARE, AS PUBLISHED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, FOR THE SAME COVERED SERVICE TO A SIMILARLY LICENSED PROVIDER IN THE SAME GEOGRAPHIC AREA AS OF AUGUST 1, 2008, INFLATED BY THE CHANGE IN THE MEDICARE ECONOMIC INDEX FROM 2008 TO THE CURRENT YEAR**~~; and

[3.**] (III)** Any other health care provider**:**

1. FOR AN EVALUATION AND MANAGEMENT SERVICE, NO LESS THAN [at**]** the greater of:

A. **[**125% of the rate the health maintenance organization pays in the same geographic area, as published by the Centers for Medicare and Medicaid Services, for the same covered service, to a similarly licensed provider under written contract with the health maintenance organization**] 125% OF THE AVERAGE RATE THE HEALTH MAINTENANCE ORGANIZATION PAID AS OF JANUARY 1 OF THE PREVIOUS CALENDAR YEAR IN THE SAME GEOGRAPHIC AREA, AS DEFINED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, FOR THE SAME COVERED SERVICE, TO SIMILARLY LICENSED PROVIDERS UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION**; or

B. **[**The rate as of January 1, 2000 that the health maintenance organization paid in the same geographic area, as published by the Centers for Medicare and Medicaid Services, for the same covered service, to a similarly licensed provider not under written contract with the health maintenance organization.**] 140% OF THE RATE PAID BY MEDICARE, AS PUBLISHED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, FOR THE SAME COVERED SERVICE TO A SIMILARLY LICENSED PROVIDER IN THE SAME GEOGRAPHIC AREA**

AS OF AUGUST 1, 2008, INFLATED BY THE CHANGE IN THE MEDICARE ECONOMIC INDEX FROM 2008 TO THE CURRENT YEAR; AND

2. FOR A SERVICE THAT IS NOT AN EVALUATION AND MANAGEMENT SERVICE, NO LESS THAN 125% OF THE AVERAGE RATE THE HEALTH MAINTENANCE ORGANIZATION PAID AS OF JANUARY 1 OF THE PREVIOUS CALENDAR YEAR IN THE SAME GEOGRAPHIC AREA, AS DEFINED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, TO A SIMILARLY LICENSED PROVIDER UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION FOR THE SAME COVERED SERVICE.

(C) FOR THE PURPOSES OF SUBSECTION (B)(2)(III) OF THIS SECTION, A HEALTH MAINTENANCE ORGANIZATION SHALL CALCULATE THE AVERAGE RATE PAID TO SIMILARLY LICENSED PROVIDERS UNDER WRITTEN CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION FOR THE SAME COVERED SERVICE BY SUMMING THE CONTRACTED RATE FOR ALL OCCURRENCES OF THE CURRENT PROCEDURAL TERMINOLOGY CODE FOR THAT SERVICE AND THEN DIVIDING BY THE TOTAL NUMBER OF OCCURRENCES OF THE CURRENT PROCEDURAL TERMINOLOGY CODE.

[(2)**]** ~~(C)~~ **(D)** A health maintenance organization shall disclose, on request of a health care provider not under written contract with the health maintenance organization, the reimbursement rate required under ~~paragraph [(1)(ii)2 and 3] (2)(II) AND (III) of this subsection~~ **SUBSECTION (B)(2)(II) AND (III) OF THIS SECTION**.

[(3) (i)**]** ~~(D)~~ **(E) (1)** Subject to **[**subparagraph (ii) of this paragraph**]** **PARAGRAPH (2) OF THIS SUBSECTION**, a health maintenance organization may require a trauma physician not under contract with the health maintenance organization to submit appropriate adjunct claims documentation and to include on the uniform claim form a provider number assigned to the trauma physician by the health maintenance organization.

[(ii)**] (2)** If a health maintenance organization requires a trauma physician to include a provider number on the uniform claim form in accordance with **[**subparagraph (i) of this paragraph**]** **PARAGRAPH (1) OF THIS SUBSECTION**, the health maintenance organization shall assign a provider number to a trauma physician not under contract with the health maintenance organization at the request of the physician.

[(4)**] (3)** A trauma center, on request from a health maintenance organization, shall verify that a licensed physician is credentialed or otherwise designated by the trauma center to provide trauma care.

[(5)**] (4)** Notwithstanding the provisions of § 19–701(d) of this subtitle, for trauma care rendered to a trauma patient in a trauma center by a trauma physician, a health maintenance organization may not require a referral or preauthorization for a service to be covered.

[(c)**]** ~~(E)~~ **(F)** (1) A health maintenance organization may seek reimbursement from an enrollee for any payment under subsection (b) of this section for a claim or portion of a claim submitted by a health care provider and paid by the health maintenance organization that the health maintenance organization determines is the responsibility of the enrollee.

(2) The health maintenance organization may request and the health care provider shall provide adjunct claims documentation to assist in making the determination under paragraph (1) of this subsection or under subsection (b) of this section.

[(d)**]** ~~(F)~~ **(G)** (1) A health care provider may enforce the provisions of this section by filing a complaint against a health maintenance organization with the Maryland Insurance Administration or by filing a civil action in a court of competent jurisdiction under § 1–501 or § 4–201 of the Courts Article.

(2) The Maryland Insurance Administration or a court shall award reasonable attorney fees if the complaint of the health care provider is sustained.

~~(G)~~ **(H)** **THE MARYLAND HEALTH CARE COMMISSION ANNUALLY SHALL REVIEW PAYMENTS TO HEALTH CARE PROVIDERS TO DETERMINE THE COMPLIANCE OF HEALTH MAINTENANCE ORGANIZATIONS WITH THE REQUIREMENTS OF THIS SECTION AND REPORT ITS FINDINGS TO THE MARYLAND INSURANCE ADMINISTRATION.**

~~(H)~~ **(I)** **THE MARYLAND INSURANCE ADMINISTRATION MAY TAKE ANY ACTION AUTHORIZED UNDER THIS SUBTITLE OR THE INSURANCE ARTICLE, INCLUDING CONDUCTING AN EXAMINATION UNDER TITLE 2, SUBTITLE 2 OF THE INSURANCE ARTICLE, TO INVESTIGATE AND ENFORCE A VIOLATION OF THE PROVISIONS OF THIS SECTION.**

[(e)**]** ~~(I)~~ **(J)** In addition to any other penalties under this subtitle, the Commissioner may impose a penalty not to exceed $5,000 on any health maintenance organization which violates the provisions of this section if the violation is committed with such frequency as to indicate a general business practice of the health maintenance organization.

~~(J)~~ **(K)** **THE MARYLAND INSURANCE ADMINISTRATION, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION, SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2010. It shall remain effective for a period 5 years and, at the end of December 31, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 450 – *Allegany County – Upper Potomac River Commission – Savage River Dam – Borrowing Authority*.

This bill alters the borrowing authority of Allegany County relating to the Upper Potomac River District by repealing a $200,000 limitation in the borrowing authority of the county. It repeals a requirement that county voters approve the capital outlay and borrowing of money by referendum. Additionally, it authorizes the county to issue bonds and incur debt as necessary to maintain and repair infrastructure within the river district in accordance with the county's current borrowing procedures.

House Bill 489, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 450.

Sincerely,

Martin O'Malley
Governor

Senate Bill 450

AN ACT concerning

Allegany County – Upper Potomac River Commission – Savage River Dam – Borrowing Authority

FOR the purpose of repealing a certain limitation on the amount the County Commissioners of Allegany County may borrow for a capital outlay on behalf of the Upper Potomac River Commission; repealing a requirement that certain

voters approve the capital outlay; authorizing the County Commissioners to borrow certain money~~, by resolution,~~ for the capital outlay as authorized under certain provisions of law; repealing a requirement that the sale of certain bonds be advertised in a certain manner; repealing a requirement that the bonds be issued in a certain manner; repealing a requirement that certain bonds bear a certain interest rate, contain interest coupons, be in a certain denomination, and mature within a certain number of years; ~~requiring the County Commissioners to determine the form of certain bonds, including any interest coupons, the date of maturity, the denomination of the bonds, and the date for payment of principal and interest; authorizing the bonds to be redeemable before their maturity at certain prices;~~ authorizing the County Commissioners to issue certain bonds under certain code home rule powers; repealing a requirement that the voters of Allegany County approve borrowing certain money; repealing a requirement that the County Commissioners make a certain tax levy; making stylistic changes and technical corrections; and generally relating to the authority of the County Commissioners of Allegany County to borrow certain money on behalf of the Upper Potomac River Commission.

BY repealing and reenacting, with amendments,
The Public Local Laws of Allegany County
Section 76–7
Article 1 – Public Local Laws of Maryland
(1983 Edition and July 2008 Supplement, as amended)

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

Article 1 – Allegany County

Chapter 76

Upper Potomac River District

76–7.

A. If the County Commissioners of Allegany County shall at any time hereafter deem it advisable and expedient for the welfare of the citizens of **[**said county**]** **ALLEGANY COUNTY** to make a capital outlay or expenditure of money to assist the Commission in aid of the acquisition**, [**and/or**]** construction**, [**and/or**]** **OR** maintenance of any lands, structures, buildings, dams, impounding reservoirs, stream beds, waterways, roadways, rights–of–way, water rights or watersheds and appurtenances within the district **[**and thereafter such capital outlay of expenditure is approved by the voters of said county as is hereafter provided for, said**]** **THE** County Commissioners **[**are authorized and empowered to**]** **MAY**~~**, BY RESOLUTION,**~~ borrow any amount necessary for such purpose **[**up to but not exceeding two hundred thousand dollars ($200,000.)**]** from any governmental agency authorized to make such

a loan at reasonable interest rates, or [they are hereby authorized and empowered to] issue and sell bonds [to an amount not exceeding two hundred thousand dollars ($200,000.)] ~~ON THE FULL FAITH AND CREDIT OF ALLEGANY COUNTY IN SUCH AMOUNTS AS THE COUNTY COMMISSIONERS MAY CONSIDER TO BE NECESSARY FOR THE COMMISSION TO CARRY ON ITS WORK~~ AS AUTHORIZED UNDER ARTICLE 25B, §§ 14 THROUGH 21 OF THE CODE.

~~B. Should a bond issue be decided upon, then the County Commissioners of Allegany County [are hereby directed to] SHALL advertise, in such newspapers printed and published in Allegany County as may be determined by [said] THE County Commissioners, at least once a week for four (4) successive weeks, the sale of [said] THE bonds. [Said] THE advertisement shall state the time and place where bids, conditioned as may be required, will be opened, and [said] THE County Commissioners shall reserve unto themselves the right to reject any and all bids.~~

~~C. [Said] THE bonds shall be signed on behalf of the County Commissioners of Allegany County by the President and countersigned by the Clerk thereof and shall bear the Corporate Seal of said Allegany County.~~

~~D. [They shall bear interest, payable semiannually and at the rate of not over five percent (5%) per annum, for which interest coupons are to be attached to said bonds. They shall be in the denomination of one hundred dollars ($100.) or any multiple thereof and shall mature and become payable not over fifteen (15) years from the date thereof,] THE COUNTY COMMISSIONERS OF ALLEGANY COUNTY SHALL DETERMINE THE FORM OF THE BONDS, INCLUDING ANY INTEREST COUPONS TO BE ATTACHED TO THE BONDS, THE DATE OF MATURITY OF THE BONDS, THE DENOMINATION OR DENOMINATIONS OF THE BONDS, AND THE PLACE OR PLACES OF PAYMENT OF PRINCIPAL AND INTEREST, WHICH MAY BE AT ANY BANK OR TRUST COMPANY WITHIN OR WITHOUT THE STATE. THE BONDS MAY BE REDEEMABLE BEFORE THEIR MATURITY OR MATURITIES, AT THE OPTION OF THE COUNTY COMMISSIONERS, AT THE PRICE OR PRICES AND UNDER THE TERMS AND CONDITIONS AS MAY BE FIXED BY THE COUNTY COMMISSIONERS PRIOR TO ISSUANCE OF THE BONDS.~~

B. THE BONDS ISSUED UNDER THIS CHAPTER SHALL BE EXEMPT FROM THE PROVISIONS OF ARTICLE 31, §§ 9 THROUGH 11 OF THE ANNOTATED CODE OF MARYLAND.

~~E.~~ C. [and said] THE bonds and interest [thereon] ON THE BONDS shall be exempt from all state, county and municipal taxation in the State of Maryland.

~~F.~~ D. [Upon] ON the procuring of said loan or the sale of said bonds, the County Commissioners of Allegany County [are hereby authorized and directed to]

SHALL give all the proceeds of **[**said**]** **THE** loan or sale to the Commission, to be used by it in carrying out the purposes and intentions of this chapter**[**,**]**.

~~**C.** **THE COUNTY COMMISSIONERS OF ALLEGANY COUNTY [**and thereafter they are hereby authorized and directed to**] SHALL** make a special tax levy upon the assessable property of **[**said county**] ALLEGANY COUNTY** annually from year to year so long as the same may be necessary to meet all the interest and principal payments which may become due upon said loan or bonds according to the original tenor of either**[**;**]**. **[**provided, however, that before said County Commissioners shall borrow any of said money or issue said bonds or any of them, the question of the advisability of making such a capital outlay or expenditure shall be first submitted to a vote of the qualified voters of Allegany County, after adequate notice thereof by advertisement, at either a general election or at a special election called for that purpose, and if, at the election where said question is submitted, the number of ballots cast upon said question and reading "Against the Upper Potomac River Control Capital Expenditure of ..... Thousand Dollars" (amount of bond issue to be inserted) shall exceed the number of ballots cast upon said question and reading "For the Upper Potomac River Capital Expenditure of ..... Thousand Dollars" (amount of bond issue to be inserted), then the provisions of this section of this chapter and only this section of this chapter shall be void and inoperative, and no loan shall be made and no bonds sold hereunder for said purpose by said County Commissioners of Allegany County.**]**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 458 – *State Treasurer – Local Government Units – Local Debt Policies.*

Among other things, Senate Bill 458 requires a specified report of the financial officer of a political subdivision to be submitted to the State Treasurer and requires specified additional information to be included in the report.

House Bill 811, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 458.

Sincerely,

Martin O'Malley
Governor

Senate Bill 458

AN ACT concerning

State Treasurer – Local Government Units – Local Debt Policies

FOR the purpose of requiring a certain report of the financial officer of a political subdivision to be submitted to the State Treasurer; requiring certain additional information to be included in the report; requiring certain financial officers to submit a certain updated report on request of the State Treasurer; repealing a requirement that certain local government investment guidelines include a certain form; requiring each local government unit to adopt a certain local debt policy; requiring a copy of the policy to be mailed to the State Treasurer; requiring the State Treasurer to send a certain notice if the State Treasurer makes certain findings regarding the policy; requiring a certain local ~~governing body~~ *government unit* to revise the policy under certain circumstances; requiring a local ~~governing body~~ *government unit* to submit a certain revised policy under certain circumstances; requiring the State Treasurer to contact a certain local government if certain requirements are not met; requiring certain financial officers to provide certain information requested by the State Treasurer; *altering a certain penalty provision;* altering certain definitions; defining certain terms; repealing obsolete language; making stylistic changes; making technical corrections; and generally relating to local debt policies of local government units.

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 2–101
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 95 – Treasurer
Section 22F
Annotated Code of Maryland
(2003 Replacement Volume and 2008 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

2–101.

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

(2) "Department" means the Department of Legislative Services.

(3) "Financial officer" means the treasurer or other financial officer of a political subdivision.

(4) "Political subdivision" includes:

(i) A county;

(ii) A municipal corporation in the State;

(iii) A special taxing district in the State; and

(iv) A public corporation of the State.

(b) (1) Except as provided in paragraph (2) of this subsection, if a political subdivision is authorized to incur debt to be redeemed from a fee, charge, or the proceeds of a levy, then within 120 days after the end of the fiscal year of the political subdivision, its financial officer shall submit **TO THE DEPARTMENT AND STATE TREASURER**, subject to § 2–1246 of the State Government Article, **[**to the Department**]** a comprehensive report on the financial condition of the political subdivision as of the end of that fiscal year.

(2) If a political subdivision subject to the provisions of paragraph (1) of this subsection has a population of more than 400,000, the report required under paragraph (1) of this subsection may be submitted within 180 days after the end of the fiscal year of the political subdivision.

(c) A report under this section shall be on the form that the Department provides.

(d) A report under this section shall include the affidavit of the financial officer and all of the following information that applies to the political subdivision:

(1) The assessed valuation of taxable and tangible property in the political subdivision;

(2) The total indebtedness of the political subdivision;

(3) The following categories of the total indebtedness:

(i) Bond indebtedness that is redeemable from the proceeds of general and ad valorem taxes;

(ii) Temporary or floating indebtedness;

(iii) Obligations that are incurred in anticipation of tax collection;

(iv) Current bills payable;

(v) Contingent liability that results from the guaranty of an obligation of another political subdivision; and

(vi) Self–liquidating bond indebtedness;

(4) As to self–liquidating bond indebtedness:

(i) The amount of indebtedness for each project; and

(ii) The source of the revenue for its liquidation;

(5) As to each sinking fund for retirement of obligations:

(i) Each obligation for which the fund is established;

(ii) The amount of the fund; and

(iii) The manner in which money in the fund is invested;

(6) As to the tax levy for the fiscal year for which the report is made:

(i) The amount of the levy imposed;

(ii) The amount of the levy collected; and

(iii) Separate items for:

1. The amount of any special assessment levied; and

2. The amount of that assessment collected;

(7) As to the tax levy for each of the 3 fiscal years immediately preceding the fiscal year for which the report is made:

(i) The amount of the levy imposed; and

(ii) The amount of uncollected taxes;

(8) As to the population of the political subdivision:

(i) The population in the most recent federal census; and

(ii) Any official or unofficial population estimates for the fiscal year for which the report is made;

(9) A copy of the most recent actuarial report on the pension system of the political subdivision, unless it is a county or municipal corporation and a member of the State pension system; **[**and**]**

(10) **AS TO ALL CATEGORIES OF INDEBTEDNESS:**

(I) VARIABLE INTEREST RATE DEBT INSTRUMENTS;

(II) INTEREST RATE EXCHANGE AGREEMENTS OR SWAPS; AND

(III) OTHER DERIVATIVES, INCLUDING FUTURES AND OPTIONS; AND

(11) Any other information about the financial affairs of the political subdivision that the Department finds pertinent or appropriate and necessary to show accurately the financial condition of the political subdivision.

(e) **ON REQUEST OF THE STATE TREASURER, A FINANCIAL OFFICER SHALL SUBMIT AN UPDATED REPORT ON THE INDEBTEDNESS OF THE POLITICAL SUBDIVISION AS REQUIRED IN SUBSECTION (D) OF THIS SECTION.**

(F) (1) A financial officer may not fail **TO**:

(i) **[**To submit**] SUBMIT** a report under this section; or

(ii) **[**Within 15 days after receiving notice that the Department finds the report inadequate, to resubmit**] RESUBMIT** a report that meets the requirements of this section **WITHIN 15 DAYS AFTER RECEIVING NOTICE THAT THE DEPARTMENT FINDS THE REPORT INADEQUATE**.

(2) ~~A~~ ***IF A*** financial officer ~~who~~ violates any provision of this subsection***, THE POLITICAL SUBDIVISION EMPLOYING THE FINANCIAL OFFICER*** is

~~personally~~ liable to the State for a penalty of $10 for each day or part of a day for which the report is overdue.

Article 95 – Treasurer

22F.

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

(2) "Chief executive" means:

(i) For Baltimore City, the Mayor;

(ii) For a nonhome rule county, the chairman or president of the board of county commissioners;

(iii) For a charter county, the elected county executive or, if the county does not have an elected executive, the chairman or president of the county council;

(iv) For a code home rule county, the chairman or president of the board of county commissioners;

(v) For a community college, a designee of the board of trustees;

(vi) For a municipal corporation, the mayor or, if the municipal corporation does not have a mayor, the chairman or president of the municipal governing body; **[**and**]**

(vii) For the Washington Suburban Sanitary Commission, the Chairman of the Commission**;**

(VIII) FOR A PUBLIC CORPORATION, THE CHIEF EXECUTIVE OFFICER; AND

(IX) FOR AN AUTHORITY, THE EXECUTIVE DIRECTOR OR EXECUTIVE SECRETARY.

(3) (i) "Community college" includes a regional community college established under Title 16, Subtitle 2 of the Education Article.

(ii) "Community college" does not include the Baltimore City Community College.

(4) **"FINANCIAL OFFICER" MEANS THE TREASURER OR OTHER FINANCIAL OFFICER OF A LOCAL GOVERNMENT UNIT WHO IS RESPONSIBLE FOR**

THE INVESTMENT OF PUBLIC FUNDS OR THE ISSUANCE AND MANAGEMENT OF DEBT OF THE LOCAL GOVERNMENT UNIT.

(5) "Governing body" means:

(i) For Baltimore City, the ~~Mayor and City Council of Baltimore~~ **BALTIMORE CITY BOARD OF ESTIMATES**;

(ii) For a nonhome rule county, the county commissioners;

(iii) For a charter county, as provided by local law, the county council or the county executive and the county council;

(iv) For a code county, the county commissioners;

(v) For a community college, the board of trustees;

(vi) For a municipal corporation, the body provided by the municipal charter; **[**and**]**

(vii) For the Washington Suburban Sanitary Commission, the Commission**;**

(VIII) FOR A PUBLIC CORPORATION, THE BOARD OF DIRECTORS; AND

(IX) FOR AN AUTHORITY, THE BOARD OF THE AUTHORITY.

[(5) "Investment manager" means the director of finance, treasurer, or other official of a local government unit who is responsible for the investment of public funds of the local government unit.**]**

(6) "Local government unit" means:

(i) Baltimore City;

(ii) A community college;

(iii) A county;

(iv) A municipal corporation; **[**or**]**

(v) The Washington Suburban Sanitary Commission**;**

(VI) A PUBLIC CORPORATION AUTHORIZED TO ISSUE DEBT; OR

(VII) AN AUTHORITY OF THE STATE AUTHORIZED TO ISSUE DEBT.

(7) (i) "Public funds" means any revenue held by a local government unit as part of:

1. A general fund;

2. A special fund;

3. A capital improvement fund;

4. A debt service fund;

5. An enterprise fund;

6. An internal service fund; or

7. Except as otherwise provided in subparagraph (ii) of this paragraph, any other account of the local government unit.

(ii) "Public funds" does not include revenues held as part of a pension fund, other postemployment benefits fund, or trust fund account.

(b) This section and the local government investment guidelines adopted by the State Treasurer under this section supersede any local law, including any charter provision, or any other public general law to the extent of any conflict.

(c) (1) (i) After consulting with local government officials, the State Treasurer shall adopt by regulation local government investment guidelines to govern the investment of public funds by local government units in a manner that will facilitate sound cash management while protecting the public and assuring that a local government unit has access to its public funds as required.

(ii) The State Treasurer's local government investment guidelines shall:

1. State the types of investments in which public funds may be invested;

2. Include guidance for the prudent investment of public funds based on cash flow projections, income, liquidity, investment ratings, and risk;

3. Require that investments by a board of education and a board of library trustees are in compliance with the local investment policy of the respective county; and

4. Prohibit borrowing of funds for the express purpose of investing those funds.

[(iii) The State Treasurer's local government investment guidelines shall include a form that local government units shall use to comply with subsection (e) of this section. The form shall be adaptable to the investment needs of each local government unit and shall require sufficient detail to identify all pertinent aspects of an investment portfolio, including any realized losses. The form also shall require that each county include investments managed in accounts for or by the board of education and the board of library trustees of the county. The form shall provide for certification as required under subsection (e) of this section.**]**

(2) (i) **[**On or before September 1, 1995, the**]** **THE** governing body of each local government unit shall adopt by resolution a local investment policy that:

1. Is consistent with the local government investment guidelines adopted by the State Treasurer; and

2. Meets the individual needs of the local government unit.

(ii) Promptly after the adoption of a local investment policy, the local government unit shall mail a certified copy to the State Treasurer.

(iii) If the State Treasurer determines that the local investment policy is not consistent with the local government investment guidelines adopted by the State Treasurer, the State Treasurer shall notify the local government unit and the governing body of the local government unit shall prepare and submit a revised local investment policy that is consistent with the State Treasurer's guidelines.

(3) If the governing body of a local government unit amends its local investment policy, the local government shall submit its new policy to the State Treasurer consistent with the provisions of paragraph (2) of this subsection.

[(d)**]** **(4)** **[**An investment manager**]** **A FINANCIAL OFFICIAL** may not invest public funds of the local government unit in a manner inconsistent with the local investment policy.

(D) (1) (I) ON OR BEFORE SEPTEMBER 1, 2009, ~~THE GOVERNING BODY OF~~ EACH LOCAL GOVERNMENT UNIT SHALL ADOPT BY RESOLUTION, MOTION, OR ORDINANCE A LOCAL DEBT POLICY THAT:

1. IS CONSISTENT WITH THE MARYLAND CONSTITUTION, ARTICLES 23A, 24, AND 31 AND ALL OTHER APPLICABLE STATUTES, CHARTERS, AND LOCAL LAWS; AND

2. MEETS THE INDIVIDUAL NEEDS OF THE LOCAL GOVERNMENT UNIT.

(II) PROMPTLY AFTER THE ADOPTION OF A LOCAL DEBT POLICY, THE LOCAL GOVERNMENT UNIT SHALL MAIL A CERTIFIED COPY TO THE STATE TREASURER.

(III) IF THE STATE TREASURER DETERMINES THAT THE LOCAL DEBT POLICY IS NOT CONSISTENT WITH THE MARYLAND CONSTITUTION, ARTICLES 23A, 24, AND 31 OR OTHER APPLICABLE STATUTES, CHARTERS, OR LOCAL LAW:

1. THE STATE TREASURER SHALL NOTIFY THE LOCAL GOVERNMENT UNIT; AND

2. THE ~~GOVERNING BODY OF THE~~ LOCAL GOVERNMENT UNIT SHALL PREPARE AND SUBMIT A REVISED LOCAL DEBT POLICY.

(2) IF THE ~~GOVERNING BODY OF A~~ LOCAL GOVERNMENT UNIT AMENDS ITS LOCAL DEBT POLICY, THE LOCAL GOVERNMENT SHALL SUBMIT ITS REVISED POLICY TO THE STATE TREASURER CONSISTENT WITH THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION.

(e) **[**(1) This subsection only applies to a local government unit whose total annual expenditures for total operations, as reported in the most recent publication by the Department of Legislative Services entitled "Local Government Finances in Maryland", exceed $1,000,000.

(2) (i) On or before January 15 and July 15 of each year, beginning October 1995 and continuing through October 1999, the investment manager shall complete the form adopted by the State Treasurer to report all investments of the local government unit on the close of the final day of the immediately preceding half of the fiscal year.

(ii) The investment manager shall certify the accuracy of the form and that the investments reported on the form are in compliance with the local investment policy and promptly submit the form to the chief executive.

(3) (i) On or before January 30 and July 30 of each year, beginning October 1995 and continuing through October 1999, the chief executive shall review the form received from the investment manager.

(ii) The chief executive shall certify the date on which the form was received and that the chief executive has reviewed the form to verify that the information complies with the local investment policy and promptly mail a copy of the completed certified form to the State Treasurer.

(4) The State Treasurer shall review the forms to verify that the chief executive, a governing body, or an independent auditor engaged by the chief executive or a governing body has certified their compliance with this section and the local government investment guidelines.

(f)**]** (1) The State Treasurer shall contact the local government unit to seek compliance if a local government unit fails to:

(i) Adopt a local investment policy that is consistent with the local government investment guidelines adopted by the State Treasurer; or

(ii) **[**Comply with the reporting requirements under subsection (e) of this section**] ADOPT A LOCAL DEBT POLICY IN ACCORDANCE WITH (D)(1)(I) OF THIS SECTION**.

(2) **ON REQUEST OF THE STATE TREASURER, A FINANCIAL OFFICER SHALL PROVIDE TO THE STATE TREASURER, IN THE FORMAT AND TIME FRAME REQUESTED:**

(I) A REPORT OF THE LOCAL GOVERNMENT INVESTMENT PORTFOLIO; OR

(II) A REPORT OF THE LOCAL GOVERNMENT DEBT PORTFOLIO IN THE FORMAT REQUIRED UNDER ARTICLE 24, § 2–101 OF THE CODE.

(3) If the local government unit **[**continues to fail**] FAILS** to comply with this subsection, the State Treasurer shall notify in writing the Joint Committee on the Management of Public Funds.

[(3)**] (4)** The Joint Committee on the Management of Public Funds may request the Attorney General to seek judicial enforcement against the local government unit.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 591 – *State Retirement and Pension System – Military Service Credit – Clarification and Simplification.*

This bill conforms State pension law to reflect recent changes to the federal Uniformed Services Employment and Reemployment Rights Act of 1994 and the Heroes Earnings Assistance and Relief Tax Act of 2007. Among other changes, the bill provides death and disability benefits to individuals who are members of a State or local retirement or pension system who die or become disabled on or after January 1, 2007, while performing military service that interrupts their employment.

House Bill 975, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 591.

Sincerely,

Martin O'Malley
Governor

Senate Bill 591

AN ACT concerning

State Retirement and Pension System – Military Service Credit – Clarification and Simplification

FOR the purpose of altering the definition of "military service" as it relates to service credit for members of State or local retirement or pension systems to include active and inactive duty for training; providing certain death and disability benefits to certain individuals who are members of a State or local retirement or pension system who die or becomes disabled on or after a certain date while performing certain military service; requiring a State or local retirement or pension system to provide certain benefits to certain individuals depending on certain choices the State or local retirement system may make with regard to the distribution of certain benefits; clarifying that certain members of the Maryland National Guard who are on active or inactive duty for training that interrupts the member's service may receive a certain amount of service credit under certain circumstances; repealing certain obsolete language; and generally

relating to clarifying and simplifying the military service credit provisions for the State or local retirement or pension systems.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 38–101(d), 38–102, and 38–103(d)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 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

38–101.

(d) "Military service" means:

(1) induction into the armed forces of the United States for training and service under the Selective Training and Service Act of 1940 or a subsequent act of a similar nature;

(2) membership in a reserve component of the armed forces of the United States**:**

(I) on active duty or ordered or assigned to active duty; **OR**

(II) ON ACTIVE DUTY FOR TRAINING OR INACTIVE DUTY FOR TRAINING THAT INTERRUPTS A MEMBER'S SERVICE;

(3) enlistment into the armed forces of the United States;

(4) membership in the Maryland National Guard; or

(5) with respect to a person separated from employment on or after July 1, 1991, active duty with the commissioned corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey from:

(i) December 7, 1941, to December 31, 1946, both inclusive;

(ii) June 25, 1950, to January 31, 1955, both inclusive; or

(iii) December 22, 1961, to May 7, 1975, both inclusive.

38–102.

(A) [During] **EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, DURING** a period that a member of a State or local retirement or pension system is absent from employment for military service, the member or the member's estate, under a State or local retirement or pension system, is not entitled to:

(1) ordinary disability benefits;

(2) accidental disability benefits;

(3) death benefits;

(4) optional allowances; or

(5) other disability or death benefits.

(B) (1) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO:

(I) IS A MEMBER OF A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM AS DEFINED IN § 37–101(R) OF THIS ARTICLE; AND

(II) DIES ON OR AFTER JANUARY 1, 2007, WHILE PERFORMING QUALIFIED MILITARY SERVICE AS DEFINED IN CHAPTER 43, TITLE 38 OF THE UNITED STATES CODE.

(2) TO THE EXTENT REQUIRED BY § 401(A)(37) OF THE INTERNAL REVENUE CODE, AN INDIVIDUAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL RECEIVE ANY ADDITIONAL BENEFITS THAT THE SYSTEM PROVIDES FOR ANY MEMBER WHO RESUMES EMPLOYMENT AFTER COMPLETING MILITARY SERVICE AND THEN DIES, INCLUDING ANY DEATH BENEFITS THAT ARE CONTINGENT ON A MEMBER'S DEATH WHILE EMPLOYED.

(C) (1) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO:

(I) IS A MEMBER OF A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM AS DEFINED IN § 37–101(R) OF THIS ARTICLE; AND

(II) BECOMES DISABLED OR DIES ON OR AFTER JANUARY 1, 2007, WHILE PERFORMING QUALIFIED MILITARY SERVICE AS DEFINED IN CHAPTER 43, TITLE 38 OF THE UNITED STATES CODE.

(2) (I) TO THE EXTENT PERMITTED BY § 414(U)(8) OF THE INTERNAL REVENUE CODE, A STATE OR LOCAL RETIREMENT OR PENSION

SYSTEM MAY PROVIDE THAT, FOR BENEFIT ACCRUAL PURPOSES, AN INDIVIDUAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE TREATED AS HAVING RETURNED TO EMPLOYMENT ON THE DAY BEFORE THE DEATH OR DISABILITY AND THEN TERMINATED ON THE DATE OF DEATH OR DISABILITY.

(II) IF A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM PROVIDES BENEFITS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE SYSTEM MAY CHOOSE TO PROVIDE EITHER PARTIAL OR FULL BENEFITS, BUT WHICHEVER OPTION IS CHOSEN, IT SHALL BE APPLIED TO ALL SIMILARLY SITUATED MEMBERS IN A REASONABLY EQUIVALENT MANNER.

(D) (1) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO:

(I) IS A MEMBER OF A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM AS DEFINED IN § 37–101(R) OF THIS ARTICLE; AND

(II) ON OR AFTER JANUARY 1, 2009, RECEIVES DIFFERENTIAL WAGE PAYMENTS FROM AN EMPLOYER WHILE PERFORMING QUALIFIED MILITARY SERVICE AS DEFINED IN CHAPTER 43, TITLE 38 OF THE UNITED STATES CODE.

(2) (I) TO THE EXTENT PERMITTED BY § 3401(H) OF THE INTERNAL REVENUE CODE, AN INDIVIDUAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE TREATED AS EMPLOYED BY THE EMPLOYER DESCRIBED IN PARAGRAPH (1)(II) OF THIS SUBSECTION WHILE PERFORMING QUALIFIED MILITARY SERVICE AND THE DIFFERENTIAL WAGE PAYMENTS SHALL BE TREATED AS COMPENSATION.

(II) TO THE EXTENT PERMITTED BY § 414(U)(12) OF THE INTERNAL REVENUE CODE, A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM MAY PROVIDE BENEFITS TO THE INDIVIDUAL BASED ON THE DIFFERENTIAL WAGE PAYMENTS.

(III) IF A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM PROVIDES BENEFITS UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE BENEFITS SHALL BE PROVIDED TO ALL SIMILARLY SITUATED MEMBERS IN A REASONABLY EQUIVALENT MANNER.

38–103.

(d) (1) Subject to paragraph (2)(i) of this subsection, a member of a State or local retirement or pension system shall receive service credit for a period of absence from employment while in military service if:

(i) the employment of the member under subsection (a)(2) of this section is active or the employee is reinstated as a regular employee on a leave of absence; and

(ii) membership in a State or local retirement or pension system is a requirement of employment.

(2) (i) For an absence for military service **[**on or after January 1, 1946**]**, service credit for the military service may not exceed 5 years.

(ii) 1. This subparagraph applies only to a member of a State system.

2. Subject to subparagraph (i) of this paragraph and in addition to any service credit received under paragraph (1) of this subsection, a member of the Maryland National Guard who has been activated under Title 10 of the United States Code, **AND WHO IS ON ACTIVE OR INACTIVE DUTY FOR TRAINING THAT INTERRUPTS THE MEMBER'S SERVICE** shall receive service credit at the rate of 4 months for each full year for military service, not to exceed a total of 36 months.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 593 – *State Retirement and Pension System – Board of Trustees – Attendance and Educational Training*.

This bill expands the reasons for which a member of the Board of Trustees of the State Retirement and Pension System may be granted an excused absence from a board meeting to include jury duty and attendance at investment or fiduciary training. It also requires that investment and fiduciary training for trustees must be approved by the chairman of the board. In addition, the bill provides that an elected employee representative on the board must be given reasonable time during work hours to attend board and committee meetings.

House Bill 446, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 593.

Sincerely,

Martin O'Malley
Governor

Senate Bill 593

AN ACT concerning

State Retirement and Pension System – Board of Trustees – Attendance and Educational Training

FOR the purpose of providing additional exceptions for excused absences from certain meetings for members of the Board of Trustees of the State Retirement and Pension System; ~~altering the limitation on the location where the Board of Trustees may meet for certain training; removing certain limitations regarding certain entities who may conduct certain training for the Board of Trustees~~ requiring certain trustees on the Board of Trustees of the State Retirement and Pension System to ~~use certain leave~~ *be on work time* when attending certain meetings of the Board of Trustees; requiring the Chairman of the Board of Trustees to approve certain training to satisfy a certain requirement; *requiring the State Retirement Agency to submit certain reports on or before a certain date to the Joint Committee on Pensions;* and generally relating to trustee attendance and educational training for members of the Board of Trustees.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–104(e) and 21–108(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – State Personnel and Pensions

21–104.

(e) (1) Except as provided in paragraph (2) of this subsection, each trustee shall attend at least 80% of the monthly Board of Trustees meetings held during a 1–year period beginning January 1.

(2) (i) A trustee may be granted an excused absence by the chairman of the Board or another officer of the Board due [to illness or family emergencies] **TO:**

1. ILLNESS;

2. FAMILY EMERGENCIES;

3. JURY DUTY; OR

4. ATTENDANCE AT INVESTMENT OR FIDUCIARY TRAINING.

(ii) An excused absence under this paragraph may not be considered an absence for the purposes of paragraph (1) of this subsection.

(3) (i) Any elected or Governor–appointed trustee that fails to attend at least 80% of the meetings, not including excused absences under paragraph (2) of this subsection, shall be removed from the Board of Trustees by the Governor.

(ii) The Governor shall fill the vacancy for the office of the trustee for the unexpired term in the same manner as the office was previously filled.

(iii) The State Retirement Agency shall submit a trustee attendance report to the Department of Legislative Services by June 30 and December 31 of each year.

(4) AN ELECTED TRUSTEE REPRESENTING EMPLOYEES OF ANY OF THE SEVERAL SYSTEMS SHALL BE ~~ON ADMINISTRATIVE LEAVE WHEN THE ELECTED TRUSTEE ATTENDS A MONTHLY MEETING~~ *GIVEN REASONABLE TIME DURING WORK TO ATTEND MONTHLY MEETINGS* OF THE BOARD OF TRUSTEES OR ~~A~~ COMMITTEE ~~MEETING~~ *MEETINGS* OF THE BOARD OF TRUSTEES.

21–108.

(a) (1) The responsibility for the management, general administration, and proper operation of the several systems is vested in the Board of Trustees.

(2) The Board of Trustees is not responsible for:

(i) reviewing the benefit structures for any of the several systems, except for the purpose of making technical corrections; or

(ii) considering benefit enhancements for any of the several systems.

(3) (i) Each trustee on the Board of Trustees is required to complete at least 8 hours of investment and fiduciary training, including training on fiduciary conduct and board governance, during a 1–year period beginning January 1.

(ii) The training shall be ~~conducted at a facility located [in the State by an entity not affiliated with any of the external investment managers for the several systems] WITHIN THE CONTINENTAL UNITED STATES~~ **APPROVED BY THE CHAIRMAN OF THE BOARD OF TRUSTEES TO SATISFY THE 8–HOUR REQUIREMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH**.

~~(iii)~~ ***(4)*** ***(I)*** On or before June 30 and December 31 of each year, the State Retirement Agency shall submit a report to the Department of Legislative Services that provides a summary of the training required by ~~this paragraph~~ ***PARAGRAPH (3) OF THIS SUBSECTION*** that was completed by each trustee during that 6–month period.

(II) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE BOARD OF TRUSTEES SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE TO THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES:

1. A TOTAL OF ALL TRAVEL EXPENSES FOR THE FISCAL YEAR ENDING IMMEDIATELY PRIOR TO SEPTEMBER 1 FOR:

A. MEMBERS OF THE BOARD OF TRUSTEES; AND

B. STAFF OF THE STATE RETIREMENT AGENCY;

2. THE DESTINATION, DURATION, AND JUSTIFICATION FOR THE TRAVEL;

3. FOR MEMBERS OF THE BOARD OF TRUSTEES, A STATEMENT WHETHER THE TRAVEL WAS MADE FOR PURPOSES OF FIDUCIARY EDUCATIONAL TRAINING; AND

4. FOR STAFF OF THE INVESTMENT DIVISION, A STATEMENT WHETHER THE TRAVEL WAS MADE FOR PURPOSES OF MEETING WITH EXISTING OR PROSPECTIVE INVESTMENT MANAGERS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 607 – *Frederick County – Overdue Water and Sewer Charge – Restoration of Service Penalty*.

This bill alters the amount of the penalty imposed on water users in Frederick County for restoring service after an overdue charge for water and sewer services has been paid.

House Bill 82, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 607.

Sincerely,

Martin O'Malley
Governor

Senate Bill 607

AN ACT concerning

Frederick County – Overdue Water and Sewer Charge – Restoration of Service Penalty

FOR the purpose of altering the penalty imposed on water users in Frederick County for restoring service after an overdue charge for water and sewer services has been paid; and generally relating to water and sewer service charges in Frederick County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Frederick County
Section 2–13–23(a)(1)
Article 11 – Public Local Laws of Maryland
(2004 Edition and September 2008 Supplement, as amended)

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

Article 11 – Frederick County

2–13–23.

(a) For the purpose of providing funds for maintaining, repairing, and operating its water and sewerage systems and for its operation and other expenses, including property depreciation allowances, and for interest on and the retirement of bonds as specified in this chapter, the board may make the following charges:

(1) A water and sewer service charge. The rates for water and sewer service shall consist of a minimum or ready–to–serve charge which shall be based upon the size of the meter on the water connection leading to the property, and of a charge for water used, which shall be based upon the amount of water passing through the meter during the period between the last two readings. The meter shall be required to be placed on each water connection by and at the sole expense of the county, and it shall remain the property of the county. The rates shall be classified within Frederick County in whatever manner the board deems advisable. However, the classification shall be based upon the quantities of water used and shall be, insofar as possible, uniform throughout Frederick County. If the board at any time does not have meters available to install in all the properties in a given locality that are connected to the system, then a flat rate shall be charged on properties in which meters have not yet been installed. That rate shall be uniform in each system and based upon the ready–to–serve charge and the amount of water used. Bills for water and sewer charges shall be sent either quarterly or semiannually, as the board determines, to each property served and shall be payable at the office of the board or whatever other place the board designates. The charges shall be a lien upon the property served and collectible as elsewhere provided. If any bill remains unpaid 30 days after the date it was sent, the board, after written notice left upon the premises or mailed to the last known address of the owner, shall turn off the water from the property in question. The water may not be turned on again until the bill has been paid, including a **[**$10**]** penalty **IN A REASONABLE AMOUNT TO BE ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 721 – *Private Wastewater Treatment Act of 2009*. Senate Bill 721 is a cross file of House Bill 1105, which I intend to sign. Both Senate Bill 721 and House Bill 1105 prohibit the installation of an individual sewerage system for residential use except upon the Department of Environment's approval when an existing on–site sewage disposal system fails and cannot be repaired or replaced by any means. "Individual sewerage system" is defined under both bills as a privately owned system of sewers, piping and treatment tanks that serves a single lot and discharges to the surface waters of the State. Senate Bill 721 specifies that the term "individual sewerage system" does not include a "septic tank disposal system." House Bill 1105 does not include this same language. "Septic tank disposal system" is not a defined term under the bill, nor in current Maryland statute or regulation.

The language in Senate Bill 721 specifying that the term "individual sewerage system" does not include a "septic tank disposal system" was added to the bill by floor amendment in the House of Delegates. According to a review of the discussion on the floor of the House when the amended language was offered, there was a desire for clarification that the new prohibition on an "individual sewerage system" did not include private septic systems.

The exchange on the House floor occurred as follows:

Delegate Walkup: *Does this restrict private septic systems?*

Delegate McIntosh: *The answer is no, it does not. As a matter of fact, we're going to accept an amendment from your colleague to clarify that.*

Delegate Haddaway: *I have an amendment at the desk. This amendment clarifies that this legislation applies only to individual sewerage systems and does not apply to septic tank disposal systems. It is just a clarifying amendment that allows us all to feel comfortable with this legislation.*

Delegate McIntosh: *We had a chance to review this amendment and the Environmental Matters Committee voted unanimously to accept it.*

Speaker Busch: *So this is a friendly amendment.*

The amendment was then adopted without a recorded vote and the bill went on to pass 137–0.

Based upon the above–referenced exchange on the House floor, it is clear that the legislature's intent was to exclude private septic systems from the definition of "individual sewerage system." However, the terminology it used to do so – "septic tank disposal system" – is not defined anywhere in Maryland statute or regulation. Instead, the correct terminology to refer to what is popularly known as a private septic system is "on–site sewage disposal system." *See* COMAR § 26.04.02.01 (2009) and 2009 Md. Laws Chapter 280 (Senate Bill 554).

Although I believe it is clear that the legislature did not intend that an on–site sewage disposal system (as defined by Maryland law) be considered an "individual sewerage system," the legislature did not use that term. In an attempt to clarify that the provisions of the bill did not apply to "private septic systems," the use of an undefined term in fact created uncertainty regarding the meaning of the final provisions of Senate Bill 721. Therefore, because of the uncertainty and the conflicting interpretations that could result from adding the undefined term "septic tank disposal system" to Maryland law and the passage of House Bill 1105, which meets the policy objectives of the original bill, I am hereby vetoing Senate Bill 721.

Sincerely,

Martin O'Malley
Governor

Senate Bill 721

AN ACT concerning

Private Wastewater Treatment Act of 2009

FOR the purpose of prohibiting a person from installing a certain privately owned ~~on–site wastewater treatment~~ individual sewerage system under certain circumstances; defining a certain term; and generally relating to privately owned on–site wastewater treatment systems.

BY adding to
Article – Environment
Section 9–1108
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Environment

9–1108.

(A) IN THIS ~~SECTION,~~ *SECTION:*

(1) **"~~ON–SITE TREATMENT SYSTEM" MEANS A PRIVATELY OWNED ON–SITE WASTEWATER TREATMENT SYSTEM THAT DISCHARGES INTO SURFACE WATERS OF THE STATE~~ INDIVIDUAL SEWERAGE SYSTEM" MEANS A PRIVATELY**

OWNED SYSTEM OF SEWERS, PIPING AND TREATMENT TANKS OR OTHER FACILITIES THAT:

~~(1)~~ *(I)* SERVES ONLY A SINGLE LOT FOR THE DISPOSAL OF SEWAGE; AND

~~(2)~~ *(II)* DISCHARGES TO THE SURFACE WATERS OF THE STATE.

(2) "INDIVIDUAL SEWERAGE SYSTEM" DOES NOT INCLUDE A SEPTIC TANK DISPOSAL SYSTEM.

(B) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PERSON MAY NOT INSTALL AN ~~ON-SITE TREATMENT SYSTEM~~ INDIVIDUAL SEWERAGE SYSTEM IN THE STATE. ~~IF:~~

~~(1) THE LOT ON WHICH THE SYSTEM IS TO BE LOCATED:~~

~~(I) FAILS A SOIL PERCOLATION TEST; AND~~

~~(II) IS NOT SERVED BY A PUBLICLY OWNED WASTEWATER TREATMENT FACILITY; OR~~

~~(2) THE ON-SITE TREATMENT SYSTEM IS INCONSISTENT WITH A COUNTY WATER AND SEWER PLAN.~~

(C) SUBJECT TO THE DEPARTMENT'S APPROVAL, A PERSON MAY INSTALL AN INDIVIDUAL SEWERAGE SYSTEM IN THE STATE FOR RESIDENTIAL USE IF AN EXISTING ON–SITE SEWAGE DISPOSAL SYSTEM FAILS AND CANNOT BE REPAIRED OR REPLACED BY ANY MEANS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 767 – *Fire, Rescue, and Emergency Medical Services in Anne Arundel County – Agreements with Federal Government – Reimbursement.*

This bill requires, in Anne Arundel County, that any agreement entered into under a specified provision of law between a fire, rescue, or emergency medical services entity and the federal government, to provide fire fighting or rescue activities on property under the jurisdiction of the United States, shall include a provision that entitles the fire, rescue, or emergency medical services entity to obtain reimbursement from the appropriate federal authority for all or part of the cost.

House Bill 953, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 767.

Sincerely,

Martin O'Malley
Governor

Senate Bill 767

AN ACT concerning

Fire, Rescue, and Emergency Medical Services in Anne Arundel County – Agreements with Federal Government – Reimbursement

FOR the purpose of requiring that, in Anne Arundel County, any agreement entered into under a certain provision of law between a fire, rescue, or emergency medical services entity and the federal government to provide fire fighting or rescue activities on certain property shall include a provision that entitles the fire, rescue, or emergency medical services entity to obtain a certain reimbursement from the appropriate federal authority; and generally relating to agreements between the federal government and fire, rescue, and emergency medical services entities in Anne Arundel County.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 7–104
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

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

Article – Public Safety

7–104.

(a) A fire, rescue, or emergency medical services entity may enter into an agreement with the federal government in accordance with this section to provide fire fighting or rescue activities on property under the jurisdiction of the United States.

(b) An agreement entered into under this section shall be limited to the provision of fire fighting or rescue equipment and personnel or both.

(c) An agreement entered into under this section shall include:

(1) a waiver by each party of any claim against any other party for compensation for any loss, damage, personal injury, or death that occurs in the performance of the agreement;

(2) a provision to indemnify and hold harmless each party to the agreement from any claim by a third party for property damage or personal injury, within the limitations permitted by federal law, that arise out of the activities of each party to the agreement; and

(3) **[**except in Anne Arundel County,**]** a provision that entitles the fire, rescue, or emergency medical services entity to obtain reimbursement from the appropriate federal authority for all or part of the cost of providing fire protection on property under the jurisdiction of the United States in accordance with federal law.

(d) If an individual engaging in an activity authorized under this section sustains an injury that arises out of the activity, the individual is entitled to any or all benefits available under the Maryland Workers' Compensation Act as the primary remedy for reimbursement of expenses for medical bills, loss of earnings, and disability that arises under or as a result of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 780 – *Counties – Purchase of Development Rights – Carroll County*.

Senate Bill 780 authorizes Carroll County to enter into an agreement to purchase development rights under specified circumstances.

House Bill 911, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 780.

Sincerely,

Martin O'Malley
Governor

Senate Bill 780

AN ACT concerning

Counties – Purchase of Development Rights – Carroll County

FOR the purpose of authorizing Carroll County to enter into an agreement to purchase development rights under certain circumstances; authorizing Carroll County to determine, by resolution, certain provisions, terms, conditions, and the duration of a certain agreement; providing that a certain payment obligation in a certain agreement shall be a general obligation of Carroll County and may not be subject to a certain annual appropriation; authorizing Carroll County to undertake a certain payment obligation without regard to certain limitations and without complying with certain procedures; providing that the exercise of certain authority constitutes the exercise of certain borrowing authority; providing that a certain agreement, the transfer or assignment of a certain agreement, and the payment required by a certain agreement are exempt from certain taxes; and generally relating to the purchase of development rights by Carroll County.

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 20–101
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 20–102
Annotated Code of Maryland
(2005 Replacement Volume and 2008 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

20–101.

This title applies only in:

(1) Anne Arundel County;

(2) Baltimore County;

(3) **CARROLL COUNTY;**

(4) Howard County; and

[(4)**] (5)** Prince George's County.

20–102.

(a) A county may enter into an agreement to purchase development rights.

(b) Except as otherwise provided in this title, a county may determine by resolution the provisions, terms, conditions, and the duration of an agreement authorized under this title.

(c) A payment obligation in an agreement authorized under this title:

(1) Shall be a general obligation of the county to which its full faith and credit and unlimited taxing power is pledged; and

(2) May not be subject to annual appropriation by the county.

(d) A county may undertake a payment obligation in an agreement authorized under this title:

(1) Without regard to any limitations contained in its charter or other applicable public local law or public general law that would otherwise apply; and

(2) Without complying with any procedures contained in its charter or other applicable public local or public general law that otherwise would be required.

(e) The exercise of the authority granted in this title to enter into an agreement with a payment obligation for a term of years constitutes the exercise of borrowing authority.

(f) An agreement authorized under this title, the transfer or assignment of the agreement, and any payment required by the agreement shall be exempt from taxation by the State or any county, municipal corporation, or public agency.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 884 – *Frederick County – Alcoholic Beverages – Wine Festival License*.

Among other things, Senate Bill 884 establishes a special wine festival (WF) license in Frederick County; requires that an applicant for a special WF license must be a holder of another license; specifies that a holder of a special WF license may display and sell wine in a specified manner; provides for a $20 license fee; and authorizes the Frederick County Board of License Commissioners to choose 2 weekends annually for wine festivals.

House Bill 721, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 884.

Sincerely,

Martin O'Malley
Governor

Senate Bill 884

AN ACT concerning

Frederick County – Alcoholic Beverages – Wine Festival License

FOR the purpose of establishing a special wine festival (WF) license in Frederick County; requiring that an applicant for a special WF license must be a holder of a certain other license; specifying that a holder of a special WF license may

display and sell wine in a certain manner; requiring the Frederick County Board of License Commissioners to assure that the primary focus of the festival is the promotion of Maryland wine; requiring a holder of a special WF license to display and sell certain wine; providing for a license fee; providing that this Act does not prohibit the holder of a special WF license from holding another alcoholic beverages license; authorizing the Board to choose certain weekends for festivals; requiring the Board to choose certain locations for the festivals; requiring the Board to adopt certain regulations; defining certain terms; and generally relating to wine in Frederick County.

BY renumbering
Article 2B – Alcoholic Beverages
Section 8–308.1
to be Section 8–308.2
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 8–308.1
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–308.1 of Article 2B – Alcoholic Beverages of the Annotated Code of Maryland be renumbered to be Section(s) 8–308.2.

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

Article 2B – Alcoholic Beverages

8–308.1.

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

(2) "BOARD" MEANS THE FREDERICK COUNTY BOARD OF LICENSE COMMISSIONERS.

(3) "FESTIVAL" MEANS THE FREDERICK COUNTY WINE FESTIVAL.

(B) THIS SECTION APPLIES ONLY IN FREDERICK COUNTY.

(C) THE BOARD MAY ISSUE A SPECIAL WINE FESTIVAL (WF) LICENSE.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, TO BE ELIGIBLE FOR A SPECIAL WF LICENSE, AN APPLICANT MUST BE A HOLDER OF AN EXISTING STATE RETAIL ALCOHOLIC BEVERAGES LICENSE, A STATE CLASS 3 WINERY LICENSE, OR A STATE CLASS 4 LIMITED WINERY LICENSE.

(E) A SPECIAL WF LICENSE ENTITLES THE HOLDER TO DISPLAY AND SELL AT RETAIL WINE FOR CONSUMPTION ON OR OFF THE PREMISES ON THE DAYS AND FOR THE HOURS DESIGNATED FOR A FESTIVAL IN THE COUNTY.

(F) (1) THE BOARD SHALL ASSURE THAT THE PRIMARY FOCUS OF THE FESTIVAL IS THE PROMOTION OF MARYLAND WINE.

(2) A HOLDER OF A SPECIAL WF LICENSE SHALL DISPLAY AND SELL WINE THAT IS DISTRIBUTED IN THE STATE.

(G) THE SPECIAL WF LICENSE FEE IS $20.

(H) THIS SECTION DOES NOT PROHIBIT THE HOLDER OF A SPECIAL WF LICENSE FROM HOLDING ANOTHER ALCOHOLIC BEVERAGES LICENSE OF A DIFFERENT CLASS OR NATURE.

(I) THE BOARD MAY CHOOSE 2 WEEKENDS ANNUALLY FOR FESTIVALS.

(J) THE BOARD SHALL CHOOSE LOCATIONS IN THE COUNTY FOR THE FESTIVALS THAT ARE NOT LICENSED UNDER THIS ARTICLE.

(K) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 932 – *Creation of a State Debt – Community Development Administration – Local Government Infrastructure Financing Program*.

This bill authorizes the creation of State Debt in the total principal amount up to $2,000,000, the proceeds to be used as grants or loans to the Community Development Administration to replenish capital reserve funds created under the Local Government Infrastructure Financing Program.

House Bill 1330, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 932.

Sincerely,

Martin O'Malley
Governor

Senate Bill 932

AN ACT concerning

Creation of a State Debt – Community Development Administration – Local Government Infrastructure Financing Program

FOR the purpose of authorizing the creation of State Debt in the total principal amount up to $2,000,000, the proceeds to be used as grants or loans to the Community Development Administration of the Department of Housing and Community Development to replenish certain capital reserve funds created under the Local Government Infrastructure Financing Program; providing for disbursement of the loan proceeds; stating the intent of the General Assembly that certain bonds only be issued under certain circumstances; stating the intent of the General Assembly that this bond authorization is excluded from the Capital Debt Affordability limit; stating the intent of the General Assembly that the Administration reimburse, within a certain number of years, the Annuity Bond Fund for the principal and interest costs for the debt authorized under this Act; authorizing the Comptroller to advance certain funds under certain circumstances; exempting this Act from a certain termination provision under the State Finance and Procurement Article; making this Act contingent on the taking effect of another Act; and generally providing for the issuance and sale of bonds evidencing the Local Government Infrastructure Financing Program Capital Reserve Fund Loan of 2009.

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Local Government Infrastructure Financing Program Capital Reserve Fund Loan of 2009 in the total principal amount up to $2,000,000. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes: as a grant or loan to the Community Development Administration of the Department of Housing and Community Development to replenish certain capital reserve funds created under the Local Government Infrastructure Financing Program as provided for under § 4–233.1 of the Housing and Community Development Article.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issue of the bonds.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that general obligation bonds authorized by this Act only be issued if the amount held in a capital reserve fund created under § 4–233.1 of the Housing and Community Development Article falls below the minimum capital reserve requirement established for that fund.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the $2,000,000 of general obligation bonds authorized by this Act not be included as part of the annual general obligation debt limit recommended by the Capital Debt Affordability Committee, in accordance with § 8–112 of the State Finance and Procurement Article, unless and until the bonds authorized by this Act are issued. Further, it is the intent of the General Assembly that the Community Development Administration develop a repayment schedule, in consultation with the Comptroller, to reimburse the Annuity Bond Fund, within five years of the issuance of debt authorized under this Act, for the principal and interest costs of any debt issued.

SECTION 4. AND BE IT FURTHER ENACTED, That the Comptroller may, upon the request of the Community Development Administration, advance funds to replenish any capital reserve fund established pursuant to § 4–233.1 of the Housing

and Community Development Article, provided that if general obligation bonds have not been issued under the authority of this Act, the next ensuing sale of general obligation bonds shall include the issuance of bonds under the authority of this Act in an amount at least equivalent to the amount of the funds so advanced.

SECTION 5. AND BE IT FURTHER ENACTED, That this enabling Act may not be subject to or terminate under § 8–128 of the State Finance and Procurement Article.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, contingent on the taking effect of ~~Chapter ____ (S.B. ____/H.B. ____) (9lr3035)~~ Chapter____(S.B. 931/H.B. 1331) of the Acts of the General Assembly of 2009, and if ~~Chapter ____ (S.B. ____/H.B. ____) (9lr3035)~~ Chapter____(S.B. 931/H.B. 1331) does not become effective, this Act shall be null and void without the necessity of further action by the General Assembly.

Vetoed House Bills and Messages

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 43 – *Talbot County – School Buses – Length of Operation.*

This bill exempts Talbot County from the requirement that conventional school buses more than 12 years old meet specific standards and be approved for use by the State Superintendent of Schools. The bill allows conventional school buses in Talbot County to operate for 15 years before these requirements apply.

Senate Bill 29, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 43.

Sincerely,

Martin O'Malley
Governor

House Bill 43

AN ACT concerning

Talbot County – School Buses – Length of Operation

FOR the purpose of altering the length of time a school bus may be operated in Talbot County; and generally relating to school bus operation in Talbot County.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–804
Annotated Code of Maryland
(2008 Replacement Volume)

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, **TALBOT,** 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 October 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 59 – *State Board of Well Drillers – Sunset Extension and Program Evaluation*.

House Bill 59 continues the State Board of Well Drillers in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to July 1, 2021, the termination provisions relating to the statutory and regulatory authority of the Board. The bill also requires that an evaluation of the Board be performed on or before July 1, 2020 and requires the Board to make a specified report on or before October 1, 2009.

Senate Bill 117, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 59.

Sincerely,

Martin O'Malley
Governor

House Bill 59

AN ACT concerning

State Board of Well Drillers – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Well Drillers in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board to submit a certain report on or before a certain date; and generally relating to the State Board of Well Drillers.

BY repealing and reenacting, with amendments,
Article – Environment
Section 13–602
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(68)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Environment

13–602.

Subject to the Program Evaluation Act, the provisions of this title and all rules and regulations adopted under this title creating the State Board of Well Drillers and relating to the regulation of well drillers are of no effect and may not be enforced after July 1, **[**2011**]** **2021**.

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:

(68) Well Drillers, State Board of (§ 13–201 of the Environment Article: July 1, **[**2010**] 2020**).

SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1, 2009, the State Board of Well Drillers, in conjunction with the Department of the Environment, shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee, in accordance with **§** 2–1246 of the State Government Article, on its plans to:

(1) Increase fees and its ability to generate sufficient fee revenue for the General Fund to cover its expenditures; and

(2) Track consumer complaints and related disciplinary actions within a database or spreadsheet.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 80 – *Frederick County – Alcoholic Beverages – Part–Time Inspectors*.

Among other things, House Bill 80 authorizes the Frederick County Liquor Board to appoint not more than two part–time alcoholic beverages inspectors. The bill also specifies requirements that a person must meet to qualify for appointment and specifies the powers, duties, and compensation of part–time inspectors. Finally, House Bill 80 makes specified prohibitions against conflict of interest applicable to part–time alcoholic beverages inspectors.

Senate Bill 608, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 80.

Sincerely,

Martin O'Malley
Governor

House Bill 80

AN ACT concerning

Frederick County – Alcoholic Beverages – Part–Time Inspectors

FOR the purpose of authorizing the Frederick County Liquor Board to appoint a certain number of part–time alcoholic beverages inspectors; specifying certain requirements that a person must meet to qualify for appointment; specifying certain powers, duties, and compensation of part–time inspectors; making certain prohibitions against conflict of interest applicable to part–time inspectors; and generally relating to part–time alcoholic beverages inspectors in Frederick County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–103
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

15–103.

(a) (1) There is a Board of License Commissioners in Frederick County.

(2) The Board consists of 3 members.

(3) The Governor shall appoint the members of the Board.

(4) To qualify for appointment to the Board, a person:

(i) Shall be of good moral character and integrity;

(ii) Shall reasonably reflect the citizenry of the county; and

(iii) Shall be a registered voter of the county and shall continue to be a registered voter of the county during the person's term of office.

(5) The term of a member is 5 years.

(6) The terms of the members are staggered as required by the terms provided for members of the Board on July 1, 1989.

(7) A member who is appointed after a term has begun serves only until a successor is appointed and qualifies.

(8) The Governor may remove a member for incompetence, misconduct, neglect of a duty required by law, unprofessional conduct, or dishonorable conduct.

(9) The removal procedure is as provided in this article.

(b) From among its members, the Board shall elect a chairperson.

(c) (1) A majority of the members then serving on the Board is a quorum.

(2) The Board shall meet at least once a month.

(3) The chairperson of the Board shall receive an annual compensation of $7,000 and be reimbursed for reasonable expenses.

(4) The members shall receive an annual compensation of $6,500 and be reimbursed for reasonable expenses.

(d) (1) The Governor shall appoint 1 alcoholic beverages inspector, with the advice and consent of:

(i) The Senate; or

(ii) If there is no resident Senator, then with the consent of the members of the Frederick County delegation of the General Assembly.

(2) To qualify for appointment as an alcoholic beverages inspector, a person:

(i) Shall be of high moral character;

(ii) Shall possess a sound reputation for sobriety, honesty, and integrity; and

(iii) Shall devote full time to the duties of the office.

(3) (i) The term of an inspector is 5 years.

(ii) An inspector who is appointed after a term has begun serves only until a successor is appointed.

(4) The Governor may remove an inspector with the advice and consent of:

(i) The Senate; or

(ii) If there is no resident Senator, then with the consent of the members of the Frederick County delegation of the General Assembly.

(5) Grounds for removal are:

(i) Incompetence;

(ii) Misconduct while performing the duties as an inspector;

(iii) Neglect of a duty required by law; or

(iv) Unprofessional or dishonorable conduct in performing the duties as an inspector.

(6) (i) An inspector shall receive an annual salary as set by the County Commissioners, be reimbursed for reasonable expenses, and receive mileage at the standard rate set by the County Commissioners.

(ii) Mileage does not include travel to and from the inspector's home and office.

(7) An inspector shall:

(i) Possess the power of a peace officer of this State with respect to the enforcement of the alcoholic beverages laws of Frederick County;

(ii) Make monthly reports in writing to the Board covering the activities and setting forth any complaints or violations that may have been observed or reported;

(iii) Assist the Board in enforcing the alcoholic beverages laws; and

(iv) Have any other duties as the Board may prescribe.

(E) (1) THE BOARD MAY APPOINT NOT MORE THAN TWO PART–TIME ALCOHOLIC BEVERAGES INSPECTORS.

(2) TO QUALIFY FOR APPOINTMENT AS A PART–TIME ALCOHOLIC BEVERAGES INSPECTOR, A PERSON SHALL:

(I) BE OF HIGH MORAL CHARACTER; AND

(II) POSSESS A SOUND REPUTATION FOR SOBRIETY, HONESTY, AND INTEGRITY.

(3) A PART–TIME ALCOHOLIC BEVERAGES INSPECTOR SHALL:

(I) POSSESS THE POWER OF A PEACE OFFICER OF THE STATE WITH RESPECT TO THE ENFORCEMENT OF THE ALCOHOLIC BEVERAGES LAWS OF FREDERICK COUNTY;

(II) MAKE MONTHLY REPORTS IN WRITING TO THE BOARD COVERING THE ACTIVITIES AND SETTING FORTH ANY COMPLAINTS OR VIOLATIONS THAT MAY HAVE BEEN OBSERVED OR REPORTED;

(III) ASSIST THE BOARD IN ENFORCING THE ALCOHOLIC BEVERAGES LAWS; AND

(IV) HAVE ANY OTHER DUTIES THAT THE BOARD MAY REQUIRE.

(4) A PART–TIME INSPECTOR SHALL:

(I) RECEIVE THE COMPENSATION SET BY THE COUNTY COMMISSIONERS AND PROVIDED FOR IN THE COUNTY BUDGET;

(II) BE REIMBURSED FOR REASONABLE EXPENSES; AND

(III) RECEIVE REIMBURSEMENT FOR MILEAGE AT THE STANDARD RATE SET BY THE COUNTY COMMISSIONERS.

(5) REIMBURSEMENT FOR MILEAGE DOES NOT INCLUDE TRAVEL TO AND FROM THE PART–TIME INSPECTOR'S HOME AND OFFICE.

[(e)**] (F)** The chairperson of the Board, with the approval of the County Commissioners, may employ the clerical assistants necessary to carry out the duties of the Board and the salary of the clerical assistants shall be set by the County Commissioners and provided for in the county budget.

[(f)**] (G)** (1) (i) A Commissioner, **FULL–TIME OR PART–TIME** inspector, or employee of the Board may not:

1. Have any interest, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or in any other manner, in or to any premises where alcoholic beverages are manufactured or sold;

2. Have any interest, directly or indirectly, in any business wholly or partially devoted to the manufacture or sale of alcoholic beverages; or

3. Own any stock in any corporation which has any interest, proprietary or otherwise, directly or indirectly, in any premises where alcoholic beverages are manufactured or sold or in any business wholly or partially devoted to the manufacture or sale of alcoholic beverages, or hold any other public office or employment.

(ii) A Commissioner, **FULL–TIME OR PART–TIME** inspector, or employee of the Board may not solicit or receive, directly or indirectly, any commission, remuneration, or gift whatsoever from any person or corporation engaged in the manufacture or sale of beer or other alcoholic beverages, from any licensee, licensed under the provisions of this article.

(iii) A person or corporation engaged in the manufacture or sale of beer or other alcoholic beverages, any agent or employee of that person or corporation, and any licensee licensed under the provisions of this article may not, directly or indirectly, offer to pay any commission, profit, or remuneration or make any gift to any Commissioner, **FULL–TIME OR PART–TIME** inspector, or employee of the Board.

(2) Violations of this subsection are a misdemeanor punishable by a fine of not more than $1,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 111 – *Dorchester County – Sheriff – Salary*.

This bill establishes the salary for the Sheriff of Dorchester County for specified calendar years, repeals references to the County Commissioners of Dorchester County and substitutes references to the County Council of Dorchester County. The bill does not apply to the salary or compensation of the incumbent Sheriff of Dorchester County.

Senate Bill 19, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 111.

Sincerely,

Martin O'Malley
Governor

House Bill 111

AN ACT concerning

Dorchester County – Sheriff – Salary

FOR the purpose of establishing the salary for the Sheriff of Dorchester County for certain calendar years; repealing references to the County Commissioners of Dorchester County and substituting references to the County Council of Dorchester County; establishing that this Act does not apply to the salary or compensation of the incumbent Sheriff of Dorchester County; and generally relating to the salary of the Sheriff of Dorchester County.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–309(k)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Courts and Judicial Proceedings

2–309.

(k) (1) (i) **[**Except as provided in subparagraphs (ii) and (iii) of this paragraph, the Sheriff of Dorchester County shall receive an annual salary of $45,000

and be allowed the actual operating costs of the Sheriff's Office, including the maintenance of automobiles.

(ii)**]** The Sheriff of Dorchester County shall receive an annual salary of:

1. **[**$62,500**] $65,500** for calendar year **[**2006**] 2009**;

2. **[**$63,500**] $65,500** for calendar year **[**2007**] 2010**;

3. **[**$64,500**] $85,000** for calendar year **[**2008**] 2011**; **[**and**]**

4. **[**$65,500**] $86,500** for calendar year **[**2009**] 2012;**

5. $88,000 FOR CALENDAR YEAR 2013; AND

6. $89,500 FOR CALENDAR YEAR 2014.

[(iii)**] (II)** For calendar year **[**2010**] 2015** and thereafter, the Sheriff of Dorchester County shall receive the same annual salary as paid in **[**2009**] 2014**.

(III) THE SHERIFF OF DORCHESTER COUNTY ~~IS ENTITLED TO~~ SHALL BE ALLOWED THE ACTUAL OPERATING COSTS OF THE SHERIFF'S OFFICE, INCLUDING THE MAINTENANCE OF AUTOMOBILES.

(2) (i) The Sheriff shall appoint a chief deputy sheriff, or the managerial equivalent, who shall serve at the pleasure of the Sheriff.

(ii) If an employee of the Sheriff's Office is appointed as chief deputy sheriff and is subsequently removed from the chief deputy sheriff's position for other than cause, the person may resume the employment status held prior to the appointment to the chief deputy sheriff's position.

(iii) The chief deputy sheriff shall:

1. Perform all duties assigned by the Sheriff; and

2. If the Sheriff is temporarily incapacitated or there is a vacancy in the Office of the Sheriff, perform all legal functions of the Sheriff.

(iv) If the Sheriff becomes incapacitated and the position of chief deputy sheriff is vacant, the County **[**Commissioners**] COUNCIL** shall appoint an acting chief deputy sheriff to serve until the Sheriff is reactivated or replaced.

(v) The County **[**Commissioners**]** **COUNCIL** shall approve the salary of the chief deputy sheriff.

(3) (i) The Sheriff may appoint probationary deputy sheriffs, deputy sheriffs, investigators, communications officers, secretaries, supervisors, administrators, and other staff as approved in the county budget.

(ii) The County **[**Commissioners**]** **COUNCIL** shall approve the salaries for all staff appointed by the Sheriff.

(iii) The Sheriff may not refuse to reappoint a deputy sheriff without just cause.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the Sheriff of Dorchester County in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the Sheriff of Dorchester County shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 112 – *Dorchester County Board of Education – Annual Election of Board Officers*.

This bill alters the date of the annual election of officers of the Dorchester County Board of Education.

Senate Bill 331, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 112.

Sincerely,

Martin O'Malley
Governor

House Bill 112

AN ACT concerning

Dorchester County Board of Education – Annual Election of Board Officers

FOR the purpose of altering the date of the annual election of officers of the Dorchester County Board of Education; and generally relating to the date of the annual election of officers of the Dorchester County Board of Education.

BY repealing and reenacting, without amendments,
Article – Education
Section 3–5A–01(a) through (d)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Education
Section 3–5A–03
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

3–5A–01.

(a) The Dorchester County Board consists of:

(1) Five voting members, elected in accordance with subsection (b) of this section; and

(2) One nonvoting student member from each public high school in the county.

(b) (1) The elected members of the county board shall be elected at the general election.

(2) One member shall be elected from each of the five councilmanic districts only by the voters of that councilmanic district.

(c) (1) A member elected from a councilmanic district shall be a resident of the district.

(2) A member elected or appointed from a councilmanic district who no longer resides in the district may not continue as a member of the county board.

(d) (1) Each voting member serves for a term of 4 years beginning at noon on the first Monday in December after the member's election and until a successor is elected and qualifies.

(2) A voting member may not serve for more than three consecutive terms.

3–5A–03.

At its first meeting **[**at the beginning of each calendar**]** **IN DECEMBER OF EACH** year, the county board shall elect a president and a vice president from among its members.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 169 – *Tax Sales – Fees*.

This bill alters the type of expenses for which a holder of a certificate of sale may be reimbursed under specified circumstances and applies the Act prospectively.

Senate Bill 348, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 169.

Sincerely,

Martin O'Malley
Governor

House Bill 169

AN ACT concerning

Tax Sales – Fees

FOR the purpose of altering the type of expenses for which a holder of a certificate of sale may be reimbursed under certain circumstances; providing for the application of this Act; and generally relating to tax sales.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–843(a)(3)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

14–843.

(a) (3) If an action to foreclose the right of redemption has not been filed, and the property is redeemed more than 4 months after the date of the tax sale, the holder of a certificate of sale may be reimbursed for the following expenses actually incurred:

(i) **[**attorney's fees**]** **COSTS** for recording the certificate of sale;

(ii) a title search fee, not to exceed $250; and

(iii) reasonable attorney's fees, not to exceed $500.

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 tax sale or any proceeding relating to a tax sale held before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 269 – *Caroline County – Tax Sales – Auctioneer Fees.*

This bill alters the auctioneer fee for property sold at a tax sale in Caroline County by setting the fee at $10 for each property sold. The bill also repeals the auctioneer fee limits imposed under current law.

Senate Bill 328, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 269.

Sincerely,

Martin O'Malley
Governor

House Bill 269

AN ACT concerning

Caroline County – Tax Sales – Auctioneer Fees

FOR the purpose of altering the fees auctioneers are allowed at tax sales in Caroline County; and generally relating to tax sales in Caroline County.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–813(e)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

14–813.

(e) (1) The following expenses relating to the sale shall be allowed, all of which are liens on the property to be sold:

(i) the expense of publication of all notices;

(ii) the cost of the county or municipal corporation surveyor's description and plat, if necessary;

(iii) except as provided in items (vi) and (vii) of this paragraph, a fee to the attorney representing the county treasurer for services, that does not exceed $15 for each property; except that in any county that has a paid full–time solicitor, counsel or attorney, the fee shall be collected and paid into the general funds of the county;

(iv) the auctioneer's fee, as provided in paragraph (2) of this subsection;

(v) in Baltimore County, where provision has been made for the posting of the premises to be sold, a sum that does not exceed $7.50;

(vi) in Somerset County, Wicomico County and Worcester County a fee to the attorney representing the county treasurer or director of finance, that does not exceed $35 for each property, to be approved by the county treasurer or director of finance and by the governing body;

(vii) in Baltimore City:

1. a fee of $30 for each property to the attorney representing the director of finance, that is collected and paid into the General Fund of Baltimore City; and

2. a fee that does not exceed $10 for the mailing of statements and notices;

(viii) in Montgomery County, instead of the fee allowed under item (iii) of this paragraph, a fee that does not exceed $30 for each property for legal services relating to the sale, to be collected and paid into the general funds of the county; and

(ix) a reasonable fee that does not exceed $150 for examinations of title before the mailing of statements and notices.

(2) The auctioneer's fee allowed in paragraph (1) of this subsection shall be:

(i) except in Baltimore City, Caroline County, Carroll County, Cecil County, Dorchester County, Kent County, Queen Anne's County, Somerset County, Talbot County, Wicomico County, or Worcester County:

1. for any date when 1, 2, or 3 properties are sold, an amount not to exceed $10; and

2. for any date when 4 or more properties are sold, $3 for each property sold;

(ii) in **[**Caroline County and**]** Dorchester County, $10 for each property sold, but in no event may the auctioneer's fee be less than $50 a day or greater than $200 a day;

(iii) in Kent County, an amount not exceeding $7.50 for each property sold;

(iv) in Cecil County and Queen Anne's County, $7.50 for each property sold;

(v) in Somerset County and Wicomico County, $8 for each property sold;

(vi) in Worcester County, the greater of $8 for each property sold or $300, to be allocated pro rata among each property sold;

(vii) in Baltimore City:

1. for any date when 1, 2, or 3 properties are sold, an amount not to exceed $10;

2. for any date when 4 or more properties are sold, $3 for each property sold; and

3. in an electronic sale, an amount not to exceed $10 for each property sold;

(viii) in Carroll County, the amount set by the Carroll County Commissioners; and

(ix) in **CAROLINE COUNTY AND** Talbot County, $10 for each property sold.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

The Honorable Michael E. Busch

Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 292 – *Financial Institutions – Mortgage Lenders and Mortgage Loan Originators*.

This bill alters provisions of law regulating mortgage lenders and mortgage loan originators to conform to the requirements of the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 and requires applicants for mortgage lender and mortgage loan originator licenses and licensees to provide specified information and pay specified fees to the Nationwide Mortgage Licensing System and Registry.

Senate Bill 269, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 292.

Sincerely,

Martin O'Malley
Governor

House Bill 292

AN ACT concerning

Financial Institutions – Mortgage Lenders and Mortgage Loan Originators

FOR the purpose of altering certain provisions of law regulating mortgage lenders and mortgage loan originators to conform to the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of ~~2009~~ 2008; expanding the authority of the Commissioner of Financial Regulation to adopt regulations to facilitate implementation of a multistate automated licensing system; requiring certain applicants and licensees to provide certain information and pay certain fees to a certain multistate automated licensing system at certain times; authorizing the Commissioner to use the multistate automated licensing system to request information from and distribute information to certain ~~sources~~ governmental agencies and state licensing entities under certain circumstances; altering the required contents of an application for a mortgage lender license and a mortgage loan originator license; altering the terms of mortgage lender licenses and mortgage loan originator licenses; requiring a licensed mortgage lender to submit a certain annual report; increasing certain civil penalties; altering the circumstances under which a mortgage lender must require a

borrower to provide certain information to the mortgage lender; prohibiting an individual from engaging in the business of a mortgage loan originator unless the individual holds a valid license or is exempt from certain provisions of law; establishing certain exemptions from the licensing requirement; providing that a license issued under certain provisions of law authorizes the licensee to act as a mortgage loan originator when acting within the scope of employment of a person exempt from licensing as a mortgage lender; altering the information the Commissioner must include on a mortgage loan originator license; altering the actions a licensed mortgage loan originator must take before acting as a mortgage loan originator under a certain name or for a certain employer; establishing an affiliated insurance producer–mortgage loan originator license; specifying the circumstances under which the license will be issued; exempting an affiliated insurance producer–mortgage loan originator from certain provisions of law applicable to mortgage loan originator licensees; altering certain requirements for the issuance and renewal of a mortgage loan originator license; establishing certain education, testing, and surety bond requirements for certain applicants and licensees; authorizing certain licensees to comply with certain requirements on or before a certain date; authorizing the Commissioner to issue an interim mortgage loan originator license to certain individuals under certain circumstances; altering the circumstances under which the Commissioner must revoke the license of a mortgage loan originator; providing that certain requirements and privileges apply to certain information or material under certain circumstances; providing that certain information and material may be shared with certain regulatory officials without the loss of certain privilege or confidentiality protections; authorizing the Commissioner to enter into certain information sharing agreements; requiring certain nonfederally insured credit unions to register certain employees with a certain multistate automated licensing system in a certain manner; requiring the Commissioner to report certain enforcement actions and information to the multistate automated licensing system and adopt regulations establishing a process to challenge the information entered into the system; requiring a mortgage loan originator's unique identifier to be displayed in a certain manner and under certain circumstances; defining certain terms; altering and repealing certain definitions; providing that certain licensing requirements shall apply to retail sellers of manufactured homes under certain circumstances; establishing the circumstances under which certain prelicensing testing requirements shall be effective for certain licensees; requiring the Commissioner to notify certain licensees under certain circumstances; making stylistic and conforming changes; and generally relating to the regulation of mortgage lenders and mortgage loan originators.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 2–105.1(c), 11–501, 11–502(b), ~~11–505(d) and (e), 11–506(c)~~ 11–505(e), 11–506.1, 11–507, ~~11–508(b) and (d)~~ 11–508(d)(2), 11–508.1(a), 11–511, ~~11–513(a), 11–515(b) and (d), 11–516(a), 11–517(a) and (c)~~ 11–517(c),

11–521(a), ~~11–523(b),~~ 11–601, 11–602, 11–603, 11–605, 11–606, 11–607(a), 11–609, 11–612, ~~11–613(a)~~ 11–613, and 11–615(a), (c), and (f)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to
Article – Financial Institutions
Section 11–513.1, 11–603.1, 11–605.1, 11–606, 11–606.1, and 11–619 through 11–623
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing
Article – Financial Institutions
Section 11–604
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Financial Institutions

2–105.1.

(c) (1) The Commissioner may participate in the establishment and implementation of a multistate automated licensing system for mortgage lenders and mortgage originators.

(2) To facilitate implementation of a multistate automated licensing system, the Commissioner may adopt regulations that waive or modify the requirements of **[**§§ 11–507, 11–511, 11–606, and 11–609 of this article**] TITLE 11, SUBTITLES 5 AND 6 OF THIS ARTICLE**.

11–501.

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

(b) "Borrower" means a person who makes a loan application for or receives a loan or other extension of credit that is or is intended to be secured in whole or in part by any interest in **A DWELLING OR** residential real **[**property**] ESTATE** located in Maryland.

(C) (1) "DWELLING" HAS THE MEANING STATED IN 15 U.S.C. § 1602(V).

(2) "DWELLING" DOES NOT INCLUDE A RESIDENTIAL STRUCTURE OR MOBILE HOME UNLESS THE RESIDENTIAL STRUCTURE OR MOBILE HOME, OR AT LEAST ONE UNIT CONTAINED IN THE RESIDENTIAL STRUCTURE OR MOBILE HOME, IS OWNER–OCCUPIED.

[(c)**] (D)** (1) "Independent evidence of commercial purpose" means, where a ~~**RESIDENTIAL**~~ mortgage loan is made for a commercial purpose to an individual, any and all documentation by which the mortgage lender, prior to the making or procurement of the loan, establishes that the borrower is seeking funds for a legitimate commercial enterprise.

(2) "Independent evidence of commercial purpose" does not include an affidavit of the borrower without supporting evidence, except where:

(i) The borrower is seeking funds to start a business and has not yet incorporated or prepared documentation or proof of ownership of a commercial enterprise; and

(ii) The affidavit states the purpose for which the proceeds of the ~~**RESIDENTIAL**~~ mortgage loan are to be used and the nature of the business conducted or to be conducted by the borrower.

[(d)**] (E)** "Interest in real **[**property"**] ESTATE"** includes:

(1) A confessed judgment note or consent judgment required or obtained by any person acting as a mortgage lender for the purpose of acquiring a lien on **A DWELLING OR** residential real **[**property**] ESTATE**;

(2) A sale and leaseback required or obtained by any person acting as a mortgage lender for the purpose of creating a lien on **A DWELLING OR** residential real **[**property**] ESTATE**;

(3) A mortgage, deed of trust or lien other than a judgment lien, on **A DWELLING OR** residential real **[**property**] ESTATE**; and

(4) Any other security interest that has the effect of creating a lien on **A DWELLING OR** residential real **[**property**] ESTATE** in Maryland.

[(e)**] (F)** "License" means a license issued by the Commissioner under this subtitle to authorize a person to engage in business as a mortgage lender.

[(f)**] (G)** "Licensee" means a person who is licensed under the Maryland Mortgage Lender Law.

[(g)**] (H)** (1) "Loan application" means any oral or written request for an extension of credit that is made in accordance with procedures established by a mortgage lender for the purpose of inducing the lender to seek to procure or make a ~~**RESIDENTIAL**~~ mortgage loan.

(2) **[**A loan application**] "LOAN APPLICATION"** does not include the use of an account or line of credit to obtain a loan within a previously established credit limit.

[(h)**] (I)** "Mortgage broker" means a person who:

(1) For a fee or other valuable consideration, whether received directly or indirectly, aids or assists a borrower in obtaining a ~~**RESIDENTIAL**~~ mortgage loan; and

(2) Is not named as a lender in the agreement, note, deed of trust, or other evidence of the indebtedness.

[(i)**] (J)** (1) "Mortgage lender" means any person who:

(i) Is a mortgage broker;

(ii) Makes a ~~**RESIDENTIAL**~~ mortgage loan to any person; or

(iii) **[**1. Engages in whole or in part in the business of servicing mortgage loans for others; or

2. Collects or otherwise receives payments on mortgage loans directly from borrowers for distribution to any other person**] IS A MORTGAGE SERVICER**.

(2) "Mortgage lender" does not include:

(i) A financial institution that accepts deposits and is regulated under Title 3, Title 4, Title 5, or Title 6 of this article;

(ii) The Federal Home Loan Mortgage Corporation;

(iii) The Federal National Mortgage Association;

(iv) The Government National Mortgage Association; ~~or~~

(v) Any person engaged exclusively in the acquisition of all or any portion of a ~~**RESIDENTIAL**~~ mortgage loan under any federal, State, or local governmental program of ~~**RESIDENTIAL**~~ mortgage loan purchases**; OR**

(VI) AN AFFILIATED INSURANCE PRODUCER–MORTGAGE LOAN ORIGINATOR LICENSED UNDER § 11–603.1 OF THIS SUBTITLE.

[(j)**] (K)** (1) "Mortgage lending business" means the activities set forth in the definition of "mortgage lender" in subsection ~~(i)~~ **(J)** of this section which require that person to be licensed under this subtitle.

(2) "Mortgage lending business" includes the making or procuring of ~~**RESIDENTIAL**~~ mortgage loans secured by **A DWELLING OR** residential real **[**property**] ESTATE** located **[**outside**]** ~~**WITHIN**~~ Maryland.

[(k) (1) "Mortgage loan" means any loan or other extension of credit that is:

(i) Secured, in whole or in part, by any interest in residential real property in Maryland; and

(ii) 1. If for personal, household, or family purposes, in any amount; or

2. If for commercial purposes, not in excess of $75,000.

(2) "Mortgage loan" does not include any loan for commercial purposes that is:

(i) Secured, in whole or in part, by any interest in residential real property in Maryland;

(ii) In excess of $75,000; and

(iii) Supported by independent evidence of the commercial purpose.**]**

(L) "MORTGAGE LOAN" MEANS ANY LOAN PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD USE THAT IS SECURED BY A MORTGAGE, DEED OF TRUST, OR OTHER EQUIVALENT CONSENSUAL SECURITY INTEREST ON A DWELLING OR RESIDENTIAL REAL ESTATE ON WHICH A DWELLING IS CONSTRUCTED OR INTENDED TO BE CONSTRUCTED.

~~**(L)**~~ **(M) "MORTGAGE LOAN ORIGINATOR" HAS THE MEANING STATED IN § 11–601 OF THIS TITLE.**

~~**(M)**~~ **(N) "MORTGAGE SERVICER" MEANS A PERSON WHO:**

(1) ENGAGES IN WHOLE OR IN PART IN THE BUSINESS OF SERVICING ~~RESIDENTIAL~~ MORTGAGE LOANS FOR OTHERS; OR

(2) COLLECTS OR OTHERWISE RECEIVES PAYMENTS ON ~~RESIDENTIAL~~ MORTGAGE LOANS DIRECTLY FROM BORROWERS FOR DISTRIBUTION TO ANY OTHER PERSON.

~~(N)~~ (O) "NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY" MEANS A MORTGAGE LICENSING SYSTEM DEVELOPED AND MAINTAINED BY THE CONFERENCE OF STATE BANK SUPERVISORS AND THE AMERICAN ASSOCIATION OF RESIDENTIAL MORTGAGE REGULATORS FOR THE LICENSING AND REGISTRATION OF LICENSED MORTGAGE LOAN ORIGINATORS AND MORTGAGE LENDERS.

[(l)**] ~~(O)~~ (P)** "Person" **[**includes an individual, corporation, business trust, estate, trust, partnership, association, 2 or more persons having a joint or common interest, or any other legal or commercial entity**] MEANS A NATURAL PERSON, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, BUSINESS TRUST, OR ASSOCIATION**.

~~(P) "RESIDENTIAL MORTGAGE LOAN" MEANS ANY LOAN PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD USE THAT IS SECURED BY A MORTGAGE, DEED OF TRUST, OR OTHER EQUIVALENT CONSENSUAL SECURITY INTEREST ON A DWELLING OR RESIDENTIAL REAL ESTATE ON WHICH A DWELLING IS CONSTRUCTED OR INTENDED TO BE CONSTRUCTED.~~

[(m)**] (Q)** "Residential real **[**property"**] ESTATE"** means any owner–occupied real property located in Maryland **[**which property has a dwelling on it designed principally as a residence with accommodations for not more than 4 families, but does not include any real property held primarily for rental, investment, or the generation of income through any commercial or industrial enterprise**] ON WHICH A DWELLING IS CONSTRUCTED OR INTENDED TO BE CONSTRUCTED**.

[(n)**] (R)** "State" means the State of Maryland.

11–502.

(b) The provisions of this subtitle do not apply to:

(1) Any bank, trust company, savings bank, savings and loan association, or credit union incorporated or chartered under the laws of this State or the United States or any other–state bank having a branch in this State;

(2) Any insurance company authorized to do business in the State;

(3) Any corporate instrumentality of the Government of the United States including:

(i) The Federal Home Loan Mortgage Corporation;

(ii) The Federal National Mortgage Association; and

(iii) The Government National Mortgage Association;

(4) Any person who:

(i) Makes 3 or fewer ~~**RESIDENTIAL**~~ mortgage loans per calendar year; and

(ii) Brokers no more than one ~~**RESIDENTIAL**~~ mortgage loan per calendar year;

(5) Any person who takes back a deferred purchase money mortgage in connection with the sale of:

(i) **[**Residential**]** **A DWELLING OR RESIDENTIAL** real **[**property**]** **ESTATE** owned by, and titled in the name of, that person; or

(ii) A new residential dwelling that the person built;

(6) A nonprofit charitable organization registered with the Maryland Secretary of State or a nonprofit religious organization;

(7) An employer making a ~~**RESIDENTIAL**~~ mortgage loan to an employee;

(8) A person making a ~~**RESIDENTIAL**~~ mortgage loan to a borrower who is the person's spouse, child, child's spouse, parent, sibling, grandparent, grandchild, or grandchild's spouse;

(9) A real estate broker who:

(i) Is licensed in the State; and

(ii) Makes a ~~**RESIDENTIAL**~~ mortgage loan providing a repayment schedule of 2 years or less to assist the borrower in the purchase or sale of a **DWELLING OR** residential real **[**property**]** **ESTATE** through the broker;

(10) A home improvement contractor licensed under the Maryland Home Improvement Law who assigns a ~~**RESIDENTIAL**~~ mortgage loan without recourse within 30 days after completion of the contract to a person licensed under this subtitle

or to an institution that is exempt from this subtitle under **[**paragraphs**]** **ITEM** (1), (2), or (11) of this subsection;

(11) A subsidiary or affiliate of an institution described in subsection (c) of this section, which subsidiary or affiliate:

(i) Is subject to audit or examination by a regulatory body or agency of this State, the United States, or the state where the subsidiary or affiliate maintains its principal office; and

(ii) Files with the Commissioner, prior to making ~~**RESIDENTIAL**~~ mortgage loans, information sufficient to identify:

1. The correct corporate name of the subsidiary or affiliate;

2. An address and telephone number of a contact person for the subsidiary or affiliate;

3. A resident agent; and

4. Any additional information considered necessary by the Commissioner for protection of the public;

(12) Any employee benefit plan qualified under Internal Revenue Code § 401 or persons acting as fiduciaries with respect to such a plan, making ~~**RESIDENTIAL**~~ mortgage loans solely to plan participants from plan assets; or

(13) Employees acting within the scope of their employment with:

(i) A licensed mortgage lender; or

(ii) A person who is exempt from licensure under this subtitle.

11–505.

~~(d) (1) The Commissioner shall include on each license:~~

~~(i) The name of the licensee; and~~

~~(ii) The address at which the business is to be conducted.~~

~~(2) A person may not conduct any **RESIDENTIAL** mortgage loan business at any location or under any name different from the address and name that appears on the person's license.~~

(e) (1) A licensee may not allow any note, or loan contract, mortgage, or evidence of indebtedness secured by a secondary mortgage or deed of trust **ON A DWELLING OR RESIDENTIAL REAL ESTATE** to be signed or executed at any place for which the person does not have a license, except at the office of:

(i) The attorney for the borrower or for the licensee; or

(ii) A title insurance company, a title company, or an attorney for a title insurance company or a title company.

(2) Notwithstanding paragraph (1) of this subsection, a licensee may conduct the loan closing at another location at the written request of the borrower or the borrower's designee to accommodate the borrower because of the borrower's sickness.

(3) The Commissioner shall adopt regulations to ensure that the loan application process is conducted fairly and in a manner consistent with the best interests of both the borrower and mortgage lender.

~~11–506.~~

~~(e) (1) The Commissioner may issue a license to an applicant who is a sole proprietor and who does not meet the experience requirement under subsection (b) of this section if:~~

~~(i) The applicant:~~

~~1. Is a licensed insurance producer in good standing under § 10–103 of the Insurance Article; and~~

~~2. Holds an appointment as an insurance producer for an insurer that controls, is controlled by, or is under common control with a financial institution described in § 11–502(b)(1) of this subtitle;~~

~~(ii) The applicant agrees to limit the applicant's activities to brokering **RESIDENTIAL** mortgage loans made by the single financial institution identified under item (i)2 of this paragraph;~~

~~(iii) The financial institution and affiliated insurer with which the applicant holds a current appointment are identified in the applicant's application;~~

~~(iv) The Commissioner approves the selection of the financial institution based on the following criteria:~~

~~1. The financial institution is in good standing with its primary State or federal regulator; and~~

~~2. The financial institution is in material compliance with applicable State or federal law;~~

~~(v) The applicant meets all other requirements for licensure as a mortgage lender under this subtitle;~~

~~(vi) The applicant has successfully completed at least 20 hours of classroom instruction in residential mortgage lending courses as provided in regulations adopted by the Commissioner and achieved a passing grade on a written exam developed and administered by the person that conducts the classroom education course;~~

~~(vii) An authorized representative of the financial institution identified under item (i)2 of this paragraph signs the license application; and~~

~~(viii) The financial institution identified under item (i)2 of this paragraph agrees to:~~

~~1. Supervise the applicant, including providing direction through written instructions or electronic means and by periodically examining the applicant's books, records, and other aspects of the business; and~~

~~2. Be held jointly and severally liable with the applicant for claims arising out of the applicant's mortgage brokering activities.~~

~~(2) Except as provided in paragraph (3) of this subsection, a sole proprietor who is issued a license under this subsection may not:~~

~~(i) Aid or assist a borrower to obtain a loan from a financial institution other than the financial institution identified in the application for the license;~~

~~(ii) 1. Be compensated by any person for mortgage brokerage activities on a basis that depends on the loan amount, interest rate, fees, or other terms of the brokered loan; or~~

~~2. Receive a finder's fee, as defined under Title 12, Subtitle 8 of the Commercial Law Article;~~

~~(iii) Handle borrower or other third party funds in connection with the brokering or closing of **RESIDENTIAL** mortgage loans;~~

~~(iv) Refer a borrower to any other licensee under this subtitle; or~~

~~(v) Make **OR SERVICE RESIDENTIAL** mortgage loans.~~

~~(3) A sole proprietor who is issued a license under this subsection may forward a check to the financial institution identified under paragraph (1)(i)2 of this subsection if:~~

~~(i) The check is made payable to the financial institution from a borrower; and~~

~~(ii) The check is in connection with an application for a **RESIDENTIAL** mortgage loan to cover costs for:~~

~~1. An appraisal;~~

~~2. A credit report; or~~

~~3. Processing an application.~~

11–506.1.

(a) This section shall not apply to any corporation the securities of which are exempt from registration under § 11–601(8) or (12) of the Corporations and Associations Article.

(b) In connection with an initial application and at any other time the Commissioner requests, each applicant or licensee shall provide fingerprints for use by the **[**Federal Bureau of Investigation and the**]** Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to conduct criminal history records checks.

[(c) Any applicant or licensee required by this section to provide fingerprints, shall pay any processing or other fee required by the Federal Bureau of Investigation or the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(d) If the applicant or licensee is a corporation, the fingerprinting and criminal history records check requirements shall apply to the president and to any other officer, director, or principal of the corporation as requested by the Commissioner.**]**

(C) IN ADDITION TO THE REQUIREMENT UNDER SUBSECTION (B) OF THIS SECTION, IN CONNECTION WITH AN INITIAL APPLICATION AND AT ANY OTHER TIME THE COMMISSIONER REQUESTS, AN APPLICANT OR LICENSEE SHALL PROVIDE TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY INFORMATION CONCERNING THE APPLICANT'S IDENTITY, INCLUDING:

(1) FINGERPRINTS FOR SUBMISSION TO THE FEDERAL BUREAU OF INVESTIGATION, AND ANY OTHER GOVERNMENTAL AGENCY OR ENTITY AUTHORIZED TO RECEIVE THIS INFORMATION FOR A STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY BACKGROUND CHECK; AND

(2) PERSONAL HISTORY AND EXPERIENCE IN A FORM PRESCRIBED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, INCLUDING THE SUBMISSION OF AUTHORIZATION FOR THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AND THE COMMISSIONER TO OBTAIN:

(I) AN INDEPENDENT CREDIT REPORT FROM A CONSUMER REPORTING AGENCY DESCRIBED IN THE FEDERAL FAIR CREDIT REPORTING ACT, 15 U.S.C. § 1681A(P); AND

(II) INFORMATION RELATED TO ANY ADMINISTRATIVE, CIVIL, OR CRIMINAL FINDINGS BY ANY GOVERNMENTAL JURISDICTION.

(D) TO IMPLEMENT THIS SUBTITLE, THE COMMISSIONER MAY USE THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AS A CHANNELING AGENT TO REQUEST INFORMATION FROM AND DISTRIBUTE INFORMATION TO THE DEPARTMENT OF JUSTICE, ANY OTHER GOVERNMENTAL AGENCY~~, AND ANY OTHER SOURCE AS DIRECTED BY THE COMMISSIONER~~ WITH SUBJECT MATTER JURISDICTION, AND ANY OTHER STATE LICENSING ENTITY THAT HAS LOAN ORIGINATORS REGISTERED WITH THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

11–507.

(a) (1) To apply for a license, an applicant shall complete, sign, and submit to the Commissioner an application made under oath on the form that the Commissioner requires.

(2) The applicant shall comply with all conditions and provisions of the application for licensure and be issued a license before acting as a mortgage lender at a particular location.

[(3) The application shall include:

(i) If the applicant is an individual, the applicant's name, business address and telephone number, and residence address and telephone number;

(ii) If the applicant is a partnership or other noncorporate business association, the business name, business address and telephone number, and the residence address and telephone number of each:

1. General partner, if the applicant is a limited partnership;

2. General partner who holds an interest in the partnership of more than 10 percent, if the applicant is a general partnership; or

3. Member, if the applicant is another noncorporate business association;

(iii) If the applicant is a corporation:

1. The name, address, and telephone number of the corporate entity; and

2. The name, the business telephone number, and the residence address and telephone number of the president, senior vice presidents, secretary, and treasurer, each director, and each stockholder owning or controlling 10 percent or more of any class of stock in the corporation;

(iv) The name under which the mortgage lending business is to be conducted;

(v) The name and address of the applicant's resident agent, if any; and

(vi) Any other information that the Commissioner reasonably requires.**]**

(b) With each application, the applicant shall pay to the Commissioner the following fees:

(1) A nonrefundable investigation fee set by the Commissioner; and

(2) A license fee set by the Commissioner.

(C) IN ADDITION TO THE LICENSE FEE REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION, AN APPLICANT FOR AN INITIAL LICENSE SHALL PAY TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY ANY FEES THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY IMPOSES IN CONNECTION WITH THE APPLICATION.

[(c)**] (D)** For each license for which an applicant applies, the applicant shall:

(1) Submit a separate application;

(2) Pay a separate license fee;

(3) PAY ANY APPLICATION PROCESSING FEE OR OTHER FEES THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY IMPOSES IN CONNECTION WITH THE APPLICATION;

[(3)**] (4)** If applicable, pay the surcharge; and

[(4)**] (5)** File a separate surety bond or other financial guaranty under § 11–508 of this subtitle.

[(d)**] (E)** In addition to any sanctions that may be imposed under this subtitle by the Commissioner, a nonrefundable surcharge of $500 shall be paid with an application if the applicant has begun acting as a mortgage lender without a license at the location for which an application is filed.

[(e)**] (F)** A person who knowingly makes a false statement under oath on an application filed with the Commissioner under this section is guilty of perjury and on conviction is subject to the penalties of § 9–101 of the Criminal Law Article.

11–508.

~~(b) The surety bond shall:~~

~~(1) Run to the Commissioner and be for the benefit of any **RESIDENTIAL** mortgage loan borrower who has been damaged by a violation committed by a licensee of any law or regulation governing the activities of mortgage lenders;~~

~~(2) Be issued by a surety company authorized to do business in the State;~~

~~(3) Be conditioned that the applicant shall comply with all Maryland laws regulating the activities of mortgage lenders and **RESIDENTIAL** mortgage loan lending; and~~

~~(4) Be approved by the Commissioner.~~

(d) ~~(1) If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original or renewal application, the applicant shall provide a sworn statement setting forth the aggregate principal amount of **RESIDENTIAL** mortgage loans secured or to be secured by property located in Maryland and applied for and accepted or **RESIDENTIAL** mortgage loans secured or~~

~~to be secured by property located in Maryland and applied for, procured, and accepted by the mortgage lender during the 12 months immediately preceding the month in which the application is filed.~~

(2) If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original application, but during that time has not acted as a mortgage lender in Maryland, the applicant shall provide with the original application a sworn statement setting forth the aggregate principal amount of loans secured or to be secured by **A DWELLING OR** residential real **[**property**]** **ESTATE** located in states other than Maryland and applied for, procured, and accepted by the mortgage lender during the 12 months preceding the month in which the application is filed.

~~(3) Except as provided in subsection (c) of this section, the applicant shall file with the original or renewal application:~~

~~(i) Where the aggregate principal amount of loans set forth in the sworn statement was $3,000,000 or less, a surety bond in the amount of $50,000;~~

~~(ii) Where the aggregate principal amount of loans set forth in the sworn statement was more than $3,000,000 but not more than $10,000,000, a surety bond in the amount of $100,000; and~~

~~(iii) Where the aggregate principal amount of loans set forth in the sworn statement was more than $10,000,000, a surety bond in the amount of $150,000.~~

11–508.1.

(a) An applicant for a new license or for the renewal of a license shall satisfy the Commissioner that the applicant or licensee has, and at all times will maintain, a minimum net worth computed according to generally accepted accounting principles:

(1) In the case of an applicant or licensee that does not lend money secured by **A DWELLING OR** residential real **[**property**]** **ESTATE**, in the amount of $25,000; and

(2) In the case of an applicant or licensee that lends money secured by **A DWELLING OR** residential real **[**property**]** **ESTATE**, in the amount of:

(i) $25,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate not more than $1,000,000 secured by **A DWELLING OR** residential real **[**property**]** **ESTATE**;

(ii) $50,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than

$1,000,000, but not more than $5,000,000 secured by **A DWELLING OR** residential real **[**property**]** **ESTATE**;

(iii) $100,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than $5,000,000, but not more than $10,000,000 secured by **A DWELLING OR** residential real **[**property**]** **ESTATE**; and

(iv) $250,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than $10,000,000 secured by **A DWELLING OR** residential real **[**property**]** **ESTATE**.

11–511.

(a) **[**A license expires on the second anniversary of its date of issue.**]** **SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN CONNECTION WITH THE TRANSITION TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AN INITIAL LICENSE TERM SHALL:**

(1) BE FOR A MAXIMUM PERIOD OF 1 YEAR;

(2) BEGIN ON THE DAY THE LICENSE IS ISSUED; AND

(3) EXPIRE ON DECEMBER 31 OF THE YEAR THE LICENSE IS ISSUED.

(b) At least 30 days before its expiration, a license may be renewed **[**for an additional 2–year term,**]** if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Commissioner a renewal fee set by the Commissioner;

(3) Files a bond or bond continuation certificate for the amount required under § 11–508 of this subtitle; and

(4) Submits to the Commissioner:

(i) A renewal application on the form that the Commissioner requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set by regulations adopted by the Commissioner.

(C) SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN CONNECTION WITH THE TRANSITION TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, A RENEWAL TERM SHALL:

(1) BE FOR A PERIOD OF 1 YEAR;

(2) BEGIN ON JANUARY 1 OF EACH YEAR AFTER THE INITIAL TERM; AND

(3) EXPIRE ON DECEMBER 31 OF THE YEAR THE RENEWAL TERM BEGINS.

(D) IN ADDITION TO THE LICENSE RENEWAL FEE REQUIRED ~~IN~~ UNDER SUBSECTION (B)(2) OF THIS SECTION, AN APPLICANT FOR A LICENSE RENEWAL SHALL PAY TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY ANY FEES THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY IMPOSES IN CONNECTION WITH THE RENEWAL APPLICATION.

[(c)**] (E)** If a license is **[**issued for less than 2 full years and is**]** surrendered voluntarily, or is suspended or revoked, the Commissioner may not refund any part of the license fee regardless of the time remaining in the license term.

[(d) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.**]**

~~11–513.~~

~~(a) Each licensee shall keep and make available to the Commissioner at the licensee's place of business any books and records that the Commissioner, by rule or regulation, requires to enable the Commissioner to enforce:~~

~~(1) This subtitle;~~

~~(2) Any rule or regulation adopted under this subtitle; and~~

~~(3) Any other provision regulating the application, making, brokering, or servicing of RESIDENTIAL mortgage loans under Titles 12 through 14 of the Commercial Law Article.~~

11–513.1.

A LICENSEE SHALL SUBMIT TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY A REPORT OF CONDITION ONCE EACH CALENDAR YEAR ON THE DATE, IN THE FORM, AND CONTAINING THE INFORMATION REQUIRED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

~~11–515.~~

~~(b) (1) Any person aggrieved by the conduct of a licensee under this subtitle in connection with a **RESIDENTIAL** mortgage loan may file a written complaint with the Commissioner who shall investigate the complaint.~~

~~(2) The Commissioner may make any other investigation of any person if the Commissioner has reasonable cause to believe that the person has violated any provision of this subtitle, of any regulation adopted under this subtitle, or of any other law regulating **RESIDENTIAL** mortgage loan lending in the State.~~

~~(d) In connection with an examination or investigation made under this section, the Commissioner may:~~

~~(1) Examine the books and records of any licensee or of any other person who the Commissioner believes has violated any provision of this subtitle, or any rule or regulation adopted under this subtitle, or of any other law regulating **RESIDENTIAL** mortgage loan lending in the State;~~

~~(2) Subpoena documents or other evidence; and~~

~~(3) Summon and examine under oath any person whose testimony the Commissioner requires.~~

~~11–516.~~

~~(a) If the Commissioner finds that the conduct of any other business conceals a violation or evasion of this subtitle or of any rule or regulation adopted under this subtitle, or of any law regulating **RESIDENTIAL** mortgage loan lending in the State, the Commissioner may issue a written order to a licensee to:~~

~~(1) Stop doing business at any place in which the other business is conducted or solicited; or~~

~~(2) Stop doing business in association or conjunction with the other business.~~

11–517.

~~(a) Subject to the hearing provisions of § 11–518 of this subtitle, the Commissioner may suspend or revoke the license of any licensee if the licensee or any owner, director, officer, member, partner, stockholder, employee, or agent of the licensee:~~

~~(1) Makes any material misstatement in an application for a license;~~

~~(2) Is convicted under the laws of the United States or of any state of:~~

~~(i) A felony; or~~

~~(ii) A misdemeanor that is directly related to the fitness and qualification of the person to engage in the mortgage lending business;~~

~~(3) In connection with any **RESIDENTIAL** mortgage loan or loan application transaction:~~

~~(i) Commits any fraud;~~

~~(ii) Engages in any illegal or dishonest activities; or~~

~~(iii) Misrepresents or fails to disclose any material facts to anyone entitled to that information;~~

~~(4) Violates any provision of this subtitle or any rule or regulation adopted under it or any other law regulating **RESIDENTIAL** mortgage loan lending in the State; or~~

~~(5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly, fairly, equitably, and efficiently.~~

(c) (1) The Commissioner may enforce the provisions of this subtitle, regulations adopted under § 11–503 of this subtitle, and the applicable provisions of Title 12 of the Commercial Law Article by:

(i) Issuing an order:

1. To cease and desist from the violation and any further similar violations; and

2. Requiring the violator to take affirmative action to correct the violation including the restitution of money or property to any person aggrieved by the violation; and

(ii) Imposing a civil penalty not exceeding **[**$1,000**]** ~~**$10,000**~~ **$5,000** for each violation.

(2) If a violator fails to comply with an order issued under paragraph (1)(i) of this subsection, the Commissioner may impose a civil penalty not exceeding **[**$1,000**]** ~~**$10,000**~~ **$5,000** for each violation from which the violator failed to cease and desist or for which the violator failed to take affirmative action to correct.

11–521.

(a) A mortgage lender shall require a borrower to [furnish] **PROVIDE** the mortgage lender with independent evidence of the commercial purpose of the loan where the loan is~~[~~:

(1) Secured~~]~~ ~~SECURED~~, in whole or in part, by any interest in **A DWELLING OR** residential real [property] **ESTATE** in Maryland~~[;~~ ; and

(2) In excess of $75,000~~]~~.

~~11–523.~~

~~(b) Any unlicensed person who is not exempt from licensing under this subtitle who makes or assists a borrower in obtaining a RESIDENTIAL mortgage loan in violation of this subtitle may collect only the principal amount of the loan and may not collect any interest, costs, finder's fees, broker fees, or other charges with respect to the loan.~~

11–601.

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

(b) "Borrower" has the meaning stated in § 11–501 of this title.

(C) "CLERICAL OR SUPPORT DUTIES" INCLUDE THE FOLLOWING ACTIVITIES RELATING TO THE PROCESSING OR UNDERWRITING OF A ~~RESIDENTIAL~~ MORTGAGE LOAN WHEN PERFORMED SUBSEQUENT TO THE RECEIPT OF A LOAN APPLICATION:

(1) THE RECEIPT, COLLECTION, DISTRIBUTION, AND ANALYSIS OF INFORMATION USUAL AND CUSTOMARY FOR THE PROCESSING OR UNDERWRITING OF A ~~RESIDENTIAL~~ MORTGAGE LOAN; AND

(2) COMMUNICATION WITH A CONSUMER TO OBTAIN INFORMATION NECESSARY FOR THE PROCESSING OR UNDERWRITING OF A ~~RESIDENTIAL~~ MORTGAGE LOAN, TO THE EXTENT THAT THE COMMUNICATION DOES NOT INCLUDE OFFERING OR NEGOTIATING ~~RESIDENTIAL~~ MORTGAGE LOAN RATES OR TERMS, OR COUNSELING CONSUMERS ABOUT ~~RESIDENTIAL~~ MORTGAGE LOAN RATES OR TERMS.

(D) (1) "DEPOSITORY INSTITUTION" HAS THE MEANING STATED IN THE FEDERAL DEPOSIT INSURANCE ACT, 12 U.S.C. § 1813(C).

(2) "DEPOSITORY INSTITUTION" INCLUDES CREDIT UNIONS.

(E) "FEDERAL BANKING AGENCIES" MEANS THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, THE COMPTROLLER OF THE CURRENCY, THE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION, THE NATIONAL CREDIT UNION ADMINISTRATION, AND THE FEDERAL DEPOSIT INSURANCE CORPORATION.

[(c)**] (F)** "Fund" means the Mortgage Lender–Originator Fund established under § 11–610 of this subtitle.

(G) "IMMEDIATE FAMILY MEMBER" MEANS A SPOUSE, CHILD, SIBLING, PARENT, GRANDPARENT, GRANDCHILD, STEPPARENT, STEPCHILD, AND STEPSIBLING.

[(d)**] (H)** "Independent contractor" means a person whose compensation is paid without a deduction for federal or State income tax.

(I) "INDIVIDUAL" MEANS A NATURAL PERSON.

(J) "INDIVIDUAL LOAN SERVICER" MEANS AN INDIVIDUAL WHO ON BEHALF OF A NOTE HOLDER OR MORTGAGE LOAN SERVICER:

(1) COLLECTS OR RECEIVES PAYMENTS, INCLUDING PAYMENTS OF PRINCIPAL, INTEREST, ESCROW AMOUNTS, AND OTHER AMOUNTS DUE ON EXISTING MORTGAGE LOAN OBLIGATIONS OWED TO THE NOTE HOLDER OR MORTGAGE LOAN SERVICER, AT A TIME WHEN THE BORROWER IS IN DEFAULT, OR IN REASONABLY FORESEEABLE LIKELIHOOD OF DEFAULT; AND

(2) WORKING WITH THE BORROWER AND THE NOTE HOLDER OR MORTGAGE LOAN SERVICER, COLLECTS DATA AND MAKES DECISIONS TO MODIFY, EITHER TEMPORARILY OR PERMANENTLY, THE TERMS OF THE MORTGAGE LOAN OBLIGATIONS DESCRIBED IN ITEM (1) OF THIS SUBSECTION OR TO PROCEED WITH COLLECTION EFFORTS THROUGH FORECLOSURE OR OTHER PROCESSES.

[(e)**] ~~(J)~~ (K)** "License" means a license issued by the Commissioner under this subtitle.

[(f)**] ~~(K)~~ (L)** "Licensee" means an individual who is licensed by the Commissioner under this subtitle.

[(g)**] ~~(L)~~ (M)** "Loan application" has the meaning stated in § 11–501 of this title.

[(h)**] ~~(M)~~ (N)** "Mortgage lender" means a person that is licensed as a mortgage lender under Subtitle 5 of this title.

[(i)**]** ~~(N)~~ **(O)** "Mortgage lending business" has the meaning stated in § 11–501 of this title.

~~[(j)~~ **(P)** "Mortgage loan" has the meaning stated in § 11–501 of this title.~~]~~

[(k) (1) "Mortgage originator" means an individual who:

(i) Is an employee of a mortgage lender that:

1. Is a mortgage broker as defined in § 11–501(h) of this title; or

2. Has or will have a net branch office at or out of which the individual works or will work;

(ii) Directly contacts prospective borrowers for the purpose of negotiating with or advising the prospective borrowers regarding mortgage loan terms and availability;

(iii) Receives from the mortgage lender compensation that is calculated:

1. As a percentage of the principal amount of mortgage loans originated by the individual; or

2. As a percentage of the interest, fees, and charges received by the mortgage lender that result from mortgage loan transactions originated by the individual; and

(iv) Is authorized to accept a loan application on behalf of the mortgage lender.

(2) "Mortgage originator" does not include an individual who:

(i) Owns a 25 percent or more interest in the mortgage lender; or

(ii) Is licensed under Subtitle 5 of this title.**]**

[(l) (1) "Net branch office" means a branch office of a mortgage lender that is separately licensed under Subtitle 5 of this title if:

(i) As a condition of establishing the net branch, the mortgage lender requires the mortgage originator who works in or out of the branch office, or a person controlled by the mortgage originator, to pay an application, licensing,

franchise, start–up, or other fee to the mortgage lender or directly to the Commissioner;

(ii) The overhead expenses of the net branch are paid in whole or in part by:

1. A mortgage originator who works in or out of the branch office; or

2. A person controlled by a mortgage originator who works in or out of the branch office; or

(iii) The mortgage lender is not:

1. An obligor on a lease of the premises of the branch location; or

2. An owner of the premises of the branch location.

(2) "Net branch office" does not include the mortgage lender's principal office.**]**

~~(O)~~ (Q) (1) "MORTGAGE LOAN ORIGINATOR" MEANS AN INDIVIDUAL WHO FOR COMPENSATION OR GAIN, OR IN THE EXPECTATION OF COMPENSATION OR GAIN:

(I) TAKES A LOAN APPLICATION; OR

(II) OFFERS OR NEGOTIATES TERMS OF A ~~RESIDENTIAL~~ MORTGAGE LOAN.

(2) "MORTGAGE LOAN ORIGINATOR" DOES NOT INCLUDE AN INDIVIDUAL WHO:

(I) ACTS SOLELY AS A MORTGAGE LOAN PROCESSOR OR UNDERWRITER;

(II) PERFORMS ONLY REAL ESTATE BROKERAGE ACTIVITIES AND IS LICENSED IN ACCORDANCE WITH TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, UNLESS THE INDIVIDUAL IS COMPENSATED BY A MORTGAGE LENDER, A MORTGAGE BROKER, OR OTHER MORTGAGE LOAN ORIGINATOR OR BY ANY AGENT OF A MORTGAGE LENDER, MORTGAGE BROKER, OR OTHER MORTGAGE LOAN ORIGINATOR; OR

(III) IS INVOLVED SOLELY IN EXTENSIONS OF CREDIT RELATING TO TIMESHARE PLANS, AS THAT TERM IS DEFINED IN 11 U.S.C. § 101(53D).

~~(P)~~ (R) (1) "MORTGAGE LOAN PROCESSOR OR UNDERWRITER" MEANS AN INDIVIDUAL WHO PERFORMS CLERICAL OR SUPPORT DUTIES AS AN EMPLOYEE OF, AT THE DIRECTION OF, AND SUBJECT TO THE SUPERVISION AND INSTRUCTION OF A PERSON LICENSED, OR EXEMPT FROM LICENSING, UNDER TITLE 5 OF THIS ARTICLE.

(2) "MORTGAGE LOAN PROCESSOR OR UNDERWRITER" DOES NOT INCLUDE AN INDIVIDUAL WHO:

(I) REPRESENTS TO THE PUBLIC, THROUGH ADVERTISING OR OTHER MEANS OF COMMUNICATION INCLUDING THE USE OF BUSINESS CARDS, STATIONERY, BROCHURES, SIGNS, RATE LISTS, OR OTHER PROMOTIONAL ITEMS, THAT THE INDIVIDUAL CAN OR WILL PERFORM ANY OF THE ACTIVITIES OF A MORTGAGE LOAN ORIGINATOR; OR

(II) PERFORMS ~~RESIDENTIAL~~ MORTGAGE LOAN PROCESSING OR UNDERWRITING ACTIVITIES AS AN INDEPENDENT CONTRACTOR.

~~(Q)~~ (S) "NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY" HAS THE MEANING STATED IN § 11–501 OF THIS TITLE.

~~(R)~~ (T) "NONTRADITIONAL MORTGAGE PRODUCT" MEANS ANY MORTGAGE PRODUCT OTHER THAN A 30–YEAR FIXED RATE MORTGAGE LOAN.

~~(S)~~ (U) "PERSON" HAS THE MEANING STATED IN § 11–501 OF THIS TITLE.

~~(T)~~ (V) "REAL ESTATE BROKERAGE ACTIVITY" MEANS ANY ACTIVITY FOR WHICH A LICENSE IS REQUIRED UNDER TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

~~(U)~~ (W) "REGISTERED MORTGAGE LOAN ORIGINATOR" MEANS ANY INDIVIDUAL WHO:

(1) IS A MORTGAGE LOAN ORIGINATOR; AND

(2) IS AN EMPLOYEE OF:

(I) A DEPOSITORY INSTITUTION;

(II) A SUBSIDIARY THAT IS:

1. OWNED AND CONTROLLED BY A DEPOSITORY INSTITUTION; AND

2. REGULATED BY A FEDERAL BANKING AGENCY; OR

(III) AN INSTITUTION REGULATED BY THE FARM CREDIT ADMINISTRATION; AND

(3) IS REGISTERED WITH, AND MAINTAINS A UNIQUE IDENTIFIER THROUGH, THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

~~**(V) "RESIDENTIAL MORTGAGE LOAN" HAS THE MEANING STATED IN § 11–501 OF THIS TITLE.**~~

~~**(W)**~~ **(X) "RESIDENTIAL REAL ESTATE" HAS THE MEANING STATED IN § 11–501 OF THIS TITLE.**

~~**(X)**~~ **(Y) "UNIQUE IDENTIFIER" MEANS A NUMBER OR OTHER IDENTIFIER ASSIGNED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.**

11–602.

(a) (1) The licensing provisions of this subtitle do not apply to independent contractors.

(2) Independent contractors are subject to the licensing provisions of Subtitle 5 of this title unless exempt from licensing under that subtitle.

(B) UNLESS EXEMPTED FROM THIS SUBTITLE UNDER SUBSECTION (D) OF THIS SECTION, AN INDIVIDUAL MAY NOT ENGAGE IN THE BUSINESS OF A MORTGAGE LOAN ORIGINATOR UNLESS THE INDIVIDUAL HOLDS A VALID LICENSE ISSUED UNDER THIS SUBTITLE.

(C) EACH LICENSEE SHALL OBTAIN AND MAINTAIN A VALID UNIQUE IDENTIFIER ISSUED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY:

(1) ON OBTAINING AN INITIAL OR RENEWAL LICENSE ON OR AFTER JULY, 1, 2009; OR

(2) IF THE COMMISSIONER HAS NOT JOINED THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AS OF JULY 1, 2009, ON OR AFTER THE DATE THAT THE COMMISSIONER JOINS, AS INSTRUCTED BY THE COMMISSIONER BY NOTICE TO THE LICENSEE.

(D) THE FOLLOWING INDIVIDUALS ARE EXEMPT FROM THIS SUBTITLE:

(1) A REGISTERED MORTGAGE LOAN ORIGINATOR, WHEN ACTING FOR AN ENTITY DESCRIBED IN ~~§ 11–601(U)~~ § 11–601(W) OF THIS SUBTITLE;

(2) AN INDIVIDUAL WHO OFFERS OR NEGOTIATES THE TERMS OF A ~~RESIDENTIAL~~ MORTGAGE LOAN WITH OR ON BEHALF OF AN IMMEDIATE FAMILY MEMBER OF THE INDIVIDUAL;

(3) AN INDIVIDUAL WHO OFFERS OR NEGOTIATES THE TERMS OF A ~~RESIDENTIAL~~ MORTGAGE LOAN SECURED BY A DWELLING THAT SERVED AS THE INDIVIDUAL'S RESIDENCE; ~~AND~~

(4) A LICENSED ATTORNEY WHO NEGOTIATES THE TERMS OF A ~~RESIDENTIAL~~ MORTGAGE LOAN ON BEHALF OF A CLIENT AS AN ANCILLARY MATTER TO THE ATTORNEY'S REPRESENTATION OF THE CLIENT, UNLESS THE ATTORNEY IS COMPENSATED BY A MORTGAGE LENDER, A MORTGAGE BROKER, OR A MORTGAGE LOAN ORIGINATOR, OR BY AN AGENT OF A MORTGAGE LENDER, MORTGAGE BROKER, OR MORTGAGE LOAN ORIGINATOR; AND

(5) SUBJECT TO SUBSECTION (E) OF THIS SECTION, AN INDIVIDUAL LOAN SERVICER.

(E) THE EXEMPTION UNDER SUBSECTION (D)(5) OF THIS SECTION IS SUBJECT TO MODIFICATION BY REGULATIONS THAT ARE ADOPTED BY THE COMMISSIONER AND CONSISTENT WITH ANY APPLICABLE WRITTEN INTERPRETATIONS OF THE FEDERAL SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008 BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PRESENTED THROUGH COMMENTARIES, GUIDELINES, RULES, REGULATIONS, OR INTERPRETIVE LETTERS.

[(b)**]** ~~(E)~~ **(F)** The Commissioner may adopt regulations to carry out this subtitle.

11–603.

(a) A license issued under this subtitle authorizes the licensee to act as a mortgage **LOAN** originator only when acting within the scope of employment with**:**

(1) [a**] A** mortgage lender**; OR**

(2) A PERSON WHO IS EXEMPT FROM LICENSING AS A MORTGAGE LENDER.

(b) A licensee may not:

(1) Maintain more than one license under this subtitle; or

(2) Be employed by more than one mortgage lender **OR PERSON WHO IS EXEMPT FROM LICENSING AS A MORTGAGE LENDER**.

(c) (1) The Commissioner shall include on each license:

(i) The name of the licensee; **[**and**]**

(ii) The name of the licensee's employer**; AND**

(III) THE UNIQUE IDENTIFIER OF THE LICENSEE IF THE LICENSEE HAS BEEN ISSUED A UNIQUE IDENTIFIER.

(2) **[**Unless the licensee notifies the Commissioner in writing in advance of a change in the licensee's name or the licensee's employer and pays to the Commissioner a license amendment fee set by the Commissioner for each notice provided under this paragraph, an**] AN** individual may not act as a mortgage **LOAN** originator under a name or for an employer that is different from the name and employer that appear on the license**[**.**] UNLESS THE LICENSEE:**

(I) NOTIFIES THE COMMISSIONER IN WRITING IN ADVANCE OF A CHANGE IN THE LICENSEE'S NAME OR THE LICENSEE'S EMPLOYER;

(II) PAYS TO THE COMMISSIONER A LICENSE AMENDMENT FEE SET BY THE COMMISSIONER FOR EACH NOTICE PROVIDED UNDER THIS PARAGRAPH;

(III) RETURNS TO THE COMMISSIONER THE LICENSEE'S LICENSE, OR AN AFFIDAVIT STATING THAT THE LICENSE HAS BEEN LOST OR DESTROYED; AND

(IV) IN THE CASE OF A NEW EMPLOYER, SUBMITS TO THE COMMISSIONER A NOTARIZED STATEMENT FROM THE LICENSEE'S NEW EMPLOYER THAT THE LICENSEE IS AN EMPLOYEE OF THE NEW EMPLOYER.

(3) IF A LICENSEE CEASES TO BE EMPLOYED BY A LICENSED MORTGAGE LENDER OR BY A PERSON EXEMPT FROM LICENSING AS A MORTGAGE LENDER, THE LICENSEE SHALL NOTIFY THE COMMISSIONER WITHIN

10 BUSINESS DAYS, AND THE LICENSE SHALL BE PLACED INTO NONACTIVE STATUS.

(4) DURING THE TIME THAT A LICENSE IS IN NONACTIVE STATUS, IT IS A VIOLATION OF THIS SUBTITLE FOR THE LICENSEE TO ENGAGE IN ANY ACTIVITY FOR WHICH A LICENSE IS REQUIRED UNDER THIS SUBTITLE.

(5) THE LICENSE SHALL REMAIN IN NONACTIVE STATUS UNTIL:

(I) THE LICENSEE:

1. NOTIFIES THE COMMISSIONER IN WRITING THAT THE LICENSEE HAS OBTAINED EMPLOYMENT WITH A LICENSED MORTGAGE LENDER OR WITH A PERSON EXEMPT FROM LICENSING AS A MORTGAGE LENDER; AND

2. HAS COMPLIED WITH THE REQUIREMENTS SET FORTH IN PARAGRAPH (C)(2) OF THIS SUBSECTION; OR

(II) THE LICENSE EXPIRES OR IS REVOKED.

(d) A license may be issued under this subtitle to an individual who is employed by a mortgage lender that has its principal office located outside the State if the mortgage lender maintains:

(1) A resident agent within the State; and

(2) An office within the State staffed by at least one employee authorized to originate ~~**RESIDENTIAL**~~ mortgage loans.

(e) Notwithstanding **[**paragraph**]** **SUBSECTION** (d)(2) of this section, a mortgage lender is not required to maintain an office in this State if the laws of the state in which its principal office is located authorize a mortgage lender from this State to engage in mortgage lending without maintaining an office in that state.

(F) THIS SECTION DOES NOT APPLY TO AN AFFILIATED INSURANCE PRODUCER–MORTGAGE LOAN ORIGINATOR LICENSED UNDER § 11–603.1 OF THIS SUBTITLE.

11–603.1.

(A) IN THIS SECTION, "AFFILIATED INSURANCE PRODUCER–MORTGAGE LOAN ORIGINATOR" MEANS AN INDIVIDUAL WHO:

(1) ORIGINATES MORTGAGE LOANS ONLY ON BEHALF OF A SINGLE FINANCIAL INSTITUTION THAT IS:

(I) DESCRIBED IN § 11–502(B)(1) OF THIS TITLE; AND

(II) APPROVED BY THE COMMISSIONER UNDER SUBSECTION (B) OF THIS SECTION;

(2) IS A LICENSED INSURANCE PRODUCER IN GOOD STANDING UNDER § 10–103 OF THE INSURANCE ARTICLE; AND

(3) HOLDS AN APPOINTMENT AS AN INSURANCE PRODUCER FOR AN INSURER THAT CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH:

(I) THE FINANCIAL INSTITUTION DESCRIBED IN ITEM (1) OF THIS SUBSECTION; OR

(II) A MORTGAGE LENDER LICENSEE THAT:

1. IS APPROVED BY THE COMMISSIONER UNDER SUBSECTION (C) OF THIS SECTION; AND

2. ORIGINATES LOANS ONLY ON BEHALF OF THE FINANCIAL INSTITUTION DESCRIBED IN ITEM (1) OF THIS SUBSECTION UNDER AN EXCLUSIVE CONTRACT WITH THE FINANCIAL INSTITUTION.

(B) THE COMMISSIONER SHALL APPROVE A FINANCIAL INSTITUTION DESCRIBED IN SUBSECTION (A)(1) OF THIS SECTION BASED ON THE FOLLOWING CRITERIA:

(1) THE FINANCIAL INSTITUTION IS IN GOOD STANDING WITH ITS PRIMARY STATE OR FEDERAL REGULATOR; AND

(2) THE FINANCIAL INSTITUTION IS IN MATERIAL COMPLIANCE WITH APPLICABLE STATE AND FEDERAL LAW.

(C) THE COMMISSIONER SHALL APPROVE A MORTGAGE LENDER LICENSEE DESCRIBED IN SUBSECTION (A)(3)(II) OF THIS SECTION BASED ON THE FOLLOWING CRITERIA:

(1) THE MORTGAGE LENDER LICENSEE IS IN GOOD STANDING WITH THE COMMISSIONER AND ANY OTHER REGULATOR TO WHICH IT IS SUBJECT; AND

(2) THE MORTGAGE LENDER LICENSEE IS IN MATERIAL COMPLIANCE WITH APPLICABLE STATE AND FEDERAL LAW.

(D) APPROVAL BY THE COMMISSIONER OF A FINANCIAL INSTITUTION UNDER SUBSECTION (B) OF THIS SECTION AND A MORTGAGE LENDER LICENSEE UNDER SUBSECTION (C) OF THIS SECTION SHALL BE IN WRITING.

(E) (1) AN APPLICATION FOR A LICENSE UNDER THIS SECTION SHALL BE IN THE FORM APPROVED BY THE COMMISSIONER.

(2) THE APPLICATION SHALL REQUIRE THE IDENTIFICATION OF:

(I) THE FINANCIAL INSTITUTION DESCRIBED IN SUBSECTION (A)(1) OF THIS SECTION;

(II) IF APPLICABLE, THE MORTGAGE LENDER LICENSEE DESCRIBED IN SUBSECTION (A)(3)(II) OF THIS SECTION; AND

(III) THE INSURER WITH WHICH THE APPLICANT HOLDS AN APPOINTMENT.

(3) AN APPLICATION FOR A LICENSE UNDER THIS SECTION SHALL BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF:

(I) THE FINANCIAL INSTITUTION IDENTIFIED IN THE APPLICATION; OR

(II) IF A MORTGAGE LENDER LICENSEE IS IDENTIFIED IN THE APPLICATION, THE MORTGAGE LENDER LICENSEE.

(F) NOTWITHSTANDING §§ 11–602(A) AND 11–603 OF THIS SUBTITLE, AND SUBJECT TO THE PROVISIONS OF THIS SECTION, A LICENSE ISSUED UNDER THIS SECTION AUTHORIZES THE LICENSEE TO ACT AS A MORTGAGE LOAN ORIGINATOR.

(G) AN APPLICANT FOR A LICENSE UNDER THIS SECTION AND A LICENSEE UNDER THIS SECTION SHALL COMPLY WITH ALL OTHER REQUIREMENTS FOR LICENSURE AS A MORTGAGE LOAN ORIGINATOR UNDER THIS SUBTITLE.

(H) A LICENSEE UNDER THIS SECTION SHALL LIMIT THE LICENSEE'S ACTIVITIES TO ORIGINATING MORTGAGE LOANS ONLY ON BEHALF OF A SINGLE

FINANCIAL INSTITUTION APPROVED BY THE COMMISSIONER UNDER SUBSECTION (B) OF THIS SECTION.

(I) THE FINANCIAL INSTITUTION IDENTIFIED IN A LICENSEE'S LICENSE APPLICATION OR, IF A MORTGAGE LENDER LICENSEE IS IDENTIFIED IN A LICENSEE'S LICENSE APPLICATION, THE MORTGAGE LENDER LICENSEE SHALL:

(1) SUPERVISE THE LICENSEE, INCLUDING PROVIDING DIRECTION THROUGH WRITTEN INSTRUCTIONS OR ELECTRONIC MEANS AND BY PERIODICALLY EXAMINING THE LICENSEE'S BOOKS, RECORDS, AND OTHER ASPECTS OF THE LICENSEE'S BUSINESS;

(2) BE HELD JOINTLY AND SEVERALLY LIABLE WITH THE LICENSEE FOR CLAIMS ARISING OUT OF THE LICENSEE'S MORTGAGE LOAN ORIGINATION ACTIVITIES; AND

(3) MEET, OR CAUSE THE LICENSEE TO MEET, THE SURETY BOND REQUIREMENTS UNDER § 11–619(C) OF THIS SUBTITLE.

(J) EXCEPT AS PROVIDED IN SUBSECTION (K) OF THIS SECTION, A LICENSEE UNDER THIS SECTION MAY NOT:

(1) AID OR ASSIST A BORROWER TO OBTAIN A MORTGAGE LOAN FROM A FINANCIAL INSTITUTION OTHER THAN THE FINANCIAL INSTITUTION IDENTIFIED IN THE LICENSEE'S LICENSE APPLICATION;

(2) EXCEPT FOR COMPENSATION BASED ON THE PRINCIPAL BALANCE OF A MORTGAGE LOAN, BE COMPENSATED BY ANY PERSON FOR MORTGAGE LOAN ORIGINATION ACTIVITIES ON A BASIS THAT DEPENDS ON THE TERMS OF THE MORTGAGE LOAN, INCLUDING INTEREST RATE OR FEES;

(3) RECEIVE A FINDER'S FEE, AS DEFINED IN § 12–801 OF THE COMMERCIAL LAW ARTICLE;

(4) HANDLE BORROWER OR OTHER THIRD PARTY FUNDS IN CONNECTION WITH THE ORIGINATION OR CLOSING OF A MORTGAGE LOAN;

(5) REFER A BORROWER TO ANY OTHER LICENSEE UNDER SUBTITLE 5 OF THIS TITLE; OR

(6) MAKE OR SERVICE A MORTGAGE LOAN.

(K) A LICENSEE UNDER THIS SECTION MAY FORWARD A CHECK TO THE FINANCIAL INSTITUTION IDENTIFIED IN THE LICENSEE'S LICENSE APPLICATION IF THE CHECK IS:

(1) MADE PAYABLE TO THE FINANCIAL INSTITUTION;

(2) FROM AN APPLICANT FOR A MORTGAGE LOAN; AND

(3) IN CONNECTION WITH AN APPLICATION FOR A MORTGAGE LOAN TO COVER COSTS FOR:

(I) AN APPRAISAL;

(II) A CREDIT REPORT; OR

(III) PROCESSING THE APPLICATION.

(L) AN AFFILIATED INSURANCE PRODUCER–MORTGAGE LOAN ORIGINATOR WHO HOLDS A MORTGAGE LENDER LICENSE UNDER § 11–506(C) OF THIS TITLE ON JULY 1, 2009, MAY CONTINUE TO ORIGINATE MORTGAGES UNDER A VALID MORTGAGE LENDER LICENSE UNTIL DECEMBER 31, 2009, PROVIDED THAT THE AFFILIATED INSURANCE PRODUCER–MORTGAGE LOAN ORIGINATOR TAKES THE ACTIONS NECESSARY TO PARTICIPATE IN THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AS REQUIRED BY THE COMMISSIONER.

[11–604.

Beginning on January 1, 2007, an individual may not act as a mortgage originator unless the individual is:

(1) A licensee; or

(2) Exempt from licensing under this subtitle or Subtitle 5 of this title.**]**

[11–606.**] 11–604.**

(a) (1) To apply for a license, an applicant shall complete, sign, and submit to the Commissioner an application made under oath on the form that the Commissioner requires.

(2) The applicant shall comply with all conditions and provisions of the application for a license.

[(3) The application shall include:

(i) The applicant's name, Social Security number, business address and telephone number, residence address, residence telephone number, and electronic mail address;

(ii) The business name, business address, and telephone number of the applicant's employer or prospective employer;

(iii) The applicant's resume or work experience, including the names and addresses of previous employers and a description of each job or position held by the applicant with previous employers;

(iv) A written statement by the applicant's present or prospective employer that the applicant has been approved for employment as a mortgage originator;

(v) A written statement disclosing whether the applicant has been convicted of, pleaded guilty to, or pleaded nolo contendere to a felony or misdemeanor, except minor traffic offenses, within the preceding 10 years, a description of the nature and disposition of any disclosed criminal proceeding, and the name of the court where the proceeding took place; and

(vi) A written statement disclosing whether the Commissioner, or any other regulatory authority in the State or any other jurisdiction that governs the mortgage lending or mortgage loan origination business, with respect to the applicant or an entity in which the applicant has or had any ownership interest, has:

1. Denied an application for a license;

2. Revoked or suspended a license; or

3. Imposed any other formal order or regulatory sanction.**]**

(b) With each application, the applicant shall pay to the Commissioner:

(1) A nonrefundable investigation fee set by the Commissioner; and

(2) A license fee set by the Commissioner.

(C) IN ADDITION TO THE LICENSE FEE REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION, AN APPLICANT FOR AN INITIAL LICENSE SHALL PAY TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY ANY FEES THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY IMPOSES IN CONNECTION WITH THE APPLICATION.

(D) IN CONNECTION WITH AN INITIAL APPLICATION FOR A LICENSE UNDER THIS SECTION AND AT ANY OTHER TIME THE COMMISSIONER REQUESTS, AN APPLICANT OR LICENSEE SHALL PROVIDE TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY INFORMATION CONCERNING THE APPLICANT'S IDENTITY, INCLUDING:

(1) FINGERPRINTS FOR SUBMISSION TO THE FEDERAL BUREAU OF INVESTIGATION, AND ANY OTHER GOVERNMENTAL AGENCY OR ENTITY AUTHORIZED TO RECEIVE THIS INFORMATION FOR A STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY BACKGROUND CHECK; AND

(2) PERSONAL HISTORY AND EXPERIENCE IN A FORM PRESCRIBED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, INCLUDING THE SUBMISSION OF AUTHORIZATION FOR THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AND THE COMMISSIONER TO OBTAIN:

(I) AN INDEPENDENT CREDIT REPORT FROM A CONSUMER REPORTING AGENCY DESCRIBED IN THE ~~FEDERAL~~ FEDERAL FAIR CREDIT REPORTING ACT, 15 U.S.C. § 1681A(P); AND

(II) INFORMATION RELATED TO ANY ADMINISTRATIVE, CIVIL, OR CRIMINAL FINDINGS BY ANY GOVERNMENTAL JURISDICTION.

(E) TO IMPLEMENT THIS SUBTITLE, THE COMMISSIONER MAY USE THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AS A CHANNELING AGENT TO REQUEST INFORMATION FROM AND DISTRIBUTE INFORMATION TO THE DEPARTMENT OF JUSTICE, ANY OTHER GOVERNMENTAL AGENCY~~, AND ANY OTHER SOURCE AS DIRECTED BY THE COMMISSIONER~~ WITH SUBJECT MATTER JURISDICTION, AND ANY OTHER STATE LICENSING ENTITY THAT HAS LOAN ORIGINATORS REGISTERED WITH THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

[(c)**] (F)** (1) In **ADDITION TO THE REQUIREMENT UNDER SUBSECTION (D) OF THIS SECTION, IN** connection with an **INITIAL** application for a license under this section, and at any other time that the Commissioner requests, an applicant or licensee shall provide fingerprints for use by the **[**Federal Bureau of Investigation and the**]** Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to conduct criminal history records checks.

[(2)**] (G)** An applicant or licensee required to provide fingerprints under this **[**subsection**] SECTION** shall pay any processing or other fees required by

the Federal Bureau of Investigation **[**or**], THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AND** the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

11–605.

[(a) To qualify for a license, an applicant shall satisfy the Commissioner that:

(1) The applicant:

(i) Has at least 3 years of experience in the mortgage lending business and has completed any required courses for continuing education established by the Commissioner; or

(ii) Has completed 40 hours of classroom education and achieved a passing grade on a written examination as required by regulation; and

(2) The applicant is of good moral character and has general fitness to warrant the belief that the applicant will act as a mortgage originator in a lawful, honest, fair, and efficient manner.

(b) (1) Except as provided in paragraph (2) of this subsection, the Commissioner may deny an application for a license filed by an individual who has committed an act that would serve as a sufficient ground for suspension or revocation of a license under this subtitle or a mortgage lender license under Subtitle 5 of this title.

(2) The Commissioner shall deny an application for a license filed by an individual who has been convicted within the last 10 years of a felony involving fraud, theft, or forgery.

(c) The Commissioner may not deny an application based solely on the applicant's financial condition, credit history, or net worth, or the involvement of the applicant in a bankruptcy proceeding under Title 11 of the United States Code.**]**

(A) THE COMMISSIONER MAY NOT ISSUE A MORTGAGE LOAN ORIGINATOR LICENSE UNLESS THE COMMISSIONER MAKES, AT A MINIMUM, THE FOLLOWING FINDINGS:

(1) THE APPLICANT HAS NEVER HAD A MORTGAGE LOAN ORIGINATOR LICENSE REVOKED IN ANY GOVERNMENTAL JURISDICTION~~.~~;

(2) THE APPLICANT HAS NOT BEEN CONVICTED OF, OR PLED GUILTY OR NOLO CONTENDERE TO, A FELONY IN A DOMESTIC, FOREIGN, OR MILITARY COURT:

(I) DURING THE 7–YEAR PERIOD IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION FOR LICENSING; OR

(II) AT ANY TIME PRECEDING THE DATE OF APPLICATION, IF THE FELONY INVOLVED AN ACT OF FRAUD, DISHONESTY, A BREACH OF TRUST, OR MONEY LAUNDERING;

(3) THE APPLICANT HAS DEMONSTRATED FINANCIAL RESPONSIBILITY, CHARACTER, AND GENERAL FITNESS SUFFICIENT TO COMMAND THE CONFIDENCE OF THE COMMUNITY AND TO WARRANT A DETERMINATION THAT THE MORTGAGE LOAN ORIGINATOR WILL OPERATE HONESTLY, FAIRLY, AND EFFICIENTLY;

(4) THE APPLICANT HAS COMPLETED THE PRELICENSING EDUCATION REQUIREMENT UNDER § 11–606 OF THIS SUBTITLE AND ANY PRELICENSING EDUCATION REQUIREMENTS ESTABLISHED BY THE COMMISSIONER BY REGULATION;

(5) THE APPLICANT HAS PASSED A TEST THAT MEETS THE REQUIREMENTS ESTABLISHED UNDER § 11–606.1 OF THIS SUBTITLE AND ANY PRELICENSING TESTING REQUIREMENTS ESTABLISHED BY THE COMMISSIONER BY REGULATION; AND

(6) THE APPLICANT HAS MET THE SURETY BOND REQUIREMENT UNDER § 11–619 OF THIS SUBTITLE.

(B) A CONVICTION FOR WHICH A PARDON HAS BEEN GRANTED IS NOT A CONVICTION FOR PURPOSES OF SUBSECTION (A)(2) OF THIS SECTION.

(C) A DETERMINATION THAT AN INDIVIDUAL ~~HAS SHOWN A LACK OF~~ DOES NOT MEET THE REQUIREMENTS FOR FINANCIAL RESPONSIBILITY ~~FOR PURPOSES OF~~ UNDER SUBSECTION (A)(3) OF THIS SECTION MAY ~~INCLUDE~~ NOT BE BASED SOLELY ON:

(1) ~~CURRENT OUTSTANDING JUDGMENTS, EXCEPT JUDGMENTS SOLELY AS A RESULT OF~~ DEBTS ARISING FROM MEDICAL EXPENSES, INCLUDING JUDGMENTS;

(2) ~~CURRENT OUTSTANDING TAX LIENS OR OTHER GOVERNMENT LIENS AND FILINGS~~ EXCEPT FOR DELINQUENT CHILD SUPPORT PAYMENTS, DEBTS, INCLUDING JUDGMENTS, ARISING FROM DIVORCE PROCEEDINGS OR DIVORCE SETTLEMENTS;

(3) FORECLOSURES ~~WITHIN THE PAST 3 YEARS; AND~~ ON THE APPLICANT'S PRINCIPAL RESIDENCE;

(4) ~~A PATTERN OF SERIOUSLY DELINQUENT ACCOUNTS WITHIN THE PAST 3 YEARS~~ THE APPLICANT'S CREDIT SCORE AS REPORTED BY ANY CONSUMER REPORTING AGENCY, AS DEFINED IN 15 U.S.C. § 1681A; OR

(5) THE APPLICANT'S INVOLVEMENT IN A BANKRUPTCY PROCEEDING UNDER TITLE 11 OF THE UNITED STATES CODE.

11–605.1.

(A) SUBJECT TO SUBSECTIONS (B) THROUGH (G) OF THIS SECTION, THE COMMISSIONER MAY ISSUE AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE TO AN INDIVIDUAL WHO PROVIDES TO THE COMMISSIONER WRITTEN PROOF, SATISFACTORY TO THE COMMISSIONER, THAT THE INDIVIDUAL:

(1) IS EMPLOYED BY A PERSON WHO:

(I) IS A LICENSED MORTGAGE LENDER, OR IS EXEMPT FROM LICENSING, UNDER SUBTITLE 5 OF THIS TITLE;

(II) MAKES ~~RESIDENTIAL~~ MORTGAGE LOANS; AND

(III) IS NOT A MORTGAGE BROKER; OR

(2) AS OF JULY 1, 2009, AND THE DATE OF APPLICATION FOR AN INTERIM LICENSE, OWNS A 25 PERCENT OR MORE INTEREST IN A MORTGAGE LENDER.

(B) THE COMMISSIONER MAY ACCEPT APPLICATIONS FOR INITIAL INTERIM MORTGAGE LOAN ORIGINATOR LICENSES THROUGH JULY 31, 2009.

(C) THE TERM OF AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE SHALL:

(1) BEGIN ON THE DATE THE LICENSE IS ISSUED; AND

(2) EXPIRE ON DECEMBER 31, 2010.

(D) AN APPLICANT FOR AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE SHALL MEET THE QUALIFICATIONS FOR LICENSURE AS REQUIRED BY THIS SUBTITLE, EXCEPT THAT THE APPLICANT OR INTERIM LICENSEE MAY COMPLY WITH THE FOLLOWING ON OR BEFORE JULY 31, 2010:

(1) THE FINGERPRINTING AND CRIMINAL HISTORY REPORT REQUIREMENT UNDER § 11–604 OF THIS SUBTITLE;

(2) THE SURETY BOND COVERAGE REQUIREMENT UNDER § 11–619 OF THIS SUBTITLE;

(3) THE PRELICENSING EDUCATION REQUIREMENT UNDER § 11–606 OF THIS SUBTITLE; AND

(4) THE PRELICENSING TESTING REQUIREMENT UNDER § 11–606.1 OF THIS SUBTITLE.

(E) (1) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN INDIVIDUAL HOLDING AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE:

(I) MAY ENGAGE ONLY IN TRANSACTIONS IN WHICH THE INDIVIDUAL'S EMPLOYER MAKES A ~~RESIDENTIAL~~ MORTGAGE LOAN; AND

(II) MAY NOT ENGAGE IN TRANSACTIONS IN WHICH THE INDIVIDUAL'S EMPLOYER ACTS AS A MORTGAGE BROKER, AS DEFINED IN § 11–501 OF THIS TITLE.

(3) THE RESTRICTIONS ON AN INDIVIDUAL'S ACTIVITIES UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL TERMINATE ON THE INDIVIDUAL'S COMPLIANCE WITH:

(I) THE FINGERPRINTING AND CRIMINAL HISTORY REPORT REQUIREMENT UNDER § 11–604 OF THIS SUBTITLE;

(II) THE SURETY BOND COVERAGE REQUIREMENT UNDER § 11–619 OF THIS SUBTITLE;

(III) THE PRELICENSING EDUCATION REQUIREMENT UNDER § 11–606 OF THIS SUBTITLE; AND

(IV) THE PRELICENSING TESTING REQUIREMENT UNDER § 11–606.1 OF THIS SUBTITLE.

(F) WITH EACH APPLICATION FOR AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE, THE APPLICANT SHALL PAY TO THE COMMISSIONER:

(1) THE NONREFUNDABLE INVESTIGATION FEE REQUIRED UNDER § 11–604(B)(1) OF THIS SUBTITLE;

(2) 150 PERCENT OF THE LICENSING FEE REQUIRED UNDER § 11–604(B)(2) OF THIS SUBTITLE; AND

(3) ANY FEES IMPOSED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY UNDER § 11–604(C) OF THIS SUBTITLE.

(G) IN ADDITION TO ANY OTHER INFORMATION REQUIRED TO BE PLACED ON A LICENSE UNDER THIS SUBTITLE, THE COMMISSIONER SHALL PRINT THE WORDS "INTERIM MORTGAGE LOAN ORIGINATOR LICENSE" ON EACH LICENSE ISSUED UNDER THIS SECTION.

11–606.

(A) TO QUALIFY FOR AN INITIAL LICENSE, AN APPLICANT SHALL COMPLETE AT LEAST 20 HOURS OF PRELICENSING EDUCATION THAT SHALL INCLUDE:

(1) 3 HOURS OF INSTRUCTION ON FEDERAL LAW AND REGULATIONS RELATING TO MORTGAGE ORIGINATION;

(2) 3 HOURS OF INSTRUCTION ON ETHICS, INCLUDING INSTRUCTION ON FRAUD, CONSUMER PROTECTION, AND FAIR LENDING ISSUES; AND

(3) 2 HOURS OF TRAINING RELATED TO LENDING STANDARDS AND LOAN TERMS FOR ~~THE~~ NONTRADITIONAL MORTGAGE ~~PRODUCT MARKETPLACE~~ PRODUCTS.

(B) (1) ALL PRELICENSING EDUCATION COURSES SHALL BE REVIEWED AND APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

(2) REVIEW AND APPROVAL OF A PRELICENSING EDUCATION COURSE SHALL INCLUDE REVIEW AND APPROVAL OF THE COURSE PROVIDER BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

(C) PRELICENSING EDUCATION MAY BE OFFERED IN A CLASSROOM, ONLINE, OR BY ANY OTHER MEANS APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

(D) AN APPLICANT'S SUCCESSFUL COMPLETION IN ANOTHER STATE OF THE PRELICENSING EDUCATION REQUIREMENTS APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, EXCEPT PRELICENSING EDUCATION REQUIREMENTS SPECIFIC TO THAT OTHER STATE, SHALL BE ACCEPTED BY THE COMMISSIONER AS CREDIT TOWARD COMPLETION OF PRELICENSING EDUCATION REQUIREMENTS IN THIS STATE.

(E) THIS SECTION DOES NOT PRECLUDE ANY PRELICENSING EDUCATION COURSE, AS APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, THAT IS PROVIDED BY THE EMPLOYER OF THE APPLICANT OR AN ENTITY THAT IS AFFILIATED WITH THE APPLICANT BY AN AGENCY CONTRACT, OR ANY SUBSIDIARY OR AFFILIATE OF THE EMPLOYER OR ENTITY.

11–606.1.

(A) TO QUALIFY FOR AN INITIAL LICENSE, AN APPLICANT SHALL PASS A QUALIFIED WRITTEN TEST DEVELOPED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AND ADMINISTERED BY A TEST PROVIDER APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

(B) A WRITTEN TEST SHALL NOT BE TREATED AS A QUALIFIED WRITTEN TEST FOR PURPOSES OF SUBSECTION (A) OF THIS SECTION UNLESS THE TEST ADEQUATELY MEASURES THE APPLICANT'S KNOWLEDGE AND COMPREHENSION IN APPROPRIATE SUBJECT AREAS, INCLUDING:

(1) ETHICS;

(2) FEDERAL LAW AND REGULATIONS RELATING TO MORTGAGE ORIGINATION;

(3) STATE LAW AND REGULATIONS RELATING TO MORTGAGE ORIGINATION; AND

(4) FEDERAL AND STATE LAW AND REGULATIONS RELATING TO FRAUD, CONSUMER PROTECTION, THE NONTRADITIONAL MORTGAGE PRODUCT MARKETPLACE, AND FAIR LENDING ISSUES.

(C) TO PASS A QUALIFIED WRITTEN TEST, AN APPLICANT MUST RECEIVE A TEST SCORE OF AT LEAST 75 PERCENT.

(D) AN APPLICANT MAY TAKE A TEST THREE TIMES, PROVIDED THAT EACH SUBSEQUENT TEST OCCURS AT LEAST 30 DAYS AFTER THE PRECEDING TEST.

(E) AFTER FAILING THREE TESTS, AN APPLICANT SHALL WAIT AT LEAST 6 MONTHS BEFORE TAKING THE TEST AGAIN.

(F) (1) A LICENSEE WHO FAILS TO RENEW AND MAINTAIN A VALID LICENSE FOR A PERIOD OF 5 YEARS OR LONGER SHALL RETAKE THE TEST AND ACHIEVE A PASSING GRADE AS SET FORTH IN SUBSECTION (C) OF THIS SECTION BEFORE OBTAINING A NEW LICENSE.

(2) CALCULATION OF THE TIME PERIOD DURING WHICH AN INDIVIDUAL IS UNLICENSED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL EXCLUDE ANY TIME DURING WHICH THE INDIVIDUAL IS A REGISTERED MORTGAGE LOAN ORIGINATOR.

(G) THIS SECTION DOES NOT PROHIBIT A TEST PROVIDER APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY FROM PROVIDING A TEST AT THE LOCATION OF THE EMPLOYER OF THE APPLICANT OR ANY SUBSIDIARY OR AFFILIATE OF THE EMPLOYER OF THE APPLICANT, OR ANY ENTITY WITH WHICH THE APPLICANT HOLDS AN EXCLUSIVE ARRANGEMENT TO CONDUCT THE BUSINESS OF A MORTGAGE LOAN ORIGINATOR.

11–607.

(a) When an applicant for a license files the application and pays the fees required by § **[**11–606**] 11–604** of this subtitle, the Commissioner shall conduct an investigation to determine if the applicant meets the requirements of § 11–605 of this subtitle.

11–609.

[(a) A license issued on or after October 1, 2006, expires on December 31 in each odd–numbered year after December 31, 2006, unless the license is renewed for a 2–year term as provided in this section.**]**

(A) SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN CONNECTION WITH THE TRANSITION TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AN INITIAL LICENSE TERM SHALL:

(1) BE FOR A MAXIMUM PERIOD OF 1 YEAR;

(2) BEGIN ON THE FIRST DAY THE LICENSE IS ISSUED; AND

(3) EXPIRE ON DECEMBER 31 OF THE YEAR THE LICENSE IS ISSUED.

(b) On or before **[**December**]** **NOVEMBER** 1 of the year of expiration, a license may be renewed **[**for an additional 2–year term**]** if the licensee:

(1) **[**Otherwise**]** **SUBJECT TO SUBSECTIONS (E) AND (F) OF THIS SECTION, MEETS THE MINIMUM STANDARDS FOR THE ISSUANCE OF A LICENSE AND OTHERWISE** is entitled to be licensed;

(2) Pays to the Commissioner a renewal fee set by the Commissioner; and

(3) Submits to the Commissioner:

(i) A renewal application on the form that the Commissioner requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements **UNDER THIS SUBTITLE OR** set by regulations adopted by the Commissioner.

(C) SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN CONNECTION WITH THE TRANSITION TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, A RENEWAL TERM SHALL:

(1) BE FOR A MAXIMUM PERIOD OF 1 YEAR;

(2) BEGIN ON JANUARY 1 OF EACH YEAR AFTER THE INITIAL TERM; AND

(3) EXPIRE ON DECEMBER 31 OF THE YEAR THE RENEWAL TERM BEGINS.

[(d) Notwithstanding subsections (a) and (b) of this section, the Commissioner may determine that licenses issued under this subtitle shall expire on a staggered basis.**]**

(D) IN ADDITION TO THE LICENSE RENEWAL FEE REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION, AN APPLICANT FOR A LICENSE RENEWAL SHALL PAY TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY ANY FEES THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY IMPOSES IN CONNECTION WITH THE RENEWAL APPLICATION.

(E) ~~A LICENSEE HOLDING A LICENSE THAT EXPIRES BETWEEN JULY 1, 2009, AND DECEMBER 31, 2010, MAY~~ **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION OR § 11–605 OF THIS SUBTITLE, AN APPLICANT FOR RENEWAL OF A LICENSE WHO IS DULY LICENSED UNDER THIS SUBTITLE ON JULY 1, 2009:**

(1) MAY COMPLY WITH THE FOLLOWING REQUIREMENTS FOR RENEWAL OF THE LICENSE ON OR BEFORE DECEMBER 31, 2010:

~~(1)~~ **(I) THE FINGERPRINTING AND CRIMINAL HISTORY REPORT REQUIREMENT UNDER § 11–604 OF THIS SUBTITLE;**

~~(2)~~ **(II) THE SURETY BOND COVERAGE REQUIREMENT UNDER § 11–619 OF THIS SUBTITLE; AND**

~~(3)~~ **(III) THE PRELICENSING TESTING REQUIREMENT UNDER § 11–606.1 OF THIS SUBTITLE; AND**

(2) IS DEEMED TO HAVE SATISFIED THE PRELICENSING EDUCATIONAL COURSE REQUIREMENT UNDER § 11–606 OF THIS SUBTITLE IF THE APPLICANT COMPLETED 20 HOURS OF CONTINUING EDUCATION COURSES APPROVED BY THE COMMISSIONER WITHIN 5 YEARS PRIOR TO THE EXPIRATION DATE OF THE APPLICANT'S CURRENT LICENSE.

~~(F) A LICENSEE HOLDING A LICENSE THAT EXPIRES BETWEEN JULY 1, 2009, AND DECEMBER 31, 2010, MAY COMPLY WITH THE PRELICENSING EDUCATION REQUIREMENT UNDER § 11–606 OF THIS SUBTITLE IF THE LICENSEE HAS COMPLETED, WITHIN THE 2–YEAR PERIOD IMMEDIATELY PRECEDING THE DATE OF THE RENEWAL APPLICATION, AT LEAST 20 HOURS OF CONTINUING EDUCATION APPROVED BY THE COMMISSIONER BY REGULATION.~~

[(c)**]** ~~(G)~~ **(F)** If a license is surrendered voluntarily or is suspended or revoked, the Commissioner may not refund any part of the license fee regardless of the time remaining in the license term.

11–612.

(A) BEFORE APPLYING FOR RENEWAL OF A LICENSE, A LICENSEE SHALL COMPLETE AT LEAST 8 HOURS OF CONTINUING EDUCATION, WHICH SHALL INCLUDE:

(1) 3 HOURS OF INSTRUCTION ON FEDERAL LAW AND REGULATIONS RELATING TO MORTGAGE ORIGINATION;

(2) 2 HOURS OF INSTRUCTION ON ETHICS, INCLUDING INSTRUCTION ON FRAUD, CONSUMER PROTECTION, AND FAIR LENDING ISSUES; AND

(3) 2 HOURS OF TRAINING RELATED TO LENDING STANDARDS FOR THE NONTRADITIONAL MORTGAGE PRODUCT MARKETPLACE.

(B) (1) ALL CONTINUING EDUCATION COURSES SHALL BE REVIEWED AND APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

(2) REVIEW AND APPROVAL OF A CONTINUING EDUCATION COURSE SHALL INCLUDE REVIEW AND APPROVAL OF THE COURSE PROVIDER BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

(C) CONTINUING EDUCATION MAY BE OFFERED IN A CLASSROOM, ONLINE, OR BY ANY OTHER MEANS APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

(D) A LICENSEE:

(1) SHALL RECEIVE CREDIT FOR A CONTINUING EDUCATION COURSE ONLY IN THE YEAR IN WHICH THE COURSE IS TAKEN; AND

(2) MAY NOT TAKE THE SAME CONTINUING EDUCATION COURSE TO MEET THE ANNUAL REQUIREMENT FOR CONTINUING EDUCATION.

(E) A LICENSEE WHO TEACHES AN APPROVED CONTINUING EDUCATION COURSE MAY RECEIVE CREDIT FOR THE LICENSEE'S OWN ANNUAL CONTINUING EDUCATION REQUIREMENT AT THE RATE OF 2 HOURS OF CREDIT FOR EVERY 1 HOUR TAUGHT.

(F) A LICENSEE'S SUCCESSFUL COMPLETION IN ANOTHER STATE OF THE CONTINUING EDUCATION REQUIREMENTS APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, EXCEPT CONTINUING EDUCATION REQUIREMENTS SPECIFIC TO THAT OTHER STATE, SHALL BE ACCEPTED BY THE COMMISSIONER AS CREDIT TOWARDS COMPLETION OF CONTINUING EDUCATION REQUIREMENTS IN THIS STATE.

(G) THIS SECTION DOES NOT PRECLUDE ANY CONTINUING EDUCATION COURSE, AS APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, THAT IS PROVIDED BY THE EMPLOYER OF THE MORTGAGE LOAN ORIGINATOR OR AN ENTITY THAT IS AFFILIATED WITH THE MORTGAGE LOAN

ORIGINATOR BY AN AGENCY CONTRACT, OR ANY SUBSIDIARY OR AFFILIATE OF THE EMPLOYER OR ENTITY.

[(a)**] (H)** The Commissioner **[**shall**] MAY** adopt regulations **[**that:

(1) Set continuing education requirements as a condition to the renewal of a license under this subtitle; and

(2) Prescribe rules for the classroom education requirement provided for in § 11–605(a) of this subtitle**] TO IMPLEMENT THIS SECTION**.

[(b) Any continuing education requirement established by the Commissioner under this section shall apply to the first renewal of a license.**]**

11–613.

(a) (1) Any person aggrieved by the conduct of a licensee under this subtitle in connection with a ~~**RESIDENTIAL**~~ mortgage loan may file a written complaint with the Commissioner who shall investigate the complaint.

(2) The Commissioner may make any other investigation of a licensee if the Commissioner has reasonable cause to believe that the licensee has violated any provision of this subtitle, of any regulation adopted under this subtitle, or of any other law regulating mortgage lending or mortgage origination in the State.

(B) IN ADDITION TO THE REQUIREMENTS OF THIS SECTION, AN AFFILIATED INSURANCE PRODUCER–MORTGAGE LOAN ORIGINATOR LICENSED UNDER § 11–603.1 OF THIS SUBTITLE SHALL BE SUBJECT TO THE PROVISIONS OF §§ 11–513 AND 11–515 OF THIS TITLE:

(1) TO THE EXTENT THE COMMISSIONER DETERMINES IS NECESSARY TO ENABLE THE COMMISSIONER TO INVESTIGATE AND EXAMINE THE MORTGAGE LOAN ORIGINATION ACTIVITIES OF THE AFFILIATED INSURANCE PRODUCER–MORTGAGE LOAN ORIGINATOR; AND

(2) AS SPECIFIED IN REGULATIONS ADOPTED BY THE COMMISSIONER.

[(b)**](C)** A licensee shall pay to the Commissioner a per–day fee set by the Commissioner for each of the Commissioner's employees engaged in any investigation conducted under this section that the Commissioner reasonably considers necessary.

[(c)**](D)** In connection with an investigation made under this section, the Commissioner may:

(1) Examine the books and records of a licensee or of any other person that the Commissioner believes has violated a provision of this subtitle, any rule or regulation adopted under this subtitle, or any other law regulating mortgage lending or mortgage origination in the State;

(2) Subpoena documents or other evidence; and

(3) Summon and examine under oath any person whose testimony the Commissioner requires.

[(d)**] (E)** (1) If a person fails to comply with a subpoena or summons of the Commissioner under this subtitle or to testify concerning any matter about which the person may be interrogated under this subtitle, the Commissioner may file a petition for enforcement with the circuit court for a county.

(2) On petition by the Commissioner, the court may order the person to attend and testify or produce evidence.

11–615.

(a) Subject to the hearing provisions of § 11–616 of this subtitle, and except as provided in subsection (f) of this section, the Commissioner may suspend or revoke the license of any licensee if the licensee:

(1) Makes any material misstatement in an application for a license;

(2) Is convicted under the laws of the United States or of any state of a felony or a misdemeanor that is directly related to the fitness and qualification of the individual to act as a mortgage **LOAN** originator;

(3) In connection with any ~~**RESIDENTIAL**~~ mortgage loan or loan application transaction:

(i) Commits any fraud;

(ii) Engages in any illegal or dishonest activities; or

(iii) Misrepresents or fails to disclose any material facts to a person entitled to that information;

(4) Violates any provision of this subtitle, any regulation adopted under this subtitle, or any other law regulating mortgage lending or mortgage origination in the State; or

(5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly.

(c) (1) The Commissioner may enforce the provisions of this subtitle, regulations adopted under this subtitle, and the applicable provisions of Title 12 of the Commercial Law Article by:

(i) Issuing an order:

1. To cease and desist from the violation and any further similar violations; and

2. Requiring the violator to take affirmative action to correct the violation, including the restitution of money or property to any person aggrieved by the violation; and

(ii) Imposing a civil penalty not exceeding **[**$1,000**]** ~~**$10,000**~~ **$5,000** for each violation.

(2) If a violator fails to comply with an order issued under paragraph (1)(i) of this subsection, the Commissioner may impose a civil penalty not exceeding **[**$1,000**]** ~~**$10,000**~~ **$5,000** for each violation from which the violator failed to cease and desist or for which the violator failed to take affirmative action to correct.

(f) **[**If**]** **THE COMMISSIONER SHALL REVOKE THE LICENSE OF THE LICENSEE IF** the Commissioner determines that a licensee**, WHILE LICENSED,** has **[**been**]:**

(1) **[**convicted**]** **BEEN CONVICTED** of a felony **[**involving fraud, theft, or forgery while the licensee has been licensed, the Commissioner shall revoke the license of the licensee**]; OR**

(2) HAD A MORTGAGE LOAN ORIGINATOR LICENSE REVOKED IN ANY GOVERNMENTAL JURISDICTION.

11–619.

(A) EACH MORTGAGE LOAN ORIGINATOR SHALL BE COVERED BY A SURETY BOND IN ACCORDANCE WITH THIS SECTION.

(B) (1) A MORTGAGE LOAN ORIGINATOR WHO IS AN EMPLOYEE OF A PERSON SUBJECT TO LICENSURE UNDER SUBTITLE 5 OF THIS TITLE MAY USE THE SURETY BOND OF THAT PERSON TO MEET THE MORTGAGE LOAN ORIGINATOR'S SURETY BOND REQUIREMENT.

(2) A MORTGAGE LOAN ORIGINATOR WHO IS AN EMPLOYEE OF A PERSON EXEMPT FROM LICENSURE UNDER SUBTITLE 5 OF THIS TITLE MAY USE

A SURETY BOND OF THE PERSON TO MEET THE MORTGAGE LOAN ORIGINATOR'S SURETY BOND REQUIREMENT, PROVIDED THE SURETY BOND MEETS THE REQUIREMENTS, BASED ON ~~RESIDENTIAL~~ MORTGAGE LOAN VOLUME, UNDER § 11–508 OF THIS TITLE.

(C) A LICENSEE WHO IS AN AFFILIATED INSURANCE PRODUCER–MORTGAGE LOAN ORIGINATOR SHALL BE DEEMED IN COMPLIANCE WITH THIS SECTION IF THE LICENSEE:

(1) HOLDS A SURETY BOND THAT WOULD SATISFY THE SURETY BOND REQUIREMENTS UNDER § 11–508 OF THIS TITLE IF THE AFFILIATED INSURANCE PRODUCER–MORTGAGE LOAN ORIGINATOR WERE A LICENSEE UNDER SUBTITLE 5 OF THIS TITLE; OR

(2) IS COVERED UNDER A BLANKET SURETY BOND HELD BY THE FINANCIAL INSTITUTION OR MORTGAGE LENDER LICENSEE IDENTIFIED IN § 11–603.1(A)(3) OF THIS SUBTITLE IF THE BLANKET SURETY BOND:

(I) COVERS ALL AFFILIATED INSURANCE PRODUCER–MORTGAGE LOAN ORIGINATORS; AND

(II) IS IN THE AMOUNT OF $1,000,000 OR ANOTHER AMOUNT AS REQUIRED BY THE COMMISSIONER BY REGULATION.

11–620.

(A) (1) EXCEPT AS OTHERWISE PROVIDED IN 12 U.S.C. § 5111, THE REQUIREMENTS UNDER ANY FEDERAL LAW AND §§ 10–611 THROUGH 10–628 OF THE STATE GOVERNMENT ARTICLE REGARDING THE PRIVACY OR CONFIDENTIALITY OF INFORMATION OR MATERIAL PROVIDED TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AND ANY PRIVILEGE ARISING UNDER FEDERAL OR STATE LAW, INCLUDING THE RULES OF ANY FEDERAL OR STATE COURT WITH RESPECT TO THAT INFORMATION OR MATERIAL, SHALL CONTINUE TO APPLY TO THAT INFORMATION OR MATERIAL AFTER THE INFORMATION OR MATERIAL HAS BEEN DISCLOSED TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

(2) THE INFORMATION AND MATERIAL MAY BE SHARED WITH ALL STATE AND FEDERAL REGULATORY OFFICIALS HAVING MORTGAGE INDUSTRY OVERSIGHT AUTHORITY WITHOUT THE LOSS OF PRIVILEGE OR THE LOSS OF CONFIDENTIALITY PROTECTIONS PROVIDED BY FEDERAL LAW OR §§ 10–611 THROUGH 10–628 OF THE STATE GOVERNMENT ARTICLE.

(B) THE COMMISSIONER MAY ENTER INTO INFORMATION SHARING AGREEMENTS WITH OTHER GOVERNMENTAL AGENCIES, THE CONFERENCE OF STATE BANK SUPERVISORS, THE AMERICAN ASSOCIATION OF RESIDENTIAL MORTGAGE REGULATORS, OR OTHER ASSOCIATIONS REPRESENTING GOVERNMENTAL AGENCIES.

(C) INFORMATION OR MATERIAL THAT IS SUBJECT TO A PRIVILEGE OR CONFIDENTIALITY UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE SUBJECT TO:

(1) DISCLOSURE UNDER ANY FEDERAL OR STATE LAW GOVERNING THE DISCLOSURE TO THE PUBLIC OF INFORMATION HELD BY AN OFFICER OR AGENCY OF THE FEDERAL GOVERNMENT OR A STATE THAT HAS RECEIVED THE INFORMATION OR MATERIAL; OR

(2) SUBPOENA, DISCOVERY, OR ADMISSION INTO EVIDENCE, IN ANY PRIVATE CIVIL ACTION OR ADMINISTRATIVE PROCESS, UNLESS WITH RESPECT TO ANY PRIVILEGE HELD BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY THE PERSON TO WHOM THE INFORMATION OR MATERIAL PERTAINS WAIVES, IN WHOLE OR IN PART, THAT PRIVILEGE.

(D) ANY PROVISIONS OF §§ 10–611 THROUGH 10–628 OF THE STATE GOVERNMENT ARTICLE RELATING TO THE DISCLOSURE OF ANY INFORMATION OR MATERIAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION THAT ARE INCONSISTENT WITH SUBSECTION (A) OF THIS SECTION SHALL BE SUPERSEDED BY THE REQUIREMENTS OF THIS SECTION.

(E) THIS SECTION DOES NOT APPLY TO INFORMATION OR MATERIAL RELATING TO THE EMPLOYMENT HISTORY OF, AND PUBLICLY ADJUDICATED DISCIPLINARY AND ENFORCEMENT ACTIONS AGAINST, MORTGAGE LOAN ORIGINATORS THAT IS INCLUDED IN THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AND DESIGNATED FOR ACCESS BY THE PUBLIC.

11–621.

NONFEDERALLY INSURED CREDIT UNIONS THAT EMPLOY MORTGAGE LOAN ORIGINATORS SHALL REGISTER THESE EMPLOYEES WITH THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY BY PROVIDING THE INFORMATION CONCERNING THE EMPLOYEES' IDENTITY SET FORTH IN 12 U.S.C. § 5106(A)(2).

11–622.

(A) NOTWITHSTANDING §§ 10–611 THROUGH 10–628 OF THE STATE GOVERNMENT ARTICLE, AND SUBJECT TO § 11–620 OF THIS SUBTITLE, THE COMMISSIONER SHALL REPORT ADJUDICATED ENFORCEMENT ACTIONS AND OTHER RELEVANT INFORMATION TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

(B) THE COMMISSIONER SHALL ADOPT REGULATIONS ESTABLISHING A PROCESS BY WHICH A LICENSEE OR AN APPLICANT FOR A LICENSE MAY CHALLENGE INFORMATION ENTERED BY THE COMMISSIONER INTO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

11–623.

~~AS THE COMMISSIONER REQUIRES BY REGULATION, THE~~ THE UNIQUE IDENTIFIER OF A MORTGAGE LOAN ORIGINATOR SHALL BE CLEARLY DISPLAYED ~~ON LOAN APPLICATION FORMS, SOLICITATIONS, ADVERTISEMENTS, BUSINESS CARDS, WEBSITES, AND ANY OTHER FORMS OF COMMUNICATION SPECIFIED~~ AS REQUIRED BY THE COMMISSIONER BY REGULATION.

SECTION 2. AND BE IT FURTHER ENACTED, That licensing required under § 11–602 of the Financial Institutions Article, as enacted by Section 1 of this Act, shall apply to retail sellers of manufactured homes based on interpretations of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 by the United States Department of Housing and Urban Development presented through commentaries, guidelines, rules, regulations, or interpretive letters.

SECTION 3. AND BE IT FURTHER ENACTED, That the prelicensing testing requirement under § 11–609(e)(1)(iii) of the Financial Institutions Article, as enacted by Section 1 of this Act, for licensees described in § 11–609(e)(1) of the Financial Institutions Article, as enacted by Section 1 of this Act, shall be effective when and if the United States Department of Housing and Urban Development determines through commentaries, guidelines, rules, regulations, or interpretive letters that the requirement is applicable to those licensees. If it is determined that the prelicensing testing requirement is applicable to the licensees, the Commissioner of Financial Regulation shall notify the licensees of the necessity for compliance.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House

Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 400 – *Anne Arundel County – Alcoholic Beverages – Yacht Club License.*

House Bill 400 alters the requirements that a yacht club in Anne Arundel County must meet to be issued a special Class C (yacht club) alcoholic beverages license.

Senate Bill 434, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 400.

Sincerely,

Martin O'Malley
Governor

House Bill 400

AN ACT concerning

Anne Arundel County – Alcoholic Beverages – Yacht Club License

FOR the purpose of altering certain requirements that a yacht club in Anne Arundel County must meet to be issued a special Class C (yacht club) alcoholic beverages license; making certain stylistic changes; and generally relating to alcoholic beverages licenses in Anne Arundel County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–301(c)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 6–301(c)(5)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

6–301.

(c) (1) This subsection applies only in Anne Arundel County.

(5) (i) There is a special Class C (yacht club) license.

(ii) The annual license fee is $1,500.

(iii) Upon the approval of the Board, the license shall be issued to any yacht club in the county:

1. Which has 50 or more bona fide members who pay dues of not less than $75 per year per member; and

2. Which maintains at the time of application for the license**:**

A. **[**a**] A** clubhouse with a seating capacity sufficient to accommodate at one time at least 100 persons**[**,**];**

B. **[**slips**] SLIPS, BOAT PARKING SPACES,** or berths for **[**75**] AT LEAST 50** boats **[**or more**];** and

C. **[**at**] AT** least **[**5 acres**] 1 ACRE** of ground.

(iv) The licensee may keep for sale and sell at retail any alcoholic beverages, to any member or guest when accompanied by a member at the place described in the license. Consumption shall occur on the licensed premises only. The licensee is subject to all of the provisions of this article relating to Class C beer, wine and liquor licenses in Anne Arundel County.

(v) The application for the license filed on behalf of any yacht club in the county shall be signed by at least one officer of the club, who shall be a resident, registered voter and taxpayer of Anne Arundel County.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House

Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 402 – *Education – Baltimore City Community College – Academic Facility Bonds.*

This bill increases the bonding authority of Baltimore City Community College (BCCC) from $15 million to $65 million and authorizes BCCC to issue bonds for academic facilities in addition to auxiliary facilities. The bill also requires the Capital Debt Affordability Committee to estimate in an annual report the amount of new bonds for academic facilities that may be authorized in the aggregate for the next fiscal year by BCCC.

Senate Bill 176, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 402.

Sincerely,

Martin O'Malley
Governor

House Bill 402

AN ACT concerning

Education – Baltimore City Community College – Academic Facility Bonds

FOR the purpose of increasing the amount of available bond debt for Baltimore City Community College; authorizing Baltimore City Community College to issue bonds for academic facilities; <u>requiring the Capital Debt Affordability Committee to estimate in a certain annual report the amount of new bonds for academic facilities that may be authorized in the aggregate for the next fiscal year by the Baltimore City Community College;</u> and generally relating to bonding authority and Baltimore City Community College.

BY repealing and reenacting, with amendments,
Article – Education
Section 19–102
Annotated Code of Maryland
(2008 Replacement Volume)

<u>BY repealing and reenacting, with amendments,</u>
<u>Article – State Finance and Procurement</u>
<u>Section 8–112(e)</u>

Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Education

19–102.

(a) In order to provide auxiliary and academic facilities a system may:

(1) Acquire, construct, reconstruct, equip, maintain, repair, renovate, and operate auxiliary and academic facilities at any of its campuses or locations, now existing or hereafter acquired;

(2) (i) Issue bonds for the purpose of financing or refinancing all or any part of the costs of any 1 or more projects of a system, including any project previously financed by a system or any predecessor; or

(ii) Issue bonds for the purpose of acquiring any auxiliary facility or academic facility previously financed through a capital lease with a system or any predecessor;

(3) Establish 1 or more trust funds for the deposit of the proceeds of the bonds of any issue and retain the interest revenue or other investment income thereon to be applied to the costs of any project, but shall maintain separate accounts within any such trust funds for auxiliary facilities and for academic facilities;

(4) Fix, revise, charge, and collect auxiliary facilities fees and academic fees and pledge all or any part of such auxiliary facilities fees and academic fees as security for bonds issued for auxiliary and academic facilities by a system;

(5) Establish 1 or more trust funds for the deposit of any auxiliary facilities fees and academic fees which may be imposed pursuant to this subtitle, and retain the interest revenue or other investment income thereon, for the purpose of acquiring, constructing, reconstructing, renovating, equipping, maintaining, repairing, and operating auxiliary and academic facilities;

(6) Acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this title;

(7) Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this title, and employ consulting engineers, architects, attorneys, construction and financial experts, and other employees and agents as may be necessary, and fix their compensation;

(8) Receive and accept from the United States of America or any agency thereof grants and loans for the purpose of financing or refinancing all or any part of the costs of any 1 or more projects, and receive and accept aid or contributions from any sources of money, property, labor, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions were made; and

(9) Do all acts and things necessary or convenient to carry out the powers expressly granted by the provisions of this title.

(b) A system may not pledge all or any part of the revenues received from:

(1) A State appropriation;

(2) Contracts, grants, or gifts received or to be received by a system, other than contracts for tuition, student fees, activity fees, or auxiliary facilities fees; or

(3) Any other source not expressly authorized by the General Assembly.

(c) (1) **[**Except as provided in paragraph (3) of this subsection, the**]** **THE** aggregate principal amount of bonds outstanding and the present value of capital lease payments, less the amount of any reserve fund or sinking fund requirement established for the bonds or capital leases, may not exceed, as of the date of issue of the bonds, the following:

(i) $1,050,000,000 for the University System of Maryland;

(ii) $88,000,000 for Morgan State University;

(iii) $60,000,000 for St. Mary's College of Maryland; and

(iv) **[**$15,000,000**]** ~~**$50,000,000**~~ **$65,000,000** for Baltimore City Community College.

(2) Bonds outstanding do not include:

(i) Bonds previously issued by a system or any predecessor that are to be refunded, but only:

1. To the extent of any outstanding principal on the bonds that are being refunded; and

2. If an escrow or other similar arrangement has been made and held by the State Treasurer, a bank, or a trust company for the payment of such bonds, whether or not redeemed; or

(ii) Borrowings pursuant to § 12–105(c) of this article, except to the extent that such borrowings are subject to a financing agreement the term of which is for more than 5 years for the acquisition of the personal property.

[(3) Notwithstanding any other provision in this subsection, the Baltimore City Community College may issue bonds only for the purpose of financing auxiliary facilities.**]**

(d) (1) A system may not issue bonds for the purpose of financing all or any part of the costs of any academic facility or facilities until the General Assembly has approved in an act the:

(i) Project or projects for any academic facility or facilities; and

(ii) Maximum principal amount of bonds a system may issue in connection with such project or projects for any academic facility or facilities.

(2) The General Assembly's approval shall expressly authorize the project or projects for any academic facility or facilities and the maximum principal amount of bonds a system may issue in connection with such project or projects for the academic facility or facilities.

(3) Without the approval of the General Assembly, a system may issue bonds to refinance all or any part of the costs of any project for any academic facility or facilities for which a system previously issued bonds under the authority of this section.

(4) (i) Any bonds issued under the requirements of this subsection shall mature at such times not exceeding the useful life of the project for which the bonds are issued, but not later than 21 years after their respective dates of issue, as may be determined by a system.

(ii) Any bonds issued in accordance with paragraph (3) of this subsection shall mature at such times as may be determined by a system, but not later than 21 years after the date of issue of the bonds that were originally issued for the academic facility or facilities authorized under the requirements of this subsection.

(e) (1) A system shall maintain records identifying the sources and amounts of payments used to support:

(i) The auxiliary facilities; and

(ii) The academic facilities authorized under the requirements of this subtitle.

(2) A system shall report:

(i) By September 1 to the Board of Public Works and, subject to § 2–1246 of the State Government Article, to the Department of Legislative Services, the information for the prior fiscal year required under paragraph (1) of this subsection; and

(ii) By December 1, subject to § 2–1246 of the State Government Article, to the Department of Legislative Services, the anticipated sources and amounts of payments required for the next fiscal year for:

1. Auxiliary facilities; and

2. Academic facilities authorized under the requirements of this subtitle.

Article – State Finance and Procurement

8–112.

(e) (1) In addition to its other duties under this section, the Committee shall review on a continuing basis the size and condition of any debt of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and the Baltimore City Community College.

(2) In preparing an estimate with respect to the authorization of any new State debt, the Committee shall take into account as part of the affordability analysis any debt for academic facilities to be issued by a System.

(3) At the same time that the Committee makes its report as required under subsection (b) of this section, the Committee shall submit to the Governor and the General Assembly the Committee's estimate of the amount of new bonds for academic facilities that prudently may be authorized in the aggregate for the next fiscal year by the University System of Maryland, Morgan State University, **[**and**]** St. Mary's College of Maryland**, AND THE BALTIMORE CITY COMMUNITY COLLEGE**.

(4) For purposes of this subtitle, the terms "System" and "academic facilities" have the meanings stated in § 19–101 of the Education Article.

(5) The Committee may request any needed information from a System and shall consider the information in making its estimates, including any information submitted by a System at its own initiative.

(6) This estimate:

(i) is advisory; and

(ii) does not bind the General Assembly, the Board, or the Governor.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 455 – *Caroline County Board of Education – Election and Appointment of Members – Referendum*.

This bill restructures the Caroline County Board of Education, subject to voter approval via referendum in the 2010 election. It requires that of the five voting members of the board, three members be elected by county residents from education districts established by the county commissioners and two members be appointed by the Governor with the advice and consent of the Senate. The bill also establishes qualifications for elected members and student members serving on the board, establishes the term of office for elected members, and provides a procedure for filling vacancies on the board.

Senate Bill 964, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 455.

Sincerely,

Martin O'Malley
Governor

House Bill 455

AN ACT concerning

Caroline County ~~– Elected School Board~~ Board of Education – Election *and Appointment* of Members – Referendum

FOR the purpose of requiring that ~~the~~ *certain* members of the Caroline County Board of Education be elected; *requiring that certain members of the Caroline County Board of Education be appointed;* establishing a procedure for the election of *certain* members of the county board; ~~specifying member qualifications; establishing a certain term of office for elected members, specifying the initial terms of the elected members, and staggering the terms of the members; providing a procedure for filling a vacancy on the county board; requiring the county board to conduct certain interviews and publish certain notices when filling a vacancy; providing for a nonvoting student member; providing for the removal of members under certain circumstances; providing for the election of the president and vice president of the county board; providing for the compensation and expenses of the members of the county board; requiring the county board to meet at certain intervals; providing that the terms of the appointed members of the county board shall expire on a certain date; making a stylistic change;~~ specifying that ~~the~~ *certain* members be elected by certain districts; specifying *elected* member qualifications; *establishing qualifications for certain student members; providing that certain high schools in Caroline County have representation through a student member of the county board; providing for the appointment of certain members by the Governor; specifying certain criteria for the Governor with regard to the appointment of certain members; providing for the nomination and selection of certain student members;* establishing a certain term of office for the *elected* members; specifying the initial terms of the *elected* members and staggering their terms; providing a procedure for filling ~~a vacancy~~ *certain vacancies* on the county board; requiring the county board to conduct certain interviews and publish certain notices when filling a vacancy; providing for the removal of *certain* members under certain circumstances; providing for the election of the president and vice president of the county board; providing for the compensation and expenses of ~~the~~ *certain* members of the county board; requiring the county board to meet at certain intervals; providing that the terms of certain appointed members of the county board shall expire on a certain date; making a stylistic change; submitting this Act to a referendum of the legally qualified voters of Caroline County; and generally relating to the Caroline County Board of Education and the election *and appointment* of its members.

BY repealing and reenacting, with amendments,
Article – Education
Section ~~3–114(a)~~ *3–108(a) and 3–114*
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Education
Section 3–3A–01 through ~~3–3A–05~~ 3–3A–06 to be under the new subtitle "Subtitle 3A. Caroline County"
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

3–108.

(a) ***(1)*** *Except* ***[****for the Baltimore City Board of School Commissioners established under § 3–108.1 of this subtitle, counties listed in § 3–114 of this subtitle, and subject to the provisions of § 3–110 of this subtitle with respect to the Anne Arundel County Board of Education****]* ***AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION****, the Governor shall appoint the members of each county board from the residents of that county.*

(2) THE MEMBERS OF THE FOLLOWING COUNTY BOARDS OF EDUCATION SHALL BE SELECTED AS FOLLOWS:

(I) THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS IN ACCORDANCE WITH § 3–108.1 OF THIS SUBTITLE;

(II) THE CAROLINE COUNTY BOARD OF EDUCATION IN ACCORDANCE WITH § 3–3A–02 OF THIS TITLE;

(III) THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION IN ACCORDANCE WITH § 3–110 OF THIS SUBTITLE; AND

(IV) THE COUNTY BOARDS OF EDUCATION IN THE COUNTIES LISTED IN § 3–114 OF THIS SUBTITLE IN ACCORDANCE WITH THE PROVISIONS OF THAT SECTION.

3–114.

(a) In the following counties, the members of the county board shall be elected:

(1) Allegany;

(2) Calvert;

~~**(3) CAROLINE;**~~

~~**[**(3)**]** **(4)** Carroll;~~

~~**[**(4)**]** **(5)** Cecil;~~

~~[(5)]~~ ~~(6)~~ ~~Charles;~~

~~[(6)]~~ ~~(7)~~ ~~Dorchester;~~

~~[(7)]~~ ~~(8)~~ ~~Frederick;~~

~~[(8)]~~ ~~(9)~~ ~~Garrett;~~

~~[(9)]~~ ~~(10)~~ ~~Howard;~~

~~[(10)]~~ ~~(11)~~ ~~Kent;~~

~~[(11)~~ ~~Prince George's;~~

~~(12)~~ ~~Montgomery;]~~

~~(12)~~ ~~MONTGOMERY;~~

~~(13)~~ ~~PRINCE GEORGE'S;~~

~~[(13)]~~ ~~(14)~~ ~~Queen Anne's;~~

~~[(14)]~~ ~~(15)~~ ~~St. Mary's;~~

~~[(15)]~~ ~~(16)~~ ~~Somerset;~~

~~[(16)]~~ ~~(17)~~ ~~Talbot;~~

~~[(17)]~~ ~~(18)~~ ~~Washington; and~~

~~[(18)]~~ ~~(19)~~ ~~Worcester.~~

(3) *Carroll;*

(4) *Cecil;*

(5) *Charles;*

(6) *Dorchester;*

(7) *Frederick;*

(8) *Garrett;*

(9) *Howard;*

(10) Kent;

(11) Prince George's;

(12) Montgomery;

(13) Queen Anne's;

(14) St. Mary's;

(15) Somerset;

(16) Talbot;

(17) Washington; and

(18) Worcester.

(B) IN CAROLINE COUNTY, IN ACCORDANCE WITH SUBTITLE 3A OF THIS TITLE, THE MEMBERS OF THE COUNTY BOARD SHALL BE A COMBINATION OF MEMBERS WHO ARE ELECTED AND APPOINTED.

[*(b)****]*** ***(C)*** *An individual subject to the authority of the county board may not serve as a member of the county board. At the time of filing a certificate of candidacy for election to a county board, a person shall certify to the local board of supervisors of election whether or not he is subject to the authority of the county board. The Governor shall not issue a commission of election to a person who has certified affirmatively and who is elected to a county board until the member–elect offers proof that he is no longer subject to the authority of the county board.*

[*(c)****]*** ***(D)*** *The election of the county boards shall be held as provided in Subtitles 2 through 14 of this title and the Election Law Article.*

SUBTITLE 3A. CAROLINE COUNTY.

3–3A–01.

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

(B) "APPOINTED MEMBER" MEANS ONE OF THE TWO VOTING MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, UNDER § 3–3A–02(B)(3)(I)1 OF THIS SUBTITLE.

~~(B)~~ *(C)* "BOARD OF EDUCATION DISTRICT" OR "DISTRICT" MEANS A GEOGRAPHIC AREA OF CAROLINE COUNTY IN WHICH AN ELECTED MEMBER OF THE CAROLINE COUNTY BOARD OF EDUCATION MUST BE A LEGAL RESIDENT.

~~(C)~~ *(D)* *(1)* "ELECTED MEMBER" MEANS ONE OF THE ~~FIVE~~ *THREE* NONPARTISAN VOTING MEMBERS OF THE CAROLINE COUNTY BOARD OF EDUCATION *ELECTED BY THE VOTERS OF CAROLINE COUNTY.*

(2) "ELECTED MEMBER" DOES NOT INCLUDE THE NONVOTING STUDENT MEMBERS SELECTED UNDER § 3–3A–02(F) OF THIS SUBTITLE.

3–3A–02.

(A) THE CAROLINE COUNTY BOARD OF EDUCATION CONSISTS OF~~:~~

~~(1) FIVE VOTING, NONPARTISAN, ELECTED MEMBERS; AND~~

~~(2) ONE NONVOTING STUDENT MEMBER.~~

~~(B) THE FIVE VOTING, NONPARTISAN, ELECTED MEMBERS SHALL BE ELECTED AT–LARGE BY THE VOTERS OF THE ENTIRE COUNTY AT A GENERAL ELECTION IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.~~ ~~FIVE~~*:*

(1) THREE ELECTED MEMBERS*;*

(2) TWO APPOINTED MEMBERS; AND

(3) TWO NONVOTING STUDENT MEMBERS.

(B) (1) ONE ELECTED MEMBER SHALL BE ELECTED FROM EACH OF THE ~~FIVE~~ *THREE* BOARD OF EDUCATION DISTRICTS ESTABLISHED IN CAROLINE COUNTY.

(2) AN ELECTED MEMBER SHALL BE:

(I) A RESIDENT OF THE DISTRICT FROM WHICH THE MEMBER IS ELECTED; AND

(II) ELECTED ONLY BY THE VOTERS OF THAT DISTRICT.

(3) (I) 1. TWO APPOINTED MEMBERS SHALL BE APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, FROM THE COUNTY AT–LARGE.

2. EACH APPOINTED MEMBER SHALL BE A RESIDENT OF THE COUNTY.

(II) IN APPOINTING MEMBERS TO THE COUNTY BOARD, THE GOVERNOR SHALL ENSURE, TO THE EXTENT PRACTICABLE, THAT THE TOTAL MAKEUP OF THE COUNTY BOARD REFLECTS GENDER, ETHNIC, AND RACIAL DIVERSITY.

(C) (1) THE BOARD OF EDUCATION DISTRICTS SHALL:

(I) BE ESTABLISHED BY THE COUNTY COMMISSIONERS OF CAROLINE COUNTY; AND

(II) BE SUBSTANTIALLY EQUAL IN POPULATION AND REAPPORTIONED ON THE BASIS OF EACH DECENNIAL CENSUS OF THE UNITED STATES.

(2) REAPPORTIONED DISTRICTS SHALL BECOME EFFECTIVE FOR THE TERM OF OFFICE COMMENCING AFTER THE FIRST REGULAR PRIMARY ELECTION HELD AT LEAST 15 MONTHS AFTER THE OFFICIAL REPORT ON POPULATION IS RECEIVED BY THE STATE FROM THE BUREAU OF THE CENSUS.

(D) (1) AS APPLICABLE FOR THAT BOARD OF EDUCATION DISTRICT, AT THE GENERAL ELECTION THE BALLOT SHALL PROVIDE THE VOTER WITH THE CHOICE TO CAST A VOTE "FOR" A CANDIDATE FOR ELECTION FROM THAT DISTRICT.

(2) AFTER THE ELECTION RESULTS ARE CERTIFIED, THE STATE BOARD OF ELECTIONS SHALL DECLARE FOR EACH DISTRICT WHETHER A CANDIDATE HAS BEEN ELECTED.

~~(C)~~ (E) (1) ~~A CANDIDATE~~ AN INDIVIDUAL ELECTED TO THE COUNTY BOARD SHALL BE AT LEAST 21 YEARS OLD AND A REGISTERED VOTER AND RESIDENT OF CAROLINE COUNTY FOR AT LEAST 3 YEARS.

~~(2) A MEMBER WHO NO LONGER RESIDES IN CAROLINE COUNTY OR WHO IS NOT A REGISTERED VOTER OF CAROLINE COUNTY MAY NOT CONTINUE AS A MEMBER OF THE COUNTY BOARD.~~

(2) A MEMBER MAY NOT CONTINUE AS A MEMBER OF THE COUNTY BOARD IF THE MEMBER:

(I) NO LONGER RESIDES IN THE BOARD OF EDUCATION DISTRICT THAT THE MEMBER IS DESIGNATED TO REPRESENT; OR

(II) IS NOT A REGISTERED VOTER OF CAROLINE COUNTY.

(3) AN INDIVIDUAL EMPLOYED BY, OR UNDER THE DIRECTION OF, THE COUNTY BOARD OR OF THE CAROLINE COUNTY SUPERINTENDENT OF SCHOOLS IS NOT ELIGIBLE TO SERVE ON THE COUNTY BOARD.

(F) (1) A STUDENT MEMBER OF THE COUNTY BOARD SHALL:

(I) BE A REGULARLY ENROLLED ELEVENTH OR TWELFTH GRADE STUDENT OF GOOD CHARACTER AND IN GOOD STANDING IN A CAROLINE COUNTY PUBLIC HIGH SCHOOL DURING THE STUDENT'S TERM IN OFFICE;

(II) BE SELECTED IN THE STUDENT'S TENTH OR ELEVENTH GRADE IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION; AND

(III) 1. SERVE FOR A TERM OF 1 YEAR; AND

2. IF THE STUDENT IS IN THE TWELFTH GRADE, CONTINUE TO SERVE AFTER GRADUATION AND UNTIL A SUCCESSOR IS SELECTED AND QUALIFIES.

(2) EACH HIGH SCHOOL IN THE COUNTY SHALL BE REPRESENTED BY A STUDENT MEMBER OF THE COUNTY BOARD.

(3) (I) FOR NOMINATION TO THE COUNTY BOARD, THE STUDENT BODY SHALL SUBMIT TO THE PRINCIPAL OF THE HIGH SCHOOL A LIST OF NOMINEES THAT CONTAINS THE NAMES OF ELIGIBLE STUDENTS.

(II) THE PRINCIPAL OF THE HIGH SCHOOL SHALL SELECT THE STUDENT MEMBER FROM THE LIST OF NOMINEES SUBMITTED TO THE PRINCIPAL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(4) IF A VACANCY IN THE POSITION OF STUDENT MEMBER OCCURS DURING THE TERM OF A STUDENT MEMBER, THE PRINCIPAL OF THE HIGH SCHOOL REPRESENTED ON THE COUNTY BOARD SHALL SELECT ANOTHER STUDENT MEMBER USING THE METHOD SET FORTH UNDER PARAGRAPH (3) OF THIS SUBSECTION.

~~(D)~~ ~~(E)~~ *(G)* (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH ~~VOTING, NONPARTISAN,~~ ELECTED MEMBER SERVES FOR A TERM OF 4 YEARS BEGINNING ON THE FIRST MONDAY IN DECEMBER AFTER THE MEMBER'S ELECTION AND UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES.

(2) THE INITIAL TERMS OF THE ELECTED ~~VOTING~~ MEMBERS ARE STAGGERED AS FOLLOWS:

(I) THE THREE MEMBERS ELECTED TO THE COUNTY BOARD AT THE GENERAL ELECTION IN NOVEMBER ~~2010~~ 2012 WHO RECEIVE THE HIGHEST NUMBER OF VOTES CAST FROM AMONG THE SUCCESSFUL CANDIDATES AT THAT ELECTION SHALL SERVE FOR A TERM OF 4 YEARS; AND

(II) THE ~~TWO MEMBERS~~ *MEMBER* ELECTED TO THE COUNTY BOARD AT THE GENERAL ELECTION IN NOVEMBER ~~2010~~ 2012 WHO ~~RECEIVE~~ *RECEIVES* THE LEAST NUMBER OF VOTES CAST FROM AMONG THE SUCCESSFUL CANDIDATES AT THAT ELECTION SHALL SERVE FOR A TERM OF 2 YEARS.

~~(E)~~ ~~(G)~~ *(H)* (1) IN THE EVENT OF A VACANCY *OF AN ELECTED MEMBER* ON THE COUNTY BOARD DUE TO DEATH, RESIGNATION, DISQUALIFICATION, OR REMOVAL, THE REMAINING ~~VOTING, NONPARTISAN~~, ~~ELECTED,~~ ~~ELECTED~~ *VOTING* MEMBERS ~~OF THE COUNTY BOARD~~ SHALL SELECT A QUALIFIED INDIVIDUAL TO FILL THE VACANCY FOR THE REMAINDER OF THE TERM OF THE VACATING MEMBER AND UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES.

(2) AN INDIVIDUAL APPOINTED TO FILL A VACANCY FOR AN ELECTED MEMBER SHALL BE A RESIDENT OF THE SAME BOARD OF EDUCATION DISTRICT AS THAT OF THE VACATING MEMBER.

~~(2)~~ (3) BEFORE FILLING A VACANCY FOR AN ELECTED MEMBER, THE REMAINING ~~VOTING,~~ ~~NONPARTISAN,~~ ~~ELECTED~~ *VOTING* MEMBERS OF THE COUNTY BOARD SHALL CONDUCT AN INTERVIEW OF EACH APPLICANT AT AN OPEN MEETING.

~~(3)~~ (4) (I) THE COUNTY BOARD SHALL PUBLISH A LIST OF THE NAMES OF THE APPLICANTS FOR A VACANCY ON THE COUNTY BOARD AT LEAST 2 WEEKS BEFORE THE INTERVIEW OF THE FIRST APPLICANT IS SCHEDULED TO OCCUR.

(II) THE COUNTY BOARD SHALL CAUSE PUBLIC NOTICE OF THE DATE, TIME, AND LOCATION OF THE INTERVIEW FOR EACH APPLICANT TO BE PUBLISHED:

1. AT LEAST 2 WEEKS BEFORE THE INTERVIEW IS SCHEDULED TO OCCUR; AND

2. IN THE SAME MANNER AS PUBLIC NOTICE OF A REGULAR MEETING OF THE COUNTY BOARD IS PUBLISHED.

~~(4)~~ (5) THE COUNTY BOARD IS NOT REQUIRED TO CONDUCT DISCUSSIONS OF THE APPLICANTS OR MAKE THE FINAL SELECTION OF THE ~~VOTING, NONPARTISAN, ELECTED~~ *VOTING* MEMBER TO FILL THE VACANCY AT AN OPEN MEETING.

(I) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH APPOINTED MEMBER SERVES FOR A TERM OF 4 YEARS BEGINNING ON THE FIRST MONDAY IN DECEMBER 2012.

(2) THE INITIAL TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS FOLLOWS:

(I) ONE APPOINTED MEMBER SHALL SERVE FOR A TERM OF 6 YEARS; AND

(II) ONE APPOINTED MEMBER SHALL SERVE FOR A TERM OF 4 YEARS.

(3) IN THE EVENT OF A VACANCY OF AN APPOINTED MEMBER DUE TO DEATH, RESIGNATION, DISQUALIFICATION, OR REMOVAL, THE GOVERNOR SHALL APPOINT ANOTHER INDIVIDUAL TO COMPLETE THE TERM OF THE VACATING APPOINTED MEMBER.

~~(F) (1) THE NONVOTING STUDENT MEMBER OF THE COUNTY BOARD SHALL BE AN 11TH– OR 12TH–GRADE STUDENT IN GOOD STANDING IN THE CAROLINE COUNTY PUBLIC SCHOOL SYSTEM.~~

~~(2) (I) THE STUDENT MEMBER AND AN ALTERNATE STUDENT MEMBER SHALL BE SELECTED IN ACCORDANCE WITH PROCEDURES APPROVED BY THE COUNTY BOARD.~~

~~(II) THE PROCEDURES APPROVED BY THE COUNTY BOARD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL REFLECT RECOMMENDATIONS BY AND THE INVOLVEMENT OF THE STUDENT COUNCILS OF CAROLINE COUNTY.~~

~~(3) THE TERM OF THE STUDENT MEMBER IS 1 YEAR.~~

~~(4) THE STUDENT MEMBER MAY NOT VOTE, BUT MAY INDICATE A PREFERENCE FOR OR AGAINST ANY QUESTION BEFORE THE COUNTY BOARD.~~

~~(5) UNLESS INVITED TO ATTEND BY AN AFFIRMATIVE VOTE OF A MAJORITY OF THE COUNTY BOARD, THE STUDENT MEMBER MAY NOT ATTEND ANY EXECUTIVE SESSION OF THE COUNTY BOARD THAT RELATES TO~~

~~PERSONNEL, SPECIAL EDUCATION PLACEMENTS, COLLECTIVE BARGAINING, OR HEARINGS HELD UNDER § 6–202 OF THIS ARTICLE.~~

~~(6) THE STUDENT MEMBER MAY NOT RECEIVE COMPENSATION, BUT MAY BE REIMBURSED FOR OUT–OF–POCKET EXPENSES INCURRED IN CONNECTION WITH OFFICIAL DUTIES APPROVED BY THE COUNTY BOARD IN ACCORDANCE WITH THE POLICIES OF THE CAROLINE COUNTY PUBLIC SCHOOL SYSTEM.~~

~~3–3A–02.~~ 3–3A–03.

(A) WITH THE APPROVAL OF THE GOVERNOR, THE STATE BOARD MAY REMOVE ~~A VOTING, NONPARTISAN, ELECTED~~ ANY MEMBER OF THE COUNTY BOARD FOR ANY OF THE FOLLOWING REASONS:

(1) IMMORALITY;

(2) MISCONDUCT IN OFFICE;

(3) INCOMPETENCY; OR

(4) WILLFUL NEGLECT OF DUTY.

(B) BEFORE REMOVING A ~~VOTING, NONPARTISAN, ELECTED~~ MEMBER, THE STATE BOARD SHALL SEND THE MEMBER A COPY OF THE CHARGES AGAINST THE MEMBER AND GIVE THE MEMBER AN OPPORTUNITY WITHIN 10 DAYS TO REQUEST A HEARING.

(C) IF THE ~~VOTING, NONPARTISAN, ELECTED~~ MEMBER REQUESTS A HEARING WITHIN THE 10–DAY PERIOD:

(1) (I) THE STATE BOARD PROMPTLY SHALL HOLD A HEARING; BUT

(II) A HEARING MAY NOT BE SET WITHIN 10 DAYS AFTER THE STATE BOARD SENDS THE MEMBER A NOTICE OF THE HEARING; AND

(2) THE ~~VOTING, NONPARTISAN, ELECTED~~ MEMBER SHALL HAVE AN OPPORTUNITY TO BE HEARD PUBLICLY BEFORE THE STATE BOARD IN THE MEMBER'S OWN DEFENSE, IN PERSON OR BY COUNSEL.

(D) A ~~VOTING, NONPARTISAN, ELECTED~~ MEMBER REMOVED UNDER THIS SECTION HAS THE RIGHT TO A DE NOVO REVIEW OF THE REMOVAL BY THE CIRCUIT COURT FOR CAROLINE COUNTY.

~~3–3A–03.~~ 3–3A–04.

(A) ~~(1)~~ ~~SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AT~~ AT ITS FIRST MEETING IN DECEMBER OF EACH YEAR, THE ~~VOTING, NONPARTISAN, ELECTED~~ *VOTING* MEMBERS OF THE COUNTY BOARD SHALL ELECT A PRESIDENT AND VICE PRESIDENT FROM AMONG ITS MEMBERS.

~~(2) IN AN ELECTION YEAR, THE COUNTY BOARD SHALL ELECT ITS OFFICERS AT THE FIRST MEETING OF THE NEW COUNTY BOARD.~~

(B) IN THE EVENT OF A VACANCY IN THE OFFICE OF PRESIDENT OR VICE PRESIDENT OF THE COUNTY BOARD, THE ~~VOTING, NONPARTISAN, ELECTED~~ *VOTING* MEMBERS OF THE COUNTY BOARD SHALL ELECT A NEW OFFICER TO FILL THE VACANCY WITHIN 30 DAYS AFTER THE VACANCY OCCURS.

~~3–3A–04.~~ 3–3A–05.

(A) THE PRESIDENT OF THE COUNTY BOARD IS ENTITLED TO RECEIVE $4,000 ANNUALLY AS COMPENSATION , AND THE OTHER VOTING~~, NONPARTISAN, ELECTED~~ MEMBERS ~~EACH~~ ARE ENTITLED TO RECEIVE $3,500 ANNUALLY AS COMPENSATION.

(B) AS PROVIDED IN THE CAROLINE COUNTY BUDGET, EACH ~~VOTING, NONPARTISAN, ELECTED~~ *VOTING* MEMBER IS ENTITLED TO AN ALLOWANCE FOR TRAVEL AND OTHER EXPENSES.

(C) ~~A VOTING, NONPARTISAN, AN ELECTED~~ *A VOTING* MEMBER IS NOT ELIGIBLE FOR ANY FRINGE BENEFIT PROVIDED BY THE CAROLINE COUNTY PUBLIC SCHOOL SYSTEM, THE CAROLINE COUNTY BOARD OF EDUCATION, OR THE COUNTY COMMISSIONERS OF CAROLINE COUNTY, INCLUDING:

(1) HEALTH INSURANCE;

(2) LIFE INSURANCE; AND

(3) A PENSION.

~~3–3A–05.~~ 3–3A–06.

(A) THE COUNTY BOARD SHALL MEET AT LEAST ONCE EACH MONTH.

(B) (1) EACH MEETING OF THE COUNTY BOARD SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE MARYLAND OPEN MEETINGS ACT, TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE.

(2) THE COUNTY BOARD MAY AVAIL ITSELF OF ANY EXCLUSION AUTHORIZED UNDER THE MARYLAND OPEN MEETINGS ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of this Act, the terms of the appointed members of the Caroline County Board of Education in office on the effective date of this Act shall expire at the end of December ~~5,~~ 2, 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That before this Act becomes effective it shall first be submitted to a referendum of the legally qualified voters of Caroline County at the general election to be held in November of 2010. The County governing body and the Caroline County Board of Elections shall do those things necessary and proper to provide for and hold the referendum required by this section. There shall be printed on the ballot to be used at this election the title of this Act and underneath the title, on separate lines, a square or box opposite the words "For a Board of Education ~~Elected by the Voters of Caroline County~~ *Elected in Part by the Voters of Caroline County (3 members) and Appointed in Part by the Governor (2 members)*" and a corresponding square box opposite the words "For a Board of Education Appointed by the Governor". A voter may choose only one of the methods of selection. If a majority of the votes cast on the question are "For a Board of Education ~~Elected by the Voters of Caroline County~~ *Elected in Part by the Voters of Caroline County (3 members) and Appointed in Part by the Governor (2 members)*", the provisions of this Act shall become effective on the 30th day following the official canvass of votes for the referendum.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, ~~That this Act shall take effect October 1, 2009.~~ That, subject to the provisions of Section 3 of this Act and for the sole purpose of providing for the referendum required by Section 3 of this Act, this Act shall take effect October 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 466 – *State Retirement Agency – Monitoring of Telephone Calls – Quality Assurance*.

This bill authorizes the Board of Trustees of the State Retirement and Pension System to adopt regulations allowing managers to monitor and record incoming telephone conversations to employees of the Member Services Division of the State Retirement Agency for training and quality control purposes.

Senate Bill 179, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 466.

Sincerely,

Martin O'Malley
Governor

House Bill 466

AN ACT concerning

State Retirement Agency – Monitoring of Telephone Calls – Quality Assurance

FOR the purpose of authorizing the Board of Trustees of the State Retirement and Pension System to adopt regulations to manage, for a certain purpose, the monitoring and recording of certain telephone calls by the State Retirement Agency; and generally relating to the monitoring of telephone calls by the State Retirement Agency for quality assurance purposes.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–110(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – State Personnel and Pensions

21–110.

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

(1) the administration of the several systems;

(2) the management of the assets of the several systems;

(3) the transaction of its business; **[**and**]**

(4) the imposition of an administrative fee on any participating employer that fails to provide the information required by the State Retirement Agency to properly enroll eligible employees in the several systems**; AND**

(5) NOTWITHSTANDING THE PROVISIONS OF § 9–602 OF THE CRIMINAL LAW ARTICLE, THE MANAGEMENT OF MONITORING AND RECORDING INCOMING TELEPHONE CONVERSATIONS TO ~~AND FROM~~ EMPLOYEES OF THE MEMBER SERVICES DIVISION OF THE STATE RETIREMENT AGENCY, ~~FROM~~ TO TELEPHONES WITHIN THE OFFICES OF THE STATE RETIREMENT AGENCY, FOR ~~THE PURPOSE OF ASSURING THAT THE MEMBERS AND RETIREES OF THE SEVERAL SYSTEMS ARE PROVIDED CORRECT RETIREMENT BENEFIT INFORMATION~~ TRAINING AND QUALITY CONTROL PURPOSES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 553 – *Maryland Condominium Act – Closed Meetings of Board of Directors.*

House Bill 553 repeals a specified condition on which a meeting of the board of directors of a condominium council of unit owners may be held in closed session. The bill also alters conditions on which a meeting of a board of directors may be held in closed session and authorizes a board of directors to hold a meeting in closed session in order to discuss an individual owner assessment account.

Senate Bill 171, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 553.

Sincerely,

Martin O'Malley
Governor

House Bill 553

AN ACT concerning

Maryland Condominium Act – Closed Meetings of Board of Directors

FOR the purpose of repealing a certain condition on which a meeting of the board of directors of a condominium council of unit owners may be held in closed session; altering certain conditions on which a meeting of a board of directors may be held in closed session; authorizing a board of directors to hold a meeting in closed session in order to discuss an individual owner assessment account; and generally relating to closed meetings of the board of directors of a council of unit owners.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–109.1(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

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

Article – Real Property

11–109.1.

(a) A meeting of the board of directors may be held in closed session only for the following purposes:

(1) Discussion of matters pertaining to employees and personnel;

(2) Protection of the privacy or reputation of individuals in matters not related to the council of unit owners' business;

(3) Consultation with legal counsel **ON LEGAL MATTERS**;

(4) Consultation with staff personnel, consultants, attorneys, **BOARD MEMBERS,** or other persons in connection with pending or potential litigation **OR OTHER LEGAL MATTERS**;

(5) Investigative proceedings concerning possible or actual criminal misconduct; ~~OR~~

(6) Complying with a specific constitutional, statutory, or judicially imposed requirement protecting particular proceedings or matters from public disclosure**[**; or

(7) On an individually recorded affirmative vote of two–thirds of the board members present, for some other exceptional reason so compelling as to override the general public policy in favor of open meetings**]**~~.~~**; OR**

(7) DISCUSSION OF INDIVIDUAL OWNER ASSESSMENT ACCOUNTS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 572 – *Washington Metropolitan Area Transit Authority – Finance and Governance*.

This bill amends the Washington Metropolitan Area Transit Authority (WMATA) Compact to add two federally appointed, voting board members, require an Office of the Inspector General at WMATA, and require Virginia, Maryland, and the District of Columbia to make payments from a dedicated funding source to match up to $1.5 billion in federal funds for WMATA capital and preventive maintenance projects.

Senate Bill 915, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 572.

Sincerely,

Martin O'Malley
Governor

House Bill 572

AN ACT concerning

Washington Metropolitan Area Transit Authority – Finance and Governance

FOR the purpose of amending the Washington Metropolitan Area Transit Authority Compact in order to comply with certain federal requirements; increasing the number of directors on the Washington Metropolitan Area Transit Authority Board to include directors representing the federal government, subject to a certain requirement; providing for the appointment of federal directors and alternates; establishing an Office of the Inspector General within the Washington Metropolitan Area Transit Authority; providing for the duties and functions of the Office; providing that the ~~Director~~ head of the Office is the Inspector General; requiring that certain payments made by signatories to the Washington Metropolitan Area Transit Authority to match certain federal funds be made from certain dedicated funding sources; requiring the Maryland Department of Transportation to provide grants from the Transportation Trust Fund to the Washington Suburban Transit District for the purpose of funding Maryland's required share of local funds for the Washington Metropolitan Area Transit Authority to match certain federal funds; defining a certain term; clarifying language; making this Act subject to a certain contingency; and generally relating to the finance and governance of the Washington Metropolitan Area Transit Authority.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 10–204 Title III Article III Section 5 and 9 and Article VII Section 18; and 10–205
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Transportation

10–204.

TITLE III

ARTICLE III

Organization and Area

5.

(a) The Authority shall be governed by a Board of **[**six**]** **EIGHT** Directors consisting of two Directors for each signatory **AND TWO FOR THE FEDERAL** ~~**GOVERNMENT, ONE**~~ **GOVERNMENT (ONE OF WHOM SHALL BE A REGULAR PASSENGER AND CUSTOMER OF THE BUS OR RAIL SERVICE OF THE** ~~**AUTHORITY**~~ **AUTHORITY)**. **[**For Virginia, the**]** ~~**THE**~~ Directors shall be appointed~~**, FOR VIRGINIA,**~~ by the Northern Virginia Transportation Commission; for the District of Columbia, by the Council of the District of Columbia; **[**and**]** for Maryland, by the Washington Suburban Transit Commission**; AND FOR THE FEDERAL GOVERNMENT, BY THE ADMINISTRATOR OF GENERAL SERVICES**. For Virginia and Maryland, the Directors shall be appointed from among the members of the appointing body, except as otherwise provided herein, and shall serve for a term coincident with their term on the appointing body. A Director **FOR A SIGNATORY** may be removed or suspended from office only as provided by the law of the signatory from which he was appointed. The **NONFEDERAL** appointing authorities shall also appoint an alternate for each Director**[**, who**]**. **IN ADDITION, THE ADMINISTRATOR OF GENERAL SERVICES SHALL ALSO APPOINT TWO NONVOTING** ~~**DIRECTORS**~~ **MEMBERS WHO SHALL SERVE AS THE ALTERNATES FOR THE FEDERAL DIRECTORS. AN ALTERNATE** ~~**DIRECTOR**~~ **DIRECTOR** may act only in the absence of the Director for whom he has been appointed an alternate, except that, in the case of the District of Columbia where only one Director and his alternate are present, such alternate may act on behalf of the absent Director. Each alternate**, INCLUDING THE FEDERAL NONVOTING** ~~**DIRECTORS**~~ **DIRECTORS,** shall serve at the pleasure of the appointing authority. In the event of a vacancy in the Office of Director or alternate, it shall be filled in the same manner as an original appointment.

(b) Before entering upon the duties of his office each Director and alternate director shall take and subscribe to the following oath (or affirmation) of office or any such other oath or affirmation, if any, as the constitution or laws of the **[**signatory**]** ~~**GOVERNMENT**~~ **GOVERNMENT** he represents shall provide:

"I, ..., hereby solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of the state or political jurisdiction from which I was appointed as a Director (alternate director) of the Board of Washington Metropolitan Area Transit Authority and will faithfully discharge the duties of the office upon which I am about to enter."

9.

(a) The officers of the Authority, none of whom shall be members of the board, shall consist of a general manager, a secretary, a treasurer, a comptroller**, AN INSPECTOR GENERAL,** and a general counsel and such other officers as the board may provide. Except for the office of general manager**, INSPECTOR GENERAL,** and comptroller, the board may consolidate any of such other offices in one person. All such officers shall be appointed and may be removed by the board, shall serve at the pleasure of the board and shall perform such duties and functions as the board shall

specify. The board shall fix and determine the compensation to be paid to all officers and, except for the general manager who shall be a full–time employee, all other officers may be hired on a full–time or part–time basis and may be compensated on a salary or fee basis, as the board may determine. All employees and such officers as the board may designate shall be appointed and removed by the general manager under such rules of procedure and standards as the board may determine.

(b) The general manager shall be the chief administrative officer of the Authority and, subject to policy direction by the board, shall be responsible for all activities of the Authority.

(c) The treasurer shall be the custodian of the funds of the Authority, shall keep an account of all receipts and disbursements and shall make payments only upon warrants duly and regularly signed by the chairman or vice–chairman of the board, or other person authorized by the board to do so, and by the secretary or general manager; provided, however, that the board may provide that warrants not exceeding such amounts or for such purposes as may from time to time be specified by the board may be signed by the general manager or by persons designated by him.

(D) ~~**(1) THERE IS AN OFFICE OF THE INSPECTOR GENERAL IN THE AUTHORITY.**~~

~~**(2) THE INSPECTOR GENERAL SHALL SERVE AS DIRECTOR OF THE OFFICE AND SHALL REPORT TO THE BOARD.**~~

~~**(3) THE OFFICE IS AN INDEPENDENT AND OBJECTIVE UNIT OF THE AUTHORITY THAT:**~~

~~**(I) CONDUCTS AND SUPERVISES AUDITS, PROGRAM EVALUATIONS, AND INVESTIGATIONS RELATING TO AUTHORITY ACTIVITIES;**~~

~~**(II) PROMOTES ECONOMY, EFFICIENCY, AND EFFECTIVENESS IN AUTHORITY ACTIVITIES;**~~

~~**(III) DETECTS AND PREVENTS FRAUD AND ABUSE IN AUTHORITY ACTIVITIES; AND**~~

~~**(IV) KEEPS**~~ **THE INSPECTOR GENERAL SHALL REPORT TO THE BOARD AND HEAD THE OFFICE OF THE INSPECTOR GENERAL, AN INDEPENDENT AND OBJECTIVE UNIT OF THE AUTHORITY THAT CONDUCTS AND SUPERVISES AUDITS, PROGRAM EVALUATIONS, AND INVESTIGATIONS RELATING TO AUTHORITY ACTIVITIES; PROMOTES ECONOMY, EFFICIENCY, AND EFFECTIVENESS IN AUTHORITY ACTIVITIES; DETECTS AND PREVENTS FRAUD AND ABUSE IN AUTHORITY ACTIVITIES; AND KEEPS THE BOARD FULLY AND**

CURRENTLY INFORMED ABOUT DEFICIENCIES IN AUTHORITY ACTIVITIES AS WELL AS THE NECESSITY FOR AND PROGRESS OF CORRECTIVE ACTION.

[(d)**] (E)** An oath of office in the form set out in § 5(b) of this article shall be taken, subscribed and filed with the board by all appointed officers.

[(e)**] (F)** Each director, officer and employee specified by the board shall give such bond in such form and amount as the board may require, the premium for which shall be paid by the Authority.

ARTICLE VII

Financing

18.

(a) Commitments on behalf of the portion of the zone located in Virginia shall be by contract or agreement by the Authority with the Northern Virginia Transportation District, or its component governments, as authorized in the Transportation District Act of 1964 (ch. 631, 1964 Acts of Virginia Assembly), to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or any alteration, revision or amendment thereof, and for meeting expenses and obligations in the operation of such facilities. No such contract or agreement, however, shall be entered into by the Authority with the Northern Virginia Transportation District unless said District has entered into the contracts or agreements with its member governments, as contemplated by § 1(b)(4) of Article 4 of said act, which contracts or agreements expressly provide that such contracts or agreements shall inure to the benefit of the Authority and shall be enforceable by the Authority in accordance with the provisions of § 2, Article 5 of said act, and such contracts or agreements are acceptable to the Board. The General Assembly of Virginia hereby authorizes and designates the Authority as the agency to plan for and provide transit facilities and services for the area of Virginia encompassed within the zone within the contemplation of Article 1, § 3(c) of said act.

(b) Commitments on behalf of the portion of the zone located in Maryland shall be by contract or agreement by the Authority with the Washington Suburban Transit District, pursuant to which the Authority undertakes to provide transit facilities and service in consideration for the agreement by said district to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or amendment thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

(c) With respect to the federal government, the commitment or obligation to render financial assistance shall be created by appropriation or in such other manner,

or by such other legislation, as the Congress shall determine. Commitments by the District of Columbia shall be by contract or agreement between the governing body of the District of Columbia and the Authority, pursuant to which the Authority undertakes, subject to the provisions of Section 20 hereof, to provide transit facilities and service in consideration for the undertaking by the District of Columbia to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or amendment thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

(D) (1) ~~IN THIS SUBSECTION, "DEDICATED FUNDING SOURCE" MEANS ANY SOURCE OF FUNDING THAT IS EARMARKED OR REQUIRED UNDER STATE OR LOCAL LAW TO BE USED TO MATCH FEDERAL APPROPRIATIONS AUTHORIZED UNDER TITLE VI, § 601, P.L. 110–432 FOR PAYMENTS TO THE AUTHORITY.~~

~~(2)~~ ALL PAYMENTS MADE BY THE LOCAL ~~SIGNATORY~~ SIGNATORY GOVERNMENTS FOR THE AUTHORITY FOR THE PURPOSE OF MATCHING FEDERAL FUNDS APPROPRIATED IN ANY GIVEN YEAR AS AUTHORIZED UNDER TITLE VI, § 601, P.L. 110–432 REGARDING FUNDING OF CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS OF THE AUTHORITY SHALL BE MADE FROM AMOUNTS DERIVED FROM ~~A~~ DEDICATED FUNDING ~~SOURCE~~ SOURCES.

(2) FOR PURPOSES OF THIS PARAGRAPH (D), A "DEDICATED FUNDING SOURCE" MEANS ANY SOURCE OF FUNDING THAT IS EARMARKED OR REQUIRED UNDER STATE OR LOCAL LAW TO BE USED TO MATCH FEDERAL APPROPRIATIONS AUTHORIZED UNDER TITLE VI, § 601, P.L. 110–432 FOR PAYMENTS TO THE AUTHORITY.

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

Article – Transportation

10–205.

(a) In accordance with and subject to the principle that, if there is substantial State financial support for the planned rapid rail mass transit system in one metropolitan area of this State, there should be substantial State financial support for the planned rapid rail mass transit system in the other metropolitan area of this State, and subject to the appropriation requirements and budgetary provisions of § 3–216(d) of this article, the Department shall provide for grants to the Washington Suburban Transit District in an amount equal to the current expenditures required of the Washington Suburban Transit District in accordance with capital contributions agreements between the Washington Metropolitan Area Transit Authority, the Washington Suburban Transit District, and other participating jurisdictions. The Washington Suburban Transit District shall consult with the Secretary of

Transportation prior to the execution of any capital contributions agreement. Expenditures required of the Washington Suburban Transit District for projects and programs not included in the "Adopted Regional System – 1968" revised as of January 1, 1992, are only eligible for State funding in accordance with subsection **[**(e)**] (F)** of this section.

(b) (1) Subject to the appropriation requirements and budgetary provisions of § 3–216(d) of this article and upon receipt of an approval of a grant application in such form and detail as the Secretary shall reasonably require, the Department shall provide for annual grants to the Washington Suburban Transit District for a share of the operating deficits of the regional transit system for which the District is responsible. "Operating deficit" means operating costs less:

(i) The greater of operating revenues or 50 percent of the operating costs; and

(ii) All federal operating assistance.

(2) The Department's share shall equal 100 percent of the operating deficit.

(c) Subject to the appropriation requirements and budgetary provision of § 3–216(d) of this article, the Department shall provide for grants to the Washington Suburban Transit District in an amount equal to 100 percent of the net debt service assigned to the Washington Suburban Transit District on bonds issued by the Washington Metropolitan Area Transit Authority. In no event shall the amount of net debt service, including the refinancing of any debt, required of the Washington Suburban Transit District exceed the amount presently assigned on a year by year basis to the Washington Suburban Transit District, and payable through the year 2014. Nothing in this article shall preclude the use of bond proceeds for capital improvements and replacements of the "Adopted Regional System – 1968" revised as of January 1, 1992.

(d) (1) In accordance with and subject to the principle that, if there is substantial State financial support for rapid rail and bus transit capital replacement costs in one metropolitan area of this State, there should be substantial State financial support for the costs of similar needs in the other metropolitan area of this State, and in recognition of the fact that timely replacement of capital facilities and equipment is essential to safe and reliable transit service, the Department shall provide grants to fully fund the Washington Suburban Transit District's share of the Washington Metropolitan Area Transit Authority's capital equipment replacement programs.

(2) The grants under this subsection:

(i) Shall be made subject to the appropriation and budgetary provisions of § 3–216(d) of this article;

(ii) Shall be included in the State budget beginning in fiscal year 2000;

(iii) Notwithstanding any other provision of law, may be funded with revenues derived from:

1. Any State–enacted transportation fees or taxes; or

2. Federal transportation grants available to the State to fund transit capital equipment replacement; and

(iv) Shall be contingent on the receipt of a request by the District to the Department, based on annual capital improvements programs adopted by the Washington Metropolitan Area Transit Authority.

(E) SUBJECT TO THE APPROPRIATION REQUIREMENTS AND BUDGETARY PROVISIONS OF § 3–216(D) OF THIS ARTICLE, THE DEPARTMENT SHALL PROVIDE GRANTS FROM AMOUNTS DERIVED FROM THE TRANSPORTATION TRUST FUND TO THE WASHINGTON SUBURBAN TRANSIT DISTRICT FOR THE PURPOSE OF FUNDING MARYLAND'S REQUIRED SHARE OF LOCAL FUNDS FOR THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY TO MATCH ANY FEDERAL FUNDS APPROPRIATED IN ANY GIVEN YEAR AUTHORIZED UNDER TITLE VI, § 601, P.L. 110–432.

[(e)**] (F)** A grant by the Department to the Washington Suburban Transit District in excess of the provisions of subsection (a) of this section may be made only after approval by the Secretary.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act may not take effect until similar Acts are passed by the Commonwealth of Virginia and the District of Columbia; that the Commonwealth of Virginia and the District of Columbia are requested to concur in this Act of the General Assembly of Maryland by the enactment of substantially similar Acts; that the Department of Legislative Services shall notify the appropriate officials of the Commonwealth of Virginia, the District of Columbia, and the United States Congress of the enactment of this Act; and that upon the concurrence in this Act by the Commonwealth of Virginia, the District of Columbia, and the United States, the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Executive Director of the Department of Legislative Services.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect July 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 741 – *Baltimore City Land Bank Authority – Recodification*.

This bill recodifies chapter 468 of 2008, which authorized Baltimore City to create a land bank authority, by relocating the statute from Article 24 of the Annotated Code of Maryland, to Article II of the Baltimore City Charter.

Senate Bill 901, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 741.

Sincerely,

Martin O'Malley
Governor

House Bill 741

AN ACT concerning

Baltimore City Land Bank Authority – Recodification

FOR the purpose of transferring, without substantive change, certain provisions of law concerning the Baltimore City Land Bank Authority from the Annotated Code of Maryland to the Baltimore City Charter; making stylistic changes; and generally relating to the recodification of the Baltimore City Land Bank Authority.

BY repealing
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 22–101 through 22–212 and the title "Title 22. Baltimore City Land Bank Authority"
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY adding to
The Charter of Baltimore City
Article II – General Powers
Section (65)

(2007 Replacement Volume, as amended)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 22–101 through 22–212 and the title "Title 22. Baltimore City Land Bank Authority" of Article 24 – Political Subdivisions – Miscellaneous Provisions of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, 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:

(65)

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

(2) "AUTHORITY" MEANS A NONPROFIT OR QUASI–GOVERNMENTAL ENTITY CREATED BY BALTIMORE CITY UNDER SUBSECTION (C) OF THIS SECTION.

(3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.

(4) (I) "BOND" MEANS A BOND ISSUED BY THE AUTHORITY UNDER THIS SUBTITLE.

(II) "BOND" INCLUDES A BOND, A REFUNDING BOND, A NOTE, AND ANY OTHER OBLIGATION.

(5) "COST" INCLUDES:

(I) THE PURCHASE PRICE OF PROPERTY;

(II) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN PROPERTY;

(III) THE COST OF ANY IMPROVEMENTS MADE TO PROPERTY;

(IV) THE AMOUNT TO BE PAID TO DISCHARGE EACH OBLIGATION NECESSARY OR DESIRABLE TO VEST TITLE TO ANY PART OF PROPERTY IN THE AUTHORITY OR OTHER OWNER;

(V) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, FRANCHISE, AND PERMIT ASSOCIATED WITH A PROJECT;

(VI) THE COST OF LABOR, MACHINERY, AND EQUIPMENT NECESSARY TO IMPLEMENT A PROJECT;

(VII) FINANCING CHARGES;

(VIII) INTEREST AND RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

(IX) THE COST OF REVENUE AND COST ESTIMATES, ENGINEERING AND LEGAL SERVICES, PLANS, SPECIFICATIONS, STUDIES, SURVEYS, AND OTHER EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OR PRACTICABILITY OF A PROJECT;

(X) ADMINISTRATIVE EXPENSES; AND

(XI) OTHER EXPENSES AS NECESSARY OR INCIDENT TO:

1. FINANCING A PROJECT;

2. ACQUIRING AND IMPROVING A PROJECT;

3. PLACING A PROJECT IN OPERATION, INCLUDING REASONABLE PROVISION FOR WORKING CAPITAL; AND

4. OPERATING AND MAINTAINING A PROJECT.

(6) "FINANCE" INCLUDES REFINANCE.

(7) (I) "PROJECT" MEANS ANY ORGANIZED PLAN CARRIED OUT BY THE AUTHORITY IN RELATION TO:

1. ACQUIRING AND REHABILITATING ABANDONED AND DILAPIDATED PROPERTIES; AND

2. MARKETING AND LEASING OR SELLING THE REHABILITATED PROPERTIES.

(II) "PROJECT" INCLUDES:

1. ACQUIRING LAND OR AN INTEREST IN LAND;

2. ACQUIRING STRUCTURES, EQUIPMENT, AND FURNISHINGS LOCATED ON A PROPERTY;

3. ACQUIRING PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO A PROJECT; AND

4. OBTAINING OR CONTRACTING FOR ANY SERVICES NECESSARY FOR THE REHABILITATION OF A PROPERTY.

(8) (I) "REVENUES" MEANS THE INCOME, REVENUE, AND OTHER MONEY THE AUTHORITY RECEIVES FROM OR IN CONNECTION WITH A PROJECT AND ALL OTHER INCOME OF THE AUTHORITY.

(II) "REVENUES" INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES.

(9) "TAX SALE PROPERTY" MEANS PROPERTY OR AN INTEREST IN PROPERTY SOLD BY THE TAX COLLECTOR OF BALTIMORE CITY IN ACCORDANCE WITH TITLE 14, SUBTITLE 8, PART III OF THE TAX – PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(10) (I) "TRUST AGREEMENT" MEANS AN AGREEMENT ENTERED INTO BY THE AUTHORITY TO SECURE A BOND.

(II) "TRUST AGREEMENT" MAY INCLUDE A BOND CONTRACT, BOND RESOLUTION, OR OTHER CONTRACT WITH OR FOR THE BENEFIT OF A BONDHOLDER.

(B) (1) THIS SECTION SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

(2) THE POWERS GRANTED TO THE AUTHORITY UNDER THIS SECTION SHALL BE CONSTRUED AS SUPPLEMENTAL AND IN ADDITION TO POWERS GRANTED TO THE AUTHORITY UNDER ANY STATE OR LOCAL LAW.

(3) THIS SECTION DOES NOT AUTHORIZE THE AUTHORITY TO:

(I) EXERCISE THE POWER OF EMINENT DOMAIN; OR

(II) LEVY ANY TAX OR SPECIAL ASSESSMENT.

(C) (1) BY ORDINANCE, BALTIMORE CITY MAY ESTABLISH A LAND BANK AUTHORITY IN ACCORDANCE WITH THIS SECTION.

(2) AN ORDINANCE ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE PROPOSED ARTICLES OF INCORPORATION OF THE AUTHORITY THAT STATE:

(I) THE NAME OF THE AUTHORITY, WHICH SHALL BE "LAND BANK AUTHORITY OF BALTIMORE CITY";

(II) THAT THE AUTHORITY IS FORMED UNDER THIS SECTION;

(III) THE NAMES, ADDRESSES, AND TERMS OF OFFICE OF THE INITIAL MEMBERS OF THE BOARD OF DIRECTORS OF THE AUTHORITY;

(IV) THE ADDRESS OF THE PRINCIPAL OFFICE OF THE AUTHORITY;

(V) THE PURPOSES FOR WHICH THE AUTHORITY IS FORMED; AND

(VI) THE POWERS OF THE AUTHORITY SUBJECT TO THE LIMITATIONS ON THE POWERS OF THE AUTHORITY UNDER THIS SECTION.

(3) (I) THE MAYOR OF BALTIMORE CITY, OR ANY OFFICIAL DESIGNATED IN THE ORDINANCE ESTABLISHING THE AUTHORITY, SHALL EXECUTE AND FILE THE ARTICLES OF INCORPORATION OF THE AUTHORITY FOR RECORDATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(II) WHEN THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES OF INCORPORATION FOR RECORDATION, THE AUTHORITY BECOMES A BODY POLITIC AND CORPORATE AND AN INSTRUMENTALITY OF BALTIMORE CITY.

(III) ACCEPTANCE OF THE ARTICLES OF INCORPORATION FOR RECORDATION BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE OF THE FORMATION OF THE AUTHORITY.

(4) (I) BY ORDINANCE, BALTIMORE CITY MAY ADOPT AN AMENDMENT TO THE ARTICLES OF INCORPORATION OF THE AUTHORITY.

(II) ARTICLES OF AMENDMENT MAY CONTAIN ANY PROVISION THAT LAWFULLY COULD BE CONTAINED IN ARTICLES OF INCORPORATION AT THE TIME OF THE AMENDMENT.

(III) THE ARTICLES OF AMENDMENT SHALL BE FILED FOR RECORDATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(IV) THE ARTICLES OF AMENDMENT ARE EFFECTIVE AS OF THE TIME THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES FOR RECORDATION.

(V) ACCEPTANCE OF THE ARTICLES OF AMENDMENT FOR RECORDATION BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE THAT THE ARTICLES HAVE BEEN LAWFULLY AND PROPERLY ADOPTED.

(5) (I) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION AND ANY LIMITATIONS IMPOSED BY LAW ON THE IMPAIRMENT OF CONTRACTS, BALTIMORE CITY, IN ITS SOLE DISCRETION, BY ORDINANCE MAY:

1. SET OR CHANGE THE STRUCTURE, ORGANIZATION, PROCEDURES, PROGRAMS, OR ACTIVITIES OF THE AUTHORITY; OR

2. TERMINATE THE AUTHORITY.

(II) ON TERMINATION OF THE AUTHORITY:

1. TITLE TO ALL PROPERTY OF THE AUTHORITY SHALL BE TRANSFERRED TO AND SHALL VEST IN BALTIMORE CITY; AND

2. ALL OBLIGATIONS OF THE AUTHORITY SHALL BE TRANSFERRED TO AND ASSUMED BY BALTIMORE CITY.

(D) AN ORDINANCE THAT CREATES A LAND BANK AUTHORITY SHALL ESTABLISH A BOARD OF DIRECTORS TO GOVERN THE AUTHORITY AND SHALL INCLUDE PROVISIONS FOR:

(1) APPOINTMENT PROCEDURES;

(2) TERM LENGTHS;

(3) REMOVAL PROCEDURES;

(4) ELECTION OF A CHAIR; AND

(5) POWERS OF THE BOARD.

(E) (1) EXCEPT AS LIMITED BY THE AUTHORITY'S ARTICLES OF INCORPORATION, THE AUTHORITY HAS ALL THE POWERS SET FORTH IN THIS SECTION.

(2) THE AUTHORITY MAY:

(I) ADOPT BYLAWS FOR THE CONDUCT OF BUSINESS OF THE AUTHORITY;

(II) SUE AND BE SUED;

(III) MAINTAIN AN OFFICE AT A PLACE THE AUTHORITY DESIGNATES;

(IV) BORROW MONEY;

(V) ISSUE BONDS AND OTHER OBLIGATIONS FOR ANY CORPORATE PURPOSE IN ACCORDANCE WITH THIS SECTION OR AN ORDINANCE ADOPTED UNDER THIS SECTION;

(VI) INVEST MONEY OF THE AUTHORITY IN INSTRUMENTS, OBLIGATIONS, SECURITIES, OR PROPERTY;

(VII) ENTER INTO CONTRACTS AND EXECUTE THE INSTRUMENTS OR AGREEMENTS NECESSARY OR CONVENIENT TO CARRY OUT THIS SECTION OR AN ORDINANCE ADOPTED UNDER THIS SECTION TO ACCOMPLISH THEIR PURPOSES;

(VIII) SOLICIT AND ACCEPT GIFTS, GRANTS, LOANS, OR OTHER ASSISTANCE IN ANY FORM FROM ANY PUBLIC OR PRIVATE SOURCE, SUBJECT TO THE PROVISIONS OF THIS SECTION OR ANY ORDINANCE ADOPTED UNDER THIS SECTION;

(IX) PARTICIPATE IN ANY WAY IN A PROGRAM OF THE FEDERAL GOVERNMENT, THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN INTERGOVERNMENTAL ENTITY CREATED UNDER THE LAWS OF THE STATE;

(X) CONTRACT FOR GOODS AND SERVICES;

(XI) STUDY, DEVELOP, AND PREPARE REPORTS OR PLANS TO ASSIST IN THE AUTHORITY'S EXERCISE OF POWERS AND TO MONITOR AND EVALUATE THE AUTHORITY'S PROGRESS;

(XII) CONTRACT WITH PUBLIC OR PRIVATE ENTITIES FOR THE PROVISION OF SERVICES NECESSARY FOR THE MANAGEMENT AND OPERATION OF THE AUTHORITY;

(XIII) PROVIDE ACQUISITION, MANAGEMENT, AND SALE SERVICES TO BALTIMORE CITY FOR CITY–OWNED PROPERTY;

(XIV) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR OTHER PERSON, WHETHER OPERATED FOR PROFIT OR NOT FOR PROFIT, FOR THE PURPOSES OF DEVELOPING PROPERTY IN ORDER TO MAXIMIZE MARKETABILITY;

(XV) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND

(XVI) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS EXPRESSLY GRANTED BY THIS SECTION OR BY AN ORDINANCE ADOPTED UNDER THIS SECTION.

(3) THE AUTHORITY MAY DELEGATE TO A MEMBER OR OFFICER A POWER GRANTED TO THE AUTHORITY BY THIS SECTION, INCLUDING THE POWER TO EXECUTE A BOND, OBLIGATION, CERTIFICATE, DEED, LEASE, MORTGAGE AGREEMENT, OR OTHER DOCUMENT OR INSTRUMENT.

(F) (1) THE AUTHORITY MAY:

(I) ACQUIRE, DIRECTLY OR THROUGH A PERSON OR GOVERNMENTAL ENTITY, BY GIFT, DEVISE, TRANSFER, EXCHANGE, FORECLOSURE, PURCHASE, OR OTHERWISE ON TERMS AND CONDITIONS AND IN A MANNER THE AUTHORITY CONSIDERS PROPER, REAL PROPERTY OR RIGHTS OR INTERESTS IN REAL PROPERTY;

(II) OWN IN THE AUTHORITY'S NAME PROPERTY ACQUIRED BY OR CONVEYED TO THE AUTHORITY BY THE STATE, A LOCAL GOVERNMENT, AN INTERGOVERNMENTAL AGENCY CREATED UNDER THE LAWS OF THIS STATE, OR ANY OTHER PUBLIC OR PRIVATE PERSON, INCLUDING TAX FORECLOSED PROPERTY AND PROPERTY WITHOUT CLEAR TITLE;

(III) SELL, LEASE AS LESSOR, TRANSFER, AND DISPOSE OF THE AUTHORITY'S PROPERTY OR INTEREST IN PROPERTY;

(IV) PROCURE INSURANCE AGAINST LOSS IN CONNECTION WITH THE PROPERTY, ASSETS, OR ACTIVITIES OF THE AUTHORITY; AND

(V) EXECUTE DEEDS, MORTGAGES, CONTRACTS, LEASES, PURCHASES, OR OTHER AGREEMENTS REGARDING THE PROPERTY OF THE AUTHORITY.

(2) PROPERTY PURCHASED, OWNED, OR SOLD UNDER THIS SUBSECTION MAY NOT BE LOCATED OUTSIDE OF BALTIMORE CITY.

(G) THE AUTHORITY MAY EMPLOY STAFF AND RETAIN CONSULTANTS AS EMPLOYEES OR AGENTS THAT THE AUTHORITY CONSIDERS NECESSARY AND SET THEIR COMPENSATION.

(H) THE COURT MAY APPOINT THE AUTHORITY TO SERVE AS A RECEIVER IN A RECEIVERSHIP PROCEEDING FILED BY BALTIMORE CITY.

(I) (1) THE AUTHORITY SHALL:

(I) ADOPT A CODE OF ETHICS FOR THE AUTHORITY'S DIRECTORS, OFFICERS, AND EMPLOYEES;

(II) ESTABLISH POLICIES AND PROCEDURES REQUIRING THE DISCLOSURE OF RELATIONSHIPS THAT MAY GIVE RISE TO A CONFLICT OF INTEREST, INCLUDING REQUIRING THAT ANY MEMBER OF THE BOARD WITH A DIRECT OR INDIRECT INTEREST IN A MATTER BEFORE THE AUTHORITY

DISCLOSE THE MEMBER'S INTEREST TO THE BOARD BEFORE THE BOARD TAKES ANY ACTION ON THE MATTER; AND

(III) COMPLY WITH THE STATE OPEN MEETINGS ACT UNDER TITLE 10, SUBTITLE 5 AND SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR THE ORDINANCE ESTABLISHING AN AUTHORITY, THE PROCEDURES OF BALTIMORE CITY CONTROL ANY MATTER RELATING TO THE INTERNAL ADMINISTRATION OF THE AUTHORITY.

(J) (1) THE AUTHORITY MAY EXERCISE THE POWERS GRANTED TO BALTIMORE CITY UNDER §§ 14–825 THROUGH 14–831 OF THE TAX – PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(2) THE AUTHORITY MAY HAVE THE SAME IMMUNITIES AS BALTIMORE CITY.

(K) (1) WITH RESPECT TO PROPERTY HELD OR OWNED BY THE AUTHORITY, THE AUTHORITY MAY:

(I) GRANT OR ACQUIRE A LICENSE, EASEMENT, OR OPTION;

(II) FIX, CHARGE, AND COLLECT RENTS, FEES, AND CHARGES FOR USE OF THE PROPERTY;

(III) PAY TAXES OR SPECIAL ASSESSMENTS DUE;

(IV) TAKE ANY ACTION, PROVIDE ANY NOTICE, OR INSTITUTE ANY PROCEEDING REQUIRED TO CLEAR OR QUIET TITLE IN ORDER TO ESTABLISH OWNERSHIP BY AND VEST TITLE TO PROPERTY IN THE AUTHORITY;

(V) ABATE VIOLATIONS OF THE LOCAL AND STATE BUILDING, FIRE, HEALTH, AND RELATED CODES; AND

(VI) HOLD, MANAGE, MAINTAIN, OPERATE, REPAIR, LEASE AS LESSOR, SECURE, PREVENT THE WASTE OR DETERIORATION OF, DEMOLISH, AND TAKE ALL OTHER ACTIONS NECESSARY TO PRESERVE THE VALUE OF THE PROPERTY IT HOLDS OR OWNS.

(2) THE AUTHORITY SHALL BE MADE A PARTY TO, AND SHALL DEFEND ANY ACTION OR PROCEEDING CONCERNING, CLAIMS AGAINST PROPERTY HELD BY THE AUTHORITY.

(L) (1) PROPERTY HELD BY THE AUTHORITY SHALL BE INVENTORIED AND CLASSIFIED ACCORDING TO TITLE STATUS AND SUITABILITY FOR USE.

(2) A REGISTER OF DEEDS IN BALTIMORE CITY MAY NOT CHARGE A FEE TO RECORD A DOCUMENT EVIDENCING THE TRANSFER UNDER THIS SECTION OF PROPERTY TO THE AUTHORITY BY THE STATE OR BALTIMORE CITY.

(M) (1) FOLLOWING AN UNSUCCESSFUL ATTEMPT ON THE PART OF BALTIMORE CITY TO COLLECT OUTSTANDING LIENS AT TAX SALE AND SUBJECT TO THE APPROVAL OF THE TAX COLLECTING UNIT OF BALTIMORE CITY, THE AUTHORITY MAY ACCEPT FROM A PERSON WITH AN INTEREST IN A PARCEL OF TAX DELINQUENT PROPERTY OR TAX SALE PROPERTY A DEED OR ASSIGNMENT CONVEYING THAT PERSON'S INTEREST IN THE PROPERTY INSTEAD OF:

(I) THE FORECLOSURE OR SALE OF THE PROPERTY FOR DELINQUENT TAXES, PENALTIES, AND INTEREST, AS DEFINED BY § 14–801(C) OF THE TAX – PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND; OR

(II) DELINQUENT SPECIFIC TAXES LEVIED BY A LOCAL TAXING JURISDICTION.

(2) EXCEPT AS OTHERWISE PROVIDED BY LAW, CONVEYANCE OF PROPERTY BY DEED INSTEAD OF FORECLOSURE UNDER THIS SECTION MAY NOT AFFECT OR IMPAIR ANY OTHER LIEN AGAINST THE PROPERTY OR ANY EXISTING RECORDED OR UNRECORDED INTEREST IN THE PROPERTY, INCLUDING:

(I) FUTURE INSTALLMENTS OF SPECIAL ASSESSMENTS;

(II) LIENS RECORDED BY THE STATE;

(III) EASEMENTS OR RIGHTS–OF–WAY;

(IV) PRIVATE DEED RESTRICTIONS;

(V) SECURITY INTERESTS AND MORTGAGES; OR

(VI) TAX LIENS OF OTHER TAXING JURISDICTIONS THAT DO NOT CONSENT TO A RELEASE OF THEIR LIENS.

(3) A TAX LIEN AGAINST PROPERTY HELD BY OR UNDER THE CONTROL OF THE AUTHORITY MAY BE RELEASED OR ABATED AT ANY TIME BY ONE OR MORE OF THE FOLLOWING:

(I) BALTIMORE CITY WITH RESPECT TO A LIEN HELD BY BALTIMORE CITY;

(II) THE GOVERNING BODY OF ANY TAXING JURISDICTION OTHER THAN THE STATE, COUNTY, OR MUNICIPAL CORPORATION WITH RESPECT TO A LIEN HELD BY THE TAXING JURISDICTION;

(III) A PUBLIC WATER OR SEWER AUTHORITY WITH RESPECT TO A TAX LIEN OR RIGHT TO COLLECT A TAX HELD BY THE PUBLIC WATER OR SEWER AUTHORITY; OR

(IV) THE STATE COMPTROLLER WITH RESPECT TO A STATE TAX LIEN.

(N) (1) MONEY RECEIVED BY THE AUTHORITY AS PAYMENT OF TAXES, PENALTIES, OR INTEREST, OR FROM THE REDEMPTION OR SALE OF PROPERTY SUBJECT TO A TAX LIEN OF ANY TAXING UNIT SHALL BE RETURNED TO THE LOCAL TAX COLLECTING UNIT IN THE JURISDICTION WHERE THE PROPERTY IS LOCATED FOR DISTRIBUTION ON A PRO RATA BASIS TO THE APPROPRIATE TAXING UNITS IN AN AMOUNT EQUAL TO DELINQUENT TAXES, PENALTIES, AND INTEREST OWED ON THE PROPERTY.

(2) PROCEEDS RECEIVED BY THE AUTHORITY MAY BE RETAINED BY THE AUTHORITY FOR THE PURPOSES OF THIS SECTION, UNLESS OTHERWISE DESIGNATED BY:

(I) THIS SECTION;

(II) THE PROVISIONS OF A DEED;

(III) ANY OTHER LAW; OR

(IV) AN AGREEMENT OF THE AUTHORITY.

(O) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE AUTHORITY IS EXEMPT FROM ANY REQUIREMENT TO PAY STATE OR LOCAL TAXES OR ASSESSMENTS ON THE AUTHORITY'S PROPERTIES, ACTIVITIES, OR ANY REVENUE FROM THE PROPERTIES OR ACTIVITIES.

(2) PROPERTY THAT THE AUTHORITY SELLS OR LEASES TO A PRIVATE ENTITY IS SUBJECT TO STATE AND LOCAL PROPERTY TAXES FROM THE TIME OF THE SALE OR LEASE.

(3) THE PRINCIPAL OF AND INTEREST ON BONDS, THE TRANSFER OF BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING PROFITS MADE ON THEIR SALE OR TRANSFER, ARE FOREVER EXEMPT FROM ALL STATE AND LOCAL TAXES.

(P) (1) THE AUTHORITY MAY BRING A CIVIL ACTION TO PREVENT, RESTRAIN, OR ENJOIN THE WASTE OF OR UNLAWFUL REMOVAL OF ANY PROPERTY FROM REAL PROPERTY HELD BY THE AUTHORITY.

(2) (I) THE AUTHORITY SHALL BE MADE A PARTY TO ANY ACTION OR PROCEEDING INSTITUTED FOR THE PURPOSE OF SETTING ASIDE TITLE TO PROPERTY HELD BY THE AUTHORITY OR FOR THE SALE OF PROPERTY BY THE AUTHORITY.

(II) A HEARING IN ANY SUCH PROCEEDING MAY NOT BE HELD UNTIL THE AUTHORITY IS SERVED IN ACCORDANCE WITH THE MARYLAND RULES.

(Q) (1) PROPERTY OF THE AUTHORITY IS PUBLIC PROPERTY DEVOTED TO AN ESSENTIAL PUBLIC AND GOVERNMENTAL FUNCTION AND PURPOSE.

(2) INCOME OF THE AUTHORITY IS CONSIDERED TO BE FOR A PUBLIC AND GOVERNMENTAL PURPOSE.

(R) THE AUTHORITY IS SUBJECT TO ANY LOCAL:

(1) ZONING LAWS;

(2) PERMITTING PROCESSES FOR CONSTRUCTION, DEMOLITION, OR REPAIR OF A PROPERTY; AND

(3) LAND USE CONTROLS.

(S) THE AUTHORITY SHALL REPORT ANNUALLY TO THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, THE GENERAL ASSEMBLY ON THE ACTIVITIES OF THE AUTHORITY.

(T) (1) (I) THE AUTHORITY MAY PERIODICALLY:

1. ISSUE BONDS TO PAY ALL OR PART OF THE COST OF ACQUIRING OR IMPROVING PROPERTY;

2. FUND OR REFUND THOSE BONDS;

3. PURCHASE BONDS WITH ANY FUNDS AVAILABLE; AND

4. HOLD, PLEDGE, CANCEL, OR RESELL BONDS.

(II) BY RESOLUTION, THE AUTHORITY MAY AUTHORIZE THE CHAIR, ONE OF THE AUTHORITY'S MEMBERS, OR A COMMITTEE OF THE MEMBERS TO DETERMINE OR PROVIDE FOR ANY MATTERS RELATING TO BONDS THAT THE AUTHORITY CONSIDERS APPROPRIATE, INCLUDING:

1. SPECIFYING, DETERMINING, PRESCRIBING, AND APPROVING MATTERS, DOCUMENTS, AND PROCEDURES THAT RELATE TO THE AUTHORIZATION, SALE, SECURITY, ISSUANCE, DELIVERY, AND PAYMENT OF AND FOR THE BONDS;

2. CREATING SECURITY FOR THE BONDS;

3. PROVIDING FOR THE ADMINISTRATION OF BOND ISSUES; AND

4. TAKING OTHER ACTIONS IT CONSIDERS APPROPRIATE CONCERNING THE BONDS.

(III) THE POWER GRANTED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH IS IN ADDITION TO POWERS CONFERRED ON THE AUTHORITY BY THIS SECTION AND DOES NOT LIMIT ANY POWER OF THE AUTHORITY UNDER THIS SECTION.

(IV) 1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE AUTHORITY MAY AUTHORIZE THE EXECUTIVE DIRECTOR TO TAKE ANY OF THE ACTIONS DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH.

2. IF THE AUTHORITY AUTHORIZES THE EXECUTIVE DIRECTOR TO TAKE ANY OF THE ACTIONS DESCRIBED IN SUBPARAGRAPH (II) OF

THIS PARAGRAPH, THE AUTHORITY SHALL PRESCRIBE LIMITS WITHIN WHICH THE EXECUTIVE DIRECTOR MAY EXERCISE DISCRETION.

(2) THE AUTHORITY MAY ISSUE THE BONDS AT ONE TIME OR IN ONE OR MORE SERIES FROM TIME TO TIME.

(3) FOR EACH ISSUE OF THE AUTHORITY'S BONDS, THE AUTHORITY SHALL PASS A RESOLUTION THAT:

(I) SPECIFIES AND DESCRIBES THE PROJECT FOR WHICH THE PROCEEDS OF THE BOND ISSUANCE ARE INTENDED;

(II) GENERALLY DESCRIBES THE PUBLIC PURPOSE AND THE FINANCING TRANSACTION TO BE ACCOMPLISHED;

(III) SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS THAT MAY BE ISSUED BY THE AUTHORITY; AND

(IV) IMPOSES ANY TERMS OR CONDITIONS ON THE ISSUANCE AND SALE OF THE BONDS THAT THE AUTHORITY CONSIDERS APPROPRIATE.

(4) SUBJECT TO ANY PROVISIONS FOR THEIR REGISTRATION, BONDS ARE NEGOTIABLE INSTRUMENTS FOR ALL PURPOSES REGARDLESS OF WHETHER THEY ARE PAYABLE FROM A SPECIAL FUND.

(5) (I) THE BONDS MAY BE:

1. SERIAL BONDS;

2. TERM BONDS; OR

3. BOTH IN THE DISCRETION OF THE AUTHORITY.

(II) SUBJECT TO ANY DELEGATION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION, THE RESOLUTION AUTHORIZING BONDS MAY PROVIDE:

1. THE DATES OF THE BONDS;

2. THE MATURITY DATES OF THE BONDS;

3. THE INTEREST RATES ON THE BONDS;

4. THE TIME AT WHICH THE BONDS WILL BE PAYABLE;

5. THE DENOMINATIONS OF THE BONDS;

6. WHETHER THE BONDS WILL BE IN COUPON OR REGISTERED FORM;

7. ANY REGISTRATION PRIVILEGES OF THE BONDS;

8. THE MANNER OF EXECUTION OF THE BONDS;

9. THE PLACE AT WHICH THE BONDS WILL BE PAYABLE; AND

10. ANY TERMS OF REDEMPTION OF THE BONDS.

(III) THE BONDS SHALL MATURE WITHIN A PERIOD NOT TO EXCEED 50 YEARS AFTER THE DATE OF ISSUE.

(IV) THE BONDS SHALL BE PAYABLE IN UNITED STATES CURRENCY.

(6) (I) THE AUTHORITY SHALL SELL THE BONDS AT COMPETITIVE OR NEGOTIATED SALE IN A MANNER AND FOR A PRICE THE AUTHORITY DETERMINES TO BE IN THE AUTHORITY'S BEST INTERESTS.

(II) BONDS ARE EXEMPT FROM §§ 8–206 AND 8–208 OF THE STATE FINANCE AND PROCUREMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(7) AN OFFICER'S SIGNATURE OR FACSIMILE ON A BOND REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

(8) PENDING PREPARATION OF THE DEFINITIVE BONDS, THE AUTHORITY MAY ISSUE INTERIM RECEIPTS OR CERTIFICATES THAT WILL BE EXCHANGED FOR DEFINITIVE BONDS.

(9) (I) A TRUST AGREEMENT AUTHORIZING BONDS MAY CONTAIN PROVISIONS THAT ARE PART OF THE CONTRACT WITH THE BONDHOLDERS.

(II) THE PROVISIONS MAY INCLUDE:

1. PLEDGING THE FOLLOWING TO SECURE PAYMENT OF BONDS, SUBJECT TO ANY EXISTING AGREEMENTS WITH BONDHOLDERS:

A. THE FULL FAITH AND CREDIT OF THE AUTHORITY;

B. REVENUES OF A PROJECT;

C. A REVENUE–PRODUCING CONTRACT THE AUTHORITY HAS MADE WITH A PERSON OR PUBLIC ENTITY; OR

D. THE PROCEEDS OF THE SALE OF BONDS;

2. THE RATES, RENTALS, FEES, AND OTHER CHARGES, THE AMOUNTS TO BE RAISED IN EACH YEAR, AND THE USE AND DISPOSITION OF THE REVENUES;

3. THE SETTING ASIDE OF RESERVES AND SINKING FUNDS AND THEIR DISPOSITION;

4. LIMITS ON THE RIGHT OF THE AUTHORITY OR THE AUTHORITY'S AGENTS TO RESTRICT AND REGULATE THE USE OF A PROJECT;

5. LIMITS ON THE PURPOSE TO WHICH THE PROCEEDS OF SALE OF BONDS MAY BE APPLIED;

6. LIMITS ON ISSUING ADDITIONAL BONDS AND REFUNDING BONDS AND THE TERMS UNDER WHICH ADDITIONAL BONDS MAY BE ISSUED AND SECURED;

7. THE PROCEDURE TO AMEND OR ABROGATE THE TERMS OF A CONTRACT WITH BONDHOLDERS AND THE REQUIREMENTS FOR CONSENT;

8. LIMITS ON THE AMOUNT OF PROJECT REVENUES TO BE EXPENDED FOR OPERATING, ADMINISTRATIVE, OR OTHER EXPENSES OF THE AUTHORITY;

9. THE ACTS OR OMISSIONS THAT CONSTITUTE DEFAULT BY THE AUTHORITY AND THE RIGHTS AND REMEDIES OF THE BONDHOLDERS IN THE EVENT OF A DEFAULT;

10. THE CONVEYANCE OR MORTGAGING OF A PROJECT AND ITS SITE TO SECURE THE BONDHOLDERS; AND

11. THE CREATION AND DISPOSITION OF A COLLATERAL FUND FOR THE PURPOSE OF SECURING THE BONDHOLDERS.

(10) THE MEMBERS OF THE AUTHORITY AND A PERSON EXECUTING THE BONDS MAY NOT BE HELD LIABLE PERSONALLY ON THE BONDS.

(U) (1) THE CORPORATE TRUSTEE UNDER A TRUST AGREEMENT MAY BE A TRUST COMPANY OR A BANK THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

(2) AN EXPENSE INCURRED IN CARRYING OUT THE TRUST AGREEMENT OR A RESOLUTION MAY BE TREATED AS PART OF THE COST OF THE OPERATION OF A PROJECT.

(V) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IN A PROCEEDING INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND OR THE SECURITY FOR A BOND, THE DETERMINATION OF THE AUTHORITY UNDER THIS SECTION IS CONCLUSIVE AND BINDING.

(W) BONDS ARE SECURITIES:

(1) IN WHICH ANY OF THE FOLLOWING PERSONS MAY LEGALLY AND PROPERLY INVEST MONEY, INCLUDING CAPITAL THAT THE PERSON OWNS OR CONTROLS:

(I) AN OFFICER OR UNIT OF THE STATE OR A POLITICAL SUBDIVISION;

(II) A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, INVESTMENT COMPANY, OR OTHER PERSON CONDUCTING A BANKING BUSINESS;

(III) AN INSURANCE COMPANY, INSURANCE ASSOCIATION, OR OTHER PERSON CONDUCTING AN INSURANCE BUSINESS;

(IV) A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY; AND

(V) ANY OTHER PERSON; AND

(2) THAT MAY BE DEPOSITED WITH AND RECEIVED BY A UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OBLIGATIONS OF THE STATE IS AUTHORIZED BY LAW.

(X) (1) A BOND IS NOT:

(I) A DEBT OR LIABILITY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; OR

(II) A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(2) EACH BOND SHALL STATE ON THE FACE OF THE BOND THAT NEITHER THE STATE NOR A POLITICAL SUBDIVISION OF THE STATE IS OBLIGED TO PAY THE PRINCIPAL OF OR INTEREST ON THE BOND EXCEPT FROM REVENUES PLEDGED TO THE PAYMENT OF THE BOND.

(3) THE ISSUANCE OF BONDS DOES NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE STATE OR ITS POLITICAL SUBDIVISIONS:

(I) TO LEVY OR PLEDGE A TAX TO PAY THE BONDS; OR

(II) TO MAKE AN APPROPRIATION TO PAY THE BONDS.

(4) NOTHING IN THIS SECTION PROHIBITS THE AUTHORITY FROM PLEDGING ITS FULL FAITH AND CREDIT IN CONNECTION WITH THE ISSUANCE OF BONDS.

(Y) (1) THE AUTHORITY MAY:

(I) FIX AND COLLECT RATES, RENTS, FEES, AND CHARGES RELATED TO A PROJECT AND FOR THE SERVICES RELATED TO A PROJECT; AND

(II) CONTRACT WITH ANY PERSON OR GOVERNMENTAL ENTITY TO EXERCISE ITS AUTHORITY UNDER THIS SUBSECTION.

(2) THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY THE AUTHORITY UNDER THIS SUBSECTION SHALL BE FIXED AND ADJUSTED SO THAT THE AGGREGATE AMOUNT OF THE RATES, RENTS, FEES, AND CHARGES FROM THE PROJECT, WHEN ADDED TO OTHER AVAILABLE MONEY, IS SUFFICIENT TO:

(I) PAY FOR THE EXPENSES OF THE PROJECT;

(II) PAY THE PRINCIPAL OF AND THE INTEREST ON THE BONDS THAT THE AUTHORITY ISSUED FOR THE PROJECT AS THEY BECOME DUE AND PAYABLE; AND

(III) CREATE AND MAINTAIN RESERVES REQUIRED OR PROVIDED FOR IN A TRUST AGREEMENT.

(3) THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY THE AUTHORITY UNDER THIS SUBSECTION ARE NOT SUBJECT TO SUPERVISION OR REGULATION BY ANY UNIT OF THE STATE OTHER THAN THE AUTHORITY.

(Z) (1) (I) ANY PLEDGE OF REVENUES AND OTHER MONEY UNDER SUBSECTION (T)(9) OF THIS SECTION IS VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.

(II) 1. THE REVENUE OR MONEY THAT THE AUTHORITY PLEDGES AND RECEIVES IS SUBJECT IMMEDIATELY TO THE LIEN OF THE PLEDGE.

2. NEITHER PHYSICAL DELIVERY OF THE REVENUE OR MONEY NOR ANY OTHER ACT IS REQUIRED TO VALIDATE THE LIEN.

(III) THE LIEN OF THE PLEDGE IS VALID AND BINDING AGAINST EACH PARTY WITH A CLAIM AGAINST THE AUTHORITY IN TORT, CONTRACT, OR OTHERWISE, REGARDLESS OF WHETHER THE PARTY HAS NOTICE OF THE LIEN.

(2) THE TRUST AGREEMENT AND ANY OTHER AGREEMENT OR LEASE CREATING A PLEDGE UNDER THIS SECTION NEED NOT BE FILED OR RECORDED, EXCEPT IN THE RECORDS OF THE AUTHORITY.

(AA) (1) PROCEEDS FROM THE SALE OF BONDS AND OTHER REVENUES RECEIVED UNDER THIS SECTION ARE TRUST FUNDS TO BE HELD AND APPLIED SOLELY AS PROVIDED IN THIS SECTION.

(2) (I) EACH OFFICER, BANK, OR TRUST COMPANY THAT RECEIVES TRUST MONEY FROM THE AUTHORITY UNDER THIS SECTION SHALL ACT AS TRUSTEE OF THE MONEY AND SHALL HOLD AND APPLY THE MONEY FOR THE PURPOSES SPECIFIED UNDER THIS SECTION.

(II) THE OFFICER, BANK, OR TRUST COMPANY HOLDING MONEY IS SUBJECT TO:

1. ANY REGULATION ADOPTED UNDER THIS SECTION; AND

2. THE RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS OR THE TRUST AGREEMENT.

(BB) (1) (I) THE AUTHORITY MAY ISSUE BONDS TO REFUND OUTSTANDING BONDS OF THE AUTHORITY, INCLUDING PAYING:

1. ANY REDEMPTION PREMIUM;

2. INTEREST ACCRUED OR TO ACCRUE TO THE DATE OF REDEMPTION, PURCHASE, OR MATURITY OF THE BONDS; AND

3. IF CONSIDERED ADVISABLE BY THE AUTHORITY, ANY PART OF THE COST OF ACQUIRING OR IMPROVING PROPERTY AS PART OF A PROJECT.

(II) REFUNDING BONDS MAY BE ISSUED FOR ANY CORPORATE PURPOSE, INCLUDING:

1. REALIZING SAVINGS IN THE EFFECTIVE COSTS OF DEBT SERVICE, DIRECTLY OR THROUGH A DEBT RESTRUCTURING; OR

2. ALLEVIATING A POTENTIAL OR ACTUAL DEFAULT.

(2) A REFUNDING BOND THAT THE AUTHORITY ISSUES UNDER THIS SUBSECTION SHALL BE ISSUED IN THE SAME MANNER AND IS SUBJECT TO THIS SECTION TO THE SAME EXTENT AS ANY OTHER BOND.

(3) THE AUTHORITY MAY ISSUE REFUNDING BONDS IN ONE OR MORE SERIES IN AN AMOUNT GREATER THAN THE AMOUNT OF THE BONDS TO BE REFUNDED.

(CC) (1) THE AUTHORITY MAY ISSUE NEGOTIABLE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF BONDS FOR ANY CORPORATE PURPOSE.

(2) BOND ANTICIPATION NOTES ISSUED UNDER THIS SUBSECTION SHALL BE ISSUED IN THE SAME MANNER AS BONDS.

(3) BOND ANTICIPATION NOTES ISSUED UNDER THIS SUBSECTION AND THE RESOLUTION AUTHORIZING THEM MAY CONTAIN ANY PROVISIONS, CONDITIONS, OR LIMITATIONS THAT MAY BE INCLUDED IN A TRUST AGREEMENT.

(4) THE AUTHORITY MAY ISSUE BOND ANTICIPATION NOTES TO PAY ANY OTHER BOND ANTICIPATION NOTES.

(5) BOND ANTICIPATION NOTES SHALL BE PAID FROM:

(I) REVENUES OF THE AUTHORITY;

(II) MONEY AVAILABLE AND NOT OTHERWISE PLEDGED; OR

(III) THE PROCEEDS OF THE SALE OF THE BONDS IN ANTICIPATION OF WHICH THE NOTES WERE ISSUED.

(DD) (1) THE AUTHORITY SHALL CONVEY TITLE TO PROPERTY RELATING TO A PROJECT AND RELEASE COLLATERAL IN ACCORDANCE WITH THIS SUBSECTION WHEN THE FOLLOWING CONDITIONS ARE MET:

(I) 1. THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED TO FINANCE THE PROJECT, INCLUDING ANY REFUNDING BONDS, HAVE BEEN FULLY PAID AND RETIRED; OR

2. ADEQUATE PROVISION HAS BEEN MADE TO FULLY PAY AND RETIRE THE BONDS;

(II) ALL OTHER CONDITIONS OF THE TRUST AGREEMENT HAVE BEEN SATISFIED; AND

(III) THE LIEN OF THE TRUST AGREEMENT HAS BEEN RELEASED.

(2) ON SATISFACTION OF THE CONDITIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE AUTHORITY PROMPTLY SHALL EXECUTE ANY DEEDS, CONVEYANCES, RELEASES, AND DOCUMENTS AND TAKE ANY OTHER ACTION NECESSARY TO CONVEY TITLE TO THE PROPERTY AND RELEASE COLLATERAL FREE OF ALL LIENS AND ENCUMBRANCES CREATED THROUGH THE AUTHORITY.

(EE) (1) A BONDHOLDER, A HOLDER OF ANY COUPONS ATTACHED TO BONDS, OR A TRUSTEE UNDER A TRUST AGREEMENT SECURING THE BONDS MAY SUE TO:

(I) PROTECT AND ENFORCE RIGHTS UNDER LAWS OF THE STATE OR A TRUST AGREEMENT; AND

(II) ENFORCE AND COMPEL THE PERFORMANCE OF DUTIES BY THE AUTHORITY OR ITS OFFICER, EMPLOYEE, OR AGENT THAT THIS SECTION OR A TRUST AGREEMENT REQUIRES, INCLUDING FIXING AND COLLECTING RATES, RENTS, FEES, AND CHARGES THAT THE TRUST AGREEMENT REQUIRES TO BE FIXED AND COLLECTED.

(2) THE RIGHTS UNDER THIS SUBSECTION ARE SUBJECT TO ANY TRUST AGREEMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 809 – *State Debt – Annuity Bond Fund – Payment of Fiscal Agents.*

This bill authorizes the Annuity Bond Fund be used to pay ongoing costs of fiscal agents associated with variable interest rate bonds and interest rate exchange agreements issued by the State Treasurer. The bill specifies that the ongoing servicing costs of variable–rate bonds be paid in the same manner as principal and interest.

Senate Bill 517, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 809.

Sincerely,

Martin O'Malley

Governor

House Bill 809

AN ACT concerning

State Debt – Annuity Bond Fund – Payment of Fiscal Agents

FOR the purpose of requiring the Comptroller to credit to the Annuity Bond Fund certain money appropriated in the State budget to pay the costs of certain fiscal agents and contracting parties appointed by the State Treasurer in connection with certain financial transactions; authorizing the Comptroller to use certain money to pay the cost of certain fiscal agents and contracting parties; and generally relating to certain money appropriated to the Annuity Bond Fund.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 8–132
Annotated Code of Maryland
(2006 Replacement Volume and 2008 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

8–132.

(a) There is an Annuity Bond Fund.

(b) The Comptroller shall:

(1) credit to the Annuity Bond Fund any money appropriated in the State budget to**:**

(I) meet the debt service requirements on State bonds; **AND**

(II) PAY THE COSTS OF FISCAL AGENTS AND OTHER CONTRACTING PARTIES APPOINTED BY THE STATE TREASURER UNDER §§ 8–121 AND 8–136 OF THIS SUBTITLE; and

(2) **AS SPECIFIED IN THE APPROPRIATION,** use the money to meet the debt service on the State bonds **[**specified in the appropriation**] AND PAY FISCAL AGENTS AND OTHER CONTRACTING PARTIES' COSTS**.

(c) Any premium from the sale of State bonds transferred to the Annuity Bond Fund under § 8–125 of this subtitle may be used to pay debt service on State bonds.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 931 – *Cecil County – Public Facilities Bond Bill.*

This bill authorizes the Cecil County Commissioners to issue up to $13.6 million in general obligation bonds for the construction, improvement, or development of public facilities capital projects and any cost incurred by the county in connection with the projects.

Senate Bill 484, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 931.

Sincerely,

Martin O'Malley
Governor

House Bill 931

AN ACT concerning

Cecil County – Public Facilities Bond Bill

FOR the purpose of authorizing and empowering the County Commissioners of Cecil County, from time to time, to borrow not more than $13,600,000 in order to finance the cost of the construction and improvement of certain public facilities in Cecil County and to effect that borrowing by the issuance and sale at public

or private sale of its general obligation bonds in like amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds, and the interest thereon and any income derived therefrom, from all State, county, municipal, and other taxation in the State of Maryland; and relating generally to the issuance and sale of the bonds by Cecil County.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used in this Act, the term "County" means that body politic and corporate of the State of Maryland known as the County Commissioners of Cecil County; and the term "construction and improvement of public facilities" means the alteration, construction, reconstruction, enlargement, expansion, extension, improvement, replacement, rehabilitation, renovation, upgrading and repair, and related architectural, financial, legal, planning, designing, or engineering services, for public capital projects in Cecil County, including any finance charges or interest prior to or during such financing and any other costs or expenditures incurred by the County in connection with the projects.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the public facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, $13,600,000 and to evidence its borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued pursuant to a resolution of the County which shall describe generally the public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be in the best interests of the County; the manner of executing the bonds, which

may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of and security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds.

In case any officer whose signature appears on any bond ceases to be such officer before delivery, the signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until delivery. The bonds and their issue and sale shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment shall be made to the Treasurer of Cecil County or such other official of the County as may be designated to receive payment in a resolution passed by the County Commissioners of Cecil County before delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the public facilities for which the bonds are sold.

If the net proceeds of the sale of any issue of bonds exceeds the amount needed to finance the public facilities described in the resolution, the excess funds shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County adopts a resolution allocating the excess funds to the construction, improvement, or development of other public facilities.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full

faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assume the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, if the proceeds from the taxes so levied in any fiscal year prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any deficiency. The County may apply to the payment of the principal of and interest on any bonds issued under this Act any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality of either, or from any other source. If such funds are granted for the purpose of assisting the County in financing the construction, improvement, development, or renovation of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, taxes that might otherwise be required to be levied under this Act may be reduced or need not be levied.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is hereby further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, upon purchase or redemption, any bonds issued under this Act. The validity of any refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations being refunded. The powers granted under this Act with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued under this Act, prior to their maturity, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds which are, by their terms, redeemable. The proceeds of the sale of any refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The County may, by appropriate resolution, provide for the replacement of any bonds issued under this Act which may have become mutilated or lost or destroyed upon whatever conditions and after receiving whatever indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued under this Act, their transfer, the interest payable on them, and any income derived from them from time to time (including any profit made in their sale) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide additional, alternative, and supplemental authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and may not be regarded as in derogation of any power now existing; and all previously enacted laws authorizing the County to borrow money are hereby continued to the extent that the power contained in them is continuing or has not been exercised, unless any law is expressly repealed by this Act, and the validity of any bonds issued under previously enacted laws is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of the County, shall be liberally construed to effect its purposes. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of any inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 976 – *Carroll County – Public Facilities Bonds*.

This bill authorizes the Carroll County Commissioners to issue up to $42,000,000 in general obligation bonds for the construction, improvement, or development of public facilities capital projects and any cost incurred by the county in connection with the projects.

Senate Bill 779, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 976.

Sincerely,

Martin O'Malley
Governor

AN ACT concerning

Carroll County – Public Facilities Bonds

FOR the purpose of authorizing and empowering the County Commissioners of Carroll County, from time to time, to borrow not more than $42,000,000 in order to finance the construction, improvement, or development of certain public facilities in Carroll County, including water and sewer projects, to finance loans for fire or emergency–related equipment, buildings, and other facilities of volunteer fire departments in the County, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; providing that such borrowing may be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring agricultural land and woodland preservation easements; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, County, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and relating generally to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Carroll County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, public works projects such as roads, bridges and storm drains, public school buildings and facilities, landfills, Carroll Community College buildings and facilities, public operational buildings and facilities such as buildings and facilities for County administrative use, public safety, health and social services, libraries, refuse disposal buildings and facilities, water and sewer infrastructure facilities, easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland, and parks and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the construction, improvements or development of public facilities described in Section 1 of this Act, to make loans to each and every volunteer fire department in the County upon such terms and conditions as may be determined by the County for the purpose of financing certain fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments, and to borrow money and incur indebtedness for those purposes, at one time or from time to time, in an amount not exceeding, in the aggregate, $42,000,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities, including water and sewer projects, the fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Carroll County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions of any loans made to volunteer fire departments; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. The bonds may be issued in registered form, and provision may be made for the registration of the principal only. In case any officer whose

signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

The borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural or woodland. The form of installment purchase obligations, the manner of accomplishing the acquisition of easements, which may be the direct exchange of installment purchase obligations for easement, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term "bonds" used in this Act shall include installment purchase obligations and matters pertaining to the bonds under this Act, such as the security for the payment of the bonds, the exemption of the bonds from State, County, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Comptroller of Carroll County or such other official of Carroll County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities, including water and sewer projects, to make loans to volunteer fire departments for the financing of fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, including water and sewer projects, or to the making of loans for fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it as loan repayments from volunteer fire departments and any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act, including the water and sewer projects or the making of loans for the aforementioned fire or emergency–related equipment, buildings, or other facilities for volunteer fire departments in the County and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner herein above described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity

or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, County, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Carroll County, shall be liberally construed to effect the purposes hereof. All Acts and parts of

Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 977 – *State Retirement and Pension System – Compliance with Federal Tax Provisions*.

This bill makes technical changes to State pension law to reflect recent changes to the federal Internal Revenue Code. This bill prohibits the Board of Trustees for the State Retirement and Pension System from using forfeitures of benefits by a member or former member of the several systems to pay benefit increases. Furthermore, it provides that the State Retirement Agency may make direct rollover payments to eligible retirement plans specified by the designated beneficiaries of a member of the State Retirement and Pension System.

Senate Bill 592, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 977.

Sincerely,

Martin O'Malley
Governor

House Bill 977

AN ACT concerning

State Retirement and Pension System – Compliance with Federal Tax Provisions

FOR the purpose of prohibiting the Board of Trustees for the State Retirement and Pension System from using certain forfeitures of benefits for certain purposes;

requiring that certain forfeitures of benefits be used for certain purposes; providing that the State Retirement Agency may make certain payments to certain eligible retirement plans specified by certain designated beneficiaries of a member of the State Retirement and Pension System; allowing certain members of the State Retirement and Pension System to make direct rollovers of certain distributions on or after a certain date; providing that an eligible rollover distribution includes certain distributions to certain spouses or former spouses of members of the State Retirement and Pension System; providing that distributions totaling less than a certain amount are not eligible rollover distributions; clarifying that certain portions of distributions remain eligible rollover distributions even if these portions consist of certain employee contributions; limiting the investment options that may be used for transfers of certain portions of eligible rollover distributions; providing that certain investment options be considered in a certain manner; altering certain definitions; altering the application of a certain Act to apply to certain members or retirees of the State Retirement and Pension System who request certain beneficiary changes on or after a certain date; and generally relating to conforming the State Retirement and Pension System to certain federal tax legislation.

BY adding to
Article – State Personnel and Pensions
Section 20–209
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–601 and 21–602
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 500 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:

Article – State Personnel and Pensions

20–209.

(A) IN CONFORMITY WITH § 401(A)(8) OF THE INTERNAL REVENUE CODE, ANY FORFEITURE OF BENEFITS BY A MEMBER OR FORMER MEMBER OF

THE SEVERAL SYSTEMS MAY NOT BE USED BY THE BOARD OF TRUSTEES TO PAY BENEFIT INCREASES.

(B) ANY FORFEITURE OF BENEFITS BY A MEMBER SHALL BE USED TO REDUCE EMPLOYER CONTRIBUTIONS.

21–601.

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

(b) "Direct rollover" means a payment by the State Retirement Agency directly to the eligible retirement plan specified by the participant **[**or**],** the surviving spouse of a participant**, OR THE DESIGNATED BENEFICIARY OF THE PARTICIPANT**.

(c) "Eligible retirement plan" means:

(1) an individual retirement account described in § 408(a) of the Internal Revenue Code;

(2) an individual retirement annuity, other than an endowment contract, described in § 408(b) of the Internal Revenue Code;

(3) a qualified trust described in § 401(a) of the Internal Revenue Code that is exempt from tax under § 501(a) of the Internal Revenue Code;

(4) an annuity plan described in § 403(a) of the Internal Revenue Code;

(5) an annuity plan described in § 403(b) of the Internal Revenue Code; **[**or**]**

(6) a deferred compensation plan that is maintained by an eligible employer described in § 457 of the Internal Revenue Code or any successor provisions**; OR**

(7) EFFECTIVE JANUARY 1, 2008, A ROTH INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN § 408A OF THE INTERNAL REVENUE CODE.

(d) (1) "Eligible rollover distribution" means a distribution:

(i) on or after January 1, 1993, to a participant of all or any part of the balance to the credit of the participant in any State system;

(ii) on or after January 1, 2002, to the surviving spouse of a member, former member, or retiree**, OR TO A SPOUSE OR FORMER SPOUSE WHO IS**

AN ALTERNATE PAYEE UNDER AN ELIGIBLE DOMESTIC RELATIONS ORDER, AS DEFINED IN § 414(P) OF THE INTERNAL REVENUE CODE, of all or any part of the balance to the credit of the member, former member, retiree, or surviving spouse in any State system; or

(iii) on or after January 1, 2007, to the designated beneficiary of a member, former member, or retiree of all or any part of the balance to the credit of the member, former member, retiree, or designated beneficiary in any State system.

(2) "Eligible rollover distribution" does not include:

(i) any distribution that is one of a series of substantially equal periodic payments that are made at least annually for the life or life expectancy of the participant or the joint lives or joint life expectancies of the participant and the participant's beneficiary;

(ii) any distribution that is one of a series of substantially equal periodic payments made for a specified period of at least 10 years; **[**or**]**

(iii) any distribution that is required under § 401(a)(9) of the Internal Revenue Code**; OR**

(IV) ANY DISTRIBUTION THAT IS REASONABLY EXPECTED TO TOTAL LESS THAN $200 DURING THE CALENDAR YEAR.

(3) (I) EFFECTIVE JANUARY 1, <u>2002,</u> A PORTION OF A DISTRIBUTION WILL NOT FAIL TO BE AN ELIGIBLE ROLLOVER DISTRIBUTION MERELY BECAUSE THAT PORTION CONSISTS OF AFTER–TAX EMPLOYEE CONTRIBUTIONS THAT ARE NOT INCLUDIBLE IN GROSS INCOME.

(II) A PORTION OF A DISTRIBUTION DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE TRANSFERRED ONLY TO:

1. AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN § 408(A) OR (B) OF THE INTERNAL REVENUE CODE;

2. A QUALIFIED DEFINED CONTRIBUTION PLAN DESCRIBED IN § 401(A) OF THE INTERNAL REVENUE CODE; OR

3. ON OR AFTER JANUARY 1, 2007, TO A QUALIFIED DEFINED BENEFIT PLAN DESCRIBED IN § 401(A) OF THE INTERNAL REVENUE CODE OR TO AN ANNUITY CONTRACT DESCRIBED IN § 403(B) OF THE INTERNAL REVENUE CODE, THAT AGREES TO ACCOUNT SEPARATELY FOR AMOUNTS TRANSFERRED TO THE ACCOUNT AND EARNINGS RECEIVED AS A RESULT OF THE TRANSFERRED AMOUNTS.

(e) "Supplemental plan" means the Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans.

21–602.

(a) Except as provided in subsections (b) and (c) of this section, a participant may elect on the form the Board of Trustees requires to have all or any part of an eligible rollover distribution paid to the eligible retirement plan in a direct rollover.

(b) **(1)** [If] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF** an eligible rollover distribution is payable to the designated beneficiary of a member, former member, or retiree, the designated beneficiary may only elect to have all or any part of the eligible rollover distribution paid in a direct rollover to an individual retirement account or individual retirement annuity.

(2) (I) A NONSPOUSE DESIGNATED BENEFICIARY MAY ROLL OVER AN ELIGIBLE ROLLOVER DISTRIBUTION ONLY TO AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY ESTABLISHED FOR THE PURPOSE OF RECEIVING THE DISTRIBUTION.

(II) AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY ESTABLISHED UNDER THIS PARAGRAPH SHALL BE TREATED AS AN INHERITED INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY WITHIN THE MEANING OF § 408(D)(3)(C) OF THE INTERNAL REVENUE CODE.

(c) A member who is eligible to participate in the plan administered by the supplemental plan under Title 35, Subtitle 5 of this article may elect to have all or any part of the eligible rollover distribution paid in a direct rollover to the plan in accordance with the regulations adopted by the supplemental plan.

Chapter 500 of the Acts of 2005

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 member **OR RETIREE** of the State Retirement and Pension System who [retires on or before December 31, 2005] **REQUESTS TO CHANGE A BENEFICIARY ON OR AFTER JANUARY 1, 2006**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1245 – *Frederick County – Deer Hunting on Private Property – Sundays.*

House Bill 1245 authorizes a person in Frederick County to hunt deer on specified Sundays on private property with a bow and arrow during October and November, and removes Frederick County from a list of counties in which specified Sunday deer hunting privileges do not apply.

Senate Bill 609, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1245.

Sincerely,

Martin O'Malley
Governor

House Bill 1245

AN ACT concerning

Frederick County – Deer Hunting on Private Property – Sundays

FOR the purpose of authorizing a person in Frederick County to hunt deer on certain Sundays on private property with a bow and arrow during certain months; removing Frederick County from a list of counties in which certain Sunday deer hunting privileges do not apply; and generally relating to hunting on private property on Sundays.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10–410(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

10–410.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person may not hunt any game bird or mammal on Sundays.

(2) The following persons may hunt the specified game birds and mammals on Sundays:

(i) A person using State certified raptors to hunt game birds or mammals during open season;

(ii) An unarmed person participating in an organized fox chase to chase foxes;

(iii) Provided that the provisions of § 10–906(b)(3) of this title are met, a person:

1. Using a regulated shooting ground under § 10–906 of this title to hunt the following pen–reared game birds:

A. Pheasants;

B. Bobwhite quail;

C. Chukar partridge;

D. Hungarian partridge;

E. Tower released flighted mallard ducks; and

F. Turkey on a regulated shooting ground that was permitted to release turkey before September 1, 1992; and

2. Having the written permission of the owner of the land or other person designated by the owner of the land, if the land is owned or leased by a person other than the person hunting on Sundays; and

(iv) Subject to the provisions of § 10–411 of this subtitle, in Dorchester, **FREDERICK,** St. Mary's, Somerset, Washington, Wicomico, and Worcester counties, a person hunting deer on private property with a bow and arrow during open season on the last three Sundays in October and the second Sunday in November.

(3) Provided that the provisions of § 10–415 of this subtitle are met and subject to paragraph (4) of this subsection, the Department may allow a person to hunt deer on private property on the first Sunday of:

(i) The bow hunting season in November; and

(ii) The deer firearms season.

(4) The Sunday deer hunting provisions under paragraph (3) of this subsection do not apply:

(i) In Baltimore, Carroll, **[**Frederick,**]** Howard, and Prince George's counties; and

(ii) In Baltimore City.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

May 19, 2009

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1454 – *Baltimore City – Alcoholic Beverages – Beer, Wine, and Liquor Tasting License.*

House Bill 1454 establishes a Class BWLT beer, wine, and liquor tasting license in specified parts of the 41st Legislative District, the 43rd Legislative District, and the 44th Legislative District of Baltimore City. The bill also establishes fees for Class BWLT license and authorizes a Class BWLT license holder to allow the consumption of specified alcoholic beverages for tasting or sampling.

Senate Bill 983, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1454.

Sincerely,

Martin O'Malley
Governor

AN ACT concerning

Baltimore City – ~~44th Legislative District~~ Alcoholic Beverages – Beer, Wine, and Liquor Tasting License

FOR the purpose of establishing a Class BWLT beer, wine, and liquor tasting license in ~~a~~ certain ~~part~~ *parts* of the *41st Legislative District, the 43rd Legislative District, and the* 44th legislative district of Baltimore City; establishing fees for Class BWLT licenses; authorizing a Class BWLT license holder to allow the consumption of certain alcoholic beverages for tasting or sampling; requiring a Class A license holder to apply for a Class BWLT license in a certain manner; requiring a Class BWLT license holder to dispose of any unconsumed alcoholic beverages remaining in a container that was opened for tasting or sampling; and generally relating to alcoholic beverages licenses in Baltimore City.

BY adding to
Article 2B – Alcoholic Beverages
Section 8–403.2
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

8–403.2.

(A) THIS SECTION APPLIES ONLY IN ~~WARD 23, PRECINCT 1~~ ~~WARD~~*:*

(1) WARD 27, PRECINCT 42 OF THE 41ST LEGISLATIVE DISTRICT OF BALTIMORE CITY;

(2) WARD 27, PRECINCT 41 OF THE 43RD LEGISLATIVE DISTRICT OF BALTIMORE CITY; AND

***(3) WARD* 11, PRECINCT 5 OF THE 44TH LEGISLATIVE DISTRICT OF BALTIMORE CITY.**

(B) THE BOARD OF LIQUOR LICENSE COMMISSIONERS MAY ISSUE A CLASS BWLT BEER, WINE, AND LIQUOR (ON–PREMISES) TASTING LICENSE TO A HOLDER OF A CLASS A BEER, WINE AND LIQUOR LICENSE.

(C) (1) THE FEES FOR A CLASS BWLT LICENSE ARE AS FOLLOWS:

(I) $20 FOR A DAILY TASTING LICENSE, WHICH MAY BE ISSUED NOT MORE THAN 12 TIMES IN ANY ANNUAL LICENSE YEAR;

(II) $200 ANNUALLY FOR A 26–DAY TASTING LICENSE, WHICH MAY BE USED CONSECUTIVELY OR NONCONSECUTIVELY; AND

(III) $300 ANNUALLY FOR A 52–DAY TASTING LICENSE, WHICH MAY BE USED CONSECUTIVELY OR NONCONSECUTIVELY.

(2) THE FEES FOR A CLASS BWLT LICENSE ARE IN ADDITION TO THE CLASS A ANNUAL LICENSE FEE.

(D) (1) A CLASS BWLT LICENSE AUTHORIZES THE HOLDER TO ALLOW THE ON–PREMISES CONSUMPTION OF BEER, LIGHT WINE, AND LIQUOR FOR TASTING OR SAMPLING.

(2) A PERSON MAY CONSUME BEER, LIGHT WINE, OR LIQUOR COVERED BY A CLASS BWLT LICENSE IN A QUANTITY NOT EXCEEDING:

(I) 1 OUNCE OF LIGHT WINE FROM A GIVEN BRAND IN A SINGLE DAY;

(II) 3 OUNCES OF BEER FROM A GIVEN BRAND IN A SINGLE DAY; AND

(III) ONE–HALF OUNCE OF LIQUOR FROM A GIVEN BRAND IN A SINGLE DAY.

(E) AT THE END OF EACH DAY FOR WHICH A CLASS BWLT LICENSE IS VALID, THE HOLDER OF THE LICENSE SHALL DISPOSE OF ANY UNCONSUMED ALCOHOLIC BEVERAGE REMAINING IN A CONTAINER THAT WAS OPENED FOR TASTING OR SAMPLING.

(F) (1) EACH CLASS A LICENSE HOLDER THAT SEEKS ISSUANCE OF A BWLT LICENSE FOR WHICH THE HOLDER IS ELIGIBLE SHALL APPLY FOR THE LICENSE ON FORMS PROVIDED BY THE BOARD OF LIQUOR LICENSE COMMISSIONERS.

(2) THE FORMS PROVIDED BY THE BOARD OF LIQUOR LICENSE COMMISSIONERS UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SPECIFY THE DATE OR DATES ON WHICH THE TASTING IS REQUESTED TO OCCUR.

(3) THE APPLICATION AND PAYMENT FOR THE DAILY LICENSE SHALL BE SUBMITTED AT LEAST 7 DAYS IN ADVANCE OF THE TASTING EVENT OR 7 DAYS IN ADVANCE OF THE FIRST DAY OF CONSECUTIVE DAY TASTING EVENTS.

(4) THE APPLICATION AND PAYMENT FOR THE 26–DAY TASTING LICENSE AND THE 52–DAY TASTING LICENSE SHALL BE MADE AT LEAST 7 DAYS IN ADVANCE OF THE FIRST PROPOSED TASTING EVENT.

(5) THE HOLDER OF A 26–DAY TASTING LICENSE AND A 52–DAY TASTING LICENSE SHALL NOTIFY THE BOARD OF LIQUOR LICENSE COMMISSIONERS, ON FORMS APPROVED BY THE BOARD, OF ADDITIONAL TASTING EVENTS AUTHORIZED BY THE LICENSES.

(G) THE PROVISIONS OF THIS SECTION ARE NOT RESTRICTED BY:

(1) § 12–107(B) OF THIS ARTICLE; AND

(2) THE PROVISIONS IN § 9–102 OF THIS ARTICLE THAT PROHIBIT THE ISSUANCE OF TWO LICENSES FOR THE SAME PREMISES.

(H) THE HOLDER OF A CLASS BWLT LICENSE MAY EXERCISE THE PRIVILEGES OF THIS SECTION DURING THE HOURS AND DAYS PROVIDED FOR UNDER THE HOLDER'S RESPECTIVE CLASS A LICENSE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.