

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

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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) (1) 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)** ~~As~~ **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)]~~ ~~(H)~~ 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; 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; 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~~

~~(H) 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

(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)]~~ ~~(F)~~ (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)]~~ ~~(H)~~ (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[.].

~~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.

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.

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.

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. ~~IT~~

~~(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. _____)~~ ~~(91-3035)~~ Chapter (S.B. 931/H.B. 1331) of the Acts of the General Assembly of 2009, and if ~~Chapter _____ (S.B. _____/H.B. _____)~~ ~~(91-3035)~~ 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(e)~~ 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 (e)~~ 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 ~~(j)~~ **(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.

~~(j)~~ **(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.

~~[(i)]~~ (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.]

~~(Q)~~ (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 preclicensing 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 preclicensing 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; 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; 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)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 8–112(e)

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) (F)~~ (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.

(1) (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.

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;

- PAYABLE;
4. THE TIME AT WHICH THE BONDS WILL BE
 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, 2002, 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.

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.
